

**BOARD OF COUNTY COMMISSIONERS
WASHOE COUNTY, NEVADA**

TUESDAY

10:00 A.M.

AUGUST 9, 2016

PRESENT:

Kitty Jung, Chair
Bob Lucey, Vice Chair
Marsha Berkbigler, Commissioner
Vaughn Hartung, Commissioner
Jeanne Herman, Commissioner

Nancy Parent, County Clerk
John Slaughter, County Manager
Paul Lipparelli, Legal Counsel

The Washoe County Board of Commissioners convened at 10:00 a.m. 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:

16-0677 AGENDA ITEM 3 Public Comment.

The following individuals spoke regarding their opposition to the possible relocation of a medical marijuana establishment (MME) in Washoe Valley: Thomas Tizzano, Maureen O. Collins, Jay Collins, Illona Mager, Gerard H. Mager, Marijke Bekken, Douglas R. Studwell Junior, Linda Harrison, Sala Sherwood, Hershel Rosenbaum, Debbi Lehr and Jesse French. Maureen O. Collins, Marijke Bekken and Linda Harrison provided handouts, which were placed on file with the Clerk.

The above individuals' concerns included: The lack of neighborhood notification, the location in proximity to residential areas and a school; the size of the proposed location which would allow for a larger facility; the possible size of the facility; the possible increased crime rate; the negative impact to property values; increased traffic; the amount of water necessary to sustain marijuana growing facilities; the possibility of wells drying up; various security issues; the possible negative effects if recreational marijuana was legalized; and that an MME was not a suitable business for the area.

Elise Weatherly spoke regarding power grids and how the community as a whole needed electricity. She said her brother was in the hospital when there were electrical issues and if the hospital had not acted quickly, he might not have survived.

Marsy Kupfersmith thanked the Commissioners for her appointment to the Washoe County Senior Services Board and for their support.

AUGUST 9, 2016

A.9.20.16 #5.A. PAGE 1

Levi Hooper stated he was the voice of the downtrodden. He did not understand why people were coming to speak in opposition to MMEs because they really helped people. He stated there were more driving under the influence (DUI) accidents than accidents involving marijuana. He thought prescription medications were worse than medical marijuana.

Sam Dehne stated he agreed with Levi Hooper. He spoke about how marijuana could stay in someone's system for weeks but alcohol left the system quickly. He spoke regarding Tesla, Storey County and taxes.

Whitney Kissenberger stated she was a medical marijuana cardholder. She indicated there were other options besides marijuana that could help pain including aromatherapy. She said regardless whether marijuana could harm people, there were many medicinal benefits. She noted a growing facility using hydroponics would use less water than an alfalfa field. She thought prescription medications were worse than medical marijuana.

Cathy Brandhorst spoke about matters of concern to herself.

16-0678 **AGENDA ITEM 4** Announcements/Reports.

County Manager John Slaughter said there was a request for Agenda Item 18 to be heard after the 4:00 p.m. time certain hearing and for Agenda Item 19 to be heard as early as possible. He indicated there was a need for a closed session. He stated the Board could take a break every 90 minutes and they would break for lunch as close to 12:30 p.m. as possible.

Commissioner Herman mentioned a generator was stolen from a vehicle in the parking lot at the North Valley Community Advisory Board (CAB) meeting. She was concerned about safety in area parks.

Commissioner Hartung said the Nevada Veterans Memorial would be holding a press conference at 2:00 p.m. on August 10th at their site located on Greg Street and Sparks Boulevard.

Commissioner Lucey noted there had been a number of fires within the North Valleys and fire safety was needed to protect residents and structures within the area. He said even though the past winter was hearty, fire safety and fire dangers were always significant concerns. He stated the Crossroads Program was recognized at the National Association of Counties (NACO) Conference and County Manager John Slaughter was there to accept the award. He announced the Safari Club International Convention would be coming back to the Reno-Sparks Convention and Visitors Authority (RSCVA) starting in 2019. He stated the convention brought a significant amount of tourism dollars to the County and he commended the RSCVA for their hard work.

Commissioner Berkbigler stated she had a meeting with senior citizens in Incline Village. She noted that 40 percent of the year-round residents were senior citizens and the area lacked resources for them. She wanted staff to research what senior services were being provided in Incline Village. She noted there was interest in having a senior center, as well as transportation to and from the center, but the seniors were not interested in a meal program. She stated she would bring up the topic of transportation in Incline Village to the Regional Transportation Commission (RTC) as she was on that Board. She wanted an update on a joint Human Equality Committee, which was discussed during a prior meeting.

16-0679 **AGENDA ITEM 19** Public hearing and possible action to approve the relocation of a medical marijuana dispensary within unincorporated Washoe County pursuant to section 3 of Senate Bill Number 276 as signed into law on June 9, 2015. The request is from Washoe Dispensary, LLC to move a medical marijuana dispensary location issued a State of Nevada provisional medical marijuana certificate at 290 S. U.S. Highway 395 (APN 050-220-34) to 275 S. U.S. Highway 395 (APN 046-080-04). If approved, direct staff to notify the State of Nevada Division of Public and Behavioral Health in writing of the Board's approval of the relocation request. Manager. (Commission District 2.)

The Chair opened the public hearing by calling on anyone wishing to speak for or against the approval of said item.

Legal Counsel Paul Lipparelli stated he had been corresponding with attorney Elizabeth High, who represented some of the property owners in the area. He asked whether Ms. High or her law partners were present. He was informed by an audience member that neither she nor her partners were present.

Assistant County Manager Kevin Schiller stated the specific action for this Agenda Item was to approve or to deny the relocation of a licensed and certified medical marijuana dispensary. He said the action before the Board was not to determine whether there should be a medical marijuana dispensary in Washoe Valley; only whether it should be allowed to relocate. He indicated there had been a significant amount of discussion that did not pertain to the action required by the Board. He stated the County provided the required notification for the hearing, plus they provided a second notification, and Commissioner Lucey held a neighborhood meeting specific to the proposed location change. One of the things he highlighted was a legal and technical analysis in the area plan that included a typographical error between the introductory paragraph and the existing table. He said if there was going to be a challenge; it would be based on the existing dispensing certificate or on the potential move after action by the Board. He discussed what a dispensary was like in reference to its use type. He said if a pharmacy was used as an example, according to the use table, its use would be compared to facilities such as convenience stores, retail stores, restaurants and bars. The difference was that a dispensary was not considered a public facility because it had limited participation based on who was allowed to purchase from them. He clarified the concern

that there were going to be five dispensaries within Washoe Valley by stating there was only one certificate issued for that area. He noted there had been some confusion over the different types of facilities including cultivation facilities, production facilities, and medical marijuana dispensaries. He stated the security and safety of the proposed move was supported by the Sheriff's Office due to the centralized location of the facilities. He reiterated that the authority of the Board was to determine whether the move was supported or not supported. He noted any litigation or legal issues related to challenging the regulation or code changes would occur whether or not the location of the MME was moved.

Commissioner Hartung questioned whether the Board could move forward with an approval or denial since there was a typographical error in the Code.

Mr. Lipparelli stated if there was a problem with the master plan designation, table of uses or lettering, the problem would exist with the current location of the MME. He said if there was a problem with the table of uses and the County did not go back and adjust the table of uses within the master plans of all the sub-plan areas in the County when medical marijuana was legalized, then the problem would exist all over the County. He said the question before the Board was whether to approve or deny a move from the current location to the proposed location. He indicated if the Board went forward with a decision on the relocation and there was a legal challenge, it would have to be defended in court. He thought the Board should not use that condition as a reason not to take action because it could call into question all the Board's decisions on medical marijuana since it was passed into law.

Commissioner Hartung thought continuing without addressing the issue of the error could be opening the Board to a challenge.

Commissioner Lucey thought the issue had been delayed long enough and regardless of the outcome there would be disappointed individuals on both sides. He suggested the Board move forward with the action and resolve the typographical error at a later time.

Commissioner Berkbigler asked Mr. Schiller to explain why it was safer for the dispensary to move across the street.

Mr. Schiller explained if the relocation was approved, the security plan would have to be submitted and go through the approval processes which would require County and State approval. He said with the facilities being combined, it would increase and strengthen security.

Commissioner Hartung asked about the Code requirement for notifications to be sent to the owners of properties that were within 750 feet of a proposed MME facility. He wondered what the setbacks were for an MME facility and Mr. Schiller stated he did not know the answer to that question.

Commissioner Hartung thought the notification requirements should be more than 750 feet. Mr. Schiller indicated the notification process that was used for this meeting was the Special Use Permit (SUP) notification, which reached more residents.

Planning Manager Bob Webb said State law required a public hearing, but normally a public hearing only required a notice of the meeting to be placed in a newspaper and posted in three locations. He said staff had gone above and beyond the minimum notification requirements by including notification to residents within 750 feet of the location, including anyone who attended or signed up at any of the public meetings. He thought notifying as many people as possible was more important than setbacks.

Mr. Lipparelli explained the zoning maps for the County were updated to include MMEs in 2013 when they were passed into law. The County did not go back in to all of the Master Plans to edit the table of uses or the language of the sub-plans for anything having to do with medical marijuana. He said the issue of the tables being incorrect existed because the effort was not made to go back into each plan and decide how marijuana would be treated. He stated marijuana was treated like a business following the Legislature's concept that they were like pharmacies and they were licensed accordingly.

On the call for public comment, Jay Collins stated he was against the proposed move of the medical marijuana dispensary in Washoe Valley. He thought the dispensary should not be in that community because it was mostly a residential area. He was concerned about MMEs being grandfathered in for recreational marijuana and he was concerned about security.

Maurine O. Collins spoke regarding her concern regarding the lack of notification about the proposed move of a medical marijuana dispensary. She stated the commercial industry had left the area and the dispensary should not be allowed to exist in a mostly residential area. She stated she was against the proposed move.

Thomas Tizzano was opposed to the relocation of the medical marijuana dispensary. He stated Washoe Valley was a rural community and was all residential. He thought Washoe Valley was being targeted for many medical marijuana facilities.

Elise Weatherly said she had empathy for what was going on in Washoe Valley. She thought the problem had to do with a lack of communication. She said the medical marijuana facilities needed to be considered on an individual basis.

Sala Sherwood said she was surprised to hear there were going to be five medical marijuana facilities in Washoe Valley. She stated she was against moving the dispensary across the street. She said she would prefer the dispensary to be a standalone facility if there had to be one at all.

Marijke Bekken thought 750 feet notice to residents was inadequate because all the Washoe Valley residents used the highway where the dispensary was located and it would affect everyone in the Valley. She thought the potential for neighboring businesses such as paycheck cashing businesses, title loan businesses and porn shops would be undesirable to residents. She stated she owned commercial property on the local highway and it was not far from the proposed location. Since the information about the marijuana dispensary became publicly known, many proposed tenants backed out because of the dispensary. She noted the dispensary was affecting her business, even though she did not live within 750 feet of the proposed location.

Douglas R. Studwell Jr. said many of the homes in Washoe Valley were very expensive. He said he just rebuilt his home after a devastating fire in 2012, but had he known this was going to happen, he probably would not have rebuilt in Washoe Valley. He mentioned the table of uses did allow medical marijuana dispensaries in a neighborhood commercial area, but it did not allow for a cultivation, edible marijuana or testing facility. He thought the proposed move across the street would allow the business to develop a growing, manufacturing and dispensary facility under one roof. He said there needed to be significant law enforcement presence in the area.

William Naylor stated he was against the move of a medical marijuana dispensary in Old Washoe City. He thought the State law stated MMEs were not allowed in Washoe City. He stated he submitted some information to Commissioner Lucey in an effort to resolve the issue and he received a response from the Assistant County Manager stating the State law changed in 2013 to enable MMEs in Washoe City, which lead to Development Code changes in 2014. He thought the County made a terrible mistake allowing MMEs in the Old Washoe City area and said they should take strong action to correct the error.

Jon Lutz said he appreciated that staff considered the residents in Washoe Valley when they extended the notification of the proposed move of the MME. He thought the rules should be changed to encompass a larger notification area to increase communication with the residents. He stated there was only one way in and one way out of the Valley so that meant all the residents would have to pass within 750 feet of the MME. He said the community cared about the area and he thought there was going to be a lot of action and resentment towards the Board by people who thought they were not notified.

Garth Elliott stated that in his community of Sun Valley, two dispensaries were allowed to relocate there from other areas. He said the concerns that residents had about the security, traffic and other issues near the dispensaries had not materialized. He said there had not been a steep decline in business, there were not people lying in the streets on drugs, animals had not been affected, and the area had not burned down. He said there had not been any negative effects to the area. He stated the community benefited from what the MMEs brought to the community. He said he did not foresee there being any ill effects in Washoe Valley.

Donald Baker stated he was a medical marijuana patient and was against the medical marijuana dispensary being in Washoe Valley. He said the laws were making it extremely difficult and expensive for patients to obtain medical marijuana. He indicated there were several growers in Washoe Valley that fulfilled the needs of a multitude of patients but once the dispensary opened, the growers could not grow within a 25-mile radius of a dispensary. He wondered where the patients were going to get their marijuana at a price they could afford.

Gerard H. Mager stated there were some very serious legal issues regarding the implementation of every medical marijuana dispensary in the County. He wanted the Board to correct the mistake prior to making any further decisions regarding medical marijuana. He thought the Board was in a position to fix the problem permanently by opting out of medical marijuana. He challenged the Board to opt out to protect the residents of the County.

Sondra Baker stated the 750-foot notification requirement was inadequate for Washoe Valley considering the size of the parcels the residents lived on. She thought that distance could work in a city such as Reno where parcels were smaller. She stated she was in favor of medical marijuana and knew many people who benefited by it, but she was against having a medical marijuana dispensary in the small community of Washoe Valley. She was concerned about crime, the danger the dispensary would put the residents in, and she thought the dispensary would bring nothing but problems to the community.

Linda Harrison asked the Board to vote on this issue and not to postpone it again. She stated the parcel the dispensary was currently on was very small and the proposed parcel was very large. She was concerned about the other types of businesses that could be put in next to the proposed dispensary location.

Chair Jung closed public comment.

Neil Duxbury from Washoe Dispensary, LLC, stated they were requesting to move across the street to another parcel. He said the parcel in total was approximately 3.5 acres and it was further away from the neighborhood. He noted Lieutenant Spratley stated multiple times that the Sheriff's Office would rather have the businesses under one roof for security reasons.

Commissioner Lucey asked Mr. Duxbury besides moving to a larger facility, why they wanted to relocate.

Mr. Duxbury replied they were building a new cultivation facility and it made sense to attach the dispensary to the facility. He said the dispensary design would be between 1,500 and 1,700 square feet and economically it would be better to have it all under one roof. He stated there would be state of the art security throughout the facility.

Commissioner Lucey was concerned about water and water usage. He wondered how they would address the use of water and the disposal of any water that might come into contact with marijuana products.

Mr. Duxbury replied they would be in full compliance. He said the irrigation would be in the form of a drip system, so water usage would be at a minimum and residual water would be recaptured.

Commissioner Hartung asked if they had options on other parcels.

Mr. Duxbury stated they had spoken about possible options but they were not purchasing at this time. He said they were not planning to develop a big pot mall, nor would there be pawn shops, payday or cash loan stores.

Mr. Lipparelli restated the question before the Board. He stated when the MME law was originally enacted it did not contemplate the ability to move a location from the one that was initially provisionally licensed by the State based on local zoning. He said the need was identified to be able to move the locations under certain conditions, so the Legislature passed a new law stating a requested move of an MME would require a public hearing. He indicated the Legislature did not describe the decision criteria, it only stated a public hearing was required. He thought the same criteria as that which was considered for the original location should apply to determine if a new location was suitable. He stated the Board's decision was whether to approve the application of the business owner for the right to have a business license in the new location. He said in regards to the question about the master plan, the opponents believed the master plan tables of uses and other provisions did not allow for medical marijuana in the South Valleys Area Plan, and that was established as part of the record. If the Board approved this change and they felt it was an unlawful decision, they would decide what to do about it. He noted the staff report described what the circumstances were and the Board now had a chance to hear testimony and ask questions. He suggested it was time to make a decision.

Commissioner Hartung asked Director of Planning and Development Bill Whitney about commercial properties on septic systems.

Mr. Bill Whitney replied there was not a community sewer system in this area and each individual case would have to be inspected by engineers and the Health Department to determine whether a septic system could be utilized. He indicated Washoe Valley did not have community water or sewer systems and the residents wanted it to stay that way.

On motion by Commissioner Berkbigler, seconded by Chair Jung, which motion duly carried with a vote of 3 to 2, it was ordered that Agenda Item 19 be approved and directed.

16-0680 **AGENDA ITEM 22** Possible Closed Session for the purpose of discussing labor negotiations with Washoe County, Truckee Meadows Fire Protection District per NRS 288.220.

12:07 p.m. On motion by Commissioner Berkbigler, seconded by Commissioner Hartung, which motion duly carried, it was ordered that the meeting recess to a closed session for the purpose of discussing negotiations with Employee Organizations per NRS 288.220.

1:30 p.m. The Board reconvened with all members present.

CONSENT ITEMS 5A through 5I5

County Manager John Slaughter stated he was asked to clarify Agenda Item 5E which involved the Incline Community Hospital Foundation. He stated the funds would go towards indigent services in the Incline Village area. He mentioned Agenda Item 5I4 was for the ratification of a possible acceptance of a State of Emergency request that was made recently. The request was for the Board to ratify the declaration, which was intended to stay in place due to the high temperatures and possible red flag warnings. He said this would allow the County to react faster to urgent situations dealing with fires. He indicated Agenda Item 5I5 was an agreement with the University of Nevada Reno (UNR) for the sheltering of livestock during emergency events.

16-0681 **5A** Approval of minutes for the Board of County Commissioner's regular meeting of June 28, 2016.

16-0682 **5B** Approve the settlement of the claim Marvis Walton against Washoe County et al, for a total sum of \$140,000 for all claims against all defendants. Comptroller. (All Commission Districts.)

16-0683 **5C** Approve additional pays for non-represented confidential employees in the classification of Assistant Alternative Sentencing Officer (class code 15926) and Assistant Alternative Sentencing Officer Supervisor (class code 17550) at the Alternative Sentencing Department to include standby pay and callback pay and to allow for the Chief Alternative Sentencing Officer or designee to schedule and assign said additional pays to the full-time staff in this classification, as needed. FY 16/17 fiscal impact is estimated at \$24,000. Alternative Sentencing. (All Commission Districts.)

16-0684 **5D** Approve the Forensic Support Services Agreement between Washoe County on behalf of Washoe County Sheriff's Office and Washoe Tribe Police Department for the retroactive term of July 1, 2016 to June 30, 2017 with a total income of [\$3,000.00]. Sheriff. (All Commission Districts.)

- 16-0685** 5E Recommendation to approve (retroactive to July 1, 2016) Grant Program Contracts FY 2016-2017 for grants in the following amounts: Access to Healthcare Network [\$31,500]; Incline Village Community Hospital Foundation [\$27,000], authorize the County Manager or his designee to sign the contracts, and approve Resolutions necessary for same. Social Services. (All Commission Districts.)
- 16-0686** 5F Approve the Receipt of the Report of Sale- July 14, 2016 Delinquent Special Assessment Sale [Sale Proceeds \$0.00]. Treasurer. (Commission Districts 2 and 5.)
- 16-0687** 5G1 Approve a grant award to support the Domestic Violence Compliance Court program, from the Nevada Office of the Attorney General to the Reno Justice Court [\$35,000.00/25% in-kind match required], retroactive from July 1, 2016 to June, 30 2017; and direct the Comptroller to make the appropriate budget adjustments. (All Commission Districts.)
- 16-0688** 5G2 Approve joinder on the Clark County, Nevada contract with Valley Collection Service, LLC to provide third party collection services to all Washoe County Justice Courts and, if approved, authorize County Purchasing to execute Agreement for the same. (All Commission Districts.)
- 16-0689** 5H1 Approve, retroactively, Amendment #1 to the one-year support grant agreement in the amount of [\$84,725] with the nonprofit, Nevada Legal Services, retroactive from July 1, 2016 to June 30, 2017 in support of pro-bono and low-cost consumer related legal services for the elderly and approve necessary resolution for same. (All Commission Districts.)
- 16-0690** 5H2 Approve the transfer of the food service body [valued at \$23,170] for the nutrition delivery vehicle purchased under the Community Development Block Grant from the Nevada Governor's Office of Economic Development for Rural Senior Ambassador Program to the Equipment Services Division. (All Commission Districts.)
- 16-0691** 5I1 Approve and adopt resolutions dissolving the West Truckee Meadows and the Verdi Township Citizen Advisory Boards, and a Resolution creating the West Truckee Meadows/Verdi Township Citizen Advisory Board that will provide feedback to the Washoe County Board of Commissioners on planning, public safety and community issues and through attrition consist of 5 At-Large Members, and 2 At-Large Alternates positions, appointed by the County Commissioner for District 1 and District 5 that together represent a broad area within the district; approve Resolutions necessary for same. (Commission Districts 1 and 5.)

- 16-0692** **512** Approve and accept a 2017 Nevada State Emergency Response Commission [grant for \$28,961.00], no County match required, including \$4,000.00 to Washoe County Emergency Management, and if accepted, authorize Chairman to execute a Resolution to subgrant funds to other governments which make up the Local Emergency Planning Committee as follows: \$19,900.00 to the Reno Fire Department and \$5,061.00 to the Reno Police Department, and authorize the County Manager, or his designee, to sign subgrant contracts with the Local Emergency Planning Committee members; and direct the Comptroller's Office to make the appropriate budget amendments. (All Commission Districts.)
- 16-0693** **513** Recommendation to accept a 2017 Nevada State Emergency Response Commission, United We Stand (UWS)[grant for \$24,887.00], no County match required, and if accepted, authorize Chairman to execute a Resolution to subgrant funds to other governments which make up the Local Emergency Planning Committee as follows: \$13,057.00 to the Reno Police Department; [\$7,885.00] to REMSA; and [\$3,945.00] to the Reno-Tahoe Airport Authority, and authorize the County Manager, or his designee, to sign subgrant contracts with the Local Emergency Planning Committee members; and direct the Comptroller's Office to make the appropriate budget amendments. (All Commission Districts.)
- 16-0694** **514** Recommendation to receive and accept the Declaration of a State of Emergency by the Washoe County Manager, ratify the Declaration, and direct staff to publicize the Declaration as required by WCC 65.320. (All Commission Districts.)
- 16-0695** **515** Ratification of a license agreement with UNR for Livestock Sheltering entered into on July 30, 2016 by the Washoe County Emergency Manager. (All Commission Districts.)

On the call for public comment, Cathy Brandhorst spoke regarding Agenda Item 5B and matters of concern to herself.

Elise Weatherly spoke regarding Agenda Item 5C. She talked about integrity in the workplace, government employees and treating people with respect.

On motion by Commissioner Lucey seconded by Commissioner Hartung, which motion duly carried, it was ordered that Consent Agenda Items 5A through 515 be approved. Any and all Resolutions or Interlocal Agreements pertinent to Consent Agenda Items 5A through 515 are attached hereto and made a part of the minutes thereof.

BLOCK VOTE (7, 8, 9, 10, 11, 12, 13 and 14)

- 16-0696** **AGENDA ITEM 7** Recommendation for discussion and possible action to retitle the “Washoe County Fire Hazard Risk Map” to “Washoe County Fire Hazard Map for New Construction” and to amend the fire hazard rating for the Estates at Mount Rose from high to moderate. Truckee Meadows Fire District. (All Commission Districts.)

On the call for public comment, Cathy Brandhorst spoke about Agenda Items 7, 8, 10, 12, 14 and matters of concern to herself.

On motion by Commissioner Lucey, seconded by Commissioner Berkbigler, which motion duly carried, it was ordered that Agenda Item 7 be approved.

- 16-0697** **AGENDA ITEM 8** Recommendation to acknowledge and approve a retroactive sole source purchase of public safety radios offered by Harris Public Safety Professional Communications through their distributor, Dailey and Wells, in joinder with the National Association of State Purchasing Officers (NASPO) Master Price Agreements for State of Nevada that exceeds [\$100,000] but remains within available adopted FY15/16 Budget Authority in the amount of [\$340,000]. Sheriff. (All Commission Districts.)

There was no public comment on this item.

On motion by Commissioner Lucey, seconded by Commissioner Berkbigler, which motion duly carried, it was ordered that Agenda Item 8 be acknowledged and approved.

- 16-0698** **AGENDA ITEM 9** Recommendation and possible removal of Victoria Edmondson [District 5] from the Washoe County Senior Services Advisory Board; and the recommendation and appointment of Marsy Kupfersmith [District 2] for the remainder of the term ending September 30, 2017; Sandra Dexter and Barbara Karosa [District 3], Garth Elliott and Ken Romeo [District 5] and Stan Dowdy [At-Large Alternate] to the Washoe County Senior Services Advisory Board for the term July 1, 2013 ending September 30, 2017. Senior Services. (All Commission Districts.)

On the call for public comment, Garth Elliott thanked the Board for appointing him to the Washoe County Senior Services Advisory Board.

On motion by Commissioner Lucey, seconded by Commissioner Berkbigler, which motion duly carried, it was ordered that Agenda Item 9 be approved.

- 16-0699** **AGENDA ITEM 10** Recommendation to approve an amendment to a one-year support grant agreement in the amount of [\$488,328] for a total

amount of [\$1,124,71] with the nonprofit, Catholic Charities of Northern Nevada, retroactive from July 1, 2015 to June 30, 2016 in support of the senior nutrition program, including congregate and Meals on Wheels services, in order to implement national best practices and leverage the capacity of a non-profit nutrition services agency and approve necessary resolution for same. Senior Services. (All Commission Districts.)

On the call for public comment, Elise Weatherly spoke regarding Agenda Items 10 and 11. She thought there needed to be more funding for senior services and for retirement preparation.

On motion by Commissioner Lucey, seconded by Commissioner Berkbigler, which motion duly carried, it was ordered that Agenda Item 10 be approved.

16-0700 **AGENDA ITEM 11** Recommendation to approve an a one-year support grant agreement in the amount of [\$1,438,533] with the nonprofit, Catholic Charities of Northern Nevada, retroactive from July 1, 2016 to June 30, 2017 in support of the senior nutrition program, including congregate and Meals on Wheels services, in order to implement national best practices and leverage the capacity of a non-profit nutrition services agency and approve necessary resolution for same. Senior Services. (All Commission Districts.)

There was no public comment on this item.

On motion by Commissioner Lucey, seconded by Commissioner Berkbigler, which motion duly carried, it was ordered that Agenda Item 11 be approved. The Resolution for same is attached hereto and made a part of the minutes thereof.

16-0701 **AGENDA ITEM 12** Discussion and possible approval of Addendum to Inter-local Agreement for Administrative & Technical Services between Washoe County and Truckee Meadows Fire Protection District. Manager. (All Commission Districts.)

There was no public comment on this item.

On motion by Commissioner Lucey, seconded by Commissioner Berkbigler, which motion duly carried, it was ordered that Agenda Item 12 be approved. The Interlocal Contract for same is attached hereto and made a part of the minutes thereof.

16-0702 **AGENDA ITEM 13** Recommendation to approve a Lease Agreement between Song Properties, LLC., and Washoe County for a 35 month term, August 9, 2016 through June 30, 2019 FY 2016/17 - \$71,500, FY 2017/18 - [\$107,604] and FY 2018/19- [\$111,908.16] for the occupancy of Sober

24 and other Social Service Programs located at 1530 East 6th Street, Reno, Nevada. Social Services. (All Commission Districts.)

There was no public comment on this item.

On motion by Commissioner Lucey, seconded by Commissioner Berkbigler, which motion duly carried, it was ordered that Agenda Item 13 be approved.

16-0703 **AGENDA ITEM 14** Recommendation to approve the FY 16/17 Health Benefits Program and CY 2017 Health Plans for employees, dependents and retirees at an approximate annual cost of \$56.9 million, and authorize the Director of Human Resources/Labor Relations to execute all insurance contracts and service agreements pertinent to the Health Benefits Program. Human Resources. (All Commission Districts.)

There was no public comment on this item.

On motion by Commissioner Lucey, seconded by Commissioner Berkbigler, which motion duly carried, it was ordered that Agenda Item 14 be approved and authorized.

16-0704 **AGENDA ITEM 6** Presentation, update and possible direction to staff on the Washoe County Economic Development and Conservation Act. (Washoe County Federal Lands Bill). Manager. (All Commission Districts.)

County Manager John Slaughter stated the Board of County Commissioners, the City of Sparks, the City of Reno and the Washoe County School District all approved resolutions of support for the Washoe County Federal Lands Bill. He indicated that seven Counties in Nevada had previously gone through the process to be approved by Congress including the Counties of Clark, White Pine, Lincoln, Humboldt, and Lyon. He said Douglas and Pershing Counties were in the process and nearing completion towards Federal Congressional approval of the Federal Lands Bills. He indicated the Lands Bill was following a model that other Counties used which began with the Southern Nevada Lands Management Act. He stated the focus of this Agenda Item was the map of proposed areas. Planning and Development Director Bill Whitney had been working with various stakeholders in the region including Washoe County, the Cities of Reno and Sparks, the Washoe County School District, the improvement districts, and other stakeholders to identify the areas that would be proposed to the Federal delegation. He said the County had been working very closely with Senator Reid's Office, Senator Heller's Office and Congressman Amodei's Office and they were ready to show the map that staff prepared. He stated staff was seeking direction from the Board.

Mr. Whitney depicted two maps and he explained and reviewed the boundary lines thoroughly. He stated the land within the boundary lines on the first map

was Federal land that could potentially be exchanged or disposed of for economic development or public purposes. He noted the available land would mostly come from US Forest Service Managed Land and the Bureau of Land Management (BLM). He stated the second map was the "Ask" map, which were the parcels that had been asked for by the Truckee Meadows Water Authority (TMWA), the Washoe County School District (WCSD), Washoe County, the Flood Program, the University of Nevada Reno (UNR), the Desert Research Institute (DRI), the Incline Village General Improvement District (IVGID), the Regional Transportation Commission (RTC), and the City of Sparks. He said TMWA was interested in a parcel larger than 6,000 acres for infiltration basins and watershed preservation. He stated that in Incline Village there was land around Diamond Peak and in Incline Village Proper that IVGID was interested in. He noted the City of Sparks was interested in the Golden Eagle Park and a parcel in Wedekind Hills. He indicated the request list was long and local entities should not wait to get on the "Ask" map. He stated the two maps that were shown would accompany written information that would be submitted to the Legislature.

Mr. Slaughter asked for clarification regarding the second map and whether the requests from public agencies were for public use.

Mr. Whitney replied yes they were for public use although TMWA was not going to want the public hiking through their infiltration ponds.

Mr. Slaughter asked whether these specific parcels were available for private purchase.

Mr. Whitney referred to the first map and drew attention to the boundary around the BLM managed land. He stated any property that was not designated with a request by a public entity was potentially an area that could be sold by the Federal Government for economic development purposes.

Commissioner Lucey stated this had been a labor of time and love for the past 6 months if not longer. He said they had been working with the Federal delegation, who had been very receptive. He indicated not all of the parcels outlined were going to be available for disposal at the County's request. He noted there were a number of parcels that were going to be set aside for individual entities and working groups. He said Senator Reid's Office had brought this forth to secure some Forest Service and public lands for open space. He stated the County deemed it necessary to have a say in what the future would bring for the parcels, not only for growth, but also for stable planning for future economic development and security. He said he was happy with the boundary lines proposed for disposal. He commented it was very difficult to figure out a timeline in which the parcels could be identified for disposal because the process could be different for each parcel. He thanked Mr. Whitney and the entire delegation for their hard work throughout the process.

Commissioner Hartung was concerned about the amount of time it could take to transfer a parcel. He hoped the process would be expedited.

Mr. Whitney explained the land within the boundary lines would become part of the Federal Legislation to direct the BLM, Forest Service and the Bureau of Reclamation regarding the disposal of properties that local jurisdictions requested. He stated the process would not happen all at once. He used the BLM as an example and stated there was a process they had to go through to dispose of any lands that would leave Federal ownership. He stated if the Federal Legislation passed, the County would have the map which designated the areas for disposal, but the BLM was not required to amend their plan. He said that was the step that took the longest.

Commissioner Hartung wondered how long the process would take if the property was in Southern Nevada and they utilized the Southern Nevada Public Land Management Act (SNPLMA). He thought if the County had the same process in place as Southern Nevada did, it could take less time to implement and transfer a change of ownership.

Mr. Whitney stated he did not know how long their process took and he would have to wait until the legislation passed to sit down with the BLM to discuss the processes and timelines.

Commissioner Hartung was concerned if it took five years to transfer a parcel, the window of opportunity to develop for economic purposes could be missed.

Mr. Whitney agreed but stated Clark County and Southern Nevada had been transferring parcels for 15 years. He indicated Carson City had quite a bit of BLM land released within their city boundary and it took time for them to process the real estate and environmental releases to ensure the transfer was legal and clean. He stated there were requirements and he would work to get a rough timeline.

Chair Jung asked what the exact protocol would be to ensure fairness in terms of economic development. She noted the WCSD put in a request for land in the North Valley for an additional school. She said this was Senator Reid's legacy project before he retired in January of 2017. She thanked Senator Reid for his attention to Northern Nevada.

Commissioner Lucey stated the delegation assured the Board they were going to fast track this process. He stated the delegation was very receptive and functional. He said everything would be contingent upon the outcome of the November election but he did not foresee any issues.

There was no public comment on this item.

On motion by Commissioner Lucey, seconded by Commissioner Berkbigler, which motion duly carried, it was ordered that Agenda Item 6 be acknowledged.

PUBLIC HEARING

16-0705 **AGENDA ITEM 15** Introduction and first reading of an ordinance amending Washoe County Code Chapter 55 by adding provisions creating the Animal Services Advisory Board; specifying the board's purpose and duties; and specifying the composition of the board, appointment of members, terms of service, officers, meetings, compensation and removal, and other matters properly relating thereto; and, if supported, set a public hearing for the second reading and possible adoption of the ordinance on August 23, 2016. Regional Animal Services. (All Commission Districts.)

The Chair opened the public hearing by calling on anyone wishing to speak for or against adoption of said Ordinance.

Nancy Parent, County Clerk, read the title for Bill No. 1769.

Commissioner Herman was concerned that the existing Animal Services Permit Board would be dissolved with the creation of the Animal Services Advisory Board.

Director of Regional Animal Services Shyanne Schull stated the Animal Services Advisory Board was completely separate from the Animal Services Permit Board, which was tied to Regional Animal Services and reviewed exotic animal permits and over-the-limit dog and cat permits. She noted the Advisory Board was designed to provide experience relevant to the Animal Services Department and to represent the stakeholders.

Chair Jung stated she had asked for the creation of an Advisory Board for nine years. She noted the Advisory Board would have the fiduciary responsibility to oversee the Animal Services budget and how it was allocated.

On the call for public comment, Cathy Brandhorst spoke about matters of concern to herself.

Bill No. 1769 was introduced by Commissioner Berkbigler, and legal notice for final action of adoption was directed.

16-0706 **AGENDA ITEM 17** Regulatory Zone Amendment Case Number RZA16-001 --- Public Hearing and possible action: (1) To adopt, adopt with modifications, or deny an amendment to the Spanish Springs Regulatory Zone Map, changing the regulatory zone of a ±15.5-acre portion of a ±20.5-acre property from Parks and Recreation (no dwelling units allowed) to Medium Density Suburban (up to three units per acre); (2) To affirm, modify, or reject the findings of fact of the Washoe County Planning Commission recommending approval of the requested zoning change; (3) If adopted, to direct the Director of the Planning and

Development Division to sign and certify the amended Spanish Springs Regulatory Zone Map; and (4) If adopted, to authorize the Chair to sign a Resolution adopting the amendment to the Spanish Springs Regulatory Zone Map. Applicant: Spanish Springs Associates LP. Property Owner: Spanish Springs Associates LP. Location: West of Sand Dune Drive, Dromedary Road, and Gator Swamp Park in Spanish Springs (Pyramid Ranch Estates subdivision). Assessor's Parcel No: 532-091-09. Parcel Size: ±20.5 acres. Current Regulatory Zone: Parks and Recreation (PR). Proposed Regulatory Zones: Medium Density Suburban (MDS) and Parks and Recreation (PR). Area Plan: Spanish Springs. Citizen Advisory Board: Spanish Springs. Development Code: Article 821, Amendment of Regulatory Zone. Section/Township/Range: Sec 26, T21N, R20E, MDM. (Commission District 4.)

Commissioner Hartung thought this was a great move. He stated he constantly received complaints about the property in regards to dust, kids utilizing it and the property not being maintained. He was pleased it was going back to the original donors.

There was no public comment on this item.

On motion by Commissioner Hartung, seconded by Commissioner Herman, which motion duly carried, it was ordered that Agenda Item 17 be approved, directed and authorized.

16-0707

AGENDA ITEM 16 Hearing and possible action to conduct a second reading and adopt an ordinance amending Washoe County Code Chapter 110 (Development Code) to clarify when an accessory structure or use may be constructed on a parcel without an existing main structure or an existing principal use. The amendment focuses on circumstances where the subject parcel is adjacent to a parcel with an existing main structure or principal use and when both parcels are under the same ownership. The amendment includes updates to the following sections of the Development Code: Article 306, Accessory Uses and Structures, Section 110.306.15, Main Structures Required – to identify the circumstances under which an accessory structure or use may be established on a parcel without an existing main structure or an existing principal use; Article 410, Parking and Loading, Section 110.410.20, Location of Required Parking Spaces – to clarify that a dwelling's required garage may only be located on an adjoining lot if it also meets the requirements of Section 110.306.15; and Article 902, Definitions, Section 110.902.15, General Definitions – to update definitions for “Detached accessory structure,” “Lot” and “Parcel of land” to better reflect the proposed code amendments identified above. (Bill No. 1768). Community Services. (All Commission Districts.)

The Chair opened the public hearing by calling on anyone wishing to speak for or against adoption of said Ordinance.

Nancy Parent, County Clerk, read the title for Ordinance No. 1582, Bill No. 1768.

There was no public comment on this item.

On motion by Chair Jung, seconded by Commissioner Berkbigler, which motion duly carried, Chair Jung ordered that Ordinance No.1582, Bill No. 1768, be adopted, approved and published in accordance with NRS 244.100.

16-0708 **AGENDA ITEM 20** Update, discussion and possible direction to staff regarding 2016 Nevada Legislative Interim Committees and Studies, legislation or legislative issues proposed by legislators, by Washoe County or by other entities permitted by the Nevada State Legislature to submit bill draft requests, or such legislative issues as may be deemed by the Chair or the Board to be of critical significance to Washoe County. Manager. (All Commission Districts.)

Government Affairs Manager Liane Lee presented a PowerPoint presentation, which provided a Legislation update. She noted there were 181 days left until the next Legislative Session and only 23 days remaining to submit Bill Draft Requests (BDRs). She stated as of July 29th, 219 BDRs had been submitted to the Legislative Counsel Bureau. She reviewed the slides entitled 2015-2016 Interim Session and Bill Draft Requests. She discussed some of the new BDRs including a bill that would authorize the creation of Park, Trail and Open Space Districts; a bill that would prohibit all testing on animals; and a bill that would allow for provisions governing emergencies in public schools. She said as time moved forward, the list would continue to grow. She recapped the BDR issues, which included changes to the Nevada Revised Statute (NRS) for Animal Services, changes to legal notifications from the Comptroller, changes to the Regional Governing Board, and Annexation.

Commissioner Berkbigler was curious about the BDR for Animal Services. She noted the proposal would allow an Animal Control officer to remove a dead animal.

Animal Services Manager Bobby Smith stated currently Animal Services had the authority to remove an animal that was in violation of Code or any animal that was subject to torture or cruelty as defined in Code or State law. He said the BDR would allow the NRS and the Code to mirror each other. He stated one of the issues was there were no longer any Humane Officers throughout the State and across the Country. He said the change left the responsibility of enforcement on Animal Control, a local Police Department or on a local Sheriff.

Commissioner Berkbigler was concerned about the liability on the County if Animal Control Services staff members took it upon themselves to pick up an animal.

Mr. Smith stated things would not change. He explained to remove an animal from a property was not an easy task even if an animal was tangled or tethered. He said before an officer could respond to an animal incident, they were required to call and obtain authorization for entry to the property. He stated there were steps in place to ensure they were not violating any human rights and Animal Services was not breaking any laws.

Commissioner Berkbigler stated the Board received an article regarding an ongoing struggle between Clark County and Las Vegas and she wondered whether Ms. Lee had seen any potential legislation regarding the issue.

Ms. Lee stated she had not seen any specific legislation but she had heard there was a possibility of a bill being introduced to address the issue. She said she also heard there was an entity in Southern Nevada that could have asked a legislator to sponsor legislation for them. She stated she had not seen any specific language, but she heard it could be coming.

Commissioner Berkbigler wondered whether the issue would be discussed during the upcoming meeting with Clark County staff. She said there were a number of Animal Services bills that the County could possibly tie into rather than submitting an additional BDR. She thought there was a need to discuss whether they wanted to work on legislation for amendments to the Regional Governing Board (RGB).

Commissioner Lucey thought it was important to move forward and to utilize one of the BDRs to make the changes to the Regional Governing Board (RGB). He said there needed to be changes to the basic language to allow for more dynamic movement within the RGB. He indicated there was a need for clarity and an update, as some of the laws were written 30 or more years ago. He wanted to make that a priority. He said he agreed with Commissioner Hartung's suggestion to request an increased number of BDRs because of the size of the County, but after conversations with the legislators, he thought it could be futile to invest time into it. He said the annexation issue would involve discussions with the Clark County staff and some members who had been participating in the NACO conversations were willing to bring some of the issues forward in the next session.

Commissioner Hartung said if there were substantive changes to be made to the RGB, perhaps the boundaries could be changed to include Storey County since they were planning to build three hotels in the Tahoe-Reno Industrial Center (TRIC), which would affect Washoe County. He thought the RGB should have more regional oversight, making it a true regional board. He said it would seem to be a direction that the County would want to investigate at some point because it would directly affect the traffic and there were no regional road impact fees assessed to them. He thought there were more issues that boundary changes could resolve.

Commissioner Herman wanted to ensure there was good representation from the bigger districts on the RGB.

Commissioner Berkgigler was concerned if Storey County was added to the RGB they might attempt to impose competitive restrictions. She thought if the boundaries included other Counties the Board should be an advisory board to eliminate any possible conflicts. She noted the RGB would need to follow the Clark County model.

County Manager John Slaughter stated that in the past three legislative sessions the County did not use any BDRs. He said the strategy was if there was a statewide issue that crossed boundaries, then staff could approach the National Association of Counties (NACO) or legislators to carry the bill. He stated that local government often became a target when BDRs were presented. He said that was the strategy and it worked very well. He indicated prior to that time, the County was very successful with BDRs and was one of the few local governments who came out with a good record of accomplishment.

Chair Jung stated changing the publishing requirements had been a request for a very long time and she understood why the Comptroller wanted to change the process, but she thought the newspaper industry had too much influence for such a change to pass. She asked Ms. Lee to submit her recommendations to the Board for the BDRs. Regarding annexation, she thought there needed to be more conversations about it, but she said it was an issue worth using a BDR for. She thought there was a good solution that could eliminate the issue before it became more problematic.

Commissioner Lucey wondered what other entity would be willing to carry a tax abatement bill.

Ms. Lee stated she heard there was a legislator in the south that was looking to sponsor a bill to address tax abatement. She said it would state that local governments should have a seat at the table, so if there was a large project such as Tesla, it would be mandatory for local governments to provide fiscal information. She thought the new bill would make the language stronger and it would require the County to provide input before they made a decision. She stated there was a large discussion about tax abatements at the NACO and also among legislators. She would continue to work with that particular legislator and entities to see what the County could do to help assist and support the bill.

Commissioner Lucey wondered what the plan would be if no entity carried a bill regarding dedicated revenue for medical marijuana sales. He stated the topic had been discussed repeatedly but there was no resolution.

Ms. Lee stated they would continue working with local governments, Clark County and others about the impact since this was a State issue. She said she continued to monitor the BDR list but had not seen anything specific to medical

marijuana other than one BDR that had to do with recreational use and changing the Ordinance to allow its use at outdoor venues.

Commissioner Lucey stated this issue needed to be monitored so it would not slip through the cracks. He wanted to ensure that the Districts received the money for the establishments within their Districts.

Ms. Lee said the question that was being brought forward in November was language that stated if recreational marijuana passed, there would be a regulatory period of one year to figure out how to regulate it. She stated it was important to ensure the County was included in the regulatory process and in the clarification of the language.

Assistant County Manager Kevin Schiller stated the County was not involved when the medical marijuana process was being developed and he indicated it was imperative for the County to be involved for recreational marijuana. He stated the regulatory process could include vendors, the State and the local entities.

Commissioner Lucey wanted a report regarding the County impacts that would be realized whether it passed or was denied. He stated the Board needed a clearer understanding so they could inform their constituents.

Commissioner Hartung wanted the County to review the depreciation on property tax when a property changed hands. He thought the property value should reset to the correct value once it changed hands instead of remaining at the depreciated value.

Chair Jung stated that amendment to property taxes had been attempted numerous times. She said residents had to be similarly situated and taxed, which meant if one resident had a home built in 1947 and a neighbor three houses down built a new home, it would be unfair to be taxed differently because they were similarly situated. She suggested that Ms. Lee research the views regarding a change and said it would require a constitutional change.

Commissioner Lucey stated he thought the best chance to make major changes was to address the property tax formula immediately. He said depreciation had not been taken off the table and they were focused on the most pressing issue, but everyone agreed the depreciation issue was monumental and needed to be addressed. He indicated there were some reservations that a significant "ask" from the legislature could result in a complete loss, so proceeding cautiously was advised.

Commissioner Berkbigler stated a powerful former State Legislator was now a Clark County Commissioner. She thought the perspective of the Clark County Commission was going to be more focused on what was good for local government. She indicated Nevada was the only State that continued to use the depreciated value for properties when a property changed ownership. She thought that would lend credibility to the argument.

There was no public comment or action on this item.

16-0709 **AGENDA ITEM 24** Announcements/Reports.

Chair Jung said she recently attended the Attorney General's Annual Human Trafficking Awareness fundraiser. She stated it was very well attended and a woman of considerable notoriety spoke about being trafficked for many years. She said she was invited to serve on the 21st Century Policing Committee. She indicated they had a proactive strategy and were building great relationships within the community to avoid tragic situations from happening. She attended the Nevada Women's Lobby Meeting and heard a great update on Question One, regarding a gun show loophole. She indicated her name was on the question and she gave \$1,000 in campaign funds to help the measure pass. She received an email from Tina Nappe who was concerned about the public lands discussion not being heard by the Neighborhood Advisory Boards, Community Advisory Boards, Nevada Department of Wildlife, State Parks, Washoe County Parks, Bureau of Land Management Advisory Board and the Tribes. She stated Ms. Nappe's concerns that the current County Commission meeting was internal and not properly noticed.

Chair Jung spoke regarding the agenda and how items were placed ahead of others to accommodate the citizens present for a certain item. She asked for the Board's feedback. She wanted an update regarding the reason for area plans and if it was needed to go back and correct them. She stated if any Commissioner held any special meetings it had to be approved by the Board because it would exceed the two-hour time limit. She noted the costs needed to be justified.

Commissioner Lucey stated he had the opportunity to attend the Tesla Gigafactory Grand Opening. He said there were a number of legislators there as well. He stated there were 1,500 people who drove Tesla vehicles from across the Country to attend the event. He thought the economic impact on the entire region would be continuous because of the draw to businesses such as Tesla. He stated he and staff had a productive meeting with Judge Sattler to discuss the Specialty Courts. He said they were looking into some potential options to help staff and once more information was available he wanted staff to bring it back to the Board for direction and possible approval. He stated there was a risk assessment evaluation and risk assessment tool that the County would be utilizing in the jail as of September 1st. He indicated Washoe County was one of the only Counties to be a test subject for this and it could be very beneficial and helpful to the jail system. He wanted to help find funds or potential help for the project.

Commissioner Herman stated the Paiute Tribe elders were appreciative for the help with a recent fire.

Commissioner Hartung stated that he and Assistant County Manager Kevin Schiller spoke previously about the potential to get dental chairs installed at Renown and Saint Mary's. He thought TMCC's Dental Program could assist in providing

the opportunity for students to work in a different environment. He asked for more than two-hours of staff time for Mr. Schiller to put a meeting together.

Commissioner Berkbigler wanted staff to initiate a meeting with the County Managers from the surrounding Counties to discuss whether they were interested in restructuring the RGB into a true Regional Governing Board.

There was no action taken or public comment on this item.

3:14 p.m. The Board recessed.

4:00 p.m. The Board reconvened with all members present.

PUBLIC HEARING

16-0710 **AGENDA ITEM 21** Hearing, discussion, and possible action to determine whether there is just cause to remove Thomas G. Daly from the Washoe County Planning Commission pursuant to NRS 278.040 and Washoe County Development Code section 110.912.05(f) for Mr. Daly's actions involving Colina Rosa subdivision in April and May of 2016.

The Chair opened the public hearing by calling on anyone wishing to speak on this item.

Legal Counsel Paul Lipparelli stated representatives for Thomas G. Daly contacted him to request the hearing for this item be postponed.

Courtney Forster, Legal Counsel for Thomas G. Daly, stated she needed time to get up to speed for Mr. Daly's defense. She requested the item to be postponed for an additional 60 days.

Mr. Lipparelli stated there were two statutes involved with this item. He said one of the statutes was in the planning laws and it stated there was no specific timeframe for the removal of a Planning Commissioner from the Planning Commission. He stated the Open Meeting Law governed all public bodies and if administrative action was to be taken against a person, that person was entitled to five working days prior written notice if the notice was served in person. He indicated Mr. Daly was served in person on July 22, 2016. That provided Mr. Daly with double the amount of notice that the Open Meeting Law required. He stated legally the County was permitted to go forward with the hearing. He indicated that Mr. Daly's Counsel requested additional time to prepare for his defense. He stated the Board could either go forward with the hearing or consider the request to postpone. He suggested if the hearing was going to be rescheduled, that the Board request Mr. Daly's representative to waive the need to serve Mr. Daly again with notice of any future meeting to continue the item. He stated the decision was entirely up to the Board's discretion.

On the call for public comment, Cathy Brandhorst spoke about matters of concern to herself.

Chair Jung stated the first decision was to decide if the Board would approve a continuance of 60 days. She asked the Board about continuing until the August 23rd Board Meeting. She was informed that Mr. Daly would not be available for the August 23rd or September 13th meetings.

Commissioner Lucey stated his thought was Mr. Daly received ample time and he was in favor of moving forward with the hearing.

Ms. Forster stated there was a large amount of time between the date of the occurrence on May 3rd and the receipt of the letter because Mr. Daly did not receive the letter until July 22nd. She thought he had not received adequate notice. She noted that Mr. Daly was not available on August 23rd, but if the option was to deny him the due process rights by continuing with the hearing without his presence and with the full knowledge that his Counsel was not prepared, she strongly suggested the hearing be moved to August 23rd.

Mr. Lipparelli stated Mr. Daly had the right to have Counsel present to represent him and he had the right to appear in person. He indicated the request for records should be promptly supplied to Mr. Daly and his representatives. He noted that some of the records could be available online.

Chair Jung thought the item should be continued to August 23, 2016 at the latest.

Commissioner Lucey asked if there was another Planning Commission meeting scheduled to take place before August 23rd. He was informed there was not.

On motion by Chair Jung, seconded by Commissioner Lucey, which motion duly carried, it was ordered that Agenda Item 21 be continued until August 23, 2016.

16-0711 **AGENDA ITEM 18** Hearing, discussion, and possible action on Case No. AX16-002 (Rejection of Mil Drae Abandonment Application), an appeal of the Board of Adjustment's decision to deny the appeal of the Director of Planning and Development's decision to reject the abandonment application to abandon Mil Drae Lane for incompleteness. The Board of County Commissioners may take action to confirm the Board of Adjustment's denial or reverse the Board of Adjustment's denial and allow the abandonment application to proceed to the Planning Commission. The appellants are Peter Ernaut, Ryan Dolan, James and Maureen Nunnally, Roland and Tina Scarselli, Lance Faulstich and Herbert and Susan Nichols. The subject property is Mil Drae Lane (APN: 040-581-20) and located within the Southwest Truckee Meadows Area

Plan and South Truckee Meadows/Washoe Valley Citizen Advisory Board boundaries, Section 1, Township 18N, Range 19E, MDM. The Development Code articles applicable to this amendment are Article 806, Vacations and Abandonments of Easements or Streets and Article 912, Establishment of Commissions, Boards and Hearing Examiners. Community Services. (Commission District 2.)

The Chair opened the public hearing by calling on anyone wishing to speak for or against this item.

Commissioner Hartung stated he had dealt with numerous parcels over the years and typically, if a road was a related to certain parcels, the owners of the related parcels would participate in the upkeep and the general maintenance. He said the road might not require maintenance every year, but when it did the owners would share the cost. He stated he could not locate any information about payments being made to help maintain the road.

Legal Counsel Paul Lipparelli stated the issue was to accept or overturn the decision to deny the abandonment application. He said if the Board's decision was to overturn the decision, then findings would have to be made.

On the call for public comment, Wilma Bennett stated the road had not been maintained for more than 25 years. She said she had offered in 2013, 2014 and 2015 to contribute to the maintenance but she never received a response. She stated she lived on the corner of Del Monte Lane and Mil Drae Lane for 40 years. She indicated that a Washoe County Surveyor approved the boundary line adjustment with access to 420 Mil Drae Lane which was approved and signed off by the District Attorney in 2009. She said since that time they had been accessing their garage on the north side of Mil Drae Lane. She stated they owned 15 percent of Mil Drae Lane.

On motion by Commissioner Lucey, seconded by Commissioner Berkbigler, which motion duly carried, it was ordered to overturn the decision of the Board of Adjustment's denial of the application and approve the application based on the fact that the decision of the Director of Planning and Development was contrary to State Statute, and that only one signature from an abutting property owner was required for abandonment.

16-0712 **AGENDA ITEM 23** Public Comment.

Cathy Brandhorst spoke about matters of concern to herself.

* * * * *

4:29 p.m. There being no further business to discuss, the meeting was adjourned without objection.

KITTY K. JUNG, Chair
Washoe County Commission

ATTEST:

NANCY PARENT, County Clerk and
Clerk of the Board of County Commissioners

Minutes Prepared by:
Doni Gassaway, Deputy County Clerk

Pending Board Approval

**BOARD OF COUNTY COMMISSIONERS
WASHOE COUNTY, NEVADA**

TUESDAY

10:00 A.M.

AUGUST 16, 2016

PRESENT:

Kitty Jung, Chair
Bob Lucey, Vice Chair
Marsha Berkgigler, Commissioner
Vaughn Hartung, Commissioner
Jeanne Herman, Commissioner

Nancy Parent, County Clerk
John Slaughter, County Manager
Paul Lipparelli, Legal Counsel

The Washoe County Board of Commissioners convened at 10:00 a.m. 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:

16-0715 AGENDA ITEM 3 Public Comment.

Kenneth Johnson proposed naming the Senior Services Center after Gene Autry. He provided a brief history of Gene Autry's life and he submitted a drawing of the Senior Services Center with Gene Autry's name above the doorway. His drawing was placed on file with the Clerk. He also displayed a painting he did of Gene Autry.

Elise Weatherly said she was still trying to get an answer as to why the chaplain at the Jan Evans Juvenile Justice Center was dismissed. She spoke about government accountability in regards to budgets.

Roger Puccinelli stated his home in Verdi burned down the previous week. He expressed his concerns about how the fire was handled by the various fire departments. He noted several discrepancies within the fire report regarding his home's square footage, where the fire started, and the response times. He requested to have a meeting to discuss his concerns.

Ed Pitchford spoke about another recent fire in Verdi which he believed also received an inadequate response. He expressed his concerns with the way the fire departments responded to and handled Mr. Puccinelli's fire. He said the closest fire station to Verdi was seven miles away in Mogul.

Sam Dehne expressed his concerns about the City of Reno's proposal to provide free parking on Fridays to people who had a City of Reno specialty license plate.

AUGUST 16, 2016

PAGE 1

A-9-26-16 #5.A.

He proposed providing military veterans free parking. He sang a song about the City of Reno needing schools for children.

Cathy Brandhorst spoke about matters of concern to herself.

William Gilbert spoke about the management of the region's watersheds.

16-0716 **AGENDA ITEM 4** Washoe County Board of Commissioners and Reno City Council. – see separate Notice of Joint Meeting and Agenda.

John Slaughter, County Manager, noted Agenda Item 4 was a notification of a joint meeting with the Reno City Council.

The following item only (Agenda #5) will be heard by the Washoe County Board of Commissioners and Reno City Council. (Approximately Agenda Item #4 on the Reno City Council Agenda.)

16-0717 **AGENDA ITEM 5** Reno-Stead Corridor Joint Plan - Master Plan Amendment (Sky Vista) – Hearing, discussion and possible action on a request filed by Chuck Bluth for an amendment by the Washoe County Board of Commissioners and the Reno City Council to the Reno-Stead Corridor Joint Plan (RSCJP) by removing the subject property (APN 086-380-15) from the RSCJP. The subject property consists of a ±55.5 acre site that is located along the south side of Sky Vista Parkway, ±900 feet west of its intersection with Trading Post Road. Amending a joint plan requires a joint hearing before the Reno City Council and the Washoe County Board of County Commissioners pursuant to NRS 278.02786. The subject property currently has a master plan designation of High Density Suburban/Low Density Residential (3-7 dwelling units per acre) under the RSCJP, and the applicant is requesting further action, if the subject property is removed from the RSCJP, of the City of Reno to re-designate the property as Mixed Residential (3-21 dwelling units per acre) under the City of Reno's master plan; and if approved authorize the Chair to sign the resolution to adopt the amendment to the Reno-Stead Corridor Joint Plan Master Plan Map, after a determination of conformance with the Truckee Meadows Regional Plan by the Truckee Meadows Regional Planning Commission. (Commission District 5.)

On the call for public comment, Sam Dehne stated he was against the rezoning. He noted the infrastructure was not set up for a higher density area.

Cathy Brandhorst spoke about matters of concern to herself.

Paul McKenzie, Reno City Councilmember, asked how the affordable housing requirement would be met and when the traffic issues would be addressed.

Nathan Gilbert, Associate Planner City of Reno, replied the Master Plan Amendment would essentially shift the allowable density from three units to 21 units per acre to allow for greater housing opportunities and more choices. He stated any development would require a discretionary review and the housing type would be evaluated at that time. He added the traffic studies would occur at the time of development.

The City of Reno voted to approve Agenda Item 5.

Commissioner Herman requested more information regarding the issue.

Bill Whitney, Planning and Development Division Director, stated the City of Reno was asking to take a 55 acre parcel out of the Reno-Stead Joint Corridor Plan so it could be developed under their Master Plan. He believed the County's concerns would be addressed through the City of Reno's Special Use Permit and their tentative map process.

Commissioner Berkbigler moved to approve Agenda Item 5. Commissioner Lucey seconded the motion.

Paul Lipparelli, Legal Counsel, noted the recommended motion in the staff report was to approve the resolution that was contained within the Board packet. He sought clarification as to whether Commissioner Berkbigler's motion was to approve the resolution.

Commissioner Berkbigler amended the motion to approve the findings as identified in Attachment H and to approve the amendment to the Reno-Stead Corridor Joint Plan. The seconder agreed.

On call for the question, the motion passed on a 5 to 0 vote.

10:41 a.m. The Board recessed.

11:00 a.m. The Board reconvened solely as the Board of County Commissioners for the remainder of the meeting.

16-0718 **AGENDA ITEM 6** Introduction of new Washoe County Employees. Human Resources.

John Slaughter, County Manager, asked the following employees to introduce themselves to the Board:

Denise Lichty	Senior Services
Cecilia Cortez	Manager's Office
Kristopher Thomas	Library
Joan Dalusung	Library

Emily Lawrence-Phalan	Technology Services
Laurie Newman	Library
Roni Branson	Social Services
Brandon Vanassche	Animal Services
Michael DePedro	Animal Services
Sandra Uriarte	Public Guardian
Jessica Gastanaga	Recorder's Office

There was no public comment or action taken on this item.

DONATIONS

16-0719 7A Accept monetary donations to Washoe County Regional Animal Services [totaling \$6,944.53] for the period of April 1, 2016 to June 30, 2016 to be used for the humane care and treatment of sick and/or injured, stray, abandoned, or at risk animals received; express appreciation for these thoughtful contributions; and direct the Comptroller's Office to make the appropriate budget amendments. Animal Services. (All Commission Districts.)

16-0720 7B Accept cash donations in the amount of [\$642.74] for the period June 1, 2016 – June 30, 2016 and direct the Comptroller to make the appropriate budget amendments. Senior Services. (All Commission Districts.)

16-0721 7C Accept a one-time donation [\$25.00] from private citizen Donna Clark to the Washoe County Sheriff's Office to be used for operating costs, and, if approved, authorize Comptroller's Office to make appropriate budget amendments. Sheriff. (All Commission Districts.)

On the call for public comment, Elise Weatherly thanked the people who donated funds to the Washoe County Regional Animal Services. She suggested designating some of the funds to help seniors who could not afford to take care of their pets.

Cathy Brandhorst spoke about matters of concern to herself.

On motion by Commissioner Berkbigler, seconded by Commissioner Lucey, which motion duly carried, it was ordered that Agenda Items 7A to 7C be accepted.

CONSENT ITEMS 8A THROUGH 8B

16-0722 8A Approval of minutes for the Board of County Commissioner's regular meetings of July 12, 2016, July 19, 2016, and July 26, 2016.

16-0723 **8B** Acknowledge Washoe County Purchasing Office receipt of its 21st annual Achievement in Excellence in Procurement Award from the National Purchasing Institute for the year ended June 30, 2016. Comptroller. (All Commission Districts.)

Chair Jung acknowledged the Purchasing Office's staff for a job well done.

On the call for public comment, Cathy Brandhorst spoke about matters of concern to herself.

On motion by Commissioner Hartung, seconded by Commissioner Lucey, which motion duly carried, it was ordered that Consent Agenda Items 8A through 8B be approved. Any and all Resolutions or Interlocal Agreements pertinent to Consent Agenda Items 8A through 8B are attached hereto and made a part of the minutes thereof.

16-0724 **AGENDA ITEM 9** Update, discussion and possible direction to staff regarding 2017 Nevada Legislative Session, legislation or legislative issues proposed by legislators, by Washoe County or by other entities permitted by the Nevada State Legislature to submit bill draft requests, or such legislative issues as may be deemed by the Chair or the Board to be of critical significance to Washoe County. Manager. (All Commission Districts.)

Kevin Schiller, Assistant County Manager, stated work continued on the issues from the previous meeting in terms of how specifications were handled and how direction would be sought from the Board. He added the next update should provide more specific details.

Commissioner Berkbigler inquired whether some sort of draft would be presented to indicate what the Board wanted to take to the Legislature.

Mr. Schiller replied yes and stated options of possible recommendations would be brought before the Board.

On the call for public comment, Cathy Brandhorst spoke about matters of concern to herself.

There was action taken on this item.

16-0725 **AGENDA ITEM 10** Possible Closed Session for the purpose of discussing labor negotiations with Washoe County, Truckee Meadows Fire Protection District and/or Sierra Fire Protection District per NRS 288.220.

There was no closed session.

16-0726 **AGENDA ITEM 11** Public Comment.

Cathy Brandhorst spoke about matters of concern to herself.

16-0727 **AGENDA ITEM 12** Announcements/Reports.

John Slaughter, County Manager, stated there was some confusion surrounding the vote regarding the change in location of a medical marijuana establishment which took place on August 9, 2016. Following the recommendation of the District Attorney, he recommended the item be placed on a future agenda and the matter be heard again to clarify the vote. He invited citizens to participate in the Walk with Washoe series of hikes which were held during the first and third Tuesdays of every month. He announced the state of the County address would be presented on September 1, 2016 at the Robert Z. Hawkins Amphitheater in Bartley Ranch Regional Park.

Commissioner Lucey requested an update from staff regarding the traffic and speeding issues on Andrew Lane. He remarked school was back in session and he cautioned citizens to pay attention. He mentioned he recently attended the ASAE Annual Meeting and Exposition, a convention for various associations, in Salt Lake City. He added there was positive interest in the Reno and Lake Tahoe areas in terms of the new businesses and the change in perception.

Chair Jung asked staff to expedite the contract review committee she requested approximately two years ago.

Commissioner Berkbigler mentioned an email the Commissioners received referencing assignments to a school committee. She said she did not recall the Board ever addressing the issue or assigning any of the Commissioners to the committee.

Mr. Slaughter indicated committee assignments were reviewed by the Board; however, the particular committee was not correctly described. He noted future agenda items would be described correctly for the Board.

Commissioner Lucey noted a group asked about the County's Lesbian, Gay, Bisexual, and Transgender (LGBT) standards and whether the County recognized the LGBT as a protected class. He asked staff to work with the Commissioners to develop an Equality or Citizen's Commission regarding the County's standards.

* * * * *

11:32 a.m. There being no further business to discuss, the meeting was adjourned without objection.

KITTY K. JUNG, Chair
Washoe County Commission

ATTEST:

NANCY PARENT, County Clerk and
Clerk of the Board of County Commissioners

*Minutes Prepared by:
Michael Siva, Deputy County Clerk*

Pending Board Approval

**BOARD OF COUNTY COMMISSIONERS
WASHOE COUNTY, NEVADA**

TUESDAY

10:00 A.M.

AUGUST 23, 2016

PRESENT:

Kitty Jung, Chair
Bob Lucey, Vice Chair
Marsha Berkgigler, Commissioner
Vaughn Hartung, Commissioner
Jeanne Herman, Commissioner

Nancy Parent, County Clerk
Kevin Schiller, Assistant County Manager
Paul Lipparelli, Legal Counsel

The Washoe County Board of Commissioners convened at 10:00 a.m. 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:

16-0730 AGENDA ITEM 3 Public Comment.

Cathy Brandhorst spoke about matters of concern to herself.

Elise Weatherly spoke about the need to increase grandparents' rights in the lives of children. She asked the Board to look at the historical evidence which supported the benefits of Pastor Marvin Neal's ministry and to allow the ministry to return to the Jan Evans Juvenile Justice Center.

Garth Elliott said he was up for re-election to the Sun Valley General Improvement District Board of Trustees. He stated he recently assisted a Vietnam War veteran who had suffered a heart-attack. The veteran was residing in a parked vehicle near his residence. He noted the system for veterans, the downtrodden and the elderly was broken. He added the Board, as people who made decisions affecting the system, needed to improve the lives of those individuals. He expressed his concerns regarding the County's new Sign Code which he felt was business unfriendly.

Tim Stoffel stated the County was becoming increasingly animal unfriendly. He remarked Agenda Item 18 was scheduled at an awkward time. He said the Animal Services Advisory Board was made up of government officials and those who represented the interest of animal rights' groups. He added the Animal Services Advisory Board lacked individuals on the opposing side, which resulted in regulation without representation.

AUGUST 23, 2016

A. 9.20.16 #5.A. PAGE 1

Gary Martin complained about the numerous amounts of bicyclists who disobeyed traffic laws and urinated along the side of the road while riding through Verdi. He mentioned he had contacted the Sheriff's Office over the years; however, the only entity that had assisted with the issue was the Nevada Highway Patrol. He said he spoke with the Regional Transportation Commission about the number of available facilities for the bicyclists along the bike route from Pyramid Lake to Lake Tahoe, and he received no answers. He mentioned Verdi residents submitted paperwork to the County requesting either speed bumps or "No Bicycles" signs to be installed.

Ardena Perry spoke in opposition to the Animal Services Advisory Board and stated it was reflective of the County's overarching authority. She remarked she spoke with three members of the Sparks City Council who did not know anything about their appointments to the Animal Services Advisory Board. She added the County could not create a policy that was in direct contradiction to the Interlocal contract with the City of Sparks and that the County needed to understand its boundaries.

Sam Dehne commented the media did not report his ideas and that he was living proof the voting system in the City of Reno was rigged since he was not sitting on the dais. He expressed his concerns about the City of Reno's proposal to provide free parking to people who had a City of Reno specialty license plate. He spoke about free parking for military veterans.

16-0731 AGENDA ITEM 4 Announcements/Reports.

Commissioner Berkgigler stated an apartment complex for veterans had opened up in the City of Reno. She suggested people send homeless veterans to the facility to apply for housing.

Commissioner Hartung requested an update from Dave Solaro, Community Services Department Director, and Dwayne Smith, Engineering and Capital Projects Director, regarding the traffic issues on Nicole Drive. Residents wanted to see the road blocked off to prevent the road from being a bypass for Eagle Canyon Road.

Commissioner Herman reported there would be a hearing at the Nevada State Legislature on August 26th regarding water rights. The Legislature was going to consider changing the water rights on every well from two acre-feet to a half acre-foot. She indicated she had not received an update on Monte Cristo residents' ability to utilize their properties. She noted Gary Martin had an interesting idea regarding bicyclists. She suggested speaking to the Sheriff's Office about providing a class for bicyclists since some of them probably did not know the rules.

Commissioner Hartung stated an ideal position would be to ask the Sheriff's Office to police the roads in Verdi and to start ticketing bicyclists.

CONSENT ITEMS 5A THROUGH 5L2

- 16-0732** **5A** Approve to retroactively acknowledge a Specialty Court General Fund Allocation from the Judicial Council of the State of Nevada to the Sparks Justice Court [\$45,050 for FY17, no match required], paid in quarterly installments retroactive to July 2016, grant end date June 30, 2017; and direct the Comptroller to make the appropriate budget adjustments. Sparks Justice Court. (Commission Districts 3, 4 & 5.)
- 16-0733** **5B** The 911 Emergency Response Advisory Committee recommends that the Board of County Commissioners approve the expenditure to replace the three (3) Harris Dailey-Wells Symphony Dispatch Radio Consoles currently in use at the Sparks Police Department Public Safety Answering Point (PSAP) dispatch center at a cost not to exceed [\$127,315.05]. Technology Services. (All Commission Districts.)
- 16-0734** **5C** Approve amendments totaling an increase of [\$1,196.30] in both revenue and expense to the FY17 Fetal Infant Mortality Review (FIMR) Program IO 11176; and if approved, direct the Comptroller's office to make the appropriate budget amendments. Health. (All Commission Districts.)
- 16-0735** **5D** Approve the Interlocal Agreement for Maintenance and Operations of the Nevada SR-28 Shared Use Path and Associated Parking Facilities between the State of Nevada, acting by and through its Department of Transportation and Washoe County. Community Services. (Commission District 1.)
- 16-0736** **5E** Approve toll change requests, pursuant to NRS 361.765 and/or NRS 361.768, for errors discovered for the 2013/2014, 2014/2015, 2015/2016 secured tax roll and authorize Chair to execute the changes described in Exhibit A and direct the Washoe County Treasurer to correct the error(s). [cumulative amount of decrease to all taxing entities \$1,927.95]. Assessor. (Parcels are in Commission Districts 2 & 3.)
- 16-0737** **5F** Approve a 32-day extension of existing Collective Bargaining Agreements beyond the current August 29, 2016 expiration date to September 30, 2016 as it affects NRS 288. Human Resources. (All Commission Districts.)
- 16-0738** **5G** Acknowledge and approve assignment of the correct Ordinance Number of 1584 for Bill No. 1768, adopted on August 9, 2016 amending Washoe County Code Chapter 110 (Development Code) to clarify when an accessory structure or use may be constructed on a parcel without an existing main structure or an existing principal use. The amendment focuses on circumstances where the subject parcel is adjacent to a parcel

with an existing main structure or principal use and when both parcels are under the same ownership. Clerk. (All Commission Districts.)

- 16-0739** 5H Approve expenditures for the August 25, 2016 Employee Family Picnic in an amount [not to exceed \$10,000.00]. Manager. (All Commission Districts.)
- 16-0740** 5I1 Approve to accept a Victim of Crime Act (VOCA) grant to the District Attorney's Office in the amount of [\$50,000, \$12,500 required match], from the State Division of Child and Family Services (DCFS) to provide counseling services at the Washoe County Child Advocacy Center and supplies related to the program; retroactive from July 1, 2016 through June 30, 2017. Direct the Comptroller to make the necessary budget amendments. (All commission Districts.)
- 16-0741** 5I2 Approve to accept a Violence Against Women Act (VAWA) grant to the District Attorney's Office in the amount of [\$30,000, \$10,000 required match], from the Nevada Office of Attorney General (AG) to provide counseling services at the Washoe County Child Advocacy Center; retroactive from July 1, 2016 through June 30, 2017. Direct the Comptroller to make the necessary budget amendments. (All commission Districts.)
- 16-0742** 5J1 Approve to acknowledge Receipt of Status Report of Commissary Fund submitted by the Washoe County Sheriff's Office Commissary Committee for Fourth Quarter of Fiscal Year 15/16. (All Commission Districts.)
- 16-0743** 5J2 Approve the Interlocal Agreement Extraditions between County of Washoe on behalf of the Washoe County Sheriff's Office and the City of Sparks on behalf of the Sparks Police Department in an amount not to exceed [\$30,000] to be paid to the Washoe County Sheriff's Office Consolidated Extraditions Unit for the processing of extraditions and transportation of prisoners for the Sparks Police Department, for the period of the date of execution to June 30, 2017. (All Commission Districts.)
- 16-0744** 5K1 Approve a professional services agreement with The Children's Cabinet, Inc. for remaining grant term, retroactive to July 1, 2016 through September 30, 2016. The proposed agreement is paid through a grant from the Federal Administration for Children and Families for the Permanency Innovations Initiative (PII) Program to prevent long-term foster care and to provide case management services. Social Services. (All Commission Districts.)

- 16-0745** **5K2** Accept a Sub-Grant Award from the State of Nevada Division of Public and Behavioral Health, Behavioral Health, Prevention and Treatment (BHPT) in the amount of [\$47,020] no match required, to provide Mental Health Support for Seniors upon approval September 1, 2016 through September 30, 2017, authorize the Department to execute the Sub-Grant Award and direct the Comptroller's Office to make the necessary budget amendments. (All Commission Districts.)
- 16-0746** **5K3** Accept a Sub-grant Award from the State of Nevada Department of Health and Human Services, Division of Public & Behavioral Health upon approval by all parties through June 30, 2017 for [\$70,000.00], no County match required, to provide substance abuse treatment services to clients referred by the county Social Services Department. Authorize the Department to execute the Sub-grant Award and direct the Comptroller's Office to make the necessary budget amendments. (All Commission Districts.)
- 16-0747** **5L1** Recommendation to establish one additional, two hundred dollar [\$200.00] change fund, bringing the total of funds assigned six hundred dollars [\$600.00], to enable Washoe County Alternative Sentencing to accept cash payments for the Sober 24 program drug and alcohol testing at 1530 E. 6th Street, Reno; and if approved, authorize the Chairman to execute Resolution for same. No fiscal impact. (All Commission Districts.)
- 16-0748** **5L2** Approve an Interlocal Depository Agreement between Washoe County and the Nevada State Treasurer for the investment of funds in the Local Government Pooled Investment Fund [no fiscal impact]; and if approved, authorize Chairman to execute and Washoe County Treasurer to serve as administrator of Agreement. (All Commission Districts.)

On the call for public comment, Cathy Brandhorst spoke about matters of concern to herself.

Elise Weatherly spoke in favor of Consent Agenda Items 5I1 and 5I2. She mentioned she had family members who had been victims of crime and needed counseling. She questioned who would determine who was going to provide the counseling services.

On motion by Commissioner Hartung, seconded by Commissioner Berkbigler, which motion duly carried, it was ordered that Consent Agenda Items 5A through 5L2 be approved. Any and all Resolutions or Interlocal Agreements pertinent to Consent Agenda Items 5A through 5L2 are attached hereto and made a part of the minutes thereof.

BLOCK VOTE – AGENDA ITEMS 7, 8, 9, 11, 12 and 13

16-0749 **AGENDA ITEM 7** Recommendation to approve the Agreement for Consulting Engineering Services between Washoe County and CDM Smith, 111 Academy Way, Suite 150, Irvine, CA 92617, for the “Phase 3 Packed Tower Aerators Equipment Analysis Process Optimization and O&M Manuals Update” Project in the amount of[\$154,999]. Community Services. (Commission District 3.)

On the call for public comment, Cathy Brandhorst spoke about matters of concern to herself.

On motion by Commissioner Lucey, seconded by Commissioner Berkgigler, which motion duly carried, it was ordered that Agenda Item 7 be approved.

16-0750 **AGENDA ITEM 8** Recommendation to award a bid and approve the Agreement to the lowest responsive, responsible bidder for the Longley Stressed Membrane Structure Project, [staff recommends Bison Construction, in the amount of \$498,900.00]. Community Services. (Commission District 2.)

On the call for public comment, David Renard, Sprung Instant Structures, Inc. Business Development Manager, said his company had teamed up with Bison Construction during competitive bidding, however, they were not included in Bison Construction’s final bid. He expressed his concerns with the use of hollow tube structures since those structures had been known to pit from the inside out causing lapses in structural integrity. He mentioned the collapse of the Dallas Cowboys practice stadium which utilized the hollow tube system. The collapse caused the manufacturer of the hollow tube system to go out of business. He explained how the engineering and construction of Sprung Instant Structures’ membrane ensured a longer life. He asked the Board to question where the hollow tube structure came from, who manufactured it, and whether the manufacturer’s engineering was assigned a risk category two. He added Sprung Instant Structure’s solution was approximately \$60,000 to \$70,000 more.

On motion by Commissioner Lucey, seconded by Commissioner Berkgigler, which motion duly carried, it was ordered that Agenda Item 8 be awarded and approved.

16-0751 **AGENDA ITEM 9** Recommendation to award a bid and approve the Agreement to the lowest responsive, responsible bidder for the Utility Operations Maintenance Building Grading, Foundation and Improvements Package Project, [staff recommends Reyman Brothers Construction, in the amount of \$409,000]. Community Services. (Commission District 2.)

On the call for public comment, Cathy Brandhorst spoke about matters of concern to herself.

On motion by Commissioner Lucey, seconded by Commissioner Berkgigler, which motion duly carried, it was ordered that Agenda Item 9 be awarded and approved.

16-0752 **AGENDA ITEM 11** Recommendation to accept a grant in the amount of [\$250,000 no County match], from the Fund to Assist Former Foster Youth (FAFFY), the State Independent Living Grant from the State Division of Child and Family Services (DCFS) to assist youth in making the transition from foster care to economic self-sufficiency, retroactively to July 1, 2016 through June 30, 2017 as the award was received and processed in June 2016, and if accepted, authorize the Department of Social Services to expend the grant revenue and direct the Comptroller's Office to make the appropriate budget adjustments. Social Services. (All Commission Districts.)

On the call for public comment, Cathy Brandhorst spoke about matters of concern to herself.

On motion by Commissioner Lucey, seconded by Commissioner Berkgigler, which motion duly carried, it was ordered that Agenda Item 11 be accepted, authorized and directed.

16-0753 **AGENDA ITEM 12** Recommendation to request the Board of County Commissioners to acknowledge the Professional Services Agreement for behavioral health and case management services for Adult Drug Court between the Second Judicial District Court and Bristlecone Family Resources, [in the amount of \$445,732], retroactive from the period August 1, 2016 through June 30, 2017. District Court. (All Commission Districts.)

On motion by Commissioner Lucey, seconded by Commissioner Berkgigler, which motion duly carried, it was ordered that Agenda Item 12 be acknowledged.

16-0754 **AGENDA ITEM 13** Recommendation to accept a Sub-grant Award from the State of Nevada Division of Child and Family Services (DCFS) in the amount of [\$206,835.00] (no County match required) from October 1, 2016 through September 30, 2017, to assist the Department of Social Services with the Adoption Incentive program. Authorize the Department to execute the Sub-Grant Award and direct the Comptroller's Office to make the necessary budget amendments. Social Services. (All Commission Districts.)

On motion by Commissioner Lucey, seconded by Commissioner Berkgigler, which motion duly carried, it was ordered that Agenda Item 13 be accepted, authorized and directed.

16-0755 **AGENDA ITEM 6** Appearance: Carina A. Black, Ph.D., Executive Director, Northern Nevada International Center. Presentation and update on the Northern Nevada International Center's Refugee program.

Carina A. Black, Ph.D., Northern Nevada International Center (NNIC) Executive Director, conducted a PowerPoint presentation. The headings of the slides were as follows: 1) The Global Displacement Crisis and Northern Nevada. 2) Top Ten Resettlement Countries. 3) U.S. Refugee Admissions Program. 4) Top Nationalities Since 2010. 5) FY2015 Reception and Placement Program Affiliate Sites. 6) Arrivals by State. 7) Reception and Placement Program. 8) R&P Per Capita Funding. 9) Refugee Resettlement in Northern Nevada. 10) Example of LDS Sponsorship of First Refugee Family. 11) Questions. Two additional slides displayed refugee statistics and the names of other organizations with refugee programs. Additional handouts were provided to the Board and placed on file with the Clerk.

Dr. Black highlighted that at no time since World War II had there been more displaced people.

On the call for public comment Diane Bartholomew said she assisted Dr. Black by coordinating volunteer opportunities utilizing the website JustServe.org. She praised the community's work with refugees.

Garth Elliott stated the refugee program was a travesty. He noted refugees were receiving three and half times more funding than military veterans. He mentioned there were paramilitary Muslims in Iraq who were attempting to enter into the United States. He expressed his concern with the vetting process for refugees.

Sam Dehne said he fought to keep enemies of the United States outside of the country's borders. He expressed his concerns with giving money to foreigners while military veterans in the United States were suffering.

Pamela Kellerstrass, Advanced Supply Chain Logistics Chief Financial Officer, stated she also served as the Church of Jesus Christ of Latter-day Saints (LDS) Assistant Public Affairs Director. She spoke about meeting Dr. Black through the Nevada Clergy Association. She remarked the LDS had an initiative called I Was a Stranger which also supported the refugee cause. She stated the LDS was impressed with the NNIC's interest regarding the sustainability of settling refugees and how the NNIC aligned itself with non-governmental organizations regarding a comprehensive vetting process. She spoke about helping the two Congolese families who were coming to Reno. She added refugees who came into the community would assimilate.

Mike Thornton, Acting in Community Together in Organizing Northern Nevada (ACTIONN) Executive Director, said presenting the refugee program as devaluing or taking away from the nation's veterans or other people in need was the wrong way to look at it. He noted the NNIC and Dr. Black had excellent reputations in the community. ACTIONN was very pleased to work on garnering support for the refugee effort. He added ACTIONN had been in existence since 2009. He stated there was a tremendous amount of support in the faith and non-faith communities for the refugee program. He hoped the Board would see their effort as important and support it.

Elise Weatherly spoke about illegal immigrants who had been good employees and positive members of society. She questioned the intentions of individuals entering the United States and who would evaluate them.

Pamela Milligan stated she represented county governments in California from 1986 to 2003. She said she and her husband retired to Reno after long military careers. She noted the positive quality of life the Board's policies had created. She spoke about the security background checks refugees had to go through. She added there was no data which suggested refugees created a security risk in this country. Refugees contributed to the rich diversity of the country. She said the \$2,000 each refugee received was a fraction of the amount given to veterans, and that the program was not about rivaling refugees against America's poor or veterans.

Commissioner Hartung spoke of his own family's immigration to the United States. He stated the issue people had was that the process was done in a vacuum. It was not a question of whether the United States was being generous. The issue was about budgets and the cost of having people come into the community.

Commissioner Berkbigler stated it was important to remember the County had no control over the refugee issue. She added having refugees come into the area would impact the County's budget and social services programs. She concluded she would rather have resettled refugees than illegal immigrants coming into the country.

Chair Jung said she would much rather live in a country that people were dying to get into than dying to get out of. She stated the nation was rich and wealthy because of its diversity. She offered her assistance to Dr. Black. She mentioned the Nevada's Women's Lobby and the Democratic Women of Washoe County were working on adopting a family. She also mentioned she spoke with the Northern Nevada Muslim Community and asked them to be engaged with the families coming from Muslim countries.

There was no action taken on this item.

16-0756 **AGENDA ITEM 10** Recommendation to approve conditional Water Right Application 86233 to the Nevada State Engineer, proposing to export 7000 acre-feet of ground water from Mud Meadows hydrographic basin in northern Pershing County to Lyon, Storey and Washoe Counties

for use at the Tahoe Reno Industrial Park, with the State Engineer approval to be conditioned upon review of more current hydro-geologic analysis of estimated available perennial yield within this basin. Community Services. (Commission District 4.)

Commissioner Berkbigler stated she received an email from Susan Lynn, Great Basin Water Network Board member, indicating opposition to the water transfer by Pershing County, Humboldt County, Churchill County, the Humboldt River Authority, the Summit Lake Paiute Tribe and the Bureau of Land Management (BLM). She noted the water was not running through Washoe County and she inquired why Washoe County was being asked to participate.

Dave Solaro, Community Services Department Director, replied the County was one of the locations the basin touched; therefore, the County was being notified by the State Engineer about the request. He indicated on a map a small section between Interstate 80 and the Truckee River where the basin entered the County. The map was placed on file with the Clerk. He noted the data the State Engineer utilized to determine the perennial yield within the hydrographic basin was 30 years old. He said staff believed more studies were needed to determine whether there was enough perennial yield within the basin. He added there was a list of a lot of different counties, corporations and ranches that opposed the transfer of water.

Commissioner Berkbigler inquired whether the Board was being asked for conditional approval that further studies be performed before an ultimate decision was made.

Mr. Solaro replied she was correct.

Commissioner Herman said she was against most water transfers from one basin to another. She stated she would have to vote against it if the vote were to occur.

Commissioner Hartung asked if the 30 year old report determined whether there was a sustainable yield. He mentioned the stress testing of aquifers and the over-allocation of water statewide to various basins.

Mr. Solaro replied the 30 year old report indicated the annual perennial yield was around 13,000 acre-feet. There was a little less than 6,000 acre-feet already appropriated and the request was for an additional 7,000 acre-feet to be appropriated for municipal use. He noted staff's recommendation was to obtain updated information to verify the available perennial yield before the water transfer was approved.

Commissioner Hartung stated he was not in favor of moving water around all over the state to satisfy the needs of growing areas.

Chair Jung inquired whether the Board could add a condition to also seek approval from the Pyramid Lake Paiute Tribe.

Vahid Behmaram, Community Services Department Water Management Planner Coordinator, remarked the County's recommendation to the State Engineer was not binding. The recommendation was for informational purposes. He said staff could add the condition in the form of a letter to the State Engineer's Office. He noted the issue had gone through statutory publication and it did receive protests from the BLM and the Sierra Club in Pershing County.

Chair Jung moved to approve the item conditional upon a review of the hydro-geologic analysis and also conditional upon the Pyramid Lake Paiute Tribe's approval.

On the call for public comment, Cathy Brandhorst spoke about matters of concern to herself.

Garth Elliott spoke about Friends of the Black Rock, which he and Susan Lynn created 20 years ago. He said Friends of the Black Rock conserved and protected the valuable resources of the Black Rock Desert. He mentioned Mud Meadows was in the northern most part of the Black Rock Desert and that there was not 7,000 acre-feet of water there to transfer. He added no one was in favor of the water transfer except for the developer.

Sam Dehne spoke about how nobody thought about the water when they built the Tahoe Reno Industrial Center. He expressed his concerns about importing water.

Commissioner Berkbigler sought clarification of Chair Jung's motion. She inquired whether Chair Jung was requesting staff to ensure the issue was brought before the Pyramid Lake Paiute Tribe for approval, and once the study was completed, provide a report to the Board.

Chair Jung replied yes and asked Commissioner Berkbigler if she agreed.

Commissioner Berkbigler agreed. She said she wanted to make sure the issue came back before the Board after the Pyramid Lake Paiute Tribe had their say and once the study was completed.

Chair Jung concurred with Commissioner Berkbigler's comments.

Mr. Solaro clarified that staff was being asked by the State Engineer to provide an advisory comment which would be a request for updated information regarding the perennial yield of the basin; as well as, to gain approval from the Pyramid Lake Paiute Tribe. He added the item would not come back before the Board for action since it was only informational.

Chair Jung stated Commissioner Berkbigler wanted a report on the final outcome.

Mr. Solaro acknowledged the request and indicated a report would be provided to the Board.

Commissioner Berkgigler added the only item she was interested in was the report.

Mr. Behmaram stated the hearing and studies for this issue may take several years. He mentioned the process was very convoluted and complicated. He said the County was simply being notified as a courtesy by the State Engineer's Office.

On motion by Commissioner Jung, seconded by Commissioner Berkgigler, which motion duly carried with Commissioner Herman voting "no", it was ordered that Agenda Item 10 be approved with the condition of gaining approval from the Pyramid Lake Paiute Tribe and with the presentation of a report to update the Board.

16-0757 **AGENDA ITEM 14** Recommendation to appoint three of nine individuals to fill three vacancies on the Washoe County Advisory Board to Manage Wildlife with terms effective August 23, 2016 through June 30, 2019. Manager. (All Commission Districts.)

Commissioner Hartung asked which three names Commissioner Lucey called out.

Commissioner Lucey said he recommended Arnold Pitts, Meghan Di Rocco and Steven Robinson to the Board.

Commissioner Hartung stated he requested to have Jim Rhea as a representative.

Chair Jung inquired whether the appointees were identified by district.

At Rogers, Management Services Director, remarked there was not a requirement that there be specific individuals from each district. The Advisory Board was made up of five representatives and there were three openings. He noted the criteria for the Advisory Board was in the staff report.

Chair Jung asked which two districts were currently being represented.

Mr. Rogers named the current members but indicated he was not sure which districts they represented.

Commissioner Lucey thought each Commissioner should state their suggestions to be as transparent as possible.

Paul Lipparelli, Legal Counsel, remarked the Board could use whatever process they thought was fair as long as it was completed in open session.

Commissioner Lucey recommended each Commissioner put forward three individuals for the positions.

Commissioner Herman stated her choices of Kristie Belding, Ray Kabisch, and Christy Prentice.

Commissioner Hartung stated his choices of Kristie Belding, Jim Rhea and Chris Syverson.

Commissioner Lucey stated his choices of Arnold Pitts, Meghan Di Rocco and Steven Robinson.

Commissioner Berkbigler stated her choices of Arnold Pitts, Steven Robinson, and Ray Kabisch. She added she was flexible on the appointments because she did not know these people really well.

Chair Jung remarked she was the deciding vote. She stated her choices of Arnold Pitts, Meghan Di Rocco and Steven Robinson. She indicated her votes gave each of them each three votes.

On the call for public comment, Rex Flowers spoke of his experience with the Advisory Board to Manage Wildlife. He said the Board should want to appoint people who had been involved with and attended the Advisory Board meetings. He named Kristie Belding, Ray Kabisch, and Chris Syverson as individuals who met the criteria he set forth.

Chris Syverson asked for the Board's endorsement to the Advisory Board. She spoke about her experience and noted this was the second time she had applied to be on the Advisory Board. She added she had attended the Advisory Board meetings to gain further understanding of the issues. She said she would be fair.

On motion by Commissioner Lucey, seconded by Commissioner Berkbigler, which motion duly carried with Commissioner Hartung voting "no", it was ordered that Arnold Pitts, Meghan Di Rocco, and Steven Robinson be appointed to fill three vacancies on the Washoe County Advisory Board to Manage Wildlife with terms effective August 23, 2016 through June 30, 2019.

16-0758 **AGENDA ITEM 17** Hearing, discussion, and possible action on Appeal Case Number AX16-004, appealing the denial by the Washoe County Board of Adjustment of Variance Case Number VA16-003 (Fleming Front Yard Setback Reduction) which sought a variance pursuant to Article 804 of the Washoe County Development Code to allow the reduction in the front yard setback from 15 feet to approximately 10 feet and 13/16 inches,

to facilitate the expansion of the existing dwelling. The Board of County Commissioners may take action to confirm the Board of Adjustment's denial; or reverse the Board of Adjustment's denial and issue the Variance with Conditions of Approval. The Applicant's representative is Elise Fett and Associates Attn: Julie Rinaldo PO Box 5989 Incline Village, NV 89450. The property owners are Thomas and Susan Fleming. The property's location is 715 Cristina Drive, approximately 750 feet southeast of its intersection with Eagle Drive, in Incline Village NV (APN 126-251-06). Parcel Size is ± .363 acres with a Master Plan Category of Suburban Residential (SR) and a Regulatory Zone of Medium Density Suburban (MDS). The property is in the Tahoe Area Plan of the Washoe County Master Plan. Community Services. (Commission District 1.)

Commissioner Berkbigler sought clarification as to whether the applicant's request to build a garage would result in a car, which would be parked in front of the garage, to sit out into the roadway.

Roger Pelham, Community Services Department Senior Planner, replied that was the concern expressed by the County Traffic Engineer, Clara Lawson, during her review of the reduction request.

Commissioner Berkbigler asked the applicant to step forward.

Thomas Fleming stated there would be enough room between the proposed garage door and the roadway for a parked car. He mentioned there were two mature trees at either end of the parking area that stuck out further than a parked car would.

Commissioner Berkbigler said she looked at the map and it did not appear to her there would be an issue.

Thomas Fleming added the road report he saw indicated no concerns.

Elise Fett, who represented the applicant's interest, stated Kimble Corbridge, Assistant Public Works Director, had no issue with the request. She referred to a diagram of the property and described the dimensions. She said the proposal was to leave the driveway as it existed and allow over two-thirds of the property for snow storage which would leave 18 feet from the front of the proposed garage to the edge of the pavement.

Commissioner Berkbigler mentioned the issue went before a Citizen Advisory Board (CAB) and the CAB did not see any problems. She added the chosen site for garage was the only reasonable location, there were no complaints by the neighbors, and the extension was consistent with the Lake Tahoe area plan. She moved to overrule the Board of Adjustment's decision.

Commissioner Hartung seconded the motion.

After the initial motion, Mr. Pelham stated he had a set of standard Lake Tahoe conditions of approval he could provide to the Board and the applicant. The conditions of approval were placed on file with the Clerk. He noted the standard conditions would require the building permit to be in substantial conformance with the approved plans, there to be a two year time period, the final action order to the plans to be attached, an executed hold harmless for the road maintenance and snow removal, an automatic garage door opener to be installed, the front property lines to be surveyed, and the prohibition of the use of straw bales and fabric fencing.

Chair Jung asked if Commissioner Berkbigler agreed with the conditions.

Commissioner Berkbigler replied "absolutely" as those were the standard for Lake Tahoe.

On the call for public comment, Cathy Brandhorst spoke about matters of concern to herself.

On motion by Commissioner Berkbigler, seconded by Commissioner Hartung, which motion duly carried, it was ordered that the Board of Adjustment's denial be reversed and to approve the variance with the standard conditions.

11:56 a.m. The Board recessed.

3:30 p.m. The Board reconvened with all members present.

16-0759 **AGENDA ITEM 15** Update, discussion and possible direction to staff regarding 2017 Nevada Legislative Interim Committees and Studies, legislation or legislative issues proposed by legislators, by Washoe County or by other entities permitted by the Nevada State Legislature to submit bill draft requests, or such legislative issues as may be deemed by the Chair or the Board to be of critical significance to Washoe County. Manager. (All Commission Districts.)

Liane Lee, Government Affairs Manager, conducted a PowerPoint presentation. The headings of the slides were as follows: 1) 2015-2016 Interim Session. 2) Bill Draft Requests (2). 3) Bill Draft Request Direction.

Ms. Lee highlighted the following: 1) There were two new bills introduced by the League of Cities. The first bill would govern the collection of delinquent municipal utility charges. The second bill would govern the distribution of the fuel tax proceeds. 2) State Senator Tick Segerblom had an interesting Bill Draft Request (BDR) which would authorize the governor to enter into compacts with Nevada Indian tribes concerning the regulation of marijuana.

Ms. Lee noted the Board could approve up to two BDRs. If only one BDR was approved, the Board would still have the option to pursue any legislation that might present itself before September 1st. Options included working with the County's Legislators, bill sponsors, and Chairs of Legislative Committees. An additional option would be not to submit any BDRs and pursue opportunities during the session. She added recommendations by the Board would also be an option.

Commissioner Berkbigler believed it was important to keep a close eye on issues going on in Las Vegas. There was an ongoing challenge between Clark County and the City of Las Vegas as to whether or not they should be merged, which could potentially impact Washoe County. She moved for the Board to approve at least one BDR in order to start gathering the information needed regarding the changes the Board wanted to see in regards to the Regional Governing Board.

Chair Jung thought Clark County Commission's BDR to provide property owners more power to avoid being annexed barely touched the issue regarding the arms race between cities versus counties. She mentioned the sprawl by cities took away the dedicated fire resources from the counties. She requested language regarding the County's concerns to be included. She added the issue needed to be worked out with the cities since they view it as a revenue source as well.

Commissioner Berkbigler said the Board did not have to have the total outline for the BDR as opposed to simply choosing a topic. She again proposed to submit one BDR which proposed specific changes to the Regional Governing Board.

Kevin Schiller stated if the Board gave direction specific to what it wanted to utilize one of the County's BDRs for, staff would move forward on the proposal and the language for a final submission.

Commissioner Lucey asked for clarification as to whether the Board would lose the second BDR if it only utilized one of them.

Ms. Lee explained the Board had an option to submit up to two BDRs, which was the number allotted to the County. If the Board were to utilize one of the BDRs, it would not lose the second BDR. She added for future sessions, the Board would always have two BDRs unless the statute was changed. She said by utilizing only one BDR, the second BDR went away in the sense that the County could not submit a second BDR as a sponsor. She continued by stating it did not mean the County could not pursue a different legislative topic. The BDR deadline was set for September 1st; however, if specific topics came up, the County could work with its Legislators, Chairs of Legislative Committees, or bill sponsors to look at opportunities to address them during the next session.

Commissioner Lucey inquired whether the timeline for BDR presentations had been moved up from the end of the year to November 15th.

Ms. Lee replied local governments had a statutory deadline of December 1st for pre-filing their bills. She believed the date was changed to November 16th. She noted the County had to submit the full language in the Bill to the Legislative Counsel Bureau (LCB) for them to publish it by the deadline.

Commissioner Lucey thought the County needed to focus on one Bill due to the shorter time constraint regarding getting the full language to the LCB with enough time to properly vet it.

Paul Lipparelli, Legal Counsel, explained the Board could take action to direct staff to prepare a draft or an outline of what the Bill might look like and then bring it back to the Board for a vote to actually submit the Bill at a later time.

Chair Jung remarked the Board would not be meeting before the BDR had to be submitted.

Mr. Lipparelli noted staff could do its best when it made the submission. The Board item on the Agenda did the best job it could to describe what kinds of things the Board might have to do in managing the Legislative agenda. He added it was not always possible to know when the Board was going to need to make a decision. The item was as broad as it could be but at most it allowed the Board to direct staff. He said the Board could vote on an amended motion to direct staff to prepare items for the Legislature.

Commissioner Berkgigler clarified that the purpose of her original motion was to direct staff to prepare one BDR to address the issue of changes to the Regional Governing Board with the understanding the County did not know what all those changes would be and for staff to work on drafting the language to bring back before the Board.

Commissioner Lucey stated he agreed.

After the motion, Commissioner Berkgigler stated there would be a number of BDRs introduced at the Legislature and not all of them would necessarily go anywhere; however, once the BDRs were introduced and just sitting there with no activity, there would be an ability to do what was called "jack up the title" and stick a new Bill underneath an existing BDR.

On motion by Commissioner Berkgigler, seconded by Commissioner Lucey, which motion duly carried with Commissioners Hartung and Herman voting "no", it was ordered that staff be directed to prepare one Bill Draft Request addressing the changes to the Regional Governing Board and for staff to draft language which would be brought back before the Board.

16-0760 **AGENDA ITEM 16** Update and possible direction to staff on the Washoe County Economic Development and Conservation Act. (Washoe County Federal Lands Bill). Manager. (All Commission Districts.)

Kevin Schiller, Assistant County Manager, highlighted the following: 1) Staff continued to work on draft language and on mapping. 2) A webpage dedicated to the Bill was up. The webpage illustrated mapping with explanations. 3) Bill Whitney, Planning and Development Director, reached out to the Cities of Reno and Sparks and met with their Community Services Departments concerned with the mapping to gather their input. 4) In order to gather stakeholder and jurisdictional feedback, open houses were scheduled on September 16th from 1:00 p.m. to 3:00 p.m. and on September 19th from 4:00 p.m. to 6:30 p.m. Maps would be displayed in the atrium, and staff would answer questions and elicit feedback in order to ensure a transparent process. 5) The Regional Governing Board scheduled a special meeting to discuss the topic on August 29th. 6) The issue would be a standing item on all Board agendas moving forward until its conclusion.

On the call for public comment, Cathy Brandhorst spoke about matters of concern to herself.

There was no motion made on this item.

16-0761 **AGENDA ITEM 18** Second reading and adoption of an ordinance amending Washoe County Code Chapter 55 by adding provisions creating the Animal Services Advisory Board; specifying the board's purpose and duties; and specifying the composition of the board, appointment of members, terms of service, officers, meetings, compensation and removal, and other matters properly relating thereto. (Bill No. 1769). Animal Services. (All Commission Districts.)

The Chair opened the public hearing by calling on anyone wishing to speak for or against adoption of said Ordinance.

On the call for public comment, Cathy Brandhorst spoke about matters of concern to herself.

Jan Galassini, Chief Deputy County Clerk, read the title for Ordinance No. 1585, Bill No. 1769.

Commissioner Hartung addressed a comment made by a citizen who said no one on the Sparks City Council knew about the Animal Services Advisory Board. He stated he had multiple conversations with the City of Sparks councilmembers and they were in favor of the Advisory Board's make up.

On motion by Commissioner Hartung, seconded by Commissioner Lucey, which motion duly carried with Commissioner Herman voting "no", Chair Jung ordered

that Ordinance No. 1585, Bill No. 1769, be adopted, approved and published in accordance with NRS 244.100.

16-0762 **AGENDA ITEM 22** Announcements/Reports.

Chair Jung requested for staff to provide Elise Weatherly with information regarding grandparent's rights and information regarding who was in charge of the Jan Evans Juvenile Justice Center. She reported she and Commissioner Lucey participated in a fundraiser at High Sierra Industries for people suffering from major disabilities. She also reported she was the master of ceremonies at the Old-Fashioned Democratic Picnic which was sponsored by the Democratic Women of Washoe County and the Nevada Young Democrats. She mentioned a Save Our Schools fundraising event. She said she would be serving as a surrogate for former Secretary of State Hillary Clinton at a business roundtable to explain Secretary Clinton's plan for small business owners. She added former Nevada Attorney General Catherine Cortez Masto would be in attendance at the business roundtable event. She noted there would be a District Board of Health Meeting; as well as, several meetings for the City of Reno's Downtown Action Plan and Operation Rescue. She reminded the Board of the Annual Lake Tahoe Summit. Lastly, she said the state of the County address would take place on September 1, 2016 at Bartley Ranch.

3:58 p.m. The Board recessed.

4:00 p.m. The Board reconvened with all members present.

16-0763 **AGENDA ITEM 19** Hearing, discussion, and possible action to determine whether there is just cause to remove Thomas G. Daly from the Washoe County Planning Commission pursuant to NRS 278.040 and Washoe County Development Code section 110.912.05(f) for Mr. Daly's actions involving Colina Rosa subdivision in April and May of 2016. The determination of just cause will be based on alleged violations of Washoe County Planning Commission Rule 1.04 and Due Process. If just cause is found, the County Commission may take possible action to remove Thomas G. Daly from the Washoe County Planning Commission.

Bob Webb, Community Services Department Planning Manager, stated the Board had a very extensive staff report on the matter. He noted staff received correspondence from Mark Gunderson, Esquire, who was representing Planning Commissioner Thomas Daly, on Friday, August 19, 2016. A copy of the letter was provided to the Board and was part of the public record. The two topics in the alleged violations which formed the basis for the possible action to remove Mr. Daly from the Planning Commission were outlined in a notice to Mr. Daly. The two topics of alleged violations were: 1) Mr. Daly violated Rule 1.04(a)(ii)(d) from the Planning Commission's Rules, Policies and Procedures. He explained the rule pertained to adjudicative matters of which the proposed subdivision known as Colina Rosa was classified. The rule had two components. First it charged planning commissioners to keep

an open mind. Second, the rule required planning commissioners to “not form or communicate any preferences or thoughts that might be perceived as prehearing bias.” Secondly, Mr. Daly was advised and admonished on three separate occasions that his written comments in an opinion editorial (op-ed) letter to the Reno Gazette-Journal, published on April 19, 2016 in advanced of the scheduled May 3, 2016 Planning Commission Public Hearing on the Colina Rosa case violated both the applicant’s rights to an impartial hearing before the Planning Commission and the rule.

Jan Galassini, Chief Deputy County Clerk, noted there was a packet distributed to each Commissioner which would be placed on file with the Clerk.

On the call for public comment, Cathy Brandhorst spoke about matters of concern to herself.

Roger Edwards said he was impressed with Mr. Daly’s work. He stated Mr. Daly made a mistake regarding the newspaper article; however, he was only defending his neighborhood. He added if every mistake and choice was going to end up before the Board with a termination option, the Board might as well do away with the Planning Commission. He said there were other ways to reprimand Mr. Daly.

Jeff Church said the Board stripped Mr. Daly of his First Amendment right. He mentioned Chair Jung’s comments about Save Our Schools and Hillary Clinton showed bias. He stated the Board could censure Mr. Daly but it would be inappropriate to remove him from the Planning Commission.

Diana Langs stated when the Board appointed the Planning Commission members it gave those individuals a jurisdictional area. The citizens of that area could voice their concerns, which was what Mr. Daly had done. She urged the Board to rule in favor of the neighborhood.

Tom Motherway said the reason for the hearing was due Mr. Daly’s refusal of the staff attorney’s advice to recuse himself from a second hearing. He mentioned Mr. Daly took a position which he held throughout the process. He added recusal was a voluntary act on the part of the official where there was a real or perceived conflict of interest. He believed there was no conflict of interest. He noted Mr. Daly was well-supported and he asked the Board to terminate the hearing.

William Sanchez spoke in favor of Mr. Daly’s continuance on the Planning Commission. He said if it was not for Mr. Daly he would not have received any information on the subdivision. He remarked Mr. Daly voiced the opinions of the neighbors in the district. He asked the Board to consider dismissing the hearing.

Cliff Low hoped the Board would take the time to read the numerous emails submitted by individuals who supported Mr. Daly. He said he looked at the opinion editorial and there was nothing in it that warranted the hearing. He encouraged

the Board to take no action. He stated any action could possibly discourage people from coming forward when the Board solicited applicants for various appointments.

Paul Lipparelli, Legal Counsel, explained that he and Nathan Edwards, Deputy District Attorney, would attempt to play different roles. He informed the Board Mr. Edwards would outline the legal standards from the Planning Department and County Management's perspective, while he would be available to advise the Board on possible questions they may have, their options or the decision.

Mr. Edwards explained the importance of due process as it related to liberty. He quoted Daniel Webster who said of due process, "a law which hears before it condemns, which proceeds upon inquiry, and renders judgment only after trial." The meaning was that every citizen would hold his life, liberty, property and immunities under the protection of the general rules that governed society. He quoted another description of due process by stating, "The guaranty of due process of law is one of the most important to be found in the Federal Constitution or any of the Amendments... It has been described as the very essence of a scheme of ordered justice... and it has been said that without it the right to private property could not be said to exist, in the sense in which it is known to our laws." He asked the Board to imagine a system without fairness, where the outcomes were fixed, or where decision makers failed to discharge their duties impartially. The protections of due process stood against that and guarded against those evils. One of the rules of due process was that people were entitled to hearings presided over by impartial decision makers. The rule extended not only to the courts but to administrative tribunals conducting adjudicatory matters. The Planning Commission was an administrative tribunal and it conducted adjudicative proceedings. Planning Commissioners were required to conduct themselves impartially in Planning Commission hearings, which meant they had to keep an open mind until the hearing was over and it also meant they had to avoid prehearing bias. He noted Mr. Daly's actions fell short of due process requirements. He said over the course of two hearing dates in April and May of 2016, the Planning Commission ruled on the Colina Rosa project. At the conclusion of the April 5th hearing date, the first of the two hearings, no action was taken by the Planning Commission and Mr. Daly announced his opposition to the project; as well as, his reasons and moved for a continuance. The hearing was continued to May 3rd. Prior to the May 3rd hearing date, the Reno Gazette-Journal published an op-ed authored by Mr. Daly in which he condemned the project, detailed his reasons why he opposed the subdivision and announced he would vote against it. County staff was alarmed by Mr. Daly's actions and held a meeting with him before the second hearing date in which he was admonished. Mr. Daly was also informed he would be required to recuse himself and that he would be disqualified from participating. He remarked staff explained the reasons, including the Planning Commission rule which had been previously cited to the Board. He pointed out a case in the staff report called *Nasha LLC v the City of Los Angeles*. In that case, which was remarkably similar, a Planning Commissioner had opposed a development of homes in a scenic corridor and that Planning Commissioner prepared an article or op-ed opposing the project, which was published in a local newspaper or new publication. The project was denied and a challenge was brought in court. The court threw out the denial by stating that the Planning Commissioner should have recused

himself and that the Planning Commissioner violated the due process rights of the developer. In addition to the Nasha LLC case, he noted Rule 1.04, the Planning Commission's Rules, Policies and Procedures. The relevant portion of that rule stated, "Commissioners must keep an open mind and not form or communicate any preferences or thoughts that may be perceived as prehearing bias." He added those same rules had been provided to Mr. Daly in connection with his orientation within a year prior to the proceedings of the Colina Rosa project. He noted the rule had two components, communication indicating prehearing bias should be avoided and commissioners were required to keep an open mind. He gave a recount of the events between the April and May meetings, including his advice to Mr. Daly to recuse himself, which Mr. Daly decided not to take. He stated Mr. Daly offered three points in his defense: 1) He argued the Planning Commission rules were not violated because his op-ed was published mid-hearing and not prehearing. 2) He argued that his op-ed was not problematic because it simply reiterated the essence of what he already said at the April 5th meeting. 3) He argued there was no due process problem because the applicants got what they wanted in the approval of their project. He said all three of Mr. Daly's defenses were hyper-technical and missed the point. He provided a rebuttal to each of Mr. Daly's defenses. He added there was an enormous difference between speaking extemporaneously on an item from the dais in the middle of a public hearing and writing an op-ed weeks later to broadcast a personal opposition to the entire community in an attempt to generate additional opposition to a particular project before the hearing. He continued by saying it was not a Planning Commissioner's job to go out into the public court of opinion and attempt to stir up opposition to projects. A Planning Commissioner's job was to attend meetings, listen to the evidence presented, apply the evidence against the findings required in the Development Code and state law, and render a decision by voting to approve or deny a project. He contended Mr. Daly's actions were a far cry from a Planning Commissioner's job duties. He mentioned the real issue was whether Mr. Daly violated due process requirements regardless of the outcome of the proceedings. He said Mr. Daly failed to hear before he condemned, he failed to proceed upon inquiry, and he failed to render judgment only after trial. He informed the Board the decision before them was to decide whether or not what happened equated or arose to the level of just cause for removal. He closed by stating it was the position of the District Attorney's Office that it did based on the arguments he provided.

Commissioner Berkbigler asked Mr. Edwards to address whether Mr. Daly's First Amendment right to speak his piece was violated.

Mr. Edwards replied that argument was clearly wrong. He gave an example of a legal matter involving a Sparks Councilmember, Mike Carrigan, who was cited for an ethics violation. He explained Mr. Carrigan claimed the rule requiring his recusal in a certain case violated his First Amendment rights. The Nevada Supreme Court agreed with Mr. Carrigan and ruled in his favor; however, the United States Supreme Court took the case up on certiorari and ruled against the Nevada Supreme Court. The United States Supreme Court concluded there was no First Amendment right of the councilmember to participate in the proceedings. He reiterated the fact that after writing the op-ed, Mr. Daly failed to recuse or disqualify himself. He mentioned simply writing

the op-ed was Mr. Daly's own business; however, it raised other legal issues given his role as a Planning Commissioner with respect to participating in a pending proceeding before the Planning Commission. He noted there was clearly no First Amendment right on the part of a Planning Commissioner to participate in those proceedings per the Carrigan case.

Chair Jung sought clarification as to whether the Board had the statutory right to sanction or censure Mr. Daly.

Mr. Edwards stated it was his opinion that removal or retention were the only options. He noted another case in which a removal proceeding resulted in a censure; however, the censure was overturned by a Court because the Court essentially said the only options were to remove or not to remove.

Chair Jung asked if Planning Commissioners had jurisdictional areas and whether they had constituents.

Mr. Edwards replied Planning Commissioners were appointed out of different areas within the community so his opinion was no. Planning Commissioners simply represented the Planning Commission. He also opined Planning Commissioners did not have constituents.

Commissioner Lucey asked if the issue had nothing to do with the outcome of the project itself, but was purely a matter of process.

Mr. Edwards responded affirming Commissioner Lucey's question.

Commissioner Lucey inquired if Mr. Daly was given the rules of conduct for a Planning Commissioner when he was appointed.

Mr. Edwards responded in the affirmative. He noted it was standard practice to provide the rules of conduct. He continued by stating Planning Commissioners were provided with the rules related to the Open Meeting Law, the ethics chapter, the findings; as well as other issues.

Commissioner Lucey asked whether Mr. Daly was taken through the process of the Opening Meeting Law.

Mr. Edwards replied yes.

Commissioner Lucey inquired as to how long the training was.

Mr. Webb stated the training was usually between two to three hours depending on the questions received from the Planning Commissioners. He noted legal staff covered the items Mr. Edwards laid out.

Commissioner Lucey sought confirmation of his understanding that a big portion of the training process involved the discussion of the Open Meeting Law and due process.

Mr. Webb replied that was correct. He remarked Mr. Edwards, as the Planning Commission's counsel, covered two key aspects, the Open Meeting Law and ethics, which took up about half of the orientation time.

Chair Jung asked whether the Board and the Planning Commission had different rules when it came to prejudging or due process.

Mr. Edwards responded there were different rules. He said the distinction, regardless of the public body, came down to whether an item was legislative or adjudicative. Adjudicative meant it was like a court proceeding. Legislative was when the Board considered the adoption of a new Ordinance or an amendment to an Ordinance. In adjudicative matters before any administrative tribunal, everyone had the same due process rights. It did not matter whether it was the Board or the Planning Commission.

Mark Gunderson, Esquire, on behalf of Mr. Daly, stated the real issue was whether there was just cause for the removal of Mr. Daly from the Planning Commission. He said there were no facts available that justified termination of Mr. Daly's service. He noted the County's rules stated just cause could be one of three things. 1) Inefficiency. 2) Neglect of Duty. 3) Malfeasance. He insisted none of those existed. He mentioned the case of *Jones v. Eight Judicial District Court of the State of Nevada*, a 1950 decision where a judge was removed in Las Vegas. The Court in that case said when there was a claim of malfeasance, that was a heightened inquiry, and a very serious claim of misconduct. He added the Nevada Supreme Court defined malfeasance as the result of an act of willful conduct, corrupt motives, conscious wrongs, evil purpose, bad purpose, intent to defraud, corruption, evil intent or motive which must appear clearly on the record. He stated misjudgment was not malfeasance. He provided an overview of the events and explained the application which was presented by the applicant at the second hearing was not the same application presented at the initial meeting. He said Mr. Daly did not prejudge or say he was going to vote the project down, but rather he asked for time to look at the applicant's application. If time was not provided to review the application, then he would vote no. He continued to say Mr. Daly did not vote no out of bias and in Mr. Daly's op-ed, he said he would support residential development; however, the applicant's plan for excessive density was unacceptable as it lacked an appreciation for the scenic core, and did not address traffic and fire issues. He added the applicant regrouped after receiving feedback and made changes to their application based on the comments. He stated there was no question procedural due process was followed and substantive due process was satisfied. He remarked the applicant received a fair hearing. He concluded Mr. Daly's stated intentions in the op-ed only dealt with the first hearing.

Commissioner Berkbigler inquired whether Mr. Gunderson's position was that Mr. Daly's actions were a misjudgment.

Mr. Gunderson replied in order to find malfeasance the Board had to find more than misjudgment. He said the Board might question Mr. Daly's judgment, but it did not rise to the level as defined by the Nevada Supreme Court in the Jones case.

Chair Jung asked which Planning Commissioner moved for a continuance.

Mr. Gunderson replied Mr. Daly.

Chair Jung inquired whether Mr. Daly announced his opposition at the initial meeting.

Mr. Gunderson replied Mr. Daly moved to continue the hearing in order to give the applicant an opportunity to provide more information.

Chair Jung sought clarification as to whether Mr. Daly wrote the op-ed in between the two hearings.

Mr. Gunderson responded in the affirmative. He added there was a different application and a new set of facts at the second hearing.

Chair Jung asserted the only reason the application was changed by the applicant was due to Mr. Daly's opposition and request for continuance. She expressed her concern that Mr. Daly had not acknowledged his fault. She stated the County had a liability as well. The County insured the Planning Commission's actions.

Mr. Gunderson stated his job was to be an advocate for Mr. Daly and he indicated the Board would hear from Mr. Daly.

Mr. Daly, District 2 Planning Commissioner, requested that his written statement be included in the record. He read the statement which highlighted the events leading to the hearing. The statement was placed on file with the Clerk.

Commissioner Herman thanked Mr. Daly for his passion and strength. She felt he had been misunderstood.

Commissioner Lucey asked Mr. Daly what the intent and the reasoning was for him to author the op-ed in between the two hearings.

Mr. Daly replied the op-ed was meant to notify the effected community.

Commissioner Lucey asked why Mr. Daly gave the extra commentary within the op-ed in regards to his position or stance on the issue.

Mr. Daly said he was just repeating what was in the meeting minutes.

Commissioner Lucey inquired whether as a Planning Commissioner, Mr. Daly believed there were processes that needed to be set forth by each elected or appointed official, and that inherently they needed to follow those processes set forth based upon a code of conduct and code of ethics.

Mr. Daly stated the Planning Commission had presented unanimous recommendations to the Board that the Board unanimously rejected. He noted as a Planning Commissioner he made policy.

Commissioner Lucey remarked he was not going to dictate to Mr. Daly what the duties or role as a Planning Commissioner should or should not be. He mentioned he had remained unbiased throughout the independent discussions he had with Mr. Daly. He asked Mr. Daly why he did not just respond to the multitude of emails he received versus writing an op-ed for the Reno Gazette-Journal.

Mr. Daly acknowledged he responded to the emails, as well as, wrote the op-ed. He said he realized the Planning Department's staff had limited resources in relation to providing notices. He stated there was insufficient outreach regarding the largest development project on the Mount Rose corridor since he moved to the area in 2006.

Commissioner Lucey asked whether he knew of any Board of County Commission meetings that took place in between April 5th and May 3rd.

Mr. Daly replied he was sure there were.

Commissioner Lucey asked Mr. Daly why he did not approach the Board or contact him directly when he felt there was not adequate notification.

Mr. Daly responded that the inquiries came to him close to the end of the month prior to the May meeting. He thought he wrote the op-ed on April 24th.

Commissioner Lucey asked whether Mr. Daly had direct contact with him.

Mr. Daly said he and Commissioner Lucey spoke all the time.

Commissioner Berkgigler inquired whether Mr. Daly understood that a recusal from a vote was also considered a no vote.

Mr. Daly replied it would not have been a yes vote.

Commissioner Berkgigler stated it was the responsibility of the Board and various Commissions to take legal advice from the District Attorney's Office. She asked why he did not take the advice from the Planning Commission's staff attorney to recuse himself.

Mr. Daly replied the final decision on recusal was his and not the attorney's.

Commissioner Berkgigler acknowledged Mr. Daly could not be forced to recuse himself; however, he was receiving advice from the Deputy District Attorney whose job it was to look at the regulations, the rules and the law as it related to the business of the County. She noted the Deputy District Attorney's advice was for him to recuse himself. She affirmed as a Planning Commissioner, Mr. Daly had a responsibility to the County and should have followed the terms and dictates of the Deputy District Attorney rather than his own personal opinion.

Mr. Daly said his other balancing concern was disenfranchising his constituents who did not get to vote. He added his feelings at the May 3rd meeting were not as strong as they were at the April 5th meeting because there were a lot of positive changes. He said he was not putting forth his personal opinion and that he represented a district that was loud, clear and unequivocal.

Mr. Lipparelli asked Trevor Lloyd, Community Services Department Senior Planner, if he could confirm for the Board that the proper legal notices for the hearings on the Colina Rosa project were given.

Mr. Lloyd replied all legal requirements for noticing were met. The County even sent out a courtesy notice, that was not required or mandated by Code or state law, prior to the February Citizen Advisory Board (CAB) meeting.

Mr. Lipparelli noted there were comments made regarding the changes that were made to the project between the April 5th and May 3rd hearings. He inquired what those changes were and who made the changes.

Mr. Lloyd replied there were very few changes made between the April hearing and the May hearing. He said staff recommended one condition be amended during the first hearing and that was for the deceleration lane. It was a condition that was proposed. He added staff strengthened the condition at the request of Mr. Daly and the Planning Commission. The second imposed change requested by staff was to include language allowing for a free right turn lane at Edmonton Drive and Butch Cassidy Drive. This was one of the recommendations as part of the original traffic analysis. There were no changes to the design or to the application. There was only one added condition and one amended condition as part of the hearing.

Mr. Lipparelli asked whether the applicant agreed to the changes and if the changes part of the final vote.

Mr. Lloyd replied yes to both inquiries. He said there was one change that was made during the hearing that came about during discussion from the Planning Commission and that was to change the set-backs, which was never proposed by the applicant or by staff.

Mr. Lipparelli stated it had not been an easy thing for the District Attorney's Office to give advice on the matter. He said the meeting between Mr. Daly, Mr. Edwards, Mr. Whitney and himself was held in private because of concerns that arose from outside statements and the op-ed. He added staff wanted to give Mr. Daly advice privately so that he would have a chance to consider it. The meeting was difficult and it took almost two months from the time of the Planning Commission meeting on May 3rd until County Management made a decision to give Mr. Daly notice of the just cause for removal. He noted after a Planning Commissioner was appointed, that person could not be removed by the Board for just any reason. The removal statute for Planning Commissioners was Nevada Revised Statute (NRS) 278.040 which indicated a Planning Commissioner could be removed for just cause. He said there was a section of the County Code which addressed just cause for employees; however, it did not apply directly to Planning Commissioners. It was noted in the staff report because it was the only County definition of just cause. He explained the difference between legislative and adjudicative roles. He stated the concern regarding the op-ed statement, which indicated Mr. Daly's mind was made up on the project, was that it cut off due process. It did not allow for the process to continue as the statements had been made. The hearing was in two parts and it was not over until it was over, so comments in between hearings would be the equivalent of a judge stepping out in the middle of a trial to give a newspaper interview about what their thoughts were about the matter. He said that behavior was very alarming. He noted the California case which had similar facts that lead to a court striking down a decision of a Planning Commission for the very same issues. Staff wanted Mr. Daly to understand the seriousness of his actions and why those actions placed the County in a perilous legal position. At the time, nobody knew what the outcome of the Planning Commission's decision was going to be. He stated had Mr. Daly's considerable intellect and powers of persuasion caused his colleagues to vote the project down, the applicant would have had a custom-made lawsuit. The fact the applicant did not sue because they got most of what they wanted did not mean the County should not take a serious look at the foul staff thought was committed. He added if Planning Commissioners could say whatever they wanted in public before a meeting was concluded and before a decision point was reached, the County would lose the ability to assure people who came to the meetings that a decision was going to be made based on what was represented on the record. He explained the decision the Planning Commission was making at the hearings was on a tentative map. At that point density issues were not considered. In Mr. Daly's op-ed he referred to the project as a high density project and said the planned excessive density was unacceptable. He asserted that was the point when staff concluded they had to meet with Mr. Daly and ask him to recuse himself. If he had recused himself on the advice of legal counsel then the vote on the Planning Commission would be adjusted to reflect his abstention for an ethical reason. He provided his closing argument by stating neither Mr. Edwards nor himself expect elected officials or other County clients of theirs to take their advice word-for-word. As advisors, they did their best to try to say what they thought the law was. He continued by saying the California case and the other cases on due process caused staff to inform Mr. Daly that his actions were very concerning and it could potentially place the County in an untenable legal position. The County would have no defense to the claims due process was violated. Since Mr. Daly chose not to take the

advice of counsel, his actions placed the County in legal jeopardy. No other Planning Commissioner to his knowledge had taken these actions before; therefore, there had never been an attempt to remove a Planning Commissioner. He remarked as Mr. Edwards said it was not that Mr. Daly voted no, but as an adjudicative board member he could not make up his mind before the process was over. If the Board found just cause, then they were justified in removing him. If the Board did not find just cause, he advised the Board not to take any action since there was no lesser offense. The Board could not censure, reprimand or suspend Mr. Daly. It was either removal or Mr. Daly would stay on the Planning Commission. Either decision would have legal consequences on their own which he said he would handle.

Commissioner Hartung noted the Commissioners had been lobbied by various people who wanted to know where they stood and tried to sway their vote so they could potentially know how the Board was going to act. He said the distinction for him was that there were comments made during an open meeting which were reiterated in an op-ed. He stated he did not agree with what Mr. Daly did but he was not sure he found the action mortal. He thought the Board's action could potentially set a precedent.

Commissioner Lucey stated the roles of the Board and the Planning Commission were very complex. He said the roles were not specifically legislative or adjudicative but both. In that role, a person had to maintain a level of impartiality. Advocacy was much different than impartiality. He noted the Board witnessed a level of advocacy in Mr. Daly's case. He remarked Mr. Daly had the best of intentions; however, the law was the law. The Board and the Planning Commission were bound by rules. When a person stepped into that role, especially as an adjudicative member of a board, that person needed to have an unbiased step as they walked through the process. He said he did not feel Mr. Daly remained unbiased. He asserted there were a multitude of options presented to Mr. Daly to work through the process and he chose the option of an op-ed which was wrong. He thought the points made had been very clear.

Chair Jung believed there was just cause because due process was not followed. She said there was a clear demonstration that Mr. Daly did not have an open mind and he formulated or communicated his preference to convey a prehearing bias. She believed Mr. Daly needed to be removed from the position, especially since more development was coming into the unincorporated County.

After the motion, Commissioner Berkgigler thought the County was exposed from both sides which worried her. She said she supported the motion because it was Commissioner Lucey's appointee to the Planning Commission, and she believed Commissioner Lucey and the District Attorney made their case.

On motion by Commissioner Lucey, seconded by Commissioner Berkgigler, which motion duly carried with Commissioners Hartung and Herman voting "no", it was ordered that Thomas G. Daly be removed from the Planning Commission based upon the evidence presented.

16-0764 **AGENDA ITEM 20** Possible Closed Session for the purpose of discussing labor negotiations with Washoe County, Truckee Meadows Fire Protection District and/or Sierra Fire Protection District per NRS 288.220.

There was no closed session.

16-0765 **AGENDA ITEM 21** Public Comment.

Cathy Brandhorst spoke about matters of concern to herself.

5:33 p.m. Commissioner Lucey left the meeting.

Jeff Church expressed his concerns with the Washoe County School District's (WCSD) unilateral decisions regarding its Oversight and Protection Committees. He spoke about WCSD's potential violations and urged the Board not to allow the WCSD to dictate who served on those committees. He wanted the committees to meet and do their jobs.

Cliff Low believed the Board should hold a hearing for Planning Commissioner Greg Prough since he also voted no and expressed negative opinions towards the Colina Rosa subdivision. He asked what the difference was between what Planning Commissioner Prough and Planning Commissioner Daly did. He thought Planning Commissioner Daly provided a service to the residents with his opinion editorial and did not show prehearing prejudice.

COMMUNICATIONS AND REPORTS

The following communications and reports were received, duly noted, and ordered placed on file with the Clerk:

COMMUNICATIONS:

16-0766 Cooperative Agreement between the State of Nevada, Department of Transportation and Washoe County Community Services Department for pedestrian improvements, including sidewalk, curb and gutter, handicap ramps at various Washoe County school locations. (Minute Item No. 15-0165 from the Board of County Commissioner's meeting of February 24, 2015.)

MONTHLY FINANCIAL STATEMENTS:

16-0767 Monthly Statement of the Washoe County Treasurer for month ending June 30, 2016.

QUARTERLY FINANCIAL STATEMENTS

- 16-0768 Quarterly Financial Statement of the Clerk of the Court for quarter ending June 2016.
- 16-0769 Quarterly Financial Statement of the County Clerk - FY 2015/2016 for quarter April 1 through June 30, 2016.

TENTATIVE BUDGETS / FINAL BUDGETS

- 16-0770 Sun Valley General Improvement District's budget for fiscal year 2016-2017.

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5:41 p.m. There being no further business to discuss, the meeting was adjourned without objection.

KITTY K. JUNG, Chair
Washoe County Commission

ATTEST:

NANCY PARENT, County Clerk and
Clerk of the Board of County Commissioners

*Minutes Prepared by
Michael Siva, Deputy County Clerk*