

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

TUESDAY

10:00 A.M.

FEBRUARY 23, 2021

PRESENT:

Bob Lucey, Chair

Vaughn Hartung, Vice Chair

Alexis Hill, Commissioner

Kitty Jung, Commissioner (via telephone)

Jeanne Herman, Commissioner

Janis Galassini, County Clerk

Eric Brown, County Manager

David Watts-Vial, Assistant District Attorney (via Zoom)

The Washoe County Board of Commissioners convened at 10:00 a.m. in regular session in the Commission Chambers of the Washoe County Administration Complex, 1001 East Ninth Street, Reno, Nevada. Following the Pledge of Allegiance to the flag of our Country, the Clerk called the roll and the Board conducted the following business:

Chair Lucey reminded the audience that the meeting would be conducted as a business meeting and he asked for decorum and respect.

21-0138 AGENDA ITEM 3 Public Comment.

Mr. Andrew Caudill, Vice President of the Washoe County School District Board of Trustees, stated the District was an innocent bystander in the Incline Village tax issue, relying on the County Assessor and County Treasurer. It had no ability to refute the revenues received, only to use them to provide the best education possible. He expressed concern about the \$20 million that was expected to be withheld from the District and the District's absence from settlement negotiations. He asked the Board to consider the impact on students.

Mr. Nicholas St. Jon spoke about cleaning up voter rolls because of a lack of confidence in them. He brought up the decision to deny 2nd Amendment rights in the County Complex and asked for a Resolution declaring Washoe County as a 2nd Amendment Sanctuary County. He urged the Board to allow short-term rental (STR) owners to conduct business to supplement their incomes without interference.

Via the Zoom app, Mr. Omer Rains was called but elected to speak later in the meeting.

Via Zoom, Ms. Annemarie Grant listed the officers who arrested her brother Thomas Purdy and those who were responsible for him at the jail where he died. She asked

when the next quarterly status report from the Sheriff's Office would be available, claiming the most recent one was from 2019. She wished to see the issue with L brackets on jail beds addressed. She played audio of her brother.

Ms. Judith Miller spoke on Zoom about STRs, suggesting that the County require business licenses and special use permits to run them. She opined many people impacted by STRs could not afford to live in Incline Village because of the proliferation of STRs. She commented people outside District 1 were still constituents of the Commissioners and their opinions should be considered.

Via Zoom, Mr. S. Pelham opined STRs leveled the playing field between residents, owners, and renters. He cited Table 1004.5 from the 2018 International Building Code (IBC) and provided the method for calculating occupancy based on gross square footage. If the prospective ordinance's policy of calculating occupancy on the habitable area was intentional, he opined, it should be stated; otherwise, the 2018 IBC table should be used.

Steven & Cherry Barney brought up STRs on the Zoom app, requesting a cap on the number of them allowed and removal of the provision regarding transients.

Mr. Roger Edwards, Member of the North Valleys Citizen Advisory Board (CAB), requested that the Board consider County IDs for members of CABs. He expressed concern about the validity of the voter roll, saying he planned to volunteer for the Registrar of Voters to clean it up. He felt his concealed carry rights were under attack and asked the Board to address that.

Ms. Cathy A. Reyes agreed with Mr. Edwards' comments about voting and she wanted the Board to pass a resolution making Washoe County a 2nd Amendment Sanctuary County. She did not want to see undue burdens placed on STR owners. She spoke about steps she took to address her voting concerns when Brian Sandoval was Governor and indicated the Commissioners' failure to act would result in them not getting re-elected.

21-0139 **AGENDA ITEM 4** Announcements/Reports.

Commissioner Herman mentioned she asked many times for a cleanup of the voter rolls, noting people were offering to help. She reiterated her desire for naming Washoe County as a 2nd Amendment Sanctuary County and would work with anyone willing to achieve that. She acknowledged the opinions she heard about short-term rentals.

Vice Chair Hartung provided an update that the Regional Transportation Commission (RTC) set aside \$390,000 for speedbumps and signs to make streets safer. He said work was being done on a funding mechanism, and he praised Chair Lucey for his leadership on this when he was Chair of the RTC. Chair Lucey opined the set-aside funds would benefit the region and he urged citizens to call Washoe 311 to provide input or ask questions.

Chair Lucey asked for a presentation from the Registrar of Voters (ROV) about the process for and frequency of cleaning up voter rolls. He requested an agenda item about when the County would receive census information. He commented the County would work with Governor Steve Sisolak on the topic of reopening youth sports but added the Board of County Commissioners had no oversight over the Washoe County School District (WCSD) or the Nevada Interscholastic Activities Association, which governed sports. He believed the WCSD would meet later in the evening to discuss that item. Lastly, he requested an update from staff regarding County parks and equipment.

Regarding the request for an update on voter rolls, which he supported, Vice Chair Hartung mentioned the loss of a family member and said he wanted to understand the process of identifying how that person was no longer considered a registered voter. He wished to speak with Governor Sisolak about occupancy limits in restaurants, saying he believed the focus should be more on spacing plans and less on occupancy. He thought this was particularly important as outdoor seating became an option again. He wondered whether the City of Reno would consider closing streets to allow for more outdoor venues.

Commissioner Jung wanted the ROV's upcoming presentation to also address the topic of whether death certificates were immediately transferred to the ROV's office from the Medical Examiner's Office and the Health District. She thanked the people responsible for putting a cut-through road in Golden Valley on the list of streets to receive the safety measures mentioned by Vice Chair Hartung. She requested an agenda item to discuss how traffic lights were synchronized.

Chair Lucey noted the seven-day average for COVID-19 test positivity was down to 7.3 percent, the lowest since November 1; this put the County in an acceptable range in one of three essential criteria. He hoped these decreases and the increase in vaccinations would allow for some restrictions to be lifted. He recommended people go to the County's vaccine website to check where they were in the vaccination prioritization lanes. He said Walmart was one of the only corporations to receive their vaccines directly from the federal government, and they would set up locations in their stores to help distribute vaccines. Vaccines were still available at pharmacies.

21-0140 **AGENDA ITEM 5** Appearance by Washoe County Sheriff Darin Balaam to provide an update on the uses of the Duffield Grant for police services in Incline Village, NV.

Via the Zoom app, Sheriff Darin Balaam conducted a PowerPoint presentation, a copy of which was placed on file with the Clerk. He reviewed slides with the following titles: Pre-Recession Staffing Levels, Current Staffing Levels; Top 6 Calls for Service; What Grant Funds; and Community Partner Goals.

Sheriff Balaam recalled the Board of County Commissioners approved a \$11.7 million grant from Dave and Cheryl Duffield. He indicated Incline Village (IV) was different from other areas of the unincorporated County because it was in the mountains, accessed by a single-lane road, and calls for service were more heavily impacted by the

weather. The staff listed in the Pre-Recession Staffing Levels slide handled calls not only in IV but also in Carson City, Douglas County, and the California side of the Tahoe Basin. Prior to the recession, he noted, some Sheriff's Office (SO) staff lived at the lake, but they moved down the hill after the Recession. Because of that, they were only at the lake for ten hours of their twelve-hour shifts, the other two being used for travel. Since then, remote deputies and the resident deputy began their shifts at the lake and received stipends because they used their own vehicles to drive there; this allowed them to work full twelve-hour shifts. Five deputies were needed to fill gaps in coverage. These gaps, along with impacts from the COVID-19 (C19) pandemic and a drop in community engagement, prompted the SO to work with Dave and Cheryl Duffield to improve staffing levels.

Sheriff Balaam explained the abbreviations used in the Calls for Service slide stood for area checks, business checks, parking problems, public safety, traffic, and vehicle checks. He further detailed the types of situations which fell under the public safety call designation. Based on a current grant, he said, two motors were present to address day traffic for the next three years, especially during the historically busy summer and winter months. He stated the Duffields' grant would be used to add five new remote deputies and all the vehicles needed to staff those positions so they would not have to drive back and forth. This would help compensate for recent withdrawals of Placerville and Nevada Highway Patrol deputies from the area.

Sheriff Balaam indicated the SO was moving toward more community-oriented policing at IV and in the valley as C19 allowed. He acknowledged the additional parking would help address the issues caused by the completion of the walking path in IV. He said most burglaries in IV were of part-time homes and he hoped to build relationships with new residents and existing businesses. He felt community policing, which would start in the valley, would greatly help the IV community.

Sheriff Balaam thanked the Board for approving the grant and said they would start tracking numbers on July 1 once the grant took effect, though it could take a few months to become fully staffed at the lake.

Vice Chair Hartung asked whether the 421 parking calls received in 2020 included instances where deputies found illegally parked cars and ticketed them. Sheriff Balaam responded the number included both the calls received and proactive deputies. Many calls came in during heavy snowfalls. Vice Chair Hartung questioned whether the SO would be better served by having one person handle all parking issues, noting any deputy who handled parking calls would not be available to answer more critical calls. Sheriff Balaam responded he was actively working with Assistant County Manager Dave Solaro on an alternative so a deputy sheriff would not be needed for that.

Commissioner Hill thanked the Sheriff for finding additional resources for IV. She asked for clarification about area checks, to which Sheriff Balaam replied they involved checking beaches, businesses after they closed, and lookouts, all of which were known problem areas. He confirmed they generally did not include calls about short-term rentals (STRs), although a few noise complaint calls about STRs would be included; area

checks tended to be more proactive. Chief Deputy Greg Herrera added the next presentation would compare the list of STRs with the SO's top calls for service.

Commissioner Hill requested a quarterly report on jail safety and community policing. Sheriff Balaam believed that item would be heard in March. He reminded her it was only required every six months, but he still intended to make that presentation quarterly.

Vice Chair Hartung inquired about the SO's wildlife intervention training, citing a story where a deputy accidentally used non-wildlife ammunition on a bear. Chief Deputy Herrera responded they participated in joint training with the Nevada Department of Wildlife but also partook in training at the range. Deputies assigned to IV received training specific to that area. He noted changes had been made to the color of non-lethal munitions so they could not be mistaken for other guns.

Chair Lucey asked whether the staffing numbers Sheriff Balaam reviewed included deputies stationed on boat patrols. Sheriff Balaam replied that would be an auxiliary assignment so no deputies would be taken off the streets. He confirmed Chair Lucey's assumption that all the staff members discussed would be on the ground in IV.

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

DONATIONS

21-0141 **6A** Recommendation to accept a cash donation in the amount of [\$13,841.00] from the Northern Nevada Youth Foundation to support the juvenile programs at the Jan Evans Juvenile Justice Center; if approved, direct the Comptroller's Office to make the appropriate budget adjustments. Juvenile Services. (All Commission Districts.)

21-0142 **6B** Recommendation to accept New West Distributing Company's donation of a 2005 Utility Trailer (VIN # 1HHDMT3215M000140) to the Washoe County Emergency Management Division. Manager's Office. (All Commission Districts.)

Chair Lucey thanked all individuals and organizations who donated to any County departments to help them serve the public.

There was no response to the call for public comment.

On motion by Vice Chair Hartung, seconded by Commissioner Herman, which motion duly carried on a 5-0 vote, it was ordered that Agenda Items 6A and 6B be accepted.

CONSENT AGENDA ITEMS – 7A THROUGH 7B2

- 21-0143** **7A** Approval of minutes for the Board of County Commissioners' regular meeting of January 12, 2021. Clerk. (All Commission Districts.)
- 21-0144** **7B1** Recommendation to accept the Regional Street Naming Committee recommendation and approve the renaming of Swallow Pointe Drive to Hallow Pointe Drive, within unincorporated Washoe County, Nevada. Community Services. (Commission District 4.)
- 21-0145** **7B2** Recommendation to approve Amendment #1 to an Electric Vehicle Charging Station Grant Agreement from NV Energy [in the amount of \$21,380.00 with a total County Match of \$20,550], increasing the total grant award to \$74,648, for the purchase and installation of three dual-port electric vehicle charging stations at the Washoe County 9th Street Administration Complex; and direct the Comptroller's Office to make the necessary budget amendments. Community Services. (All Commission Districts.)

There was no public comment on the Consent Agenda Items listed above.

Commissioner Hill congratulated the Green Team for obtaining the grant for Agenda Item 7B2.

On motion by Vice Chair Hartung, seconded by Commissioner Herman, which motion duly carried on a 5-0 vote, it was ordered that Consent Agenda Items 7A through 7B2 be accepted and approved.

BLOCK VOTE – 8 THROUGH 12

- 21-0146** **AGENDA ITEM 8** Recommendation to approve purchase of iLOOKABOUT Streetscape digital photography and professional services in the amount of \$316,000 [project funded by Washoe County Assessor's Office Technology Fund as authorized by Nevada State Legislature] and authorize Purchasing and Contracts Manager to execute the attached Three Year iLOOKABOUT Terms of Service Agreement attached hereto. Assessor. (All Commission Districts.)

There was no response to the call for public comment.

On motion by Vice Chair Hartung, seconded by Commissioner Herman, which motion duly carried on a 5-0 vote, it was ordered that Agenda Item 8 be approved and authorized.

21-0147 **AGENDA ITEM 9** Recommendation to: (1) accept a Sole Source waiver to establish a pilot program geared towards meeting the mandates imposed by the Family First Prevention Services Act (FFPSA) to establish residential homes under a new emergency care model to support a safe transition of care for children in need of emergency foster care; (2) approve two contract agreements to support the pilot program; (a) between Washoe County and 3 Angels Care effective upon execution and shall continue for one year in the amount of [\$503,700]; (b) between Washoe County and Call to Compassion effective upon execution of the agreement and shall continue for one year in the amount of [\$251,850]; and if approved, (3) authorize the Purchasing and Contracts Manager to execute the Agreements. Human Services Agency. (All Commission Districts.)

There was no response to the call for public comment.

On motion by Vice Chair Hartung, seconded by Commissioner Herman, which motion duly carried on a 5-0 vote, it was ordered that Agenda Item 9 be accepted, approved, and authorized.

21-0148 **AGENDA ITEM 10** Recommendation to approve the reimbursement of costs incurred by the City of Reno, the City of Sparks, departments of Washoe County, and Truckee Meadows Fire Protection District for expenses related to and in support of the Enhanced 911 Emergency Response System and portable event recording devices, as recommended by the 911 Emergency Response Advisory Committee on January 21, 2021, in an amount not to exceed [\$1,010,891.90] as specified within the adopted Enhanced 911 Fund's operating budget. Technology Services. (All Commission Districts.)

There was no response to the call for public comment.

On motion by Vice Chair Hartung, seconded by Commissioner Herman, which motion duly carried on a 5-0 vote, it was ordered that Agenda Item 10 be approved.

21-0149 **AGENDA ITEM 11** Recommendation to approve a subgrant of Emergency Rental Assistance funding from the United States Department of the Treasury to the Housing Authority of the City of Reno in an amount not to exceed \$6,380,855 for the Washoe Housing Assistance for COVID Relief Program; with a grant period from February 23, 2021 through December 31, 2021, and if approved, authorize the County Manager to sign the Washoe County Subgrant Agreement between Washoe County and the Housing Authority of the City of Reno; and approve the Resolution necessary for same. Manager's Office. (All Commission Districts.)

There was no response to the call for public comment.

Chair Lucey praised Assistant County Manager Kate Thomas for helping procure this subgrant, which would make a huge difference.

On motion by Vice Chair Hartung, seconded by Commissioner Herman, which motion duly carried on a 5-0 vote, it was ordered that Agenda Item 11 be approved and authorized. The Resolution pertinent to Agenda Item 11 is attached hereto and made a part of the minutes thereof.

Agenda Item 11 was reopened before the start of Agenda Item 16. See pages 13 and 14 for the minutes about this reopening and the motion taken at that time.

21-0150 **AGENDA ITEM 12** Recommendation to accept federal assistance of Community Development Block Grant Coronavirus Round 2 funds from the Nevada Governor’s Office of Economic Development in the amount of [\$244,062; no county match], with a grant period of July 1, 2021 through December 31, 2022. Authorize the County Manager to sign award documents, and direct the Comptroller’s Office to make the necessary budget amendments. Manager's Office. (All Commission Districts.)

There was no response to the call for public comment.

On motion by Vice Chair Hartung, seconded by Commissioner Herman, which motion duly carried on a 5-0 vote, it was ordered that Agenda Item 12 be accepted, authorized, and directed.

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Chair Lucey inquired whether Agenda Items 13 and 14 could be opened together since they involved the same issues. Assistant District Attorney Dave Watts-Vial thought it would be helpful to open them together and stated Deputy District Attorney Herb Kaplan would provide history on both matters. He recommended the Board of County Commissioners should take separate votes on each item.

21-0151 **AGENDA ITEM 13** Consideration of a proposed resolution finding that refunds of certain property tax payments in the estimated amount of \$28,900,000 to taxpayers in Incline Village and Crystal Bay Nevada are due, directing the Treasurer to make such refunds, directing that subsequent apportionments of revenues from property tax to the other taxing entities in the county including the Incline Village General Improvement District, North Lake Tahoe Fire Protection District, the State of Nevada and the Washoe County School District which levied a tax represented in the combined tax rate be withheld, directing the Treasurer to keep a list of refunds and other matters properly related thereto. District Attorney. (All Commission Districts.)

Chair Lucey opened this item at the same time as Agenda Item 14.

Deputy District Attorney Herb Kaplan explained the first of these two items involved possible action regarding Incline Village/Crystal Bay (IVCB) residential property owners and their entitlement to receive funds in connection with property tax equalization for the 2003-04, 2004-05, and 2005-06 tax years. He added this could potentially involve withholding property tax distributions from other taxing entities to account for their proportion of the refunds. The second item pertained to the possible action to direct payment of interest on those payments and the withholding of the proportionate share for taxing entities. He noted these items had a long legal history that predated any current Commissioners.

Mr. Kaplan conducted a PowerPoint presentation of untitled slides, reviewing the history of the tax issues which were the basis for Agenda Items 13 and 14. He stated the Bakst and Barta decisions referenced in the timeline dealt with related equalization issues. He explained the first judicial review case was filed in 2017 in Carson City while the second was filed in 2018 in Washoe County; it was later determined the cases belonged in Washoe County because they involved Washoe residents. The District Court's October 2019 decision, he continued, required payment of refunds and statutorily mandated interest at the legal rate to all residential IVCB property owners for those three tax years; the total estimated amount was \$56 million.

Mr. Kaplan stated the Board of County Commissioners (BCC) had the authority to budget, spend, and levy taxes, as well as "do and perform all such other acts and things as may be lawful and strictly necessary to the full discharge of the powers and jurisdiction conferred on the board". In this respect, he said, the BCC performed various executive functions, and one such power was to administer appropriated funds. It would be up to the Board to determine how to satisfy the refund and the corresponding budget obligations. According to Nevada Revised Statute (NRS) 354.240, the Board was authorized to withhold amounts refunded under that Statute from the subsequent apportionment of revenues from property tax to the other tax units in the County. To achieve this, the Board needed to find that money was paid into the treasury of the County and there was just cause for granting an equitable refund of such money. He reiterated the District Court found that taxpayers were entitled to a refund based on regional equalization, and the County was bound by that decision. The Board was then authorized to direct the County Treasurer to refund the money paid into the County treasury that exceeded the amount legally payable. If the County exercised its authority to withhold funds from other taxing units, approximately \$16 million of the \$56 million refund would be recouped.

Mr. Kaplan pointed out NRS 354.220 did not explicitly provide for the inclusion of accrued interest, but the District Court ordered that interest be included at the legal rate. The settlement agreement approved by the BCC determined the rate of interest to be 6 percent, and NRS 351.486 required that interest be paid on overpayment of taxes. He commented the current situation was exactly the same as one in 2011, even involving the same parties, though that case revolved around the 2006-07 tax year. At that time, the BCC approved the withholding of accrued statutory interest from those distributions.

Mr. Kaplan said Washoe County and the other tax entities benefitted from use of the property tax fund distributions, a portion of which came from overpayments. The October 2019 District Court decision required payment of interest on those property tax overpayments. As such, the District Attorney's Office recommended the BCC adopt the Resolution provided, direct the Treasurer to refund the amount paid into the County treasury, and authorize the withholding of property tax distributions from other taxing units for their proportionate share of the refunds. They further recommended the BCC direct payment of interest by withholding a proportionate share of the interest paid from future allocations of property tax revenues to the other affected tax entities.

Given the pleas made by the Washoe County School District (WCSD), Commissioner Hill asked whether the BCC could assume the interest of the WCSD until 2024 to allow for them to budget for this unexpected interest payment. Mr. Kaplan responded the Board was authorized to do that, but that issue was not what was being discussed on this agenda. Nothing would stop the County from continuing discussions with the WCSD.

Vice Chair Hartung asked for clarification about the separation of duties. Mr. Kaplan confirmed the Vice Chair's assertion that the County had the authority to levy taxes, but the BCC did not value property. The County Assessor was responsible for reappraising properties annually to determine the appropriate valuation; after the values were determined, notice was published in the newspaper and notice was provided to each taxpayer of their valuation and resulting tax responsibility. He stated taxpayers then had a chance to appeal those valuations to the County Board of Equalization and could further appeal that board's decisions to the State Board of Equalization (SBOE). The SBOE still had the obligation to perform statewide equalization, even for those taxpayers who did not follow the process he just described. He mentioned the SBOE did not do this for any years between 2003 and 2011.

Vice Chair Hartung opined the law favored the plaintiffs because there was no cost to appeal, but the County was responsible for interest payments accrued during the time it took to reach a resolution, an observation confirmed by Mr. Kaplan. The Vice Chair asked whether the SBOE and the County Assessor were culpable for their errors. Mr. Kaplan said the system was set up so that no individual or entity was culpable. He continued some type of notice should have been sent to the taxing entities letting them know specific taxes were being questioned. In this case, that notice was the 2003 District Court complaint filing.

Vice Chair Hartung asked whether the County received any assistance from the other taxing entities in defending the lawsuit. Mr. Kaplan replied this case predated his employment with the County, so he could not answer, but to the best of his knowledge the County defended itself on its own.

Commissioner Herman said she hated to think how much the County would have owed if they waited longer to fix it, and she praised the Board for making the decision to do the right thing.

Commissioner Hill commended Chair Lucey for working with the WCSD to ensure their opinions were heard, saying she believed the County would find a way to help them.

Chair Lucey received confirmation from Mr. Kaplan that NRS mandated inclusion of interest in settlements like this. Referencing the chart on page 5 of the staff report which stated \$18,620,648 needed to be paid between July 1 and December 31, 2021, Chair Lucey asked whether that total included interest and principal. Assistant County Manager Christine Vuletich said that number reflected both tax and interest refunds. She clarified that amount reflected the parcels identified by the Treasurer's Office which were still owned by the original property owners, and the settlement agreement required them to be paid first. Roughly half of the eligible owners had already filed claims, but the numbers in the staff report showed the maximum liability if everyone filed claims. Chair Lucey asked about the possibility that refund claimants would have to adjust prior income taxes. Ms. Vuletich indicated each situation would be different, but she believed amendments to their prior years' tax filings could be necessary.

Chair Lucey stated the County's responsibility was always to collect and distribute tax revenue to help fund entities like general improvement districts and the Cities of Reno and Sparks. The County also needed to provide regional services to all constituents regardless of where they lived. He said the WCSD and other entities were responsible for managing their own budgets. He confirmed the BCC would continue to work with the WCSD, noting County Manager Eric Brown worked with them through the COVID-19 response, but this issue needed to be addressed immediately. He reiterated the numbers provided were estimates and not all \$56 million might be claimed.

Vice Chair Hartung brought up a recent issue where AT&T overpaid \$26 million in taxes and much of that liability fell on local entities. He acknowledged errors happened, none of which he believed to be malicious, and the current BCC had to rectify the situation. He did not view this as a failing of the BCC, but rather a process decided in the courts which became the financial responsibility of all the entities involved. He hoped to work out an agreement with everyone.

On the call for public comment, County Clerk Jan Galassini noted emails from Mr. Mark Mathers, Mr. Anthony McMillen, and Mr. Neil A. Rombardo would be placed on file.

Ms. Cindy Martinez indicated she supported the BCC honoring its obligation. She admitted not considering the need for residents to adjust past tax returns. She felt government agencies needed to be more prudent in managing their budgets, suggesting that agencies who relied on these funds set aside 35 percent of them into a rainy-day fund.

On motion by Commissioner Hill, seconded by Vice Chair Hartung, which motion duly carried on a 5-0 vote, it was ordered that Agenda Item 13 be approved and directed.

21-0152 **AGENDA ITEM 14** Discussion and action directing the payment of interest in the estimated amount of \$27,100,000 on certain property tax overpayments for residential properties at Incline Village/Crystal Bay in compliance with the October 21, 2019 Order issued by the District Court in Village League to Save Incline Assets, Inc., et.al. vs. State of Nevada, et.al., Case No. CV03-06922, as modified and clarified by the settlement agreement regarding the processing of refunds, and the withholding from subsequent apportionments of property tax revenues of the proportionate interest share from the taxing entities in Washoe County including the Incline Village General Improvement District, North Lake Tahoe Fire Protection District, the State of Nevada and the Washoe County School District. District Attorney. (All Commission Districts.)

The discussion for this item was consolidated with that for Agenda Item 13. See Minute Item 21-0151 for the joint discussion and public comment that took place.

Vice Chair Hartung received confirmation from Deputy District Attorney Herb Kaplan that the purpose of these items was not to come up with an amenable repayment agreement, but to direct staff to make the payments as ordered by the court. In response to Vice Chair's questions about the interest rate, Mr. Kaplan said 6 percent was the original interest rate agreed upon, though an argument was made that it could have been a prime-plus-two rate. He and Assistant District Attorney Dave Watts-Vial agreed the agenda specified this item was about withholding from the other tax units. Vice Chair Hartung said discussions could still be held about timing, but he emphasized Washoe County taxpayers were subsidizing this.

Commissioner Hill expressed gratitude for the clarification that this item would not address the Washoe County School District's concern about how interest payments would be distributed. She asked whether that discussion would happen at a Board of County Commissioners (BCC) meeting or as an internal matter with staff. Mr. Watts-Vial said it would begin with staff but likely come back to the BCC to get input on how best to proceed. Commissioner Hill looked forward to that discussion.

Chair Lucey stressed this was a complicated process. The County Comptroller, the County Treasurer, and staff were working to identify claimants and determine the amounts to be withheld. This could take 24 months, but discussions needed to take place with all parties.

Vice Chair Hartung reminded everyone this was initiated by a court order and the issue was inherited by the current BCC.

On motion by Vice Chair Hartung, seconded by Commissioner Hill, which motion duly carried on a 5-0 vote, it was ordered that Agenda Item 14 be directed.

21-0153 **AGENDA ITEM 15** Discussion and direction to staff regarding legislation or legislative issues proposed by legislators, by Washoe County, Truckee Meadows Fire Protection District, or by other entities permitted by the Nevada State Legislature to submit bill draft requests, or such legislative issues as may be deemed by the Chair or the Board to be of critical significance to Washoe County. Manager's Office. (All Commission Districts.)

County Manager Eric Brown indicated the list of legislative items had been updated to include additional items. One bill about grants for economic development had been moved forward by Governor Steve Sisolak. He drew the Commissioners' attention to Senate Bill (SB) 11, a bill the Board of County Commissioners (BCC) voted to oppose, by saying other entities in the region expressed a desire to move forward with it; if it passed, those entities would be able to levy the associated tax within their jurisdictions.

Chair Lucey commended staff for providing an outline of all bills being discussed, adding there were roughly 300 to 400 bills which had already been assigned numbers and another 1,000 bill draft requests which would be monitored. He stated the Government Affairs Team convened on Fridays to discuss the week's events, but it was difficult to take positions at Tuesday's BCC meetings only for changes to happen to bills later in the week. Since he and Commissioner Hill were legislative liaisons, he offered, it might be advantageous to allow flexibility by voting on empowering them to provide direction; future presentations could then be scheduled to get input from the BCC. He said he would arrange for an agenda item on a future agenda so the Board could take a formal position on that. He concluded by saying SB73, the tax bill referenced by Mr. Brown, would be referred to the Senate Revenue and Economic Development Committee. SB10 was also being tracked.

Commissioner Hill agreed the process outlined by Chair Lucey would be helpful and provide more transparency to the public. Chair Lucey acknowledged Open Meeting Law requirements extended the time it took to take a position on something on an agenda, so a dynamic process was needed.

County Clerk Jan Galassini noted the legislation update document was added to the website and would be part of the public record.

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

12:04 p.m. **The Board recessed.**

2:30 p.m. **The Board reconvened with all Commissioners present.**

Chair Lucey indicated Agenda Item 11, heard during the block vote, needed to be reopened. County Manager Eric Brown reread the item. Chair Lucey said the agreement between the Reno Housing Authority and Washoe County was finalized and it

was available for the public to see. County Clerk Jan Galassini confirmed she had a copy for the record.

Responding to Vice Chair Hartung's query, Assistant District Attorney Dave Watts-Vial confirmed the motion in the staff report would be fine as written.

On motion by Vice Chair Hartung, seconded by Commissioner Hill, which motion duly carried on a 5-0 vote, it was ordered that Agenda Item 11 be approved and authorized. The Resolution pertinent to Agenda Item 11 is attached hereto and made a part of the minutes thereof.

21-0154 **AGENDA ITEM 16** Introduction and first reading of ordinances amending Washoe County Code Chapter 110 (Development Code) within Article 302, Allowed Uses, to identify the types of review required for short-term rentals in each regulatory zone and to add an administrative review permit to the list of review types; within Article 304, Use Classification System, to update the residential use type description, add a definition for short-term rental, and update the definition for lodging services; within Article 410, Parking and Loading, to update the off-street parking space requirements table to include a reference to short-term rentals; and within Article 910, Enforcement, to specify that appeals of Administrative Hearing Office decisions related to short-term rentals would be heard by the Board of County Commissioners. Chapter 110 would also be amended to create Article 319, Short-Term Rentals (STRs), to establish standards, location limitations, defining unpermitted short-term rentals as nuisances, occupancy limits, parking requirements, safety/security considerations, signage, noise thresholds, trash/garbage collection rules, insurance requirements, Tahoe area considerations, permitting requirements, enforcement process, fees, fines, and penalties associated with short-term rentals; and to amend Article 306, Accessory Uses and Structures, by removing the procedural details for Administrative Review Permits, with those details being re-located into a new article that is updated to reflect minor changes related to short-term rentals. That article would be created as Article 809, Administrative Review Permits. The ordinances would also amend Chapter 50 (Public Peace, Safety and Morals) to include a definition of short-term rental and define unpermitted short-term rentals as a public nuisance; and amend Chapter 125 (Administrative Enforcement Code) to establish enforcement provisions related to short-term rentals, including but not limited to definitions, evidence of operation, evidence of violations, appeals and associated timeframes, stop activity orders, warnings, penalties, and penalty notices. Short-term rentals are a type of temporary lodging booked for fewer than 28-days and operated out of private residences such as homes, apartments and condos. They are commonly made available through property management companies and online booking services, and are also referred to as vacation rentals. The amendments also resolve discrepancies arising within existing Washoe County Code chapters as a

result of the new code language, and other matters necessarily connected therewith and pertaining thereto.

And, if introduced, set the public hearing and second reading of the ordinances for March 23, 2021. Community Services. (All Commission Districts.)

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

Jan Galassini, County Clerk, read the title for Bill Nos. 1852, 1853, and 1854.

Planning Manager Trevor Lloyd conducted a PowerPoint presentation, a copy of which was placed on file with the Clerk, and reviewed slides with the following titles: WDCA19-0008: Short-Term Rentals; Mission Statement; Previous Actions; Project Baseline; Neighboring Jurisdictions; Accela & Host Compliance; Host Compliance; Host Compliance - Video; Project Phases; Public Engagement; and IV/CB CAB Meeting.

Mr. Lloyd indicated the three proposed ordinances would amend Chapters 110, 50, and 125 of the Washoe County Code. He felt the drafts of the ordinances adhered to the mission statement. He pointed out the majority of STRs were in the Incline Village/ Crystal Bay (IVCB) area, but there were a number of STRs in other unincorporated areas of Washoe County. He acknowledged each of the neighboring jurisdictions' ordinances were different because there was not one single solution that worked for all areas. He noted the Cities of Reno and Sparks did not currently have STR ordinances in place. He explained Host Compliance was an application software company that worked with jurisdictions across the country to assist with STR compliance monitoring and enforcement. The information gathered also helped with the permitting of STRs.

Mr. Lloyd showed a video detailing the services provided by Host Compliance. He anticipated the program would launch by the summer if the ordinances were approved in March. He described the work done over the prior 18 months as the most robust public land use engagement process ever undertaken by Washoe County. He indicated approximately 315 people attended the three workshops held on this issue.

Responding to Vice Chair Hartung's query about a breakdown of the workshop attendees, Mr. Lloyd replied about 20 of the 315 people who attended were from the valley; the rest were from the IVCB area. He noted the IVCB Citizen Advisory Board meeting was attended by more than 100 participants who raised their concerns.

Division Director of Planning and Building Mojra Hauenstein continued the presentation by reviewing slides with the following titles: Proposed Code: Highlights (2 slides); Board-Directed Changes (2 slides); Occupancy Calculations; and Other Updates.

Ms. Hauenstein said staff heard the concerns of the participants and determined the impacts of STRs became more extreme as occupancy increased. This

resulted in the tier system that was being proposed. She stated STRs which allowed 11 or more people would be required to have monitored alarms. Not only would parties not be allowed under these ordinances, they could not be advertised either. She indicated the parking standards would include an exception for areas with extreme slopes. Situations where STR hosts could not offer appropriate parking would result in a reduction in that home's maximum occupancy.

Ms. Hauenstein remarked room occupancy levels were currently based on international fire and building codes, the same ones used across the country to review permit applications. She indicated the two-occupants-per-bedroom-plus-two method was being proposed by other jurisdictions around Lake Tahoe and it had not yet been legally challenged, but the County's proposed methodology was more conservative.

Planning Manager Chad Giesinger continued the presentation by reviewing slides with the following titles: Enforcement; Next Steps; Housing Data; Baseline Data – Sheriff CFS (2 slides); Baseline Data – Fire CFS; and Conclusion.

Mr. Giesinger explained proactive licensing compliance would be achieved by using Host Compliance data to identify whether potential dwellings were acting as STRs and requiring those owners to apply for permits. This would be a departure from the current complaint-driven process. He stated the enforcement and fining process needed to be vigorous, particularly around Lake Tahoe where there were many STRs. The current system charged small fines because the focus was on voluntary compliance, but the new proposal featured a doubling of fines. He said three violations in one year would result in automatic revocation without a Board hearing. He acknowledged the timeline was aggressive and it was predicated on approval in March. The proposed update in November would be to relay statistics to the Board of County Commissioners (BCC) and gather additional direction.

Regarding the Housing Data slide, Mr. Giesinger indicated the numbers in the chart on the right pertained to all 7,445 residential parcels in the IVCB area. In addition to 12.5 being the percentage of calls for service (CFS) for STRs, it was also the percentage of the IVCB housing stock used for STRs.

Vice Chair Hartung inquired about the number of STR-related calls that generated outside the IVCB area. Mr. Giesinger replied he did not have that data but opined it might parallel the number of calls receiving for typical residential properties.

Mr. Giesinger remarked area check calls did not necessarily correspond to STR issues. He noted about half the properties listed in the second Sheriff CFS slide were listed in the Host Compliance data as STRs. He noted 120 Country Club Drive was a large property with many condominiums, and it was difficult to tell how many of these calls resulted from STRs. He felt the passage of ordinances with mandatory smoke and carbon monoxide detector inspections would reduce the number of smoke detector calls. He estimated staff received close to 900 pages of public comments regarding STRs. He

summarized by saying he felt the proposed ordinances balanced property right interests with neighborhood interests.

Ms. Hauenstein concluded the presentation by reviewing the Other Considerations and Questions slides.

Vice Chair Hartung requested clarification of the phrase ‘identify types of review required for STRs in each regulatory zone’ found in the staff report. He pointed out the language in the proposed motion specifically mentioned Tahoe area considerations and the item was styled in such a way for the Commissioners to provide direction to staff. He wondered whether some of the restrictions were transferrable to other areas of the County, noting parking and defensible space requirements were not issues in Spanish Springs.

Via Zoom, Deputy District Attorney Nate Edwards explained the item was written to cover a wide range of issues brought up throughout the development of the ordinance to give the BCC latitude to address specific concerns. Responding specifically to the query, he stated Nevada Revised Statute (NRS) 278 allowed different zoning regulations to apply in parts of the County that were under the jurisdiction of different regional planning agencies. Because the Reno/Sparks area came under the jurisdiction of the Truckee Meadows Regional Planning Agency and Lake Tahoe fell under the jurisdiction of the Tahoe Regional Planning Agency (TRPA), different rules could be adopted as long as there was a legitimate basis for the difference. Legitimate reasons could include slope-centered parking issues, snow and ice accumulation, wildlife’s access to trash, and fire concerns. He opined the approach was to craft an ordinance which applied throughout the County as opposed to separating out different regions, though he admitted some provisions in the ordinance were more applicable in some areas. He felt defensible space was still an issue in Spanish Springs, but it would have a different application since Spanish Springs was not located in a dense forest.

Vice Chair Hartung spoke about street parking and a lack of bears in Spanish Springs, adding he did not want a piece of Code that was onerous for all STRs, though he acknowledged the need in Lake Tahoe. He asked whether the CFS cited in the presentation differentiated between calls for STRs and calls for timeshares. Captain Don Gil of the Washoe County Sheriff’s Office said he would research those numbers.

Chair Lucey pointed out hotels and motels were only allowed in general commercial, neighborhood commercial, and tourist commercial zones, and those businesses needed special use permits for neighborhood commercial zones. He questioned the purpose of having Tier 3 STRs at all. Ms. Hauenstein confirmed Chair Lucey’s assertions and said there were large homes at the lake over 5,000 square feet which contained five to six bedrooms. That provision was added as a function of calculating occupancy levels in homes at the lake. Chair Lucey expressed a preference for prohibiting STRs of 21 or more residents because it would be like allowing a commercial use in a residential zone.

Chair Lucey expressed frustration that the first reading contained no information about fees, saying all STRs would be subject to this ordinance. While \$1,000 might be appropriate for individuals at the lake, especially given the high room rates in that area, it might not be viable in other areas of the County. He commented the Incline Village General Improvement District (IVGID) had a much stricter trash policy than the one in the valley. He asked whether IVGID could be empowered under NRS 318.116 to handle issues such as garbage and defensible space, or at least be more stringent with their rules than what would be provided in the ordinance.

Regarding fees, Ms. Hauenstein said the permit fee was currently \$1,000 based on Board direction that the program be cost-neutral to avoid tax increases. She confirmed the fees would be presented at the second reading. The permit fee was based on a conservative estimate that 300 of the potential 1,200 STR owners would apply for permits. If more came in, she stated, rates could be reduced or refunds could be processed.

In response to Chair Lucey's second question, Mr. Edwards said IVGID would not lose any powers under the ordinance and specific regulations for trash storage already applied to these properties. Chair Lucey rephrased his question by asking whether IVGID could be empowered through NRS to create more stringent restrictions on STRs. Mr. Edwards replied he had not yet researched the parameters of this question, but he provisionally believed they would not be able to. IVGID did not have general zoning and regulatory land use authority like that which was provided to the BCC under NRS 278. Regarding the suggestion that the BCC could delegate its authority to IVGID to impose regulations specific to the Tahoe area, he did not think NRS 278 provided that ability. Chair Lucey requested Mr. Edwards research whether NRS 318 would allow for such actions.

Chair Lucey noted Commissioner Hill requested annual inspections, though the Chair felt additional fire and safety inspections might not be necessary for two to three years after initial inspection. He expressed concern that fees would be driven up by requiring annual inspections. He inquired about the purpose of the cleaning provision in the ordinance. Ms. Hauenstein responded it would be advisory information supplied by the Health District and not a requirement of the ordinance. This was done in response to community concerns about the cleanliness of rentals. She confirmed the Health District offered to draft a one-page guideline regarding cleaning the inside of homes.

Commissioner Jung commented the County was caught off guard without any code language to control the traffic movement of non-residents through various regions of the County. She felt an ordinance needed to be put in place and re-evaluated using the data gathered after six months. She reiterated her frustration about the BCC's inability to shut down and protect County citizens when travel was prohibited because of COVID-19 (C19), particularly at the lake. Chair Lucey agreed the Board needed to move forward with putting something into Code; otherwise there could be no enforcement.

On the call for public comment, County Clerk Jan Galassini called the following speakers, all of whom spoke via the Zoom app:

Ms. Sara Schmitz urged the BCC not to make decisions that would burden a future BCC. She expressed concerns about remote owners buying properties to function as hotels and requested that the operation of transient lodging be available to residents only. She felt residential zoning should not allow the use of homes as hotels as it changed the dynamics of neighborhoods.

Ms. Judith Miller felt good planning decisions should incorporate the maintenance of good workforce housing and the prevention of overcrowding, and not be dictated by money. She said STR owners were running public accommodation facilities as defined by NRS. She asked the Board to consider the potential revenue loss if IVCB succeeded in becoming an incorporated town. She expressed frustration at the lack of District 1 representation when this was decided at the Planning Commission.

Mr. Scott Hill said he and his wife believed an overabundance of STRs turned neighborhoods into something unneighborly. He expressed frustration that there was only one Commissioner on the BCC to represent them and about the lack of limits on the number and proximity of allowable STRs, which he felt would only encourage more of them.

Mr. Alex Tsigdinos requested that Code language for residential zoning not be changed to allow transient use, saying he never would have bought in a mixed-use commercial area. He felt the ordinance needed to place a cap on the number of STRs, which he believed diminished property values. He pointed out the cap could more easily be raised in the future than lowered. He expressed frustration about how few community suggestions were incorporated into the draft ordinance.

Ms. Ronda Tycker questioned what type of data would be collected and how that data would help IVCB residents, especially if it did not result in a limit on the number of STRs. She requested that three things be included in the ordinance: a requirement that ownership of STRs be limited to permanent residents, a cap on the total number of STRs in IVCB, and retention of the clause prohibiting transient uses in residential neighborhoods.

Ms. Linda Newman expressed her agreement with the three requests made by Ms. Tycker. She asked the Board to listen to residents' voices, opining that community was made up of a diverse group of residents. She believed unregulated STR growth would impact residents, first responders, and business workers. She expressed concern about trash, weather danger, and evacuation routes.

Ms. Diane Becker opined the existence of the non-transient use language in Code indicated STRs were not currently lawful. She thought the BCC continued to favor STR owners. She asked the Board to consider bifurcating the ordinance to allow for inclusion of protective provisions. She referenced an email she sent detailing 32 similar jurisdictions who provided the types of protections she desired, and she spoke about restrictions being considered by other counties.

Mr. Steve Berg spoke about two STRs adjacent to his home and expressed concern that two other homes could become STRs. Given the occupancy limits proposed in the ordinance, he said, his home could be surrounded by 60 people in five homes. He believed transient uses would change the character of the town, and IVCB property owners already had to abide by TRPA regulations.

Mr. Pete Todoroff stated 10 people should not be allowed to stay in a two-bedroom home. He indicated support for the two-occupants-per-bedroom-plus-two system mentioned by Ms. Hauenstein. He stated the fire department was the only agency qualified to inspect STRs, and parking, he felt, should be limited to STR properties and not allowed on County roads. He wished to see regulations posted on the doors of every STR.

Art, whose last name was unintelligible, said he was a full-time Incline Village resident but rented his condo because he was an airline pilot. He contested not all STR owners lived remotely, and renting his home allowed him to afford it. He supported using the number of bedrooms to calculate occupancy limits. He raised questions about the timeline for implementation, when he could apply for a permit, and potential tax costs.

Mr. Myles Riner thought the unrestricted growth of STRs in IVCB was unreasonable. He asked about the percentage of IVCB STRs owned by someone with multiple properties relative to the total number of STRs. He disagreed that the interests of STR owners should be the same as the interests of residents since the latter were voters and taxpayers.

Ms. Coral Amende of North Tahoe Democrats said she experienced noise, trash, and drug use from STRs. She opined the ordinance would change the zoning from residential to mixed-use. She expressed concern that a failure to impose limits on STRs would result in an increase in STRs.

Ms. Pamela Tsigdinos challenged the idea that resident input had been incorporated into the ordinance, citing the failure to limit STR ownership to residents and the inclusion of no limit on the number of STRs allowed. She expressed concern about the lack of community resources to accommodate the influx of visitors. She recommended several additions to the ordinance to ensure transparency, environmental protections, and public safety.

Ms. Cheryl Delehanty, speaking on behalf of Incline Village Realtors, said the agency supported private property rights, including the ability to rent, but it did not support bad tenants regardless of ownership. She thanked staff for their hard work and for including the agency in the process, expressing appreciation for drafting a reasonable and enforceable ordinance. She felt STR visitors would contribute to the economy.

Ms. Kathie Julian expressed disappointment about the absence of virtual forums in 2020 and the lack of community comments in the draft ordinance. She felt it did not address the uncontrolled growth of STRs, which she felt would undermine the character of the community and eliminate the housing stock. She opposed the removal of the transient

use prohibition and sought limits on the number, density, and location of STRs in IVCB. She stressed the importance of balancing workforce housing and tourism.

Mr. Ronald Young emphasized the importance of not changing the fundamental zoning in the IVCB area by allowing transient use as a property's primary use. He spoke about the current Code which required fire sprinklers in houses larger than 5,000 square feet and TRPA restrictions on driveways with slopes greater than 10 degrees. He believed sprinklers and driveway slope requirements should be explicitly stated during the permitting process.

Ms. Theresa Bohannon stated she was an AirBNB owner who hosted professionals in her home for fewer than 28 days. She was curious what she would need to do in the permitting process. She thought it would be best to bifurcate the ordinance because the needs of different communities varied. She cautioned the Board against heavy-handed enforcement, which could result in professionals like healthcare workers not coming to the area to serve the community.

Mr. Fred McElroy, Legislative Chair for the Reno/Sparks Association of Realtors, said property owners had the right to live in, sell, or rent their homes. He acknowledged neighborhoods had the right to live without noise or parking disruptions, but these situations could also be caused by homeowners. He commended staff for their effort in putting together this ordinance, saying he wanted it enacted and amended as needed.

Mr. Adam Thongsavat noted he served on AirBNB's public policy team. He said AirBNB was committed to working with local and state policymakers to develop commonsense policies. He expressed concern about the short grace period for hosts to navigate the new registration requirement, suggesting an extended timeline would allow hosts the chance to succeed. He believed all residents should be able to share their homes without licenses or permits.

Mr. Bill Dodd said he recently bought a four-bedroom townhouse in Incline Village, which they rented out to cover expenses. He understood he would fall under Tier 1 for STRs regardless of how often he rented his house out. If the ordinance passed, he opined, he would need to rent his home more frequently to cover the estimated \$10,000 in costs and fees. He wondered why an STR program was needed when homeowner's associations (HOAs) already addressed the County's top concerns.

Ms. Kristine Mitchell opposed any change which would allow transient occupancy in residential neighborhoods. She believed there was existing case law across the country which prohibited those types of code changes. She said Incline Village had its own public health, safety, traffic, police, and evacuation concerns. She thought the ordinance was conceived to accommodate special interests and she wanted it to incorporate more community input.

Mr. Ted Kelly told a story about an illegal STR with a hot tub that was installed with faulty wiring and without a permit; this example showed the need for annual inspections. He expressed concern about the lack of recourse if one were unable to contact someone to address problems with STRs owned by corporations or out-of-state investors. He asked whether HOAs could advertise a community as residential only if it allowed transient businesses. He urged the Board to listen to the community's concerns.

Ms. Anne Rossman said she and her husband were distraught at the proliferation of STRs in ICVB, which impacted their pleasure. She made the same three requests as Ms. Tycer, adding she wanted attention given to ongoing C19 restrictions and the environmental impacts on the lake. She supported bifurcation of the ordinance.

Ms. Jacqueline Flores said she was the founder of the Greater Las Vegas Short-Term Rental Association. She believed Americans did not lose their property rights when they rented for fewer than 28 days. She opined STRs provided a financial vehicle for owners and stimulated the local economy. Her agency worked with AirBNB to implement suggestions to create communities that worked for hosts, travelers, neighbors, and business owners. She requested more reasonable licensing fees, particularly for those only renting out one bedroom, and less frequent inspections.

Mr. Omer Rains spoke about Stillwater Cove Condominiums where people rented STRs in Nevada and California; some of them engaged in questionable conduct. Regarding the prior speaker's comments, he pointed out Clark County initiated STR regulations in 1998 and they continued to become stricter. He felt the \$1,000 fee was not restrictive, but rather it provided for the moderate amount of regulation they had wanted for more than 20 years. He offered to provide more information about Stillwater Cove.

Dr. Carole Black indicated she sent a table to all Commissioners based on research she did around the lake and in Las Vegas containing information about residency requirements, intensity and density limits, and business restrictions. She believed Washoe County's proposed ordinance was the least restrictive of all those listed. She reviewed STR elements which she considered most and least effective. She mentioned she advocated for health and safety requirements because guests deserved reasonable levels of sanitation.

Mr. Jack Dalton said he supported the requests made by Ms. Tycer. He noted he heard from IVCB business owners who said STR guests did not patronize their stores. He pointed out AirBNB focused on administrators and hosts but not on neighbors of STRs. He wanted to see the restrictions suggested by community members incorporated into the ordinance.

Mr. Ron Behan said he was an owner of a two-bedroom condo, above which lived an STR owner. He mentioned trying to resolve issues by calling a complaint line, but the owners never responded. He expressed frustration about having to deal with noise, which continued even after he broached the issue with the renters at the time.

Mr. Joe Farrell said many IVCB residents bought homes with the understanding they were in residential zones. He emphasized the need for an IVCB-specific ordinance because the majority of STRs were operated there. He expressed the desire not to wait for a catastrophe, whether in the form of violence, forest fires, or bear attacks, to enact strong STR ordinances which kept zoning laws in place.

Mr. Richard Miner stated most ideas brought up during public forums were either ignored or not accurately reported; he saw no evidence that any concerns were addressed in the ordinance. He claimed jurisdictions with more resources than Washoe County experienced difficulty enforcing STR ordinances and banned them instead. He requested a plan that did not put data collection and analysis in the hands of planners.

Mr. Doug Flaherty requested a cap on the number of STRs in Incline Village and retention of the non-transient wording which had been stricken from the ordinance. He asked for a delay before the second reading to allow time to review the fine schedule.

Mr. Louis Koorndyk, co-founder of the Greater Las Vegas Short-Term Rental Association, praised the ordinance and the County's website for being easy to read and understand. He expressed concern about prohibiting events and parties, saying some courts determined this restriction infringed on individuals' right to assembly. He thought requiring one parking spot for every four occupants was flawed because people often traveled in large vehicles to reduce their carbon footprint.

County Clerk Jan Galassini stated a voicemail was received from Mr. Jim Goodin. She noted emails from the following individuals were received and would be placed on the record: Mr. Ira H. Abel; Michael & Helen Abel; David & Michelle Babbage; Dr. Carole Black; Ms. Deanne Bourne; David & Lynne Briscoe; Paul & Katrina Carrier; Lin Connolly; Ms. Roselyn Conroy; Mr. Art Cross; Frank & Debra Delfer; Mr. Bill Dodd; Mr. Steve Dolan; Ms. Beth Dory; Mr. Steve Endicott; Joe & Edie Farrell; Mr. Nick First; Mr. Doug Flaherty; Matt & Shawn Flynn; Mr. Wayne Ford; Steve & Elvira Foster; Ms. Rita Gould; Mr. Angus Graham; Nicole & Ryan Gullixson; J. Gumz; Ms. Myra Hanish; Mr. Paul Hatfield; Ms. Diane Becker Heirschberg; Ms. Cindy Hipwell; Ms. Melissa Horton; Incline Village Homeowner; Mr. Steve Jackson; Ms. Kathie Julian; Ms. Barbara J. Kendziorski; Ms. Mary Lou Kennedy; Ms. Debbie Kiraly; Ms. Gretchen Lancaster Sproehnle; Mr. Steven Lum; Nick & Keli Maiocco; Ms. Margaret Martini; Ms. Kristine Mitchell; Mr. Mark Nelson; Mr. Stephen Pearce; Mr. Dustin Reilich; Mr. Miles Riner; Mr. Joseph Shaefer; Ms. Connie Starr; STR Operator; Ms. Annette Summer; Ms. Pamela Tsigdinos; Ms. Ronda Tycer; Mr. Aaron Vanderpool; Ms. Darlene Velicki; Ms. Karen Vick; Ms. Heather Williams; Ms. Shari Wilson; Mr. Ron Wright; Mr. Adam Thongsavat; Ms. Jacqueline Flores; Mr. Louis Koorndyk; and Jean Zambic. She further explained some of these emails were in support of the ordinance and some shared concerns.

Mr. William Torch said he bought a fixer-upper in Incline Village but decided to rent it out because he could not afford the cost of maintenance. He spoke about some of his neighbors whose children exhibited unreasonable behaviors like drug use and speeding. He remarked the IVGID HOA maintained a reasonable degree of responsibility.

He spoke about the balance between a person's desire to do what they wanted versus their responsibility to the local community.

Commissioner Hill thanked all community members who provided input, adding the Commissioners read every email they received. She wanted legal counsel to address the request to place a cap on the number of STRs. Additionally, she sought confirmation that the Board needed to wait for data to be collected after the ordinance was adopted in order to provide time for research of stricter requirements, or else they could face legal ramifications.

Mr. Edwards responded he believed it to be eminently reasonable to adopt an ordinance and use that experience to inform future decisions about potential changes; in fact, he believed it would be unavoidable to do it that way. Regarding the topic of capping the number of STRs, he cautioned it could result in takings claims by owners who missed the cap. Additionally, it could expose the County to equal protection clause violations for giving an STR permit to one person but not to a similarly situated person. He would not say a cap was unconstitutional, but it invited substantial challenges. He explained regulatory takings claims could be fact-intensive and protracted, and the damages for those types of claims could be high. He felt the Board should be mindful of that risk while weighing their views on property rights.

Commissioner Hill brought up comments made by the Commissioners that some regulations pertained only to Incline Village. She asked whether the ordinance would need to come back as a first reading if language was added that certain restrictions pertained only to the Tahoe Area Plan location. Mr. Edwards responded NRS 244.100 did not delineate a limit on the changes that could be made between first and second readings. It would not be permissible for the BCC to change the language in this ordinance to address air pollution without the need for a new first reading, for instance, but fixing typographical errors or the table of contents was acceptable. He questioned whether she meant adding certain provisions or limiting certain provisions to the Tahoe area, to which Commissioner Hill clarified she meant the latter. Mr. Edwards opined it would be a defensible position to carve out the scope of the proposed ordinance by limiting it to the Tahoe area.

Commissioner Hill expressed concern about the possibility of attempting to enforce the commenters' suggestion of restricting STR ownership to permanent residents. Ms. Hauenstein responded staff was given direction to be effective and transparent, but she did not know how she could use Host Compliance to track how long residents lived in one location. She said she could research a solution if the Board wanted to go that direction. Commissioner Hill said they could consider that in November.

Commissioner Hill asked for clarification about the change to the transient use language referred to by many public commenters. She wondered whether that change would invite additional uses into residential zones. Mr. Lloyd replied the use would not be classified any differently than residential at this time; the table of uses in Chapter 302 was clear on the allowable uses, and no additional uses would be added.

Commissioner Hill underscored the importance of moving forward with an ordinance to have some regulations in place for the summer. She agreed with her constituency that there were issues the Sheriff's Office alone could not address. She acknowledged some communities around the lake were considering stricter ordinances, but she pointed out they passed ordinances years before and were now looking at increasing the strictness of the restrictions. The Commissioners were not prepared to do that without having a clear idea of the data.

Vice Chair Hartung reviewed the parking requirements listed on page 9 of 15 and asked whether there was a legal way to limit parking on a public right of way. Mr. Giesinger said the ordinance was set up to require a privileged permit which required accommodation for guest parking on the property. This would provide the opportunity to accept witness statements of an STR operating outside those parameters. Vice Chair Hartung asked whether guests of an STR occupant parking on the street would violate that provision. Mr. Giesinger said they could because occupancy limits did not take the length of stay for guests into account, though he did not how likely enforcement of someone parked on the street for an hour would be.

When asked about the enforceability of that provision, Mr. Edwards opined the major issue would be the practical application of enforcement rather than the legal limitation. He believed a person parking legally on a street would probably not be liable for a citation, but a property owner who went beyond the limitations of their permit could be. Property owners who engaged in activities that required special use permits, as an example, ended up being subject to limitations that did not apply to other property owners.

Chair Lucey thanked all constituents who participated in the discussion. He said he was not completely sold on some of the language in the ordinance, but he thought the ordinance provided a baseline for later work on language pertaining to fees, Tahoe considerations, permit requirements, and penalties. He felt comfortable introducing the ordinance. He indicated these regulations would not pertain to STR owners in the Cities of Reno and Sparks, only those in the unincorporated County. He thanked the staff members involved in drafting the ordinance, indicating a failure to pass it would result in summer coming with no way to enforce STRs.

Commissioner Hill praised staff for their responsiveness to constituent questions and the commitment to protect the community while balancing the interests of STR owners. She moved to introduce the three ordinances using the single motion provided in the staff report. Vice Chair Hartung seconded the motion, though Chair Lucey pointed out an introduction did not require a second. The Vice Chair asked the mover to agree to the following exceptions to be brought back at the second reading: limiting the special restrictions for parking, trash, defensible space, quiet hours, and inspections in the proposed ordinance to apply only to the properties within the jurisdiction of the TRPA. Commissioner Hill said those exceptions were fine.

There was a discussion between Ms. Galassini, Chair Lucey, and Mr. Watts-Vial about whether the mover needed to read the language for all three ordinance titles. It

was determined that, since Commissioner Hill cited each of the three ordinance numbers, her motion was fine.

Bill Nos. 1852, 1853, and 1854 were introduced by Commissioner Hill, and legal notice for final action of adoption was directed.

21-0155 AGENDA ITEM 17 Public Comment.

Via the Zoom app, Ms. Sara Schmitz thanked the Board for the dialogue, commended Chair Lucey for his suggestion to remove Tier 3 from the short-term rental (STR) ordinance, and expressed a desire to see further bifurcation. She felt using voter registration lists would be a simple way to determine residency, and she wanted to see that change made to limit the number of STRs.

Also on Zoom, Ms. Judith Miller expressed disappointment at the Board’s decision not to make any changes to the proposed ordinances, adding she hoped the Board was prepared to deal with the repercussions. She announced her resignation as Chair of the Incline Village Citizen Advisory Board.

21-0156 AGENDA ITEM 18 Announcements/Reports.

Chair Lucey thanked staff for helping get through a long day where many big topics were discussed.

* * * * *

5:59 p.m. There being no further business to discuss, the meeting was adjourned without objection.

BOB LUCEY, Chair
Washoe County Commission

ATTEST:

JANIS GALASSINI, County Clerk and
Clerk of the Board of County Commissioners

*Minutes Prepared by:
Derek Sonderfan, Deputy County Clerk*