

BOARD OF COUNTY COMMISSIONERS, WASHOE COUNTY, NEVADA

TUESDAY

2:00 P.M.

JUNE 26, 2007

PRESENT:

Bob Larkin, Chairman
Bonnie Weber, Vice Chairman
Jim Galloway, Commissioner
David Humke, Commissioner
Pete Sferrazza, Commissioner

Amy Harvey, County Clerk
Katy Singlaub, County Manager
Melanie Foster, Legal Counsel

The Board met in regular session in the Commission Chambers of the Washoe County Administration Complex, 1001 East Ninth Street, Reno, Nevada. Following the Pledge of Allegiance to the flag of our Country, the Clerk called the roll and the Board conducted the following business:

County Manager Katy Singlaub stated, "The Chairman and Board of County Commissioners intend that their proceedings should demonstrate the highest levels of decorum, civic responsibility, efficiency and mutual respect between citizens and their government. The Board respects the right of citizens to present differing opinions and views, even criticism, but our democracy cannot function effectively in an environment of personal attacks, slander, threats of violence, and willful disruption. To that end, the Nevada Open Meeting Law provides the authority for the Chair of a public body to maintain the decorum and to declare a recess if needed to remove any person who is disrupting the meeting, and notice is hereby provided of the intent of this body to preserve the decorum and remove anyone who disrupts the proceedings."

07-723 AGENDA

Katy Singlaub, County Manager, called attention to addendum agenda items 8P(5), 8P(6) and 8P(7). She also read the candidate names recommended by Commissioner Weber for the citizen advisory board appointments in agenda items 25, 26 and 27. Chairman Larkin confirmed that item 31 had been pulled from the agenda.

Commissioner Galloway found it confusing to have names read during discussion of the agenda. He pointed out that the Board could not change the wording of the agenda and he would only vote for the agenda item as it was written. Ms. Singlaub indicated she had spoken with Assistant District Attorney Melanie Foster prior to the meeting, who advised that reading the candidate names as part of the agenda discussion

was the proper way to way to handle the information. Commissioner Galloway asked that the names be reread when the specific agenda items came up for consideration.

In response to the call for public comment, Guy Felton placed his remarks on file with the Clerk.

Sam Dehne opposed approval of the agenda as written because of the limitation on public comment time and the overly large size of the consent agenda.

Gary Schmidt objected to approval of the agenda, stating that various notes and rules were included on the agenda's cover page regarding conduct during meetings.

Commissioner Weber requested that agenda items 25, 26 and 27 be included under the consent agenda. Commissioner Galloway did not believe it was technically correct to add items to the consent agenda after it had been noticed to the public. It was noted, however, that a motion and vote for the consent agenda could consolidate items 25, 26 and 27 as well.

In accordance with the Open Meeting Law, on motion by Commissioner Weber, seconded by Commissioner Galloway, which motion duly carried, it was ordered that the agenda for the June 26, 2007 meeting be approved with the changes noted by the County Manager and by Chairman Larkin.

**07-724 CERTIFICATES OF APPRECIATION – JOB EVALUATION
COMMITTEE MEMBERS – HUMAN RESOURCES**

Chairman Larkin read and presented certificates to Karen Kay, Jerry McKnight, Wayne Keysor, David Watts-Vial, Lisa Gianoli and Melissa Currie in appreciation for their service on the Job Evaluation Committee.

Katy Singlaub, County Manager, acknowledged that Thursday was Jerry McKnight's last day with the County and thanked him for his service.

In response to the call for public comment, Gary Schmidt complimented Jerry McKnight for his long service to the County. Referring to the County's former Director of Water Resources, Steve Bradhurst, Mr. Schmidt commented that it was a shame to lose two of the top ten employees in the County within a six-month period.

On motion by Commissioner Galloway, seconded by Commissioner Humke, which motion duly carried, it was ordered that the certificates of appreciation be presented.

07-725

**CERTIFICATES OF APPRECIATION – WELLNESS
CHAMPIONS – HUMAN RESOURCES**

Chairman Larkin read and presented certificates to Kathy Rogers, Kris Riley, Juston Berg, Karen Forrester, Kim Carlson, Mike Yonker, Nancy Talcott, and Trish Yohey in appreciation for their participation in the Wellness Program.

In response to the call for public comment, Sam Dehne stated it was a shame there wasn't a wellness program for those in the community at large.

On motion by Commissioner Galloway, seconded by Commissioner Humke, which motion duly carried, it was ordered that the certificates of appreciation be presented.

07-726

PROCLAMATION – SPARKS LIBRARY DAY – LIBRARY

Katy Singlaub, County Manager, read the Proclamation designating June 30, 2007 as “Sparks Library Day” and inviting residents to join in celebrating the 75th anniversary of the Sparks Library.

Library Director Nancy Cummings expressed her appreciation for the Board’s support and for the generosity of the Sparks community.

On motion by Commissioner Galloway, seconded by Commissioner Humke, which motion duly carried, it was ordered that the following proclamation be adopted and the Chairman be authorized to execute the same:

PROCLAMATION

WHEREAS, Literate, informed citizens are essential to the productivity of our nation; and

WHEREAS, We live in a complex world that requires ready availability of knowledge and information to make important decisions affecting self-government, employment, health and welfare; and

WHEREAS, Libraries provide the books, Internet access, programs and other resources to help our children thrive in school and in life; and

WHEREAS, Libraries are destinations for discovery, providing all citizens with free access to knowledge and information that support individual achievement, growth and professional fulfillment; and

WHEREAS, The Sparks Library, a part of the Washoe County Library System, has provided the citizens of this community with information, services and programs with dedication and creativity for 75 years; now, therefore, be it

PROCLAIMED, By the Washoe County Board of Commissioners that June 30, 2007 be designated as "Sparks Library Day" and the Board invites all residents of the Truckee Meadows to join them in celebrating the 75th anniversary of the Sparks Library.

PUBLIC COMMENT

Guy Felton did not believe the agenda for the meeting should have been approved because of the comments on it related to decorum.

Jan Chastain spoke about the frailties of the Sequoia voting machines. She related that 271 votes were not uploaded from the memory cartridges in Elko County and the malfunction was not caught until a month after the 2004 presidential election. Ms. Chastain advocated returning to a voting system that allowed the votes to be more clearly seen and counted.

2:46 p.m. Commissioner Humke temporarily left the meeting.

Sam Dehne commented on the loss of homes during the fire at South Lake Tahoe. He commented there had been no firefighting C-130 airplanes to stop the fire from getting out of control.

Gary Schmidt opposed approval of the agenda because of the "elusive applause rule". He paraphrased a letter from the Nevada Attorney General that mere applause was not disruptive in and of itself.

MANAGER'S/COMMISSIONERS' ANNOUNCEMENTS

Commissioner Galloway stated that fire conditions were as bad as they had ever been and open discussion was needed about what more could be done and/or was practical to do. He requested an agenda item for the regular meeting of July 10, 2007 to talk about existing and possible future programs, policies and ordinances to prevent fire, including excess fuels reduction. Commissioner Galloway asked staff to investigate an alleged closure of fire access to the Ridges Development in Hunter Creek Canyon through Eagles Nest. He requested a future agenda item to investigate the feasibility of using the Bombardier water tanker airplane, which could scoop up water for fighting fire without landing.

2:53 p.m. Commissioner Humke returned to the meeting.

Commissioner Galloway announced that applications would be accepted until June 29, 2007 for a vacancy on the Animal Control Board. He indicated there were upcoming meetings of the Tahoe Regional Planning Agency and the Animal Control Board.

With respect to the current critical wildland fire season, Chairman Larkin asked County Manager Katy Singlaub for an outline by the regular Commission meeting of July 10, 2007 of any proposals deemed necessary to ensure the public safety of residents in Washoe County, up to and including a gubernatorial response. He authorized Ms. Singlaub to move forward with any emergency steps within the powers of the County Manager and to notify the Board afterwards.

Chairman Larkin complimented Public Works Director Dan St. John for his timely response to traffic issues on Canoe Hill Drive. He requested traffic counting devices on Canoe Hill Drive as soon as possible and asked to be notified when they were in place.

Chairman Larkin mentioned an email received from City of Reno Mayor Cashell regarding a \$300,000 allocation for the homeless shelter and pointed out that a miscommunication resulted in the \$300,000 being seen as a five-year commitment. Chairman Larkin requested consideration on the July 10, 2007 agenda for full funding of the shelter.

Commissioner Weber requested that staff, the County Manager and the Board of County Commissioners take a look at redistricting prior to the next census.

Commissioner Humke agreed with Chairman Larkin's statements about the fire situation and expressed appreciation for giving the County Manager emergency powers to take measures as necessary for fire prevention. He commented that he had taken a ride to Man of War Drive in Hidden Valley, which was the subject of a special use permit, and it appeared that staff would sign off on all conditions of the permit. Ms. Singlaub added that a letter had already gone out regarding the special use permit.

County Manager Katy Singlaub advised members of the public that Angora fire relief donation instructions were posted on the County website, along with some tips for living with fire. She indicated she had been in contact with El Dorado County and made available to them any assistance Washoe County could provide.

**07-727 THANK FLORENCE (MARGE) FRANSEN FOR SERVICE TO
THE PLANNING COMMISSION/APPOINTMENT – DISTRICT 2
PLANNING COMMISSIONER – COMMUNITY DEVELOPMENT**

Commissioner Humke read and presented the Resolution thanking Marge Frandsen for her service on the Planning Commission.

Ms. Frandsen commented on her belief that it was important to listen to what the citizens had to say. She took responsibility for all the decisions she made during her tenure as a planning commissioner and stated she was never advised by anyone on the Commission or within the County as to what her decisions should be. Ms. Frandsen commended County staff for their support.

Upon recommendation of Cathi Moldenhauer, Office Support Specialist, on motion by Commissioner Humke, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that the following Resolution of Appreciation be adopted:

RESOLUTION OF APPRECIATION

WHEREAS, Florence "Marge" Frandsen contributed significantly to Washoe County's quality of life while serving on the Washoe County Southeast Truckee Meadows Citizen Advisory Board, the Washoe County Planning Commission, and the Regional Planning Commission; and

WHEREAS, Marge Frandsen was appointed as a board member to the Washoe County Southeast Truckee Meadows Citizen Advisory Board in 1998; and

WHEREAS, Marge Frandsen was appointed to the Washoe County Planning Commission in 1999; and

WHEREAS, Marge Frandsen served as Chair of the Washoe County Planning Commission from 2001 to 2002 and 2005 to 2006; and

WHEREAS, Marge Frandsen served two three-year terms as the Washoe County appointee on the Truckee Meadows Regional Planning Commission from 2001 to 2007; and

WHEREAS, Marge Frandsen served as Chair of the Truckee Meadows Regional Planning Commission from 2004 to 2005; and

WHEREAS, Marge Frandsen will retire from the Washoe County Planning Commission and the Truckee Meadows Regional Planning Commission on June 30, 2007; and

WHEREAS, Marge Frandsen demonstrated exceptional interpersonal skills while serving on the Boards, valuing all parties' comments and treating each individual with the utmost respect; now, therefore, be it

RESOLVED, By the Washoe County Board of Commissioners, that it be known that Florence "Marge" Frandsen will be sorely missed by the many citizens who benefited from her untiring dedication to excellence in public service and that Washoe County expresses their respect and appreciation for her work on behalf of the County.

On nomination and motion by Commissioner Humke, seconded by Commissioner Weber, which motion duly carried, it was ordered that Keith Lockard be appointed to the District 2 seat on the Washoe County Planning Commission for a term effective July 1, 2007 and expiring June 30, 2011.

In response to the call for public comment, Gary Schmidt complimented Ms. Frandsen for listening to the public and weighing their concerns before making any decisions.

DISCUSSION – CONSENT AGENDA

Chairman Larkin requested that item 8J be taken out of the consent agenda for separate consideration.

County Manager Katy Singlaub read candidate names as recommended by Commissioner Weber for the citizen advisory board appointments in agenda items 25, 26 and 27 (minute items 07-756, 07-757 and 07-758). Commissioner Galloway noted that his motion to approve included those items, as well as the items on the consent agenda.

There was no response to the call for public comment.

07-728 MINUTES

On motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that the minutes of the regular meetings of May 8 and 15, 2007 be approved.

07-729 CANCEL REGULAR WASHOE COUNTY COMMISSION MEETING – JULY 17, 2007

On motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that the regular meeting of the Washoe County Commission on July 17, 2007 be canceled.

07-730 CONFIRM APPOINTMENTS – ADVISORY BOARD TO MANAGE WILDLIFE – MANAGER

On motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that the appointments of Daryl Harwell and Thomas R.C. Wilson, III to the Washoe County Advisory Board to Manage Wildlife be confirmed, with terms beginning July 2, 2007 and ending June 30, 2010.

07-731 REAPPOINTMENT – SENIOR SERVICES ADVISORY BOARD – SENIOR SERVICES

On motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that Michelle Lacerda be reappointed to the Senior Services Advisory Board for a term of July 1, 2007 through June 30, 2011.

ACCEPT DONATIONS – FOURTH QUARTER 2006-07 – SENIOR SERVICES

On behalf of the Board, Commissioner Galloway acknowledged cash donations totaling \$7,824.32 and thanked various businesses, individuals and organizations for their generosity.

Upon recommendation of Trish Yohey, Administrative Assistant, on motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that various cash donations in the amount of \$7,824.32 for the period of April 1, 2007 through June 5, 2007 plus any new cash donations that might be received through June 30, 2007 for the fourth quarter of fiscal year 2006-07 be accepted and the Finance Department be directed to make the following adjustments:

Account	Description	Amount
Increase Revenue:		
20074-484000	Mental Health Donations	58.00
20223-484000	Lend-A-Check Donations	700.00
20071-484000	Adult Daycare Donations	1075.82
20067-484000	Legal Donations	100.00
20046-484000	Reno General Donations	787.27
20275-484000	Angel Fund Donations	250.00
20134-484000	WC Access to Justice	4,500.00
20047-484000	Nutrition Program Donations	17.52
20289-484000	Sun Valley Angel Fund	210.00
20051-484000	Sparks General Donations	25.71
20281-484000	Older Americans Month Donations	100.00
	Total Revenue	\$7,824.32
Increase Expenditure:		
20074-710500	Mental Health Donations	58.00
20223-710500	Lend-A-Check Donations	700.00
20071-710500	Adult Daycare Donations	1075.82
20067-710500	Legal Donations	100.00
20046-710500	Reno General Donations	787.27
20275-710500	Angel Fund Donations	250.00
20134-710500	WC Access to Justice	4,500.00
20047-710500	Nutrition Program Donations	17.52
20289-710500	Sun Valley Angel Fund	210.00
20051-710500	Sparks General Donations	25.71
20281-710500	Older Americans Month Donations	100.00
	Total Expenditure	\$7,824.32

07-733 SEXUAL ASSAULT MEDICAL CARE PAYMENT – DISTRICT ATTORNEY

Pursuant to NRS 217.280 to 217.350, on motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, Chairman Larkin ordered that payment with funds from the District Attorney's account designated Sexual Assault Victims Expenses be authorized for initial emergency medical care for 67 sexual assault victims in an amount totaling \$22,258.61 and for follow-up treatment (up to \$1,000) for victims, victim's spouses and other eligible persons as set forth in a memorandum from Kim Schweickert, Program Assistant, District Attorney's Office, dated June 1, 2007.

07-734 ACCEPT DONATIONS – WASHOE COUNTY WELLNESS PROGRAM – HUMAN RESOURCES

On behalf of the Board, Commissioner Galloway thanked David Frear for his donation of \$1,100 and acknowledged the \$281 donation from a previously established account to support the Corporate Challenge.

Upon recommendation of Joanne Ray, Director of Human Resources, on motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that donations be accepted in the amount of \$1,381 for the Washoe County Wellness program.

07-735 APPOINTMENT – INTERIM DIRECTOR OF SENIOR SERVICES – MANAGER

Upon recommendation of Katy Singlaub, County Manager, on motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that Lee Derbyshire be appointed as Interim Director of Senior Services with a salary adjustment to the minimum of the salary range effective June 26, 2007.

07-736 ACCEPT DONATIONS – BENEFIT CHILDREN AND FAMILIES – SOCIAL SERVICES

On behalf of the Board, Commissioner Galloway thanked A&H Insurance, United Way of Northern Nevada, Ronald and Beverly Harger, and the Wells Fargo Community Support Campaign for their cash donations and also acknowledged \$2,840 in juror donations. Karen Corbin and Louise Martin from A&H Insurance were present and were recognized for the donations from their company.

Upon recommendation of Mike Capello, Director of Social Services, on motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that cash donations in the amount of \$1,624.90 and juror fee donations in the amount of \$2,840 be accepted, the Department of Social Services be

authorized to expend the funds to benefit children in care and families who are clients, and the Finance Department be directed to make the following budget adjustments for fiscal year 2006-07:

Account	Description	Amount
Increase Revenue:		
280440-484000	General Donations	\$1,624.90
280440-484190	Juror Donations	\$2,840.00
Increase Expenditures:		
280440-710500	General Donations – Other Expense	\$1,624.90
280440-710500	Juror Donations – Other Expense	\$2,840.00

07-737 AGREEMENT – FOURTH OF JULY SECURITY – SHERIFF

Upon recommendation of Steven Kelly, Captain, on motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that the Security Agreement between EXECPRO Services, Inc. and the Washoe County Sheriff's Office, to provide two uniformed deputy sheriffs for security in Incline Village, Nevada for the "Fourth of July Party" on July 4, 2007 be approved and the Chairman be authorized to execute the same. It was noted that there was no fiscal impact to Washoe County and reimbursement for estimated costs of approximately \$1,200 would be deposited to account 150200-485129, Office of the Sheriff – Salary Reimbursement.

07-738 AGREEMENT – LAKE TAHOE SHAKESPEARE FESTIVAL SECURITY – SHERIFF

Upon recommendation of Philip Condon, Sergeant, on motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that the Security Agreement between the Lake Tahoe Shakespeare Festival and the Washoe County Sheriff's Office, to provide uniformed deputy sheriffs for security from July 12, 2007 through August 19, 2007 be approved and the Chairman be authorized to execute the same. It was noted that there was no fiscal impact to Washoe County and reimbursement would be deposited to account 150200-485129, Office of the Sheriff – Salary Reimbursement.

07-739 ACCEPT DONATION – TWO PERSONAL WATERCRAFTS – HONORARY DEPUTY SHERIFF'S ASSOCIATION – SHERIFF

On behalf of the Board, Commissioner Galloway thanked the Washoe County Honorary Deputy Sheriff's Association for their generous donations.

Upon recommendation of Michael Haley, Sheriff, on motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that the equipment donation of two personal watercrafts with a

total value of \$14,188.00 be accepted from the Washoe County Honorary Deputy Sheriff's Association.

07-740 ACCEPT DONATION – HONORARY DEPUTY SHERIFF'S ASSOCIATION – SHERIFF

On behalf of the Board, Commissioner Galloway thanked the Washoe County Honorary Deputy Sheriff's Association for their generous donation.

Upon recommendation of Michael Haley, Sheriff, on motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that the cash donation of \$14,500 from the Washoe County Honorary Deputy Sheriff's Association for attendance at the Boston University Senior Management Institute Program by two command staffers from the Washoe County Sheriff's Office be accepted.

07-741 ACCEPT GRANT – OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION – JUVENILE SERVICES

Chairman Larkin clarified with Carol Galantuomini, Division Director, that the grant would be used to fund an evening reporting program for juvenile offenders.

Upon recommendation of Michael Martino, Program Manager, on motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that the Office of Juvenile Justice and Delinquency Prevention (OJJDP) formula grant for fiscal year 2007-08 in the amount of \$58,591.56 for the Juvenile Services Evening Reporting Program be approved and the Finance Department be directed to make the following budget adjustments:

Account	Description	Amount
Increase Revenue:		
10345-43110	OJJDP	\$58,591.56
Increase Expenditures:		
10345-701110	OJJDP – Salaries	43,638.40
10345-705110	OJJDP – Insurance	5,292.00
10345-705210	OJJDP – Retirement	8,688.40
10345-705230	OJJDP – Medicare	632.76
10345-705320	OJJDP – Workmen's Comp	290.00
10345-705330	OJJDP – Unemployment Comp	50.00

07-742 WATER RIGHTS DEED/AGREEMENT – AMERICAN READY MIX, INC. – WATER RESOURCES

Upon recommendation of Paul Orphan, Engineering Manager, on motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that the Water Rights Deed conveying 30.00 acre-feet of

groundwater rights from Rock West, LLC on behalf of American Ready Mix, Inc. and the associated Water Sale Agreement between American Ready Mix, Inc. and Washoe County be approved, the Chairman be authorized to execute the same, and the Water Rights Manager be authorized to record both documents.

07-743 COMMISSIONER SALARIES – FY 2007-08, 2008-09, 2009-10 AND 2010-11 – FINANCE

Upon recommendation of Melanie Purcell, Budget Manager, on motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that Commissioner salaries for fiscal years 2007-08, 2008-09, 2009-10 and 2010-11 be approved at the percentages authorized by Senate Bill 516, to be effective July 1 of each corresponding fiscal year.

07-744 AGREEMENT – EAGLE CANYON DRIVE/EMBER DRIVE/NEIGHBORHOOD WAY CONSTRUCTION – PUBLIC WORKS

Upon recommendation of Clara Lawson, Licensed Engineer, on motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that the Capital Contribution Front End Agreement (CCFEA) between Spanish Springs Associates Limited Partnership, the Regional Transportation Commission and Washoe County for construction and dedication of right-of-way for a portion of Neighborhood Way and construction of a roundabout at the Eagle Canyon Drive/Ember Drive/Neighborhood Way intersection be approved (no fiscal impact) and the Chairman be authorized to execute said agreement upon presentation.

07-745 ROLL CHANGE REQUESTS – CORRECTION OF ERRORS – ASSESSOR

Upon recommendation of Ivy Diezel, Systems Support Analyst, on motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that, pursuant to NRS 361.768 and NRS 361.765, the roll change requests for errors discovered for the 2006-07, 2005-06 and 2004-05 secured and unsecured tax rolls as outlined in Exhibits A, B and C, which were placed on file with the Clerk, be approved in the reduced cumulative amount of \$19,070.12, the Chairman be authorized to execute the exhibits, and the Washoe County Treasurer be directed to correct the errors.

07-746 REAPPOINTMENT – WASHOE COUNTY PLANNING COMMISSION – COMMUNITY DEVELOPMENT

On motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that Dian VanderWell be reappointed to the District 5 seat on the Washoe County Planning Commission for a term beginning July 1, 2007 and expiring June 30, 2011.

07-747 **REAPPOINTMENT – WASHOE COUNTY BOARD OF
ADJUSTMENT – COMMUNITY DEVELOPMENT**

On motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that Eric Scheetz be reappointed to the District 2 seat on the Washoe County Board of Adjustment for a term beginning July 1, 2007 and expiring June 30, 2011.

07-748 **APPOINTMENTS – SOUTHEAST TRUCKEE MEADOWS
CITIZEN ADVISORY BOARD – COMMUNITY DEVELOPMENT**

On motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that:

1. Fran DeAvila be reappointed as an at-large member of the Southeast Truckee Meadows Citizen Advisory Board for a one-year term beginning July 1, 2007 and expiring June 30, 2008 (to better stagger members' terms);
2. Brad Stanley be reappointed as an at-large member of the Southeast Truckee Meadows Citizen Advisory Board for a term beginning July 1, 2007 and expiring June 30, 2009;
3. Tom Judy be reappointed as a Hidden Valley Homeowners Association member of the Southeast Truckee Meadows Citizen Advisory Board for a term beginning July 1, 2007 and expiring June 30, 2009;
4. Mary Case be appointed as an at-large alternate member of the Southeast Truckee Meadows Citizen Advisory Board for a term beginning July 1, 2007 and expiring June 30, 2009; and
5. The vacant Virginia Foothills member position of the Southeast Truckee Meadows Citizen Advisory Board be temporarily designated to an at-large member position and Peter Kaiser be appointed to fill that unexpired term until June 20, 2008.

07-749 **APPOINTMENTS – GALENA-STEAMBOAT CITIZEN
ADVISORY BOARD – COMMUNITY DEVELOPMENT**

On motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that:

1. John McLelland be reappointed as a Steamboat/Toll Road member of the Galena-Steamboat Citizen Advisory Board for a term beginning July 1, 2007 and expiring June 30, 2009;

2. Dennis Wilson be reappointed as a Callahan Ranch member of the Galena-Steamboat Citizen Advisory Board for a term beginning July 1, 2007 and expiring June 30, 2009;
3. Paul Grace be appointed to fill an unexpired term as a Galena Forest/Southwest Pines member of the Galena-Steamboat Citizen Advisory Board until June 30, 2008; and
4. Ron Penrose be appointed as an at-large alternate member of the Galena-Steamboat Citizen Advisory Board for a term beginning July 1, 2007 and expiring June 30, 2009.

07-750 ACCEPT DONATIONS – VARIOUS SOURCES –PARKS

On behalf of the Board, Commissioner Galloway thanked various businesses, organizations and individuals for their generous donations.

Upon recommendation of Rosemarie Entsminger, Fiscal Compliance Officer, on motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that a total of \$11,985 in cash donations from various business, organizations and individuals for the Department of Regional Parks and Open Space programs and facilities be accepted and the Finance Department be directed to make the following budget adjustments:

Account	Description	Amount
Increase Revenue:		
General Fund, IN20020-484000	Health Fair and Music Series	\$5,100
General Fund, IN20020-484000	Community Clean Up	\$4,500
Fund 404, IN20030-484000	May Arboretum Education Center	\$1,070
Fund 264, IN20034-484000	May Arboretum	\$1,315
Increase Expenditures:		
General Fund, IN20020-710100	Professional Services	\$5,100
General Fund, IN20020-710205	Repair and Maintenance	\$4,500
Fund 404, IN20030-710100	May Arboretum Education Center – Professional Services	\$1,070
Fund 264, IN20034-710371	May Arboretum - Horticulture	\$1,315

07-751 AGREEMENT – RENO CELEBRATES AMERICA – PARKS

Upon recommendation of Al Rogers, Assistant Director, on motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that the Agreement between Washoe County and Reno Celebrates America (dba Reno/Sparks/Washoe County Skyfire, Inc.) for a Fourth of July event to be held at Rancho San Rafael Regional Park on July 4, 2007 be approved and the Chairman be authorized to execute the same upon presentation.

07-752 AGREEMENT – RENO TAHOE BLUES FEST – PARKS

Commissioner Galloway stated he was present during the Parks Commission's discussion of this event. Although approval had been recommended, there were concerns expressed over the condition of the property following last year's event.

Upon recommendation of Al Rogers, Assistant Director, on motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that the Agreement between Washoe County and Reno Tahoe Blues Fest for an outdoor music event to be held at Rancho San Rafael Regional Park on August 18 and 19, 2007 be approved and the Chairman be authorized to execute the same upon presentation.

**07-753 APPOINTMENTS – EAST TRUCKEE CANYON CITIZEN
ADVISORY BOARD – COMMUNITY DEVELOPMENT**

On motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that:

1. Ida Louise Swires be reappointed as an at-large member of the East Truckee Canyon Citizen Advisory Board for a term beginning July 1, 2007 and expiring June 30, 2009;
2. Bambi Van Dyke be reappointed as an at-large member of the East Truckee Canyon Citizen Advisory Board for a term beginning July 1, 2007 and expiring June 30, 2009;
3. Michele Lani be appointed to fill an unexpired term as an at-large member of the East Truckee Canyon Citizen Advisory Board until June 30, 2009; and
4. Jerry Van Dyke be appointed to fill an unexpired term as an at-large member of the East Truckee Canyon Citizen Advisory Board until June 30, 2008.

**07-754 APPOINTMENTS – SPANISH SPRINGS CITIZEN ADVISORY
BOARD – COMMUNITY DEVELOPMENT**

On motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that Max Bartmess and Greg Prough

be reappointed as at-large members to the Spanish Springs Citizen Advisory Board with terms beginning July 1, 2007 and expiring June 30, 2009. It was further ordered that Kelly Fradella be appointed to fill an unexpired term as an at-large member of the Spanish Springs Citizen Advisory Board until June 30, 2008.

07-755 REAPPOINTMENT – WARM SPRINGS CITIZEN ADVISORY BOARD – COMMUNITY DEVELOPMENT

On motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that Robert White be reappointed as an at-large member of the Warm Springs Citizen Advisory Board for a term beginning July 1, 2007 and expiring June 30, 2009.

07-756 APPOINTMENT – NORTH VALLEYS CITIZEN ADVISORY BOARD – COMMUNITY DEVELOPMENT

On motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that Debra Richied be reappointed as an at-large member of the North Valleys Citizen Advisory Board for a term beginning July 1, 2007 and expiring June 30, 2009.

07-757 APPOINTMENTS – COLD SPRINGS CITIZEN ADVISORY BOARD – COMMUNITY DEVELOPMENT

On motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that Scott Sarratt be reappointed and Frank Schenk be appointed as at-large members of the Cold Springs Citizen Advisory Board for terms beginning July 1, 2007 and expiring June 30, 2009.

07-758 APPOINTMENTS – SUN VALLEY CITIZEN ADVISORY BOARD – COMMUNITY DEVELOPMENT

On motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that:

1. Nyleen Smith be appointed as an at-large member of the Sun Valley Citizen Advisory Board for a term beginning July 1, 2007 and expiring June 30, 2009;
2. Robert Fink be appointed as an at-large member of the Sun Valley Citizen Advisory Board for a term beginning July 1, 2007 and expiring June 30, 2009;
3. John Jackson, Sr. be reappointed as an at-large member of the Sun Valley Citizen Advisory Board for a term beginning July 1, 2007 and expiring June 30, 2009; and

4. James Brunson be appointed as an at-large primary alternate member of the Sun Valley Citizen Advisory Board for a term expiring June 30, 2008.

07-759 BUDGET AUGMENTATION – SPECIALTY COURT PROGRAM – DISTRICT COURT

Ron Longtin, Court Administrator, stated he received a check from the Administrative Office of the Courts in the amount of \$85,590 to be used for the Diversion Court program. He noted the funding was received primarily through the efforts of Senior Judge Peter Breen, who had gone before the Specialty Court Funding Committee at the State level. In response to a question by Chairman Larkin, Mr. Longtin explained that the budget augmentation would go into the Diversion Court portion of the Specialty Court fund. Chairman Larkin asked why it was necessary to increase funding. Mr. Longtin indicated there would be new contract proposals coming before the Board to help with the increase in client levels in the Diversion Court arena.

Chairman Larkin recalled prior discussions with Sheila Leslie, Specialty Courts Coordinator, when the Board requested reports containing metrics to show the effectiveness of the Diversion Program. He pointed out that the Board had not yet seen any such information.

3:27 p.m. Commissioner Galloway temporarily left the meeting.

Chairman Larkin preferred to have his questions answered by Ms. Leslie prior to authorizing the budget augmentation. He asked for measurements of success and a report on what was being done with the Diversion Program. Chairman Larkin stated he was certain that Judge Breen was very effective but it was necessary for the Board of County Commissioners to exercise due diligence. Mr. Longtin indicated it was a priority to review performance standards for programs and vendors being utilized by the Specialty Court.

Commissioner Humke listed specific questions he would like answered by Ms. Leslie, including: what was "diversion", who were the vendors, and what other defendants might suffer as a result of resources going to the Diversion Program.

There was no response to the call for public comment.

3:31 p.m. Commissioner Galloway returned to the meeting.

Commissioner Galloway commented that he heard the discussion over the speaker, although he had been absent from the room. In response to a question by Commissioner Galloway, Assistant District Attorney Melanie Foster stated the item could be placed on a future agenda by the Court or by any one of the Commission members.

On motion by Commissioner Humke, seconded by Commissioner Weber, which motion duly carried, it was ordered that consideration of budget augmentation be continued until reports are received about the performance of the Specialty Court's Diversion Program. It was noted that a representative of the Specialty Court or one of the Commissioners could place reconsideration on a future agenda.

07-760 **PLAN AMENDMENT – 401(a) DEFERRED COMPENSATION
PLAN – HUMAN RESOURCES**

In response to a question by Commissioner Sferrazza, Robert Trenerry, Regional Manager with Hartford, explained that the amendment would lower the minimum amount at which employees who terminate would be required to take a disbursement of their deferred compensation balance. The minimum amount would change from \$5,000 to \$1,000.

Upon recommendation of Joanne Ray, Director of Human Resources, on motion by Commissioner Sferrazza, seconded by Commissioner Galloway, which motion duly carried, it was ordered that the Deferred Compensation 401(a) Plan Amendment Automatic Rollover IRA Requirements be approved as recommended by the Deferred Compensation Committee.

DISCUSSION – BLOCK VOTE

The Board consolidated agenda items 10, 11, 13, 14, 15 and 17 (minute items 07-761 through 07-766) into a block vote.

There was no response to the call for public comment on these items.

07-761 **CONTRACT EXTENSION – BUREAU OF INDIAN AFFAIRS –
HOUSING TRIBAL PRISONERS – SHERIFF**

Commissioner Sferrazza abstained from the vote on this item, stating that he was a tribal judge for one of the tribes and a tribal attorney for another of the tribes.

Upon recommendation of Todd Vinger, Chief Deputy, on motion by Commissioner Galloway, seconded by Commissioner Weber, which motion carried on a 4-0 vote with Commissioner Sferrazza abstaining, it was ordered that extension of the expired contract between the Washoe County Sheriff's Office and Bureau of Indian Affairs to house tribal prisoners at the Washoe County Jail be approved and the Chairman be authorized to execute the same. It was noted that the purpose of the extension was to receive payment for the housing of tribal prisoners from October 1, 2006 through May 31, 2007.

**AWARD OF BID – EMERGENCY CHILD PROTECTION
SHELTER OPERATOR – BID NO. 2589-07– PURCHASING**

This was the time to consider award of the bid for an emergency child protection shelter operator for the Social Services Department. A bid was received from Adams and Associates, Inc.

Commissioner Galloway pointed out that the single sealed bid was opened in April 2007 and he wondered about the delay in bringing it before the Board. Mike Capello, Director of Social Services, indicated he wanted to be confident of the budgeted amounts available from the State and the County to fund the cost of the shelter before considering the bid. Commissioner Galloway commented this would occur every legislative year and suggested it might be worthwhile to switch to a calendar year at some point. He noted that the bid was 9 percent over the current contract and there was no time left in the fiscal year to negotiate with the single bidder. Mr. Capello stated they held negotiations with the bidder, which reduced the amount of the initial base bid by approximately \$100,000. Commissioner Galloway suggested the contract time be extended through the following December to improve the timing of the bid in the future.

Chairman Larkin asked if the size of the community was a factor in not being able to get multiple vendors on the bid. Mr. Capello explained the service provided was a unique niche that was not contracted out in many counties. He stated the program was eligible for federal reimbursement if it was contracted out to a public nonprofit provider, resulting in about a 42 percent reimbursement of the program's cost back to the County. Additionally, he pointed out that a contractor could manage staffing more efficiently than the County when there were ebbs and flows in the census. Chairman Larkin wondered what controls were in place to ensure the County's needs and standards had been met. Mr. Capello stated there was a designated liaison within Social Services who was responsible for overseeing the contractor's compliance with the regulations and terms of the contract, as well as staff present in the facility multiple times per day. He added that social workers had regular contact with the children in the facility.

Commissioner Humke stated he was informed that Adams and Associates was a diligent contractor doing a great job that was very important. He thought the County could be proud of the operation of the facility.

Upon recommendation of Charlene Collins, Buyer, on motion by Commissioner Galloway, seconded by Commissioner Weber, which motion duly carried, it was ordered that Bid No. 2589-07 for an emergency child protection shelter operator at Kids Kottage, Kids Kottage Too and Kids Kottage Modular for the Social Services Department be awarded to Adams and Associates, Inc., the sole responding bidder, for an estimated bid award amount of \$3,265,000.00 annually. It was further ordered that the Purchasing and Contracts Administrator be authorized to enter into a two-year agreement, commencing July 1, 2007 through June 30, 2009, with the provision for a one-year extension at the County's option.

07-763

**INTERLOCAL AGREEMENT – NEVADA HOUSING DIVISION –
LOW INCOME HOUSING TRUST FUNDS WELFARE SET ASIDE
– MANAGEMENT SERVICES/COMMUNITY SUPPORT**

Upon recommendation of Gabrielle Enfield, County Grants Administrator, on motion by Commissioner Galloway, seconded by Commissioner Weber, which motion duly carried, it was ordered that the Low Income Trust Funds Welfare Set Aside from the Nevada Housing Division be accepted in the amount of \$314,212, the Interlocal Agreement with the State of Nevada Housing Division to use 2007-08 Low Income Housing Trust Funds be approved, and the Chairman be authorized to execute the same. It was noted that the grant provided assistance to families and seniors in danger of becoming homeless or already homeless and in need of assistance with utilities, security deposits, rent or a mortgage payment.

07-764

**ACCEPT GRANT – SHELTER PLUS CARE II – U.S.
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT –
MANAGEMENT SERVICES/COMMUNITY SUPPORT**

Upon recommendation of Gabrielle Enfield, County Grants Administrator, on motion by Commissioner Galloway, seconded by Commissioner Weber, which motion duly carried, it was ordered that the *Shelter Plus Care II* award be accepted in the amount of \$284,160 from the United States Department of Housing and Urban Development, the Agreement for the award be approved, the Chairman be authorized to execute the same, and the Finance Department be directed to make the appropriate budget adjustments. It was noted that Washoe County would provide matching funds in the amount of \$284,160 (\$56,832 per year over a term of five years).

07-765

**RESOLUTION/GRANT CONTRACT – RENO-SPARKS GOSPEL
MISSION – EMERGENCY HOMELESS SHELTER –
MANAGEMENT SERVICES/COMMUNITY SUPPORT**

Upon recommendation of Gabrielle Enfield, Community Support Administrator, on motion by Commissioner Galloway, seconded by Commissioner Weber, which motion duly carried, it was ordered that the Grant Program Contract with the Reno-Sparks Gospel Mission to support the operation of the emergency homeless shelter for fiscal year 2007-08 be approved in the amount of \$194,010 and the Chairman be authorized to execute the same. It was also ordered that the following Resolution be approved and the Chairman be authorized to execute the same:

RESOLUTION

**AUTHORIZING THE GRANT OF PUBLIC MONEY TO A
NONPROFIT ORGANIZATION CREATED FOR RELIGIOUS,
CHARITABLE OR EDUCATIONAL PURPOSES**

WHEREAS, NRS 244.1505 provides that a board of county commissioners may expend money for any purpose which will provide a substantial

benefit to the inhabitants of the county and that a board may make a grant of money to a nonprofit organization created for religious, charitable or educational purposes to be expended for a selected purpose; and

WHEREAS, the Board of Commissioners of Washoe County has determined that a certain amount of money is available for fiscal year 2007-08 for community support grants, which grants will provide a substantial benefit to the inhabitants of Washoe County and which are made to private nonprofit organizations; now, therefore, be it

RESOLVED, by the Board of Commissioners of Washoe County that:

1. The Board hereby grants to the Reno-Sparks Gospel Mission, Inc., a private nonprofit organization, a grant for fiscal year 2007-08 in the amount of \$194,010 (Community Support).
2. The purpose of the grant is to provide for homeless shelter services.
3. The maximum amount to be expended from the grant and the conditions and limitations upon the grant are as set forth in the Grant Program Contract, which Contract was placed on file with the Clerk and incorporated herein by reference.

07-766 **INTRASTATE INTERLOCAL CONTRACT – NEVADA DIVISION
OF CHILD AND FAMILY SERVICES – MENTAL HEALTH
SERVICES – JUVENILE SERVICES**

Upon recommendation of Carol Galantuomini, Division Director, on motion by Commissioner Galloway, seconded by Commissioner Weber, which motion duly carried, it was ordered that the Intrastate Interlocal Contract between the State of Nevada and the Department of Juvenile Services to provide reimbursement funding for mental health services for juvenile sex offenders and sexually perpetrating youth be approved and the Chairman be authorized to execute the same. It was noted that the contract provides for funding in an amount not exceeding \$162,820 for all County/City contractors statewide for a two-year period (July 1, 2007 through June 30, 2009) and Washoe County has received an average of approximately \$32,000 annually over the last two years.

07-767 **EXPENDITURE – 800-MHZ RADIOS – PURCHASING**

Senior Buyer Mike Sullens placed a sole source justification form on file with the Clerk. Amy Harvey, County Clerk, distributed the form to the Commissioners for their review.

In response to a question by Commissioner Galloway, Mr. Sullens explained that Dailey & Wells Communications was the exclusively assigned dealer for Washoe County's account with the manufacturer, M/A-Com, Inc.

Commissioner Sferrazza stated he could not vote for the purchase based on the manufacturer's comment that there would be problems with other 800-MHz radios. Mr. Sullens responded it was necessary to standardize so the County did not purchase radios that operated differently from each other. Commissioner Sferrazza indicated he had nothing to compare to and wondered how he could know that we were not standardizing on the most expensive radio. County Manager Katy Singlaub noted the Board previously reviewed other options. Craig Harrison, Manager of Telecommunications, reported there was no other 800-MHz radio that would work because it was proprietary for the entire system. Commissioner Sferrazza thought there was a federal law mandating compatible systems for emergency communication between agencies. Mr. Harrison stated the Department of Homeland Security was encouraging that and compatible systems were under development but they were not yet available.

There was no response to the call for public comment.

Commissioner Galloway remarked that, although he shared some of Commissioner Sferrazza's concerns, County staff was already trained on this system and problems with interoperability needed to be corrected at the federal level.

Commissioner Sferrazza stated he could not vote in favor of the purchase because it was his understanding that interoperability was supposed to be available.

Upon recommendation of Mike Sullens, Senior Buyer, on motion by Commissioner Galloway, seconded by Commissioner Humke, which motion carried on a 4-1 vote with Commissioner Sferrazza voting "no", it was ordered that the purchase of 140 800-MHz radios for the Sheriff's Office Detention in-building radio coverage enhancements project be approved in the total amount of \$405,836.20 from Dailey & Wells Communications, Inc., on behalf of the Telecommunications Division of the Washoe County Technology Services Department and the Washoe County Sheriff's Office.

4:02 p.m. Chairman Larkin declared a brief recess.

4:16 p.m. The Board convened as the Board of Fire Directors of the Sierra Fire Protection District with Directors Galloway and Sferrazza absent.

4:27 p.m. The Board reconvened as the Board of County Commissioners with all members present.

**AWARD CONTRACT – PROFESSIONAL LEGAL SERVICES –
CONFLICT CASES – MANAGER**

Commissioner Sferrazza commented that he saw no provision in the contract with attorney Robert C. Bell for setting aside funds for expert witnesses and costs, nor any indication of a specific amount for that purpose. John Berkich, Assistant County Manager, stated that such expenses, which were expected to be from \$2,000 to \$4,000, would have to be paid for separately. He noted that the budgeted amount of \$150,000 would be fully committed upon approval of the contract.

Commissioner Sferrazza questioned how rates would be set for additional attorneys to be employed by Mr. Bell. Mr. Berkich responded that the fees for contracting attorneys would have to be adjusted according to the nature and complexity of the cases involved. Commissioner Sferrazza expressed concern that the amount paid was so small there would be no incentive to provide an adequate defense. He requested some provision for rates in the contract to avoid the situation where an attorney was paid \$500 for a felony case, providing no incentive for the attorney to go to trial at all. Mr. Bell commented he had a list of 14 people committed to working with him on conflict cases and they understood the contract did not pay a lot of money. In response to further questioning by Commissioner Sferrazza, Mr. Bell indicated it was difficult to ascertain the amounts each attorney would accept but the most important thing was to have good quality attorneys who could provide representation, even knowing that some of the cases would be for lower or higher amounts. Mr. Berkich offered to share monthly reports with Commissioner Sferrazza that would include fee information.

Commissioner Galloway observed that attorneys had a legal responsibility once they accepted a case and they could not just automatically plead somebody out. Mr. Bell stated that most of the attorneys he worked with handled their representation in a particular way, regardless of what they were being paid. Commissioner Galloway suggested that some attorneys would consider this as a certain amount of assured work but might not want to publish their rate. Mr. Bell agreed that attorneys who were assured a certain number of cases per month would know they had a certain amount of money coming in. Commissioner Galloway was satisfied that attorneys who took these cases would do a good job to avoid professional liability concerns.

Commissioner Galloway asked about budgeted funds for expert witness fees and costs. Mr. Berkich clarified the contract was for fiscal year 2007-08 and, since all budgeted funds would be committed to the contract, the budget would have to be adjusted for additional costs such as translation services. He explained there was currently no money budgeted in the line item for the expert witness fund. Commissioner Galloway requested an agenda item to consider replenishing that fund. He wanted to make sure there was something available for the regular and the alternate public defenders. Mr. Berkich stated the fees were expected to be minimal and it was possible some of the money could be made up as the fiscal year went along. Commissioner Galloway agreed with Mr. Berkich that it would be acceptable to bring such a request before the Board should additional funds be needed.

There was no response to the call for public comment.

Commissioner Sferrazza moved to approve the contract and requested reports showing the amounts paid out, along with the number of cases pled and the number going to trial. He wanted to make sure the numbers were comparable to what would happen in the private bar and disagreed that attorneys would spend the same amount of time as they would for a private-paying case. Commissioner Sferrazza pointed out there was no state bar review of how many hours spent.

Commissioner Galloway seconded the motion but indicated the report detail should not compromise the business rates of the attorneys involved. Commissioner Sferrazza commented the report did not have to include the names of the attorneys.

Commissioner Humke expressed concern that Commissioner Sferrazza's request was in the nature of a litigation report, which might result in additional duties and change the negotiating terms of the contract. Mr. Berkich explained that paragraph five of the contract provided for Mr. Bell's report to include the disposition and fees paid on specific cases. The report would not include all cases but would be done on a statistical basis. Commissioner Humke gave a "thumbs up" to that approach.

Commissioner Sferrazza and Mr. Bell discussed that the monthly report would include the number of cases opened and closed for all cases, with the fees and disposition for a statistical sampling of cases. Commissioners Sferrazza and Galloway agreed they would not require more in the monthly reports than what was stipulated in the contract.

Upon recommendation of John Berkich, Assistant County Manager, on motion by Commissioner Sferrazza, seconded by Commissioner Galloway, which motion duly carried, it was ordered that the contract for professional legal services in conflict criminal, family court and juvenile cases be approved, that it be awarded to Robert C. Bell, Esquire in an amount not to exceed \$150,000, and the County Manager be authorized to execute the same. It was further ordered that a contract form to be used to contract in the future with attorneys and/or law firms for professional legal services in conflict cases be approved and the County Manager be authorized to execute future agreements upon presentation.

DISCUSSION – BLOCK VOTE

On motion by Commissioner Weber, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that agenda items 18, 19, 20, 21 and 23 (minute items 07-769 through 07-773) be consolidated into a block vote.

Chairman Larkin clarified with County Manager Katy Singlaub that the items for slurry seal and paving involved unincorporated areas of Washoe County and did

not affect collector or arterial roads, which were the responsibility of the Regional Transportation Commission.

Commissioner Galloway acknowledged that professional testing and services contracts were not in the same category as those for which a sole source justification was normally required. He explained there was a selection process for professional contracts, so they did not have to go out to competitive bid.

07-769 RENEW CONTRACT – 2007-08 SLURRY SEAL OF SELECTED STREETS – PWP-WA-2007-284 – PUBLIC WORKS

Upon recommendation of Greg Belancio, Senior Licensed Engineer, on motion by Commissioner Weber, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that the second renewal of the three-year option contract PWP-WA-2007-284 be approved for the 2007-08 Slurry Seal of Selected Streets with Intermountain Slurry Seal, Inc. in the amount of \$1,990,000. It was further ordered that the Chairman be authorized to execute the contract documents upon presentation.

07-770 AGREEMENT – TESTING AND INSPECTION SERVICES FOR 2007-08 SLURRY SEAL OF SELECTED STREETS – PWP-WA-2007-284 – PUBLIC WORKS

Upon recommendation of Greg Belancio, Senior Licensed Engineer, on motion by Commissioner Weber, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that the Agreement for Testing and Inspection Services between Washoe County and James Edward Engineering, Inc. be approved in the amount of \$43,455.00 and the Chairman be authorized to execute the contract documents upon presentation.

07-771 AWARD BID – 2007-08 OVERLAY PAVING OF SELECTED PAVED STREETS – BID NO. PWP-WA-2007-283 – PUBLIC WORKS

This was the time to consider award of the bid for the 2007-08 Overlay Paving of Selected Paved Streets for the Public Works Department. Bids were received from Sierra Nevada Construction, Granite Construction, Atlas Contractors and Q&D Construction.

Upon recommendation of Greg Belancio, Senior Licensed Engineer, on motion by Commissioner Weber, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that Bid No. PWP-WA-2007-283 for the 2007-08 Overlay Paving of Selected Paved Streets be awarded to Sierra Nevada Construction Company, the lowest responsive and responsible bidder, for the base bid, Alternate No. 1 and option 3 and 4 only, in the amount of \$1,546,014. It was further ordered that the Chairman be authorized to execute the contract documents upon presentation.

07-772 **AGREEMENT – TESTING AND INSPECTION SERVICES FOR
2007-08 PAVING OF SELECTED PAVED STREETS – PWP-WA-
2007-283 – PUBLIC WORKS**

County Manager Katy Singlaub corrected the bid number listed in the staff report, indicating the correct number was PWP-WA-2007-283.

Upon recommendation of Greg Belancio, Senior Licensed Engineer, on motion by Commissioner Weber, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that the Agreement for Testing and Inspection Services between Washoe County and Black Eagle Consulting, Inc. be approved in the amount of \$35,021.00 and the Chairman be authorized to execute the contract documents upon presentation.

07-773 **AMENDMENT NO. 1 TO AGREEMENT – TEC 1 CONSULTING
SERVICES – WATER RIGHTS TITLE RESEARCH – WATER
RESOURCES**

County Manager Katy Singlaub pointed out that section 11 of the agreement had been amended pursuant to Commissioner Galloway's request. Commissioner Galloway acknowledged the amendment.

Upon recommendation of Vahid Behmaram, Water Rights Manager, on motion by Commissioner Weber, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that Amendment No. 1 to the Agreement dated November 28, 2006 for Consulting Services between TEC 1, Inc. and Washoe County, for services relating to tile research for water rights associated with street rights-of-way, be approved [\$370,000] and the Chairman be authorized to execute the same.

07-774 **GRANT – RIVER OAKS SUBDIVISION CONNECTION TO
LAWTON-VERDI INTERCEPTOR – TRUCKEE RIVER FUND –
WATER RESOURCES**

Commissioner Galloway stated he was sure this was a worthwhile project but he did not believe collection of the money by the Truckee Meadows Water Authority (TMWA) was ethical because the money was not actually used for the operation of TMWA. He thought there might be a legal challenge at some point in the future and a vote in support of the money for this project might eventually be used to discredit him.

Commissioner Galloway clarified with Rosemary Menard, Director of the Department of Water Resources, that the other half of the money required for the project would be paid by monthly assessments to approximately 172 homeowners in the River Oaks Subdivision. Commissioner Galloway noted that it was a very good program and he would support it if he did not have legal and ethical questions about TMWA's collection of the money for the Truckee River Fund.

Commissioner Sferrazza indicated he shared some of Commissioner Galloway's concerns and previously voted against the creation of the Truckee River Fund. He pointed out that customers in TMWA's billing area were subsidizing people who were not TMWA service users. Commissioner Sferrazza did believe that river quality was a related issue and the grant therefore provided a positive benefit to TMWA customers.

Commissioner Weber appreciated the fact that Ms. Menard approached the River Oaks residents who were in desperate need to make this happen. She emphasized how detrimental it could be to the Truckee River if the problem was not taken care of and pointed out that the Attorney General had issued an opinion about the Truckee River Fund. Commissioner Weber commented that the project was the best use of Truckee River Funds.

Commissioner Humke recalled an announcement by Assemblywoman Gansert during the recent Legislative session that she had negotiated a settlement whereby TMWA agreed to announce to customers that they were collecting fees to go into the Truckee River Fund. He commented that part of the issue was whether TMWA customers were having funds extracted involuntarily.

Chairman Larkin remarked that he respected the philosophical differences among Commissioners on the issue. He stressed that the grant request had a clear nexus to Truckee River water quality.

On motion by Commissioner Weber, seconded by Commissioner Humke, which motion carried on a 4-1 vote with Commissioner Galloway voting "no", it was ordered that the Director of Water Resources be authorized to accept a grant from the Truckee River Fund if the grant proposal is approved by the Truckee Meadows Water Authority and the Board of Trustees of the Community Foundation of Western Nevada.

**07-775 APPEAL CASE NO. AX07-007 – APPEAL OF BOARD OF
ADJUSTMENT DENIAL OF APPEAL CASE NO. AX07-003 –
GRADING PERMIT NO. 06-4448 – SHANE CHESNEY –
COMMUNITY DEVELOPMENT**

5:30 p.m. This was the time set to consider Appeal Case No. AX07-007 an appeal of the Board of Adjustment's action denying Appeal Case No. AX07-003, which was an appeal of Washoe County's decision to deny Grading Permit No. 06-4448. The property (APN 154-051-07) is located at 43 Rose Creek Lane, approximately 700 feet north of its intersection with Piney Creek Road. The ±1.345-acre parcel is designated Low Density Suburban (LDS) in the Forest Area Plan, and is situated in a portion of Section 10, T17N, R19E, MDM, Washoe County, Nevada. The property is located in the Galena-Steamboat Citizen Advisory Board boundary and Washoe County Commission District No. 2.

Kelly Mullin, Assistant Planner, described the subject property and explained that Grading Permit No. 06-4448 sought to legalize a second driveway and

related grading that were completed without permits. She stated the second driveway accessed Philoree Lane, which was not part of the RoseCreek subdivision. She said the request was denied because the property was part of a Hillside Development Tentative Subdivision Map approval and was subject to a specific lot plan that identified the only allowable access was from Rose Creek Lane.

6:12 p.m. Commissioner Weber returned to the meeting.

Ms. Mullin explained there were subdivisions within the County that had specific lot plans that had to be reviewed prior to the issuance of building or grading permits. She said lot plans were generally included as part of the tentative or final map review process and were created to address issues that were specific to each parcel. She explained the Hillside Ordinance, Article 324 of the Washoe County Development Code was applicable due to the RoseCreek subdivision's location. She stated additional measures were required as part of the review process by the Planning Commission. She said approval was specifically conditioned by the Planning Commission to mitigate the impact of development of the RoseCreek subdivision. She indicated Article 608, Tentative Subdivision Maps, of the Development Code granted the Planning Commission that authority. She explained Condition No. 4 was very specific in requiring lot plans that identified the driveway location in addition to several other components. She said that condition required the site plan to be in substantial conformance with the landscape plan as submitted to address Hillside Ordinance requirements. She stated the developer complied with that condition and created a series of lot plans, which were reviewed and approved by the Planning Commission.

Ms. Mullin said the appellant's initial dwelling plan was found to be in conformance with the specific lot plan and was approved, but the subsequent grading plan was not approved. She stated there was approximately a three-foot landscape berm that was located on the northern portion of the property that separated the subdivision from the Philoree Lane access easement to the north. She explained the berm was required by the developer to ensure that residents of the subdivision did not have access to Philoree Lane. She stated there could not be drive-access to Philoree Lane for the property to be in compliance with the Planning Commission's conditions of approval for this tentative map.

Ms. Mullin said the RoseCreek subdivision was specified as "a gated village in the trees" and the intent of a gated community was subverted when one of its residents created an additional access drive. She said the appellant had indicated the drive was gated, but there was no gate observed during a site inspection on May 10th; and she indicated she had not seen a permit issued for the gate to be installed.

Ms. Mullin said staff recommended the Board uphold the Board of Adjustment's decision to deny this appeal based on the findings listed in the staff report dated May 2, 2007.

Chairman Larkin said a letter dated June 19, 2007 from Timothy J. Burkett, American Pacific Development President, indicated that he had obtained permission from the residents of Philoree Lane for emergency access only to Philoree Lane. A copy of Mr. Burkett's letter was placed on file with the Clerk. Chairman Larkin asked if the emergency ingress/egress could be identified. Ms. Mullin replied during the initial review process for the subdivision, there was consideration of a secondary emergency access that encountered a significant amount of opposition. She said the Fire Department required sprinklers in the homes of the subdivision instead of the secondary emergency access.

Chairman Larkin asked if there was any idea what would happen in the subdivision if there was a fire like the one at South Lake Tahoe. Ms. Mullin said she was not prepared to answer that question, and she did not believe anyone from the Fire Department was here who could answer it. She reiterated the Fire Department's condition was to put sprinklers in the home.

In response to Commissioner Galloway, Roger Pelham, Senior Planner, replied a cul-de-sac had to be longer than 1,500 feet before a secondary emergency access was required. Ms. Mullin indicated she did not know the exact length of this cul-de-sac. She stated she understood Philoree Lane was a privately owned access easement, but there was some contention about who had access. She said some owners who lived along the lane contended it was not for public access, but the appellant believed he did have access to it. She stated access easements were discussed at the Board of Adjustment meeting where this appeal was heard, but the District Attorney representing Community Development indicated only the conditions for approval that were placed on the subdivision were a matter for consideration today.

In response to Commissioner Galloway, Melanie Foster, Deputy District Attorney, said the District Attorney's Office did not have an opinion on whether or not the easement gave the appellant, Shane Chesney, any right to use it for access. She stated that was a matter to be resolved between the Chesney's and their neighbors. Commissioner Galloway felt it was not clearly demonstrated that they had that right. Ms. Foster agreed. She said the intention of the initial granting of the easement, which the District Attorney's Office was aware of, was for secondary emergency access. She indicated whether or not that translated to a right to use was a matter for a court to resolve.

Commissioner Galloway asked if the negative effect of the residents of the RoseCreek subdivision accessing Philoree Lane was known or was that not indicated in the transcripts of the proceedings. Ms. Mullin indicated the exact reasons were not included in the case file for the original subdivision. She reiterated the original case planner who reviewed the project indicated the berm was installed to prevent access to Philoree Lane.

Commissioner Galloway asked if the Board were to issue a grading permit for someone to connect a driveway and it later turned out that they had no right to use the

street they were allowed to connect to, regardless of all the other issues, that could constitute the Board being part of something improper. Ms. Foster replied arguably. She asked the Board to focus upon the requirements imposed upon the lot through the subdivision and map process when making its decision. Commissioner Galloway indicated he was using this as a tiebreaker if he had a problem. He said he was concerned about why he would issue a grading permit without knowing anything else about whether or not someone had a right to connect to Philoree Lane.

In response to Commissioner Humke, Mr. Pelham said the Hillside Ordinance allowed the County to impose additional, more stringent restrictions on individual site plans than would typically be applied in any other similar tentative map process for a site on flat terrain. He explained the developer was required by the Planning Commission to establish individual building envelopes and locations for driveways, because of topography unique to the whole subdivision and to each lot.

In response to Commissioner Galloway, Mr. Pelham replied scenic concerns were addressed in the Hillside Ordinance along with drainage, grading, erosion, and dust control issues. He said these were things that were magnified when development occurred on slopes.

Commissioner Galloway asked if a grading permit was issued, would it make the driveway already constructed non-compliant anyway because of drainage conditions that might have been required on a grading permit. Mr. Pelham responded that was one possibility, which was why the individual lot plans were presented by the developer and approved by the Planning Commission. Commissioner Galloway asked if the additional driveway was visible from the main street of the subdivision. Ms. Mullin replied she could not see Rose Creek Lane from where she was standing when she conducted her site visit, but it was visible from Philoree Lane because it opened onto it. She confirmed there were significant slopes on the appellant's property but not necessarily near the driveway.

Commissioner Galloway asked if the driveway created cuts. Ms. Mullin replied besides going through the berm, there was a drainage ditch the driveway went through that was filled in after a pipe was placed in the ditch.

Shane Chesney, appellant, projected a map of the RoseCreek Estates/Galena Forest Estates, which was placed on file with the Clerk. He said the private road was actually on top of his land and ran across the land of the other RoseCreek residences. He stated David Sinai, the previous owner of his property, created the road and granted the Callahan family an easement to allow them access to their property in 1979.

Mr. Chesney said the easement was entitled a "non-exclusive access easement" not an "emergency access easement." He said it fully reserved to the grantor, himself, full use and enjoyment of aforesaid easement except as the rights herein granted. He indicated he wrote a legal brief that addressed the rights of easements, which was part

of the record. He stated he was going to focus on the points made by staff because 90 percent of them were not supported by any documentation but only by oral statements. He stated he would stick strictly to the record, because land could not be affected by oral statements, but only by written statements.

Mr. Chesney discussed the easement's length and location. He indicated the County had denied his legal use of the easement, and he could never have imagined the County would exclude an owner from his own land while allowing neighbors to use it. He requested the Commissioners reverse the deprivation of the use of his own land and the denial of the legal rights set forth in the title documents.

Mr. Chesney said Chairman Larkin hit on why he wanted to use the land. He felt the fire in Lake Tahoe brought forward the need for a secondary emergency access in case the head of the cul-de-sac was blocked. He acknowledged the house had sprinklers, but he was not sure how effective they would be in a firestorm coming from the outside and burning into the center of the house. He stated he would not be selfish and would open up the gate to provide access to Rose Creek Lane if Philoree Lane residents needed it.

Mr. Chesney said the drainage ditch belonged to the RoseCreek Homeowners Association, and they approved the insertion of a culvert into it so he could drive over it for a secondary access. He said another reason he wanted the secondary access was because he had a tight driveway, and he would like to be able to take his travel trailer in and out. He stated big trucks also could not navigate the approved, permitted driveway to make bulk deliveries.

Mr. Chesney stated the only tentative legal basis to deny the use of his land was Condition 4 of the Tentative Subdivision Map. He stated the condition was met as evidenced by the Planning Commission's approval. He said there was no provision in the Washoe County Development Code that there could never be any deviation from the site plan, which the house he built did because the footprint, location, and driveway shape were different. He explained he was hooked to public sewer instead of using a septic system as shown on the site plan. He felt if the site plan were so sacrosanct a document that it could never be deviated from, he could never have hooked up to the public sewer. He stated the only thing he had done was put in a culvert and a driveway on his own land going to a road.

Mr. Chesney doubted he moved 2 cubic yards total, and the requirement for a grading permit was to move at least 50 cubic yards of dirt.

Mr. Chesney said staff indicated hillside development required additional mitigation, but the driveway was in a flat area not on a hillside. He referred to the Lot 4 Plot Plan on page 11 of his packet, which called for a 25-foot non-exclusive access easement. He felt the lot plan was in substantial conformance with the site plan with the only difference being a spur that gave him access to the easement. He said staff also indicated the lots had to be in substantial conformance with the landscape plan, which it

was. He said the landscape plan was so preliminary that the lot was shaped differently. He did not understand how all of those things could change, but the landscaping could not. He did not know of any prohibition in Washoe County Code against the alteration of approved landscaping. He said what he did was approved by the RoseCreek Homeowners Association.

Mr. Chesney said staff indicated there was a developer-installed berm separating the RoseCreek Subdivision from Philoree Lane. He attested there was no such continuous berm. He stated the berm looked like an unattractive rock pile. He said there was minimal material removed in the area near Philoree Lane. He indicated Page 58 in his packet stated drainage could be altered upon approval of the Homeowners Association, which was shown on Page 59. He explained one of the conditions of approval by the Association was the drive had to be gated. He apologized about the misunderstanding with Ms. Mullin, but he had not yet put in the gate because he was not sure whether or not he would have to tear out the culvert. He indicated the gate would go in if the culvert stayed. He said he did not understand why neighbors believed he would let the general public drive across his property to access the center of the RoseCreek subdivision. He stated the integrity of the gated village would be intact.

Mr. Chesney indicated the developer only wanted to restrict access to the RoseCreek cul-de-sac from Philoree Lane. He suggested it was not the Philoree Lane residents that did not want RoseCreek residents to get on their road, but it was the other way around. He said the developer wanted an exclusive, private gated cul-de-sac; to achieve that he requested the homes not be given emergency access to Philoree Lane. He felt that was not smart and was against Washoe County Code. He discussed the planned 30-foot drive that was changed to a footpath. He said the subdivision map clearly showed Philoree Lane crossing in the back as part of the RoseCreek Subdivision. He stated the representations that everyone was so concerned about were simply not true. He said the Mount Rose/Geiger Grade Citizen Advisory Board's report, Page 55 in his packet, to the Planning Commission on March 10, 1997 indicated the only concern that needed to be addressed was fencing. He said the motion for approval of the development carried with no opposition. He said that concern was also cited in the Planning Commission's document from March 24, 1997, which was Page 43.

Mr. Chesney said Washoe County Code 110.608.25G stated, "the design of a subdivision or the type of improvements will not conflict with easements required by the public at large for access through or use of the property within the proposed subdivision." He stated Washoe County Code prevented planning in subdivisions that messed with existing easements, which was exactly what was happening here. He said he had tried to talk to staff about it, but they would only say there was a site plan that could not be deviated from. He felt that was not true and there were driveways all over town that were not on a site plan.

Mr. Chesney requested the Board of Adjustment's decision be reversed and his grading permit granted for a secondary driveway subject to any County engineering requirements. As an alternative, he requested the matter be remanded back to

staff with specific instructions that the site plan be amended to provide secondary vehicular access. He stated if the Board denied his appeal, he would request that the Code being used for the denial be cited so he could state in court the basis for the denial.

In response to Commissioner Sferrazza, Mr. Chesney said he applied for a permit even though he did not believe he needed one because he needed a Certificate of Occupancy. He said he had some guys put down a base and put in a culvert and a neighbor across the way went crazy. He believed she thought the land was not his and the road was her road. He stated she obtained signatures on a petition and went to Community Development who put a "stop work order" on the house leaving him no place to live because his lease was up where he was living at the time. He stated he went to Community Development who agreed to segregate the driveway issue from the Certificate of Occupancy so he could move in. He said staff told him to apply for a grading permit. Commissioner Sferrazza asked if he was not legally required to have the permit, why not just withdraw the permit and let the neighbor sue. Mr. Chesney said he could, but he knew he was right on this issue.

Commissioner Sferrazza said he understood the argument on the easement, but the problem was that General Conditions, Paragraph 4, stated the driveway location was required to be called out on the site plan, which did not show a secondary access. Mr. Chesney replied Philoree Lane was on the site plan as a non-exclusive access easement. Commissioner Sferrazza stated the Board could limit the additional driveway but had no control over the use of Philoree Lane according to the District Attorney's Office. He said Mr. Chesney could still drive onto Philoree Lane if there was no driveway. Mr. Chesney agreed he could put in grass and drive over it.

In response to Commissioner Sferrazza, Ms. Mullin said the lot plan was specific for driveways. She said if there was no driveway and Mr. Chesney wanted to drive through the ditch and onto Philoree Lane, she did not know if the County would get involved. She said there would still be the private matter between Mr. Chesney and his neighbors about his accessing Philoree Lane. Mike Harper, Planning Manager, agreed that if Mr. Chesney wanted to drive over the berm he removed and through the ditch, the County would not be out there watching for him do that. He said it was very clear the site plan prevented more than one access to the property, which was approved through the proper processes. He stated the issue before the Board was that Mr. Chesney altered the land to put in the second driveway.

Commissioner Sferrazza asked if it stated somewhere that the berm could not be changed. Mr. Harper replied that was an issue between Mr. Chesney and the homeowners. He understood the homeowners approved the culvert, but they did not have the authority to alter an approved plan. He said the County relied upon the recorded site plan. He said the process was not an uncommon practice especially in a hillside environment to preserve views and to address erosion control and drainage issues.

Mr. Harper said the proper process now would be for the property owner to submit an amended site plan if this issue was important to them. He stated the site plan

allowed the County Recorder to record the lot, for the realtor to sell it, and for the purchaser to obtain a deed for the property.

Commissioner Sferrazza commented the County did not normally enforce Covenants, Conditions, and Restrictions (CC&R's). Mr. Harper replied this was not a CC&R issue. He said CC&R's do not override the lawful process that was followed to create the site plan, which allowed the subdivision map to be recorded and allowed the lot to be sold.

Commissioner Galloway asked if filling in a drainage ditch would trigger a grading permit requirement. Mr. Harper replied the threshold for a grading permit was 50 cubic yards. Commissioner Galloway asked if there was another kind of permit to fill in drainage ditches. Mr. Harper replied if it was intended through the subdivision map review process to allow that drainage ditch to be filled in, it would have been a condition of approval within standards recommended by the County Engineering Department. He said the condition would have been a note on the map or some other vehicle and that information was not recorded as part of the map. Commissioner Galloway commented the subdivision map was silent on the matter of the drainage ditch. Mr. Harper indicated by being silent, the intent was the drainage ditch would function the way it was designed and would have no culverts. Commissioner Galloway stated the subdivision map showed a berm that Mr. Chesney said was not as depicted. He asked if the map, and the conditions to the map, or the "as built" was being enforced. Mr. Harper said as the Department became aware of those they would be. Mr. Harper said if someone wanted to add a room, site plans did not get that specific but only defined a footprint. Commissioner Galloway asked what would happen if someone wanted to go outside the footprint. Mr. Harper replied the site plan would be looked at; and, if the building construction was outside the footprint, the request would be denied. He said during the almost 30 years he had worked for the County, not only had the County denied those requests but won the resulting lawsuit because the site plan clearly indicated the building envelope.

In response to Commissioner Galloway, Mr. Harper replied staff could look at the site plan to see how much of a variation there was in the original driveway. He said it was clear looking at site plans was perspective in nature and there was always going to be substantial compliance. He stated he could take a photo and compare it to the site plan to provide an opinion on whether or not it was in substantial compliance. He felt these were all issues that were not germane to this hearing. Commissioner Galloway stated the issues were raised and they needed to be clarified.

Chairman Larkin stated the citation of Article 608 of the Washoe County Development Code specifically granted the Planning Commission the authority to place conditions on subdivisions to mitigate their impact. He said the question was raised on what relevance that had in this case. Mr. Harper said Article 608, which was in conformance with the NRS that required cities and counties to have a subdivision ordinance, needed to be combined with the Zoning Citation, 278.250, which allowed the County to establish other regulations in conformance with zoning. He stated the Hillside Ordinance was one of those regulations established under that provision. He stated both

needed to be taken together and could not be separated. He said the Hillside Ordinance modified some, but not all, aspects of the Subdivision Ordinance.

In regards to the Hillside Ordinance, Chairman Larkin said it was mentioned a portion of the site was flat, and he asked what relevance that had to the Hillside Ordinance. Mr. Harper replied the property was graded. He said the property would have been looked at to see if it fell under the Hillside Ordinance in its natural state. He speculated the pad placement for the house was identified as requiring the least amount of grading. He explained the purpose of the Hillside Ordinance was to determine where development would cause the least impact based on the slope of the properties in the subdivision and the least impact on properties outside the subdivision. He reiterated Article 608 gave the County the authority to look at other ordinances that affect certain types of property, which in this case was the Hillside Ordinance.

Noted in the staff report, Chairman Larkin said the condition required for there to be a site plan with an identified, acceptable driveway. He commented many subdivisions were created without that level of specificity. Mr. Harper confirmed that was correct.

Chairman Larkin asked if Mr. Harper could relate what Mr. Chesney should have done if he wanted to change his site plan to include a driveway that connected with Philoree Lane. Mr. Harper explained because the site plan was developed and recorded to allow for the recording of the subdivision, the subdivision map would have to be amended to allow for the site plan to be amended. He said State Law indicated a reasonable effort had to be made to contact all property owners, which was nine in this case, and 100 percent of those contacted had to agree to the amendment. In response to Chairman Larkin, Mr. Chesney replied he did not do that.

Commissioner Humke asked if there was a reference to gated communities in the Code, did a developer have a right to set up a gated community, and what did it mean to be a gated community. Mr. Harper said the Code did not identify gated communities, which he felt was an artful term used by the real estate industry to identify exclusivity. He stated some type of perimeter security fence enclosed most gated communities. He said sometimes the access gate was manned or could have keyed access instead of a guard. He stated often a requirement of a gated community was for the homes to have sprinklers. In this case, he explained the design of the subdivision was looked at and staff was guided by the Fire Department being comfortable with the property not having a secondary access as long as the homes had sprinklers. Mr. Harper said the bottom line was there was a point in time when there was an approval.

Commissioner Humke said the bullet point on Page 5 and other references seemed to imply that planning staff acceded to the desire of the developer for the community to be gated. Mr. Harper replied staff avoided designing subdivisions for private property. He indicated they looked at the effects of the design and whether the design met the standards of the time. He stated a finding was made that the subdivision

did meet the standards and the Planning Commission granted the final approval under the authority of the Board of County Commissioners.

Commissioner Humke asked if staff could indicate whose interests predominate when it affected persons residing within or outside a gated community. Mr. Harper said if access was the issue, staff would look at the properties affected by the gating of streets. He stated staff could request a gate not be put up or some throughway be constructed around the gated community. He said both affects would be looked at on a case-by-case basis if the issue was vegetation. He explained drainage was to be retained onsite per County Code or should not be exacerbated due to development. He said the 100-year event was looked at as the standard event.

In response to Commissioner Sferrazza, Mr. Harper explained the issue was that the developer agreed to conditions that stated there would be a site plan that identified driveway access and the plan showed only one driveway access. He said he was not an attorney, but his experience had shown Mr. Chesney could access Philoree Lane but was prevented from building a second driveway to access Philoree Lane. He said staff's issue was not the access, but the way in which the applicant attempted to get access by changing the site plan.

Commissioner Sferrazza asked if the condition for the 30-foot wide secondary access was taken out. Ms. Mullin replied there was an addendum to the original staff report that addressed the secondary emergency access update, which indicated the applicant was strongly opposed to it and was instead willing to accept sprinklers in the homes. Under General Conditions, Mr. Harper explained there was a statement that each agency would determine compliance of any condition they required. He stated it was not a common occurrence but sometimes, between the time the Tentative Subdivision Map was approved and the final map was brought forward, the applicant would have negotiated with that agency an alternative that satisfied the agency's needs. He said it appeared the alternative of installing sprinklers in the homes did that for Nevada Division of Forestry. He suggested that condition probably should have been changed in some manner other than what was just made a common practice, but staff relied upon the agencies to provide advice.

In response to Commissioner Sferrazza, Mr. Harper replied the map was relied upon. He reiterated staff's issue was there was no developed access by way of a second driveway identified in the site plan, and it was the applicant's business if he wanted to access Philoree Lane by driving over the berm.

Commissioner Galloway said the issue was should the Board issue a permit to cut through the berm, do the grading, and make the driveway. He said his difficulty was in just stamping it off. He felt Mr. Chesney could exercise whatever rights he had in court, but he was having trouble being a party to that.

Mr. Chesney reiterated the site plan was the basis for the denial of his grading permit even though there was no requirement for a berm. He indicated it was

private drainage owned by the homeowners association, and the association had approved the berm, culvert, and driveway. He presumed they would have allowed a change to the berm if there had been one. He said he never heard of having to amend the site plan. He indicated the house he built was in complete nonconformance with the site plan because the footprint and driveway were different. Mr. Chesney stated the driveway was now one continuous driveway instead of two separate driveways. He did not understand how the site plan could show a whole different house in a different location with a different driveway from what was approved while saying it was in substantial conformance. He did not see how using the road that he clearly had a legal right to use was not in substantial conformance.

Mr. Chesney discussed the differences between what was approved on the site plan and what was approved when he built the house in 1998. He said there was nothing in Washoe County Code that said there could not be a deviation from the site plan. He said he knew staff was relying on the site plan because neighbors complained and because it was all they had. He stated the house did not comply with the site plan as approved, and how could it be said that was okay then, but putting in the culvert made a difference.

Chairman Larkin opened the public hearing.

In response to the call for public comment, Jim Colfer, Nevada Dakota LLC representative, stated his family owned the land that was Philoree Lane since 1979. He said he put in Philoree Lane at his expense and it was a private road intended for the residents on the north side of Philoree Lane. He stated the drainage ditch collected all of the runoff from Philoree Lane; and, when the ditch got clogged, it flooded the road and could even wash it out. He stated the culvert was not engineered, and he felt there was no way a culvert could carry the water because anything that collected in the pipe would plug the culvert. A copy of a letter from Gray & Associates Inc. was placed on file with the Clerk regarding the easements and Philoree Lane.

Joan Rivet said Harry Callahan originally owned all of the property along Philoree Lane, which he sold to each person living on Philoree Lane. She said it was a private road, which the Philoree Lane property owners were given access to by Mr. Sinai to build and access their homes. She said she was speaking on behalf of the residents along Philoree Lane and other residents in the Galena Forest and the RoseCreek subdivisions. She read from Item 1 on Page 2 of the nine pages she submitted for the record, which was placed on file with the Clerk. She also submitted to the Clerk a letter from Timothy Burkett, who was the original developer of the RoseCreek subdivision. She said they objected to Mr. Chesney using Philoree Lane.

Kim Chesney placed a picture on file with the Clerk, which showed that about 30 feet of the road went over her land. She said the picture also showed the area was completely flat so she did not see the hill issue being a consideration. She stated they stopped putting in the culvert when they were told to stop, which was why it looked as it

did now. She said the berm was built strictly for drainage, not to block access to Philoree Lane from RoseCreek.

There was no response to the call for further public comment, so the Chairman closed the public hearing.

Commissioner Sferrazza said the letter from Edward Thomas, Gray & Associates Inc. Engineering Manager, did not dispute Mr. Chesney's claim to the easement only that the Chesney's could not go north of their property on the other easement, because they had no interest in it. He asked if there was a way Mr. Chesney could get from Philoree Lane to another road. Mr. Chesney said that was the reason he contracted with a professional surveyor. He discussed the easements and stated he felt he did not need the easement Mr. Thomas referred to; and, if he did, it was a public easement. Commissioner Sferrazza asked if Mr. Chesney disputed it was a private road. Mr. Chesney said there were a lot of public/private roads in the County, which the County did not own. He said just because the roads were on private land did not give anyone the right to exclude folks from them, which required a specific dedication.

Commissioner Galloway said the house being built outside of the envelope was a separate issue for him. He did not feel the Board had the right to approve the additional extension of the driveway as built based on the condition.

Commissioner Sferrazza said he had trouble with this one because he felt the map was to protect the homeowners who built within the subdivision, and he felt it was being used in a backhanded way. He suggested if a final map had to be amended to build a driveway not shown on it, then that should be the rule from now on. He felt Mr. Chesney had the right to access the easement on his property. He did not see how the County could prevent Mr. Chesney from modifying the berm because there was no clear indication on how high it was or what it was.

Commissioner Humke said the Board was advised to look at the narrow issue of the driveway. He stated the other issues would have to be settled in court. He felt staff was extremely supportable in this issue and they should be supported.

Commissioner Galloway felt a standard was being set for decision making that the subdivision map applied when it was required to be as specific as Requirement No. 4 required it to be. He indicated if a subdivision map was just boundaries of a lot, then the Board was not obligated to enforce details that were not on the map. He believed the Board was saying in this decision that it had to be maintained when it showed details. He said if the residents all wanted a secondary access, he was willing to consider amending their map.

Based on the following findings, on motion by Commissioner Humke, seconded by Commissioner Weber, which motion duly carried, it was ordered that the Board of County Commissioners deny the appeal and affirm the Board of Adjustment's

denial of Appeal Case No. AX07-003, upholding the decision of Washoe County to deny Grading Permit No. 06-4448:

FINDINGS:

1. That specific lot plans were created as part of the tentative map approval for the RoseCreek (L'Arbre) subdivision;
2. That the specific lot plans are intended to identify acceptable locations for building pads and driveways;
3. That the specific lot plan for the subject property, also known as Lot #4 of the RoseCreek subdivision, identifies the parcel's allowable driveway access as being from Rose Creek Lane only;
4. That the specific lot plan for the subject property does NOT allow driveway access to Philoree Lane;
5. That the appellant violated the requirements of the specific lot plan by breaking through the berm at the rear of the property and installing a second driveway that accesses Philoree Lane;
6. Reasoned Consideration. That the Board of Adjustment gave reasoned consideration to the information contained within the appeal application, the staff report and information received during the meeting.
7. Reasoned Consideration. That the Board of County Commissioners gave reasoned consideration to the information contained within the staff report and information received during the hearing.

**07-776 APPOINTMENTS – INCLINE VILLAGE/CRYSTAL BAY
CITIZEN ADVISORY BOARD**

Commissioner Galloway indicated Debey Grimes was an employee of a planning firm and he acknowledged she agreed to recuse herself from voting on anything involving that planning firm or its clients. He felt those instances would be rare because most of the firm's work was done in other parts of the County. He recommended Ms. Grimes fill the vacancy caused by Greg Flander's retirement from the Citizen Advisory Board (CAB).

On motion by Commissioner Galloway, seconded by Commissioner Humke, which motion duly carried, Chairman Larkin ordered that Guy Burge be reappointed to the Incline Village/Crystal Bay Citizen Advisory Board (CAB) as an At-Large member, Rick Jones be reappointed as a Crystal Bay member, and Debey Grimes be appointed as an At-Large member with all terms ending June 30, 2009.

07-777

BILL NO. 1513 – AMENDING WASHOE COUNTY CODE
CHAPTER 25 – BUSINESS LICENSES – COMMUNITY
DEVELOPMENT

Bill No. 1513, entitled, "AN ORDINANCE AMENDING THE WASHOE COUNTY CODE AT CHAPTER 25 BY REPEALING REGULATIONS RELATED TO SERVICE OF COMPLAINT ACTIONS AGAINST BUSINESS LICENSES, AND CONCERNING LICENSE REVOCATION HEARINGS, MASSAGE THERAPIST PERMITS, AND THE BOARD OF MASSAGE EXAMINERS; BY ADDING PROVISIONS FOR NOTICES OF AND CONDUCT OF LICENSE HEARINGS AND RELATED CLOSED SESSIONS; AND, BY REVISING PROVISIONS RELATED TO LICENSING DEFINITIONS, INVESTIGATIONS AND FEES, SPECIAL EVENT LICENSES, MATTERS RELATED TO DENIALS OF LICENSES AND SUSPENSION OR REVOCATION OF LICENSES, INTOXICATING LIQUOR LICENSES AND FEES, AND ADMINISTRATIVE PROCESSING FEE FOR CERTAIN TYPES OF LIQUOR DISTRIBUTORS AND PRODUCERS; AND, PROVIDING OTHER MATTERS PROPERLY RELATING THERETO." was introduced by Commissioner Galloway, the title read to the Board and legal notice for final action of adoption directed.

07-778

EXPIRATION, EXTENSION, OR ENFORCEMENT – REGIONAL
PLANNING SETTLEMENT AGREEMENTS – JUNE 30, 2007
EXPIRATION – COMMUNITY DEVELOPMENT

Adrian Freund, Community Development Director, said this item dealt with the expiration of the settlement agreements in two matters of litigation over the Regional Plan for the 2002 Settlement Agreement and the 2005 Settlement Agreement relating to the annexation program for the City of Reno. He said the two cases were essentially consolidated under the jurisdiction of Justice Hardesty. He stated the agreements were set to expire on June 30, 2007 or upon adoption of the 2007 Regional Plan by the Regional Planning Governing Board (RPGB). He said the RPGB agendized it for the June 14th meeting, but had no quorum. He stated Justice Hardesty convened a status meeting on June 21st where he indicated the Court's involvement would end June 30th and the agreements would expire. Mr. Freund stated the agreements would expire absent some extraordinary activity that would petition the Court to extend them. He said without adoption of the 2007 Regional Plan, the 2002 Regional Plan as amended by the RPGB in July 2006 would be the governing Regional Plan document.

Mr. Freund discussed the key issues and the consequences of the agreements expiring as summarized in a memo from Mike Harper, Planning Manager, dated June 25, 2007 that was provided to the Board earlier today and was placed on file with the Clerk.

Mr. Freund said one consequence was that the population numbers on which the Truckee Meadow Service Areas (TMSA's) were determined were included in the 2005 Settlement Agreement. He stated those population numbers appeared to go

away with the expiration of the agreements because they were not included in the Regional Plan Amendments. He said staff worked with Regional Planning staff to develop an approach to population forecasting and what numbers would be used for overall conformance. He said the cities of Reno and Sparks had conformed population elements under the 2002 Regional Plan. He explained a population element adopted by the Regional Planning Commission (RPC) was previously presented to the Board, which was in response to the County's requirements to comply with the 2002 Regional Plan.

Mr. Freund indicated there was a certain amount of uncertainty going forward if there was no population number found in conformance that supported the current service areas for the unincorporated County. He said RPC staff did an additional analysis on each jurisdiction's TMSA, which identified that the County had a very modest amount of expansion available and caused the RPC and the RPGB to adopt several TMSA amendments. He said there was concern that the County's bucket of service areas would go to zero, absent a number to at least lock in that calculation until the 2007 plan was adopted.

Mr. Freund said the Board had the option, until the agreement expired, to request an extension of that agreement until final action on the 2007 Regional Plan was taken by the RPGB. He stated this was on the Reno City Council's agenda for tomorrow, but the City of Sparks could not put this on an agenda prior to its expiration. He said staff felt the agreements kept a level playing field and kept folks working together and moving forward until such time as the 2007 Regional Plan could be adopted. He felt the expiration of the agreements made the interim adoption of a Population Element until the adoption of the 2007 Regional Plan somewhat more urgent.

Mr. Freund said there were approved amendments to the TMSA since July 2006. He said staff asked that a message be passed on to the Truckee Meadows Regional Planning Agency (TMRPA) to amend Map 1 of the 2002 Regional Plan as amended, which reflected all of the approved service area amendments.

Mr. Freund explained there were some TMSA amendments in the pipeline, which staff suggested urging the Regional Planning Agency to continue to process because they were in line and sponsored prior to the expiration of the Settlement Agreement.

Chairman Larkin asked if anything besides the Population Element was not approved in the 2006 update. Mr. Freund replied the Population Element was the primary item. He said the agreement had provisions that said parties would not oppose provisions of the agreement, which staff did not believe was picked up anywhere based on their analysis. He believed all of the items calling for support were adopted in 2006 by the RPGB.

Chairman Larkin commented it seemed the agreement had run its course. Mr. Freund said that was what Justice Hardesty thought.

Melanie Foster, Assistant District Attorney, said Justice Hardesty had requested materials from Norman Azevedo Esq., TMRPA Legal Counsel, about what had gone to the RPGB and what was on the agenda. At the meeting, Ms. Foster said she and Marilyn Craig, City of Reno Deputy City Attorney, advised Justice Hardesty the matter was on the County's and the City of Reno's agendas. David Creekman, City of Sparks Assistant City Attorney, advised that it was not on the agenda for the City of Sparks because he was not requested to do so by the Sparks City Council. He indicated, short of such a request or order from the Court, the City of Sparks would not be considering the matter.

Ms. Foster explained during a hearing in January or March 2006, the Court quizzed the attorneys extensively about what would happen if Congress did not enact the Public Lands Bill, the Legislature did not enact an annexation bill, or the agreement ended and the new Regional Plan was not in place. She stated everyone acknowledged there was a risk, and Mr. Creekman said the City of Sparks had taken a position the City would not change. She indicated Justice Hardesty said thank you and that he would not order anyone to do anything and basically said goodbye. She felt he wanted to check in and make sure everyone was cognizant of the end of the agreement. She said it was very clear to her that it would have to be a very extraordinary application for relief before he would consider any action to even think about an extension because the parties knew what they were doing when they contracted. He felt it should be a decision of the governments whether or not they wanted to extend the agreements.

Commissioner Galloway said since it was impossible that all three parties could act on an extension, the alternative would be a resurrection. He stated that could occur at any time and there would be no deadline for doing that. He believed the agreements were not working because concurrency was being watered down by doing whatever was done before and calling it concurrency. He felt the County doing anything by itself would be premature.

Mr. Freund asked for clarification on the three items absent extension. Chairman Larkin said as a representative of the RPGB, he acknowledged he had noted those and would personally carry them forward.

**07-779 APPROPRIATION ADJUSTMENTS – FY 2006-07 – SALARY
SAVINGS ALLOCATIONS – FINANCE**

Upon recommendation by Melanie Purcell, Budget Manager, on motion by Commissioner Galloway, seconded by Commissioner Humke, which motion duly carried, Chairman Larkin ordered that the appropriation adjustments for the fiscal year 2006/07 salary savings allocations be approved and the Finance Department be directed to reduce the General Fund salary and benefit accounts as specified by \$864,183 and those appropriations be transferred to various General Fund operating accounts as specified by \$606,473 and the balance be transferred to the General Fund Accrued Benefits account in the amount of \$257,710.

**07-780 ORDINANCE NO. 1334 – BILL NO. 1514 – DEVELOPMENT
AGREEMENT CASE NO. DA07-001 – EAGLE CANYON V –
COMMUNITY DEVELOPMENT**

5:30 p.m. This was the time set in a Notice of Public Hearing published in the *Reno Gazette-Journal* on June 15, 2007 to consider second reading and adoption of Bill No. 1514. Proof was made that due and legal Notice had been given.

The Chairman opened the public hearing by calling on anyone wishing to speak for or against adoption of said Ordinance. There being no response, the hearing was closed.

On motion by Commissioner Humke, seconded by Commissioner Weber, which motion duly carried, Chairman Larkin ordered that Ordinance No. 1334, Bill No. 1514, entitled, "**AN ORDINANCE PURSUANT TO NEVADA REVISED STATUTES 278.0201 THROUGH 278.0207 APPROVING DEVELOPMENT AGREEMENT CASE NO. DA07-001 FOR TENTATIVE SUBDIVISION MAP CASE NO. TM05-017 AS PREVIOUSLY APPROVED BY THE WASHOE COUNTY PLANNING COMMISSION,**" be approved, adopted and published in accordance with NRS 244.100.

**07-781 ORDINANCE NO. 1335 – BILL NO. 1515 – DEVELOPMENT
AGREEMENT CASE NO. DA07-002 – HARRIS RANCH –
COMMUNITY DEVELOPMENT**

5:30 p.m. This was the time set in a Notice of Public Hearing published in the *Reno Gazette-Journal* on June 15, 2007 to consider second reading and adoption of Bill No. 1515. Proof was made that due and legal Notice had been given.

The Chairman opened the public hearing by calling on anyone wishing to speak for or against adoption of said Ordinance. There being no response, the hearing was closed.

On motion by Commissioner Humke, seconded by Commissioner Weber, which motion duly carried, Chairman Larkin ordered that Ordinance No. 1335, Bill No. 1515, entitled, "**AN ORDINANCE PURSUANT TO NEVADA REVISED STATUTES 278.0201 THROUGH 278.0207 APPROVING DEVELOPMENT AGREEMENT CASE NO. DA07-002 FOR TENTATIVE SUBDIVISION MAP CASE NO. TM05-016 FOR HARRIS RANCH AS PREVIOUSLY APPROVED BY THE WASHOE COUNTY PLANNING COMMISSION,**" be approved, adopted and published in accordance with NRS 244.100.

**REGIONAL TRANSPORTATION COMMISSION – SALE .23
ACRES OF SKY RANCH PARK – PARKS**

5:30 p.m. Pursuant to NRS 277.050(6), this was the time set in a Notice of Public Hearing published in the *Reno Gazette-Journal* on June 15 and 16, 2007 to consider the Board's intent to sell .23 acres of Sky Ranch Park to the Regional Transportation Commission (RTC) for the purchase price of \$102,180.

In response to Commissioner Galloway, Melanie Foster, Legal Counsel, replied the items for executing the resolution, the Interlocal Cooperative Agreement, and the Purchase and Sale Agreement could be opened together so action could be taken on all of them after the public hearing.

Chairman Larkin opened the public hearing and the items for executing the resolution, the Interlocal Cooperative Agreement, and the Purchase and Sale Agreement. There was no response to the call for public comment. The Chairman closed the public hearing.

In response to Commissioner Sferrazza, Jennifer Budge, Park Planner, said the only direct fiscal impact would be the item for the Purchase and Sale Agreement. Per Nevada Revised Statutes (NRS), she stated the funds had to go into the General Fund, but staff was recommending it be reallocated into Fund 404 for Park District 2C for Residential Construction Tax, which was what the property was purchased with for \$100,000. She indicated all of the improvements to the property were purchased from that fund as well.

Upon recommendation of Jennifer Budge, Park Planner, on motion by Commissioner Galloway, seconded by Commissioner Humke, which motion duly carried, it was ordered that the following resolution be adopted and the Chairman be authorized to execute the same:

**EXECUTION OF A RESOLUTION ACCEPTING BID OF \$102,180 FROM THE
REGIONAL TRANSPORTATION COMMISSION FOR THE PURCHASE OF
.23 ACRES OF SKY RANCH PARK (APN 53-409-101) AND DIRECTING THE
CHAIRMAN TO EXECUTE A DEED AND OTHER DOCUMENTS THAT MAY
BE NECESSARY FOR THE SAME.**

WHEREAS, Washoe County, a political subdivision of the State of Nevada, owns a parcel of real property situated in the County of Washoe, APN 53-409-101, commonly known as Sky Ranch Park; and

WHEREAS, RTC, a special purpose unit of Government of the State of Nevada, is undertaking a project which includes improvements to the intersection of State Route 445 (Pyramid Lake Highway) at La Posada Drive (the "Project") and which impacts a portion of Sky Ranch Park; and

WHEREAS, the RTC desires to purchase from Washoe County and Washoe County desires to sell to RTC for purposes of the Project the portion of the Sky Ranch Park impacted by the Project (the "Property"), more particularly described in Exhibit "A" placed on file with the Clerk; and

WHEREAS, the RTC has offered to Washoe County a purchase price for the Property equal to the appraised value in the amount of \$102,180; now, therefore, be it

RESOLVED, That the Board of Washoe County Commissioners has determined that the best interests of the County and the public are served by accepting RTC's bid and ordering the sale of the Property, "AS IS, WHERE IS" to the RTC for a total purchase price in the amount of \$102,180; and that the Chairman be authorized to execute a Purchase and Sale Agreement and Quit Claim Deed conveying title of the Property to the RTC, and any other necessary documents.

It was further ordered that the following actions be taken:

- The Interlocal Cooperative Agreement between Washoe County and the Regional Transportation Commission of Washoe County regarding public roadway improvements at La Posada/Pyramid Highway at Sky Ranch Park be approved and the Chairman be authorized to execute the same upon receipt.
- The Purchase and Sale Agreement in the amount of \$102,180 with the Regional Transportation Commission of Washoe County for a portion of Sky Ranch Park (APN 534-091-01) approximately 10,218 square feet required to complete public roadway improvements at La Posada/Pyramid Highway be approved and that the proceeds reimburse the Parks Capital Fund 404-4415 through a receipt to the General Fund and a transfer to Fund 404 and allocated to Park District 2C, be approved and the Finance Department be authorized to make the appropriate adjustments to the fiscal year 2007/08 budget and the Chairman be authorized to execute all documents associated with the sale of the property.

**07-783 POPULATION ELEMENT – CONTINUED FROM JUNE 12, 2007 –
COMMUNITY DEVELOPMENT**

5:30 p.m. This was the time set for the continuation of the June 12, 2007 public hearing to consider the amendment of the Washoe County Comprehensive Plan by replacing the existing Population Element with a new adopted Population Element revised to reflect current and future population forecasts parallel with the incorporated cities of Reno and Sparks and that is in conformance with the Truckee Meadows Regional Plan; or refer the Population Element adopted by the Washoe County Planning Commission back to the Planning Commission with specific proposed changes or additions as outlined in Nevada Revised Statute (NRS) 278.220.

Mike Harper, Planning Manager, said this amendment would bring the Population Element into compliance with the 2002 Regional Plan. He indicated new rules were being worked on for the 2007 Regional Plan. He said the staff report was revised based on the issues raised on July 12th and Page 3 identified the only two additional population estimates; independent of the cities of Reno and Sparks, that currently existed in the area. He noted the figures were similar to the Settlement Agreement figures being used for this Population Element to comply with the 2002 Regional Plan.

Mr. Harper stated there was some urgency because the figures identified in the Population Element of the 2002 Regional Plan would provide a good defense or rebuttal to any challenge to the current Truckee Meadows Service Area (TMSA), both boundaries and the amount, identified in the 2002 Regional Plan. He said that was important for the County because of the interim period before the adoption of the 2007 Regional Plan. He stated staff was recommending the Board of County Commissioners consider adopting the 2002 complying Population Element. He clarified the issues brought forward at the July 12th meeting would be included in an update of the 2007 Regional Plan.

Commissioner Galloway asked if the County had to adopt a range or could the County take, in the interest of caution, the 572,000 of which the County's share would be 155,000. He said if the number was only a forecast, it seemed to make a gesture towards the idea that things have to start leveling out unless there were vast new quantities of water coming in, which he had no assurance would occur. He further discussed why he favored a range. Mr. Harper clarified that what the Board was adopting was the population for the unincorporated portion of Washoe County. He said the Board was not adopting nor amending the Regional Plan figures nor any of the other gross figures proposed for the rest of the County.

Mr. Harper said he understood Commissioner Galloway's concerns and his response was twofold. He said this was an interim element and it was anticipated it would be redone. He stated a range was appropriate, and it was recommended not to adopt a specific figure. He explained the County did not have to build towards a population. He said the range gave staff an opportunity to begin looking at sizing, facilities, and the types of land uses the Board would want to encourage within the unincorporated portion of the County. He reiterated the urgency was it helped protect the TMSA that was currently allocated to the County in the 2002 amendments. He said the County's ability to argue was left out of those amendments last year. He said the Truckee Meadows Regional Planning Agency's (TMRPA) counsel suggested maybe those gloves were off. He hoped they were not. Mr. Harper stated this created that kind of support for the County's TMSA and the expectations of the property owners and citizens who were relying on it. He said he understood what Commissioner Galloway was saying, but he felt at this point in time the urgency and expiration of the Settlement Agreement were really driving this. He stated an amendment to this would require a 40-day review by the Planning Commission, and the Board would not have the item back until late August or early September. He explained staff was concerned about the period of time between the expiration of the Settlement Agreement and the adoption of the 2007 Regional Plan. He

said he was advising the Board to error on the side of caution and adopt this particular document while recognizing the issues Commissioner Galloway brought up needed to be included in a more thorough Population Element provided by all three jurisdictions under similar rules.

In response to Chairman Larkin, Mr. Harper replied staff was very comfortable with these figures. Chairman Larkin felt he would have a problem if staff came to the Board with numbers that were extremely low or very high. He stated these were ballpark figures, and he felt no one could suggest that by agreeing to these numbers the Board was saying the TMSA's would be built to meet them. He said the County was trying to comply with statute that said the County must forecast to the best of its ability. Mr. Harper stated staff had forecast to the best of their ability given the general direction provided at this point in time under the Regional Planning process while recognizing there would be a future process that would provide more specific guidance.

Commissioner Sferrazza said he had discussed this matter with Commissioner Galloway and he agreed the County should not project a population beyond available water resources. He believed this does do that to some extent, and he wanted to know where the water was coming from to support the 611,000 or 625,000 figures. Mr. Harper clarified the Board was not adopting the growth figures. He stated the Facilities Plan that the Board had funded would answer those questions, but while staff did not yet have those numbers, they should soon. He said the cities of Reno and Sparks also did not have those numbers. He stated they would be required, as would the County under the prospective rules of the 2007 Regional Plan, to evaluate that information. He indicated given the information available and given the comparison, staff was comfortable with the unincorporated range in the Population Element. He reiterated the Facilities planning process would provide more specific information.

Commissioner Sferrazza said that figure would then drive growth if the Board adopted the population figures, because he felt the resources would be found to support it. He stated the most important thing the Board could do was to adopt the population figures, which then determined how much TMSA was needed. Mr. Harper replied there was no doubt it became a policy guide. He said it was a 30-year projection, but there was no requirement to build to it. He suggested that would be a guide and the County would not want to go beyond that amount. He said other policies, such as the Open Spaces and Natural Resources Plan, would help guide those decisions. He stated the County was out of conformance with the 2002 Regional Plan, and staff had some concern about the ability to support or rebut any challenge to the County's current TMSA.

Commissioner Galloway said the main difficulty was the 155,000 to 161,000 had been run by the Planning Commission, and there was no way to have an adopted set of forecasts before the present agreements expired unless the range was approved exactly as it went through the Planning Commission. Mr. Harper confirmed that was correct because it would take approximately 50-60 days to do anything else.

Commissioner Galloway stated he would have no problem with the numbers if they had been 12 percent lower.

Commissioner Weber read Finding No. 2 that was adopted by the Planning Commission, which she felt was the reason for voting in favor of adopting the Population Element.

Commissioner Humke advised the public to go to the County's web site to look at the justifications for adopting the Population Element. He said the Board was not trying to stretch the health, safety, welfare, or any other resources by adopting this plan.

Based on the following findings, on motion by Commissioner Humke, seconded by Commissioner Weber, which motion duly carried with Commissioners Galloway and Sferrazza voting "no," Chairman Larkin ordered that the Population Element as adopted by the Washoe County Planning Commission on June 5, 2007 be adopted and that the Chair be authorized to execute the adopting resolution after a finding of conformance by the Regional Planning Commission with the Truckee Meadows Regional Plan.

FINDINGS:

1. The Element adopted by the Washoe County Planning Commission on June 5, 2007 is in substantial compliance with the policies and action programs of the Comprehensive Plan.
2. The Element adopted by the Washoe County Planning Commission on June 5, 2007 identifies population needs for the unincorporated county that will result in appropriate land uses and are consistent with adopted plans to accommodate that population, and will not adversely impact the public health, safety or welfare.
3. The Element adopted by the Washoe County Planning Commission on June 5, 2007 responds to change conditions or further studies that have occurred since the Element was adopted by the Board of County Commissioners, and the requested amendment represents a more desirable utilization of land.
4. The Element adopted by the Washoe County Planning Commission on June 5, 2007 will promote the desired pattern for the orderly physical growth of the County and guides development of the County based on the projected population growth with the least amount of natural resource impairment and the efficient expenditure of funds for public services.

REPORTS/UPDATES COUNTY COMMISSION MEMBERS

Katy Singlaub, County Manager, noted this was the last meeting of the current fiscal year and she congratulated the Board on their excellent stewardship during a very tough, but good year.

Commissioner Weber reminded everyone of the National Association of Counties (NACo's) national convention that Commissioner Sferrazza brought to the area for July 2010.

Chairman Larkin said the scheduled construction improvements of the long awaited La Posada/Eagle Canyon/Pyramid Highway project would commence on July 9th. He said this Thursday from 6:00 to 8:00 in the Cottonwood Room in the Lazy 5 Regional Park facility there would be representatives of Regional Transportation Commission (RTC) and Stantec Consulting present to receive public comment about the project, for the public to view maps and ask questions. He stated the project's groundbreaking would be on July 12th at 11:00 a.m.

Commissioner Galloway stated due to the South Lake Tahoe Fire, the Tahoe Regional Planning Agency (TRPA) meeting might be cancelled. He said the last attempt to have a large number of people participate by telephone failed to meet Open Meeting Law requirements. He said it appeared it could open to challenge if someone participated during a meeting by telephone but were not in a place where the public could be present.

* * * * *

8:46 p.m. There being no further business to come before the Board, the meeting was adjourned.

ROBERT M. LARKIN, Chairman
Washoe County Commission

ATTEST:

AMY HARVEY, County Clerk
and Clerk of the Board of
County Commissioners

*Minutes Prepared by
Lisa McNeill and Jan Frazzetta
Deputy County Clerks*