



# 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.

SEPTEMBER 19, 2011

The Board of Elko County Commissioners met in regular session on Wednesday, September 19, 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  
Glen Guttry  
Charlie Myers  
Warren Russell  
Jeff Williams  
County Manager Robert Stokes  
Deputy District Attorney Kristin McQueary  
County Clerk Carol Fosmo  
Adm. County Clerk Kris Jakeman  
Deputy County Clerk Marilyn Tipton  
Adm. Deputy Treasurer Cheryl Paul  
Road Supervisor Otis Tipton  
Planning/Zoning/NRMAC Randy Brown  
Public Works Director Lynn Forsberg  
Deputy District Attorney Jennifer Spencer

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

John Carpenter led the meeting participants in the Pledge of Allegiance.

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## **I. COMMENTS BY THE GENERAL PUBLIC:**

Cliff Gardner stated Great Basin Consulting had not proceeded on the wild horse EA. He commented when Great Basin Consulting presented their proposal they believed there were two purposes: 1) that if the policy was developed as recommended a large component would be in regards to wild

horse management; and 2) the information could be used in Commissioner Dahl's efforts. He stated Great Basin Consulting was not interested in pursuing the wild horse EA separately at this time and requested clarification from this board whether they should go forward. Commissioner Dahl noted this would require an agenda action item at the next meeting. Commissioner Guttry noted four items were presented at a previous meeting and the Commission only approved the \$6,000 item for the portion of the EA. He encouraged Great Basin Consulting to go forward with the Environmental Assessment. Cliff Gardner stated if Great Basin Consulting was to go forward they should pursue the issue under all three items also. He stated there was a time lapse between his information, from when the Wild Horse and Burro Act was passed, to present resources on the range. Commissioner Williams commented they want to use sound science to develop a plan which did not have opinions or conjectures and followed the guidelines. Commissioner Russell suggested a transcription of their conversation. Cliff Gardner stated there was no contract drafted between them and explained Great Basin Consulting would not harbor ill will if the Commissioners ceased the EA process. Commissioner Russell requested an audio version of the item rather than a verbatim transcript.

Commissioner Russell read from the Declaration of Independence: *"He has kept among us, in times of peace, Standing Armies without the consent of our legislatures. He has affected to render the Military independent of and superior to the Civil power. He has combined with others to subject us to a jurisdiction foreign to our constitution and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation: for Quartering large bodies of armed troops among us: For protecting them, by a mock Trial, from punishment for any Murders which they should commit on the Inhabitants of these States: For cutting off our Trade with all parts of the world: For imposing Taxes on us without our Consent: For depriving us, in many cases, of the benefits of Trial by Jury: For transporting us beyond Seas to be tried for pretended offences; For abolishing the free System of English Laws in neighboring Province, establishing therein an Arbitrary government, and enlarging its Boundaries so as to render it at once an example and fit instrument for Introducing the same absolute rule into these Colonies".*

Rachael Buzzetti, Nevada Outfitters and Guide Association Secretary, thanked the Commission for their monetary donations. She reviewed the various donations to the Wounded Warrior Project. Rachael Buzzetti introduced Keith Holcomb of the Winecup-Gamble Ranch who donated the elk tag and Sean Hunter, of Leupold & Stevens Inc. She stated a dinner reception would be scheduled for Dylan Gray. Dwight Lindquist, of the NOGA, was also present.

Commissioner Williams commented the Winecup-Gamble Ranch was mentioned in the publication "Only the Mountains Remain" and commended Keith Holcomb upon their participation in the project. Keith Holcomb stated he was adjusting to the country and trying to do the right thing.

Commissioner Dahl read the Proclamation to the Winecup-Gamble Ranch recognizing their contribution to the Wounded Warrior Project. He read the Proclamation to the Leupold - Stevens Inc., for their participation to the Wounded Warrior Project.

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The FTR recorder was momentarily interrupted.

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## **II. CERTIFICATE OF APPRECIATION:**

Discussion and consideration of the presentation of a Certificate of Appreciation to Milton Grisham for 15 years of service on the Elko County Planning and Zoning Commission.

**MOTION: Commissioner Myers moved to approve the Certificate of Appreciation to Milton Grisham. Commissioner Russell seconded the motion. The motion passed unanimously.**

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## **III. CANVASS OF SPECIAL CONGRESSIONAL ELECTION RETURNS:**

Canvass of the Special Congressional Election returns for the election held on Tuesday, September 13, 2011.

Carol Fosmo, County Clerk, presented the canvass to the Commission and reported upon the election process.

Robert Stokes inquired about the percentage of voter turnout for this special election. Carol Fosmo replied 30.90% was the voter turnout.

**MOTION: Commissioner Myers moved to approve the Canvass of the Special Congressional Election returns for September 13, 2011. Commissioner Guttry seconded the motion. The motion passed unanimously.**

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## **IV. ELKO COUNTY TREASURER'S OFFICE:**

Trustee Property Auction /Sale:

Discussion and consideration of approval for the Trustee Property Auction/Sale on October 21, 2011.

Cheryl Paul, Administrative Deputy Treasure, stated the 124 auction items were deeded to the County in June of 2010 from nonpayment of three years of taxes. Cheryl Paul stated there was one special request to hold the property in the County's name.

**MOTION: Commissioner Myers moved to approve the Trustee Property**

**Auction/Sale on October 21, 2011. Commissioner Russell seconded the motion. The motion passed unanimously.**

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**V. ELKO COUNTY LOCAL EMERGENCY PLANNING COMMITTEE:**

Discussion and consideration of approval of a 2011 Fire Show Grant, the 2012 HMEP Training Grant and an update on the status of other LEPC grants. The Board previously received copies of the 2012 HMEP Application, the 2012 HMEP quotes001, the HMEP mid cycle grant request and the Fire Show Grant.

Bailey Billington, American Red Cross and Secretary of Elko County LEPC, requested their approval for the submitted grants. The Fire Show Grant would send five people to Reno for the HAZMAT training. The 2012 HMEP grant helped train more people in hazardous materials cleanup at the technician level. Bailey Billington reported the United We Stand Grant was submitted for additional equipment with regards to decontamination and response upon hazardous materials spills. She stated the 2012 HMEP Grant and the United We Stand Grant were funded from the Department of Transportation.

Commissioner Guttry noted they received varying bids for training of the 20 people and inquired why the difference in training hours. Bailey Billington stated the Fire Marshall was investigating the difference in training hours.

Commissioner Myers inquired if NDF volunteers qualified for that training. Bailey Billington replied in the affirmative.

**MOTION: Commissioner Williams moved to approve the 2011 Fire Show Grant, and the 2012 HMEP Training Grant. Commissioner Myers seconded the motion. The motion passed unanimously.**

Chairman Dahl recessed the regular meeting at 2:08 p.m.

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**VI. BOARD OF COUNTY HIGHWAY COMMISSIONERS:**

Chairman Russell called the Highway Board to order at 2:08 p.m.

**A. COMMENTS BY THE GENERAL PUBLIC:**

Gary Botts, Metropolis resident, inquired about the delay of repair to the Metropolis Road and if a lesser grade of pavement could be utilized. He stated the residents were upset because there was never an agreement with the pipeline company and they were informed the pipeline company would not use that road. Gary Botts stated the pipeline company destroyed the road and the residents expected a lot more than what was going to be done to the road. Gary Botts estimated a four foot travel lane in/out for approximately 10.5 miles from the City limit sign to the end of the pavement to be 400,000 square feet of asphalt; instead 80,000 square feet was to be repaired. Gary Botts submitted pictures of the cattleguard which had previously separated.

Commissioner Russell stated they had a road agreement that would take

care of damage as a result of the company's use of the road. He commented there was a discrepancy between the residents' perception and the actual intent of the agreement between the company and Elko County. Commissioner Russell stated the private contractor was not responsible to do more than what damage or degradation they have done.

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Commissioner Russell stated the agreement did not come in a timely manner.

Otis Tipton explained Ruby Pipeline had two contractors, Precision and U.S. Pipe but by the time the road agreement was signed those contractors were done. He stated there was an agreement with U.S. Pipe, who was getting their own contractors. NAVCO was subcontracted to do the repairs to the Metropolis Road and the Gamble Ranch Road. Staker-Parsons was the paving subcontractor and they were aware it was to be a State spec mix used on all County asphalt roads. He stated they could patch the smaller potholes with other materials. Otis Tipton stated the agreement states there were 80,000 square feet to be repaired. He explained because of the temperature ranges in Elko County they need the State standard on the roads; a lesser grade would strip faster. He stated Ruby Pipeline would pay for the standard of asphalt which was proven. NAVCO was hired to gravel the road. Otis Tipton stated Gary Botts was present when U.S. Pipeline was asked to repair the cattleguards. Commissioner Williams voiced concern for the safety hazard on the cattleguard and the county's liability. Otis Tipton had spoken to Jack Prescott last Friday and NAVCO was in the Metropolis area working. He stated Staker-Parsons would make the spec for I-80, west of town and the Metropolis Road would be done at the same time. Commissioner Myers requested Otis Tipton to inspect the cattleguard and contact them.

Commissioner Guttry inquired about the discrepancy between the 400,000 square feet the residents thought would be repaired and the 80,000 square feet that was to be repaired. Otis Tipton replied Mr. Botts was counting the mileage from the City limits but the County signed an agreement with the pipeline company for the 80,000 square feet of asphalt. Commissioner Williams inquired about the determination of the 80,000 square feet. Otis Tipton replied that was measured when the damage happened. He explained the residents were looking at a new paved road but the agreement stated they were only to repair it. Commissioner Dahl inquired about the expense for the mix coming from a longer distance. Otis Tipton stated Ruby Pipeline would have to appropriate that money. Commissioner Williams inquired how he knew the residents' expectation

was for a whole paved road. Otis Tipton replied the residents had told him they wanted the whole road paved.

Gary Botts inquired if the patch material was State spec. Otis Tipton stated the big sections had to be to State spec and NAVCO Construction was patching the smaller areas with a lesser spec to keep the potholes from growing.

Gary Botts asked this to be an agenda item at the next meeting.

Otis Tipton suggested a Ruby Pipeline representative be invited to the meeting.

Gary Botts had asked a company representative how they came up with 80,000 square feet and his response was they measured the potholes. Gary Botts stated until something was in the potholes, the potholes would get bigger. He stated there was some road base put in the potholes.

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**B. Bid Appeal - One (1) Used Wheel Loader, 40,000 lbs. Class:**

In accordance with NRS 332.068, consider the appeal filed in the bid award of a Used Wheel Loader, 40,000 Lbs Class. 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. The Commission may affirm or overturn the previous bid award.

Justin McDermott, Blaine Equipment, believed they did not get the bid because of the “*no exception*”. He stated after the meeting with the County Manager and the Road Department it was clear that was not the main factor but rather it was the best value for the taxpayers. He agreed with the statement but did not agree the best value was Caterpillar. He stated Caterpillar would put new tires on the loader which in reality would be close to a \$15,000 value. Justin McDermott stated their loader had 70% left on the tires. Justin McDermott stated Cashman was willing to give \$129,000 in buy-back if the machine was in the same condition as when it was sold, plus hours. He stated if a major component went out then the County would not receive the \$129,000 and the buy-back was only for two years so he did not agree it was of great value. Justin McDermott stated the John Deere machine was newer and had 2 ½ times less the hours than the Caterpillar. He stated it was \$9,000 cheaper with the trade-in. He stated it had a higher resale value than the Caterpillar machine.

Dillon Judd, Cashman Equipment Sales Representative, had attended the meeting held last week. He had read the appeal letter submitted by Blaine Equipment. He noted the letter suggested the Caterpillar may not build its own torque convertor which was part of the power train on that machine. He had an e-mail from their product manager stating for this size and class of machine

Caterpillar does design and build their own torque convertor, engine, transmission, final drives and axles on this particular machine. Dillon Judd appreciated that the County wanted to purchase the best value for the taxpayers. He passed out copies of his notes why their machine was the best value. He stated their bid was the only bid that met all of the bid specifications which were listed "no exceptions". He stated all the power train components were designed and built by Caterpillar, including the transmission torque convertor, engine and final drives. He commented the Cat 950 have a consistent higher resale value than the John Deere 644 wheel loaders. He clarified that if they look at the auction sheets the years listed were years when the machines were auctioned and were not the year of the manufacture of the machines. Dillon Judd commented the Cat 950H burns 1.5 gallons of fuel per hour less than the John Deere 644J based upon what John Deere states the fuel consumption should be in their 2008 product handbook. In the 2010 Caterpillar's Product Link System, they averaged from 500+ machines twelve months of information and that reported 3.3 gallons per hour. He stated that would equate to \$6.00 per hour difference in fuel prices between the two machines and at 1,000 hours of operation it would be a \$6,000 difference which meant John Deere 644J would cost more to operate. Dillon Judd stated \$12,000 might be a conservative number for the tires. He believed the buy-back guarantee was of value. They bid the amount of \$129,000 buy-back at 24 months from the date of invoice with up to 5,000 total machine hours. He stated the buy-back requirements were that the machine be in working condition and their mechanic would do an inspection for damage. Dillon Judd noted both machines bid had the extended power train warranty for twelve months. He stated Cashman Equipment had the ability to support their equipment with 25 field service technicians and 14 shop technicians in their Elko Service Department. He stated they also have a hydraulic cylinder rebuild shop in Elko.

Kristin McQueary departed the meeting room and Jennifer Spencer assumed the legal counsel position at 2:45 p.m.

Dillon Judd reported that Cashman Equipment had a new 34,000 square foot parts warehouse in Elko where they have over 11,000 different part numbers in stock. He stated Cashman Equipment had a Component Rebuild Center in Reno which employs 50 technicians which had received a five star certification for contamination control. He stated they have a fluid analysis lab in Reno that was ISO 17025 certified to test oil, coolant and fuel samples.

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Commissioner Guttry stated considering Cashman Equipment's extended

warranty, new tires and one year difference in equipment then the Cashman's bid would be lower. Commissioner Guttry commented considering the John Deere had better hours that would make their machine a better value. Commissioner Guttry noted in the bid specification sheet it stated: "*there were no exceptions, the final drive and transmission had to be designed and built specifically by the manufacturer*". He stated that was not the case with John Deere. He believed that was a legal document and they could not go beyond the "no exceptions". He believed a lot of the companies outsource their parts to other pieces of equipment. Commissioner Guttry gave a lot of value to staff recommending this piece of equipment because staff felt it was a better value for the taxpayer.

Commissioner Williams stated when they viewed this before, they were given documentation and supplemental material but were not given sufficient time to make an adequate decision. He disclosed that his company dealt with both companies in the past and that he had attended the meeting with both companies last week in the County Manager's office. Commissioner Williams stated the extended warranty and new tires was why he felt Cashman was the best value at the time. He stated when they consider the difference in hours it pushed him in favor of Blaine Equipment.

Commissioner Myers stated this was a quandary for the Commission. He had voted "no" on this during the bid award for only one reason, because of the conversation that the torque convertor was not made by Caterpillar. Commissioner Myers disclosed he had spoken to Justin McDermott this last week. He commented Blaine Equipment had listed two exceptions, engine coolant life at 29 degrees and 2.25 cubic foot bucket. Otis Tipton stated Kristin McQueary had went through the bidding process with them and they have a good reason to put in "no exception" on that bid specification, then it should be put in the bid specs. Commissioner Myers noted the Cashman bid listed exceptions. Otis Tipton clarified those were not put in under "no exception" it was just an exception to one of the bid specifications. Commissioner Myers stated they could write a bid where only one person could get it. He stated this bid went out and one of the "no exceptions" was the drive train. He inquired if they rescind the bid to Cashman Equipment and award it to Blaine have they violated the bid process. Otis Tipton stated Cashman Equipment would be able to appeal.

Commissioner Guttry inquired if there was the option for the Commission to rebid it and take out the "no exceptions" on the power train. Otis Tipton stated the County put that in the bid specification because they previously had a bad experience. Commissioner Myers stated that would mean changing the bid specification to give one company an advantage over another.

Otis Tipton stated the more information the bidder gives you the easier the decision was on used equipment. He commented there were pictures of the Caterpillar, oil samples from the CAT, and literature upon the CAT. He stated CAT stated new set of tires. He stated Blaine Equipment did not say there was 70% tire left on the John Deere; it was not in the bid. Otis Tipton noted the percentage of the tire life was common bid information usually submitted by the company at the time of bidding. Commissioner Myers questioned the “no exception” on the drive train if they could get a warranty. Otis Tipton stated if it was a new piece of equipment they would get an extended warranty on the power train but they were bidding for used equipment. He noted both were equal on their power train warranty of one year.

Commissioner Williams commented every pickup, motorcycle, or car has components made by multiple companies and you go to the dealer to repair with correct parts. He felt the “no exception” was a problem because the “entire motor power train must be built by the company”. Otis Tipton explained the exception was to keep manufacturers from parting-out a piece of equipment for the bid. He commented the loader he was trading in was 35 years old and they have to be able to get parts in the future. He explained the County was burnt on a previous bid was why the “no exceptions” were within these bid specifications.

Commissioner Guttery stated if they removed the “no exceptions” then Otis was assuming they would get more bids for that piece of equipment from people that would be cheaper with a lot of components. Otis Tipton commented CASE told him if he did not have the “no exception” they would give him a new unit for less than this bid. He stated CASE would not go for 35 years because they have problems acquiring the parts after a period of time. Commissioner Myers felt that was a good point and inquired when they lose the value of that piece of equipment. Otis Tipton stated if the County had the money to replace them within every 10 years he would not care but the funding was not there. Otis Tipton stated some companies use another company’s transmission, etc., and the machine goes out because the machine was parted. He stated they had a piece of equipment which they had to get a transmission and convert it and then that transmission went out. He noted after the third transmission they sold that piece of equipment.

Commissioner Russell asked if the Commission could receive documentation from the bid package and bid forms earlier to analyze it. He saw an issue with the “no exceptions” which had gone through a legal process. He stated there may be serious consideration for injury if they violated the bid process by going against the bid specifications. Commissioner Russell stated Otis made extreme good points because they need to look at long term, in ten

years they may not be able to buy any more equipment.

Commissioner Williams inquired of their legal counsel if there was any reason why they should make a motion to change the vote. Robert Stokes commented Kristin McQueary was ill and Jennifer was unaware of the bid process. He stated Kristin sent him an e-mail last week that the Commission should review the difference in hours, tires and buy-back and stated the statute allowed the Commission to take the quality and utility of equipment offered and the best interest of the public into consideration. Robert Stokes stated Kristin said the Commission should make a specific finding based upon bids as presented. Commissioner Williams questioned if they wish to disregard the “no exceptions”. Commissioner Dahl inquired if there was a legal issue to rebid the equipment.

Commissioner Guttry stated Cashman Equipment bid upon it according to the bid document exactly and Blaine Equipment did not bid accordingly to the bid package.

Jennifer Spencer stated she was not informed on this bid package. She stated according to the agenda the Commission was to look at NRS 332.068 in considering the appeal on this matter. She stated if the Commission was interested in withdrawing the bid and rebidding then this should be tabled until the next meeting so they may do some legal research.

**MOTION: Commissioner Dahl moved to table the previous bid award until the next meeting. Commissioner Williams seconded the motion.**

Robert Stokes clarified that there were two legal questions the “no exception” clause in the bid specifications and the other would be the re-bidding.

Commissioner Russell cautioned the Board the pieces of equipment being offered for purchase may not be available at the next meeting.

Commissioner Guttry stated if they rebid it they were setting up for Blaine Equipment if they take out the “no exceptions”.

Otis Tipton stated if they take out the “no exceptions” then CASE may be getting the bid. He cautioned them they were talking about rentals and used equipment for sale. He stated if Cashman Equipment or Blaine Equipment sold their equipment, they would notify them of the sale of the equipment.

**Commissioners Dahl, Williams, Myers and Guttry voted aye. Commissioner Russell voted no. The motion passed by majority vote.**

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### **C. MEADOW CREEK ROAD:**

Discussion and consideration of a status report on the repairs to Meadow Creek Road.

Otis Tipton stated the Forest Service would try to have the road open before October. Robert Stokes had spoken to Troy Phelps who had told him they would be there the first week of October. Otis Tipton stated Gary Stowell had water in the proper location so he notified the Forest Service.

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### **HIGHWAY ADJOURNMENT:**

Highway Chairman Russell adjourned the Highway Board at 3:23 p.m. Chairman Dahl assumed control of the Commission meeting.

## **XII. COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (CDBG): 2012 Community Development Block Grant Program (CDBG):**

In accordance with Notice 35-2011, conduct a Public Hearing for the purpose of obtaining the views of citizens and staff regarding the types of projects to submit for a funding application to the 2012 Community Development Block Grant Program. The County Commission may rank projects at a future meeting to submit to the State CDBG Program.

Lynn Forsberg stated they do not have the allocation for the 2011 projects; the money was not appropriated through Congress. Lynn Forsberg reviewed the proposed CDBG projects, in project ready order, as follows: Jackpot solar lighting at intersection \$80,000; Montello water tank and SCADA \$130,000; Tuscarora 6" water line loop \$80,000; Tuscarora 6" water line loop engineering \$15,000; Railport Fire suppression \$400,000; Jackpot Parks Phase III (installs restrooms at soccer fields, 2 basketball courts, a town pavilion) \$140,000; Montello South Line Water use PER \$50,000; Tuscarora Water tank engineering \$20,000; and Jackpot wastewater lagoon modifications \$300,000. He stated they do not need to make a decision today and would like to see what would happen with the grant funding for this year.

Commissioner Guttry inquired about the list approved for last year which had not been funded this year. Lynn Forsberg stated the two projects selected last year at \$140,000 were for planning grants.

Commissioner Russell inquired if Community Development Block Grant could only award a portion of the project amount. Lynn Forsberg stated that was possible. Commissioner Russell stated the County could be held responsible by those citizens to secure the funding for the remainder of the project. Lynn Forsberg stated they look at project ready, estimate costs, if there was partial funding could it be performed through phases and they look at the public health of that community.

Commissioner Dahl called for public comment. No public input was submitted.

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### **RECESS:**

Chairman Dahl called for a recess at 3:33 p.m.

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## **RECONVENE:**

Chairman Dahl reconvened the meeting at 3:43 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 including the apparent withdrawal of an offer for a facilitated focused FEIS workshop and the County's request for a six month extension of the comment period.

Commissioner Dahl expressed concern that a member from the US Forest Service was not present today because they had numerous questions they would like to ask. He was disappointed that the Forest Service refused to meet with them in a facilitated workshop on the final draft of the EIS that they were originally invited to attend. Commissioner Dahl stated at the last Commission meeting they had to re-agenda that workshop due to the new Open Meeting Law. He had hoped Mr. Abbas would be present today and they could schedule a workshop. Commissioner Dahl suggested the Commission make every effort to have a workshop.

Commissioner Guttry understood when the Record of Decision was published it was the end of the Forest Service sequence.

Commissioner Williams inquired if the Forest Service cancelled the workshop because the other commissioners would be there, or if they were afraid there would be general public, or if the Forest Service was running out of time for the Record of Decision.

Randy Brown stated they had a coordination meeting last Tuesday and Mr. Abbas was asked these questions. He noted Mr. Abbas stated he did not want to subject himself or his staff to public ridicule. Randy Brown had inquired about the accountability issue with the decisions made in this action taken by the federal government. He said Mr. Abbas had stated he was accountable but thought there was no benefit of holding a public hearing. Randy Brown stated Gar Abbas believed the County cancelled the September 12<sup>th</sup> meeting. Randy Brown told him it was a postponement to give the Commission time to prepare and post a public hearing date. Randy Brown stated the Forest Service did not want to participate in those public hearings in an official manner.

Commissioner Myers had received an e-mail from the Forest Service representative and understood Gar Abbas was upset after going through the planning stages for the September 12<sup>th</sup> meeting. He did not support travel management, the closing of any roads in Elko County, disbursed parking, the

limited handicap access and the limited game retrieval. He stated the meeting scheduled for the 12<sup>th</sup> of September was only for one Commissioner who could only listen but had no authority to represent the Commission and could not represent the public.

Randy Brown previously received an e-mail from Gar Abbas inquiring where they would hold the meeting and who would attend the meeting. He stated there would be teleconferencing and videoconferencing from outside the local Forest Service offices and he felt all five Commissioners should attend that teleconference. He understood the Forest Service wanted to convey it to the Commissioner's representative, who would then convey it to this board, and ultimately to the public.

Commissioner Dahl stated at the last meeting he asked Gar Abbas to meet with Randy Brown to reschedule another meeting date with the entire Commission. Commissioner Myers supported Commissioner Dahl's letter and believed the Forest Service already made their decision at the very beginning and knew how many roads they would close.

Commissioner Williams believed Gar Abbas' idea was an informational meeting and the Commission felt it was to be a public meeting with public input.

Commissioner Dahl stated there was an e-mail to Randy Brown, after the cancellation, that perhaps they could have a meeting for a concise explanation. He noted before Gar Abbas had proposed it would be a 16 hour meeting so he assumed it was an opportunity for the Commission to ask questions and they would have resource people available. Commissioner Williams felt Gar Abbas already made the decisions upon the public lands and the roads so this was just an informational meeting of their decision. Randy Brown stated the meeting would have allowed the Commission to ask questions and offer their opinion and Gar Abbas could have made a change before the Record of Decision. He believed Gar Abbas would meet with the Commission but did not want to meet at a public hearing.

Commissioner Russell stated at a prior meeting he questioned the Forest Service who made the public policy because he had studied the Forest Service documents and the local rangers were basically responsible. He stated Gar Abbas was responsible for the Record of Decision and would be the Forest Service employee who would make the decision which roads they could use and cannot access. He stated the Forest Service has public hearings but they have little impact upon the decision made by the federal employee. He stated Gar Abbas was a non elected federal employee who would make the decision yet he did not represent the public. He stated Gar Abbas did not want to be accountable to the public who where his employers.

Commissioner Dahl felt they could spend 16 hours in a workshop. He inquired where Gar Abbas had authority to close a road behind the rancher's property. He had been told by Ed Monnig, the former State Forester, at a meeting in Reno that he did not like the situation where they close a road which went across private property to keep people from the forest. He questioned what they would do when they mark a road open but the road forks would that fork be marked open, etc. He stated if that forked road was not marked open and you were found on that road they could write a citation. He questioned how large those citations would be. He noted there were a lot of questions.

Commissioner Williams inquired when the Forest Service begins to institute the road closures would they wait until all the signs were posted and the maps completed before enforcement.

Randy Brown stated once the Record of Decision was published the Forest Service would submit a set of motor vehicle use maps. He stated once those maps were published all the roads would be designated either open or closed and a visitor to the forest had the responsibility to get those maps. Randy Brown stated the roads do not have to be posted to have the citation issued.

Commissioner Guttry inquired about the people that come here to hunt and camp from out of state and out of County every year in the same areas. Randy Brown stated Commissioners Dahl and Russell argued that point with the Forest Service personnel. He stated the Forest Service's answer was consistent that they had the responsibility to go to the Forest Service and get a map. Commissioner Guttry voiced concern if the road was not signed or barricaded those people would not know it was closed. Randy Brown stated the Forest Service indicated there would be leniency before all the roads were posted. Commissioner Dahl noted that any of those roads left off of the map were considered closed roads. He stated they do not have a number of miles of roads that would be closed. Randy Brown stated they did a more comprehensive inventory of roads than when it was first proposed. He stated the County provided the Forest Service with 1976 quad maps and 1982 quad maps that were within their GIS system to help them identify the roads.

Commissioner Williams stated Gar Abbas told Lori Gilbert on the radio program that 200 miles of roads would be closed but none of them were system roads. Randy Brown stated there were lots of those roads in the Mountain City. Randy Brown commented the FEIS stated 139 miles of road were closed but Garr Abbas had stated approximately 200 miles. Commissioner Dahl stated some roads were redundant which were inside of the system.

Commissioner Russell stated there were a number of issues left unresolved and the road issue across private property was hanging out there.

He stated if there was no resolution of those issues it was an incomplete plan.

Randy Brown commented if the County permitted those roads to be closed and those roads provide legal and physical access to inholdings properties, the County could be named in a lawsuit for a "taking's" issue because of the loss of value on those properties. He stated the Forest Service thought they could allow the private property owner to close the road but they cannot stop the property owner from selling a piece of property to someone else. Commissioner Myers inquired if they had reviewed the maps to see if any of the 139 or 200 miles of roads were RS 2477 roads. Randy Brown stated some of those roads could be classified as a RS 2477 roads. Randy Brown commented there were a lot of the roads built for mining exploration used by campers and hunters in the Columbia Basin area and there was a reclamation bond.

Commissioner Myers requested a letter be sent to the Forest Service with all the Commissioner's signatures stating they thought it was a shame they would not hold the meeting which was important for the County and the public. He noted the forest belonged to the public. He stated the Commission did not support the closing of any RS 2477 roads.

Commissioner Russell noted they had been unsuccessful to function with Gar Abbas as a representative of the forest and request a replacement with another representative for negotiations with the County.

Commissioner Dahl called for public comment.

Harry Botsford stated he and his wife returned to Elko after 40 years to his hometown and was concerned the Forest Service was taking away what was most sacred, the roads. He requested they file a lawsuit against Gar Abbas to stop him from taking their privileges away without due process. He opposed the closures of the roads he used for hunting, fishing and for access. He was taught roads were sacred in this country and they can't block them or stop them.

Grant Gerber stated in 1964 the Forest Service started closing roads in this County with the Wilderness in Jarbidge but this was the first magnitude of road closures within Elko County. He stated if the Elko County people knew what was happening they could not seat all of the people in this meeting room. He stated at their meeting held at the Convention Center Deputy State Forester, Jeremiah Ingersoll, told the Commission there would be no closure unless Elko County agreed to those closures. Grant Gerber stated two days later after the 700 people had gone home there was an article in the paper stating that was not the fact. He stated this Commission made it clear that Gar Abbas would make the decision. Commissioner Myers stated Mr. Abbas was not proud enough to let the public know he was the decision maker. Grant Gerber stated 700 residents were deceived two years ago because the public doesn't believe they would

close the roads; Deputy Ingersoll stated it would not happen. He noted Gar Abbas previously told this Commission there would not be roads closed. Grant Gerber expected there would be more roads closed than the FEIS addresses. Mr. Gerber stated within the FEIS the opposition of Elko County was not mentioned and Mr. Abbas held no public hearing where citizens could testify on the record. He noted the County held several meetings where citizens opposed the road closures but those were not mentioned in the FEIS. He commented Mr. Abbas had only been present for three years yet he had lived here most of his life and knew Mr. Abbas had not been on all the roads within the County. Grant Gerber suggested the Commission hold a major hearing and advertise to the public about the loss of their recreational and mining opportunities. He suggested they request a State hearing and a Congressional hearing.

Commissioner Dahl stated they held a teleconference with the Western Counties Alliance and County Commissioner Doug Heaton in Kane County, Utah, stated they were so busy working with RS 2477 and the BLM that they did not concentrate on the FS Travel Management Project. He stated now they were receiving complaints from hunters and picnickers because the Forest Service closed half of the roads in the Dixie National Forest.

John Carpenter encouraged the Board to hold a huge public meeting because the only thing to change this was through public opinion. He stated have to go above Gar Abbas and invite the highest person from the Forest Service to attend that meeting. John Carpenter stated most people do not understand what would happen. He stated people discussed Commissioner Dahl's published letter with him. John Carpenter stated they would not have recreation as an economical savior when the cowboy and mining went out. He stated the election was coming up and if those people knew the majority of Nevada was against what the Forest Service was doing there would be a chance to change the decision. He stated they could go through a lawsuit but it would cost more and take longer.

Commissioner Dahl stated Dr. Danny Gonzales, of the Great Basin College, was chosen by the County and Forest Service as the agreed upon facilitator in a number of their meetings. He commended Danny Gonzales on his participation.

Commissioner Russell stated the mining was trying to survive but they were careful to participate because of the governmental influence on their permitting. He stated the ranchers were afraid to lose their AUMs. He stated the recreationists only supported recreation. He stated the special interest groups would be picked off individually if they did not encourage group support of the open public lands.

Dr. Danny Gonzales, appointed facilitator for the Travel Management Plan, inquired if the workshop with the Forest Service was a no go. Commissioner Dahl stated the Forest Service cancelled the workshop. Dr. Gonzales stated, as the facilitator, he saw the benefit of that meeting with it being public for transparency. He stated it was important enough to have representatives from Senators Reid and Heller's offices. Dr. Danny Gonzales suggested a forum before the Record of Decision was issued. He stated there would have been a benefit to have a Forest Service biologists and County specialists in the same room at the same time. Dr. Gonzales stated the Forest Service offered those specialists through a teleconference and he saw value to that. He stressed the importance of having a meeting with the Forest Service prior to the issuance of the Record of Decision and addressing road closures. He cautioned the Board if they take a vote of "no confidence" it may not encourage the chance of a meeting with the Forest Service.

Commissioner Russell recalled the County's attempt to negotiate with the Forest Service by giving something in return for resolution to the conflict. He stated Elko County was looking for solutions that would acknowledge the representative need of the Forest Service yet recognize the County's interest in representing their constituency.

Danny Gonzales stated he did not have bias but observed the sticking point was gathering the specialists together. He noted there was a clash of two cultures and processes with the Forest Service and the County. When notified of the September 12<sup>th</sup> workshop, he questioned only having two Commissioners present at the workshop. Danny Gonzales stated the Commission showed their due diligence but they have not been able to come to a compromise. Dr. Gonzales saw the value of getting the specialists together but it had to be before the Record of Decision was issued. He suggested bringing in someone above Gar Abbas from the Forest Service to be part of this process. He stressed there were several unresolved issues that need to be addressed.

Commissioner Guttry felt the Forest Service made up their mind but agreed the County should have a public meeting to inform the community and invite the State level of the Forest Service and invite Senators Reid and Heller's representative to understand what would happen with the roads. He suggested staff put together a date.

**MOTION: Commissioner Myers moved to have the County Manager and the Natural Resource Director draft a letter for signature by all Commissioners stating the following: 1) We still want to have an open forum to discuss the Record of Decision with the Forest Service; 2) The Record of Decision does not indicate any**

opposition from Elko County and it should; 3) We request that the Commission and the Public have the opportunity to express their sentiment to a higher level of official of the Forest Service than the existing Forest Service Ranger Gar Abbas; 4) We do not support and will not enforce any road closure, elimination of camp sites, lack of game retrieval, limited parking and the speculation by the public whether or not a road is open or closed and its negative impact to Elko County's economy as well as to the State of Nevada; 5) Elko County Commission has over the last two and one-half years attempted to state, negotiate, discuss our opposition to the Travel Management Plan and we feel it has fallen on deaf ears; 6) We request a congressional level intervention to support Elko County residents in keeping out Forest Service open as it is now. Commissioner Williams seconded the motion.

Commissioner Williams suggest the motion be amended to include the County Commission host a public meeting.

**Commissioner Myers amended his motion to add 7) We will host with or without the Forest Service a public forum for discussion of the Record of Decision. Commissioner Williams seconded the amendment. The motion passed unanimously.**

[4:43:19 PM](#)

## **VIII. ELKO COUNTY PLANNING AND ZONING DIVISION:**

### **Roadway Dedication for Parcel Map Request:**

Discussion and consideration of a request for a roadway dedication for a parcel map for Jordanelle Third Mortgage on Dry Creek Trail west of Elko, Nevada, adjacent to Hamilton Stage Road located in Section 28, T34N, R55E, M.D.B.&M.

Randy Brown stated this was a subsequent parcel map offering a road for dedication. He displayed the map and stated it met all State statutes and local requirements. Randy Brown stated staff recommends acceptance of the road for public purposes but not for maintenance. He stated the new area was to be left open to the public.

**MOTION: Commissioner Myers moved to approve a roadway dedication for a parcel map for Jordanelle Third Mortgage on Dry Creek Trail west of Elko, Nevada, adjacent to Hamilton Stage Road located in Section 28, T34N, R55E, M.D.B.&M for public purposes but not for County maintenance. Commissioner Guttry seconded the motion. The motion passed unanimously.**

[4:45:15 PM](#)

## **IX. 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.

Commissioner Dahl commented the water forum sponsored by the Central Nevada Regional Water Authority was on October 14<sup>th</sup> in Ely, Nevada.

[4:45:36 PM](#)

## **X. EL PASO GAS CORPORATION/ RUBY PIPELINE PROJECT:**

Discussion and consideration of issues related to the Ruby Pipeline Project including possible discussion with Company representatives regarding the agreement to fund the removal of grazing leases, other public land issues.

Commissioner Williams hoped to get a Ruby Pipeline representative at the Commissioner meeting the same time as the subcontractor on the road issues. Commissioner Russell stated that was the intent of the road commissioners. Gary Botts stated if there was a possibility of the pipeline coming back in a couple of years to put in another pipeline he requested the Metropolis Road be put on an agenda for them to grind and relay the entire length of the road if the pipeline used that road. He stated the pipeline would repair it but the road would not be satisfactory to what they expected. Gary Botts stated more damage may show up next year. Commissioner Williams stated the company may pay the County to perform the repair.

[4:48:51 PM](#)

## **XI. ELKO COUNTY PUBLIC WORKS DEPARTMENT:**

Discussion and consideration of authorization to solicit engineering design statements of qualifications for two public works projects.

Statements of Qualifications were previously submitted to the Board.

1. Montello Water System Tank Design and SCADA Controls
2. Mountain City Wastewater System Improvement Design Phase I

Commissioner Russell inquired if no funding available

Robert Stokes stated Public Works wants the Commissioners' authorization on this project but if the funding was not available it would not go any farther. He stated these were planning grants for engineering design on these projects.

**MOTION: Commissioner Myers moved to approve the statements of qualifications for the Montello Water System Tank Design and SCADA Controls and the Mountain City Wastewater System Improvement Design Phase I. Commissioner Russell seconded the motion. The motion passed unanimously.**

[4:50:22 PM](#)

## **XIII. COMMISSION MEETING CALENDAR:**

September 20-23, 2011 Nevada Association of Counties Annual  
Conference – Fallon, NV

October 5 & 6, 2011 Elko – Nannini Admin Bldg, Suite 102

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

Commissioner Guttry would be in Washington D.C. on October 4<sup>th</sup> through the 6<sup>th</sup> of October to attend the meeting of the strategic planning team on the Fire Science Academy with their congressional delegation to get into the national preparedness consortium.

**MOTION: Commissioner Williams moved to approve the Commissioner Meeting Calendar. Commissioner Guttry seconded the motion. The motion passed unanimously.**

[4:51:23 PM](#)

#### **XIV. CONSENT AGENDA:**

A. Presentation and review of claims for approval

B. Approval of Minutes: August 17, 2011

**MOTION: Commissioner Williams moved to approve the Consent Agenda, items A & B. Commissioner Guttry seconded the motion. The motion passed unanimously.**

[4:51:44 PM](#)

#### **XV. COUNTY COMMISSIONERS AND COUNTY STAFF COMMENTS:**

Robert Stokes noted there were meetings scheduled on the Post Offices closures and encouraged the Commissioners to attend. He noted the Commission had previously written a letter to the Post Office that the County supports the Post Offices remaining open. Commissioner Dahl stated someone would read his letter at the meetings scheduled in Deeth and Montello. Commissioner Guttry noted they were talking about closing the Aspen Center. Commissioner Williams stated the Tuscarora Post Office housed the library also.

Commissioner Guttry received an e-mail that the Northeastern Nevada Regional Hospital received an award for quality health care. He would get the details on that award.

Commissioner Williams cautioned that they be careful when acting upon agenda items without first reading the support material such as the bid on the heavy equipment.

Commissioner Guttry stated the City Council never reviewed the bids that went out for equipment for the different departments. He did not believe this Commission would do that on a regular basis. Robert Stokes stated bidding came to the Commission for approval to go to bid. He stated at that time they could have the bid documents presented to the Commission. Commissioner Russell stated there needed to be an adjustment in philosophy toward developing of a bid and policy. He stated there had been a history of doing the

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bids one way but once they develop a bid policy there would be limited concern. He stated Robert Stokes could help them with this since he manages Department Heads. Commissioner Williams requested that anything that comes before them as an agenda item the support material should be available for their preview before they make a decision. Commissioner Russell noted it would be a comprehensive package. Commissioner Guttry stated staff would be very helpful when going to bid because staff could tell them if there were areas where there should be no exceptions to the bid and give direction to the Commission. Commissioner Myers stated the Commission gave permission to go out to bid and at that time they could review the documentation. He stated it was difficult to make decisions when that information came to them that day. Commissioner Myers expressed concern with the hours on the particular machine. He stated they do not want to micromanage staff but do not want to open bids to companies that were not qualified to give them the type of equipment they want. He had concern with bids that had "no exceptions" but could understand if all parts had to be made in USA to eliminate overseas transfer time.

Commissioner Williams stated on that bidding situation they did not hear from all the companies. Commissioner Russell stated there were times when a mechanic worked on one kind of equipment rather than four different brands.

Commissioner Dahl voiced appreciation to Jennifer Spencer for stepping in as their legal counsel.

#### **XVI. COMMENTS BY THE GENERAL PUBLIC:**

No public comments were made.

[5:00:23 PM](#)

#### **XVII. 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 5:00 p.m.

APPROVED,

DEMAR DAHL, Chair

ATTEST:

MARILYN TIPTON, Deputy Clerk

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