

BOARD OF COUNTY COMMISSIONERS, WASHOE COUNTY, NEVADA

TUESDAY

6:00 P.M.
SPECIAL MEETING

JUNE 16, 2009

PRESENT:

David Humke, Chairman
Bonnie Weber, Vice Chairperson
John Breternitz, Commissioner

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

ABSENT:

Kitty Jung, Commissioner
Bob Larkin, Commissioner

The Board convened at 6:12 p.m. in special session at the May Museum (Tahoe Room) at Rancho San Rafael Regional Park, located at 1595 North Sierra 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:

09-641 AGENDA ITEM 3

Agenda Subject: “Public Comment. Comment heard under this item will be limited to two minutes per person and may pertain to matters both on and off the Commission agenda. The Commission will also hear public comment during individual action items, with comment limited to two minutes per person. Comments are to be made to the Commission as a whole.”

Garth Elliott discussed how the use of volunteers in the Sherriff’s Office for Josephine County, Oregon saved \$200,000 a year. He felt volunteers should be able to do things of a technical nature.

Gary Schmidt noted the Commission appeared to be following the Open Meeting Law by allowing people to speak on Agenda Items 3 and 4. He said he was being encouraged to run for State Senator, and he was giving that idea strong consideration. He discussed some of the issues that would be part of his platform.

The following comments pertain to the Nuisance Ordinance:

David Heuss read Lois Kolbet’s comments, Attachment D to the staff report, regarding adding “blight” to the draft Nuisance Ordinance; and he said he agreed with those comments.

Lois Kolbet said she agreed with the removal of domestic cats from the wandering animals section. She noted the definition of a “public view” was changed based on her comments, but staff did not include the term “easily recognizable.” She felt if an object was so far away that there was no way to tell what it was, it should not count. She explained “regularly used location” was one of the things she really wanted in the Ordinance. She explained if one person owned two adjacent parcels, being able to view something on the adjacent parcel should not be counted as a violation. She also wanted to make sure that light vehicles included road maintenance and snow removal equipment, which were needed by property owners in rural areas. She said those were some areas where staff made some changes, but she felt the changes could go a little farther.

Katherine Snedigar said she had a problem with the “attractive nuisances” section. She stated if anyone got hurt on her property by an “attractive nuisance” while they were committing criminal trespass, she would go after them. They would have no right to come after her or file a complaint if they were on her property without an invitation to be there.

Juanita Cox said she hoped the definition of a “junk” vehicle was followed. She felt the government had no authority to enforce “blight” unless it was a serious threat to the health and welfare of the community and was so determined by the Health Department. She stated she was glad to see tractors and that type of vehicle were exempt from the Ordinance.

Hugh Ezzell said he was a member of the Citizen Committee. He noted the packet sent to the Committee members by staff had recommendations that varied from those of the Committee. He stated staff had ample opportunity during the discussions to chime in regarding the solutions the Committee produced. He said the Committee came up with a valid solution regarding “junk” vehicles, but staff was moving away from that solution with their recommendations in the packet.

Rhymus Nefas felt there should not be a law just because someone felt there were too many vehicles on a property. He said if the vehicles were well organized while they were being worked on and were kept covered, there should be no regulation against having them on someone’s personal property.

Kathy Bowling said the Committee extensively discussed the noise limits for off-road vehicles. Testimony was provided by people who lived next to Bureau of Land Management (BLM) lands about how much they were adversely affected by the noise generated by the off-road vehicles. She said research indicated a limit could be put on the decibels the motorcycles put out. She felt the 1,000 feet minimal distance to operate an off-road vehicle should be changed to 5,000 feet.

Ms. Bowling said the Committee tried to reach a compromise that would allow more than two vehicles for people with extensive acreage, such as over 500 acres. She stated it made sense to give some latitude to car collectors. She said a car collector who testified was adamant that screening be put around the vehicles.

Agenda Subject: “Review and discussion with possible modification and/or approval of staff recommendations to the Draft Nuisance Ordinance; possible direction to return the Draft Ordinance for a first reading at a future County Commissioner Meeting; and, other direction as appropriate--Community Development. (All Commission Districts.)”

Commissioner Breternitz suggested additional public comment time be allowed on this item. Commissioner Weber requested each speaker be allowed five minutes because the Commissioners needed to hear what the public had to say. Chairman Humke suggested waiting to see what Bob Webb, Community Support Services Planning Manager, proposed.

Mr. Webb stated the Commission last discussed the Nuisance Ordinance at its December 16, 2008 meeting. At that meeting staff was directed to arrange for a workshop to more fully discuss the Ordinance. He believed the intent of this meeting was to allow discussion and participation, which would not necessarily be restricted by the two minute public comment time period imposed during regular Commission meetings. It was hoped this format would allow the Commissioners to ask questions, pursue discussion topics and to provide direction as appropriate. He noted several members of the Committee and the staff members who assisted the Committee were present.

Mr. Webb advised that the Committee completed its work on the draft Nuisance Ordinance at the end of June 2008. He said Attachment B of the staff report dated May 15, 2009, contained two versions of the draft Ordinance: the Committee’s draft was in the left-hand column and staff’s recommendations, based on review of the Committee’s work, were in the right-hand column. He said staff was always available to the Committee, but at no time did staff intervene in the process itself, which was why there ended up being two versions of the draft Ordinance. He discussed the areas of agreement and disagreement as shown on page 3 of the staff report. The areas of differences were further outlined in Attachment A, Draft Nuisance Ordinance Fact Sheet, and in the draft Ordinance under staff comments. The staff notes in italics replicated the discussion in the fact sheet and attempted to provide explanations for staff recommendations where there were differences from the Committee’s recommendations.

Mr. Webb said he discussed with Commissioner Weber her concern regarding a particular property where inoperable vehicles could be seen from both sides of the property. He stated the current rules restricted viewing the vehicles only from the side of the property where there was access to the property. He said the Committee agreed on a definition for screening and to a total screening of that area.

Mr. Webb discussed the two nuisance modifiers: rural lands and Lake Tahoe as shown on page 15 of Attachment B. He noted a working group was established in the Lake Tahoe area in March 2009, and they planned to come back to the Commission on October 1, 2009 with a list of proposed modifications. He noted the

group was meeting every other week and had met with staff twice. He explained that was why there were no recommendations for the Lake Tahoe area in the proposed draft.

Mr. Webb said Attachment D contained all of the written comments he had received.

Commissioner Weber thanked the Committee members and the staff who were involved in the process. She felt the process turned out to be what the Board had hoped it would be. She said even though some people felt the Ordinance's language was not exactly what they wanted, people could not always get everything they wanted. She stated staff got the citizens' points down and clarified where there were differences for the Commissioners, which she believed was important.

Chairman Humke asked if tonight's discussion would be limited to the two versions of the draft Ordinance. Mr. Webb replied the agenda item was worded broadly enough so the Board could provide direction and the Ordinance could then be brought back to the Board for a first reading. He said the intent tonight was to allow those citizens signed up to offer comment.

Chairman Humke asked what a permissible modifier was. Mr. Webb explained it first had to be determined if different geographic areas could be identified wherein different laws and regulations could be applied. He said there were extensive discussions with the District Attorney's (DA's) Office regarding all sorts of options, such as using lot size or density. It was determined using densities failed the litmus test because densities were the same in many areas. He said the recommendation that came forward after looking at other options was to use an existing structure, congested areas, and also to use the Lake Tahoe area as a unique geographic area because of its alpine environment and its basic isolation. He said those would be potentially legally defensible areas where the nuisances could be modified.

Chairman Humke asked why the Galena area could not be subject to a modifier. Mr. Webb explained Lake Tahoe had a defensible geographic area. With the Galena Forest it would be hard to determine where the geographic area ended. Chairman Humke felt going one mile on either side of the Mt. Rose Scenic Corridor could be used. Mr. Webb said the issue would be what made the mile designation geographically unique over someone who lived 1.1 miles away.

Mr. Webb said congested areas were a defined area set by ordinance. Chairman Humke asked if Incline Village was a congested area. Mr. Webb replied it was. Chairman Humke asked if a congested area primarily had to do with the discharge of firearms. Mr. Webb explained there were three types of congested areas defined by State law. The County used the congested areas dealing with firearms and animal control, but not the one dealing with transportation. He said as the County moved forward with this concept, it might be necessary to look at congested areas in a different context and to consider where the congested areas really were. He explained some of the new growth in the Spanish Springs area consisted of third-acre lots that were not in a congested area, but

some third-acre lots were considered as being in a congested area. He thought the County should take a look at that and maybe pull back a little on areas that did not match. He said that could be part of context of the congested area discussions and, if the modifiers applied, they would also apply as the modifiers for nuisances.

Commissioner Weber felt it might be better to go with area specific modifiers because every community was different, such as Vya versus Gerlach. She said she did not see how it was fair that someone living out in the middle of nowhere would have to screen their property for “junk” vehicles. Mr. Webb said the proposal was to base the modifiers on congested areas. He stated some areas were split between being congested and non-congested. He felt it would be more appropriate to have some type of nuisance regulations in the congested areas with a greater housing density. He said having larger lots and a less dense population might be the nexus to modify selected nuisances as appropriate.

Commissioner Weber asked if there were maps showing the congested areas. Mr. Webb replied maps were posted on the County’s web site that identified the congested areas and those maps had been shared with the Committee. He said they could be found by going through links on the Sheriff’s Office or Animal Services pages.

Chairman Humke said the format of tonight’s meeting would be a give and take discussion between staff and the citizens and each speaker would be allowed five minutes. Commissioner Weber agreed. Amy Harvey, County Clerk, volunteered to keep track of each speaker’s time allotment.

Chairman Humke read an e-mail from Jane Countryman, regarding the Nuisance Ordinance. A copy of the e-mail was placed on file with the Clerk.

Gary Schmidt stated the congested areas were created for political instead of geographic reasons principally because the people who lived within the area applied for them. He suggested if congested areas were used, it would be reasonable to have a policy that any property owner living contiguous to a non-congested area could remove their property from the non-congested area.

Commissioner Breternitz thought specific modifications to congested areas were not appropriate for discussion tonight. He believed the focus should be on the major areas of concern. Chairman Humke noted that inoperable vehicles, blight, noise, and modifiers were the concerns mentioned in the staff report. Commissioner Breternitz said those concerns would be a good place to start.

Mr. Webb said page 5 of the draft ordinance had the citizen committee’s definition of a “junk” vehicle and staff’s recommendation. Lois Kolbet stated page 10 discussed the number of “junk” vehicles.

Mr. Schmidt felt the definition of a vehicle should be included in “junk” vehicles along with the definition of “public view.”

Katherine Snedigar felt one of the intents of regulating “junk” vehicles was to stop mice from hanging around them. She felt using that as an excuse to limit “junk” vehicles in rural areas of 40 acres or more was a mistaken idea, because mice would still gnaw on vehicle wires even if it was not a “junk” vehicle.

Robert Sonderfan asked if a new \$50,000 car with an expired registration would be classified as a “junk” vehicle because it was unregistered. Ms. Kolbet said that was one of her concerns on page 5 because staff added “or does not possess a current, valid vehicle registration,” which staff claimed stayed in line with Nevada Revised Statutes (NRS). She noted NRS had an exception regarding a vehicle no longer being intended for lawful use on the highway, which she felt needed to be included in the Ordinance. She said the Committee was very clear, if the vehicle was running but not registered, it was not “junk.”

Juanita Cox said page 8 continued the definition of a vehicle, which included snowmobiles and boats that did not have license plates. She explained she had a lot of toys that were not licensed.

Mr. Schmidt felt there was an inconsistency between the draft Ordinance and the State’s definition of vehicles. He said because tractors and the like were not included in the State definition, it would mean tractors were “junk” vehicles because they could not be registered even if it was a brand new \$180,000 John Deere.

Hugh Ezzell stated staff had done a wonderful job answering the questions put to them by the Committee members. He said the State was trying to regulate unregistered vehicles, but the County was trying to regulate inoperable vehicles with respect to blight. He believed those were two different purposes. He felt there was no conflict between the two, but he suggested checking with the Attorney General’s Office about whether it was felt the Ordinance would be in conflict with State law.

Mr. Ezzell agreed that operable vehicles that could not be registered were not necessarily “junk” vehicles. He felt the Committee’s definition of “junk” vehicles was pretty concise and tying the definition back to vehicle registration was ill conceived. He said a non-running car that still had value would have to be smog checked for it to be registered, which could not be done if the car did not run. He was concerned that could be a point of conflict between some people and the County.

Mr. Ezzell said Commissioner Weber was right on track when she asked about what would be fair for the people in Gerlach versus the people in downtown Reno. He stated there were vast geographic differences to be found across the County. He felt the discussion regarding modifiers would be pertinent on how the Ordinance was applied and what portions of it could be watered down or made more stringent.

Mr. Sonderfan suggested substituting the word “abandoned” for “junk” because the legislature already decided what an abandoned vehicle was. He felt that would be a better term because no one liked to have their car called “junk.” He said the

County would receive more cooperation and be subject to fewer lawsuits if people were approached like human beings. He asked if the penalty would be civil or criminal for violating this law. He felt going to jail because of a “junk” car would not be a good thing.

Chairman Humke noted this Ordinance was paired with an Administrative Ordinance, which would shift the penalties from a criminal sanction to a civil sanction. It would use abatement performed by the County or contractors, which would be where the liens came in.

Mr. Sonderfan asked if helicopters would be used for enforcement of this Ordinance in the outlying areas. Chairman Humke replied he did not know.

Ms. Snedigar said the Chairman stated this would be an administrative process and would not be criminal, but all through the staff recommendations it was stated citations could be issued pursuant to Nevada Revised Statutes (NRS) 171, which was a criminal procedure. She stated a different way would have to be found to notice people about an administrative hearing other than using a criminal procedure citation. Chairman Humke said it would be primarily a civil procedure, but the County would make that decision.

Mr. Huess said he was surprised that the North Valleys, Palomino Valley, and Washoe Valley were considered to be congested areas just like the City of Reno.

Ms. Cox discussed vehicles being used for other purposes, such as a truck being used as a planter. She said those would be “junk” vehicles under the definition, but should be subject to a modifier. She felt the Commission should consider there could be other uses for “junk” vehicles.

Don Jeppson, Building Official, said he was present during the Committee meetings. He pointed out the compromise reached regarding two being the number of “junk” vehicles was appropriate, including the requirement they would need to be screened. He recollected that there could be as many cars as wanted stacked in a building and they would not count as they would be completely out of sight. He commended the Committee for starting something good.

Mr. Schmidt said NRS 487.290 did not say in or out of a building but on the property. He said in theory there could not be more than two unregistered vehicles even in a barn, but that was not enforced nor did he believe that was the intention. He stated the County left out of staff’s recommendation of an exemption regarding vehicles that had historic or classic significance. He advised State law would allow 100 Model-A’s on a property. He said the County could not have a law that was more generous than what State law allowed, which limited the “junk” vehicles to two; but that was not true because there were many exceptions.

Ms. Kolbet felt the exceptions in the State law should be included in the Ordinance. She said Mr. Schmidt was right that there was no exception for a “junk”

vehicle being kept in a building. She indicted it should be clear it was not the County's business to care if a vehicle was enclosed in a building.

Mr. Ezzell felt it was demonstrated that the State law the County was trying to use to define "junk" vehicles was vague, which would open avenues for abuse. He said if the Ordinance was vague, two feuding property owners could pull the County into the fight. He advised a clear and concise definition of "junk" vehicles was needed, along with a clear and concise formula of what would be allowed on any property. He noted the Committee arrived at a formula based on property size, but he did not know if that would be adopted or not. He urged that the Ordinance be clear and concise.

Mr. Schmidt discussed the current definition of "public view." He said plainly visible from any public or private property encompassed the universe and would include the vehicle being visible from the person's own property or being inside a building. He stated this was ludicrous.

Sharalyn Barney agreed that art, antiquity and history should be considered. She said she had an old hay machine on display in her yard, but under the Ordinance as proposed she would not be able to do that because it was considered to be a vehicle. She indicated there needed to be exceptions for items like the hay machine.

Ms. Snedigar said it was clear in NRS that farm equipment was exempt from any kind of licensing or registration.

Mr. Ezzell stated the wording arrived at during the Committee meeting on this issue was "plainly visible from the public right-of-way or from any adjacent public or private property." He said the concern was that a Code Enforcement Officer could use binoculars to observe a property from a mile away, which was why "adjacent public or private property" was inserted.

Mr. Sonderfan said a gentleman off Wilcox Road had 120 registered trucks parked next to his house. He asked if that would be allowed. He stated whatever the Ordinance ended up being, it should be enforced equally for everyone.

Rhumus Nefas asked how it would be enforced on thousands and thousands of acres. He said it appeared it would require hiring 200 inspectors. He felt it was not worth it.

Garth Elliott suggested polling the Committee members on what did and did not work, which had not yet happened.

Mr. Elliott said he was referring to motorcycles and off-road vehicles on page 3 of the Fact Sheet. He said the only reason the Committee members were split on the distance was due to the Sheriff's Office shooting down their suggestion regarding using noise meters because of the need to buy them. He felt the ticket would offset the cost of the noise meter and only a few would be needed, not a dozen. He also discussed

the concerns with ingress and egress because some one could be as noisy as they wanted until they hit the 1,000 foot limitation.

Heather Addamo discussed the comments by the Sheriff's Office regarding enforcing noise limits on off-road vehicles. She felt the comments were bogus, arrogant, and insulting. She felt the Sheriff's Office was only interested in reducing its obligation in responding to nuisance calls. She said the suggestion that off-road vehicles not be operated within a 1,000 feet of residents did not make any sense on any level, because that would not offer residents any reprieve from the horrible noise. She said since distance was such an issue, the only reasonable solution was to add back the clause that off-road vehicles were prohibited at any distance from a residence that disturbed the peace and quiet of the residents. She said the person making the noise and the property owner allowing the noise to happen should be held liable for the offense. She stated not all off-road vehicles generated excessive noise, but loud off-road vehicles should not be allowed in or near residential areas.

Gini Addamo said she moved three times to get away from off-road vehicle noise including moving to Nevada, and she did not know where else to go. She said the congested area designation might backfire on her because she lived on 80 acres. She was concerned the designation would make it okay for people to come into the non-congested areas, which they were already doing. She said the area was hilly and the noise bounced around the hills. She said when common sense and common courtesy went out the door it was the start of having to legislate. She requested specific areas be designated for motorcycles, which were worse than the quads, and they should be banned from residential neighborhoods. She said the Sheriff's report mentioned the issue, but offered no remedy. Commissioner Weber said Ms. Addamo addressed the issue when she said common courtesy had been lost.

Kathy Bowling said the technology existed to build quieter motorcycles, but that technology would not be used until individual counties established a decibel level limit. She stated someone would have to be the first to do it, and she asked why not Washoe County. She said the motorcycles already here would be grandfathered, but new motorcycles registered would have to be quieter.

Ms. Snedigar said she had a problem with the preexisting agricultural use regarding noisy animals. She stated if she decided she wanted to own cows, she would be subject to this regulation. She said she would have cows in spite of the regulation because she lived in an agricultural area and was prevented by the County from subdividing her property for residential purposes.

Ginger Pierce discussed noisy animals.

Mr. Sonderfan said noise was a perfect example of how one law did not fit everybody. He explained in the Palomino Valley everyone had a chainsaw, which were extremely loud. He said using a chainsaw on a hundred acres was different than using one in a residential neighborhood. He stated the laws in place would allow someone to do a

citizen's arrest or they could call the Sheriff's Office to have the people arrested. He noted in Palomino Valley it took 45 minutes for the fire department to arrive and having a deputy show up with a sound gun would go to the bottom of the priority list.

Heather Addamo suggested motorcycle owners be required to carry their own sound guns, if they want to play they have to pay. She asked why homeowners should suffer because other people were making noise.

Gini Addamo stated there was no comparison between the noise generated by chainsaws, which would not be used all day long, and the motorcycles going around in mindless circles all day long.

Mr. Nefas suggested imposing a curfew at night when people would be sleeping, otherwise they could use earplugs because he did not believe the noise was such a big deal.

Ms. Kolbet said noisy animals would be limited to preexisting agricultural activities, which meant a one-acre parcel that already had animals would not be treated the same as another parcel that did not. She thought it should be limited to preexisting zoning for farm animals.

Mr. Jeppson said one jurisdiction was asking that the Department of Motor Vehicles (DMV) place a decibel level sticker on the muffler so it would be easier for the Sheriff's Deputy to identify a vehicle's decibel level. He felt that was a good idea, but it would require a change in State law.

Mr. Ezzell discussed the motorcycle noise in his neighborhood, especially twice a year when large events were held. He sympathized with the other people having problems with motorcycle noise and felt that was why modifiers were needed.

Mr. Elliott said the Committee was told the modifiers would address problems with the Ordinance, but they were told at the last minute that a legal review indicated the modifiers would not be legal because they were prejudicial.

Dennis Magers said he owned 80 acres in the Palomino Valley and the hundreds of miles of roads there were private. He said there was no way to restrict access to the roads because they were not within a gated community. He said his other issue was that anyone could let their cattle roam around Palomino Valley. He felt it was not right they were able to do that, and he discussed the history of grazing rights in the Palomino Valley.

Jim Nadeau said his concern with the modifiers was the Lake Tahoe area was being defined as a very specific geographic area and vacation properties were being identified. He said the people here had specific issues and suggested the County go to the Legislature to have the modifiers defined so the County would have the specific authority to address specific issues. He stated using arbitrary definitions could be an exercise that

could create issues down the road for the County. He said the Lake Tahoe issues were about land use and not necessarily about nuisances. He explained many of the issues that arose at Lake Tahoe were issues that already violated some County Code or County Ordinance, which could be handled by doing the appropriate enforcement. He said it was not a matter of creating new ordinances that could not be enforced, but of enforcing existing ordinances, seeing what would shake out, and identifying what the need was.

Ms. Snedigar said regarding the cattle problem, she wrote a letter a few years ago to the District Attorney's Office asking what State or federal law allowed cattle ranchers to let their cattle graze for free on private land. She stated the reply she received from Blaine Cartlidge, Deputy DA, was there was no law. She said if the cattle were destroying the waterways and plants on private property, the property owner could take matters into their own hands because of the County's lack of enforcement. She stated the County should allow Animal Control Officers to round up the cattle and hold them until the owners retrieved them.

Mr. Nefas said he fenced most of his property because of the cattle problem, but there still remained the problem of them being dangerous on the roads at night.

Ms. Kolbet said Ms. Countryman's e-mail suggested relating the modifiers to parcel size would solve the issue in congested areas. She stated there were many zoning rules related to parcel size and it might be possible to implement the modifiers in the zoning rules if they could not be implemented in the Ordinance.

Ms. Bowling indicated the Mt. Rose Scenic Corridor area also needed modifiers because it had regional and national significance. She felt since the Corridor was the gateway to Lake Tahoe, it should have the same protection as Lake Tahoe in being allowed area modifiers.

Mr. Ezzell said if Lake Tahoe was geographically and hydrologically distinct, why not the forest area, the Washoe Valley area, or the Warm Springs area that were all geographically and hydrologically separate from the rest of the County. He said he asked the DA's Office and staff why not put the modifiers in the area plans, but he felt he never received a satisfactory answer. He explained modifiers could be addressed and submitted to the Commission through Citizen Advisory Boards (CAB's) for inclusion in an area plan. He said this would provide a public process to deal with each area's problems. He said if an area plan rule was broken, the County could go after the rule breaker.

Ms. Barney asked for an explanation of why the modifiers could not be done the way everyone would like them done, because everyone kept going over and over the same points. Mr. Cartlidge explained there was a general foundation to equal application of the law. He said if there was discrimination between different areas by the application of certain laws, that application starts to tread on thin ice. The more discrimination there was between the application of a law from one area to another, the

thinner the ice in having a defensible position. He said the legal principal was the more general the application of a law that restricted behavior the more defensible it was. He explained nuisance laws generally looked at human behavior on how people used their land and related to their neighbors. He said that type of behavior was traditionally enforced across the County as being criminal behavior, but now more and more of that kind of behavior was being recognized as being something that should be enforced civilly. He said putting the nuisances in area plans that were highly specific would make enforcement more problematic in his opinion. He advised congested areas had a clear statutory basis, which was a good foundation to begin with.

Dave Childs, Assistant County Manager, said the basis for the difference in Incline Village was it was a federal tri-state compact that established a set of laws there that did not exist in the rest of the County. He stated that was the stronger base for suggesting it was possible to apply modifiers in Incline Village rather it being a hydrologically unique basin.

Melanie Foster, Legal Counsel, said the Commissioners needed to recognize that applying different penal provisions of law to a unique situation would have to be defensible when applying modifiers. She stated Incline Village had a different set of laws and had a number of provisions that guided Incline Village that did not exist elsewhere in the County, such as different street parking provisions in the winter to allow streets to be plowed. She explained there needed to be factual reasons to set up different penal laws in different parts of the County.

Ms. Cox disagreed because there were different laws in different areas already because she could not take her herd of cows down into the City of Reno. She felt it made perfect sense to put the modifiers in the area plans.

Mr. Schmidt stated there were different restrictions on different sized parcels because not all sized parcels could house a horse. He said if modifiers could not be done in the Ordinance because it was prejudicial, they should be put in the land use zoning ordinances. All land use zoning was discriminatory and that was where the modifiers should be put.

Gini Addamo disagreed with Mr. Carlidge and felt the more specific a law the better it could be enforced.

Ms. Snedigar stated area plans were applied to new developments, but the Palomino Valley was an existing subdivision. She said no one could come out to the Palomino Valley now and tell the residents what they could and could not do with their land.

Ms. Barney said every time the Committee found something that would work in one area but not another, they were told the area modifiers would take care of those issues. But when they got to the area modifiers, the Committee was told there was no such thing. She suggested before the Ordinance was enacted, the needed changes

should be made at the State level to be able to use modifiers so things would not be so arbitrary across the board. She stated the modifiers were needed or the Ordinance would not work.

Ms. Snedigar said NRS 279 was about redevelopment. She explained “blight” was a redevelopment term and it had nothing to do with an unsightly property. She said “blight” had a totally different meaning than what staff was trying to present today.

Mr. Heuss said “blight” was discussed by the Committee and were told by citizens about some Code Enforcement Officers getting carried away. He stated the Committee did not want to leave definitions up to the discretion of the Code Enforcement Officers, so the Committee tried to define everything. He said the Committee decided to leave “blight” out of the Ordinance.

Ms. Cox felt “blight” was something government should not get involved in because it usually involved a neighbor to neighbor fight.

Mr. Sonderfan said on page 2 it noted “blight” was recognized nationwide as a defensible nuisance and was a serious health and welfare concern. He asked if “blight” would only be a health and welfare concern or could it be an issue if a neighbor did not like you and wanted to get back at you. He asked if the Health Department would determine what a serious health problem was. Mr. Webb replied on page 3 there was a definition of “blight” that was approved by the Committee, but there were no staff recommendations because there was agreement by the Committee as a whole on the definition and concept of “blight”.

Mr. Schmidt said he remembered a lot of discussion and some disagreement regarding “blight.”

Ms. Barney agreed that “blight” was a huge problem for the Committee members because it was so subjective and open to interpretation. She said most of the Committee felt it was a bad idea.

Commissioner Weber asked if the word “unsightly” would be better. Ms. Barney felt it would be a little better.

Ms. Kolbet said the Committee never used “blight” because everything that could be considered “blight” was described as some other nuisance, so using that ambiguous word was not needed.

Regarding debris, refuse, and rubbish on page 3 and garbage on page 4, Ms. Cox said she would have bags of manure around all the time that she composted. She also fed her pigs leftovers from her kitchen. She said that could be a problem in the city, but in the County it was normal to save kitchen garbage for the animals.

Ms. Bowling said she would like the following language inserted regarding decorative lighting problems, "Residential decorative lighting mounting height shall not exceed one foot above the ground and cannot be mounted on fences." She explained people were putting decorative lighting at fence level and it was shining into other people's living rooms. She placed a copy of the language on file with the Clerk.

Mr. Heuss said he left a light on that shined down his driveway all night. He said even though it shined into his next door neighbor's window, he did it for security because there were no streetlights near where he lived. Ms. Bowling discussed darkened skies and felt people did not need that extra light. Mr. Heuss said a property was less likely to get burglarized if it was well lit. Ms. Bowling indicated the adjacent property owner had rights as well and should not be negatively impacted by the lighting.

Ms. Barney said someone was told the Ordinance would not be revenue generating and the funds to support the Ordinance would be coming out of the General Fund. She asked how the County could afford this right now. Chairman Humke said the Ordinance was revenue neutral and should generate only enough fees to support the staff put in place to enforce it as well as handling the abatements. Ms. Barney said besides salaries, it would be all of the things that went with the salaries in addition to the DA's and the Court's time. Chairman Humke stated the DA would not be involved in most of these matters because they would be a civil matter.

Chairman Humke closed the public discussion.

Commissioner Weber stated she felt a lot of good information had been presented tonight, but she also felt this Ordinance required additional discussion. She noted two Commissioners were absent, so she did not see the Commission moving forward with a motion to move the Ordinance forward at this time. She requested staff generate a report containing tonight's questions and comments from the public, along with staff's comments, so that information could be given to Commissioners Jung and Larkin.

Chairman Humke advised the Commissioners needed to process all of the comments. He also felt the Ordinance could not be moved forward tonight because he felt there were some outstanding legal issues that he believed had not been fully resolved, so he agreed with Commissioner Weber's approach.

Commissioner Breternitz felt the full Commission needed to go through the Ordinance item by item to finish the process, which he hoped could be accomplished within a reasonable amount of time. He noted there were a number of areas that were not controversial, but a number of areas were worthy of further discussion. He suggested to voting separately on each specific clause of the Ordinance. Chairman Humke agreed.

Mr. Webb said page 2 of the Ordinance showed the purpose and scope of the Ordinance, which was fundamental to any discussion about creating a nuisance ordinance. He stated the purpose and scope would drive the remainder of the Ordinance.

He explained the meat of the Ordinance was the nuisances and there had been a lot of discussion this evening about the definitions. He stated if a term was used in the Ordinance, it had to be defined. He said the Committee spent a lot of time on the definitions because they were important. He advised the basis for the initial draft Ordinance was the existing laws already on the books, which was important to remember. He said the intent was to gather all of the existing ordinances that would qualify as a nuisance and combine them into a single ordinance.

Commissioner Weber asked if there was already an ordinance on the books, why was that not indicated in the backup. She felt having that information would have been helpful. Mr. Webb replied the origins were included when the Committee started out, but it became confusing so they were dropped.

Commissioner Breternitz suggested putting the notes together and then having a discussion by the Commissioners in a reasonable amount of time. Chairman Humke felt the Commissioners should wait for the other Commissioners' comments before moving forward. Katy Simon, County Manager, said the Board could make a motion to bring the Ordinance back for a first reading and deal with it section by section at that time.

Commissioner Weber felt the next step would be to have answered any questions that were brought up tonight in a staff report so the public would have an opportunity to see those responses. She said the public could then use their two minutes during public comment to respond to what the staff report said.

Ms. Simon summarized what the Board thought would be helpful was a side-by-side with all sections delineated, the questions and answers from tonight and from other discussions, a cross reference of the language from other parts of NRS and existing ordinances and codes, and language that could be evaluated on an item-by-item basis to be used as a starting point for arriving at the final language. Commissioner Weber said there also was discussion regarding off-road vehicles, lighting, animals, and open range.

Chairman Humke asked for a memorandum describing the case law as to modifiers. He said no one in a legislative position would want to pass something that would be unenforceable.

Adrian Freund, Community Development Director, advised the Administrative Ordinance would be brought forward in August 2009 and the Nuisance Ordinance would follow. He stated the return of the Nuisance Ordinance was at least 60 days out.

Ms. Simon asked for direction that would help bring this item to some closure. She asked if the Administrative Enforcement Ordinance was brought back in August, staff responded to the five elements in a package for the Board in possibly

September, and identified the September timeframe as a first reading of a possible Nuisance Ordinance, would that work. The Commissioners agreed that would work.

Commissioner Weber asked staff to respond to Mr. Sonderfan's question about enforcement. She felt equal enforcement needed to be explained in the Administrative Enforcement Ordinance along with how complaints would apply.

Chairman Humke thanked the Committee and everyone else who provided input. He indicated progress would be slowed because of the recent budget cutbacks and staff reductions. He asked if staff had sufficient direction. Ms Simon replied they did.

Mr. Huess thanked the Commissioners for listening to the Committee's members and the public tonight. There was a round of applause for the Commissioners.

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9:16 p.m. Chairman Humke declared the meeting adjourned.

The foregoing minutes represent the understanding of the Washoe County Clerk's Office of the discussions held during this meeting.

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

*Minutes Prepared by:
Jan Frazzetta, Deputy County Clerk*