



# Community Development

*"Dedicated to Excellence in Public Service"*

Adrian P. Freund, FAICP, Community Development Director  
Nathan Edwards, Legal Counsel



## Washoe County Planning Commission

Christy Magers, Chair  
Dian A. VanderWell, Vice Chair  
Neal Cobb

Roger M. Edwards  
Roy H. Hibdon  
Keith Lockard  
William Weber

## WASHOE COUNTY PLANNING COMMISSION MINUTES

March 10, 2009

The Washoe County Planning Commission met in regular session on Tuesday, March 10, 2009, in the Washoe County Commission Chambers, 1001 East Ninth Street, Reno, Nevada.

### DETERMINATION OF QUORUM

Chair Magers called the meeting to order at 6:32 p.m. The following Commissioners and staff were present:

Commissioners present: Christy Magers, Chair  
Neal Cobb  
Roger M. Edwards  
Roy Hibdon  
Keith Lockard  
William Weber

Commissioners absent: Dian A. VanderWell

Staff present: Kimberly H. Robinson, Planning Manager, Community Development  
Bill Whitney, Senior Planner, Community Development  
Roger Pelham, Senior Planner, Community Development  
Kelly Mullin, Planner, Community Development  
Sara DeLozier, Office Support Specialist, Community Development  
Kimble Corbridge, Senior Engineer, Public Works Department  
Nathan Edwards, Deputy District Attorney  
Cathi Moldenhauer, Recording Secretary, Community Development

### PLEDGE OF ALLEGIANCE

Commissioner Cobb led the pledge to the flag.

### APPROVAL OF AGENDA

Ms. Robinson announced that Consent Item A and Agenda Item 3 were withdrawn. In accordance with the Open Meeting Law, Commissioner Edwards moved to approve the amended agenda for the March 10, 2009, meeting. Commissioner Lockard seconded the motion, which passed by a vote of six to zero (Commissioner VanderWell absent).

## **APPROVAL OF MINUTES**

Commissioner Hibdon moved to approve the minutes of the February 4, 2008, meeting. The motion was seconded by Commissioner Cobb and passed by a vote of six to zero (Commissioner VanderWell absent).

## **PUBLIC COMMENTS**

None

## **CONSENT ITEMS**

- A. ACCEPT QUITCLAIM DEED REGARDING RIGHT-OF-WAY AT INTERSECTION OF EAGLE CANYON DRIVE AND EMBER DRIVE IN SPANISH SPRINGS (A portion of APN 089-425-31)

[This item was withdrawn upon advice of counsel.]

[Commissioner Weber left the dais at 6:33 p.m.]

## **PROJECT REVIEW ITEMS:**

### **AGENDA ITEM 1**

**PUBLIC HEARING:** ABANDONMENT CASE NO. AB09-001 (REYMAN FAMILY TRUST) – To abandon the eastern terminus of Alaska Street, a County right-of-way, as authorized by Article 806 of the Washoe County Development Code. The request seeks to abandon the 50-foot-wide section of Alaska Street that falls between 11180 and 11240 Fir Drive. Of the ±14,567 square feet of right-of-way proposed to be abandoned, ±1,786 square feet would go to 11240 Fir Drive, and ±12,781 square feet would go to 11180 Fir Drive. The ±2.1-acre and ±2.0-acre parcels are designated Low Density Suburban (LDS) in the North Valleys Area Plan, and are situated in a portion of Section 23, T21N, R19E, MDM, Washoe County, Nevada. The properties are located in the North Valleys Citizen Advisory Board boundary and Washoe County Commission District No. 5. (APNs 080-276-04 and 080-277-01)

Chair Magers opened the public hearing.

Kelly Mullin reviewed the staff report dated February 26, 2009. She advised that the Department of Regional Parks and Open Space requested that Condition 3, as provided in the staff report, be removed. That condition would have provided equestrian and pedestrian access to adjacent public lands; however, adequate alternate access points existed. Staff recommended this request be approved with conditions.

Jon Loder, Cornerstone Land Surveying, 399 Greg Street, Sparks, representing the applicant, was available to answer questions.

As there were no questions, Chair Magers closed the public hearing.

Commissioner Cobb moved to approve with conditions Abandonment Case No. AB09-001, deleting Condition 3. The motion was seconded by Commissioner Edwards and passed five to zero (Commissioner VanderWell absent).

The motion was based on the following findings:

1. Comprehensive Plan. That the abandonment or vacation is consistent with the policies, action programs, standards and maps of the Comprehensive Plan and the North Valleys area plan;
2. No Detriment. That the abandonment or vacation does not result in a material injury to the public;
3. Existing Easements. That existing public utility easements in the area shall remain and continue to provide needed service and
4. Reasoned Consideration. That the Planning Commissioners gave reasoned consideration to the information contained within the staff report and information received during the meeting.

[Commissioner Weber returned to the dais at 6:42 p.m.]

## **AGENDA ITEM 2**

PUBLIC HEARING: ABANDONMENT CASE NO. AB09-002 (WASHOE COUNTY PUBLIC WORKS DEPARTMENT) - To abandon a roadway easement of ±1.24 acres, containing two closed bridges over railroad tracks, as authorized by Article 806 of the Washoe County Development Code. The project site is located near the intersection of South Verdi Road and Boomtown Road in Verdi. The ±30.0-acre parcel is designated Public Semi-Public Facilities (PSP) in the Verdi Area Plan, and is situated in a portion of Section 16, T19N, R18E, MDM, Washoe County, Nevada. The property is located in the Verdi Citizen Advisory Board boundary and Washoe County Commission District No. 5. (APN 038-430-38)

Chair Magers opened the public hearing.

Roger Pelham, on behalf of Sandra Monsalve, reviewed the staff report dated February 13, 2009. Staff recommended approval with conditions of this request.

In reply to Commissioner Hibdon, Mr. Pelham stated that no condition was included to remove the bridges. Commissioner Hibdon was concerned that the bridges would become a public nuisance and a possible endangerment to the health, safety and welfare of the community.

Mr. Corbridge advised that this request was only to abandon the County's access easement over the two bridges, which were constructed prior to the granting of the easement to the County in 1952. The bridges would revert to the Union Pacific Railroad for their disposal.

Commissioner Hibdon recommended that a condition be added requiring the railroad to remove the bridges. Mr. Corbridge deferred that suggestion to counsel. He advised that the

agreement with the railroad provided, in the event the County did not use the easement for a period of a year, it would be abandoned. That occurred about 25 years ago.

Deputy District Attorney Edwards advised that, if the County did not own the bridges, then it could not condition that the bridges be deconstructed.

Chair Magers stated the liability would fall upon the Union Pacific Railroad. Deputy District Attorney Edwards reiterated that they were not the County's bridges, and the County would have the same liability it would have with respect to any other piece of property it did not own. The County simply had an easement.

Commissioner Hibdon disagreed and felt strongly the County should assure the bridges were removed.

Commissioner Lockard asked if the Union Pacific Railroad, the underlying property owner, had a position on the abandonment and if the County was aware of the railroad's intent relative to the bridges, assuming the abandonment was approved.

Mr. Corbridge stated he had no knowledge of the railroad's intent; however, he felt they would want to take them down considering the poor condition of the bridges.

Commissioner Hibdon asked if there was dialogue with the railroad. Mr. Corbridge replied that there had been dialogue over the years. The original agreement placed the responsibility for maintaining the bridge structures for as long as the easement was needed upon the County. Commissioner Hibdon recommended notifying the railroad that we were abandoning the easement and suggesting they dismantle the structures. Mr. Corbridge noted that notice of this hearing was sent by Community Development to the railroad, and they would be provided with copies of the resolution and notice of abandonment when recorded.

Deputy District Attorney Edwards suggested adding a condition that the Planning Commission, through Community Development, send a letter to the property owner indicating that the easement was abandoned and recommending the owner take steps to assure that the bridges are either maintained safely or removed, as the need dictates.

Commissioner Cobb asked if the County was responsible to bring the bridges back up to code before returning them to the railroad. He noted that the County allowed the bridges to go into disrepair over the years.

Based on the information available, Deputy District Attorney Edwards was unable to make a determination as to who was responsible for the maintenance of the bridges. He recommended contacting the Deputy District Attorney assigned to the Public Works Department to obtain that information.

Therefore, Commissioner Edwards moved to continue Abandonment Case No. AB09-001 to 6:30 p.m., Tuesday, April 7, 2009. The motion was seconded by Commissioner Hibdon and passed by a vote of six to zero (Commissioner VanderWell absent).

### **AGENDA ITEM 3**

**PUBLIC HEARING: AMENDMENT OF CONDITIONS CASE NO. AC08-005 (PLEASANT VALLEY SANITARY SEWER INTERCEPTOR PHASE II, SPECIAL USE PERMIT SW05-006) –** To modify the conditions of approval to require the applicant to complete construction within three years of the completion of Phase I rather than within three years of the original date of approval as authorized in Section 110.810.60 of the Washoe County Development Code. The project extends south for a distance of approximately four miles from the Brookside Mobile Home Park (near the south terminus of Zircon Drive) to the intersection of Pagni Lane and US Highway 395. The majority of the line is to be located within public right-of-way. The Washoe County Department of Water Resources has not secured the necessary easements for the proposed route when it traverses private property. If approved, easements through the following properties will be required: (APNs 45-310-10; 50-111-13; 50-111-08; 50-120-19; 17-430-01; 17-430-05; 17-330-71; 17-330-72; 17-330-26; 17-371-05; 17-371-03; 17-380-03; 17-320-23; 17-320-24; 17-320-05; 17-310-24; 17-310-23; 17-301-24; 17-301-29). The project is located within the South Valleys Area Plan of Washoe County, Nevada, the Galena-Steamboat Citizen Advisory Board boundary, and Washoe County Commission District No. 2.

[This item was withdrawn upon advice of counsel.]

### **PLANNING ITEMS**

**REVIEW OF AND COMMENT ON THE WASHOE COUNTY 2008 REGIONAL PLAN ANNUAL REPORT** and possible direction to staff to forward the report to the Truckee Meadows Regional Planning Agency on behalf of the Washoe County Planning Commission.

Sara DeLozier reviewed the staff report dated March 3, 2009.

Commissioner Cobb noted that one of the area plans was being appealed at the Regional level and asked if it could be considered final. Ms. DeLozier stated that the text of the report indicated that the Planning Commission adopted the six area plans, and a report on the status of each in the process was included in the report.

The Planning Commission recommended that development of secondary transit oriented corridors be included in the "Glimpse at 2009" section, as well as the addition of language requesting the Regional Plan policy prohibiting transfer of development rights from the Rural Development Area (RDA) to the Truckee Meadows Service Area (TMSA) be altered as discussed by Commissioners Breternitz and Larkin at a recent Board of County Commissioners meeting.

Concern was expressed regarding the issuance of special use permits by other jurisdictions allowing excessive cuts and fills and the differences between the jurisdictions' policies regarding hillside ordinances.

Commissioner Lockard moved to authorize staff to submit the 2008 Washoe County Annual Report to the Regional Planning Commission on behalf of the Washoe County Planning Commission, including the March 4, 2009 memorandum from Michael Harper relative to transfer of development rights from the RDA to the TMSA and the recommendations listed above. The motion was seconded by Commissioner Edwards and passed by a vote of six to zero (Commissioner VanderWell absent).

## PRESENTATION

**NEW COMSTOCK WIND PROJECT** – Information regarding the Environmental Impact Statement (EIS) being developed by the Bureau of Land Management (BLM) Carson City District-Sierra Front Field Office for the New Comstock Wind Energy project, which will analyze the potential impacts resulting from construction of the project. This project is being proposed for the Virginia Range north of Carson City and within Washoe, Storey and Lyon Counties.

Bill Whitney provided a brief description of the BLM's jurisdictional layout. He listed several recent projects that required an EIS be submitted by the BLM, including the North Valleys water importation project known as Fish Springs, the Granite Fox coal-fired power project, the update to the resource management plans for the Eagle Lake and Surprise field offices, the Tracy to Silver Lake power transmission line, the Reno clay plant project known as Oil-Dri, and the Alturas 345kV transmission line. He explained that, toward the end of the EIS process, the project proponent usually applies to the County for a special use permit or other discretionary permit. The County participates in the EIS process as a cooperating agency. The information from the EIS assists staff in writing the staff report and providing conditions of approval. The final step for the BLM in the EIS process is to render a record of decision, and the BLM may use some of the County's conditions of approval in that record of decision.

Linda Kelly, Sierra Front Field Office Manager for the BLM, introduced Ken Nelson, Realty Specialist; Jane Peterson; Dan Jacquet, Community Relations Liaison; and Mark Strubel, Public Information Officer. She also indicated that the proponent from Great Basin Wind, Rich Hamilton, was available.

Jane Peterson gave an overview of the New Comstock Wind project, which proposed 71 wind turbines varying in height between 210 and 300 feet. Depending on the type of turbine used, the blades can vary between 115 and 170 feet in length per blade. The electrical lines between the turbines will be placed underground. Once the power is collected, it will go five miles to a substation over a 120kV transmission line. Access roads for maintenance of the turbines and miscellaneous storage buildings will be necessary.

The BLM has the authority to grant rights-of-way for projects on public lands. The right-of-way is granted for the use of a specific piece of land for a certain project for a term appropriate to the life of the project. Additionally, the BLM has the authority to grant rights-of-way specifically for projects to generate, transmit and distribute electric energy. Further authority comes from the Energy Policy Act of 2005, requiring 10,000 megawatts of renewable energy projects will be located on public lands by the year 2015.

Great Basin Wind applied for and received in 2006 a right-of-way for monitoring and testing, the first phase of wind energy development. In April 2008, the proponent provided testing results supporting an application for commercial development. A plan of development was submitted, upon which the BLM bases its analysis process. The BLM chose to conduct an Environmental Impact Statement, the highest level of analysis. The decision to grant the right-of-way will be contingent upon the outcome of the EIS, determination that the project is in the public interest, and consistency with Federal, state and local laws.

The National Environmental Policy Act (NEPA) is a public interdisciplinary process for Federal agencies. Prior to a Federal agency taking an action, it must assure it has performed an informed decision-making process. The NEPA has provided a step-by-step process for

conducting an EIS. Information used to support the BLM's decisions must be disclosed to the public. Public involvement, input and review are required during the NEPA process.

Ms. Peterson described the steps being taken to conduct the EIS for the New Comstock project. During the scoping phase, the public was equally divided on whether to support the project or not. Those opposing the project actually support wind development. Concerns included visual, cultural, noise, wildlife, recreation, electromagnetic interference, socioeconomic, wild fire, invasive species, emergency services, travel management and transportation impacts.

Cooperating agencies include Washoe County. Early involvement is very important. Duplication of effort is avoided, and it encourages support for decisions made by the BLM. Relationships of trust and cooperation are established. The major eligibility criterion is that the agency has jurisdiction by law or special expertise. A memorandum of understanding is signed between the BLM and the cooperating agency establishing roles and responsibilities throughout the process. The process can take from one to two years.

Commissioner Cobb asked for information regarding a project on private lands where the transmission line crossed corners of BLM property. Ms. Peterson replied that each situation would be assessed individually, and the outcome could range from a categorical exclusion, the minimum analysis, to a full-blown EIS.

Commissioner Edwards expressed consternation over the length of time and expense required to complete an EIS. He recommended that each wind project would have several elements of concern in common that could be consolidated and streamlined. Ms. Kelly replied that each project has impacts that are specific to the area in which they are located.

Chair Magers noted that the BLM was following strict guidelines provided by the NEPA and did not have the option to streamline the process.

Ms. Peterson stated that moving away from the prescribed process was the best way to make the document vulnerable to litigation.

Commissioner Lockard asked the project proponent how much wind energy would be generated and specifics on the location of the project.

Rich Hamilton, Great Basin Wind, stated the five miles of power line would be in three counties: Washoe, Storey and Carson City. The project will use mainly existing roadways. Approximately 200 megawatts will be generated, and a megawatt of power would serve 300 homes.

Commissioner Weber asked if there was an American company that manufactured turbines. Mr. Hamilton replied that most of them were manufactured in the United States by one of two companies, General Electric or Clipper. He was not at liberty to reveal which machines were on the list of possible turbines to be used, but two of them were made in the United States.

Commissioner Lockard asked if this project would be heard by this Planning Commission as an action item. Mr. Whitney replied that each county would hear this as an individual special use permit, and interrelationship would be accomplished as cooperating agencies through the EIS process.

Chair Magers read a letter from Linda Bissett, Government Affairs Executive, NV Energy: "NV Energy requests that the following statement be read into the record:

"Renewable energy project development is strongly supported by NV Energy. By 2015 we expect to reach or exceed the goal of 20% of our power mix being supplied by renewable energy sources, but that depends in large measure on the success of developers in bringing viable projects to us. In pursuing renewable projects to meet that goal, we follow a confidential RFP contract process with potential developers. Because of that confidentiality, and to retain the integrity of the process, we do not share information about any particular project or developer. A project's viability and potential cost impacts to our ratepayers are two key components we consider on proposed projects. We are committed to meeting our renewable standard goals at the lowest possible cost to minimize financial impacts to customers. Any project that makes it through that RFP process must also gain approval from the Public Utilities Commission of Nevada.

"Additionally, the transmission line needed to interconnect to our system must be analyzed as to its location, engineering and environmental concerns, other constraints, permitting including local government support for the project, and who will build and maintain it. NV Energy must also meet the Federal Energy Regulatory Commission (FERC) Open Access guidelines in regards to interconnection to our system.

"Because of the limitations mentioned above, we are unable to provide any information or details on the project before you. However as stated earlier we do strongly support the development of renewable energy resources such as wind, solar and geothermal."

Danny Costello, representing the Iron Workers union, stated support for all energy projects. He noted that he is a 32-year resident of Washoe Valley, and he does support this project.

Commissioner Hibdon asked what kind of alternative existed to a wind project. Ms. Peterson replied there were a variety of alternatives regarding turbines, such as the size of the turbines, the site specific locations of the turbines, access roads, and transmission lines.

Commissioner Weber thanked the representatives of the BLM for their presentation.

## **OTHER ITEMS**

None

## **CHAIR AND COMMISSION ITEMS**

### **a. Report on Previous Planning Commission Items**

Ms. Robinson stated the South Valleys Area Plan would be presented for reconsideration at the Regional Planning Agency on March 11, 2009. The High Desert Area Plan would be heard at that same meeting.

Chair Magers asked if the Planning Commission would receive a final version of the Rules, Policies and Procedures based on the workshop held. Ms. Robinson stated she would advise Mr. Harper of the request.

- b. Update from legal counsel on status of pending petition for judicial review challenging the December 2008 County Commission approval of South Valleys Area Plan Amendment Case No. CP08-005. This item is informational only. No action will be taken on this item; nor will any matters constituting attorney-client privilege be discussed.

Deputy District Attorney Edwards distributed copies of the subject Petition for Judicial Review to the Planning Commissioners. He encouraged the Planning Commissioners not to engage in discussion regarding this item this evening. He advised that the Board of County Commissioners' December 2008 deviation from the Planning Commission's decision of November 2008 prompted this petition for review from Steve Mollath in favor of the applicants. The petition was filed December 31, 2008, and was not served until March 4, 2008, because there is a 25-day limit from the date of the final action. As this matter is being reconsidered by the Regional Planning Commission, the action is not final. The next step will be to file a Notice of Intent to Participate and file a response to the allegations in the petition. The court will set a schedule for the parties to file legal briefs in support of their positions and rely on the record before public bodies. A hearing would then be set, and the court would take the matter under advisement and render a decision.

Commissioner Hibdon asked how the judge would be selected. Deputy District Attorney Edwards stated the judge would be randomly assigned. A request was made to have this case transferred into Business Court, which is headed by Judge Brent Adams. The County has no objection to his assignment.

Commissioner Weber asked if Deputy District Attorney Edwards would contact the attorney representing the Regional Planning Commission to inquire about the pendency of suits filed against him as Chair of the Regional Planning Commission in recent years. Ms. Robinson stated she would contact Roseanna Coombs to determine the status of those suits.

In response to Commissioner Edwards, Deputy District Attorney Edwards did not believe a member of the Washoe County Planning Commission who was also a member of the Regional Planning Commission would be precluded from making a decision on the South Valleys Area Plan at the Regional level.

## **DIRECTOR'S ITEMS**

Ms. Robinson advised there would be a joint meeting of the Board of County Commissioners and the Planning Commission at noon, March 24, 2009, in the Commission Caucus Room.

Commissioner Lockard suggested that a workshop on the 2040 Regional Transportation Plan be scheduled.

**ADJOURNMENT**

Since there was no further business to come before the Planning Commission, the meeting adjourned at 8:15 p.m.

Respectfully submitted,

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Cathi Moldenhauer, Recording Secretary

Approved by Commission in session on April 7, 2009.

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Adrian P. Freund, FAICP  
Secretary to the Planning Commission