

CONTRACT WITH HIGH SIERRA FORESTRY

Vanessa Dufresne

From: Gary Hames
Sent: Wednesday, June 12, 2013 2:32 PM
To: Vanessa Dufresne; Pat Whitten
Cc: Patty Blakely; Ron Adkins
Subject: Community Wildfire Protection Plan Update
Attachments: Staff Recommendation - CWPP RFP Award 6-12-13.doc; CWPP Proposals with copy of RFP.pdf

Pat/Vanessa,

Can I please have the following placed on the July 2nd Commission Agenda. I don't think it has to be done as the NRS 474 board, just the Board of Commissioners.

DISCUSSION/POSSIBLE ACTION: Acceptance of contract with High Sierra Forestry to update the 2005 Community Wildfire Protection Plan. This is being funded through a fuel reduction grant via Nevada Division of Forestry.

Attached is a staff recommendation with appropriate background and a copy of the RFP responses, along with the original RFP.

Thank You,
Gary Hames, Fire Chief
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Mission Statement: Be Nice, Solve Problems and Serve Community

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STOREY COUNTY FIRE DEPARTMENT

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Meeting Date: July 2, 2013

Agenda Item: **DISCUSSION/POSSIBLE ACTION:** Acceptance of contract with High Sierra Forestry to update the 2005 Community Wildfire Protection Plan. This is being funded through a fuel reduction grant via Nevada Division of Forestry.

Summary Notes: In 2005 the state funded a project for each county to develop a Community Wildfire Protection Plan. Since 2005 there has been a lot of work done to accomplish their recommendations. Due to this work, primarily through grant funded fuel projects, it is now necessary to update the plan. With that in mind, we have included this in to a grant through NDF to update the plan county wide. An RFP was issued through the local newspaper and through direct contact with any known companies that are capable of completing this project. There were three companies that replied back as follows:

Resource Concepts Inc. at \$37,000 (Attached)
Wildland RX at \$25,600 (Attached)
High Sierra Forestry at \$15,000 (Attached)

I am also attaching the RFP that was placed in the newspaper and sent to these companies individually.

Because there was such a large difference between the low bid and other two vendors, we have met with the low bid company. Both individuals of this company have a vast knowledge base of this region. Pat Murphy has 36 years experience and Rodd Rummel was the former representative from the state for the Mark Twain and Highlands Fire Safe Council. We are comfortable with the low bid company being able to provide a high level document.

It is our recommendation to award the RFP to High Sierra Forestry in the amount of not to exceed \$15,000.

Staff Recommendation: Motion to award the RFP to High Sierra Forestry to update the 2005 Community Wildfire Protection Plan which is being funded through a fuel reduction grant via Nevada Division of Forestry.

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Storey County Fire Protection District
Community Wildfire Protection Plan Update
Request for Proposal

Storey County Fire Protection District, through a grant from Nevada Division of Forestry, is soliciting proposals to update the 2005 Wildfire Risk/Hazard Assessment, also known as the Community Wildfire Protection Plan (CWPP). The CWPP update will provide reliable comparisons and documented trends in factors related to community safety and will be consistent with the methodology used in the 2005 report available at <http://www.rci-nv.com/reports/storey/>

The Storey County communities evaluated in the Plan include:

Virginia City	Virginia Highlands
Gold Hill	Six Mile
Lockwood	Painted Rock
Tahoe-Reno Industrial Center	

Scope of Work :

The scope of work includes compilation of updated fire and community resource information; analyses of community wildfire risks and hazards; updating community hazard maps and GIS; overview document that provides an analysis of what improvements have been made from the 2005 CWPP to current; and, developing specific recommendations for land management agencies, Storey County Fire Protection District, Storey County, and homeowners to improve community wildfire safety. The scope of work includes the following for each community:

- 1.0 Coordination with the Storey County Fire Protection District, Nevada Division of Forestry, Storey County, Storey County Emergency Management, Storey County Commissioners, Virginia Highlands Fire Safe Council, Mark Twain Fire Safe Council and the general public.
- 2.0 A quantified community assessment hazard score comparable to the 2005 assessment.
- 3.0 An ignition risk assessment with color coded fuel overviews.
- 4.0 An existing fuel hazard assessment in the wildland urban interface and an assessment of the potential for hazardous fire behavior.
- 5.0 Recommendations to the agencies and persons responsible for implementing actions to reduce community wildfire hazards and risks.
- 6.0 Updated GIS files, shape files, and attribute information to incorporate the CWPP assessment into the Storey County GIS including maps and figures to graphically display the assessment results. This shall include an overview map reflecting all fuel reduction projects, by year, that have been completed since calendar year 2000 through current.

7.0 One (1) digital and ten (10) hard copies of the updated Draft and Final CWPP Report delivered to Storey County Fire Protection District.

Qualifications:

Applicants must have at least 5 years of experience in wildland fire suppression and pre-suppression planning in western Nevada and be experienced with the fuel types typical of Storey County. Previous experience in fuel hazard assessment in Storey County will be strongly considered.

Notice To All Applicants:

All proposals must be received to the Storey County Fire Protection District office no later than 5:00 p.m. on May 17, 2013.

Mail to:
Storey County Fire Protection District
ATTN: Patty Blakely
P.O. Box 603
Virginia City, NV 89440



Resource Concepts Inc

Engineering • Surveying • Water Rights
Resource & Environmental Services

www.rcl-nv.com

CARSON CITY OFFICE
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Ph: 775 / 883-1600
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Memorandum

DATE: May 17, 2013

TO: Storey County Fire Protection District
Attn: Patty Blakely, Fire Prevention Officer

FROM: Sheila Anderson

CC: John McLain

SUBJECT: Response to RFP to Update the Storey County Community Wildfire Protection Plan

Resource Concepts, Inc. (RCI) is pleased to provide this Scope of Work and Statement of Qualifications to Storey County to update the Storey County Wildfire Risk/Hazard Assessment, also referred to as the Community Wildfire Protection Plan (CWPP). References and additional information are available upon request.

SCOPE OF WORK

For reliable comparisons and documenting trends, RCI will use the same methodology used in the Storey County 2005 report prepared by RCI. The scope of work will include:

- Compilation of updated fire and community resource information,
- Analyses of community wildfire risks and hazards,
- Data collection to update community hazard maps and GIS, and
- Developing specific recommendations for land management agencies, Storey County, and homeowners to improve community wildfire safety.

The Storey County CWPP update will include the following communities:

- Virginia City
- Gold Hill
- Lockwood
- Virginia Highlands
- Six Mile

TASK 1. COORDINATION WITH STOREY FIRE PROTECTION DISTRICT, NEVADA DIVISION OF FORESTRY, STOREY COUNTY EMERGENCY MANAGEMENT, STOREY COUNTY COMMISSIONER, VIRGINIA HIGHLANDS FIRE SAFE COUNCIL¹, MARK TWAIN FIRE SAFE COUNCIL, AND THE GENERAL PUBLIC

- RCI will reaffirm / delineate the six community boundaries and designate the limits of the wildland-urban interface to be used in the analyses.
- RCI will update fire ignition risks for each community.
- RCI will inventory fuel reduction projects and other activities (fires) that have changed the fuel hazard around the communities since the 2005 evaluation.
- RCI will compile existing GIS data for completed and planned fuel reduction projects, recent fires, and other community attributes that affect wildfire risk in the wildland-urban interface.
- Provide County Commissioners and County residents with regular progress reports, schedule, and other pertinent information.

TASK 2. QUANTIFIED COMMUNITY ASSESSMENT HAZARD SCORE COMPARABLE TO THE 2005 ASSESSMENT

- RCI will compile information from the wildland-urban interface to calculate a community hazard score based on community design, construction materials, defensible space, availability and capability of fire suppression resources, and physical conditions such as the vegetative fuel load and topography.

TASK 3. IGNITION RISK ASSESSMENT AND FUEL LOAD MAPPING IN THE WILDLAND-URBAN INTERFACE

- RCI will assign an ignition risk rating for each community of low, moderate, or high based upon historical ignition patterns, current and recent fuel reduction treatments, the opinions of local, state, and federal fire agency personnel, community field visits, and professional judgment based on experience with wildland fire ignitions in Nevada.

TASK 4. FUEL HAZARD AND POTENTIAL FOR HAZARDOUS FIRE BEHAVIOR ASSESSMENT

- RCI will conduct field surveys to document and describe existing fuel hazards in the wildland-urban interface including fuel type, fuel load, fuel bed continuity, wind patterns, topography, aspect, and other physical factors that influence wildfire behavior.

TASK 5. RECOMMENDATIONS

- RCI will coordinate with fire agencies, existing wildfire planning groups, and Storey County Emergency Management to develop recommendations and identify the agencies or persons who are responsible for implementing actions to reduce community wildfire hazards and risks.

¹ The status of the Fire Safe Council will be verified and coordination will take place with the active local wildfire planning groups in the Virginia Highlands and Mark Twain communities.

TASK 6. GIS AND MAPPING

- RCI will update the CWPP GIS files, shapefiles, and attribute information to incorporate the CWPP assessment into the Storey County GIS. RCI will create maps and figures to graphically display the CWPP results including an overview map that reflects all fuel reduction projects nearby that have been completed since 2000.

TASK 7. REPORTS

- RCI will compile data, describe methodologies, and present results and recommendations in a Draft Report to Storey County Fire Protection District and fire agencies for review and comment.
- RCI will address comments and deliver (2) digital and (10) hard copies of the updated CWPP to Storey County Fire Protection District.

COST ESTIMATE

RCI is prepared to begin work on the Storey County CWPP update immediately and will complete the scope of work described herein for a cost not to exceed \$37,000.00.

QUALIFICATIONS

Resource Concepts, Inc. (RCI) has been providing Resource Management services for over 35 years. RCI has successfully completed numerous environmentally sound wildfire hazard assessments, fuel reduction plans, and wildfire rehabilitation plans. Through implementation of these projects, RCI has built a strong and respected reputation among regulators and land managers.

Unique Qualifications

RCI is uniquely qualified to assist Storey County FPD in updating the Community Wildfire Protection Plan (CWPP) and developing site-specific recommendations for reestablishing and maintaining fire-resistant landscapes in the wildland-urban interface.

RCI is a recognized expert in the field of wildfire risk/hazard assessment, and has been active in this arena since 1988. From 2002 through 2005 RCI conducted a statewide wildfire study for the State of Nevada and completed Community Wildfire Protection Plans (CWPP) for more than 230 communities including Virginia City, Virginia Highlands, Gold Hill, Six-Mile, and Lockwood. Recommended actions in our reports have been implemented and are still being actively used throughout Nevada.

RCI fields a multi-disciplinary team of top professionals to address all aspects of wildfires for pre-suppression planning and post wildfire reclamation. RCI can prepare and deliver informational materials and make public presentation to property owners and community leaders through informal or formal forums such workshops and legislative or local governmental meetings.

Examples of projects carried out by the RCI team include:

- Community Risk / Hazard Assessments
- Fuels Management Plans
- Wildfire Rehabilitation Plans
- Community Wildfire Protection Plans (CWPP)
- Public Education and Community Involvement

RCI TEAM

Sheila Anderson, Fire Ecology Specialist and Project Manager

M.S., Range Management, University of Wyoming, 1982

B.S., Renewable Natural Resources – Wildlife Management, University of Nevada, Reno, 1978

Ms. Anderson has worked as a professional natural resource specialist at Resource Concepts, Inc. for over 30 years specializing in Great Basin ecology and wildfire risk assessment. She is a Certified Professional in Erosion and Sediment Control as well as a Certified Professional in Range Management. Ms. Anderson was the project manager, vegetation specialist, and technical writer for the statewide Nevada Community Wildfire Risk/Hazard Assessment project on behalf of the Nevada Fire Safe Council, funded by the Bureau of Land Management. Ms Anderson managed the assessment of wildfire hazards and ignition risk assessments for more than 250 communities in 17 Nevada Counties and two Lake Tahoe Fire Districts. MS. Anderson also managed the CWPP update project for Carson City. Ms Anderson has extensive background and experience in rangeland/woodland ecology, including ecological site identification, native plant identification, condition and trend analyses, plant community succession, and state and transition models.

Response to Storey County FPD Request for Proposal
May 17, 2013

Jim Reinhardt, Project Fire Specialist

B.S., Agriculture, University of Nevada, Reno, 1974

Mr. Reinhardt has a long career as a Wildland Fire Specialist beginning with the Nevada Division of Forestry (NDF) as a seasonal fire engine foreman. Mr. Reinhardt's wildland fire experience began on the fireline as a seasonal Engine Foreman and Crew Supervisor and advanced to Fire Management Officer. Mr. Reinhardt left NDF to become the Fire Chief for the East Fork Fire and Paramedic Districts. During his career he has served on National Fire Management Teams as a Structure Protection Specialist, Type I Operations Section Chief, Type I Planning Section Chief, and was a Type I Incident Commander on the Sierra Front Teams for 11 years. Mr. Reinhardt has extensive training and certifications for fire operations in the wildland/urban interface, hazard recognition and evaluation, training volunteer firefighters, defensible space techniques, basic fire prevention, and fire risk analyses. Mr. Reinhardt has worked with Resource Concepts since 2003 as a Fire Specialist on the Nevada Statewide Community Wildfire Risk and Hazard Assessment Project and other Community Wildfire Protection Plans where he assessed fuel hazard conditions and developed recommendations for fuel hazard reduction in the wildland/urban interface.

RELEVANT PROJECTS

FUELS MANAGEMENT

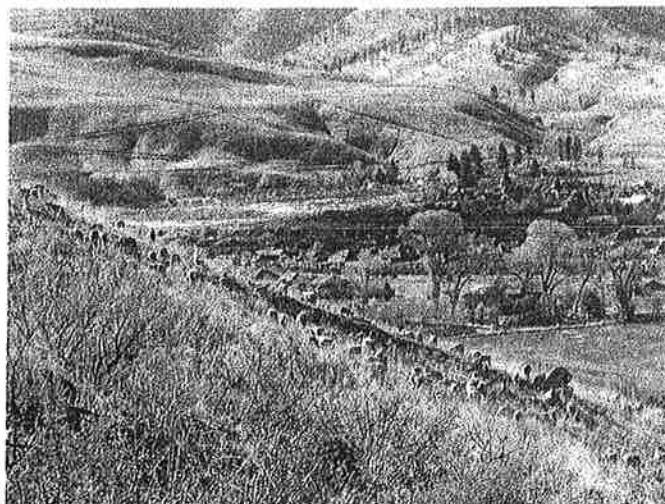
Carson City Waterfall Fire Fuels Management Plan/Carson City Public Works

Beginning in the spring of 2005, Resource Concepts, Inc. provided technical assistance to Carson City in organizing several partnering agencies in the creation of a fuels reduction plan, primarily focused on strategic use of sheep grazing at critical periods of plant growth. The primary target species for the fuel reduction project was cheatgrass, which was well established on the slopes west of Curry Street, on C-Hill, and north to Lakeview following the Waterfall Fire. Exceptional growing season conditions in 2005 and 2006 produced large amounts of biomass from both native perennial grasses and fire rehabilitation seedings that were dangerously susceptible to rapid ignition and spread of wildfire.



The Carson City Fire Dept, Nevada Division of Forestry, and US Forest Service developed a fuels management prescription for the interface locations along C-Hill. Resource Concepts, Inc. developed a fuels management plan utilizing sheep grazing to reduce the fuels according to the fuel reduction prescription. RCI coordinated with several interested agencies and the sheep producer to assure an efficient and coordinated effort in meeting the project objectives. RCI conducted utilization monitoring during the entire length of the grazing project and worked with Carson City to complete an end-of-growing season evaluation of the fuel conditions.

Carson City continues to use sheep grazing on the west side wildland-urban interface to reduce fuel hazard conditions.



RISK / HAZARD ASSESSMENTS

Nevada Statewide Wildfire Risk/Hazard Assessment and Community Wildfire Protection Plans (CWPP)/Nevada Fire Safe Council

Resource Concepts, Inc. completed community wildfire risk / hazard assessments for 239 communities in 17 Nevada counties. The project required extensive travel and logistical planning to obtain site-specific data from rural and remote communities. RCI evaluated fuel hazard conditions in the wildland-urban interface based upon fuel type, fuel load, local topography (slope and aspect), and potential ignition risks for each community.

Additional information was collected on community design, construction materials, defensible space, availability and capability of fire suppression resources, and physical conditions such as slope, aspect and lot size.

The fuel hazard assessment and the community design scores were combined to establish the community hazard rating. These ratings were scored consistently and are comparable between all 239 communities.

The risk of ignition for each community was based upon historical ignition patterns; expertise of local, state, and federal fire agency personnel; community field visits; and professional judgments based on experience with wildland fire ignitions in Nevada.

Wildfire mitigation recommendations for each land management agency and landowner in the wildland/urban interface were developed for each community. Each county-wide plan was approved by the Nevada State Forester, the local fire protection district, and the local government to qualify as a Community Wildfire Protection Plan.



COMMUNITY PLANS

Nevada Fire Safe Council/Holbrook Junction Community Wildfire Risk Assessment and Fuel Reduction Plan

RCI was retained by the Nevada Fire Safe Council to conduct a wildfire risk assessment and fuel reduction plan for the Holbrook Junction community in Douglas County, Nevada. The overall objective of the project was to identify wildfire risks and develop strategies for fuel treatments to reduce the hazard to homes in the interface community. The project area was approximately 640 acres and included 50 homes. RCI compiled existing digital information on slope, aspect, and roads, and conducted field investigations to compile information on building materials, access, fuel types, and defensible space. The procedures developed by the Nevada Wildland Fire Agencies Board of Directors, entitled *Community Wildland Fire Assessment for Existing Wildland Residential Interface Developments in Nevada*, were used to evaluate the risk factors. Holbrook Junction was placed in the high-risk category. Two fuel management zones were delineated and fuel treatment recommendations were described and prioritized for each zone, as well as for the community as a whole. The worst-case wildfire scenario was described for the community, which helped to prioritize specific treatment recommendations. Local regulations, codes, and ordinances were researched to assure that hazard reduction recommendations were consistent with existing policies. A Homeowner Checklist was provided to homeowners to assist them in maintaining fire-safe conditions around their property. GIS analyses were used to compile fire risk data and graphically present the risk analyses and treatment plan results.

Wildfire Risk Assessment and Fuel Reduction Plan for the Communities of Pioche, Panaca, Caliente, and the Mt. Wilson Guest Ranch Community – Lincoln County, Nevada

Lincoln County was successful in obtaining a National Fire Plan Grant through the Nevada Division of Forestry for a wildfire risk assessment and fuel reduction plan for four rural Nevada communities: Caliente, Pioche, Panaca, and the Mount Wilson Guest Ranch Community. RCI was retained to complete the assessment and plan. RCI compiled existing data and conducted field reconnaissance of each community to conduct the wildfire risk assessment. Risk factors included: topography, fuel types and fuel density, road and driveway accessibility, fire suppression resources and response time, construction materials, landscaping around homes, and the wildfire history surrounding each of the communities.

Each community was evaluated independently and ranked using the Community Wildland Fire Assessment developed and revised by Nevada's Wildland Fire Agencies Board of Directors. The Town of Pioche and the Mt. Wilson Guest Ranch Community ranked in the extreme hazard category, while Caliente and Panaca were rated in the moderate hazard category. Prioritized fuels management recommendations were developed according to the hazard mitigations needs for each community. GIS analysis was used to display information pertinent to each area including roads, wildfire history, land ownership, and the recommended fuel treatments. USGS Digital Orthophoto Quads and high-resolution aerial photos were used as base maps for the project. A large poster and four individual community posters were created depicting the specific treatment recommendations for each community and general defensible space concepts. The posters, Homeowner Fact Sheets, and a PowerPoint presentation were used to present the results of the project to the local public and regional fire agencies. The risk assessments and plans were used by Lincoln County to secure additional funding for implementation of the recommendations.

**Fire Safe Highlands Coalition and University of Nevada Reno Cooperative Extension/
Community Wildfire Risk Assessment and Fuel Reduction Plan for the Virginia Highlands
Community**

A group of self-directed citizens concerned with wildfire safety issues from the Virginia Highlands Community in Storey County, Nevada formed the Fire Safe Highlands Coalition. This group and the University of Nevada Cooperative Extension contracted RCI to conduct a wildfire risk assessment and prepare a plan to reduce wildfire hazards. In accordance with the preference of Fire Safe Highlands, RCI, with assistance from Gnomon, Inc., used an ecological approach to the evaluation which included: review of existing wildfire hazard data; compilation of ecological site data; and determination of current ecological condition and trend of the native vegetation communities. On this basis, in addition to reducing the wildfire hazard, RCI was able to provide an ecological justification for tree thinning and creation of defensible space that was easily understood by the homeowners. The diversity of topography, access, and fuel types within the project area resulted in the delineation of four hazard zones. Recommendations to reduce risks were developed specifically for each zone. Recommendations addressed emergency access issues, driveway access, address identification, building codes, and fuel reduction. GIS analyses and mapping were used in developing the fire hazard ratings and hazard zones. Fuel treatment handouts and a large wall poster depicting hazards and proposed treatments were used in a public presentation of the project results.

PUBLIC LAND ALLOTMENT PLANNING

Wildfire Conservation Group

RCI assists the Wildfire Conservation Group, a non-profit group of ranchers trained for wildland fire suppression, in furthering their mission of slowing the invasion of annual grasses and loss of native shrub-grassland ecosystems in the Great Basin. RCI has recommended ecologically appropriate pre-suppression methods to decrease the occurrence and severity of catastrophic wildfires that are subsequently invaded with cheatgrass. RCI specialists have developed grazing plans to address natural resource conservation objectives on public lands, control cheatgrass production, break up fuel bed continuity, and reduce the fuel loads for eleven public land grazing allotments totaling 489,000 acres.

Private Land Fuels Management

RCI has worked with numerous private landowners to assess their particular ranch operations, fuel types, and identify risks or hazards, as well as develop fuels management plans tailored to each. Examples include the Falen Ranch, the Frey Ranch, and the Youngberg Ranch located in the Quinn River Valley in northeastern Nevada.



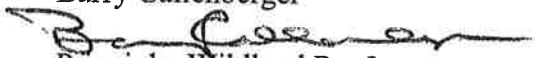
Wildland RX
PO Box 554
Camino California, 95709
530-644-6513
wldlnd@aol.com

Storey County Fire Protection District
ATTN: Patty Blakely
P.O. Box 603
Virginia City, NV 89440

The attached proposal is a proposal by Wildland Rx Inc based in the Sierra Nevada Mountains of California, we provide consulting services to those seeking a safer co-existence with wildfire. We use our personal experience as wildland firefighters, coupled with modern mapping and planning tools, to develop mitigation strategies for communities at risk of wildfire. Our products include wildland fire behavior analyses, Community Wildfire Protection Planning, project implementation, expert witness testimony, and wildland fire training. These services lead to development of strategies and tactics to reduce the losses from wildfires to natural resources and private property. We also provide training courses as a course coordinator and instructor for wildland fire courses covering both prescribed fire and wildfire suppression operation positions. It is a joint proposal with Deer Creek Resources <http://deercreekgis.com/> which lists more information about both companies.

We look forward to working with you and your communities on updating the Community Wildfire Protection Plan

Barry Callenberger



Principle, Wildland Rx, Inc.

Storey County Community Wildfire Protection Plan Update Proposal and Costs

This proposal is to provide an update to the current Community Wildfire Protection Plans for the Storey County Fire Protection Districts (FPD). Those areas included in the update are, the private property areas of Storey County, and include the following communities: Virginia City, Gold Hill, Lockwood, Tahoe Reno Industrial Center, Virginia Highlands, Six Mile, and Painted Rock.

PROJECT APPROACH

Our team's approach is based on our knowledge, skills, and experience and a thorough review of the needs for the CWPP update. Our approach relies on an interdisciplinary team and effective communication, and is based on the four commitments described below.

Make the Best Use of Existing Information. A large amount of land-use, technical, and economic information has been collected. We are familiar with most of the information available in Storey County CWPP 2005 databases and information that has been collected. We will review the existing information to determine how it can best be used to prepare the up date to the current CWPP. Making the best use of existing information will assist in keeping the project within budget and on schedule.

Provide Deliverables in a Timely Fashion. Our team is committed to providing all deliverables in a timely fashion. Deliverables are measurable milestones that will keep the team focused. By completing them on schedule we will be able to initiate the next task and ensure the team is always moving forward.

Coordinate with Concurrent Planning Efforts. The Nevada Department of Forestry (NDF), BLM and local communities have a program to reduce forest fuels. We will coordinate with NDF, BLM and Storey County Fire Protection District staff to identify what projects have been completed and what future projects they are planning. This will assist us in prioritizing projects identified in the existing CWPP.

Storey County Fire Protection District

Community Wildfire Protection Plan Update

Scope of Work:

The scope of work includes compilation of updated fire and community resource information; analyses of community wildfire risks and hazards; updating community hazard maps and GIS; overview document that provides an analysis of what improvements have been made from the 2005 CWPP to current; and, developing specific recommendations for land management

QUALIFICATIONS

Our project team provides a unique blend of management skills and experience, knowledge of forest and fuel management, and knowledge and experience working on a variety of projects in the Basin. Complete resumes are in Appendix A.

Barry Callenberger is a wildland fire and fuels management specialist with extensive experience developing and implementing fuels management projects in southern California and the Sierra Nevada. Past projects have included a 10-year fuels management program for the Hoopa Indian Reservation, the original CWPPs for the Lake Tahoe Basin, and CWPPs for the Amador County Fire Safe Council and El Dorado Fire Safe Council.

Zeke Lunder and Deer Creek Resources, LLC - GIS Mapping Deer Creek Resources provides consulting, mapping, predictive modeling, and media design services to inform modern land fire management. We use technology, storytelling, photos, and maps to bridge the divides, bringing people to the table with a common frame of reference. Our staffs of GIS professionals are available on short notice for both mapping projects and emergency response GIS assignments.

DCR owner - Zeke Lunder - has been working in wildland fire management and forestry since 1995. Projects have included wildfire risk-management (economics) assessments for private timberland owners, fire history investigations, predictive wildfire spread modeling using the FLAMMAP and FARSITE programs, and development of wildland fire management plans and hazard assessments for clients including the Nature Conservancy and University of California.

Appendix A summarizes our experience with projects similar to the Storey County update to their CWPP. The CWPP for the California portion of the Basin, fire and fuels evaluations for Lake Tahoe, and the Cathedral Mountain prescribed burn as well as the Risk Assessment and Mitigation Strategies (RAMS) assessments for BLM in Elko and Ely Nevada demonstrate our planning experience in the State of Nevada with fire and fuels projects and the other projects demonstrate our experience with other regional and state-wide fuel reduction projects. As the Eldorado National Forest Hotshot Superintendent and Deputy Incident Commander on a National Fire Team, Barry Callenberger has participated in numerous wildfires along the Eastern Sierras from the Inyo National Forest north to Northern Reno, Nevada during his 41 years in his wildland fire career.

Task 1. Review existing GIS data and project information update all data and assessments

A start up meeting will be held with representatives of the various fire Safe Councils, NDF, BLM and the Storey County Fire Protection District to allow the Wildland Rx team and the stakeholders the opportunity to understand the process set a timetable and begin the feed back process for gathering information

All sources of existing GIS data will be identified. Data will include then used to create updated information:

- Current ignition data and wildfire history data for Storey County
- Past and future projects that are in the planning and/or implementation phase
- Create a quantified community assessment hazard score comparable to the 2005 assessment.
- Create ignition risk assessment with color coded fuel overviews. (See Appendix B)
- An existing fuel hazard assessment in the wildland urban interface and an assessment of the potential for hazardous fire behavior. There has been new and innovative tools created to evaluate existing fuel hazard assessments which can be used to evaluate the potential effectiveness of fuels treatments when setting priorities. Since 2005 several fire behavior programs and hazardous assessment tools have been created to do a much better job of evaluating treatments for effectiveness one such tool is the Interagency Fuels Treatment Decision Support System which will be used by Wildland Rx to model and evaluate fuels projects effectiveness.
- Make recommendations to the agencies and persons responsible for implementing actions to reduce community wildfire hazards and risks as well as input from them when establishing treatment priorities. Prioritization of the projects is a joint effort with NDF and the Storey County Fire Protection District
- Updated GIS files, shape files, and attribute information to incorporate the CWPP assessment into the Storey County GIS including maps and figures to graphically display the assessment results. This shall include an overview map reflecting all fuel reduction projects, by year, that have been completed since calendar year 2000 through current.

Task 2: The assessment data will be used to develop maps and cost estimates for fuel reduction projects:

- Include a list and maps of prioritized projects, estimated costs, and a general discussion of techniques.
- Projects completed and planned by the Storey County Fire Protection District, NDF, and BLM., if that information is available.

Task 2b: Conduct a field trip. Our team will be responsible for coordinating with FPD Team to develop an itinerary for a field trip to review recent fuel reduction projects

- Prioritized lists of individual projects, acres, and estimated costs for each area, and
- Maps of those projects from fire safe councils, FPD, NDF, BLM, and other agencies.

The prioritization process developed in Task 4 will be included in the Plan. Summary tables will identify ecological attributes that could affect the implementation of individual projects within each fire district. Detailed information on individual projects will not be included, but will be referenced in the individual CWPPs and in the project GIS database.

Under some of the fuel hazard reduction projects there may be a significant amount of material that could be removed. There may be opportunities to reduce project costs by selling some of the material. The Plan will include an economic evaluation that considers the sale of forest products (e.g. biomass or logs).

Task 5b: Prepare the final Plan. All comments received on the draft plan will be reviewed and evaluated by the project team and a final plan will be prepared. Ten hard copies and a digital copy of the plan and all data files will be provided.

SCHEDULE AND COST

The schedule shown in Figure 3 is based on a starting date of June 1, 2013 and obtaining all "Word", "Excel", and GIS files from the existing Storey County CWPP by June 10, 2013. These are considered critical dates to meet the October 2013 deadline of completing the update. We also propose to have a start-up meeting of the entire FPD team and key members of our team as soon as possible, after a notice to start work or award of the contract.

The cost estimate is based on standard billing rates and other direct charges for travel, per diem, and report production.

Story County CWPP Update Cost Table for Wildland Rx and Deer Creek Resources				
Task	Callenberger	Lunder	Time Hours	Cost
Task 1, Review existing data up date data to current time	60	67	127	\$12,700.00
Task 2 Develop Maps and lead field trip	8	15	23	\$2,300.00
Task 3 Conduct Regulatory review that could affect the projects	8	8	16	\$1,600.00
Task 4 Develop project priority plan	20	20	40	\$4,000.00
Task 5 Full plan development Draft and Final	30	20	50	\$5,000.00
Total cost				\$25,600.00

WILDLAND Rx

Based in the Sierra Nevada Mountains of California, we provide consulting services to those seeking a safer co-existence with wildfire. We use our personal experience as wildland firefighters, coupled with modern mapping and planning tools, to develop mitigation strategies for communities at risk of wildfire. Our products include wildland fire behavior analyses, Community Wildfire Protection Planning, project implementation, expert witness testimony, and wildland fire training. These services lead to development of strategies and tactics to reduce the losses from wildfires to natural resources and private property. We also provide training courses as a course coordinator and instructor for wildland fire courses covering both prescribed fire and wildfire suppression operation positions.

Full Service Wildfire Hazard Mitigation

We provide vegetation fuel loading assessment and documentation, fire behavior modeling, documentation of wildland fire hazards, wildfire risk mapping and GIS mapping services. *WILDLAND Rx* provides a full suite of wildfire mitigation services to communities at risk of wildfire in the wildland urban interface. We cover all aspects of hazard mitigation - from planning to implantation. Our plans make recommendations on fuel reduction treatment options, describe types of equipment available to treat wildland fuels, and include lists of contractors that will provide the best service for hazardous fuels reduction. We can also provide project management and monitoring services.

Barry Callenberger - Principal

Barry has over 41 years of wildfire experience. During this time he has worked as a firefighter, Hotshot Crew Superintendent, district fuels officer, and as deputy regional chief. Since 1997, he has worked in the private sector, consulting on numerous wildland hazard mitigation projects throughout the western United States.

As owner and principal for *WILDLAND Rx*, Barry has done numerous projects in fuels consulting work. Prior to opening his own business he was, for seven years, in charge of the Prescribed Fire and Fuels Management Division of North Tree Fire. North Tree Fire is a private contracting company that provides support equipment and services for wildland fire suppression and fuels management.

Barry began his career with the U. S. Forest Service on the Cleveland National Forest (R-5) in 1972. From 1985 thru 1993, Barry ran the Eldorado Interregional Hotshot Crew. In 1993, Barry was promoted into the Regional Prescribed Fire/Fuels Specialist position with the Pacific Southwest Region of the Forest Service, where he finished his Federal career.

As the prescribed fire specialist Barry participated in emissions work for the Grand Canyon Visibility Transport Commission. He was also responsible for the creation of the Interagency Smoke Management council a group of statewide representatives from the prescribed fire community and the air quality community.

- **Kingsberry/Rush EA, Fire and Fuels input and Crystal Adams EA, Fire and Fuels input**
For Jones and Stokes Associates, Plumas National Forest
- **Ward Management Area EA, Fire and Fuels input** Tahoe Basin Management Unit.
Sub contract with Jones and Stokes Associates
- **Morro Bay National Estuary Watershed Fire Management Plan**
- **South Fork Defensible Fuel Profile Zone EA** Fire and Fuels input
- **Ely and Elko Districts of Nevada BLM** Provided the Risk Assessment and Mitigation Strategies (RAMS) for the two BLM Districts
- **Angelus National Forest** Review burn Plans and assist in fuel hazard reduction projects

Community Wildfire Protection Planning

- **Tulare County Mountain Communities CWPP** Worked with Steve Holl Consulting to develop a CWPP for the mountain communities of Tulare County. Designing Treatment areas, treatments, and modeling the fire hazard for the numerous communities within the mountains of Tulare County
- **Community Wildfire Protection Plan for the West Slope of the Sierra Nevada in Placer County Community CWPP** Worked with Steve Holl Consulting to develop the CWPP designing treatment areas, treatments and modeling the fire hazard assessment for the communities.
- **Amador County Fire Safe Council CWPP** Wrote a CWPP for the community of Volcano
- **El Dorado Fire Safe Council CWPP** Wrote a Community Wildfire Protection Plan for Grizzly Flat, and a CWPP for Central El Dorado County Communities which included the communities of Placerville, Pollock Pines, Diamond Springs, Camino, Pleasant Valley, Sly Park, and El Dorado developed Evacuation Planning tools that can be used by the communities to plan evacuations. Also have written Fire Plans for the communities of Gold Ridge, Royal Equestrian Estates
- **Tahoe Regional Planning Authority (TRPA)** Combining all the Tahoe Basin Community Wildfire Protection Plans into one document containing all the Basin CWPPs analyzing projects and establishing project priorities based on Risk and Hazard analysis.
- **Tahoe Basin California Fire Safe Council CWPP** Develop a fuels treatment strategy for the four fire protection districts on the California side of the Tahoe Basin. Present the strategy to the fire districts and the community as part of a Community Wildfire Protection Plan

Expert Witness

- **Kutak Rock LLP** Provided Deposition as a Fuels Management, Fire Behavior and Wildland Fire expert in a court case *Bassett V the City of Claremont*. The Fire was the Padua Fire in Los Angeles County 2003
- **Dan Engel, Attorney at Law** Provided deposition and expert testimony on fuels, fire behavior and hazardous fuels in the court case, *Mike Plater v. Russ Cochran et al.* Case No. SC049284, Ventura County Superior Court

hazard assessments for clients including Firesafe Councils, the Nature Conservancy and University of California.

Technology projects included development of ESRI ArcIMS-based online GIS services and environmental document catalogs, including the Sacramento River Watershed Digital Atlas – <http://sacriver.org/wim>

Wildland Fire Planning Specialist/Project Manager - CSU, Chico Watershed Projects, 1998-2000.

Authored fire management chapters for U.S. Fish and Wildlife Service-funded watershed assessments in the Lassen Foothills area, in Northern California. Used LANDSAT TM imagery, timber harvest hiStorey GIS data, aerial photography missions, and field-surveys to map forest fuel accumulation and fire hazards. Led GPS mapping crews surveying forest road-related sediment production.

Silviculture Technician and GIS/GPS specialist – USDA Forest Service – 1995-1997.

Performed vegetation/stand inventories, marked biomass-thinning/shaded-fuelbreak thinning projects, GPS mapped stand boundaries. Fought district wildfires and taught ArcInfo GIS to district staff.

Software Skills

ESRI ArcMap, FLAMMAP, FARSITE, Fire Family+, FMA+, ArcInfo, ERDAS, Idrisi, Google Maps/Earth API, UNIX, Photoshop, MS Office. Scripting experience in ESRI AML, .php, Javascript, and Visual Basic. Professional designer, with Gold Medal wine label design at California State Fair.

Wildfire-specific Work History – Zeke Lunder and Deer Creek Resources

Plantation Risk Management and Mitigation Strategy – 2007 - Mason, Bruce and Girard, Portland Oregon

Evaluated current conditions on 150,000 acres of industrial timberland in Western Oregon. Used timber stand data and ground surveys and the FLAMMAP, FireFamily+, and FMA+ software programs to develop scenarios for wildfire-caused timber losses. Developed criteria to use in developing future harvest plans that would strategically alter continuity of young stands, reducing likelihood of large fires.

Palo Corona Regional Park Wildfire Management Plan – 2007 - Monterey Peninsula Regional Park District

Evaluated wildfire hazards and resource management issues on new 10,000 acre park adjacent to Carmel Valley, California. Mapped access, water, fuels, sensitive species, and WUI areas. Ran FLAMMAP software to model potential fire spread scenarios, and developed strategies for wildfire suppression. Researched applicable sections of California Public Resources Code, and developed prevention recommendations. Mapped wildfire fuels and developed unit-specific fuels

The plan identified unit-specific fire management objectives, and prioritized units targeted for prescribed fire. It also included unit fire prescriptions and plans, along with initial documentation required under by the California Environmental Quality Act (CEQA), for priority burn units.

RAMS (Risk Assessment and Mitigation Strategies) Fuels Management Budget Assessment – 2001-2

Battle Mountain, Elko, and Ely Districts, Nevada BLM

Provided GIS analysis for landscape-scale fuels management project prioritization. Used LANDSAT and other GIS data to evaluate existing vegetation. Used GIS to assess response times for fire resources, and to characterize threat of human wildfire ignitions over 35 million acres of public land

Morro Bay Estuary Watershed Fire Management Plan – 2002 - Morro Bay National Estuary Program

Identified areas with high wildfire hazard and established strategies for integrating fire and fuels management into long-term ecological restoration projects within the 50,000 acre Morro Bay Estuary watershed.

Whiskeytown Fire HiStorey Study – 2001 - National Park Service

Designed and mapped fire hiStorey research plots, coordinated field crews responsible for collecting and preparing fire-hiStorey tree-ring cross-section samples for Whiskeytown National Recreation Area (NPS).

Deer Creek Fire Management Framework – 1999 Deer Creek Watershed Conservancy with funding from EPA.

Identified potential erosion hazards associated with high-severity wildfire in the watershed and evaluated the feasibility of implementing a landscape-level network of shaded fuelbreaks across the 130,000 acre Deer Creek Watershed. Compiled and analyzed existing GIS data, conducted field-surveys, and used ground observations to interpret stand composition and densities on oblique aerial photography collected from a light plane. Facilitated meetings with land managers and biologists, and published a final report.

Big Chico Creek and Butte Creek Watershed Existing Conditions Reports – Wildfire and Fuels Management Sections – 1999 - CSU, Chico Research Foundation

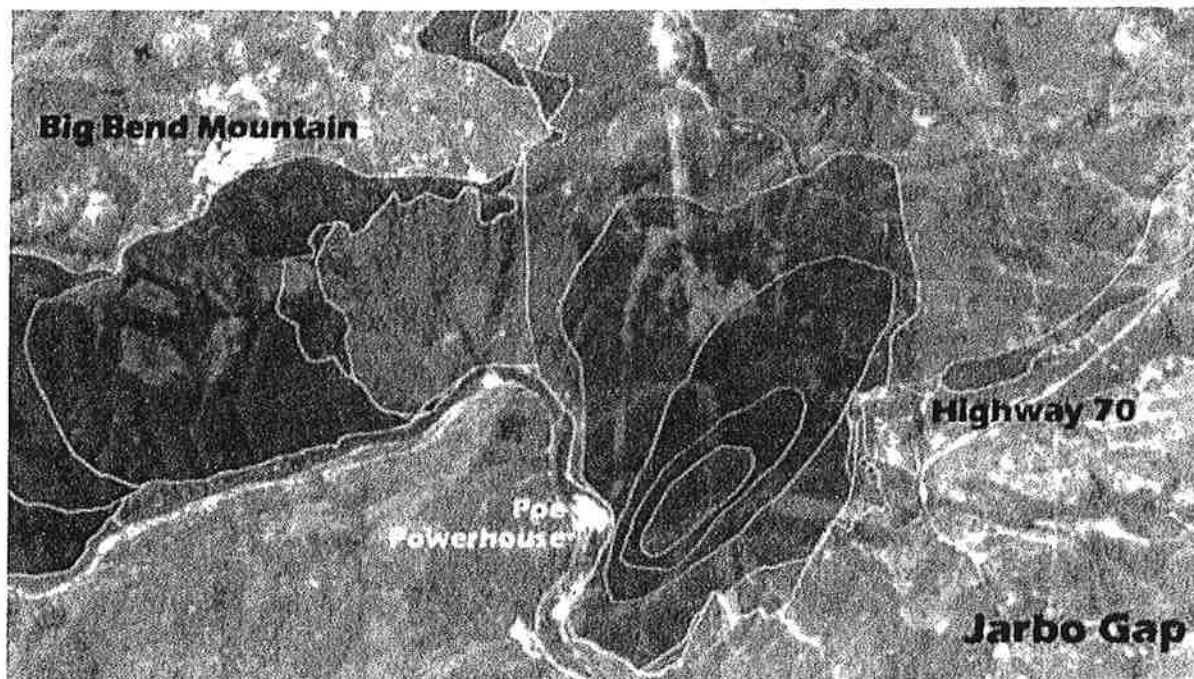
Wrote wildfire and fuels management chapters evaluating current fire suppression infrastructure, wildland fire hazard, potential fire behavior, and general strategies for reducing wildfire-caused property and resource damage within the Big Chico, Butte, and Deer Creek Watersheds.

General References for Zeke Lunder and Deer Creek Resources

Jim Schmidt – *GIS Coordinator, Stanislaus National Forest* - 209-532-3671 x220 – jschmidt@fs.fed.us

Our staff have worked with Jim providing GIS mapping support to Incident Management Teams on

Appendix B: Example of our Risk assessment



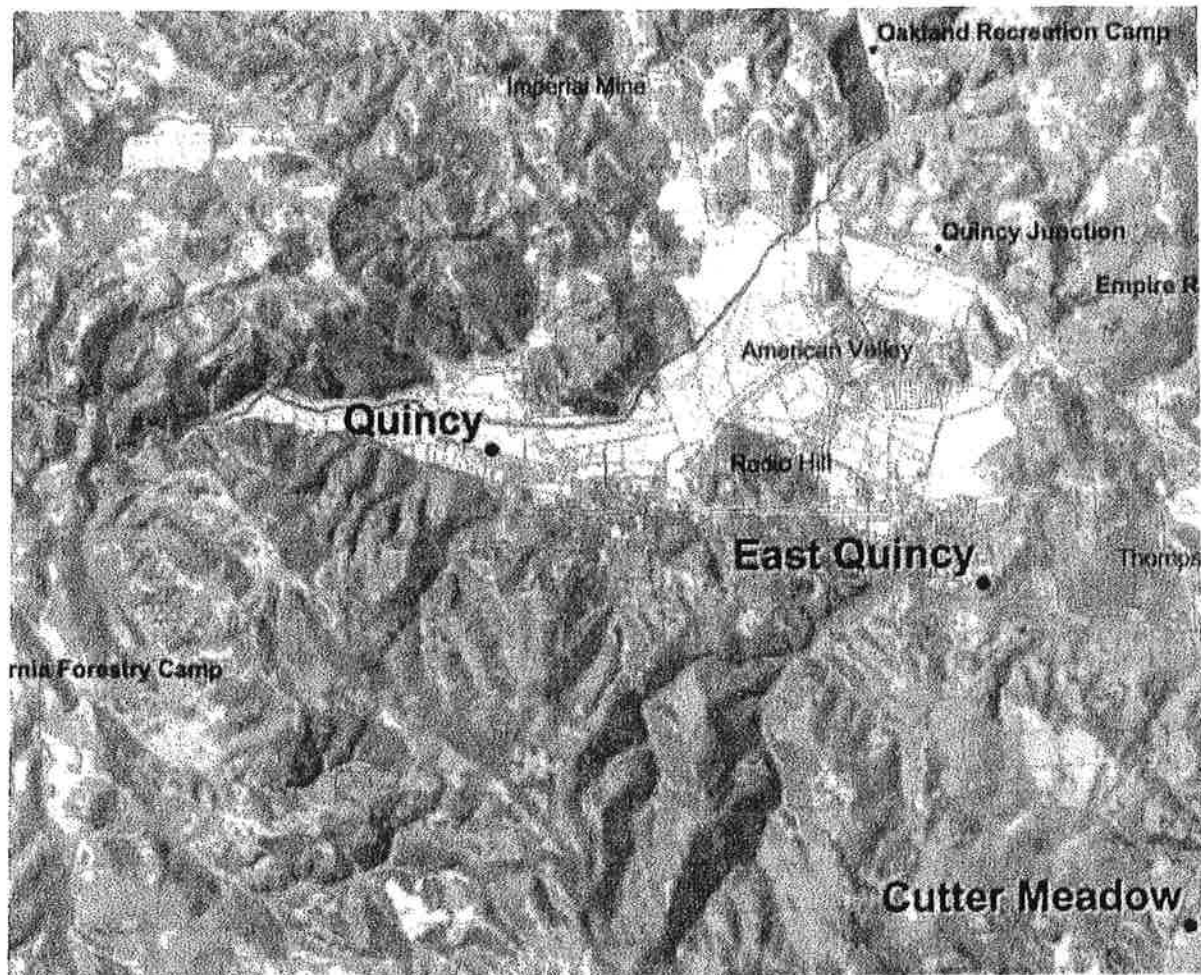
Click

to view full image

Working at many scales

Fire management challenges occur at a variety of scales. Starting with the big picture, or the landscape-scale, we may want to look for places a fire could start, get large enough to escape control, and then threaten a community or "asset-at-risk". At the more local scale, we may be concerned about how to protect a community from a large fire approaching from the wildlands.

The graphics below highlight examples from a 2004 fire hazard assessment conducted for Plumas County. These tools and images below were developed by Wildland-Rx, as part of a project that set priorities for hazardous fuels reduction projects for all of the private lands around communities in Plumas County. A major objective of this project was to create a library of reference photos showing potential fire behavior for each major forest type in the county. For more information on this project, visit the Plumas County Firesafe Council's Website.



Crown Fire Modeling Method

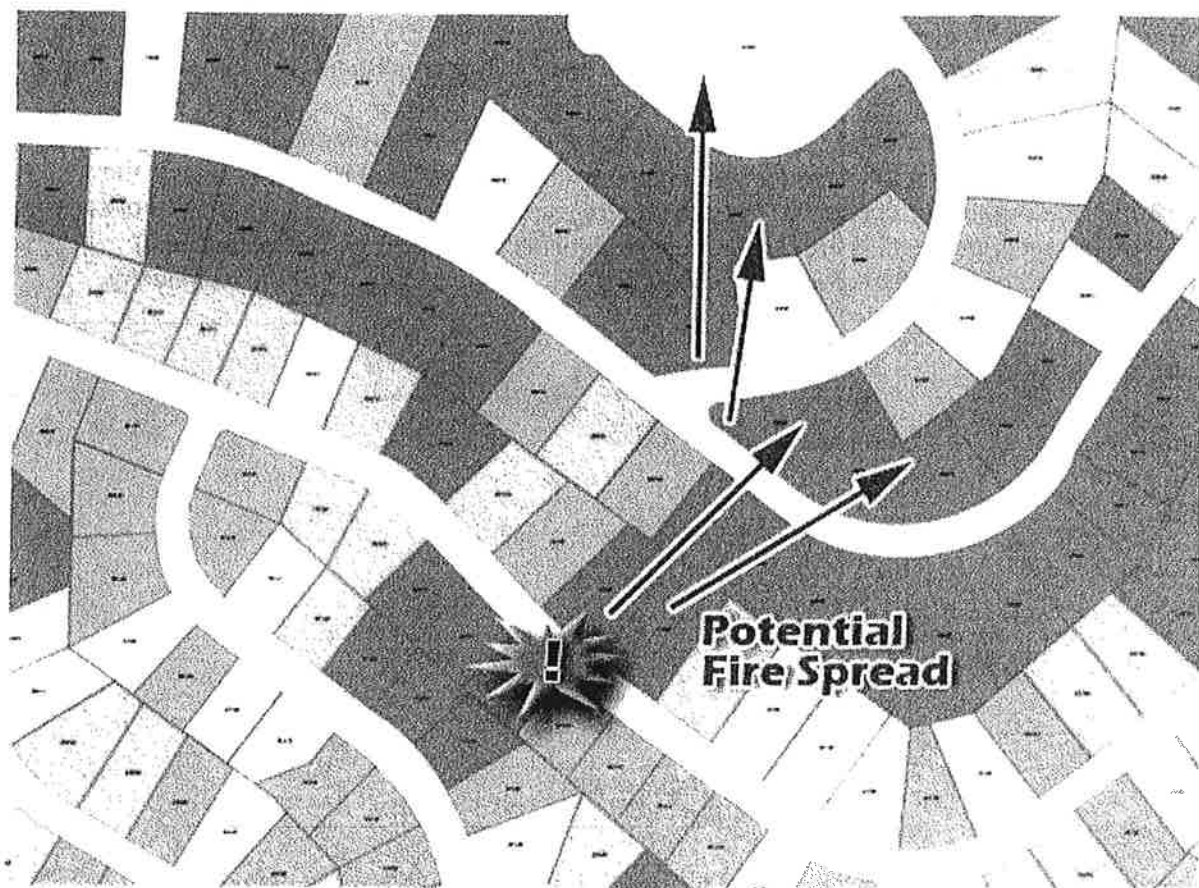
We used the following data items to create this map:

- Surface Fuel Type (grass, brush or timber litter)
- Elevation, slope, aspect
- Historic fire weather
- Canopy base height (height to live crown of trees)
- Tree height, crown density, and canopy closure

The fire behavior model (FLAMMAP) looked at the surface fuel type, slope and aspect, and determined potential surface flame lengths if the area was burning under historically high-hazard fire weather. If the flame lengths from the surface fuel were high enough to catch the overstory trees on fire, then this meant there was "crown fire potential". If there was sufficient tree crown density to carry a fire from tree to tree, the area was rated as having "active crown fire potential".

Wildland Urban Interface Hazard Assessment

Deer Creek GIS and Wildland-Rx have developed mobile mapping tools for assessment of fuels hazard in the wildland urban interface (WUI). These tools allow field mapping crews to quickly assess fire-hazard attributes for individual structures. We then analyze this data with slope, weather, and remotely-sensed



Green

White areas = Low Hazard
 Yellow areas = Moderate Hazard
 Orange areas = High Hazard
 Red Areas = Extreme Hazard

Modeling fire hazard in the Wildland Urban Interface Similar to the landscape-scale assessment above, we analyzed our parcel survey data to look at places where there was potential for a fire to run uphill thru heavy fuels and with the prevailing winds. A key consideration in modeling fire behavior in the WUI is that - while the fuel loads are often very similar to undeveloped brush lands in surrounding areas - *the first fire suppression resources on-scene will likely be busy protecting structures and less available to actually halt the spread of the fire.* What this means is that a fire that might easily be suppressed in undeveloped brushlands has greater potential for growth if structures are present.

Prioritizing Community Defense Fuels Treatments

While the scales differ in the two examples above, both of these modeling exercises allow the end user to identify high hazard areas, and to prioritize these areas for hazard mitigation - either thru fuels reduction projects, community outreach, or code enforcement.

Designing Effective Fuels Reduction Projects

Effective fuels projects increase the effectiveness of fire suppression. Toward this end, all fuels treatments should be implemented with the objective of reducing the surface fuel loading within the treated areas. *Projects must reduce potential fire intensity to a level which allows firefighters to safely work in the area*



HIGH SIERRA FORESTRY

RODD RUMMEL

775-762-5611

rodd@highsierraforestry.com

Storey County Fire Protection District Community Wildfire Protection Plan Update

Importance of a Community Wildfire Protection Plan

A Community Wildfire Protection Plan (CWPP) is a document that assists communities in establishing priorities for protecting life, property and infrastructure. The plan should be a “living” document that is changed and updated over time to reflect the ever changing environment in which we live. As residents and agencies complete fuels reduction projects around a community the priorities within the CWPP can change.

The latest CWPP for communities in Storey County was completed by RCI in 2005. Over the last 8 years there has been a tremendous amount of hazardous fuels reduction by residents and government agencies. The proposed update to the 2005 plan will map these projects as well as redefine the major threats facing each community today.

High Sierra Forestry’s approach

High Sierra Forestry will take a collaborative approach to the proposed CWPP update, gathering information from Storey County Fire Protection District, Nevada Division of Forestry, Storey County, Storey County Emergency Management, Storey County Commissioners, Virginia Highlands Fire Safe Council, Mark Twain Fire Safe Council and the general public to ensure a complete and comprehensive plan is formed. For each of the 7 communities defined in the RFP High Sierra Forestry will prepare the following:

- Coordination with the Storey County Fire Protection District, Nevada Division of Forestry, Bureau of Land Management, Storey County, Storey County Emergency Management, Storey County Commissioners, Storey County Planning Dept, Storey County Assessor’s office, Virginia Highlands Fire Safe Council, Mark Twain Fire Safe Council and the general public. Canyon GID, Lockwood LLC., Rainbow Bend HOA and other groups/ organizations deemed necessary to completing the CWPP
- New Wildfire Hazard Rating Summary Sheets using the same criteria as the 2005 CWPP
- Updated maps detailing all hazardous fuels reduction projects
- An ignition risk assessment with color coded fuel overviews
- An existing fuel hazard assessment in the wildland urban interface and an assessment of the potential for hazardous fire behavior
- Provide recommendations to the agencies and persons responsible for implementing actions to reduce community wildfire hazards and risks.
- Any pictures in the 2005 CWPP will be revisited to visually show changes over time.
- Provide information on bark beetle treatment, procedures on how to effectively remove infested trees.
- Create a prioritized list of fuels projects for each community.

Budget

High Sierra Forestry can complete the above tasks and provide one digital and ten hard copies of the updated Draft and Final CWPP Report delivered to Storey County Fire Protection District for *\$15,000.00*

Why Choose High Sierra Forestry

High Sierra Forestry is a relatively new company, but the combined education and experience is unrivaled. Below are short bio's of the team members who will be completing the tasks associated with updating the Storey County CWPP

Rodd Rummel –

B.S. Forest Management
Fuels Reduction Specialist
GIS mapping
Community Organizer

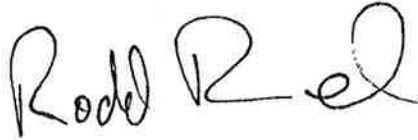
Rodd has over 10 years of experience working in the vegetation management field. His experience ranges from thinning projects in a timbered landscape all the way to cheatgrass control using selective herbicides. Rodd has extensive knowledge identifying, managing, and manipulating the many vast vegetation types found in northern Nevada. As a project coordinator for the Nevada Fire Safe Council, Rodd was responsible for setting up and organizing numerous Fire Safe Chapters/Communities in Washoe County and is very comfortable holding educational/ informational community meetings. He has a track record of not only meeting the match requirement for grants, but exceeding it.

Pat Murphy –

B.S. Agriculture/Natural Resources
Woodland Forester
Fire Rehabilitation Specialist
Fuels Specialist

Thirty six years of resource, fire, fuels and ecosystem rehabilitation experience on public and private lands in Nevada. Mr. Murphy was instrumental in developing the Nevada State Nursery container production nursery, providing native and non-native woody seedlings for range and forest woodland ecosystems; mine spoil reclamation and private land conservation plantings. Mr. Murphy has an extensive background wildland fire and fuels management that included Deputy State Forester for Nevada Division of Forestry, National Incident Commander Status for wild fire suppression, Emergency Stabilization and Rehabilitation Coordinator for Nevada State BLM. Mr. Murphy served as a member of the first Nevada Fire Safe Council (NFSC) Board of Directors, and a NFSC Project Coordinator for 8 years; assisting in the development of many western Nevada Fire Safe Chapters for the development and implementation of urban interface fuels reduction projects. Mr. Murphy is personally responsible for the delivery of \$3,600,000 of fuels reduction projects within Nevada.

Thanks you for the opportunity to bid on this project,

A handwritten signature in black ink that reads "Rodd Rummel". The signature is written in a cursive, flowing style.

Rodd Rummel
President
High Sierra Forestry

Storey County Fire Protection District agrees to the above conditions and accepts High Sierra Forestry's proposal as written.

Gary Hames
Fire Chief
Storey County Fire Protection District

Storey County Fire Protection District

Contract for Service with

High Sierra Forestry

This Professional Services Agreement (Agreement) is made and effective as of June 12, 2013, between Storey County Fire Protection District (SCFPD), and High Sierra Forestry (Consultant).

I. DESCRIPTION OF WORK

High Sierra Forestry will take a collaborative approach to the proposed CWPP update. For each of the 7 communities defined in the RFP (see attachment A) High Sierra Forestry will prepare the following:

- Coordination with the Storey County Fire Protection District, Nevada Division of Forestry, Bureau of Land Management, Storey County, Storey County Emergency Management, Storey County Commissioners, Storey County Planning Dept, Storey County Assessor's office, Virginia Highlands Fire Safe Council, Mark Twain Fire Safe Council, Canyon GID, Lockwood LLC., Rainbow Bend HOA and other groups/ organizations deemed necessary to completing the CWPP.
- New Wildfire Hazard Rating Summary Sheets using the same criteria as the 2005 CWPP.
- Updated maps detailing all hazardous fuels reduction projects within the last 5 years.
- An ignition risk assessment with color coded fuel overviews.
- An existing fuel hazard assessment in the wildland urban interface and an assessment of the potential for hazardous fire behavior.
- Provide recommendations to the agencies and persons responsible for implementing actions to reduce community wildfire hazards and risks.
- Any pictures in the 2005 CWPP will be revisited to visually show changes over time.
- Provide information on bark beetle treatment and procedures on how to effectively remove infested trees.
- Create a prioritized list of fuels projects for each community.

II. PERIOD OF PERFORMANCE

The period of performance shall be from the effective date (June 12, 2013) through December 31, 2013, unless extended by mutual consent of both parties.

III. CONSIDERATION AND PAYMENT

- A. For satisfactory work performed as described above, Consultant shall be compensated at the rate of \$2,142.86 per month.
- B. The total compensation for work under this Agreement is not to exceed \$15,000.
- C. Should the Final report be delivered prior to December 31, 2013, the Consultant will invoice for all outstanding balance of the contract at that time.
- D. Invoices will be submitted to Storey County Fire Protection District on a monthly basis, with the first invoice being submitted within 10 days of this contract being executed.
- E. Invoices must be submitted by the 5th of each month.

Both parties agree to execute this agreement by signing below;

High Sierra Forestry

Name: Rodd Rummel

Title: President

Signature: Rodd Rummel

Date: 6/12/13

Storey County Fire Protection District

Name: Gary Hames

Title: Fire Chief

Signature: _____

Date: _____

STATEMENT OF PROJECT REVENUE AND NET REVENUE AND
SUPPLEMENTARY INFORMATION

Vanessa Dufresne

From: Hugh Gallagher
Sent: Monday, June 24, 2013 2:25 PM
To: Vanessa Dufresne
Subject: Discussion/Action

Please add the following items to the County Commissioner meeting July 2, 2013

1. Discussion/Action

Approval of TRI Public-Private Partnership "Statements of Project Revenue and Net Revenue and Supplementary" for the ended June 30, 2011 and 2012.

2. Discussion/Action

Approval of TRI vouchers submitted from through June 30, 2012.

*continued to
July 16, 2013* 

Hugh



Hugh Gallagher
Storey County Comptroller
PO BOX 432
Virginia City, NV 89440

Office: 775-847-1006
Cell: 775-291-4508
Fax: 775-847-1151

Storey County is an Equal Opportunity Provider

TRI PUBLIC-PRIVATE PARTNERSHIP
STATEMENTS OF PROJECT REVENUE
AND NET REVENUE
AND
SUPPLEMENTARY INFORMATION
FOR THE YEAR ENDED JUNE 30, 2011

TRI PUBLIC-PRIVATE PARTNERSHIP
JUNE 30, 2011

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Schedule of Net Revenue Reimbursement	7
Schedule of Project Vouchers	8
Schedule of Reimbursement Limits	9



INDEPENDENT AUDITORS' REPORT

To the Members
Tahoe-Reno Industrial Center, LLC and
To the Commissioners
Storey County, Nevada

We have audited the accompanying statement of project revenue and net revenue of the TRI Public-Private Partnership for the year ended June 30, 2011. This statement is the responsibility of Storey County, Nevada. Our responsibility is to express an opinion on this statement based on our audit. The prior year summarized comparative information has been derived from the Partnership's 2010 statement of project revenue and net revenue and, in our report dated October 13, 2011, we expressed an unqualified opinion on that statement.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the statement of project revenue and net revenue is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the statements of project revenue and net revenue. We believe that our audit provides a reasonable basis for our opinion.

The accompanying statement of project revenue and net revenue was prepared to present the net revenue of the TRI Public-Private Partnership as described in Note 1 and is not intended to be a complete presentation of the Tahoe-Reno Industrial Center's or Storey County's revenue and expenses.

In our opinion, the accompanying statement of project revenue and net revenue presents fairly, in all material respects, the net revenue of the TRI Public-Private Partnership as described in Note 1 for the year ended June 30, 2011, in conformity with accounting principles generally accepted in the United States of America.

Our audit was conducted for the purpose of forming an opinion on the statement of project revenue and net revenue of the TRI Private-Public Partnership as a whole. The supplementary information included in pages 7 through 9 is presented for purposes of additional analysis and is not a required part of the statement of project revenue and net revenue. Such information is the responsibility of management and was derived from and related directly to the underlying accounting and other records used to prepare the statement of project revenue and net revenue. The information has been subjected to the auditing procedures applied in the audit of the statement of project revenue and net revenue and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the statement of project revenue and net revenue or to statement of project revenue and net revenue itself, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated in all material respects to the statement of project revenue and net revenue as a whole. The information marked "unaudited" has not been subjected to the auditing procedures applied in the audit of the statement of project revenue and net revenue and, accordingly, we do not express an opinion or provide any assurance on it.

This report is intended solely for the information and use of the members and management of the Tahoe-Reno Industrial Center, LLC and the Commissioners and management of Storey County, Nevada, and is not intended to be and should not be used by anyone other than these specified parties.

Kohn Colodny CP

Reno, Nevada
September 4, 2012

TRI PUBLIC-PRIVATE PARTNERSHIP
STATEMENT OF PROJECT REVENUE AND NET REVENUE
FOR THE YEAR ENDED JUNE 30, 2011
(WITH COMPARATIVE TOTALS FOR THE YEAR ENDED JUNE 30, 2010)

2

	2011	2010 (Memorandum Only)
PROJECT REVENUE		
Sales tax	\$ -	\$ -
Real and personal property taxes	3,879,003	4,109,143
Business licenses and fees	29,172	20,536
Building and special use permits	159,399	149,338
Real property transfer taxes	18,395	12,423
Fire and safety inspection fees	59,141	47,903
Recorder fees	2,567	2,480
Total project revenue	<u>4,147,677</u>	<u>4,341,823</u>
STIPULATED PROJECT COSTS	<u>1,967,963</u>	<u>1,874,250</u>
NET REVENUE	<u>\$ 2,179,714</u>	<u>\$ 2,467,573</u>

See accompanying notes

NOTES TO STATEMENT

TRI PUBLIC-PRIVATE PARTNERSHIP
NOTES TO THE STATEMENT OF PROJECT REVENUE AND NET REVENUE
FOR THE YEAR ENDED JUNE 30, 2011

NOTE 1 - NATURE OF OPERATIONS AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The Tahoe-Reno Industrial Center, LLC (TRI) owns approximately 102,000 acres, of which more than 9,000 acres is zoned for industrial usage within Storey County, Nevada (County). On February 1, 2000 TRI, along with DP Operating Partnership, L.P., entered into a development agreement with the County for the purposes of completing structures, including grading, infrastructure, and all public facilities related to the property owned by TRI. The TRI Public-Private Partnership (Project) represents the commitment between TRI and the County to fund the capital infrastructure costs and local community services required by the development agreement. According to the agreements, TRI is responsible for the construction of the Project public infrastructure, which shall be dedicated to and maintained by the County, such as streets, sidewalks and streetlights; flood control drainage channels, storm drains, basins and other related facilities; and County building complexes (i.e. fire stations, police stations, public works maintenance yards, and administrative offices). TRI is also responsible for the construction of the Project private infrastructure, which shall be dedicated to and maintained by the TRI General Improvement District, such as community water and sewer facilities. The utilities shall be dedicated to the purveyors. The railroad track and related facilities; landscaping of common areas; private trails and parks; and other property not dedicated to the County shall be constructed by TRI and dedicated to the TRI Owners Association. The County is responsible for separately recording certain revenue and expenses directly attributable to the Project, approving reimbursable costs, and determining the annual net revenue reimbursement to TRI, if applicable.

The agreements establish a threshold of \$5,000,000 for the Project net revenue before any reimbursements are made to TRI for Project-related infrastructure costs. This revenue threshold was met during the year ended June 30, 2008. Accordingly, the County is responsible for reimbursing TRI for the outstanding approved Project vouchers up to 35% of the annual net revenue. Such reimbursements are also limited to 5% of the Project assessed valuation at the end of each year.

Reporting Entity

This statement includes only selected financial activity attributable to the Project and such information has been extracted from the financial records of Storey County, Nevada.

Basis of Accounting

Basis of accounting refers to when revenue and expenditures are recognized in the accounts and reported in the statement.

For purposes of this statement, revenue includes only amounts actually received by the County within the fiscal year.

Project Revenue

Project revenue includes taxes and fees recorded by the County from Project-related sources. Project revenue does not include portions of any tax which are not actually distributed to the County or are dedicated revenue for earmarked programs not associated with Project services.

Stipulated Project Costs

In lieu of allocating actual operations and maintenance costs, capital outlay and overhead, TRI and the County have stipulated to a base total of \$1,700,000 for Project costs for the year ended June 30, 2008 with scheduled annual increases of 5%. Accordingly, the stipulated project costs for the year ended June 30, 2011 total \$1,967,963.

TRI PUBLIC-PRIVATE PARTNERSHIP
NOTES TO THE STATEMENT OF PROJECT REVENUE AND NET REVENUE (CONTINUED)
FOR THE YEAR ENDED JUNE 30, 2011

NOTE 1 - NATURE OF OPERATIONS AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES
(Continued)

Memorandum Only – Total Columns

Total columns in the financial statements are captioned "Memorandum Only" to indicate that they are presented only to facilitate financial analysis. Data in these columns do not present financial position, changes in net assets or cash flows in conformity with generally accepted accounting principles.

NOTE 2 - VOUCHERS

On June 21, 2011, the Storey County Board of Commissioners accepted vouchers totaling \$46,850,564 and approved payments totaling \$2,400,000. No additional vouchers or payments have been submitted for approval through the date of this report.

SUPPLEMENTARY INFORMATION

TRI PUBLIC-PRIVATE PARTNERSHIP
SUPPLEMENTARY INFORMATION
SCHEDULE OF NET PROJECT REVENUE REIMBURSEMENT
FOR THE YEAR ENDED JUNE 30, 2011
(WITH COMPARATIVE TOTALS FOR THE YEAR ENDED JUNE 30, 2010)

7

	2011	2010 (Memorandum Only)
NET REVENUE REIMBURSEMENT		
Net revenue for the year ended June 30	\$ 2,179,714	\$ 2,467,573
Less amount subject to revenue threshold	<u>-</u>	<u>-</u>
Total net revenue reimbursement	<u>\$ 2,179,714</u>	<u>\$ 2,467,573</u>
 CUMULATIVE TOTALS		
Net revenue for the year ended June 30, 2002	\$ 622,967	\$ 622,967
Net revenue for the year ended June 30, 2003	281,152	281,152
Net revenue for the year ended June 30, 2004	620,102	620,102
Net revenue for the year ended June 30, 2005	599,079	599,079
Net revenue for the year ended June 30, 2006	1,095,455	1,095,455
Net revenue for the year ended June 30, 2007	1,537,981	1,537,981
Net revenue for the year ended June 30, 2008	1,608,939	1,608,939
Net revenue for the year ended June 30, 2009	1,844,154	1,844,154
Net revenue for the year ended June 30, 2010	2,467,573	2,467,573
Net revenue for the year ended June 30, 2011	<u>2,179,714</u>	<u>-</u>
	12,857,116	10,677,402
Revenue threshold	<u>(5,000,000)</u>	<u>(5,000,000)</u>
Total excess of cumulative net revenue over revenue threshold	<u>\$ 7,857,116</u>	<u>\$ 5,677,402</u>

See accompanying notes

TRI PUBLIC-PRIVATE PARTNERSHIP
SUPPLEMENTARY INFORMATION
SCHEDULE OF PROJECT VOUCHERS
FOR THE YEAR ENDED JUNE 30, 2011

	Outstanding Approved Vouchers 6/30/2010	Vouchers Approved (Unaudited)	Vouchers Paid	Outstanding Approved Vouchers 6/30/2011
Waltham Way Phase I	\$ -	\$ 751,562	\$ (751,562)	\$ -
Waltham Way Phase II	-	3,226	(3,226)	-
Fire Station - Includes Hydrants	-	3,093,856	(1,645,212)	1,448,644
Britain	-	510,546	-	510,546
Denmark	-	804,327	-	804,327
Ireland	-	318,999	-	318,999
Italy	-	285,648	-	285,648
London	-	373,299	-	373,299
Milan	-	695,025	-	695,025
Peru	-	1,980,606	-	1,980,606
Pittsburgh	-	202,328	-	202,328
Portofino	-	3,685,873	-	3,685,873
RR Spur	-	4,918,261	-	4,918,261
Sydney	-	589,985	-	589,985
USA Interchange	-	10,725,755	-	10,725,755
USA Parkway	-	2,484,529	-	2,484,529
USA Parkway Phase II	-	8,920,764	-	8,920,764
USA Parkway Phase III	-	3,618,053	-	3,618,053
USA RR Bridge	-	2,380,905	-	2,380,905
Venice	-	507,017	-	507,017
	<u>\$ -</u>	<u>\$ 46,850,564</u>	<u>\$ (2,400,000)</u>	<u>\$ 44,450,564</u>

See accompanying notes

TRI PUBLIC-PRIVATE PARTNERSHIP
SUPPLEMENTARY INFORMATION
SCHEDULE OF REIMBURSEMENT LIMITS
FOR THE YEAR ENDED JUNE 30, 2011
(WITH COMPARATIVE TOTALS FOR THE YEAR ENDED JUNE 30, 2010)

9

	2011	2010 (Memorandum Only)
ANNUAL DEBT LIMIT CALCULATION		
Project Assessed Valuation (Unaudited)		
Land	\$ 92,156,954	\$ 103,404,948
Improvements	104,381,177	109,667,329
Personal property	<u>39,620,708</u>	<u>48,973,530</u>
Total net project assessed valuation	236,158,839	262,045,807
Percentage allowed	<u>5%</u>	<u>5%</u>
Annual debt limit	<u>\$ 11,807,942</u>	<u>\$ 13,102,290</u>
ANNUAL NET REVENUE LIMIT CALCULATION		
Net revenue	\$ 2,179,714	\$ 2,467,573
Percentage allowed	<u>35%</u>	<u>35%</u>
Annual net revenue limit	<u>\$ 762,900</u>	<u>\$ 863,651</u>
ANNUAL ELIGIBLE REIMBURSEMENTS BASED ON DEBT LIMITS		
June 30, 2008	\$ 563,129	\$ 563,129
June 30, 2009	654,454	654,454
June 30, 2010	863,651	863,651
June 30, 2011	<u>762,900</u>	<u>-</u>
	2,844,134	2,081,234
Reimbursed vouchers	<u>(2,400,000)</u>	<u>-</u>
Eligible reimbursements based on debt limits at June 30	<u>\$ 444,134</u>	<u>\$ 2,081,234</u>
SUMMARY OF OUTSTANDING VOUCHERS		
Approved outstanding vouchers	\$ 44,450,564	\$ -
Less reimbursements from Storey County	<u>(2,400,000)</u>	<u>-</u>
Approved vouchers eligible for reimbursement	<u>\$ 42,050,564</u>	<u>\$ -</u>

See accompanying notes

TRI PUBLIC-PRIVATE PARTNERSHIP
STATEMENTS OF PROJECT REVENUE
AND NET REVENUE
AND
SUPPLEMENTARY INFORMATION
FOR THE YEAR ENDED JUNE 30, 2012

TRI PUBLIC-PRIVATE PARTNERSHIP
JUNE 30, 2012

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INDEPENDENT AUDITORS' REPORT

To the Members
Tahoe-Reno Industrial Center, LLC and
To the Commissioners
Storey County, Nevada

We have audited the accompanying statement of project revenue and net revenue of the TRI Public-Private Partnership (Project) for the year ended June 30, 2012. This statement is the responsibility of Storey County, Nevada. Our responsibility is to express an opinion on this statement based on our audit. The prior year summarized comparative information has been derived from the Project's 2011 statement of project revenue and net revenue and, in our report dated September 4, 2012, we expressed an unqualified opinion on that statement.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the statement of project revenue and net revenue is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the statements of project revenue and net revenue. We believe that our audit provides a reasonable basis for our opinion.

The accompanying statement of project revenue and net revenue was prepared to present the net revenue of the TRI Public-Private Partnership as described in Note 1 and is not intended to be a complete presentation of the Tahoe-Reno Industrial Center's or Storey County's revenue and expenses.

In our opinion, the accompanying statement of project revenue and net revenue presents fairly, in all material respects, the net revenue of the TRI Public-Private Partnership as described in Note 1 for the year ended June 30, 2012, in conformity with accounting principles generally accepted in the United States of America.

Our audit was conducted for the purpose of forming an opinion on the statement of project revenue and net revenue of the TRI Private-Public Partnership as a whole. The supplementary information included in pages 7 through 9 is presented for purposes of additional analysis and is not a required part of the statement of project revenue and net revenue. Such information is the responsibility of management and was derived from and related directly to the underlying accounting and other records used to prepare the statement of project revenue and net revenue. The information has been subjected to the auditing procedures applied in the audit of the statement of project revenue and net revenue and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the statement of project revenue and net revenue or to statement of project revenue and net revenue itself, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated in all material respects to the statement of project revenue and net revenue as a whole. The information marked "unaudited" has not been subjected to the auditing procedures applied in the audit of the statement of project revenue and net revenue and, accordingly, we do not express an opinion or provide any assurance on it.

This report is intended solely for the information and use of the members and management of the Tahoe-Reno Industrial Center, LLC and the Commissioners and management of Storey County, Nevada, and is not intended to be and should not be used by anyone other than these specified parties.

Kohn Colodny CP

Reno, Nevada
April 17, 2013

TRI PUBLIC-PRIVATE PARTNERSHIP
STATEMENT OF PROJECT REVENUE AND NET REVENUE
FOR THE YEAR ENDED JUNE 30, 2012
(WITH COMPARATIVE TOTALS FOR THE YEAR ENDED JUNE 30, 2011)

2

	2012	2011 (Memorandum Only)
PROJECT REVENUE		
Sales tax	\$ -	\$ -
Real and personal property taxes	3,529,494	3,879,003
Business licenses and fees	32,884	29,172
Building and special use permits	69,795	159,399
Real property transfer taxes	57,593	18,395
Fire and safety inspection fees	45,801	59,141
Ambulance and fire fees	138	-
Recorder fees	3,132	2,567
Total project revenue	<u>3,738,837</u>	<u>4,147,677</u>
STIPULATED PROJECT COSTS	<u>2,066,361</u>	<u>1,967,963</u>
NET REVENUE	<u>\$ 1,672,476</u>	<u>\$ 2,179,714</u>

See accompanying notes

NOTES TO STATEMENT

TRI PUBLIC-PRIVATE PARTNERSHIP
NOTES TO THE STATEMENT OF PROJECT REVENUE AND NET REVENUE
FOR THE YEAR ENDED JUNE 30, 2012

NOTE 1 - NATURE OF OPERATIONS AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The Tahoe-Reno Industrial Center, LLC (TRI) owns approximately 102,000 acres, of which more than 9,000 acres is zoned for industrial usage within Storey County, Nevada (County). On February 1, 2000 TRI, along with DP Operating Partnership, L.P., entered into a development agreement with the County for the purposes of completing structures, including grading, infrastructure, and all public facilities related to the property owned by TRI. The TRI Public-Private Partnership (Project) represents the commitment between TRI and the County to fund the capital infrastructure costs and local community services required by the development agreement. According to the agreements, TRI is responsible for the construction of the Project public infrastructure, which shall be dedicated to and maintained by the County, such as streets, sidewalks and streetlights; flood control drainage channels, storm drains, basins and other related facilities; and County building complexes (i.e. fire stations, police stations, public works maintenance yards, and administrative offices). TRI is also responsible for the construction of the Project private infrastructure, which shall be dedicated to and maintained by the TRI General Improvement District, such as community water and sewer facilities. The utilities shall be dedicated to the purveyors. The railroad track and related facilities; landscaping of common areas; private trails and parks; and other property not dedicated to the County shall be constructed by TRI and dedicated to the TRI Owners Association. The County is responsible for separately recording certain revenue and expenses directly attributable to the Project, approving reimbursable costs, and determining the annual net revenue reimbursement to TRI, if applicable.

The agreements establish a threshold of \$5,000,000 for the Project net revenue before any reimbursements are made to TRI for Project-related infrastructure costs. This revenue threshold was met during the year ended June 30, 2008. Accordingly, the County is responsible for reimbursing TRI for the outstanding approved Project vouchers up to 35% of the annual net revenue. Such reimbursements are also limited to 5% of the Project assessed valuation at the end of each year. At June 30, 2012, the approved outstanding vouchers eligible for reimbursement subject to the annual debt restrictions total \$1,036,427.

Reporting Entity

This statement includes only selected financial activity attributable to the Project and such information has been extracted from the financial records of Storey County, Nevada.

Basis of Accounting

Basis of accounting refers to when revenue and expenditures are recognized in the accounts and reported in the statement. For purposes of this statement, revenue includes only amounts actually received by the County within the fiscal year.

Project Revenue

Project revenue includes taxes and fees recorded by the County from Project-related sources. Project revenue does not include portions of any tax which are not actually distributed to the County or are dedicated revenue for earmarked programs not associated with Project services.

Stipulated Project Costs

In lieu of allocating actual operations and maintenance costs, capital outlay and overhead, TRI and the County have stipulated to a base total of \$1,700,000 for Project costs for the year ended June 30, 2008 with scheduled annual increases of 5%. Accordingly, the stipulated project costs for the year ended June 30, 2012 total \$2,066,361.

Memorandum Only – Total Columns

Total columns in the financial statements are captioned "Memorandum Only" to indicate that they are presented only to facilitate financial analysis. Data in these columns do not present financial position, changes in net assets or cash flows in conformity with generally accepted accounting principles.

TRI PUBLIC-PRIVATE PARTNERSHIP
NOTES TO THE STATEMENT OF PROJECT REVENUE AND NET REVENUE (CONTINUED)
FOR THE YEAR ENDED JUNE 30, 2012

NOTE 2 - VOUCHERS

Through June 30, 2012, the Storey County Board of Commissioners has accepted vouchers totaling \$46,970,577 and approved payments totaling \$2,400,000. Additional costs totaling \$28,483 have been submitted, but not yet approved by the County and, therefore, not included in the voucher total. Subsequent to June 30, 2012, the County issued a credit of \$838,459 against property taxes owed by TRI to further reduce the outstanding vouchers.

SUPPLEMENTARY INFORMATION

TRI PUBLIC-PRIVATE PARTNERSHIP
SUPPLEMENTARY INFORMATION
SCHEDULE OF NET PROJECT REVENUE REIMBURSEMENT
FOR THE YEAR ENDED JUNE 30, 2012
(WITH COMPARATIVE TOTALS FOR THE YEAR ENDED JUNE 30, 2011)

7

	2012	2011 (Memorandum Only)
NET REVENUE REIMBURSEMENT		
Net revenue for the year ended June 30	\$ 1,672,476	\$ 2,179,714
Less amount subject to revenue threshold	<u>-</u>	<u>-</u>
Total net revenue reimbursement	<u>\$ 1,672,476</u>	<u>\$ 2,179,714</u>
CUMULATIVE TOTALS		
Net revenue for the year ended June 30, 2002	\$ 622,967	\$ 622,967
Net revenue for the year ended June 30, 2003	281,152	281,152
Net revenue for the year ended June 30, 2004	620,102	620,102
Net revenue for the year ended June 30, 2005	599,079	599,079
Net revenue for the year ended June 30, 2006	1,095,455	1,095,455
Net revenue for the year ended June 30, 2007	1,537,981	1,537,981
Net revenue for the year ended June 30, 2008	1,608,939	1,608,939
Net revenue for the year ended June 30, 2009	1,844,154	1,844,154
Net revenue for the year ended June 30, 2010	2,467,573	2,467,573
Net revenue for the year ended June 30, 2011	2,179,714	2,179,714
Net revenue for the year ended June 30, 2012	<u>1,672,476</u>	<u>-</u>
	14,529,592	12,857,116
Revenue threshold	<u>(5,000,000)</u>	<u>(5,000,000)</u>
Total excess of cumulative net revenue over revenue threshold	<u>\$ 9,529,592</u>	<u>\$ 7,857,116</u>

See accompanying notes

TRI PUBLIC-PRIVATE PARTNERSHIP
SUPPLEMENTARY INFORMATION
SCHEDULE OF PROJECT VOUCHERS
FOR THE YEAR ENDED JUNE 30, 2012

	<u>6/30/2011</u>	<u>During the year end 6/30/12</u>		<u>6/30/2012</u>
	Outstanding Approved Vouchers (Unaudited)	Vouchers Approved (Unaudited)	Vouchers Paid (Unaudited)	Outstanding Approved Vouchers (Unaudited)
Waltham Way Phase I	\$ -	\$ -	\$ -	\$ -
Waltham Way Phase II	-	-	-	-
Fire Station - Includes Hydrants	1,448,644	-	-	1,448,644
Britain	510,546	-	-	510,546
Denmark	804,327	-	-	804,327
Ireland	318,999	-	-	318,999
Italy	285,648	-	-	285,648
London	373,299	-	-	373,299
Milan	695,025	-	-	695,025
Peru	1,980,606	-	-	1,980,606
Pittsburgh	202,328	-	-	202,328
Portofino	3,685,873	-	-	3,685,873
RR Spur	4,918,261	-	-	4,918,261
Sydney	589,985	-	-	589,985
USA Interchange	10,725,755	-	-	10,725,755
USA Parkway	2,484,529	-	-	2,484,529
USA Parkway Phase II	8,920,764	-	-	8,920,764
USA Parkway Phase III	3,618,053	-	-	3,618,053
USA RR Bridge	2,380,905	-	-	2,380,905
Venice	507,017	-	-	507,017
Infrastructure	-	120,013	-	120,013
	<u>\$ 44,450,564</u>	<u>\$ 120,013</u>	<u>\$ -</u>	<u>\$ 44,570,577 *</u>

* Total does not include costs incurred during the year ended June 30, 2012 that have been submitted, but not yet approved by Storey County totaling \$28,483.

See accompanying notes

TRI PUBLIC-PRIVATE PARTNERSHIP
SUPPLEMENTARY INFORMATION
SCHEDULE OF REIMBURSEMENT LIMITS
FOR THE YEAR ENDED JUNE 30, 2012
(WITH COMPARATIVE TOTALS FOR THE YEAR ENDED JUNE 30, 2011)

9

	2012	2011 (Memorandum Only)
ANNUAL DEBT LIMIT CALCULATION		
Project Assessed Valuation (Unaudited)		
Land	\$ 70,557,211	\$ 92,156,954
Improvements	99,191,338	104,381,177
Personal property	44,369,180	39,620,708
	<u>214,117,729</u>	<u>236,158,839</u>
Total net project assessed valuation	214,117,729	236,158,839
Percentage allowed	5%	5%
	<u>\$ 10,705,886</u>	<u>\$ 11,807,942</u>
Annual debt limit		
ANNUAL NET REVENUE LIMIT CALCULATION		
Net revenue	\$ 1,672,476	\$ 2,179,714
Percentage allowed	35%	35%
	<u>\$ 585,367</u>	<u>\$ 762,900</u>
Annual net revenue limit		
ANNUAL ELIGIBLE REIMBURSEMENTS BASED ON DEBT LIMITS		
June 30, 2008	\$ -	\$ 563,129
June 30, 2009	-	654,454
June 30, 2010	-	863,651
June 30, 2011	444,134	762,900
June 30, 2012	585,367	-
	<u>1,029,501</u>	<u>2,844,134</u>
Reimbursed vouchers	-	(2,400,000)
Eligible reimbursements based on debt limits at June 30	<u>\$ 1,029,501</u>	<u>\$ 444,134</u>
SUMMARY OF OUTSTANDING VOUCHERS		
Total outstanding approved vouchers, beginning of year	\$ 44,450,564	\$ 46,850,564
Add new vouchers approved	120,013	-
Less reimbursements from Storey County	-	(2,400,000)
Approved outstanding vouchers	44,570,577	44,450,564
Approved outstanding vouchers in excess of reimbursement limits	(43,541,076)	(44,006,430)
	<u>\$ 1,029,501</u>	<u>\$ 444,134</u>
Approved outstanding vouchers eligible for reimbursement		

See accompanying notes

ORDINANCE 13-249

Ordinance No. 13-249

Summary

An ordinance amending Storey County Code chapter 1.08 General Provisions to provide for general penalties for violations of the code and amend other sections to be consistent with the change.

Title

An ordinance amending Storey County Code chapter 1.08 General Provisions providing for general penalties for violation of the code and amending other sections sections to be consistent and providing for other properly related matters.

The Board of County Commissioners of the County of Storey, State of Nevada, does ordain:

SECTION I: Chapter 1.08 General Penalties is amended as follows:

1.08.010 Penalties specified.

Whenever in this code an act is required or prohibited or is declared unlawful and no specific penalty or fine is provided, any person who violates any provision or to fails to comply with any of the requirements of this code is guilty of a misdemeanor, except as otherwise specified by state law or expressly provided by this code.

*A. **Misdemeanor.** Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this code or that has violated a section with a penalty specified as a misdemeanor, any person convicted of a misdemeanor under the provisions of this code must be punished by a fine of not more than \$1000 or by imprisonment in the county jail for a period not exceeding 6 months, or by both fine and imprisonment.*

*B. **Infraction.** Any person convicted of an infraction for a violation of this code, as provided for in this code or specified by state law, must be punished by a fine not exceeding \$1000.*

*C. **Separate offense.** A person is guilty of a separate offense for each act and for each day, or during any portion of a day, for any violation of a provision of this code committed, continued or permitted by that person.*

D. The county, in addition to or in place of any criminal actions, may also pursue any allowed civil actions against the person.

1.08.020 State misdemeanors.

The commission of any act or the failure to perform any act within the county, which act or failure to act is made a misdemeanor by the provisions of the Nevada Revised Statutes as amended, constitutes a misdemeanor under this code.

1.08.030 Disposition of fines and forfeitures.

All fines and forfeiture for violations of this code must be deposited in the general fund of the county.

5.04.010 License Required, Violation-Criminal penalty.

~~No~~ A person, firm, association or corporation within the limits of the town of Virginia City, the town of Gold Hill, or Storey County shall be allowed to ~~may not~~ pursue any calling, trade, business or profession, until he, she, they or it has taken out a license therefor, and paid *all fees* for the license. ~~same as provided in this chapter; and for a~~ Any person violating ~~on~~ of this chapter is guilty of a misdemeanor, ~~the party so offending shall, on conviction, be punished as a~~ misdemeanor for each day of violation.

5.08.140 Violations-Criminal penalty.

In addition to penalties *of revocation* provided herein regarding work permits, any person violating any provision of this chapter shall be *is* guilty of a misdemeanor, ~~and, upon conviction,~~ shall be punished by a fine not to exceed one thousand dollars, or by imprisonment for a term not to exceed six months, or by both fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

5.16.240 Violations--Criminal penalty.

In addition to penalties provided herein regarding revocation of licenses and work cards, any person violating any provision of this chapter shall be *is* guilty of a misdemeanor, ~~and, upon conviction,~~ shall be punished by a fine not to exceed one thousand dollars (\$1,000.00), or by imprisonment for a term not to exceed six months, or by both fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

5.20.060 Violations--Criminal penalty.

In addition to penalties provided herein regarding certificates of compliance *revocation of a permit*, any person violating any provision of this chapter shall be *is* guilty of a misdemeanor, ~~and, upon conviction,~~ shall be punished by a fine not to exceed one thousand dollars, or by imprisonment for a term not to exceed six months, or by both fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

5.20.080 Violation--Penalty.

~~—~~ Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars, nor more than five hundred dollars, or by imprisonment in the county jail for a term of not more than six months, or by both fine and imprisonment.

8.02.080 Violation--Criminal Ppenalty.

Any person who violates any provision of this chapter shall be deemed *is* guilty of a

~~misdemeanor. and upon conviction thereof shall be fined not exceeding five hundred dollars, or by imprisonment for not more than six months in the county jail, or by both said fines and imprisonment.~~

8.04.040 Violation--*Criminal Ppenalty.*

~~Any person who violates any provision of this chapter shall be deemed is guilty of a misdemeanor and upon conviction thereof shall be fined not exceeding five hundred dollars, or by imprisonment for not more than six months in the county jail, or by both said fine and imprisonment.~~

8.08.140 Violation--*Criminal Ppenalty.*

~~Any person who violates the provisions of this chapter shall be deemed is guilty of a misdemeanor and upon conviction thereof shall be subject to a fine not to exceed one thousand dollars, or by imprisonment in the county jail for a term not to exceed six months, or by both fine and imprisonment.~~

8.10.550 ~~Penalties.~~ Violation--*Criminal Ppenalty.*

A. If a permit is revoked, the former permit holder and the record owner of the property shall be ~~is~~ responsible for all costs of enforcement, compliance, and associated environmental remedial action. These costs are in addition to any other civil or criminal penalties that may be imposed.

B. Violation of the terms of a special use permit or a waste management facility permit shall be deemed ~~is~~ a zoning code violation ~~and is a misdemeanor~~. Each twenty-four hour day is a separate and distinct violation subject to the terms and penalties of this chapter and other applicable civil and criminal codes.

C. ~~The county may, in addition to or in place of any civil actions, also pursue criminal actions against the permit holder.~~

8.12.050 Right of entry--~~Penalty for~~ Violation--*Criminal Ppenalty..*

Fire inspection officials may, with the consent of the owner or occupant of any premises, enter ~~such~~ the premises or property to inspect ~~it the same~~ for fire hazards. All other entries by ~~such~~ officials shall be on presentation of ~~require~~ a warrant except in exigent (emergency) circumstances. Failure to comply with directives given to correct identified fire hazards may result in a misdemeanor prosecution.

8.16.120 Violation--*Criminal Ppenalty.*

~~Violation of any provision of this chapter shall be is a misdemeanor. , and in addition thereto, the board county commissioners may charge the person or persons responsible for any costs involved in extinguishing any fire resulting from a violation of any of the provisions of this chapter.~~

8.24.120 Violation--*Criminal Ppenalty.*

~~It is unlawful for a~~ Any person ~~to~~ who violates any provisions or fail to comply with any

requirements of this chapter. ~~Any person so doing shall be is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed five hundred dollars, or imprisonment in the county jail for a period not to exceed six months, for each day in violation.~~

8.28.120 Unlawful acts--Remedies.

A. If an owner of any interest in real property:

1. Holds or conducts a commercial entertainment event or special event on this property without first obtaining a permit for the holding or conducting of the event; or

2. Knowing that a permit is required, agrees to let the property to another person for the purpose of holding or conducting a commercial entertainment or special event prior to the other person obtaining a permit, and the other person thereafter holds or conducts an event without having obtained a permit.

B. No liability under this section shall attach to any public entity.

C. The liability imposed by this section is in addition to any other liability imposed by statute, ordinance or judicial decision on any person.

D. It is unlawful for any permittee, employee, agent or person associated with the permittee, to do any of the following:

1. Conduct or operate a special event or outdoor entertainment event without first procuring a permit to do so;

2. Sell tickets to a special event without a license first having been obtained;

3. Operate, conduct or carry on any special event or outdoor entertainment in a manner to create a public or private nuisance;

4. Exhibit, show or conduct within the place of special event or outdoor entertainment any obscene, indecent, vulgar or lewd exhibition, show play, entertainment or exhibit no matter by what name designated;

5. Allow any person on the premises of the permitted event to cause or create a disturbance in, around or near any place of the special event, by offensive or disorderly conduct;

6. Knowingly allow any person to consume, sell or be in possession of intoxicating liquor while in a place of the event except where the consumption or possession is expressly authorized under the laws of the state;

7. Knowingly allow any person at the permitted event to use, sell or be in possession of any narcotic or dangerous drug while in, around or near a place of the event.

Any person violating the provisions of this title is guilty of a misdemeanor. ~~Any of the above enumerated violations shall constitute a criminal act and shall be punishable pursuant to ordinances of the county and the laws of the state. It is provided, however, that~~ The county retains any and all civil remedies, including the right of civil injunction for the prevention of these violations and for the recovery of money damages therefore.

E. In addition to any other remedy, the county may enforce its permit requirements by bringing an action to enjoin any or all of the following:

1. The holding of or performance at a commercial entertainment event or special event, without a permit;

2. Ticket sales for, or advertising or promotion of a commercial entertainment event prior to the time a permit has been obtained;

3. The threatened violation of a permit requirement limiting the number of persons in

attendance at a commercial entertainment event or special event.

8.32.080 Violation--Criminal Penalty.

A. Any person who violates any of the provisions of this chapter, or of the provisions of the regulations established by the board pursuant to this chapter is guilty of a misdemeanor. ~~and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars or by imprisonment in the county jail for not more than six months. Each violation shall be treated separately. When a violation is a continuing one, each day of the violation constitutes a separate offense.~~

B. ~~Should a violation of the provisions of this chapter result in injury or death to any person the violator shall be guilty of a felony as may be provided by state or federal law, and, upon conviction thereof, shall be punishable under applicable state or federal laws.~~

~~—C. In the event of a hazardous materials accident or spill within the county requiring the expenditure of county funds to respond to and/or to clean-up and dispose of the hazardous material and to clean or decontaminate the affected area and the equipment involved in the clean-up, such expenditure to include contract services, the board shall must determine the amount expended and the person responsible for or in control of the material at the time of the spill or accident. Upon such determination t~~ The board shall *must* deliver its findings to the district attorney who shall initiate recovery by legal action from the responsible person or person-in-control of the costs incurred by the county. In the event a determination of responsibility cannot be made or recovery from a responsible person or person-in-control is not possible the county commissioners shall apply to the state or state federal government under such regulations as may be in force at the time for reimbursement of clean-up and disposal costs. Reimbursement from spillers or other sources shall be deposited to the county general fund. The recovery by the county of clean-up and response costs shall not relieve a responsible person or person-in-control from any fines, penalties, charges or sanctions imposed by the county or other authorities relating to a hazardous materials incident.

8.36.070 Fraudulent claims--Criminal Penalty.

~~All parties~~ Any person knowingly assisting in the preparation or payment of fraudulent applications ~~shall be prosecuted for is guilty of a misdemeanor. offense.~~

9.04.010 Misdemeanors designated. —

A. Misdemeanors. Pursuant to Nevada Revised Statutes. ~~The commission of any act or the failure to perform any act within the county, which act or failure to act is made a misdemeanor by the provisions of the Nevada Revised Statutes and all amendments thereto, constitutes a misdemeanor under this chapter.~~

B. Misdemeanors pursuant to Ordinance. ~~The commission of any act within the county which is prohibited by ordinance of this county, or the failure to perform any act which is required by an ordinance of this county, or amendments thereto, constitutes a misdemeanor under this chapter.~~

9.04.020 Violation--Penalty.

~~—A. Every person convicted of a misdemeanor shall be punished by imprisonment in the county~~

jail for not more than six months or by a fine of not more than one thousand dollars, or by both fine and imprisonment.

~~—B. In lieu of all or a part of the punishment which may be imposed, pursuant to subsection A of this section, if the convicted person agrees, he may be sentenced to perform a fixed period of work for the benefit of the community under the conditions prescribed in NRS 176.087.~~

~~—C. Each person is guilty of a separate offense for each day during any portion of which any violation of the provisions of this Title is committed, continued or permitted by any such person, and he shall be punished accordingly.~~

9.04.030 Disposition of fines and forfeitures.

~~—All fines and forfeiture for violations of this title shall be deposited in the general fund of the county.~~

9.08.010 Unauthorized digging and removal of artifacts prohibited.

A. It is unlawful for any person to excavate or dig for bottles or other artifacts of any kind on any property within the county without the written consent of the owner or possessor of the premises.

B. It is unlawful to take, carry away, or remove any bottles or artifacts of any kind from the property of another without the written consent of the owner or possessor of the premises.

C. As to public property, written consent must be obtained from the county commissioners at a regular meeting thereof.

~~D. Violation of this section is punishable as~~ *Any person violating the provisions of this chapter is guilty of a misdemeanor.*

9.08.020 Obstructing free passage--Loitering.

A. It is unlawful for any person to willfully obstruct the free passage of the public on the streets, sidewalks and high ways, or to loiter unnecessarily on the streets, sidewalks and highways of this county.

~~B. Every~~ *Any person violating the provisions of this section is guilty of a misdemeanor. shall,*
~~on conviction thereof, be punished by a fine not to exceed one thousand dollars or by imprisonment in the county jail for a period not exceeding six months, or both such fine and imprisonment.~~

9.12.040 Violation--Criminal Penalty.

~~Each violation of the provisions of Sections 9.12.010 through 9.12.030 of this chapter shall constitute a separate offense. Any person who violates the terms of Sections 9.12.010 through 9.12.030 of this chapter shall be deemed is guilty of a misdemeanor. and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars or imprisonment in the county jail for not more than six months or by both fine and imprisonment.~~

9.12.060 In vehicle or streets--Prohibited.

A. Any person under the age of twenty-one years who purchases any alcoholic beverage or any such person who consumes or has in his possession any alcoholic beverage in a vehicle or on the streets, highways, sidewalks, or elsewhere in Storey County, is guilty of a misdemeanor.

~~B. Every person violating the provisions of this section shall, on conviction thereof, be punished by a fine not to exceed one thousand dollars or by imprisonment in the county jail for a period not exceeding six months, or both such fine and imprisonment.~~

9.16.080 Violation--*Criminal Ppenalty*.

~~Each violation of the provisions of this chapter shall constitute a separate offense. Any person who violates any of the provisions of this chapter shall be is guilty of a misdemeanor. , and, upon conviction thereof, shall be punished by imprisonment in the county jail for a term of not more than six months, or by a fine of not more than five hundred dollars, or by both fine and imprisonment.~~

9.20.030 Violation--*Criminal Ppenalty--Exception*.

A. It is unlawful for any person knowingly or intentionally to manufacture, sell, advertise for sale, deliver or possess an imitation controlled substance. Any person who violates this chapter is guilty of a misdemeanor. ~~and upon conviction thereof, shall be punished by a fine not exceeding one thousand dollars or by imprisonment in the county jail for a term not exceeding six months, or by both such fine and imprisonment. Each day that a person is in violation of this chapter shall constitute a separate offense.~~

B. The prohibition set out in subsection A of this section shall ~~does~~ not apply to persons registered under the Uniform Controlled Substances Act to manufacture, distribute, dispense, prescribe or possess an imitation controlled substance for use as a placebo by a practitioner in the course of professional practice or research.

9.24.010 ~~Prohibitions~~ Violation--*Criminal Ppenalty*.

A. It is unlawful for any person to have an open glass container of alcoholic beverage on the sidewalks along SR Hwy 341, within the Township of Virginia City.

B. ~~Special event(s):~~ In addition, ~~i~~ It is also unlawful for any person to have an open glass container of alcoholic beverage within a properly permitted special event venue on public property.

C. Every person violating the provisions of this section *is guilty of a misdemeanor* shall, ~~on conviction thereof, be punished by a fine not to exceed one thousand dollars or by imprisonment in the county jail for a period not exceeding six months, or both such fine and imprisonment~~

10.04.020 State provisions--*Misdemeanors*.

All traffic acts and violations defined as misdemeanors under NRS Chapters 482, 483, 484A, 484B, 484C, 484D, 484E, 485, 486 and 706 are declared to be violations of this chapter unless otherwise prohibited by state law.

10.04.140 Violation--*Criminal Ppenalty*.

Every person violating the provisions of this chapter *is guilty of a misdemeanor* shall, ~~on conviction thereof, be punished by a fine not to exceed one thousand dollars or by imprisonment in the county jail for a period not exceeding six months, or both such fine and imprisonment.~~

10.08.020 Compliance required--Penalty for violation.

A. It is unlawful for the driver of any vehicle to fail to stop in obedience to any sign erected in accordance with the provisions of this chapter, except where directed to proceed by a police officer or traffic-control signal.

B. The stop required shall be a full and complete stop and shall be made before entering the intersection on the near side of the intersection.

C. Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor. ~~and upon conviction thereof shall be punished by a fine of not more than five hundred dollars or by imprisonment in the county jail for a period not in excess of six months, or by both such fine and imprisonment.~~

10.12.030 Violation--*Criminal Ppenalty.*

Any person who violates any of the provisions of this chapter is guilty of a misdemeanor. ~~and upon conviction thereof shall be punished by a fine of not more than five hundred dollars or by imprisonment in the county jail for a period not in excess of six months.~~

10.16.040 Violation.

A. ~~No~~ A peace officer ~~shall~~ may not arrest a person for an alleged violation of this chapter if probable cause exists to arrest that person for a violation of NRS 484.379.

B. The standard of probable cause for arrest under this chapter is equal to the standard of probable cause for arrest for a violation of NRS 484.379.

C. A violation of this chapter is a lesser and included offense of a violation of NRS 484.379. A prosecuting attorney may charge a violation of this chapter only if upon review of all of the relevant facts and law, he knows or it is obvious that a charge of driving under the influence under NRS 484.379 is not supported by probable cause or that such a charge cannot be proved at time of trial.

10.16.060 Violation--*Criminal Ppenalty.*

Every person violating the provisions of this article shall, on conviction thereof, be punished by a fine not to exceed one thousand dollars or by imprisonment in the county jail for a period not exceeding six months or both such fine and imprisonment.

10.18.050 Violation--*Criminal Ppenalty.*

Violation of this chapter is a misdemeanor.

10.20.090 Violation--*Criminal Ppenalty.*

Any person, firm or corporation convicted of violating the provisions of this chapter *is guilty of a misdemeanor.* ~~shall be fined not to exceed five hundred dollars for each violation thereof, or by imprisonment in the county jail not to exceed six months, or both.~~

10.24.030 Violation--*Criminal Ppenalty.*

Persons violating the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punished by a fine of not exceeding three hundred dollars, or by imprisonment in the county jail for a term not to exceed six months, or by both fine and imprisonment.

10.26.010 Motor vehicle restrictions.

A. In order to protect and conserve the Lagomarsino Canyon Petroglyphs located in Storey County, it is unlawful for any person(s) to operate a motor vehicle, cycle, ATV, car, or truck within the said gated property as described: The South one half of the Northeast one-quarter of Section 12, Township 18 North, Range 21 East, M.D.B.M.

B. Any other portion of the county which ~~that~~ may from time to time be defined by resolution of the board of county commissioners.

C. Prohibited acts; penalties; exceptions; civil remedy.

1. Violation of this section is punishable as a misdemeanor.

2. ~~For a second or subsequent offense, is guilty of a gross misdemeanor and shall be punished by imprisonment in the county jail for not more than 1 year or by a fine of not more than \$3,000, or by both fine and imprisonment.~~

3. In addition to any other penalty, a person who violates a provision of this section is liable for civil damages to the county agency or political subdivision which has jurisdiction over the county land in an amount equal to the cost or, in the discretion of the court, an amount equal to twice the cost of the restoration, stabilization and interpretation of the site plus any court costs and fees.

12.04.020 Violation--Criminal Ppenalty.

~~Violations of Section 12.04.010 Any person violating this chapter is guilty of a misdemeanor and may be subject an alleged violator to civil penalties. and may further be prosecuted as a misdemeanor.~~

12.06.010 {Cemetery--Hours--Accessibility--Violations.}

A. Hours of accessibility to the county cemeteries located within Storey County ~~are shall be~~ seasonal, September through April 6:00 a.m. to 6:30 p.m., May through August 5:30 a.m., to 8:30 p.m., daily. Accessibility ~~shall~~ may be allowed at other times only with the presence of a member of the Comstock Cemetery Foundation or a Storey County ~~E~~employee. An escort is not required for family members and they are authorized to use their vehicles within the cemetery. The cemetery keys will be available for authorized persons at a location designated by Storey County. Proper identification procedures will be required to obtain the keys. The Comstock Cemetery Foundation will insure current keys are provided.

B. Dogs may be walked in the cemetery during hours of operation so long as animal feces is properly picked up and carried out by the dog walkers.

C. No overnight parking is permitted in cemetery parking lots or access roads.

D. No smoking is allowed within the cemetery boundaries except in designated areas with ash dispensers, ~~where they are provided.~~

E. No unauthorized vehicles are permitted within the cemetery grounds.

F. ~~Any person violating the provisions of this chapter is guilty of a misdemeanor Violation of this chapter shall be considered a misdemeanor and enforceable as such by citation or arrest, as deemed appropriate by an officer of the Storey County Sheriff's Office unless a different penalty is provided by Nevada Revised Statues. Reference is made to NRS Chapter 452 governing the operation of cemeteries.~~

13.08.060 Violation--Criminal Ppenalty.

~~Any person violating the provisions of this chapter is guilty of a misdemeanor. Violation of any provision of this division constitutes a misdemeanor punishable by fine not to exceed five hundred dollars, imprisonment not to exceed six months, or both. Each and every connection or occupaney in violation of any provision of this division shall be deemed a separate violation and each and every day or part of a day a violation continues shall be deemed a separate offense under this division and punishable as such.~~

13.12.070 Enforcement--Criminal Ppenalty.

~~Storey County's Director of Public Works or his/her~~ *The director of public works or designee* ~~has~~ shall have the authority to enforce this chapter. It is unlawful for any person, firm, or corporation at any time to make or maintain or cause to be made or maintained, temporarily or permanently, for any period of time whatsoever, any cross-connection between plumbing pipes or water fixtures being served with water by Storey County water system and any other source of water supply or to maintain any sanitary fixture or other appurtenances or fixtures which, by reason of their construction, may cause or allow backflow of water or other substances into the water supply system of Storey County and/or the service of water pipes or fixtures of any customer of Storey County.

~~Any person violating ons of the provisions of this chapter is guilty of shall constitute a misdemeanor. punishable by a fine of not more than one thousand dollars and/or six months in jail, or by both such fine and incarceration. Each day that a violation exists shall constitute a separate and distinct offense.~~

13.84.010 Prohibitions generally.

It is unlawful for any person to place, deposit, or permit to be deposited in an unsanitary manner upon public or private property within the accepted limits of Virginia City and Gold Hill, unincorporated areas in the county, any human or animal excrement, garbage, or other objectionable waste.

13.84.030 Discharge of untreated waste prohibited.

~~It shall be~~ *is* unlawful to discharge to any stream or watercourse any sewage, industrial wastes, or other polluted waters except where suitable treatment has been provided in accordance with the provisions of this *title* division.

13.120.030 Unlawful acts--Right of entry--Penalties.

~~A. No person shall refuse entry or access to any representative of the solid waste board upon presentation of appropriate credentials, who requests to inspect any property, premises or place at or on which any waste materials are being generated, stored, handled, processed or disposed, for the purpose of ascertaining the state of compliance with these regulations. No person shall obstruct, hamper or interfere with any such inspection.~~

~~—B. Any person who violates any of the provisions of this chapter or regulations and resolutions adapted pursuant hereto~~ *this chapter* is guilty of a misdemeanor. Each day or part of a day during which such violation is continued and/or repeated constitutes a separate offense.

€ B. The dumping of solid waste in any area of Storey County, including a solid waste disposal site, without obtaining a permit and paying fees is a misdemeanor.

15.04.090 Violation--Criminal penalty.

Any person, firm, or corporation violating any provision of this chapter shall be is guilty of a misdemeanor, ~~and upon conviction, shall be punished by a fine not to exceed one thousand dollars, or by imprisonment for a term not to exceed six months, or by both fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.~~

15.08.080 Violation--Criminal Ppenalty.

Any person, firm, or corporation violating any provision of this chapter, enforced by the building official or his/her staff, shall be is guilty of a misdemeanor. ~~and upon conviction, shall be punished by a fine not to exceed one thousand dollars, or by imprisonment for a term not to exceed six months, or by both fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.~~

15.12.099 Tampering and penalty.

1-A. Tampering: No one except an employee or representative of Storey County or the State of Nevada shall may at any time or in any manner operate or alter a water meter or otherwise interfere with a meter or its connections.

2 B. Penalty: Any person violating Violation of any provision of this division chapter is guilty of constitutes a misdemeanor. ~~punishable by fine not to exceed five hundred dollars, imprisonment not to exceed six months, or both. Each and every connection or occupancy in violation of any provision of this division shall be deemed a separate offense under this division and punishable as such.~~

15.12.150 Violation--Criminal Ppenalty.

Any person, firm, or corporation violating any provision of this chapter shall be is guilty of a misdemeanor. ~~and upon conviction, shall be punished by a fine not to exceed one thousand dollars, or by imprisonment for a term not to exceed six months, or by both fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.~~

16.12.050 Violation--Criminal Ppenalty.

It is unlawful for any person to sell, contract to sell or transfer any subdivision or any part thereof or land divided pursuant to a parcel map or map of division into large parcels until the required map thereof, in full compliance with the appropriate statutory provisions, has been recorded in the office of the county recorder. Any person violating the provisions of this chapter is guilty of violation of this section is punishable as a misdemeanor, and further may be subject to result in a civil penalty of not more than three hundred dollars for each lot or parcel sold or transferred.

17.03.040 Enforcement.

It is unlawful for any person, firm or corporation, whether as a principal, agent, employee, or otherwise, to construct, build, convert, alter, erect maintain a building, structure or any use of property, equipment, or operation in violation of a provision of this title. Any violation of this title is a public nuisance and a misdemeanor offense ~~punishable by a fine of not more than one thousand dollars, or by imprisonment in the county jail for a period of not more than six months, or by both fine or imprisonment.~~ The following procedures apply to enforce the provisions of this title:

A. If a violation of this title occurs, the director may deliver to the party in violation an order to comply with the provision of this title in a time period up to 30 days from the issuance of the order to comply at the director's discretion.

B. The director may also refer notice of the violation to the district attorney who may commence an action to abate, remove and enjoin the violation as a public nuisance or a criminal action in the manner provided by law. ~~A party is guilty of a separate offense for each and every day the violation of this title, or the failure to comply with any order, is committed or otherwise maintained.~~

C. The conviction and punishment of any person under this section will not relieve the person from the responsibilities of correcting the nuisance.

Proposed on _____, 2013.

by Commissioner _____

Passed on _____, 2013.

Vote: Ayes: Commissioners _____

Nays: Commissioners _____

Absent Commissioners _____

Bill Sjovangen, Chair
Storey County Board of County Commissioners

Attest:

Vanessa DuFresne
Clerk & Treasurer, Storey County

This ordinance will become effective on _____, 2013.

OPEN MEETING LAW OPINION NUMBER 2013-01

1 be no cheering, no jeering, no applause, no foot stomping. Anyone who's out of order, the
2 Sheriff will deal with you." He asked that speakers make their point quickly, then stated,
3 "When I say 'thank you,' you will stop talking and you will sit down immediately, or I will call
4 a recess and the sheriff will take whatever action is appropriate." These admonitions and
5 warnings did not appear on the agenda, but were delivered orally. The public was not
6 advised by Mr. Sjovangen that they would receive a warning before being ejected.

7 It was during the Commissioners' consideration of action Item #8 that Mr. Phillips
8 was ejected. Mr. Phillips rose to offer comment regarding approval of the minutes of the
9 Commissioners' December 4, 2012, public meeting. He began his comment by discussing
10 his interest and his effort to get the 2012 Board of County Commissioners to call a special
11 meeting to approve the December 4, 2012, minutes. Throughout his brief one minute and
12 twenty-six second comment, Mr. Sjovangen can be heard repeatedly interjecting "neither
13 here nor now" — an apparent comment on relevance.

14 Mr. Phillips continued to speak through Mr. Sjovangen's interjections. When
15 Mr. Phillips addressed a possible conflict of interest involving the Commission's approval of
16 a lease, Mr. Sjovangen quickly moved to cut off his comment. He told Mr. Phillips, "thank
17 you Mark, thank you." Mr. Phillips continued to speak; both he and Mr. Sjovangen began
18 talking over each other's words. Mr. Sjovangen spoke softly until he raised his tone on his
19 last "thank you." Even then, Mr. Phillips continued to speak to finish his sentence. Mr.
20 Sjovangen called a recess, at which time Mr. Phillips gathered his papers, and silently left
21 the podium. Mr. Sjovangen was silent as was the rest of the audience in the room; the
22 video recording abruptly ended.¹

23 During the recess, Mr. Sjovangen called upon a deputy sheriff, who was present in
24 the meeting, to eject Mr. Phillips from the Courthouse. Reasons for the ejection were not
25 offered by Mr. Sjovangen when the meeting resumed.

26 ///

27
28 ¹ The Commissioner's response noted that the clerk always turned the video off when a recess
was called so that private conversations were not recorded.

1 **B. APRIL 2, 2013, PUBLIC MEETING.**

2 During the April 2, 2013, Commission meeting, Mr. Phillips was again ejected by
3 Chairman Sjovangen. The meeting began quietly as Mr. Phillips spoke on two items, after
4 which he sat down.

5 Mr. Dale Beach spoke first during Item #6 – Public Comment.² Among the matters
6 he wished to comment on was a general obligation debt comparison among certain
7 Nevada counties, which had been prepared by the State Department of Taxation. In
8 midsentence, as Mr. Beach was about to disclose the result of Taxation's comparison,
9 Mr. Sjovangen stopped Mr. Beach's comment telling him that the Commission was "not
10 interested in any of that stuff." He told Mr. Beach that he was "comparing apples and
11 horseshoes, so have a seat." Mr. Beach said thank you and sat down.

12 Mr. Phillips then rose to speak, but after only one minute and twenty-two seconds,
13 Mr. Sjovangen told him "that's it, sit down." During this time, Mr. Phillips attempted to bring
14 to the Commission's attention an item on the agenda for the Nevada Mining Oversight and
15 Accountability Commission's (MOAC) March 28, 2013, meeting in Carson City. It was an
16 informational item regarding possible degradation of the Virginia City National Historic
17 Landmark as a result of mining operations.³

18 After being told, "that's it, sit down," Mr. Phillips looked to see if he had exhausted
19 his allotted public comment time; he had not. Nevertheless and without argument, he
20 immediately abandoned his effort to comment on the MOAC meeting; instead, he stated
21 that he would offer a copy of the agenda of the MOAC meeting for the minutes. In the
22 meantime, Mr. Sjovangen can be heard telling him to sit down. Mr. Phillips left the podium,
23

24 ² The Commission's Agenda Public comment restrictions:

25 Public Comment will be allowed at the beginning of each meeting (this
26 comment should be limited to matters not on the agenda). Public Comment
27 will also be allowed during each item on the agenda (this comment should be
28 limited to the item on the agenda). Time limits on Public Comment will be at
the discretion of the Chairman of the Board. Please limit your comments to
three minutes.

³ The Mining Oversight and Accountability Commission was created in 2011 by SB 493; its duties
are codified in NRS Chapter 362. It consists of seven members appointed by the Governor. It is a public
body.

1 walked to the clerk's desk, and handed her a copy of the MOAC agenda. During that brief
2 time away from the podium, Mr. Sjovangen can be heard telling Mr. Phillips that he was out
3 of order. When Mr. Phillips returned to the podium, Mr. Sjovangen said, "the Commission
4 has no control over MOAC – it's not a topic for discussion." Mr. Phillips replied that Mr.
5 Sjovangen had spoken during the MOAC meeting during public comment in favor of the
6 mining company, but that there had been no one there to represent the public.

7 Mr. Phillips stopped speaking and walked back to his seat in the audience. He was
8 silent, as were the rest of the people present, except for Mr. Sjovangen who said, "there's
9 the door, leave, leave, I want you out of the room. You are here to cause trouble; I want
10 you out right now." Mr. Phillips was not visible in the video, but the deputy sheriff can be
11 seen moving in the aisle apparently intending to remove him following Mr. Sjovangen's
12 statement that he wanted Mr. Phillips out of the room. Although Mr. Phillips could not be
13 seen on video, his voice can be heard speaking with the deputy sheriff saying, "This is
14 wrong." Mr. Sjovangen interjected saying, "Mark, you've pushed the limits here. Out!" Not
15 until this time did Mr. Sjovangen recess the meeting. While Mr. Phillips was being ejected
16 Mr. Sjovangen said, "You just pushed the limits too far, Mr. Phillips."

17 An unidentified member of the audience can be heard on the video asking, "what did
18 he do, what did he do? Explain it to us." Mr. Sjovangen said he would explain after
19 recess. Hearing nothing further from the back of the room, we believe Mr. Phillips had
20 been ejected. Four minutes elapsed from the time Mr. Phillips began his public comment
21 until his ejection; the four minutes included the time of recess.

22 Once back in session, Mr. Sjovangen called for further comment. The first person to
23 speak heatedly castigated Mr. Sjovangen for his "rule of force." She told Mr. Sjovangen
24 that people have a right to be heard regardless of whether that person may be viewed as a
25 pest. After about 40 seconds of continued, heated rebuke, Mr. Sjovangen "zeroed" her
26 time and told the speaker to sit down; she replied she would not sit down. He recessed the
27 meeting then she sat down, after having spoken only one minute and 13 seconds. She
28 was not ejected from the meeting.

1 Once back in session Mr. Sjovangen explained that Mr. Phillips was ejected
2 because his topic, the MOAC, had nothing to do with Storey County. He said Storey
3 County had no authority over MOAC and that Mr. Phillip's comment was a waste of time
4 because the subject of the Board's agenda was the Storey County budget. He added that
5 "Mark was not allowed to speak because he will not take no for an answer."

6 III.

7 ISSUE

8 Whether the ejections of Mr. Phillips from the January 15, 2013, and the April 2,
9 2013, public meetings were justified pursuant to NRS 241.030(5)(b)⁴.

10 IV.

11 DISCUSSION

12 A. REASONABLE PUBLIC COMMENT RESTRICTIONS ARE ALLOWED, BUT THE
13 GENERAL PUBLIC COMMENT AGENDA ITEM ALLOWS COMMENT ON ANY
14 MATTER NOT ON THE AGENDA.

15 Reasonable content-neutral time, place, and manner restrictions apply to the
16 public's right to speak in a forum other than the traditional public forum - a park or the
17 sidewalk.⁵ These forums may be called "designated," "limited," or "non-public," but
18 reasonable restrictions apply to all of them.⁶

19 Where the State has opened a forum for direct citizen involvement, such as an open
20 public meeting required by State statute, citizens have a protected right to communicate
21 with the public body.⁷ The Constitution also guarantees that one side of a debatable public
22 question may not have a monopoly in expressing its views to the government.⁸ Where the

23 ⁴ The Open Meeting Law does not "prevent the removal of any person who willfully disrupts a meeting
24 to the extent that its orderly conduct is made impractical."

25 ⁵ *Perry Educ. Ass'n v. Perry Local Educ. Ass'n*, 460 U.S. 37, 46, 103 S. Ct. 948, 955. (1983)

26 ⁶ *Sammartano v. First Jud. Dist. Ct.*, 303 F.3d 959, 966-967 (9th Cir. 2002) (The "reasonableness"
27 requirement for restrictions on speech in a nonpublic forum "requires more of a showing than does the
28 traditional rational basis test; i.e., it is not the same as establish[ing] that the regulation is rationally related to a
legitimate governmental objective, as might be the case for the typical exercise of the government's police
power." (citations omitted) The *Sammartano* Court summarized stating there must be evidence that the
restriction reasonably fulfills a legitimate need.)

⁷ *City of Madison Joint Sch. Dist. No. 8 v. Wisconsin Emp't Relations Comm'n*, 429 U.S. 167, 175, 97
S. Ct. 421, 426 (1976), (forum was an open meeting of school board).

⁸ *Id.* at 429 U.S. at 175-176, 97 S. Ct. at 426, see also *Kindt v. Santa Monica Rent Control Board*, 67
F.3d 266, 270 (9th Cir. 1995) citing *City of Madison*, 429 U.S. at 175-176, 97 S. Ct. at 426.

1 government has set aside time to hear the views of the public, speakers may not be
2 excluded based on the content of their speech or their viewpoint. When a public body sits
3 in public meetings to conduct public business and hear views of citizens, it may not
4 discriminate between speakers on the basis of employment or the content of their speech.⁹

5 A public body has a significant and legitimate interest in conducting efficient, orderly
6 meetings.¹⁰ The First Amendment is not violated because of subject matter restriction on
7 public speakers during consideration of individual agenda items.¹¹ Restrictions must be
8 "reasonable and viewpoint neutral, but that is all they need to be."¹² Restrictions must be
9 narrowly tailored to serve a significant government interest.¹³

10 Reasonable rules ensure orderly conduct of a public meeting and orderly behavior
11 on the part of persons attending the meeting. Attorney General's Open Meeting Law
12 Manual, § 8.05 (11th Ed. 2012). Public bodies may adopt reasonable restrictions,
13 including a time limit on individual comment; but before adjournment, the public body must
14 allow comment on any matter not specifically included on the agenda as an action item.¹⁴

15 During the April 2, 2013, Commission meeting, Mr. Phillips was not allowed to finish
16 his general public comment regarding the informational item about the Virginia City
17 National Historic Monument, which appeared on the MOAC March 28, 2013, agenda
18 because he was ejected from the meeting.

19 Mr. Sjovangen's explanation, to the audience at the public meeting, for his decision
20 to stop Mr. Phillips comment following Mr. Phillip's ejection was that Mr. Phillips was off-
21 topic. He said, "Storey County has no authority over MOAC," and that Mr. Phillip's
22 comment was a "waste of time because the subject of the Board's April 2nd agenda was
23 the Storey County budget." He added, "Mark was not allowed to speak because he will not

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25
26 ⁹ *City of Madison*, 429 U.S. at 176, 97 S. Ct. at 426.

27 ¹⁰ *Kindt*, 67 F.3d at 271.

¹¹ *Id.* at 270.

¹² *Id.* at 271.

28 ¹³ *Perry*, 460 U.S. at 45, 103 S. Ct. at 955.

¹⁴ NRS 241.020(2)(c)(3)(II).

1 take no for an answer." His explanation for the ejection was that Mr. Phillips was causing
2 trouble and that he would not take "no" for an answer.

3 Mr. Sjovangen's refusal to allow Mr. Phillips to continue his general public comment
4 regarding the Virginia City mining issue on the MOAC agenda was unreasonable because
5 no willful disturbance occurred, and even in the absence of a willful disturbance
6 Mr. Sjovangen did not articulate a legitimate reason for stopping Mr. Phillips comment,
7 after letting him proceed for almost a minute and a half. Additionally, Mr. Phillip's comment
8 (before he was silenced), indicated he wanted to speak about a debatable public issue. If
9 Mr. Sjovangen had spoken to MOAC in favor of mining in Virginia City, then prohibiting
10 Mr. Phillips view, if indeed he intended to raise one contrary to the pro-mining comment
11 Mr. Sjovangen made to MOAC, is a debatable public issue. The Constitution guarantees
12 that one side of a debatable public question may not have a monopoly in expressing its
13 views to the government.¹⁵

14 Stopping Mr. Phillips speech was an OML violation in the context of general public
15 comment regardless the assertion Mr. Phillips was off-topic. There is a fundamental
16 difference between general public comment and comment offered before the public body
17 votes on an agenda item. The application of a reasonable speech restriction during
18 discussion of an agenda item, requiring the speaker to comment only on the subject at
19 hand, is permissible because it furthers a legitimate State interest in the orderly and
20 efficient conduct of the public body's business. Mr. Sjovangen's reason for stopping
21 Mr. Phillips general public comment did not identify a significant governmental interest for
22 the restriction; indeed, Mr. Sjovangen's proffered reasons missed the mark entirely.¹⁶
23 General public comment (item #6 on the Commission's April 2, 2013, agenda) is the time
24 for the public to address the Commission about matters of general public interest, and
25 matters not on the agenda.¹⁷

26 ¹⁵ *City of Madison*, 429 U.S. at 175-176, 97 S. Ct. at 426.

27 ¹⁶ *Perry*, 460 U.S. at 46, 103 S. Ct. at 955.

28 ¹⁷ NRS 241.030(5)(b), see also *White v. City of Norwalk*, 900 F.2d 1421, 1425 n.4 (1990) (City of Norwalk ordinance offered citizens two kinds of opportunity to speak. One was on agenda items and the other was a defined separate portion of public meeting known as "Oral Communications," during which the public

1 We believe Mr. Sjovangen wrongly conflated a reasonable restriction requiring
2 agenda item comment to be confined to an item's subject at hand, with rules for general
3 public comment, for which confinement of comment to the subject at hand does not make
4 sense, as there is no specified subject.

5 One leading Ninth Circuit Court of Appeals case decision succinctly put the
6 importance of public comment this way, "[c]itizens have an enormous first amendment
7 interest in directing speech about public issues to those who govern their city. It is
8 doubtless partly for this reason that such meetings, once opened, have been regarded as
9 public forums, albeit limited ones."¹⁸

10 Reasonable restrictions must be clearly expressed on each agenda and any
11 restriction must be viewpoint neutral.¹⁹ Reasonable rules may restrict public speakers to
12 the agenda item being considered as long as the public speaker has at least one
13 opportunity during the meeting to speak about any matter not included on the agenda.²⁰

14 **B. ACTUAL DISRUPTION REQUIRED PRIOR TO EJECTION.**

15 A public body has wide discretion to allow comments that are off-topic, even though
16 a public body has the authority to require speakers to comment only on the subject at hand
17 regarding specific agenda items. Mr. Sjovangen chose to stop Mr. Phillips; however, the
18 OML does not allow a public body to eject a speaker for simply being off-topic, absent an
19 actual willful disruption caused by the speaker during the meeting, which makes
20 continuation of the meeting impractical. NRS 241.030(5)(b).

21 ///

22 could speak to the Council about any topic of their choice subject only to the Council's determination of
23 relevance).

18 White, 900 F.2d at 1425.

19 NRS 241.020(2)(c)(3)(7); see also *Lambs Chapel v. Center Moriches Union Free Sch. Dist.*,
24 508 U.S. 384,392-393, 113 S. Ct. 2141, 2147 (1993) (any restriction on public comment during a public
25 meeting and any restriction on access to a public meeting must be reasonable in light of the purpose served by
the forum; restriction must be viewpoint neutral).

20 NRS 241.020(2)(c)(3); see also *Kindt* at 270-271, citing *City of Madison, Joint Sch. Dist. No. 8 v.*
26 *Wisconsin Emp't Relations Comm'n*, 429 U.S. 167, 175 n.8, 97 S. Ct. 421, 426 n.8 (1976) (Plainly, public
27 bodies may confine their meetings on agenda topics to specified subject matter); see *Open Meeting Law*
28 *Manual* § 8.05(11th ed. 2012) (public comment may also be prohibited if the comment is willfully disruptive
because it is irrelevant, repetitious, slanderous, offensive, inflammatory, irrational, or amounting to personal
attacks or interfering with the rights of other speakers.)

1 The operation of these principles is illustrated by the following decisions. In 2007,
2 Gary Schmidt was removed from a public meeting of the Washoe County Board of
3 Commissioners. Mr. Schmidt sued the County and Commissioner Larkin. The central
4 issue was whether the ejection had been justified. The district court held a two-day bench
5 trial culminating in a finding that Mr. Schmidt had willfully disrupted the meeting to the
6 extent its orderly conduct had been made impractical.²¹

7 Key factual findings made by the district court and upheld by the Nevada Supreme
8 Court were that Mr. Schmidt chose to confront the Board about a non-existent applause
9 rule and he did so in a rude manner. Mr. Schmidt talked over the Chair, raised his voice,
10 and continued to talk about the applause rule even though the Chair told him twice that he
11 was off topic. A recess was called and Mr. Schmidt was removed. The Court said that
12 taken together these facts supported the district court's determination that Mr. Schmidt
13 willfully disrupted the Washoe County Board meeting making its orderly conduct
14 impractical.

15 Other Nevada cases, which decided whether ejection was justified in the context of
16 a Nevada public meeting, were removed to federal court, where they eventually went to
17 trial.²² These cases stand for the principle that ejection of a speaker is appropriate only
18 where a speaker causes an actual disruption making continuation impractical. Another
19 issue arising in these cases is whether ejection occurred because of disagreement with the
20 speaker's views.

21 The Ninth Circuit Court of Appeals case law embraces the principle that even in
22 limited public forums such as a city council meeting, where First Amendment principles
23

24 ²¹ *Schmidt v. Larkin*, No. 57342, 2012 WL 444033, at *3 (Nev. S. Ct. Feb. 10, 2012) (unpublished
order, not to be cited as legal authority, Nevada SCR 123).

25 ²² *Dehne v. City of Reno*, 222 Fed. Appx. 560, 562 (9th Cir. 2007) ("removing an individual from a
26 public meeting does not violate the Constitution *provided that* the individual is sufficiently disruptive and is not
27 removed because of his or her views") (emphasis added); *Felton v. Griffin*, 185 Fed. Appx. 700, 702 (9th Cir.
2006) (City of Reno's decorum ordinance was constitutional on its face if read only to apply where an individual
28 actually disturbs or impedes a meeting; plaintiff did in fact disturb the meeting with foul, repetitive, loud and
abrasive language); *Dehne v. Hill*, 220 Fed. Appx. 730, 731 (9th Cir. 2007) (Plaintiff removed from meeting
after warning to refrain from insulting another speaker; record at trial showed the plaintiff routinely heckled
other speakers with whom he did not agree, but that the Chair typically treated Plaintiff with respect).

1 tightly constrain the government's power; speakers may only be removed because of an
2 actual disruption.²³ In addition, the requirement that an actual disruption occur so that the
3 orderly conduct of a meeting is impeded is the equally important First Amendment principle
4 that a public body may not ban or suppress speech because public officials oppose the
5 speaker's view.²⁴ NRS 241.030(5)(b) allows ejection when a person "willfully" disrupts a
6 meeting, which makes orderly conduct of the meeting impractical.

7 Actual and willful disruption must occur to justify ejection; disrespect alone will not
8 suffice. In *Kindt v. Santa Monica Rent Control Board*, the court noted that Mr. Kindt was
9 never denied an opportunity to speak about any subject he wished, as long as he
10 requested to speak during the one period of general public comment, "Requests to Speak
11 to the Board," which was on the Board's agenda at the end of the agenda.²⁵ The court
12 observed that over the course of many appearances before the Board, Mr. Kindt
13 addressed personally derogatory comments to Board members, but he was not silenced.
14 He was only ejected from meetings based on actual disturbances because he yelled and
15 tried to speak when it was not time for general public comment.²⁶

16 The Ninth Circuit, sitting en banc, reversed a district court's dismissal of Robert
17 Norse's § 1983²⁷ First Amendment claim that he had been wrongfully ejected and arrested
18 because he engaged in protected speech at a public meeting.

19 ///

21 ²³ *Norse v. City of Santa Cruz*, 629 F.3d 966, 976 (9th Cir. 2010) (Kozinski, J., concurring opinion),
22 citing *White v. City of Norwalk*, 900 F.2d 1421, 1426 (9th Cir. 1990) (reaffirming principle that ejection of a
23 speaker may only occur where speech disrupts, disturbs or otherwise impedes the orderly conduct of the public
meeting).

24 ²⁴ *Perry*, 460 U.S. at 46, 98 S. Ct. at 955. None of the complaints in this matter alleged Mr. Sjovangen
stopped Mr. Phillips because he disagreed with his viewpoint.

25 ²⁵ *Kindt v. Santa Monica Rent Control Bd.*, 67 F.3d 266, 271 (9th Cir. 1995).

26 ²⁶ *Id.* at 271.

27 ²⁷ 42 U.S.C.A. § 1983:

28 Every person who, under color of any statute, ordinance, regulation, custom, or
usage, of any State or Territory or the District of Columbia, subjects, or causes
to be subjected, any citizen of the United States or other person within the
jurisdiction thereof to the deprivation of any rights, privileges, or immunities
secured by the Constitution and laws, shall be liable to the party injured in an
action at law, suit in equity, or other proper proceeding for redress.

1 Robert Norse was ejected from a Santa Cruz, California, City Council meeting, and
2 arrested, after an incident in which he mimicked a silent Nazi salute to the Council.²⁸ The
3 Public comment period had concluded before he made the gesture before the Council.
4 The City argued the public's First Amendment rights ended after public comment
5 concluded. However, the en banc court refused to accept the City's assertion and also
6 refused the City's invitation to re-define "disturbance" under the City's decorum ordinance
7 to include Mr. Norse's act. The Court said an actual disturbance must occur, not a
8 constructive disturbance.²⁹

9 In a concurring opinion in *Norse*, Circuit Judge Kozinski observed that the record
10 showed Mr. Norse's silent Nazi salute was made from the back of the room. It had been
11 momentary and caused no disruption at all. It would have remained unnoticed except that
12 one councilman saw it and interrupted the meeting to take umbrage. The councilman
13 insisted that Mr. Norse be cast out to protect "the dignity of this body and the decorum of
14 this body." Judge Kozinski observed that unlike the Führer, government officials in
15 America occasionally must tolerate offensive and irritating speech.³⁰

16 V.

17 CONCLUSIONS.

18 A. JANUARY 15, 2013, COMMENT AND EJECTION.

19 The ejection of Mr. Phillips from the Storey County Board of Commissioners'
20 January 15, 2013, meeting presents a very close question, but it did not constitute a
21 violation of NRS 241.030(5)(b).

22 Mr. Phillips' comment was off-topic. The agenda item being considered was
23 approval of the Commission minutes for December 4, 2012, but his comment alleged a
24 conflict of interest by a former commissioner regarding a lease with the county.

25 Thus, Chairman Sjovangen did not violate the OML or Mr. Phillips' First Amendment
26 speech rights when he stopped Mr. Phillips' comment. Mr. Phillips clearly was not

27 ²⁸ *Norse v. City of Santa Cruz*, 629 F.3d 966 (9th Circ. 2010),

28 ²⁹ *Norse*, 629 F.3d at 976.

³⁰ *Norse*, 629 F.3d at 979 (Kozinski, J., concurring opinion).

1 addressing the subject at hand. The allegation that a former commissioner had a conflict
2 of interest at the time a lease agreement was entered into with the County and then
3 approved by the Commission in December 2012 was off-topic, inflammatory, and irrelevant
4 to the agenda item calling for approval of the Commission's December 4, 2012, minutes.

5 The video confirmed that an actual disruption, which impeded continuation of the
6 meeting, occurred and resulted in the ejection of Mr. Phillips. Mr. Sjovangen interrupted
7 Mr. Phillips twice during his comment about a possible conflict of interest before he called a
8 recess. Mr. Sjovangen had to raise his voice to interrupt Mr. Phillips, who continued to
9 speak. At one point, they were speaking over each other, which necessitated the call for a
10 recess.

11 **B. APRIL 2, 2013.**

12 **1. Public Comment.**

13 Mr. Phillips was prevented from finishing his public comment when he was ordered
14 to sit down at the April 2, 2013, meeting. The order violated Mr. Phillips protected right to
15 speak pursuant to NRS 241.020(2)(c)(3). No warning had been issued to Mr. Phillips
16 before he was told to sit down. Mr. Sjovangen explained to the audience following ejection
17 that the Commission had no control over the MOAC so it was not a topic for discussion.
18 We disagree.

19 General public comment is the time for speakers to make known to the Commission
20 any matter or subject of general or public interest, unlike restricted comment allowed during
21 discussion of agenda items. Reasonable content-neutral time, place, and manner
22 restrictions still apply to general public comment, but the Legislature has recognized a
23 difference between comment on agenda items and general public comments.
24 NRS 241.020(2)(c)(3) allows the public to offer comment about items of general interest
25 and concern as long as the matter does not appear on the meeting's agenda.

26 The Commission's agenda recognizes a difference between comment on agenda
27 items and general public comment, which makes Mr. Sjovangen's order to Mr. Phillips to
28 stop speaking a violation of the Commission's own notice. The Commission's agenda

1 public comment notice stated that public comment will be allowed at the beginning of each
2 meeting and that this comment should be limited to matters not on the agenda. Mr. Phillips
3 comment concerned a matter not on the agenda. He was in conformance with that part of
4 the notice.

5 The agenda notice also states that time limits on public comment will be at the
6 discretion of the Chairman of the Board, but it asks the public to please limit comments to
7 three minutes. Mr. Phillips spoke for about a minute and a half before being stopped.
8 Discretion of the Chair as used in the notice and within the meaning of the OML, means
9 that a public body may allow a person to finish a sentence or a thought, but it does not
10 mean the speaker can be stopped arbitrarily and without a constitutionally permissible
11 reason. The Chair does not have unbridled discretion to restrict public comment.
12 Restrictions must be reasonable; reasonableness means there must be evidence that the
13 restriction reasonably fulfills a legitimate need.³¹

14 Mr. Phillips had wanted to bring to the attention of the Commission an important
15 topical matter affecting Virginia City – a matter that very well could have been on the
16 agenda. Prohibiting Mr. Phillips' comment, because Mr. Sjovanjen thought the comment
17 may have been off-topic and outside the scope of the Commission's authority, was too
18 narrow a *construction* of NRS 241.020(2)(c)(3). The Chair's restriction, because the
19 comment was off-topic, was not reasonable and it offended Mr. Phillips' First Amendment
20 right to comment on public issues with his elected representatives.

21 NRS 241.020(2)(c)(3) sets one period of general public comment aside for the
22 public to comment on matters not appearing on the meeting agenda. Mr. Phillips'
23 attempted comment is just the kind of comment that fits within the statutory allowance of
24 comment on matters not appearing on the agenda as an action item. Public bodies in
25 Nevada have a significant interest in confining public comment on agenda items to the
26 subject at hand, to preserve efficiency and the orderly conduct of meeting; but the public's

27
28 ³¹ See *infra* note 6.

1 right to speak to its elected officials under general public comment must be viewed more
2 expansively to accommodate questions such as the one Mr. Phillips raised.

3 **2. April 2, 2013, Ejection.**

4 The ejection of Mr. Phillips from the April 2, 2013, meeting was wholly unjustified.
5 Our conclusion was made after review of both State and federal decisions which had
6 reviewed the ejection of speakers by public bodies because of willful and actual disruption
7 of a public meeting. Orderly conduct of a public meeting is a significant and legitimate
8 interest of the public body; however, our review of the video of Mr. Phillips' comment and
9 subsequent ejection did not reveal any conduct on Mr. Phillips' part, which willfully
10 disrupted or impeded the meeting.

11 Mr. Phillips stopped speaking as soon as Mr. Sjovangen said "that's it, sit down".
12 As Mr. Phillips stopped speaking, he looked at the time to determine whether he had
13 exhausted his three minutes. He immediately abandoned his attempt to comment on the
14 mining issue related to Virginia City's National Historic Landmark and did not argue with
15 Mr. Sjovangen. Although Mr. Sjovangen's comment to the audience was that Mr. Phillips
16 was there to cause trouble, we did not find any evidence to support the assertion.
17 Mr. Phillips' comment was a matter of debatable public interest concerning a vital Virginia
18 City issue — mining.

19 The meeting was not disrupted when Mr. Phillips left the podium to hand the clerk a
20 copy of the MOAC agenda, even though Mr. Sjovangen said that Mr. Phillips was out of
21 order and that the Commission had no authority over MOAC. No one else spoke until
22 Mr. Phillips returned from the Clerk's desk to his seat. Mr. Phillips stopped to say he had
23 wanted to offer an opposing view to Mr. Sjovangen's MOAC testimony, but that he was not
24 arguing with Mr. Sjovangen; he was not rude, nor did he talk over Mr. Sjovangen.
25 Mr. Phillips never raised his voice, did not contradict Mr. Sjovangen, and did not cause
26 trouble or impede the meeting. Mr. Phillips was not argumentative or even disrespectful at
27 any time during the four minute duration of his comment and ejection.

28 ///

1 Mr. Phillips had silently returned to his seat when Mr. Sjovangen stated he wanted
2 Mr. Phillips out of the room. The deputy sheriff can be seen walking in the aisle
3 presumably to remove Mr. Phillips from the room. Mr. Sjovangen then called for a recess
4 as the deputy sheriff removed Mr. Phillips from the room. After Mr. Phillips' ejection,
5 Mr. Sjovangen remarked to the audience that Mr. Phillips was a troublemaker and was
6 there only to create a spectacle. We disagree. There is no evidence to back up his claim
7 and certainly, Mr. Phillips did not deserve to be ejected; he was not willfully disruptive. Any
8 delay in the meeting was entirely the fault of Mr. Sjovangen.

9 **C. "GROUND RULES."**

10 Mr. Sjovangen's "ground rules" were wholly inadequate to provide actual notice of
11 reasonable time, place, and manner restrictions on public comment. Each agenda must
12 provide actual notice to the public of all reasonable restrictions including notice to stay
13 on topic during consideration of agenda items. Oral ground rules are legally insufficient to
14 provide actual notice of restrictions on public comment, whether during agenda items or
15 during general public comment. NRS 241.020(2)(c)(7) requires restrictions on public
16 comment to appear on each agenda. Failure to provide written notice of restrictions on
17 public comment is a violation of the statute. *Id.*

18 **VI.**

19 **WARNING.**

20 We have considered these matters carefully and conclude that resolution of this
21 matter requires a *strong warning* to the Commission that content-based restriction of
22 general public comment solely based on being off-topic is in violation of the OML. The
23 Commission's agenda must provide actual written notice to the public of any reasonable
24 restrictions on public comment, both during agenda items and during general public
25 comment. We also suggest that adoption of written rules of decorum could provide
26 guidance to the Commission and to the public of prohibited conduct constituting willful and
27 actual disruption of a public meeting.

28 ///

1 NRS 241.0395 requires that, when this office issues an opinion finding OML
2 violation(s), the public body must place the matter on its next agenda for discussion and
3 make this Office's opinion a part of supporting material to be made available to the Board
4 and the public at the same time. NRS 241.0395:

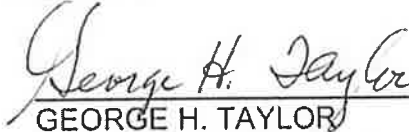
5 1. If the Attorney General makes findings of fact and conclusions
6 of law that a public body has taken action in violation of any
7 provision of this chapter, the public body must include an item on
8 the next agenda posted for a meeting of the public body which
9 acknowledges the findings of fact and conclusions of law. The
10 opinion of the Attorney General must be treated as supporting
11 material for the item on the agenda for the purposes of
12 NRS 241.020.

13 No further action by this office is necessary at this time.

14 DATED this 21st day of June, 2013.

15 CATHERINE CORTEZ MASTO
16 Attorney General

17 By:

18 
19 _____

20 GEORGE H. TAYLOR
21 Senior Deputy Attorney General
22 Nevada State Bar No. 3615
23 100 North Carson Street
24 Carson City, Nevada 89701-4717
25 Tele: (775) 684-1230
26
27
28

RESOLUTION 13-377

RESOLUTION 13-377

TAX RATE LEVY

WHEREAS, the Board of Commissioners in and for the County of Storey, State of Nevada did hold a public hearing on the 2013/2014 tentative budget for Storey County and,

WHEREAS, the resources, expenditures and required tax rates were reviewed and approved at that public hearing and,

WHEREAS, the approved resources, expenditures and tax rates were submitted in the 2013-2014 final budget for the County of Storey, State of Nevada,

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Board of Commissioners in and for the County of Storey, State of Nevada in accordance with NRS 361.460, intends to levy the following tax rates following certification by the Nevada Tax Commission.

GENERAL	1.6974
INDIGENT MEDICAL	.0100
INDIGENT ACCIDENT	.0150
YOUTH SERVICE	.0045
CAPITAL ACQUISITION	.0500
FIRE	.4346
WILDLAND FIRE	.1100
JAIL	<u>.0745</u>

<u>TOTAL COUNTY</u>	<u>2.3960</u>
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<u>REFERENCE ONLY</u>	
SCHOOL OPERATING	.7500
SCHOOL DEBT	.1447
STATE	.1700

TOTAL TAX RATE	3.4607
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RESOLUTION 12-351

Passed and Adopted this 2nd day of July 2013, by the Board of County Commissioners consisting of three members.

THOSE VOTING AYE:

THOSE VOTING NAY:

STOREY COUNTY BOARD OF
COMMISSIONERS

William Sjovangen, Chairman

ATTEST:

CLERK TO THE BOARD