

BOARD OF COUNTY COMMISSIONERS, WASHOE COUNTY, NEVADA

MONDAY

1:00 P.M.

JANUARY 22, 2007

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

07-92 AGENDA

In response to the call for public comment, Sam Dehne objected to the two-minute limit for public comment and to the fact that a meeting was being held with only one agenda item. He alleged that the statements on the cover page of the agenda and those printed under the public comment item were contradictory to each other.

Commissioner Galloway commented that the one-topic meeting was scheduled to provide an opportunity for the Commissioners to focus on the draft Administrative Enforcement Ordinance and Nuisance Ordinance. A Town Hall Meeting scheduled for February 7, 2007 would be the first meeting of the Citizen Committee and would provide an additional forum for general public comments.

In accordance with the Open Meeting Law, on motion by Commissioner Weber, seconded by Commissioner Galloway, which motion carried on a 3-1 vote with Commissioner Humke voting “no” and Commissioner Sferrazza absent, Chairman Larkin ordered that the agenda for the January 22, 2007 special meeting be approved.

PUBLIC COMMENT

Sam Dehne commented on his attendance the previous week at an “airport meeting,” where the amount of money to be approved on the consent agenda exceeded anything he had ever seen.

***1:16 p.m.** Commissioner Sferrazza arrived

07-93

**DISCUSSION/DIRECTION – DRAFT ADMINISTRATIVE
ENFORCEMENT ORDINANCE AND DRAFT NUISANCE
ORDINANCE – COMMUNITY DEVELOPMENT**

Staff Presentation:

Adrian Freund, Director of Community Development, indicated that the purpose of the discussion was for the County Commission to review and provide direction on both ordinances, and to appoint members to the Citizen Committee. The Citizen Committee was expected to have substantial discussions to review and modify the draft ordinances, with further refinement and modification by staff, as well as direction from the Board. He explained the goal in drafting the ordinances was to find the most efficient and effective way to abate nuisances, pointing out that the current process often resulted in penalties or fines to individuals under a criminal process and did not necessarily lead to abatement. Mr. Freund recognized staff members from various departments for their assistance in preparing the draft ordinances.

Bob Webb, Planning Manager, discussed the administrative enforcement process versus the criminal enforcement process. He related the staff's consensus that enforcement officials should be able to use both processes as needed to gain compliance with County Code and that some violations such as traffic violations should be exclusively enforced through the criminal process. Mr. Webb mentioned the intent to establish area-specific nuisances that would be based on the defined suburban and rural character management areas and statements included in the Area Plans of the Washoe County Comprehensive Plan. He stated that the Citizen Committee process would be used to solicit ideas about area-specific nuisances from the community to bring back to the Board for review and policy direction. Mr. Webb asked the Board to review and approve the proposed timeline included in the staff report placed on file with the Clerk, as well as to appoint members to the Citizen Committee. Each Commissioner could appoint up to two Committee members from each planning area within their district and Committee applications were attached to the staff report. He anticipated that the Citizen Committee would hold from four to six evening meetings during March and April 2007. Staff had arranged to have Joy Orlich facilitate the meetings. Mr. Webb said that, although there was no immediate fiscal impact, staff would be requesting funds in the upcoming budget process to hire administrative hearing officers and to provide seed money for future potential abatement actions by the County.

General Questions By The Board:

Commissioner Galloway distributed copies of an additional application he had received the previous day for the Citizen Committee, also placing it on file with the Clerk.

Chairman Larkin clarified with Mr. Webb that the matters before the Board were to appoint members to the Citizen Committee, provide input and direction on the ordinances, and approve the proposed time schedule.

Chairman Larkin asked Mr. Webb how applicants for the Citizen Committee were matched to their planning areas. Mr. Webb responded that staff made sure each applicant's residence address was located in unincorporated Washoe County and then matched it to the appropriate planning area and Commission district.

In response to a question by Commissioner Humke, Mr. Webb said that staff had not produced a plain language explanation of the ordinances but could do so at the Board's direction. Commissioner Humke asked about the cost of the current enforcement system on a monthly or annual basis versus the cost of administrative enforcement. Mr. Webb offered to research costs and provide the information as directed by the Board.

Commissioner Humke commented that he would seek to continue the draft ordinance process. He observed that citizens in his district were quite angry and were unable to get their questions answered, instead being lobbied about the benefits of the proposed system by staff answering the telephone.

In response to Commissioner Galloway's question, Mr. Webb indicated that an estimate of potential enforcement revenues had not been obtained.

Chairman Larkin asked if direct mail solicitation was used to conduct the search for Citizen Committee applicants. Mr. Webb stated that the flyer included in the staff report was sent with citizen advisory board (CAB) notices, both by mail and electronically, as well as being posted on the website. He indicated that the community outreach coordinator had spoken about the Citizen Committee during at least one monthly meeting of each of the CAB's. Chairman Larkin clarified with Mr. Webb that the Board's previous direction was to limit each Commissioner's appointments to no more than two members from each planning area within their district.

Commissioner Humke questioned if it was a conflict of interest for fines and fees realized from an administrative ordinance to go into the budget of the enforcement agency. Mr. Webb deferred the question to the District Attorney's office.

Commissioner Weber did not believe it was the intent of the Board to move forward on these draft ordinances and stated she was not prepared to do that until citizens had been involved in the discussion. She thought the intent was to take the existing ordinances and make them more enforceable and more effective.

Commissioner Galloway asked if the first administrative notice referred to in the draft Administrative Enforcement ordinance was notice of a failure to abate or the abatement notice itself. Mr. Webb clarified that there would be a notice of violation as

the first step in the process and the administrative notice with a fine was one of several possible courses of action that could take place if the problem was not corrected.

Public Comment:

In response to the call for public comment, Garth Elliott commended the Board for making public input and involvement a priority. He related some stories he had heard about large fines and lost property over nuisance ordinances. Mr. Elliott urged Board members to keep government out of its citizens' lives at all costs.

Raymond Denner identified his residence on the corner of Second Street and Carol Drive in Sun Valley and observed that his neighborhood was becoming an immense junkyard. He claimed that he had talked to code enforcement about junk vehicles and nothing had been done. Mr. Denner stated that his property was nicely maintained but he would be unable to get its full value if he were to sell it because of the condition of the surrounding properties. He requested that more be done about junk vehicles.

Sam Dehne wondered what had happened to code enforcement and suggested that a committee should not be necessary to fix the problem. He recommended Al Hesson be hired to do code enforcement and that a random system similar to that used in the selection of a jury be used to appoint committee members.

Gary Schmidt complimented Commissioners Humke and Weber for wanting to go slow and look carefully at the issues before taking action. He expressed opposition to enforcement personnel having a choice between criminal and administrative enforcement for the same violation, suggesting that it could approach unequal treatment under the law. Mr. Schmidt thought that the definition of junk vehicles was too broad but he applauded the provision to issue permits for antique vehicles.

Max Bartmess shared his belief that citizens would like a smaller and less intrusive government. He suggested that the Board remove the worst and keep the best of the existing ordinances. Mr. Bartmess stated that applications for the Citizen Committee were never presented to the Spanish Springs CAB, of which he is a member. He had no idea that the Citizen Committee was being formed until receiving a notice early last week and asked that the application deadline be extended.

General Discussion by the Board:

Commissioner Galloway expressed his support for the process of presenting optional code changes to the public for their comment so that consideration could be given to solving the worst problems. He pointed out that a person who lived across the street from a house with a junkyard in front of it would not necessarily want government to stay out of that problem.

Chairman Larkin asked Assistant District Attorney Melanie Foster whether regulations prohibited members of other commissions or committees from participating on the Citizen Committee. She responded that those who served on the Board of Adjustment could not serve on a CAB or the Planning Commission but there was no prohibition that applied to members of the Citizen Committee.

Commissioner Sferrazza agreed with Commissioner Weber that no action should be taken until citizen review had taken place.

Commissioner Weber asked Mr. Webb whether the problem could be addressed if the County had more than two code enforcement officers. Mr. Webb responded that there was more involved than enforcement by Community Development. He stated that the Administrative Enforcement Ordinance was designed to provide additional tools to numerous agencies with enforcement roles, such as: District Health, Animal Control, Fire Department, Engineering, and Water Resources. He indicated that it would take about a year to identify how many enforcement officers were needed and to ensure the appropriate mix of enforcement officers if the Ordinance were to pass.

Commissioner Weber said that she had received community input about violators being given too much time to comply and taking just enough action to start the clock over again, thereby dragging the process out for one or two years. Mr. Webb explained that, under the current system, the only recourse for some cases was to issue a misdemeanor criminal violation, possibly ending in jail time or a fine for the violator and seldom correcting the violation. He pointed out that the draft Administrative Enforcement Ordinance contained a 20-day time limit to abate after the first notice of violation but acknowledged that the Citizen Committee would need to discuss the timeline and issues such as repeat offenders. He added that the timeline might need to be based on the violation, allowing shorter periods of time for Animal Control for example.

Commissioner Weber suggested that a mission statement be established to guide the Citizen Committee, incorporating concerns such as less intrusive government that had been raised by the public.

Commissioner Humke commented that there were uneven numbers of Citizen Committee applicants within the various Commission Districts. He suggested that a mission statement could include tasking the Citizen Committee with trying to make the current system work. He also raised the idea of forming neighborhood committees to work with code enforcement officers, stating that citizens complained to him either about overzealous code enforcement or no enforcement at all.

Commissioner Galloway remarked that the current system of giving someone a misdemeanor caused bigger problems for the violator and was ineffective in abating the nuisance. He suggested that not allowing an administrative process might be a disservice to the public. Commissioner Galloway agreed that government should not be more intrusive than necessary but should get involved when someone's actions directly impacted others.

Commissioner Galloway asked Ms. Foster if items such as loud noises and music from commercial entertainment, which had been an issue at Lake Tahoe, could be added to the draft. He mentioned that the Tahoe Regional Planning Agency had drafted a short-term standard for noise control that would allow an officer with a handheld meter to determine if there was a violation. Ms. Foster indicated that the noise issue had been considered while preparing the draft and stated that other noise ordinances that had been legally upheld were very detailed and very technical.

Commissioner Humke pointed out that creation of the Administrative Enforcement Ordinance amounted to the creation of a separate court system. He observed that the administrative process could create a lien against property, which could be just as detrimental as a misdemeanor when it became a part of someone's credit report.

Commissioner Humke asked for some relief on the deadline to accept additional applications for the Citizen Committee.

Commissioner Humke stated that work had been done on the South Valley Area Plan Update for nearly two years but the committees had not had an opportunity to take a nuisance ordinance into account during their planning. He stated that a case could be made that these ordinances would invite annexation or that it would bring the equivalent of powerful homeowners associations to neighborhoods in the unincorporated areas. Commissioner Humke declared his belief that the draft ordinances were repugnant.

Proposed Time Schedule:

Discussion took place among the Commissioners regarding an appropriate motion to accept or amend the proposed time schedule presented on page five of the staff report.

On motion by Commissioner Galloway, seconded by Commissioner Weber, which motion duly carried, it was ordered that the proposed time schedule on page five of the staff report be approved with the following acknowledgements:

1. The draft Ordinances as presented do not represent the policy of the Board of County Commissioners. Further direction and recommendations may still be received from citizens, from the Citizen Committee and from the Board.
2. It is the Board's intent that government should not be more intrusive than is absolutely necessary.
3. The dates in the proposed timeline are targets rather than firm deadlines and the Citizen Committee may request additional time in its reports to the Board of County Commissioners.

Appointments to the Citizen Committee:

Discussion ensued among the Commissioners regarding the makeup of the Citizen Committee, the appointment of alternates, and the deadline for applications to serve on the Committee. Commissioner Humke stated that he was not prepared to make immediate appointments to the Committee but could forward his list of names to the Manager's office by close of business after adjournment of the meeting. Ms. Foster asked that names forwarded for appointment after the meeting be brought back to the Board and announced at a future open meeting.

2:29 p.m. Commissioner Humke left the meeting.

On motion by Commissioner Galloway, seconded by Commissioner Weber, which motion duly carried with Commissioner Humke absent, it was ordered that appointments made by each Commissioner to the Citizen Committee to review and make recommendations regarding the draft Administrative Enforcement Ordinance and the draft Nuisance Ordinance be ratified as follows:

Commissioner Galloway, Commission District One:

Curtis Brown – Forest Planning Area
Gene Brockman – Tahoe Planning Area
Jacquie Chandler – Tahoe Planning Area
James Clark – Alternate

Commissioner Sferrazza, Commission District Three:

Bruce Gruenewald – North Valleys Planning Area
Clifford Mueller – North Valleys Planning Area

Commissioner Larkin, Commission District Four:

Dennis Magers – Spanish Springs Planning Area
Nick Zufelt – Spanish Springs Planning Area
Bambi VanDyke – Truckee Canyon Planning Area
Philip Anderson – Warm Springs Planning Area
Lois Avery – Warm Springs Planning Area

Commissioner Weber, Commission District Five:

Eric Arentz, Sr. – Cold Springs Planning Area
Scott Sarratt – Cold Springs Planning Area
Matthew Ebert – High Desert Planning Area
Sharalyn Barney – North Valleys Planning Area
Susan Terry – North Valleys Planning Area
Garth Elliott – Sun Valley Planning Area
Susan Severt – Sun Valley Planning Area
David Heuss – Verdi Planning Area
Barry Bouchard – Alternate

It was further ordered that:

1. Each Commissioner is authorized to appoint a total of two alternates within their District.
2. Commissioner Humke's appointments are hereby ratified with names to be provided to the Manager's Office and names to be publicly announced when they are known.
3. Commissioners are authorized to accept additional applications to fill remaining vacancies, which will be ratified by the Board at a later date.

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2:35 p.m. There being no further business to come before the Board, the meeting was adjourned.

ROBERT M. LARKIN, Chairman
Washoe County Commission

ATTEST:

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

*Minutes Prepared by
Lisa McNeill
Deputy County Clerk*