



# WASHOE COUNTY

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CM/ACM\_\_\_\_\_

Finance\_\_\_\_\_

DA\_\_\_\_\_

Risk Mgt.\_N/A\_

HR\_N/A\_

Other\_N/A\_

## STAFF REPORT

BOARD MEETING DATE: March 10, 2015

**DATE:** February 23, 2015

**TO:** Board of County Commissioners

**FROM:** William H. Whitney, Division Director, Planning and Development  
Community Services Department, 328-3617, [bwhitney@washoecounty.us](mailto:bwhitney@washoecounty.us)

**THROUGH:** Dave Solaro, Arch., P.E., Director  
Community Services Department, 328-2040, [dsolaro@washoecounty.us](mailto:dsolaro@washoecounty.us)

**SUBJECT:** Discussion and possible direction to staff on requests for refund of infrastructure fees held by Washoe County for the Warm Springs Specific Plan Area, and process for amending the Washoe County Master Plan to coincide with possible refunds. (Commission District 5.)

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### SUMMARY

The Washoe County Commission (Board) requested that this item be placed on a Board agenda in response to grievances heard during the public comment periods at recent County Commission meetings from Mr. George Newell and Ms. Cathy Foote requesting that the County refund infrastructure fees held by Washoe County for the Warm Springs Specific Plan Area. Staff wants to discuss with the Board the process for amending the Warm Springs Area Plan and Warm Springs Specific Plan (Washoe County Master Plan) to coincide with possible refunds.

Washoe County Strategic Objective supported by this item: Economic development and diversification.

### PREVIOUS BOARD ACTION

September 5, 1992, The Board took action to adopt the Warm Springs Specific Plan which included the *Development Standards Handbook Framework*.

April 18, 1995, The Board took action to amend the Warm Springs Specific Plan to include the *Financing Plan* for the Specific Plan.

### BACKGROUND

The Warm Springs Specific Plan (SPA) is a part of the Warm Springs Area Plan. The SPA encompasses approximately 3,983 acres of the entire Warm Springs planning area. The overall goal of the SPA is to direct planned growth for higher density residential

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development within the specified boundaries. The proposed plan projects a total of 1,741 residential units for the SPA. Important appendices to the Warm Springs Specific Plan include:

- Evaluation of Water Resources
- Water Budget
- Financing Plan, and
- Development Standards Handbook Framework

The two appendices dealing with water resources are an indication of how critical the management of the available groundwater resources are to the Warm Springs Planning Area. The two appendices dealing with the Development Standards Handbook Framework and the Financing Plan are pertinent to why the Board requested this agenda item and staff report.

### **Financing Plan and Associated Development Agreements**

The SPA states that all property owners will pay their fair share of the costs to support development within the SPA. It was envisioned that a major property developer would eventually construct or finance a substantial amount of the needed SPA infrastructure, such as a community water system, paved roadways and flood control channels, however that construction and financing never happened. In order to utilize the higher density regulator zones allowed in the SPA, the property owners are required to enter into a “development agreement” with the County as a condition of project approval (WSSP.8.1).

As an interim measure, a financing plan was adopted as an appendix to the SPA which enabled certain size parcels to develop prior to infrastructure provision by a major developer. The financing plan requires collection of a series of fees at final map recordation in lieu of SPA infrastructure provision, which is specified in the required development agreement. These fees represent a proportionate share of future SPA infrastructure costs and are held in special accounts until construction is initiated by a developer. The Financing Plan recommends that the County be the recipient of and administer the following funds within the SPA:

- Community water system
- Storm water management facilities
- Law enforcement and fire protection
- Parks and open space, and
- Community center

There is no requirement, written or implied, that the County or the Palomino Valley General Improvement District would construct any of the SPA capital improvements program facilities. The financing plan simply requires the County to collect the fees and hold the fees in special accounts until disbursement to an authorized contractor installing or constructing the SPA infrastructure.

### **Consideration for Refunding of Infrastructure Fees**

The SPA developing out as envisioned has **not** happened and it seems to be a point in time now where changes to the plan are appropriate and needed. The County needs to be deliberate when considering how to proceed forward with any changes to the SPA and

consider possible ramifications to the Warm Spring community as a whole and at the same time respect the desire of certain property owners to have their fees refunded that the County is holding. Important facts need to be considered and dealt with so the Board can have a clear understandable and legally defensible path forward with this issue.

1. Can and how will the SPA need to be amended to legally effectuate a refund of any infrastructure fees? The SPA is a component of the Warm Springs Area Plan that will also need to be amended.
2. Higher density residential and commercial zoning is part of the SPA vision and was made available to the property owners based on the planned provision of community infrastructure that would accommodate these higher densities. Does this zoning that was granted with the adoption of the SPA then revert to the former zoning designation or to a lower density zoning that might be accommodated without the provision of some or all of the SPA infrastructure improvements?
3. Not all of the developers are requesting their fees be returned. What legal methods can the County use to allow some developers to continue within the SPA and other developers to be removed and have their fees refunded?
4. Some of the original developers have sold smaller residential parcels to people who have built homes and are living in the SPA. Are these residents expecting infrastructure improvements that were planned to be constructed by the original developers with the fees collected and held by the County?
5. Were these same residents charged a pro-rata share of the required infrastructure fees by the original developers when they purchased their parcels of land?
6. Should the County be refunding these fees collected until we understand exactly what legal ramifications are involved?

### **FISCAL IMPACT**

No fiscal impacts are anticipated at this time.

### **RECOMMENDATION**

It is recommended that the Board of County Commissioners discuss possible direction to staff on requests for refund of infrastructure fees held by Washoe County for the Warm Springs Specific Plan Area, and process for amending the Washoe County Master Plan to coincide with possible refunds.

### **POSSIBLE MOTION**

Move to give the following direction \_\_\_\_\_ to staff on requests for refund of infrastructure fees held by Washoe County for the Warm Springs Specific Plan Area, and process for amending the Washoe County Master Plan to coincide with possible refunds.

The attached document was submitted to the  
**Washoe County Board of Commissioners** during  
the meeting held on March 10, 2015.  
by CSD - Bill Whitney  
for Agenda Item No. 12  
and included here pursuant to NRS 241.020(7) as  
amended by AB65 of the 2013 Legislative Session.

# Warm Springs Specific Plan Area (WSSP)

**Discussion and possible direction to staff on requests for refund of infrastructure fees held by Washoe County for the Warm Springs Specific Plan Area, and process for amending the Washoe County Master Plan to coincide with possible refunds**





**Department of  
Community Development**

# **Master Plan Warm Springs Area Plan**



# Warm Springs Area Plan

- **Predominately 40 acre or larger parcels with rural large lot residential and agricultural uses.**
- **The Warm Springs area plan is approximately 291 square miles in size**







# Warm Springs Specific Plan

A Part of the Warm Springs Area Plan, Washoe County Comprehensive Plan

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**WASHOE COUNTY  
DEPARTMENT OF  
COMPREHENSIVE  
PLANNING**

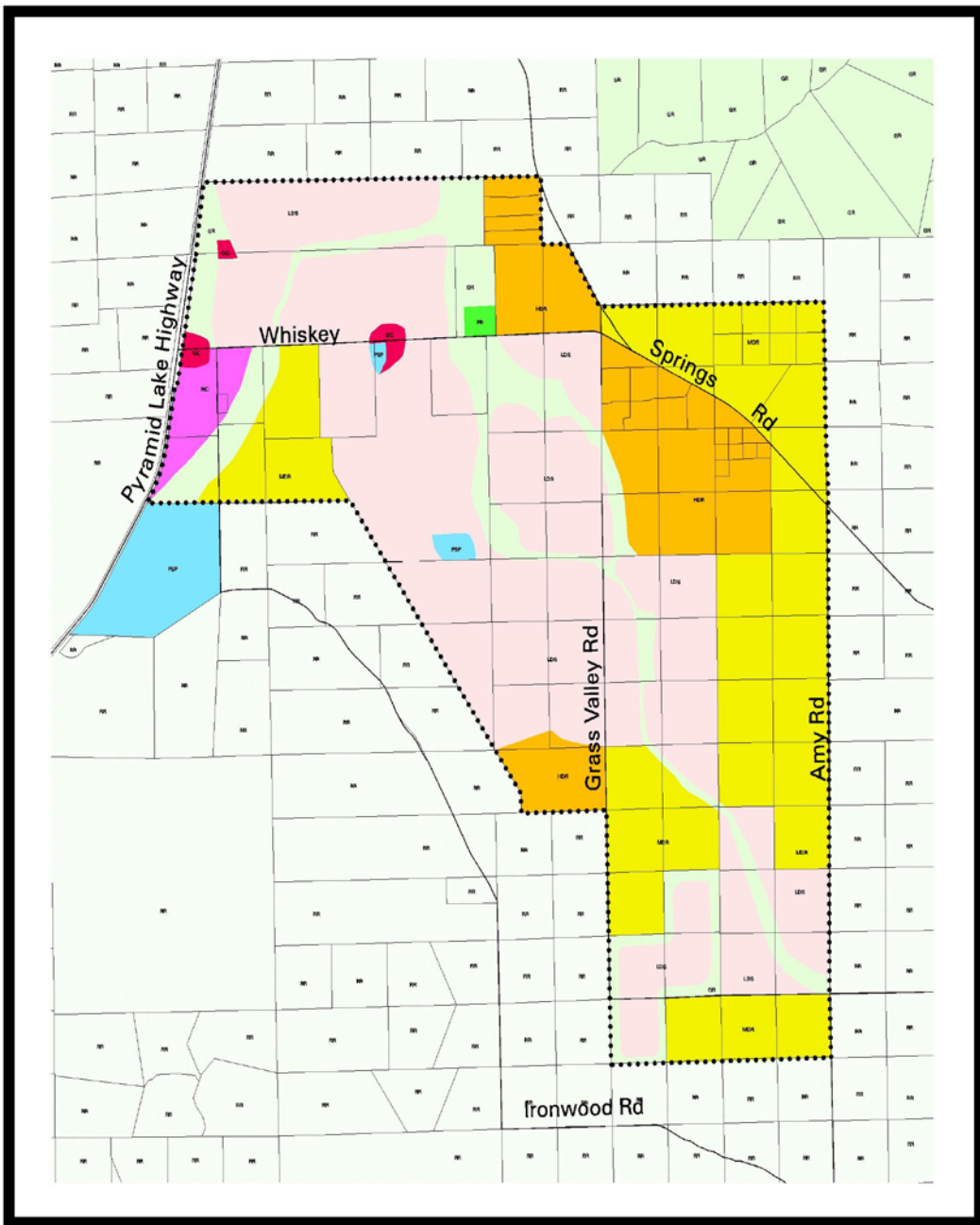
POST OFFICE BOX 11130



# Warm Springs Specific Plan

- **The WSSP is a part of the Warm Springs Area Plan.**
- **The WSSP encompasses approx. 3,983 acres in the center of the Warm Springs planning area**





# History of Board Action on WSSP

- **September 1992: The BCC adopted the WSSP which included the Development Standards Handbook Framework**
- **April, 1995: The BCC amended the WSSP to include the Financing Plan for the WSSP**



# Overall Goal of the WSSP

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**The overall goal of the WSSP is to direct planned growth for higher density residential development within the specified boundaries.**



# Important WSSP Appendices

## Appendices to the WSSP:

- Evaluation of Water Resources
- Water Budget
- Financing Plan, and
- Development Standards Handbook Framework



# Financing Plan

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**The WSSP states that all developers will pay their fair share of the costs to support development within the WSSP**



# Warm Springs Ranches (2004)

**It was envisioned that a major property developer would eventually construct or finance a substantial amount of the needed WSSP infrastructure, such as a community water system, paved roadways and flood control channels**





# WSSP Financing Plan

**In order to utilize the higher density regulatory zones allowed in the WSSP, the developers are required to enter into a “development agreement” with the County as a condition of project approval (WSSP.8.1).**



# WSSP Financing Plan

**The financing plan enabled certain size parcels to develop prior to infrastructure provision by a major developer through collection of fees at final map recordation as specified in the required development agreements.**



# WSSP Fees

**The fees represent a proportionate share of future WSSP infrastructure costs and are held by the County in special accounts until construction is initiated by a developer.**



# WSSP Fees

**The County is the recipient and holder of the following funds within the WSSP:**

- **Community water system**
- **Storm water management facilities**
- **Law enforcement and fire protection**
- **Parks and open space, and**
- **Community center**



# WSSP Fees

**The financing plan directs the County to collect and hold the fees in special accounts until disbursement to an authorized contractor installing or constructing the WSSP infrastructure**



# Consideration for Refunding Fees

- **The County needs to be deliberate when considering how to proceed forward with any changes to the WSSP**
- **Should the County be refunding the fees collected until we understand exactly all the ramifications involved?**



# Consideration for Refunding Fees

- **Page 3 of the staff report list six questions that should be considered and answered prior to changes being made to the WSSP or fees refunded.**



The attached document was submitted to the  
**Washoe County Board of Commissioners** during  
the meeting held on March 10, 2015.  
by Steve Moss  
for Agenda Item No. 12  
and included here pursuant to NRS 241.020(7) as  
amended by AB65 of the 2013 Legislative Session.



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# WARM SPRINGS

## SPECIFIC PLAN AREA

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### FINANCING CONCEPT PLAN & DEVELOPMENT STANDARDS HANDBOOK

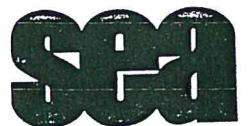
2.5 Acre & 5.0 Acre Plus Parcels

Project No. 2476-01-1

June 9, 1994

Reno/Sparks, Nevada  
Las Vegas, Nevada  
Phoenix, Arizona

- BCC 3-10-15 #12  
Steve mass



a notice of appeal with the County Clerk. The Board shall consider and render a decision on the appeal. The decision by the Board may be appealed to the District Court in accordance with applicable law.

#### **8. Fee Deposit Accounts**

Fees collected by the County pursuant to this Agreement shall be deposited in segregated bank accounts for each of the following uses as follows: the account for the next phase of the collector road system pursuant to subsection 2(A)(2) above; a Community Water System Account; a Storm Drainage Account; a Parks and Open Space Account and a Public Facilities Account. All such accounts shall be separate bank accounts placed by the County in a bank normally used by the County for such accounts. Fees collected from all developers and owners of land within the SPA as described in the SPA Design Handbook dated \_\_\_\_\_, shall be deposited in the above-described accounts. Only fees for the purposes for which the accounts are opened shall be deposited in the particular account. The County or PVGID shall be the trustee of all such accounts. All fees and interest thereon in such accounts shall be disbursed by the County only to pay for the improvements for which the fees were collected. All accounts shall be interest bearing. Within reasonable time after the end of each of the County's fiscal years, the County shall prepare and distribute to all Developers and Owners then involved in developing and owning land in the SPA a complete and accurate accounting setting forth the amount of fees and interest thereon accrued in each account, the amount of fees and interest thereon paid by each Developer and Owner, the amount of funds expended from those accounts for construction or reimbursement, and the amount of any refunds.

#### **9. Refund of Fees**

- (1) The County or PVGID shall, upon request of the Owners or Developer or their successors and assigns which paid the fee in question pursuant to the terms of this Agreement, refund the fee and any interest or income earned on the fee if:
  - a. After collecting the fee, the County, Developer or Owners did not begin construction of the capital improvement for which the fees were collected within five years after the date of fees were collected; or
  - b. Fees collected, or any portion thereof, have not been spent for the purpose of which the fees were collected within ten years after the date on which the fees were collected.
- (2) The County or PVGID shall refund the applicable fee paid plus interest accrued if the actual cost of the fully completed capital improvement for which the fees in question were collected is less than the fees paid into the account described above.