

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

TUESDAY

10:00 A.M.

MARCH 10, 2015

PRESENT:

**Marsha Berkbigler, Chair**  
**Kitty Jung, Vice Chair**  
**Vaughn Hartung, Commissioner**  
**Jeanne Herman, Commissioner**  
**Bob Lucey, Commissioner**

**Nancy Parent, County Clerk**  
**John Slaughter, County Manager**  
**Paul Lipparelli, Legal Counsel**

The Washoe County Board of Commissioners convened at 10:01 a.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:

**15-0186      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.”**

Eddie Lorton said he was contemplating a lawsuit regarding the ballpark, which would name Nevada Energy, the Truckee Meadows Water Authority (TMWA), the City of Reno, and Washoe County. He spoke about the City of Reno letting the ballpark operate without a Certificate of Occupancy and the County not collecting the ballpark’s taxes. He said he would allow two weeks for the taxes to be collected; otherwise, he would be filing a lawsuit with the Supreme Court.

Dena Corritore said she was speaking on Agenda Item 7C. She stated she worked for Social Services and she thanked the Commissioners and Kevin Schiller, Assistant County Manager and Interim Director of Social Services, for their support.

Victor Bausell said there should be a clear exemption for farmers and nurserymen who used hoop houses, high tunnels, or cold frames; and area farmers were waiting to see what the Board would do to help the exemption move forward. He said one farmer bought a hoop house, which would be in violation of Exemption 22 due to it being larger than 258 square feet. He said the farmer was told a hoop house would be

considered without permits, but the law stated differently. He stated what was needed was a clear exemption in the County Code, so the farmers could put in the hoop houses, high tunnels, and cold frames. He said he would like to know what happened since he was here to speak at the February 24th meeting.

Dan Herman stated he was speaking on Agenda Item 13, Village of the Peak. He said this item had been going on for two years, and it was time to put it to rest and for the Commissioners to vote no. He stated the Regional Planning Commission (RPC) voted eight to one to deny the application and, if it was sent back to RPC, it would get voted down again. He stated the developer had unprecedented unlimited access to the Commissioners, which he did not have as a citizen. He said the developer threw Chair Berkgigler a fundraiser, and he felt she should recuse herself from voting on the appeal. He stated it would not be built as a low-cost housing project, but instead the developer would try to build upper to middle income apartments. He said homes could be bought in the area for what the developer would charge for rent. He asked the Board to consider killing the Village of the Peak project right now, because it was not a good project.

Garth Elliott spoke about the lack of a Citizen Advisory Board (CAB) in Sun Valley. He said there had been quite a few instances recently where the community needed the CAB to provide input to the County. He applauded the Board for taking steps to bring the CAB back. He discussed the number of animals in the local shelters going down drastically due to the bettering economy.

Sam Dehne spoke about Tesla and the *Reno Gazette-Journal*.

**15-0187      AGENDA ITEM 4 – ANNOUNCEMENTS/REPORTS**

**Agenda Subject: “Commissioners’/Manager’s announcements, reports/updates from County Commission members concerning various boards/commissions they may be a member of or liaison to. Requests for information, topics for future agendas 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.)”**

Commissioner Lucey said in light of Senator Ben Kieckhefer’s bill, SB 185, he felt it would be pertinent to direct staff to provide the Commission with a full history of the events leading up to the separation of the Truckee Meadows Fire Protection District (TMFPD) and the Reno Fire Department. He also requested an update on the current fiscal and physical status of the TMFPD.

Commissioner Lucey said due to an issue at the South Valleys Sports Complex, he requested a report on the County’s Regional Parks’ athletic field use, the financial structure, the rental process, fees, capacity, demand, and the possible expansion of some of those facilities. He said he also wanted to look at the Citizen Advisory Board (CAB) in his district to see if changes could be made to make it more diverse. He requested an update on the status of the CAB handbook.

Commissioner Jung said over the last several meetings, concerns were brought up by the public regarding the requirement to have a sprinkler system in mobile homes. She stated after doing some research, Fire Chief Charles Moore came up with some different interpretations of the fire code. She said it would be a temporary reprieve, and she would like to see a proactive approach used to inform the public about what the expectations were out in the wild-land interface for building structures.

Commissioner Jung said the ordinance regulating hoop houses should be changed if necessary. She noted many of the County's ordinances were archaic and did not deal with what was going on in today's modern society. She stated hoop houses were virtually the only way to garden year round in this area and they were not typical structures by any stretch of the imagination. She said if it had to come to the Board, it should be done sooner rather than later. She stated having someone delay their growing season was backwards of the Commission's views regarding economic development being the number one priority. She requested a discussion on creating a process to empower staff to alert the Board when they became aware of things like hoop houses and fire code issues. She stated currently citizens had to come before the Board to voice their concerns, and she wanted staff to be able to come to the Board proactively rather than the Board making policy reactively. She understood staff did the best they could over the last seven years, but we could do better now. She said regarding citizens having access to her, people could call her anytime on her cell phone.

Commissioner Jung stated there was a phenomenal article in the *Reno Gazette-Journal* on Sunday regarding Dr. Ellen Clark, the Chief Medical Examiner for Washoe County. She felt it was wonderful that Dr. Clark finally received recognition for everything she did.

Commissioner Jung said there was no reason for her to have a CAB due to the overlap it would have with City of Reno's Neighborhood Advisory Board (NAB). She stated because her district was very diverse, she would prefer doing a series of small informal town halls to find out what the issues were. She said she would be speaking at the Reno-Sparks Leadership class in Carson City about government, running for office, and Washoe County.

Commissioner Hartung congratulated Dr. Clark, and said he did not know how Dr. Clark did what she did.

Commissioner Hartung said he felt the same as Commissioner Jung regarding fire suppression, and there should be a way for staff to deal with any issues found in Code.

Commissioner Hartung advised the snow pack was at 19 percent of normal. He requested a review of commercial and industrial landscaping standards to allow for more drought-tolerant landscaping in developmental agreements. He said he wanted to give the developers and the business-park owners the opportunity to revisit that

standard if they wanted to do so, and to give them more diverse options without requiring green belts.

Commissioner Hartung requested an update on single-stream recycling coming to the County. He stated a constituent said they were allowed to have one yard picked up, but Waste Management had been tolerant and was picking up the extra garbage. He asked for a buffet of a la carte choices, such as a person being able to put out extra bags instead having a free dump day. Commissioner Herman commented a lot of the people in the rural areas wanted a free trash dump once a month, which would help keep the desert cleaner. Commissioner Hartung said Waste Management's franchise agreement was up this summer, but the conversation needed to start now. He stated the people who owned large parcels had different needs than those who lived on small parcels. He said many of his neighbors had horses and used the system to dispose of horse manure. He stated it would be impossible to respond to everyone's needs, but he felt that working with Waste Management would arrive at some really good solutions.

Commissioner Herman said getting a polling place for Rancho Haven was being worked on, as were the CABs. She stated the people in the rural areas liked using the CABs as their form of representation. She said she needed help on how to appoint a representative to the Conservation District for Vya, Nevada.

Commissioner Lucey said he understood the Fish Springs Water Facility was not being used to its full capacity, and he requested a staff report regarding potentially increasing its use in case of a water shortage this summer.

Chair Berkgigler advised she was available to everyone and her cell phone number was listed on the County's web site. She said she returned all calls and responded to all e-mails sent to her. She stated since she was available to everyone all the time, she would not violate the ethics rules by voting on the Village of the Peak item later in the meeting.

Chair Berkgigler said there was a letter to the editor in the *Reno Gazette-Journal* complaining about businesses throwing tires with the rims into the open space behind his house, and she requested the issue be looked into. Commissioner Hartung noted it was a Code enforcement issue. Chair Berkgigler said she also wanted to look at the landscaping requirements and single-stream recycling. She requested a presentation on the status of the contract renewal with Waste Management.

Chair Berkgigler requested a presentation by the Tahoe Prosperity Center be put on the next agenda. She stated the Center was working with the Economic Development Authority of Western Nevada (EDAWN) and the Reno-Sparks Convention and Visitors Authority (RSCVA) about business growth into the Tahoe area. She stated Washoe County had accepted growth into Storey County, but was not looking to the West in our own County.

Commissioner Jung said Sarah Chvilicek notified her that the Cooperative Extension taught classes on hoop houses, and she asked staff to contact Ms. Chvilicek. Chair Berkbigler noted the status of the work on hoop houses was listed in the Board's request list, and it appeared to be moving forward fairly quickly.

John Slaughter, County Manager, said it had been the practice of the Board to cancel their middle meeting but, starting on April 21st, the middle meeting would start with the Truckee Meadows Fire Protection District (TMFPD) agenda due to the District needing to start at a set time. He said following the TMFPD meeting, the Board of County Commissioners (BCC) would meet to take care of items such as proclamations and the introduction of new employees. He said the BCC meeting would not be held when there were no such items.

Mr. Slaughter said the sheet tracking the Board's requests had been e-mailed to the Commissioners, which would occur every two weeks. He stated the March 24, 2015 agenda would have Commissioner Jung's request for a discussion about creating a policy for staff who retired and came back as contractors, along with a discussion regarding the Nevada Department of Transportation's (NDOTs) responsibility for cleaning the area's off ramps. He said the emergency medical services (EMS) audit would also be on that agenda. He stated the Code updates were assigned to staff, and would be brought back to the Board as soon as possible.

Mr. Slaughter said the County's new mobile-friendly web site was launched over the weekend, and he highlighted some of its new features. He stated staff would like to hear from the public about what worked and what did not.

Chair Berkbigler said she attended a presentation about artificial grass, and she would be happy to provide the documentation to staff in light of the request to look at landscaping requirements. She stated the presentation requested the Board consider giving rebates to taxpayers who removed their lawn and put in artificial turf. She said she suggested they do a presentation to the Truckee Meadows Water Authority (TMWA) Board. She stated she wanted to see what the Commission's TMWA representatives thought after they saw the presentation.

Commissioner Jung requested as staff looked at conserving water, they be mindful of the data Phoenix, Arizona collected that showed temperatures rose during the summer due to the grass and trees being removed. She said we should be mindful of not creating unintended consequences.

Commissioner Hartung said there were several requests to deal with hoop houses, and he asked if there was a way to allow them to get up and running due to their being a valuable asset even in the summer. He stated the Cooperative Extension probably had a lot of data about hoop houses, and it was beyond him why they needed to be engineered. He felt it went back to Commissioner Jung's statement that the County's Code was antiquated.

**15-0188      AGENDA ITEM 5**

**Agenda Subject: “Introduction of new Washoe County Employees.”**

John Slaughter, County Manager, had the following employees come forward to the podium to introduce themselves to the Commissioners:

Christine Cifelli, Health District, Community and Clinical Health Services  
Lara Schott, Library

In response to the call for public comment, Sam Dehne said it was good to see new employees being introduced after a six or seven year lapse. He stated the employees were what made this County go.

**15-0189      AGENDA ITEM 6 – PROCLAMATION**

**Agenda Subject: “Proclamation--Nevada Moves Day, March 18, 2015.”**

Commissioner Jung read and presented the Proclamation to MJ Cloud, Washoe County School District (WCSD) Safe Routes to School Coordinator. Ms. Cloud thanked the Board for recognizing this celebration. She spoke about obesity and how the Safe Routes to School program encouraged children to walk and ride their bikes to and from school. She stated 21 schools were participating in Nevada Moves Day, and she provided examples of what some of the schools were doing. A copy of a flyer promoting Nevada Moves Day was placed on file with the Clerk.

There was no public comment or action taken on this item.

**CONSENT AGENDA – AGENDA ITEMS 7A THROUGH 7E(2)**

In response to the call for public comment, Sam Dehne spoke about the contributions of the volunteers and the purpose of the consent agenda.

**15-0190      AGENDA ITEM 7A – ANIMAL SERVICES**

**Agenda Subject: “Approve Amended Professional Services Agreement dated January 2015 between Washoe County and Nevada Humane Society defining operational responsibilities for each, including services provided at the center, animal handling, compensation, periodic facility evaluation and standards of care--Animal Services. (All Commission Districts.)”**

Commissioner Hartung said when a constituent took a stray animal to the Nevada Humane Society (NHS), they wanted to charge her a fee. He stated she took the animal to Regional Animal Services, who took it in for free and then took it to the NHS.

Kevin Ryan, NHS Executive Director, said the NHS had a \$25 fee for the surrender of an altered animal or \$50 for a non-altered animal, which was often waived based on the individual's total income. He stated it cost on average \$250 to get an animal from intake through adoption.

Robert Smith, Regional Animal Services Supervisor, said their \$25 surrender fee could be waived depending on the circumstances. He stated they and the NHS worked together to ensure the animal was not released onto the street, which would create a health and safety issue for both the public and the animal. Commissioner Hartung said having fees was counterproductive if the animal was a stray. He stated his constituent was on a fixed income and the \$25 fee was not low for her. Mr. Smith said the NHS would only take in animals surrendered by an owner, while Animal Services took in the strays and there was no charge for bringing in stray animals. Commissioner Hartung said people should be informed about the difference. Commissioner Jung stated clearer signage at the facility might help. She felt the owners should pay something to surrender an animal, but the NHS needed to find out if the animal being surrendered was a stray or not during the intake process. Mr. Smith said there was a request for new signage to be installed inside the building. He stated once that was done, they would go outside and review the exterior signage.

Commissioner Lucey said \$25 did not pay for even an evening of boarding in any facility in Washoe County, and he felt \$25 was well below what should be collected. He noted some of the animals would sit at the NHS for months before they were adopted. Commissioner Hartung said some people were not able to keep a pet anymore, especially the elderly; and the pets of some elderly people ate better than they did. He said he wanted to make sure the people who could not afford the \$25 fee did not turn the animal into a stray.

In response to the call for public comment, Garth Elliott asked the Board to approve the Amended Professional Services Agreement with the NHS. He said Mr. Ryan was doing a great job and the shelter had never been in better shape than it was right now.

On motion by Commissioner Hartung, seconded by Commissioner Jung, which motion duly carried, it was ordered that Agenda Item 7A be approved.

**15-0191      AGENDA ITEM 7B – COMMUNITY SERVICES**

**Agenda Subject: “Recommendation to adopt a Resolution to direct the construction of the new Washoe County Medical Examiner Facility on County owned land between East 9th Street and Interstate 80, one block east of Wells Avenue--Community Services. (All Commission Districts.)”**

In response to the call for public comment, Garth Elliott said the Medical Examiner's Office was one of the oldest buildings in the County. He stated the question was if the building planned would be big enough to meet future needs, and he believed it

would not. He felt finances should not dictate the size of the building, which was what happened to the Nevada Museum of Art.

On motion by Commissioner Hartung, seconded by Commissioner Jung, which motion duly carried, it was ordered that Agenda Item 7B be adopted. The Resolution for same is attached hereto and made a part of the minutes thereof.

**15-0192      AGENDA ITEM 7C – COMPTROLLER**

**Agenda Subject: “Approve the settlement of the claim Kory Garver against Washoe County et al, for a total sum of [\$99,999] for all claims against all defendants--Comptroller. (All Commission Districts.)”**

There was no public comment on this item.

On motion by Commissioner Hartung, seconded by Commissioner Jung, which motion duly carried, it was ordered that Agenda Item 7C be approved.

**15-0193      AGENDA ITEM 7D – DISTRICT COURT**

**Agenda Subject: “Retroactively acknowledge agreement to accept a direct grant award from Nevada Administrative Office of the Courts, Court Improvement Program Grant from the Department of Health and Human Services, Administration for Children and Family Services for “Dependency Mediation” in the amount of [\$50,000, 33.33% in-kind match required] effective February 2, 2015 through January 15, 2016 and direct Comptroller’s Office to make the necessary budget adjustments--District Court. (All Commission Districts.)”**

There was no public comment on this item.

On motion by Commissioner Hartung, seconded by Commissioner Jung, which motion duly carried, it was ordered that Agenda Item 7D be acknowledged and directed.

**15-0194      AGENDA ITEM 7E(1) – MANAGER**

**Agenda Subject: “Confirm appointment of Craig Betts as Chief Information Officer, Technology Services, effective March 3, 2015 and set starting annual salary at \$115,000. (All Commission Districts.)”**

John Slaughter, County Manager, noted the search for the County’s new Chief Information Officer was an international competitive search. He said Craig Betts lived in Reno and had been the Chief Information Officer for Douglas County. He stated he was very happy Mr. Betts was joining Washoe County’s team.

In response to the call for public comment, Sam Dehne felt it would have been nice to have Mr. Betts introduce himself.

On motion by Commissioner Hartung, seconded by Commissioner Jung, which motion duly carried, it was ordered that Agenda Item 7E(1) be confirmed.

**15-0195      AGENDA ITEM 7E(2) – MANAGER**

**Agenda Subject: “Acknowledge receipt of the Distinguished Budget Presentation Award for Fiscal Year 2014-2015 from the Government Finance Officers Association (GFOA). (All Commission Districts.)”**

In response to the call for public comment, Sam Dehne said John Slaughter, County Manager, and his team did a wonderful job.

Chair Berkgigler congratulated staff on receiving the Distinguished Budget Presentation Award for Fiscal Year 2014-2015 from the Government Finance Officers Association (GFOA).

On motion by Commissioner Hartung, seconded by Commissioner Jung, which motion duly carried, it was ordered that Agenda Item 7E(2) be acknowledged.

**BLOCK VOTE – AGENDA ITEMS 9, 10, AND 16**

**15-0196      AGENDA ITEM 9 – COMMUNITY SERVICES**

**Agenda Subject: “Recommendation to approve an Agreement for Consulting Engineering Services between Washoe County and Carollo Engineers, Inc., commencing March 10, 2015 through January 30, 2016, to provide planning and engineering services for the South Truckee Meadows Water Reclamation Facility 2015 Facility Plan Update Project [\$340,438]--Community Services. (Commission District 2.)”**

Commissioner Hartung asked how much additional capacity would be added to the South Truckee Meadows Water Reclamation Facility (STMWRF). Dwayne Smith, Engineering and Capital Projects Division Director, said the facility planning work being done was in response to regulations by the State of Nevada Division of Environmental Protection and to get ready for growth. He stated the original plan for the facility was for 12.1 million gallons of total capacity, while the facility was currently permitted for 4.1 million gallons. He said this item would allow designing and constructing the next phase, which would take the capacity to about 6 million gallons.

Commissioner Hartung asked where the effluent went. Mr. Smith said none of the effluent generated from the waste-water treatment plant was permitted to enter the Truckee River, and 100 percent of the effluent was used for irrigation in the South Truckee Meadows.

There was no public comment on this item.

On motion by Commissioner Jung, seconded by Commissioner Hartung, which motion duly carried, it was ordered that Agenda Item 9 be approved.

**15-0197      AGENDA ITEM 10 – COMMUNITY SERVICES**

**Agenda Subject: “Recommendation to authorize the purchase of 21.72-acres (currently APN 038-150-18 and APN 038-150-20 located along the Truckee River); approve a Real Property Purchase and Sale Agreement between Washoe County (buyer) and JoAnne Silvia Grasso and Karen Jennifer Loing, trustees under the Carcione Family Revocable Living Trust (sellers) [not to exceed \$440,000 for acquisition, closing costs and property clean-up funded from WC-1 Parks, Trails and Open Space Bond of 2000 and State Question One Truckee River Bond funds]; and further authorize the Community Services Department Director to act on behalf of Washoe County to execute and deliver any and all instruments and funds, including without limitation, contracts, agreements, notices, escrow instructions, deeds and restrictions and railroad access documents, as may be necessary or appropriate to accomplish the acquisition; and authorize the Comptroller’s Office to make the appropriate budget adjustments--Community Services. (Commission District 5.)”**

In response to the call for public comment, Thomas Guinn asked the Commissioners to approve the purchase of the 21.72 acres. He said the purchase was due to 15 years of hard work by the previous and current Commissioners, Community Services staff, and numerous community partners. He stated the purchase would preserve, enhance, and protect the Truckee River and would help make it a focal point of the community. He said it was imperative to clean up the Truckee River Corridor and to improve water quality. He thanked Jennifer Budge, Parks Operations Superintendent; Eric Crump, Operations Division Director; and Dave Solaro, Community Services Director, for pushing this acquisition along.

Garth Elliott said he spent an hour on the property recently, and he noted the farm house was about 20 to 25 feet above the flood zone, which should alleviate flooding concerns. He said his concern was the property’s ingress and egress went over the railroad tracks, which could be a safety concern. He stated it would be a good purchase, and the \$110,000 would clean up the property, but he felt it would cost \$100,000 to restore the building.

Sarah Chvilicek said she was the past Chair of the Open Space and Regional Parks Commission, and she encouraged the Board to approve the purchase. She stated anytime open space could be acquired it would be a benefit to the community.

On motion by Commissioner Jung, seconded by Commissioner Hartung, which motion duly carried, it was ordered that Agenda Item 10 be authorized.

**15-0198      AGENDA ITEM 16**

**Agenda Subject: “Discussion and possible direction to the County Manager to utilize two or more hours of staff time to address Washoe County’s role and participation in pedestrian crossing and safety in region--Request by Commissioner Lucey.”**

There was no public comment on this item.

On motion by Commissioner Jung, seconded by Commissioner Hartung, which motion duly carried, it was ordered that Agenda Item 16 be approved.

**15-0199      AGENDA ITEM 13**

**Agenda Subject: “Discussion and possible direction to staff regarding next steps in Master Plan Amendment Case Number MPA12-001 (Village at the Peak) to include whether or not to file an objection with the Regional Planning Commission (RPC) and ask for a reconsideration; and, whether or not to further appeal to the Regional Planning Governing Board if the RPC affirms its determination of non-conformance upon reconsideration. (Commission District 4.)”**

Bill Whitney, Planning and Development Director, said staff was requesting direction from the Board about whether or not to file an objection with the Regional Planning Commission (RPC) and ask for a reconsideration of their vote. He stated they also requested direction on whether or not to appeal to the Regional Planning Governing Board (RPGGB) if the RPC affirmed its determination of nonconformance upon reconsideration of Master Plan Amendment (MPA) Case Number MPA12-001 (Village at the Peak). He conducted a PowerPoint presentation that provided some background on the Village of the Peak Master Plan Amendment. The topics included the RPC’s decisions, the vicinity map, the proposed Master Plan Amendment map, the proposed Character Management Plan Amendment map, the proposed amendments, the amendment to the Character Statement, the proposed policy amendments, and information in support of MPA12-001. A copy of the presentation was placed on file with the Clerk.

Commissioner Hartung asked if this would require one or two motions. Mr. Whitney replied in the staff report it was styled as one motion. Paul Lipparelli, Legal Counsel, said per Nevada Revised Statute (NRS) 278.0282, a local government that disagreed with the reasons given by RPC for making a determination of nonconformance, could file an objection within 45 days and attach the reasons why the plan was in conformance. He stated the RPC would consider the objection and issue a final determination, which could be appealed to the RPGGB no later than 30 days after its issuance. He said this agenda item contemplated whether or not to file an objection and ask for reconsideration and whether or not to ask for an appeal. He said that could be

done in one motion, or two motions if the options were different regarding the two different aspects of the decision.

Garrett Gordon, Lewis Roca Rothgerber LLP, said he was representing the property owner, Sugar Loaf Peak, LLC. He stated there were two items before the Board, and he was requesting the Board of County Commissioners (BCC) direct staff to do both. He stated this application was approved by the BCC and now the application was being sent to the RPC for conformance. He stated we were in a similar situation a year ago when the RPC denied the application and, rather than appealing, he withdrew the application and went back to the drawing board. He said additional experts were hired to look at the application and an amended application was created to specifically address the reasons why the RPC denied the application. He stated that included meeting with the RPC and County staff to try and come up with an amended application that would work for the County and the RPC. He said the resubmitted application included comments and concerns by the neighborhood and the RPC. He stated they had numerous meetings with the 17 reviewing agencies and they either had no comment or, if they had a comment, he agreed with them.

Mr. Gordon said the result of the resubmittal satisfied all of the conditions from all of the reviewing agencies, County staff recommended approval, the BCC voted to approve the MPA and resubmit it to the RPC, and the MPA satisfied all conformance factors in Regional Plan Policy 4.1.3. He said Brian Bonnefant, University of Nevada, Reno Center for Regional Studies Director, and Eugenia Larmore, Ekay Economic Consultants, Inc., were hired to study the location, housing demand, job/housing balance, transit, and affordability.

Mr. Gordon stated the application was amended to satisfy Policy 1.3.2, as shown in the RPC Comments and Actions slides. He noted the Policy said goals instead of findings or objective criteria. He said the RPC's goals were very subjective, which was different than the findings made by the BCC when looking at an application. He said affordability, transit, and case-by-case would be what it would take to get the RPC to approve the resubmittal. He stated the RPCs staff concurred the case-by-case criteria had been met. He said in the first go-around there were concerns about allowing multi-family housing in the Spanish Springs Area Plan and the possible proliferation of multi-family due to anyone being able to file a zoning change without having to go before the Regional Planning process. He said that was carved back and an overlay was created that said this 40 acres was at the right place and time for a multi-family development. He stated across the street was an industrial park that continued to grow.

Mr. Gordon said when the Spanish Springs Area Plan was put into place, there was a limitation of three dwelling units per acre and most of the area consisted of General Rural on the east side of Pyramid Highway and on the west side was the Specific Plan. He said today he would argue that it was a mixed-use district due to the four to five different land uses. He stated according to the RPCs staff report, affordability was very important; but, because there was no definition of affordability, the term was very subjective. He said Mr. Bonnefant's study verified the affordability. He stated the RPCs

staff report also indicated to be affordable it had to be located in a mixed-use district. He said this little node had Industrial, Commercial, General Rural, and other Residential densities and, as it was built out, would be a mixed-use district. He reviewed the "...support affordability goals..." slide, which provided some information on Spanish Springs' housing costs and demographics. He said he was shocked that the RPC could not make the affordability finding, because their staff report concluded, "it is likely that attached housing in the Spanish Springs area would be more affordable to rent or purchase than a traditional detached single-family home."

Mr. Gordon said a letter sent to the Commissioners on Friday had Mr. Bonnefant's response attached regarding the RPC staff's denial, and his letter hit the affordability issue right on.

Mr. Gordon said there was a definition for transit, but it was never included in the RPC's staff report. He asked how a finding could be made that the transit goals were not met if the finding was not based on objective criteria. He said transportation was a goal, and he did not see how not having any transportation going to the area could be a requirement. He stated there were goals to have a park and ride at the corner of Calle De La Plata and to have public transit go up to the area. He felt approved projects like the Applicant's would bring people to the area, which would continue the transit process. He stated there were design guidelines in the Master Plan that ran with the property, which he believed satisfied the goal that one day there would be special or continuing transportation to the area because there would be a bus pad. He stated they went beyond that and did a transit plan that provided regular and continuing general or special transportation to a multi-family facility as financed by the Applicant and approved by Washoe County's Community Services Director. He said they put together something that met the transit goal.

Mr. Gordon reviewed the Serious Flaws slides and the Violation of Fair Housing Act slide. He said the BCC approved the Master Plan Amendment, but the Spanish Springs Area Plan was the only one that limited density and prohibited multi-family housing. He said that was a problem, because prohibiting multi-family housing in a specific area had a discriminatory effect, and the Regional Planning policies were being construed in a way that could trigger a Fair Housing Act problem, because the discriminatory effect would have a significant adverse impact on minorities. He reviewed the Factual Information slide. He felt prohibiting multi-family was at the crux of why the BCC should file an appeal and go to the RPGB.

Mr. Gordon discussed the Truckee Meadows Region and Planning for Growth PowerPoint presentation by Kimberly Robinson of the Truckee Meadows Regional Planning Agency (TMRPA) and some information about regional statistics, which were placed on file with the Clerk. The presentation highlighted the area's growth, senior demographics, and approved future housing units by jurisdiction. He said the region wanted growth and jobs, and this project was a step in the right direction.

There was no public comment on this item.

Commissioner Jung stated she wanted to revisit what the RPC was doing, because she believed the RPC's policies were out of control. She felt there also should be a discussion in terms of who was on the RPGB, what their job really was, and was it even needed any longer. She said what concerned her about the elitist plan of prohibiting multi-family was who at some time in their lives did not live in multi-family.

Commissioner Jung made a motion to move this Master Plan Amendment forward. Commissioner Lucey seconded the motion. Mr. Lipparelli asked if that was the motion in the staff report that was composed of two elements. Commissioner Jung confirmed that was the intent of her motion. Commissioner Lucey concurred.

Chair Berkbigler said the information provided by Mr. Gordon increased her concerns about what the RPC and the RPGB were doing, and she felt they outlived their time. She stated she needed clarification on what the purpose was of the RPGB and how its actions benefited Washoe County. She said she did not see a benefit right now.

Commissioner Jung requested a discussion during the budget process on what the County's legal role was. She felt the RPC, the Truckee Meadows Water Authority (TMWA), and the Regional Transportation Commission (RTC) could be under one government rather than having numerous highly paid executive directors and having the taxpayer's money being diluted among all of those duplicate agencies. She believed the County Manager could take over many of those functions of government.

Commissioner Lucey said possibly the Village of the Peak development's location might not be as optimal as it could be but, in all of the districts, there was a multitude of multi-family that was very functional. He said in his district, there was quite a bit of multi-family located around the industrial development, which benefited the area tremendously. He stated he agreed with Commissioner Jung that every option should be available in every district. He felt segregating the County into different parts was wrong, and there should be one county-wide plan.

Commissioner Jung said the property owners had the right to do what they wanted with their property. She stated to tell the property owners in Spanish Springs that they could not have a certain land-use designation was not right. She felt that was un-American and unconstitutional.

Mr. Lipparelli said earlier he read NRS 278.0282, which was the statutory provision being dealt with regarding this matter. He stated the Board's responsibly under that provision was to attach its reasons why the plan was in conformance with the Regional Plan, which would be what the RPC would reconsider when hearing this matter again. He said the record did not contain a citation of those reasons, so the RPC would be at a loss as to which portions of its decision this Board disagreed with. He suggested the Board go back and cite a few reasons why the RPC decision was wrong, which would provide the basis that the statute contemplated for sending it back to them.

Chair Berkbigler suggested the three major bullet points presented by the proponent of the project be made a part of the Board's proposal back to the RPC. She said those three bullet points refuted the RPC's points brought out during their objection to passing this. Mr. Lipparelli said those would be reasons, and if the maker of the motion wished to incorporate those as part of the motion that would satisfy the statute.

Commissioner Jung asked if County staff had the responsibility to present what this Board's spirit and will was by taking this to the RPC and representing this Board. She stated if staff was only presenting the staff report and were not indicating where the Board had an issue, why was staff being paid to go there; and she would go. Mr. Lipparelli said on the legal side, if the Board's decision was to ask the RPC to reconsider and give them the reasons why, staff could certainly represent that to the RPC. He stated if the individual Commissioners wanted to attend that would probably be within their rights. Chair Berkbigler said Mr. Whitney's presentation stated why staff was now supportive of this project due to all of the changes that were made, and she got the impression that Mr. Whitney would speak on behalf of the Board if the Board passed this recommendation. Mr. Whitney said that was correct. He suggested Commissioner Jung review his presentation to the RPC where he took the direction of the full Board forward and pointed out the reasons why this Plan Amendment was a positive thing. Commissioner Jung apologized and said she made an assumption based on what Mr. Lipparelli was asking the Board to do on the record.

On the call for the question, the motion passed with a vote of 3-2 with Commissioner Hartung and Commissioner Herman voting "no."

**15-0200      AGENDA ITEM 12 – COMMUNITY SERVICES**

**Agenda Subject: "Discussion and possible direction to staff on requests for refund of infrastructure fees held by Washoe County for the Warm Springs Specific Plan Area, and process for amending the Washoe County Master Plan to coincide with possible refunds--Community Services. (Commission District 5.)"**

Commissioner Hartung requested some background on the refund requests of the infrastructure fees held by Washoe County for the Warm Springs Specific Plan (WSSP) Area, which would help the Commissioners understand the legal parameters involved regarding where the County's exposure might be. Commissioner Lucey agreed he would like some background information, because he only heard about this issue during recent public comment.

Bill Whitney, Planning and Development Division Director, conducted a PowerPoint presentation that provided background on the Warm Springs Area Plan; the Warm Springs Specific Plan (WSSP), which was part of the area plan; the history of the Board action on the WSSP; the overall goal of the WSSP; important WSSP Appendices; the Financing Plan; the Warm Springs Ranches (2004); the WSSP Financing Plan; the WSSP fees; and the consideration for refunding the fees. A copy of the presentation was placed on file with the Clerk.

Mr. Whitney said the fees collected were held in special accounts until the development started, which did not happen. Commissioner Hartung asked what the dollar amount of the collected fees was. Mr. Whitney replied the amount was approximately \$750,000 and involved 8 to 10 property owners.

Mr. Whitney stated page 3 of the staff report listed six questions that should be answered before making changes to the WSSP or refunding any of the fees. He said the County did not want to make a wrong move, but also had to consider the property owner's rights.

Chair Berkgigler asked if any of the property owners built anything. Mr. Whitney replied the development of the Warm Springs Ranch did not happen, but some of the other partners had done parceling and the County entered into development agreements with them when that happened. He advised some of the parcels were vacant and some had residential homes built on them.

Commissioner Herman asked why there needed to be a change to the Washoe County Master Plan, because the Agreement stated the money would be returned if it was not used for the infrastructure. Mr. Whitney said if the County returned the fees and the WSSP was not realized as it was envisioned in the Area Plan, the Area Plan needed to reflect the changed status. He stated the density of the Warm Springs Ranch was one unit per acre, which would require community sewer and water, paved streets, and such. Commissioner Herman noted the development done so far had not required any infrastructure. She did not feel giving them their money back would change the actual zoning of the land or the Plan.

Mr. Whitney said aside from the higher density of one unit per acre, the WSSP was amended to include a financing plan, which enabled some of the people to parcel their land into 2.5 acre and 5 acre parcels. He stated the fees were collected for future infrastructure needs and a development agreement was signed. Commissioner Herman stated all 10 of the original depositors were accounted for and were ready to receive their funds back. Mr. Whitney said he had not heard from all 10, and that would be one of the things staff would want to know for sure. He stated it had to be determined if they all could be included in the refund or would there be some who did not want to be included and, if so, how would the County deal with them. Commissioner Herman said it was not one big area owned by one person, but consisted of people who would develop their own land and pay the cost for that development. She stated she did not see where this would change that direction, because each developer would be required to follow a plan. She said it was not that they did not want the development to happen, but the development did not happen due to extenuating circumstances such as the economy; and she did not see why there needed to be changes to the Plan.

Commissioner Hartung stated he did not understand how the fees were originally set because \$750,000 would not put a dent in any of the infrastructure bullet points shown on slide 16. He said the land was subdivided by the original signers of the

document, and he asked if the sub-property owners had a contractual right to expect the same things from the County if the person who subdivided the property charged a fee with respect to the infrastructure that was supposed to happen. Paul Lipparelli, Legal Counsel, stated the WSSP required the developers to make deposits that would fund their proportionate share of the infrastructure costs, but now there was consideration of letting that money go back to the developers. He said that action would leave the people who know about the WSSP when they purchased their lots without any remedy for their developer to pay their share of the costs. He stated that was one of the reasons why the Plan had to be revisited, because it required a developer who came in tomorrow with a map to pay those fees. He asked what sense would it make to give the ten developers their money back and then charge the eleventh developer those same fees. He stated the other problem with the WSSP was the decisions made to allow intensification of use in the area was based on the idea the infrastructure would be provided by the developers through the financing plan. He said if those provisions needed to be revisited because they no longer made sense, the problem would be the densities allowed by the Plan would exist without a corresponding plan for how the infrastructure needs would be met.

Mr. Lipparelli said some of the developers came forward and suggested the County had an obligation to return the money after some period of time, but staff could not find where that obligation was in the documents. He stated if it did exist and obligated the County to return the money, he said he did not understand why such a provision could be contained in the overall Specific Plan since that money was supposed to be available to pay for their proportionate share of the infrastructure. He said any discussion about returning money to the developers should include a discussion about the interests of the people who relied on this process in making purchasing decisions.

Commissioner Hartung stated the issue was not only about giving people back their money. He said if the property owners were given their money, what would happen if the people who bought lots from them came back to the County and said they were promised infrastructure would be put in. He stated the other issue was what if eight property owners wanted their money back, but two said they were relying on the infrastructure being put in because of the promises made to the people who bought the subdivided lots. He said he wanted to make sure the County was indemnified and did not have some type of exposure where the County would be liable to fulfill a contractual promise that was made. Mr. Lipparelli stated staff struggled with those concerns and needed direction on how to deal with them. Commissioner Hartung said if some of the parcels had not been subdivided, there would be a clean way to dissolve the contract but, he had concerns since the parcels were subdivided.

Commissioner Jung asked if the funds were held in an interest-bearing account. Mr. Whitney replied they were. Commissioner Jung asked if the funds were restricted or was the County just providing banking services. Mr. Whitney said the County only provided banking services. Commissioner Jung asked how many accounts the County was providing this service for. Paul McArthur, Comptroller, said there were more than 10 and less than 50 such accounts. Commissioner Jung requested the accounts be broken down and staff identify where they were in the development process. She said

it looked like this would be a policy and policy could not be made for just one developer. Commissioner Jung agreed the County should be completely indemnified from anyone trying to sue the County for roads, sewer, and so on; and there should be a signature from every one of the affected property owners holding the County harmless. She said she wanted a lot more information regarding the 10 to 50 similarly situated developments and all of the signatures indemnifying the County before making a decision, and that was her direction to staff. She said the bottom line was everyone in Washoe County needed to be treated the same and all of the taxpayers had to be protected.

Commissioner Lucey said he understood if the money was refunded to the property owners, the density in the WSSP would have to be altered and all of the property owners would have to make a decision about if that was what they wanted. Mr. Whitney agreed staff did not want to get into a situation where there was higher density zoning still on the books without any way of providing the infrastructure. He said it needed to be figured out what to do with the one unit per acre, which was a lot of the zoning that had not been developed. He stated the 2.5 and 5 acre zoning was different and, if there was adequate water and other resources, they could be dealt with through the development agreements and the parceling maps that had been done over the years. He stated unfortunately staff was being seen as not wanting to give the money back, which was not true. He said staff wanted to work with the property owners and this Board to figure out how to do this the right way.

Commissioner Hartung said this came back to his original question about how the County could find out if promises were made or not to the landowners who bought the subdivided parcels. He asked how many parcel owners there were in the WSSP currently. Mr. Whitney said he did not have that information with him. Commissioner Hartung said if the \$750,000 was owed, the County should give it to them; but he did not want to put the County at risk by doing so. He stated when the Board started making those kinds of decisions, the cost to future taxpayers had to be considered. Mr. Whitney agreed staff needed to find out if the people who bought from the original developers and built a house were expecting improvements or not.

Commissioner Jung said she doubted the subdivided parcel owners ever knew about this, and she wanted to make sure they signed off if the fees were refunded. Mr. Lipparelli said he was contacted by a property owner within the WSSP area who felt certain property owners were violating the conditions of the Development Standards Handbook. He said the property owner indicated he was charged his proportionate share of the development fee by the sub-divider who sold him his lot. He stated that made sense, because developers did not just absorb the costs of putting in streets and water systems or paying fees. He said all of those things were built into the cost of the lots, and it would be sensible to pass those costs onto the buyer of the lot.

Stephen Moss said he represented George Newell, one of the original property owners. He advised the County charged a 1 percent fee to administer the funds. He stated paragraph 9 on page 23 of the WSSP financing plan showed how the fees would be refunded after either five or 10 years. He said with the application of either one

of those provisions, each of the owners who had monies on deposit with the County was entitled to a refund. He said in answer to the question about whether all of the developers requested a refund, he had unsworn declarations from each of the owners or successors that they all requested a refund. He said there was a procedure for handling any objections to refunding the monies. He stated he did not believe the whole Plan had to be amended if the monies were refunded, because the WSSP was developed after taking into consideration the input of a lot of people, and they were not asking for an amendment to the Plan. He said as far as they were concerned, the Plan was still applicable even though there were some issues with the Development Handbook not being followed. He stated that was a problem with enforcement and not with the Plan itself. He felt delaying the refund until the Plan was changed was just another way of the County dodging its responsibility to return the fees. A copy of page 23 of the WSSP was placed on file with the Clerk.

Commissioner Jung stated staff had been doing what they were supposed to do, because there was no policy to deal with this issue. She said the Board was trying to empower staff to escalate issues to the Board, so things could be fixed that were based on archaic times and the recession. She stated staff had to get this policy direction from the Board; otherwise, other people would be expecting the same treatment, which they deserved if it was fair and just. She said also all 440,000 Washoe County citizens needed to be indemnified against future liability.

Commissioner Lucey commented some of the property owners might have received some financial gain by subdividing and selling their properties. He said if those fees were passed along, those owners should get their prorated share back instead of the entire fee. He stated the prorated share, whether it was collected or not, should go to the new parcel owners. Mr. Moss said the Board should look at page 23, paragraph 9 of the WSSP, which talked about the County's responsibilities in returning the money. He said the owners were not looking for something they were not entitled to.

In response to the call for public comment, Larry Robbins said he was one of the developers who developed his property in 2004. He stated the contract did not state nor was he advised he had to collect money from the people who bought his property and then deposit that money into this trust. He said the contract required him to give a copy of it to the buyer when he sold a piece of property. He explained it also referenced the money would be refunded after the time stated. He said he did not understand why the County felt it had a liability when the contract said the County did not. He stated he would like to see his money refunded to him.

Brent Douglas stated he was one of the members from the beginning of this process in 1980, which took 10 – 15 years to get established. He said none of the one acre lots had been built on, only the 2.5 acre or larger parcels, which had to have their own water and sewer. He stated now the Health District had standards that required five acres to have a septic tank, water runoff had to be held in ponds, and any roads had to meet Washoe County's standards. He said the financial plan was set up so, if the development did not go through, they could get their money back.

George Newell said he was the sole survivor of the original five developers who helped create the WSSP, and he and the four widows would like to see this happen. He stated there was a legitimate contract with the County. He said during the July 18, 1996 meeting, a motion was made by Commissioner Bond and seconded by Commissioner Shaw. He said the motion carried and it was ordered that the amendments to the four previously approved agreements with himself and three other couples be approved as further amended by the County Board.

Mr. Newell stated there was concern about someone suing the County, but the agreement stated on page 26 that it was intended for the sole protection and benefit of the owners, developers, County, and their lawful successors, and no other person should have any right of action based on any provision of the agreement. He said the County was not liable, and the contract said the County would return their money after a certain time. He stated he had 17 parcels, and the amount would be \$4,881 per parcel. He said the contract also called for the County to provide them with an accounting every year of the funds being held in an interest-bearing account, which had not been done for 16 years. He said the County instead provided a statement that was in error because it did not account for the interest.

Reed Smith said he had to give up his water rights and everything else to split his 40-acre parcel into 10-acre parcels. He said the property owner was expecting the ability to put in his own well and was not expecting anything else beyond that, because he did not give them any sort of guarantee.

Chair Berkbigler felt none of the Commissioners were opposed to giving the money back. She asked if there was a way staff could start the process of figuring out who would receive the money and, at the same time, make the needed changes so no other developer coming in would have to pay into a fund that no longer existed; and to also ensure the County was not liable for any infrastructure. She felt that change would not be a change made by staff, but would have to come before the Board. Mr. Lipparelli concurred and said staff was looking for direction on what the Board felt was appropriate and fair in this situation. He said if the Board wanted more information and wanted to take action during a future agenda item, the more detailed the Board could be regarding the information they were requesting the better the product would be when it came back before the Board.

Chair Berkbigler summarized staff was being asked to expedite this process, so the money could be returned to the people involved as quickly as possible, while at the same time the problem would be fixed so a developer coming in later would not have to pay into a fund that no longer existed. She also requested the language be clear, so the landowners would understand that the County was not liable for roads, water and sewer infrastructure for the existing or any new people. Commissioner Jung said for the refund to happen, she wanted to see the other developments that were similarly situated and what would be the decision points as to who was eligible, who was not, and

why so the Board could be fair when making a decision. She stated she also needed a signed indemnification from every property owner.

Commissioner Hartung said he understood the concern county-wide with making a change in one region that applied to another region, and he agreed there needed to be a hold-harmless agreement signed by the sub-property owners. He asked if those property owners had some type of proxy contractual arrangement with the County by virtue of being inside the Plan. Mr. Lipparelli said the disclosure statement required to be given to all the buyers of property being sold by the developers said, "The WSSP contained a plan for funding, building, and maintaining public services needed for the development of Warm Springs, such as roads, drainage, water, parks, police, and fire. This plan is referred to as the Financing Plan and requires the payment of fees to cover a proportionate share of these services. The amount and payment of these fees was established by your property developer in a development agreement. If the property you purchased is located within the subdivided area, you will be bound by the development agreement and must pay a fair share at purchase." He said he was concerned some of the buyers believed they were funding their share of the obligation. He stated Mr. Robbins chose not to pass that cost along to his buyers, but he knew of one buyer who paid his share. He said the if the County was successful in getting a waiver, indemnification, or a hold-harmless agreement that would satisfy the County and it would not be blamed by the buyers of the lots for letting this money go, that would probably suffice.

Mr. Lipparelli noted the fees were not meant to cover all of the developer's obligations, but were aimed at the backbone of the infrastructure, which would be the main water and sewer pipes and the main access road. He said Mr. Smith stated he did not give any guarantees that the improvements would be made, and he was sure that was correct; but there was an obligation for the developers to contribute their proportionate share of the cost for the backbone of the infrastructure, which was what the Financing Plan talked about.

Commissioner Hartung asked if the document Mr. Lipparelli read would be on file with the Recorder's Office and attached to the each of the recorded deeds. Mr. Lipparelli said he would have to look at the deeds, but it was part of the development agreement that the County required each developer to have with the County. He stated it was a contractual obligation for the developer to provide the disclosure statement to each of the buyers. Commissioner Hartung asked if staff needed to look at the deeds to see if that provision was signed and attached to the deed. He said if that provision existed, it was imperative the County would have a hold-harmless agreement.

Chair Berkgigler asked if staff was given enough direction. Mr. Whitney replied he had enough direction. Chair Berkgigler asked him to expedite this and to bring it back to the Commission sometime in April. Mr. Whitney said staff would do their best to find the information requested and get it back to the Board.

Commissioner Herman asked if legal needed to draw up the paperwork for the people involved. Chair Berkgigler said that would be part of the process, but the

Board needed more information first. Commissioner Herman said it would be part of the research because their proportionate amount would be needed. Chair Berkgigler stated that would be an important part of the process. Mr. Lipparelli said Mr. Moss had offered to take a first stab at a draft and, at the right time, he and Mr. Moss could collaborate to arrive at something mutually acceptable.

No action was taken on this item.

**15-0201      AGENDA ITEM 11 – COMMUNITY SERVICES**

**Agenda Subject: “Introduction and first reading of an ordinance approving a “Second Amended and Restated Development Agreement (Ladera Ranch, LLC)” replacing a Development Agreement originally approved in 2009 (Development Agreement Case Number DA09-004 Ordinance Number 1406) regarding the Ladera Ranch Subdivision (approved in 2005 as Tentative Map TM05-011). This restated agreement (Case No. DA15-001) extends the deadline for filing the next in a series of final subdivision maps to July 5, 2017. The project includes a total of six parcels. The subject parcels are contiguous to each other and located to the south of Golden Valley Road/West Seventh Avenue, approximately one mile west of the intersection of West Seventh Avenue and Sun Valley Boulevard and approximately one mile east of the intersection of Golden Valley Road and Spearhead Way. The parcels total approximately 376 acres and have mixed regulatory zones including High Density Rural (HDR, ±61.33 acres), Low Density Suburban (LDS, ±135.3 acres), Medium Density Suburban (MDS, ±94.15 acres) and Open Space (OS, ±85.3 acres). The parcels are located within the Sun Valley Area Plan, and are situated in portions of Sections 13 and 24, T20N, R19E, MDM, Washoe County, Nevada. (APNs 082-473-07, 082-473-08, 082-473-09, 082-473-11, 082-473-12, 502-250-05.); and, if approved, schedule a public hearing for second reading and possible adoption of the ordinance for March 24, 2015 at 3:00 p.m.--Community Services. (Commission District 5.)”**

Nancy Parent, County Clerk, read the title for Bill No. 1732.

In response to the call for public comment, Chris Coombs said he was present on behalf of the applicant if the Board had any questions.

Bill No. 1732, entitled, "AN ORDINANCE APPROVING A “SECOND AMENDED AND RESTATED DEVELOPMENT AGREEMENT (LADERA RANCH, LLC)” REPLACING A DEVELOPMENT AGREEMENT ORIGINALLY APPROVED IN 2009 (DEVELOPMENT AGREEMENT CASE NUMBER DA09-004 ORDINANCE NUMBER 1406) REGARDING THE LADERA RANCH SUBDIVISION (APPROVED IN 2005 AS TENTATIVE MAP TM05-011). THIS RESTATED AGREEMENT (CASE NO. DA15-001) EXTENDS THE DEADLINE FOR FILING THE NEXT IN A SERIES OF FINAL SUBDIVISION MAPS TO JULY 5, 2017. THE PROJECT INCLUDES A TOTAL OF SIX PARCELS. THE SUBJECT PARCELS ARE CONTIGUOUS TO EACH OTHER AND LOCATED TO THE SOUTH OF GOLDEN VALLEY

**ROAD/WEST SEVENTH AVENUE, APPROXIMATELY ONE MILE WEST OF THE INTERSECTION OF WEST SEVENTH AVENUE AND SUN VALLEY BOULEVARD AND APPROXIMATELY ONE MILE EAST OF THE INTERSECTION OF GOLDEN VALLEY ROAD AND SPEARHEAD WAY. THE PARCELS TOTAL APPROXIMATELY 376 ACRES AND HAVE MIXED REGULATORY ZONES INCLUDING HIGH DENSITY RURAL (HDR, ±61.33 ACRES), LOW DENSITY SUBURBAN (LDS, ±135.3 ACRES), MEDIUM DENSITY SUBURBAN (MDS, ±94.15 ACRES) AND OPEN SPACE (OS, ±85.3 ACRES). THE PARCELS ARE LOCATED WITHIN THE SUN VALLEY AREA PLAN, AND ARE SITUATED IN PORTIONS OF SECTIONS 13 AND 24, T20N, R19E, MDM, WASHOE COUNTY, NEVADA. (APNS 082-473-07, 082-473-08, 082-473-09, 082-473-11, 082-473-12, 502-250-05)," was introduced by Commissioner Hartung, and legal notice for final action of adoption was directed.**

**15-0202      AGENDA ITEM 8 – PURCHASING**

**Agenda Subject: “Recommendation to approve Bid Award #2926-15 DNA CRIME LAB OFFENDER ANALYSIS on behalf of the Washoe County Sheriff’s Department, Forensic Science Division to the lowest, responsive and responsible bidder, The Bode Technology Group, Inc., for a cost of \$25.54 to \$37.54 per sample depending on the type of testing and analysis utilized for approximately 6,000 to 7,000 samples per year. The estimated annual value of this award is between [\$200,000 and \$300,000]. The Award will be for two (2) years with the County retaining the option for a one (1) year extension--Purchasing. (All Commission Districts.)”**

Commissioner Lucey understood the Sheriff’s Office had an in-house Crime Lab that took care of some of the samples, while some of the samples were sent out due to the time or complexity of processing them. Renee Romero, Lab Director Forensic Science Division, explained there were two types of samples: database and case work. She said today’s item was about the database samples, which were collected from convicted offenders or arrestees and were put into the DNA database. She stated the database samples had been outsourced for at least the last five years and was the cheapest and most efficient way to handle those samples. Commissioner Lucey asked if the cost accounted for the staff time required to prepare the samples and was shipping included. He said if they were not, then about 30 percent would have to be added to account for the full cost. Ms. Romero confirmed the cost per sample was only a portion of the cost involved. She stated what was before the Board was a request to use the vendor for that portion of the analysis. She said there was work done at the lab at both the frontend and the backend.

Commissioner Lucey said the Bode Technology Group was located in Virginia, and he asked if local companies were investigated. Ms. Romero said an open-bid process was used, but the local DNA lab did not have the capacity to do this kind of work nor was there another lab in Nevada that could handle the work.

Commissioner Lucey said the City of Reno was not paying for the forensic services they were receiving. He stated this was another \$300,000, not including staff time, where the City of Reno was not paying their portion. Ms. Romero clarified the database samples were not something that fell under the contract with any agency and no agency was billed for processing the database samples. She advised the database samples were funded by mechanisms the Legislature put into place and by grant funding. Commissioner Lucey thanked Ms. Romero for that clarification.

Commissioner Hartung noted the Crime Lab did a great job. Ms. Romero said she appreciated his comments, and said DNA was a fabulous tool.

There was no public comment on this item.

On motion by Commissioner Lucey, seconded by Commissioner Hartung, which motion duly carried, it was ordered that Agenda Item 8 be approved.

**15-0203      AGENDA ITEM 14 – MANAGER**

**Agenda Subject: “Discussion and possible action to appoint two County Commissioners to represent Washoe County on the Washoe County School District Oversight Panel for School Facilities--Manager. (All Commission Districts.)”**

John Slaughter, County Manager, said the Board received a letter from the Washoe County School District (WCSD) requesting two appointments be made to the Oversight Panel for School Facilities.

Commissioner Jung understood Commissioner Lucey and Commissioner Herman were interested in being appointed, which she supported.

There was no public comment on this item.

On motion by Commissioner Jung, seconded by Chair Berkbigler, which motion duly carried, it was ordered that Commissioner Lucey and Commissioner Herman be appointed to the Washoe County School District Oversight Panel for School Facilities.

**1:48 p.m.**      The Board recessed.

**5:30 p.m.**      The Board reconvened with all members present.

**15-0204      AGENDA ITEM 15 – MANAGEMENT SERVICES**

**Agenda Subject: “Discussion and direction to staff regarding legislation or legislative issues proposed by legislators, by Washoe County or by other entities permitted by the Nevada State Legislature to submit bill draft requests, or such legislative issues as may be deemed by the Chair or the Board to be of critical significance to Washoe County--Management Services. (All Commission Districts.)”**

Kevin Schiller, Assistant County Manager, said Bill Draft Request (BDR) S-996 addressed some of the issues facing Clark County and some for Washoe County in terms of allocating the dispensaries. He said he would discuss the key tenants so he could get feedback from the Board, which had been requested. He said the BDR would involve a onetime increase in medical marijuana dispensaries from 20 to 60 for Clark County, 10 to 15 for Washoe County, and one to three for the rural counties. He said if the bill passed, Washoe County would receive the additional dispensaries if desired. He reviewed slide 1, which indicated what each local government might do, and slide 2, which listed the impacts to Washoe County. A copy of the handout for BDR S-996 and a copy of the presentation were placed on file with the Clerk.

Commissioner Hartung asked if getting additional dispensaries was as necessary as giving Washoe County the ability to move the dispensaries outside of a five-mile radius. He stated he recognized additional dispensaries could have a real benefit, because the City of Reno had requested more, but having the ability to move them was a greater need, especially since there were three in Incline Village. Mr. Schiller said the BDR did not address the five-mile rule, but there could be amendments made as this was introduced and moved through the process.

Commissioner Jung stated she hoped staff and the County's lobbyists addressed Washoe County's issue with wanting to be able to move the dispensaries due to the tremendous amount of overlap. Mr. Schiller said they met with the sponsor of the bill and addressed that issue. John Slaughter, County Manager, stated it was unusual to bring a BDR to the Board this early in the process, but its sponsor allowed the County to see an advance copy of it. Commissioner Jung apologized and said she thought it was further into the process.

Chair Berkbigler said the BDR did not contain the amendment to increase the dispensaries. Mr. Schiller said that was additional. Chair Berkbigler felt the way the BDR was written was not clear, and she wanted make sure it would not confuse the State Health Department. She asked where the language was that said this was in addition to what Washoe County already had. Mr. Schiller said the first page of the digest talked about the increase, so the Legislative Counsel Bureau (LCB) summary would continue on into the bill.

Mr. Schiller said the bill gave local jurisdictions the capability to adopt an ordinance that indicated they had enough dispensaries. He stated it did not speak to what process the County would use to determine the dispensary selections or, if the additional dispensaries came into play, if it would rest at the local level to decide where they would go. He said a lot of things were unspoken and staff had to make some assumptions as this continued to evolve. Chair Berkbigler said she was fine with that as long as the assumption was the County was the entity that made the decisions and not the State Health Department. She believed it was an issue that should be decided close to the people, because the people in Washoe County and the surrounding counties would be using the facilities.

Mr. Schiller said besides the additional dispensary component to the BDR, there was also a component regarding where additional revenue could be generated to offset the costs tied to medical marijuana. He said he would bring updates to the Board as this evolved. He advised the sponsor's intent was to give some control back to the local level. He noted one of the primary components was the process that ended up in litigation in Clark County. He stated if the bill was finalized and contained the language the County wanted, it would come back to the Board to exercise control over where the dispensaries would go in conjunction with working with the Cities of Reno and Sparks.

Commissioner Hartung said what he would like to see articulated was the County had already identified a number of problems with the current bill. He stated the County needed as much flexibility as possible to make decisions based on what was encountered as the County started getting into this, because he believed the County did not yet understand what would be required in respect to cost recovery. He stated the idea was the County wanted to handle this at the local level, and he figured Clark County would want the same thing.

Commissioner Jung asked if the Legislature was considering holding a special session if an issue with the bill was encountered, because waiting two years for the issue to be fixed would not serve anybody. She said she would like to see a provision to at least recognize that issue. Mr. Schiller stated that request could be taken back with some suggested language and, when the County got the formal fiscal impact request, there could be some discussion about the need for additional resources even though calculating that need would be difficult at the outset. He believed there would have to be language within the bill that would allow the County to request that as a local jurisdiction.

Mr. Slaughter said AB 162 mandated body cameras be used by all police officers and a companion bill had similar provisions. He stated the Sheriff's Office estimated the cost would be \$1 million for the first year and the ongoing costs would be \$600,000 per year, which would be in line with what was being seen around the country. He said the media storage and the upkeep and maintenance of the system created the ongoing costs because, once a video was taken, it needed to be kept forever. He understood Southern Nevada law enforcement agencies suggested removing the mandated aspect and allowing some phasing in of the body cameras, because meeting a July 1st implementation date would be hard on all jurisdictions. He said that was something that would have to be dealt with in the budget either this year or in ongoing years. He stated it would be a good business practice, but how it would be implemented was where the discussion was occurring. Commissioner Jung said she had concerns when staff or anybody else stood up and said the County could not afford this, because the Legislature gave the County the ability in 2009 to afford a lot of things in terms of public safety when they implemented the potential Government Service Tax increase. She said regarding storing the data, the data could be purged from the system for any crime that had a statute of limitations. She felt from a policy-making standpoint, body cameras were good for the County in terms of liability and proving things in court. She said the

Deputies were already on camera due to the public having cell phones, and she would rather the County held that information. She felt who would get to view the footage, when, and where would be the crucial issue.

Commissioner Hartung said the County had to deal with unfunded mandates all the time. He agreed body cameras would become the norm and were a great idea, but he was not convinced that the County could purge the data by law. He heard several jurisdictions across the country where body cameras were used were forced to store the data. He agreed about the security issue of how the data got viewed. He said it would be interesting to follow the bill, but felt it would happen sooner rather than later.

Mr. Slaughter said his directive regarding fiscal notes, when asked what the fiscal impact would be, was to be very upfront about the cost and put that in the analysis done, and let the policy discussion be separate from that discussion. He stated all of the points made tonight were contained in the discussions occurring about this bill. Chair Berkbigler said she had seen the County's fiscal notes and noted that they were handled exactly as Mr. Slaughter described. She stated she agreed that body cameras had very positive reasons for existing for the local governments, but she was adamantly opposed to unfunded mandates. She felt whether or not they could be afforded was not the point.

Chair Berkbigler said SB 185 only impacted Washoe County for fire events, and was about the closest station responding. She stated historically it was a good idea for us to stay neutral, but she questioned whether staff should let Senator Ben Kieckhefer know the County had always been supportive of automatic aid and was supportive of what the Senator was attempting to do.

Commissioner Lucey said he would like to see emergency medical services (EMS) added to the bill, because 92 percent of the Truckee Meadows Fire Protection District's (TMFPD) calls were medical calls. He felt this bill could be dangerous if the County did not have more specifics as to how and what the bill would do. Chair Berkbigler commented there were some remaining concerns between the District and the Reno Fire Department when they were contracting together and, until that got further down the road, she was not sure EMS should go in the bill. She felt certainly for a fire event, such as what happened previously in the Caughlin Ranch, both fire departments should be there to fight the fire. She said she did not want to have an instance where one of the departments was not there because they were not called. She felt the huge events were what was making the Senator drive this piece of legislation. Commissioner Lucey said he understood.

Commissioner Lucey noted he was not able to find where any verbiage had been drafted yet, and he felt it was important to get some understanding of the bill's specifics before it got to the floor. Mr. Slaughter said he spoke with Fire Chief Charles Moore this morning about bringing a presentation to the Board on March 24th, and staff could talk to the Senator about holding off on having any hearings until then. He noted the deadline to get bills out of the first house was April 10, 2015.

Chair Berkbigler asked if there was a bill to legally merge the Sierra Fire Protection District (SFPD) and the TMFPD. Mr. Slaughter said it was still a BDR and it faced the same April 10th deadline. He stated staff had taken on that issue.

Commissioner Hartung said he would support the bill moving forward to Congress to eliminate daylight savings, which was Assembly Joint Resolution (AJR) 4. He stated it urged Congress to enact legislation allowing the individual states to establish Daylight Savings time as the standard in their respective states throughout the calendar year.

In response to the call for public comment, Garth Elliott said the County was fortunate to get into the medical-marijuana process at the BDR stage, and it sounded like the Board was going in the right direction. He stated medical marijuana provided a myriad of benefits to the area's seniors. He agreed keeping the decision making process local would be better, and it made sense to have large numbers of dispensaries for a large county.

Cliff Low said the TMFPD and the SFPD were not funded by Washoe County, but had separate funding.

### **PUBLIC HEARING**

#### **15-0205      AGENDA ITEM 17 – COMMUNITY SERVICES**

**Agenda Subject: “Public Hearing on Appeal Case No. AX14-003 (Verizon Wireless) - To consider an appeal of the Board of Adjustment’s decision to deny Special Use Permit Case No. SB14-002, which is requesting a wireless communications facility consisting of a 100 foot high faux water tank tower concealing six antennas and an equipment shelter containing telecommunication ground equipment all of which shall be enclosed within a leased 50 foot by 50 foot fenced area on a +36 acre parcel in Old Washoe City. Three new easements on the subject parcel are included in the request, two of which will be 6 feet wide Verizon Wireless utility easements for overhead utility poles and one will be a 15 foot wide Verizon Wireless access and utility easement. As a part of this Appeal, Verizon Wireless is proposing a reduction of the overall height of the proposed communications tower by 40 feet, resulting in a 60 foot high tower. The Board of County Commissioners may take action to confirm the Board of Adjustment’s denial; or, the Board may take action to reverse the denial and issue the Special Use Permit, or the Board may modify the Special Use Permit’s Conditions and issue the Permit--Community Services. (Commission District 2.)”**

Grace Sannazzaro, Planner, conducted a PowerPoint presentation of Appeal Case No. AX14-003, Special Use Permit (SUP) Case No. SB14-002, regarding the Board of Adjustments (BOA) reasons for denying the SUP on June 5, 2014. The presentation highlighted the location, the public notice to property owners, Verizon’s Site

Plan submitted with the application, the elevation drawing of the cell tower, the required findings, the findings for Article 810 - Special Use Permits, the findings for Article 324 - Communication Facilities, the South Valleys Area Plan finding, and the possible motions.

Commissioner Hartung asked how large the power poles in the area were. Ms. Sannazzaro said the Area Plan did not allow overhead utilities, and she conditioned the project for the utilities to be placed underground. She stated it was questionable whether the access easement would meet the fire code. She said the Truckee Meadows Fire Protection District (TMFPD) conditioned the project to have a 20-foot wide access road with no more than a 10 percent slope and Verizon proposed a 15-foot wide access. She noted no grading plans had been submitted at this point, so she did not know what their proposed slope would be. She said if the slope exceeded the major grading thresholds, it would require a SUP for grading.

Ms. Sannazzaro noted the first five findings (slide 7) the BOA looked at were from Article 810, SUPs, six through eight were from Article 324, Communications Facilities, (slide 8), and nine (slide 9) was from the South Valleys Area Plan, which was a part of the County's Master Plan. She stated the Article 810 finding number 1 was not met because there was noncompliance with the South Valleys Area Plan policies SV12.5, SV2.13, SV2.14, and SV2.4. She said finding 2 was not met because Verizon's access road did not comply with the required fire road width and the compliance with the slope was unknown. She stated Verizon stated at a Citizen Advisory Board (CAB) meeting that the utilities would be put underground, but that proposal was not in the application and staff had conditioned it. She said regarding finding 3, the tower would be silhouetted and was too close to the ridgeline and, for findings 4 and 8, there was the silhouette against the skyline issue and public testimony said the cell tower would unduly impact the adjacent neighborhoods, vistas, ridgelines, and property values. She stated finding 5 did not apply.

Ms. Sannazzaro said the standards had to be met in Articles 324.40 to 324.60, which provided cell tower definitions, placement standards, and permitting requirements. She stated for finding 7, the BOA heard significant public testimony in opposition of the project and the South Valleys CAB recommended denial of the SUP three times. She said for finding 9, policy SV2.16 mandated SUPs must include a finding that the community's character could be adequately preserved. She stated the community character statement talked about the rural character of the valleys, which were implemented in policies SV2.13, SV2.14, and SV12.5.

Ms. Sannazzaro said the BOA based their denial without prejudice on those nine findings.

Commissioner Hartung asked if a 100 foot cell tower was common. Ms. Sannazzaro replied it depended on the location, and Verizon was willing to reduce the height by 40 feet.

It was noted the Verizon representative was not present in chambers, and the Board called for public comment.

Karen Critor said she was a member of the Washoe Valley Alliance, whose mission was to preserve and protect the unique qualities of life in the Washoe Valley. She discussed the preservation of the Washoe Valley, its wildlife, and the other attractions in the area. She advised Washoe Valley was part of the Pacific Flyway, which provided the necessary habitat for migratory birds. She said goal 20 of the South Valleys Area Plan stated public and private development would respect the value of the wildlife and their habitat to the community, which the cell tower would not do. She urged the Board to deny Verizon's application.

Lori Wray, representing Scenic Nevada, said they were opposed to Verizon's application, which had been communicated to the BOA. She said an online petition garnered the signatures of 120 residents who opposed Verizon's application. She stated they appreciated Verizon's attempt to camouflage the cell tower, but there was nothing that would allow the tower to blend in with its surroundings, no matter what the design. She urged the Board to deny the application. A copy of the petition was placed on file with the Clerk.

William Naylor said even though Verizon was lowering the tower by 40 feet, the faux water tank was still 12-feet wide. He stated when lowering the tower was proposed at the CAB meeting, it was indicated Verizon would apply for a second tower. He discussed Verizon's coverage goal and the lack of coverage that would still happen in some areas because they were using older technology. He said lattice towers were only allowed on mountain tops and not on the valley floor. He stated there was no significant coverage gap, but there was a capacity issue, and he explained the difference. He said if there was a coverage gap, the rules changed. He discussed all of the entities who recommended denial of the appeal, and he asked the Board to also deny it.

Marilyn Naylor said she worked on the update of the South Valleys Area Plan, which passed in 2010. She discussed the Scenic Byway and the Corridor Management Plan for the Mt. Rose Highway and the Washoe Valley Scenic Byway. She extended an invitation to the Board to attend the second annual Celebrate Washoe Valley event, and she listed last year's attendees. She requested the Board deny Verizon's application.

Maureen Collins said the South Valley Area Plan was the key to her opposition of Verizon's cell phone tower regardless of its height. She stated there was nothing for many acres taller than Sagebrush. She stated Verizon's representative indicated there were other locations where cell towers were already located, and she asked if an existing site on a mountain could be used to house their modern equipment. She listed the entities in opposition of the tower's proposed location and she asked the Board to look at why they all opposed the tower.

Cliff Low said he really hoped the impact of public comment was not diminished by its coming prior to Verizon's presentation. He said he opposed the cell tower, and advised there was no compelling reason for this Board to override the BOA's recommendation. He noted the CAB recommended denial three times, including denying the proposed shorter tower. He asked the Board to uphold the BOA's denial.

Carol-Lynn Graudio discussed Washoe Valley's attractions and asked the Board to stop the tower.

Brien Walters said he owned the property contiguous to the proposed cell tower, which would eventually have four five-acre home sites. He stated he believed more than two visits per month and more than one technician would be required to service the cell phone tower. He noted the tower next to the Washoe County Tennis Complex emitted a constant hum.

Gary Houk said Verizon's original application cited coverage and capacity issues, which over time evolved into capacity being the main issue; and he asked why the capacity was not being increased at the existing facilities. He said Verizon only looked at four sites. He said if the capacity would be exceeded in 2015, it appeared the application was an example of their lack of due diligence and would be just a band-aid for a larger problem. He stated the due diligence done on the part of the citizens supported a decision by this Board to deny the application. He stated the courts determined that aesthetics could be the basis for the denial of a wireless permit as long as there was substantial evidence of the adverse visual impact of the proposed tower. He said nothing in the Telecommunications Act forbade local authorities from applying general and nondiscriminatory standards derived from their zoning codes.

Caron Tayloe said the League of Humane Voters was against the cell tower due to the well-documented effects of the towers on wildlife. She stated two Bald Eagles were seen in the area regularly, and she had not heard about an Environmental Impact Study (EIS) being done or about any input from the Department of Wildlife. She said the Bald and Golden Eagle Protection Act still existed, which said the eagles were not to be disturbed, agitated, or bothered in any way that could cause injury or interfere in their feeding, breeding, or sheltering behavior. She stated the Department of the Interior said lattice towers impacted migratory birds by causing injury and there was a strong concern that they were affected by the radiation emitted by the cell phone towers.

Judy Price said she took a picture of the site on Sunday. She said her biggest concern was by allowing Verizon to put in the cell tower, would open the door for other telecommunication opportunities, which she did not want in her valley. She believed there were suitable places to place the towers and that it would require more than two times a month for maintenance. She asked the Board to support what had already been done. A copy of the picture was placed on file with the Clerk.

David Downs, Verizon's representative, conducted a PowerPoint Presentation that reviewed the project's background, the revised project, and the specific

issues raised in the staff report. A copy of the presentation, and the LTE Improvements, and Alternate Candidate Analysis presentations were placed on file with the Clerk.

During his review of the revised project, Mr. Downs advised the lower height and the topography would not provide the level of service initially proposed, and there would be a silhouette regardless of the height. He noted Verizon would be happy to put the access utilities underground. He said the service objective of the original project was to bring AWS LTE coverage to the western end of Pleasant Valley, the northern end of Washoe Valley, and a five mile stretch of Highway 395 and Interstate 580; and was part of an overall plan in this area to resolve capacity issues. He stated 42 sites were investigated and this was the only site that met all of the necessary criteria.

Mr. Downs said Verizon had two separate networks with one supplying voice communications and the other supplying data communications. He stated the data communications network would be at capacity by the end of 2015, which would mean during peak periods there would be dropped calls, poor connection quality, and slow Internet service. He said the plan was to add this facility and improve the Steamboat and McClellan Peak facilities. He stated the main problem was the Slide Mountain facility, which was built to service the old wireless technology. He said with the new technology, the site was too high because the tower needed to be closer to the user, which was why the facility was slated to be taken out of commission. He said there was a significant gap, which was a legal term defined by the FCC that did not just relate to coverage, but could also relate to capacity. He stated the proposed facility would benefit both the coverage and capacity in the area; however, the capacity was the main driver for the facility. He said if this proposed project was approved with the reduction in height, hypothetically Verizon would submit another application to service the affected area.

Mr. Downs said staff initially supported the project prior to it coming before the CAB or the BOA. He stated once a large amount of opposition became apparent, then the inconsistencies with County documents arose.

Mr. Downs stated the major reason for the BOA denying the project was the violation of policy SV12.5, silhouetting the skyline. He said Verizon would reduce the height from 100 to 60 feet, but it would still silhouette against the skyline regardless of where the tower was situated on the parcel. He stated an existing slim-line monopole that silhouetted the skyline was located a quarter to a half mile northeast of the proposed facility. He understood the goal was to avoid silhouetting the skyline, but it would be nearly impossible to avoid that happening anywhere a wireless facility was put. He said conserving the open vistas was the same issue.

Mr. Downs stated the goal of the facility design was to be as consistent with the rural character as possible. He said he asked County staff for a summary of the CAB's issues, which he never received, and it was never made clear to him that he was supposed to respond to the CAB in writing. He stated he was doing his best to respond to all of the issues at this time.

Mr. Downs displayed images of lattice towers, a mono pole, and stealth-designed facilities. He stated lattice towers were what the communications industry preferred to build, because they were the cheapest to build and were the most stable design. He said the proposed tower was a stealth-designed facility, a faux water tank, and not a lattice tower. He reiterated Verizon would be happy to put all of the utilities underground. He said if the project was approved, it would have to go through the building permit process, and the project would comply with all fire-code requirements by making the road 20-foot wide and meeting all of the grading requirements.

Mr. Downs said existing case law regarding a cell tower's impact on property values determined there was no evidence they impacted property values. He stated there was the converse argument that cell towers added value because people looking for a house wanted to make sure they had adequate cell service. He said there was no way to avoid silhouetting the skyline, but the facility had been designed to match the rural character of the area in the least intrusive way possible.

Chair Berkbigler and Commissioners Hartung and Herman indicated they were Verizon customers.

Commissioner Hartung asked if there was any way to mitigate this issue by putting the cell tower on the mountainside and using the pine-stealth design, especially on the west side of the valley. Mr. Downs said doing that would change the coverage maps. He stated a ground-mounted facility was investigated, which Verizon would be willing to consider installing at this location and could be made to look like a rock outcropping, but doing that would require two additional facilities each 6-12 feet tall to satisfy the same service objective.

Commissioner Herman said she knew the people thought they would never need the improvements Verizon was trying to provide, but the Board had to consider their views. She thanked Verizon for working with the people for this long.

Commissioner Lucey said the tower would be located in his district, and he advised the people continuously opposed it at the CAB meetings. He stated instead of going back to the drawing board, Verizon made a nominal design change, and he believed the additional sites were not investigated very well. He said the tower would be seen from Interstate 580 easily and from Highway 395 the tower would stand out like a sore thumb. He stated on the County's new web site was a picture of Washoe Valley, which everyone was very proud of, and he commented he was finding himself opposed to this. He stated he had hoped for a better presentation by Verizon regarding the options, because it did not seem like there was a whole lot of thought put into the options provided to the Board.

Commissioner Lucey said Mr. Downs talked continuously about increasing the capacity and the coverage area along Interstate 580 and Highway 395, but people could not use their phones when driving. He stated the tower would only be for the residents of the community, but he heard the residents did not have problems with

service. He felt Verizon needed to go back and look at other locations and designs and make serious changes instead of just shrinking the tower by 40 feet. He said that was not enough because it still violated the County's Code regarding silhouetting. He stated he was opposed to the cell tower.

Mr. Downs said the site selection process was very detailed, took about a year, and analyzed 42 sites. He advised very specific criteria must be met to place a wireless facility and to enter into a lease agreement with the property owner. He stated Verizon would not benefit financially from the facility, which was the perception in the area, but Verizon's sole reason for placing the facility was to maintain its position as the best service provider. He said Commissioner Lucey mentioned the change was minuscule, but the project team went back to the drawing board and came up with a compromise, because they believed it would be better to compromise rather than fighting the County through legal means. He stated if the Board talked to law enforcement personnel, they would state it was extremely important to have wireless services on the area's roadways.

Chair Berkbigler said people could use their phones while driving as long as it was being used in the hands-free mode, and she would continue to do so until it was outlawed by the Legislature. She asked Verizon to look at the Slide Mountain site to see if there was some way that site could provide a portion of their upgraded service, because the views in that valley were extremely important to Washoe County residents. She said Verizon's service was outstanding, and she did not want to see it degraded. She stated the other side of the coin was the citizens had very grave concerns about this type of project. Mr. Downs advised the Slide Mountain site was at too high of an elevation for the new technology and, if the proposed tower was not put in, the area would face capacity issues within the next 10 months.

Commissioner Hartung said if the people were willing to deal with the coverage and capacity issues, he felt that was their purview. He asked if LTE was about the desire to get higher quality and more bandwidth. Mr. Downs said it would not change what the people could do with their phones, but would address the coming capacity issues during peak times when customers could experience dropped calls. Commissioner Hartung asked if there was a way to deal with the issues by putting in a 6-12 foot mound. Mr. Downs replied a ground-mounted facility could be used at this location, but the service area would shrink, would require additional ground mounts and there were no other feasible locations available. He stated Verizon would have to decide whether to look for other sites or to let the service degrade if this appeal was denied.

Commissioner Hartung asked Verizon to come back with other alternatives. Commissioner Lucey agreed if they could come back with something other than the 60-foot cell tower.

On motion by Commissioner Lucey, seconded by Commissioner Jung, which motion duly carried, it was ordered that the Board of Adjustment's denial be confirmed of the Special Use Permit based on Motion 1 on page 10 of the staff report.

**15-0206      AGENDA ITEM 18 – CLOSED SESSION**

**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.

**15-0207      AGENDA ITEM 20 – 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.”**

Garth Elliott spoke about why volunteers were worth their weight in gold. He asked the Board to please slow down the design and construction of the Coroner’s new building, because it would be too small as engineered.

**COMMUNICATIONS AND REPORTS**

The following communications and reports were received, duly noted, and ordered placed on file with the Clerk:

**COMMUNICATIONS:**

**15-0208**      Summary of all claims made against the Truckee Meadows Fire Protection District, Sierra Fire Protection District, or Washoe County Fire Suppression District for tortious conduct for calendar year 2014.

**QUARTERLY FINANCIAL STATEMENTS**

**15-0209**      Washoe County School District – Quarterly Report – Second Quarter, July 1, 2014 through December 31, 2014.

**FINANCIAL STATEMENTS**

**15-0210**      Monthly statement of Washoe County Treasurer for month ending November 30, 2014.

**15-0211**      Monthly statement of Washoe County Treasurer for month ending December 31, 2014.

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**7:29 p.m.** There being no further business to discuss, the meeting was adjourned without objection.

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**MARSHA BERKBIGLER**, Chair  
Washoe County Commission

**ATTEST:**

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

*Minutes Prepared by:  
Jan Frazzetta, Deputy County Clerk*

**RESOLUTION**

**WASHOE COUNTY CAPITAL INVESTMENT IN THE COMMUNITY**

WHEREAS, the Washoe County Medical Examiner provides a multitude of services to the citizens of Washoe County and is the regional provider to 14 counties in Nevada and 5 counties in northern California; and

WHEREAS, the 2001 Washoe County Facilities Master Plan included initiation of a new Medical Examiner Facility to replace the existing facility constructed in 1959, located at 10 Kirman Avenue; and

WHEREAS, the existing Washoe County Medical Examiner Facility has been funded for replacement through the Washoe County Capital Improvement Program adopted by the Board of County Commissioners in May 2014; and

WHEREAS, a design team comprised of local knowledge and talent has been hired through a competitive qualification based selection process to create an efficient, effective and sufficient facility for Washoe County to meet the needs of the growing citizenry and other regional partners for decades; and

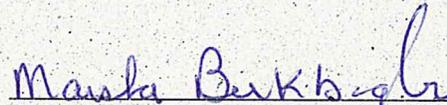
WHEREAS, Washoe County has made an investment in the neighborhood surrounding the Washoe County Administrative Complex located at 1001 East 9<sup>th</sup> Street, Reno; and

WHEREAS, Washoe County has embraced efforts to be fiscally prudent and responsible, welcoming regional partnerships and innovation in designing and constructing the new Facility; and

WHEREAS, an opportunity exists to reinvigorate Washoe County owned property in the neighborhood; now, therefore, be it

RESOLVED that the Board of County Commissioners direct the construction of the new Washoe County Medical Examiner Facility on County owned land between East 9<sup>th</sup> Street and Interstate 80, one block east of Wells Avenue.

Adopted this 10th day of March 2015.

  
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Marsha Berkbigler, Chair  
Washoe County Commission

ATTEST:

  
  
\_\_\_\_\_  
Nancy Parent  
Washoe County Clerk

15-0191