



STOREY COUNTY COMMISSION MEETING

TUESDAY, SEPTEMBER 17th, 2013 10:00 A.M.

DISTRICT COURTROOM
26 SOUTH B STREET, VIRGINIA CITY, NEVADA

MINUTES

BILL SJOVANGEN
CHAIRMAN

BILL MADDOX
DISTRICT ATTORNEY

MARSHALL MCBRIDE
VICE-CHAIRMAN

LANCE GILMAN
COMMISSIONER

VANESSA DU FRESNE
CLERK-TREASURER

Roll Call: Chairman Sjovangen, Vice-Chairman McBride, Commissioner Gilman, District Attorney Maddox, Clerk-Treasurer Vanessa DuFresne, County Manager Pat Whitten, Outside Counsel Bob Morris, Sheriff Gerald Antinoro, Public Works Director Mike Nevin, Fire Chief Gary Hames, Planner Dessie Redmond, Senior Planner/Administrative Office Austin Osborne Recorder Jen Chapman and Community Services Deny Dotson

1. **CALL TO ORDER AT 10:00 A.M.**

The meeting was called to order by the Chair at 10:02 a.m.

2. **PLEDGE OF ALLEGIANCE**

The Chair led those present in the Pledge of Allegiance

3. **DISCUSSION/POSSIBLE ACTION:** Approval of Agenda for September 17, 2013

Chairman Sjovangen requested that item 9 be moved to be heard following item 4.

Mark Joseph Phillips asked that item 5 and 6 be removed from the consent agenda and addressed on the regular agenda.

Motion: Approve the agenda for September 17, 2013 with item 9 being moved to follow item 4 and items 5 and 6 removed from the Consent Agenda, **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 June 18, 2013

Mr. Phillips stated that he, Dale Beach and Janet Houts filed an open meeting law complaint regarding the meeting on June 18, 2013. The Attorney General has ruled that there was no violations, it was requested that the audio remain running during a recess that has been called to evict a member of the public.

Motion: Approve the minutes for June 18, 2013, **Action:** Approve **Moved by** Vice-Chairman McBride **Seconded by** Commissioner Gilman

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

DISCUSSION (No Action): Nevada Division of wildlife (NDOW) to give update on trapping and hunting regulations as they pertain to Storey County code within the Virginia City Highlands, Highlands Ranches and other congested areas.

Deny Dotson stated that he is a Storey County Wildlife Advisory Board member and through the summer there has been discussion in regards to hunting and trapping regulations and congested areas. He has reached out to the Nevada Department of Wildlife (NDOW) as they are the agency responsible for enforcing the regulations. He introduced Jake Kreamer and Mike McCusker from NDOW. Chairman Sjovangen asked Mr. Dotson to provide a quick recap of what brought this issue up in the first place. Mr. Dotson stated that from his recollection the County was looking to make some changes to ordinances regarding congested areas and trapping. He thought it was best to reach out to the professionals on the topic and get some feedback. Chairman Sjovangen asked the gentleman from NDOW to tell them what is legal and illegal activity in the Highlands.

Mr. McCusker stated that he is not sure exactly the nexus for this whole thing, he can however provide a little knowledge. He explained that the State is in charge of governing hunting, fishing and trapping laws in the state of Nevada. The counties have control over public safety, akin to the discharge of firearms. The County cannot say they you cannot hunt here but they can say that you cannot discharge a firearm here. The State Wildlife Commission governs the rules and regulations concerning hunting, fishing and trapping. He stated that he understands that people are upset that certain things are going on in the Highlands, but this isn't necessarily the Board that can control all of that. Mr. McCusker explained to the Board that they do have some control in that they can amend the ordinances regarding congested boundaries for public safety as far as discharge of firearms. You cannot necessarily pass something that says you cannot hunt in the Highlands, anytime you do that it goes to the board of Wildlife Commissioners. Chairman Sjovangen asked him to cover distance requirements for trapping. Mr. McCusker stated that anytime you are trapping you have to be 200 feet away from a County recognized road. There is no distance from a house our dwelling, necessarily here, because if you are on private property you can do what you wish. In the Legislature they are currently going through this and they just changes to the Washoe County regulations concerning trapping and some in Clark County, similar kind of argument. But those changes have to be done at the Wildlife Commission level, not the county commission level. Chairman Sjovangen asked if a certain area is designated a congested area can you still trap in that area. Mr. McCusker stated you could, yes.

Mr. Whitten stated that there is a dilemma, the Highlands are rural and if the benchmark is they have to be county roads, most of them are not. The roads are not owned or maintained by the

County but are recognized and included in our GIS system and serviced by the Fire Department. He explained the nature of the place is that it is rural, an ideal place to take a horse ride, walk the dog with no problem of wandering into these traps. He asked if there are ways we can address that from a public safety standpoint and still be within our jurisdictional authority. Mr. McCusker answered that he wouldn't say that it is impossible. He thinks it could be possible if you worded it correctly. This was attempted in Washoe and Clark County; they ultimately decided it was under the Wildlife Commission's authority. He isn't going to say that it is impossible, that is up to the attorneys. It is the same as the discharge of firearms, you can't say that you can't hunt here, you can't discharge a firearm but you can hunt. They are two totally separate acts. Mr. McCusker clarified that discharging a firearm during the act of hunting in a congested area is illegal. Mr. Whitten inquired to what the best route is for people to obtain information on the topic; specifically what avenue can someone take if they want to get the area better protected. Mr. McCusker responded they can address the Board of Wildlife Commission.

Chairman Sjovangen stated the he believes that our code goes on to say that discharge of a firearm within 1,000 feet of a residence is prohibited. He asked if that would preclude hunting within 1,000 feet of a residence. Mr. McCusker said that it would, based on how you describe your firearm. Mr. Whitten added that is a good point, there is hunting with a firearm and with a bow. Commissioner Gilman clarified that trapping on private property, congested or uncongested, is legal. Mr. McCusker stated that is correct, as long as you are on your private property you can trap. Commissioner Gilman asked if there is a difference between the property owner trapping on their own property versus the property owner bringing in someone else to trap. Mr. McCusker explained that permission from the property owner is all that is required. Commissioner Gilman asked at the county commission level, if the activity presented a threat to community welfare, animals in the community, children in the community, etc. is there a specific body of law that address that, although a private property use would be approved. Mr. McCusker stated that is an avenue, it is pretty grey in his mind, it is matter of perception and that is the area of the law that you want to get out of. Commissioner Gilman said that within the County Code there are specific sections that address the Board's responsibility for public safety, health and welfare and how that code overlaps or umbrellas with private property owner issues he is not aware of the law. Mr. Kreamer added that he sees it a little different, what you're getting at is an attractive nuisance. The way trapping is done, it is primarily unseen, so the attractive part of that nuisance doesn't really exist. You really have to be on that property and if it is posted and fenced you really don't have the authority to be there. He would venture to say that it really isn't any argument with trapping.

McBride asked if Storey County was to recommend to NDOW that they prohibit trapping in a congested area what the procedure would be. Mr. McCusker stated that it can be done at the Wildlife Commission level, it is an NAC therefore legislation is not needed. Chairman Sjovangen said that if an arrow came through your kitchen window that would be a clear and present danger and something we could handle. He noticed on the DSW site under trapping that a responsible trapper is encouraged to maintain a responsible distance from homes.

Commissioner Gilman there might be another level of regulation, the Highlands have a home owners association (HOA), and he believes that they can adopt rules and regulations that apply to all property owners that could potentially different kinds of uses of the property. Those would

be a separate set of regulations that were not state or county. Mr. McCusker stated he disagrees it is set out in NRS that the Wildlife Commission is responsible for setting out the rules and regulations regarding hunting, fishing and trapping. Commissioner Gilman added that it sounds to him that there are areas for research, there are some unknowns and he doesn't understand that state law can trump the expectations of a HOA. District Attorney Maddox stated that it can't, he explained that an HOA is a group of people that get together and agree on conditions, covenants and restrictions on their deeds in the area they all live in. They can privately agree amongst each other that they won't do it and it is up to the HOA to enforce what they have all agreed to. What they are saying is that the State has preemptive control of regulation of hunting and trapping. We have an ordinance right now that governs trapping; he will probably come forward at some time and ask this Commission to appeal that because we do not have the authority to pass that law. He has been told that the Wildlife Commission has discussed imposing regulations on private property and has decided that they are not going to do that. The bottom line is that Storey County cannot pass any ordinances governing hunting and trapping, we can pass an ordinance regarding the discharge of firearms.

Chairman Sjovangen called for public comment; he stated we will not time you.

Dona Fong, Highlands resident, stated that all she keeps hearing is about the rights the trappers have to kill everything, what about her right as a home owner to enjoy the nature that she moved up here for. The thing that started this issue with the trapping was a gentleman in the Highlands who trapped 6 bobcats for nothing more magnanimous than him wanting to get a new Harley. Ms. Fong explained that those bobcats used to come through her yard every morning and now she never sees them. She wants to know where her rights are as a member of this State and as a homeowner here to enjoy the wildlife. It seems like all the rules and laws are in place to protect animal murderers. Chairman Sjovangen asked her if she is angry. She replied that she is very angry because she is finding out that all of the powers to be seem to all be hunters and she wants to know how you all can make an unbiased law when you are all hunters. Ms. Fong asked doesn't anyone here get that there are people that enjoy the wildlife. She doesn't want to see a deer walk through the yard, get its head blown off and then displayed in the front yard. Ms. Fong said that this just happened to her, her neighbor killed an animal and stuck it right outside her front door so she could see its dead head. She wants to know where her rights are, she hears everybody talking about the rights of these hunters and they come in and annihilate anything they feel like killing. Chairman Sjovangen said she has the right to come back to this Board when she isn't so angry. She stated she was sorry but she has been speaking to you and listening to the meetings for months and she sees no progress, none.

Cynthia Kennedy, Highlands resident since 1987, she stated that there is the Virginia Range Wildlife Protection Association and why should we even have a wildlife protection association when we have something like trapping going on. She doesn't think that people are really against hunting if it is with a bow and arrow or a rifle as long as it's not where people are residing. The idea of having traps out there in an area where a lot of energy is expended seems kind of ridiculous. We thought that when this issue came up several months ago it could be settled within our own county and we wouldn't be hampered by state regulations, it is unfortunate that it has gone on this long. Chairman Sjovangen added that he believes that he made the comment when this first appeared on an agenda that we may have some issues with the NDOW, which in

fact is true. We don't make decisions here based on emotions; we make decisions based on law and factual information. Commissioner Gilman stated that he sympathizes with the challenge. He has been involved an organized several HOA organization; he believes that the HOA has the ability to adopt regulations, as long as everyone agrees for the use of the property within the association. He suggested that one of the things this Commission has to look at is private property use or protecting the rights of property owners. One of the struggles we have here is how are we impacting the rights to private property owners to utilize and get the expectation of their bargain. We are looking at a couple of levels. Mrs. Kennedy thanked Commissioner Gilman for bringing up the CC&R's, in 2012 she was on the 10 acre committee that revised the associations CC&R's, she doesn't recall there being anything regarding trapping. It is unfortunate that the CCR&R's can only be revised every 10 years; we need to find out if there is a way for both of the associations to make revisions outside of the 10 years. She stated that it would be great if Judge Maddox could help out to see if there was a way those changes could be made. District Attorney Maddox responded that he does not know the HOA's regulations, that is a HOA issue and the idea underlining the HOA is that it is free from the County and you make up your own rules. He has never read what regulates the HOA, mainly because it is a private organization. Commissioner Gilman stated that it would be a viable alternative and place to do a little research in, because that is within the power of your neighborhood. Mrs. Kennedy said that she finds it ironic that if you want to have more than 3 dogs you have to get a license but if you want to put a trap in your yard and tie a live chicken to it for every coyote and that would be ok. District Attorney Maddox said that is because the Legislature has given us the ok to regulate the number of dogs you have but have chosen not to give us the authority to regulate trapping and hunting. She said that she would imagine that is because in times past when you lived in a town you didn't want someone next door with a little pack of dogs in the backyard or people lived on a farm or ranch, when people where devising the regulations they weren't considering that in this time there would be people with "ranchettes". We are getting caught in a crack, we aren't in the wide open spaces and we are only 15 minutes from the airport.

Chairman Sjovangen stated that first off Nevada is a Dylan's Law State which pretty much restricts what the counties can do. Also, it may be that the HOA needs to come up with a formal presentation to us on exactly what they want to do in regards to trapping and hunting. He is seeing two sides to this; he would never advocate the rights of trapper or hunters, somewhere in the middle we have to come to an agreement on what we can tolerate. Mrs. Kennedy clarified that trapping is allowed throughout the entire County.

Rene Klein, Highlands resident and Virginia Range Wildlife Protection Association Board member, clarified that trapping is ok if the proper signs are posted and the property is fenced. Mr. McCusker explained that the applies within 200 feet of a roadway, if you are just on private property there is nothing that says it has to be fenced and marked. Mr. Klein thanked the Commissioner for taking the time to scope this out; it is a multi-faceted issue with overlapping jurisdictions. It seems that the logical next step would be for them to meet with the HOA's and hammer out what out preferences would be and then take it to NDOW. Mr. Whitten added that if the HOA's could simultaneously define what they want for a congested area and come to this Board. Mr. Klein stated that his personal preference would be that there is no trapping, but on the other hand most of the Highlands are privately owned property. Our concerns for public safety grow as the properties get smaller. The other thing is that he has certainly noticed an

increase in hikers and bicyclist accessing the area. He will be going to HOA and putting some words together that address this properly.

Nicole Barde, Highlands resident, asked if the Highlands where a Wildlife Sanctuary would that change anything. The CC&R's could state that you can trap but list certain animals as protected. Chairman Sjovangen commented that she would probably need to get a BDR in. District Attorney Maddox stated that he has no idea how you would become declared a sanctuary, but if you were you could go to NDOW and that would probably cause them to be more favorable.

Chairman Sjovangen stated that his opinion is that he knows that a lot of people on the Highlands' message board were opposed to putting in the congested area; it seems to be a split between the people that are for and against making it a congested area. It would be his recommendation to remand this back to the property owners, if they could come up with in writing some recommendations.

Mr. Whitten stated that it appears that Mr. Klein has a great read on this and he would be happy to help if he can.

Commissioner Gilman said that he would like the Board to have further clarity in regards as to what this Board can and cannot control regarding hunting and trapping. He would like the community to understand what their restraints are as well. District Attorney Maddox responded that the County cannot pass any ordinances regarding hunting and trapping in Storey County.

Vice-Chairman McBride stated that until this was recently brought up he didn't know of any concerns. It may help some of you to know that the resident in question is moving out of the Highlands and this may alleviate the problem.

Claims - For possible action approval of Payroll Check date 8/25/13 for \$427,610.95 and Accounts Payable date 09/04/13 for \$15,000 and date 9/06/13 for \$1,037,314.98 (Removed from the Consent Agenda)

Mr. Phillips stated that are 9 vouchers for jury fees on the claims submitted, the average check being \$350.00. Chairman Sjovangen asked what the significance of his statement was. Mr. Phillips explained that it shows what Commissioner Gilman's trail has cost the County so far. District Attorney Maddox explained that the fees will be reimbursed by the losing party in the case.

Motion: Approve Payroll Check date 8/25/13 for \$427,610.95 and Accounts Payable date 09/04/13 for \$15,000 and date 9/06/13 for \$1,037,314.98, **Action:** Approve **Moved by** Vice-Chairman McBride **Seconded by** Commissioner Gilman

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

For possible action approval of Treasurer Report for August 2013 (Removed from the Consent Agenda)

Mr. Phillips asked Chairman Sjovangen if he signs this report after the meetings. Chairman Sjovangen explained that he signs everything after the meetings. Mr. Phillips continued with several concerns he has with the Treasurer Report including disbursements from the Town of Gold Hill and Town of Virginia City funds and the current balance of the Sheriff's Building fund.

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

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

CONSENT AGENDA

5. Claims - For possible action approval of Payroll Check date 8/25/13 for \$427,610.95 and Accounts Payable date 09/04/13 for \$15,000 and date 9/06/13 for \$1,037,314.98
(Removed from the Consent Agenda)
6. For possible action approval of Treasurer Report for August 2013
(Removed from the Consent Agenda)
7. For possible action approval of Licensing Board First Reading:
 - a. ALIO MEDICAL - Home Business/21850 Asobe Rd, Reno (independent contractor, books only) VCH
 - b. PRIMOG, INC. - Contractor/9965 Cincinnati Dayton Rd, West Chester, OH (install equip.)
 - c. SIERRA HEARTH & HOME - Contractor/2350 South Carson St, Carson City (install fireplaces)
 - d. PAINTING RENO.COM - Contractor/204 Ave de la D'Emerald (handyman) RB
 - e. WIDE OPEN EXCURSIONS - General/1777 Peru Drive (off-road tours and racing) TRI
 - f. HIGHLND PHOTOGRAPHY - Home Business/400 Panamint (photography - books only) VCH
 - g. CHEP USA - General/8517 South Park circle, Orlando, FL (pallet rental)
 - h. VISION DESIGN PAINTING - Contractor/11 Glen Carran Circle, Reno

END OF CONSENT AGENDA

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

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

8. **DISCUSSION (No Action - No Public Comment):** Committee/Staff Reports
Shaun Griffin Community Chest Director:

Shaun Griffin introduced Pam Abercrombie as the new Development Director for Community Chest; she has some great news for the Board on the library. Ms. Abercrombie has been on board for three months, they raised a lot of money to hire a Development Director and we are grateful that she is here. Mr. Griffin stated that this is a big moment for them, in 23 years they have never had a Development Director and this is a huge organizational step for us. Specific to the Library,

we have been running it with volunteers and minimal funding from the County so this is going to be a huge step forward. Ms. Abercrombie explained that the Community Foundation of Western Nevada had a partnership grant, which she was very competitive in pursuing. She was passed through the first round that went from 67 applicants to 25 and then made the last 10. The mission of the awarding agency is to connect people with causes that matter. The point of the grant is to bring the community together to raise \$15,000 and they will match it with \$15,000. The goal of the grant is to hire qualified staff to come in and manage our 5 volunteers and implement more programs and events. She began the donations by pledging \$250. Vice-Chairman McBride asked if the entire \$15,000 had to be raised to receive any of the grant funds. Ms. Abercrombie explained that the entire \$15,000 must be raised by December 31, 2013 to receive any grant funds. There will be an event at The Core to expand the donation base. The library is doing well with average foot traffic of 0-6 on any night. Commissioner Gilman pledged to donate \$1,000.00 and District Attorney Maddox added that he will donate \$100.00. Chairman Sjovangen stated that he will make a donation as well. Mr. Whitten asked Ms. Abercrombie to explain how eBooks work. She explained that currently one of the volunteers is doing trial and error with her Kindle, it is a lot easier if you have your eReader and an Amazon account. You log on to the Carson City website and follow the clicks. She will provide more information once the trail is complete. Mr. Whitten added that you will need a library card. Mr. Griffin commented that this is a really big moment for the community; the \$30,000 will allow us to raise it up to the next level. He is also meeting with Mark Twain and Lockwood to explain the services. They are buying Kindles with the limited funds they have. Mr. Griffin added that they are in the formal fundraising process for phase 2 of the center and we are going to locate the rest of the library collection in the 2nd phase. He acknowledged Ms. Abercrombie's hard work, it was a tough grant.

Fire Chief Gary Hames:

He advised the Board that his department is finishing up some fuel projects in Rainbow Bend and other projects in Lockwood. The Chipper arrived a week and a half ago, the seasonals have been busy in the Highlands chipping the slash pile and it is a good program that is moving forward. He reminded everyone that we are not through this fire season yet; just because the smoke is out of the air don't let your guard down. Homecoming for the High School will be October 10th and a bond fire at the Icehouse on October 11th. He added that our Public Works maintenance shop is doing an amazing job for us. It seems like as soon as Steve retired everything in our fleet started breaking, we are now down to 1 vehicle at the shop and they are doing a phenomenal job. Chief Hames stated that Smoke Detector Program is still active in Mark Twain which was funded through a Federal grant. There are roughly 1,500 smoke detectors that need to go in that community.

Lockwood Community Center Merilee Miller:

Mrs. Miller stated that on behalf of her husband she would like to thank the Fire Department for the cleanup they have done in Rainbow Bend. She will provide a list to Mr. Osborne of the items that belong to the County that are in the Community Center. There is a big difference in the park; her husband is working very hard. She informed the Board they will be having a camp out for the children in their community at the Park on September 28, 2013. It will be supervised by adults and there will be the appropriate patrols all night. The park is really getting a lot of attention.

Community Services Deny Dotson:

He thanked everyone for their help with the Camel Races, everyone was involved and he has heard nothing but positive comments. Mr. Dotson will have a meeting this week for Street Vibrations; vendors will begin setting up on the Thursday prior. He stated that the Gold Hill Depot is good to go, recently held the VCTC meeting in the depot; there is a lot of potential for great things to take place there.

Senior Planner/Administrative Officer Austin Osborne:

Dessie is in the process of drafting planning ordinances including in-house lot consolidation processes, water dedication for division of "Large Parcels" over 40 acres, and medical marijuana dispensary prohibition. She and Austin will be fielding the community, including local businesses and the VCTC, on what it desires with regard to an ordinance regulating tattoo and piercing parlors in Virginia City. He said that it's up to community stakeholders as to what will be brought to the planning commission and County Commission for recommended approval. Dessie and Austin will be visiting local businesses and property owners on "C" Street to address sign violations. Since 2012 we have a new ordinance regulating signs that allows for an appropriate level of advertisement and business promotion; however, illegal signs, manikins, flags, etc., are getting out of hand lately. Austin thanked the Highlands residents for attending the recent Master Plan workshop. He said that there was a good turnout and that there was a high level of participation. This was a great chance for residents to express their opinions on land use matters, including population, housing, transportation, and issues like the Sunny Hills item. There will be more workshops coming. Staff is taking comments and formulating them into goals and objectives that will be integrated into the updated county Master Plan. The next workshop will likely be held in Mark Twain on October 17. Osborne said that he will be contacting the Mark Twain Community Center to arrange for a public hearing at their building. Chairman Sjovangen added that he has been to all of the workshops and they have been productive with great turnout.

Planner Dessie Redmond:

She announced that she has put together a community survey to help with the master plan update. The survey can be found on the website, Facebook and Twitter. She opened the box of nuisance complaints with Mr. Dotson and is getting her feet wet with the process. Mrs. Redmond added that she is working on ordinance updates with Mr. Osborne and Mr. Morris.

Public Works Director Mike Nevin:

He informed the Board the asphalt crack sealing project for the county section (1st mile) of Cartwright Rd. and all of the paved section of Lousetown Rd. in the Virginia City Highlands has resumed and is on target for completion by the end of the month. Once this is done we will have these surfaces flash sealed with an asphalt rejuvenator product that will assist with keeping further deterioration at a minimum until such time a chip seal could be applied. We will also have the flush seal applied to Six Mile Canyon Rd. from the Storey/Lyon county line to the top of Mill St. and C St. Once these projects are completed, figuring, labor, fuel, equipment and materials costs we will have expended approximately \$82,000. It is unfortunate that the VCHPOA has decided not to participate monetarily with materials costs for the association's two mile section of Cartwright Rd. Their cost would have been just under \$13,000.00. Mr. Nevin stated last Thursday we experienced three water leaks; one here in Virginia City on A St. in the

morning and two leaks on the main water line to Silver City in the afternoon. The leaks on the Silver line were both on the old 4" steel pipe that is known to be in need of replacement soon. This is primarily the section from the end of Slippery Gulch Rd. near Dan Bowers' residence east to the top of the hill just opposite the CMI Lucerne resource area. He is continuing to work with NV Energy on getting a few street lights installed in the Lockwood area near the park. Mr. Nevin is working with Melissa Fritz and has submitted the application so that they can determine what the project involves and potential costs to the county. Cherie received news from Des Craig, Director, Rural Community Development Governor's Office of Economic Development, of our recent income survey for qualifications for further CDBG grants to benefit the communities of Virginia City, Gold Hill and Silver City. The news is not in our favor, falling short of the 51% LMI (low-to-moderate income) level by 2.46% points. Mr. Nevin discussed BLM NORA (Notice of Realty Action) regarding purchase of property in and around sewer treatment plant with JoLynn Worley, Deputy Chief and Office of Communications in the Nevada BLM office in Reno. JoLynn advises that the Washington DC office received the package from the BLM state office on August 28th. He was advised that the approvals could take as long as 10 weeks before approved. This puts the approval sometime mid-November. We have been working with Lucas Ingvaldstad of Senator Reid's office in Reno. Lucas has requested this be an agenda item for the Nevada delegation on a congressional call to see if they can assist with getting approval moved up to the end of September. We are in a wait and see mode thus preventing going to bid before we have a decision from Washington. Next Monday he will be meeting to discuss the possibility of applying for grant funds through the Historic Preservation Cultural Affairs program for stabilization of the front courthouse façade woodwork and repainting of the front of the building. Apparently they were able to sell some bonds to generate additional monies to become available for historic structures in Nevada. Commissioner Gilman commented that perhaps we can generate some more support from the people in the Mark Twain area. Chairman Sjovangen asked if has received any funds from the Highlands for their section of the sealing. Mr. Nevin isn't sure what is going and doesn't want to be involved in their politics and he is moving forward. Chairman Sjovangen added they have known about this project since back in June, they can't even hold an election. Where they came up with the fact that the county is responsible is beyond him, it is clearly against State law.

County Manager Pat Whitten:

He stated that he had the privilege to welcome 70 statewide Emergency Management folks at Piper's; they are here for a couple day conference. He will defer to the Commissioners for their opinion on NACO. When you bring two groups together your power and results speak for themselves. He was told that there were over 300 attendees, the workshops and results were probably the best that he has seen in a long time. Mr. Whitten commented on the use of RKPR for public relations. To Mrs. Miller if you want to get information out on the park or camp out all you have to do is send him an email and he will get it to RKPR. We use Facebook and Twitter and now using eblasts. Mr. Whitten explained what an eblast is and is happy to add anyone to the list.

District Attorney Bill Maddox:

He stated that he will not be here next week; he is attending a District Attorney's Conference in Laughlin. He is deputizing Bob Morris this week and he will be available during his absence.

Chairman Sjovangen called for a recess at 11:36am; the meeting was called to order at 11:51am.

9. **DISCUSSION (No Action):** Nevada Division of wildlife (NDOW) to give update on trapping and hunting regulations as they pertain to Storey County code within the Virginia City Highlands, Highlands Ranches and other congested areas. **(This item was heard following item 4.)**
10. **DISCUSSION (No Action):** Carson Water Subconservancy District (CWSD) presentation on its Regional Water System Report and the Bureau of Reclamation Plan of Study for the regional water system.

Ed James, Director of CWSD, address the Comprehensive Regional Water System Plan. Mr. James explained that there is balance between nature, agriculture and the “them and I” demands. The CWSD recognizes the balancing of all these, they are not an environmental group, not an agricultural group and not a municipality. They work with all the resources to ensure the health and benefit of the water resources. Today he is focusing on “them and I” demands and looking out to the future. Mr. James reviewed the printed power point presentation he provided the Board. (A copy of the presentation is available in the Clerk’s Office.)

11. **DISCUSSION (No Action):** Ed James, Director for the Carson Water Subconservancy District (CWSD), to present the CWSD’s Regional Flood Management Plan and Federal Emergency Management Agency (FEMA) flood risk Map Charter applicable to counties located within the Caron River Watershed.

Brenda Hunt with CWSD addressed the Regional Floodplain Management Plan. Ms. Hunt reviewed the printed power point presentation she provided the Board. (A copy of the presentation is available in the Clerk’s Office.)

Mr. Osborne explained that the Commission in 2012 had been made aware of the CWSD and the FEMA Charter and at that particular point there was some questions with the Mark Twain in particular regarding whether a flood insurance rate could create a hardship in the residents. We want to make sure that prior to joining in we have done our research and are aware of any impacts. At this point it appears what may happen is that if FEMA does adopt those maps they end up becoming the flood insurance rate maps regardless if we join the charter. He has been working with the CWSD for several years and may come to the Board at a later point with an action item to join in with the charter and join the CWSD as a signatory member. Shannon and Dean have done their updates to the flood ordinance and have been submitted for FEMA approval.

Chairman Sjovangen thanked them for providing the information. He said that at some point water is going to be the critical issue, makes you wonder where it is all going to end. Mr. Whitten thanked them for all of their education and support of the Marlette Water System. Vice-Chairman McBride stated that this is very informative.

12. **DISCUSSION/POSSIBLE ACTION:** Approve bid award for Siphon and Waterline Air Release Valve Project

Mr. Nevin introduced Chuck Reno with Farr West Engineering and Dan Coons with Coons Construction. The information regarding the project and the bids has been provided in the packets. Mr. Nevin explained that the project entails the installation of air release valves along the siphon from Lakeview to Virginia City. It was put to bid in August and the bids were opened on the 22nd of August with 4 bids received. The lowest bid was Coons Construction for \$205,012.76 which exceeded the available funds necessitating a negative change order to the proposal that resulted in the removal of three valve installation sites. The revised bid amount of \$177, 043.50 is the recommended amount for approval. All of the paperwork is in order and Mr. Reno is available for any technical questions. Mr. Nevin added that Coons Construction has done work in the County before and Mr. Nevin looks forward to working with them. Mr. Reno gave a brief overview of the purpose and necessity of the release valves. Mr. Nevin added that if and when funds become available for replacement of the pipe that these valves can be reused on the new pipe. Mr. Whitten added that we have gone through growing pains even prior to Mr. Nevin in selecting contractors and he can say that based on professional knowledge that Coons Construction is a reliable and competent contractor. Mr. Gilman said that truly the purpose is to extend the life of the current pipeline until the bonding or funding can be gathered to replace the pipe.

Motion: Approve bid award to Coons Construction in the amount of \$205,012.76 deducting the negative change order of \$27,696.26 for a total award of \$177,043.50, **Action:** Approve **Moved by** Vice-Chairman McBride **Seconded by** Commissioner Gilman

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

13. **DISCUSSION/POSSIBLE ACTION:** Proposed Jail Fund Resolution to resolve issues and clarify the maintenance and use of the Jail Fund; and to record such resolution with the Nevada Department of Taxation.

Sheriff Antinoro stated that sometime ago his friend Mr. Beach came to him and asked him about the jail fund resolution, which started a big hunt. Several individuals have spent time looking for the resolution to no avail, even the State Department of Taxation claims they have no record of it. This issue has come to a head with budgeting, the concern that he has is how it is allocated and how it is used. In talking with the State the optimum thing would be if we could locate the original paperwork, short of that the State is saying make a new resolution. He continued that during the last budget process this issue was pretty significant and his position was that he doesn't care if we keep the jail fund and clean it up or roll it into the general fund as a line item. The consensus seems to be that we should probably maintain the fund and if that is the direction we are going we need to clean it up, state how we are going to allocate the funds and what the uses are going to be. Since budget time, working with Mr. Gallagher, some fees have been moved around and are covered in the proposal he provided the Board, it is drawn from three other counties. The idea is to not let this sit any longer and get it cleaned up. Mr. Gallagher stated that he agrees with the Sheriff, this has been going on for some time. We are sitting here with a fund that doesn't have the language he would like to see it have. Mr. Gallagher would like to see it remain a special revenue fund because it does have dedicated revenues and dedicated expense. Mr. Whitten stated that this is to officially stimulate the conversation to clean

this issue up, there is no need to approve the resolution today and this is a rough draft that will be brought back at a later date. Sheriff Antinoro wants to make sure that once it is fixed it is fixed in perpetuity. Commissioner Gilman stated that he recalled this being an issue during the budget hearing, he thinks it is appropriate that we move forward and take a serious look at a revision. Chairman Sjovangen asked if we knew how much ad valorem is allocated to the fund. Mr. Gallagher stated that it is currently part of tax rate at .0745. Vice-Chairman McBride asked if he is correct that the current tax rate is not adequate to cover the costs of the jail. Sheriff Antinoro said that is part of the problem, the rate is not enough to cover the operations of the jail. They are now receipting fees into the jail fund and it looks like it will get it very close, he isn't looking at a rate increase. Mr. Whitten added that we have several options here and a rate increase shouldn't be one of them, there will be no overall rate increase. Keep in mind that whatever isn't covered by the jail fund is picked up by the general fund. Mr. Gallagher stated he would like to do this in November to allow for time to assess the ad valorem and fees over the next five years. He discussed the proposed business licenses increases that were shut down last year due to the developer agreement, it now looks like we may have a little leeway. All fees and licenses need to be reviewed.

Discussion was held regarding the continuance of the item and the appropriate meeting date. It was recommended that the item be heard at the first meeting in December.

Dale Beach stated that he started stirring this pot because he didn't like seeing where the money is going. We got involved with leasing 2 double wide trailers and spent \$540,000, which was contingent on this jail fund. He would like to see the jail fund thrown away and have the sheriff's office and jail run out of the general fund. Mr. Beach stated that if there is one person that he would put on his checking account in this county that isn't already it is the Sheriff. He is totally honest and careful with his money. He doesn't believe that people like us should rent and lease, he doesn't do it as a personal practice. He just didn't like what was going on over there and he would like to get away from those issues.

Mr. Phillips stated that it was early in the tentative budget process that he had the privilege to meet with Susan Lewis who is a budget analyst with the Department of Taxation, during the meeting the jail fund was addressed and Ms. Lewis insinuated that it was illegal and was hoping that the Sheriff would look at it. He is glad to see the Sheriff address this issue, especially looking at an election year next year. He had a talk with Commissioner Gilman after he was elected about going down to the Nevada Supreme Court Library and looking for a clue as to where the jail fund came from. District Attorney Maddox said it won't be there, we have done all the checking we can. It looks like what happens is they didn't increase the tax rate they simply added another line item. Mr. Gallagher asked Mr. Phillips if Susan Lewis stated this was illegal. Mr. Phillips explained that the expenses over revenues were a red flag for Ms. Lewis. Mr. Gallagher stated that the modular space units did not come out of the jail fund, it was out of the general fund. The jail fund is strictly for jail expenses and operations.

Motion: Continue to the December 3, 2013 meeting, **Action:** Approve **Moved by** Vice-Chairman McBride **Seconded by** Commissioner Gilman

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

14. DISCUSSION/POSSIBLE ACTION: Proposed changes to brothel license fees

Commissioner Gilman stated that he recently attend an ethics class and would like to make the following statement: NRS 281A.420 requires me to disclose conflicts of interest. The matter now before this body affects my pecuniary interest. As you know, I am a brothel license holder and one of my companies operates the Mustang Ranch brothel, which would be directly impacted by this proposal. I conclude that the independence of judgment of a reasonable person could be materially affected by this proposal. Because this is a clear case of a disqualifying conflict of interest I am abstaining from voting on this matter.

Sheriff Antinoro explained that this goes back to 2009 when the brothel ordinances were rewritten. Prior to 2009 each building that held a brothel operation had to be independently licensed. In the 2009 revision it allowed for, under the circumstance Mr. Gilman had, where there are two contiguous properties, they can be licensed under one license. However, when that change in the ordinance was concluded there was nothing put in there about a change in the fee structure. Sheriff Antinoro continued, fast forward to 2011 the revocation of the Wild Horse license and the relicensing of the Mustang to cover both properties, brought the issue to a head. Again, this is cleaning up things that started in the past. During the relicensing process Mr. Gilman was informed that there would be fee realignment, there has been several conversations with different interested parties as far as what those fees should be. What he has provided the Board is just a proposal. There are several schools of thought as to how the fees should be set. His example is a middle shot, half price of each annex. We need to go back and clean up the 2009 ordinance and clear the issue up, it has sat since 2012 with no action. The license run on a fiscal year and anything we pass should become effective July 2014. Sheriff Antinoro added that industry input is important and Mr. Gilman is on the other side of the table. Mr. Gilman responded that the regulation stated he shall not enter the conversation.

Mr. Whitten stated that he totally supports everything the Sheriff has said. He takes responsibility for certain elements; he recalls that back in the process of updating this ordinance in 2009 another input that he sought was the council of George Flint. Mr. Flint proposed that we may want to look at industry trends regarding boutique brothels, specialty brothels often times affiliated to ancillary brothels. And at that time Mr. Whitten proposed that in the future we may want to look at charging \$75,000 for the base brothel and tag each of the associated boutique brothels for \$25,000 each. We need to keep our eye on the fact that while we have an existing licensee that would apply to we have to balance the uses out there. He asked do we want to discourage or encourage more applicants, we are allowed 5 under our ordinance and we are currently using 1 of the 5. He submits that the overall ordinance needs a review and an update. The existing Mustang Ranch as it was originally licensed was multiple buildings. This is not a recession proof industry and where do we want that balance, he encourages continuing dialogue on this. He recommended continuing to the first meeting December.

Sheriff Antinoro added that he has talked with the District Attorney regarding some changes that need to be made to the ordinance, he doesn't know if the fee schedule and ordinance need to be changed at the same time and the fees are changed by resolution. He suggested that there should be a cap on the number of annexes a licenses holder can have. Mr. Whitten asked is an annex 1 of

the 5; we have some homework to do. He wants to have balance in the process and review the fees that are being charged to these businesses. They are not paying for just the brothel fee alone; this is part of the analysis too. Sheriff Antinoro stated that there has been some cleanup of the process already.

Chairman Sjovangen said that looking back at when the overhaul of the business licenses was done that it appeared then as it does now that it begins to appear as a punitive fee. Even with the additional locations he would not like to see anything more than \$100,000.00. Sheriff Antinoro added that this is cleaning up the ordinance and it's not because of Mr. Gilman, it is hard to just put a cap on the fee, none of it is meant to be punitive. Discussion was held regarding an appropriate date to place the item on a future agenda.

Mr. Beach recommended that we do away with the brothel ordinance and be a brothel free county. That would allow us to bring clean businesses and be like other states. He could make it in his mind the rest of his life if we were a brothel free county. Chairman Sjovangen asked him what he has against brothels. Mr. Beach stated that he doesn't have anything against the brothels, his wife does and he is here to support her. If we are going to do the right thing let's get rid of the brothels all together. He thinks we have the right handle on this issue of the jail fund.

Mr. Phillips said having sat through the revocation hearing for the Old Bridge Ranch and the Wild Horse and having set through the jury trial he is privy to a lot of information. When the Mustang was allowed to take over the Wild Horse he resented it. He thinks that the brothel owner should keep paying the same amount even though it was one brothel.

Discussion was held regarding the action being taken by the Commissioner or the Brothel Board, it was determined this is a commission action.

Motion: Continue to the December 3, 2013 meeting, **Action:** Approve **Moved by** Vice-Chairman McBride **Seconded by** Chairman Sjovangen

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

District Attorney Maddox stated that next time this should be noticed as the brothel licensing/commission item.

COMMUNITY DEVELOPMENT AND PLANNING

15. **DISCUSSION/FOR POSSIBLE ACTION:** Application for Final Map for Division into Large Parcels-Merger and Re-Subdivision. By Storey County Properties, LLC/Harold R. Lucey. (Lockwood)The proposal is to reconfigure and divide two existing parcels to create two additional parcels. The new reconfigured parcels will be approximately 74, 187, 440, and 8,325 acres in area. The request will be accomplished through the Division into Large Parcels and Merger and Re-Subdivision processes pursuant to the Nevada Revised Statutes. The subject properties are located approximately at 3005 Canyon Way (APN 004-131-08 & 004-111-01), lying within Portions of Sections 13,24,25 & 36, Township 19 North, Range 20 East, and Portions of

Sections 19,20,21,26,27,28,29,30,31,32,33,34 & 35, Township 19 North, Range 21 East M.D.B.&M, Lockwood, Storey County

Mr. Osborne provided a brief summary of the application. (The application and staff report is available in the Clerk's Office.) The surveyor, Mr. Bell was present for any questions. The Planning Commission heard the tentative map and sent it to the Board of County Commissioners for final approval. He explained that essentially we are taking 2 parcels and creating 4 parcels. Mr. Osborne described the access routes for each parcel; there is legal access for all 4 of the parcels.

Mr. Osborne read the findings, the following are found to be factual regarding the Final Map of Division into Large Parcels-Merger and Re-Subdivision under the recommended conditions of approval in Section IX of this report. A motion for approval should include at a minimum these findings and may include other findings deemed appropriate and factual by the body.

- 8.1.1 NRS 278.471-278.4725 regulates the division of land into Large Parcels.
- 8.1.2 NRS 278.471 defines a "Large Parcel" as a parcel which is at least one-sixteenth of a section as described by a government land office survey; or, forty acres in area, including roads and easements.
- 8.1.3 A Merger and Re-Subdivision is defined in NRS 278.4925 as the merging and re-subdividing of two or more contiguous parcels of land or lots without reversion of the preexisting parcels to acreage. The recording of the re-subdivided parcels or lots on a final map, or map of division into larger parcels, as appropriate, constitutes the merging of the preexisting parcels into a single parcel and the simultaneous re-subdivision of that single parcel into parcels or lots of a size and description set forth in the final map, parcel map or map of division into large parcels, as appropriate.
- 8.1.4 This approval is for a "Final Map of Division into Large Parcels-Merger and Re-Subdivision". This title and the process by which the map is approved comply with NRS 278, including NRS 278.471-278.4725.
- 8.1.5 The conditions created by this map do not conflict with existing applicable zoning regulations, including minimum parcel size and building setbacks.
- 8.1.6 Conditions created by the map comply with the land use restrictions and entitlements underlying regulatory zone, are as stringent and not in conflict with federal, state, and county regulations, and will not cause or facilitate impacts that do not already exist to surrounding existing land uses.

Mr. Osborne added that the Planning Commission had requested a deed restriction, he asked that it be lifted and not included in the motion due to the access issue being resolved.

Motion: Based on 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, approval Application No. 2013-006 Final Map of Division into Large Parcels-Merger and Re-subdivision,
Action: Approve **Moved by** Vice-Chairman McBride **Seconded by** Commissioner Gilman

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

District Attorney Maddox asked if we could back up for a minute, if we are going to raise the fee on the brothel we will need to have 2 hearings.

16. FOR POSSIBLE ACTION, LICENSING BOARD SECOND READINGS:

- a. KATHERYN E. HORNDAY – Massage Therapist/100 North E Street (Silverland) VC
- b. DATA GRAPHICS – Home Business/2031 Saddleback Rd. (equipment storage only)
- c. COMSTOCK CIVIL WAR RE-ENACTING – Nonprofit/1575 Plumas, Reno
- d. CROAKERS PEST MANAGEMENT – 565 Sparks Blvd, Sparks (pest control)
- e. PRAXAIR, INC. – 39 Old Ridgebury Road, Danbury, CT (lease equipment in TRI)
- f. CHURCHILL MILLWRIGHT – Handyman/665 Joel Way, Fallon (maintenance/handyman)
- g. AMPLUS, LLC – General/3033 Waltham Way (precious metals recovery) TRI
- h. A B CUSTOM WOODWORKING – General/625 Waltham Way #103/104 TRI
- i. NEVADA DISTRIBUTION SERVICES, LLC – General/625 Waltham Way #103/104 TRI
- j. SCHWABE NORTH AMERICA, INC. – General/2777 USA Pkwy #106 TRI (distribution center for dietary supplements)

Mr. Osborne requested that items A-F be approved and items G-J be continued. Mr. Phillips submitted evidence; it is a Nevada Business License entity search for Comstock Civil War Re-enacting with no results. He explained that even a nonprofit is required to register with the State. The event has come and gone, this is after the fact. There is no evidence that these people have filled out their paperwork, a not for profit business license is no good to the County. Mr. Phillips asked that this item C be continued until they fill out their paperwork. Vice-Chairman McBride stated that he doesn't believe these people do any business. Mr. Osborne suggested that a motion be made to continue the item until Dean Haymore can offer his opinion. Discussion was held regarding the appropriate motion for this item and the nonprofit status of the organization. Chairman Sjovangen asked Mr. Phillips if he had a personal vendetta against someone in the group. Mr. Phillips did not respond. Commissioner Gilman stated that if they are volunteering their time he doesn't want to make it tough on them to come into town. District Attorney Maddox explained that we have laws in place and these must be enforced across the board. Sheriff Antinoro added if they are a nonprofit organization they must be licensed by the Secretary of State. Mr. Whitten recommended a continuance to allow all the questions to be answered. Chairman Sjovangen asked Mr. Phillips to come to the podium, he declined.

Motion: Approve items A, B and D-F, **Action:** Approve **Moved by** Vice-Chairman McBride **Seconded by** Commissioner Gilman

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

Motion: Continue items C and G-J, **Action:** Approve **Moved by** Vice-Chairman McBride **Seconded by** Commissioner Gilman

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

17. PUBLIC COMMENT (No Action)

Mr. Beach stated he has a copy of the propane bid form that he asked for from the Administrative Officer. It shows the destination and tank size, there are a lot of them; it also has a discount rate for the employees of the County. Mr. Beach expressed his disapproval; he doesn't believe the employees should be getting a special rate. Employees of the county should be looking out for the people of the county, not themselves. Mr. Beach stated that Susan Austin and Lance Gilman signed a document in which they agreed to pay 5% of the gross revenue for 40 years; he is asking himself what is going on. He has a letter from Mr. Osborne insinuated that he is trying to circumvent the rules. Each member of his family does their own thing that is not a scheme. He wants to know how much each email costs each day to a county employee.

Ms. Barde asked what the status is of the ¼% sales tax of the V&T Railway Commission. She heard that we don't get the money if the commission has a use for it, is that true. Mr. Whitten responded that this item should be placed on a future agenda for an update and review, there are a lot of facets involved.

Mr. Phillips address having meetings an occasional meeting in other locations throughout the County, the Clerk has portable recording equipment. He inquired as to what happened to the \$500,000 in funds that where budgeted for business portal line, as the bill did not pass. Mr. Phillips stated he doesn't have a personal issue; he is an equal opportunity questioner. Deny Dotson needs to take care of the paperwork for an exempt business.

18. BOARD COMMENT (No Action – No Public Comment)

Vice-Chairman McBride stated that the 3 Commissioners and other staff attended NACO in South Lake Tahoe. It was an enlightening and entertaining conference.

Chairman Sjovangen stated that the dump was closed on Saturday. Mr. Whitten stated he will follow up on that.

19. CORRESPONDENCE (No Action – No Public Comment)

- a. Notice from waste Management expressing their wish to exercise their option to extend the Solid Waste Franchise Agreement

20. ADJOURNMENT

The meeting was adjourned by the call of the Chair at 2:03pm

Respectfully Submitted,

By _____
Vanessa DuFresne, Clerk-Treasurer