

BOARD OF COUNTY COMMISSIONERS, WASHOE COUNTY, NEVADA

TUESDAY

2:00 P.M.

SEPTEMBER 26, 2006

PRESENT:

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

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

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

06-1047 AGENDA

In response to the call for public comment, Sam Dehne objected to the two-minute time limit for public comment and requested it be reinstated to three minutes.

***2:10 p.m.** Commissioner Sferrazza arrived at the meeting.

In accordance with the Open Meeting Law, on motion by Commissioner Humke, seconded by Commissioner Weber, which motion duly carried, Chairman Larkin ordered that the agenda for the September 26, 2006 regular meeting be approved with the following changes: **Delete** Item 10, Approval of FFY 2006 Department of Homeland Security Grants and **Add** Item 28A, Update Washoe County Technology Strategic Plan and Item 28B, Introduction and First Reading of an Ordinance concerning changes to the Information Technology Department.

06-1048 ACKNOWLEDGE WASHOE COUNTY PURCHASING
DEPARTMENT – ACHIEVEMENT OF EXCELLENCE IN
PROCUREMENT

John Balentine, Purchasing and Contracts Administrator, introduced the Purchasing Department staff that was present and accepted the award on behalf of the entire Purchasing team.

In response to the call for public comment, Sam Dehne commented on this being the eleventh consecutive time the Purchasing Department received the award. He wondered what the award was for and how many awards were made nationwide.

Katy Singlaub, County Manager, stated the award was based on the review of professionals in the purchasing field and reflected efficiency, integrity, cost effectiveness, and other measures. Mr. Balentine explained this year 161 awards were presented throughout the country regardless of the size of the government entity. He said the award was based on 100-point criteria, and six departments had received the award since its inception in 1995. He listed the sponsors of the award. He stated the award was unique because every year the bar was raised to ensure the recipients were in the forefront of procurement techniques, and he discussed what had been added this year.

Upon recommendation of Mr. Balentine, through John Sherman, Finance Director, on motion by Commissioner Sferrazza, seconded by Commissioner Humke, which motion duly carried, Chairman Larkin ordered that the receipt by the Washoe County Purchasing Department for the eleventh consecutive year of the National Purchasing Institute's Achievement of Excellence In Procurement Award for 2006 be acknowledged.

06-1049 PUBLIC COMMENT

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

Guy Felton read from a prepared statement asking the Commissioners about restricting free speech, Election Day volunteers who did not show up, a secret computer code for counting votes, the Ballardini lawsuit, County policies not adopted, and throwing people out of meetings. A copy of his statement was placed on file with the Clerk.

Carter King felt this kind of interaction and the two minutes were important to people.

Sam Dehne voiced his concerns regarding the County and freedom of speech and the two-minute rule for public comments.

Debra Park conducted a PowerPoint presentation regarding flooding concerns from residents of Toll Road, which was placed on file with the Clerk. She also placed on file with the Clerk a petition that contained over 200 signatures asking the County and the Bureau of Land Management (BLM) to take specific steps to minimize future property damages in the Toll Road area. Lynette Anninos continued the PowerPoint presentation and discussed pictures of her and her neighbors' property damage that occurred during the most recent New Year's Eve flood. She said the County and the BLM needed to use due diligence to prevent this from happening again. She stated there were culverts that needed cleaning, which the County had not been out to do.

06-1050 COMMISSIONERS'/MANAGER'S ANNOUNCEMENTS

Commissioner Humke responded to Debra Park's public comment stating he spoke with David Jones under the belief that Mr. Jones represented all of the people from that area. He indicated Public Works held a meeting regarding the flooding, and he assured the public that staff would issue a report when they had an answer. He said what was described appeared to be an act of God, so he was not sure the County could affect that or cause the federal government to cooperate.

Katy Singlaub, County Manager, responded Toll Road was a private road that had been improperly graded in violation of a permit, which was a separate issue that Mr. Jones referred to. She said the damage from 2005/06 New Year's Eve flood was being inventoried and mapped so Public Works and the County's flood control staff could create a master plan for mitigation of the 17 damage clusters.

Commissioner Weber requested Public Works provide the Board with an update on the projects being done.

Chairman Larkin stated Public Works had supplied the Board with a listing of all roads that were identified as requiring County maintenance. He requested they also inventory all of the roads requiring maintenance that were not County roads but were in the County's jurisdiction. He announced that he and the Regional Transportation Commission were hosting a session on the Pyramid Way Intersection reconstruction on Wednesday, September 27th. He said he attended a Pyramid Lake Indian Tribe lower river summit and requested preparation of a staff report on the outcome of the summit.

Commissioner Galloway reported the County had improved Kivett Lane, which had been receiving substantial runoff from higher up in the Toll Road area. He said much of the runoff was going over private property. He felt the solution might not lie with County roads, but with monitoring culverts and drainage over private property. He suggested doing an inventory of public and private culverts and drains that needed to be kept clean. He indicated they should be monitored so they would be cleaned before the start of the winter flood season. Commissioner Galloway stated on September 27th the Tahoe Regional Planning Agency was going to reconsider a motion for a project in the City of South Lake Tahoe. He said it would be the first time a private party would be conditioned on a development to provide workforce deed restricted affordable housing.

He explained at least one-family member occupying the unit would have to be employed in the Tahoe Basin. He said this was not low-income affordable housing, but housing a teacher could afford. He stated employers were eager for this type of housing so employees would not have to travel over bad roads during the winter. Commissioner Galloway indicated he was against the request to put off the Shorezone Ordinance because it was the best deal for the public and it was time to do it.

Commissioner Sferrazza requested disclosure of the election workers' names that failed to show up on Election Day. He alerted the Board about the discussion of two legislative items that might be controversial to the Commission at the next Reno-Sparks Convention and Visitors Authority (RSCVA) meeting. He said one involved using the car tax for a new livestock event center if it was not used for a baseball stadium and the other was to eliminate Washoe County's approval on the disposal of RSCVA properties. He said if these issues were of concern to the Commissioners, it was important that the RSCVA know about them. He requested the information about the next free dump day at the Lockwood Landfill be provided to the public as there was some confusion about the date. Ms. Singlaub replied that would be publicized.

Ms. Singlaub announced the County's bond rating had been upgraded.

3:00 p.m. Commissioner Humke temporarily left the meeting during discussion of the consent agenda.

06-1051 **MINUTES**

In response to call for public comment, Sam Dehne acknowledged he was removed from the meeting of June 27th, not July 18th; and he discussed his removal.

Nancy Parent, Chief Deputy Clerk, stated staff listened to and transcribed the tape of the July 18th meeting in response to citizen questions about the accuracy of the minutes. She indicated the minutes accurately reflected what Gary Schmidt said. She said staff had also researched the Nevada Revised Statutes, which stated, "...including substance of remarks...if he requested the minutes reflect his remarks." She stated staff did exactly as charged, and the minutes were accurate and complete. She said Mr. Dehne's assertion that he was removed from the July 18th meeting was incorrect; he was removed from the June 27th meeting.

Commissioner Weber commented that the Commission appreciated the hard work done by the Clerk's Office. She felt taxpayers should be outraged that the Clerk's Office had to go back to try to find a mistake. She felt it was good that this was clarified, but a tremendous amount of time was taken to research this.

In response to Chairman Larkin, Ms. Parent described the procedure used to produce the minutes; and she indicated three sets of eyes look at the minutes before they come to the Board. She said the tapes of the meeting were kept for five years, and there were frequent requests for the tapes.

Chairman Larkin thanked the Clerk's Office for the stellar job they do.

On motion by Commissioner Galloway, seconded by Commissioner Weber, which motion duly carried with Commissioner Humke temporarily absent, Chairman Larkin ordered that the minutes of the regular meeting of July 18, 2006 be approved.

06-1052 RETROACTIVE EXPENDITURE – ALL EMPLOYEE FAMILY PICNIC – EXPENDITURE – EMPLOYEE RECOGNITION BREAKFAST – MANAGEMENT SERVICES

Upon recommendation of Julie Skow, Administrative Assistant II, through John Slaughter, Management Services Director, on motion by Commissioner Weber, seconded by Commissioner Galloway, which motion duly carried with Commissioner Humke temporarily absent, Chairman Larkin ordered that the retroactive expenditure for the September 14, 2006 All Employee Family Picnic in an amount not to exceed \$5,000 and the expenditure for the October 5, 2006 Employee Recognition Breakfast in an amount not to exceed \$1,600 be approved.

06-1053 BUDGET AMENDMENTS – PUBLIC HEALTH PREPAREDNESS GRANT – HEALTH

Upon recommendation of Patsy Buxton, Fiscal Compliance Officer, through Eileen Coulombe, Administrative Health Services Officer, on motion by Commissioner Weber, seconded by Commissioner Galloway, which motion duly carried with Commissioner Humke temporarily absent, Chairman Larkin ordered that the following amendment to the District Health Department Fiscal Year 2006/07 Public Health Preparedness Grant Program budget be approved and the following account transactions be authorized:

ACCOUNT NUMBER	DESCRIPTION	AMOUNT OF INCREASE
2002-IO-10534-431100	Federal Revenue	\$77,900
2002-IO-10534-710100	Professional Services	\$10,200
2002-IO-10534-711504	Equipment-Non Capital	\$4,088
2002-IO-10534-781004	Equipment-Capital	\$63,612
	Total Expenditures	\$77,900

06-1054 SEXUAL ASSAULT MEDICAL CARE PAYMENT – DISTRICT ATTORNEY

Pursuant to NRS 217.280 to 217.350, on motion by Commissioner Weber, seconded by Commissioner Galloway, which motion duly carried with Commissioner Humke temporarily absent, Chairman Larkin ordered that payment with funds from the District Attorney's account designated Sexual Assault Victims Expenses be authorized

for initial emergency medical care for 81 sexual assault victims in the amount totaling \$15,306.11 and for follow-up treatment (up to \$1,000) for victims, victim's spouses and other eligible persons as set forth in a memorandum from Kim Schweickert, Program Assistant, District Attorney's Office, dated September 1, 2006.

**06-1055 ROLL CHANGE REQUESTS FOR FACTUAL ERRORS FOR
2005/06 PERSONAL PROPERTY TAX ROLL – ASSESSOR**

Upon recommendation of Mark Stafford, Senior Appraiser, on motion by Commissioner Weber, seconded by Commissioner Galloway, which motion duly carried with Commissioner Humke temporarily absent, it was ordered that Roll Change Requests 06-01 through 06-97 for businesses closed prior to the July 1, 2005 Lien Date Tax Year 2005 be approved for a cumulative reduction in the amount of \$16,799.31 and the Chairman be authorized to execute Exhibit A, which was placed on file with the Clerk. It was further ordered the Treasurer be directed to make the necessary refunds of adjustments to the tax bill and correct the tax roll.

**06-1056 WASHOE COUNTY FINANCIAL TRENDS MONITORING
SYSTEM REPORT – FINANCE**

Chairman Larkin asked if the 35 percent growth in the cost of fringe benefits posed a danger for the County. Katy Singlaub, County Manager, replied one of the extraordinary costs that was causing concern was the County's heart/lung liability that was presumptive as being work related in Nevada. She commented the newly instituted wellness program was expected to deal with some of the rising health care costs. Chairman Larkin indicated he wanted to know the County's strategy.

Commissioner Galloway said staff came before the Board with concerns on unfunded liabilities since he had been on the Board, but he felt the County had shown more foresight than most. He discussed the heart/lung issue with the presumption the problem was caused by a person's job.

Commissioner Sferrazza stated the real issue was with disability payments not medical costs. Ms. Singlaub said in 1997 the County terminated the practice of paying for full retiree health insurance benefits for employees hired after 1997. She said the County had been contributing towards future liability annually, but she confirmed there was a larger liability than the County was currently paying.

Ms. Singlaub said the Financial Trends Monitoring System (FTMS) was a best practice national system of looking at trends and indicators of financial performance; and she believed, because these things were paid attention to on a regular basis, it was part of the reason the County's bond rating was upgraded.

Pam Fine, Senior Fiscal Analyst, conducted a PowerPoint presentation evaluating the County's fiscal condition for fiscal years 1995/96 to 2004/05 using the FTMS, which was placed on file with the Clerk. She discussed the warning trends, where

Washoe County was, and future actions. She stated the full report was available on the County's website.

Commissioner Sferrazza asked if there was a trend for the total salary package. Ms. Fine replied full benefits were trended in the complete report. She said staff felt trending the cost of benefits in the budget system was more reflective of the true costs than showing actual costs. She stated turnover could skew the figures.

Commissioner Sferrazza said he was asking about the total compensation package that included salaries. Ms. Fine stated a cost of living increase was added to total salaries and wages every year, which made salaries go up. She could provide an analysis of the salary percentage increase and the benefit costs percentage increase. Commissioner Sferrazza indicated he wanted that analysis along with a warning trend for gross salaries.

Commissioner Galloway felt the main message was that benefits were outstripping the base salary. Ms. Fine clarified three warning trends were emerging and steps had already been taken to mitigate them. She said the slides were only a sampling of the trends. She stated the emerging warning trends were fringe benefits, the cost of future medical claims, and the maintenance level required for County buildings and parks. She said future medical claims came out of a risk management liability fund, which the County had been adding money to when it could.

In response to Chairman Larkin, Ms. Fine replied the International City/County Management Association (ICMA) did not have a warning trend for overall salary and budgets. She said the ICMA did not have hard and fast rules but gave boundary recommendations.

Chairman Larkin said the operating surplus deficit gradually trended up to 6.2 percent for fiscal year 2004/05, and he asked if there was an ICMA recommendation for a County this size. Ms. Fine replied the ICMA only issued benchmarks for certain indicators. She said she was unable to locate that specific benchmark but could research it further. Chairman Larkin affirmed he would like that done, and he discussed the issue.

Ms. Fine commented the County had stayed within the three percent budget accuracy rate benchmark during the last ten years.

Commissioner Sferrazza said he was concerned because the property values trend indicated an increase of 8.2 percent, but the median home price was going down in the County. He asked if the County should be looking at actual prices. He said, if the County experienced the same drop as nationally, it could affect the assessed valuation. Ms. Fine replied getting more current data quickly was the answer to reacting to those kinds of trends. She indicated the report would be updated annually, and she planned to bring the 2006 data back right away so those affects could be seen.

Commissioner Sferrazza requested median home prices be included along with the assessed valuation as a warning trend because that information would be more

current. Ms. Singlaub clarified this was done when there were audited final numbers, and these numbers were from 2004/05. She said Commissioner Sferrazza was proposing an early warning system that would be appropriate to be done outside of this fitness process. She stated it could be done now, and it could take into account the current home sale price issues in preparation for next year's budget. She commented the point was well taken and staff would be looking at the implications for next year.

Commissioner Galloway reminded everyone there had been a substantial rise in prices before the decline, and no one should panic because of the decline.

Upon recommendation of Lisa Gianoli, Budget Manager, through John Sherman, Finance Director, on motion by Commissioner Weber, seconded by Commissioner Galloway, which motion duly carried with Commissioner Humke temporarily absent, Chairman Larkin ordered that the Washoe County FTMS report outlining fiscal, economic, and demographic trends updated for the 10-year period through June 30, 2005 be accepted.

06-1057 RECLASSIFICATION REQUESTS – HUMAN RESOURCES

Upon recommendation of Joanne Ray, Human Resources Director, through John Berkich, Assistant County Manager, on motion by Commissioner Weber, seconded by Commissioner Galloway, which motion duly carried with Commissioner Humke temporarily absent, Chairman Larkin ordered that the following reclassification requests submitted through the job evaluation and classification process be approved:

Department	Current Position	Pay Grade	Recommended Job Class	New Pay Grade
District Attorney	Law Office Manager	Q	Law Office Manager	R
District Attorney	Family Support Program Manager	R	Family Support Program Manager	Q
District Attorney	Legal Secretary	I	Victim Witness Advocate	I
Health – CCHS	Licensed Practical Nurse	J	Public Health Nurse II (.80 FTE)	N(O)

Pay Grade	Hourly Rate	Annual Salary
I	\$19.33 - \$25.12	\$40,206.40 - \$52,249.60
J	\$20.52 - \$26.68	\$42,681.60 - \$55,494.40
N	\$25.90 - \$33.67	\$53,872.00 - \$70,033.60
N(O)	\$27.42 - \$35.64	\$57,033.60 - \$74,131.20
Q	\$31.03 - \$40.33	\$64,542.40 - \$83,886.40
R	\$33.16 - \$43.12	\$68,972.80 - \$89,689.60

It was further ordered that the increase of a part-time Family Support Specialist position (.53 FTE) to a full-time Family Support Specialist position (1.0 FTE)

by abolishing a vacant part-time Family Support position (.53 FTE) and abolishing a Park Planning Project Coordinator position and creating a Park Planner position be approved.

APPOINTMENTS – CENTRAL CITIZEN ADVISORY BOARD

On motion by Commissioner Weber, seconded by Commissioner Galloway, which motion duly carried with Commissioner Humke temporarily absent, Chairman Larkin ordered that Jan R. Chastain, Robert Stanwyck Challender, Christopher Campos, and Roberta M. Jantz be appointed as At-Large members to the newly formed Central Citizen Advisory Board with terms beginning September 26, 2006 and ending June 30, 2007. It was further ordered that Mary Beth Vestal-Knight, Jane Bowden, and Alex Kukulus be appointed as At-Large members to the newly formed Central Citizen Advisory Board with terms beginning September 26, 2006 and ending June 30, 2008.

06-1059 FIRST AMENDMENT TO LEASE AGREEMENT – DR. ANASTASSATOS – 5295 SUN VALLEY BOULEVARD SPACE – PUBLIC WORKS

Upon recommendation of Mike Turner, Facility Management Division Director, through Tom Gadd, Public Works Director, on motion by Commissioner Weber, seconded by Commissioner Galloway, which motion duly carried with Commissioner Humke temporarily absent, it was ordered the 36-month First Amendment to the Lease Agreement between Washoe County and Dr. Anastassatos for renewal of the leased space located at 5295 Sun Valley Boulevard for use by the Senior Services Department for the period of October 1, 2006 through September 30, 2009 be approved and the Chairman be directed to execute the same. It was noted that annual funding of \$19,714 was available in Senior Services (250511-710600).

06-1060 RANCHO SAN RAFAEL REGIONAL PARK – EMPLOYEE HOUSING AGREEMENT – LORING LARSEN – PUBLIC WORKS

Commissioner Weber asked if there had been any consideration about some of the other regional parks qualifying for a ranger, such as the North Valleys Regional Sports Complex and the Sun Valley Community Center.

Al Rogers, Regional Parks and Open Space Assistant Director, said this was about the ranger residences. Commissioner Weber confirmed she was talking about having a resident ranger at those two sites.

Katy Singlaub, County Manager, indicated that was a policy question, and staff needed to examine the criteria of where a ranger should be located. She said it could be brought back to the Board for discussion.

Commissioner Sferrazza asked if the value of free housing was factored in as a job benefit. Mr. Rogers replied it was not a specific job benefit, but was in accordance with other County residences where additional security duties were included.

He stated the supplied housing had not attracted more people and was currently manageable with the interest level from staff appropriate to the available positions.

Commissioner Galloway indicated he was concerned the ranger was paid the same as other rangers not receiving this benefit. Tom Gadd, Public Works Director, replied there were several County properties where employees occupied homes. He said it did help the County in some of the outlying areas to fill positions and keep them filled, but it did add some inequity in areas that were not isolated. Commissioner Galloway requested the term of the agreement be for three years or the period of employment, whichever came first. He stated there was a contract with no termination date.

Ms. Singlaub clarified if an employee should change work assignments, be discharged or quit, or refuse to perform the duties described with respect to the premises, that would constitute a material breach of the agreement and the employee's rights under the agreement would be terminated.

Melanie Foster, Legal Counsel, indicated the County would be okay if this became a legal issue.

In response to Commissioner Sferrazza, Mr. Gadd replied there was no heating oil or propane at that site, which was why Sections 7.2 and 7.3 were deleted from the agreement. Ms. Singlaub said the agreement stipulated all utilities. Commissioner Galloway felt the language of the contract adequately covered the situation.

Upon recommendation of Mike Turner, Facility Management Division Director, through Mr. Gadd, on motion by Commissioner Weber, seconded by Commissioner Galloway, which motion duly carried with Commissioner Humke temporarily absent, it was ordered that the Employee Housing Agreement between Washoe County and Loring Larsen (a Washoe County Parks employee), concerning provision of and residing in a County-owned residence located within Rancho San Rafael Regional Park, be approved and the Chairman be authorized to execute the same. It was noted that Public Works, through its Facility Management Division, would provide on-going maintenance while the employee would pay all incurred utility expenses.

**06-1061 CASH DONATION – SOMERSETT DEVELOPMENT, LLC –
PURCHASE ID 500 CHILD ID LIVESCAN SYSTEM – SHERIFF**

In response to the call for public comment, Sam Dehne felt the donation of the ID 500 Child ID LiveScan System was buried in the consent agenda.

Upon recommendation of Michael Haley, Undersheriff, through Dennis Balaam, Sheriff, on motion by Commissioner Weber, seconded by Commissioner Galloway, which motion duly carried with Commissioner Humke temporarily absent, Chairman Larkin ordered that the acceptance of the donation from Somerset Development, LLC., and its Chief Executive Officer, Mr. Blake Smith, to the Washoe County Sheriff's Child ID Program in the amount of \$13,599.13 for purchase of a

CROSSMATCH Technologies, ID 500 Child ID LiveScan system be approved with the gratitude of the Board and the Budget Division be directed to make the following budget adjustments:

Account	Description	Amount
Increase Revenues:		
150830-484000	Patrol-Donations	\$13,599.13
Increase Expenditures:		
150830-711504	Patrol-Equipment Capital	\$13,599.13

**06-1062 SECURITY AGREEMENT – TODD JACKSON, DIRECTOR
XTERRA TRIATHLON – SHERIFF**

Upon recommendation of Bill Devine, Sergeant, through Dennis Balaam, Sheriff, on motion by Commissioner Weber, seconded by Commissioner Galloway, which motion duly carried with Commissioner Humke temporarily absent, it was ordered that the Security Agreement between Washoe County (Sheriff’s Office) and Todd Jackson, XTERRA Triathlon Director, concerning the provision of uniformed Deputy Sheriffs for security and traffic control for the XTERRA Triathlon with no fiscal impact to the County, in an estimated cost of \$5,120, be approved and the Chairman be authorized to execute the agreement.

**06-1063 APPOINTMENT/REAPPOINTMENTS – WELL MITIGATION
HEARING BOARD**

On motion by Commissioner Weber, seconded by Commissioner Galloway, which motion duly carried with Commissioner Humke temporarily absent, Chairman Larkin ordered that Scott Tyler be appointed to the Well Mitigation Hearing Board for a one-year renewable term effective October 1, 2006 and the terms of David Carlson, Pete Morros, Greg Pohll and Karen Rosenau be renewed effective October 1, 2006.

**06-1064 INTERLOCAL AGREEMENT – TRUCKEE MEADOWS WATER
AUTHORITY – COMMERCIAL AND RESIDENTIAL WATER
AUDIT PROGRAM – REGIONAL WATER PLANNING
COMMISSION**

Upon recommendation of Jim Smitherman, Program Manager, and Jeanne Ruefer, Planning Manager, through Steve Bradhurst, Water Resources Director, on motion by Commissioner Weber, seconded by Commissioner Galloway, which motion duly carried with Commissioner Humke temporarily absent, it was ordered that the Interlocal Agreement between Washoe County and the Truckee Meadows Water Authority (TMWA) for the Commercial and Residential Water Audit Program in fiscal years 2006/07 in an amount not to exceed \$45,000 to be paid from the Regional Water Management Fund be approved and the Chairman be authorized to execute the same.

06-1065

**INTERLOCAL AGREEMENT – CITY OF RENO – LOWER
STEAMBOAT CREEK ENHANCEMENT PROJECT – REGIONAL
WATER PLANNING COMMISSION**

Chairman Larkin said he had asked previously if Flood Control staff had reviewed this project and if it would impact the floodplain. He indicated he had not yet received a satisfactory answer to this question. Katy Singlaub, County Manager, stated she had an e-mail conversation with Water Resources and Flood Project staff last week about formalizing and strengthening the communication between those efforts.

Mahmood Azad, City of Reno Associate Civil Engineer, said the City was concerned about a project being built that reduced flood storage, which could also fill up with sediment further reducing the capacity to mitigate flows. He stated the City had hired someone from Foothill Associates to work with County staff on flood storage requirements, and the \$30,000 was to continue designing the project.

Chairman Larkin said he was concerned the wrong message could be sent to the Army Corp of Engineers (Corps) if any project was presented that was contra to the living river concept. Mr. Azad said they had been in contact with the Corps to make sure their needs were explicitly met by this project. Chairman Larkin said he wanted to make sure this project came before the Flood Project Coordinating Committee before it was finalized. Mr. Azad agreed and stated flood storage would be made essential to the project rather than being added as an afterthought.

Upon recommendation of the Regional Water Planning Commission, on motion by Commissioner Weber, seconded by Commissioner Galloway, which motion duly carried with Commissioner Humke temporarily absent, it was ordered that the expenditure of \$30,000 from the Regional Water Management Fund be approved and the Chairman be authorized to execute an Interlocal Agreement with the City of Reno to provide matching funds for the Lower Steamboat Creek Enhancement Project.

06-1066

**INTERLOCAL AGREEMENT – UNIVERSITY OF NEVADA,
RENO BOARD OF REGENTS – WATER RESOURCES**

In response to Chairman Larkin, Mike Widmer, Senior Hydrogeologist, stated the data was being purchased from the European Space Agency. He explained the University of Nevada, Reno, was doing the technical processing of the data; and it would be transferred to the County archive once the data was processed and quality assured. He said an annual report would be made to the Regional Water Planning Commission as a summary of work done and noting any unusual changes. He indicated this data was strictly for groundwater.

Upon recommendation of Mr. Widmer, and Jeanne Ruefer, Planning Manager, through Steve Bradhurst, Water Resources Director, on motion by Commissioner Weber, seconded by Commissioner Galloway, which motion duly carried with Commissioner Humke temporarily absent, it was ordered that the expenditure of

\$42,000 from the Regional Water Management Fund be approved and the Chairman be authorized to execute an Interlocal Agreement with the Board of Regents, Nevada System of Higher Education, on behalf of the University of Nevada, Reno, to create a digital archive of satellite differential Interferometric Synthetic Aperture Radar ground observations on ground deformation (subsidence) for future groundwater use studies.

06-1067 GRANT OF EASEMENT – WATER LINE – SOUTH MEADOWS PROPERTIES LIMITED PARTNERSHIP – WATER RESOURCES

Upon recommendation of Thomas Kelly, Sr. Licensed Engineer, and Paul Orphan, Engineering Manager, through Steve Bradhurst, Water Resources Director, on motion by Commissioner Weber, seconded by Commissioner Galloway, which motion duly carried with Commissioner Humke temporarily absent, it was ordered that the Grant of Easement for the water line from South Meadows Properties Limited Partnership be accepted. It was further ordered that the Chairman be authorized to execute the Grant of Easement and that the Engineering Manager be directed to record the Grant of Easement with the County Recorder.

06-1068 NUTRITION GRANT AWARDS – DIVISION OF AGING SERVICES – HOMEBOUND MEALS PROGRAM – SENIOR SERVICES

Upon recommendation of Marietta Bobba, Senior Services Director, through John Berkich, Assistant County Manager, on motion by Commissioner Sferrazza, seconded by Commissioner Galloway, which motion duly carried with Commissioner Humke temporarily absent, Chairman Larkin ordered that the Fiscal Year 2006/07 Nutrition Grant Awards from the Division of Aging Services in the amount of \$328,600 (with a \$57,998 County match) for the Homebound Meals Program and \$196,580 (with \$34,690 County match) for the Congregate Meals Program for the period of October 1, 2006 through September 30, 2007 be accepted and the Finance Department be directed to make the following budget adjustments:

Account	Description	Amount of Increase
10110-431100	Home Delivered Meals – Federal Revenue	\$8,600
10110-710592	Home Delivered Meals – Nutrition Program	\$8,600
		Amount of Decrease
10109-431100	Congregate Meals – Federal Revenue	(\$1,081)
10109-710592	Congregate Meals – Nutrition Program	(\$2,081)
10109-711210	Congregate Meals – Travel	\$1,000

It was noted that the Congregate Meal Grant Award included \$1,000 in travel expenditures to allow up to two employees to attend the Senior Center Director’s Conference.

06-1069

**AMENDMENT – SALES AGREEMENT – TYLER
TECHNOLOGIES, INC., EAGLE DIVISION – UPGRADE
DOCUMENT RECORDING SYSTEM – RECORDER**

Upon recommendation of Larry Burtness, Chief Deputy Recorder, through Kathryn Burke, Recorder, on motion by Commissioner Sferrazza, seconded by Commissioner Weber, which motion duly carried with Commissioner Humke temporarily absent, it was ordered that the Amendment To Sales Agreement between Washoe County and Tyler Technologies, Inc., Eagle Division, (sole source) for the upgrade of the existing document recording system and the software support and maintenance agreement for same in the total amount of \$410,265 be approved and the Chairman be authorized to execute both agreements.

06-1070

**PURCHASE – DIGITAL CAMERAS AND ACCESSORIES –
CRIME SCENE INVESTIGATION – SHERIFF**

James Lopey, Assistant Sheriff, said Crime Scene Investigation (CSI) personnel currently had 20 cameras with four on order. He stated there were 35 CSI trained personnel within the Incline Village and Reno patrol districts who processed approximately 165 cases a month. He indicated Option C would outfit all of the remaining trained personnel.

In response to Commissioner Galloway, Assistant Sheriff Lopey said the digital cameras saved time because the memory card contents could be put in a digital software package before the card was placed into evidence. He stated this made the pictures immediately available for viewing by detectives. He explained with film cameras, the film would have to be processed before a detective could view the pictures; and more digital photos could be taken versus the 12 shots per canister available with film cameras.

Commissioner Sferrazza suggested waiting for prices to come down and establishing a refresh program. He stated instead of buying everything at once, four cameras could be bought now then another four, and so on continuously. Assistant Sheriff Lopey said the price of the cameras had gone down. He indicated the CSI unit needed the 200 memory cards because a card was placed into evidence when it was used and was not released until the case was adjudicated. He said some of the same equipment was requested through the General Fund, but the Department did not receive a lot of above base items during the budget process. He stated there were sufficient funds, but other items had been earmarked for those funds.

Upon recommendation of Assistant Sheriff Lopey, through Dennis Balaam, Sheriff, on motion by Commissioner Weber, seconded by Chairman Larkin, which motion duly carried with Commissioner Humke temporarily absent, it was ordered that Option D, the purchase of 12 cameras, flash attachments, and Pelican cases for a total of \$5,868 and 200 128 mb Secure Digital Cards in the amount of \$2,300 (\$11.50 each) for a total amount of \$8,168, be approved to maximize the effectiveness of crime scene

processing by qualified CSI personnel employed by the Washoe County Sheriff's Office Patrol Division. It was further ordered that the Budget Division be directed to make the necessary budget adjustments.

**06-1071 STATE HOMELAND SECURITY PROGRAM GRANT –
PERSONAL SERVICES CONTRACT – EMERGENCY
MANAGEMENT TRAINING – MANAGEMENT SERVICES**

Katy Singlaub, County Manager, said this was a statewide program that Washoe County was selected to lead.

In response to Chairman Larkin, Ms. Singlaub indicated proper auditing controls were in place; and consistent auditing was done, both internally and externally, on these Homeland Security grants.

In response to Commissioner Sferrazza, Ms. Singlaub said Emergency Management Training and Consultation Services was being engaged because this was a major project and the County's Emergency Manager was fully employed. She stated there were grant funds to help the County retain a consulting expert.

Dee Grimm, Emergency Management Training and Consultation Services Chief Executive Officer, explained they were a local consulting firm that worked with businesses throughout the country to develop disaster preparedness and emergency management consulting issues, and she discussed her 20 years emergency management experience.

In response to Commissioner Sferrazza, Ms. Grimm said she had worked with Aaron Kenneston, Emergency Management Administrator, who had asked her to give a recommendation for the program.

In response to Commissioner Sferrazza, Cathy Ludwig, Grants Coordinator, explained what the money was being used for.

Ms. Singlaub indicated the action before the Board today was to accept the grant and to issue the contract for the project management component to get the project going. She said the remaining contracts that were part of the statewide project would come back as they were issued.

Commissioner Galloway asked if approval had to be contingent upon the State of Nevada's concurrence. Ms. Ludwig indicated the County was the lead jurisdiction for this project, but everything was submitted to the Homeland Security Commission and approved prior to this Board action.

In response to Commissioner Sferrazza indicating he wanted to abstain, Melanie Foster, Legal Counsel, stated that under Nevada Law the basis for abstaining was a conflict of interest; and absent that, the advice of the Ethics Commission was to

vote. Commissioner Sferrazza said he would vote no because he did not have enough information about the contactor's selection or even a copy of the contract, which he felt he needed to make an informed decision.

Upon recommendation of Ms. Ludwig, through John Slaughter, Management Services Director, on motion by Commissioner Weber, seconded by Chairman Larkin, which motion duly carried with Commissioner Sferrazza voting "no" and Commissioner Humke temporarily absent, it was ordered that a State of Nevada 2006 State Homeland Security Program (SHSP) grant in the amount of \$445,527 with no County match be accepted and the Purchasing and Contracts Administrator be authorized to execute a personal services contract for project management in the amount of \$75,000 with Emergency Management Training and Consultation Services. It was further ordered that the Finance Department be directed to make the following fiscal year 2006/07 budget adjustments:

Account	Description	Amount
Increase Revenue:		
TBD-431100	Federal Grant Revenue	\$445,527
Increase Expenditure:		
TBD-710100	Professional Services	\$290,000
TBD-710502	Printing	\$65,000
TBD-711210	Travel	\$62,027
TBD-781004	Equipment < \$10,000	\$28,500
Total		\$445,527

06-1072 RESIGNATIONS/APPOINTMENT – VERDI TOWNSHIP CITIZEN ADVISORY BOARD

Commissioner Weber thanked Jim Nichols and John Heal for their service on the Verdi Township Citizen Advisory Board (CAB). She said the Verdi CAB had requested a change to reduce the membership requirement from seven members to five because they were having trouble getting a quorum with seven members. She stated the change would be coming before the Board on October 10th. She said, in the meantime, she was requesting consideration of appointing someone who owned a business in the Verdi Township but did not live there.

Commissioner Galloway remembered having a policy discussion on that issue but did not remember reaching any agreement. He asked if this would be making appointments in advance of making policy. He discussed the issue and suggested making an exception to the present policy since there was a pressing need.

In response to Commissioner Galloway, Adrian Freund, Community Development Director, confirmed the CAB member had to live within the boundaries of the CAB. He stated the motion would allow City of Reno residents to serve on the Verdi Township CAB and would not be a broad policy decision with respect to all CAB's.

In response to Chairman Larkin, Mr. Freund replied there was not a policy regarding a non-resident of the CAB district who owned a business within the district.

Commissioner Weber confirmed the address of the person was not within the CAB boundary.

Commissioner Galloway suggested adding to the third paragraph of the possible motion an exception to the residency requirement to allow appointment of this one person who was a business owner until the Board could come up with a policy. He stated this issue needed to be resolved because it was a business owner in this instance, but what if it had been a property owner.

Chairman Larkin asked for clarification on the exception rational for doing this. Commissioner Galloway explained it was because the CAB badly needed additional membership and the person was acceptable to Commissioner Weber.

On motion by Commissioner Galloway, seconded by Commissioner Weber, which motion duly carried with Commissioner Humke temporarily absent, Chairman Larkin ordered that:

1. The resignations of Jim Nichols and John Heal from the Verdi Township Citizen Advisory Board (CAB) be accepted, and
2. Staff be directed to allow City of Reno residents to serve on the Verdi Township CAB with such direction being recorded in the *CAB Member's Handbook*, and
3. An exception to the present rule of residency within the CAB boundaries be made because the proposed appointee was a business owner within the CAB boundaries, and
4. Bonnie Myers be appointed as an At-Large member to the Verdi Township CAB with a term beginning September 26, 2006 and ending June 30, 2007.

4:12 p.m. The Board recessed.

4:27 p.m. The Board reconvened with Commissioner Humke returning and Commissioner Sferrazza absent.

**06-1073 RESOLUTION – RESOLUTION RATIFYING ASSESSMENT
ROLL – SPECIAL ASSESSMENT DISTRICT NO. 37**

Upon recommendation of Joe Stowell, Licensed Engineer, and Paul Orphan, Engineering Manager, through Steve Bradhurst, Water Resources Director, on motion by Commissioner Galloway, seconded by Chairman Larkin, which motion duly

carried with Commissioner Sferrazza temporarily absent, it was ordered that the following resolution be adopted and the Chairman be authorized to execute the same:

RESOLUTION NO. 06-1073
(of Washoe County, Nevada)

A RESOLUTION CONCERNING WASHOE COUNTY, NEVADA, SPECIAL ASSESSMENT DISTRICT NO. 37 (SPANISH SPRINGS SEWER PHASE 1a); DETERMINING THE COST TO BE ASSESSED AND RATIFYING THE ASSESSMENT ROLL; RATIFYING THE ACTION PREVIOUSLY TAKEN; PROVIDING FOR RELATED MATTERS; AND PROVIDING THE EFFECTIVE DATE HEREOF.

WHEREAS, the Board of County Commissioners (herein “Board”) of the County of Washoe (herein “County”) in the State of Nevada, pursuant to an ordinance adopted October 25, 2005 (herein the “Creation Ordinance”), created Washoe County, Nevada, Special Assessment District No. 37 (Spanish Springs Sewer Phase 1a) (herein “District”), and ordered the acquisition and construction pursuant to Chapter 271, Nevada Revised Statutes, a sanitary sewer project as defined in NRS Section 271.200 and as hereinafter more specifically described as a sewer project (the “Project”); and

WHEREAS, the Board has authorized the proper officers of the County to execute a construction contract on behalf of the County in accordance with the Project, all as provided by law; and

WHEREAS, the Board has determined heretofore that the cost and expense of the Project is to be paid by special assessments levied against the benefited lots, tracts and parcels of land in said District; and

WHEREAS, on October 11, 2005, the Board considered all applications for hardship determinations and the recommendations of the Washoe County Department of Social Services and did not approve any applications for hardship determination; and

WHEREAS, the Board has determined and does hereby declare that the net cost to the County of all the improvements in the District (including all necessary incidentals which either have been or will be incurred in connection with said District) is \$5,091,725.09, of which \$1,069,082.81 is to be assessed upon the benefited tracts and parcels of land in the District for the Project.

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

Section 1. All action, proceedings, matters and things heretofore taken, had and done by the County and the officers thereof (not inconsistent with the provisions of this resolution) concerning the District, be, and the same hereby is, ratified, approved and confirmed.

Section 2. The total cost of the District to the County (including all necessary incidentals, which either have been or will be incurred in connection with said District) is hereby determined to be \$5,091,725.09, of which \$1,069,082.81 shall be paid by the assessable property in the District, as designated in the Creation Ordinance.

Section 3. The Board hereby ratifies an assessment roll for the District concerning, among other things:

(a) The name and address of each last-known owner of each lot, tract or parcel of land to be assessed, or if not known, that the name is “unknown”.

(b) A description of each lot, tract or parcel of land to be assessed, and the amount of the proposed assessment thereon, apportioned upon the basis for assessments heretofore determined by the Board in the Special Assessment District No. 37 (Spanish Springs Sewer Phase 1a) Creation Ordinance and as stated in the provisional order for the hearing on the Project.

Section 4. The assessment roll ratified herein has been furnished by the County Engineer (the “Engineer”) to the County Clerk. The assessment roll reported to the Board herein has been filed in the office of the County Clerk and numbered. The Engineer has submitted an executed certificate in the form provided in Subsection 3 of NRS 271.375, which certificate, duly executed, accompanied the assessment roll and was in the form as place on file with the Clerk.

Section 5. The officers and employees of the County be, and they hereby are, authorized and directed to take all action necessary or appropriate to effectuate the provisions of this resolution, including, without limiting the generality of the foregoing, the preparation of all further necessary legal proceedings, assessments rolls and lists, tabulations of parcels, and other items necessary or desirable for the completion of the District.

Section 6. All resolutions, or parts thereof, in conflict with the provisions of this resolution, are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any resolution, or part thereof, heretofore repealed.

Section 7. If any section, paragraph, clause or other provisions of this resolution shall for any reason be held to be invalid or unenforceable, the invalidity or

unenforceability of such section, paragraph, clause or other provisions shall not affect any of the remaining provisions of this resolution.

Section 8. The Board of County Commissioners has determined, and does hereby declare, that this resolution shall be in effect after its passage in accordance with law.

**06-1074 RESOLUTION CALLING A HEARING ON ASSESSMENT ROLL
– SPECIAL ASSESSMENT DISTRICT NO. 37 – PUBLIC WORKS**

In response to Chairman Larkin, Katy Singlaub, County Manager, indicated any protests, objections, or complaints would be heard on October 24, 2006.

Upon recommendation of Joe Stowell, Licensed Engineer, and Paul Orphan, Engineering Manager, through Steve Bradhurst, Water Resources Director, on motion by Commissioner Galloway, seconded by Chairman Larkin, which motion duly carried with Commissioner Sferrazza temporarily absent, it was ordered that the following resolution be adopted and the Chairman be authorized to execute the same:

**RESOLUTION NO. 06-1074
(of Washoe County, Nevada)**

A RESOLUTION CONCERNING WASHOE COUNTY, NEVADA, SPECIAL ASSESSMENT DISTRICT NO. 37 (SPANISH SPRINGS SEWER PHASE 1a); CAUSING THE ASSESSMENT ROLL FOR THE DISTRICT MADE BY THE BOARD OF COUNTY COMMISSIONERS TOGETHER WITH THE COUNTY ENGINEER TO BE FILED IN THE OFFICE OF THE WASHOE COUNTY CLERK; FIXING THE TIME AND PLACE WHEN COMPLAINTS, PROTESTS, AND OBJECTIONS TO THE ASSESSMENT ROLL WILL BE HEARD; PROVIDING FOR THE MANNER OF GIVING NOTICE OF THE FILING OF THE ASSESSMENT ROLL WITH THE COUNTY CLERK, OF OPPORTUNITY TO FILE WRITTEN COMPLAINTS, PROTESTS, AND OBJECTIONS, AND OF A HEARING CONCERNING THE ASSESSMENT ROLL; PRESCRIBING OTHER DETAILS IN CONNECTION THEREWITH; RATIFYING ALL ACTION TAKEN CONSISTENT WITH THE PROVISIONS HEREOF; AND PROVIDING THE EFFECTIVE DATE HEREOF.

WHEREAS, the Board of County Commissioners (herein “Board”) of the County of Washoe (herein “County”), and State of Nevada, pursuant to an ordinance adopted October 25, 2005 (herein “District Ordinance”), created Washoe County, Nevada, Special Assessment District No. 37 (Spanish Springs Sewer Phase 1a) (herein “District”) and ordered the acquisition and construction pursuant to Chapter 271, Nevada Revised Statutes, a sanitary sewer project as defined in NRS Section 271.200 and as hereinafter more specifically described as a sewer project (the “Project”), and to defray the entire cost and expense of such improvements by special assessments, according to benefits, against the benefited lots and premises in the District; and

WHEREAS, the Board has authorized the proper officers of the County to execute the appropriate documents for a construction contract on behalf of the County for the Project, all as provided by law; and

WHEREAS, such construction contracts have been executed; and

WHEREAS, the Board has heretofore determined that the cost and expense of the Project is to be paid by special assessments levied against the benefited lots, tracts and parcels of land in the District; and

WHEREAS, the Board has determined, and does hereby determine to issue and sell bonds to be hereafter issued by the County to pay for the cost of the Project; and

WHEREAS, NRS 271.360 provides that the Board may determine the cost of the Project to be assessed after making the construction contract, or after determining the net cost to the County, but not necessarily after the completion of the Project; and

WHEREAS, in accordance with NRS 271.360, the Board has determined the net cost to the County of all of the improvements in the District (including all necessary incidentals which either have been or will be incurred in connection with the District), which is to be assessed upon the benefited lots, tracts and parcels of land in the District; and

WHEREAS, the Board by a resolution duly adopted September 26, 2006, ratified an assessment roll; and

WHEREAS, the Board has determined, and does hereby determine, that all of the assessable property in the County which is specially benefited by the improvements to be acquired in the District, and only the property which is so specially benefited, is included on the assessment roll; and

WHEREAS, the Board has determined, and does hereby determine, that the notice for a hearing on the assessment roll which is provided for herein is reasonably

calculated to inform each interested person of the proceedings concerning the District which may directly and adversely affect his or her legally protected rights and interests.

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

Section 1. All action, proceedings, matters and things heretofore taken, had, and done by the County and the officers and employees thereof (not inconsistent with the provisions of this resolution) concerning the District, be, and the same hereby is, ratified, approved and confirmed.

Section 2. The total cost of the District to the County (including all necessary incidentals which either have been or will be incurred in connection with the District) has been and hereby is determined to be \$5,091,725.09, of which \$1,069,082.81 shall be paid by the assessable property in the District, as described and as provided in the District Ordinance.

Section 3. The assessment roll for the District has been examined by the Board, is tentatively approved, and is ordered filed in the office of the County Clerk this September 26, 2006.

Section 4. Tuesday, October 24, 2006 at 5:30 p.m., at the Commissioners Chambers, Washoe County Administration Complex, 1001 East Ninth Street, Reno, Nevada, be, and the same hereby is, fixed as the date, time, and place when the Board will hear and consider complaints, protests, and objections to the assessment roll, to the amount of each of the assessments, and to the regularity of the proceedings in making such assessments (whether made verbally or in writing) by the owners of the assessable property specially benefited by the improvements in "Washoe County, Nevada, Special Assessment District No. 37 (Spanish Springs Sewer Phase 1a)", and proposed to be assessed, or by any party or person interested, and by all parties or persons aggrieved by such assessments.

Section 5. The County Clerk shall give notice by publication in the Reno Gazette-Journal, a newspaper of general circulation in the County, and published at least once a week, for three consecutive publications, by three weekly insertions, the first such publication to be at least 15 days prior to the date of the protest hearing. It shall not be necessary that the notice be published on the same day of the week, but not less than 14 days shall intervene between the first publication in each newspaper and the last publication in the same newspaper. Such service by publication shall be verified by the affidavit of the publishers and filed with the County Clerk of the County. In accordance with NRS 271.380(2), the County Engineer (the "Engineer") shall also give notice by registered or certified mail by depositing a copy of such notice in the United States mails, postage prepaid, as first-class mail, at least 20 days prior to such hearing, to the last-known owner or owners of each tract being assessed at his or their last-known address or addresses. Proof of such mailing shall be made by the affidavit of the Engineer and such

proof shall be filed with the County Clerk, provided, however, that failure to mail any such notice or notices shall not invalidate any assessment or any other proceedings concerning the District. Proof of the publication and proof of the mailing shall be maintained in the permanent records of the office of the County Clerk until all special assessments and special assessment bonds issued (if such special assessment bonds are hereafter issued) appertaining thereto, shall have been paid in full, both principal and interest, or any claim is barred by an appropriate statute of limitations. The Board hereby determines that the manner of giving notice herein provided by publication and by registered or certified mail is reasonably calculated to inform the parties of the proceedings concerning the District and the levy of assessments which may directly and adversely affect their legally protected interests. Such notice shall be as provided in NRS 271.380 and shall be in substantially the form placed on file with the Clerk.

Section 6. The owner or owners of any lot, tract or parcel of land which is assessed in such assessment roll, whether named or not in such roll, or any person interested, or any parties aggrieved, may, within three days prior to the date set for the hearing, file with the office of the County Clerk his or her complaints, protests, or objections in writing to the assessment.

Section 7. Whenever any notice is mailed as herein provided, the fact that the person to whom it was addressed does not receive it shall not in any manner invalidate or affect the legality of the notice thereby given.

Section 8. The officers of the County be, and they hereby are, authorized and directed to take all action necessary or appropriate to effectuate the provisions of this resolution.

Section 9. All resolutions, or parts thereof, in conflict herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any resolution or part of any resolution heretofore repealed.

Section 10. If any section, paragraph, clause, or provision of this resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provisions shall in no way affect any remaining provisions of this resolution.

Section 11. The Board has determined, and does hereby declare, that this resolution shall be in effect immediately after its passage in accordance with law.

06-1075 **BID PROTEST – AWARD OF CONTRACT – NORTH SPANISH SPRINGS FLOODPLAIN DETENTION FACILITY – BID NO. PWP-WA-2005-303 – WATER RESOURCES**

This was the time to consider the bid protest filed by Q & D Construction, Inc. (Q & D), and the bid award for the North Spanish Springs Floodplain Detention Facility Project for the Water Resources Department.

Bids were received from the following vendors:

Peavine Construction, Inc. (Peavine)
Q & D Construction, Inc.
Sierra Nevada Construction
A & K Earth Movers, Inc.
Granite Construction Co.
Frehner Construction Co.

Steve Bradhurst, Water Resources Director, discussed the history of the bid request and the subsequent protest by Q & D as outlined in the staff report dated September 14, 2006. He said all plan holders were notified that this item would be before the Board today.

4:35 p.m. Commissioner Sferrazza returned to the meeting.

Commissioner Galloway asked if the Peavine bid of \$7,997,900 included removal of all material. Mr. Bradhurst explained Peavine's price included rough grading on the sedimentation basin. He said his discussions with Peavine indicated they were not aware the donor had reserved the excess material, and their Alternate 1 – Deduct Alternate would have them remove the material to a place they had available.

Mr. Bradhurst explained in the agreement the owner would donate the property in return for the ability to direct the County where to put the excess material so he could use it however he saw fit. Mr. Bradhurst confirmed the owner had not yet designated where that would be. He said the agreement signed on April 11, 2006 gave the owner 120 days to designate a site.

In response to Commissioner Galloway, Mr. Bradhurst indicated, when the bids were submitted, the companies did not realize the owner had reserved the material. He explained the base bid included everything including removing material from the sedimentation basin with Alternate 1 deducting the cost of excavating and moving the material.

Chairman Larkin asked if this contract would get the County what it wanted in Spanish Springs. Mr. Bradhurst replied there was a possibility that the County would be obligated to find a place to store the material until the owner tells the County where to put it. He said discussions with the owner indicated he would designate a place soon. He stated the County was looking for a place for the material. He said it was never intended the County would have to take the material, store it, and move it again.

Commissioner Weber asked if there was an urgency to start this project. Mr. Bradhurst replied he wished it were already done because there could be a storm at anytime, and it would take 180 days from the start of construction for the project to be finished.

Chairman Larkin asked what would happen if all bids were rejected and the bidding process was started again. Mr. Bradhurst said it would be brought back in two months. Chairman Larkin commented that would make the project's completion next summer, which was not acceptable.

In response to Commissioner Sferrazza, Mr. Bradhurst replied Alternate 1 was added to the document at the very beginning in the Notice to Contractors, and he explained Alternate 2 – Add Alternate. Commissioner Sferrazza asked if a contractor would normally ask for clarification if they did not understand a portion of the bid. Mr. Bradhurst indicated there were approximately ten clarification requests to staff a year. Commissioner Sferrazza asked if bids had ever been rejected because someone was unclear about the bid. Mr. Bradhurst said he did not recall any Water Resources' bids being rejected during the last five years.

Melanie Foster, Legal Counsel, explained the process the Board should follow. She indicated Q & D should be given sufficient time to present their case; otherwise, there could be problems if this matter ended up being contested in court. She said the Commissioners should have the full record from Q & D and should have all of their questions answered to make a determination on this matter.

Commissioner Sferrazza asked if Peavine could defend its bid. Ms. Foster replied the Board had Peavine's position clearly laid out through the material presented in the packet. She said the Board had the right to hear any additional evidence Q & D might want to add, and Peavine would have an opportunity to present their viewpoint.

Joe Serpa, Q & D Construction, Inc. Vice President, indicated they did ask for clarification. He stated Water Resources issued Alternate 1, which was a deductive change order for the owner moving the dirt. He stated Q & D asked during the pre-bid process how they were supposed to figure that out because the owner was not constrained by a timeframe. He said the County issued Alternate 2, which stated all of the dirt east of Pyramid Highway was the sole responsibility of the contractor. He confirmed Q & D felt that took Alternate 1 away, which was why they had a zero price for Alternate 1. He stated the staff report indicated the donor had decided not to move the dirt, which meant Alternate 1 was no good at this time.

After discussion identifying the documents being used, Mr. Serpa said Attachment 6, Meeting Minutes from AMEC Intrastructure, Inc., on Page 2, Item 14, indicated Alternate 1 went away if the owner did not move the dirt within 90 days and would be added to the bid. He said Alternate 1 had to be added to Peavine's bid because there was not an agreement with the owner, which did not make Peavine the low bidder. He said that was something during the bidding process over which the contractor had no control.

After further discussion, Commissioner Galloway asked if Q & D would be the low bidder if it was just the base bid. Mr. Serpa contended Q & D would be the low bidder because they went with Alternate 2 that said all of the dirt was the

responsibility of the contractor. He asserted Alternate 2 just went out the window if the County was in negotiations with the owner regarding the dirt.

In response to Chairman Larkin, Mr. Serpa said Q & D had been in this business for 40 years, but this had never happened before. He said Q & D felt they had followed the process, and he explained their bid again.

In response to Commissioner Sferrazza, Mr. Serpa pointed out that 8c in Attachment 7 stated, "Excess material generated east of Pyramid Highway shall be disposed of by the Contractor at his expense." He said that was the only dirt in question because the owner's dirt was east of Pyramid Highway, which was why it was included in Q & D's base bid.

Commissioner Humke asked if the dirt would have value if sold. Mr. Serpa said it would depend on how far it had to be transported and that value was part of Q & D's calculations.

After further discussion, Chairman Larkin asked why Q & D did not put in a bid for Alternate 1. Mr. Serpa replied Alternate 2 stated it was his responsibility to move the dirt so it went in the base bid. He asked how a deductive change order could be part of the bid when the contractor was responsible for moving the dirt. Chairman Larkin said he had no clue, but others saw and responded to that.

In response to the call for public comment, Jeff Paddock, Peavine Construction, Inc. representative, said he felt Q & D got the written answers from Water Resources to their questions during the pre-bid conference; and, if the answers were not satisfactory, they should have gotten further clarification. He indicated the documents provided were adequate to bid the job. He stated it was irresponsible to come out after the project with a protest because that statement and question should have been brought up before the project was bid. He believed the Commission had received multiple correspondences from other contractors and involved subcontractors that bid the project stating the bid documents were clear. He discussed the bid, and indicated addendums always supersede the original specifications in his experience. He said it was clear Q & D did not understand what the Department of Water Resources was asking for upon viewing the bid results, which could be considered non-responsive in some cases. He said Q & D did not give Water Resources the information staff needed to evaluate the project. He said, subsequent to submitting the bid, Peavine had been in contact with the owner; and he believed they had come up with an agreement that would satisfy everyone's needs and would remove the material at no additional cost to the County per the original bid. He said the job was bid fair and should be awarded to Peavine, and it would be unfair to the people that needed to be protected from potential flooding if all of the bids were rejected.

Mr. Jake Mahoney, Atlas Contractors President, said they were a subcontractor to Peavine on this project. He indicated they received and understood the bid documents. He stated they supported Peavine being awarded the bid.

Mike Springer, attorney for Peavine Construction, Inc., waived his public comment.

Carter King, Attorney, discussed the dirt. He said the County wrote the contract; and, if it went to court, the contract would be held against the writer.

The Chairman asked if anyone else had public comment. There being no response, public comment was closed.

Commissioner Sferrazza said it was unclear who the low bidder was because it was based on who had to remove the dirt.

Mr. Bradhurst explained in the instructions to bidders, Attachment 5, Item 12 was important, and he read the item. He said that indicated to bidders they needed to supply a base bid and a deduct as the basis for the bid award. He stated Commissioner Sferrazza's question was what would Peavine or Q & D do based on the information available at this time with the excess material from the sedimentation basin. He indicated the material would have to be removed in both instances. He stated Alternate 1 was viable until the bids were opened, but was not any longer.

Commissioner Sferrazza said Alternate 1 was not being subtracted any longer, which made Q & D the low bidder. Mr. Bradhurst replied that was not true based on the instructions to the bidders in terms of how the award would be made. He said the award would be based on the base bid with the deduct bid Alternate 1, which would be \$7,997,900. Commissioner Sferrazza stated he had a problem paying Peavine almost \$8 million instead of paying Q & D \$7,342,000. Mr. Bradhurst said that was because the material had to be removed. Commissioner Sferrazza said he believed the Board had the right to accept the alternate or not, which was why alternates were bid. Mr. Bradhurst reiterated the base bid and Alternate 1 would be together and would be the basis for the bid award. He said it was important that the bid be awarded per the bid instructions because of the owner's change of plans. Commissioner Sferrazza reiterated Q & D was the low bidder in his opinion.

Commissioner Galloway felt awarding the bid to Q & D would violate Item 12 in the instruction to bidders. He said now that the dirt could not be sold it could lead to a claim for more money, and a change order to not sell the dirt would have to be issued. He felt it could be the same situation if the bid was awarded to Peavine. Mr. Bradhurst clarified Peavine did not have selling the dirt in their bid, only its removal and disposal. Commissioner Galloway asked if the same could be assumed for Q & D. He asked if the bids were being rejected because it was not clear what was the best deal for the County. Mr. Bradhurst said there was some confusion identified by Q & D that needed to be looked at by the Board. He stated he wanted to be sure the Board was on firm ground when making the award. He said staff had indicated there was no confusion at the pre-bid conference, but his initial thought was to go ahead and hear what people had to say. He felt, based on discussions with legal counsel, if any confusion still existed regarding the bid instructions, that confusion would need to be considered. He said it was

also clear that those submitting bids did not know who owned the material and that they assumed they would own it. He stated it was a failure on staff's part for not including the information that the owner reserved the material.

In response to Commissioner Humke, Jeanne Ruefer, Planning Manager, referred to Attachment 6, which were the minutes of the pre-bid conference. She said the removal of dirt was discussed and there was no indication that Alternate 1 was eliminated. She explained Alternate 2 did not address Alternate 1 in any way. She said AMEC Infrastructure, Inc. was the engineering contractor for the design of the flood control project, and they ran the meeting and processed the minutes. She indicated they were summary minutes and there was typically no recording of a pre-bid conference. Commissioner Humke said he was willing to accept staff's statement as to what happened. He asked if the issue of ownership of dirt or the storage of dirt was clarified for the bidders. Ms. Reufer said her recollection was that was not addressed at the pre-bid conference.

In response to Commissioner Humke, Ms. Foster replied she could not take issue with Mr. Springer's assertions regarding the importance of the project or that the Board had to resolve the issue; and she was not persuaded by the case he cited for its applicability to this situation. Commissioner Humke agreed that point did not have a high bearing on this case. He asked if Mr. Springer's letter set out what was more or less the industry standard of bidding practice by contractors. Ms. Foster believed Mr. Serpa had indicated Q & D had questions that were asked, and they had based their bid upon that answer and the wording contained in Alternate 2. She did not disagree with the assertion that the documents required questions be asked if there was confusion. She said the way they were addressed was to provide the same guidance to all bidders. She agreed with Mr. King's assertion that these documents would be construed against the County as the drafting party. She said the advice to Mr. Bradhurst on the legal notice that went out was based on the confusion that arose from the issuance of Alternate 2. She indicated this matter was pulled from the original agenda to analyze the situation and to ensure there was adequate time for Q & D's protest to be addressed by this Board.

Chairman Larkin said Table 1 presented the bidder, base bid, Alternate 1, and the basis of the award. He said he had no way to know what the bidders' intent was, but could only react to what the documents say. He asked if the base bid called for the entire removal of the material to a spot, but did not imply ownership of the material. Ms. Ruefer replied that was correct and again explained Alternate 1. Chairman Larkin said the basis of the award was the base bid less Alternate 1. Ms. Ruefer stated staff decided to use those criteria to evaluate the bids, which was described in the instructions to bidders that were advertised. She felt the criteria should not have been a surprise to anyone.

Commissioner Galloway asked if Peavine believed and accepted that the base bid included the removal of the material from the sedimentation basin along with its transport to a site and that Peavine did not own the dirt. Mr. Paddock replied the base bid had to provide a price to remove the dirt to a location, which was not known. He confirmed they did not believe they owned the dirt, but assumed they would take it to the

cheapest place possible. He said that was where their number was derived. Commissioner Galloway asked if the location was two miles away would that change the bid. Mr. Paddock replied they could not change the bid if the location was within 60 minutes.

Commissioner Sferrazza said he did not understand why it was bid as a “deduct” alternate if the County did not have the right to award the base bid if the deduct was not used. Ms. Ruefer said it was common to include alternates in bids because there were often uncertainties in specific elements of a project. Commissioner Sferrazza said he had never heard of a mandatory alternate until tonight, and he felt this alternate was penalizing the County. Ms. Ruefer reiterated the alternate gave the owner the opportunity to move the dirt. Commissioner Sferrazza said the County was paying \$600,000 more than would have been paid if the alternate had not been included. Ms. Ruefer said the bid attempted to cover all the bases and having an alternate that could be awarded or not was common. She said the full project would have to be awarded in this case.

Commissioner Sferrazza asked if Item 12 could have said it would be based on the base bid or the sum of the base bid and Alternate 1 if Alternate 1 was used. Ms. Ruefer said this was how staff chose to do it since it was a deduct alternate. Commissioner Sferrazza reiterated this bid would cost the County \$600,000 if it was awarded.

Commissioner Galloway asked, if this bid was awarded to Peavine, even though it was evaluated on the base and the deduct, did the County have the right to award it based only on the base bid. Ms. Foster said if the bid was awarded only on the base bid, the low bidder would be Q & D. She was aware the Board wanted to move on with this project, but there were risks either way. She said if the bid were awarded to Peavine they would either take the deduct or the County would be paying a price as Commissioner Sferrazza pointed out. She said it was the Board’s job to evaluate the evidence heard today and to make the call.

Commissioner Galloway stated he was not sure Q & D was the low bidder for the base bid because they clearly felt they would own the dirt. He indicated even if the Board wanted to award on the base bid, if there was ambiguity, it would be construed against the County. He said the original 90-day delay could be eliminated if the project were re-bid, which would make up part of the time consumed re-bidding this job. He supported rejecting all bids.

In response to Commissioner Sferrazza, Mr. Springer indicated the amount of the winning bid was \$7.2 million. He said something had happened since then to modify that, which was done with change orders. He stated the base bid at \$7.9 million was just a number for information because the bid documents clearly required taking the deduct to find out who won the bid. He said, if something was happening with the dirt, that was what change orders were for and obviously something had happened since bid day.

Chairman Larkin said according to Table 1 the lowest bid was from Peavine. He said this project was sorely needed, and to delay it even a month was doing the citizens of Spanish Springs a discredit. He said he could not reject the bids in good conscience because there was an eminent danger of flooding and property destruction. He stated the bids were done in good faith, and every one of the businesses had been in business a long time and knew what they were doing. He stated coming back after the fact was not persuasive to this Commissioner. He stated he found Peavine was the low bidder, and he was prepared to move forward with this bid award tonight.

Commissioner Weber said this was a matter of setting a precedent that could be the destruction of how the County does its bid process. She said if this bid was rejected, it would be to the detriment of everything the Board stood for because there was a process that had been gone through.

Commissioner Humke agreed with Chairman Larkin's position.

Ms. Foster said the protest had to be disposed of before moving on. She said a simple motion to reject the protest would suffice if that was the desire of the Board.

Commissioner Sferrazza said he hoped in the future all alternates were non-mandatory, and he discussed how he felt it should have been handled in this case and why. He said he could not support the rejection of the protest.

In response to Commissioner Galloway, Ms. Foster indicated the protest and the award or rejection of the bids were separate matters. Commissioner Galloway felt there was still some basis for confusion, which was adverse to the best interests of the County, so he would vote against rejecting the protest.

On motion by Commissioner Humke, seconded by Chairman Larkin, which motion duly carried with Commissioners Galloway and Sferrazza voting "no," it was ordered that the protest by Q & D Construction, Inc. to the bidding process for the North Spanish Springs Floodplain Detention Project be rejected.

Commissioner Sferrazza moved to award the bid as indicated by Michael Sprinter, the attorney for Peavine Construction, Inc., in the amount of \$7,235,900; and, if anything different were to be done, change orders would be submitted.

Commissioner Galloway asked if that amount was agendized because the agenda said \$7,997,900. Ms. Foster said she was loath to advise the Board that they could award the bid to Peavine for \$7.2 million. She said if there were changes to circumstances reflected in those documents, they would be dealt with through change orders. She stated the basis upon which they were determined to be the low bidder was the \$7.9 million minus the \$700,000 something. She was not comfortable advising the Board that a bid could be awarded to Peavine that was less than the amount Q & D bid.

Commissioner Sferrazza said he did not know how it could be awarded other than on the basis of the award because the change in circumstances occurred after the bid. He stated the bid was locked in on the basis of paragraph 12, which was what he had a problem with. He said the bid was being awarded on the basis of the base bid less the alternate. He stated Q & D would win if it went back to the base bid. Ms. Foster agreed that was a view someone might convince a court to take. Commissioner Sferrazza felt that was why the Board should do the low bid. Ms. Foster advised against awarding the contract for \$7.2 million.

The motion failed due to lack of a second.

In response to Commissioner Sferrazza, Ms. Foster said she could look at the contract with the owner to see what the County would have to pay if the owner removed the dirt.

5:55 p.m. The Board temporarily recessed.

6:35 p.m. The Board reconvened with all members present.

Commissioner Galloway favored rejecting the bid because he wanted to start over with a clean document.

On motion by Commissioner Sferrazza, seconded by Chairman Larkin, which motion duly carried with Commissioner Galloway voting “no,” it was ordered that the bid for construction of the North Spanish Springs Floodplain Detention Facility Project be awarded to Peavine Construction, Inc. in accordance with the bid documents and the Chairman be authorized to execute the contract documents upon receipt. It was further ordered that the Engineering Manager be authorized to issue a Notice to Proceed.

06-1076 FIRST AMENDMENT TO RETAINER AGREEMENT – JACK ALIAN, ESQ.

Jim Jeppson, Risk Manager, explained attorney Jack Alian represented criminal defendants who had a conflict of interest with the Public Defender’s Office. He said a local attorney filed a lawsuit on behalf of Mr. Alian’s former clients based on Mr. Alian having a conflict with his clients because he used his own funds to pay expenses necessary to defend them. Mr. Jeppson said recently all the parties met with Magistrate Judge McQuaid in Federal Court and agreed to reach a settlement on a proposed resolution. He noted the goal of the settlement was to address the “preclude disincentives” that Mr. Alian had to spend for the defense of his clients. Mr. Jeppson remarked \$40,000 was the amount Mr. Alian expected to spend on outside experts and investigators for the remaining nine months of his contract. He said the amendment proposed separating \$13,333 from each of Mr. Alian’s quarterly payments and to deposit that amount into a newly created segregated account. He explained that account would be designated for the payment of investigative expenses, expert witness, and evaluations in cases handled by Mr. Alian’s contract attorneys. Mr. Jeppson said if any of the \$40,000 remained at the

completion of the contract those monies would revert into the County's General Fund; however, if the funds were exhausted, Mr. Alian would assume responsibility for any remaining payments. He said if the amendment were approved, staff would approach Magistrate Judge McQuaid and request the lawsuit be dismissed. Mr. Jeppson noted there would be no cost to the County to amend the contract or to dismiss the lawsuit.

In response to the call for public comment, Carter King remarked he had sued on behalf of Mr. Alian's former clients and explained the three issues included in the lawsuit. He suggested revisiting the amount requested by Mr. Alian for the amendment.

Commissioner Sferrazza commented the Public Defender's Office handled approximately 87 percent of the cases, and he said \$40,000 was well within the range of their expenditures.

Upon recommendation of Mr. Jeppson, through John Sherman, Finance Director, on motion by Commissioner Sferrazza, seconded by Commissioner Humke, which motion duly carried, Chairman Larkin ordered that the agreement for professional services with Jack Alian, Esq., be amended to segregate \$40,000 of the balance due for the remaining term of the agreement into a separate account to be used for payment of investigative and expert witness expenses. It was further ordered that the Finance Department and Comptroller be directed to make the necessary budget adjustments to implement the amendment.

**06-1077 CONSIDERATION OF SUSPENSION – REVOCATION
PROCEEDINGS – SPECIAL USE PERMIT NO. SB04-004 – DAVID
MOLLENBERG GRADING – COMMUNITY DEVELOPMENT**

5:30 p.m. This was the time set in a Notice of Public Hearing mailed to affected property owners on September 15, 2006 to consider suspension of revocation proceedings for Special Use Permit Case No. SB04-004 (David Mollenberg Grading) for an additional 120 days to allow re-grading and restoration of the site. The project is located approximately one-half mile east of the intersection of Pembroke Drive and Man Of War Drive along an unimproved dirt road. The ±40-acre parcel is designated General Rural (GR) in the Southeast Truckee Meadows Area Plan, and is situated in a portion of Section 20, T19N, R20E, MDM, Washoe County, Nevada. The property is located in the Southeast Truckee Meadows Citizen Advisory Board boundary and Washoe County Commission District No. 2 (APN: 051-010-03).

Chairman Larkin opened the public hearing by calling on anyone wishing to speak.

Roger Pelham, Planner, updated the Board on the status of the applicant's compliance with the conditions since the August 22, 2006 Commission meeting. He explained the deficiencies within the four documents that Mr. Mollenberg had submitted, which were included in the staff report dated September 6, 2006.

Ken Krater, representative for Mr. Mollenberg, said he was unable to obtain a letter from the Bank of America loan officer that stated Mr. Mollenberg could only draw down for the improvements per the conditions of the approval. He said the Bank replied the loan was to get the restoration work completed so it could only be drawn down for the work that needed to be done. Mr. Krater acknowledged the letter from Black Eagle Consulting, Inc., did not have the word "daily" included; but Mr. Mollenberg signed off that he would abide by the conditions. He said Black Eagle Consulting would do what was necessary to satisfy staff on reporting. Mr. Krater remarked the amount of \$309,000 for the Deed of Trust was not an estimate but the actual bid amount from the contractor to complete the work. He said Mr. Mollenberg provided a Promissory Note stating he would pay on demand if the work was not completed. He said Mr. Mollenberg wanted to complete the work in accordance with the approved plans, and he urged the Board to move forward so Mr. Mollenberg could complete the project.

Commissioner Humke asked if the Bank required the Promissory Note and the Deed of Trust before the loan was granted. Mr. Krater replied the two conditions on the loan document required Mr. Mollenberg provide a grading permit and pay half a point origination fee. Commissioner Humke asked about the variance between the \$309,000 and the engineer's estimate. Mr. Pelham replied there was approximately a \$250,000 to \$300,000 difference. He believed the engineer's estimate plus the 20 percent contingency was \$550,000.

In response to Chairman Larkin, Melanie Foster, Legal Counsel, said the documents had been reviewed and were found to be sufficient. She indicated the documents needed to be recorded following the Board's action.

Commissioner Sferrazza requested the amount be placed in the Deed of Trust and the letter from Black Eagle Consulting be amended to include the words "daily testing and inspection." He requested copies of the amended special use permit and all the conditions be sent to the Bank of America by Washoe County to put the bank on notice of the conditions. Mr. Krater agreed. Commissioner Galloway also preferred the amount be placed in the Deed of Trust.

Mr. Krater explained that Mr. Mollenberg would do the work; however, if he failed to do so, the County could hire the contractor for \$309,000.

In response to Commissioner Galloway, Mr. Pelham replied an amount was not specified for the Deed of Trust, just that the property would revert back to the County.

Mr. Pelham corrected his previous statement of the dollar amount, and he said the actual estimate was \$526,561 with the 20 percent contingency bringing the amount to \$631,873.

Commissioner Humke commented about the difference in the numbers and stated Mr. Mollenberg would do the work himself, which would drive his cost downward; but he needed the construction loan money to lease equipment.

There being no one else wishing to speak, the public hearing was closed.

Commissioner Sferrazza moved to suspend revocation proceedings for Special Use Permit SB04-004 (David Mollenberg Grading) subject to the following four additional conditions and subject to the other conditions of approval established by the Board on August 22, 2006 incorporated herein by reference (see Item No. 06-939):

1. Copies of the amended Special Use Permit and all the conditions be sent to the Bank of America by Washoe County to put the Bank on notice of the conditions.
2. Patrick Pilling, Black Eagle Consultants, Inc., Executive Vice President, amend their letter to read the services of Black Eagle Consultant, Inc., would perform daily materials testing and inspection services.
3. The Deed of Trust and the Promissory Note be amended to read \$525,000.
4. These amendments be completed in two weeks or by the Commission meeting of October 10, 2006.

Commissioner Galloway seconded the motion.

Mr. Krater questioned if Mr. Mollenberg could begin the work during this two-week period. Commissioner Galloway said he could begin as soon as he initialed the documents changing the numbers. Mr. Pilling initialed his letter with the changes, and the documents were recorded and given to County staff. Mr. Krater explained the County would record the Deed of Trust and the Promissory note.

Commissioner Galloway requested the motion be amended to add that Mr. Mollenberg could begin work as soon as staff was satisfied that the required documents were completed. Commissioner Sferrazza agreed.

On call for the question, the motion passed with a 5-0 vote.

06-1078 **MOTION TO RECONSIDER – APPEAL CASE NO. AX06-008 –**
DAVID AND JANE HOOVER ETAL – ROCKIN’ LJ ARENA –
COMMUNITY DEVELOPMENT

In response to the call for public comment, Dave Hoover, Rockin’ LJ Arena, stated he was confused about this reconsideration because action had been taken during a previous Commission meeting. Jane Hoover said she was concerned about property values in the neighborhood. She explained neighbors would like the arena to have professional landscaping to mitigate noise, dust, and the visual blight of the arena.

Jeanne Ruefer, representing appellants, suggested the neighbors be given a chance to work through mitigation from the direction received during the September 12, 2006 Commission meeting.

In response to Commissioner Galloway, Mr. and Mrs. Hoover and Ms. Ruefer stated they would participate in the mediation process.

Commissioner Humke stated he was concerned about the number of days allowed for events. He moved to reconsider the action of September 12, 2006 on Appeal Case No. AX06-008, David and Jane Hoover, et al, Rockin' LJ Arena, aka Washoe Valley Ranches. Chairman Larkin seconded the motion.

Commissioner Galloway said he could support the motion if it were amended to state for the sole purpose of considering a change in the number of days per month in which events could be held at the facility. Commissioner Humke agreed.

Commissioner Sferrazza recalled the previous discussion was lengthy and the vote was unanimous. He suggested giving the mediation process a chance to work before changing anything and felt the number of days would be part of that process. Commissioner Sferrazza stated he was not in support of the motion.

Commissioner Humke remarked the administrative permit process was rendered meaningless by the action taken because of the severe reduction in the number of days that commercial events could operate.

Commissioner Galloway acknowledged he had suggested the number of days but felt that number was too strict since most of the events lasted longer. He said that was not considered when he proposed the five days.

On motion by Commissioner Humke, seconded by Chairman Larkin, which motion duly carried with Commissioner's Sferrazza and Weber voting "no," it was ordered that the Board's decision of September 12, 2006, concerning Appeal Case No. AX06-008, Rockin' LJ Arena, as to the number of days allowed for events each month be reconsidered at a future meeting.

06-1079 DISCUSSION – ELECTION PAPER TRAIL RECORDS

Dan Burk, Registrar of Voters, stated the Voter Verified Paper Audit Trail (VVPAT) was created in conjunction with the electronic screen. He said the sole purpose of the VVPAT was to audit elections and to bring forward a statement that the paper trail agreed with the electronic screen; however, it was not used for recounts. Mr. Burk explained the touch screen, the security measures used for each machine, and the code and password protected the system. He commented the VVPAT allowed voters to view on paper what was seen on the screen. Mr. Burk indicated the VVPAT was not called a ballot and was not labeled as an official record.

Commissioner Sferrazza asked if the paper trail could be used for an audit to compare ballots; and if a sufficient sampling of the County statistics could be achieved by randomly pulling machines. Mr. Burk replied Statute required the Election Certification Board go through two percent of randomly chosen machines for that audit, and he noted 100 percent accuracy was achieved for the Primary Election.

Commissioner Galloway congratulated staff on implementing the VVPAT and added it was a progressive step forward to audit an election previously open to accusations of fraud. He was concerned that the VVPAT could not be used for a recount. Commissioner Galloway suggested the County ask the Legislature to address that concern in the event there could not be a recount. He said the State needed to trade off the difficulties of dealing with a sample that showed an invalid election and find an easier process for a recount. Mr. Burk commented the only provisions for reconducting an election was a judge or the contest of election processing.

In response to Chairman Larkin, Mr. Burk replied everyone's vote counted and reiterated the audit was 100 percent accurate. Chairman Larkin remarked that was unheard of and congratulated Mr. Burk and his staff. He asked what precautions were in place concerning the "black box" once those were distributed into the field. Mr. Burk said the "black boxes" were not connected to the Intranet, Internet or anything within the Registrars Office and it was the only stand-alone system in the County. He explained everything had a barcode and randomly generated seals, which were assigned at a warehouse and re-recorded electronically with hand-held scanners by the delivery company. Mr. Burk said staff would re-establish that the seals were unbroken and were the identical seals the County had issued to that particular machine. He added the seals were rechecked the morning of the election, then the initial seal broken and opened for operation on Election Day. Mr. Burk stated if at anytime there was a change on the protective counter or if the seals appeared to be broken, those systems would not be used. Chairman Larkin asked what happened to the box once a vote had been cast and the box was full or the election closed for that day. Mr. Burk replied the memory cards were removed, placed under a seal and locked in the vault in the Registrar's Office each night, for every location and machine. He said all of the systems were followed by his office to make sure inappropriate action had not occurred. Mr. Burk concluded if something were found to have occurred within a certain machine, that system would be shut down and not used for any additional voting in the election.

Chairman Larkin asked if a virus could be introduced during a live vote. Mr. Burk said the County used the Sequoia System, which was a closed system with seals. He said the percentage of success rate with this program for the past three elections had been 100 percent.

In response to Commissioner Weber, Mr. Burk explained a piece of paper did not get printed out for the voter to collect. Commissioner Weber stated she was appreciative for the information concerning the voting process. She suggested a forum with the public to discuss voting and ballot procedures and possibly implementing a four or six percent sampling.

In response to Commissioner Humke, Mr. Burk replied the more criticism the voting process received throughout the Country from the electronics and security specialists, the more the County changed their system. He said staff was attempting to bring integrity to the process and show citizens this system could be counted on and verified.

Chairman Larkin suggested asking the Legislature to look at all possible avenues when it came to the recount issue rather than just the paper record. Commissioner Galloway agreed.

After further discussion, Mr. Burk summarized the same systems of technology and computers had been used to count ballots in the County for the past 13 years. He said, with a paper version, staff would be able to go back and see what was there.

**06-1080 STATUS REPORT – TECHNOLOGY STRATEGIC PLAN –
INFORMATION TECHNOLOGY ADVISORY COMMITTEE**

Cory Casazza, Interim Information Technology Director, conducted a PowerPoint presentation updating the Washoe County Technology Strategic Plan that focused on the Technology Task Force, the Information Technology Advisory Committee (ITAC), the Technology Strategic Plan Project Schedule, and the Technology Service Delivery Recommendations.

8:29 p.m. Commissioner Sferrazza temporarily left the meeting.

Katy Singlaub, County Manager, clarified the Pacific Technologies, Inc. (PTI) recommendation for the Technology Services Department was presented to the Board when the final PTI report was provided. She said staff was not implementing the organizational chart in the Ordinance, but she noted the Chief Information Management Officer was being implemented. Ms. Singlaub said ITAC wanted to give the new Chief Information Officer the ability to build the organization appropriate for the future. She explained the WinNet SAP team, and Telecommunications would be moved back into the Technology Services Department, which would be the only organizational changes at the present time.

In response to Commissioner Galloway, Ms. Singlaub replied the Chief Information Management Officer position was approved in this year's budget.

Upon recommendation of Ms. Singlaub, on motion by Commissioner Galloway, seconded by Commissioner Humke, which motion duly carried with Commissioner Sferrazza temporarily absent, Chairman Larkin ordered that the update and status report on Washoe County Technology Strategic Plan be accepted.

06-1081 **BILL NO. 1495 – AMENDING WCC CHAPTER 5 –
INFORMATION TECHNOLOGY DEPARTMENT**

Bill No. 1495, entitled, "AN ORDINANCE AMENDING WASHOE COUNTY CODE BY ELIMINATING THE INFORMATION TECHNOLOGY DEPARTMENT AND CREATING THE DEPARTMENT OF TECHNOLOGY SERVICES, CREATING THE POSITION OF CHIEF INFORMATION MANAGEMENT OFFICER, AND SPECIFYING THE POWERS AND DUTIES OF CHIEF INFORMATION MANAGEMENT OFFICER AND STAFF, REMOVING TELECOMMUNICATION RESPONSIBILITIES FROM PUBLIC WORKS AND PLACING THEM WITH THE DEPARTMENT OF TECHNOLOGY SERVICES, AND OTHER MATTERS PROPERLY RELATED THERETO, " was introduced by Commissioner Humke, the title read to the Board and legal notice for final action of adoption directed.

06-1082 **DISCUSSION – STATEMENT OF DECORUM**

Katy Singlaub, County Manager, reviewed the background of the decorum statement implemented when Commissioner Weber was Chairman. She said discussion on public comment had been held during several Board retreats.

8:45 p.m. Commissioner Sferrazza returned during the end of the discussion and the call for the vote.

Commissioner Galloway explained he had requested this item since the Board had never voted on the statement. He moved to adopt the following statement, and Commissioner Weber seconded the motion. On call for the question the motion passed on a 4-0 vote. It was noted that Commissioner Sferrazza did not vote on this item.

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

06-1083 **DISCUSSION – COMMISSIONERS' VARIOUS
BOARDS/COMMISSIONS**

Chairman Larkin explained this was the six-month review of the appointments of the Board members to other Boards or Commissions. He said it was an opportunity for the Commissioners to rearrange the Boards they served on.

Commissioner Weber stated she had asked Commissioner Sferrazza to consider allowing her to serve on the Joint Fire Advisory Board (JFAB) in his place. Commissioner Sferrazza indicated he was Chairman of the JFAB and told Commissioner Weber he would like to Chair one meeting and then step down in January of 2007 when the reappointments were made.

Chairman Larkin indicated there was a JFAB meeting held on Monday, September 25th where a quorum was not achieved. Commissioner Sferrazza said he was not aware of the meeting, and he had no discussion with anyone concerning that meeting. Chairman Larkin explained the City of Reno attorney's office was the staff of this Board and were the ones who transmitted the information to the Board members. Chairman Larkin said they relied upon the staff of the JFAB to advise all of the members of the appropriate dates and times. He confirmed he had received all of the e-mails corresponding to that. He stated there were matters that needed to be considered before the first of the year.

Commissioner Weber requested to be on the JFAB because of the many volunteer fire departments in her district. She indicated she would attend the meeting whether she was the primary or alternate on that Board. Commissioner Weber said there seems to be a problem with who sets up the JFAB meetings and requested staff look into that. Commissioner Sferrazza stated he did not want to voluntarily step down until after the first of the year.

Chairman Larkin said a date was still needed and suggested staff look into October 16th or 30th as the date JFAB would meet and forward that to the appropriate staff to schedule.

* * * * *

9:03 p.m. There being no further business to come before the Board, the meeting adjourned.

ROBERT M. LARKIN, Chairman
Washoe County Commission

ATTEST:

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

*Minutes Prepared by
Jan Frazzetta and Stacy Gonzales, Deputy County Clerks*