



Elko County Board of Commissioners

Commissioners

Demar Dahl

Glen Guttry

Charlie Myers

Warren Russell

R. Jeff Williams

Elko County Manager

Robert K. Stokes

STATE OF NEVADA)
COUNTY OF ELKO) ss.

OCTOBER 5, 2011

The Board of Elko County Commissioners met in regular session on Wednesday, October 5, 2011, at 1:30 p.m., in Suite 102 of the Nannini Administrative Building at 540 Court Street, Elko, Nevada.

There were present:	County Commissioners	Demar Dahl, Chair
	ABSENT	Glen Guttry
		Charlie Myers
		Warren Russell
		Jeff Williams
	County Manager	Robert Stokes
	CFO/Asst Co Mgr.	Cash Minor
	Deputy District Attorney	Kristin McQueary
	Deputy County Clerk	Marilyn Tipton
	Deputy County Clerk	Ida Wand
	Sheriff	James Pitts
	Chief Juvenile Prob. Ofr.	Mike Pedersen

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Chairman Dahl called the meeting to order at 1:30 p.m.

Cash Minor led the meeting participants in the Pledge of Allegiance.

Commissioner Dahl explained Commissioner Guttry was absent today because he was attending meetings in Washington D.C. regarding the Fire Science Academy.

I. COMMENTS BY THE GENERAL PUBLIC:

Tammy Wright, of the Northern Nevada Center for Independent Living, and Dianna DeBisschop, of Nevada Disability Advocacy & Law Center, invited the Board to the Disability Awareness Day to be held on October 12th at the VFW Hall between 10:00 a.m. to 12:00 p.m. She stated there would be various

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agencies that would be available to inform them of any employment opportunities and provide education and transitioning.

Gerald Temoke, Elko Band Council, invited the Board to attend the Pow-Wow this weekend, Friday through Sunday.

Commissioner Russell read from the Declaration of Independence: *“Nor have We been wanting in attentions to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstance of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which, would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in necessity, which denounces our Separation, and hold them, as we hold the rest of mankind, Enemies in War, in Peace Friends. We, therefore, the Representatives of the United States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do in the Name, and by the Authority of the good People of thee Colonies solemnly publish and declare, That these United Colonies are, and of Right ought to be Free and Independent States; that they are Absolved from all Allegiance to the British Crow, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved, and that as Free and Independent States, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do. And for the support this Declaration, with a firm reliance on the protection of divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.”*

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II. CITY OF ELKO:

Discussion and consideration of a report by City Councilman Jay Elquist on issues and activities of interest to the City of Elko.

Commissioner Dahl reported that Jay Elquist was unable to attend today and they would re-agenda the item.

III. ELKO COUNTY LIBRARY BOARD OF TRUSTEES:

Report and review of Board of Trustees activities and minutes including issues related to the continuing operation of the County Library.

Commissioner Dahl stated Jeanette Hammonds was unable to report today.

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IV. ELKO COUNTY JUVENILE PROBATION DEPARTMENT:

Discussion and consideration of approval of FY 2011-2012 Budget modifications in which internal budget line items will be adjusted without an increase in the overall department budget.

Mike Pedersen previously submitted support documentation for the additional funding request. He proposed to take the salary and benefits from one Probation Officer position to fund the prevention programs due to the loss of State funding. Mike Pedersen made the commitment that if they need the Probation Officer position filled then they would withdrawal the prevention programs. He requested the Board to ratify their actions.

Commissioner Williams inquired if this went before the Budget Review Committee. Mike Pederson had submitted it to the Committee and they agreed with the concept. He noted it would be over a three year period.

Cash Minor explained the Juvenile Probation Department relinquished the Probation Officer position and moved the money from salary and benefits to services and supplies. Mike Pederson stated it was approximately \$93,000 for the eight-year employee so they were able to fund the contract services they had previously received from the State and the prevention program performed in the elementary schools. Cash Minor noted this did not change the budget for the Juvenile Probation Department and they have assurance they would not request the position to be filled in the immediate future.

MOTION: Commissioner Williams moved to modify the FY 2011-2012 Budget in the Juvenile Probation Department to do without the Juvenile Probation Officer position and apply those funds to the programs previously spoken about. Commissioner Russell seconded the motion.

Commissioner Myers voiced concern that these granting programs were becoming County funded programs. Mike Pedersen stated their department would provide that data to the County rather than to the State from these programs. He stated if the Evening Reporting Center or the Family Wellness Programs did not succeed then they would discontinue the programs and not ask for the money to remain in their budget nor ask for another Probation Officer position. Commissioner Williams spoke upon the benefit of the juvenile prevention programs. Commissioner Russell voiced concern it may be a back way to add programs or employees. Mike Pedersen stated they would provide data and reinforced their commitment to be transparent.

The motion passed unanimously.

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V. ELKO COUNTY SHERIFF'S OFFICE:

A. Discussion and consideration of a request for authorization of a Support Service Division Manager position in the Sheriff's Department utilizing reductions from other budget line items to cover the cost of the position.

Sheriff Pitts stated they were changing the job title of the current position because they were looking for a front office manager. He stated they would offset some of the additional costs with funding from contractual services so there would be no impact to the budget.

Cash Minor stated this was reviewed by the Budget Review Committee and it was recommended as a non-represented salary position with the new hire range starting at \$54,654 up to a maximum of \$63,000. Cash Minor stated the Sheriff agreed not to ask to replace the civil processor position for three years. Commissioner Williams understood this new position would find and write grants. Commissioner Myers stated the position was made a non-represented rather than appointed for continuity when the Sheriff changed. He stated there was a three year moratorium upon the civil processor position.

MOTION: Commissioner Myers moved to approve the request for a Support Service Division Manager position in the Sheriff's Department utilizing reductions from other budget line items to cover the cost of the position. Commissioner Williams seconded the motion. The motion passed unanimously.

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B. Discussion and consideration of approval of an Interlocal Agreement with the Te-Moak Tribe of Western Shoshone for back-up law enforcement services in the event of an emergency.

Sheriff Pitts stated this was an annual MOU agreement which had legal review from Kristin McQueary and Nevada POOL/PACT. Kristin McQueary stated the Tribal Council must approve this rather than the Tribal Police. Sheriff Pitts stated the Tribal Council and Tribal Chief of Police were requested to sign it.

MOTION: Commissioner Myers moved to approve an Interlocal Agreement with the Te-Moak Tribe of Western Shoshone for back-up law enforcement services in the event of an emergency contingent upon approval by the Tribal Council. Commissioner Russell seconded the motion.

Kristin McQueary expressed concern with having all the officers POST certified. Sheriff Pitts stated they would be POST Certified according to the MOU. Commissioner Williams noted the MOU only involved the local tribe.

The motion passed unanimously.

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VI. BOARD OF COUNTY HIGHWAY COMMISSIONERS:

Highway Chairman Russell opened the meeting at 1:30 p.m.

A. COMMENTS BY THE GENERAL PUBLIC

No comments were submitted

B. METROPOLIS ROAD:

Discussion and consideration of a status report and issues related to repair work on the Metropolis Road.

Joe Currie and Jack Prescott introduced themselves as representatives of the Ruby Pipeline. Joe Currie stated the City’s portion of pavement was completed and weather permitting they would be laying asphalt on the County portion by next week. Joe Currie stated they repaired the cattleguard. He stated they were graveling the road from the end of the pavement up to the end of the Deeth Road. Jack Prescott reported the City portion of that road was paved by Staker-Parsons. Joe Currie clarified that just the areas that require the asphalt on the County portion would be repaired. Commissioner Williams inquired if they repaired or replaced the cattleguard and received the reply the cattleguard was repaired.

Gary Botts, a Metropolis resident, voiced concern with the patching of the obligated amount which left four miles of asphalt which had potholes.

Jack Prescott had spoken to Jim Naveran, NAVCO, who indicated they would patch to the end of the pavement. Gary Botts voiced concern about the gravel portion because it was a school bus route. Jack Prescott stated they had reviewed the road with Otis Tipton and the contractor. He stated the contractor would bring in gravel if needed after they bring up the gravel from the borrow pits. Gary Botts stated some of the residents expected a complete paved road.

Gary Botts stated the pipeline had repaved a road in Utah and inquired if they would consider repaving of the Metropolis Road. Joe Currie stated there was no re-pavement of any roads

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C. BID APPEAL - ONE (1) USED WHEEL LOADER, 40,000 LBS.

CLASS: Legal Advice:

In accordance with NRS 332.068, consider the appeal filed in the bid award of a Used Wheel Loader, 40,000 Lbs Class and all other matters related, thereto. Bids were received and opened on September 1, 2011 and the bid was awarded on September 7, 2011 to Cashman Equipment. Blaine Equipment appealed the bid award within the three working day deadline set by the Commission. This agenda item is continued from the September 19, 2011 Commission Meeting. The Commission may affirm or overturn the previous bid award.

Commissioner Russell requested a legal review of their options.

Kristin McQueary stated she had submitted a memo upon the issues. She noted NRS 332.065 was the guiding statute for bid awards and read a portion of the statute into the record: *“award the contract to the lowest responsive and responsible bidder. The lowest responsible and responsible bidder may be judged on the basis of: a) Price; b) Conformance to specifications; c) Qualifications; d) Past performance; e) Performance or delivery date; f) Quality and utility of services, supplies, materials or equipment offered and the adaptability of those services, supplies, materials or equipment to the required purpose of the contract; g) the best interests of the public; and h) Such other criteria as may be set forth by the governing body or its authorized representative in the advertisement or request for bids, as applicable, that pertains to the contract.”*

Kristin McQueary noted one of the major issues was the conformance to specifications and there was a struggle upon “no exceptions” in the bid specifications that the entire power train, engine transmission and final drive shall be designed and built by the machine manufacturer. She noted at the top of page 2 of the bid specifications all machines offered must have *“factory installed equipment by the manufacturer – no exceptions.”* Kristin McQueary stated on the equipment offered by Blaine Equipment the part was not manufactured by John Deere but was the original equipment installed by the factory. She noted if they look at point of view of factory installed then that creates an argument for Cashman Equipment.

Kristin McQueary noted the County specifications states the awards would be made based upon the best value offered. She stated the bid specifications gave the purchaser the right to reject any or all bid proposals. Kristin McQueary stated in looking at the bids, the best interest, would come down to the Commissioners’ view of new tires, the buy-back provision as compared to fewer engine hours. She stated the final issue of rejection of bids can be addressed through NRS 322.775. She had requested they review that statute and state their basis of rejection of the bids within the motion.

Commissioner Russell noted there was an alternative to reject any and all of the bids and to repair old equipment or specify the amount available for the equipment and Otis Tipton would go to auctions to look at other equipment.

Commissioner Williams stated they would not be looking at buying equipment if it was repairable. Commissioner Dahl inquired if both pieces of equipment were available. Otis Tipton stated he was not notified if their piece of the equipment was sold. Commissioner Williams had researched the information and both companies had good equipment. He stated Blaine Equipment gave them the better price with more for the trade-in. He noted

Blaine Equipment claims there was 75% remaining on their tires but that was not included within the bid and they cannot consider that. Otis Tipton cautioned that would be bidding after the bid. Commissioner Williams noted Cashman Equipment had the buy-back option. He stated if they looked at the equipment hours Blaine Equipment had 1,425 hours and Cashman Equipment had three times those hours so he favored Blaine Equipment. Commissioner Williams noted they had previously tabled this because they were not certain where they stood upon the "no exception" clause because Blaine Equipment did not stay within that bid specification. He believed the best interest of the County and taxpayers in dollar value was Blaine Equipment but the non-conformance to the bid specification was at issue.

Commissioner Russell inquired if the Road Department kept records of hours upon their equipment and wanted a technical opinion upon hours upon heavy equipment. Otis Tipton replied they keep records of the hours. He stated when he first came to the County the Commission gave him \$500,000 to go to auctions because their equipment was in need of costly repairs and it was difficult to get parts because of the years of the equipment. Otis Tipton stated they had John Deere, Caterpillar and Champion equipment but the problems were getting the components. He stated from a John Deere they usually get 8,000 to 10,000 hours out of an engine and 14,000 to 15,000 hours from a Caterpillar. Otis Tipton stated this equipment may get 1,000 hours per year use because it would be located here in Elko and was stationed at the salt sand pile. Otis Tipton stated the intent on the bid specifications was that all machines offered must have factory installed equipment by the manufacturer with no exceptions. He stated that would allow them to buy a used piece of equipment that was not modified for another use. Otis Tipton stated they advertise it in the paper for all equipment people to bid. He stated CASE contacted him and asked for exceptions to the bid specs and he rejected the exceptions. He explained he had to take the bid package as submitted and could not go out and seek additional information on the bid. He stated if the bidder came back later and gave him additional information then that was bidding after the bid because they have already accepted the sealed bid; they could not add to the bid later. Commissioner Dahl inquired if there were any parts on this equipment which was not installed by the factory. Otis Tipton clarified the bid specifications listed "no exceptions" only to the drive train. He stated the complete drive train would be assembled by the manufacturer and Caterpillar does that on this particular piece of equipment. Otis Tipton stated Blaine Equipment wrote in their bid that the transmission was an exception to their bid because it was made by another company. Commissioner Dahl inquired if it came installed by the factory or was

it install by another person. Otis Tipton stated from the factory. Commissioner Myers voted "no" previously because information was relayed to this Commission that the torque converter was not made by Cashman. He inquired if that was a true statement. Otis Tipton stated the converter was made by Caterpillar and misinformation was given to the Commissioners which causes a lot of problems. Commissioner Myers inquired if everything on the Cashman Equipment drive train was made by Caterpillar. Otis Tipton stated it was Caterpillar. Commissioner Myers asked if everything on the John Deere drive train was made by John Deere. Otis Tipton stated the transmission was from a different company and it was listed in the bid that since 1986 they used another transmission. Commissioner Myers inquired if bid exceptions directed the bid to a specific company. Otis Tipton replied no, and he did not know that John Deere no longer did their transmission since 1986. Commissioner Dahl stated this was a complicated issue and would look for the best value for the taxpayers. Commissioner Williams felt they would have to go with Cashman Equipment because of the "no exceptions" in the bid specifications. He felt the Commission should look at bid specifications to make sure every opportunity was given to all companies to submit a bid. Commissioner Williams inquired if they could reverse the bid and give it to Blaine Equipment based on her memo. Commissioner Russell stated they cannot base it on the memo; they had to base it on rationale. Kristin McQueary stated they have to apply the facts of this situation to the law. Otis Tipton stated Cashman Equipment could appeal it if it was given to Blaine Equipment. Commissioner Williams noted John Deere still had to submit oil samples and Otis Tipton had to inspect and approve the equipment. Otis Tipton stated that was correct and noted Caterpillar had previously submitted their oil samples.

Commissioner Russell called for public comment.

Harry Botsford stated he was retired from the Navy and had performed a lot of acquisitions through bidding. He would like to talk to the highway department off the record upon this issue. Commissioner Russell stated he and Commissioner Williams sat upon the Highway Department and they would bring to the Commission any bid package before the bid went out in the future. Commissioner Williams requested that the material for the bids be given to them at least one night before they sat down at the meeting.

MOTION: Commissioner Williams moved to overturn the previous bid award given to Cashman Equipment in favor of the bid that was given to us by Blaine Equipment because it was in the best interests of the voters of Elko County. The Cashman's bid was \$6,000 higher for the equipment and \$3,000 lower for the trade-

in and Cashman's equipment had three times the hours on that piece of equipment and was a year older. Commissioner Dahl seconded the motion. Commissioners Williams, Dahl and Myers voted aye. Commissioner Russell voted no. The motion passed by majority vote 3-1.

Otis Tipton inquired how many days Cashman Equipment had to appeal the bid award. Chairman Russell stated the same, three days.

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D. Update report on Road Department activities.

Otis Tipton had previously submitted Fairgrounds information and Budget Operational Highlights. He reported their maintenance schedule was delayed due to repairs of flood damage. Commissioner Dahl commended Otis and his crew upon the good road conditions within the County.

Commissioner Myers inquired if they mugged the Lower Lamoille Road and then graded it. Otis Tipton stated they had some flooding and had to spot gravel back in those places. Commissioner Myers inquired of the road condition. Otis Tipton stated they have not received any call on that road. Commissioner Russell stated he was on that road from the east end to the section of Spring Creek that goes up to Hog Tommy and there was no problem with the road. Otis Tipton stated he was on it last week and the road was good.

Commissioner Myers commended Otis and his staff on their efforts with no budget increase and older equipment.

Otis Tipton reported the new bridges were installed in Jarbidge.

Commissioner Russell stated during RTC they received a report from the City of Elko upon the completion of Idaho Street work. He had inquired of Delmo Andreozzi about the future of Twelfth Street. He stated Delmo Andreozzi said the City was thinking about an extension of Silver Street to the East. Commissioner Russell stated the City of Wells requested their total RTC allocation to pave their portion of the Metropolis Road. The RTC Commission met the new NDOT Traffic Engineer, Joe Ramirez and the next RTC meeting was scheduled for January 4, 2012.

Otis Tipton stated the north Tuscarora Bridge was removed and would be replaced under the Federal Bridge Replacement Program. He stated the Talbot Creek Bridge would be reset in the middle of November with the power being down four to six hours.

Commissioner Myers requested clarification that the City of Wells had asked for full allocation to repair the Metropolis Road. Otis Tipton stated the City would pave from the railroad tracks out and they want to do it in conjunction when they pave the County's portion. Commissioner Williams stated it was currently gravel to the first cattleguard.

Commissioner Myers would have liked to see Idaho Street double lane from Ninth Street out because there was no business impact. He stated the one lane was backing up traffic.

Commissioner Russell stated the Wells RTC allocation was \$135,000 but the cost of the Metropolis paving project was \$200,000. He stated the City would invest some of their money in addition to the RTC allocation.

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HIGHWAY ADJOURNMENT:

Highway Chairman Russell adjourned the Highway Board at 2:47 p.m.

RECESS:

Commissioner Dahl called a recess of the regular meeting at 2:48 p.m.

RECONVENE:

Chairman Dahl reconvened the Commission meeting at 2:58 p.m.

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VII. USFS MOUNTAIN CITY, RUBY MOUNTAINS AND JARBIDGE DISTRICT TRAVEL MANAGEMENT PROJECT:

Discussion and consideration of issues regarding the Mountain City, Ruby Mountains and Jarbidge District Travel Management Project FEIS/ROD.

Jeanne Higgins, Forest Supervisor of the Humboldt-Toiyabe National Forest, had received the Commissioners' letter voicing concerns with the Travel Management Plan for the Mountain City, Ruby, and Jarbidge Ranger Districts. She understood the Commission had been engaged in discussions with the Forest Service District Rangers, Gar Abbas, Tom Montoya and acting District Ranger Troy Phelps, on the Travel Management Plan. Jeanne Higgins stated when the Forest Service put in place regulations associated with travel management six years ago it mandated every forest develop a motor vehicle use map. She stated the development of that map was for public access and the focus was upon motor vehicle access not upon snowmobile access or foot traffic. Jeanne Higgins stated once the map was developed it would be revisited and updated yearly because it was impossible to get it right the first time. Jeanne Higgins stated the national forests across the country historically have been open to public travel and people traveled cross country. She noted overtime roads and routes were developed to accommodate people's use of the national forests. At the same time, the national forest system was developing the national forest for various uses such as timber harvesting, grazing, mining, etc. Jeanne Higgins stated they started developing a road system that the Forest Service manages, maintains and keeps track of. Jeanne Higgins stated it was their intention to continue interaction with the users of the national forest even after the initial map was developed so they can understand how people use the forest, if they missed routes, if there were routes that were of concern to people and they could

address those on an annual basis. Jeanne Higgins understood there was concern that once the decision was made upon travel management for these three districts that there would be no more opportunity for dialog about access. She assured them that was not the case. Jeanne Higgins stated they expect to develop a route system that people will know and use which may remain stable and it was important to know that this was for general public access. It was not to impact access for fire suppression; not intended to impact access for the permittees whether for grazing or special uses; it should not have an impact for access for mining; and it was not intended to have an impact on those general uses or needs for access to the forest. She stated it was for general public use and the main purpose was to try and corral the explosion of use that was occurring related to motor vehicles in the fact that they were seeing routes occurring in many locations, many of them having impacts upon some of our natural resources. Jeanne Higgins believed these should be local decisions because the decisions affect the people who live here and who access the forest here. She stated Gar Abbas, Tom Montoya and now Troy Phelps were the decision makers.

Commissioner Dahl stated most of those who live here, use the forest and experience the forest on a local basis have not seen the problems that she had spoken about such as the explosion of roads and trails. Commissioner Dahl stated they would like to see the monitoring and reasoning behind their decisions. Commissioner Dahl stated they have other issues they would like to discuss and Gar Abbas had suggested a workshop which might take one eight hour day or go two days.

Jeanne Higgins stated the more information the Commission and others were armed with, the easier it was to come to a conclusion. She stated the EIS documents produced was voluminous and they were very difficult to understand at times. Commissioner Dahl felt they understood them but they had a lot of concerns and disagreement.

Jeanne Higgins commented the Forest Service established these regulations associated with the development of a motor vehicle use map. They were not physically closing roads. Jeanne Higgins said the reason that this came into policy was because there were many people who utilize more than one national forest and there was confusion of different rules depending upon what forest you were in. She stated some forests had already established policy and rules that the road was closed unless posted open. Jeanne Higgins stated the agency decided to establish the basic rules so they could go to any national forest, pick up a motor vehicle use map and once they learn how to use it, it would look the same wherever they went. She said this project was huge

because they were talking about thousands of miles of roads in thousands and thousands of acres. Jeanne Higgins stated they realize they would not get it right the first time and it was important that they sit down and take a look at it. She commented that if there was a particular road that was of special concern to people then let's go out on the ground and take a look at that road. Jeanne Higgins inquired that if there was a problem with the road, such as it was causing some resource issue, how could they fix it, if people really want to use that road.

Commissioner Dahl stated they had not been able to make any progress on their concerns and now their concern was once the Record of Decision was completed it would seem more difficult to bring about any changes. He encouraged them to schedule a workshop, previously discussed with Gar Abbas, so that the Commission and the public could attend and see if they can resolve some of the differences.

Jeanne Higgins stated in the past Gar Abbas and Tom Montoya had approached them or the Natural Resource Advisory Commission regarding entering into a Cooperative Agency Agreement that may aid them in the exchange of information. Commissioner Dahl stated they had agreed to be a cooperative agency and a coordinating agency in the past. He stated because they were a coordinating agency they thought that the Forest Service should take their concerns into consideration.

Jeanne Higgins understood one of their concerns was the Travel Management Plan would eliminate cross country travel. She stated one of the fundamental foundations of a Travel Management Rule was all of the cross country travel would be eliminated unless specified such as for big game retrieval or disbursed camping access. She felt there were some fundamental questions that they would not find agreement upon. Commissioner Dahl inquired if they could show them that good science and if there was monitoring showing damage was being done out there by cross country travel. He stated they have not seen it and want to know. He stated they do not want to damage the resource. Jeanne Higgins stated the important thing was the District Rangers, Gar Abbas and Troy Phelps does have the discretion to eliminate cross country travel. She stated the District Rangers were making the decision which routes to designate, which routes would be on the map. Jeanne Higgins stated that was why it was so important to have the County's interaction about what was missing and that dialogue needs to occur. She stated they were not only visiting with the counties but also providing the public the opportunity to tell them what was missing or what was wrong with the map. She stated the Cooperative Agency Agreement helps define their roles and responsibilities in the relationship. Jeanne Higgins stated some of the revenue that comes from the national forest was returned to

the counties in the form of payments so that relationship was codified in different forms.

Commissioner Dahl stated part of the misunderstanding may be the County interprets NEPA differently than the Forest Service. He believed they could clarify at the workshop their understandings of the NEPA process.

Jeanne Higgins inquired what the outcome of the workshop would be. Commissioner Dahl stated they could let the Forest Service know what their concerns were with the FEIS, and hopefully there would be give and take cooperation. He stated the County's goal was to see some change of their positions or for them to show sound science. He encouraged them to work together to resolve the issues.

Jeanne Higgins understood that Gar Abbas and Tom Montoya had shared a copy of a Cooperating Agency Agreement with them. If they could agree on that then that would set the framework for a workshop that they might have. Commissioner Dahl inquired if the County signed the Cooperative Agreement would the Forest Service hold the workshop before the Record of Decision. Jeanne Higgins stated regardless when the Record of Decision was signed they could meet anytime. Her concern was if they do not have a forum for discussion they would keep rehashing the same issues. Jeanne Higgins thought they had heard the County's issues and had responded to them in the EIS. She stated the District Rangers have to issue a motor vehicle use map and they have to eliminate cross country travel. She stated there was discretion upon big game retrieval, etc.

Commissioner Dahl recommended they sign on as a cooperating and coordinating agency but requested the Forest Service delay the Record of Decision until after they hold the workshop. Jeanne Higgins stated the District Rangers have completed their analysis and inquired if they could give her a sense of when she would receive the Agreement signed and a date when the workshop could occur. Commissioner Dahl stated the County previously proposed a date in October.

Kristin McQueary stated because of the Nevada Open Meeting Law she suggested they hold a separate Commission meeting and they would need time to properly notice the meeting date. Jeanne Higgins asked that they review the draft format of the Cooperative Agency Agreement and let her know if there were any issues associated with that.

Commissioner Williams explained when they spoke to Gar Abbas he had suggested an individual meeting with two Commissioners and did not want the public input. He stated that was why they wrote the letter. Jeanne Higgins felt there was confusion on both sides because Gar Abbas offered the workshop

after he had heard the Commission wanted to understand what was in the EIS. She believed the County's concern was about the particular issues stated in their letter. Commissioner Williams understood that Gar Abbas had initiated the special meeting in lieu of the six month extension of the comment period that the Commission had requested. Jeanne Higgins understood there were issues with the Forest Service going into the decision making process and there were fundamental disagreements on some basic aspects. Jeanne Higgins commented they had tried facilitated discussions but were never advancing on the issues or getting resolution because of the fundamental disagreement with the rule itself. She noted Tom Montoya and Gar Abbas would never overcome that, if that was the County's position.

Commissioner Williams expressed concern about access for veterans or people with disabilities. Commissioner Dahl suggested they hold a workshop to give the Commissioners and the public the ability to ask questions.

Commissioner Russell inquired if the workshop would be held prior to the issuance of the Record of Decision. He recognized the Forest Service had special interests such as degradation of resources that they may have to address that. He believed the Forest Service wanted to approve the Record of Decision and then work out the details. He had requested the Forest Service to show them the facts because he did not believe the Forest Service had sufficient understanding to make a Record of Decision. Commissioner Russell stated they need to look at the whole and felt they would be able to work with the Forest Service and the Fish and Wildlife for the best interests of the people here.

Commissioner Myers felt this was an emotional issue for Elko County residents because 700 people attended the open meeting at the Convention Center. He noted Jeanne Higgins stated they were not closing roads but she had commented they were corralling the use of motorized vehicles. Commissioner Myers questioned why the "no action" alternative was never chosen on any forest and why it was listed as an alternative. Jeanne Higgins stated that alternative was required by NEPA regardless if you chose it or not; it was the baseline for the process. Commissioner Myers stated the process was flawed because when the constituents look at all the alternatives, one alternative was not available. He did not agree with no cross country for big game retrieval for the elderly, handicapped, and the disabled. Commissioner Myers commented the County had consistently harped upon six to eight issues during this process. He stated they have given ½ mile game retrieval on big game retrieval and two vehicle lengths for pulling off the side of the road. Commissioner Myers questioned the definition of disbursed camping. He stated when the Forest Service realigned the Harrison Pass Road away from the stream the Forest

Service was great to work with in establishing campsites. He stated there were some places that they have historically used for campsites which they might not have access to. Commissioner Myers noted they initially voted not to be a cooperating agency but Commissioner Eklund-Brown convinced them to become a cooperating agency over four years ago. Commissioner Myers inquired why they could not develop a map and state there was no cross country travel. He stated this would have a negative economic impact to Elko County. Commissioner Myers thought if the roads were not identified on the map then they should remain open versus closed as an incentive to capture all the roads. He stated roads marked open rather than roads marked closed would set the American people up to fail. Commissioner Myers knew from traveling the roads in this region that he can get to several other roads and would probably end up on some road that was closed because the roads intersect. Jeanne Higgins stated that was why the map had to be updated so people can look at it and can understand if there was something missing from the map. She commented Gar Abbas and Tom Montoya have been trying to understand all the issues and what should be on the map. Jeanne Higgins stated they could not change the NEPA process. She stressed the County relationship was important to them and encouraged constructive dialogue.

Commissioner Dahl stated one of the issues was how the closed roads would impact the endangered species and what the County's responsibility was to the endangered species. He inquired if they agreed upon holding a workshop. Jeanne Higgins inquired if they were going to agree upon putting together the Cooperative Agency Agreement to define the space with which they can hold discussions and set up a meeting to have that dialogue. She understood in order for the Commission to meet the Open Meeting Law was a requirement. She stated their intention was not to shut out the public from the process but to focus upon a good dialogue with the County. Jeanne Higgins stated how they engage others in the processes was important.

Gary Botts inquired if the workshop would be before the Record of Decision.

Jeanne Higgins stated it depended upon how long of a period of time it takes to set a date.

Robert Stokes stated they could hold a special meeting sometime within this month. Commissioner Dahl stated Randy Brown could schedule a meeting date with her. Jeanne Higgins inquired if all of the Commissioners have to be in session to sign the agreement. Robert Stokes replied yes, and explained the meeting had to be posted.

Commissioner Myers understood they approved the Cooperative Agency

status. Randy Brown stated this issue was voted upon four times by this Board all on public record. He stated the last agreement was reviewed by Danny Gonzales. Randy Brown stated NEPA did not require a written document. Commissioner Russell inquired if the Forest Service asked for a unique document. Randy Brown commented the agreement states what they can and cannot do and it was very limiting. Commissioner Russell requested a copy of that document be presented to the Commission. Randy Brown stated that cooperating agency status was approved but the document was not approved. Commissioner Dahl understood they have to have a land use plan to meet the cooperative agency requirements. Randy Brown stated the County had a federal land use plan in place for four years. He stated another issue was the County was questioning the cross county travel rule that was set forth by the Forest Service. He stated the Forest Service Planning Rule states "because four wheelers and ATVs were becoming more powerful and more popular all cross country travel should be eliminated". He stated there was no data that supported that statement. He stated the County was arguing that rule was arbitrary and capricious. Randy Brown believed the rule was under a "takings" issue under the 14th Amendment.

Robert Stokes requested clarification on the written agreement.

Randy Brown stated the Commission had not signed a written agreement. He stated the committee had reviewed the document and opposed signing the document because the agreement was specific to what they can say or address. Commissioner Dahl inquired if the agreement was generated by the Forest Service and did NEPA require it. Randy Brown replied the agreement was drafted by the Forest Service but NEPA does not require a written agreement. Commissioner Dahl inquired if they were a coordinating agency because of their vote. Randy Brown did not doubt they were a coordinating agency but felt Ms. Higgins was suggesting a written document to set the ground rules for the meeting.

Commissioner Dahl inquired if Jeanne Higgins considered the County as a coordinating/cooperative agency through their vote at a public meeting and they have a land use plan for the County, according to her understanding of NEPA. Jeanne Higgins stated the Forest Service had a responsibility to coordinate with the County. She stated they do not have a responsibility to agree on all the issues. Jeanne Higgins explained the Cooperative Agency Agreement defines the resources that they were bringing upon the issues and how they would interact in order to come to some conclusion and identifies their mutual interest. She stated they did not have to enter into a written agreement but suggested if they were going to advance upon these issues it was in their best interests to

have that Cooperating Agency Agreement defined. Jeanne Higgins encouraged them to do the Cooperative Agency Agreement and commented there were out clauses in any agreement.

Commissioner Russell stated in good faith it would be reasonable to have ground rules for particular meetings or workshops. He believed the County's representative could speak with Ms. Higgins about establishing ground rules for the workshop. Commissioner Dahl stated they need to observe the rule of being nice yet free to explore the issues. He did not want to see those issues taken off the table before the discussion such as the cross country travel. He encouraged them to go to the table in good faith and agree to work together.

Commissioner Dahl called for public comment.

[4:06:12 PM](#)

Grant Gerber voiced support for a public forum before the Record of Decision. He reported up to September 29, 2011, there had been 104,000 acres and over 300,000 animals burned in Nevada. Grant Gerber stated today, October 5th an additional 281,619 acres and an additional 840,000 animals had burned. He stated the total acres burned in Nevada were 385,619 which came from a government website www.westerngreatbasinmorningreport. Grant Gerber stated with that amount of acreage burned it meant there was over 1,140,000 animals had burned. He stated the biologists that had spoken to him believe that figure was conservative. Grant Gerber stated if the roads in those areas had been closed the number of acres and animals burned would have been much higher. He stated if the lightning had hit the forest, the Rubies, the Jarbidge, etc., they would have had more acreage burned. Grant Gerber reminded them of the huge fire near Jarbidge that was over 600,000 acres by the time it was contained. He stated if the roads on the forest were closed as being proposed, it would result in more acreage and more animals will be burned over the years. He stated since 1999, there have been three years when over 1 million acres and over 3 million animals had been burned in Nevada in each of those years. Grant Gerber stated in three other years the acreage has gone over 600,000 acres and over 1.8 animals burned during those three years. Grant Gerber stated he was pleased the federal government has begun fighting the fires more aggressively. He stated the first days of this October demonstrated that if there were massive fuel available the very best efforts of fire fighters was not enough. He believed Ken Miller and his crews were fighting the fires as best they can but with the increase of fuel there would be an increase of acreage and animals burned. Grant Gerber stated the only historical proven solution was intensive grazing by sheep and cattle. He stated over the past fifty years the federal government has reduced cattle grazing upon federal lands by over fifty percent and sheep grazing by over ninety-five percent. Grant Gerber stated in many allotments they are

continuing to reduce grazing even in the face of all these fires. He stated if you read through the EIS it lightly touches upon the fire issue but fires were an important issue. He stated the government had a duty to protect the endangered species and there were several endangered species in Elko County that have burned as a result of these fires. Grant Gerber commented a lot of sage grouse had burned and a lot of sage grouse habitat had burned up this year.

Commissioner Dahl stated the roads would be open for fighting fire and the roads that were close would be available for fighting fire. He inquired if Grant Gerber saw a problem with that. Grant Gerber stated once a road was closed to the public for any amount of time it would be closed permanently because nature would reclaim the road and they could not locate the road. He stated the fire fighters were usually from places other than the immediate area and would not be able to find the road.

Commissioner Myers commented the Charleston Road was utilized by the public but within a short time period there was a tremendous amount of overgrowth.

Grant Gerber objected to Gar Abbas' road closures behind any patented mining claims and behind private lands because the road would be overgrown and could not be used during fires. He stated that would kill a lot of animals. Commissioner Dahl noted those roads would be closed unless someone granted the Forest Service a public easement. Grant Gerber stated that was a "takings" issue and the District Rangers were trying to put pressure upon private landowners for those easements.

[4:16:42 PM](#)

Gerald Temoke, Chairman of the Elko Band Council, stated there were three bands of the Temoke, and the Nevada side of the Duck Valley Tribe who requested notification of the workshop to have the opportunity to participate. Commissioner Dahl inquired if his Band Council signed off as a cooperative agency. Gerald Temoke stated Brian had told him the Tribe had not signed off. Commissioner Dahl had been told the Sho-Pai had not signed but they received an e-mail that stated they had met with the Forest Services and signed off. Gerald Temoke understood the Forest Service met with the Tribe.

Commissioner Dahl stated the public would be invited.

[4:16:48 PM](#)

Harry Botsford inquired if the Forest Service ever generated a map to the public. He read the following regulation: "*The Forest Service expects responsible officials to apply 36 CFR 212.51B and FSM 7715 sparingly to avoid undermining the purpose of the Travel Management Rule Action*". Harry Botsford read "local decision should be locally decision driven and the 36 CFR 212.53 FSM 7702 (f) and 771353 require the responsible official to coordinate

with appropriate federal, state, county, local governments and other agencies as possible. Harry Botsford stated it further defines that the responsible forest service agent was the Ranger in each District and they were to make the decisions but not undermine the rule that stops all cross country travel done in 2008. He stated roads should be documented as how they were used and what they were used for and then they should review them each year upon the decision process according to the regulations. Harry Botsford stated the local Forest Service Office was very cooperative in supplying that information to him.

[4:19:07 PM](#)

Janet Peterson, of KENV, inquired if the shovel would be re-erected upon the Courthouse lawn. Commissioner Dahl had not heard that rumor. Commissioner Myers stated nobody had approached them about putting the shovel on the lawn.

Commissioner Dahl thanked Jeanne Higgins for traveling a long distance to discuss this with them. He stated it sounded like they would have an opportunity to sit down and spend time discussing things that were important. He believed the people would like to ask questions.

Commissioner Dahl congratulated Wendy Fuell on her new position as Mountain City District Ranger. He explained Troy Phelps was the acting District Ranger for Tom Montoya.

[4:21:02 PM](#)

VIII. ELKO COUNTY WATER RESOURCE ISSUES:

Discussion and consideration of water resource management and water rights issues that may impact Elko County including possible discussion related to the Southern Nevada Water Authority pipeline project and the Central Nevada Regional Water Authority activities and issues.

Randy Brown stated they had a forum scheduled on the 14th of October with a field trip to Baker and the ranch in Spring Valley on that Saturday. He stated they would discuss the issues that were brought up during the last hearings upon SNWA. He believed they would bring forth a discussion upon monitoring wells in North Spring Valley and the impact upon our water aquifers. Commissioner Dahl stated on October 7th was the only opportunity that the public would have to verbally comment upon the pipeline. He stated they were taking written comments up to December 2, 2011 at the State Water Engineer's Office. He stated the public hearings would be held in Carson City, Las Vegas, Ely, Caliente, and Reno but not in Elko. Randy Brown reported he had submitted the County's comments requesting monitoring wells in North Spring Valley and adjacent to Elko County's border.

[4:23:48 PM](#)

IX. EL PASO GAS CORPORATION/ RUBY PIPELINE PROJECT:

Discussion and consideration of issues related to the Ruby Pipeline Project regarding the agreement to fund the removal of grazing leases, other public land issues.

Meghan Brown, Executive Director of the Nevada Cattlemen's Association, commented the Sagebrush Conservation Fund of fifteen million dollars had been utilized to purchase a 9,000 acre ranch in Washoe County and a purchase in Utah was also discussed. Commissioner Dahl inquired what the permit was that went with the Nevada ranch. Meghan Brown replied a BLM permit and they had spoken about conservation easements. She stated NRCS and NDOW have reached out to them regarding easements. She stated NRCS could be given management in perpetuity of the ranch under an easement. Meghan Brown stated there had been no movement with the selected legislative push for monument designations. She noted there was some push for crown jewels but not within Elko County. Meghan Brown stated Pine Forest and Gold Butte had been agreed upon by permittees, County Commissioners, etc. Commissioner Dahl suggested the Public Land Commission utilize some of their funding to make sure no AUMs were retired off of that Washoe County Ranch. Meghan Brown felt it would be a good for the tax base if the ranching continued. Commissioner Myers commented that the counties were isolated from the process with Ruby Pipeline. Meghan Brown stated the PLC accepted the endowment. Commissioner Dahl stated there was not an agreement on how the money would be distributed.

[4:29:41 PM](#)

XIV. COMMENTS BY THE GENERAL PUBLIC:

David Overcast, BLM Tuscarora Field Manager, displayed a map showing the recent fires in the District. He publicly commended all the firefighters and told them there were mine employees, ranchers, town folks and agency people fighting these fires. He stated the Izzenhood Fire was caught at 42,000 acres. David Overcast reported there were 25 starts just in their area of response from the dry lightning storm. He commented Dan Gralian was there on Sunday helping coordinate efforts. He stated they were moving the livestock, they evacuated Tuscarora but Midas did not have to evacuate. He reported they were about 200,000 acres burned within the three fires at a cost of approximately two million dollars. He stated because it burned within the historic mining district there were dumps on fire near Tuscarora and some of the mine shafts caught fire where people had dumped; a HAZMAT person did test the air. He stated there were over 100 personnel brought in with the Type II Team from the Battle Mountain area. He stated there would be an out briefing of the fire on Friday at 10:00 a.m. David Overcast stated all the resources were taken off the fires after

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the rain and framework was set up for a Type III Team. He stated they were coordinating with the mines, NDOW and NDF on rehabilitation. David Overcast stated they burned across the Ruby Pipeline, roads and some sage grouse habitat as well as mule deer winter range. He stated there would be emergency stabilization rehabilitation. They were concerned about the Lahontan Cutthroat Trout but the ridges burned hot with the wind. He explained they could not immediately utilize aircraft for firefighting because of the high winds but they had twenty-one aircraft on the fire yesterday. David Overcast stated the fires burned because of the moisture in the sage brush were at 75% and the fuel moisture for the larger fuels was in the single digits.

Commissioner Dahl inquired when they would reseed in those areas. He suggested they rehab with crested wheat strips to reduce the possibility of more fires. David Overcast stated Tom Warren informed him there was forage kochia which had modified the fire behavior and the kochia was filling in the spaces between the bunch grasses.

Commissioner Russell stated his friend in Midas wanted to express to the agency and all the people who fought the fire his gratitude. He understood that the BLM was doing green stripping in the Midas and Tuscarora areas and inquired if those areas were affected by the fires or if it modified the fire behavior. David Overcast stated because of the wind, the fires were driven whether there was green stripping or not.

Commissioner Williams commented upon the lack of maintenance of the green strip above Osino and inquired how often they maintain those green strips. David Overcast stated they were developing a maintenance schedule. Commissioner Williams noted sometimes cheat grass comes back in those green strips.

Commissioner Dahl inquired if the BLM kept track of the little animals that were burned. David Overcast was unaware of any database for them. Commissioner Myers noted the BLM after fire briefing would be held on Friday at 10:00 a.m. He expressed appreciation to them and all the firefighters on behalf of the Board, Midas and Tuscarora.

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Assemblyman John Ellison had spoken to Senator Mark Amodei regarding the fires. He stated Senator Amodei would make it a personal issue that rehab was completed

[4:48:40 PM](#)

Meghan Brown encouraged that they keep a dialogue open between the County and the agencies regarding rehabilitation and discuss the continued use of those areas after the rehab. She suggested they ask what fire closure was, what flexibility was, and what adaptive management was.

Commissioner Dahl expressed concern that they were doing the same thing and burning the same area over and over again when there was something they could do about it.

[4:49:41 PM](#)

X. COMMISSION AND COMMITTEE REPORTS:

Demar Dahl, District 1 Commissioner:

USFS / BLM Liaison – He noted they all participated in that discussion today.

Nevada Association of Counties (NACO) Board – He stated at the conference they discussed the wild horse lawsuit, attorney representation, and group participation.

Ruby Pipeline Project – He stated the Western Coalition of Counties held a teleconference.

Charlie Myers, District 2 Commissioner:

Elko County Economic Diversification Authority (ECEDA) – He stated tomorrow there would be a briefing.

Auditorium Authority Board (ECVA) - He stated they had a successful balloon festival.

Wildlife Advisory Board / Wildlife Arbitration Board – He had briefed them upon the County's stance.

Nevada Division of Forestry Liaison – He suggested recognition of all the volunteers helping NDF and members of the Sheriff's Department.

Budget Committee – He stated they met yesterday and the communications system was brought up. He stated the Sheriff's Department did an internal study and there were some minor problems with 800 MHz but the officers were happy with the reception.

R. Jeff Williams, District 4 Commissioner:

Carlin, Mt. City, Midas, Owyhee, Jarbidge & Tuscarora Liaison – He was a Judge at the Carlin Chili Feed. He stated the fence material had been delivered to Midas and they were waiting for a survey. He stated Newmont would install the two cattleguards but the fence won't be completed until next spring due to the NDF fighting fires.

Museum Board – He stated they meet in five minutes.

California Trails Center Board Liaison – He stated they were finished for this year and next year it would be open full time. He stated Dave Jamiel, who headed this project, would be retiring. Janet Peterson stated Dave would wait until it was open again.

Northeastern Nevada Stewardship Group – He stated they would do a tour to view the pipeline rehabilitation.

Nevada Association of Counties (NACO) Board (Alternate) – He attended the conference and toured the Naval facility. He stated they discussed the Open Meeting Law, public lands, etc.

Juvenile Department Liaison – He stated they heard from them today.

Sheriff Department Liaison – He stated the Sheriff was getting the department balanced and trying to stay within the budget.

CIS – Communities in Schools - He stated there would be a fundraiser at the college on October 14, 2011.

Warren Russell, District 5 Commissioner:

Highway Board – He stated they heard from him today during the meeting.

Regional Transportation Commission (RTC) – He reported earlier in the meeting.

Nevada Department of Transportation (NDOT) Liaison – He stated NDOT made a report earlier at the RTC and they have a number of projects planned on I-80, such as the interchange West of Carlin and the addition of another lane.

Central Nevada Regional Water Authority (CNRWA) – He, Commissioner Dahl and Randy Brown would attend the meeting next week.

Spring Creek Association Liaison – He continues to work with the Spring Creek Cooperative Committee on arsenic and other service issues for Spring Creek Utilities and he hopes they develop relationships.

Elko County School District Stars – He stated they chose another person for this.

Commissioner Russell had received a report from a resident that “bath salts” was being sold to juveniles within the community which was addictive drugs.

[5:00:40 PM](#)

XI. COMMISSION MEETING CALENDAR:

October 19, 2011 -- Elko – Nannini Admin Bldg, Suite 102

November 2 & 3, 2011 -- Elko – Nannini Admin Bldg, Suite 102

December 7 & 8, 2011 -- Elko – Nannini Admin Bldg, Suite 102

MOTION: Commissioner Myers moved to approve the Commission Meeting Calendar. Commissioner Russell seconded the motion. The motion was passed unanimously.

[5:01:42 PM](#)

XIII. COUNTY COMMISSIONERS AND COUNTY STAFF COMMENTS:

Robert Stokes stated today was the 50th anniversary of the Peace Corp at Great Basin College. Janet Peterson stated the ceremony would be held at 7:00 p.m. at the Greenhaw Technical Building.

Robert Stokes commented that the Fallon community helped host the NACO Conference with Churchill County. He commended them upon the conference and the facilities that were available.

Commissioner Myers had received an email from Michele regarding the candidates for District Judge. He encouraged them to submit their comments upon the candidates to the Governor.

Commissioner Russell had previously submitted background material on statutes regarding firearms within Nevada. He commented there would be a proposed Proclamation for a Second Amendment Day on their 19th of October agenda to exhibit one of their rights they have.

Kristin McQueary commented Judge Hunt had denied their Motion to Dismiss for Mootness on the Jarbidge-South Canyon court case.

[5:06:04 PM](#)

XII. CONSENT AGENDA:

- A. Presentation and review of claims for approval
- B. Approval of minutes: August 8, 2011 and September 7, 2011

MOTION: Commissioner Myers moved to approve the Consent Agenda. Commissioner Russell seconded the motion. The motion was passed unanimously.

[5:06:17 PM](#)

XIV. COMMENTS BY THE GENERAL PUBLIC:

John Carpenter sat upon the Judicial Selection Committee. He commented that District Judge Memeo had also submitted his resignation and the Governor would accept his resignation tomorrow so the Judicial Selection Committee would select two District Judges. He noted the people who applied for Judge Puccinelli's position could apply for Judge Memeo's position. Any new people may submit their applications for Judge Memeo's seat until October 21. He stated the Judicial Selection Committee would hold public interviews on the 17th or the 18th of November. He stated Judge Memo's resignation will be effective November 1, 2011.

Gary Botts requested they put the Metropolis Road upon the October 19th agenda. He stated the contractor fulfilled their obligation but four miles were remaining. Commissioner Myers commented the contractor had told them he would repair the road. Commissioner Russell stated they would put it on the first November agenda for roads.

[5:10:04 PM](#)

XV. ADJOURNMENT:

MOTION: Commissioner Williams moved to adjourn the meeting. Commissioner Myers seconded the motion. The motion passed unanimously.

There being no further business to come before the Board, the meeting was adjourned at 5:10 p.m.

APPROVED,

DEMAR DAHL, Chair

ATTEST:

MARILYN TIPTON, Deputy Clerk



Elko County Board of Commissioners

Commissioners

Demar Dahl
Glen Guttry
Charlie Myers
Warren Russell
R. Jeff Williams

Elko County Manager

Robert K. Stokes

STATE OF NEVADA)
COUNTY OF ELKO) ss.

OCTOBER 6, 2011

The Board of Elko County Commissioners met in regular session on Thursday, October 6, 2011, at 1:30 p.m., in Suite 102 of the Nannini Administrative Building at 540 Court Street, Elko, Nevada.

There were present:	County Commissioners	Demar Dahl, Chair
	ABSENT	Glen Guttry
		Charlie Myers
		Warren Russell
		Jeff Williams
	CFO/Asst Co Mgr	Cash Minor
	Deputy District Attorney	Kristin McQueary
	Deputy County Clerk	Marilyn Tipton
	Sheriff	James Pitts
	Planning/Zoning/NRMAC	Randy Brown

Chairman Dahl called the meeting to order at 1:30 p.m.

Commissioner Russell led the meeting participants in the Pledge of Allegiance.

[1:31:51 PM](#)

I. COMMENTS BY THE GENERAL PUBLIC:

Jay Elquist, City Councilman, commented upon the growth within the City of Elko and reported upon the apartment development of Ormaza's near Sundance, a development behind Wal-Mart and the apartment development upon Copper Street which totaled 450 units. He stated there was discussion about apartments across from the hospital on the Powder House Road. He commented upon the Codale Electric expansion upon Spruce Road, and the new RAM development within the City. He stated the City did not have a full time planner. Jay Elquist reported they were doing final signal work on Idaho but there would be a punch list throughout to the end of year. He stated there had

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been one million dollars in water upgrades along Idaho Street. Jay Elquist reported their new Fire Chief was Matt Griego. He stated the Family Resource Center was condemned and will be torn down this winter. Jay Elquist stated they were scheduled to lose a flight through Skywest in November to save fuel costs. He stated the City was investing in playground equipment at the parks.

Commissioner Myers assumed they did a travel plan on Idaho to go to one lane with turn lanes in the center. He commented during peak traffic hours Idaho Street and Silver Street had traffic backing up because of the single lane. He stated if they do another traffic study they may decide to open the street to two lanes from 9th Street to 12th Street so the traffic would not back up. Jay Elquist explained they have the new lanes but don't have the new signals so traffic was not flowing correctly. Commissioner Myers stated they had backed up traffic in both lanes previously. Jay Elquist requested them to wait a month until the new lights were installed. He stated they had several traffic studies performed.

Commissioner Dahl inquired what a developer's biggest challenge was to come into Elko. Jay Elquist stated they have sufficient water for in-fill but if there was annexation they have to bring in their own water. He stated two new wells were drilled which provided more water for the storage tanks. He stated financing may be the biggest issue for developers now.

Commissioner Russell noted at each comment period he had read a portion of the Declaration of Independence into the record and had completed that document. He stated today he would start reading the Constitution of the United States into the record. He noted on July 4, 1776 the Declaration of Independence was drafted but it took a number of years to ratify the Constitution of the United States which was finally ratified on December 15, 1791. He read a portion of the Constitution as follows: *"We the People of the United States in order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America."*

[1:47:56 PM](#)

II. NOXIOUS WEED CONTROL MANAGEMENT:

Discussion and consideration of a presentation by Kent McAdoo, Rhonda Heguy, Tom Warren and Mary Winter regarding county wide noxious weed control activities including discussion regarding the potential benefits of the creation and implementation of a county integrated weed management plan including potential funding sources.

Kent McAdoo, of the University of Nevada Cooperative Extension, commented invasive weeds decreases grazing potential in quality and quantity, and reduces hay crop yields. He stated noxious weeds alter the fire regimes,

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result in habitat loss and impair the function of wetlands and riparian areas. Kent McAdoo spoke upon the erosion of the upland and riparian areas. He stated some noxious weeds were toxic to livestock, wildlife and humans. He commented there could be a loss of recreation potential, declining water tables and decrease in property values because the invasive weeds were very competitive with the desirable vegetation. He stated the weeds spread through the wind, water, animals (domestic and wildlife), mechanical activities, and soil disturbances. He stated to prevent establishment of the weeds they can minimize soil disturbances, remove the weeds when they were first discovered either through biological, cultural, mechanical or chemical controls. Kent McAdoo stated their goal should be to establish a healthy competitive stand of desirable plant communities to protect a site from re-invasion of the noxious weeds. He reviewed a list of the worst weeds within Elko County. Kent McAdoo stated there was weed management activities in Elko County through the agencies, local, state and federal governmental agencies, conservation districts, ranches, mines, and private parties. He introduced numerous members of the weed management groups who were in attendance. Kent McAdoo stated they had agencies which participated in education and coordinated in an advisory capacity. Kent McAdoo spoke upon the need for coordination of the weed management activities and for seeking additional funding for weed control.

Commissioner Williams commend them upon their projects in Tuscarora. He stated they were requiring his company to reseed some of their construction area at Hog Tommy. Kent McAdoo explained multiple agencies and the County was coordinating with the Tuscarora community to do a demonstration plot of weed control on hoary crest (white top).

Kent McAdoo stated the Spring Creek Weed Management Area, Karen Smith and Doug Clark were very active with educational efforts in their area. He stated Rhonda Heguy at the Humboldt CWMA was trying to hire a coordinator. He stated the Elko County CWMA was working with the Cooperative Extension.

Gerald Miller, Elko County Cooperative Weed Management Area, stated the volunteer boards have By-Laws, strategic plans, and solicit funding but it was difficult to organize all the weed management groups and to apply for grants. He stated \$67,000 was available for grant funding but it was a reimburseable grant. Gerald Miller suggested the Elko County Commission become the fiscal agent on these long term funding grants. He stated they elected nine board members this summer at the local weed summit. Cash Minor stated the County did fiscal management in the past but the grant administration overwhelmed the staff. He stated depending upon the size of the grant and complexity they could probably

administer it. Commissioner Myers stated the Budget Review Committee could look at the number of grants, the size and the strings attached.

Rhonda Heguy, Humboldt Cooperative Weed Management Area, submitted a power point presentation upon their past activities inclusive of their pursuit of funding, treatment of existing noxious weeds, public education, and re-vegetation to prevent future degradation. She stated their watershed covers a 16,483 square mile area. She reported they treated 2,410 acres at the cost of \$25,275 which came from their budget and the stakeholders.

Commissioner Williams inquired what the issue was with the Union Pacific Railroad. Rhonda Heguy replied Union Pacific had adjoining property which had weeds. She stated Union Pacific came to the table and made a commitment to put in \$5,000 per year for weed control in their rights of way for five years.

Commissioner Myers asked about funding for the coordinator. Rhonda Heguy stated they could obtain funds from the 319H grant program. She stated the grant would pay the coordinator's salary and expenses for the next three years. Rhonda Heguy stated funding was also requested from the grant to do weed mapping and developing a strategy. She thanked the Elko County RAC committee for funding in the amount of \$68,515 which they would use to leverage to \$128,000 in matches for weed treatments on the ground. Commissioner Myers inquired if that property abutted Forest Service property because the RAC had approved funding for the Forest Service in the amount of \$94,000 for weed control. Rhonda Heguy stated they work with a representative from the US Forest Service to supervise their projects. She stated their group may select projects to benefit areas adjacent or overlap upon Forest Service. Commissioner Myers inquired if the Forest Service was the fiscal agent for the RAC funding. Commissioner Dahl clarified the money was not given by the Forest Service; it was from the County's PILT funding. Rhonda Heguy stated they received \$60,000 funding from NDOW hunting fees.

Rhonda Heguy stated the NDEP grant would be discussed in Carson City on either the 17th, 18th or 19th of October. Commissioner Myers suggested sending a letter of support for that grant application.

Karen Smith, Spring Creek Region Cooperative Weed Management Area Treasurer, submitted copies of their map and brochure. She explained that Jill Wilkinson helped form the group to learn about integrated management and initially they became self funded. She stated in 2003 they become a Cooperative Weed Management Area from Pleasant Valley, to the South Fork Reservoir, to the Indian Reservation, and over the Summit to get grant funding. She stated their main focus was upon education and reviewed their past community activities. Karen Smith stated their group was interested in joining forces with the

County. She stated they have over 500 miles of road rights of way in the area. Commissioner Myers inquired if the group received any funding from the Conservation Districts and received a negative response. Commissioner Dahl inquired how many homeowners were in that area. Karen Smith replied over 15,000 in that area.

Mary Winter, Spring Creek Association President, stated they had a weed program because of the amount of road rights of way. The association had funded \$40,000 in weed abatement and equipment last year. Mary Winter stated their spray crew will be on the ground next summer on the road rights of way, in the green belts, and hope to do some marina aquatics weed control. Commissioner Williams inquired about equipment for reseeding. Mary Winter stated they were now in the process of building their program. He suggested that Mary Winter speak to the utility companies about reseeding after their projects in the road rights of way. Commissioner Myers suggested they form an account so when they could reseed there would be funding available. Commissioner Williams recommended that the reseeding be addressed through the permitting process.

Tom Warren, Elko District BLM Operations Manager, submitted copies of their noxious weed strategy. He stated last year they did over 4,000 acres of weed treatment in Elko, Eureka and Lander counties. He stated their base budget was \$285,000 with a goal of 3,200 acres of weed treatment. Tom Warren stated that budget was augmented with fire rehab and special projects funding. He reported they had over \$90,000 from the Ruby Pipeline for a noxious weed project over a multi-year period. He stated Bryan Mulligan was their full-time weed specialists with a staff of two. He stated they attempt to coordinate with the conservation districts, the TS Ranch and the Maggie Creek Ranch on the Susie Creek Fire. He stated the private property owners were augmenting their budget to remove the scotch thistle and displayed pictures of the treated areas of the Susie Creek Fire from April 2007 to January 2011. Tom Warren stated the area previously had sage grouse habitat and was winter range for mule deer and antelope so they included shrubs in the seed mix.

Tom Warren presented their noxious weed strategy plan which was drafted by Mark Coca, their former weed specialists. He stated they did a weed inventory of over 900,000 acres. He stated they contract out if they could not do the weed treatments in-house. He commented they would update their noxious weed management plan and environmental assessment this year. He stated they would list new chemicals and add aerial treatments.

Brett Glover, USFS Noxious Weed Coordinator for the Humboldt-Toiyabe National Forest, submitted a list of acres they had treated since 2007 through

2011. He stated they have used biological agents since 1980 with the first project being Canadian Thistle at Kent Howard's Ranch and they release insects every year to control Canadian thistle and leafy spurge. He noted on knap weed they utilize spraying. Commissioner Williams had observed the release of the beetles by the conservation district in the Lamoille area to control leafy spurge but was told the beetles were not the total answer to the removal of the leafy spurge. Brett Glover stated they have to establish the biological agent and the larvae did more damage to the plant than the adult insects. He gave an overview of the different species, the number of sites and the number of acres treated. The Mountain City District had 155 noxious weed sites identified which were less than a tenth of an acre or less. Brett Glover displayed an overlay of vegetation data with their noxious weed maps. He stated riparian and vegetation areas represent 2% to 3% of their vegetation types but were 25% of their weed infestations. Brett Glover also submitted the Noxious Weed Order and the Forest Service Supplement of 2003. He stated they were required to do a risk assessment for weed control on any project on the forest so it paid to reduce the invasions of weeds. Brett Glover commended the CWMA because they bring everyone to the table to coordinate efforts.

Commissioner Russell read in the USFS strategic plan for 2007 to 2012 that the Forest Service was to be responsive to local interests. He noted USDA Objective 6.3 was to provide and sustain benefits to the American people with the outcome expected that forest grasslands would be provided with sufficient long-term multiple, socio economical benefits to meet the needs of society. He understood there were objectives written into the plan for reduction of fire impacts. Commissioner Russell inquired if the Forest Service had a financial figure associated with their plan to reduce noxious weeds or what the cost would be to the ranching community. Brett Glover had not seen anything for the forest. He stated when they wrote the EA there was a strategy on the Humboldt-Toiyabe Forest. Brett Glover stated the Forest Service recognized four threats with one being noxious weeds but noxious weeds were now less of a threat according to policy. Commissioner Russell inquired how that would reflect upon the Forest Service National Plan if the ranchers and farmers have less land to use and it impacted the socio economic benefits to meet the needs of society. Brett Glover did not know why their funding had decreased. Commissioner Russell inquired if they were meeting the national goals within the Humboldt-Toiyabe National Forest. He noted the fires impacted the ranchers economically and questioned if they were fulfilling the directive of the national strategic plan that was established in 2007. Brett Glover stated they lack the funding to accomplish the goals.

Mark Howell, Starr Valley Conservation District, commented they received \$7,000 from the State and County which they spend 80% on weed control. He stated they treat scotch thistle, white tops, and knapweed between haying and calving season with their own spray units. He stated there was no set program and they could use help with coordinating grants. Commissioner Dahl stated a lot of them buy their own chemicals and spray along the road rights of way. Mark Howell stated the railroad went through the valley but they could not gather support. Commissioner Williams suggested the Commission write a letter to the Union Pacific encouraging their support of the weed districts. Commissioner Dahl requested Mark Howell and Rhonda Heguy to submit information to them so a letter may be drafted.

Commissioner Russell inquired what percentage was from roads. Mark Howell replied it may be 20% to 50% in areas. He stated it was mainly scattered by birds, animals and mechanical means. Commissioner Dahl stated that weeds may be spread when the cattle were moved. Mark Howell stated a lot of the ranchers were starting to spray off their equipment to eliminate spread of the weeds. He commented the railroad appeared to be bringing up scotch thistle from the south.

Commissioner Russell inquired about the continuation of the Cooperative Extension Management programs. Kent McAdoo stated in November the Cooperative Extension will offer contracts to twelve specialists statewide which would be a reduction from 34 specialists. He stated most of those positions would be in Washoe County and Clark County. He stated his Rangeland Natural Resources position addresses ten counties. Commissioner Dahl noted Las Vegas had a lot of Cooperative Extension involvement. Kent McAdoo stated the six topic areas were as follows: horticulture, natural resources, agriculture, community develop, child youth and family, and youth development. He stated each of the twelve specialists would cover the entire state and their salary would be reduced to 75% with 25% coming from grants, they will have to find. He stated the Cooperative Extension Educators would remain.

[3:21:17 PM](#)

RECESS

Chairman Dahl called a recess at 3:21 p.m.

[3:37:01 PM](#)

RECONVENE

Chairman Dahl reconvened the meeting at 3:37 p.m.

MOTION: Commissioner Myers moved to send a support letter for the WCWMA NDEP 319 grant application to fund a coordinator for three years and have staff draft a letter to the Union Pacific Railroad regarding their participation of financial contribution to

the local Cooperative Weed Management Areas for the Chairman's signature and that Elko County supports the CWMA projects, weed management countywide. Commissioner Williams seconded the motion.

Commissioner Russell inquired about the source of funding. Commissioner Dahl replied Nevada Department of Environmental Protection.

The motion passed unanimously.

[3:39:04 PM](#)

III. ELKO COUNTY ECONOMIC DIVERSIFICATION AUTHORITY (ECEDA):

Discussion and consideration of current ECEDA activities and events.

Commissioner Myers requested this agenda item tabled until the 19th of October, until they have a full board.

[3:39:08 PM](#)

IV. COUNTY WIND TURBINE REGULATIONS:

Discussion and consideration of a request by Kevin Sur that the County Commission modify the ordinance regarding the installation of wind turbines to a minimum lot size of 10 acres.

Kevin Sur submitted copies of a Google Map search displaying the neighborhood where the Bakers proposed to install a wind turbine near Sundance and the City limits. He requested them to review the wind turbine regulations and specifically consider raising the acreage to ten acres for installation of a wind turbine. Kevin Sur informed them a neighbor had proposed a wind turbine which was adjacent to seven or eight homes.

Kristin McQueary understood that Kevin Sur's request was for the Commission to amend the Ordinance. She stated it was not properly noticed to review the appeal that had been previously heard. Kevin Sur stated the Baker application had been withdrawn and subsequently refilled. He stated the Elko County wind turbine regulations allow installations upon a lot the size of one acre. Kevin Sur stated the manufacturers recommend a 100 foot tower which would not fit on one acre. He stated Spring Creek had a height limit of twenty feet but Elko County would allow sixty feet on a one acre lot in a residential-agricultural zoning. He noted the photo depicted a residential neighborhood that was zoned residential-agricultural but it was clearly residential. Kevin Sur stated the Planning Commission adopted a narrow definition of "flicker", "the sunlight through the blades". He stated the blades create a strobe effect from lights across the hillside or upon the houses that surround it. Kevin Sur stated the Planning Commission ignored the strobe effect and wrote their regulations from advice of the wind turbine manufacturers. He stated the regulations did not take into consideration the surrounding property owners. Kevin Sur stated people had objected at the last PUC hearing and that proposal was withdrawn. Kevin Sur

questioned if the County should encourage collection of subsidizes from marginal economic projects that destroy property value of the surrounding property. He understood zoning was to protect owners from these types of projects. Kevin Sur stated NV Energy paid \$0.025 per watt of capacity on the wind energy projects to offset the capital costs. He stated that rate upon a 10 kilowatt project would cover the costs of the wind turbine and tower which was \$25,000 which was a reimbursed subsidy. He stated they furnish the power to NV Energy to receive credits toward their bill of what they put back on the grid. Ken Sur stated an offer on the vacant lot had been withdrawn because of the threat of a turbine application which reflected the impact upon all surrounding property values. He commented the adverse effect to adjacent property values would be more than the economic benefit from the turbine. He stated approval of wind turbines within close proximity to occupied homes was tantamount to an inverse condemnation or a regulatory "taking" of private property rights because the noise and the other impacts were a physical invasion, an easement in gross, over neighboring properties. Kevin Sur stated it would impact their property rights of quiet enjoyment of their home, the right to sell their home, and the right not to have the value of their home diminished by activities upon neighboring properties. He recommended a ten acre minimum lot size be adopted for Elko County. He noted that adjoining neighbors on the map were in attendance.

Katie McConnell, representing interested neighbors, noted that two months ago during the appeal process the Commissioners commented it needed to be back on their agenda because that was not what they envisioned when they passed the Ordinance. She stated when the people purchased these properties a 66 foot wind turbine was not an issue because there was an accessory height limit on the land. Katie McConnell commented the Ordinance was inconsistent as written with respect to agricultural-residential districts. She noted the County Code was not consistent with 4-8-15 D which restricted the parcel size to a minimum of 10 acres and 4-8-15 E which limited the acreage to a minimum of 1 acre. Katie McConnell stated the residents want the Commissioners to clarify the land use codes so it would not open up questions and cause more appeals. They proposed the Commission change Elko County Code 4-8-15 as follows:

"(B)(1)(d) Not more than one (1) micro wind machine or private wind machine or a combination of micro wind machines and private wind machines with a maximum rated capacity of one hundred (100) KW shall be allowed in any Open Space District, Special Lands District, Agricultural-Residential District, Agricultural-Recreation District, AR-CRD-1, Agricultural-Residential Conservation Reserve District, AR-CRD-1, Agricultural-Residential Conservation Reserve

District, General Industrial District, Light Industrial District, or Residential-1 District with a minimum parcel size of ten (10) acres.

Katie McConnell noted in (e) it was already clarified, as follows:

(B)(1)(e) No wind machines or private wind machines requiring a conditional use permit shall not be allowed on any parcel less than ten(10) acres in an Open Space District, Special Lands District, Agricultural-Residential District, Agricultural-Recreation District, AR-CRD-1, Agricultural-Residential Conservation Reserve District, AR-CRD-2, Agricultural-Residential Conservation Reserve District, General Industrial District, Light Industrial District, or Residential-1 District.”

Katie McConnell commented that she had attended the numerous planning meetings and most of the discussion was for 10 acres.

Commissioner Russell stated if an individual had 9.5 acres the present code would allow a wind turbine. He believed the Ordinance was now neutral in size and focused upon a formula that addresses health and safety issues. He acknowledged there were different opinions upon the size of the acreage and if the Ordinance stated ten acres it would exclude everyone in Elko County that didn't have ten acres. Katie McConnell stated if an individual had a four acre parcel with a house in the middle the tower would not have much height. She stated it depended upon the use of the property first. She stated if they have a 9.5 acre parcel zoned Open Space it does not allow them to have a tower under 4-8-15 (d) because open space was a minimum parcel of 10 acres. Katie McConnell commented the next subsection takes out Open Space and reduced the parcels to a minimum of one acre.

Kevin Sur stated a person could buy an additional one-half acre.

Katie McConnell inquired if an individual came to the Planning Commission with five acre agricultural-residential, which County Code should they follow. She requested that the ten acres be clarified. Commissioner Russell clarified that her proposal would exclude every owner that did not have 10 acres would be excluded from having wind machine. Katie McConnell stated it was their opinion that was a reasonable regulation. Commissioner Russell stated their proposal would take away the right of having wind power in less than ten acres and depriving them of their personal rights to supplement their power. Katie McConnell stated it was a conditional use of property and this was not the principle use of the property.

Commissioner Russell stated the Planning and Zoning could grant a conditional use for someone with less than ten acres. Katie McConnell stated it would become a variance if the code was changed. She stated a year ago there was no Ordinance so anyone could have a wind machine but structures were

limited 20 feet to 30 feet. She noted the Planning Commission suggested an ordinance and this Ordinance granted a right that was not there previously.

Commissioner Williams stated two acres were not big enough to put up a tower. He explained there were many things that an individual cannot have on an acre according to the regulations. He stated the size of the property dictates what they can have. Commissioner Williams had spoken to John Kingwell and suggested the Planning Commission review it and make recommendations and the Commission look at it more deeply before they were involved in it again.

Commissioner Williams stated on page 1 of the Ordinance it says that the wind generation machine should be put in an appropriate or preferred location so that it was not disruptable to other people and at the bottom of that page it stated these facilities should be in an appropriate location while minimizing any adverse visual, safety or environmental impacts, of the facilities. He stated on page 6 it stated the maximum wind turbine rotor diameter and wind energy system height shall be regulated to meet the established and proposed uses of the property. Commissioner Williams questioned this situation because what was the established use of the property that they were discussing when the people bought those lots out there. He requested that they review this so it would not adversely impact a neighborhood on small lots. He stated the other homeowners adjacent to these also had rights too that they need to protect.

Katie McConnell had spoken to Kristin McQueary and John Kingwell who were willing to put the item on the next Planning Commission meeting. She stated ten acres were what they were recommending but the size was up to the Planning Commission and the County Commission. She believed they need to look at the underlying use of the property and the surrounding properties. Commissioner Williams stated they had received letters suggesting anywhere from 10 acres to 20 acres so he supported that it go back to the Planning Commission. Katie McConnell commented the only one approved was upon a ten acre parcel. Commissioner Williams inquired if the County Commission could attend the Planning Commission meeting. Kristin McQueary cautioned them they were the appeal board to the Planning Commission. She noted the people were not aware of the depth of discussions at the Planning Commission. She stated this was one of the first Ordinances as a result of an expressed public policy of the State of Nevada to encourage alternative energy sources. She believed the Planning Commission expected to review the issues more in depth. Kristin McQueary stated their options were to hold a hearing or send it back to the Planning Commission to make recommendations. Kristin McQueary stated for example some ranchers separate off 5 acres for financing purposes and

stated that would be affected by the proposed ordinance. She stated parcel size was also related to their zoning districts but some zoning was grandfathered in.

Commissioner Williams supported a 5 acre parcel but suggested it go back to the Planning Commission for review of the issues discussed today and come back with recommendations. He wanted to understand what they were voting on. Kristin McQueary stated the Planning Commission kept tapes and written record that the Commission could review. She stated the Planning Commission recognized that this was the first Ordinance and it may have to be amended as issues were brought to the forefront.

Commissioner Russell commented the Ordinance's neutral formula provided for safety. He stated the purpose of government was to protect their individual freedoms which one of them was property rights.

Commissioner Dahl stated part of the reason for zoning was for protection of the value of property. He stated if something diminishes the value of the property should there be something to restrict it. The board members entered into a discussion regarding the importance of property rights.

[4:20:42 PM](#)

The FTR record was momentarily interrupted.

Commissioner Myers supported a larger parcel size after he had viewed the tower at Adobe Heights. He would not have wanted to be within a house 300 feet of that tower because of the speed of the rotors and felt the flicker may bother him. Commissioner Myers commented this was a conditional use permit and was not an initial property right. He acknowledged there was ownership and this issue has arisen because of subsidies. He inquired if they send this back how that would affect the existing applications. Kristin McQueary stated the current applications would be subject to what was currently on the books. Katie McConnell stated that would be subject to any appeals. Kristin McQueary reiterated the applications need to go through the process under the current law.

Commissioner Russell stated the application may go forward and establish a turbine but by amending the Ordinance no one else can do it in their neighborhood.

MOTION: Commissioner Myers moved that we take this Ordinance and send it back to the Planning Commission and ask that the Planning Commission relook at it and see if there is a larger parcel size that makes more sense for Elko County. Commissioner Williams seconded the motion. Commissioners Myers, Williams and Dahl voted aye. Commissioner Russell voted nay. The motion passed by a 3-1 majority vote

Travis Gerber, representing Scott and Sheri Baker, stated they should consider an apartment complex, a new cell tower or any other device usually

generates opposition from the neighborhood and these new additions were demonized. He stated the neighbor had stated the wind tower constituted an easement in gross, an inverse condemnation, and alluded it was a nuisance. He stated the question was do they classify a wind turbine as a nuisance or do they go with the State's public policy that this was a desirable source of energy to put energy back into the grid. He encouraged the County to support clean energy. Travis Gerber stated the Bakers had put up land and money to make this happen and questioned how they would mitigate the change to the neighborhood. He stated the wind machine would benefit the Bakers by \$30,000 over thirty years. The Bakers put in \$6,000 at the inception which was nonrefundable. After they have installed the wind turbine, they were eligible for rebates from the State of Nevada and the Federal government. Travis Gerber stated the Bakers would accept an offer from the affluent neighbors to pay for their wind rights which were created under this Ordinance. He stated they would oppose any reduction in the Ordinance to a minimum lot size. He stated the statute was tailored to give everyone the option to put up a wind machine as long as they have sufficient space available and the Ordinance was tailored to provide a wind machine that was the right height for that parcel. Travis Gerber stated the Bakers' parcel had sufficient land for the tower and the blades would be 23 feet in diameter which depending upon the angle would create visual affect upon the neighborhood. Travis Gerber stated they were not a nuisance.

Commissioner Williams stated it may be a nuisance to a neighbor but if it was upon a bigger lot it would not be a nuisance to anybody. Travis Gerber stated according to public policy the wind turbines were not a nuisance or undesirable. He stated the height restrictions adopted by the County were more restrictive. Commissioner Williams stated the neighborhood may look at it different than the applicant because of the height, night flicker, the noise and the aesthetics.

Commissioner Dahl stated by putting value on their wind credits was there an acknowledgment of a decrease in property values. Travis Gerber replied no, it was just an offer so the neighbors had an option. He stated that not everyone in the neighborhood objected and some supported it. Travis Gerber noted the tower in Spring Creek became a fixture and helped cell reception.

Kevin Sur asked if the Bakers were willing to guarantee the neighbors' property values after this installation. Commissioner Dahl noted they were getting into the discussion of the application.

Kevin Sur commented the cellular tower was not on the Spring Creek Association property and the owners of that land received rent per month for the

tower. He inquired if the Bakers were willing to pay the neighbors for putting up the tower.

Harry Botsford had bought five acres in the County to do wind and solar and had already installed his solar. He had researched the State regulations, tracked Mr. Kingwell's process for the creation of the Ordinance, which he commended Mr. Kingwell. He voiced support of the Ordinance. Commissioner Dahl suggested he follow it through the Planning Commission hearing.

Katie McConnell stated her clients offered to reimburse the Bakers for their costs.

[4:48:02 PM](#)

V. ELKO COUNTY NATURAL RESOURCES MANAGEMENT ADVISORY COMMISSION (NRMAC):

A. Discussion and consideration of comments to the USFS regarding maintenance, improvements and enhancements of water developments on the forest to maintain healthy viable landscapes and multiple public land uses.

[4:48:27 PM](#)

Commissioner Russell departed the meeting room at 4:48 p.m.

Randy Brown submitted Meghan Brown's documentation stating the Forest Service would not do improvements upon federally managed lands unless they owned water rights. Randy Brown encouraged the Board to oppose this in cooperation with the Nevada Cattlemen's Association.

Commissioner Dahl stated previously they opposed the BLM water right ownership at legislature and then it went to the Supreme Court and BLM was not granted water right ownership.

Meghan Brown, Executive Director of the NCA, stated at the Public Land Committee meeting in Park City the USFS Intermountain Regional IV Director gave a presentation and brought up the water right issue. He requested the State of Nevada to change its water law so the USFS could hold water rights.

[4:50:26 PM](#)

Commissioner Russell returned to meeting room

Meghan Brown stated the NCA would not advocate change of ownership of water rights and was concerned they were not allowed to maintain, improve or develop new water rights on the forest. Meghan Brown stated the Forest Service had commented that if they were going to put time in NEPA and buy materials for the project; they should own some portion of the water right. Meghan Brown stated the Forest Service believed the water should be tied to the land and not to the use. Randy Brown commented the Forest Service could not prove up on beneficial use. Commissioner Dahl commented they had previously gone through this with the BLM.

Meghan Brown had spoken to Gar Abbas of the Forest Service about the water right issue. She stated there was a program in the Rubies wherein their recommendations were to move the water from the creek to the uplands so they get less use on the riparian and have more recovery on the upland feed but they have to give up part of their water rights. Commissioner Dahl inquired if the Forest Service would allow them to move the water at the rancher's expense. Meghan Brown stated the Forest Service would give the permittee credits on their AUMs.

Commissioner Dahl suggested Meghan Brown write up some information for a letter to be back upon the Commissioner's agenda. Meghan Brown noted some of the same information submitted to them was sent by Gar Abbas in a memo to Senator Rhoads in 2008.

[4:56:11 PM](#)

B. Discussion and consideration of comments on the USFS Warm Springs Vegetation Project that will treat 7500 acres of Pinyon pine/juniper woodland using mechanical and prescribed fire treatment methods.

Meghan Brown had spoken to Troy Phelps, of the Forest Service, yesterday and they were in the scoping process. She stated NRMAC did not oppose the project but she was concerned on the range section wherein it talked about grazing of treated areas being prohibited for a minimum of two years to assure regeneration and grazing of aspen stands would be deferred until the aspens reach six feet height. Meghan Brown stated Troy Phelps had commented that he did not see a need for the aspen portion to be in their statement. Meghan Brown had suggested they integrate some prescriptive grazing of reseeded areas in their statement if they were really looking at a fuels reduction program. She commented they had burned rehab areas that they had put millions of dollars in.

[4:58:50 PM](#)

C. Discussion and consideration of issues reviewed by NRMAC at it lasts meeting.

Meghan Brown stated they did not have any other issues to discuss with the Board. She commented NRMAC had discussed the Southern Nevada Water Authority's agreements with the BLM and NDOW. Commissioner Dahl stated there would be comments taken on the 7th of October in Ely. Meghan Brown stated Pete would attend that meeting.

Commissioner Dahl stated on 14th of October there would be the Great Basin Water Forum. Meghan Brown stated they were discussing participation at that forum.

[5:00:13 PM](#)

VI. COUNTY COMMISSIONERS AND COUNTY STAFF COMMENTS:

Commissioner Myers noted there was a benefit the first time to do the SRS funding. He inquired what that benefit had been. Commissioner Myers noted the Forest Service had reduced their noxious weed fund by \$300,000 and RAC had approved \$150,000 weed treatment which was County money pulled from PILT.

Commissioner Dahl stated no counties in Nevada wanted to continue SRS at the NACO conference.

Commissioner Myers stated they may be in better shape of not doing SRS and taking those amounts of money and putting them in separate accounts to be used for rescue, county roads and noxious weeds. Commissioner Dahl stated if it was PILT they could spend it on whatever they decide.

Commissioner Russell stated the change had to do with how they make other distributions. Cash Minor would review their previous discussion. Commissioner Dahl stated they were locked in for one more year. Cash Minor stated this was the last year of the four year authorization. He stated the new authorization was up but they do not have to select SRS distribution.

Kristin McQueary stated Judge Hunt denied their Motion to Dismiss for Mootness. She may call a pending litigation meeting to discuss this with Mr. Woodbury and contact the United States counsel before bringing back options to the Commission.

[5:04:05 PM](#)

VII. COMMENTS BY THE GENERAL PUBLIC:

No public comments were submitted.

[5:04:18 PM](#)

VIII. ADJOURNMENT

MOTION: Commissioner Myers moved to adjourn the meeting. Commissioner Russell seconded the motion. The motion passed unanimously.

There being no further business to come before the Board, the meeting was adjourned at 5:04 p.m.

APPROVED,

DEMAR DAHL, Chair

ATTEST:

MARILYN TIPTON, Deputy Clerk