

BOARD OF COUNTY COMMISSIONERS, WASHOE COUNTY, NEVADA

TUESDAY

2:00 P.M.

MARCH 28, 2006

PRESENT:

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

Amy Harvey, County Clerk
Katy Singlaub, County Manager
Melanie Foster, Legal Counsel

The Board met in regular session in the Commission Chambers of the Washoe County Administration Complex, 1001 East Ninth Street, Reno, Nevada. Following the Pledge of Allegiance to the flag of our Country, the Clerk called the roll and the Board conducted the following business:

***2:15 p.m.** Commissioner Sferrazza arrived during the following discussion.

AGENDA

Gary Schmidt, Washoe County resident, said he was opposed to the approval of the agenda as it was elicited. He asked for clarification of the time allotted for public speakers in regard to the consent agenda.

Melanie Foster, Legal Counsel, commented the Attorney General ruled that the consent agenda was one agenda item with sub-parts so public comment would be heard once.

In accordance with the Open Meeting Law, on motion by Commissioner Humke, seconded by Commissioner Galloway, which motion duly carried, Chairman Larkin ordered that the agenda for the March 28, 2006 meeting be approved with the following changes: **Delete** Item 9C, proposal by the City of Sparks to create a 145-acre Tourism Improvement District at the Sparks Marina, and Item 12H(2), Water Rights Applications 773111, 73207, and 73208.

06-309 **PROCLAMATION - NATIONAL LIBRARY WEEK –**
APRIL 2-8 2006

On motion by Commissioner Sferrazza, seconded by Chairman Larkin, which motion duly carried, it was ordered that the following proclamation be adopted and the Chairman be authorized to execute the same:

PROCLAMATION

WHEREAS, The Washoe County Library System, serving Nevada communities for the past one hundred two years, will be celebrating “National Library Week,” April 2-8, 2006; and

WHEREAS, The Washoe County Library System provides citizens the opportunity to access resources that can give every person the chance to learn and gain knowledge; and

WHEREAS, The Washoe County Library System provides opportunity, information, education, self-help and lifelong learning; and serves as a community gathering place; and

WHEREAS, The Washoe County Library System wishes to make known the vast resources available free to library cardholders;

NOW, THEREFORE, BE IT PROCLAIMED, By the Washoe County Board of Commissioners that April 2-8, 2006, is designated as “National Library Week,” and the Board urges all residents of the Truckee Meadows to take advantage of the resources available to them at Washoe County Libraries by visiting any one of the thirteen stationary locations, or Mobile Library I, or www.washoe.lib.nv.us.

**06-310 PROCLAMATION - CHILD ABUSE PREVENTION MONTH -
APRIL 2006**

On motion by Commissioner Weber, seconded by Commissioner Humke, which motion duly carried, it was ordered that the following proclamation be adopted and Chairman Larkin be authorized to execute the same:

PROCLAMATION

WHEREAS, Preventing child abuse and neglect is a community concern that depends on the involvement of people throughout the community; and

WHEREAS, The effects are felt by communities at large and need to be addressed by not only the family involved, but by everyone; and

WHEREAS, Effective child-abuse prevention programs succeed because of partnerships created among public health and social service agencies, schools, religious and civic organizations, law enforcement agencies and the business community; and

WHEREAS, All citizens should become more aware of the negative effects of child abuse and its prevention within their communities, and become involved in supporting parents to raise their children in a safe, nurturing environment; and

WHEREAS, Washoe County encourages all citizens to increase their participation in efforts to prevent child abuse, thereby strengthening the communities in which we live;

NOW, THEREFORE, BE IT PROCLAIMED, By the Washoe County Board of Commissioners that April 2006 be recognized as Child Abuse Prevention Month in Washoe County and the Board urges all residents to report any suspected incidents of child abuse immediately.

06-311 PUBLIC COMMENTS

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

James Kozera, local resident, commented areas around the Senior Center were not being maintained and requested the area be restored. He said he attended the Reno-Sparks Convention and Visitors Authority (RSCVA) meeting requesting restrictions on the hours in which the Reno Livestock Event Center operated their sound system.

Sam Dehne, local resident, stated he was wrongfully removed from the County Commission meeting on March 21, 2006.

Guy Felton, local resident, spoke on the Board’s refusal to speak to the people’s business.

Juanita Cox, Sparks resident, said the Board’s duty was to help citizens by achieving less government spending.

Katherine Snedigar, local resident, read her Notice of Actual and Constructive Affidavit.

Gary Schmidt, Washoe County resident, distributed a *Reno Gazette-Journal* article that discussed his attempt to keep antique fire engines on his property in the Steamboat Springs area.

Mike Alger, Animal Ark Board of Directors representative, explained the Animal Ark was a non-profit wildlife animal sanctuary and nature center. He requested the Board’s consideration for a one-time allocation of \$18,000.

Kevin Wiley, local resident, spoke on a confidential matter concerning his case with Social Services.

Teresa Shannon, area resident, reported she has had no water to her home since December 2005. She said the pipe, which had been approved in February 2004, was in the ground. Ms. Shannon said the Well Mitigation Board found the County to be at fault for 66 percent of the impact; however, she was told the meter would not be set until she paid an additional \$8,530 to the Water Resources Department. She stated she had already spent \$25,000 and did not have the additional monies. Ms. Shannon requested this be placed on an agenda so the County could pay the additional debt.

COMMISSIONERS'/MANAGER'S ANNOUNCEMENTS

Commissioner Sferrazza requested a review of Kevin Wiley's Social Services complaint. He asked that staff address the noise complaint concerning the Reno Livestock Center. Commissioner Sferrazza requested Animal Ark's funding request be placed on a future agenda. He also requested a review of the proposed salary ranges for the Truckee Meadows Water Authority (TMWA) positions equivalent to County positions and have that information available for the TMWA board meeting.

Commissioner Galloway also requested information on TMWA salaries. He said, in regard to Teresa Shannon's request, he would like to know if mitigation monies were available and the County's policy on distributing those monies.

Commissioner Humke suggested the City of Reno extend the permit-parking ordinance around the Reno Livestock Center to create resident parking only. He requested an emergency item be placed on a South Truckee Meadows General Improvement District (STMGID) agenda concerning Ms. Shannon.

Katy Singlaub, County Manager, confirmed staff had made a formal request to the Reno-Sparks Convention and Visitors Authority (RSCVA) concerning the noise complaint around the Reno Livestock Center. Ms. Singlaub said, in regard to the Animal Ark, there was an open period for filing a request for community support; and those decisions had not been made. She asked Legal Counsel to respond on behalf of Ms. Shannon's request.

Melanie Foster, Legal Counsel, said staff was aware of Ms. Shannon's situation. Accordingly, this did not meet the definition of an emergency item under the Open Meeting Law; however, staff would look into the matter and return to the Board as soon as possible.

Commissioner Weber asked if there was a way to help Ms. Shannon immediately and hold discussions later. Ms. Singlaub replied the Well Mitigation Board was set up to independently review the facts. She said they reviewed the facts and made a recommendation. Ms. Singlaub said it would be a challenging precedent for the Board to move forward without an airing of those facts. Commissioner Weber requested a copy of the Well Mitigation Board's findings.

3:15 p.m. Commissioner Humke temporarily left the meeting.

DISCUSSION ON THE CONSENT AGENDA

Sam Dehne, Reno resident, stated his disapproval on several items listed in the consent agenda.

Juanita Cox, local resident, said she was disturbed by the interpretation of the two-minute rule.

Gary Schmidt, Washoe County resident, voiced his concerns over the consent agenda and how he could only speak for two minutes on the entire item.

06-312 LEASE AGREEMENT - BUREAU OF LAND MANAGEMENT - NORTH VALLEYS REGIONAL SPORTS COMPLEX - PARKS

Upon recommendation of Bill Gardner, Park Planner, through Doug Doolittle, Regional Parks and Open Space Director, on motion by Commissioner Sferrazza, seconded by Commissioner Weber, which motion duly carried with Commissioner Humke temporarily absent, Chairman Larkin ordered that the lease agreement between Washoe County and the Bureau of Land Management, concerning Parcel No. 086-390-06 adjacent to the North Valleys Regional Sports Complex, for a period of five years through February 2011, be renewed. It was noted there was no fiscal impact.

06-313 RESOLUTION - NEVADA DIVISION OF STATE LANDS, CONSERVATION, AND RESOURCE PROTECTION STATE QUESTION ONE GRANT PROGRAM - PARKS

Upon recommendation of Doug Doolittle, Regional Parks and Open Space Director, through Michelle Poché, Assistant County Manager, on motion by Commissioner Sferrazza, seconded by Commissioner Weber, which motion duly carried with Commissioner Humke temporarily absent, it was ordered that staff be directed to complete the applications for submittal by the March 31, 2006 deadline. It was further ordered that the following resolution be adopted and Chairman Larkin be authorized to execute the same:

RESOLUTION OF SUPPORT ROUND 4 STATE QUESTION 1 GRANT APPLICATION

WHEREAS, The State Question 1, approved by Nevada voters in 2002, calls for \$200,000,000 in funding in support of clean water, parks and wildlife across the state; and

WHEREAS, \$107,000 from the Residential Construction Tax for District 1A has been allocated for Crystal Peak Park improvements; and

WHEREAS, \$64,000 is the available balance from the Somerset mitigation funds for improvements in the Mogul community; and

WHEREAS, on January 5, 2006, the Verdi Citizens Advisory Board voted in favor of submitting a State Question 1 grant application for improvements to Crystal Peak Regional Park improvements, including restoration of the pond for fishing, barrier-free access, interpretive trails, parking, picnic facilities, vault toilet, and signage; and

WHEREAS, the Verdi Citizens Advisory Board also voted in favor of pursuing grant funding for the construction of a pedestrian - bicycle path along Silva Ranch Road to reduce vehicular-bicycle conflicts and provide a safe connection between upper and lower Mogul; and

WHEREAS, Parks staff has been involved with the Natural Resources Committee of the Truckee River Growth Management Task Force, which has issued a recommendation to prepare a County-wide Habitat Conservation Plan;

NOW, THEREFORE, be it resolved that the Washoe County Board of County Commissioners supports application for State Question 1 grant funding in the amount of \$50,000 for Crystal Peak Regional Park Barrier-free Access Improvements, Interpretive Trails, and Signage; \$355,000 for Crystal Peak Regional Park Fishing Pond Restoration and Park Enhancements; \$75,000 for the Silva Ranch Road Bike and Pedestrian path; and \$250,000 for the County-wide Habitat Conservation Plan.

06-314 AWARD OF BID - LIBRARY SELF-SERVICE CHECKOUT SYSTEMS - BID NO. 2522-06 - LIBRARY

This was the time to consider award of the bid for Three Library Self-Service Checkout Systems for the Library. The Notice to Bidders for receipt of sealed bids was published in the *Reno Gazette-Journal* on January 13, 2006. Proof was made that due and legal Notice had been given.

Bids were received from the following vendors:

3M Company
Checkpoint Systems, Inc.
DEMCO Education Corporation
Integrated Technology Group
Libramation, Inc.
Library Automation Technologies
Sentry Technology Corporation
SirsiDynix

Upon recommendation of Charlene Collins, Buyer, through John Balentine, Purchasing and Contracts Administrator, and Nancy Cummings, Library

Director, on motion by Commissioner Sferrazza, seconded by Commissioner Weber, which motion duly carried with Commissioner Humke temporarily absent, Chairman Larkin ordered that Bid No. 2522-06 for three Library Self-Service Checkout Systems for the Library be awarded to Dynix dba SirsiDynix in the amount of \$49,365.00. It was further ordered that the Purchasing and Contracts Administrator be authorized to purchase up to five additional Library Self-Service Checkout Systems, as specified in the bid, if appropriated in the budget, from Dynix dba SirsiDynix, through December 31, 2006, provided that there was no increase in pricing.

06-315 AWARD OF BID - SELF-PROPELLED PAVER - BID NO. 2523-06 - PUBLIC WORKS

This was the time to consider award of the bid for a Self Propelled Paver on behalf of the Equipment Services Division of the Public Works Department. The Notice to Bidders for receipt of sealed bids was published in the *Reno Gazette-Journal* on January 23, 2006. Proof was made that due and legal Notice had been given.

Bids were received from the following vendors:

Shaffer Equipment Co., Inc.
Ingersoll Rand Equipment Services

Upon recommendation of Mike Burdett, Buyer, through John Balentine, Purchasing and Contracts Administrator, Jean Ely, General Services Division Director, and Tom Gadd, Public Works Director, on motion by Commissioner Sferrazza, seconded by Commissioner Weber, which motion duly carried with Commissioner Humke temporarily absent, Chairman Larkin ordered that Bid No. 2523-06 for a Self Propelled Paver on behalf of the Equipment Services Division of the Public Works Department be awarded to the lowest responsive, responsible bidder meeting specifications, Shaffer Equipment Co., Inc., in the amount of \$109,625.

06-316 AWARD OF BID - FERTILIZER - BID NO. 2528-06 - PARKS

This was the time to consider award of the bid for Fertilizer for the Regional Parks and Open Space Department. The Notice to Bidders for receipt of sealed bids was published in the *Reno Gazette-Journal* on February 8, 2006. Proof was made that due and legal Notice had been given.

Bids were received from the following vendors:

Ewing Industrial Plastics
R Supply Company
Sierra Pacific Turf Supply

Upon recommendation of Charlene Collins, Buyer, through John Balentine, Purchasing and Contracts Administrator, and Doug Doolittle, Regional Parks

and Open Space Director, on motion by Commissioner Sferrazza, seconded by Commissioner Weber, which motion duly carried with Commissioner Humke temporarily absent, Chairman Larkin ordered that Bid No. 2528-06 for Fertilizer for the Regional Parks and Open Space Department on a requirement basis, for a one-year period, be awarded to the following low bidders: Ewing Industrial Plastics, in the approximate net amount of \$5,000; R Supply Company, in the approximate net amount of \$350; and Sierra Pacific Turf Supply, in the approximate net amount of \$79,150, for a total net amount of \$84,500. It was further ordered that the Purchasing and Contracts Administrator be authorized to purchase additional fertilizer for an additional one-year period provided there was no increase in pricing. It was noted expenditures may vary from the approximate net amount based on the actual requirements of the Regional Parks and Open Space Department over the term of the award.

06-317 INTERLOCAL MUTUAL AID AGREEMENT - ESMERALDA COUNTY - SHERIFF

Upon recommendation of James Lopey, Assistant Sheriff, through Dennis Balaam, Sheriff, on motion by Commissioner Sferrazza, seconded by Commissioner Weber, which motion duly carried with Commissioner Humke temporarily absent, it was ordered that an Interlocal Mutual Aid Agreement between Washoe County and Esmeralda County be approved and Chairman Larkin be authorized to execute the same.

06-318 INTERLOCAL MUTUAL AID AGREEMENT - HUMBOLDT COUNTY - SHERIFF

Upon recommendation of James Lopey, Assistant Sheriff, through Dennis Balaam, Sheriff, on motion by Commissioner Sferrazza, seconded by Commissioner Weber, which motion duly carried with Commissioner Humke temporarily absent, it was ordered that an Interlocal Mutual Aid Agreement between Washoe County and Humboldt County be approved and Chairman Larkin be authorized to execute the same.

06-319 INTERLOCAL MUTUAL AID AGREEMENT - MINERAL COUNTY - SHERIFF

Upon recommendation of James Lopey, Assistant Sheriff, through Dennis Balaam, Sheriff, on motion by Commissioner Sferrazza, seconded by Commissioner Weber, which motion duly carried with Commissioner Humke temporarily absent, it was ordered that an Interlocal Mutual Aid Agreement between Washoe County and Mineral County be approved and Chairman Larkin be authorized to execute the same.

06-320 INTERLOCAL MUTUAL AID AGREEMENT - STOREY COUNTY - SHERIFF

Upon recommendation of James Lopey, Assistant Sheriff, through Dennis Balaam, Sheriff, on motion by Commissioner Sferrazza, seconded by Commissioner Weber, which motion duly carried with Commissioner Humke temporarily absent, it was

ordered that an Interlocal Mutual Aid Agreement between Washoe County and Storey County be approved and Chairman Larkin be authorized to execute the same.

06-321 **INTERLOCAL CONTRACT - DOUGLAS COUNTY - MUTUAL AID - SHERIFF**

Upon recommendation of James Lopey, Assistant Sheriff, through Dennis Balaam, Sheriff, on motion by Commissioner Sferrazza, seconded by Commissioner Weber, which motion duly carried with Commissioner Humke temporarily absent, it was ordered that an Interlocal Contract between Washoe County and Douglas County be approved and Chairman Larkin be authorized to execute the same.

06-322 **INTERLOCAL MUTUAL AID AGREEMENT - LYON COUNTY - SHERIFF**

Upon recommendation of James Lopey, Assistant Sheriff, through Dennis Balaam, Sheriff, on motion by Commissioner Sferrazza, seconded by Commissioner Weber, which motion duly carried with Commissioner Humke temporarily absent, it was ordered that the renewal of an Interlocal Mutual Aid Agreement between Washoe County and Lyon County be approved and Chairman Larkin be authorized to execute the same.

06-323 **INTERLOCAL MUTUAL AID AGREEMENT - PERSHING COUNTY - SHERIFF**

Upon recommendation of James Lopey, Assistant Sheriff, through Dennis Balaam, Sheriff, on motion by Commissioner Sferrazza, seconded by Commissioner Weber, which motion duly carried with Commissioner Humke temporarily absent, it was ordered that the renewal of an Interlocal Mutual Aid Agreement between Washoe County and Pershing County be approved and Chairman Larkin be authorized to execute the same.

06-324 **CORRECTION OF FACTUAL ERRORS - ASSESSOR**

In response to questions concerning Parcel No. 127-040-09, Katy Singlaub, County Manager, said the staff report indicated there was an over assessment due to a factual error. She said the improvements were located on an adjoining parcel, which was owned by Sierra Nevada College; and the College was exempt. She said this roll change request corrected that error.

Upon recommendation of Susan Goodlett, Principal Account Clerk, on motion by Commissioner Sferrazza, seconded by Commissioner Weber, which motion duly carried with Commissioner Humke temporarily absent, it was ordered that the following Roll Change Requests correcting factual errors and the Order directing the Treasurer to correct the error be approved and Chairman Larkin be authorized to execute the same:

PROPERTY OWNER	PARCEL NO.	AMOUNT	ROLL
Sierra Nevada College	127-040-09	-\$51,917.47	2005 Secured
R & S Distributors	2/200-481	-\$ 2,932.88	2004 Unsecured
Thomas R .Klenke etal	122-116-03	-\$ 1,792.60	2005 Secured
Kenneth L.& Cheryl L. Zeal	012-073-29	-\$ 1,527.37	2005 Secured
Yale Financial Services Inc.	2/190-393	-\$ 1,450.94	2002 Unsecured
The Musicland Group Inc. #863	2/294-043	-\$ 1,231.66	2004 Unsecured
La Michoacana Restaurant	2/210-411	-\$ 845.06	2003 Unsecured
La Michoacana Restaurant	2/210-411	-\$ 804.05	2004 Unsecured
Yale Financial Services Inc.	2/190-390	-\$ 365.35	2002 Unsecured
S & S PerformanceInc./FOX Perfor	2/108-808	-\$ 353.30	2004 Unsecured
Erika A .& Joseph T Dinapoli	077-310-10	-\$ 337.48	2005 Secured
Edward A .& Karol L. Davis	032-232-21	-\$ 217.95	2005 Secured
Paul R. & Nola M. PirruccelloTR	040-591-05	-\$ 118.47	2005 Secured
Paul R. & Nola M. PirruccelloTR	040-591-05	-\$ 124.98	2004 Secured
Narayan Jai P.	2/022-037	-\$ 100.21	2001 Unsecured
William M. & Patricia A. Moore	122-116-10	-\$ 30.50	2005 Secured
Lakeside Professional Center LLC	023-131-45	-\$ 11.57	2005 Supplemental (ImprovementsOnly)
Peter A. & Carol A. MattesTR	011-202-04	-\$ 0.00	2005 Secured
Frederick E. Olsen	030-145-08	-\$ 0.00	2005 Secured
Paisley's Plumbery Inc.	012-141-19	-\$ 0.00	2005 Secured

06-325 DENIAL - WATER RIGHTS APPLICATIONS - WATER RESOURCES

Vahid Behmaram, Water Rights Manager, said the applications represented filings for new appropriation of ground water in Kumiva Valley, Granite Springs Valley, and Winnemucca Lake Valley. He said the applications requested to appropriate groundwater rights and put them to beneficial use in a large area. He said staff reviewed the applications and found the estimates of sustainable yield from these basins did not coincide with the quantity of water requested. He noted the decision of the Board was not binding on the State Engineer's Office. Mr. Behmaram discussed portions of the Development Code and the Comprehensive Plan that was the basis for staff's recommendation to forward denial of the applications to the State Engineer as detailed in the staff report, dated March 6, 2006.

3:25 p.m. Commissioner Humke returned.

Tom Gallagher, AquaTrac LLC representative, presented a PowerPoint presentation explaining efforts to manage current water resources and procure new resources. He said the purpose of AquaTrac was to determine actual sustainable yields in various basins, compile data, and deliver high quality water to various points in Northern Nevada. Mr. Gallagher indicated AquaTrac used satellite imagery to target well sites to

look for unappropriated sustainable ground water. He commented in the future they made need easements and special use permits to cross County property in the Winnemucca Lake Valley.

Mr. Behmaram said Spanish Springs and the Warm Springs Hydrographic Basins had been studied in detail through the United States Geological Survey (USGS), and the outcome was close to the previous USGS studies of sustainable ground water completed in the 1970's. He said these applications asked for a ten-fold increase in what the USGS published in the past.

Steve Bradhurst, Water Resources Director, said the Board had been asked by the State Engineer to make a recommendation; however, that had no force of law. He said the Board would be complying with the Comprehensive Plan for the North Valleys. He remarked a provision in the Comprehensive Plan stated the County would work with state and federal agencies to manage local groundwater resources and provide annual use of those resources which does not exceed levels sustainable at current rates of inflow and recharge. Mr. Bradhurst explained staff's recommendation followed the directive within the Comprehensive Plan and the Regional Water Management Plan.

Debbie Griffin, local resident, said AquaTrac had drilled an exploratory well less than one-quarter of a mile from her existing domestic well. She commented AquaTrac requested six cubic feet per second; but her well, within the same vicinity, produces 10 gallons per minute. She explained one cubic foot per second equals 448.83 gallons per minute. Ms. Griffin said her domestic well would be adversely affected if AquaTrac were allowed to take the amount of water requested.

Juanita Cox, local resident, said the County needed to protect citizens of the area and follow staff's recommendation.

Teresa Shannon, area resident, said the County needed to take the conservative view.

Commissioner Humke asked if these applications had been protested. Mr. Bradhurst replied staff had protested the applications associated with Washoe County. Mr. Behmaram added staff had protested the applications located in the Winnemucca Lake Valley. Commissioner Humke confirmed staff's recommendation was to forward denial of these applications to the State Engineer, and Mr. Behmaram agreed.

In response to Commissioner Galloway, Mr. Bradhurst replied the Board needed to vote because State Law cited the State Engineer notify officials from the water losing and water gaining Counties. He said the County automatically protested applications if they exceeded the perennial yield. Commissioner Galloway said it appeared the applications violated the policy based on the information provided; and, unless the data was proven wrong, it would be mining of water.

Commissioner Sferrazza disclosed he owns property on Pyramid Lake. He said he was called by Mr. Gallagher but did not meet with him. He asked if there were property owners in Winnemucca Lake Valley and Granite Springs Valley who did not have water rights. Mr. Bradhurst explained, if an individual owns a parcel, they have the right to drill a domestic well.

Mr. Behmaram said the State of Nevada followed a doctrine of prior appropriation. He said there was no provision in NRS that looked at potential land use designation or reserve water for potential domestic wells.

Chairman Larkin asked if the Comprehensive Plan was binding on another County. Mr. Bradhurst replied it was not. Chairman Larkin clarified the current protest filed was only for the Winnemucca Lake Valley area.

Commissioner Galloway asked if Pershing County protested these same applications. Mr. Bradhurst said they had. Mr. Behmaram distributed supplemental information regarding AquaTrac LLC, water rights applications, and protests on file at the Nevada Division of Water Resources, which was placed on file with the Clerk.

Mr. Behmaram stated this was the first step, and there would be additional hearings and hydrologic models. He indicated he hoped the water could be found, but staff had to operate on the data available.

Commissioner Weber asked if AquaTrac would be willing to work with Water Resources. Mr. Gallagher replied they would be completely open to speak with staff.

Norm Harry, Pyramid Lake Paiute Tribal Chairman, said there were no impacts to the Pyramid Lake Basin. He said the Tribe filed a protest to the applications only to get them to the table. He did not believe there was a connection between the basins.

Commissioner Galloway recommended these applications not be approved at this time because of the absence of additional studies that clearly show the requested duty was sustainable. Commissioner Sferrazza perceived a conflict of interest because of property he owned and would be abstaining.

Chairman Larkin said this was open to additional studies because of the reliance on old data. He said the Board needed to be cautious and move with extreme prudence in the pursuit of additional water and follow Washoe County policies.

Commissioner Weber said more information was needed and suggested working with Mr. Gallagher and forwarding comments to the State Engineer.

Commissioner Galloway moved that the State Engineer welcome new studies to resolve the issue, but proceed with caution because past studies showed lesser

sustainable yield. Commissioner Humke seconded the motion and included the aspect of sending the comments to the State Engineer.

On call for the vote, the motion passed on a 4-1 vote with Commissioner Sferrazza abstaining.

**06-326 ENDORSEMENT/AMENDMENT - GROUP FUNDING
AGREEMENT/ADMINISTRATIVE SERVICES AGREEMENT -
RESOLUTION - HUMAN RESOURCES**

In response to Commissioner Sferrazza, Joanne Ray, Human Resources Director, said the resolution allowed for the Commission to have an appointee on the Deferred Compensation Committee. Commissioner Sferrazza requested a legal opinion that stated an organization could not have more than one entity offering a 457 and a 401(a).

Commissioner Galloway asked what the limits were on contributions for a 401(a) versus a 457. Ms. Ray replied it was five percent of salary.

Robert Trinary, Hartford Insurance Company, said when an individual enrolls in a 401(a) they have five different percentages; and 25 percent was the highest allowable. He said on the 457 the limit on an annual basis was \$15,000 for those less than 50 years old, and \$20,000 for those over 50 years of age.

Upon recommendation of Ms. Ray, through John Berkich, Assistant County Manager, on motion by Commissioner Sferrazza, seconded by Commissioner Galloway, which motion duly carried, it was ordered that the endorsement to the Administrative Notice for the Group Funding Agreement GC-150015, and the amendments to the Administrative Services Agreement relating to the 457 plan be accepted and approved. It was further ordered that the following resolution be adopted and Chairman Larkin be authorized to execute the same:

RESOLUTION

A RESOLUTION AMENDING EXISTING RESOLUTION 03-545, RELATING TO THE COMMITTEE ON DEFERRED COMPENSATION, BY ALLOWING THE DIRECTOR OF HUMAN RESOURCES TO DESIGNATE AN INDIVIDUAL TO PERFORM THE DIRECTOR'S DUTIES, BY ALLOWING THE WCEA EXECUTIVE BOARD TO APPOINT NON-MEMBERS TO THE COMMITTEE, AND BY MAKING OTHER TECHNICAL AMENDMENTS THERETO.

WHEREAS, the Deferred Compensation Committee was created by Resolution 03-545 on May 13, 2003 to assist Washoe County in the administration of its deferred compensation programs offered pursuant to 26 U.S.C §401(a) and §457; and,

WHEREAS, the Board of County Commissioners desires to allow the Director of Human Resources to appoint a designee to exercise the Director's powers under that Resolution in certain instances; and,

WHEREAS, The Board of County Commissioners desires to allow the Washoe County Employee Association to appoint members to the Deferred Compensation Committee who are not members of WCEA; and,

WHEREAS, The Board of County Commissioners desires to make additional technical changes to its previous Resolution 03-545;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF WASHOE COUNTY as follows:

1. The Committee on Deferred Compensation under 26 U.S.C.§ 401(a) and §457, established 13th May 2003 and known as the "Deferred Compensation Committee," will consist of six (6) voting members as follows: two (2) members to be appointed by the WCEA Executive Board; one (1) member to be appointed by the County Manager from the confidential/exempt/management groups of employees; one (1) member to be appointed by the President of the Washoe County Sheriff's Deputies Association, such appointment to be from that Association or the Washoe County Sheriff's Supervisory Deputies Association; one (1) member to be appointed by the President of the Washoe County District Attorney Investigators' Association from that Association; and one (1) member to be appointed by the Chief Administrative Judge of the Second Judicial District Court from the judicial/probation/other Court or District Attorney groups of employees. All members appointed must also be a Participant in either or both of the Washoe County Deferred Compensation Plan or the Washoe County 401(a) Plan. The Director of Human Resources for Washoe County, or his/her designee shall be a nonvoting member of the Committee. A nonvoting member may also be appointed by the Board of County Commissioners.

2. Terms of service on the Deferred Compensation Committee shall be two (2) years for all members.

3. Upon adoption of this Resolution, and thereafter as vacancies occur on the Deferred Compensation Committee following the expiration of a member's term, the Director of Human Resources or his/her designee shall cause notice of the vacancy on the Committee to be sent to the appointing authorities as specified above. Such notice shall indicate the time in which an appointment must be made to the Committee. In the event that an appointing authority fails to make an appointment within the time given in the notice, then the members of the Committee who have been appointed shall cause notice of said vacancies to be posted and the Committee will solicit

invitations for service on the Committee from all Participants in the Washoe County Deferred Compensation Plan and the Washoe County 401(a) Plan. Said appointments may be any employees who are Plan Participants regardless of affiliation with a personnel representative unit.

4. In the event that a member is unable to attend a meeting, the appointing authority may appoint an alternate to serve in the absence of the member. Any member missing three (3) consecutive meetings or more without good cause as determined by the remaining members of the Committee shall lose his/her membership on the Committee. In such event a vacancy shall be created for the remainder of that former member's term, which will be filled in accordance with the terms of this Resolution.

5. A quorum of the Committee to act on any item will consist of three (3) voting members. Any matter brought before the Committee may be approved by a majority of those present and constituting a quorum.

6. The Committee shall have all powers provided under NRS 287.440 for both programs under 26 U.S.C §401 (a) and §457. The Committee shall make recommendations to the Board of County Commissioners regarding adoption, amendment or modification to the Washoe County Deferred Compensation and 401(a) Plans. The Committee will also have authority to negotiate with plan providers with respect to such plans and to take other actions as are necessary to the administration of such plans.

[Business Impact note: The Board of County Commissioners hereby finds that this Resolution does not impose a direct and significant economic burden upon a business, nor does it directly restrict the formation, operation or expansion of a business.]

4:52 p.m. The Board recessed.

5:55 p.m. The Board reconvened with all members present.

**06-327 RESOLUTION - INTENT TO ISSUE GENERAL OBLIGATION
(LIMITED TAX) 2006 PARK BONDS – BALLARDINI RANCH**

5:30 p.m. This is the time to set in a Notice of Public Hearing published in the *Reno Gazette-Journal* on March 17, 2006 to conduct a public hearing on the intent of the Board of County Commissioners of Washoe County, Nevada, to issue General Obligation (limited tax) Park Bonds (additionally secured by pledged revenues). Proof was made that due and legal Notice had been given.

The Chairman opened the public hearing by calling on anyone wishing to speak.

The following citizens spoke in favor of the County issuing Park Bonds in support of the acquisition of Ballardini Ranch: Pamela Galloway, Cliff Young, Peter Neumann, Rick Pugh, Toni Harsh, Herb Rubenstein, Faith Fessenden, Bill von Phul, Mary Winston, Dick Benoit, Holly Coughlin, Andrew Barbano, Mary Dugan, Craig Schriber, Amy Khan, and Charlie Ragusa. 16 citizens signed up to express their support for the County acquiring Ballardini Ranch but did not wish to speak.

The following citizens spoke against the County issuing Park Bonds in support of the acquisition of Ballardini Ranch: Tyrus Cobb and Gary Schmidt.

John Sherman, Finance Director, explained the proposed financing for the project. He said the process went through a number of steps, and he noted the final action would be the adoption of a bond ordinance.

Commissioner Galloway thanked the people for coming out in support of the acquisition. He said quality of life demanded that the County have these types of areas as growth took place. He stated he would support the bond resolution for even more money.

Commissioner Sferrazza said he would support the bond issue at the appropriate time. He hoped the County could acquire it for less, but he was willing to approve more funding if it was necessary.

Commissioner Humke voiced his support and moved to continue the item to a time certain on April 11, 2006 in order for staff to gather additional information on the issue. Chairman Larkin seconded the motion.

Commissioner Galloway aversely supported the continuance and noted this action did place the resolution for the borrowing on the April 11, 2006 agenda. He commented not everyone that was present could return on that date; therefore, he urged the Commissioners to remember the citizens who spoke on the item. He supported the motion because there was a possibility for negotiation.

Commissioner Sferrazza reluctantly supported the motion. He indicated his intent to vote for the bond issue on April 11, 2006, and he hoped the matter could be disposed of on that date without the necessity of a court trial.

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

**06-328 DRAFT TRUCKEE RIVER OPERATING AGREEMENT –
WATER RESOURCES**

Don Mahin, Senior Licensed Engineer, explained the agreement asked the Truckee River Operating Agreement (TROA) negotiators to allow certain wording of TROA to be moved to a side agreement. He said the agreement also involved the side

agreement itself that contained the wording that was currently located in the TROA. He stated this language dealt with a block of water rights that were associated with providing water quality flows in the Truckee River, and it was an outgrowth of the Unappropriated Water Agreement that the Commission approved in 1984. He noted it did not create any obligations at this time. Mr. Mahin discussed the proposed changes in the agreement. He remarked the Pyramid Lake Paiute Tribe (the Tribe) tentatively approved the agreement, but they had not formally acted on it. He added the Cities of Reno and Sparks approved it within the past week.

Norm Harry, Pyramid Lake Paiute Tribal Chairman, said the Tribe supported the initial agreement; and, upon passage by the local governments, it would go before the Tribal Council for formal approval.

Commissioner Galloway commented staff was changing an article so there could be a side agreement that would allow for future changes. He asked what the future changes might be.

Mr. Mahin explained the changes would have to provide the same benefits to Pyramid Lake and the lower Truckee River, but a few terms were undefined in that agreement. He said, "the same water quality benefit to the Truckee River" would be defined by Washoe County and the Tribe with this change. Commissioner Galloway inquired if it would limit it more directly to the impacted parties, and Mr. Mahin agreed. He said it would also allow the County to look at other water rights. Commissioner Galloway asked if it would allow some future agreement to pump groundwater into the Pyramid Lake. Mr. Mahin replied groundwater would not be a likely source; however, there may be other surface sources that could be used within the Truckee River system aside from those directly in the Truckee Meadows. Commissioner Galloway inquired if the amendment would bypass other provisions of the TROA. Mr. Mahin said it would not.

In response to Commissioner Galloway, Mr. Mahin explained there was no water quality standard this was achieving other than the type and location of water rights. He said the Tribe and the local governments were trying to achieve a standard for the mutual benefit of the Truckee River and Pyramid Lake. He stated it would benefit the County by providing for the ability to discharge from the Truckee Meadows Water Reclamation facility, and it would have a fishery benefit for Pyramid Lake. Mr. Mahin acknowledged it was both a river and lake benefit for all parties of this side agreement, and there were no third party beneficiaries the way the side agreement stood. He confirmed the Tribe was satisfied with it being moved to a stand-alone agreement.

In response to Chairman Larkin, Mr. Mahin clarified staff believed placing this language in the side agreement would remove this item from consideration of the National Environmental Policy Act.

Upon recommendation of Mr. Mahin, through Jeanne Ruefer, Water Resources Planning Division Manager, through Steve Bradhurst, Water Resources

Director, on motion by Commissioner Humke, seconded by Commissioner Weber, which motion duly carried, it was ordered that the Agreement Regarding Section 1.E. of the Draft Truckee River Operating Agreement be approved and Chairman Larkin be authorized to execute the same.

**06-329 PUBLIC HEARING – PETITION TO ACKNOWLEDGE AND
OPEN A ROAD – OLD EMIGRANT TRAIL - PUBLIC WORKS**

5:30 p.m. This was the time set in a Notice of Public Hearing published in the *Reno Gazette-Journal* on March 17 and 24, 2006 to conduct a public hearing to consider a petition seeking a determination that a certain road segment between the Truckee Meadows Wastewater Reclamation Facility and Lockwood, along the Old Emigrant Trail, is a "public road" as defined in NRS 405.191(2) and 405.195. The intended use of the road, once designated, is for pedestrian and bicycle use. Proof was made that due and legal Notice had been given.

The Chairman opened the public hearing by calling on anyone wishing to speak.

Tom Gadd, Public Works Director, gave a PowerPoint presentation entitled, "Hearing on a Petition to Open a Road along the Old Emigrant Trail between Truckee Meadows Wastewater Reclamation Facility and Lockwood per NRS 405.191(2)," which was placed on file with the Clerk. He displayed maps and discussed the area. He pointed out the area staff believed was the Old Emigrant Trail. He said a substantial amount of research was completed through the surveyors from historic surveys and the information that was provided by the petitioners. Mr. Gadd remarked staff believed it was the most common route of the trail, and he noted the majority of the trail was located in Storey County. He presented the proposed bike path on the map and said it followed the lines along the Old Emigrant Trail. He commented at the end of the public hearing the Board would be able to decide if the Old Emigrant Trail had acquired the status of a public road. He went over the requirements used to determine if a road was a public road, as listed in the staff report dated February 27, 2006.

Chairman Larkin noted the following applicants had petitioned the County Commissioners concerning the matter: Janet Carson, Marshall Fey, Geno Oliver, Dave Hollecker, and Madelyn Shipman. He said the Scott family and Union Pacific Railroad (the railroad) were the two affected landowners.

Ms. Carson, Tahoe-Pyramid Bikeway President, commented on the map presented by Mr. Gadd. She explained the Tahoe-Pyramid Bikeway was a non-profit volunteer group working on a 116-mile trail from Lake Tahoe to Pyramid Lake. She remarked many people in attendance were volunteers; and they were present to show their support, but they would not be speaking. Ms. Carson added the Washoe County Parks Commission and the Sparks City Council voted recently in support of this measure. She mentioned the letters of support that were given to the Board from private entities.

Mr. Fey, Western Trails Research Association, said he supported the bike path because it would provide permanent access to the historical emigrant sites. He explained the Emigrant Trail Marking Committee completed the first markings in 1967, and one of the markings was located on the path being discussed. He confirmed there were a number of diary quotes to support that this was the trail.

Mr. Oliver, Lincoln Highway Association State Director, commented on the Lincoln Highway bridge railings in Verdi. He said Washoe County had been criticized for not marking their part of the Lincoln Highway through the area. He remarked the Lincoln Highway went through this area, plus there were five other historic roads in this region. Mr. Oliver said the Association was working with the Bureau of Land Management (BLM) to mark their property. He added the Lincoln Highway had been marked across Nevada with metal markers.

Mr. Hollecker, Trails West President, noted the materials showing a plat of 1867 and an aerial photo of the Old Emigrant Trail. He described the path of the trail and commented on portions of the PowerPoint presentation entitled, "Tahoe-Pyramid Bikeway: Exploring the nature and history of the Truckee River at ground level. Emigrant Trail: Lockwood to Sparks," which was placed on file with the Clerk.

Carol Scott, Scott family representative, commented on Exhibits A-F. She said the maps of Exhibit A and B clearly showed the Humboldt Emigrant Trail was located at or near present day Interstate 80; and the railroad access road was not connected, nor did it exist, at the time of the old road. She discussed Exhibit F, which included case law regarding historic roads. Ms. Scott stated there was no doubt the railroad access road was not part of the Humboldt Emigrant Trail; and it did not come into existence until the re-alignment of the Southern Pacific Railroad. She declared the railroad access road was never opened for public use, and the Scott family held the lease on this railroad property since 1953. She concluded the family understood the wishes of the bike project, and they tried to cooperate with them to achieve their goals; however, endeavoring to have private property declared as public property because it was convenient for that goal was wrong. She talked about the suggestions the family offered the group concerning the location of the bike path.

Linda Scott White, Scott Family, LLC, attorney, displayed a sign the family found on the property when they moved there in 1953. She explained it was a private property, trespassing forbidden sign that was put up by the railroad in those days. She commented Washoe County had contributed \$20,000 to the bike trail, and it would be a conflict of interest for the Commissioners to declare this to be a road. She said to declare this a public road would constitute a taking of property without compensation.

Michael Keane, attorney for Woodburn and Wedge Attorneys and Counselors at Law, stated they were retained by the Union Pacific Railroad to represent them in this matter. He presented a map of the area in question. He noted the location of an abandoned road and said a 1924 map illustrated the road was abandoned by the County back to the railroad. He said there was no dispute the settlers went through this

canyon, but what needed to be shown for the petition to be approved was that exact piece of dirt was the Old Emigrant Trail. He submitted that could not be shown. Mr. Keane discussed the maps and pointed out discrepancies. He noted the original trail was under the tracks and could not be a public road at this time. He said the road being discussed was a railroad access road, it never was public, and it was always subject to no trespassing and to licensure. He pointed out the County Surveyor admitted where the proposed trail crossed the river was not the Old Emigrant Trail. Mr. Keane declared the evidence before the Board was contradictory. He remarked, if the old road was covered by the railroad, a new road would be put along side, but that did not make it the Old Emigrant Trail or a public road. He stressed safety was the primary concern of the railroad, and the operation of a high-speed railroad was not compatible with recreation. He stated the railroad was not against the trail, but the trail would bring more people to the area and increase the risk to the general public. Mr. Keane suggested placing the path along the river if the goal was a scenic trail. He requested the petition be denied at this time, suggesting that further evidence be developed because the evidence before the Board did not prove this was the trail, it could not have been established prior to the time necessary, and it did not qualify under NRS 405.195.

Chairman Larkin acknowledged a letter in favor of the petition that was submitted by the Reno Wheelman Bicycle Club. He recognized 79 individuals in the audience that did not wish to speak, but supported the petition. He noted four individuals who were present at the meeting that did not wish to speak that were against the petition.

Spencer Ericksen and Don Vetter, area residents, spoke in favor of the petition to acknowledge and open a public road commonly known as the Old Emigrant Trail between the Truckee Meadows Wastewater Reclamation Facility and Lockwood.

Toni Bartelheim, Kristi Foley, Keith Bartelheim, Linda White, Dan Whitmire, Gary Schmidt, and Juanita Cox, area residents, spoke against the petition to acknowledge and open a public road commonly known as the Old Emigrant Trail between the Truckee Meadows Wastewater Reclamation Facility and Lockwood.

Ms. Carson stated her rebuttal focused on the historical information and legal and safety aspects. She presented portions of a PowerPoint presentation entitled, "Tahoe-Pyramid Bikeway: Exploring the nature and history of the Truckee River at ground level. Emigrant Trail: Lockwood to Sparks." She commented the project would be designed to get pedestrians and bikes off the railroad trestles because the proposal was driven by safety. She pointed out the proposed trail would not be on the Scotts' property.

Mr. Hollecker explained an 1867 plat map, a satellite photo of the trail, and his analysis of the area. He read from a diary entry about the area and said it was no question to him of where the Old Emigrant Road was located, and he believed it would not impact the railroad in any way.

Ms. Shipman stated the trail vested at the time Congress passed the 1866 act. She said a survey was completed, and the trail was next to or adjacent to the parcel

owned by the Scott family. She commented most of the trail was on railroad property. Ms. Shipman remarked the railroad came to a passageway that already existed when it relocated in the early 1900's. She explained in 1876 the State of Nevada accepted all roads that were in existence at the time. She noted, when one looked at what roads were public roads, included among them were roads that were not marked private on a map. She emphasized these roads were recorded in an 1863 survey map in Washoe County.

In rebuttal, Ms. Scott White stated there was a conflict as to the location and the use of the road. She said there had been no public right or access allowed in the area since 1953, and there was not an open and continuous use of the road. She noted the original Emigrant Road was under the bed of the railroad tracks according to the records of the railroad. She remarked Mr. Keane testified the road that ran along the easement was a different road. Ms. Scott White verified statute would not be applicable in their case because the situation did not meet the requirements. She stated the property belonged to the Scott family because it was leased from the railroad. She pointed out the County abandoned the property in 1924 when the railroad completed the re-alignment. She added the County and the State relinquished any right they had under statute. Ms. Scott White stressed, without an exact road and without any proof the road had been used by the public, their argument could not prevail. She stated a taking without compensation was eminent domain. She acknowledged the \$20,000 contribution the Board made to the development of bikeways and said it would be a conflict of interest if the property was taken. Ms. Scott White stressed litigation would be involved. She asked the Board to consider the interests of the Scott family.

In rebuttal, Mr. Keane acknowledged the primary concern of the railroad was safety. He said the Tahoe-Pyramid Bikeway group stated the road was 60 to 100 feet away from the tracks, and he pointed out there was no barrier to stop people from going on to the tracks. He recognized a 30-foot vertical separation would not keep people off the tracks either. Mr. Keane referred to the map presented by the petitioners and submitted there was a crossing in that area; however, there was no proof that it was the crossing that they proposed for their trail. He commented the County Surveyor indicated the crossing that was proposed by the group was downstream from where the settlers crossed. Mr. Keane remarked the narrow focus of tonight's decision was whether this was a public road. He said, in order for the Board to determine that, it must be concluded that this was the actual Emigrant Trail and that it had been open to public use before the 1900's.

The Chairman closed the public hearing.

In response to Commissioner Galloway, Mr. Gadd clarified the bike path and the trail were two different issues. He said the issue was the declaration of the Old Emigrant Trail and its location.

Jack Holmes, County Surveyor, explained the Board was to vote on whether or not there was an emigrant trail in that area and to determine whether or not there was public access at that location. He said the bike trail desired to use the area;

however, the Board would not be voting on that, as that was a separate issue. He acknowledged the Old Emigrant Trail hit many locations over time, and research depicted there were multiple locations.

Commissioner Galloway asked if there was sufficient evidence to indicate that the trail illustrated on the map presented by the County represented the item the Board was requested by petition to judge. Mr. Holmes agreed. Commissioner Galloway inquired if continuous use was a requirement under the law that established a public road under RS 2477. Mr. Holmes said it was not a requirement.

In response to Commissioner Sferrazza, Ms. Carson explained the distance from the river to any road of 150 years ago would have changed because the course of the river would change. She said there were physical constraints that drove the transportation path through that area. She recognized the pioneers used the entire corridor, and the predominant route was the one presented by Mr. Gadd. Ms. Carson confirmed the bike group was proposing to follow that. She said the trail would pass near the front door of the Scotts' home.

Chairman Larkin asked if the matter under consideration was whether or not the property from where it crossed into Washoe County was part of the Old Emigrant Trail and should be classified as an RS 2477 road. Mr. Gadd concurred. Mr. Holmes commented the location of the crossing that was proposed by the petitioners was east of the Old Emigrant Trail. He pointed out on the map where the trail came across. Chairman Larkin inquired if that was established in fact and testimony, and Mr. Holmes said it was. He said staff was presenting the most commonly used location. Chairman Larkin asked if the location outlined crossed the Scott property. Mr. Gadd said staff believed it skirted the northern boundary of the Scott property and was likely in the railroad property as shown on the map.

Commissioner Weber asked if it were not for the bike trail would this discussion be taking place. Mr. Gadd said it would not, as the discussion was a result of a petition that was filed in accordance with NRS that asked the Board to hold a public hearing on this matter.

In response to Commissioner Weber, Ms. Carson confirmed the Washoe County Parks Commission and the Sparks City Council did not have all the detailed information that was before the Board at this hearing; however, their motions were in favor of making the finding in support of the Tahoe-Pyramid Bikeway's petition. She remarked the historians in the group had been trying to get access to this trail for decades.

Commissioner Weber commented the Scott family was leasing the property from the railroad. She inquired how that played into the eminent domain question. Melanie Foster, Legal Counsel, responded, if an individual had a leasehold interest in property, that property could be impacted by the takings of a government agency. She clarified she was not implying that any action the Board was considering would qualify as a taking.

Commissioner Humke remarked the route could be relocated, according to the historians. He asked if the Commission was allowed to pick a route as long as the other findings were met. Paul Lipparelli, Legal Counsel, explained when Congress enacted RS 2477 in 1866 it never laid out the exact process that was supposed to be followed for establishing where the roads were. He stated that Congressional Act said where ever people put the roads was where they would be located when the land went from the government's hands to private hands. He said the moment a private property owner took title to property with a road on it that became a burden upon that private property owner. Mr. Lipparelli noted the criteria in the statute was laid out in the staff report, and there was not a requirement for continuous use.

Commissioner Sferrazza asked the Scotts why they opposed the trail going along a southern boundary. Ms. Scott White stated the family would have to put up a fence to protect the property, and it would impact their enjoyment of the river.

Commissioner Sferrazza and Ms. Scott discussed the crossing and the trail. Ms. Scott White clarified they do lease the part of the property along the roadway that was requested for the bike path, but the family owns the remainder of the property.

Commissioner Sferrazza inquired if there was a way to cross the river closer to the County property and travel along that property so there would be no dispute. Ms. Carson replied the crossing had to be made before that point was reached.

Commissioner Galloway asked if the Board made a determination that the public road went a given route, could someone else say there was an alternate route and bring forward another petition. Ms. Foster stated the Board's determination would not foreclose that. Commissioner Galloway inquired how exact the Commission would have to be in this matter. Mr. Lipparelli responded courts that have considered those issues have advised that the alignment should be determined in light of the historical use that occurred.

In response to Commissioner Galloway, Ms. Carson stated it would be satisfactory for the purposes of the bike path if the Board made a finding that was consistent with what County staff had found. She confirmed they would adjust their plans to the finding.

Chairman Larkin inquired if the declaration of an RS 2477 road was a taking. Mr. Lipparelli said it was not. He explained it was an exercise of statutory authority that was given to the County Commission by the State Legislature. He was not aware of any cases that said the exercising of that power constituted a taking. Chairman Larkin remarked what was before the Commission was to establish whether or not the Board agreed with the staff report that this particular alignment comports to the RS 2477 standard, that this alignment was in the best interest of the public to maintain as a public road, and if it was established before Nevada became a state or before the establishment of the RS 2477 statute. Mr. Lipparelli said the statehood issue was not as important as the scope of power under the existing statute. He said a finding of public benefit was not

part of what the Commission was doing with this petition, as that would be in the arena of eminent domain powers. He explained the five petitioners who exercised their statutory right to petition the Board to declare this a public road had to show that the NRS 405.195 criteria was met, and that did not include a finding of public benefit.

Chairman Larkin and Commissioner Weber asked if the \$20,000 donation by the Board to the bike trail would be considered a conflict of interest. Ms. Foster replied under Nevada law a conflict of interest would be defined as an elected official acting upon a matter that would further their own private pecuniary interests or the interests of a person to whom they were closely related. She said, in this case, the issue had been raised regarding an act taken by this Commission in its official capacity to grant money for another section of the bike trail not specific to this section being discussed. She stated in no way should it be viewed as pre-judging the issue before the Board. She said they were different issues and independent of one another.

In response to Commissioner Humke, Mr. Lipparelli stated, to the extent that there was a conflict between two pieces of evidence, it was within the Commission's authority to decide which one had more weight or was more believable. He said the Commission could ask for further information if there were any doubts.

Commissioner Galloway stated, if this was determined to be an RS 2477 road, it would not be a taking because the original private property owner never actually received possession of the road when they acquired the property from the federal government. Mr. Lipparelli believed that was what the Nevada Legislature meant to do when it gave the County Commission that power. Commissioner Galloway said, if the private property owner took possession of the remainder of the property that was not the road, they could post anything because they had possession of it. Mr. Lipparelli agreed. Commissioner Galloway remarked, with respect to the actual establishment, the Board would make their best determination and people could appeal to the legal process after that. Mr. Lipparelli confirmed the Board's decision was subject to judicial review.

Commissioner Sferrazza asked for Mr. Keane's opinion as to the location of the crossing and the road. Mr. Keane replied he had no documentation showing where the crossing was, and he did not speak to the location of the crossing in his presentation. He stated the maps submitted with the petition were vague at best.

Chairman Larkin inquired if Ms. Carson had secured Storey County's approval for the portion of the trail located there. Ms. Carson responded a year ago Storey County endorsed this section of trail and the bridge for safety reasons. She noted they were waiting to see what this Commission did before they placed it on their agenda. She added a similar action by Storey County would be necessary to establish this as an RS 2477 road.

Based on the following findings, on motion by Commissioner Humke, seconded by Commissioner Galloway, which motion duly carried, Chairman Larkin ordered that the public road that was the subject of the petition be opened pursuant to

NRS 405.195. The Board noted that there would be a resulting benefit to the general public, there would be no significant impairment of the environment or natural resources, and the decision would not result in a significant reduction in the value of public or private property:

FINDINGS:

- A. Construction of the improvement occurred while the land was unappropriated, unreserved public land.
- B. The improvement was constructed by mechanical means, which made the physical change to the natural area necessary for the customary or usual passage of traffic.
- C. The right-of-way was:
 - 1. Accepted by the state or local government for dedication as a road for public use and thereafter the road was used by the public at large.
 - 2. Accepted by use as access to a mining claim or other privately owner property.

It was further ordered that the District Attorney's Office be directed to prepare an order with specificity as to the location of the road in question.

Commissioner Humke disclosed he had conversations with Dave Howard, Mr. Hollecker, Ms. Carson, and Ms. Shipman, and he did not consider those a conflict.

Commissioner Sferrazza said he supported the motion based on a plat map showing the Savage Toll Road and other documents that had been presented to the Commission.

Commissioner Galloway disclosed he had abbreviated contact with Mr. Howard and Ms. Carson, and there was no in-depth discussion on this matter.

Commissioner Weber said she supported the motion because it was relevant, and the findings had been made.

8:37 p.m. The Board recessed.

9:15 p.m. The Board reconvened with Commissioner Sferrazza absent.

9:16 p.m. Commissioner Sferrazza returned to the meeting during the following item.

**06-330 RESIGNATION/APPOINTMENT – COLD SPRINGS CITIZEN
ADVISORY BOARD**

Commissioner Weber thanked Joan Liscom for her service on the Cold Springs Citizen Advisory Board (CAB). She recommended Paul Herman to replace Ms. Liscom, as he had served as an alternate for many terms.

On motion by Commissioner Weber, seconded by Commissioner Sferrazza, which motion duly carried, Chairman Larkin ordered that the resignation of Ms. Liscom from the Cold Springs CAB be accepted and Mr. Herman be appointed as an At-Large member to the Cold Springs CAB with a term beginning on March 28, 2006 and expiring on June 30, 2008.

**06-331 APPOINTMENT – NORTH VALLEYS CITIZEN ADVISORY
BOARD**

On motion by Commissioner Weber, seconded by Commissioner Sferrazza, which motion duly carried, Chairman Larkin ordered that Glen Pedersen be appointed as an At-Large member to the North Valleys Citizen Advisory Board with a term beginning on March 28, 2006 and expiring on June 30, 2008.

06-332 APPOINTMENT – SUN VALLEY CITIZEN ADVISORY BOARD

Commissioner Weber recommended Pat Lancaster be appointed to the Sun Valley Citizen Advisory Board (CAB).

Commissioner Sferrazza commented lower Sun Valley was in his District, and he was never involved in the appointments to the Sun Valley CAB. He did not believe anyone on that CAB was from his District. He asked to have input on that, and he stated someone from his District should be on that CAB.

County Manager Katy Singlaub recalled Commissioner Sferrazza had made that request in the past, and she confirmed advertising had taken place.

Commissioner Weber remarked there was a possibility of another appointment opening up next month, and someone from Commissioner Sferrazza's District could be considered for that appointment.

Commissioner Sferrazza requested information on which District the current members and applicants lived in and where they lived.

Commissioner Galloway asked about the advertising. Ms. Singlaub replied the CAB advertisements were posted in the newspaper, on the County's website, and a description of the neighborhoods was included. She said it would be corrected to reflect both Commission Districts were a part of the Sun Valley CAB.

On motion by Commissioner Weber, seconded by Commissioner Sferrazza, which motion duly carried, Chairman Larkin ordered that Ms. Lancaster be appointed as an At-Large member to the Sun Valley CAB with a term beginning on March 28, 2006 and expiring on June 30, 2008.

Commissioner Sferrazza stated he supported the motion with the understanding that he would have a chance to fill the next vacancy with someone from his District.

**06-333 RESIGNATION – APPOINTMENT – WEST TRUCKEE
MEADOWS CITIZEN ADVISORY BOARD**

Commissioner Galloway commended Martha Rugg for her service on the West Truckee Meadows Citizen Advisory Board (CAB). He said Jack Keeper agreed to fill the temporary vacancy.

Commissioner Sferrazza commented he would like to have participation if part of the West Truckee Meadows CAB was in his District.

On motion by Commissioner Galloway, seconded by Commissioner Humke, which motion duly carried, Chairman Larkin ordered that the resignation of Ms. Rugg from the West Truckee Meadows CAB be accepted, and the temporary change of the vacant At-Large representation from West of McCarran to East of McCarran until June 30, 2006 be approved and Mr. Keeper be appointed as an At-Large (East of McCarran) member to the West Truckee Meadows CAB with a term beginning on March 28, 2006 and expiring on June 30, 2006.

**06-334 RESOLUTION – AUGMENT BUDGET – INDIGENT TAX LEVY
FUND - FINANCE**

Upon recommendation of Kim Carlson, Senior Fiscal Analyst, through John Sherman, Finance Director, on motion by Commissioner Humke, seconded by Commissioner Galloway, which motion duly carried, it was ordered that the publication of a Notice of Intent to augment the budget be acknowledged, the following resolution be adopted, and Chairman Larkin be authorized to execute the same:

RESOLUTION

To Augment the Indigent Tax Levy Fund (Fund 221)

WHEREAS, the Indigent Tax Levy Fund has a need for appropriation authority due to service demands; and

WHEREAS, the Indigent Tax Levy Fund has sufficient resources available from unbudgeted opening fund balance to augment its appropriations;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF WASHOE IN THE STATE OF NEVADA:

Section 1. That the budget of the Indigent Tax Levy Fund be augmented as follows:

Increase Revenues

Unappropriated Opening Fund Balance \$272,630

Increase Expenditures

Nursing Home Match 210100-710725 \$272,630

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

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

**06-335 APPROPRIATION ADJUSTMENTS – SALARY SAVINGS
ALLOCATIONS – FINANCE**

Upon recommendation of Lisa Gianoli, Budget Manager, through John Sherman, Finance Director, on motion by Commissioner Humke, seconded by Commissioner Galloway, which motion duly carried, Chairman Larkin ordered that the appropriation adjustments for the fiscal year 2005/06 salary savings allocations be authorized and the Finance Department be directed to reduce the General Fund salary and benefit accounts as specified and transfer the balance to contingency in the amount of \$91,833.

**CITY OF SPARKS – TOURISM IMPROVEMENT DISTRICT –
LEGENDS AT SPARKS MARINA – FINANCE**

County Manager Katy Singlaub noted this item was pulled at the beginning of the meeting during the approval of the agenda.

Chairman Larkin asked if anyone desired to speak on this item, and there was no response.

**06-336 BILL NO. 1472 -AMENDING WCC CHAPTER 53 – TICKET
SCALPING**

Gary Schmidt, Washoe County resident, voiced his opposition to the bill and said it was not necessary.

Commissioner Sferrazza stated he would not support making this a crime.

Commissioner Galloway declared there were problems with the bill, and he may not be able to support it because he did not see that it was critical to the public safety and welfare.

Commissioner Weber acknowledged she was asked to bring this forward by participants of the Burning Man event.

Bill No. 1472, entitled, "**AN ORDINANCE AMENDING THE WASHOE COUNTY CODE BY PROHIBITING THE SALE OF A TICKET OF ADMISSION TO AN ENTERTAINMENT, SPORTING EVENT OR ART EVENT AT A PRICE IN EXCESS OF THE PRICE PRINTED UPON THE TICKET,**" was introduced by Commissioner Weber, the title read to the Board and legal notice for final action of adoption directed.

06-337 CONTRACT – CH2MHILL – GROUNDWATER TREATMENT ENGINEERING SERVICES – WATER RESOURCES

Upon recommendation of Rick Warner, Senior Licensed Engineer, and Paul Orphan, Engineering Manager, through Steve Bradhurst, Water Resources Director, on motion by Commissioner Humke, seconded by Commissioner Weber, which motion duly carried, it was ordered that a professional services contract between Washoe County and CH2MHill, concerning groundwater treatment engineering services in the amount of \$109,000, be approved. It was further ordered that Chairman Larkin be authorized to execute the contract documents and the Engineering Manager be authorized to issue the Notice to Proceed.

06-338 CONTRACT – PALL CORPORATION – WATER FILTER EQUIPMENT – SOUTH TRUCKEE MEADOWS WATER TREATMENT FACILITY PROJECT – WATER RESOURCES

Upon recommendation of Paul Orphan, Engineering Manager, and Rick Warner, Senior Licensed Engineer, through Steve Bradhurst, Water Resources Director, on motion by Commissioner Galloway, seconded by Commissioner Weber, which motion duly carried, it was ordered that a contract between Washoe County and Pall Corporation, concerning the supply of filter equipment for the South Truckee Meadows Water Treatment Facility Project in the amount of \$2,430,000, be approved. It was further ordered that Chairman Larkin be authorized to execute the contract documents and the Engineering Manager be authorized to issue the Notice to Proceed.

06-339 REIMBURSEMENT AGREEMENT – SOUTH RENO INVESTORS, LLC – WATER PIPELINES – WATER RESOURCES

Upon recommendation of Thomas Kelly, Senior Licensed Engineer, and Paul Orphan, Engineering Manager, through Steve Bradhurst, Water Resources Director, on motion by Commissioner Humke, seconded by Commissioner Galloway, which motion duly carried, it was ordered that an agreement between Washoe County and South

Reno Investors, LLC, concerning the construction of water pipelines in South Truckee Meadows up to the amount of \$189,000, be approved and Chairman Larkin be authorized to execute the same.

06-340 **PROPERTY MERGER – RE-SUBDIVISION MAP – SPANISH SPRINGS VALLEY PARCELS – WATER RESOURCES**

Upon recommendation of Paul Orphan, Engineering Manager, and Rick Warner, Senior Licensed Engineer, through Steve Bradhurst, Water Resources Director, on motion by Commissioner Galloway, seconded by Commissioner Humke, which motion duly carried, Chairman Larkin ordered that a property merger and re-subdivision map for two Washoe County parcels, APN 084-270-31 and APN 084-270-34, which are located within Spanish Springs Valley, be approved.

06-341 **GRANT OF EASEMENT – WHITES CREEK SOUTH FORK DIVERSION AND PIPELINE – SOUTH RENO INVESTORS, LLC – WATER RESOURCES**

Upon recommendation of Thomas Kelly, Senior Licensed Engineer, and Paul Orphan, Engineering Manager, through Steve Bradhurst, Water Resources Director, on motion by Commissioner Humke, seconded by Commissioner Galloway, which motion duly carried, it was ordered that an easement for the Whites Creek South Fork Diversion and Pipeline from South Reno Investors, LLC be accepted. It was further ordered that the Chairman be authorized to sign the easement and the Engineering Manager be directed to record the easement at the office of the County Recorder.

06-342 **CONVEYANCE OF WATER RIGHTS – TRUCKEE MEADOWS WATER AUTHORITY – FALCON RIDGE TOWNHOMES AND IRRIGATION – WATER RESOURCES**

Upon recommendation of Vahid Behmaram, Water Rights Manager, and Paul Orphan, Engineering Manager, through Steve Bradhurst, Water Resources Director, on motion by Commissioner Humke, seconded by Commissioner Galloway, which motion duly carried, it was ordered that conveyance of 28.26 acre-feet of water rights from Truckee Meadows Water Authority (TMWA) to Washoe County in support of Falcon Ridge Townhomes and Irrigation and the associated Water Sale Agreement leasing said water rights back to TMWA be approved. It was further ordered that Chairman Larkin be authorized to execute the water rights deed and water sale agreement and the Engineering Manager be directed to record both documents.

06-343 **REVIEW WATER RIGHTS APPLICATION – NEVADA STATE ENGINEER - WATER RESOURCES**

Upon recommendation of Vahid Behmaram, Water Rights Manager, and Paul Orphan, Engineering Manager, through Steve Bradhurst, Water Resources Director, on motion by Commissioner Humke, seconded by Commissioner Galloway, which

motion duly carried, it was ordered that Water Rights Application 72957 be reviewed and Chairman Larkin be authorized to recommend approval of the subject application to the Nevada State Engineer.

UPDATE – REGIONAL PLAN – IMPLEMENTING SETTLEMENT AGREEMENT – PROGRAM OF ANNEXATION

County Manager Katy Singlaub commented the item was discussed previously, and there were no new developments to report to the Board.

06-344 LEGISLATIVE ISSUES – LEGISLATIVE AFFAIRS

Commissioner Weber commented on AB334. She asked for discussion on the bill including NACO actions statewide, the Recorder's Office, and the impacts to all of the counties.

REPORTS/UPDATES FROM COUNTY COMMISSION MEMBERS

Commissioner Sferrazza announced he was holding a Town Hall meeting in the Chambers on March 30, 2006 from 6:00 p.m. to 8:00 p.m. He invited the public to attend.

Chairman Larkin reported he would host a mediation meeting on the Warm Springs issue related to cattle grazing and private lands at the fire station in Warm Springs on March 29, 2006 at 7:00 p.m. He invited other Commissioners to join him.

Commissioner Weber reminded the public of the Great Truckee Meadows Community Clean-up on April 22, 2006 from 9:00 a.m. to 12:00 p.m. She encouraged the Commissioners and citizens to sign up and participate.

County Manager Katy Singlaub mentioned that Washoe County received a commendation from the National Association of Counties. She acknowledged the certificate of special recognition presented to Washoe County for support of and participation in the 2005 Public Safety Survey would be forwarded to the Sheriff's Office.

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There being no further business to come before the Board, the meeting adjourned at 9:45 p.m.

ROBERT M. LARKIN, Chairman
Washoe County Commission

ATTEST:

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

*Minutes Prepared by
Stacy Gonzales, Deputy County Clerk
Lori Rowe, Deputy County Clerk*