



# STOREY COUNTY BOARD OF COUNTY COMMISSIONERS MEETING

TUESDAY, OCTOBER 6, 2015 10:00 A.M.

DISTRICT COURTROOM  
26 SOUTH B STREET, VIRGINIA CITY, NEVADA

## MINUTES

MARSHALL MCBRIDE  
CHAIRMAN  
ATTORNEY

ANNE LANGER  
DISTRICT

LANCE GILMAN  
VICE-CHAIRMAN

JACK MCGUFFEY  
COMMISSIONER  
TREASURER

VANESSA STEPHENS  
CLERK-

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**Roll Call:** Chairman McBride, Vice-Chairman Gilman, Commissioner McGuffey, County Manager Pat Whitten, District Attorney Anne Langer, Comptroller Hugh Gallagher, Outside Counsel Robert Morris, Administrative Officer/Planning Director Austin Osborne, Planner Jason Van Havel, Sheriff Gerald Antinoro, Public Works Director Mike Nevin, Fire Chief Gary Hames, Chief Deputy Melanie Keener

- 1. CALL TO ORDER AT 10:00 A.M.**  
The meeting was called to order by the Chair at 10:00am
- 2. PLEDGE OF ALLEGIANCE**  
The Chair led those present in the Pledge of Allegiance
- 3. DISCUSSION/POSSIBLE ACTION:** Approval of Agenda for October 6, 2015

County Manager Pat Whitten requested that Consent Agenda Item 8 be deleted- rescheduling of the meeting is no longer necessary- and to move Item 20 before Item 17.

Planning Director Austin Osborne requested continuance of Item 16 to November 2, 2015; Items 22 and 23 to October 19, 2015. Mr. Whitten corrected the October 19<sup>th</sup> date is now October 20, 2015.

**Public comment:**

**Virginia City Resident, Mark Joseph Phillips:** In regards to Agenda Item 14, Mr. Phillips requested this item be separated into two items - one for the general liquor license and general business license for the Delta Saloon as 14A. And, 14B for the general business license and regular liquor license for the Bonanza Saloon. Dr. Vincent Malfitano applicant on both items. Mr. Phillips further suggested the Board convene as the Liquor Board while hearing these items.

County Manager Whitten stated the notice at the beginning of the Agenda states that this Board also serves as the Liquor and Gaming Board, amongst other boards. Mr. Whitten concurs that item 14 be

heard as 14A and 14B, with the liquor licenses for the Delta and the Bonanza combined as 14A, and the general licenses for the Delta and the Bonanza combined as 14B.

Outside Counsel Robert Morris said he believes there is sufficient notice that the Liquor Board is going to take action based on the initial paragraph in the Agenda to be able to go ahead with the item today.

Chairman McBride reviewed corrections/changes to the agenda as follows: Removal of item 8 on the Consent Agenda, continuance of item 16 to November 2, 2015 and items 22 and 23 to October 20, 2015. Divide agenda item 14 into 14A - to approve liquor licenses, and 14B - to approve general licenses. Move item 20 to be heard before item 17.

**Motion:** Approve the Agenda for October 6, 2015, with changes as indicated, **Action:** Approve, **Moved by:** Vice Chair Gilman, **Seconded by:** Commissioner McGuffey, **Vote:** Motion carried by unanimous vote (**Summary:** Yes=3)

4. **DISCUSSION/POSSIBLE ACTION:** Approval of Minutes for August 18, 2015

District Attorney Anne Langer explained the August 18<sup>th</sup> Minutes had been approved at a previous meeting. Vice Chairman Gilman was not present at the August 18<sup>th</sup> meeting and had voted to approve the minutes. For that reason, the August 18<sup>th</sup> Minutes are requested to be re-approved by the two Commissioners present at that meeting.

Mr. Whitten noted the incorrect spelling of Fritz Klingler on the Roll Call of the minutes.

**Motion:** Approve the Minutes for August 18, 2015, with correction of spelling of Fritz Klingler under the Roll Call, **Action:** Approve, **Moved by:** Commissioner McGuffey, **Seconded by:** Chair McBride, **Vote:** Motion carried by unanimous vote (**Summary:** Yes=2)

5. **DISCUSSION/POSSIBLE ACTION:** Approval of Minutes for September 1, 2015

**Motion:** Approve the Minutes for September 1, 2015, **Action:** Approve, **Moved by:** Vice Chair Gilman, **Seconded by:** Commissioner McGuffey, **Vote:** Motion carried by unanimous vote (**Summary:** Yes=3)

**CONSENT AGENDA**

6. For possible action approval of Payroll Checks date 08/28/15 for \$439,338.52, date 09/11/15 for \$476,976.73, date 09/14/15 for \$117,294.43, date 09/14/15 for \$64,037.69 and date 09/25/15 for \$407,693.92. Accounts Payable Checks date 08/04/15 for \$499,000.00, 09/04/15 for \$211,237.81 and \$10,732.86, date 09/08/15 for \$17,529.25 and date 09/18/15 for \$3,046,743.17 and \$6,780.98.

7. For possible action approval of Treasurer Report for August 2015

9. For possible action approval of Business Licenses First Readings:

- A. **ROCK RAT ADVENTURES, LLC -- General / 160 South A Street (guided UTV tours) VC**
- B. **MAVERICK TECHNOLOGIES, LLC - Contractor / 265 Admiral Trost Drive ~ Columbia, IL (eng)**
- C. **PAPA FRED'S FOOD (DBA) - General / 1575 Linda Way ~ Sparks (mobile food truck)**

- D. **PRECISION CONCRETE** - Contractor / 1640 West Brooks Avenue ~ N. Las Vegas (concrete cont.)
- E. **JET.COM - General / 2777 USA Parkway (fulfillment center) TRI**
- F. **RELIABLE PLUMBING** - Contractor / 4075 Desatoya ~ Reno (plumbing contractor)
- G. **DUKE'S PLUMBING** - Contractor / 1424 Industrial Way ~ Gardnerville (plumbing contractor)
- H. **FAMILY LANDSCAPE MAINTENANCE** - Contractor / 330 River Road ~ Dayton
- I. **NEVADA COMMERCIAL COATINGS, LLC** - Contractor / 4890 Aircenter Cir ~ Reno (painting cont.)
- J. **FARWEST INSULATION** - Contractor / 1220 South Sherman St., ~ Anaheim, CA (insulation contractor)
- K. **MIDWEST RECYCLEING SERVICE & SALES, INC.** - Contractor / 855 Rowland Springs Rd ~ Cartersville, GA (install recycling equipment)
- L. **TILE ALLIANCE, INC.** - Contractor / 4615 Aircenter Cir ~ Reno (tile contractor)
- M. **PETRO SOLUTIONS** - General / 2511 Edgerock Road ~ Reno (truck storage @ 3033 Waltham)
- N. **PLATINUM SCAFFOLDING SERVICES** - Contractor / 14950 Heathrow Forest ~ Houston (scaffolding)
- O. **M G & H CONSULTING, LTD** - Home Business / 21570 Dortort Drive ~ VC Highlands (consultant)

- 10. For possible action approval of Sheriff Business Licenses First Reading:
  - a. The Hatchling House, a home day care in the VC Highlands

**END OF CONSENT AGENDA**

**Motion:** Approve the Consent Agenda, **Action:** Approve, **Moved by:** Vice Chair Gilman, **Seconded by:** Commissioner McGuffey, **Vote:** Motion carried by unanimous vote (**Summary:** Yes=3)

- 11. **DISCUSSION ONLY (No Action - No Public Comment):** Committee/Staff Reports

**Ron Englebrecht, Mark Twain Community Center:**

- An arts and crafts fair will be held at the Community Center in November.
- In December, the Community Center will hold its annual spaghetti feed.
- The Veteran's Memorial is under construction and should be completed in time to hold a dedication on Veteran's Day. This will be a great presentation with local Vietnam Vets and American Legion members being invited.

**Shaun Griffin, Community Chest :**

- On October 28<sup>th</sup> the Health Center will re-open in Virginia City with an attending physician's assistant. The Health Center will be open every Wednesday from 8:30 AM to 4PM. There is a possibility that pharmaceutical services will be provided.
- Health services will open in Lockwood on Thursday, November 5<sup>th</sup>. Services will be available on Thursdays and will be coordinated through the Community Chest Outreach counselor, Adrienne Sutherland. Services are primarily senior outreach.
- On November 21<sup>st</sup>, 4 - 6 PM, an author presentation will be given by Heidi Durrow, critically acclaimed author of The Girl Who Fell From the Sky, at Piper's Opera House.

- Plans are nearing completion and progress continues on Phase 2 of the Community Center. Requests have been made to six foundations for support. Written commitments to be returned by November.

**Jason VanHavel, Planner:**

- The Planning Department has been reviewing recent sign variances and issues. A group has been brought together to discuss issues and potential updates. A public conversation on this topic and implications of updating the County's sign zoning will be initiated in the future.

**Austin Osborne, Administrative Officer/Senior Planner:**

- A "pocket plaza" is being built as a 5 - 10 year interim project at the Black & Howell building. This will include a shade structure, benches and a kiosk.
- Work continues on the Courthouse parking lot. Comstock Mining, Inc. will be providing rip-rap at a low cost to be utilized in stabilizing the slopes at the back of the parking lot. This project goes out to bid this week. A mandatory contract meeting will be held at the site before bids are accepted.
- State Route 342 is closed for completion of the 2<sup>nd</sup> phase of the road project. Work should be finished by the target date of November 12<sup>th</sup>.
- We continue to work on the Master Plan. Chapters on the website for housing, transportation, land use and population, are substantially complete. The Largamasino plan is complete and on the website. March 2016 is the anticipated date for completion and presentation to the Board. Written comments and questions from the public regarding the Master Plan are encouraged. Comments become part of the record supporting the Master Plan and should be directed to the Planning Department.
- The entire Master Plan is a draft. Numbers and dates will be assigned in the future.
- Mr. Osborne continues to meet with BLM and with staff from Congressman Amodei's and Congressman Porter's offices regarding the land conveyance between BLM and Storey County. Bill draft language for the next Congressional session is being prepared.
- A review of Storey County employee health benefits plans has begun in preparation for the annual employee benefits fair to be held in May. An employee committee will be set up to discuss any issues.

**Gary Hames, Fire Chief:**

- Thank you to the staff for their work and support during the Chief's recent absence.
- Fire crew fuel management activities should begin next week in the Highlands. The new excavator will be used to complete this work. After the Highlands, work will continue at Six Mile Canyon and the top of Bailey's Canyon. A presentation will be given this month at each of the Highlands Homeowner Association Boards regarding the work to be done. A fuels foreman will go door-to-door to discuss fuel management with residents.
- Fire Station 75 is now fully staffed. Since being staffed, call volume has quadrupled. An additional dorm-room has been installed by Public Works. We are working with REMSA regarding response issues.
- An opening burning press release was issued this week primarily for Mark Twain and Painted Rocks. There is no open burning allowed in the Highlands.

- The aerial platform for Station 75 was delivered to Las Vegas for refurbishment. Hopefully the platform will be in service by the first of the year.
- The CDBG grant for the fourth ambulance is going through. The cab and chassis have been ordered with delivery after refurbishment in March.

Vice Chair Gilman asked about the call volume and the nature of the calls in TRI at Station 75.

Chief Hames said most of the calls are medical emergencies. In the past, these type of incidents were most likely transported in private vehicles due to long response times.

**Hugh Gallagher, Comptroller:**

- The budget to actual process for the first quarter 2015-16 will be scheduled for the next meeting. At a recent meeting of local Counties fiscal management, attendees were surprised at the amount of consideration this Board gives to the budget process and the progress made through this process.

Commissioner McGuffey asked if there was any progress on the V & T Railroad issues.

Mr. Gallagher replied that several outside auditors that were contacted do not have time to complete an audit of the V & T issues. The County will step up and do it internally. This will be done soon.

**Anne Langer, District Attorney:**

- The Hoover estate/property has been cleaned up. An auction of items found on the property is scheduled for October 24 at that location. Time and date will be published in the newspaper. A lot of the items belong to the Comstock and hopefully these items will remain here through a private auction.

**Pat Whitten, County Manager:**

- Present at today's meeting is former Commissioner Bill Sjovangen as well as the developer of Tahoe Reno Industrial Center, Don Roger Norman.
- Completion of a cape-seal project on the private portions of Cartwright Road in the Highlands has been discussed at a previous meeting. Both Homeowner's Associations have sent the requisite letter requesting the County's support and help. The legal department has found an approach allowing the County to do this. Currently the project will be on hold until the next paving season, which may be May of next year.
- The Clerk's office will post notice of a possible quorum for October 28<sup>th</sup> and November 5<sup>th</sup> so that Commissioners can attend the opening of the Health Centers in Virginia City and Lockwood respectively.
- The work done in the parking lot has been some of the best collaboration of County resources to date. Austin Osborne has done a great job on this project and in obtaining rip-rap from Comstock Mining at a lower cost.

**12. BOARD COMMENT (No Action - No Public Comment)**

**Commissioner McGuffey:**

- Community Development Director Dean Haymore was recently honored by EDawn for his great efforts and successes in working with businesses at TRI.
- The NACO convention was held last week. Commissioner McGuffey attended and has completed all mandatory workshops, and has taken additional classes towards becoming a certified public officer.

- Commissioner McGuffey attended the Comstock Mine Portal dedication to Randy Harris. At the time of the dedication, the portal was about 200 feet deep in and is progressing 10 feet per day. Giant steel doors with padding have been installed and are closed during blasting.

**Chair McBride:**

- Lisa Mensa, Department of Agriculture Under-Secretary, recently toured the industrial park visiting properties that have been given loan guarantees from USDA.
- Projects such as the new wastewater treatment plant on Six Mile Canyon are done in cooperation with the USDA Rural Development, who gives the County grant funds and loans money for a long period of time at low interest rates. After completion of projects, USDA sends a representative from Washington to review the property and see that everything was done to specifications. Kent Evans from Washington recently toured the facility with representatives from the USDA Carson City office. The County has been working on replacing the wastewater lines throughout Virginia City and Gold Hill, a project that would be many phases over many years. Mr. Evans was so impressed with the how smoothly the treatment plant project was completed, he suggested the County submit plans for replacement of the system in Virginia City and Gold Hill.
- An application was submitted to the USDA in August. Within 30 days, the USDA advised the County of being very interested in the project and suggested the County ask for full funding and one phase - saving money by having one set-up and one tear-down. The application for full funding was granted and USDA Rural Development has awarded Storey County a grant of almost \$9 million and a low-interest, long term loan of approximately \$4 million. This project can be completed as soon as a bid is awarded.
- The County is mandated by EPA to be in compliance with clean drinking and wastewater. With the assistance of the Federal government, the County has been given the opportunity to obtain the majority of funds needed to complete the wastewater system project. This is a sign of good government.
- Chair McBride thanked the staff of USDA Rural Development, Carson City, who went out of their way to make sure the application was submitted timely and approved.
- Chair McBride also attended the NACO conference in Las Vegas.

13. **DISCUSSION/POSSIBLE ACTION:** Approve second reading of liquor and general business license for Storey County School District for Piper's Opera House

Sheriff Antinoro joined the Commissioners as part of the Storey County Liquor and Gaming Board.

County Manager suggested hearing this item as 13A for the liquor license and 13B for the general business license.

Sheriff Antinoro stated that investigation has been completed on the School Board's liquor license. There is no reason to preclude the School Board from obtaining the liquor license and Sheriff Antinoro recommends approval.

Public comment:

**Mark Joseph Phillips, Virginia City Resident:** Would like to confirm that it is the School Board of Trustees that submitted this application.

Sheriff Antinoro replied that it was.

Mr. Whitten indicated that this license is primarily for upstairs and not related to the Corner Bar.

**Motion:** Approve the liquor license for Storey County School District for Piper's Opera House,  
**Action:** Approve, **Moved by:** Vice Chair Gilman, **Seconded by:** Commissioner McGuffey,  
**Vote:** Motion carried by unanimous vote (**Summary:** Yes=3)

Chair McBride stated Item 13B, general business license, would be for selling souvenirs, conducting events, and the like.

No public comment.

**Motion:** Approve the general business license for Storey County School District for Piper's Opera House, **Action:** Approve, **Moved by:** Vice Chair Gilman, **Seconded by:** Commissioner McGuffey, **Vote:** Motion carried by unanimous vote (**Summary:** Yes=3)

14. **DISCUSSION/POSSIBLE ACTION:** Approve liquor and general business license for The Bonanza and The Delta

Chair McBride said this item will be heard as 14A for liquor license and 14B as general business license.

Chair McBride disclosed that he is in business on C Street and holds a liquor license, and does not have a pecuniary interest in either the Delta or Bonanza Saloons.

Vice Chair Gilman disclosed that he operates a business on C Street, and has not pecuniary interest in the Delta or the Bonanza.

District Attorney Anne Langer presented this item (14A), liquor licenses for the Delta and the Bonanza.

Ms. Langer said NRS 369.190 would apply to the liquor license regarding both establishments. This statute discusses applying for a liquor license and that your moral character would be an item that the Board will, and shall, take into consideration when making their opinion on granting a liquor license.

In further review of the statute and researching the subject, it came to the attention of the District Attorney's office that - 369.190 applies to wineries, breweries - places along that line. When looking to a general liquor license, what would apply here would be the County Code, Section 5.

Ms. Langer said Outside Counsel, Robert Morris, has done the major research regarding the County Code and will continue the presentation of the procedures that the Board would like to know prior to making a decision.

Robert Morris discussed legal areas providing the groundwork for the Board's decision in this matter.

Initially, NRS 244.350 is the authorization allowing Board of County Commissioners to become the Liquor Board and to pass regulations on the sale of intoxicating liquors in this County, and allows the County to adopt ordinances for that purpose. The County has adopted two different sections - chapter 5.04 for business licenses. Chapter 5.12, deals with the sale of alcoholic beverages. The basic requirements for any license within the County are contained in chapter 5.04. Section 5.04.050 talks about the need to have a hearing on any license. There is an additional section in the code dealing with alcoholic beverage licenses having additional requirements. For a business license, Section 5.04.100 gives grounds for the refusal of a license - stating that a license may be refused by any

licensing agency until the applicant complies or agrees to comply with all the other existing ordinances, laws in force, including the County master plan. A license may be revoked for failure to comply therewith. Specifically for a business license, any unpaid taxes would be grounds for refusing a license.

Mr. Morris continued, since this is a license for sales of alcoholic beverages, it's important to look at that requirement. The first section of 5.12.010, states that all new applicants for a liquor license authorizing the sale of alcoholic beverages on or off premises, shall provide the County Liquor License Board with the following primary consideration: a) proof of financial standing to warrant an expected, satisfactory and profitable business operation. That is to provide the Board evidence to show that applicant has the financial standing to have a profitable business operation.

This should provide the Board with the basic legal framework for their decision. There is a lower standard of approval for a business license. Since there is a specific section about the sale of alcoholic beverages, there is the additional requirement of proof of financial standing - it is important for the Board to see if there is evidence to show or not to show that.

Mr. Morris said it is important for the Board to specifically call out the reasons why they are voting one way or the other on an item like this. If there are particular reasons the Board feels convinces a vote one way or the other, it would be good to put those on the record.

Under the code sections, the Sheriff is to do an investigation into the background. Some of the other sections are a complete background as to applicant's criminal record and experience in saloon or liquor vending businesses. The Sheriff is the one to report to the Board on this matter.

Sheriff Antinoro stated the applicant made application to the County for the liquor license. An investigation was conducted finding nothing of a criminal nature that would preclude applicant from having a license. During the course of investigation, there was showing of significant finances and financial background knowledge to where there would be no reason to expect the business would fail.

Sheriff Antinoro believes the reason this is being done with such gusto, is because of what happened recently with this particular applicant with gaming. Gaming has a significantly higher standard than what the County ordinances have, requiring much larger showing of financial background and knowledge of the industry - things like that. For the purposes of Storey County liquor licenses and the licenses we have issued in the past, nothing was found in the applicant's background or during the course of the investigation that would preclude him from obtaining a Storey County liquor license.

Mr. Morris suggested that since the matter of the Gaming Control Board and it's order has been raised as something that the Board might want to consider, Mr. Morris has a copy of that order and can provide it for the record. There is one section the Board may want to consider. On page 4, "Virginia City Gaming, Malfitano and Delta failed to carry their burdens to demonstrate adequate business competence for the licensing applications. This is demonstrated through the non-disclosure of business related issues to the Board, significant disclosed and non-disclosed litigation, significant employment related issues from Malfitano's assisted living and his prior dental practice, significant citations and actions by other regulatory agencies concerning Malfitano's assisted living business and prior dental practice, the existence of numerous prior tax liens, and appearance of significant cash flow problems."



Mr. Morris continued the only reason to use that is to consider the financial standing of the applicant and whether that would assist in deciding whether you could expect the satisfactory and profitable business operation.

Sheriff Antinoro, again Gaming has an extremely high standard. Several of the State agencies have standards that far exceed what we have ever given to in Storey County in the past. One regulatory agency requires you have \$20,000 cash sitting in the bank at your disposal for your business. Sheriff Antinoro does not know specifically what Gaming requires, however in our investigation, Mr. Malfitano has significant personal holdings. According to the financial documentation provided to us, he does have liquid resources along with real property holdings. The CPA familiar with Mr. Malfitano's finances said there is no reason why he would not be successful in this endeavor. If we are to consider what Gaming offers on his financial status, then we should look at what Gaming requires as the level of proof financial stability. If we are going to hold this applicant to that standard of what Gaming requires, does that mean we now have to go back and reconsider all other liquor applicants who may have a difficult time reaching that same threshold.

Mr. Morris reminded the Board that it's not the Gaming requirements that the applicant has to meet. Basically you are deciding, "proof of financial standing to warrant an expected satisfactory and profitable business operation". You're looking at that specific standard of requirement.

Sheriff Antinoro pointed out that the investigative reports have been provided to the Board. While the personal financials were not included as it contains protected information - the bottom line estimated value of Mr. Malfitano's holdings, as listed, are in excess of 5 million dollars.

Mr. Morris said the Board could ask the applicant. Chair McBride noted the applicant is not in attendance.

Chair McBride indicated that Mr. Malfitano's general manager is present and prepared to give testimony.

Mr. Morris indicated the Board has staff's view of the matter and it's appropriate for the applicant, or anyone that wants to speak, to go ahead and give public testimony. It is understood that the Chair may have testimony as well, and after - if there are any other questions - they could be answered and the Board could go ahead.

Tina Perkins, current General Manager at the Bonanza and the Delta for Dr. Malfitano, said they have been working tirelessly preparing the documents. Health inspections were yesterday, which went very well. The Bonanza restaurant and the bar were approved. Four of the bars in the Delta were approved - the restaurant was not approved yet as there is a lot of work to be done.

Ms. Perkins continued, at least 15 of the prior employees have been retained. Five from the Sawdust Restaurant. They are trying to keep everyone employed and everyone who has asked to stay, has stayed.

Bruce Kiddis, resident of Carson City and friend of Dr. Malfitano for 20 years: Describing the Gaming Board Commission process in one word - tilt. Mr. Kiddis doubts that any of you could pass the Gaming Commission if they decided we don't want them. You can be accused and you don't get the documents. That's not the point. This is Virginia City, this is the old west.

Mr. Kiddis continued: This young man has made his money the old-fashioned way. He paid the seller, Mr. Petrini, 4 million dollars. Mr. Kiddis is sorry if Mr. Petrini regrets selling it. He could have

easily said in the contract - if you don't get your Gaming License, I get first option to buy it back. He didn't. We are sorry to see the machines leave the Delta - they may come back. The whole process is discouraging. This young man is an entrepreneur and deserves a chance to run a business. If he doesn't make it, he'll go bankrupt or sell it.

Hugh Gallagher, Storey County Comptroller, has a couple of items to remind or advise the Commission on:

- First and best use going forward - that it was a gaming establishment originally, and the process was it was going to be continued as such. It is no longer going to be the case;
- Profitability at that point in time becomes somewhat "salted down". Understanding the fact that the Gaming Control Board decided not to license the applicant, is a big concern - going forward as to the profitability of those two locations.
- The other side is there has been a number thrown out as to the net worth of the applicant, which is somewhere around 5 million. Mr. Gallagher is not sure if this is an audited statement or just an application. If that's the case, that should probably be examined to see if that is not true.

Chair McBride disclosed that after reading that applicant was denied by the Nevada Gaming Control Board, Mr. McBride decided to attend the next meeting before the Nevada Gaming Commission - two weeks later. It was three hours of testimony. As pointed out by Mr. Morris, there has to be strong financial standing in order to be licensed - not only by liquor regulations but by gaming. Gaming pointed out a host of different things - lawsuits, foreclosures, delinquent tax payments, tax liens, default notices, all of these items.

The vote against the applicant from the Gaming Control Board was 3-0 for denial. The Gaming Commission vote was 5-0 for denial. Talking about financial stability and net worth of approximately 5 million dollars, dwarfs what Commissioner Townsend on the Gaming Commission stated - that the debt Mr. Malfitano has is 12 million dollars.

Chair McBride continued that Mr. Kiddis has suggested that Mr. Malfitano paid 4 million dollars for the properties. Probably true, but no secret that there are large sums of debt attached to this purchase, in the amount of 2.5 million dollars. Looking at the financials, he is upside-down by 7 million dollars, and has outstanding debt of 2.5 million dollars. Removing gaming from the properties, and the cash flow by 60 or 70%, does not make a sustainable business.

As pointed out earlier, Chair McBride said he does have a little knowledge when it comes to gaming, with his family in the business since 1931.

Chair McBride said this would be an up-hill climb when it doesn't look like there's any financial stability in order to operate these two businesses,

Sheriff Antinoro asked what kind of precedent we are setting. An entity has just been licensed without going through this discussion on finances. We assume the School Board has sufficient money to keep that license going and run a sustainable business - different type of business.

Even though Mr. Morris says we are not holding him (applicant) to a gaming standard, in essence we are. Everything being talked about is what Gaming says. If Gaming says there are lawsuits, tax liens, and judgments - again, do we go back and look at the existing license holders. There are existing license holders that have suffered some of those same issues. Sheriff Antinoro said he is not judging the applicant's business model. As Mr. Gallagher pointed out, Sheriff Antinoro thinks trying to run (the businesses) just as a bar, that the businesses will probably fail. That is not his decision to make.

Are we going to hold this applicant to a different standard, than what we have in the last five years and to what the last approval was held to?

Chair McBride replied that he doesn't know if we're holding to a different standard. Under liquor license provisions in Chapter 5.12, "an applicant is required to provide to County Liquor License Board the proof of financial standing to one expected, satisfactory profitable business operation". Can a profitable operation when the major source of revenue has been taken out

Sheriff Antinoro stated he does not know the breakdown of revenues and does not know what the entire business plan is for the operation of the buildings. He is looking at the consistent application of the ordinances and issuance of liquor licenses. It seems to be like a different standard.

Vice Chair Gilman said he has reviewed the Gaming Board's review and analysis. Mr. Gilman assumes that that Board had well-qualified, investigative staff who looked carefully at this individual perhaps beyond what this Board would do for a license. If the Gaming Board's reasons for denial are followed, how can we - as a body - support a liquor license based on our statutes. The Sheriff has done his investigation and we have an investigation done in depth by the Gaming Board. Mr. Gilman does not understand why we're apart because the Gaming Board's investigation was clear and the violations are clear. The standard wasn't reach for the gaming license or for a liquor license.

Commissioner McGuffey expressed that it was difficult to compare (this item) with the school board getting a liquor license. They make some money and are trying to help support that old building. As far as relying on what the Gaming Board says - no, but the information gives an idea of what kind of person he (Mr. Malfitano) is. Commissioner McGuffey refers to information in the Gaming Board's decision referring to the applicant's business background, numerous tax liens, and significant cash flow problems. Applicant was not qualified to be a landlord. This shows what kind of person he has been and shows that he lacks probity and does not show integrity to run a business - the way the Gaming Board sees it.

Sheriff Antinoro replied, again the Gaming Board is holding that position on the basis of their requirements to hold a gaming license. Storey County has had, and has, license holders who have judgments and tax liens. Do we go back and review all of those licenses to hold them to a different standard? We're talking about a Storey County liquor license, not a gaming license. The Sheriff said he cares that we are applying things equally and fairly across the board to all past, present and future license holders and applicants.

County Manager Whitten read from page 4 of the gaming order continuing from Mr. Morris left off, "For the landlord applications, this is demonstrated by significant issues concerning foreclosures, delinquent tax payments, tax liens and default notices concerning the real property of or business owned by Malfitano, which indicates Malfitano was not suitable to be the landlord of the gaming establishment." These are serious contra-indicators of financial standing.

Mr. Whitten continued that as Sheriff he issued these licenses for six years. He applied similar standards known in the banking industry where you looked at character and capacity in order to extend lines of credit. Once he became knowledgeable of the level of concern from gaming, seeing gaming's order, it is Mr. Whitten's opinion, it can't be denied.

Mr. Whitten said he would argue that if this information was known about every other liquor license applicant, they should be held to this standard - but we don't. In the instant case, we know because of the gaming order and the testimony heard at the Gaming Commission hearing.

These are serious indicators of lack of financial strength and ability to conduct a business. Staff's recommendation is to deny both liquor based on those findings.

Chair McBride called for additional public comment.

Bruce Kiddis, Carson City Resident: Earlier you approved the September 1<sup>st</sup> minutes. Item 13 refers to a statement that if Dr. Malfitano were to sever relations with Dewing Gaming to operate the businesses himself, there would be no delay in obtaining the licenses. There is no reason not to license Dr. Malfitano except that it would be a duplicate license. Mr. Kiddis addressed Chair McBride and said the Chair was there and Malfitano's attorney - who had served on the gaming board - argued the standard for gaming was different from that for being a landlord.

What was said on September 1<sup>st</sup> is meaningless.

Chair McBride responded: You are correct, that is what was said. Chair McBride said he mis-spoke and what he should have said - and to correct the record - that you (Malfitano) can come back for consideration to have the license approved.

Chair McBride continued, your friend's lawyer - testifying before the Gaming Commission - lost his argument. He is an expert in gaming law as he was on the Gaming Board. He was amongst his peers and lost. It rarely happens that a person goes through the application process all the way to denial.

Most of the items there were items that were undisclosed - numerous lawsuits, sexual harassment settlements, all undisclosed. The six page letter of denial is public record.

Chair McBride said he has to look out for what's good for Storey County, the community of Virginia City, the taxpayers, and the wellbeing of the people who live and work in the community.

This is the most controversial issue in Chair McBride's three years on the commission. He has received phone calls and walk-ups from people who are upset and displeased that the Delta is going to turn into a sports bar. There's a history of gaming there (at the Delta).

The Gaming Commission awarded Mr. Dewing, the operator, 90 days to operate giving Mr. Malfitano time to find other avenues to sell the property, to operator or do something else. He opted to take this path.

Pat Whitten: One item to clarify. Further in the minutes it does indicate that County Manager Whitten stated that Sheriff Antinoro has asked Mr. Whitten to explain the licenses will be considered for approval. So the misstatement (by Chair McBride) was corrected at the time to indicate they would be considered.

Vice Chair Gilman: The statement was made on what was known at the time. Now there is more information and it's important to make the proper decision. Mr. Gilman does not understand why the two reports and investigations are so different.

Nicole Barde, Storey County Resident: Suggested that before trying to apply a higher standard as demanded by gaming, go back to the local standard. Is it asked on the liquor license application and on the business license, for disclosure of the issues that came up at the Gaming Commission.

Sheriff Antinoro replied, some of the financial stuff, yes - some of it, no. All of the criminal stuff is asked for disclosure. There were no omissions by Mr. Malfitano on what we inquired of.

Ms. Barde: If there's something wrong with our process that allows this level of magnitude of issue to pass by our investigation, we need to plug that hole. If the application asks for this information and he failed to disclose it, it seems that it can be denied based on the local requirement. Ms. Barde is concerned that if a step is taken outside the local regulations and the higher standards of the Gaming Commission are used, it may have implications and set precedence we may not like. If the violation is in the regulations, applications, ordinances, that's clean to say denial. Stepping outside of that may cause problems. Ms. Barde is not advocating for or against, just saying it leaves you open.

Judy Cohen, C Street business owner and Storey County Resident: Ms. Cohen has a general business license. No one on C Street likes to see what's happening. Ms. Cohen thinks, if there is a discrepancy, the statute - whatever it's called - needs to be looked at.

District Attorney Anne Langer: Before the vote, Ms. Langer said she would like to go over a few rules. One of the first issues wafting around, is under NRS 369.190, moral character. A lot of the issues that have come up before the vote, is to look at the Storey County ordinances having to do with the procedures for getting a liquor license. This comes down to proof of financial standing to warrant an expected satisfactory and profitable business operation. That's it. Moral character doesn't apply. Financial wellbeing under the local ordinance is what you are looking at, and that is what I would direct you to as Storey County District Attorney.

County Manager Pat Whitten: Staff's recommendation is to deny both liquor licenses for the grounds that have been explained, and that you have explained on the record - your concerns.

Ms. Langer: Depending on the motion, whether to approve or deny the license, please make it specific as to your reasoning behind approval or denial.

**Motion:** To deny the licenses, the liquor licenses, for both the Bonanza and the Delta, based upon the probability of financial instability to operate successfully here in Virginia City **Action:** Approve, **Moved by:** Vice Chair Gilman, **Seconded by:** Commissioner McGuffey, **Vote:** Motion carried by unanimous vote (**Summary:** Yes=3, Chair McBride, Vice Chair Gilman and Commissioner McGuffey; Nay=1, Sheriff Antinoro )

Chair McBride called to hear item 14B, licensing for the general license for the Delta and the Bonanza

Outside Counsel Robert Morris, addressed the board. If there's consideration of refusal of a license, Section 5.04.100, has specific grounds for refusal. Basically, a license can be refused by any agency until the applicant complies or agrees to comply with all other existing ordinances, law in force, including the County master plan and license.

This is a general requirement that the applicant abide by existing ordinances and laws. Refusal would be based on the applicant not complying with existing ordinances and laws.

There is a section about any unpaid real property taxes. Mr. Morris understands that this has not been brought up.

The business license has a different requirement for approval and denial than the liquor license.

County Manager Whitten: It would be staff's position, subject to further input from legal counsel, that as far as the Delta is concerned - to the best of his knowledge - they are current on inspection requirements for both building and fire, and would be eligible to meet the burden of standard.

However, the Bonanza is not. There are fire code issues being worked on currently.

Mr. Whitten said staff's recommendation is to recommend approval for the Delta and continuation of the Bonanza, therefore revoking any temporary licenses granted earlier and allow them to operate without liquor or gaming. The Bonanza would not be allowed to operate.

Commissioner McGuffey asked if in the past they were able to operate their business while making fire, sprinkler improvements or anything like that. If so, might we entertain that possibility?

Mr. Whitten asked Fire Chief Hames to comment on the status of compliance.

Gary Hames, Storey County Fire Protection District Fire Chief: We have been working with them for approximately nine months. In our district, the generally accepted practice is six months. We are over by three months. That building is not safe. Chief Hames understands that at escrow it was understood that building had to be fire sprinkled. It's almost a year now. I would recommend that a general business license is not issued for that facility.

Bruce Kiddis: To the Chief, is there or isn't there a written agreement that says the sprinklers will be in by December 31<sup>st</sup> and that was negotiated in the County Manager's office. Is there or isn't there? There is.

Chief Hames: No, there is not. There is an agreement in place that states that it ties back to the gaming license approval. The gaming license approval was not successful. It is Chief Hames' opinion that the agreement is null and void as it was tied to the gaming license. That process was not fulfilled.

**Motion:** To deny the Bonanza business license and to approve the Delta general business license,  
**Action:** Approve, **Moved by:** Vice Chair Gilman, **Seconded by:** Commissioner McGuffey,  
**Vote:** Motion carried by unanimous vote (**Summary:** Yes= 4)

Chair McBride: And the denial would be lifted upon the time that the sprinkler systems were completed.

Mr. Whitten: If you're going to do that, they would have to reapply.

The Chair called for recess at 11:42AM; reconvened at 11:53AM

## **RECESS TO CONVENE AS STOREY COUNTY FIRE PROTECTION DISTRICT BOARD**

15. **DISCUSSION/POSSIBLE ACTION:** Approval of Resolution No. 15-431 approving portal-to-portal payment for CFAA mutual aid requests.

Fire Chief Gary Hames presented this item. This is a five-party agreement between the Federal parties, US Forest Service, BLM, California Office of Emergency Services, Cal-Fire, and local governments. The agreement allows and promotes portal to portal payments relating to mutual aid outside of the area over to California. The agreement is portal to portal so that our crews can be run

24 hours per day on fire incidents. Separate from the agreement, a resolution supporting the same language is required.

Vice Chair Gilman said he understands there is no financial impact, the agreements are already in place and California has requested the County to address an ordinance to satisfy their requirements.

Chair McBride corrected that it's a resolution not an ordinance.

Commissioner McGuffey asked if there are mutual fees involved.

Chief Hames said yes, this is a reciprocal agreement. The fees are broken down in the agreement that has been signed for 15 years.

**Motion:** Approve Resolution No. 15-431 approving portal-to-portal payment for CFAA mutual aid requests **Action:** Approve, **Moved by:** Vice Chair Gilman, **Seconded by:** Commissioner McGuffey, **Vote:** Motion carried by unanimous vote (**Summary:** Yes=3)

### **ADJOURN TO RECONVENE AS STOREY COUNTY BOARD OF COUNTY COMMISSIONERS**

16. **DISCUSSION/POSSIBLE ACTION:** (Continue until 11/02/15 board meeting) Approve second reading of Ordinance 15-266 an ordinance amending Storey County Code section 17.12.064 Public Utility Uses to establish a procedure for permitting aboveground utility projects and renewable energy generation projects and providing for other properly related matters.

20. **DISCUSSION/POSSIBLE ACTION:** Request by Don Gilman for assistance re ad hoc rulemaking.

Vice Chair Gilman recuses from discussions and vote as he has a pecuniary interest in the business operations that will include items 17, 18, 19 and 20.

Donny Gilman, licensed manager of the Mustang Ranch, is before the Board for help related to work card issues. This includes ad hoc rule changes without notice of what is expected on applications. Initially all convictions within the last 10 years were to be listed. That progressed to all arrests and convictions in the past 10 years, then to all arrests and convictions in adult life. Finally to include all arrests as a minor. All changes have been verbal from the Sheriff's staff. Although requested, nothing in writing has been received. This has resulted in issues where individuals have forgotten or not realized what was, or should have been, on their record - causing a ban for life from applying for a work card and a refusal from the Sheriff's Office to accept a corrected application.

Mr. Gilman requests the Board look into this issue.

Mr. Gilman: Regarding renewal of work cards, a person submitting for renewal who has had a card for several years where everything was listed, and something is forgotten, a work card is automatically denied and an appearance before the Commission is required. If a person's information is already on file and a card is approved, why is a "memory test" necessary.

Mr. Gilman: Three workers are present who were recently denied work cards and the right to re-apply with the corrected work card application to include information that was forgotten. Mr. Gilman requests the Board to approve these work cards.

Robert Morris: Mr. Gilman is addressing items 17, 18, and 19 and should only address item 20 at this time.

County Manager Whitten: This item is heard as a combination of Brothel Licensing Board and County Commission. It would be appropriate to have Sheriff Antinoro join the table as a member of the Brothel Licensing Board.

Mr. Morris: A rework of the Brothel Ordinance was done earlier this year. A lot of time was spent on the issues raised. There are two sections of the Code dealing with this issue - the section on work cards states, "the Sheriff must investigate through all available means the accuracy of all information supplied by any applicant on the registration form and the Sheriff may issue a work permit after investigation and determination the applicant meets the work permit requirements".

There are so many variations on use of discretion that it is impossible to include in the Code. The position was that the alternative to having discretion laid out in the Code, would be to leave as is or take away, the discretion of the Sheriff. It was determined to leave the Code as is, knowing that the Sheriff, as administrator of the work cards, has discretion in the issuance of work permits.

Sheriff Antinoro: There has been no change in the standard. The form states: "have you ever been arrested - list all arrests and convictions". In conversation with Mr. Gilman, the brothel keeps records and would double check when a renewal was submitted to make sure everything is clarified. It is not the place of the Sheriff to track what their employees do or do not do one year to the next. Since January, 142 work cards have been processed with 23 revocations - 8 of which were allowed to re-apply. The Sheriff's Office staff spends approximately 40% of their time on brothel issues.

Mr. Gilman: Not asking for the Sheriff's discretion to be taken away. Asking to list arrests as a minor has never been a process for all the year's Mr. Gilman has worked at the brothel. This is a new issue, not approved by the licensing board but approved by the Sheriff's Office. He is willing to submit this information, but needs to know that it is requested.

Sheriff Antinoro: The form states "all arrests and convictions". If there is a problem with that the Sheriff is available by phone. This is the first time the Sheriff is hearing about "minor" arrests.

Mr. Gilman: He had asked the Sheriff's Office staff to have the Sheriff send something in writing.

Commissioner McGuffey: If the form has been the same since the Sheriff took office, where did the issue of minor arrests come from?

Mr. Gilman: We have never had to do this in the history of having the brothel. This was an ad hoc change never brought to our attention.

District Attorney Langer: A juvenile matter is not a criminal matter it is a quasi-criminal matter. There is a different standard and approach and juvenile records are confidential information.

Sheriff Antinoro: Criminal history as a general rule does not show juvenile convictions.

Mr. Gilman: In response to the Sheriff's statement about time spent processing these applications, a fee is paid for each application. If there is a need to re-apply, another fee is paid so as to not cost taxpayers the money to run the records.

Chair McBride: The application states "all arrests and convictions". What is being requested?

Mr. Gilman: We would like a definition to be included in the application.



Mr. Gilman reviewed items requested in the questionnaire that is part of the application. People have been denied a work card for not listing things that happened as a minor.

Sheriff Antinoro: If the applicant was certified as an adult, that would be on their criminal history. If they were not certified as an adult, handled through the juvenile courts, it will not show up on their criminal history.

District Attorney Langer: That's correct.

Mr. Gilman: We have had specific people denied a work card for not listing things that happened as a minor. This contradicts what the Sheriff is saying.

Robert Morris: Since this a general request for a change in the way work cards are administered, possibly there should be a change to the ordinance being more specific about how the Sheriff uses his discretion in allowing a person to re-apply. The Board could give direct staff to review to see if there would be an amendment to satisfy both sides.

Chair McBride asked the Sheriff: In the event of an omission on the work card application, is this a lifetime ban in getting a work card?

Sheriff Antinoro: There is nothing in the ordinance that addresses a life-time ban. In several circumstances where there are continued failures to disclose, they are told in writing to follow the ordinance and appeal the decision to the Board. There is no such thing as a ban. If there's a problem with the application and it's revoked and it's clearly an oversight, the applicant is allowed to reapply.

Chair McBride: Maybe the application should be more specific.

Pat Whitten: The application is not necessarily governed by the ordinance, other than the questionnaire. Maybe we could work on clarifying this item.

Sheriff Antinoro: On the questionnaire if there is an affirmative answer on specific questions asked, that will be a denial. On the application, a failure to disclose can lead to a denial or revocation. The applicant would have to come to Board if it was a repetitive item. The applicant must apply for the work card yearly.

Chris Thompson, Controlling Manager at TRI: If a business at TRI is encountering procedures or penalties applied on that business or its workers, it is common that we look into it. County Code Section 15.16.220(b)(5) lists what must be in the questionnaire. It does not provide authority or discretion to add to the questionnaire. There is nothing in this section that talks about a list of arrests. Most people would think that a complete criminal record was criminal convictions. This would be an issue to an applicant in understanding what is being requested.

It was previously stated if there too many mistakes, on separate or consecutive applications, that the applicant is told by staff that no further applications would be accepted, corrected or not. No penalty period is given nor are they told to come back another time.

As the Code reads, a work card application may be denied but there does not appear to be any authority telling the applicant you can never file another application to work in the County. Apparently the thought is if applicant fails to list arrests or convictions, that failure is grounds for denial of a work card. The grounds for denial in (f)(6) are "willfully making any false statement or omission in the

registration form". There is no authority, in the absence of a finding of willful omission, for someone to make a mistake or leave it off without a finding, is not grounds by itself. It is not a ban for life, nothing that says simply missing out on filling out application properly, is grounds for appeal.

Mr. Thompson read the Sheriff's Office denial letter which does not state that failure to disclose was willful. This is not in accordance with the Code. An inquiry with the subject business found that over approximately 15 years, 2,500 to 3,000 work cards have been applied for and no one has been connected to organized crime or drug cartels.

Mr. Thompson continued that this business is a good corporate citizen and pays the County in license fees and taxes. Each applicant pays \$72 per application for the review.

The denial of the work card is a heavy price for these applicants to pay.

Mr. Whitten: If we are to going to be specific, we will have to re-open the ordinance. What is it specifically is being asked for?

Mr. Gilman: One thing would be if someone had forgotten to put something on their work card application, they would be able to re-apply. The \$72 application and loss of a day's wages, is a reasonable fine - rather than having to stop work for 2 weeks, or more, to be able to get to a Commission meeting to have a hearing. If something is left off the application that absolutely denies from being able to have a work card, that is understandable and it should be denied.

Mr. Morris: In reading the Ordinance, there is no ban. With multiple applications, there is the remedy that an applicant can appeal any denial of the work card to the Board. If the Board is interested in what constitutes a work card that could be re-applied for, that might be possible. There are so many possibilities it is hard to use language to limit someone's discretion.

Sheriff Antinoro: This was something that was previously struggled with. "Willful omission" and non-disclosures were discussed. Everything then becomes an accident - or I forgot. There is no life-time ban, no matter how many times it is said. The card is denied, the process is to appeal it to the Board.

Roger Norman: If there is something wrong with the application, the Sheriff could call and ask about it. There should be a way to make it work, simply and easier.

Sheriff Antinoro: We have tried to work directly with the applicants, however that caused issues. There have been discussions that the brothel management should be the "go-between".

Commissioner McGuffey: Is there a way that Mr. Gilman could get the criminal background check from the Sheriff. It might make it easier for applicants who might forget their history.

Sheriff Antinoro: Not from the Sheriff. There are private organizations that provide that information. If the brothel did a background check, the Sheriff's Office would also have to do its own check, adding to the time it takes to process the application. The temporary work card is intended to minimize the time, allowing the person to work as soon as there is a record of their existence. Information not disclosed on the application causes trouble. Most of the time, the Sheriff works with the applicant - in extreme cases it becomes a denial which comes before the Board.

Judy Cohen, Storey County Resident/Business Owner: Human Resources, in any company, should check background when hiring someone and review with and instruct the potential employee how to fill out the application.

**Motion:** To direct staff to adjust or amend the brothel related work card application, **Action:** Approve, **Moved by:** Commissioner McGuffey **Seconded by:** Chair McBride, **Vote:** Motion carried by unanimous vote (**Summary:** Yes=2)

County Manager Whitten requested Items 17, 18 and 19 be combined and heard as one item.

17. **DISCUSSION/POSSIBLE ACTION:** Appeal for work card, submitted by Carmen G. Rivera.

18. **DISCUSSION/POSSIBLE ACTION:** Appeal for work card for Marisha Nolan, submitted by Don Gilman.

19. **DISCUSSION/POSSIBLE ACTION:** Appeal for work card for Stephen Jim, submitted by Don Gilman.

Don Gilman asked Tara, representative of the Mustang Ranch, to present this item.

Tara reviewed the employment history and personal background information of each of the work card applicants: Carmen G. Rivera, Marisha Nolan, and Stephen Jim.

The applicants, Carmen G. Rivera, Marisha Nolan, and Stephen Jim, each explained to the Board the reasons why each of their respective applications failed to include all information found in the background investigations.

Chair McBride asked Mr. Gilman if he can attest that the applicant Carmen G. River is fit for work at the Mustang Ranch. Mr. Gilman responded yes.

Chair McBride commented to Sheriff Antinoro that his message is clear that these applicants should complete their applications correctly the first time around. Chair McBride asked the Sheriff if he is satisfied with the explanations given by applicant Rivera and would he recommend approval or denial of the appeal.

Sheriff Antinoro said he is not in a position to approve or deny but will entertain whatever is the Board's decision.

District Attorney Anne Langer stated that juvenile matters should not be considered.

Commissioner McGuffey stated he is not averse to having Ms. Rivera re-apply with a complete application and with payment of the application fee but is not willing to override the Sheriff's decision.

**Motion:** To approve re-submittal of the work card application for Carmen G. Rivera, **Action:** Approve, **Moved by:** Commissioner McGuffey **Seconded by:** Chair McBride, **Vote:** Motion carried by unanimous vote (**Summary:** Yes=2)

In discussing the application of Ms. Nolan, Sheriff Antinoro said the initial application was made in 2011 and was denied. A work card was issued later that year. In the two subsequent years, applications were denied for failure to complete background history. The time limit has passed for any of the background issues to be a dis-qualifier. The last issue was in 2013.

Chair McBride said he is inclined to give Ms. Nolan the opportunity to re-apply, however this will be the last time. Mr. McBride advised the Mustang Ranch representatives that they should have the records, and the employees need to know their histories. The rules are greater and more in-depth for brothels, gaming and liquor.

No public comment.

**Motion:** To approve re-submittal of the work card application for Marisha Nolan, **Action:** Approve, **Moved by:** Chair McBride **Seconded by:** Commissioner McGuffey, **Vote:** Motion carried by unanimous vote (**Summary:** Yes=2)

In regards to Mr. Jim, his work card was pulled for non-disclosure of background history. Tara explained that Mr. Jim did not understand that he had to disclose background information as all of these events took place on tribal grounds. All matters are 15 years old or older.

Chair McBride asked if the reason the information didn't show was because of the Bureau of Indian Affairs. Sheriff Antinoro explained that the history came from the tribal court with unknown dispositions.

Sheriff Antinoro requested the work card be approved for Mr. Jim.

County Manager Whitten reiterated that all future applications need to contain all background information.

Public Comment:

**Nicole Barde, Storey County Resident:** Asked the Sheriff what the approximate hours are that staff works on brothel licensing. It was stated that 23 applications were denied and 8 were accepted - that was out of how many?

Sheriff Antinoro: A little over 2,000 hours per year in staff hours. 142 applications submitted.

Ms. Barde: As a taxpayer, the amount and level of re-work regarding the applications and the burden on the County as a reflected in the amount of taxpayer dollars being spent to fix problems, is an outrage. This is a problem that seemingly never gets corrected. There is a lack of understanding by the applicants, and a lack of control by the brothel in making sure the applications get passed - requiring re-work by the County. This equals taxpayer dollars being spent that could be spent in other areas. Both sides need to fix this.

Commissioner McGuffey: This is a company that pays a lot of taxes to the County.

**Motion:** To approve the work card for Stephen Jim, **Action:** Approve, **Moved by:** Sheriff Antinoro, **Seconded by:** Commissioner McGuffey, **Vote:** Motion carried by unanimous vote (**Summary:** Yes=3)

**COMMUNITY DEVELOPMENT AND PLANNING**

21. **DISCUSSION/POSSIBLE ACTION:** Variance 2015-029, by Hansen, Allen & Luce, INC., Attn: Vern Conder representing Refuse, Inc. The Applicant requests a Variance for a reduced setback to three feet from the required 50 feet side setback for the placement of a proposed well house on the property located at 2700 East Mustang Road, Mustang, Storey County, Nevada (APN: 004-111-20).

Jason Van Havel, Planner, presented this item. The applicant represents Refuse, Inc., also known as the Lockwood Landfill. The request is for an up-graded well house servicing their property. Mr. Van Havel referred to the staff report for an area map showing the parcel in question. The uses of land in the area are generally industrial. Notices have been sent out to all landowners in the area with no public comments received.

The new well house will continue to encroach on the setback. Applicant would like to up-grade the well to be more efficient in utilizing County resources. The Planning Commission has heard and approved the application.

Staff recommends approval of this variance.

Public Comment:

Mr. Whitten addressed applicant's representative Marc Franc. Mr. Whitten, as County Manager, recommends following the recommendation of the Planning Commission for approval. Mr. Whitten asked Mr. Franc to send a strong message to senior management. During the time of the County's franchise agreement with Waste Management, specifically for the landfill and for refuse collection, we continue to hit items that weren't addressed. Recently it was communicated that there may be a need to address the size of dumpster box services at TRIC because they are not using what was called for. Mr. Whitten is more than willing to work with these types of issues, but this needs to be a two-way street. Recently the County changed processes with sewage sludge coming out of the plant. It is the position of the landfill manager that this change will cost the County - an amount Mr. Whitten considers very high for something the County has not paid before and what other similar governments are paying at a much lower rate. Take the spirit of what the Commission decides today back to management and request that dialogs be opened with the understanding that cooperation is a two-way street.

Mr. Franc replied that is the position of the company, and if it doesn't seem so, that will be fixed.

Jason Van Havel read the Findings for Approval:

That because of special circumstances applicable to the subject property, including shape, size, topography or location of surroundings, the strict application of the zoning ordinance would deprive the subject property of privileges enjoyed by other properties in the vicinity or under identical zone classification; and

That the granting of the Variance is necessary for the preservation and enjoyment of substantial property rights of the applicant; and

That the granting of the Variance will not, under the circumstances of the particular case, adversely affect to a material degree the health or safety of persons residing or working in the area of the subject property and will not be materially detrimental to the public welfare or materially injurious to property or improvements in the area of the subject property; and

The proposed Variance is in compliance with all Federal, Nevada State, and Storey County regulations; and

The proposed Variance is in compliance with Storey County Code 17.03.140 Variances and 17.36 Heavy Industrial when all Conditions of Approval are met; and

The proposed Variance is in compliance with and supports the goals, objectives and recommendations of the Storey County Master Plan.

**Motion:** To approve Variance 2015-029, by Hansen, Allen & Luce, INC., Attn: Vern Conder representing Refuse, Inc. The Applicant requests a Variance for a reduced setback to three feet from the required 50 feet side setback for the placement of a proposed well house on the property located at 2700 East Mustang Road, Mustang, Storey County, Nevada (APN: 004-111-20), **Action:** Approve, **Moved by:** Vice Chair Gilman **Seconded by:** Commissioner McGuffey, **Vote:** Motion carried by unanimous vote (**Summary:** Yes=3)

22. **DISCUSSION/POSSIBLE ACTION:** (Continue until 10/19/15 board meeting) SECOND READING Ordinance No. 15-269: Application No. 2014-020 by the Tahoe-Reno Industrial Center, LLC to amend the text of Storey County Code Title 17 (Zoning Ordinance) by adding chapter 17.39 IC Industrial-Commercial Zone. The intent of the proposed IC Zone is to provide for certain mixed-use industrial and commercial uses where found appropriate by the board with recommendation by the planning commission. Additional information including, but not limited to, reports and the draft zone text may be obtained from the Planning Department at 775.847.114.

23. **DISCUSSION/POSSIBLE ACTION:** (Continue until 10/19/15 board meeting) SECOND READING Ordinance No. 15-268 (Zone Text Amendments). An ordinance amending Storey County Code Title 17 Zoning to update the procedures and requirements of the title by amending the following chapters: Ordinance title page; Chapter 17.03 Administrative Provisions; 17.06 Nonconforming Uses; 17.08 Zones Generally; 17.10 Definitions; Chapter 17.12 General Provisions; 17.15 P Public Zone; 17.16 R-1 Single-Family Residential Zone; 17.20 R-2 Multi-Family Residential Zone; 17.24 A Agriculture Zone; 17.28 C Commercial Zone; 17.30 C-R Commercial-Residential Zone; 17.32 F Forestry Zone; 17.34 I-1 Light Industrial Zone; 17.35 I-2 Heavy Industrial Zone; 17.36 I-3 Heavy Industrial Zone; 17.38 I-S Special Industrial Zone; 17.40 E Estate Zone; 17.44 SPR Special Planning Review Zone; 17.48 Historic Overlay District; 17.56 PUD Planned Unit Development; 17.76 N-R Natural Resources Zone; 17.84 Signs and Billboards; 17.92 Mineral Exploration Mining and Extraction; and other properly related matters. Public participation is encouraged. Copies of the text amendments may be obtained from the Planning Department website at [www.storeycounty.org/521/updates](http://www.storeycounty.org/521/updates), at 775.847.1144 or from [planning@storeycounty.org](mailto:planning@storeycounty.org).

24. **FOR POSSIBLE ACTION, LICENSING BOARD SECOND READINGS:**

- A. **AMERICAN MINING & TUNNELING, LLC** -- Contractor / 19208 E. Broadway ~ Spokane, WA (mining services)
- B. **P & L FENCING & IRON, LLC** - Contractor / 2842 Marco Street ~ Las Vegas (steel fabrication)
- C. **CROP PRODUCTION SERVICES, INC.** - General / 3005 Rocky Mountain Ave ~ Loveland, CO (distributor of crop input)
- D. **SOIL TECH, INC** - Contractor / 6420 South Cameron ~ Las Vegas (general contractor/engineer)
- E. **GARTNER REFRIGERATION & MFG** - Contractor / 13205 16<sup>th</sup> Ave. North ~ Plymouth, MN (refrigeration contractor)
- F. **NEIL ADAMS CONSTRUCTION, INC.** - Contractor / 6490 S. McCarran ~ Reno (general contractor)
- G. **BRYCON CORPORATION** - Contractor / 134 Rio Rancho Blvd ~ Rio Rancho, NM (general contractor)
- H. **BI NUTRACEUTICALS, INC.** - General / 625 Waltham Way #101 (milling botanicals) TRI
- I. **A-Z TRUCK MARINE AND RV** - General / 3033 Waltham Way (repair, parts, access.) TRI
- J. **RICH DOSS, INC.** - General / 201 Wild Horse Canyon Drive (transportation) MCC

On behalf of Community Development, County Manager Whitten, requested continuance of items H., I., and J., and approval of items A., through G.

**Motion:** Continue items H., I., and J., **Action:** Approve, **Moved by:** Vice Chair Gilman, **Seconded by:** Commissioner McGuffey, **Vote:** Carried by unanimous vote (**Summary:** Yes=3)

**Motion:** Approve items A., B., C., D., E., F., and G., **Action:** Approve, **Moved by:** Vice Chair Gilman, **Seconded by:** Commissioner McGuffey, **Vote:** Carried by unanimous vote (**Summary:** Yes=3)

## 25. PUBLIC COMMENT (No Action)

**Sheriff Gerald Antinoro:** Sheriff Antinoro asked the Commission to direct staff to re-examine the liquor licensing ordinance to clarify standards. As it stands now, the Sheriff understands from today's meeting that he should investigate any potential, future liquor license applicants to the level gaming investigations. If this is not the case, there needs to be a clarification of the standard.

Commissioner McGuffey: What level are your background checks?

Sheriff Antinoro: Basically what it says in the ordinance. Applicant is not a convicted felon, a drug dealer, has no ties to organized crime, and there is some semblance of financial order that they can continue on with their business. In referring to the item heard earlier, there are other liquor license holders in Storey County that have some of the same problems. We have never held the finances to the high standard of gaming. There needs to be clear expectations for the level of investigation so the applicant knows what to expect.

County Manager Whitten: If staff's recommendation is a basis for the consideration, the record should be clear that it is not based on the fact that we should hold individual applicants to exactly the same scrutiny and process as gaming does - the recommendation was made simply on the facts that we were aware of the results of the gaming investigation and background. There were documented observations of that, and therefore, could not or should not, ignore that particular information on hand.

Sheriff Antinoro: There have been past applicants, who have been approved, where we have also been aware of tax liens, lawsuits, judgments, financial issues, or other regulatory over-sight problems.

Outside Counsel, Robert Morris: It is very clear that the Board was given the legal standard out of the liquor license ordinance as to having the ability to carry out a successful business. Mr. Morris feels the Board took that advice and used it in their decision. The information that came from Gaming, was available for the Board to use in making their decision but the standard is the standard that is in the Code and should have been used all along in the approval of liquor licenses.

Sheriff Antinoro: The Board has approved licenses where some of the same financial concerns were known by the Board.

Chair McBride: This has not come up since he has been on the Board. And, nothing that has involved a multi-million dollar deal. There are a lot more moving parts on this issue.

Sheriff Antinoro and Chair McBride both concurred that the liquor ordinance needs to be clarified.

Robert Morris: Agrees and feels that this would be a high priority for this Board.

## 26. ADJOURNMENT

The meeting was adjourned by the call of the Chair at 1:41 PM.

Respectfully submitted,

By \_\_\_\_\_  
Vanessa Stephens, Clerk-Treasurer