

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

TUESDAY

4:00 P.M.

OCTOBER 15, 2013

PRESENT:

David Humke, Chairman
Bonnie Weber, Vice Chairperson
Marsha Berkbigler, Commissioner
Vaughn Hartung, Commissioner
Kitty Jung, Commissioner

Nancy Parent, County Clerk
John Berkich, Interim County Manager
Paul Lipparelli, Legal Counsel

The Washoe County Board of Commissioners convened at 4:05 p.m. in regular session in the Commission Chambers of the Washoe County Administration Complex, 1001 East Ninth Street, Reno, Nevada. Following the Pledge of Allegiance to the flag of our Country, the Clerk called the roll and the Board conducted the following business:

13-915 AGENDA ITEM 3 – PUBLIC COMMENT

Agenda Subject: “Public Comment. Comment heard under this item will be limited to three minutes per person and may pertain to matters both on and off the Commission agenda. The Commission will also hear public comment during individual action items, with comment limited to three minutes per person. Comments are to be made to the Commission as a whole.”

William Dainty voiced his opposition to AB 46. He was opposed to the bill because the question of raising taxes was not being placed before the voters.

Michael Teissler inquired if drug or alcohol testing would be required for the construction workers and School Board members. He stated that he did not want the funds from AB 46 being spent on parties or banquets.

John Flangas stated he was not opposed to raising funds for school construction, maintenance or repairs. If the Board approved this measure, he requested they provide oversight over the Washoe County School District (WCSD) to preclude them from diverting the funds to administration costs or salaries. He commented that the funds should be restricted to construction, maintenance and repairs. Mr. Flangas did not think the Board had the authority to pass the bill and questioned if they were prepared to monetarily defend their decision.

David Cook, State Board of Education Northern Nevada representative, indicated that the State Board of Education had not taken an official position on this issue; however, he could not imagine any board member opposing AB 46. Because of funding circumstances established in the past, he noted that Clark County had access to substantial funds such as Transfer Taxes. He said counties with a population under 55,000 had access to residential construction taxes; however, Washoe County was not qualified to receive either of those funding mechanisms. He stated there was not an equitable system that provided funds for capital improvement and urged the Board to support AB 46.

Michael Witt, Southwest Regional Council of Carpenters, said many of their members lived in Washoe County and had children that attended the schools. He stated once AB 46 was passed by the Legislature and signed by the Governor, it allowed the Board of County Commissioners (BCC) to raise taxes to fund renovations, maintenance and, if necessary, build new schools. He indicated that Carpenters Local 971 was in favor of AB 46 because it would create jobs and was seen as a proactive approach to funding the school facilities and maintenance needs.

Susan Kaiser said she had been a teacher at Pine Middle School for 15 years. She described the problems with the aging Heating, Ventilation and Air Conditioning (HVAC) System that allowed many classrooms to reach 90 degrees. She indicated that the HVAC System had been a problem during her 15 years at the school and would eventually fail, but not before student learning could be negatively impacted. Ms. Kaiser was also concerned about student safety and recalled when a student brought a gun to Pine Middle School and wounded two students. Since that incident, the school had received a security upgrade, which included a controlled single-point entry, cameras and new locks. She explained that the WCSD had plans for security upgrades for all the schools, but those could not be implemented because funds were being held back for emergency repairs. She urged the Board to vote in favor of AB 46.

Phillip Kaiser said property taxes and sales taxes were the broadest based taxes in the community and were fairer than taxes that targeted specific industries such as the Real Estate Transfer Tax. He said the average \$8.00 per household generated by AB 46 would be the equivalent of \$0.27 per day. He stated that AB 46 provided a way for the County to maintain Washoe County schools. He hoped that the Board would support AB 46 and pass the proposal.

Donald Kaplan commented that the bill did not address future increases. Since there was not a sunset clause in the bill, he felt increases would always be proposed. He suggested schools that were closed be sold and then use those funds for repairs on the other schools. He stated his opposition to AB 46 and urged the Board to return the bill to the Legislature.

Carole Fineberg said AB 46 was an overreaching tax and was an increase many people in the County could not afford. She understood that the schools needed improvements, but felt the WCSD had not been good stewards of their funding on capital

improvements in the past and could not be trusted in the future. She stated there were lawful remedies for public entities needing funds such as school bond measures in order to have the taxpayers decide if an increase could be handled. The WCSD bypassed the taxpayers by sending the plea for money to the Legislature who, in turn, bypassed the two-thirds majority rule to raise taxes and the taxpayers by sending AB 46 to the BCC. She asked the Board to not perpetuate the sham made by the Legislature.

Jane Lyon questioned the accountability of the WCSD. She said they had plenty of opportunities to repair the schools since 1960, but never showed the accountability in handling taxpayer's money. She said it was time they demonstrated that they could be good stewards with the remaining \$90 million and show the citizens that the WCSD could manage their money.

David Dehls, Education Alliance President, said the Board should consider that this bill may have been the best deal offered and the best chance of acquiring funds for the WCSD. The bill may have failed in the Legislature, but AB 46 may be the best hope to receive a stable funding source in order to provide capital repairs for the WCSD. He urged the Board to vote in favor of AB 46.

Lisa Krasner voiced her opposition to AB 46. She indicated that the Nevada Constitution provided two ways to raise taxes: a two-thirds majority of both houses in the Legislature; or, be voter-approved by a ballot measure. In the 2008 General Election, she said there was a ballot measure to raise capital improvement funds for the public schools, but that ballot measure was defeated by the voters. She requested the Board send this bill back to the Legislature to arrive at a solution that took into consideration the voice of the people and the needs of the schools.

Pamela dePre urged the Board to support AB 46. As a taxpayer, she supported the Board increasing taxes to ensure that students had a safe learning environment at their schools.

John Eppolito said Common Core Standards were the largest proposed change to education in our lifetime yet few people had heard of this change. He said Common Core was a "one size fits none" way to deal with the education problems in the Country. He indicated that Common Core had never been tested and numerous experts opposed the standards.

Beverly Russ felt there was an indifference with the public on AB 46 since many people did not have children in the school system.

Caryn Swobe, Parent Leaders for Education, said many parent groups supported AB 46 and understood that it meant a tax increase. She said the Board needed to vote in the best interest of the students and vote in favor of AB 46. She felt it was the Board's responsibility to ensure the students had adequate educational facilities.

Margaret Martini believed AB 46 should be sent back to the Legislature and felt it was political gamesmanship between the Legislature and the Governor. She said the Board needed to fulfill their legal, fiscal and fiduciary responsibility, and if they chose to approve AB 46, she felt the bill would proceed to the courts.

Jeanne Herman submitted documentation concerning PILT Funds (Payment in Lieu of Taxes), which was placed on file with the Clerk.

John Ellsworth felt that many members of the public did not have a firm grasp on the facts implicit to AB 46. He encouraged the Board to not have their beliefs or ideology be the determining factor in their decision.

Gregory Peek, Builders Association of Northern Nevada, said the Builders Association supported AB 46. He thanked the Board for being diligent and hearing all the facts. He indicated that sales and property taxes were the most stable, reliable streams of revenue to support schools because they were broad-based. The Builders Association had supported the solution in the past and was in strong support of this solution. The need was real and, on behalf of the Builders Association, he urged the Board to support AB 46.

Barbara Jongs urged the Board to oppose AB 46. She agreed that repairs were needed, but felt this was not the correct method to acquire the funds.

Katherine Snedigar remarked that AB 46 was unconstitutional since Washoe County would not be acting as the other counties in the State and felt that Washoe County had been targeted for this tax. She indicated there would be no accountability on how the money would be spent or any restrictions placed on the funds.

Jim Galloway submitted a statement indicating his opposition to AB 46. He believed that AB 46 violated the Nevada Constitution; however, that had never been tested in court. He was certain that AB 46 ethically violated the spirit of a citizen's constitutional amendment passed by overwhelming majorities of voters in two separate general elections. He considered a Commissioner "yes" vote on either tax to be a violation of the public trust. A copy of his remarks was placed on file with the Clerk.

Kevin Sigstad, Reno-Sparks Association of Realtors®, the Incline Village Board of Realtors® and the Nevada Association of Realtors®, voiced support for the enactment of AB 46. He indicated that realtors had been actively engaged in working with the WCSD over a number of years to find a means to fund capital improvements. That was recently reflected in their efforts during the 2013 Legislative Session and their continued support. He said realtors had long supported the use of broad-based taxes, not industry-specific taxes, as a means of supporting school district improvements. He explained that broad-based taxes were less impacted by economic variations than single-industry taxes. He said even broad-based taxes were subject to variations as evidenced by the recent economic downturn; however, reliance on single-industry taxes would have proven to be disastrous due to the extreme revenue swings. He commented that the realtor's support came after many conversations with the WCSD Board of Trustees and

assurances that there was a need for the funds. He noted that General Fund monies would not be supplanted by the funds and that there would be diligent oversight on the expenditures as indicated through the WCSD's recent Letter of Intent that reinforced their agreement with those positions. The realtors supported the limitations that the taxes would be utilized for pay-as-you-go projects, and the use of the money would be directed to the intended targets such as replacement of roofs, boilers, etc. He encouraged the Board to move forward and provide the WCSD with the additional revenue sources.

Jill Tolles explained that this measure could not have been placed on a ballot for capital projects because there were only two ways for that to occur, which were asking for the authorization for bonds or increasing property taxes; however, there was no ability to go out for bond until 2018. She explained that a property tax increase was not an option on the ballot because the area was already at the 3.64 percent cap. Those were the reasons the WCSD went to the Legislature in 2013, who in turn enabled the Board to vote the same way the 1997 Legislature enabled them to vote on flood control funds. She commented that the Board had been given an opportunity to fix the schools and commended them for stepping up to the responsibility of the process. She encouraged the Board to approve AB 46.

Todd Bailey distributed a handout that included several articles on AB 46, which was placed on file with the Clerk. He voiced his opposition to AB 46 by indicating there were no deadlines posted for any of the proposed projects and that many of the projects would not fix every classroom in the District.

Joannah Schumacher stated that AB 46 conflicted with the State's Constitution and several other Nevada Revised Statutes. She felt that Washoe County was being unfairly targeted by the Legislature and was not offering the citizens of the County equal protection under the law. She stated that the Board had no legal ability to enforce any restrictions to the WCSD and she voiced her opposition for AB 46.

Jill Kopicko stated her opposition to AB 46. She indicated that she had many assessments on her property and suggested that the WCSD request the local casinos fund the bill.

Brad Truax explained that deferred maintenance would increase costs in the future. He felt the tax should be approved in order to allow the WCSD to complete the repairs.

Gary Schmidt indicated that the Attorney General's Office had opined if special restrictions were placed on public comments, those restrictions must be printed on the agenda otherwise that would be a mild violation of the Open Meeting Law. He supported the comments of Katherine Snedigar in regard to constitutionality and the comments of former County Commissioner Jim Galloway in regard to Oath of Office, voter trust and fiduciary duties. He stated that AB 46 should be sent back to the Legislature and force those public servants to complete their job in order for citizens to hold them accountable. He lauded City of Reno Mayoral candidate Eddie Lorton for

bringing forward term limits and the confusion between the mayoral race and City Council members.

Janice Flanagan commended the WCSD for putting forth so much information. She said citizen's tax dollars had built the schools and felt tax dollars should maintain the schools. She was in support of AB 46 and urged the Board to approve the bill since it would be a job generator for many of the unemployed construction workers.

Steve Donahue read the following Republican platform: "The Republicans strongly support those in public office who resist higher taxes and fees and seek to reduce the size, cost and scope of government at all levels. We believe that the residents of the State of Nevada are not under taxed and that State government is not underfunded and the current budget crisis is the result of years of over spending. We oppose raising taxes or fees of any kinds to fund the current budget shortfall. We do not believe government can tax the State or the residents into prosperity." He said the Constitution part of the platform stated, "we expect our elected officials to uphold their oath of office." He felt that AB 46 should be sent back to the Legislature.

David Armstrong commented that the passing of AB 46 was not the Board's job and should be handled by the State Legislature.

Bernard Anderson applauded the Board for their diligent effort in making themselves aware of the full impact on this legislation and how important it was for the WCSD. He stated this was the Board's opportunity to give the WCSD a stream of funding and he urged their approval.

Otilia Krapff said the Board had no option but to vote against AB 46. She said the WCSD should reduce their excessive administrative costs and should learn how to budget their funds.

Rick Hsu explained that AB 46 would be for a dedicated capital fund. He said this bill was fiscally prudent and should be approved by the Board.

Ken Koeppel stated that the Board was the wrong venue and it was unconstitutional for them to vote on AB 46. He felt if his money would be spent, then he should be given the right to vote on the issue.

Gary Duarte said he was disgusted in the failure of the bureaucratic structure and was astounded how much people disrespected their politicians. He said the bureaucratic process had been headed toward failure for many years and AB 46 was an example of that failure. He remarked that mankind no longer respected the definition of truth, integrity and common sense.

13-916 AGENDA ITEM 4 – ANNOUNCEMENTS

Agenda Subject: “Commissioners’/Manager’s Announcements, Requests for Information, Topics for Future Agendas, Statements Relating to Items Not on the Agenda and any ideas and suggestions for greater efficiency, cost effectiveness and innovation in County government. (No discussion among Commissioners will take place on this item.)”

There were no Commissioners’/Manager’s announcements.

13-917 AGENDA ITEM 5

Agenda Subject: “Discussion and possible direction to staff on AB 46 of the 2013 Nevada Legislative Session, including but not limited to: Overview of the Washoe County School District Capital Projects Program Review conducted by Kafoury, Armstrong & Co; Response from Washoe County School District to County Commissioners’ questions on AB 46 and the Washoe County School District’s capital funding program (discussion and response to questions generated from the Board’s ongoing review of AB 46).”

(AB 46 authorizes the imposition of a new sales and use tax, and ad valorem tax in Washoe County for capital projects of the Washoe County School District).

Barbara Clark, Washoe County School District (WCSD) Board of Trustees President, introduced the Trustees in attendance.

Pedro Martinez, WCSD Superintendent, said a request from the Board had been for a review of previous spending, expenditures and a needs analysis. He noted that the WCSD hired Kafoury, Armstrong and Co. to review the District’s expenditures.

Felicia O’Carroll, Kafoury, Armstrong, confirmed that an independent approach was taken. She indicated that Kafoury, Armstrong was not advocating approval or disapproval of AB 46, but were providing information to the Board in an attempt to make their decision easier or clearer. She explained that the Agreed Upon Procedures Report had been used to conduct the review. For the review, the procedures were revised in order to provide the Board with what Kafoury, Armstrong felt they were looking for and to provide valid information. Due to the time constraints, procedures were performed over thousands of transactions and, in doing so, a small sample was selected to review, but with that came the possibility of “sampling risks” as known in the accounting and auditing profession. The report reviewed if the District adhered to their own policies and procedures as set forth in the official statements for the Bond issues as well as the official ballot question. She said use of the term “test” was not equivalent to an audit test, but in some cases the most expedient word. She explained the timeframe for the review was between 2006 through 2012. In order to ensure there was a complete population, they did their best to select samples from a complete population and had to use the last year the District was audited. She commented that 2013 was in the process of being audited, but

had not yet been completed. She said the only part of an Agreed Upon Procedure Report that would normally be provided to the Board would be the Report along with Attachment A; however, she felt in this case it was important that the Board also received all the backup data.

As of June 30, 2012, Ms. O'Carroll said the net capital assets of the WCSD represented 63 percent of the District's assets. It was comprised of \$927 million of assets offset by \$268 million in depreciation, for a net total of \$659 million. She said the Bond Rollover proceeds totaled more than \$474 million and, as of June 30, 2012, \$130 million still remained. If the small amount of liability was subtracted that was offsetting the \$130 million, all of that money was restricted for the purposes set forth in the official statements, which were the formal bond documents that were issued and the ballot question. Ms. O'Carroll said the types of procedures that were performed were recapped as part of the annual audit. Because those amounts were so large and represented such a large portion of both the assets and liabilities of the WCSD, they were reviewed every year. She remarked that the WCSD did receive what had been known as "unqualified opinions," which were now known as "unmodified opinions" and was the highest level of assurance offered by the Certified Public Accounts (CPA) profession. She noted that the WCSD received unqualified opinions in all the years that were reviewed. In an earlier meeting, the WCSD's Facilities, Improvements and Conditions Assessment (FICA) was mentioned; however, FICA was an engineering system and not a financial system and try as she may, she was unable to make that work as a financial system. She explained that the procedures had to be modified for FICA because that system did not work on specific dates since it was a continual fluid program.

Ms. O'Carroll indicated that five projects were selected that were known to have occurred in the past and determined none of those projects had any deficiencies currently listed. She said that helped to determine that the FICA system was accurately reflecting the maintenance that was still required. Ms. O'Carroll explained that 23 different projects were selected from those five categories and procedures were performed to measure the District's adherence to the uses of funds specified in both the official statements and the original ballot question related to the issuance of the Bonds. The official statements and the ballot questions specified the uses in very broad terms, which were presented in the report as an attachment and noted there were no findings in that area. The five areas selected for testing were: student housing (the construction of schools); technology; advanced planning; school revitalization; and, capital renewal. Those five were selected because it was suspected they would have the most number of projects to select from; however, they did not select administration because administration required the WCSD spend less than 5 percent on that category. As of June 30th and after doing the calculation, 4.3 percent had been spent in administration and she felt that would not provide the Board with additional information. She reported that the two largest vendors were selected from each of the 23 projects and it was ensured that the Oversight Board had always reviewed and approved the project before the WCSD Board reviewed and approved the project. She indicated that the Oversight Board was comprised of 11 members, none of whom were members of the WCSD, and she noted that the Oversight Board approved the project before the project moved to the WCSD for

approval. To this point, Ms. O'Carroll stated there were no findings and the WCSD had complied with the District's policies and procedures as indicated. However, when the information related to specific vendors was reviewed there were two findings. She noted that two invoices were missing an approval signature; however, in one case four signatures were required on one invoice and one of the four was missing. In the other case, five signatures were required for approval and one of the five was missing, but she did not know the circumstances as to why a signature was missing.

Ms. O'Carroll summarized that the Board may have reasons for voting against AB 46, but based on the external audits and the Agreed Upon Procedures Report, whether the WCSD had strong internal controls over capital assets and debt and whether they adhered to those should not be a reason to vote against AB 46.

In looking at Attachment C, Commissioner Weber asked how the capital asset was determined. Ms. O'Carroll replied that a school may not be listed on the invoice, but the Purchase Order (PO) would generally indicate which school was having the work done if that was part of a bulk purchase involving a number of schools. She explained that was why the Board was given the PO numbers and/or other identifiers in order to compare. Commissioner Weber said it would be helpful for that to be indicated so the public could see where the monies were being spent.

Superintendent Martinez commented that every dollar of the Rollover Bond monies had been tracked to each building. He confirmed that the actual amount spent on every school was listed on the District's web page.

Commissioner Hartung inquired on the members of the Oversight Board. Ms. O'Carroll replied that the 11 member Oversight Board was specified in statute. She said the Board members included two County Commissioners, two members from the Reno City Council, two members from the Sparks City Council, a civil engineer, a person involved in financing construction projects, a member of the public with an interest in schools and education, a gaming industry representative and a public works representative.

Commissioner Jung asked about the final qualification of the review. Ms. O'Carroll explained this was an Agreed Upon Procedures Report, which did not carry an opinion nor designed to give an opinion, but was designed to provide the Board with the procedure that was performed and what was found. It was then left to the Board to determine what they believed the Report meant. During their external audits, Ms. O'Carroll reiterated that the WCSD received the highest level of assurance offered by the CPA profession. Commissioner Jung commented that this report was done at the request of the Board with the focus on capital improvement funds. She said many of the accusations the Board had heard were that the WCSD was unaccountable; however, it was obvious from the report those were untrue.

Commissioner Jung inquired on the number of Board of Trustees (BOT's) and their amount of experience. Superintendent Martinez replied that the BOT's was

made up of seven Trustees, four returning and three newly-elected in 2013. Commissioner Jung asked if this BOT's was more detail-orientated than prior BOT's. Superintendent Martinez appreciated that these Trustees were not shy to point out any deficiencies they saw in the District or about being transparent and what could be improved upon. Commissioner Jung asked how many of the Trustees were retired teachers. Superintendent Martinez explained there were two retired teacher/principals. He said other Trustees included a former City Councilmember, a business owner, a former Regent Board Member/professor, and a Community College Dean. Commissioner Jung stated this was a very diverse Board and to lay the sins of former boards upon them was unjustifiable and unfair.

Chairman Humke inquired on the \$94 million, which remained for the WCSD to spend on their capital and maintenance needs and their projection into the future. Ms. O'Carroll indicated that she had not reviewed that fund.

Trustee Aiazzi commented that the report showed that the funds were being spent appropriately and he felt all the questions posed by the public had been answered fairly and factually. He hoped that those opposed to AB 46 would conduct the same research and bring the Board data for their position.

John Slaughter, Acting Assistant County Manager, indicated there was a document in the Board's packets that were questions collected from constituents and Board members from previous meetings. He said the WCSD had provided answers to those questions which were provided to the Board.

Commissioner Weber indicated that she recently held a Community Forum in the Warm Springs area where the residents voiced their opposition about the Board considering AB 46 and the possibilities of voting on the bill. It was then decided to receive factual information that would be dispersed to the public. She appreciated the time and effort given by the WCSD to provide those answers.

President Clark said scenario planning on what would occur if AB 46 was not approved was also included; for example how future maintenance needs would be approached if additional funding was not received. Mr. Slaughter indicated that the scenario planning was contained on the last four pages of the materials.

President Clark reviewed the high points of the scenario planning. Of the \$94 million remaining, she said that would be revisited on how it was currently allocated. She said the WCSD made a commitment with the 2002 Rollover Bonds that they would revitalize all the schools built in the 1950's and 1960's, unfortunately seven Elementary Schools still needed revitalization. She confirmed that the Operations Fund and Capital Fund were two separate funds and, by law, did not comingle which the auditor confirmed. She said there could be an opportunity to have a ballot question in 2014, but those funds may not be available until 2018.

Superintendent Martinez indicated that the State of Nevada spent approximately \$10,000 per student. He said with 63,000 students, an increase of \$1,000 per student would equate to \$63 million, which could upgrade technology and provide smaller class sizes. However, even with that deficit, Washoe County was beating the odds with graduation rates and was able to compete with better districts throughout the Country. Once the \$94 million was spent, he stated that the money would be gone without solving the primary issue that Washoe County was the only county in the State without a dedicated revenue source.

Trustee Aiazzi submitted a chart indicating the Current Fund Allocation, which was placed on file with the Clerk. The chart showed how the remaining \$94 million would be spent and noted that the bulk was slated for school revitalization. He stated if the Legislature had passed the tax, money would have been accumulating as of July 1st.

Commissioner Hartung inquired on the amount spent per student. Superintendent Martinez reiterated that approximately \$8,000 was spent per student. Commissioner Hartung asked how much was spent per student at Charter Schools. Superintendent Martinez replied that Charter Schools received an equivalent rate, based on which county they were located. Commissioner Hartung indicated that he received information that a Charter School in Washoe County only received about \$5,000 per student. Trustee Aiazzi explained that Charter Schools did not have to provide busing, athletics or a Police Department.

Chairman Humke asked if AB 46 covered Charter Schools or just the WCSD. Paul Lipparelli, Legal Counsel, said if Charter Schools were entitled to any of the money in the Capital Funds, which was where the proceeds of the taxes would be deposited, he would need to further review that question. President Clark indicated if a Charter School was not equipped to deal with the needs of a special education student, or non-English speaking student, they did not have to accept that child, whereas public education had to provide those services. Superintendent Martinez said Charter Schools received the equivalent of what traditional schools received, which was about \$5,000. He explained that the \$8,000 per student included the cost for food services in public schools and also for some Charter Schools. He said the WCSD was also the fiscal agent for the grants that Charter or Private Schools received for lower income families that attended those schools. He explained if a Charter School or Private School did not have the ability to service a special education student, the WCSD became the default provider.

Commissioner Hartung asked if the Legislature knew that the WCSD would have to use Operating Funds if the bill was not approved by the Board. Superintendent Martinez said that scenario was presented to the Legislature.

Lindsay Anderson, WCSD Government Affairs, commented that before it was decided to sponsor this bill, conversations were held with the community and it was determined that the best way to solve the problem would be a small increase in the sales and property taxes. When that consensus was reached, it was obvious taxes would go

over the tax cap for some areas in the County. When the WCSD asked for the legislation to be drafted, it requested the District be allowed to make that request exempting them from the tax cap. In terms of the 3 percent and 8 percent abatement provisions, she said that was not requested one way or the other, but was the way the drafted legislation returned from the Legislative Counsel Bureau (LCB). Chairman Humke asked if that was protested. Ms. Anderson replied that was not protested. Chairman Humke inquired on the policy that drove the decision to go above the rate. Ms. Anderson replied it was known that some areas of the County were at the cap, but taxes could not be raised in one area and not other areas.

In response to a concern from Commissioner Hartung, Mark Stanton, WCSD Chief Capital Projects Manager, explained that Pine Middle School was one of 20 schools that had problems with their Heating, Ventilation and Air Conditioning (HVAC) System and there was about \$45 million in recommendations for those system replacements. Unfortunately, those funds had not been available for the HVAC upgrades and had been used for critical repairs such as boiler replacements in order to maintain the heating systems as well as fans that ceased to exist. He confirmed that the noise issue from those systems also existed at many of the high schools, which explained the need for an additional funding source to begin addressing those expensive issues.

Commissioner Jung asked if the Board had to enact the full amount that was requested in AB 46 or could a portion of the bill be enacted. Mr. Lipparelli explained that the LCB's opinion, which he agreed with, stated that the Board could enact up to the maximum amount of the tax stated in AB 46 and could do either, neither or both. If the Board enacted a portion of the amount, Commissioner Jung asked if they would have the opportunity to increase taxes in the future and if the Legislature gave that authority to the Board. Mr. Lipparelli replied if the Board initially enacted less than all the taxes, they could return and enact up to the cap listed in AB 46, but going beyond what was in the bill would take more legislative authority. Commissioner Jung asked if the Board had the ability to sunset the tax. Mr. Lipparelli stated that was also addressed by the LCB. He said AB 46 did not expressly provide that it could or could not be sunsetted. In the absence of any prohibitions, it was his opinion that it could be sunsetted, with a caveat that if enacted, and WCSD used the revenues pledged toward bonds, it could not legislatively impair the contract between the WCSD and the bond holder without causing legal problems. If the money was bonded, he said it would impact the ability for sunsets to take affect unless the sunset clause was stated in the ordinance. Commissioner Jung asked if there was any legal oversight through a Memorandum of Understanding (MOU) in which the Board could make those concerns expressed so they would be the governing body or oversight body on the estimated \$20 million per year. Mr. Lipparelli stated that was possible. However, any agreement made between any two parties was only as good as the ability of either of the parties to honor the promises in the agreement. Ultimately, the taxes would be enacted by the County, but be placed into a fund legally controlled by the WCSD.

Commissioner Jung requested staff conduct research to see if any similar arrangements were made in the State. She asked if the money could be placed toward

teacher salaries and other administrative functions. Mr. Lipparelli replied that the bill was restrictive. He stated that the funds had to be placed into the Capital Projects Fund, which by law could only be spent on qualifying capital projects, therefore could not directly go towards operating costs. Commissioner Jung also requested language on how an MOU would address the Commissioners concerns as well as the factual concerns of citizens to ensure that the money would be held at the highest standards of fiscal conservatism. In the interim, she suggested a sunset clause be reviewed in the event the Legislators decided to enact a broad-based tax.

Chairman Humke stated that Commissioner Jung was venturing into Agenda Item 6 and stated that would be discussed in the next item.

With respect to an MOU, Commissioner Hartung asked if future WCSD BOT's could change the provisions in an MOU. Trustee Aiazzi replied that discussion was held and a proposal was suggested that if the tax passed the WCSD would present that MOU as a Bill Draft Request (BDR) in the next Legislative Session in order to codify the MOU so that it would become law and could not be changed.

On behalf of the BOT's and the WCSD, President Clark said their product was the students. She said future students needed maintained buildings and she felt that the BOT's did a good job, but continued to increase their efficiencies through changes of reform. She said they had proven themselves over the past decades that they had been part of the community, educated the community's children and been a cornerstone of the community. She said the current BOT's were driven to move from good to great and were determined to succeed.

In response to the call for public comment the following individuals spoke **in support** of AB 46: Graham Stafford, Nancy DelBon, David Cook, Charlene Bybee, David Bianchi, Jim Pfrommer, Bill Cathey, Anne Loring, Lonnie Feemster, and Tom Clark. They based their support on the following reasons: maintaining capital facilities, safe learning environments, investing in the future and a sustained revenue stream.

The following individuals spoke **against** AB 46: Carlos Cardoso, Woody Brown, Margaret Martini, Art O'Connor, Todd Bailey and Joannah Schumacher. They based their opposition on the following reasons: the bill was unconstitutional, no sunset clause was included, no accountability, not a stable source of funding, and the bill should be returned to the Legislature.

The following individuals submitted comment cards **in support** of AB 46: Bobee-Kay Clark, Richard Loring, Dan Olson, Denise Hedrick, Jim McNulty, Vincent Bolt, Rainee Curdier, Walter Engelhart, Julius Broussard, John Russell, William Griener, Mike Kinney, Rob Benner, Paul McKenzie, Eloy Jara, Fausto Orantes, Amber Griener, Josh Morrow, Colleen Morrow, Tracy Holland, Raymond Davis, Josh Keeney, Randy Keeney, John Gavin, Shellee Gibbs, Marcy Benner, Amy Namestka, Keith Namestka, and Anthony Benedetto.

The following individuals submitted comment cards **against** AB 46: Bill Klud, Bonnie Klud, Steve Donahue, Roger Edwards, Betty Edwards, Ronald Lewis, Janice Wilson, Rob Ardree, Jackie Hager, and Corrine Glass.

No action was taken on this item.

13-918 AGENDA ITEM 6

Agenda Subject: “Discussion and possible direction to staff on AB 46 of the 2013 Nevada Legislative Session, including but not limited to direction to staff to develop the appropriate ordinance(s) and Board of County Commission resolutions to implement the provisions of AB 46.”

Commissioner Jung commented that a total of 240 emails had been received on the County’s web page, 109 against AB 46 and 121 in support of AB 46. She believed that was a direct reflection of the information campaign that had been generated. She indicated that she had placed direction to staff in Agenda Item 5.

Commissioner Berkbigler asked if an “airtight” Memorandum of Understanding (MOU) could be drafted to eliminate the ability to change the MOU when new Board members were elected and, if that happened, the Board could then immediately sunset the tax. Paul Lipparelli, Legal Counsel, replied there were only a few types of agreements that could not be changed and would not bind future boards to decisions made by past boards. The proposed MOU would have to be analyzed to determine if this agreement could not be changed by a future board. He stated without a sunset provision, the way to eliminate the tax would be to repeal the ordinance that imposed the tax. He explained that could be accomplished by a future board provided there were no outstanding bonds to which those revenues had been pledged. He indicated that the Washoe County School District’s (WCSD) General Counsel had provided a draft for the proposed terms in an agreement. The proposal from the WCSD stated that they would be willing to agree not to bond those revenues, which made it possible to repeal the ordinance in the future. Commissioner Berkbigler said there had been some discussion on the sales tax and how that related to the automobile dealers. However, the concern also covered building equipment and other large items that could be bought in other counties. She requested information to see if the County could loose taxes if AB 46 was approved. John Berkich, Interim County Manager, replied that may be difficult for staff to project and estimate with any degree of accuracy, but he would reach out to economics professionals for guidance. Commissioner Berkbigler questioned if there were other streams of revenue already in the County and/or other potential taxes or fees that could be re-earmarked to the WCSD that could provide a clear, designated stream of money without raising property or sales taxes.

During the August 20th meeting, Commissioner Hartung said it was stated that “the buildings were not falling apart and the WCSD were not near where dollars were running out.” He said several citizens spoke on a recent article in the *Reno Gazette Journal* where some of those statements reflected in that article concerned citizens. He

also commented that support had been given through the Request Tracker, from The Chamber, parent groups and unions in favor of AB 46. With that much support, he questioned the harm of placing this initiative on a ballot.

Commissioner Weber asked if a draft MOU had begun to be crafted. Mr. Lipparelli replied that he did not draft MOU's. He explained if an agreement was drafted, it would be an interlocal agreement or a cooperative agreement between local governments, which was authorized by NRS Chapter 277. He explained that the WCSD had taken the lead in drafting some of the initial terms and had invited the County to provide any input to satisfy the County's interest for protection from the risks and problems associated with the new taxes. He reiterated that the WCSD General Counsel had provided the County with a letter containing proposed terms for an agreement. He said staff was prepared to expand on the terms after direction was received from the Board.

Commissioner Jung directed staff to draft an ordinance in order to be prepared before time expired on the Board taking action.

Chairman Humke felt that placing this issue to a vote of the people was the right thing. He stated there were many industry groups ready to assist in the process if the Board did not pass AB 46 or, substantially little of the bill passed that would fulfill the WCSD's needs. He said there could be better, more superior revenue sources accessed.

Commissioner Berkbigler understood both sides of the issue. However, a stream of revenue had to be found for the WCSD and, if this was not that stream, something else needed to be found in order to fix the problems.

Commissioner Weber explained that she had received a potential funding source from a constituent. She noted that information was forwarded to Mr. Berkich for review and asked for that information to be returned to the Board.

Commissioner Hartung commended the WCSD on their campaign to place this message to the public; however, it divided the community in many ways. He said the Board should also direct staff to begin crafting the language for a ballot initiative or an advisory question.

In response to the call for public comment, Margaret Martini said the ratio on approval or disapproval between the special interest groups and the non-affiliated citizens needed to be reviewed. She pointed out that many citizen groups would be impacted by an increase in taxes such as elderly individuals, single parents and college students. She urged the Board to vote against AB 46.

Todd Bailey said drafting an ordinance to push AB 46 to the voters was the right decision for the Board and would make AB 46 constitutional.

Tom Clark said accountability was important. He felt that accountability had been demonstrated to the taxpayers by the WCSD. In moving forward, there were other issues that had to be considered. He said he recently participated in “Principal for a Day” and noted that the students seemed happy, the teachers seemed happy and the school was in fairly good condition. However, when he went out to the playground he noted that the playground butted up to a park and a parent was concerned for his child’s safety due to a child custody issue. Mr. Clark indicated there was no fence that divided the school grounds from the public park, and he felt that was a major safety and security issue. He was told that was in the budget, but when the economy collapsed, the funds were unavailable and a fence would probably not be erected until something bad happened, such as a child abduction. He said these dollars would build that fence and provide safety and security. He urged the Board to vote in favor of AB 46.

Dave Aiazzi said if language would be directed for a ballot initiative, he asked for a measure that would put the property tax over the tax cap. If that could not be done, and it went under the cap, he questioned what would happen if the initiative passed. He said this had been a great opportunity for the WCSD to educate the public, but had also been a great opportunity for the Commission. He indicated that prescriptions and food were exempt from sales tax and this tax increase would not be paid on those items.

Joannah Schumacher stated her opposition to AB 46. She asked the WCSD to focus on a revenue stream that was more efficient and legal.

Gary Schmidt said there had been much discussion about the constitutionality on this issue. He questioned if the Board had asked for a written opinion from their legal counsel as to whether AB 46 was constitutional and, if so, he requested a copy of that opinion.

13-919 AGENDA ITEM 7

Agenda Subject: “Reports/updates from County Commission members concerning various boards/commissions they may be a member of or liaison to.”

There were no reports or updates from County Commissioners.

13-920 AGENDA ITEM 8

Agenda Subject: “Possible Closed Session for the purpose of discussing labor negotiations with Washoe County, Truckee Meadows Fire Protection District and/or Sierra Fire Protection District per NRS 288.220.”

There was no closed session scheduled.

13-921 **AGENDA ITEM 10 – PUBLIC COMMENT**

Agenda Subject: “Public Comment. Comment heard under this item will be limited to three minutes per person and may pertain to matters both on and off the Commission agenda. The Commission will also hear public comment during individual action items, with comment limited to three minutes per person. Comments are to be made to the Commission as a whole.”

Todd Bailey said the most important question was how AB 46 could affect the County. He submitted a letter from Robb Archie, which was placed on file with the Clerk.

Gary Schmidt spoke on openness and transparency in government and the Public Records Law.

Art O’Connor stated his opposition for AB 46.

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9:00 p.m. There being no further business to discuss, on motion by Commissioner Weber, seconded by Commissioner Jung, which motion duly carried, the meeting was adjourned.

DAVID E. HUMKE, Chairman
Washoe County Commission

ATTEST:

NANCY PARENT, County Clerk and
Clerk of the Board of County Commissioners

*Minutes Prepared by:
Stacy Gonzales, Deputy County Clerk*