

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

TUESDAY

10:00 A.M.

FEBRUARY 12, 2013

PRESENT:

David Humke, Chairman
Bonnie Weber, Vice Chairperson*
Marsha Berkbigler, Commissioner
Kitty Jung, Commissioner
Vaughn Hartung, Commissioner

Nancy Parent, Chief Deputy Clerk (10:05 a.m. - 5:02 p.m.)

Amy Harvey, County Clerk (5:02 p.m. – 7:26 p.m.)

Katy Simon, County Manager

Paul Lipparelli, Legal Counsel

The Washoe County Board of Commissioners convened at 10:05 a.m. in regular session in the Commission Chambers of the Washoe County Administration Complex, 1001 East Ninth Street, Reno, Nevada. Following the Pledge of Allegiance to the flag of our Country, the Chief Deputy Clerk called the roll and the Board conducted the following business:

13-87 AGENDA ITEM 3 – PUBLIC COMMENT

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.”

Larry Chesney said he was speaking on Agenda Item 19, which dealt with the equestrian uses in the Warm Springs Valley. He said the community, County staff, and the Citizen Advisory Board (CAB) worked for years to revise the general plan, and the ordinance was the last hurdle to get over before it could be completed. He proposed removing the trigger point in the amendment requiring a Special Use Permit (SUP) for over 20 horses. He said the majority of the land owners in the Warm Springs Valley believed that requirement should not be in the Ordinance, because there were already Codes and Ordinances in affect in the County. He stated the number of people who wanted to board horses was not very large, and he hoped that would be considered during today’s first reading.

***10:08 a.m.** Commissioner Weber arrived.

Peggy Lear Bowen said she was speaking on Agenda Item 24, the Senior Law Project (SLP). She believed the best way to handle the SLP was to do it in the same

manner as the Nevada State Indian Commission was handled. She said that would keep the SLP under the umbrella of Senior Services, but the administrator for Senior Services would not involve himself in the actions of the SLP. She stated for the sake of the County's seniors, the Commissioners should not put the SLP out for privatization.

Pauline Lamoya said she had been battling with the owners of what had been previously known as the Sha-Neva sandpit for the last 2.5 years. She stated the Bureau of Land Management (BLM) set up a staging area within 600 feet of her property after the sandpit was abandoned, which should have been no less than 1,000 feet per County Ordinance. She said the overwhelming influx of dirt bikers and off-road vehicles caused a real and tangible impact to the neighborhood, and she called the Sheriff's Office 182 times in the last 12 months. She stated she discovered there was a Chronic Nuisance law, and she was here to ask the Commission to pursue some sort of legal action on behalf of herself and the other citizens as it pertained to the Chronic Nuisance law. She said the property was zoned for one-third acre lots and not for recreational purposes, but on any Sunday up to 40 dirt bikers could be seen going from the BLM staging area to the sandpit. She stated residents as far away as two blocks from her could hear the bikes, and children were afraid of the bikers because they raced through the area. A copy of multiple letters written by Ms. Lamoya to the property owners and others, a notice regarding what to do if injured, photos, and a DVD marked dirt bikers Lemmon Valley 2010-13 were placed on file with the Clerk.

Tom Noblett said he was running a bingo game at the Senior Center on Ninth Street. He said he was hurting for money, but could no longer get around to raise money for it. He felt it was a good game and the seniors were excited about it. He advised Oregon gave away big ticket items and the seniors loved it. He said he was asking the Commissioners for their help in getting people to back the bingo game.

Beth Vaughn explained Mr. McDonna ran the restaurant at the European Health Spa, but he could no longer work because he needed a hip replacement. She said his wife was temporarily running the restaurant along with managing her own business. She stated the cost of the surgery needed to be paid for up front before his insurance would pay for the hospitalization. She said his wife had been trying to hold fundraisers, but the first one did not raise much money due to its lack of exposure. She advised the next fundraiser would be held at the European Health Spa on February 16, 2013.

Garth Elliott said regarding Agenda Item 22, due to a fluke in the Nevada Revised Statutes (NRS), the Board had to decide who should sit on the Sun Valley General Improvement District's (SVGID's) Board due to the inability of SVGID's Board to make that decision. He felt the Board's decision should be based solely on who won last year's election because, to do otherwise, would be disheartening for the person who won the election. He stated the lady who won the election, Vicki Maltman, impressed him with her comments and her work prior to the election, and he asked the Board to consider her for the position.

Kyle Fleming noted the largest group of homeless people was veterans. He said he supported Agenda Item 23, free or discounted transportation for veterans, because it meant the veterans would not have to make a choice between feeding themselves or going to work or to school. He stated the veterans stood up to defend this nation, and he believed they should be helped to transition back to civilian life in any way possible.

13-88 AGENDA ITEM 4 – ANNOUNCEMENTS

Agenda Subject: “Commissioners’/Manager’s Announcements, Requests for Information, Topics for Future Agendas, Statements Relating to Items Not on the Agenda and any ideas and suggestions for greater efficiency, cost effectiveness and innovation in County government. (No discussion among Commissioners will take place on this item.)”

Katy Simon, County Manager, said regarding Agenda Item 8, Jeff Fontaine had the flu, and he requested his presentation be rescheduled to another date.

Commissioner Weber asked staff to look into Ms. Lamoya’s problem with the dirt bikers.

Commissioner Jung stated \$60 million was missing from the Job Corp’s annual budget, so all Job Corps were asked to not accept anymore inputs until after the end of the Fiscal Year. She said the Sierra Nevada Job Corp Center just accepted 40 new inputs, so they would be okay through that period. She stated the Center was required to lay off five people per a directive from Washington D.C., and new staff could not be hired until after June 2013. She said Senate Majority Leader Harry Reid was aware of the situation and sent a letter of support. She felt the Board should also do a Resolution of Support for the Job Corps because it would speak volumes, at least in terms of rattling cages to find out where the money went. She requested a resolution be on the Board’s next agenda if possible.

Commissioner Jung said based on citizen concerns, she was requesting a discussion with the Regional Parks and Open Space Department regarding doing an inventory of the County’s parks to determine which of the parks needed help. She said it might be possible to find corporate sponsors who would be willing to do a private-public partnership to bring those parks back up to where they were before the economy’s downturn.

Commissioner Jung advised she went to the bingo game at the Senior Center and approximately 30 people participated. She said Tom Noblett did a good job of putting together the goody bags for the bingo game. She said if the Commissioners had anything they could donate, she would help coordinate the donations. She advised it required approximately \$150 per month to keep the bingo games going, and she suggested finding a corporate sponsor that was interested in seniors to help. She said the more social interactions the seniors engaged in, the less likely it would be that they would be institutionalized, which was very costly. She said Mr. Noblett suggested asking for a

donation when dining or visiting various businesses, which would be used as prizes for the bingo games.

Commissioner Jung asked staff to inquire about the age of the man who needed the hip replacement, because he might qualify for assistance.

Chairman Humke stated the Commissioners voted late in 2012 regarding selling an unused park to the original land owner who informed him no action had yet been taken. He requested an agenda item regarding the park's status as soon as possible.

Chairman Humke stated Ms. Simon and John Slaughter, Management Services Director, presented an overview of what was happening in Washoe County to the Nevada Legislature's Assembly Government Affairs Committee. He advised the Government Affairs Committee passed the legislation that affected local governments throughout Nevada. He said Kevin Schiller, Social Services Director, was the expert in Nevada regarding Social Services and the impact of health care on Nevada's citizens, and he also testified before the Government Affairs Committee.

Commissioner Weber said she attended the Nevada Works meeting last Friday, and she spoke with the Director of the Sierra Nevada Job Corp Center. She stated she would like to carry a letter of support from the Commission for the Sierra Nevada Job Corp Center in Stead when she attended the National Association of Counties (NACo) conference in Washington D.C. She noted the Job Corp in Stead was the only Job Corp in Nevada, and she was concerned about what would happen to the community if it went away. She said the Job Corp not accepting any new applicants was a disservice to the community and to the program itself.

Commissioner Weber requested an update on how the Community Services Department was doing financially and if it really made sense. She asked if Agenda Item 19, Warm Springs equestrian uses, could be time certain for 2:00 p.m.

Commissioner Hartung stated he met with the Truckee Meadows Fire Protection District's (TMFPD) Fire Chief, Charles Moore, and the District was moving forward with obtaining corporate sponsors for the ashcan project. He said it was hoped the project would be in place prior to the end of the cold season.

13-89 AGENDA ITEM 5

Agenda Subject: "Recognition of Exemplary Public Service--William Gooch."

Katy Simon, County Manager, noted Mr. Gooch's name should be Willard instead of William.

Commissioner Weber said Willard (Bill) Gooch, a member of the Washoe County Community Services Department, checked a stranded vehicle for occupants and rescued the trapped elderly man on November 10, 2012, which avoided a potentially heartbreaking outcome. She stated Mr. Gooch would be celebrating 29 years with the

Road Operations Department in June 2013, and she presented the plaque to Mr. Gooch and his wife, Karen, for his exemplary public service on behalf of the citizens of Washoe County. She noted Mr. Gooch was also Gerlach's Volunteer Fire Chief. Mr. Gooch thanked the Commissioners and the Manager for the award and for their service as well.

There was no public comment on this item.

On motion by Commissioner Weber, seconded by Commissioner Jung, which motion duly carried, it was ordered that Agenda Item 5 be approved.

CONSENT AGENDA ITEMS 6A THROUGH 6H(3)

13-90 AGENDA ITEM 6A

Agenda Subject: "Approve minutes for the Board of County Commissioners' January 8 and January 22, 2013 meetings."

There was no public comment on this item.

On motion by Commissioner Weber, seconded by Commissioner Hartung, which motion duly carried, it was ordered that Agenda Item 6A be approved.

13-91 AGENDA ITEM 6B – COMMUNITY SERVICES/PLANNING AND DEVELOPMENT

Agenda Subject: "Approve a State of Nevada Importer and Wholesale Dealer of Wine, Liquor and Beer License for Paul M. Bond, dba Crown Beverages, Inc., and, if approved, direct that each Commissioner sign the original copy of the State of Nevada *Application for License for Importer and Wholesale Dealer of Wine, Liquor, and Beer--Community Services/Planning and Development*. (Commission District 4.)"

There was no public comment on this item.

On motion by Commissioner Weber, seconded by Commissioner Hartung, which motion duly carried, it was ordered that Agenda Item 6B be approved, directed, and signed.

13-92 AGENDA ITEM 6C – DISTRICT ATTORNEY

Agenda Subject: "Approve payments [\$4,559.90] to vendors for assistance of 27 victims of sexual assault and authorize Comptroller to process same. NRS 217.310 requires payment by the County of total initial medical care of victims, regardless of cost, and of follow-up treatment costs of up to \$1,000 for victims, victim's spouses and other eligible persons--District Attorney. (All Commission Districts.)"

There was no public comment on this item.

On motion by Commissioner Weber, seconded by Commissioner Hartung, which motion duly carried, it was ordered that Agenda Item 6C be approved.

13-93 AGENDA ITEM 6D – JUVENILE SERVICES

Agenda Subject: “Authorize the reclassification of a Youth Advisor to a Program Assistant position with a net \$0 fiscal impact (pay grade KK, Position # 70001583) to be evaluated by the Job Evaluation Committee; and direct Finance to make the necessary budget adjustments and Human Resources to make necessary staffing adjustments--Juvenile Services. (All Commission Districts.)”

There was no public comment on this item.

On motion by Commissioner Weber, seconded by Commissioner Hartung, which motion duly carried, it was ordered that Agenda Item 6D be authorized and directed.

13-94 AGENDA ITEM 6E – MANAGER/TECHNOLOGY SERVICES/COMMUNITY SERVICES

Agenda Subject: “Approve the selection of the Reprographics Center to serve as the pilot project for the Managed Competition Initiative--Manager/Technology Services/Community Services. (All Commission Districts.)”

There was no public comment on this item.

On motion by Commissioner Weber, seconded by Commissioner Hartung, which motion duly carried, it was ordered that Agenda Item 6E be approved.

13-95 AGENDA ITEM 6F(1) – HEALTH DISTRICT

Agenda Subject: “Approve amendments [increase of \$10,725] in both revenue and expense to the FY13 Assistant Secretary for Preparedness and Response (ASPR) (2011 carry forward) Grant Program, IO 11071; and direct Finance to make the appropriate budget adjustments. (All Commission Districts.)”

There was no public comment on this item.

On motion by Commissioner Weber, seconded by Commissioner Hartung, which motion duly carried, it was ordered that Agenda Item 6F(1) be approved and directed.

13-96 AGENDA ITEM 6F(2) – HEALTH DISTRICT

Agenda Subject: “Approve amendments [increase of \$29,752] in both revenue and expense to the FY13 Centers for Disease Control and Prevention (CDC) Public

Health Preparedness (2011 carry forward) Grant Program, IO 11072; and direct Finance to make the appropriate budget adjustments. (All Commission Districts.)”

There was no public comment on this item.

On motion by Commissioner Weber, seconded by Commissioner Hartung, which motion duly carried, it was ordered that Agenda Item 6F(2) be approved and directed.

13-97 AGENDA ITEM 6F(3) – HEALTH DISTRICT

Agenda Subject: “Approve amendments [increase of \$62,216] in both revenue and expense to the FY 13 Centers for Disease Control and Prevention (CDC) Epidemiology and Laboratory Capacity (ELC) Affordable Care Act Federal Grant Program, IO 10984; and direct Finance to make the appropriate budget adjustments. (All Commission Districts.)”

There was no public comment on this item.

On motion by Commissioner Weber, seconded by Commissioner Hartung, which motion duly carried, it was ordered that Agenda Item 6F(3) be approved and directed.

13-98 AGENDA ITEM 6G(1) – MANAGER

Agenda Subject: “Approve Resolution to provide a Washoe County Special Purpose grant to the Gerlach General Improvement District [\$5,666] for Fiscal Year 2012-2013; and direct Finance to make the appropriate budget adjustments--Management Services. (Commission District 5.)”

There was no public comment on this item.

On motion by Commissioner Weber, seconded by Commissioner Hartung, which motion duly carried, it was ordered that Agenda Item 6G(1) be approved and directed. The Resolution for same is attached hereto and made a part of the minutes thereof.

13-99 AGENDA ITEM 6G(2) – MANAGER

Agenda Subject: “Authorize payment [\$34,652] to Tahoe Regional Planning Agency pursuant to the Tahoe Regional Planning Compact (Article VIII, Public Law 96-551, December 1980)--Management Services. (All Commission Districts.)”

There was no public comment on this item.

On motion by Commissioner Weber, seconded by Commissioner Hartung, which motion duly carried, it was ordered that Agenda Item 6G(2) be authorized.

13-100 AGENDA ITEM 6G(3) – MANAGER

Agenda Subject: “Acknowledge receipt of an update report on the status of the Washoe County American Recovery and Reinvestment Act 2009 (Stimulus) projects for October through December 2012--Management Services. (All Commission Districts.)”

There was no public comment on this item.

On motion by Commissioner Weber, seconded by Commissioner Hartung, which motion duly carried, it was ordered that Agenda Item 6G(3) be acknowledged.

13-101 AGENDA ITEM 6H(1) – SHERIFF

Agenda Subject: “Accept donation [\$2,000] from the Northern Nevada DUI Task Force to the Washoe County Sheriff’s Office to be used to purchase hand held radar devices for the Motors Unit; and authorize Finance to make the appropriate budget adjustments. (All Commission Districts.)”

Commissioner Jung accepted the donation from the Northern Nevada DUI Task Force on behalf of the Board.

There was no public comment on this item.

On motion by Commissioner Weber, seconded by Commissioner Hartung, which motion duly carried, it was ordered that Agenda Item 6H(1) be accepted and authorized.

13-102 AGENDA ITEM 6H(2) – SHERIFF

Agenda Subject: “Approve donation of one 2004 BMW Model R1150RT motorcycle [valued at \$3,500] to the Washoe County Sheriff’s Office from the Washoe County School District Police Department. (All Commission Districts.)”

Commissioner Jung accepted the donation from the Washoe County School District Police Department on behalf of the Board.

There was no public comment on this item.

On motion by Commissioner Weber, seconded by Commissioner Hartung, which motion duly carried, it was ordered that Agenda Item 6H(2) be approved.

13-103 AGENDA ITEM 6H(3) – SHERIFF

Agenda Subject: “Approve donation 22 Scott brand 30 minute breathing air bottles [valued at \$13,200] to the Truckee Meadows Community College Fire Program from the Washoe County Sheriff’s Office S.W.A.T. team. (All Commission Districts.)”

Commissioner Jung acknowledged the donation from the Sheriff’s S.W.A.T. team to the Truckee Meadows Community College Fire Program.

There was no public comment on this item.

On motion by Commissioner Weber, seconded by Commissioner Hartung, which motion duly carried, it was ordered that Agenda Item 6H(3) be approved.

BLOCK VOTE – AGENDA ITEMS 9, 10, 11, 12, 13, 14, 15, 17, AND 18

13-104 AGENDA ITEM 9 – SOCIAL SERVICES

Agenda Subject: “Recommendation to approve Agreement among Washoe County, WestCare Nevada, Inc., Carson Tahoe Regional Healthcare, Northern Nevada Medical Center, Prime Healthcare Services, Renown Regional Medical Center, Renown South Meadows Medical Center, City of Reno and City of Sparks, to provide funds for the Community Triage Center, operated by WestCare at 315 Record Street, Reno, Nevada; and approve Washoe County Department of Social Services to provide \$190,000 cash to the Community Triage Center--Social Services. All Commission Districts.”

Katy Simon, County Manager, stated a question about the mental health system in Northern Nevada came up this morning at the Legislature, and staff was able to inform the Legislators about the Community Triage Center.

There was no public comment on this item.

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

13-105 AGENDA ITEM 10 – TREASURER

Agenda Subject: “Recommendation to approve Refund of Surplus Assessment Funds [\$100,503.89] for the 231 properties in Special Assessment District #30 – Antelope Valley Road--Treasurer. (Commission District 5.)”

There was no public comment on this item.

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

13-106 AGENDA ITEM 11 – HEALTH DISTRICT

Agenda Subject: “Recommendation to authorize issuance of an Invitation to Bid for the Washoe County Health District, Vector Borne-Diseases Program, for mosquito control products [up to \$231,500]; and if approved, Washoe County Purchasing will administer a Bid Solicitation Package to obtain the required mosquito control products under the best possible financial arrangements--Health District. (All Commission Districts.)”

There was no public comment on this item.

On motion by Commissioner Weber, seconded by Commissioner Jung, which motion duly carried, it was ordered that Agenda Item 11 be approved and administered.

13-107 AGENDA ITEM 12 – HEALTH DISTRICT

Agenda Subject: “Recommendation to authorize travel and travel reimbursements for non-County employees (John Packham, PhD, Emily Brown, MPH, CPH, and Peggy O’Neill) [approximate amount \$16,400] support by the grant award; authorize the purchase of food [approximate amount \$2,575] support by the grant award; approve amendments [totaling increase of \$114,750 in both revenue and expense] to the FY13 Robert Wood Johnson Foundation (RWJF) Northern Nevada Shared Services Learning Community grant program (IO-20385); and if approved, direct Finance to make the appropriate budget adjustments--Health District.”

There was no public comment on this item.

On motion by Commissioner Weber, seconded by Commissioner Jung, which motion duly carried, it was ordered that Agenda Item 12 be authorized, approved, and directed.

13-108 AGENDA ITEM 13 – SHERIFF

Agenda Subject: “Recommendation to accept grant award for the FY 2012 State Criminal Alien Assistance Program (SCAAP) from the United States Department of Justice, Bureau of Justice Assistance [\$215,004, no County match]; grant period begins 11/5/2012 and has no end date; and, if approved, authorize Finance to make necessary budget adjustments and authorize the Washoe County Sheriff’s Office and the Purchasing Department to develop, and the Purchasing Department to administer, a Request for Proposal seeking qualified vendors for equipment--Sheriff. (All Commission Districts.)”

There was no public comment on this item.

On motion by Commissioner Weber, seconded by Commissioner Jung, which motion duly carried, it was ordered that Agenda Item 13 be accepted, approved, and authorized.

13-109 AGENDA ITEM 14 – SHERIFF

Agenda Subject: “Recommendation to accept grant award from the Nevada Division of Emergency Management FFY 12 Department of Homeland Security (DHS) Project No. 97067.12-HL2 [\$520,343, no County match]; with a grant term of 9/1/12 - 3/31/14 supporting Nevada Dispatch Interconnect Grant Program; and if accepted, authorize Chairman to approve sole source for communication equipment purchases through Harris Corporation pursuant to the Western States Contracting Alliance (WSCA) Contract No.: 02702 for public safety communications equipment [not to exceed \$520,343]; and authorize Finance to make necessary budget adjustments--Sheriff. (All Commission Districts.)”

There was no public comment on this item.

On motion by Commissioner Weber, seconded by Commissioner Jung, which motion duly carried, it was ordered that Agenda Item 14 be accepted and authorized.

13-110 AGENDA ITEM 15 – COMMUNITY SERVICES/PLANNING AND DEVELOPMENT

Agenda Subject: “Recommendation to appoint a Washoe County citizen representative to the HOME Consortium Technical Review Committee (TRC) for the remainder of a three-year term that commenced on July 1, 2010 through June 30, 2013, with automatic extension to a new term consistent with the by-laws of the TRC; candidate’s names are Alvin Bolton and Christina Leach--Community Services/Planning and Development. (All Commission Districts.)”

Commissioner Weber noted the information on the two candidates had been included in the Board’s packet for review.

There was no public comment on this item.

On motion by Commissioner Weber, seconded by Commissioner Jung, which motion duly carried, it was ordered that Christina Leach be appointed as a Washoe County citizen representative to the HOME Consortium Technical Review Committee (TRC) for the remainder of a three-year term that commenced on July 1, 2010 through June 30, 2013, with automatic extension to a new term consistent with the by-laws of the TRC.

13-111 AGENDA ITEM 17 – COMMUNITY SERVICES/ENGINEERING & CAPITAL PROJECTS

Agenda Subject: “Recommendation to authorize the Community Services Department to advertise and solicit bid proposals for the construction of the “Fairview/Fairway Phase III Water Quality Improvement Project” [anticipated project: \$2.5 million, funding source – Nevada Tahoe Bond Act and U.S. Forest Service Southern Nevada Public Lands Management Act – no County match required]--Community Services/Engineering & Capital Projects. (Commission District 1.)”

There was no public comment on this item.

On motion by Commissioner Weber, seconded by Commissioner Jung, which motion duly carried, it was ordered that Agenda Item 17 be authorized.

13-112 AGENDA ITEM 18

Agenda Subject: “Recommendation to approve a Grant of Easement between Washoe County (Grantor) and City of Reno (Grantee) for the construction, maintenance and repair of a public sidewalk, and appurtenances thereto, over, across and through a portion of Grantor’s property located along the west side of Sutro Street between Oddie Blvd. and E. 9th Street, a portion of APN 008-030-05; and approve a Grant of Easement between Washoe County (Grantor) and the Regional Transportation Commission (Grantee), allowing for installation and maintenance of public use easements to provide a bus stop and appurtenances thereto, over, across and through a portion of Grantor’s property located along the west side of Sutro Street between Oddie Blvd. and E. 9th Street, a portion of APN 008-030-05, in conjunction with the Sutro Complete Street Project. (Commission District 3.)”

There was no public comment on this item.

On motion by Commissioner Weber, seconded by Commissioner Jung, which motion duly carried, it was ordered that Agenda Item 18 be approved.

13-113 AGENDA ITEM 7 – MANAGER

Agenda Subject: “Discussion and possible direction to staff regarding any action the Board may wish to take in response to sections 1021 and 1022 of the National Defense Authorization Act (NDAA)--Manager. (All Commissioner Districts.) Requested by Commissioners Jung and Weber.”

Katy Simon, County Manager, said this item had been before the Board previously at the request of a citizen. She stated staff drafted a resolution trying to meet the concerns of the people who raised them, but those individuals did not feel the drafted

resolution was satisfactory. She said staff felt it would be best to air the item in its entirety, and the Board could give direction regarding what the content of a resolution might be if the majority of the Board wanted to proceed with doing a resolution.

Chairman Humke asked if any proponents of the resolution were present. There was no response.

Commissioner Jung asked if staff notified the citizen activists that the resolution would be discussed today. Ms. Simon said she did not have the contact information for Christopher Corbett. Commissioner Jung advised staff had it. Ms. Simon stated he had been present when Commissioner Jung requested it be on the next agenda. Commissioner Jung felt there could not be a good discussion regarding the resolution when the proponents were not present. Commissioner Weber agreed. She suggested hearing from the District Attorney (DA). Commissioner Hartung agreed that he would like to hear from the DA, and the Board could continue the item if necessary.

Paul Lipparelli, Legal Counsel, advised there were two resolutions in the Board's packet: one created by staff and one submitted by the activists, which was the one they wanted the Board to consider. He said the record needed to reflect which resolution was being discussed and would potentially be acted upon.

Commissioner Berkbigler said she had concerns about the NDAA resolution because it was very extensive. She advised she had not been able to read the U.S. Constitution and all of the articles to find out what the resolution referred to, which meant she would not be able to vote on the resolution because she might not agree with their position. She said she did not have a problem with the resolution drafted by staff.

Richard Gammick, DA, said page 4 of the NDAA's resolution stated the Board would reject all unconstitutional parts of the NDAA for Fiscal Year 2012, which was a false premise. He explained laws were presumed to be valid if they were passed by anyone who had the jurisdiction to do so. He stated only a court could make the decision to declare a law unconstitutional, and he was unaware of any court making that decision for any part of the NDAA. He said it was presumed this law was constitutional and, although citizens could express their opinion that it was unconstitutional, they could not make a binding ruling on anyone.

Mr. Gammick noted the Sheriff was an elected official who made all of the decisions on what the Sheriff's Office would or would not do with the exception of the Sheriff's budget, which was reserved for the Commission to decide. He said even if the Board adopted the NDAA resolution, the "Be It Further Resolved" directing the Sheriff would have no affect on the Sheriff.

Mr. Gammick said Washoe County was in a unique situation because of the collaboration and cooperation between all of its law enforcement agencies, which even included some in California. He stated that cooperation was so extensive, that when the main team for the Alcohol, Tobacco and Fire Arm (ATF) came to investigate the fire

in a downtown hotel that killed 12 people, the head of the team said they investigated fires worldwide, but they had never seen the cooperation and collaboration to the extent that took place in Washoe County. He said the NDAA proclamation threw all of that out the door.

Mr. Gammick said for all of the aforementioned reasons, he urged the Board not to adopt the NDAA resolution, to not address it any further than was necessary legally, and to let these people pursue other avenues available to them to address their concerns, which would be through the U.S. Congress or the courts.

Commissioner Jung said she believed staff was directed to come to an agreement with the activists regarding something meaningful, which would be amenable to the DA and to the Sheriff. She stated the activists felt the staff resolution was so watered down that it was meaningless. She said when she sat down with Mr. Lipparelli, he said it would be figured out, which she took to mean that they would work with the activists. She stated she did not know if that had happened yet, so she felt this discussion was premature. She said her intention was to figure out if there was something this Board could do to symbolically support what the citizens were concerned about. She stated she did not like how the activists NDAA resolution was written, because she could not direct any elected official or body to do anything. She felt perhaps she might not have been clear on what she was asking for when trying to communicate with staff.

Ms. Simon stated there was direction from two of the Commissioners to do something, but it was hard for staff to come up with something meaningful without knowing what the majority position of the Board was regarding the NDAA resolution; and she took full responsibility that the Board did not receive a satisfactory conclusion. She stated even with that being the case, staff wanted the Board to have the discussion with the DA and the Sheriff about their concerns.

Mr. Gammick advised the proponents of the NDAA resolution were not happy with the resolution drafted by staff, so he was addressing the NDAA resolution in his comments. He said he was not interested in joining in or supporting any proposal that was contrary to the federal law currently being enforced by federal agencies. He stated he supported the law but, if he had not, he would have approached his congressman about the problems and difficulties the law contained. He said he would not support a proposal which was contrary to what was being done, especially when talking about external or internal terrorism against this country.

Commissioner Jung said she did not want to support a resolution that would not really do anything. She stated she would like to have further discussion with Mr. Gammick or his staff regarding states' rights and even symbolic gestures that could be sent to our representatives in congress, either individually or as a County, regarding what the issues were. Mr. Gammick said he had no objection to meeting to discuss this with Commissioner Jung, but he would not support what was being suggested today. He stated philosophically he did not support the idea of even doing this resolution.

Mr. Lipparelli said this issue had the potential to become very complex and difficult. He explained the NDAA was adopted by Congress each year for the Defense Department. He said the authorization for the use of military force was first enacted by Congress in September 2001 after the World Trade Center bombings. He stated the most recent iteration of the NDAA sought to clarify and put more meat on the bones of that authorization. He said there had been a lot of litigation involving that underlying authorization, and the detainees at Guantanamo Bay obtained counsel and proceeded under habeas corpus to challenge their incarceration. He stated all of the litigation ultimately upheld the authority of the President and the military forces to detain them. He stated there was a case in the Southern District of New York Federal Court where it was found Section 1021 of the NDAA was unconstitutional on First Amendment grounds. He said that decision was on appeal to the Second Circuit Court, which stayed the affect of the Federal Judge's decision. He advised there would be a decision as to the underlying constitutionality of the power given to the President under that law from the Second Circuit Court.

Mr. Lipparelli said it was up to the Commissioners regarding whether or not they wanted to weigh in on those federal issues. He advised there were many issues of national significance that the Board might choose to make a statement about through a resolution. He said from his standpoint as the Board's legal advisor, the worry was what could the Board be advised it could do. He stated Mr. Gammick was expressing concerns about whether the supremacy clause of the Constitution allowed a local government to attempt to tell the federal government its enactments were unconstitutional and would not be followed. He said there were also concerns whether the Board would be placing the DA or the Sheriff in a position where they could not fulfill their obligations under the agreements they had with federal agencies to cooperate in law enforcement matters.

Commissioner Jung said it was not just Guantanamo Bay that was changed when the President put more meat on the NDAA, because the President could detain any American Citizen indefinitely if they were considered to be a threat to the nation. She stated Mr. Lipparelli provided the Board with the history of the NDAA, but she felt it was important to find out why this became such an issue for many civil-rights activists. Mr. Lipparelli advised since the inception of the authorization for the use of military force, there had been a lot of people with concerns about the appropriateness of the scope of that power. He said this version of the NDAA did go into more detail about what the President's powers were and affirmed the use of military force, but it also defined covered persons. He stated opponents of the NDAA pointed out people had concerns about some of the terms, particularly in Section 1021.

Mr. Lipparelli said he was asking the Board to tell staff what the Board wanted done regarding bringing back a resolution. He stated if the Board wanted something close to the staff version it would be simple, but something closer to the People Against National Defense and Authorization Act (PANDA) version would require a lot of discussion.

Commissioner Berkbigler said after hearing about the DA's and the Sheriff's opposition to doing anything regarding the NDAA resolution, she felt the Board should reconsider putting this item on the agenda again. She believed this type of resolution meant nothing to the federal government, and it would not be worthwhile to continue to pursue this issue. Commissioner Hartung said he echoed Commissioner Berkbigler sentiments, because he felt it was not within the Board's purview to have this conversation. He stated the proponents of the resolution should be having conversations with their federal representatives. Commissioner Weber agreed.

Chairman Humke stated the federal purview through the supremacy clause was clear. He said he read PANDA's resolution and it was scary, because it referenced a video he would never see and that was ridiculous language to put into a resolution. He believed the Commission should concentrate on the core issues that were important to the citizens of Washoe County.

Marshall Emerson, Assistant Sheriff, said his comments were on behalf of Sheriff Michael Haley, who could not be present, and echoed those of the DA, but from the perspective of the Sheriff's Office. A copy the Executive Brief was placed on file with the Clerk.

In response to the call for public comment, Ted Levatter said no one from the County contacted him or Mr. Corbett about the NDAA resolution being on today's agenda, and he had not heard any of the Board's comments because he just arrived. He asked the Board to continue this item one more time, so the PANDA representatives could be prepared to address what their specific concerns were. He said one concern was Mr. Corbett was at the Legislature lobbying on behalf of BDR 728, the Nevada Liberty Preservation Act. He stated the Nevada Legislature felt the issue was serious enough to take a look at it, and a resolution from the Commission could assist in PANDA's efforts to raise awareness of this issue and to hopefully get it passed at the state level where it could have an effect on what the Sheriff could and could not do. He reiterated his request that this item be continued so the PANDA representatives could participate in the discussion.

Ms. Simon confirmed staff had not notified Mr. Corbett of this item being on today's agenda, but the agenda was posted and was available to the public. Chairman Humke stated fairness suggested the item should be continued because staff did not contact the proponents of the resolution.

Commissioner Jung stated she did not believe any meaningful resolution could be arrived at that the Board's Legal Counsel would allow to move forward. She said she had some very real concerns regarding the NDAA, but she would not belabor the issue if she could not get support for doing a resolution. She stated she would speak with Mr. Levatter to see if they could come up with some workarounds. She said it was never her intention to tell the DA or the Sheriff how to do their jobs.

Commissioner Weber thanked Commissioner Jung for her comments. She felt it would be better if the proponents of the resolution spent their time at the Legislature or at the federal government. Commissioner Hartung stated the Board was looking for more citizen participation regarding issues within the Board's purview. He agreed the time of the proponents of the resolution would be better spent talking with their Legislators and with their federal representatives.

11:42 a.m. Commissioner Jung left.

Chairman Humke made a motion to continue this item until after staff could contact the proponents of the NDAA resolution. The motion died because of the lack of a second.

13-114 AGENDA ITEM 22 – SUN VALLEY GENERAL IMPROVEMENT DISTRICT

Agenda Subject: “Recommendation to appoint one individual to the Sun Valley General Improvement District, Board of Trustees, per NRS 318.090(5), due to two tie votes; candidates names are Kathy Fuller, Vicky Maltman, Steve Naylor and Susan Severt--Sun Valley General Improvement District. (Commission District 5.)”

Commissioner Weber suggested giving the candidates for the Sun Valley General Improvement District (SVGID) Board of Trustee's (BOT) seat three minutes to introduce themselves. Commissioner Hartung agreed.

11:48 a.m. Commissioner Jung returned.

Katy Simon, County Manager, read the letter from Darrin Price, SVGID's General Manager, which explained the circumstances behind this agenda item.

Candidate Kathy Fuller introduced herself. She said she believed SVGID's BOT needed new ideas. She stated she volunteered at the Sun Valley food bank and helped organize the bingo games for seniors. She felt she would be an asset to SVGID's BOT, and she had the support of 80 plus people.

Candidate Vicky Maltman stated as a candidate, she expended the funds, time, and effort to meet with the residents of SVGID and she received over 2,000 votes. She said she attended the SVGID meetings regularly and was concerned about SVGID supplying good quality water, being fiscally responsible, providing the best services to the ratepayers, and ensuring the ratepayers got what they paid for.

Candidate Steve Naylor was not present.

Candidate Susan Severt said she had been a resident of Sun Valley for over 31 years. She believed she would bring the necessary knowledge and skill-set needed to provide service to the community if she was appointed to the BOT. She

advised she attended many BOT meetings and participated in several ad hoc committees sanctioned by SVGID, including the committee created to bring the recreational powers to the GID. She said she understood SVGID's tariffs, policies, and procedures; and she was serious about water and sanitation in the community. She stated she had many years of volunteer service within the community. She advised she always tried to be a problem solver, and she would be a strong asset if appointed to the BOT.

Commissioner Berkgigler asked Ms. Maltman what place she came in at during the election, and was this for a different open seat or was it for the same seat she ran for. Ms. Maltman replied she came in fourth and ran for one of three seats. She said the Trustee who won resigned, because she had to move out of the area. Commissioner Berkgigler asked who came in second and third. Ms. Maltman said the second place winner was an incumbent and the third place winner took another one of the open seats. Mr. Price explained the top vote getters got the open seats per Nevada law, which happened in this case even though one of the candidates resigned prior to the election. He said she resigned again after winning the election because it had been too late to get her name off of the ballot, which created the open seat.

Commissioner Weber asked if Ms. Severt ran for the seat in previous years. Ms. Severt replied she did in 2010, but there were two seats open and she finished third.

In response to the call for public comment, Tom Noblett said he was concerned because the people on the BOT were way too liberal with wages, and he provided an example of the Comptroller's salary.

Jim Ainsworth felt Linda Woodland should be replaced by someone with the same vision for the community, which he felt was Ms. Severt and, when Ms. Woodland resigned, she asked the BOT to replace her with Ms. Severt. He disagreed with the idea that someone who lost the election to Ms. Woodland should be given the seat.

Rodney Bloom said the people on the SVGID BOT needed to make decisions that would take care of his and the community's financial interests. He advised he was impressed with Ms. Maltman and felt she had the best interests of the taxpayers at heart. He said he would support Ms. Maltman's appointment.

Margaret Reinhardt, SVGID BOT member, said she supported Ms. Maltman because she would have won if the candidate who won had been removed from the ballot. Commissioner Weber interrupted and asked if there was a problem with Ms. Reinhardt speaking during public comment. Paul Lipparelli, Legal Counsel, advised there was not a quorum of the SVGID BOT present and, as long as the speaker clarified she was speaking for herself, she still had her rights as a citizen.

Ms. Rinehart reiterated she supported Ms. Maltman because the citizens of Sun Valley supported her. She said Ms. Maltman attended most of the BOT's meetings and contributed in ways that saved SVGID money, such as finding a way to purchase

computers cheaper. She stated Ms. Maltman had already proven she would be an asset to the BOT, and she would like to see her appointed.

Commissioner Weber thanked the candidates. She said this was a non-partisan seat, which was important to remember because the positions on the BOT meant working for everybody. She stated she tried to take everyone's opinions and comments into consideration when making decisions. She advised she worked with Ms. Severt and Ms. Maltman, but had not had the opportunity to work with Ms. Fuller. She said when she became a Commissioner, she noticed Ms. Severt attended every community event and was a leader in going to the Legislature regarding bills that would affect her community. She believed Ms. Severt worked for everyone in the community, and she supported Ms. Severt.

Commissioner Berkbigler said this was a tough decision, but supported Ms. Maltman because she received the most votes in the last election.

Commissioner Jung said Sun Valley was one of the most activist valleys in the County and everyone was lucky that there were so many great candidates willing to run for a seat on the BOT. She believed it was important to ask the person who won the office who they felt should replace them. She said she received numerous e-mails and phone calls from people active in Sun Valley in support of Ms. Severt.

Commissioner Hartung noted he received messages of support for all of the candidates, but there was an overwhelming amount of support for Ms. Severt.

Chairman Humke said he understood this situation got the attention of the Legislature and they were going to try and come up with a remedy. He thanked the candidates for participating in this process, because it was what made America strong. He said in making his decision, he looked to the two Commissioners representing the area. He stated of the candidates here today, he saw Ms. Severt the most because she participated in a host of issues. He said based on that and on the letters of support for Ms. Severt, he supported appointing Ms. Severt.

Commissioner Berkbigler said there was a lot of support for Ms. Severt, so she would bow to the majority and would support Ms. Severt.

On motion by Commissioner Jung, seconded by Commissioner Weber, which motion duly carried, it was ordered that Susan Severt be appointed to the Sun Valley General Improvement District, Board of Trustees, per NRS 318.090(5).

Chairman Humke congratulated Ms. Severt on her appointment.

**AGENDA ITEM 16 – COMMUNITY SERVICES/ENGINEERING
& CAPITAL PROJECTS**

Agenda Subject: “Recommendation to award bid for construction of Phase IV North Valleys Regional Park Water Play Splash Pad and Improvements to Pace Contracting, the lowest responsive, responsible bidder [\$2,289,333.96 - funded by Sierra Sage Golf Course water rights proceeds]--Community Services/Engineering & Capital Projects. (Commission District 5.)”

Al Rogers, Community Services Department, Programs and Projects Division Director, said this project was a top priority for the residents and was consistent with the updated North Valleys Regional Master Plan. He stated the majority of Phase IV was the water play project, but it also included infrastructure upgrades to the existing community center.

Commissioner Weber said she was so excited about awarding this bid, which came in at an amount much lower than was anticipated. Mr. Rogers said the bid was lower because the opinion of probable cost included the water park, but the concession stand and park entry were removed and were not reflected in the \$2.2 million bid. He said that was done because it cost less to separate them from this component of the project and those items were projected to cost \$250,000 to \$300,000. He said also the planning and design was not included in the bid, which only reflected the construction piece of the project. Commissioner Weber requested a cost breakdown of how much the entire project would cost. Mr. Rogers said staff would be coming forward to discuss the next projects and all of the costs associated with this phase of the project could be identified at that time. Commissioner Weber asked when construction could start if the bid was approved. Mr. Rogers replied it could start as early as tomorrow.

Commissioner Weber asked if the existing parking lot in front of the community center would be expanded. Mr. Rogers pointed out the expansion of the parking lot on the Overall Site Plan map attached to the staff report. He said currently the community center was connected to a septic tank and propane gas, and the infrastructure upgrades would tap into natural gas and would connect to the sewer system. He said the existing playground was being replaced as part of Phase IV, because the playground had reached the end of its useful life. Commissioner Weber said a lot of great things were included in this phase of the project. She asked if the adults would have an area in the water-play feature. Mr. Rogers said there were some opportunities within the park’s footprint to appeal to all ages, but the focus would be on kids and young teens.

Commissioner Weber said that often these types of projects do not turn out exactly as anticipated, and she wanted to make sure that the adults had some area designated for them within the water-play area. Paul Lipparelli, Legal Counsel, advised State law required the design of a public works project be completed before asking for bids and the award of the bid must be based on the specifications produced by the design professionals. He stated the bids came in based on that design and that would be what would be built. He said the question was would there be room within the existing design

for the kind of feature Commissioner Weber envisioned. He said the bid could be awarded today if there was. He stated if what Commissioner Weber envisioned involved changing significantly what had been designed or what was bid on, that would be a problem. Chairman Humke said changing the design would require rejecting all bids. Mr. Lipparelli said it depended on how big a change was being discussed, and the rule-of-thumb was 7 to 10 percent of the value of the project was considered to be so significant that it would disadvantage the bidders who did not know it would be part of the project.

Commissioner Weber believed the adult area was included in the design. Mr. Rogers said the design was intended to have an adult section, even though it was not specifically designated in the design. He advised the size of this facility was about 2.5 times larger than the Melio Gaspari Water Park, and the larger size would allow programming in a more full-spectrum type of methodology.

Commissioner Weber thanked Mr. Rogers and the staff who worked so hard to bring this project to this point, because this was truly what the community wanted.

Commissioner Hartung asked if this would be similar to the water park in Spanish Springs. Mr. Rogers replied it would be similar in the type of amenities it had, but they added more of them because Spanish Springs had been very popular. He stated this park had a strong aeronautical theme. Commissioner Hartung commented he recognized the need for adult space.

There was no public comment on this item.

On motion by Commissioner Weber, seconded by Commissioner Berkbigler, which motion duly carried, it was ordered that Agenda Item 16 be awarded.

12:37 p.m. The Board recessed.

2:10 p.m. The Board reconvened with all members present.

13-116 **AGENDA ITEM 19 – COMMUNITY SERVICES/PLANNING AND DEVELOPMENT**

Agenda Subject: “Development Code Amendment Case Number DCA12-002 (Articles 226 and 302, Equestrian Uses in the Warm Springs Planning Area) – Introduction and first reading of an Ordinance amending the Washoe County Code at Chapter 110, Development Code, Article 226, Warm Springs Area to add a new section in order to regulate equestrian uses, such as boarding stables, commercial stables and equestrian facilities, on all legally established parcels greater than 35 acres in area and zoned General Rural (GR) or General Rural Agricultural (GRA) in the Warm Springs planning area, and to add definitions specific to these types of uses. Further to amend Article 302, Allowed Uses, to modify the Table of Uses for Commercial Use Types to reference Article 226 for commercial stables use types

within the Warm Springs planning area, and, providing for other matters properly relating thereto as recommended for adoption by the Washoe County Planning Commission; and, if supported, schedule a public hearing for second reading to provide for affirmation of the findings of the Planning Commission and possible adoption of the Ordinance for 6:00 p.m. on February 26, 2013--Community Services/Planning and Development. (Commission District 5.)”

Nancy Parent, Chief Deputy Clerk, read the title for Bill No. 1685.

Sandra Monsalve, Senior Planner, said the request to amend the Development Code was based on direction given to staff by the Planning Commission on October 5, 2011 during the updating of the Warm Springs Area Plan. She stated the direction included staff working with the Warm Springs community, also known as the Palomino Valley, regarding boarding horses, commercial stables, and equestrian facilities. She said the amendment would only pertain to parcels zoned General Rural (GR) and General Rural Agricultural (GRA) and would amend Articles 226 of the Washoe County Development Code for the Warm Springs Planning Area. She stated it would also amend Article 302, which was the table of uses indicating whether a requested use required a Special Use Permit (SUP), Administrative Permit, or was an allowed use.

Ms. Monsalve said extensive public outreach to the Warm Springs community was done, which included community meetings and a questionnaire with questions relating to horses and the number of horses on a piece of property the community felt was appropriate before a SUP was required. She stated currently the Development Code required a SUP if over three horses were raised, bred, or boarded in GRA zoning. She said after much research and community input, staff recommended to the Planning Commission the number of horses be raised to 20 before a SUP would be required; and that recommendation was accepted unanimously by the Planning Commission. She said no empirical number came out of the research and the questionnaire was sent out to over 1,000 residents and property owners in Warm Springs. She noted 191 responses were received. She stated staff captured the responses verbatim into a spreadsheet, but the survey results did not provide any clear direction because it was not heavily weighted one way or another. She said the Planning Commission voted unanimously that the number of horses be raised to 20 before requiring a SUP. A copy of her presentation was placed on file with the Clerk.

There was no public comment at this time.

Commissioner Weber said she had been working with the people in Warm Springs on this project for a couple of years, and she thanked staff for their work during that time. She stated in all of her conversations with staff, she had not supported any limit to the number of horses but, during the community forum, there was some support for anything over 50 horses requiring a SUP. She asked if the equestrian centers were regulated in a separate section of the Development Code. Ms. Monsalve replied they were. She said staff was tasked with defining what was meant by boarding, commercial

stables, or equestrian facilities. She defined what comprised an equestrian facility and noted they required a SUP regardless of the number of horses because it was about the impact or the intensity of the event. She said page 2 of the draft ordinance discussed what was meant by boarding. Commissioner Weber asked if this discussion pertained to Warm Springs only. Ms. Monsalve said it did.

Commissioner Weber felt it was a property right for the people who lived on over 35 acres to do what they wished on their property. She said if they were boarding horses or operating commercial stables, they would be getting a business license, which would take care of everything. She believed less than five property owners had talked about boarding horses or having a commercial stable. She stated it was a property right and that the people knew what was best for their own property. She said Code Enforcement was complaint driven so, if a neighbor did not like something, they could call and report it. She said she did not believe in creating more regulations, and it was the right thing to do to let people do what they thought was best on their own property.

Commissioner Berkbigler asked what the problem was that needed to be solved. Ms. Monsalve said when the Warm Springs Area Plan update was being approved and because boarding horses was not part of that update, as part of the Planning Commission's motion staff was directed to work with the community to find out what the Warm Springs residents wanted. She stated the residents did not want to have to obtain a SUP if they were going to board or breed more than three horses, which was currently in the Code and applicable to the entire County for parcels zoned GR and GRA. She said that zoning was typically only found in the Warm Springs area and other regulatory zones that were more rural in nature. Commissioner Berkbigler asked if there had been complaints about facilities that were boarding large numbers of horses by the residents of Warm Springs. Ms. Monsalve said there had been countywide complaints about people operating commercial stables or holding events without a business license or review by the necessary agencies. She stated there had been complaints received from Warm Springs, but no more than were received from any other area of the County. She said Warm Springs had several SUP's issued for commercial stables under the current threshold. She stated the largest commercial stable was under construction and would be a 60,000 square foot arena to be used for commercial events.

Commissioner Berkbigler asked why this ordinance would apply only to the Warm Springs area if this was a valid issue everywhere. Bill Whitney, Community Services Department, Planning and Development Division Director, said he and his staff worked a long time on updating the Warm Springs Area Plan. He stated as part of the update, staff conducted many meetings with the residents, who saw themselves differently than the rest of the County because they were on 40 acre or larger parcels (except for one area in the center of the community) and they were zoned agricultural. He noted the number of horses was a Development Code Amendment, which was why staff was directed to work with the citizens regarding that issue. He thanked Commissioner Weber for her input and for her involvement. He said 20 horses was a compromise because some people liked the existing number, some liked increasing the number to 50 horses, some did not want a number at all, and others favored something in between. He

reiterated this was all about commercial operations, but for personal use the Development Code allowed an unlimited number of horses as long as the parcel was 35,000 square feet or larger and all health codes were followed.

Commissioner Berkbigler asked if she would be a boarding stable or a commercial stable if she was paid for boarding her family's horses. Mr. Whitney said boarding horses belonging to the family would be a boarding stable. He stated in addition to determining the number of horses, the definitions for boarding stables, commercial stables, and equestrian facilities reflected a level of increased use and activity. He stated an equestrian facility was at the top and was where the big shows would be held. He said boarding family and friend's horses for a fee would make it a stable and a commercial operation, which would require a business license and a SUP for over 20 horses. He stated a SUP would involve a public hearing, so the neighbors would get a chance to understand what the proposal was and to provide their input. He said a SUP also involved all of the agencies looking at the proposal to determine what conditions should be imposed to address issues such as noise, dust, and so on up front. He said planning staff would check to verify the SUP's conditions were being met.

Commissioner Berkbigler said she tended to agree with Commissioner Weber, because she should be able to do what she wanted on her own land as long as she was not running a commercial business. She asked if she had 20 horses and one had a baby, would she have to get a SUP or would a horse have to be sold. She felt that was kind of the problem she saw with this arbitrary number. Mr. Whitney said the Development Code allowed foals to remain for up to 12 months. Commissioner Berkbigler said her concern was if she was boarding her family's and friend's horses and they were helping her pay for her operating costs, being paid would make her a commercial stable even though it was just her family and friends.

Katy Simon, County Manager, said there was a difference between boarding and a commercial enterprise. She stated one of the questions asked was why anyone would care, but there were people in the Warm Springs area who said there was dust and traffic with people coming in and out of a commercial enterprise that created impacts on other people. She said staff was trying to find a solution to those negative impacts.

Commissioner Hartung said Warm Springs had a General Improvement District (GID) for the roads. He stated he felt strongly about supporting Commissioners with issues in their Districts, but his concern was a commercial event or stables would generate more traffic on the area's roads. He said he did not know what the members of the GID paid each year, but he felt there would be an imbalance created if someone only made four to six trips a day on the roads and someone else put on events every weekend at their arena putting 200 people on the roads. He stated he was not opposed to the equestrian uses, but he was concerned about the overarching impacts those businesses might put on the infrastructure that everyone in the GID had to pay to maintain.

2:43 p.m. Chairman Humke left the meeting and Vice Chairperson Weber assumed the gavel.

Commissioner Jung asked if the horse feces from commercial horse operations could impact the quality of the well water in the area. Mr. Whitney said there had been no definitive studies along those lines, but common sense indicated there would be impacts because horses produced 10 times more urea than a human being. Commissioner Jung stated even if it was a non-commercial use, there could be irrevocable impacts due to someone collecting horses. She said similar to Commissioner Hartung's comments that everyone paid the same rate for the GID, there needed to be rules in place because not every neighbor would be respectful of others. She stated while she was a big advocate of property owners' rights, there was also a responsibility as a property owner to the people that would be impacted by what they did on their property.

Commissioner Hartung noted he was concerned that not many representatives of the community were present, and he asked if it would be better to continue this item to a time when it could be done during a 6:00 p.m. public hearing.

Vice Chairperson Weber noted having over 20 horses in a boarding stable would require a SUP. Ms. Monsalve said the wording in the allowed uses definition of boarding stables on page 2 of Exhibit A stated it would be as an accessory use to an established residential or agricultural use on the property. She noted the wording was different for the commercial stables definition. Vice Chairperson Weber felt boarding horses was different from operating commercial stables, because commercial stables could include paying a fee to go horseback riding. Ms. Monsalve said that could be done under the Boarding definition while having less than 20 horses and a business license, or having over 20 horses and a business license and a SUP. Vice Chairperson Weber said she was concerned the ordinance was not clear.

Vice Chairperson Weber asked if there could be something in the commercial business license instead of having to get a SUP if they were boarding 35 horses. Ms. Monsalve clarified there was only a single business license and there was no separate designation for a commercial or a retail business license. She said currently if someone only boarded two horses, they still needed a business license for all areas of the County. She advised a SUP allowed public input, and even though a business license application was circulated to the various agencies for comment, it did not allow for public input. Commissioner Weber said she was concerned because she would not want someone telling her what to do on her own property. She asked how many properties might fall under this ordinance. Mr. Whitney said there was no way of knowing how many people would want to do some type of horse operation. He said regarding Commissioner Weber's question about a business license versus a SUP, a business license would go to the agencies for comment, but it was rare to receive any comments from them. He stated a SUP imposed the conditions up front in anticipation of any impacts. Vice Chairperson Weber said she could understand having a SUP if the discussion was about Cold Springs or Spanish Springs, but the discussion was about 40-

plus acres of land in an area where the people wanted to be away from everybody and where no neighbor lived right next door.

Ms. Monsalve said going through the business-license process meant only adhering to the requirements put on by the agencies that looked at the license application. She said if the conditions of a SUP were not met, which typically were placed before any ground disturbing activity, then the business license would not be issued.

Ms. Monsalve clarified that besides pertaining to GRA zoned parcels, this ordinance would also pertain to GR zoned parcels, which were in many other areas of the County. Vice Chairperson Weber thought this ordinance only applied to the Warm Springs area. Ms. Monsalve advised GR was always included in the discussion from the very beginning. Mr. Whitney said one of the slides in today's presentation indicated the zoning as GRA and GR for the Warm Springs area. Ms. Monsalve said the amendment request was only for the Warm Springs area based on direction to staff from the Planning Commission.

2:56 p.m. Chairman Humke returned to the meeting and assumed the gavel.

Commissioner Jung asked how it was decided an item would be heard at 6:00 p.m. Ms. Simon replied it was purely at the Board's discretion when an item was not statutorily required to be heard at a public hearing. She advised it was also the Board's rule that all public hearings occur at 6:00 p.m. She stated the Board might want to consider hearing the first readings at 6:00 p.m. also, because changes could not be made at the second reading.

Commissioner Jung noted Commissioner Weber kept referencing 40 plus acres, but the Development Code referenced one acre. Ms. Monsalve said if someone wanted to have horses under the Development Code, they could have up to two horses on a half acre or 35,000 square feet or as many as they wanted on any square footage over 35,000. Commissioner Jung asked what caused this issue to come up during the update of the Warm Springs Area Plan. Mr. Whitney replied it was citizen driven.

Commissioner Jung said when looking at the Nuisance Ordinance, it could not take into account the character of a certain area, but the Development Code could. She asked if the difference was because one could lead to trouble with the law and the other was civil. Paul Lipparelli, Legal Counsel, believed the distinction was when police powers were being used under the Constitution to do regulatory zoning, it contemplated there could be different rules for different areas because the rules would be uniquely tied to the character of the area. He said larger parcels would be desired in rural areas, while smaller parcels would be permitted in urban areas because street lights, gutters and so on were all related to the character of that area. He stated the law allowed county commissioners to do zoning in that way, but enacting a nuisance ordinance would be setting a standard for the community about what kinds of activities would be harmful to the community. He said in that setting, the rules had to be the same for everyone within

the entire county because violating those rules could ultimately be considered criminal conduct.

Commissioner Hartung requested this item be continued to another meeting after 6:00 p.m., because he felt this discussion was happening in a vacuum due to the lack of public participation.

Commissioner Berkbigler asked if she understood correctly that Warm Springs was the only area with this particular characteristic of 35 acres or more. Ms. Monsalve advised it was the only one of the County's 13 planning areas that had GRA zoning, but other areas had GR zoning. She said the GR zoning with 35 plus acres was also included in this equation. Commissioner Berkbigler asked if this rule was in any other area plan. Ms. Monsalve said this was the first step for the Warm Springs planning area as requested and directed by the Planning Commission. Commissioner Berkbigler asked if it was adopted, could it then morph into some of the other areas. Ms. Monsalve replied that would be up to the Commission.

Mr. Lipparelli stated to ensure the record did not contain statements that did not go unanswered regarding property rights, there were cases in which the exercise of a county's police power could constitute a constitutional taking of property rights, and there was a lot of litigation involving that issue. He said for something to rise to the level of a taking there had to be actions that had no nexus, which was the relationship between the power being exercised and the harm being addressed. He stated there also had to be proportionality between the action being taken and the harm being prevented. He explained not every single use of a regulatory power was a taking, even if it sometimes diminished some of the rights of the property owners to use their properties in certain ways. He said it was the nature of regulation that when the government regulated, whether it was regulating commerce, business licensing, or the use of property; it affected how people lived together.

In response to reopening public comment, Katherine Snedigar said there was no waste management with regard to agricultural activities, which was found in Nevada Revised Statute (NRS) 444 and were also exempted in the County's Health Code. She stated somehow Codes were created that contained a lot of regulations, even though she could not find any minutes supporting their creation. She stated the County was acting outside of its authority and Warm Springs was not a subdivision as stated in the Area Plan, because there was no way the Warm Springs Valley fit the description of a subdivision.

Joannah Schumacher said she represented a large bipartisan group who was very disturbed about this proposed ordinance because it was setting a precedent that could affect others in the County. She stated she was shocked to hear this could apply to GR zoning, which the people falling under GR zoning were totally unaware of. She stated she and her group were concerned with the trends they were observing where it seemed the Commission was overstepping its authority. She said they looked to the County Commission to protect them and to regulate per their authority as provided under NRS.

She stated she was afraid of what rules could eventually affect her, and her group felt the same way. She asked the Commission to do the right thing regarding this issue.

Jeanne Herman said she worried about what was going on and about the people doing planning in the County not playing fair. She stated the citizens were promised one thing and then got another, and she felt they were not doing their job when they were taking people's private property rights away.

Commissioner Weber requested this item be continued to the last meeting in March 2013, which would give staff time to let the people in the affected area know about the public hearing. She said the staff report stated there appeared to be no empirical data on what the right number of horses should be when separating private boarding stables from commercial boarding stables, and she felt a number was just being picked. She felt the survey was really good, and a good percentage of the people responded. She stated she looked forward to continuing this discussion, and she hoped the community would participate.

On motion by Commissioner Weber, seconded by Commissioner Jung, which motion duly carried, it was ordered that the introduction and first reading of an Ordinance amending the Washoe County Code at Chapter 110, Development Code, Article 226, Warm Springs Area to add a new section in order to regulate equestrian uses be continued to the last meeting in March 2013.

13-117 AGENDA ITEM 24 – SENIOR SERVICES

Agenda Subject: “Recommendation to accept Department recommendation to join in a collaborative process with Nevada Aging and Disability Services Division to select a qualified legal services agency that ensures the current and future legal service needs of seniors are met; and approve the Department’s financial and in-kind support for the project with stated conditions incorporated in Attachment C and provide direction to staff to prepare a revision to County Code 45.440--Senior Services. (All Commission Districts.)”

Judge Hardy, Chief Judge Second Judicial District Court, thanked the County for its positive relationship with the Courts, and he looked forward to many years of continued collaboration. He stated while the judges enjoyed decisional authority, they were aware they were accountable to their funding agency and to the citizens they served. He said he also acknowledged the County's commitment to support vital legal services for its most vulnerable citizens, which had been demonstrated over many years. He stated his comments today were not intended to direct blame or to criticize, but simply to acknowledge the County's resources were different today than they had been in the past. He said while he was concerned about the Senior Law Project's (SLP) status and future, he was not concerned about the County's commitment to its seniors or about the SLP's employees who worked heroically to serve their client's needs. He stated he was mindful those employees were aggrieved by this proposal.

Judge Hardy said before being appointed to the bench, his practice focused on the legal needs of elderly citizens as a nationally certified elder-rights attorney. After being appointed to the bench, he served for many years on the guardianship court, so his experience with the SLP was rich. He stated he was saddened to be here today because of the great tradition the County created through its commitment to the SLP. Nonetheless, he said the question was whether it would be best to have the SLP placed outside of the County's structure. He stated the County's vulnerable senior citizens needed the SLP's vital services in a time when they were transitioning into different forms of dependence. He said that dependence created risks and the community had responsibilities to serve and protect.

Judge Hardy advised all forms of abuse towards seniors were increasing and litigation grounded in probates, trusts, and guardianships were increasing as much or more than in any other area. He said just this morning he received new elder-law standards from the National Center for State Courts regarding guardianship management. He said the danger to seniors was realized right here with two guardians he appointed serving time in prison and with a third recently indicted. He stated those individuals voluntarily came out of the shadows, but he and his colleagues feared for those seniors served by predators that would not come forward voluntarily and would only be discovered by the elder-care and elder-law communities. He said he and his colleagues identified guardianship case management as the highest priority for improvement in 2013. He stated it was troubling to them that the SLP's services had necessarily diminished as the need increased. He said also troubling was the loss of the community funded program, Special Advocates for Elders.

Judge Hardy said after he was appointed as the District's Chief Judge, Justice Hardesty directed him to focus his attention on the crisis at the SLP, because its status was reverberating throughout the State. He stated he called a meeting of the stakeholders from all over Nevada to discuss the SLP. He said after looking at whether the SLP could best flourish within or outside of the County's structure, the consensus was the SLP was being supported at unsustainable levels, it was in crisis, and its growth opportunities were limited as long as the SLP stayed with the County. He stated it was believed the best alternative was to transition the SLP to an established legal-services provider who could expand the program using a different and potentially more affective service model. He said the private programs were experts in obtaining grant funding and being in compliance. He stated those programs were comprised of attorneys who were passionate and dedicated to the most vulnerable citizens in the community. He stated he did not anticipate any diminishing of services should the transition occur. He believed the SLP should maintain its location and its bundled services, so it could be a one-stop law firm for its senior clients.

Judge Hardy said after the stakeholder meeting, he coordinated convening a working group of the Senior Services Advisory Board with Grady Tarbutton, Senior Services Director, and John Berkich, Assistant County Manager, which lead to the proposal before the Board today. He said he supported the proposal, both personally and on behalf of the District Court, with the exception of the proposal to provide up to

\$75,000 per year in ad valorem funding. He stated the \$75,000 represented only 20 percent of the financial commitment the County made to the SLP in 2009. He joined Mr. Tarbutton in the belief that this proposal ensured the current and future legal services needs of the County's seniors would be met, but he requested the County's commitment not be limited to \$75,000 until the organization was selected and had a chance to calculate the transitional assistance they felt would be necessary. He said based on the experience in the City of Las Vegas, he envisioned a two to three year transitional need for money in excess of \$75,000 and possibly substantially in excess of that amount.

Chairman Humke said he believed Judge Hardy was asking the County to leave the transitional funds open for a couple of years. Judge Hardy replied possibly for a couple of months. He said he trusted the Board's stewardship of public funds, but he did not trust how the \$75,000 was created. He stated the selected organization could come in with a lower request for funding or with a defensible data-driven request for \$125,000 this year and \$80,000 for the next year. He said he had no idea what the answer would be, but he was concerned that Mr. Tarbutton said the commitment would be no more than \$75,000 because that could potentially close the window on what services could be provided. Chairman Humke thanked Judge Hardy because his statement made the point that some details still needed to be provided.

Commissioner Jung said Judge Hardy raised a red flag regarding his concern with the SLP's staffing levels. She asked if he was confident the two bidders had elder-rights attorneys on staff who could handle elder-rights issues. Judge Hardy advised he would need some more information because he had not examined one of them with as much detail as he should have, but he had confidence in both organizations because of the work he had observed. Commissioner Jung asked Judge Hardy to take a look at the Request for Proposal (RFP) and the contractual requirements, because the people who put together the RFP were not elder-rights attorneys. She acknowledged he could not practice law because he was a judge. Judge Hardy said he also had to be careful not to pick winners and losers. He stated he was required to appear before the Access to Justice Committee in two weeks regarding this topic. He said with their assistance, the boundaries of where he could go would be defined. He stated he would go right to that boundary, but the County should understand he was an advisory voice that could be considered or discarded according to the Board's best judgment.

Commissioner Hartung said Judge Hardy's presence demonstrated his commitment to the SLP. He asked if there was any desire to see if the Public Defender's Office could take over the SLP. He stated he had a brief conversation with Jeremy Bosler, Public Defender, who said he would consider it. Judge Hardy said that was the first he heard of it. He stated one problem with the SLP was it was currently dependent on the County's treasury, and that problem would remain with that option. He said there was a difference between criminal defense and the legal needs of the elderly, which were discrete and specialized. He stated he was not sure transitioning from one lawyer to another lawyer without the necessary training and education would make sense.

Commissioner Berkbigler asked if the County did not watch over the SLP, who would ensure the seniors were getting the same level of care the SLP provided before the budget cuts. Judge Hardy said it was contemplated the transition would be to established legal-service providers. He reiterated his confidence in their professionalism and passion. He stated they were lawyers who did child-advocacy work for the most endangered abused and neglected children and performed all types of services under the umbrella of poverty law. He said he would first depend on their own professionalism, but secondly the SLP was a law firm and its lawyers must follow the standards of practice expected of all lawyers, must abide by the Nevada's Professional Codes of Conduct, and must enjoy professional independence to pursue their clients interests. He stated he perceived no difference in the trust imbued to all attorneys and the trust imbued to those attorneys because they were first rate professional attorneys who were drawn to helping those who were the most victimized or the most vulnerable. He said he would stand elbow-to-elbow with the attorneys in the legal-services organizations.

Judge Hardy left the meeting at 3:47 p.m.

Todd Torvinen, Washoe Legal Services (WLS) Board Member, said he volunteered once a month at the SLP for the last 10 years, where he watched the tragic decline in services occur over the last four years. He stated the seniors needed a plethora of services, but what they really wanted was someone to listen. He said a senior would request help in drawing up a will, even if they had nothing, because they wanted the comfort of knowing their wishes would be respected. He acknowledged the WLS would be one of the competitors for the RFP, but he felt the WLS could give the Commissioners the most bang for their buck.

Commissioner Jung asked if the WLS had an elder-rights attorney on staff. Mr. Torvinen said not specifically elder rights, but there were attorneys who handled abuse and neglect issues with other vulnerable segments of society, such as children. He said the WLS's Board was rich in experience, for instance, half of his practice involved estates and trusts. He stated he used a computerized program to quickly generate the necessary documents, and he was training another lawyer on using the program. He stated another lawyer's practice was made up in large part of guardianship cases, and he was training other lawyers on dealing with guardianships. He said 20 percent of WLS's delivery of services was already for seniors in the consumer context where seniors were getting ripped off.

Commissioner Jung said a large part of the SLP's funding and work was due to a grant from the Department of Housing and Urban Development (HUD), and she asked if the WLS had HUD certified attorneys. Mr. Torvinen understood the HUD certification could be obtained. Commissioner Jung believed that HUD certification needed to be a requirement in the RFP.

Mr. Tarbutton said oversight would be provided by Nevada's Aging and Disability Services Division (ADSD), which currently audited the SLP and would continue to do so. He stated the proposal before the Board was the County and the State

partner on this bid because the State was the primary funder. He said regarding the Board's requests for information, the mandates started on page 2 of the staff report, and page 3 discussed the survey. He said seniors wanted someone to take the time to give them the services they needed, which was what the SLP had done over the years. He stated the accounting of the grants was discussed starting on page 3 of the staff report. He said the present and future was outlined starting on page 6 of the staff report. He stated Attachment C contained the performance standards, which referred to the ADSD's currently required standards and also included things from the survey, from the interviews with the seniors, and things the Advisory Board wanted continued. He said the contingency plan was addressed on page 7, but he said Social Services would make every effort to prevent the program's failure. He stated there were qualified agencies and attorneys in the community that could provide the services, and Social Services would work very hard to make sure that happened. A copy of his PowerPoint presentation was placed on file with the Clerk.

Mr. Tarbutton said today's agenda item was about accepting the Department's recommendation to join in a collaborative process with the ADSD to select a qualified legal-services agency, to approve the Department's financial and in-kind support with the stated conditions incorporated into Attachment C, and to provide direction to staff to prepare a revision to County Code 45.440.

Commissioner Jung asked how the most recent survey was conducted. Mr. Tarbutton said Social Entrepreneurs, Inc. (SEI) used the Administration on Aging's national standard for customer satisfaction surveys. He stated 50 seniors in the senior center were approached and the 30 people who received services from the SLP completed the survey. Commissioner Jung asked how the surveys had been done in the past. Mr. Tarbutton said staff sent out a questionnaire to a select number of clients and tallied the results, but this time a quick turnaround was needed. Commissioner Jung said if this went to the RFP, what kind of survey would be conducted to ensure the contractor was being held to a high standard. Mr. Tarbutton said after the provider was selected, the Department would negotiate with the organization regarding the provisions of Attachment C and the expectations regarding them conducting surveys.

Commissioner Jung said she understood the foreclosure mitigation issue, and she asked who was handling it now. Mr. Tarbutton replied Nevada Legal Services (NLS) was doing a portion of it and nine other agencies around the State were doing the rest. Commissioner Jung asked who provided that oversight. Mr. Tarbutton advised it would depend upon the grant funding because there were four or five different funding sources. He said they all had their own standards and provided their own oversight.

Commissioner Jung asked if the District Attorney's (DA's) Office or any other qualified department could bid on the RFP. Paul Lipparelli, Legal Counsel, said it would depend on what was being asked for in the RFP, but neither the DA's Office nor the Public Defender's (PD's) Offices were set up to participate in bidding on County work. Commissioner Jung thought that was the model the County was moving towards, and that any of the departments could bid when the County tried to privatize a service.

Mr. Lipparelli believed the Board had given direction to pursue managed competition in certain areas and that process was in the very beginning stages, but it had not reached the point where it was ready to be broadly used. He stated more importantly, the PD's Office had a mission under State law and under County Code, while the DA's Office had State constitutional and statutory duties and mandates. He said none of those included providing what amounted to private legal services to private citizens with legal problems. He advised the DA's Office often had to remind people that the DA's clients were the County agencies, boards and commissions and not the citizens in the County with legal problems. Commissioner Jung said that was the PD's job. Mr. Lipparelli said the PD's job was to represent indigent people, including seniors, in criminal matters.

Commissioner Jung asked what amount of transitional support was discussed at last month's meeting. Mr. Tarbutton said the \$75,000 was based on the amount budgeted for the SLP this year, and that amount would be reduced over time with the funding going away by the fourth year. Commissioner Jung asked if the two potential bidders indicated the drop in funding would not be sustainable for them. Mr. Tarbutton said the provider would be asked what was needed as Judge Hardy suggested. Commissioner Jung said that was not the plan last month. She was confused as to why there had been a change. Mr. Tarbutton said the proposal submitted was to give the Board an idea of what Senior Services would spend because of the Department's budget obligations. He stated that was used as a base-line going forward, but it did not mean he would not commit to working with the provider if they needed additional money. He said if that was the case, he would come back before the Board with a request for additional funds. Commissioner Jung said the contract should be written so Mr. Tarbutton did not have the authority to grant additional funds, because the Board needed to see the provider was doing their due diligence. Mr. Tarbutton said any additional funds would have to come from other programs. Katy Simon, County Manager, explained the direction given to the departments in the three year budget plan was that there was status quo funding, but as costs increased within that limited budget there would be less money available to do the same things in future years. She said Mr. Tarbutton was putting forward a proforma of what might be available. She stated it was not required by statute that Senior Services come back to the Board when expenditures within the Senior Services' budget were being changed. She stated if there was a contract, a budget would be requested from the provider that spelled out what money would be required to provide the services; and that contract would come before the Board.

Commissioner Jung asked what the operational expenses meant. Mr. Tarbutton replied he would want to find out what the agency needed to operate because there might be some expenses the County could help with and there were things that Senior Services had already paid for such as desks, which could become the provider's property. Commissioner Jung said she had a philosophical objection to doing that because operational expenses were just starting to be charged back to the County's departments, which was causing many of them difficulties. She stated she did not see how it would be fair to give a non-governmental entity a pass on doing that.

Commissioner Hartung said he wanted to make sure the operating expenses would not go towards financing the provider's staff. Mr. Tarbutton advised that would not be included. Commissioner Hartung said he felt it was necessary to reiterate his concern expressed during a prior meeting about having a plan B. He stated if the SLP was disassembled and the people found other employment, how would that be remedied if the provider did not work out. He said it would not be like being able to put away a piece of equipment in case it would be needed again. He stated he was not sure what the answer would be, but he felt it needed to be considered.

Commissioner Weber asked what the County could do if a lot of complaints were received once the transition was completed and the County decided it wanted to relook at the SLP's service provider. Mr. Tarbutton said that would give the County more leverage with the State than what it had currently, because Senior Services could sit down with them and explain what the expectations were and then work together with the State in resolving any issues. He stated there would be a transition plan that would require frequent meetings with the provider to make sure everything was working. He said Senior Services would not get involved in any legal aspects, because the Department did not provide that type of oversight. He stated the provider would be asked to do outreach in the community to make sure people were aware of the program, and there should be reports indicating how often that outreach occurred and what the results were. He stated complaints and the other standards in Attachment C would be monitored. Commissioner Weber noted the contingency plan said if the agency did not perform to the standards, the Department would use its authority to terminate the agreement. Commissioner Weber said she was concerned with the Department having that authority.

Commissioner Weber asked what would happen to the SLP's current employees. Mr. Tarbutton replied the SLP had two paralegals and two legal secretaries. Commissioner Weber stated she was concerned about those employees and even though she did not know what the answer was she felt it was something that needed to be addressed. Mr. Tarbutton said Human Resources' staff had been meeting with the affected employees to help them find positions within the County, and one employee transferred to the DA's Office. Commissioner Weber said she did not know if that was enough.

Commissioner Berkbigler said she felt better about the oversight being done by both the State and the County, especially since the SLP would remain on County property. She said she understood if constituents had concerns, the provider could be brought before the Commission for answers or Mr. Tarbutton could get the answers and bring them to the Commission. She said the County was not giving complete control away, which was one of the concerns she had because seniors were so important. She said even though she was also concerned about the employees losing their jobs, the fact was the County had been dictated to by the courts and State of Nevada to do something; and the County needed to move forward with doing that. She stated she appreciated how hard Mr. Tarbutton had worked on this, and she was sorry the resources were not available to keep the SLP within the County. She stated steps needed to be taken to move

forward, so seniors could have a sense of comfort that the County was not abandoning them.

Commissioner Berkbigler stated she had a problem with the \$75,000 cap, even though she understood Mr. Tarbutton was working with the cap that was provided to him. She said in light of what Judge Hardy said, the cap was something that seriously needed to be looked at. She stated the Commission would be watching this project, because everyone had constituents who talked about this project all of the time. She said there should be a drastic improvement over what was being done currently, and hopefully that would be the result of this plan.

Commissioner Jung asked if site visits would be part of the performance standards. Mr. Tarbutton replied they would be and conducting site visits was also a part of the State's requirements.

In response to the call for public comment, Bruce Arkell said he had been working on this project since August 2012 and it had come a long way. He believed it was time for the Board to make what should be a simple decision. He noted the \$75,000 cap had always concerned him and everybody else, because no one knew how much funding would really be needed. He said the State had already requested the proposals, which should be received in about mid-March. He believed everyone would be more comfortable once the negotiations were finished. He said another issue was the County should take a hard look at how the oversight would be managed, because the County would be dealing with the provider as a funder and as such the County could drop all kinds of hammers on contractors. He said the only opportunity to increase the SLP's funding was to take it outside the County, which ultimately meant everyone would be better off.

Peggy Lear Bowen asked the Commission to take a hard look at the funding situation and at the decisions being made. She stated if the County lost control over the SLP, it would have an impact on the County's other projects if the senior's needs were not being met. She said over the last two plus weeks, there had not been an attorney present at the SLP due to medical issues. She discussed how the application deadlines for the various grants were quickly coming up and, if those deadlines were not met, those grants would not be available. She said the provider chosen needed to have working attorney's with the legal knowledge required to care for the needs of seniors.

Carla Fells said she sent an e-mail to the Commissioners on Friday with a rebuttal to the staff report. She stated because Judge Hardy believed the \$75,000 ceiling was not enough was the reason why the Washoe County Employees Association (WCEA) opposed going with an outside service provider. She stated the costs for the employees were known costs, because they were determined through employee negotiations and by the budget. She said going with a non-profit would mean the County would lose some control. She said Mr. Tarbutton indicated the State would oversee the grant, but the State could only oversee its part to make sure its requirements were being met. She stated another issue was no one could vouch for the lawyers having any training

in the specific type of law relating to seniors. She said just because the SLP was unique, it did not mean it was wrong or broken; but it did need to be funded.

Rhea Gertken said she was the directing attorney for the Reno office of Nevada Legal Services (NLS), which was the other organization interested in responding to the RFP. She stated the NLS was a HUD certified housing-counseling agency. She said the NLS was a statewide organization, which had an obligation to provide services to low income Nevadans across the State. She stated the NLS already received ADSD funding to provide services in rural Nevada, and operated a senior help line designed to help seniors in rural Nevada. She said staff also traveled to seniors across Northern Nevada to provide senior services, which meant they were essentially the senior services provider outside of Clark County and Washoe County. She said the NLS received the funding from the Attorney General's Office to provide foreclosure counseling, and two attorneys provided that counseling in the Reno office.

Lawrence Matlock said he used the SLP. He asked on what basis the decision was being made to close the SLP and who would be asked to take it over.

Connie McMullen said she was concerned regarding the funding from the County, but she did not see any other remedy once the judges got involved. She stated she hoped the Commissioners kept the funding in mind when they made their decision.

Commissioner Berkbigler clarified for Mr. Matlock that the SLP was not being closed, but a better way was being found to continue to provide the services at a higher level than the County could with the current budget restrictions.

Commissioner Hartung asked if the NLS was prepared to write the application for the HUD grant that must be submitted by the end of March. Ms. Gertken said the NLS was already in the process of writing it and, if it took over the SLP, it would add the request for those funds to the application. Commissioner Hartung asked if there was any plan to transition the SLP's employees into the NLS because of the relationships they had with citizens in the community. Ms. Gertken said she would have no problem in doing that because of their experience and dedication, but there was an issue regarding the differences in salaries.

Commissioner Berkbigler made a motion to direct the Social Services Department to join in a collaborative process with the Nevada Aging and Disability Services Division (ADSD) to select a qualified agency that would ensure the current and future legal-service needs of seniors were met and to approve only the Department of Social Service's in-kind support because she was concerned about the \$75,000. She said she would like some revision of that amount, but she would like the Department to move forward with this project. Chairman Humke seconded the motion.

Commissioner Jung said she understood the concern by the justice system, but she felt this was not the direction this should be going in. She stated it appeared to her

that the costs were beginning to escalate, and she felt there were other opportunities to raise funds. She said she could not support the motion.

Commissioner Weber said she wanted to make sure the issue regarding the employees was addressed and that there would be a report back to the Board regarding the employees if the motion passed.

Mr. Lipparelli said the subject of this item included financial and in-kind support for the project, but the motion only included in-kind support. He stated the subject also contemplated the support would be conditioned by the incorporation of Attachment C, and there would be direction to staff to prepare a revision to County Code 45.440. He said he wanted to clarify the motion only addressed accepting the recommendation on the collaborative process in selecting an agency ensuring senior's needs and approving in-kind support for the project.

Commissioner Berkbigler said she had not finished reading the motion, and she was fine with amending it. Chairman Humke stated he was also fine with amending the motion. Chairman Humke asked if there were any specifics regarding the financial direction to Mr. Tarbutton. Commissioner Berkbigler replied she did have any specific direction but, because Judge Hardy was so concerned about the \$75,000, she felt it should be revisited when the responses to the RFP were looked at. She said she read the documents and talked with a number of people, but she did not have any idea what the financial need would be. She felt that would be the case until the bids came in at which time they could be brought back to the Commission for discussion.

Commissioner Hartung felt a specific timeframe should be defined in which the State and the County could work on this process and establish a performance standard so the County could measure what was being done. He did not want to wait too long to do that measurement because, if it was too far out, it would be hard to make a u-turn.

Commissioner Weber said she wanted to make sure the provider was HUD certified. Mr. Tarbutton indicated he was aware of that requirement.

Chairman Humke said he wanted the motion to pass, but he was not thrilled with the process. He believed having more bidders would be healthier but, even so, he believed both bidders were strong and capable.

On a call for the vote, the vote was 4-1 with Commissioner Jung voting "no." With the vote it was ordered that Agenda Item 24 be accepted, approved, and directed.

4:55 p.m. Commissioner Berkbigler left the meeting.

13-118 AGENDA ITEM 20 – COMMUNITY SERVICES/PLANNING AND DEVELOPMENT

Agenda Subject: “Development Code Amendment Case Number DCA12-008 (Inoperable Vehicle Definition) – Introduction and first reading of an Ordinance amending the Washoe County Code at Chapter 110, Article 304, Use Classification System, and Article 902, Definitions, to remove confusing language in the existing use definition for Inoperable Vehicle Storage, and to re-establish a definition for inoperable vehicle for application to the Inoperable Vehicle Storage use, and providing for other matters properly relating thereto, as recommended for adoption by the Washoe County Planning Commission; and, if supported, schedule a public hearing for second reading to provide for affirmation of the findings of the Planning Commission and possible adoption of the Ordinance for 6:00 p.m. on February 26, 2013--Community Services/Planning and Development. (All Commission Districts.)”

Nancy Parent, Chief Deputy Clerk, read the title for Bill No. 1686.

There was no public comment on this item.

Bill No. 1686, entitled, "AN ORDINANCE AMENDING THE WASHOE COUNTY CODE AT CHAPTER 110, ARTICLE 304, USE CLASSIFICATION SYSTEM, AND ARTICLE 902, DEFINITIONS, TO REMOVE CONFUSING LANGUAGE IN THE EXISTING USE DEFINITION FOR INOPERABLE VEHICLE STORAGE, AND TO RE-ESTABLISH A DEFINITION FOR INOPERABLE VEHICLE FOR APPLICATION TO THE INOPERABLE VEHICLE STORAGE USE, AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO, AS RECOMMENDED FOR ADOPTION BY THE WASHOE COUNTY PLANNING COMMISSION," was introduced by Commissioner Weber, and legal notice for final action of adoption was directed.

13-119 AGENDA ITEM 21 – COMMUNITY SERVICES

Agenda Subject: “Acknowledge receipt of a status report on the development of the Washoe County Economic Development Action Plan with discussion and possible direction to staff--Community Services. (All Commission Districts.)”

Katy Simon, County Manager, said supporting the regional economy was one of the Board’s two key strategic objectives for the 2012/13 Fiscal Year. She stated Rosemary Menard, Community Services Director, lead the assembled team.

Ms. Menard said there had been questions over the last few months regarding the County’s role in economic development, which was different than that of the Economic Development Authority of Western Nevada (EDAWN) or the Western Nevada Development District (WNDD). She said the County’s role involved how it interacted with citizens and businesses as they moved into the area when they needed

permits, business licenses and such. She stated one of the first discussions involved getting the County's employees, who dealt with those types of transactions, to better understand the general strategies and initiatives being undertaken by the various jurisdictions involved in economic development. She said during last July's workshop, several people involved locally in economic development provided some perspectives on what had been going on elsewhere. She reviewed the 13 goals contained in the *Washoe County Economic Development Action Plan*, which was attached to the staff report. She said it was intended to be a living document, and staff was requesting the Board acknowledge its receipt.

5:06 p.m. Commissioner Berkbigler returned.

Commissioner Weber thanked everyone for all of the work that was being done, and indicated she liked how the document was laid out. Ms. Simon emphasized staff reached out to the organizations in the community and obtained their feedback, which led to making changes in the Action Plan. She noted the County did not have a staff member devoted to economic development, and she thanked all of the staff who stepped up to work on the Action Plan.

There was no public comment on this item.

On motion by Commissioner Hartung, seconded by Commissioner Weber, which motion duly carried, it was ordered that Agenda Item 21 be acknowledged.

Ms. Menard acknowledged Al Rogers', Projects & Programs Division Director, contributions as the co-lead of this project. Ms. Simon acknowledged Commissioner Jung and John Berkich, Assistant County Manager, for their work on the regional jobs network over the last several years, which was a significant part of the County's economic development activities. She said staff was looking for a new home for the network because no one wanted to see it suspended, but it did require a commitment by staff and there were probably other agencies better suited to take that on. She noted some great ideas had come out of the network, one of which was the Library's involvement in being a job search resource center.

13-120 AGENDA ITEM 23 – MANAGER/COMMUNITY RELATIONS

Agenda Subject: “Recommendation to approve Washoe County Commission Chairman to send a request on behalf of the Washoe County Commission to the Regional Transportation Commission (RTC) which asks them to consider a Veterans and Active Military Ride Free Program applicable within the RTC service area--Manager/Community Relations. (All Commission Districts.) Requested by Commissioner Hartung.”

Commissioner Hartung stated he and Kyle Fleming would like to attend the Regional Transportation Commission (RTC) meeting and possibly both speak during public comment. He asked if he should remain silent and allow Mr. Fleming to make any

comments. Paul Lipparelli, Legal Counsel, stated this item contemplated that the Washoe County Commission would be acting upon a request to have the RTC consider allowing veterans and active military to ride for free on different RTC services. He said if the Commission voted in favor of this item, it would be a fact that the Commission supported the request, and Commissioner Hartung could represent to the RTC that the Commission as a whole supported it. He stated if the Commission elected not to approve the request, Commissioner Hartung could make representations regarding his own views, but that would not be the view of the Commission. Commissioner Hartung asked if doing that would violate the Open Meeting Law. Mr. Lipparelli said two other members of the Commission would be present and three being present would mean there was a quorum. He stated it could be done legally if the meeting of the RTC was posted as a possible County Commission meeting. He said the District Attorney's Office was discussing legislation that had been introduced about the definition of deliberation with the Attorney General's (AG's) Office. He said the AG provided an opinion in 2010 that stated a board quorum that attended another board's meeting was having its own meeting.

Mr. Lipparelli said the safe approach would be to post the meeting as a County Commission meeting. Commissioner Hartung said if this item was passed, he would not attend. Commissioner Weber asked who would post the notice. Mr. Lipparelli replied County staff would post the notice of a possible Commission meeting. Commissioner Weber said she was not sure there were enough days between now and the RTC meeting on Friday to do the posting.

Mr. Lipparelli advised another approach was one Commissioner could leave the room to allow Commissioner Hartung to speak, which would eliminate the possibility of a quorum. Commissioner Hartung said he would leave any comments in the hands of Commission's representatives on the RTC and with Mr. Fleming. He stated he would discuss his thoughts about this item with Mr. Fleming prior to the RTC meeting.

Chairman Humke said he welcomed this policy discussion before the RTC, because there was a discussion a couple of years ago about juveniles who rode for free. He stated the RTC's staff indicated that was to get juveniles in the habit of riding mass transit. Chairman Humke said maybe both groups could have a co-pay of \$.25 to just get them in the habit of putting something in the box. Commissioner Hartung stated it was important to bring these kinds of issues forward. He said this particular case was to recognize the service of the veterans, but there could also potentially be a greater conversation with the RTC about doing a program to assist people who were job seeking.

There was no public comment on this item.

On motion by Commissioner Hartung, seconded by Commissioner Berkbigler, which motion duly carried, it was ordered that Agenda Item 23 be approved.

13-121 AGENDA ITEM 25 – FINANCE

Agenda Subject: “Update and status report on Fiscal Year 2013/14 Budget--Finance. (All Commission Districts.)”

Sheri Mendez, Finance Director, reviewed her PowerPoint presentation on the Fiscal Year 2013/14 Budget, which was placed on file with the Clerk. She said 30 days after the close of the Legislative Session, an amended final budget would be brought back before the Board for approval if any of the legislation impacted the County’s final budget. Katy Simon, County Manager, reminded the Board that May 20, 2013 was the date of the statutorily required public hearing on the budget, and the Board would have to be present for that hearing.

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

13-122 AGENDA ITEM 26 – TREASURER

Agenda Subject: “Update on Incline property tax refund process--Treasurer.”

Katy Simon, County Manager, said staff would stand on the written report.

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

13-123 AGENDA ITEM 27 – MANAGEMENT SERVICES

Agenda Subject: “Discussion and direction to staff regarding legislation or legislative issues proposed by legislators, by Washoe County or by other entities permitted by the Nevada State Legislature to submit bill draft requests, or such legislative issues as may be deemed by the Chair or the Board to be of critical significance to Washoe County--Management Services. (All Commission Districts.)”

Katy Simon, County Manager, said the Board’s support for AB 68, the consolidated tax formula, was conveyed to the Legislature. She said she and Chairman Humke were present this morning for the Assembly Government Affairs meeting, which had already generated some requests for information.

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

13-124 AGENDA ITEM 28 – MANAGER

Agenda Subject: “Update on status of Shared Services efforts and possible direction to staff. (All Commission Districts.)”

Katy Simon, County Manager, said the next meeting was tentatively scheduled for February 25, 2013. She felt it was time to get back to the elected officials regarding the regional efforts on economic development, because there had been a lot

going on. She advised the responses to the Request for Proposal (RFP) for the shared permitting software, which would allow the jurisdiction's permitting applications to be on a shared platform, were being reviewed and the three finalists would be brought in for interviews. She said the City of Sparks might participate in that and might also participate in the Tiburon update of the computer-aided dispatch system. She said she and the two City Managers were meeting monthly to make sure things were moving forward together and a joint meeting of senior staff was being planned.

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

5:45 p.m. The Board recessed.

6:15 p.m. The Board reconvened with all members present.

PUBLIC HEARINGS

13-125 AGENDA ITEM 29 – COMMUNITY SERVICES/ENGINEERING & CAPITAL PROJECTS

Agenda Subject: “Public Hearing on a Petition to Acknowledge and Open a Road being a Portion of Abandoned Old HWY 395 (referred to as Tinhorn Road) located within Pleasant Valley (Township 17N., Range 20E), as a Presumed Public Road Pursuant to NRS 405.191(2)--Community Services/Engineering & Capital Projects. (Commission District 2.)”

6:16 p.m. The Chairman opened the public hearing by calling on anyone wishing to speak for or against the Petition to Acknowledge and Open a Road being a Portion of Abandoned Old HWY 395 (referred to as Tinhorn Road).

Dwayne Smith, Engineering and Capital Projects Division Director, stated the staff report contained the conditions for establishing it as a presumed public roadway and, at the conclusion of this hearing, the Board was required to determine whether the subject road acquired the status of a presumed public road. He reviewed the conditions (a) through (d) on page 2 of the staff report and the three bullet points at the top of page 3. He said based on that information, staff's recommendation was to identify the road as a presumed public road. He stated upon that action the County Surveyor would add this section of the roadway to a map on the County's website, which would be the extent of the action. He advised the County did not accept any responsibility for the road's maintenance or for snow removal, and the underlying property ownership remained the same. He said one of the property owners could put up a gate on their private property but, because it was a presumed public road, the gate could not be locked.

Chairman Humke said this appeared to have the affect of being an easement on the property owner's land. Mr. Smith stated an easement would be the next step up. He said identifying this as a presumed public roadway simply meant the roadway had been a roadway and it met the criteria under Nevada Revised Statues (NRS)

405.191(2) for a presumed public roadway. He advised the roadway was not built to the County's standards nor had it been surveyed, and the County would not accept it for dedication even if was offered for dedication.

In response to the call for public comment, Lawrence Kaplan said the road was the only legal access he had to his house, which had affected the value of his property.

Paul Lipparelli, Legal Counsel, asked if the petition presented to the Board of County Commissioners was his petition. Mr. Kaplan replied it was. Mr. Lipparelli asked if he affirmed the representations made therein and if the attachments provided the basis for his petition. Mr. Kaplan said he did affirm that.

The Chairman closed the public hearing.

Commissioner Weber asked Mr. Smith to comment. Mr. Smith advised Mr. Kaplan wanted to sell his property and during that process it was identified the road was the property's only legal access. He stated identifying this roadway as a presumed public roadway would allow that access.

On motion by Commissioner Berkbigler, seconded by Commissioner Jung, which motion duly carried, it was ordered that Agenda Item 29 be acknowledged and opened.

13-126 AGENDA ITEM 30 – COMMUNITY SERVICES/PLANNING & DEVELOPMENT

Agenda Subject: “Appeal Case No. AX12-003: Appeal of the Planning Commission action of no approval for Master Plan Amendment Case No. MPA12-001 (Village at the Peak). To consider an appeal of the Planning Commission’s decision in case number MPA12-001 (Village at the Peak) of no approval of a request to amend the Spanish Springs Area Plan, being a part of the Washoe County Master Plan. The Board is being asked to reverse the Planning Commission’s decision and directly approve the Master Plan Amendment. The Master Plan Amendment request involves the re-designation of a ±39.83 acre parcel from a mix of Industrial (I), Commercial (C) and Open Space (OS) to Suburban Residential (SR) on the Master Plan Land Use map. The amendment request also includes a change to the Character Statement in the Spanish Springs Area Plan to change the residential density limitations in the suburban core such that the new language of the Character Statement would state: “This suburban core includes a broad mix of non-residential uses together with single-family residential densities of up to three dwelling units per acre and Specific Plan as defined herein” (emphasis added). Additionally, the request includes an amendment to policy SS.1.3 of the Spanish Springs Area Plan to add “Specific Plan (for multi-family densities up to nine dwelling units per acre)” to the list of permitted regulatory zones. The subject property is located north of Calle De La Plata, several hundred feet to the northeast

of the intersection of Pyramid Highway and Calle De La Plata within the Spanish Springs Area Plan. APN: 534-562-07--Community Services/Planning & Development. (Commission District 4.)”

6:28 p.m. The Chairman opened the public hearing by calling on anyone wishing to speak for or against the Appeal of the Planning Commission’s action of no approval for Master Plan Amendment Case No. MPA12-001 (Village at the Peak).

Commissioner Hartung disclosed a number of assertions had been made that could implicate him in an ethics violation pertaining to the Planning Commission. He requested a continuance until he could get an opinion from the Nevada Ethics Commission on whether he had to abstain or whether he could participate to represent his constituents in Commission District 4.

Commissioner Hartung disclosed he received a per diem of \$80 as a Washoe County Planning Commissioner for several years up to December 4, 2012 when his resignation was effective. He stated he voted against the continuance of the application on November 5, 2012, which was explained as being necessary because County staff and the Applicant were not prepared to move forward. He said his vote was only against the continuance and not against the project proper or the Master Plan Amendment proper. He stated he was asked to make a public statement about his knowledge regarding the availability of public transportation in the area of the Applicant’s property on December 4, 2012 after his resignation from the Planning Commission was effective, which was the subject of the application. He said he made public comment as a citizen at the Planning Commission, but he did not cite his status as a Commissioner or a Commissioner Elect because the comment was only to clarify where the boundary was. He said he did not participate as a Planning Commissioner on the vote of the Planning Commission’s recommendation to the Board of County Commissioners (BCC) on the application. He advised he had not participated as a County Commissioner regarding the appointment of any Planning Commissioner nor the appropriation of any funds for the use by the Planning Commission or its staff. He stated he did not have any personal or business interests or any significant pecuniary interests in the outcome of the application before the Planning Commission or the BCC. He said he did not have a commitment in a private capacity or interest of any other persons that were affected by the outcome of this application at the Planning Commission or the BCC.

Chairman Humke said he understood it was Commissioner Hartung’s intent to seek an advisory opinion from the Nevada Ethics Commission. Commissioner Hartung said it was. Chairman Humke said in anticipation of a motion to continue this item, he asked what would be reasonable terms to continue the motion based on the statutes that affected this project. Paul Lipparelli, Legal Counsel, said the Nevada Ethics in Government law provided for a public official to request an opinion of the Ethics Commission concerning that official’s public responsibilities and, if an opinion was given, the person who asked it was bound to follow the opinion. He said Commissioner Hartung must not participate in the process if the Ethics Commission said he had a conflict. If it was found he did not have a conflict, then he was presumably free to

participate. He stated it would be awkward for Commissioner Hartung to make a motion or to even vote on the continuance. He stated if the rest of the Board was sympathetic to Commissioner Hartung's situation, perhaps one of the other Commissioners could make a motion to continue this item.

Mr. Lipparelli suggested asking the Applicant how he felt about the Board continuing the appeal. He advised there was a County Ordinance that stated an appeal regarding the denial of a Master Plan Amendment had to be heard within 60 days, and tonight fell within the 60-day period. He said by opening the hearing tonight, the Board complied with that rule, but the Board might wish to hear from anyone regarding whether or not they would be affected by the Board not making a final decision tonight on the appeal.

Commissioner Weber felt Commissioner Hartung was doing the right thing in requesting the Ethics Commission provide an opinion. She said if the appeal was continued, the public should still have an opportunity to speak tonight. Chairman Humke agreed it was his intent to take all public comment. He said on the advice of Legal Counsel, public comment would also be taken on the possible motion to continue.

Commissioner Weber made a motion to continue the appeal. Commissioner Berkbigler seconded the motion.

Chairman Humke asked if there was a need to state the date of when the final action on the appeal would take place. Mr. Lipparelli advised the Ethics Commission had to respond to Commissioner Hartung's request by the March 15, 2013 meeting of the Ethics Commission if he submitted the request right away. He said it would be theoretically possible to resume this hearing at the BCC's second meeting in March. He said by statute, the Ethics Commission had 45 days from the receipt of a request to produce an opinion, unless that timeframe was waived. He believed it was likely a response would be received by March 15, 2013.

Commissioner Weber amended the motion to continue the appeal until the BCC's meeting on March 26, 2013. Commissioner Berkbigler agreed with the amendment.

Garrett Gordon, Lewis and Roca LLP, stated he was representing the Applicant, Sugar Load Peak LLC. He said the Applicant was prepared to move forward tonight and was willing to put on the record a waiver of any right or claim that the Applicant might have as a result of the disclosures made by Commissioner Hartung this evening. He said if it was the pleasure of the Board to continue the appeal, he did not want to stand in the way of disenfranchising Commissioner Hartung's constituents who deserved a voice in this hearing. He said in an effort to get an answer and for this body to move forward in resolving this issue, the Applicant would waive the time on the record and would be ready to move forward in March. Chairman Humke thanked the Applicant on behalf of the Commission for that very gracious offer.

Chairman Humke asked if there was any public comment on the motion to continue. In response, Dan Herman said Commissioner Hartung had been involved in the community for at least 15 years, and he felt it was vital for the citizens to be represented here by Commissioner Hartung because they were not represented at the Planning Commission. He stated whatever it took to do that, he wanted Commissioner Hartung to represent the community.

David Cencula stated he wanted Commissioner Hartung to represent his point of view during this proceeding.

Chairman Humke closed public comment regarding the motion to continue.

Commissioner Weber said she was concerned that the Board had not heard whether or not the Applicant had a problem with waiting. Mr. Gordon said the item was continued once at the Planning Commission, the Applicant had the right to go before the BCC in January, but moved it to February. He said the Applicant was trying to be as gracious as possible, but did need to get a decision regarding the appeal. He stated if the appeal was approved, the Applicant still had to go before Regional Planning and the zoning application was still at the Planning Commission waiting on a resolution. He said the Applicant would wait until March, but the question was appreciated.

Mr. Lipparelli advised Commissioner Hartung that he should abstain from voting on the continuance.

Chairman Humke asked if Commissioner Hartung believed there was an ethics complaint filed against him. Commissioner Hartung said there was not at this time.

Commissioner Berkbigler said she recognized this was a hardship for the developer, but she also recognized any Commissioner had the right to ask for an opinion. Chairman Humke believed Commission District 4 should have representation during this appeal, which would be the basis for casting his vote.

On a call for the vote, the vote was 4-0 in favor of the continuance with Commissioner Hartung abstaining.

Mr. Lipparelli said a majority of the Board voted to continue the final action on this item. He asked if the Chairman Humke wanted to open the public hearing now to receive public comment and then resume the hearing on March 26, 2013, or was he intending to move to general public comment under Agenda Item 33 and take public comment on this item. Chairman Humke asked if Mr. Lipparelli advised opening the public hearing for Agenda Item 30 for the purpose of accepting public comment. Mr. Lipparelli said it was within the Board's discretion to do that because the Code required scheduling a hearing within 60 days, but it did not say that it had to be completed. He stated further, the Applicant waived the right to object to not having a full hearing

tonight. He said it would also be allowable to move to agenda item 33 to take general public comment, whichever the Board was most comfortable with.

Commissioner Weber felt public comment should be taken under this item in case any members of the public could not return on March 26, 2013. Mr. Lipparelli suggested offering the Applicant the opportunity to comment on opening public comment. He advised Commissioner Hartung did not have to leave the room if the only thing happening was the citizens would be addressing the Board for public comment but, if there was any discussion, then he should not be a part of the discussion. Chairman Humke said he accepted that advise as an admonition under the Open Meeting Law that there should not be any deliberation tonight. Mr. Gordon said the Applicant had no objection to the Board taking public comment tonight. He said he would not be speaking for the Applicant tonight, but would be making a full presentation at the March 26, 2013 BCC meeting.

Chairman Humke reopened public comment.

Matthew Chutter stated he opposed the proposed zoning change because he lived in the vicinity. He said good zoning ensured the development would be in conformance with what was already in place and would not damage existing neighborhoods. He stated good zoning also created transition zones with graduated change. He said beyond that good zoning could enhance what was already there, but this proposal would do none of that. He stated placing apartments between upscale properties and horse properties did not create an appropriate transition zone. He said there was also no concentrated employment in the nearby suburbs to support the apartments. He stated hundreds of residents in the affected area agreed that such a development would be undesirable and damaging even if it was in conformance with existing zoning, which this development was not.

Richard Gammick clarified he was not here in his capacity as Washoe County District Attorney. He said he would reserve his comments on the matter for the March meeting.

David Galleron said he moved to the area to get away from the apartment complexes where he used to live, and he opposed allowing the apartments.

Melody Chutter said she opposed allowing the apartments. She believed homeowners were more responsible, and she worried about the increase in people because that would increase graffiti and other problems.

David Cencula said he opposed allowing the apartments. He stated the zoning should stay at three units per acre, and that zoning was one of the reasons why he retired to the area. He said building the apartments would further drive property values down, would increase traffic congestion, and would increase crowding in the area's schools.

Mark Sturivant stated the burden on the Applicant to amend the Master Plan should be extraordinary, and he reserved judgment until he could hear the reasons why such extraordinary relief ought to be awarded.

Dan Herman said he did not receive notice of this meeting, even though he had been on the mailing list for the last 15 years. He stated multi-use family dwellings were expressly prohibited in the Spanish Springs Area Plan. He said he was offended by the developer's request to change/alter the character statement in the Spanish Springs area because the community should drive any changes, not a developer. He stated this was a huge change from the existing standards of three houses per acre up to nine houses per acre for the Applicant's property. He said the project was not in compliance with the Regional Plan. He said the project was located in the unincorporated area of Washoe County, but it would be more appropriate for the Cities of Sparks or Reno. He said the request to change the Spanish Springs Master Plan would set a precedent for any developer to make changes in all of the other area Master Plans. He said there was no transitional zone with other properties, there was little compatibility with the surrounding properties, and the project tripled the allowed density.

Amy Harvey, County Clerk Harvey, said she received a written comment from George and Mary Mager, which was placed on file with the Clerk.

Pat Nichols said he opposed amending the Master Plan.

The Chairman closed the public hearing.

13-127 CLOSED SESSION

Agenda Subject: "Possible Closed Session for the purpose of discussing labor negotiations with Washoe County, Truckee Meadows Fire Protection District and/or Sierra Fire Protection District per NRS 288.220."

There was no closed session.

13-128 AGENDA ITEM 31- REPORTS AND UPDATES

Agenda Subject: "Reports/updates from County Commission members concerning various boards/commissions they may be a member of or liaison to."

Commissioner Hartung said the Truckee River Flood Management Authority recently went to Sacramento to meet with the Army Corps of Engineers. He stated it seemed there was some forward motion, even though there were no promises. He said he was hopeful the Army Corps would participate in the flood project. He stated regarding the Investment Committee, the County's money was being invested wisely. He said the Committee would be coming forward with a Request for Proposal (RFP) regarding selecting a management corporation.

Commissioner Jung said she and Commissioner Hartung were in Sacramento, California last Tuesday for the Alternative Formulation Briefing with the Army Corps of Engineers, which was a crucial step because it showed the Army Corps would be willing to invest in the flood project. She stated it also moved forward the environmental studies concurrently with some other major milestones, which she felt was something to celebrate. She said she attended the Community Assistance Center (CAC) Transitional Governing Board meeting. She advised the contractor running the CAC, Volunteers for America, had been challenged to raise their own money so the County could get out of subsidizing them as much as possible. She said per the contract, they had to raise 10 percent of their operating budget of approximately \$1.6 million, which would be \$160,000. She advised they raised \$222,000 in cash and \$335,000 in in-kind for the first two quarters, and she was very impressed with how much they raised. She said she was part of the \$222,000 because the Jung family was giving them \$1 per day in perpetuity to help the homeless shelter. She challenged the other Commissioners to consider doing something also.

Commissioner Weber said she attended the Nevada Works Board meeting last Friday, where there was discussion about the Sector Counsels, which were part of the Governor's Office of Economic Development's strategic plan for the State, and how they applied to the Board of Nevada Works and the Workforce Investment Act. She said the next meeting would be on June 14, 2013 from 9:00 a.m. to noon. She stated the Regional Planning Governing Board (RPGB) would be meeting on Thursday and the Regional Transportation Commission (RTC) on Friday at 9:00 a.m. She asked staff to check into when the next meeting of the Washoe County School District (WCSD) Oversight Panel on School Facilities would be. She said the Nevada Association of Counties (NACO) would be hosting a reception along with the League of Cities for the Legislators tomorrow evening at the Governor's mansion. She stated there would be a NACO Board meeting tomorrow at 3:00 p.m. in Carson City.

Commissioner Berkbigler said she attended her first Debt Management Commission (DMC) meeting, which was very interesting and educational. She stated the Sierra Club and the Friends of West Lake Tahoe filed suit against the Tahoe Regional Management Plan, which could have some deep and long-range impacts on the County's Plan and the Incline Village/Crystal Bay Area Plan. She said there was also a piece of legislation in the last session that required Nevada to pull out of the Tahoe Regional Planning Authority (TRPA). She personally felt it was imperative to repeal that legislation, because the TRPA was the only place in the country where two states came together to form a compact to work together, which was because Lake Tahoe was so important. She stated it was hoped the judge would not file a stay because, if he did, it would put everything on hold. She said that was an issue that would have to be watched very carefully. She asked when the Aces baseball issue would come before the County. Katy Simon, County Manager, replied the Board tabled the item until a written request was received, which should be forthcoming.

Chairman Humke noted the Finance Committee of the Reno-Sparks Convention and Visitors Authority (RSCVA) would meet tomorrow.

13-129 AGENDA ITEM 33 – PUBLIC COMMENT

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.”

Peggy Lear Bowen asked the Board to protect the senior citizens and make sure the applications, which were due in March 2013, were completed and the grants filed for. She discussed her issue with the power company and some of the work they were doing on power lines throughout the County.

COMMUNICATIONS:

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

13-130 Executed copy of a resolution from the Board of Trustees of the Washoe County School District augmenting certain funds of the District for the Fiscal Year ending June 30, 2013. Also included are schedules indicating the changes made to the Final Budget as a result of the augmentation. The Board of Trustees approved the resolution at their regular meeting held on December 11, 2012.

13-131 Palomino Valley General Improvement District Fiscal Year 2011/12 audit to be filed for public record and inspection as required by NRS 354.596.

QUARTERLY FINANCIAL STATEMENTS

13-132 County Clerk’s Quarterly Financial Statement for the 2nd Quarter of Fiscal Year 2012/13, October 1st through December 31st.

ANNUAL FINANCIAL REPORTS

13-133 Regional Transportation Commission’s (RTC) Comprehensive Annual Financial Report for the Fiscal Year ended June 30, 2012.

13-134 Truckee Meadows Water Reclamation Facility (TMWRF) Comprehensive Annual Financial Report (CAFR) for Fiscal Year 2011/12.

* * * * *

7:26 p.m. There being no further business to discuss, without objection the meeting was adjourned.

DAVID HUMKE, Chairman
Washoe County Commission

ATTEST:

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

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

RESOLUTION – Authorizing the Grant of Public Money to a Nonprofit Organization Created for Religious, Charitable or Educational Purposes

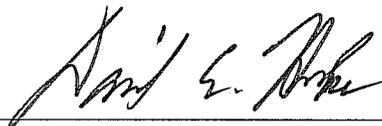
WHEREAS, NRS 244.1505 provides that a Board of County Commissioners may expend money for any purpose which will provide a substantial benefit to the inhabitants of the County and that a board may make a grant of money to a nonprofit organization created for religious, charitable or educational purposes to be expended for a selected purpose; and

WHEREAS, the Board of Commissioners of Washoe County has determined that \$5,666 in funding is needed to address community needs; now, therefore, be it

RESOLVED, by the Board of Commissioners of Washoe County that:

1. The Board hereby grants to the Gerlach General Improvement District a grant for fiscal year 2012-2013 in the amount of \$5,666 (Community Support).
2. The Board finds that in making this grant a substantial benefit will be provided to the inhabitants of the County by providing support for a backflow water testing gauge and a new roof for the water tower.

Adopted this 12th Day of February 2013

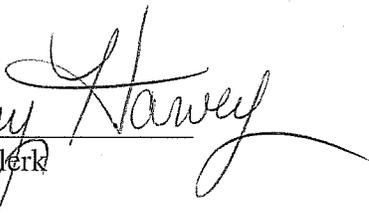


David Humke, Chairman
Washoe County Commission



ATTEST:

County Clerk



13-98