

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

TUESDAY

10:00 A.M.

DECEMBER 19, 2017

PRESENT:

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

**Nancy Parent, County Clerk**  
**John Slaughter, County Manager**  
**Paul Lipparelli, Deputy District Attorney**

ABSENT:

**Kitty Jung, Commissioner**

The Washoe County Board of Commissioners convened at 10:03 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:

**17-1011**      **AGENDA ITEM 3**    Presentation: Glenn Duncan Elementary School Choir.

Chair Lucey stated Glenn Duncan Elementary School was a partner school with the County and mentioned Commissioner Berkbigler was a graduate of the school. The students of the elementary school performed several holiday songs.

**17-1012**      **AGENDA ITEM 4**    Public Comment.

Ms. Tammy Holt Still told a story about her life and relayed experiences she had working with County employees. She spoke about the actions she took regarding the Lemmon Valley flooding and mentioned there were still families out of their homes.

Mr. Sam Dehne spoke about being removed from a meeting unfairly and the Nevada Open Meeting Law.

Mr. Jonathan Boulware, Vice President of Nevada Operations for Jacobs Entertainment, supported the Business Improvement District (BID) item that would be heard later in the meeting. He mentioned owner Jeff Jacobs purchased the Sands Regency as well as land along 4th Street with the intent to contribute to the revitalization of downtown. He said they were committed to creating a fun and safe environment for overnight visitors and residents.

Mr. Vincent Griffith, owner of Reno Engineering Corporation, expressed support for the BID. He said as a business owner, he felt the city had done an outstanding job hiring consultants that had previously assisted in revitalizing other communities. He felt this was a positive step.

Mr. Tim Carter stated he was a downtown property owner and supported the BID. He hoped the Board would as well.

Ms. Helen Lidholm, Chief Executive Officer of Saint Mary's Health Network, expressed support for the BID. She indicated the health network was the second-largest tax payer within the proposed BID. She noted she was also a resident in the downtown area and felt the BID would enhance public safety and help individuals get services they needed. She praised St. Mary's for being the only hospital in the state to receiving an A grade in safety and the only one to receive the Top General Hospital Award. She asked the Board to support the BID.

Ms. Britton Griffith, Vice President for Reno Engineering Corporation and President of the Riverwalk District, expressed support for the BID. She noted she worked with Progressive Urban Management Associates and visited its Sacramento location; she was impressed with the group. She felt the BID would allow for care of citizens in need as well as improvement to the infrastructure of the downtown core. She remarked the partnership between the community, business leaders, and the municipalities would help make the city a better place.

**17-1013      AGENDA ITEM 5 Announcements/Reports.**

County Manager John Slaughter announced Agenda Item 6 would be followed by 7, then Agenda Items 13, 10, and 11. At that point it would be followed as written.

Commissioner Berkbigler relayed a change in policy requested by a south shore resident requiring the sale of any property at the lake be accompanied by the installation of a bear box. She felt it could have a direct impact on mountainside areas such as Caughlin Ranch. She stated opposition to the concept and suggested the Board keep an eye on the topic. She commented there was also a push to regulate vacation homes and she said the issue could come before the Board in January.

Commissioner Hartung thanked Assistant County Manager Dave Solaro and Division Director of Engineering and Capital Projects Dwayne Smith for their hard work in Lemmon Valley throughout the prior year. He added the County spent more than \$4 million in Lemmon Valley.

Chair Lucey mentioned Chief Judge David Hardy and newly-elected Chief Judge Scott Freeman were present and he praised their work with the court system. He thanked all first responders who kept the community safe during the holiday season. He noted the final round of stakeholder meetings regarding the Washoe County Economic

Development and Conservation Bill were productive and he thanked Commissioner Hartung for leading the meetings in his absence. He looked forward to bringing draft legislation forward for further public input in the following year. He pointed out it was his final meeting as Chairman and said it was a difficult but rewarding year.

Commissioner Berkbigler stated she would work with County staff to brainstorm ways to increase the star rating of Glen Duncan Elementary School.

### **DONATIONS**

- 17-1014**      **6A**    Accept monetary donations to Washoe County Regional Animal Services [\$7,319.88] retroactive from July 1, 2017 to September 30, 2017 to be used for the humane care and treatment of sick and/or injured, stray, abandoned, or at risk animals received; express appreciation for these thoughtful contributions; and direct the Comptroller's Office to make the appropriate budget amendments. Animal Services. (All Commission Districts)
- 17-1015**      **6B1**    Accept cash donations [\$40,955.31] from the Wilbur May Foundation restricted for May Museum & Arboretum marketing, staff travel and training, facility improvements and exhibit support. Community Services. (Commission District 3.)
- 17-1016**      **6B2**    Accept cash donations [\$40,350.93] from various businesses, organizations and individuals for Regional Parks and Open Space programs and facilities; and direct the Comptroller's Office to make the appropriate budget amendments. Community Services. (All Commission Districts.)
- 17-1017**      **6C**    Accept donations totaling [\$5,125.00] from the Reno Running Company and citizens Robert and Diana Wellems to the Washoe County K9 Unit to be used to purchase equipment and supplies, and if approved, authorize Comptroller's Office to make appropriate budget amendments. Sheriff. (All Commission Districts.)

On the call for public comment, Ms. Cathy Brandhorst spoke about matters of concern to herself.

On motion by Commissioner Hartung, seconded by Commissioner Herman, which motion duly carried with Commissioner Jung absent, it was ordered that Agenda Items 6A to 6C be adopted.

## **PROCLAMATIONS**

- 17-1018**      **7A1** Proclaim a heartfelt gratitude and thank you to Jennifer Lunt for her services to our community, our criminal justice system, and to our organization. Manager. (All Commission Districts.)

Assistant County Manager Kate Thomas read and presented the Proclamation to Jennifer Lunt. Ms. Lunt stated it was a privilege to serve the citizens of Washoe County and she praised the County organization.

- 17-1019**      **7A2** Proclaim a heartfelt gratitude and thank you to Luanne Cutler for her services to our community, Washoe County's voting system, and to our organization. Manager. (All Commission Districts.)

Assistant County Manager Christine Vuletich read and presented the Proclamation to Luanne Cutler, along with a certificate of retirement. Ms. Cutler said the voter registration process and voting equipment requirements changed numerous times in her 28 years of employment. In that time she worked under seven registrars and utilized three different voting systems with a fourth soon to be delivered. She noted in 1999 the department had 10 employees and the County had 111,000 registered voters; now there were six employees and 265,000 registered voters.

She thanked the Board for their support and said working hard could pay dividends. She thanked County Manager Slaughter and Ms. Vuletich for their support and expressed appreciation that Deanna Spikula was appointed as her successor. She thanked the staff of the Registrar's office, both past and present, for keeping the operation running smoothly. She expressed pride at working for an organization that cared for its citizens.

Commissioner Hartung stated Ms. Cutler always cared about Spanish Springs and praised her for moving the County through each voting system. He stated there was never a question whether she could handle the job when she was appointed in 2013.

Chair Lucey expressed gratitude for her work and offered congratulations.

On the call for public comment, Ms. Cathy Brandhorst spoke about matters of concern to herself.

Mr. Sam Dehne spoke about Ms. Cutler, the results of prior elections, and vote-counting technology.

On motion by Commissioner Hartung, seconded by Commissioner Berkbigler, which motion duly carried with Commissioner Jung absent, it was ordered that Agenda Items 7A1 and 7A2 be adopted.

**CONSENT AGENDA ITEMS – 8A and 8B.**

**17-1020**      **8A** Approval of minutes for the Board of County Commissioner’s regular meeting of November 14, 2017. Clerk. (All Commission Districts.)

**17-1021**      **8B** Accept Washoe County Strategic Plan Progress Report for Quarter 1 of Fiscal Year 2018. [No impact]. Manager. (All Commission Districts.)

There was no public comment on the Consent Agenda Items listed above.

On motion by Commissioner Berkbigler, seconded by Commissioner Hartung, which motion duly carried with Commissioner Jung absent, it was ordered that Consent Agenda Items 5A and 5B be approved.

**17-1022**      **AGENDA ITEM 13** Presentation and update regarding City of Reno Business Improvement District, and possible action to authorize the Chair to sign a petition as an owner of property within the proposed district to initiate procedures to create a Downtown Reno Business Improvement District (pursuant to NRS 271). Manager. (Commission District 3.)

County Manager John Slaughter stated the County had been approached by individuals located in the downtown area with the concept of a Business Improvement District (BID). He added the County owned property in the downtown corridor.

Par Tolles stated it was rare to find as large a number of private individuals wanting to tax themselves for the greater good, but many property and business owners felt the Special Assessment District (SAD) they paid into was effective. He indicated the SAD hired 14 police officers who had made a notable difference downtown. He said through the work of Progressive Urban Management Associates (PUMA), they felt the BID would be a better way to address the social issues in the downtown area.

Mr. Tolles conducted a PowerPoint presentation with the following slides: BID Boundary & Service Zones; BID Plan - Services; Key Updates - Presentations & Packages; Key Updates - Governance; Washoe County - How does it compare?; Washoe County - Next Steps; and Questions.

Mr. Tolles said the area outlined on the extended SAD map would become the boundaries of BID. He stated 14 police officers were supported by the SAD. Those funds would go to the BID to hire 14 to 17 ambassadors and case workers to assist the general public and also to address the homeless population downtown. He remarked any police officer who had to take an inebriate off the streets was out of commission for two to three hours. He stated the ambassadors in Sacramento knew the names, medication schedules, and contact numbers for the homeless residents. He pointed out the purple line on the map denoted premium maintenance service and the green line represented daily maintenance service. He said it was great to get the support of downtown residents.

Cindy Carano said El Dorado Resorts would be the largest participant in the BID and supported the proposal. She said the premium and premium plus plans would service the area's citizens and visitors, and would make the downtown area great.

Mr. Tolles stated the Caranos were investing a lot of money and said it was great to see the largest property owners such as St. Mary's Hospital, the Eldorado resorts, Basin Street, and the Montage participating in the proposal. He announced the non-profit company for the BID had been formed and a seven-person organization committee was still in the process of accepting applications. Once complete the committee would appoint people to fill the remaining positions on the Board. Ms. Carano indicated the Advisory Committee would be composed of representatives from the Reno Police Department, the Reno-Sparks Convention and Visitor's Authority, the Reno Transportation Commission, the University of Nevada Reno, and the Washoe County Human Services Department.

Jeff Limpert from the City of Reno went over the ten largest participants in the BID assessment. Responding to an inquiry, Mr. Tolles explained Basin Street Properties owned the Bank of America building as well the Wells Fargo Building and the Park Center Tower. Mr. Limpert said Real Estate Ventures Management LLC owned the Whitney Peak Hotel and Chawin Property Inc. owned the Porsche Building. Further discussion revealed Jacobs Entertainment was a conglomerate of LLCs owned by the company, including Gold Dust West, and Nevada Land owned the Aces Stadium. Replying to a question by Chair Lucey, Mr. Limpert stated each owner of the 2,050 parcels had the opportunity to show support by completing a petition. Mr. Tolles asked the County to support the measure and indicated it was the most important move they would make this decade.

Commissioner Hartung asked how many participants on the list were non-profit companies, to which Mr. Limpert responded roughly fifteen. Commissioner Hartung asked how this would affect non-profits, citing the financial need of the Eddy House. Mr. Limpert replied the owners of those properties were being assessed and noted they would receive the same 50 percent discount as all public agencies. Mr. Tolles confirmed the City and the County would also receive the discount.

Chair Lucey expressed concern about the non-profit businesses, saying the Nevada Museum of Art could expect up to \$14,000 in additional fees. He mentioned museums, churches, and services that helped indigent people would be taxed because of this proposal. He recommended they review it closely because most non-profits had very limited resources and he would not want to see their property seized because of delinquent taxes. He suggested finding other opportunities to help further subsidize the taxes for non-profit organizations. Ms. Carano noted the item focused on the County's participation but she would take Chair Lucey's feedback under advisement and try to find a workable solution. Commissioner Hartung proposed the County and the City of Reno each pay half the \$52,000 in assessment fees, something Chair Lucey said they could discuss at a future date. Ms. Carano responded to Commissioner Berkgigler's question

that the Treasurer expressed concern about the non-profits but had not yet approved charging them 50 percent.

Chair Lucey reiterated the discussion was about the potential execution of a petition for the County's participation in the BID. Signing the petition would not obligate the County to certain challenges as the BID continued to develop and change. Deputy District Attorney David Watts-Vial read from NRS 271.040 and said the Board was voting to sign the petition and initiate the process. At some point in the future the County would have to approve a Resolution to opt in.

Commissioner Hartung felt this was an innovative way to deal with issues downtown and remarked much time was spent in the detention facility with people that were brought in. He felt it was important to keep people out of the system. He suggested working with the Crossroads and Sober 24 programs to ensure they were helping people. He asked when the topic was brought back, staff consider additional funding options to pay the non-profits' portions.

Chair Lucey agreed and added the program was a progression of the Blue Ribbon Committee. He stated if this was supported by all participants, there would be a dramatic change in the downtown corridor. He said the downtown issues would not be fixed just by adding more police officers; it was essential to provide programs. He wondered how a non-profit organization who rented a building in the BID would be impacted. He expressed excitement about the County becoming a partner to address the concerns in the area.

Mr. Slaughter mentioned if the Board approved the item, staff would returned with the Resolution at the January 9, 2018 meeting. He indicated a letter of support from the downtown property owners, which included the petition, was part of the staff report. Commissioner Hartung remarked if the City of Sparks came forward with a similar request he hoped the Board would be as supportive.

On the call for public comment, Mr. Sam Dehne expressed support for the proposal and suggested being appointed as an ambassador for the BID.

Chair Lucey stated the County was dedicated to downtown Reno and noted the County paid \$6.1 million in 2017 for different social programs that impacted the downtown corridor. He said the County planned to continue helping indigent people and serial inebriates in the Cities of Reno and Sparks. Commissioner Hartung agreed and praised Human Services Agency Director Amber Howell and former Assistant County Manager Kevin Schiller for their work.

On motion by Commissioner Hartung, seconded by Commissioner Berkbigler, which motion duly carried with Commissioner Jung absent, it was ordered that Agenda Item 13 be authorized and directed that staff return with the documentation necessary for the County to pay for 50 percent of the assessments for non-profit organizations.

**17-1023**      **AGENDA ITEM 10** Recommendation to: (1) accept a status report and request to proceed from the Second Judicial District Court related to a potential building project; and (2) provide direction to staff to begin work on the project which is not currently listed in the approved Washoe County Capital Improvement Program FY 18 list of funded projects. Community Services. (All Commission Districts.)

Assistant County Manager David Solaro introduced Chief Judge Scott Freeman and former Chief Judge David Hardy. Judge Freeman said it was his privilege to serve on the bench for six years though he was elected because of the passing of Chief Judge Patrick Flanagan. He said he would be the face of the District before the Board.

Judge Hardy conducted a PowerPoint presentation with slides of the following titles: Pending Request; Current Courthouse; Courthouse Project History (2 slides); Restricted Courthouse Account; Security; Pictures; Environmental; Pictures; (3 slides); Ongoing Courthouse Project Efforts; One Placement Option; Ongoing Courthouse Project Efforts; and Short-Term Goals.

Judge Hardy indicated his goal was to exhibit integrity and effective communication, and he hoped to have what he said publicly be reflected in how he advocated privately. He noted he had been working on this project since Katy Simon was County Manager and he estimated he met with County Manager John Slaughter nearly forty times on this project. This was his second time presenting on the project.

Judge Hardy discussed the history of the courthouse building from its construction in 1873 to its final addition which was built in the 1960s. He recalled 22 years prior a previous Board authorized a rehabilitation and restoration study and public approval was sought in the year 2000. He noted the property the County bought from the Pioneer Casino was used for outdoor parking for Court employees. He mentioned there was a significant master plan update in 2007 and in 2015 they engaged the National Center for State Courts to obtain an addendum.

Judge Hardy stated new problems would continue to arise at the courthouse driven by the growing population. Studies anticipated 121 percent growth in the next 35 years and he added there had already been 30 percent growth since 2000. This would result in the building being used by more litigants, family members, and defendants, and growth was happening faster than projected. He commented they spent more than \$8 million since 2000 to make the building habitable.

Judge Hardy clarified the 585,000 visitors to the two court facilities did not include Court employees. He indicated one of the reasons for the security incidents experienced was because, contrary to recommendation, all employees, defendants, witnesses, and in-custody inmates shared the same space. This incurred great cost and created dramatic risks. He told two stories providing examples of security risks at the courthouse.

Judge Hardy said despite millions spent on the heating and air conditioning system, there were ongoing problems with employee and public comfort. He noted the judicial chambers were undergoing current work to repair a significant water leak. He showed images of temporary ductwork used for radon transportation whose installation caused issues with Sheriff's deputies responding to internal emergencies. He noted there were additional remediation plans that would incur additional costs.

Judge Hardy stated every word spoken and all evidence taken in court was preserved dating back to the early 1900s. He mentioned these were all stored in the evidence room which housed an abundance of evidence but had no fire suppression and often experienced water leakage. He said there were advantages and disadvantages to both options: a single project reflecting current and future needs or a phased approach that deferred future needs.

Judge Hardy indicated the placement option indicated on the map was frequently recommended and he added the County owned property behind the site that could be used for County needs or parking. He stated they ordered a preliminary cost estimate and if the Board approved the item, a second cost estimate would be performed, a combination of which would provide accurate cost projections.

Chair Lucey expressed concern that the newest brick in the courthouse was over 50 years old which demonstrated the County had stopped caring about the structure and the importance of the court system. He said the project would not be for Court staff but for the citizens who walked through the doors. He pointed out so many County and City departments were affected by the building and he felt the Board needed to support the project and direct staff to find immediate solutions. He said many plans to address infrastructure problems were in place through other boards yet this building had been neglected for 50 years.

Judge Hardy agreed and sought a collegial environment that deemphasized personal judge space and emphasized use of public space. He admitted that could result in the need to travel to different courtrooms for certain hearings but stressed a courthouse of the past did not look like a courthouse of the future. He pledged the ultimate proposal would be what was needed as determined by experts and users. He said every community should have a visual statement that represented a place where disputes were resolved without threat or the need for vigilantism.

Commissioner Berkbigler stated she respected what Judge Hardy said about the judges not setting up a kingdom for themselves, but she stated the protection of judges was important. She expressed concern about the dangerous interaction between judges and those they preside over. She noted increased growth would also bring additional crime and indigence, and it was important to move forward on this matter.

Commissioner Hartung shared his respect for Judge Hardy's positions and the work he had put in. When asked about the public-private partnership (P3) mentioned

in the presentation, Judge Hardy emphasized the P3 was an option that would involve mixed use of retail and residential buildings in close proximity with the courthouse. It would also bring in private money and expertise, and it was a way to manage the County's debt service through projected revenues. The P3 plan could involve the sale of the Pioneer property as well as potential efficiencies in construction, ease of available money, and increases in sales and property taxes from development. He mentioned courthouses nationally were being constructed through P3 efforts. Commissioner Hartung thought the P3 idea was for lawyers to have office space near the courthouse and Judge Hardy said that option was possible.

Commissioner Hartung expressed sadness that there was a need for a more robust justice system. He requested staff present the Board with options including selling all the County's downtown properties and using those funds to build a courthouse near the County Administrative complex. Chair Lucey said there had been discussions around creating more efficiency by combining different branches of local government in one complex as had been done in Las Vegas. Responding to Chair Lucey's question, Judge Hardy stated the real estate expert working with the County was Brad Mamer of GSD Nevada, LLC. Chair Lucey noted Mr. Mamer partnered with an Oklahoma-based legal team on numerous projects to address legal challenges with the Nevada Revised Statute. He praised the Courts in their dedication of time and energy into their research and expertise.

Commissioner Herman spoke about visiting the courthouse and seeing the poor condition of the building. She mentioned smaller counties throughout the state had installed beautiful court buildings and said it was Washoe County's turn. Judge Hardy stated justice was a focal point only in its absence but it was a sacred place in the community.

Commissioner Hartung clarified he was not necessarily advocating moving the complex. He spoke about the potential large land values in the downtown area and said there were opportunities for businesses to become involved. He wanted to investigate all options.

When asked by Chair Lucey about the abundance of electrical outlets in the courtrooms, Mr. Hardy replied there were fewer outlets than needed and added the assets of the courtroom in general were inadequate for business. He stated modern courtrooms had screens for each juror and displays for the public whereas in the County courts digital evidence could not be properly managed. He indicated the National Judicial College was the ideal model of a courtroom.

On the call for public comment, Ms. Cathy Brandhorst was called but was not present to speak.

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

**17-1024**      **AGENDA ITEM 11** Recommendation to (1) provide direction to staff to initiate an update to the “Washoe County Court Complex Master Plan Update” to include all county uses downtown for maximizing county assets in the area around the Second Judicial District Court; (2) approve the resolution to augment the Capital Improvements Fund in the amount of [\$200,000] to increase expenditure authority for capital projects for fiscal year 2017-18; and (3) direct the Comptroller to make the appropriate budget amendments. Community Services. (All Commission Districts.)

On the call for public comment, Ms. Cathy Brandhorst was called but was not present to speak.

On motion by Commissioner Hartung, seconded by Commissioner Berkgigler, which motion duly carried with Commissioner Jung absent, it was ordered that Agenda Item 11 be approved and directed.

**17-1025**      **AGENDA ITEM 9** Recommendation to appoint Marc Picker as Alternate Public Defender effective retroactively to 12/11/2017 with an annual salary of \$156,644.80. Net fiscal impact is \$0. Manager. (All Commission Districts.)

On the call for public comment, Ms. Cathy Brandhorst was called but was not present to speak.

On motion by Commissioner Hartung, seconded by Commissioner Berkgigler, which motion duly carried with Commissioner Jung absent, it was ordered that Marc Picker be appointed as Alternate Public Defender effective retroactively to 12/11/2017 with an annual salary of \$156,644.80.

**17-1026**      **AGENDA ITEM 12** Recommendation to approve a request to initiate proceedings to amend the Washoe County Code at Chapter 25 (Business License Ordinance), Chapter 110 (Development Code) and Chapter 53 (Miscellaneous Crimes) to provide for operation of marijuana establishments which are registered by the State of Nevada under NRS Chapter 453A and NRS Chapter 453D and provide for limited exemption of certain acts from criminal prosecution, consistent with the marijuana working group recommendations “Vision and Direction” attached hereto and as provided in this staff report, and direct the County Clerk to submit the request to the District Attorney for preparation of a proposed ordinance, pursuant to Washoe County Code Section 2.030 and 2.040. Manager. (All Commission Districts.)

County Manager John Slaughter noted items such as this were typically consent items but staff was seeking specific direction. Assistant County Manager Dave Solaro conducted a PowerPoint presentation with the following slides: Initiation of

Marijuana Regulation; Policy Direction Permanent Regulations (2 slides); Key Marijuana BCC Policy I, II, III, IV, and V; Draft Regulations Key Components; Staff Direction; and Marijuana Implementation Timeline.

Mr. Solaro stated marijuana was a burgeoning industry and it was the County's duty to designate how the program was executed. A team of County employees reviewed over 400 references in State regulations to gauge the impacts on the community. He noted it was a collaborative effort between the County, the Health District, the Truckee Meadows Fire Protection District, and the North Lake Tahoe District. He stated the recouping of costs was important because the partners needed to update their codes to gain back any costs associated with inspection and code compliance of the facilities. Additionally, staff recommended the County did not provide for outdoor grow facilities due to air quality and safety concerns.

Commissioner Berkbigler asked if a 3 percent fee was comparable to that charged by the Cities of Reno and Sparks. Mr. Solaro responded the County sought to maximize how much they could charge according to the law. The City of Reno had a flat fee and he anticipated they would maximize their fees on top of that fee. He clarified it would be 3 percent of the facilities' annual gross revenue.

On the call for public comment, Ms. Cathy Brandhorst was called but was not present to speak.

When asked by Commissioner Hartung whether the 3 percent fee was adequate, Mr. Solaro said the number was legislatively-driven and could only be changed through legislation.

On motion by Commissioner Berkbigler, seconded by Commissioner Hartung, which motion duly carried with Commissioner Jung absent, it was ordered that Agenda Item 12 be approved and directed.

**17-1027**      **AGENDA ITEM 14** Discussion and potential direction to the District Attorney to file or sign-on to legal briefs (amicus curiae) supporting the State of Nevada's position in litigation involving the Little Valley Fire (State of Nevada, Division of Forestry v. District Court, Supreme Court Case No. 74271) and to urge courts to retain the historical separation between torts and inverse condemnation laws. District Attorney. (All Commission Districts.)

County Clerk Nancy Parent stated she was provided with comments from two individuals, which were distributed to the Board and placed on file with the Clerk.

Deputy District Attorney David Watts Vial summarized the report saying there was litigation involving the Little Valley Fire and the District Courts rendered a decision that conflated Takings Law with negligence law. He stated they were separate areas of law with different legal principles, goals, and measures of compensation. The

effect of this decision could have tremendous ramifications for the County; under Takings Law if it was determined there was a taking there would be no limit to the damages a municipality would have to pay while a tort had a \$100,000 cap. He said the District Attorney (DA) requested the ability to file an amicus brief to make a distinction between those two areas of law.

On the call for public comment, Ms. Debbie Shelter recalled a year prior the Board encouraged her to pursue the National Department of Forestry (NDF) for recompense. She said if the Board went along with the amicus brief, it meant each resident would only be eligible to receive \$100,000 for their losses which was less than the value of their lots. She urged the Board to read Judge Scott Freeman's decision before following the DA's direction and asked them not to limit a resident's ability to recover their lives.

Ms. Cathy Brandhorst was called but was not present to speak.

Chair Lucey commented the fire in his district presented challenges to many residents. He acknowledged the fire was an act of negligence by the NDF and it impacted the County directly. He expressed concern for the residents but felt he had to take the legal opinion of the DA and staff.

Commissioner Berkbigler expressed concern about the issue and felt it was problematic no matter which option they took. She noted she listened to the DA's description of how it could affect the County and she agreed the Board had to approve it. She stated she wanted the residents to be protected but this item was broader than just the affected Little Valley residents. Chair Lucey added the Board needed to be cognizant of any precedent while noting it was the Board's responsibility to protect its citizens. He said the Board could not tie the hands of future Commissions so it was in the best interest of the County to approve filing the amicus brief.

Spurred by Commissioner Hartung's query, Mr. Watts-Vial clarified if the Board approved the item, it would not disallow the County from being found negligent in the future; the item only related to the takings portion. Mr. Watts-Vial said if the District Court's decision was to combine the two laws, it would be possible for an automobile accident to be ruled as a taking. The DA's recommendation was the court should maintain a separation between those two doctrines that had existed for decades. If everything could be ruled a taking, the liability to the taxpayers of the County would be huge. Commissioner Hartung stated this did not limit the tort of negligence; people could still sue for negligence and agencies were still liable.

Chair Lucey asked whether the statute of limitations would be extended if the two doctrines were combined. Mr. Watts-Vial replied there were two different statutes of limitations. Chair Lucey remarked the ruling could set precedent to allow events that fell within the statute of limitations to then be contested. Mr. Watts-Vial agreed, saying it would present the opportunity for additional litigation.

On the call for public comment, Ms. Cathy Brandhorst was called but was not present to speak.

On motion by Commissioner Berkbigler, seconded by Commissioner Hartung, which motion duly carried on a vote of 4-1 with Commissioner Jung absent and Commissioner Herman voting “no”, it was ordered that Agenda Item 14 be directed.

**17-1028**      **AGENDA ITEM 15** Introduction and first reading of an ordinance approving a Development Agreement regarding Tentative Subdivision Case Number TM14-001 (Pebble Creek Estates) which approved (on July 1, 2014) development of an 83-lot, single-family residential subdivision. Lots range in size from 35,025 to 53,072 square feet. The applicant and property owner is Mystic Mountain, LLC, attn.: Jesse Haw, 550 West Plumb Lane #B505, Reno, NV 89509. This agreement extends the deadline for filing the first in a series of final subdivision maps from July 1, 2018 to July 1, 2020. The subject site is located at the western terminus of Pebble Creek Drive, approximately ¼ mile west of its intersection with Pyramid Highway. The parcel is ±83.27 acres in size and has a regulatory zone of Low Density Suburban (LDS). The parcel is located within the Spanish Springs Area Plan, and is situated in portions of Sections 11 and 14, T21N, R20E, MDM, Washoe County, Nevada. (APN: 538-171-08); and, if approved, schedule a public hearing for second reading and possible adoption of the ordinance for January 9, 2018. Community Services. (Commission District 4.)

Nancy Parent, County Clerk, read the title for Bill No. 1792.

On the call for public comment, Ms. Cathy Brandhorst was called but was not present to speak.

Bill No. 1792 was introduced by Commissioner Hartung, and legal notice for final action of adoption was directed.

**PUBLIC HEARING**

**17-1029**      **AGENDA ITEM 16** Public hearing: Second reading and possible action to adopt an Ordinance pursuant to Nevada Revised Statutes 278.0201 through 278.0207 approving the Amended and Restated Development Agreement with Apple, Inc. for Case Number DA11-001 for Reno Technology Park and Sparks Energy Park, approved by Ordinance 1476; which amendment permits the construction and operation of a certain Technology Park, and other matters properly related thereto. Community Services. (Commission District 4.)

The Chair opened the public hearing by calling on anyone wishing to speak for or against adoption of said Ordinance. There being no response, the hearing was closed.

Nancy Parent, County Clerk, read the title for Ordinance No. 1605, Bill No. 1791.

On motion by Commissioner Hartung, seconded by Commissioner Berkbigler, which motion duly carried with Commissioner Jung absent, Chair Lucey ordered that Ordinance No. 1605, Bill No. 1791, be adopted, approved and published in accordance with NRS 244.100.

**17-1030      AGENDA ITEM 17 Public Comment.**

Ms. Tammy Holt-Still clarified her opinions about the County’s involvement in the Lemmon Valley flooding and expressed frustration with the response and lack of long-term solutions. She urged the Board to help the residents who have been flooded out because of overdevelopment.

Ms. Cathy Brandhorst was called but was not present to speak.

**17-1031      AGENDA ITEM 18 Announcements/Reports.**

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**12:59 p.m.** There being no further business to discuss, the meeting was adjourned without objection.

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**BOB LUCEY**, Chair  
Washoe County Commission

ATTEST:

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

*Minutes Prepared by:  
Derek Sonderfan, Deputy County Clerk*

RESOLUTION  
TO AUGMENT THE 2017-2018 BUDGET OF THE WASHOE COUNTY  
CAPITAL IMPROVEMENTS FUND

WHEREAS, total resources of the Washoe County Capital Improvements Fund has sufficient available resources consisting of an opening fund balance of \$13,009,227.53; and an adjusted fund balance of \$9,464,526; and

WHEREAS, the Washoe County Capital Improvements Fund has the need for appropriation authority for unbudgeted expenditures; and

WHEREAS, the Washoe County Capital Improvements Fund also has sufficient cash to meet these additional expenditures;

NOW THEREFORE BE IT RESOLVED, by the Board of County Commissioners of the County of Washoe, State of Nevada:

Section 1. That the budget of the Washoe County Capital Improvements Fund be adjusted as follows:

<u><i>Increase Revenues</i></u>	
Capital Improvements Fund unappropriated opening fund balance	\$200,000.00
<u><i>Increase Expenditures</i></u>	
C920301 District Court Capital Expansion 781002 – Build Imprv Capital	\$200,000.00
<hr/> Total Increase in Expenditures	<hr/> \$200,000.00

Section 2. This Resolution shall be effective on passage and approval.

Section 3. The County Clerk is hereby directed to distribute copies of the Resolution to the Department of Taxation, Comptroller, and the Budget Division.

Adopted this 19<sup>th</sup> day of December, 2017.

  
Bob Lucey, Chair,  
Washoe County Commission

ATTEST:

  
Washoe County Clerk

