

BOARD OF COUNTY COMMISSIONERS, WASHOE COUNTY, NEVADA

TUESDAY

2:00 P.M.

APRIL 19, 2005

PRESENT:

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

Nancy Parent, Deputy County Clerk
Katy Singlaub, County Manager
Melanie Foster, Legal Counsel

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

05-364 AGENDA

2005 meeting be approved with the following changes: **Delete**: Item 8K(2), Agreement with Sentinel Offender Services, LLC for Electronic Monitoring of Offenders; Item 16, Sierra Bouquet VII bid for APN 020-321-34; and Item 17, Truckee Meadows Fire Protection District.

05-365 PUBLIC COMMENTS

Guy Felton, local resident, read from his handout regarding open government, which was placed on file with the Clerk.

Al Hesson, local resident, stressed that too much time had been spent planning the homeless shelter and more time needed to be spent building it.

introduced himself to the new employees and commented on the sale of the Reno City Hall.

Richard Siegel, President of the American Civil Liberties Union of Nevada, stated his reasons why he did not believe the District Attorney or a judge should be on the search committee for the new Public Defender.

Onie Cooper, NAACP Board member, commented diversity was needed on the Public Defender selection committee. He declared the District Attorney should be removed from the committee, and he was available to serve.

Mary Valencia Wilson, Reno/Sparks NAACP Political Action Chair, stated women and minorities should be on the committee and not the District Attorney.

Nancy Hart, attorney, said she was disturbed by the composition of the selection committee. She stated minorities, women, and someone from the Criminal Defense Bar should replace the District Attorney.

B. James “Diego” Martin, President of the League of United Latin American Cities Council No. 11090, spoke concerning the disproportionate number of minorities in prison, his involvement in the Army Equal Opportunity program, and his fight against stereotypes. He said it was important there be no conflict of interest in selecting the administrator of the Public Defender's Office.

Les Barta, local resident, commented on the District Attorney's Office employees opposing Assembly Bill 392 on behalf of the County Assessor, and the County's lobbying policy that required any lobbying on behalf of the County be approved by the Board.

Gary Schmidt, local resident, said he supported the comments made about the selection panel and stated the County needed a Public Defender who could defend the rights of individuals and keep innocent people out of jail. He submitted a letter from Chairman Weber dated February 15, 2005 and the April 19, 2005 meeting agenda, which were placed on file with the Clerk.

COMMISSIONERS'/MANAGER'S ANNOUNCEMENTS

Commissioner Humke remarked on the lack of comment from the public when the creation of the search committee for the Public Defender was originally on the agenda. He stated the Board was aware of the Constitutional requirements as defined by the United States Supreme Court that supported the existence of the Washoe County Public Defender's Office, and the Board was also aware of the disproportionate minority contact and gender bias in the criminal justice system. He said the Board should consider the composition of the selection committee.

Commissioner Sferrazza requested a motion to suspend the rules and a motion to reconsider be placed on the April 26, 2005 agenda concerning the makeup of the selection committee for the Public Defender. He asked that the County Manager advise the Human Resources Director to reschedule the start of the screening process until the Board had taken action. He said anyone interested in being on the search committee should fill out an application for submission to the Board.

Commissioner Sferrazza stated he was prepared to resign from the Truckee River Flood Control committee after the discussion at the last meeting; however, prior to taking that step, he asked that an item be placed on an agenda to provide for a process on the removal of Commissioners from boards or committees.

Commissioner Galloway complemented the speakers on focusing on real issues rather than voicing criticism of government. He explained the Board had given direction that public comment be expanded to three minutes on any issue, and Melanie Foster, Legal Counsel, confirmed the change would be on next week's agenda. He said he desired to look at broadening the selection committee, but was reluctant to remove anyone. Commissioner Galloway stated any elected official should be able to express their opinions, but it should be made clear when addressing the Legislature who the individual was representing.

Commissioner Larkin requested a joint retreat with Storey County, and a trip to the Storey County Reno/Tahoe Industrial Park. He asked when the Commissioners had to submit the funding authorization to the National Association of Counties. Commissioner Larkin reminded the public that the grand opening of the Spanish Springs Lazy 5 Library would be held on May 21, 2005, and he encouraged everyone to see the new facility.

05-366 INTRODUCTION OF NEW WASHOE COUNTY EMPLOYEES

Chairman Weber invited approximately 37 new Washoe County employees to come forward and introduce themselves to the Board. The Board members welcomed the new employees.

**05-367 PROCLAMATION – CHILD ABUSE PREVENTION MONTH –
APRIL 2005**

Mike Capello, Social Services Director, expressed appreciation to the Board for the programming provided by the County to prevent child abuse and neglect and to help remediate those cases where child abuse and neglect had occurred. He acknowledged Phil Ulibarri, WIC Marketing Program Coordinating, and the statewide child abuse prevention campaign Mr. Ulibarri was coordinating. Mr. Ulibarri gave further information on the child abuse prevention campaign, and he commented on the work being done in Clark County to prevent child abuse. He presented posters that would be used for the campaign, which were placed on file with the Clerk.

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

PROCLAMATION

WHEREAS, Child abuse is a community problem and finding solutions depends on involvement among people throughout the community; and

WHEREAS, Approximately three million children are reported abused and neglected in this country each year; and

WHEREAS, The effects of child abuse are felt by whole communities and need to be addressed by the entire community; and

WHEREAS, Effective child abuse prevention programs succeed because of partnerships created among social service and health agencies, schools, religious and civic organizations, law enforcement agencies, and the business community; and

WHEREAS, All citizens should become aware of the negative effects of child abuse and its prevention within the community, and become involved in supporting parents to raise their children in a safe, nurturing environment; now, therefore, be it

PROCLAIMED, By the Washoe County Board of Commissioners, that April 2005 is designated as Child Abuse Prevention Month. The Board calls upon all citizens, community agencies, religious organizations, medical facilities, and businesses to increase their participation in efforts to prevent child abuse, thereby strengthening the communities in which we live.

05-368 PROCLAMATION – NATIONAL DNA DAY – APRIL 25, 2005

Robbin Palmer, genetic counselor in Washoe County, thanked the Board for the proclamation. She said she was passionate about genetics and dedicated to bringing appropriate use of new technologies to the community.

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

PROCLAMATION

WHEREAS, National DNA Day commemorates the completion of the Human Genome Project in April 2003 and the discovery of DNA's double helix 52 years ago; and

WHEREAS, For this special event, the Human Genome Research Institute is offering a series of teaching tools and online web casts to educators and students. A complete list of these resources is available on the DNA Day page from the National Human Genome Research Institute's website; and

WHEREAS, An online web cast and chat room at www.genome.gov will feature scientists on the cutting edge of genetics research; and

WHEREAS, The National Society of Genetic Counselors, in cooperation with the National Human Genome Research Institute, the American Society of Human Genetics, and the Genetic Alliance want to help inspire the next generation of scientists and health care providers who will use the human genome sequence to benefit human health; now, therefore be it

PROCLAIMED, That April 25, 2005 is hereby recognized as National DNA Day by the Washoe County Board of Commissioners.

05-369 MINUTES

On motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, Chairman Weber ordered that the minutes for the regular meeting of February 22, 2005 be approved.

05-370 SEXUAL ASSAULT - MEDICAL CARE - PAYMENT

Pursuant to NRS 217.280 to 217.350, on motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, Chairman Weber ordered that payments with funds from the District Attorney's account designated Sexual Assault Victims Expenses be authorized for initial emergency medical care and follow-up medical or psychological treatment for 35 sexual assault victims in an amount totaling \$5,526.08 as set forth in a memorandum from Kim Schweickert, Program Assistant, District Attorney's Office, dated March 31, 2005.

**05-371 AGREEMENT – ADULT DRUG COURT – PROJECT CARE -
SECOND JUDICIAL DISTRICT COURT**

Sam Dehne, Reno resident, explained the consent agenda for the public, and he voiced his support for the agreement.

Upon recommendation of Sheila Leslie, Specialty Courts Coordinator, through Ron Longtin, District Court Administrator, on motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that an agreement between the Second Judicial District Court and Project CARE, concerning Adult Drug Court services, be approved and Chairman Weber be authorized to execute the same. It was further ordered that the agreement be retroactive to January 1, 2005 and the total cost of the agreement would not exceed \$50,000.

05-372

GRANT PROGRAM CONTRACT – FOOD BANK OF NORTHERN NEVADA – SENIOR SERVICES

Upon recommendation of Marietta Bobba, Senior Services Director, through John Berkich, Assistant County Manager, on motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that a grant program contract with the Food Bank of Northern Nevada, effective retroactively to January 1, 2005 through August 31, 2005 in the amount of \$30,000 (approximately \$12,000 for fiscal year 2004/05 and \$18,000 for fiscal year 2005/06), in support of the Senior Nutrition Program be approved and Chairman Weber be authorized to execute the same. It was further ordered that the Finance Department be authorized to make the following budget adjustments:

Account Number	Description	Amount of Increase
20268-484000	Other Misc. Government Revenue	\$12,000
20268-710592	Nutrition Program	\$ 3,000
20268-710312	Special Dept. Expense	\$ 9,000

It was noted that this item was contingent upon budget approval.

05-373

UNCOLLECTIBLE RETURNED CHECKS - COMPTROLLER

In response to Commissioner Galloway, County Manager Katy Singlaub explained the national standard of .046 percent was a typical uncollectible returned rate for checks. She stated the County did not have the ability to determine quickly what revenues from every department were paid by check and which of those checks were returned. She said staff was confident of the .05 percent range the Comptroller's Office was able to estimate. She noted it would be researched further.

Commissioner Sferrazza stated he was opposed to the approval of the item. He said the County should enter the names of those whose checks were returned into the computer system and accept no more checks from these parties.

Ms. Singlaub clarified the total amount of returned checks was \$54,000 originally, and staff pursued those to reduce the uncollectible returned checks down to the amount of \$2,500.

Upon recommendation of Robin Greco, Collections Administrator, through John Sherman, Finance Director, on motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried with Commissioner Sferrazza voting "no," Chairman Weber ordered that the removal of calendar year 2003 uncollectible returned checks from the centralized returned check account (8980-121013) in the amount of \$2,855.53 be approved. It was further ordered that the Comptroller be directed to charge the contra revenue account (485300) for the following responsible cost centers:

Cost Center	Agency	Amount
120231	Clerk	\$ 25.00
130100	Library	\$111.15
140300	Parks	\$728.00
60003	Public Works	\$655.00
111100	Recorder	\$ 49.00
165200	Roads	\$200.00
250110	Senior Services	\$ 93.24
125400	Sparks Justice Court	\$ 81.00
170300	Health	\$122.00
171100	Health	\$ 26.00
171101	Health	\$ 13.00
171300	Health	\$ 99.18
172400	Health	\$223.00
173000	Health	\$ 93.96
173500	Health	\$336.00

05-374 AGREEMENT - EL DORADO COUNTY – USE OF CORONER’S LABORATORY - CORONER

Upon recommendation of Vernon McCarty, Coroner, through John Berkich, Assistant County Manager, on motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that a renewal of an agreement for services No. 488-SO511 between Washoe County and El Dorado County, California, concerning utilization of the Coroner's laboratory, be approved and Chairman Weber be authorized to execute the same.

05-375 FINANCIAL REPORT – GOVERNMENTAL FUNDS - ENDED FEBRUARY 28, 2005 – FINANCE

Upon recommendation of Kathy Garcia, Comptroller, on motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, Chairman Weber ordered that the Financial Report (unaudited) for Washoe County Governmental Funds for the eight months ended February 28, 2005, which was placed on file with the Clerk, be accepted. It was noted the report was for information only regarding the County’s financial activity for the first eight months of the fiscal year.

05-376 COUNTY COMMISSION DISTRICT FUNDS - GOLDEN VALLEY CLEANUP DAY

County Manager Katy Singlaub noted the Golden Valley Community Cleanup Day had been rescheduled to May 21, 2005. She stated the date change would not affect the item, as the same expenditures were recommended for approval.

Upon recommendation of Rita Lencioni, County Manager Assistant, through Ms. Singlaub, on motion by Commissioner Galloway, seconded by

Commissioner Sferrazza, which motion duly carried, Chairman Weber ordered that expenditures for the Golden Valley Community Cleanup Day in an amount up to \$300 from County Commission District 3 and in an amount up to \$300 from County Commission District 5 Special Funding Accounts be approved.

**05-377 PURCHASE REQUISITION - WOODSTOVE REBATE PROGRAM
- HEALTH**

Upon recommendation of Pamela Fine, Health Analyst, through Eileen Coulombe, Administrative Health Services Officer, on motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, Chairman Weber ordered that purchase requisition No. 3x2730 issued to the Board of Regents of the University and Community College System of Nevada, Small Business Development Center, Office of Sponsored Projects, in support of the Air Woodstove Rebate Program funded by a grant from the Nevada Department of Motor Vehicles for the period of May 1, 2005 through September 30, 2005, in the amount of \$50,000 be approved.

**05-378 BUDGET AMENDMENT - FY 2004/05 – TUBERCULOSIS CDC
PROGRAM - HEALTH**

Upon recommendation of Pamela Fine, Health Analyst, through Eileen Coulombe, Administrative Health Services Officer, on motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, Chairman Weber ordered that amendments to the District Health Department Fiscal Year 2004/05 Tuberculosis CDC Program budget in the amount of \$3,208 in both revenue and expenses in accordance with NRS 354.615 be approved. It was further ordered that the Finance Department be directed to make the following budget adjustments:

ACCOUNT NUMBER	DESCRIPTION	AMOUNT OF INCREASE
2002-IO-10016-431100	Federal Revenue	\$3,208
2002-IO-10016-711210	Travel	\$3,208
	Total	\$3,208

**05-379 GRANT AWARD – NEVADA OFFICE OF TRAFFIC SAFETY –
JOINING FORCES – SHERIFF**

Upon recommendation of Michael Gross, Patrol Division, through Dennis Balaam, Sheriff, on motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, Chairman Weber ordered that the acceptance of a \$45,900 grant award funding from the Nevada Office of Traffic Safety for the Joining Forces Grant be approved. It was further ordered that the Finance Division be directed to make the following budget adjustments:

Increase Revenues	Amount
10061-431100 (Joining Forces – Federal Grant)	\$45,900
Increase Expenditures	
10061-701300 (Joining Forces-Overtime)	\$45,900

05-380 AGREEMENT - EXECPRO SERVICES, INC. – FOURTH OF JULY PARTY – SHERIFF

Upon recommendation of Adam Hopkins, Sergeant, through Dennis Balaam, Sheriff, on motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that a Sheriff's Security agreement between Washoe County and Execpro Services, Inc., concerning the provision of two uniformed Deputy Sheriffs for security at Incline Village, Nevada for the Fourth of July party, July 4, 2005, be approved and Chairman Weber be authorized to execute the same. It was noted there would be no fiscal impact to Washoe County; the estimated security costs would be \$1,152; and reimbursement would come from Execpro Services, Inc.

05-381 SOLE SOURCE GSA PROCUREMENT AWARD – AIS PRISIM USE OF FORCE SIMULATOR – SHERIFF

Upon recommendation of Greg Befort, Regional Public Safety Training Center Director, through Dennis Balaam, Sheriff, on motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, Chairman Weber ordered that the sole source GSA procurement award for the purchase of the AIS PRISim Use of Force simulator in the amount of \$65,713 be approved and the Sheriff's Office be authorized to purchase the same.

05-382 CORRECTION OF FACTUAL ERRORS - ASSESSOR

Upon recommendation of Susan Goodlett, Principal Account Clerk, on motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that the following Roll Change Requests correcting factual errors and the Order directing the Treasurer to correct the error be approved and Chairman Weber be authorized to execute the same:

Property Owner	APN No.	Amount	Roll
M L & Jeanette C Belli TR	010-045-07	[-\$82.99]	2004 Secured
Craig A & Leslie Hutchens	014-180-39	[-\$175.98]	2001 Secured
Craig A & Leslie Hutchens	014-180-39	[-\$181.00]	2002 Secured
Craig A & Leslie Hutchens	014-180-39	[-\$179.26]	2003 Secured
Craig A & Leslie Hutchens	014-180-39	[-\$181.55]	2004 Secured
Dean Hicks	028-011-38	[-\$54.66]	2001 Secured
Dean Hicks	028-011-38	[-\$56.98]	2002 Secured
Dean Hicks	028-011-38	[-\$57.55]	2003 Secured
Dean Hicks	28-011-38	[-\$58.88]	2004 Secured

City of Sparks Redevelopment Agency	037-020-47	[-\$0.00]	2005 Secured
Marina Properties II LLC	037-020-48	[-\$5,265.12]	2005 Secured
City of Sparks Redevelopment Agency	037-020-49	[-\$0.00]	2005 Secured
City of Sparks Redevelopment Agency	037-020-50	[-\$0.00]	2005 Secured
Marina Properties II LLC	037-020-51	[-\$7,061.91]	2005 Secured
Marina Properties II LLC	037-020-52	[-\$7,032.90]	2005 Secured
Wal-Mart Stores #3254	039-051-08	[-\$3,952.46]	2004 Secured
Timothy J & Ann F Geesey	152-772-02	[-\$2,007.56]	2004 Secured

**05-383 AGREEMENT – HIGH DESERT MICROIMAGING, INC. –
LEGATO IMAGING SOFTWARE LICENSES – SOCIAL
SERVICES**

Upon recommendation of Mike Capello, Social Services Director, through John Berkich, Assistant County Manager, on motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, Chairman Weber ordered that an agreement between Washoe County and High Desert Microimaging, Inc., concerning the imaging solution vendor per a Joinder to the State of Nevada Convenience contract to purchase and maintain 130 Legato Imaging software licenses and ancillary hardware to support the Record Management System for Social Services, in the amount of \$148,050 be approved and the Social Services Director be authorized to enter into an agreement of the same.

**05-384 RESOLUTION – SHORT-TERM INTERFUND LOAN - SPECIAL
ASSESSMENT DISTRICT NO. 31 – FINANCE**

Upon recommendation of Anna Heenan, Senior Fiscal Analyst, through John Sherman, Finance Director, on motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that the following resolution be adopted and Chairman Weber be authorized to execute the same:

RESOLUTION

**A RESOLUTION AUTHORIZING AN INTERFUND LOAN —
PUBLIC WORKS CONSTRUCTION FUND (4002) TO THE
SPECIAL ASSESSMENT DISTRICT 31 FUND (4231)**

WHEREAS, the Public Works Construction Fund of the County (Fund 4002) has sufficient cash resources to finance a short-term interfund loan in an amount not to exceed \$172,000 without adversely affecting its cash needs; and

WHEREAS, the Special Assessment District 31 Fund (Fund 4231) is in need of a short-term loan to cover expenses until receipt of bond proceeds for the Street improvements; and

WHEREAS, the short-term loan will not in any way have an adverse or deleterious effect upon the Public Works Construction Fund (4002) or the Special Assessment District 31 Fund (4231);

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF WASHOE IN THE STATE OF NEVADA:

Section 1. The County Comptroller is hereby directed to transfer in amounts as needed, up to \$172,000, from the Public Works Construction Fund (4002) to the Special Assessment District 31 Fund (4231) until bond proceeds are received, and make appropriate accounting entries.

Section 2. The cash interfund transaction for this loan is as follows:

<u>Public Works Construction Fund (4002)</u>	<u>Increase</u>	<u>Decrease</u>
Due from SAD 31 Fund	\$172,000	
Cash		\$172,000
<u>Special Assessment District 31 Fund (4231)</u>		
Cash	\$172,000	
Due to Public Works Construction Fund		\$172,000

Section 3. The term of the interfund loan shall be twelve calendar months, commencing on the day of the first transfer, to be repaid on or before twelve calendar months.

Section 4. Interest will be charged at the rate of 2% per year on the outstanding balance on the loan.

Section 5. The Resolution shall be effective upon passage and approval.

Section 6. The County Clerk is hereby directed to distribute copies of the Resolution to the Department of Taxation, the Comptroller, the Budget Division and the Department of Public Works Engineering Division within 30 days.

05-385 AWARD OF BID – SPECIAL ASSESSMENT DISTRICT NO. 31 IMPROVEMENTS – PUBLIC WORKS

This was the time to consider award of the bid for Special Assessment District (SAD) No. 31 improvements for the Public Works Department. The Notice to Bidders for receipt of sealed bids was published in the *Reno Gazette-Journal* on February 24, and March 3, 2005. Proof was made that due and legal Notice had been given.

Bids were received from the following vendors:

A&K Earthmovers
TW Construction
Granite Construction
Sierra Nevada Construction
Peterson Construction
Frehner Construction

Upon recommendation of David Price, Engineer, through Tom Gadd, Public Works Director, on motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, it was ordered that award of the bid for SAD 31, Spearhead Way and Running Bear Drive Road Improvements, for the Public Works Department be awarded to the lowest responsive bidder, Frehner Construction, in the amount of \$277,681.50 and Chairman Weber be authorized to execute the contract documents upon presentation.

**05-386 MEMORANDUM OF UNDERSTANDING – GRANITE FOX
POWER PLANT PROJECT ENVIRONMENTAL IMPACT
STATEMENT – COMMUNITY DEVELOPMENT**

County Manager Katy Singlaub explained that executing a memorandum of understanding (MOU) for Washoe County to be a cooperating agency on the Granite Fox Power Plant Project Environmental Impact Statement (EIS) did not reflect any endorsement by the County for the project as a whole. She said it would allow Washoe County to have an official role in the review and preparation of the EIS. Ms. Singlaub added Washoe County would have no official role and would not be able to provide input on the EIS without executing the MOU.

Chairman Weber read an e-mail from Matthew Ebert, Gerlach resident, concerning Washoe County's cooperation with the Bureau of Land Management (BLM) in the execution of the Granite Fox Power Plant Project EIS, which was placed on file with the Clerk.

Sam Dehne, Reno resident, talked about the impact of the power plant and said he was in favor of the MOU.

In response to Commissioner Humke, Adrian Freund, Community Development Director, stated that the duration of the EIS process would be from mid-2005 through the first quarter of 2006. He clarified the special use permit was a separate process that would take place after the draft EIS was completed. He said he did not know if Washoe County's participation would speed the EIS process. Mr. Freund confirmed staff would pursue discussions with the BLM about recovery of unusual costs. He acknowledged staff had not been involved as a cooperating agency where types of reimbursement for staff costs were received. He commented it would be a technical

special use permit review; staff would be informed through the EIS process; and staff costs would be supported by the application fee for the special use permit process.

Commissioner Galloway voiced his support for the MOU and commented that having staff at the committee meetings would enable them to gain the best possible information. He said staff would be able to highlight items of interest for citizens in Gerlach and other interested parties.

Commissioners Larkin and Weber commented that the MOU would guarantee the citizens of Gerlach would be heard in the EIS process. Commissioner Larkin said it would be an open, public process and an excellent way for the County to have its concerns heard at the federal level. Commissioners Larkin and Weber acknowledged their support of the MOU.

Commissioner Sferrazza requested any motion made be conditioned upon having a final EIS before there was a vote on any special use permit. He said the motion should include direction to staff to not entertain a special use permit application without the final EIS on the project.

Melanie Foster, Legal Counsel, commented the agenda was specific to the approval of the MOU, and it would be appropriate to place Commissioner Sferrazza's request on a future agenda if the Board desired.

Commissioner Humke inquired if the MOU could be altered, and Ms. Foster clarified her concern was related to the Open Meeting Law. She explained the agenda item was not noticed for any action on the issuance of a special use permit in this matter. Commissioner Humke stated the Board was free to pass the agenda item today and could take action at a later date pursuant to a noticed agenda item, and Ms. Foster concurred.

Upon recommendation of Mr. Freund, on motion by Commissioner Larkin, seconded by Chairman Weber, which motion duly carried, it was ordered that the Chairman be authorized to execute a Memorandum of Understanding for development of the Granite Fox Power Plant Environmental Impact Statement between Washoe County and Winnemucca Field Office Bureau of Land Management to define roles and responsibilities as a cooperating agency.

**05-387 APPEARANCE – JUDGE JANET BERRY – DISTRICT COURT,
DEPARTMENT ONE**

Judge Janet Berry, Washoe County District Court, Department One, described how she became involved in exploring the concept of creating a specialty court for homeless offenders. She said the target population of the court would be primarily misdemeanor offenders. Judge Berry acknowledged there had been several meetings with those who work in the criminal justice community; and Judge James Van Winkle, Chief Judge of the Reno Municipal Court, had agreed to spearhead the effort to create the

court. She noted the support of the Reno City Council for creating a specialty court for homeless offenders.

Judge Berry explained how the homeless court would operate, and she reviewed the agenda memorandum dated April 4, 2005. She said it would be voluntary for the homeless or the marginally homeless that had warrants for non-violent misdemeanor offenses to enroll in treatment programs and work with community service providers. She added these offenders were in and out of jail and costing taxpayers thousands of dollars.

Judge Berry expressed the goal of the program would be for the homeless to address their problems, to keep them out of jail and the criminal justice system, and to assist them in becoming functioning members of society. She said Judge Van Winkle had agreed to work closely with the new homeless shelter that would open in the fall of 2005. Judge Berry stated the desire was to place the pilot program at the homeless shelter. She noted there were approximately 2,430 homeless in the community and 4,000 people who were marginally homeless as of January 2005.

Judge Berry mentioned a study referenced at the Legislature that followed 15 chronically homeless for a period of 18 months. The study tracked the costs to taxpayers for emergency room trips, health care, emergency services, and incarceration. She said the total cost to taxpayers was \$3-million, and the 15 chronically homeless were still homeless at the end of the 18 month period.

In response to Commissioner Humke, Judge Berry stated the cases would be heard in the Reno Municipal Court, and she could not comment on the impact on detention days at the jail. She remarked the fiscal impact of clerical costs had been overlooked.

Commissioner Larkin stated he was concerned that any additional specialty court would increase the workload on the jail transportation system. Judge Berry clarified the homeless court would be an out of custody and voluntary court that would operate at the homeless shelter. The concept was to avoid incarceration on minor warrants, so the Sheriff would not be transporting anyone unless they were arrested on new or other charges.

Commissioner Galloway commented the cost of the program would come from personnel, treatment, and getting bench warrants and other warrants cleared. He said he would like to see a pilot program; and Judge Berry stated her desire was to have a resolution passed in support of the Reno Municipal Court taking the lead, and the City of Reno piloting the project. Commissioner Galloway inquired about clearing warrants and asked if that was for the homeless only. Judge Berry answered, if someone wanted to clear a warrant, they could go down to the court at the homeless shelter and inquire about the program.

Commissioner Sferrazza inquired if Richard Gammick, District Attorney, was supportive of the program. Judge Berry said Mr. Gammick was willing to work with the City of Reno prosecutors on any cases they had. She said the District Attorney understood he did not have to be involved. Commissioner Sferrazza asked if the Reno Justice Court would be a part of the court, and Judge Berry remarked she had attempted to involve everyone in the region in the discussions and meetings.

Chairman Weber inquired if there were similar programs in Nevada, and Judge Berry said she was not aware of any. She commented on the program in San Diego, California that had operated successfully for the past 10 years.

Al Hesson, Reno resident, acknowledged that he was homeless for over two years; and the problems of the homeless today were rampant, epidemic, and growing. He said Judge Berry's proposed specialty court was solid. He noted 20 to 25 percent of homeless men were honorably discharged veterans that had served their country and deserved a second chance.

Sam Dehne, area resident, commended the efforts of Judge Berry to create a specialty court for the homeless and said the Board should support her requests.

On motion by Commissioner Sferrazza, seconded by Commissioner Humke, which motion duly carried, Chairman Weber ordered that the report by Judge Berry be accepted.

4:17 p.m. The Board recessed.

4:42 p.m. The Board reconvened with all members present.

05-388 BOARD OF EQUALIZATION MEMBER – GARY SCHMIDT

Gary Schmidt, Washoe County resident, explained he received two notices for hearings in regard to his service on the Board of Equalization (BOE); and he described the notices. Mr. Schmidt stated he objected to the Board considering any evidence presented in the closed session held on March 8, 2005 because his legal counsel and Commissioner Sferrazza were not present at the closed session, and it was not noticed for the April 19, 2005 meeting. He submitted audiotapes, a binder with background and supporting documents concerning the history of his dealings with Washoe County, and videotapes from the BOE hearings of 2005, which were placed on file with the Clerk.

In response to Commissioner Sferrazza, County Manager Katy Singlaub clarified the information received in writing in support of the March 8, 2005 closed session hearing had been provided to the Board.

Commissioner Galloway commented the packet of information did include communications sent to the Board by people in regard to Mr. Schmidt, and most appeared

to be sent prior to the March 8, 2005 closed session. Ms. Singlaub confirmed what was not included was any attorney/client materials or other materials the Commissioners may have received.

Melanie Foster, Legal Counsel, pointed out the Board had received more e-mail in the interim, and she had provided copies to Glade Hall, attorney for Mr. Schmidt, approximately 10 days ago.

Mr. Hall stated it should be apparent to anyone who viewed the snippet tape that there were no actual offenses, inappropriate actions, or words in Mr. Schmidt's service on the BOE. There was nothing that would rise to dereliction of duty or malfeasance, as the evidence supported the conclusion that Mr. Schmidt's performance and service on the BOE was exemplary and positively productive. He said that was reinforced by the opinions of citizens that sent the Board correspondence in support of Mr. Schmidt.

Mr. Hall declared the hearing was about a limited number of agents for the County who would like to silence Mr. Schmidt or attack his credibility. He stated this matter was placed on the agenda by a single Board member based on an inaccurate, misleading communication from the County Manager. Mr. Hall submitted this was because of Mr. Schmidt's activism separate from his service on the BOE. He pointed out the statute being used for the proceeding only allowed the Board to consider malfeasance in office. He referenced and commented on an e-mail sent from Ms. Singlaub to Chairman Weber concerning Mr. Schmidt's service on the BOE. He concluded the false assertions by the County Manager were the basis for Chairman Weber having issued the letter and notice of the hearing to Mr. Schmidt. He noted that he and Mr. Schmidt assumed that had been done under the advice of the District Attorney's Office. Mr. Hall declared it was legally incorrect. He added Mr. Schmidt had consistently identified transgressions with local government, and that was known when he was appointed to the BOE.

Mr. Hall commented on the proposed contract between Washoe County and Madelyn Shipman and Mr. Schmidt's opposition to it. He said that incident was one of the driving forces behind the memo that led to the charges against Mr. Schmidt. Mr. Hall confirmed the "conduct" Ms. Singlaub referred to in her memo was Mr. Schmidt's exercising his constitutional right.

Mr. Hall affirmed Mr. Schmidt should receive a public service award rather than bringing unfounded charges against him. He noted over 300 citizens were in support of Mr. Schmidt, and he recommended no action be taken against him.

Commissioner Sferrazza said he had not seen the charges. Mr. Hall read the letter that was sent to Mr. Schmidt regarding the March 8, 2005 closed session.

Ms. Foster explained the letters sent to Mr. Schmidt. She said the letter dated April 8, 2005 was the notice required under NRS 241.034 for the Board to take

administrative action against a person. She stated the other letter was the form the Attorney General had for notices of closed sessions under the section of the statute that allowed public bodies to hold them. She further explained that on March 3, 2005 she provided Mr. Hall copies of the tapes of the February 9, 10, and 11 BOE meetings, and she informed him that the basis for the action was the complaints about Mr. Schmidt's conduct as being rude and disruptive.

In response to Commissioner Galloway, Mr. Hall explained the charges were limited to the snippet tape, and the charge was that he committed malfeasance in office as presented on tape.

Ms. Foster pointed out there were two aspects to the statute, and they were malfeasance in office or neglect of duties.

Mr. Hall said he was informed about the malfeasance in office, but not neglect of duty. Ms. Foster remarked that she recalled the discussion concerning the statute and stated she did not recall talking about Mr. Schmidt's conduct and whether it rose to the level of malfeasance or neglect of duty.

Ms. Singlaub clarified that Terry Shea, Deputy District Attorney, and Steven Sparks, BOE Chairman, sought the help of the Board in response to events that occurred at a BOE meeting and Mr. Schmidt's conduct. She said, in the absence of any available Commissioner, Mr. Shea and Mr. Sparks implored staff to assist them. She noted that in her e-mail she was quoting the statements made by Mr. Shea and Mr. Sparks. Ms. Singlaub added that Ms. Shipman's contract for lobbying services was noticed, proposed, and debated in a public meeting and was withdrawn by Ms. Shipman. She noted Mr. Schmidt had encounters and conflicts with her and other staff members over the 10 years she had worked for the County; and she assured the Board that if she was a person who sought retribution against citizens because of conflicts, she would have had dozens of opportunities to seek retribution. She did not exercise any retribution towards Mr. Schmidt or any other citizen on that day or any other day. She said this occurred because staff was implored by Mr. Sparks and Mr. Shea that the conduct of Mr. Schmidt was disruptive, rude, and preventing the orderly discharge of duties of the BOE during their hearings.

Ms. Foster notified the Board of a request from Mr. Hall on April 19, 2005 to include all of the tapes of the BOE meetings that were in possession as part of the record. She confirmed she had no objection to making them part of the record. She stated the tapes were from SNCAT; January 24, 2005 was not in the set of tapes; and those were not the official record of the proceedings. Ms. Foster informed Mr. Hall that she did not believe any of the Commissioners had watched the tapes in their entirety.

Commissioner Humke asked if any of the letters from citizens addressed Mr. Schmidt's performance. He commented that the letters he had read talked about issues dealt with by the State Legislature. He asked Mr. Hall to recount the accusations he was tying into this action under NRS 361.340(7).

Mr. Hall referenced e-mails in the packet and said he could find many that directly addressed Mr. Schmidt's character. Commissioner Humke disagreed and read e-mails that commented about property taxes and not about Mr. Schmidt.

Chairman Weber agreed with Commissioner Humke, and she stated many of the e-mails came from a certain group of citizens; and it was apparent many were concerning property taxes. She explained she did not read anything into the e-mail sent from the County Manager. She assessed from the e-mail that there had been an issue at the BOE meeting, and the County Manager discussed the matter with those who brought it forward to her.

Mr. Hall stated Mr. Sparks and Mr. Shea initiated the complaint and that was not what the transcript for the closed session said. The transcript stated the two of them were talking in an emotional tone, and Ms. Singlaub overheard them and went to talk to them.

Ms. Singlaub clarified that Mr. Shea and Mr. Sparks came into the Manager's Office asking for a Commissioner; and when they did not find a Commissioner, they asked for the County Manager. She said she sat down with them in the Manager's Conference room and discussed their concerns and desires.

Mr. Hall declared that whatever was observed was not unlawful because it was all recorded on tape; there was no illegality in those tapes; and that did not amount to malfeasance.

Chairman Weber acknowledged the Commission appoints people to serve on boards, and the appointees need to be respectful. She said the issue from her perspective was respect, and she added that was what she observed when she reviewed the tapes.

Commissioner Larkin inquired if Mr. Schmidt understood that the function of the BOE was to conduct hearings for property owners who wanted to appeal because they did not agree with the value placed on their property for tax purposes. He asked if Mr. Schmidt understood the terms he accepted when he was appointed.

In response to Commissioner Larkin, Mr. Hall said Mr. Schmidt thoroughly immersed himself in the law that applied to his office. He had no outside source of training; he was self-educated; and he understood the terms and conditions for which his appointment was made.

Chairman Weber acknowledged a public comment card from Sam Dehne, Reno resident, who had left the meeting. She read comments from Les Barta, area resident, which concerned possible actions to be taken against Mr. Schmidt.

Dale Akers, Incline Village resident, remarked he had observed Mr. Schmidt's conduct over the course of numerous BOE meetings and workshops; and Mr.

Schmidt showed himself to be energetic, prepared, knowledgeable, and unbiased. Mr. Akers urged the Board to support the retention of Mr. Schmidt on the BOE.

Commissioner Sferrazza said there was no evidence presented to convince him of any wrongdoing. Ms. Singlaub clarified all of the evidence was presented during the closed session that he did not attend. Commissioner Sferrazza stated there was no transcript, and he did not know what was presented. Chairman Weber acknowledged Commissioner Sferrazza had every opportunity since that meeting to obtain the information, and she commented that he had met privately with Mr. Schmidt.

Ms. Singlaub confirmed she had not seen a written transcript of the closed session; however, the people who made complaints were at the closed session, and they made comments. She said there was more to the closed session than the snippet tape. Ms. Singlaub recognized that Commissioner Sferrazza did not have the benefit of that full discussion and offered to supply any additional information.

Commissioner Galloway remarked the Board had a release of confidentiality, and the tape was available if anyone wanted to see it. He said he did not believe that anything he saw rose to the level of malfeasance or negligence, and he supported taking no action against Mr. Schmidt.

Ed Griffith, area resident, said the Board should rise above their loyalty to the County Manager and look at the facts. He stated the most the Board could do was censure Mr. Schmidt, but anything more would be showing a bias.

Commissioner Galloway acknowledged that no one from the Assessor's Office asked him to censure Mr. Schmidt or take action against him because of his position on issues.

Commissioner Humke asked about the two parts to NRS 361.340(7), and Ms. Foster commented on malfeasance and defined neglect of duty. She explained the Board would need to be contented that there was clear and convincing evidence presented that the conduct rose to the level of neglect of duty in terms of any action the Board might take.

Commissioner Larkin stated this was a personnel issue, and the performance/conduct of persons appointed to various boards and commissions was a sensitive issue. He affirmed the performance he witnessed in the tapes was not conducive to the business of the BOE, and it was clear there had been a transgression by Mr. Schmidt. Commissioner Larkin acknowledged that transgression needed to be punished, and the appropriate punishment fell under the standard of neglect of duty. He said it did not rise to removal, but it should be more than censure.

Commissioner Sferrazza asked if Mr. Schmidt had the right to request that the hearing be open. Ms. Foster responded he had the right to request it; and it was within the Board's purview not to open the closed session, and that was the decision of

the Board that day. She clarified Mr. Schmidt had spoken publicly about those proceedings; therefore, it was not out of turn for the Board to refer to the matters observed in the proceedings.

Chairman Weber said she respected the fact that it was a closed session hearing, and she had no communication with anyone from the public, although much e-mail was received from citizens of Incline Village. She stated it was not about their issue from her perspective. Commissioner Weber explained when she sent the letter to Mr. Schmidt, it was to bring him before the Board of County Commissioners as a whole. She said the Commission would do that with any position on any board, as there was a protocol, a respect, and a behavior of conduct required for those who served on boards and committees.

Commissioner Humke stated it was incumbent upon the Board to make a good record of the proceedings because he had little doubt that this would go to litigation. He acknowledged he had not seen the additional materials presented by Mr. Schmidt at this meeting, and he requested time to look at the materials before voting on any motion that would be offered.

Chairman Weber inquired about a continuance, and Ms. Foster responded the Board could request that the item be continued to a date certain. She said it would be appropriate to consider the materials before making a decision on the matter.

Commissioner Humke moved to continue the item concerning possible action or no action of BOE member Mr. Schmidt to the May 17, 2005 meeting, and the submission of any additional materials from Mr. Schmidt or Mr. Hall must be presented by May 2, 2005 at 5:00 p.m. Chairman Weber seconded the motion.

Commissioner Sferrazza requested the tape be played in an open meeting, or he would not consider it. Chairman Weber stated the only portion of the tape that would be played publicly would be the snippet tape, and Commissioner Sferrazza agreed.

Commissioner Galloway said the importance of the additional material was relevant to those who were trying to decide whether there was enough in the complaint to possibly make a decision other than no action. He confirmed he would look at the additional materials to see if there was anything that might be relevant, but he was doubtful that the materials would influence his position.

Commissioner Sferrazza said the Board should require that the charges be in writing. Chairman Weber asked Ms. Foster to prepare a document for the Board that would state all of the points. Ms. Foster confirmed she could submit a staff report by May 6, 2005, and Mr. Hall accepted the date of the report.

Nancy Parent, Chief Deputy Clerk, explained the snippet tape that had been referenced was part of the closed session and locked in the vault. Ms. Foster said she would work with Mr. Hall and the Clerk's Office to ensure there would be a good

tape for the continued meeting so it could officially be made part of the record of the open session and any decisions.

Commissioner Humke said it would be prudent for the Board to require that Mr. Schmidt offer his copy of the tape as evidence because of his waiver of confidentiality. Mr. Hall submitted the tape for the record.

Commissioner Sferrazza said he never discussed this case with Mr. Schmidt, and Chairman Weber confirmed she had no private conversations with Mr. Schmidt.

On call for the question, the motion passed on a 4 to 1 vote, with Commissioner Sferrazza voting, "no."

**05-389 AGREEMENT – STEAMBOAT CANAL AND IRRIGATION
COMPANY – STEAMBOAT DITCH – WATER RESOURCES –
PUBLIC WORKS**

Chairman Weber remarked that Michael Pagni, representative from the Steamboat Canal and Irrigation Company, submitted a public comment card in support of the agreement, but was no longer in attendance at the meeting.

Upon recommendation of Jeanne Ruefer, Water Resources Planning Division Manager, and David Price, County Engineer, through Steve Bradhurst, Water Resources Director, and Tom Gadd, Public Works Director, on motion by Commissioner Galloway, seconded by Commissioner Larkin, which motion duly carried, it was ordered that an agreement between Washoe County and Steamboat Canal and Irrigation Company, concerning use and maintenance of the Steamboat Ditch for Stormwater Management, in the amount of \$170,007 be approved and Chairman Weber be authorized to execute the same.

05-390 TRUCKEE RIVER FLOOD MANAGEMENT PROJECT UPDATE

On motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, Chairman Weber ordered that the status report on the Truckee River Flood Management Program be accepted.

**05-391 CREATION OF SPECIAL ASSESSMENT DISTRICT – WASHOE
COUNTY RESIDENTS – SEPTIC SYSTEMS TO SEWER**

County Manager Katy Singlaub explained that Commissioner Sferrazza requested this item on behalf of some of his constituents who were asked to connect to sewer lines when they were annexed into the City of Reno. She said a special assessment district (SAD) could be created in the unincorporated area, but the County could not create a SAD in the City of Reno.

Melanie Foster, Legal Counsel, clarified a SAD could only be done in the City of Reno with the consent of the City. She said she researched other ways that governments had dealt with similar issues, and she offered to discuss that with Commissioner Sferrazza.

Commissioner Sferrazza confirmed he was requesting that these residents be treated the same as residents who live elsewhere in the County. He said the Board should try to get grants and/or funds to assist them when they are forced by the Washoe County Board of Health to hook-up to a sewer. Commissioner Sferrazza explained creating a SAD would not cost the general fund anything, but it would enable these residents to enjoy the same benefits as other residents of Washoe County. He added they would be able to hook-up to the sewer, and they would reimburse the County for those costs over a period of time. He stated the County should work together with the City of Reno to make this happen.

Ms. Singlaub said she would welcome a motion to direct staff to come back with a future agenda item outlining the options and the legal and financial considerations regarding possible formation of a SAD for that purpose.

Commissioner Galloway requested the item be specific, as he was not in support of a giant assessment district.

Todd Smith, Reno Renovators, spoke on behalf of Tom and Vicki Libro, homeowners, who were offered no assistance to hook-up and connect to a sewer line.

Chairman Weber read a public comment card from Sam Dehne, Reno resident, who had left the meeting.

On motion by Commissioner Galloway, seconded by Commissioner Sferrazza, which motion duly carried, Chairman Weber ordered that staff be directed to work with Commissioner Sferrazza on SAD options or other options that would address the problem.

REPORTS/UPDATES FROM COUNTY COMMISSION MEMBERS

Commissioner Larkin said the Regional Planning Governing Board (RPGB) and the Regional Transportation Commission (RTC) had asked their staffs to consider the information repository that the RPGB had started, and the staffs were asked to supplement their 2005/06 budgets for that purpose. He requested the County Manager consider that and bring an item to the Board concerning the utilization of the map resource and having one place for citizens to go to get mapping information.

COMMUNICATIONS AND REPORTS

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

COMMUNICATIONS:

- 05-392** A. Letter dated March 31, 2005 from Amy Harvey, County Clerk, to Bonnie Weber, Chairman of the Washoe County Commission, regarding a letter from Allan Jensen, Esq., representing George Avanzino in a demand for refund of taxes on APN's 012-280-66, 012-280-71, 012-280-73, and 12-280-75 for taxable years 1998/99 through 2004/05.

- 05-393** B. Regulations for Child Care Facilities, November 15, 2004

05-394 **REPORTS – MONTHLY (February 2005)**

- A. County Clerk's
- B. Clerk of the Court

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There being no further business to come before the Board, the meeting adjourned at 6:25 p.m. to a closed session for the purpose of discussing negotiations with employee organizations.

*Minutes Prepared by:
Lori Rowe, Deputy County Clerk*