

CARLIN CITY COUNCIL
CITY OF CARLIN, STATE OF NEVADA
SPECIAL MEETING
CARLIN CITY HALL
101 SOUTH EIGHTH STREET
CARLIN, NEVADA
January 5, 2015, 5:00 p.m.

Call to Order and Roll Call:

Mayor Donnetta Skinner called the meeting of the City Council to order at 5:02 p.m.

1. Council Members Present: Mayor Donnetta Skinner
Vice Mayor Lincoln Litchfield
Councilperson Bob DeMars
Councilperson Jay Duke
Councilperson Pam Griswold

Absent:

2. Administrative Staff: City Manager David Jones, City Clerk LaDawn Lawson, Police Chief William Bauer, Public Works Director Carlos Esparza, Assistant Clerk Elizabeth Pinne, Assistant Clerk Heather Trujillo, County Commissioner Cliff Eklund, Darla Baldwin, Angie DeMars.
3. Public Present: Jim Brown, Anna Dean, Wayne Carlson, Greg Apgood, Bryan Skinner, Donna Skinner, Debbie Apgood, Bryce Apgood, Rebecca Apgood, KD M Apgood, Ali Apgood, Jolene Kemmerer, Adam Kemmerer, April Skinner, John Skinner, Karla Jones, Robert Jess

Pledge of Allegiance.

Public Comment will be taken prior to any Action Being Taken by the Council

I. Administration of the Oath of Office by the City Clerk to Mayor Elect Donnetta Skinner and Councilperson Pam Griswold and Lincoln Litchfield newly elected or re-elected City Officials taking office on this date pursuant to Carlin City Charter, Article V, Section 5.090. (Non-Action Item)

1. City Clerk LaDawn Lawson administered the Oath of Office to Mayor Donnetta Skinner.
2. City Clerk LaDawn Lawson administered the Oath of Office to Councilpersons Pam Griswold and Lincoln Litchfield.
3. I LaDawn Lawson, City of Carlin Clerk within and for the City of Carlin to hereby certify that at the General City Election held in Carlin on the 4th day of November, 2014, Donnetta Skinner was duly elected for the office of Mayor in and for said City of Carlin a appears from the official canvass of the returns of said City now on file and of record in this office and Donnetta Skinner is the duly elected Mayor as aforesaid.
- I LaDawn Lawson, City of Carlin Clerk within and for the City of Carlin to hereby certify that at the General City Election held in Carlin on the 4th day of November, 2014, Pam Griswold was duly elected for the office of Councilperson in and for said City of Carlin a appears from the official canvass of the returns of said City now on file and of record in this office and Pam Griswold is the duly elected Councilperson as aforesaid.

I LaDawn Lawson, City of Carlin Clerk within and for the City of Carlin to hereby certify that at the General City Election held in Carlin on the 4th day of November, 2014, Lincoln Litchfield was duly elected for the office of Councilperson in and for said City of Carlin a appears from the official canvass of the returns of said City now on file and of record in this office and Lincoln Litchfield is the duly elected Councilperson as aforesaid.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 5th day of January, 2015 s/LaDawn Lawson

II. City Council Training and orientation conducted by Wayne Carlson, Executive Director, Nevada Public Agency Insurance Pool/Public Agency Compensation Trust. (Non-Action Item)

1. Wayne Carlson, Executive Director, reported the City has been a member of the POOL since the late 1970s. He would conduct three (3) workshops. In addition, there is a program on the website for them to go to. The legislature is going to meet in February and may make modifications in the ethics law. Nevada Ethics require the governance is a public trust for the sole benefit of the people and public officers and employees have to avoid conflicts of interest between their private an public duties. In 2013 there was a duty to inform about the ethics law, noting the officers must be informed of the statutory ethical standards and all newly elected people will be up to date on the ethics law. This is for both appointed and elected officials and within any 30 days any new employee has to receive this training. In 2013 they added the City Manager, because some of these positions are contracted. It does not matter if you are contracted, employed or appointed, you are under the Ethics Law. He reviewed the code of Ethical Standards: Shall not seek or accept gifts; not use public position to secure or grant unwarranted privileges; not accept any compensation from any private source; not bid on or contract with agency whom they serve. There are some judgment calls that have to be used here.
2. Councilperson Jay Duke inquired if they are using the reasonable person standard.
3. Wayne Carlson stated they are in this sense. Nobody can pay you to be a City Councilperson or Mayor. Since you are a public officer, you cannot enter into a contract with the City, except in a rural situation that only had one business who could do the job. One of the rules is to disclose first if you have a conflict of interest. The relative in this circumstance left the room so as not to create a conflict of interest in this instance. In 2013 they added the word “significant” in shall not use information ...to further his own significant pecuniary interests...; shall not suppress any official governmental documents because it might tent to affect unfavorably his significant pecuniary interest; shall not use governmental time, property equipment of other facility to benefit his significant personal or pecuniary interest...; shall not use official position to benefit personal pecuniary interests or contracts. If it is insignificant, it is not likely to influence your impartiality. If I brought a pen with our name on it, would it influence your vote, probably not, so it would not be a significant factor. The taxpayers bought this and so buy your own. Not all government documents are official, some are drafts and not ready for publication. If you hold that until the final, that is not suppressing information. This is the most key: you cannot say I am a member the City Council, therefore, you have to do what I say. You individually have no power. Collectively you have power and you are responsible with everything that goes wrong with the City. Your individual interest does not

- matter, what matters is your interest in the City. That is the thrust of the ethics law. In 2013, they added a provision that prohibited the board from selling goods or services to a public agency. A rare exception is the sole source of supply. At the meeting the member has to disclose his pecuniary interest specifically and publicly. You cannot represent your private client to the Council. In 2013 it was said that representing someone before another public agency that is in the territorial jurisdiction of any part of the county that the member serves is prohibited. You cannot spend funds to support or oppose a ballot question or candidate. He detailed the conditions of disclosure and voting, as well as abstention. He outlined a case that went through all the courts and ended in the Supreme Court. "Be careful when you say, "this is my friend". It is all right to get advice from your attorney, but if it is not consistent with the rulings of the Ethics Commission, it does not matter. Be sure to ask the attorney if they checked the Ethics Commission decisions and is your opinion consistent with that. Contact the Ethics Commission to get an informal interpretation; otherwise do not vote on that matter.
4. City Manager David Jones inquired if the person would recuse or abstain.
 5. Wayne Carlson replied neither; you are simply stating you are not voting.
 6. City Clerk LaDawn Lawson stated that even though the discussion revolves around the Council tonight, there are other boards and members who are present who should take special note of this too.
 7. Wayne Carlson stated it affects those board members and the employees as well, as they are all subject to the same rule. There is a complaint form on their website and they make it easy for people to file one. He stated a private citizen filed against an entire board at one point and was thrown out, because it has to be an individual that you have specific charges against. It is your individual pecuniary interest that influences your decision making. In this case, the individual then filed against two employees who working a concession stand.
 8. City Clerk LaDawn Lawson inquired about volunteers at an event.
 9. Wayne Carlson stated he would argue that they are not volunteers; they are being paid by tips.
 10. Councilperson Jay Duke stated the City solicits the volunteers.
 11. Wayne Carlson noted he did not win that case, but cautioned the board to be careful. If it is a city program they have to be sure that the City policy allows certain things. Your policy has to enable them to take tips, for example. He spoke of abstention, noting just to abstain is wrong as they are elected to vote on issues and are not fulfilling their duty. Abstentions should be rare.
 12. Councilperson Jay Duke stated if they are to abstain then they have something to disclose.
 13. Wayne Carlson noted for the purpose of ethical analysis, they should consider the commitment, interest or relationship they have. If in doubt, the Ethics Commission can answer those questions. Pecuniary interest was defined. If you are passing something and as an individual you are going to be affected by it, you would be affected the same as everyone else and disclose that you are subject to it and it will cost you the same, so you can vote. If you are the only one affected, then do not vote, but do disclose. He spoke to body language in that circumstance and that it might be prudent to leave the room. He spoke to the role of the Ethics Commission and reviewed the steps that the commission takes to do their job. The Commission can levy fines for violations of the law such as \$5,000 for the first willful violation can go

to up to 2 x the gain if financial gain occurred. If it is willful, they can initiate impeachment, a politician's career would be over. Penalties are substantial. They can report the violations to a court. If it is not a willful violation, the attorney has to look at the interpretive opinions in the statute to ensure their advice is correct. He outlined the individual components of becoming an ethical board. There is an approach from the ethical side called the PLUS – policy, legal, universal, self and the universal ones are EPIC – Empathy, patience, integrity, courage. He also reviewed the 6 steps in ethical decision making and suggested using the PLUS system in each of the steps. He stated that is the Ethics Training and to be sure to document that they completed it. He spoke to the Open Meeting law in NRS Chapter 241, give the people the knowledge about the government, transparency. Deliberations must be conducted openly, one exception. Actions must be made openly, no exceptions. Must notify the public and persons subject to administrative action. A public body is at least two persons, created by statute, city charter, ordinance, etc. He discussed a public body, which is any administrative, advisory, executive or legislative body of a local government that is supported by tax revenue, advises and makes recommendation. If they are advising the Council, they are therefore subject to the open meeting law. If you do not want them to be subject to the open meeting law, then it cannot be your advisory. The manager has a staff that can advise him, but it is not a public body. The manager can have some citizens advise him who are not a public body. If anyone comes to give you advice that give them the opportunity, they are also subject to the law. They are allowing people to attend the meetings by electronic means to make a quorum and conduct the meeting's business, with the caveat that as long as you can hear the meeting and the people can hear you. Two members talking is okay, if one calls another member, he cannot relay what is being said or they are now in the decision process and violate the law. This is called a walking quorum, but members have to be very careful they do not cross into a violation. He related that a county meeting was being held and their video feed was interrupted, but in the recess, two of the commissioners were talking and another one walked up and soon all three were engaged. They quickly realized there was a quorum and stopped. It was a technical violation, once the meeting resumed, they explained they inadvertently talked and they were not making any decisions.

14. City Manager David Jones inquired if that is a "cure".
15. Wayne Carlson stated there is a cure in the law to fix the violation, even if it is not on the agenda. If you email it is a violation. Any quorum is a problem outside of the meeting. Two are okay to email, but if one forwards it to anyone else on the Council, you created a walking quorum. I recommend you do not forward anything. Be original, type up your own email. If you find information that you think is interesting and everyone should know, send it to the City Manager David Jones who can put it in the packet for the next meeting. The purpose is that the public needs to see you deliberate, and needs that transparency. He spoke to the other specific exemptions that could occur. At a meeting, it is good to sit by someone you do not know from another jurisdiction that you can share with, learning from each other. Make new friends within these conferences. Even if you are not talking about city business in a social setting, there is a tendency to want to. If the speaker says something and you say, "we should look into that" and it passes down, you are now deliberating. Stick to two by two and make new friends. He addressed the attorney client exemption. The only time you can have a closed session is to talk to each other about a threatened or

- pending litigation and actually deliberate about options. You cannot make a decision, but you can analyze options. The City Attorney can call a closed meeting pending litigation, as it is considered a non-meeting. You can agendaize a closed session on pending litigation. The rule on decisions since you are an elected board, there must be three of the five positions voting in favor of the matter in order for it to pass. Two of the members are absent or have conflicts and cannot vote, the remaining 3 have to vote unanimously or they cannot pass that issue. If you have advisory boards, they follow the usual rule that you have to have a majority and it cannot be a split decision. The agenda must say “for possible action” and there has to be a statement on the agenda that items could be taken out of order. The Mayor or Chairman can combine an item for action, or they may remove an action item with no action taken. There must be reasonable standards for the comments from the public. You can restrict comments to 3 minute per person. Request not to be repetitive of the other speakers.
16. City Clerk LaDawn Lawson inquired, “Don’t they have to speak on the agenda item” and not go off on a tangent. The City has the right to call them back to the agenda item and see that their comments pertain to the agenda item.
 17. Wayne Carlson agreed. He stated a person started out saying “this is relevant to the agenda item and then went off on the government and whatever else. It is really hard to rein that in. One county had a lady who wanted to read from a book. They would let her have 3 minutes to do that, but he told they did not have to do that, because it did not pertain to the agenda item. If it is not relevant to you or you have no jurisdiction, you can say so. If it is on your agenda topic, they can say what they want to say for the time you allow for it. At one time you had a disability activist come and there are some people who pay attention to those issues. The agenda has to give enough information so the public knows to show up. It has to be clear and complete and have specific language. Two public comment periods, one at the beginning and one at the end. Most boards do public comments on every item including the beginning and end. They encourage more transparency in the action items and on reports”.
 18. Discussion was held on the 2 public comments to be agendaed.
 19. Wayne Carlson stated “official website posting is effective on July 1, 2014 when all public entities must post a link to their website. This is in addition to all other agenda posting requirements. This is required of every public body for Carlin. The procedure was in the packet. Violations were discussed, noting the public body must include an item on the next agenda acknowledging the findings of the Attorney General. It is a thorough investigative process with the AG to subpoena records. “For possible corrective action” should be placed next to the appropriate action item. If the violation is in the same meeting, it can be corrected immediately. Emergency meetings are defined as those like disasters, fire, flood or earthquake or impairment or safety of the public. There is no formal agenda, but someone keeps a record of the meeting to capture those discussions. They could not do any business but the emergency. Ideally you would set up your emergency plan to delegate some authority so you won’t have to seek funding. He spoke of having at least one hard copy of each agenda at the meeting along with supporting materials such a resolutions, etc. Since Carlin is in a county of 45,000, they must post the agenda and supporting materials at the same time they are released to the members”. He issued a warning to the Council members to stay out of the personnel issues. “The Council should be the final arbiter on an appeal. If it is a policy matter, fix the policy, but let

- the manager work with the personnel. Only the person subject to the closed session can disclose what to release. The Members cannot speak to anyone about anything to do with the session. It is prohibited by statute for the council to release any information without the consent of the person subject to that session. If you are going to take action, that is a separate agenda item for possible action based on closed personnel session. Deliberations and action must be in the open. Members are receiving information, and deliberation begins when the board convenes to take action”. He continued with labor negotiations and those sessions may be open after the legislature meets. “Any decision taken in a closed session is void, but members also subject themselves to fines”. He discussed other aspects that cannot be discussed in a closed meeting and the two components of a meeting. “You have no power individually, it is a collective decision. Be careful and respectful of the powers you do not have. If you have a problem with an employee take it to the manager to handle. You are responsible for the overall performance of the City, overall financial condition of the City, but the manager is responsible to make sure the job gets done. If the policy does not work, it is not his problem, it is your problem. Policy making is a totally different responsibility than operation”.
20. Councilperson Jay Duke concurred.
 21. Wayne Carlson discussed the public comment items.
 22. Councilperson Lincoln Litchfield asked for clarification.
 23. Wayne Carlson noted they can take comments anywhere during the meeting including in the two agendaed spots. “Members can make statements during a meeting, but if those comments are discriminatory, you could be liable”. He spoke to minutes, motions and the importance of making them clear. “Make sure you read them”.
 24. Councilperson Jay Duke stated his interpretation of the essence of the deliberation.
 25. Tape was changed.
 26. Wayne Carlson discussed Violations and Consequences. “You can be challenged, someone can file a lawsuit, stop from implementation of that decision, sue and get it declared void, stopping that action from occurring”. He discussed misdemeanors, fines, jail, etc. both criminal and civil. He stated there is information on the website.
 27. Mayor Donnetta Skinner recessed the meeting for 10 minutes at 7:01 p.m. She reconvened the meeting at 7:14 p.m.
 28. Roll was called and showed a quorum was present.
 29. Wayne Carlson discussed governance, stating the members each have to be prepared for people, potholes and poop. Be considerate and careful when considering alternatives to do the right thing and the key is to learn all the facts. “You have to determine who is giving you the right information when they corner you. Your decision has to be the best for everyone, even though you might have campaigned differently. Speak with one voice. You’re it, you have to make the decision together. If it is a 4-1 decision and you voted no, it is your decision as well, because the decision is the board’s decision. If you were on the majority and you carried the swing vote on a 3-2, don’t brag about it. You are going to need each other on both sides of the issues. Be respectful of your other members. It is about vision of where you are going to go. It is give and take that allows you to move forward, even if it isn’t your idea. Timing sometimes enters”.
 30. City Clerk LaDawn Lawson stated events often change the perception, noting that maybe now they need a new policy.

31. Wayne Carlson stated a board should be bold, open, active, responsive and decisive, taking the right steps to move forward. “Controversy is part of the job. Lead with compassion and consideration”. He discussed oversight.
32. Mayor Donnetta Skinner stated she wonders if sometimes they do not forget about why they are here and what they are doing, thinking of the citizens. “They did not put us here to meet every week and wonder where everyone was at, they put us here as a voice for them. Sometimes I think I don’t want to vote like they want me to, but I still vote the way the people want me to vote. I very seldom vote on how I feel”.
33. Wayne Carlson cautioned, “You have to find all of those voices though, the one on both sides of the issue. The ones that don’t come to the meetings have differing opinions. That is why you have to be open to listening; how do I weigh the decision”.
34. Councilperson Lincoln Litchfield stated he often comes with a preconceived idea of how he wants to vote on an issue, but after listening to the people in the audience will often change my mind and my understanding of it”.
35. Councilperson Jay Duke stated, “Pam, you are going to hear this a lot, do your homework. Are we inviting them to come to the meetings to talk to the Council”.
36. Wayne Carlson stated “there are boards where one bad member is so dominant that the rest of the board goes with the flow”. Different communication styles does matter when getting to good decisions”.
37. Mayor Donnetta Skinner stated it takes the members a while to get “into their slots”. It helps to know each other and how to work together.
38. Wayne Carlson suggested the board can retain or delegate some decision making authority. “Focus your time on the important policy making. Your primary role is oversight. A positive approach works better. Each person has 3 elements; kinesthetic, auditory and visual and one of those three is more dominant than others. If you are a visual person, you like to slides and having a paper and making notes, auditory, making notes and listening and kinesthetic, touch and feel. You might not be talking the same language. Each of you has a style and talk about those types of communication. If you are not getting it, you need determine the problem with communication. Understand each other and maximize your capabilities. Most of the time it is language”. He discussed the factors in a dysfunctional board.
39. Discussion was held on notes not being part of the record.
40. Wayne Carlson explained micromanaging staff is dysfunctional. He defined governance and the roles and responsibilities to govern. “Seek first to understand, then be understood”. An item does not go on the agenda until the manager has the information/research to prepare the Council for effective decisions. That is a healthy conversation to have with the manager to determine the collective needs for the members – visual will need documents, etc. Use all of your skills, but understand if you are dominant in one style, it may not fully connect with you. Loyalty is the ethics law”.
41. Councilperson Jay Duke spoke to the Tesla decision.
42. Wayne Carlson stated financial oversight of government requires 2 months operating, telling nonprofits to have 6 months operating and feels that is more appropriate for the governments. He noted they could schedule a short discussion at the end of one of their meetings to determine how “this” meeting went. “Always look ahead for good citizens who can serve the City in a governing role. That makes sure that good citizens are running these organizations. You want people who are decision makers and good partners”. Board skills were itemized and discussed. He discussed a story

- involving the recording of a remark that was then publicly discussed and taken care of.
43. Mayor Donnetta Skinner stated they have to remember this is an official meeting, not something that is to be taken lightly and when it is on record, we need to take pride in the fact it is on record and make sure inappropriate comments are not. Over the years, there have been a few inappropriate things said and we let it go. I hope, starting this new year, I don't want that to happen again. This is a professional board".
 44. Wayne Carlson spoke to the Oath of Office, which includes the constitution, all of the laws, to protect the rights of private citizens. "I suggest that once a month, you revisit your top 10 policies. Put one on every month and spread the rest out so that every 3 years your policies are reviewed. The official policy is the one practiced, regardless of how it is written. It is important to do these regularly". He discussed conflict and its attributes. He discussed anger and how it can be understood. "Cycles of behavior can spiral down to dysfunctional. Be Careful of your B. (belief) S. (system). Take a deep breath, get up and move".
 45. Councilperson Jay Duke spoke about give and take.
 46. Wayne Carlson noted, "When these emotions are allowed to get the best of us, we are ineffective in our performance, behavior and decision making. Keep to the positive side. The person will disconnect from negativity and decisions cannot be made. Watch what you are doing, reframe to the positive. Your thinking drives the outcome for you. Remain professional under pressure". He wished all of the members good luck in their endeavors.

III. Comments by the General Public: Pursuant to NRS 241.020(2C) this time is devoted to comments by the general public and discussion to those comments. No action may be taken upon a matter raised under this item until the matter has been included on a successive agenda and identified as an action item. (Non-Action Item)

1. City Clerk LaDawn Lawson stated her appreciation to all of the staff that attended and thanked Mr. Carlson for his presentation.
2. Mayor Donnetta Skinner also thanked Mr. Carlson.

IV. Adjournment. (Action Item)

Councilperson Jay Duke moved for adjournment with Councilperson Lincoln Litchfield seconding the motion. The meeting was adjourned at 8:26 p.m.

APPROVED:

MAYOR DONNETTA SKINNER

ATTEST:

LADAWN LAWSON, CITY CLERK