

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

MONDAY

11:00 A.M.

MAY 1, 2006

PRESENT:

Bob Larkin, Chairman
Bonnie Weber, Vice Chairman
Jim Galloway, Commissioner
David Humke, Commissioner
Pete Sferrazza, Commissioner

Sharon Gotchy, Deputy Clerk
Katy Singlaub, County Manager
Melanie Foster, Legal Counsel

The Board met in special 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:

06-465 AGENDA

In accordance with the Open Meeting Law, on motion by Commissioner Galloway, seconded by Commissioner Weber, which motion duly carried, Chairman Larkin ordered that the agenda for the May 1, 2006 special meeting be approved with the following change: **Delete** Item 7, Fiscal Year 2006/07 Budget Appeal for the District Health Department.

PUBLIC COMMENT

County Manager Katy Singlaub stated the Open Meeting Law did not require a public body to tolerate comments that were willfully disruptive of the meeting by being irrelevant, repetitious, slanderous, offensive, inflammatory, irrational, or amounting to personal attacks. Ms. Singlaub noted Section 8.05 of the Nevada Open Meeting Law manual stated, "The Chair of a public body may, without the vote of the public body, declare a recess to remove a person who is disrupting the meeting."

Faith Fessenden inquired why the "Statement of Settlement" concerning the Ballardini Ranch was not posted on the County website. She was confused why there was a secret meeting and secret ballot for this, and she was stunned by the outcome.

Sam Dehne said he was in support of the Ballardini Ranch matter in the beginning but was opposed to it now. He was not in favor of the settlement.

Herb Rubenstein questioned why the Commissioners were not willing to fight for Washoe County. He inquired why the County would pay \$13-million to give away the last piece of local parkland. He said citizens and business leaders recognized that good future planning included adequate parks and wildlife areas. He commented on the impact 3,000 additional homes would have on the area. He asked the Commission to give the jury system a chance to render a fair decision.

Mike Robinson stated he was amazed at the settlement. He said it was not a compromise but a cut and run, and he declared the County would be giving up on the planning process by moving forward with this settlement. He remarked the public deserved to know what happened to bring this about. He requested the Commission not ratify the settlement but proceed with the trial.

Charles Ragusa asked what kind of message this settlement was sending to the community. He inquired how a public entity that used public money could be prevented from discussing this settlement with the people. He requested the Board tell the people why the figure of 3,000 homes suddenly appeared.

06-466 UPDATE – FISCAL YEAR 2006/07 OPERATING BUDGET - FINANCE

Lisa Gianoli, Budget Manager, presented a PowerPoint presentation updating the Board on the fiscal year 2006/07 proposed budget.

Commissioner Sferrazza inquired where the \$35-million bond issue for the Ballardini Ranch was located in the budget.

Ms. Gianoli replied the County had funding in the debt service to pay debt on that issue. She said it was not specifically delineated within any of the items. County Manager Katy Singlaub added the funding for the \$35-million bond debt service was in the budget because the resolution had been authorized to move forward with the matter.

In response to Commissioner Sferrazza, Ms. Singlaub commented the budget would be adequate this year; however, in future years the County would face difficult choices and priorities. She explained spending in a current year caused the budget to change over time. She said department heads restrained their spending this year, which increased the resources available in the budget for next year. Ms. Singlaub noted staff had new revenue numbers from the Department of Taxation that upgraded and expanded the revenues available to the County. She reiterated it was not said that there would be layoffs if more than \$4-million was spent.

Commissioner Galloway remarked he was glad the money was in the budget because the settlement would provide an option to buy other land in the future. He requested the budget be decreased by \$1-million to create additional margin for the unknowns. He asked about the Senior Services funding.

Ms. Singlaub explained the necessity for the position at the Sparks Senior Center. She commented the Board's policy direction to staff was to limit the growth to the combined impacts of CPI and population. She noted staff came in below that while attempting to address urgent needs of the departments.

Chairman Larkin asked if the original \$5-million above base request was set on an anticipation of a specific revenue stream based on the three percent tax cap. Ms. Gianoli agreed. Chairman Larkin inquired what changed between the original recommendation and the current increased recommendation. Ms. Gianoli explained property tax revenue would be approximately \$6-million more than estimated, and health insurance costs were less than anticipated. Chairman Larkin pointed out the health care costs increased over 12 percent for 2006/07. He asked if part of the 2006/07 budget included \$2.2-million for debt service up to the expenditure of \$35-million in bonds for park purposes. Ms. Gianoli stated that was correct.

Commissioner Humke and Ms. Gianoli discussed page eight of the PowerPoint presentation entitled, "Percent Increase in Recommended Expenditures versus Population Plus CPI." Commissioner Humke mentioned general fund above base recommendations that were outlined in the presentation that he believed were important to the County and the public.

Commissioner Weber thanked staff for the update on the budget. She commended the departments for presenting their budget requests earlier in the year. She stated the presentations outlined where the tax dollars were being spent.

Commissioner Galloway said there were two reasons to decrease the budget by \$1-million. He was uneasy about the 10 percent increase in the amount of money received from property tax. He stated building that money into the base did not give the County much hedge if it should go down. He remarked the second reason was the Ballardini Ranch. Commissioner Galloway disclosed he owned property in Virginia City, and he asked how he should handle the vote concerning funding for the V&T (Virginia and Truckee) Railway. Melanie Foster, Legal Counsel, advised Commissioner Galloway to make it clear during the vote that he was approving the budget with the exception of any funding to the V&T item.

In response to Commissioner Galloway, Ms. Singlaub commented staff would provide the Board with ideas for options to cut \$1-million from the recommended budget. She confirmed staff felt strongly that this was a conservative budget, and it was a reasonable reflection of the significant increase in demands on County departments because of population growth and legislative and other demands.

Chairman Larkin inquired if 2006/07 was the first time all departments were required to tie their specific budget requests to the goals, objectives, visions, and specific priorities of the Board. Ms. Singlaub concurred. She explained for years the strategic priorities were provided as a direction, but this year a much stronger connection

was made. She offered to expand that section at the meeting on May 15, 2006 if the Board desired. Chairman Larkin said that would be beneficial.

Commissioner Sferrazza supported Commissioner Galloway's request to set aside monies for the possible acquisition of additional Ballardini Ranch property.

In response to the call for public comment, Sam Dehne commented on the budget regarding the Registrar of Voter's Office, a downtown parking garage, the Ballardini Ranch, and the rainy day fund.

In response to Commissioner Humke, Ms. Singlaub clarified what was before the Board was the additional enhancements to budgets above the current service levels and budgets. She defined above base requests. She explained the rainy day fund had strict statutory restrictions on how that money could be used. She said it was kept for dire emergencies, and it would not be used next year for anything that was not an extreme emergency authorized by the Legislature.

06-467 FISCAL YEAR 2006/07 – BUDGET APPEAL – RENO JUSTICE COURT

Judge Edward Dannan, Justice of the Peace, Department 2 of the Reno Justice Court (RJC), stated the request before the Board was for a Peace Officers Standards and Training (POST) certified bailiff who would provide security for staff and the public who came to RJC to complete their business. He explained their original request was for two bailiffs, but the request had been reduced to one. Judge Dannan said the bailiff would provide security for the first floor of the building beyond the initial security and screening area. He noted at the present time there was only security on the first floor during the lunch hour. He added approximately 1,000 people came into the building daily.

Commissioner Sferrazza asked about the duties of the bailiffs. Judge Dannan explained they were responsible for checking in the attorneys, witnesses, victims, and directing the parties for criminal and civil proceedings to the appropriate courtrooms. He said each Judge had a bailiff, but they were not located in the courtrooms because of the clerk duties they had to perform. Judge Dannan added RJC had no clerks in the courtrooms because of staffing issues.

Lisa Gianoli, Budget Manager, explained staff looked at RJC and believed there could be an increased need for clerical help rather than bailiffs at this point. She commented that the bailiffs did not wear uniforms. She said staff desired to see what the studies concluded as far as changes in workflow rather than adding a bailiff position at this time.

Commissioner Galloway asked if there was a placeholder in the budget for clerical help if an agreement could be reached to relieve a bailiff in order to provide a

court presence. Ms. Gianoli stated salary savings could be used to fund that over the upcoming year.

County Manager Katy Singlaub interjected staff made a commitment to fund consulting studies if necessary. She said staff would look at this issue again in October because the County normally had salary savings from positions that were funded July 1 but were not filled on that date. She confirmed staff would bring forward recommendations to support what the analysis showed concerning what type of positions were needed and how many.

Commissioner Galloway inquired, if an analysis showed that a bailiff or clerical person were needed, was staff confident it could be accommodated through salary savings. Ms. Singlaub agreed.

Commissioner Humke inquired about the current vacancies. Ms. Gianoli replied it would give an accurate picture of staffing needs once the positions were filled. Commissioner Humke asked about the uniform issue and bailiff versus clerical matters.

Judge Jack Schroeder, Justice of the Peace, Department 3, RJC, explained the bailiffs were retired police officers; and they commanded a presence with or without wearing a uniform. He stated the bailiff versus clerical issue was not of consequence to the request before the Board at this time. Judge Schroeder pointed out there were about 40 staff members working on the first floor with high amounts of cash and dealing with a lot of angry people.

In response to Commissioner Sferrazza, Judge Schroeder verified uniforms had been approved in the budget; and the bailiffs would wear uniforms.

Chairman Larkin asked how RJC would deal with a recommendation to convert some positions to clerks. Darin Conforti, RJC Administrator, acknowledged the study was a key step to understanding what the staffing needs were for clerical and security duties. He confirmed there were disparities in the way security was provided at RJC compared to other metro courts in Nevada, and he referenced the staff report dated May 1, 2006. He stated RJC had not exercised the deterrent value that bailiffs could provide by being a constant presence in all court hearings and wearing sidearms and uniforms. Mr. Conforti said these measures were being implemented. He stressed the bailiff was additionally needed to provide a roving patrol for the second floor lobby. He noted clerk duties would be addressed separately. He commented the suggestions of Finance were solid, but they negate the underlying need to have enough bailiffs to handle all the hearings and provide the necessary security.

Commissioner Weber asked about the costs involved. Mr. Conforti clarified the uniforms would cost \$3,300, and the full time bailiff position would be an additional \$65,000. Commissioner Weber voiced her support for the additional bailiff.

In response to Commissioner Galloway, Mr. Conforti explained the intention was to remove the bailiffs from the front stations and locate them in the courtrooms. He acknowledged RJC was in a transition phase, and one additional bailiff would be needed at the minimum.

Chairman Larkin inquired if the need for an additional bailiff constituted a public health and safety issue. Mr. Conforti stated he would not have recommended the Judges appeal to the Board if it did not.

Ms. Singlaub confirmed staff would support whatever the Board decided to do. She offered the possibility of a temporary position until the vacancies were filled.

Chairman Larkin asked how the two vacancies were reconciled with the request for an additional position. Mr. Conforti explained RJC had been recruiting for the positions since January. He pointed out this was a security position with an extensive hiring process. He commented RJC did not have overfill positions, and people had to be POST certificated upon hiring. Chairman Larkin asked if RJC would reassign an existing bailiff to the position and continue to recruit for the additional bailiffs, and Mr. Conforti agreed.

Commissioner Sferrazza remarked he was amazed that RJC was able to produce the volume of work before them. He asked about the clerk positions, and Mr. Conforti reviewed the clerk staff positions for the RJC compared to the other metro courts in Nevada.

In response to the call for public comment, Sam Dehne said the situation appeared to be dangerous; and he supported the position of the Judges.

Chairman Larkin commented the results of the study would determine the proper numbers; and, if the proper numbers were not correct, Mr. Conforti would report that to the Board and relinquish that individual item.

Commissioner Galloway asked the Judges to be open-minded with regard to the study. He encouraged them to take a secretarial solution to the manpower requirement if that was the result of the study. He commented the Sheriff's Office did that extensively with good results.

Commissioner Humke stated to only fill the position temporarily would not be a likely path to success, and he supported the funding for an additional bailiff.

On motion by Commissioner Sferrazza, seconded by Commissioner Humke, which motion duly carried, Chairman Larkin ordered that the Reno Justice Court Budget Appeal, concerning funding of one additional full time bailiff position, be approved.

**RATIFICATION OF SETTLEMENT – COUNTY OF WASHOE V.
EVANS CREEK, LLC, ET AL – BALLARDINI RANCH**

Michael Chapman, Esq., confirmed the Ballardini case was set for trial on May 3, 2006. He stated the Judge ruled last week the County had authority and power to condemn the property. He said the exposure faced by the County could be \$90-million or more. He commented during the past several months the County had discussions with Evans Creek, LLC (Evans Creek) to determine if any alternatives existed. Mr. Chapman acknowledged a settlement was reached last week that was acceptable to Evans Creek. He noted the purpose of today's hearing was to ratify the settlement agreement if it was deemed acceptable by the Commission. He reviewed the "Statement of Settlement," which was placed on file with the Clerk.

Commissioner Sferrazza compared the settlement agreement with what was provided to the Board by Chairman Larkin and found several things that were added after the fact. He mentioned the Lone Tree Lane extension, surface water rights, the \$25,000 for right of first refusal, one dwelling unit per acre on the 116-acre Mt. Rose property, the no climb fence, and the proposed deed restriction of 289 acres. He stated these would be additional costs to the County that he believed were not discussed during the negotiations. Commissioner Sferrazza noted there was nothing that was binding on Evans Creek successors or assigns with respect to the deed restrictions; however, statements within the settlement bound Washoe County. He asked, if the Board determined not to go forward with the settlement agreement today, would that preclude the Commission from going through with the litigation as originally scheduled.

Mr. Chapman replied the litigation would go forward as originally scheduled if the Commission did not approve the settlement. He understood that this agreement, in reference to the 289 acres, would be binding upon the successors of Evans Creek and Washoe County. He stressed this was not the final version of the settlement agreement, as a more detailed agreement was being drafted. Mr. Chapman said it would be binding if someone else purchased the land from Evans Creek. He stated Julius Ballardini and Angela Ballardini Persigehl, property owners, added items because they were not involved in the negotiation session. He explained how the right of first refusal worked for Parcel B. He did not recall the discussion on the 116-acre piece, and it was Mr. Ballardini and Ms. Persigehl who requested the fence and to retain the surface water rights.

Commissioner Galloway commented the basic settlement concepts were discussed with the lawyers and that resulted in the wording of the price for Parcel A and the assisting in the negotiations on the 40-acre parcel. Mr. Chapman agreed. Commissioner Galloway asked if the agreement would be binding on Evans Creek successors and assigns.

Frank Thompson, Evans Creek representative, confirmed it was the intent of the settlement agreement that provisions would be binding on successors and assigns regarding the 289 deed restricted acres.

Commissioner Humke inquired about the gag order. Mr. Chapman explained the Court issued no order restricting discussions on the terms of the settlement agreement, and no gag order was currently in place. He said the County and Evans Creek agreed to complete the business in a professional manner during the process of the settlement discussion.

Commissioner Humke asked about the purchase provisions for Parcel A and Parcel B. Mr. Chapman explained the price for Parcel A would be based upon reappraisals. He said Parcel B would not transfer immediately to the County, and the price would be based on an offer made by another party. He acknowledged there was nothing to prevent the County from making an offer on Parcel B. Commissioner Humke asked if Parcel B was bare land or if there were improvements on it. Mr. Chapman verified it was bare land.

Commissioner Sferrazza asked why Evans Creek would not pay for the additional expenses out of the \$13.5-million. He questioned why the County would be paying for the oversights, and why the County was deed restricted on property they were paying fair market value for. Mr. Chapman replied the County was buying it for passive open space use, and that was deemed agreeable during the negotiations. He said the fence was something the County would need to keep the cattle away from the people; therefore, it should be a County expense. He said the extension of Lone Tree Lane would be for the purpose of getting people to the park, and it should be a County expense also. He did not recall any discussion that Mr. Ballardini or Ms. Persigehl would be conveying their surface water rights, and the agreement clarified they would be retaining those.

Commissioner Galloway explained the Commissioners were shown pictures of the land and two Commissioners stood on the land. He asked if it would be deemed suitable for a park, and Mr. Chapman concurred.

Chairman Larkin called for public comment. Jan Chastain, Ginger Paulsen, Faith Fessenden, Herb Rubenstein, Ed Corbett, Pat McAlinden, Sam Dehne, Andrew Barbano, John Strangman, Charles Ragusa, Amy Mazza, Mike Robinson, and Dan Thorton spoke against the ratification of the settlement agreement.

The Commission received correspondence from concerned persons, and approximately 33 individuals in attendance acknowledged their opposition to the ratification of the settlement agreement but did not wish to speak.

Mr. Thompson commented the settlement agreement was reached after three years of litigation, and it was a product of trial preparation and legal analysis. He stated it resolved years of conflict concerning the property, and it would avoid protracted litigation about the property. He noted the settlement agreement was a balance between public interest and private property rights, and he asked the Board to ratify the settlement.

Chairman Larkin moved to ratify the possible settlement of the County of Washoe v. Evans Creek, LLC et al., Case No. CV04-02092, and of all related cases in any court. Commissioner Weber seconded the motion.

Commissioner Weber stated she consistently voted against the condemnation of the Ballardini Ranch because Washoe County would be taking private property by the use of eminent domain, and she continued to believe in that position. She voiced support of the settlement agreement because it would eliminate the use of condemnation to acquire a portion of Ballardini land for public use. Commissioner Weber emphasized the settlement agreement was fiscally responsible for all Washoe County residents.

Commissioner Humke asked about the ingress and egress points for the acres Washoe County would be purchasing. Ms. Singlaub said there were no specific plans adopted yet; however, the intended ingress and egress would be via Lone Tree Lane. He asked why the County was prejudging development plans that could take place on the acreage. He inquired if that was what the County agreed to do if the agreement was signed. He asked if there were any Open Meeting Law (OML) violations as to the posting of the notice of this meeting and with regard to inappropriate action by the Commission while in attorney/client session.

Melanie Foster, Legal Counsel, explained during settlement discussions there was conversation about the County's inability to bind its legislative authority via a contract. She said the County was agreeing to not oppose the desire of Evans Creek to develop the property without good reason. Ms. Foster confirmed there were no OML violations concerning the scheduling of this item. She stated the OML allowed public bodies to meet with their counsel to discuss and deliberate, and she confirmed she was not a witness to any inappropriate activity during the attorney/client session. She verified no vote was taken in that session.

Commissioner Humke asked why there was a rush to sign the settlement. Mr. Chapman explained the eminent domain lawsuit was filed August 31, 2004. He said the case must be brought to trial within two years of that date in order to hold the valuation date. He remarked losing the valuation date would automatically increase the price of any acquisition and any settlement. Mr. Chapman noted potential costs the County could be obligated to pay.

Commissioner Galloway stated he would not approve anything that was not before him in terms of the settlement agreement. Mr. Chapman expressed the agreement before the Commission contained the material terms of the agreement, and no changes were expected. Commissioner Galloway declared he was not satisfied with the agreement. He stressed there never had been litigation against Washoe County that did not involve closed attorney/client meetings to discuss the merits and options in the case. He said closed sessions were imperative because it would undermine the cases before the courts if the records were open. He emphasized no vote had been taken.

Commissioner Sferrazza asked that successors and assigns be added to the agreement, and Mr. Chapman agreed. Commissioner Sferrazza and Mr. Chapman discussed details of the agreement. Commissioner Sferrazza commented the agreement would allow Evans Creek to move densities. Ms. Foster replied their right to do that was set by law in the various development codes of the entities, and the County allowed for clustering of density to compensate for those areas that a developer could not build on due to constraints.

Commissioner Galloway remarked 7.d. of the settlement agreement meant the Board would not direct staff to go before the City of Reno and oppose a request by Evans Creek.

Commissioner Humke acknowledged the calls and e-mails he received from citizens. He resolved not to comment to the press or to citizens on this matter due to the attorney/client privilege and the complexity of the litigation. He commented legal counsel suggested two possibilities of maximum dollar amount jeopardy to the County of \$90-million to \$120-million for all costs. He asked what it would take on an annual basis to retire the bonds.

John Sherman, Finance Director, stated it would take approximately \$8-million annually in debt service over a 30-year period to cover the \$120-million. Commissioner Humke asked if the County had a spare \$3-million every year, as referenced by a citizen earlier in the meeting. Mr. Sherman said staff recommended the Commission not load in the higher value of revenue in ongoing operating costs. He said staff attempted to earmark those dollars for one-time investments and pay-as-you-go capital outlay.

Commissioner Humke inquired about the 289 acres that would be set aside for open space. He asked if there was an estimate of open space acres that could reasonably result from a development plan and if the 289 acres were considered the minimal amount of land for open space.

Adrian Freund, Community Development Director, stated he had not looked at that analysis. Ms. Singlaub responded staff attempted to estimate slopes, wetlands, stream zones, and other factors that would constrain development in most development scenarios. She said there could be a clear opportunity for more than 289 acres, but there was no development proposal before the Board.

Commissioner Sferrazza referenced the settlement agreement and asked about the current City of Reno Master Plan designation of single family residential currently applicable to the north 420 acres within the City's Sphere of Influence. Mr. Freund explained single family residential was a designation that included the City of Reno's zoning category of SF-15 that was 15,000 square foot lots. He said that translated to the County's category of medium density suburban, which was three units per acre under the original Regional Plan Settlement. He noted any land that was development constrained under the Regional Plan due to slope, streams, and other factors would not be

included in that calculation of the density. Commissioner Sferrazza asked, if the parties could not develop on a parcel, could they take that density and move it to another parcel. Mr. Freund replied under the County Code that density transfer could only be taken off of slopes that were under 30 percent.

Commissioner Sferrazza further referenced the settlement agreement and asked if there was a requirement for public access to the 289 acres. He inquired if Evans Creek could build a gated community and preclude the public from utilizing those 289 acres. Mr. Chapman said that was correct.

Commissioner Galloway presented his statements entitled, "Evans Creek Settlement," and "Evans Creek Settlement Content," which were placed on file with the Clerk.

Commissioner Humke stated it would be best to support the settlement agreement because it gave Washoe County residents a guaranteed 115 acres of public open space of the original Ballardini Ranch. He said the acreage would provide access to the Sierra Nevada Mountains for generations to come. He added citizens gain the possibility of acquiring an adjacent 105 acres of the remaining family holdings. Commissioner Humke remarked, while the minimum of 289 acres to be set aside for open space on the Evans Creek parcel may not be available for public use, it met the County's goal to preserve as much of the scenic and sensitive land as possible for wildlife habitat. He said the settlement was fiscally responsible because the County could meet the financial obligations with existing resources, and the possibility of funding from the Southern Nevada Public Lands Management Act now existed. He directed staff to move the acquisition forward as quickly as possible so the citizens could begin to enjoy the benefits of this settlement.

Commissioner Sferrazza supported acquiring the 115 acres. He objected to the deed restricted property and to the fact that Evans Creek paid taxes based on \$75 per acre for approximately \$7,500 a year on the entire 1,000 acres. He said it was reasonable for the County to pay the precondemnation damages; however, he believed the property would have come in between \$30-million and \$70-million. He added the Judge ruled in favor of the County that the land could be legally condemned. Commissioner Sferrazza commented Evans Creek refused to negotiate with the County throughout the process, and the County allowed them to control the table. He opposed the density matter in the agreement. He stressed, in spite of all his objections, he would vote in favor of the settlement if they would give public access to the 289 acres. He declared it was an outrageous settlement without that allowance, and he could not support it.

On call for the question, the motion passed on a 4-1 vote with Commissioner Sferrazza voting "no."

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There being no further business to come before the Board, the meeting adjourned at 2:25 p.m.

ROBERT M. LARKIN, Chairman
Washoe County Commission

ATTEST:

AMY HARVEY, County Clerk
and Clerk of the Board of
County Commissioners

*Minutes Prepared by
Lori Rowe, Deputy County Clerk*