



STOREY COUNTY COMMISSION MEETING

TUESDAY, JULY 2ND, 2013 2:00 P.M.

DISTRICT COURTROOM

26 SOUTH B STREET, VIRGINIA CITY, NEVADA

MINUTES

BILL SJOVANGEN
CHAIRMAN

BILL MADDUX
DISTRICT ATTORNEY

MARSHALL MCBRIDE
VICE-CHAIRMAN

LANCE GILMAN
COMMISSIONER

VANESSA DU FRESNE
CLERK-TREASURER

Roll Call: Chairman Bill Sjovangen, Vice-Chairman McBride, Commissioner Lance Gilman, District Attorney Bill Maddox, County Manager Pat Whitten, Administrative Office/Senior Planner Austin Osborne, Clerk-Treasurer Vanessa DuFresne, Sheriff Gerald Antinoro, Recorder Jen Chapman, Assessor Jana Assessor, Fire Chief Gary Hames, Community Services Director Deny Dotson, and Comptroller Hugh Gallagher.

1. **CALL TO ORDER AT 2:00 P.M.**

The meeting was called to order by the Chair at 2:05 p.m.

2. **PLEDGE OF ALLEGIANCE**

The Chair led those present in the pledge of allegiance.

Chairman Sjovangen called for a moment of silence for the Firemen who lost their lives in Arizona.

3. **DISCUSSION/POSSIBLE ACTION:** Approval of Agenda for July 2, 2013

Chairman Sjovangen asked that item 20 be heard following item 5. He asked that item 11 be removed from the agenda.

Mark Joseph Phillips, Storey County resident, stated in regards to item 14; he would like the record to reflect his name spelt properly and NRS requires the item to read as "acknowledgment of findings of fact and opinions of law" he does not see this on the agenda. He added that it he would like item 6 and 7 removed from the consent agenda. District Attorney Maddox responded that item 14 is agenzized correctly because of the supporting material, it is being acknowledged by placement on the agenda and the material. He believes we have complied with the NRS.

Gunther Prosser, River District, requested on behalf of Janet Houts that item 6 and 7 is heard on the regular agenda. Ms. Houts tried to come up Six Mile Canyon and it is closed, she is on her way around. Chairman Sjovangen clarified Ms. Houts request with Mr. Prosser.

Motion: Approve the agenda for July 2, 2013 with the requested corrections, **Action:** Approve
Moved by Vice-Chairman McBride **Seconded by** Commissioner Gilman

Vote: Motion carried by unanimous vote (**summary:** Yes=3)

4. **DISCUSSION/POSSIBLE ACTION:** Approval of Minutes for April 16, 2013

No comments.

Motion: Approve the agenda for April 16, 2013 **Action:** Approve **Moved by** Vice-Chairman
McBride **Seconded by** Commissioner Gilman

Vote: Motion carried by unanimous vote (**summary:** Yes=3)

5. **DISCUSSION/POSSIBLE ACTION:** Approval of Minutes for June 4, 2013

No comments.

Motion: Approve the agenda for June 4, 2013, **Action:** Approve **Moved by** Vice-Chairman
McBride **Seconded by** Commissioner Gilman

Vote: Motion carried by unanimous vote (**summary:** Yes=3)

DISCUSSION/POSSIBLE ACTION: Application to amend Special Use Permit No. 2000-222-A-2 creating Special Use Permit No. 2000-222-A-3. By Comstock Mining, Inc. (American Flat). The requested amendments to Special Use Permit No. 2000-222-A-2 are to expand land area and modify uses allowed at existing ore processing facility at 1200 American Flat Road (APN 004-331-36), American Flat, Nevada. The requested amendments for expansion and modification of uses are limited to said area and to ore processing. Staff and the applicant have also agreed to update all text of the current special use permit to be consistent with existing federal, state, and local regulations that apply and to reflect appropriate use of language and terminology. Staff and the applicant have agreed to leave the substance of sections concerning exploration and mining in their current state. **(Originally azenized as item 20)**

Chairman Sjovangen stated there are 2 things that the Clerk needs from anyone wishing to speak, your name and where you live.

Austin Osborne, Senior Planner for Storey County disclosed that his father is employed by Comstock Mining, Inc. (CMI). There is in no way a conflict of interest, he doesn't have any financial gain from his father working there and he does not benefit in any way from CMI's operations. Mr. Osborne provided background information on the application, his staff report

and supporting information has been provided in the packet. This application allows for the expansion of the leach field, approximately 35 acres and cleanup of existing language within the permit. He has been on continuous communication with various state agencies to ensure that CMI is compliant as well as this expansion area.

Dave Thomas, on behalf of CMI, introduced members of the CMI team that are present for any questions that may arise. Mr. Thomas has been in the resources extraction industry for 30 years. He has worked internationally, including Russia, Mexico and Dominican Republic, building gold mines and oil and gas fields. The most recent project was in Hope Bay, Canada for Newmont Mining. He reviewed a power point presentation; a copy of the presentation is available in the Clerk's office.

Dona Fong asked what provisions have been taken to ensure the safety of the wildlife in the area. Mr. Thomas stated that the entire process area is entirely fenced with a flap that covers each gap at the gate. NDOW inspected the site on Monday to ensure that all the wildlife is being watched out for. A best practice they are utilizing is equipping the dozer that works on top of the pile with rippers and covering the ponds with a bird disc. We try to do everything we can and more, a watering station has been added providing fresh water for the horses.

Valerie Lebel-Flatley, Highlands resident, asked what the plans are for the Gold Hill Hotel, is it safe as it is. Mr. Thomas explained that a foundation was recently established to preserve historic structures on the Comstock; there are no plans to do anything but own, operate and celebrate the hotel. It is part of the business and there are no plans to do anything but operate it as they do. Ms. Lebel-Flatley asked what the solution that is being applied to the heap is doing to the well water. Mr. Thomas stated the system is designed for 100% containment, there is never any solution outside the system except for water that evaporates, it is a closed loop.

Pat Flanagan, Highlands resident, asked where the cost of complying with all of the regulations is categorized, corporate, base or discovery and development. Mr. Thomas replied that all of the costs associated with any current regulations are in the base costs.

Mr. Whitten thanked several members of the CMI team for their willingness to assist with the recent Pedlar Fire. The Gold Hill Hotel provided cold water and food for the firemen on the incident.

Commissioner Gilman asked if there is an amount to be mined, not processed, under the 2004 permit. Mr. Thomas explained the only amount listed is under the NDEP permit, it is limited at up to 1 million tons per a year processed. Commissioner Gilman clarified the new processing extension will allow up to 5 million tons per year of processing. Mr. Osborne explained that the current permit does not have that limitation, the limitation falls under the NDEP permit. The NDEP is the agency that allows it to go up to 5 million tons. Mr. Thomas said it would allow you to go up to 5 million tons, they currently do not have anything in their plans to process that quantity, they do want to exceed the 1 million ton limit. Mr. Osborne stated that any amounts are

controlled by the NDEP. There are no extension plans for the plant in the application; it currently can't process 5 million tons.

Vice-Chairman McBride asked if the application is approved how long would it be until it has been maximized and may have to come back for further expansion. Mr. Thomas explained currently CMI is ramping up to pour about 800 ounces per a week, at that rate of production the new heap expansion would last about 2 ½ years. Commissioner Gilman asked about the map regarding flood ways and explained a recent flooding event in the TRI area, he asked about the drainage ways. Mr. Thomas asked Rachel Elderman to explain the map. She proved an overview of the natural drain ways and the designs in place to survive a 25 year and 100 year event. It is all designed under the NDEP permit requirements.

Shaun Griffin stated that a year ago he met with Ms. Elderman's predecessor and asked that monthly updates on all environmental changes be provided. It was promised that it would happen and it has not, he asked that it be done for the good of the community. This would allow everyone to be aware of what is going on. Mr. Thomas will follow up on his request.

Mr. Osborne provided the findings, the following are found to be factual regarding the proposed SUP under the recommended conditions of approval show in Section IX of this report.

8.1.1 SCC Section 17.32.020(N) (Uses subject to a special use permit) required a special use permit for milling and processing related to mining in the F Forestry Zone, in which the operation under SUP No. 2000-222-A-3 is located.

8.1.2 Amendments to SUP No. 2000-222-A-2 by approval of SUP No. 2000-222-A-3 apply only to conditions in the existing special use permit that pertain to processing, including but not limited to, crushing, processing and beneficiation, agglomeration, Merrill Crowe process, and ancillary uses thereto, located at Assessor's Parcel Number APN 004-331-36 (Attached recording map in Exhibit B incorporated as "Attachment B" in the final SUP approval). Amendments to the existing SUP include administrative text amendments including, but not limited to, grammar, spelling, appropriate terminology related to uses and regulations, sentence structure and improved written alignment with federal, state, and local regulations. Those administrative amendments do not cause substantial changes to restrictions, entitlements, are or uses related to exploration and mining.

8.1.3 SUP No. 2000-222-A-3 does not prohibit, nullify, expand, broaden, or otherwise provide additional entitlements or restrictions (other than improved alignment with applicable federal, state, and local codes) to existing permitted exploration and mining and its ancillary uses permitted under SUP No. 2000-222-A-2.

8.1.4 The conditions of this amended SUP are not in conflict with the purpose, intent, and other specific requirements of the F Forestry Zone in which the project expansion is located.

8.1.5 The proposed project and the final conditions it creates will not conflict with or cause substantial adverse impacts to surrounding existing land uses.

8.1.6 The conditions under this amended SUP are at least as stringent as and not in conflict with the applicable federal, state, and county regulations. The minimum requirements under SCC Chapter 17.03 (Administrative Provisions) for special use permits are applied to the conditions of the amended SUP.

8.1.7 The conditions of approval under this amended SUP impose sufficient regulations on the proposed project to reasonably mitigate associated impacts on the surrounding environment and protect land uses.

8.1.8 The amended conditions and the remaining unchanged conditions of the amended SUP comply with the land use requirements of the underlying regulatory zone and are as stringent and not in conflict with federal, state and county regulations pertaining to the uses allowed by the amended SUP.

8.1.9 The amended conditions and the remaining unchanged conditions of the amended SUP are in accordance with the recommendation by the planning commission.

Commissioner Gilman read a prepared statement into the record: I would like to make a couple comments before I vote on this agenda item. First, I want to complement the county staff on the Staff Report for this item. This report is a great model for future land use and permit agenda items - it is clear succinct, and the marked up aerial photos are very well done. No matter if you're for or against this item, the report is helpful in defining the issue so that everyone can understand. Great job. Second, I would like to thank the citizens who have more or less been performing "volunteer oversight" of mining in Storey County. To all of you, you have been very helpful in alerting us to key safety and environmental issues regarding the mine. Mining does have a pretty significant impact on the environment and if not properly managed can result in irreversible damage to the land and water basin. It has also quite an extensive foot in imposing noise, industrial truck traffic on nearby residents and neighborhoods. I encourage you to continue your involvement on this issue and continue to communicate your concerns to us. But, on this agenda item, I am going to vote to approve it, but I will move to amend the item now before the Commission with a couple of conditions. I would like to explain this vote. First, I am mindful of the fact that CMI owns the land this new processing will take place on and they own the mineral rights on that land. We need to keep in mind that if we outright deny access to those minerals, or regulate that use so heavily that they cannot reach those minerals in a practical way, there are a bunch of legal issues that would arise that may put the County at risk legally and financially. Second, CMI has been a long term mid-size employer in this county and they provide a good living for a lot of employees - in other words, there are a lot of families and children of those employees that depend on this company for the wellbeing. Part of my vote is a message to CMI that I expect them to continue to be a good corporate citizen and to keep their job rosters full in this County. Third, I think we should also keep in mind that they must be allowed to shift the location of their processing on their own land from time to time in order to operate the business. If we "freeze" the mine to the exact processing location there are in now, it could hamper their ability to extract processing material from their own land and the company could suffer or eventually go out of business. So, I am going to vote yes on this item, but I want to make sure our County has long-term assurance that eventually this land will be returned to its normal state. I noted in some of the background correspondence that NDEP has jurisdiction over the bonds. With that in mind, I would ask the District Attorney to confirm, if he would, that the conditions I am about to lay out are legally within our power. I move that the motion to approve the amendment to the SUP be approved subject to the following: This approval only is effective if, and only if the county staff make the following determinations before the approval goes into effect:

1. CONDITION NUMBER ONE - That the applicant has provided a reliable independent estimate on the future cost of remediation and reclamation of the leach areas covered or affected by this amendment to the SUP. A comment on this first condition: I am concerned that no one at the County has seen any estimate of the potential cost of the eventual remediation and reclamation of the site. I have been provided documents indicating NDEP has such an estimate, and if so, we should review that estimate for ourselves to ensure it is accurate. If the bonds are insufficient we will pay a very heavy price is safety, health and environment should the worst case occur. If NDEP has an estimate then fine. Our staff should verify the estimate is done by someone qualified to give this estimate, that the methodology used appears appropriate and that it covers the areas I mentions.
2. CONDITION NUMBER TWO - That the county staff determines that the bond or bonds are sufficient to cover all the costs identified in the estimate as outlined in the first condition.
3. CONDITION NUMBER THREE - That the applicant provides a drainage plane that provides adequate drainage and avoids eater getting into piles of waste which contain hazardous processing by product.

Mr. Osborne added that condition 3 that deals with insurance also include environmental insurance for up to \$7 million. Mr. Whitten clarified that his conditions are additional or reaffirmation of the original conditions. Vice-Chairman McBride confirmed with the District Attorney there were no issues with the additional conditions. Mr. Thomas stated he did not object to any of the conditions.

Motion: Based on the Findings of Fact shown in subsection 8.1, conditions of approval shown in Section IX[9] of this report and compliance with federal, state and county regulations and the recommendation for approval by staff and the planning commission, I motion to approve SUP Application No. 2000-222-A-3 amending SUP No. 2000-222-A-2 to permit expansion of the current SUP boundaries to include all land within existing parcel (Assessor Parcel Number) APN 004-331-36 illustrated in Exhibit B of this report and incorporated in the amended SUP as "Attachment B" and as to allow uses in the SUP therein including, but not limited to, crushing, processing and beneficiation , agglomeration, and ancillary uses, **Action:** Approve **Moved by** Commissioner Gilman **Seconded by** Vice-Chairman McBride

Vote: Motion carried by unanimous vote (**summary:** Yes=3)

Chairman Sjovangen called for a recess at 3:28pm; the meeting was called to order at 3:43pm

Chairman Sjovangen called for Public Comment from Dale Beach. District Attorney Maddox had previously arranged for Mr. Beach to talk at this time. Mr. Beach explained that he wears hearing aids. He feels that he is being discriminated against because he is old and you don't like what he has to say. This isn't a precedent setting, what he can do, if informed, is tell him what time to arrive for public comment and he will speak at that time. He can't sit in these hard seats for very long. It is on record that the Board commented that they got rid of Dale Beach, he isn't got rid of. Mr. Beach continued that he has filed with the Attorney General's Office and he is in the process

of going to the federal government, he believes he is being actively discriminated against because of his first amendment right. All he wants to do is have an opinion. He asked that someone pick out a time for him to say his piece and he will be here, that is all he wants. His issues aren't going to go away. Mr. Beach stated there is \$43,000 paid into Pat Whitten's pension fund; he would like to know how it got there and who made the decision. He is putting all of his questions to the District Attorney because he is the legal guy. He wants people to go back and rethink what you said about getting rid of Dale Beach, if there wasn't any we the people there wouldn't be any government, we deserve a little more respect. The budget is at least twice too high when compared to other counties. He hopes in two weeks someone has a 30 minute window in which he can come up and talk about anything he wants.

District Attorney Maddox explained that he is going to try to estimate when public comment will be so he can provide Mr. Beach with a window to speak. Chairman Sjovangen added that until a couple days ago he was not aware that Mr. Beach had any issue sitting.

Chairman Sjovangen stated that at 5:00pm is the Grand Opening of Library. He doesn't know if the Board is going to make it over there it runs from 5:00pm - 7:00pm.

Mr. Flanagan asked for clarification regarding Mr. Beach being allowed to speak. It is his understanding that we are operating under new rules and what he made a statement on is not on the agenda and that is in violation of your own rules. Chairman Sjovangen stated this is not public comment and to sit down.

Claims - For possible action approval of Payroll Check date 6/21/13 for \$373,760.65, Accounts Payable date 06/14/13 for \$326,858.65 and 6/14/13 for \$6,548.93 (Originally listed under the Consent Agenda)

Mr. Phillips stated that on page 2 of the claims is a payment to the Bucket of Blood Saloon in the amount of \$6,200 for a historic ore cart. It his understanding that this is for the rest stop at the north end of town, he asked if there was an appraisal done or if it went out to bid. Mr. Whitten explained this is part of the Street Scape Grant, as with most grants when we got to the end of the project there were available funds in design. Shannon Gardner with Community Development spearheaded this and there was a strong desire to have some type of ore cart displayed near the head frame. He authorized, without appraisal, payment of \$6,200 to the Bucket of Blood to purchase not only the cart but also the skip that used to sit in the back end of the Bucket of Blood lot. The reason he did that is because Vice-Chairman McBride on behalf of the Bucket of Blood family business had voluntarily said he would donate it. In order to process it through the grant we had to write a check to the Bucket of Blood, the check was turned back over to the County, in essence the cost to the tax payer is zero. Chairman Sjovangen stated he stopped and looked at it, it looks great.

Janet Houts, Storey County resident, stated she is confused on the claims because it includes the vendor payments for the VCTC. During the budget hearings the VCTC wasn't included, you have indicated that the VCTC is a separate local government. She asked why the VCTC vendor payments are being approved by the Storey County Commissioners. Ms. Houts said she is curious how the ore cart is a donation if we are issuing a check, is it for tax purposes. She asked about a

check to Southern Wine and Spirits for the Bucket of Blood, is Vice-Chairman McBride going to approve that payment or excuse himself. Mr. Whitten replied that while the VCTC is a separate local government we have entered into an inter-local agreement to provide fiscal accounting and oversight. He strongly suggested to Ms. Houts that is if she wishes for that Board to also review it that it is that Board that makes that determination. The check process was used at my direction, issuing the check was the only way to complete the grant process. The checks to Southern Wine are the responsibility of the VCTC, and Vice-Chairman McBride is in no way singularly responsible for approval of the claims.

Motion: Approval of claims, **Action:** Approve **Moved by** Vice-Chairman McBride **Seconded by** Commissioner Gilman

Vote: Motion carried by unanimous vote (**summary:** Yes=3)

Possible approval of Treasurer Report for May 2013 (Originally listed under the Consent Agenda)

Ms. Houts stated as she was reviewing the report she found there is a balance in the general adjustment in the Wells Fargo CC account and the bank. She has asked in the past why there is a difference, she has asked in the past and no one has answered her. She said she has also asked why the ending balance and beginning balances are not the same. She asked when she is going to get the answer.

Motion: Approval Treasurer Report for May 2013 **Action:** Approve **Moved by** Vice-Chairman McBride **Seconded by** Commissioner Gilman

Vote: Motion carried by unanimous vote (**summary:** Yes=3)

CONSENT AGENDA

6. Claims - For possible action approval of Payroll Check date 6/21/13 for \$373,760.65, Accounts Payable date 06/14/13 for \$326,858.65 and 6/14/13 for \$6,548.93 (**Heard on the regular agenda**)
7. Possible approval of Treasurer Report for May 2013 (**Heard on the regular agenda**)
8. For possible action approval of Licensing Board First Reading:
 - a. The Highlander - General/240 North C Street (Cosmetologist) VC
 - b. A B Custom Woodworking - General/200 Canyon Way (Cabinetry) RD
 - c. Uprising Paragliding - Home Business/240 Vermillion (Recordkeeping Only) VCH

END OF CONSENT AGENDA

No Comments.

Motion: Approve the consent agenda, **Action:** Approve **Moved by** Vice-Chairman McBride **Seconded by** Commissioner Gilman

Vote: Motion carried by unanimous vote (**summary:** Yes=3)

9. **DISCUSSION (No Action):** Committee/Staff Reports

Fire Chief Gary Hames:

Chief Hames reported that they have been busy the last couple of days with multiple wildland fires in the area. On Sunday afternoon about two o'clock they responded as mutual aid for Central Lyon County to what ended up being a 94 acre fire east of Gold Hill. The Fire Department was committed heavily to the incident. When it was all send and done we had four type 6 engines, two type 3 engines and three dozers as well as the duty battalion chief and himself. For the first significant incident of the year is happy to report that it went very well. There is a lot of automatic and mutual aid responses out there, a lot of aircraft usage, kept it out of Silver City, didn't loose a single structure. Fire Chief Hames continued that there were two fires yesterday, one in the Flowery Range. We were lucky to get the Raven helicopter that was able to do 5 drops. The second fire was in TRI, were able to keep to a 50x50 spot. During those two incidents we responded two bull dozers to Red Rock for mutual aid. We are also working on coordination on the 4th of July event, no reason to cancel it. He thanked Chairman Sjovangen for bringing up the firemen who were lost, it hits very close to home. Chief Hames added that we are back on track with our annual business plans and hose testing. Chairman Sjovangen thanked him for his work with the equipment on the recent fires; it has absolutely shown the importance of having the equipment. It is not a waste a time or money.

Comptroller Hugh Gallagher:

Mr. Gallagher has a report from Denton Company Chartered Certified Accountants; it is a cistern review and report of David Pringle, CPA Limited. This is an opinion that was submitted in November 2009. This report has to be prepared every three years. This is an audit of our outside auditor; the report gives them a clean bill of health. Mr. Gallagher introduced his Granddaughter; she would like to carry forward into the political science arena.

Senior Planner/Administrative Officer Austin Osborne:

The weed abatement program is completed; he thanked those who sent permission allowing them to enter. The Carson River Subconservancy Water District is working on their annual plan; this plan helps the district acquire grant funding for projects and get FEMA coordination. He is working with them to ensure that things are done correctly. If the Board desires Ed James with the District would be happy to present final findings to this Board. Mr. Osborne added that Stacey Bucchianeri and Shannon Gardner are working on our community rating system for the National Flood Insurance Rate Program. They are bringing our local code up to the federal requirements.

County Manager Pat Whitten:

The Fire Department has bid on, thru the efforts of Al Drake, on the 2015 Nevada Firefighter's Annual Training Conference. The last one was about 3 years ago and it was a phenomenal conference, bringing lots of people to town. He asked Chief Hames this morning what our probability was for the 4th of July. We can rest comfortably year after year that the show is going to start at 9:15pm. Mr. Whitten discussed the firemen that were lost in Arizona and how close to home it really hits, it is our family and friends on the line. He reminded everyone of the Library

grand opening and the Farmers Market on Thursday nights. An inventory has been done at the Gold Hill Depot, there is a meeting coming up to throw around some options.

District Attorney Maddox:

He reported that we now own the Virginia City Highlands Fire Station. He met with Mr. Beach and Ms. Houts and it isn't the first time that he has heard that people have had trouble hearing in the audience. We may want to look at getting a better audio system. Ms. DuFresne responded that she is working on the issue.

Clerk & Treasurer Vanessa DuFresne:

Ms. DuFresne reported that the 2014 tax roll is complete and the bills will be going on next week. The new evidence cart has been delivered; the tech will be in next week to install it. It will provide more audio and video technology.

10. **DISCUSSION/POSSIBLE ACTION:** Approval of modifications and extension of the Agreement between Storey County (Employer) and Storey County Employee's Association (Union) also referred to as AFSCME Local Union, Comstock Chapter.

Mr. Osborne informed the Board that this is the renewal between Storey County and AFSCME. He commended the members of the union that worked with him, they were grounded and understanding of the situation at hand. We looked at administrative issues and grammar clean up. The duration of the agreement is for 3 years, at which time it will be renegotiated. One of the big items was health benefits, employees hired after 2014 will not be offered health insurance coverage for their spouses or dependents. Per NRS 288 a fiscal analysis has been completed and will be provided as part of the agreement. Mr. Whitten disclosed that the president of the union is his daughter; she is not financially dependent on him in any way.

Ms. Houts asked what is the cost savings for the county and is this going to be effective next year, how much is the fringe benefits. Mr. Osborne replied that the cost analyst is going to be part of the public record; there are many components to the agreement. He discussed the variety of issues and unknowns that play a role in the cost and savings to the county.

Commissioner Gilman thanked Austin and staff for all of the work. There has been a lot of effort from everyone to understand the contract and changes. Chairman Sjovangen thanked the union representatives.

Motion: Approve modifications and extension of the Agreement between Storey County (Employer) and Storey County Employee's Association (Union) also referred to as AFSCME Local Union, Comstock Chapter **Action:** Approve **Moved by** Vice-Chairman McBride **Seconded by** Commissioner Gilman

Vote: Motion carried by unanimous vote (**summary:** Yes=3)

11. **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.

No Action - This item was removed from the Agenda at the request of Chairman Sjovangen.

12. **DISCUSSION/POSSIBLE ACTION:** Approval of TRI Public Partnership "Statement of Project Revenue and Net revenue and Supplementary Information" for the period ending June 30, 2011 and 2012.

Commissioner Gilman recused himself from this item.

Mr. Gallagher stated we are now caught up on the back log of audits, the vouchers and reports have been cleaned up and submitted. He provided a synopsis of the process and reviewed the fund that has been established for the repayment of the infrastructure costs. He recommended that the statements be approved.

Chairman Sjovangen passed on a couple of compliments he received last week, Storey County really got a great deal on this Public-Private agreement.

Ms. Houts stated she looked at the notes for 2012, we have paid \$2.4 million and the County issued a credit of \$838,459 for property taxes but if you look at the accounts for debt outstanding it only shows the \$2.4 million payment. Mr. Whitten commented that if you read the sentence fully it states that subsequent to June 2012 the County issued a credit for \$838,459 for taxes; it will appear in the next audit.

Motion: Approve TRI Public Partnership "Statement of Project Revenue and Net revenue and Supplementary Information" for the period ending June 30, 2011 and 2012
Action: Approve
Moved by Vice-Chairman McBride **Seconded by** Chairman Sjovangen

Vote: Motion carried by unanimous vote (**summary:** Yes=2) Commissioner Gilman recused himself from the vote.

13. **DISCUSSION/POSSIBLE ACTION:** First reading of Ordinance 13-249 an Ordinance amending Storey County Code chapter 1.08 General Provisions providing for general penalties for violation of the code and amending other sections to be consistent and providing for other properly related matters.

Bob Morris asked the Board to approve 13-249 for its first reading; he read the title of the ordinance. He stated there is a general section about the county commissioners and the penalties section was reserved this resulted in every ordinance that came forward that had a penalty section had a full blown penalty section. This ordinance puts a general section under the county commissioners and does a consistent style of all the penalties. This brings the code up to current penalties; we are not changing any penalties. There are a lot of places that are inconsistent; this gives the Board an opportunity to look through the code. Mr. Whitten added that there may be an extended period of time between the first reading and second reading to allow for any concerns or changes to be addressed. Mr. Morris stated there is another ordinance that he is working on as well regarding nuisances, it may be that it will have to come forward for a first

reading and then resolve the difference between the two. The second reading will be heard at the first meeting in August.

Motion: Approve First reading of Ordinance 13-249 an Ordinance amending Storey County Code chapter 1.08 General Provisions providing for general penalties for violation of the code and amending other sections to be consistent and providing for other properly related matters **Action:** Approve **Moved by** Vice-Chairman McBride **Seconded by** Commissioner Gilman

Vote: Motion carried by unanimous vote (**summary:** Yes=3)

14. **DISCUSSION/POSSIBLE ACTION:** Discussion of decision by the State of Nevada Attorney General's Office finding in Open Meeting Law Opinion Number 2013-01 that Mark Joseph Phillips was improperly precluded from making comments and ejected from the April 2, 2013 County Commission Meeting by Chairman Bill Sjovangen. A copy is on the County's Website and a copy will be made available upon request to anyone who requests it. This discussion is required by NRS 241.0395.

District Attorney Maddox stated we had to put this on the agenda. The Attorney General found we were in violation of the open meeting law by limiting Mr. Phillip's comments on the general public comment section and excluding him from the April 2nd meeting. Generally speaking we have to be more cautious in the future about limiting comments and there has to be more disruption prior to ejecting someone.

Commissioner Gilman suggested that public comment is very important and we have learned a great deal. He welcomes the reviews and comments. This is not a perfect science and we deal with a lot of challenging and unusual circumstances. He would to see some guidelines for everyone on how we do take public comments. Commissioner Gilman stated he supports moving public comments to the later part of the agenda; he covered his various reasons for support of the change.

Judy Cohen, Storey County resident, stated that she too feels many of things that Commissioner Gilman. What she doesn't agree with is that we too sit here through the meeting and we are entitled to say what we think. She feels that Chairman Sjovangen's comment to Mr. Beach regarding "cronies" was totally inappropriate.

Mr. Flanagan is still asking for clarification, if you are going to have rules he expects that they be followed. He asked that it be explained how Mr. Beach got to stand up and make those comments. District Attorney Maddox responded that at the last meeting Mr. Beach provided a letter showing that he had received a handicapped sticker; Mr. Beach cannot sit out there for an hour or two and wait for the end for public comment. District Attorney Maddox agreed to estimate a time that Mr. Beach could speak under public comment, today's meeting has taken longer than he anticipated and he asked the Chairman to allow him to speak in order to accommodate his disabilities. He discussed the pros and cons of having the public comment at the end versus the beginning of the meeting.

Chairman Sjovangen said that when he came in at the last meeting he found something from the DMV the Mr. Beach had placed on the table. He was totally unaware the he had any trouble sitting. A little bit of communication before the meeting helps out a whole lot. Commissioner Gilman commented this is a rather new commission and we truly are engaged in community issues and for past transgression we apologize, we are learning together. There is real commitment from everyone at this table to make it work.

Mr. Phillips sated this item was put on as a requirement because of the findings of facts and the opinions of law of the Attorney General's office. The meeting in question was April 2nd and the Courthouse was packed. Everyone witnessed him being wrongfully excluded from the meeting. At that time the Chairman asked the Deputy Sheriff to remove him from the Courthouse, everyone complied, and that is what we will do next time. The only reason the Attorney General ruled the way they did is because he complied without making a scene. Mr. Phillips said this opinion allows him to take this wrongful exclusion from a public meeting to the Sheriff, it is criminal. It also allows him to go to federal court for a violation of his rights.

Ms. Houts asked the District Attorney if Mr. Phillips can sue all of the commissioners instead of just the Chairman. She suggested having public comment at the beginning and end of the meeting to accommodate everyone with a disability. District Attorney Maddox stated he talked to George Taylor with the Attorney General's Office and he was told that the Open Meeting Law does not accommodate for people to speak at any particular time. Today was an exception; it does not set a precedent. He will do his best to estimate what time public comment will be for people with disabilities.

Mr. Prosser stated that in the past you have allowed public comment during staff and committee reports. The agenda states that public comment will be allowed for each item on the agenda. He asked if people are going to be allowed to talk under staff reports after a department head speaks. He added that it changes every meeting and he would like to know what the policy is. Chairman Sjovangen stated they have not changed anything. Commissioner Gilman asked that the Board be allowed to develop the protocol rather than making the decision this minute.

No action taken.

15. DISCUSSION/POSSIBLE ACTION: Approval of resolution 13-377 setting the 2013/2014 Tax Rate Levy

Mr. Whitten stated that once a year we have to establish the individual tax rate components by resolution. Other than changing the name of one of the funds, from Forestry to Wildland Fire there is no change to the overall rate.

Ms. Houts asked for clarification on the Wildland Fire fund, we are no longer going to issue any checks to NDF. Mr. Whitten responded that is not true we have a 2 year inter-local agreement with NDF for \$155,000. Ms. Houts said the she sees in the resolution the revue is calculated for the tentative budget. If she were to do the calculation it would make the numbers in the tentative budget. Mr. Whitten responded that is correct.

Motion: Approve resolution 13-377 setting the 2013/2014 Tax Rate Levy **Action:** Approve **Moved by** Vice-Chairman McBride **Seconded by** Commissioner Gilman

Vote: Motion carried by unanimous vote (**summary:** Yes=3)

16. RECESS TO CONVENE AS THE NRS 474 STOREY COUNTY FIRE PROTECTION DISTRICT BOARD

The 474 Storey County Fire Protection District Board was called to order at 5:14pm

- 17. 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.

Chief Hames explained this is from the grant we received from the NDF. This updated the 2005 assessment with our new objectives. We have gone out to bid a received 3 bids, High Sierra Forestry is recommended for the award. Commissioner Gilman thanked him; he believes that competitive bidding is very important. Chief Hames added that there will be additional funds available for wildland fuel management.

Motion: Approve 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 **Action:** Approve **Moved by** Vice-Chairman McBride **Seconded by** Commissioner Gilman

Vote: Motion carried by unanimous vote (**summary:** Yes=3)

18. ADJOURN TO CONVENE AS THE STOREY COUNTY BOARD OF COMMISSIONERS

The Storey County Board of Commissioners was called to order at 5:16pm

COMMUNITY DEVELOPMENT AND PLANNING

- 19. DISCUSSION (No Action):** Per TRI/Storey Development Agreement): Tahoe-Reno Industrial Center, LLC & Fulcrum Sierra Biofuels, LLC Boundary Line Adjustment 2013-001 for Fulcrum Sierra Biofuels LLC/TRI at, being portions of the east ½ of section 10 and the west ½ of section 11, T19N, R22E M.D.M.

Mr. Osborne explained this is an informational item. There is no action required. A review of the is available in the packet.

- 20. DISCUSSION/POSSIBLE ACTION:** Application to amend Special Use Permit No. 2000-222-A-2 creating Special Use Permit No. 2000-222-A-3. By Comstock Mining, Inc. (American Flat). The requested amendments to Special Use Permit No. 2000-222-A-2 are to expand land area and modify uses allowed at existing ore processing facility at 1200 American Flat Road (APN 004-331-36), American Flat, Nevada. The requested amendments for expansion and modification of uses are limited to said area and to ore processing. Staff and the applicant have also agreed to update all text of the current special use permit to be consistent with existing federal, state, and local

regulations that apply and to reflect appropriate use of language and terminology. Staff and the applicant have agreed to leave the substance of sections concerning exploration and mining in their current state. **(Heard following item 5)**

21. FOR POSSIBLE ACTION, LICENSING BOARD SECOND READINGS:

- a. Caldera Electric – Contractor/508 Jackson Way (electrical contractor) Carson City
- b. Kalen Johnson- General/1480 Grey Bluff Drive (misc. maintenance) Fernley
- c. Cool Breeze Refrigeration & Heating – Contractor/72 Webb Circle (refrig. Repair) Reno
- d. Buck’s Plumbing & Heating – Contractor 275 Gallaway Lane (plumbing cont.) Reno
- e. Virginia City Mining Company – General/171 South C Street (panning for gold) VC
- f. Nevada Distribution Services, LLC – General/625 Waltham Way #103/104 TRI
(public warehouse and distribution)
- g. Schwabe North America, Inc. – General/2777 USA Pkwy #106 TRI
(distribution center for dietary supplements)
- h. MARS Petcare US – General/725 Waltham Way (dist. For pet food) TRI
- i. Virginia City Kettle Corn Depot – General/188 South C Street VC
(make and sell kettle corn)
- j. Hot Pot, LLC – General/420 USA Parkway, Suite #101 (restaurant) TRI
- k. American Arms Delta – General/224 East Sydney Drive, Suite B TRI
(firearms manufacture and repair)
- l. Battle Born Munitions, Inc – General/625 Waltham Way TRI
(import and distribute firearms and ammunition)

Motion: Approve continuance of item F, G, I and L **Action:** Approve **Moved by** Vice-Chairman McBride **Seconded by** Commissioner Gilman

Vote: Motion carried by unanimous vote (**summary:** Yes=3)

Motion: Approve items A-E, H, J and K **Action:** Approve **Moved by** Vice-Chairman McBride **Seconded by** Commissioner Gilman

Vote: Motion carried by unanimous vote (**summary:** Yes=3)

22. PUBLIC COMMENT (No Action)

Mr. Whitten stated the road closure on Six Mile is due to debris clean up from the recent rainstorm.

Mr. Phillips stated the Clerk/Treasurer of the VCTC is AWOL. Last year he spent a lot of time to get the bond in place, he will check with the Clerk’s office to find out what happens when the treasurer is absent without leave. The vacancy in office should have been on the agenda today. Mr. Whitten attempted to respond to Mr. Phillips. Mr. Phillips stated that when he wants Mr. Whitten’s opinion he will ask for it. Chairman Sjovangen advised Mr. Phillips that he is getting out if hand again, he is not to talk to the County Manager like that. Mr. Phillips told Mr. Whitten no thanks he doesn’t want to hear what he has to say. Mr. Whitten continued with number 1 the functionality of the Treasurer is a matter for the governing Board of the VCTC. Number 2 we

have been notified of Doug's intent to resign and we have an advertisement running to fill the vacant hotel seat. The appointment will be placed on this agenda at a later date.

23. BOARD COMMENT

Commissioner Gilman reiterated that he is looking forward to the time when we can have positive comments and feedback. Threats and being rude to one another is not a good platform for productivity.

24. ADJOURNMENT

The meeting was adjourned by the Chair at 5:24pm

Respectfully submitted,

By _____
Vanessa DuFresne, Clerk-Treasurer