

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

TUESDAY

10:00 A.M.

OCTOBER 12, 2021

PRESENT:

Bob Lucey, Chair
Vaughn Hartung, Vice Chair
Alexis Hill, Commissioner (via Zoom)
Kitty Jung, Commissioner (via telephone)

Janis Galassini, County Clerk
Eric Brown, County Manager
Nathan Edwards, Assistant District Attorney

ABSENT:

Jeanne Herman, Commissioner

The Washoe County Board of Commissioners convened at 10:01 a.m. in regular session in the Commission Chambers of the Washoe County Administration Complex, 1001 East Ninth Street, Reno, Nevada. Following the Pledge of Allegiance to the flag of our Country, the Clerk called roll and the Board conducted the following business:

21-0781 AGENDA ITEM 3 Public Comment.

Mr. Larry Chesney spoke about agenda item 12 related to changing authority to delegate litigation decisions to the chair and the county manager, saying approval of this item would place authority in the hands of a politician and a county manager that reported to the same politician. He requested the Board reject the item.

Mr. John Hesse thanked the Board and staff for the work on Wildcreek Golf Course. He brought up the placement of the new high school, saying he was not sure it was the right spot for it, but he said new schools were needed. He wanted language to be placed in the agreement that the property would revert to Washoe County as open space or recreational use; it could not be used for housing if First Tee was no longer in operation.

Ms. Darlene Hesse felt like the Wildcreek Golf Course was falling into place nicely. She hoped the property would continue to be safe for the public and wished First Tee well with the course. She wanted to see improvements to the property, such dead trees being removed, and she looked forward to a well-cared for golf course again. She thanked all who were involved for ensuring the property would be protected.

Mr. Patrick File stated he was president of the Nevada Open Government Coalition, a non-partisan group who supported accountability through transparency. He alluded to a letter he sent to the commissioners expressing opposition to agenda item 11,

as the Nevada Public Records Act did not allow entities to charge for personnel time. The intent of the law was to ensure the government met its obligation to provide access to records. He stressed that some fees could be justified in specific circumstances, but they placed a disproportionate burden on people with lesser financial means. He felt better solutions were needed to devote resources to public records at the local level.

Ms. Janet Butcher said General George Washington was not vaccinated, he was inoculated with a less deadly form of smallpox. She stated General Washington wanted to avoid making his troops ill, leaving them vulnerable to a British attack, so he inoculated new recruits and allowed them to recover from the effects before sending them to war. She described the inoculation process and opined the vaccination for COVID-19 (C19) was different than a live virus. She wanted the Board to end the public health emergency.

Ms. Lorraine Dougherty expressed gratitude for the cleanup of the encampment at the Wells Avenue offramp, expressing concerned about encampments moving towards homes. She encouraged individuals to take advantage of homeless shelters and other available resources. She mentioned illegal dumping in south Reno and worried that toxins would compromise the water they used to irrigate. She asked staff to address the area near Lakeside Drive and Frost Lane. She thought the public emergency should stop, as should efforts to mandate vaccinations and masks.

Mr. Nicolas St. Jon demanded that a scientific panel be created to present evidence that the county should stay under an unconstitutional state of emergency. He asserted only .22 percent of the population had died from C19, and he spoke in opposition to vaccine passports. He provided documents, copies of which were placed on file with the clerk, including an affidavit warning that a possible violation of federal law against the Board could lead to arrest and civil damages. He added the Board was advised to cease and desist with policies and seek personal legal counsel.

Ms. Cindy Martinez supported comments made by public commenters related to agenda item 12. She spoke about the apparent coordination of government resources to hide the arrest of an individual. She alleged a regular citizen would not have received the leniency this individual did, noting they received a charge for reckless driving, fines, and court-ordered drug and alcohol courses.

Mr. Wesley Griffin supported the action to approve the sale between Washoe County and First Tee, saying it was the result of much effort from citizens in the community and public officials. He believed Vice Chair Hartung deserved kudos for the work he did to maintain parks and open space. Mr. Griffin looked forward to the passing of this item but wanted to ensure language was included to maintain the property as a park or open space in perpetuity if golf operations with First Tee ceased.

Ms. Erin Massengale wanted the public health emergency to end. She spoke about San Joaquin County, California passing a resolution to ban vaccine passports, yet there were two resolutions on this agenda and neither were ones the community requested. She provided resolutions from other counties ending public health emergencies and

banning vaccination passports, copies of which were placed on file with the clerk. She opined every individual deserved information about basic nutritional health. A copy of a resolution about effective intensive care treatment for C19 was included in the documents.

Ms. Darla Lee echoed the sentiments of citizens who spoke about the Wildcreek Golf Course and ending the public health emergency. She thanked John Martini from the City of Sparks for explaining that the property would be maintained as open space or recreational property if First Tee stopped operations. She expressed concern about vaccine mandates at the federal level and hoped the Board understood how personal this was to people. She mentioned her daughter worked full-time from home but was required by her employer to be vaccinated or lose her job of 18 years.

Ms. Melanie Sutton requested an end to the public health emergency. She expressed concern about people losing their jobs because they chose not to be vaccinated. Her family would leave the state if they were forced to receive the vaccination.

Ms. Patricia Toone provided a history of William Wilberforce, including his struggles with ill health and dealing with the Parliament. She compared Mr. Wilberforce to Commissioner Herman because of the struggles she endured fighting to end the public health emergency.

Ms. Pam Roberts spoke about agenda item 11, saying transparency in local government was important and constituents needed to hold this Board and County staff accountable. She recalled requesting the bylaws for the Palomino Valley General Improvement District and being told the County did not have them. She expressed frustration about having to pay for documents when she already paid taxes to the County to live in Palomino Valley. She thought better protocols needed to be developed before this was approved and asked the Board to consider delaying approval of that item.

Ms. Valerie Fiannaca spoke against measures pertaining to C19, which she believed were hurting small businesses. She reminded citizens that only eight percent of people supported the revolution, seemingly the same percentage of people were standing up against C19 measures. She mentioned Vice Chair Hartung was absent from the Public Utilities Commission hearing related to the Great Basin Water Company and its issues with arsenic in wells. She opined Commissioner Herman was the only commissioner that should be re-elected.

County Clerk Jan Galassini said an email was received from Ms. Elise Weatherly and would be placed on file.

21-0782 **AGENDA ITEM 4** Announcements/Reports.

County Manager Eric Brown acknowledged Treasurer Tami Davis for receiving a Nevada Association of Counties (NACo) award, adding he had the honor of presenting it to her at the NACo conference.

Mr. Brown reminded the public that redistricting information was still online, as well as displayed in libraries and the administration building lobby. He said the deadline for comments had been extended to Tuesday, October 12, and they would be brought to the Board after that time.

Mr. Brown said the current available shelter capacity was 604 but they were only filling 570 to 575 beds per night, which was a slight improvement. The women's Cares Campus capacity was declining since women were being sent to Our Place first and only overflow went to the Cares Campus. The safe camp was at full capacity of 44 with seven successful housing placements recently completed; 15 individuals were ready to transition to permanent housing, but no locations were available. He stated modpods had been ordered to replace the tents used during the summer months as they would be better for winter months, and they would arrive in the next few weeks. Our Place was at capacity, and he noted there were new developments. He mentioned a Community Homelessness Advisory Board meeting would be held on November 1.

Chair Lucey indicated the Charter Channel feed was down, but the YouTube channel was available to view this meeting live.

In response to Ms. Fiannaca's public comments, Vice Chair Hartung asserted he was out of town during the Public Utilities Commission meeting and apologized for his absence. He had tried to call the Great Basin Water Company, but they did not return his call. They were under the authority of the Public Utilities Commission, not the Washoe County Board of County Commissioners. He had been a customer of the Great Basin Water Company for 34 years, when it started as Sky Ranch Utility. He expressed concern about the way it had been maintained and he was working with staff and the Truckee Meadows Water Authority to determine when upcoming meetings would be held.

Vice Chair Hartung wondered when the language for the transfer of the Wildcreek property would be complete. He wanted to ensure that the property would not be subject to uses other than recreation or open space if First Tee were to cease operations. He stressed that no future Board should be authorized to change the use of the property.

Vice Chair Hartung expressed concern that he was contacted by Washoe County Regional Animal Services to provide a current rabies certificate for his dog after he had the shot done at the Society for the Protection of Cruelty to Animals. He wondered why there was a disconnect and wanted an agenda item at a future meeting.

Citing an increase in fraudulent telephone calls, Vice Chair Hartung wanted a public service announcement created to inform citizens that companies did not communicate in this manner and make them aware that scammers preyed on unsuspecting citizens this way. He mentioned two scams including lowering interest rates on credit cards and changing television or internet providers.

Chair Lucey asked staff to contact Ms. Dougherty to obtain specifics of the illegal dumping she spoke about near Lakeside Drive and Frost Lane. He requested an

update from the Mobile Outreach Safety Team and the Sheriff's Office related to homeless encampments that had moved outside the downtown corridor.

Chair Lucey announced that Senator Ben Kieckhefer, who represented Senate District 16, resigned his seat and was appointed by Governor Steve Sisolak to the Gaming Commission to represent the State of Nevada; he could no longer serve as a senator so his seat was open. The Board received his letter of resignation, so an appointment process needed to occur with Carson City for the remaining term in District 16. Further details would be brought to the Board after meetings with the State and Legislature. He said information about applications and the appointment process would be released as soon as it was available.

Chair Lucey spoke about impacts to the county related to economic development, the influx of products, and changes in the supply chain. Employers were experiencing challenges related to the lack of employees. He had discussions with business owners and wanted a better understanding of the challenges and how the County could assist.

21-0783 **5D1** Recommendation to approve updated Washoe County Workplace Violence Policy which outlines prohibited practices, training requirements, and the process to be followed when a workplace violence incident occurs. The policy complies with current legal requirements. Manager's Office. (All Commission Districts.)

Commissioner Hill requested that agenda item 5D1 be pulled from the consent agenda for further discussion. She explained the 2003 policy was not included in the meeting packet and she did not receive it until this morning, which was not enough time to read and understand it. She felt clarification was needed before the item could be approved. Nevada Revised Statutes prohibited the community from bringing concealed weapons into County buildings, but she did not believe it prohibited employees from doing so; she wanted clarification of the policy.

Assistant District Attorney Nate Edwards indicated he would need time to review the policy and it could be heard later in the meeting.

Commissioner Hill asked for the item to be tabled and brought back at a future meeting. Chair Lucey confirmed the item would be placed on a future agenda.

CONSENT AGENDA ITEMS – 5A1 THROUGH 5F2 EXCEPT 5D1

21-0784 **5A1** Recommendation to approve a State of Nevada Importer/Wholesaler Liquor License application for Melissa Hankla, dba Lakeshore Premium Wines, at 923 Incline Way, Suite #32B in Incline Village, Nevada, and if approved, authorize each Commissioner to sign the Nevada State Liquor License Application with direction for the County Clerk to attest the license application. Community Services. (Commission District 1.)

- 21-0785** **5A2** Recommendation to approve a Lease Agreement between Washoe County School District and Washoe County for approximately 11,151 square feet of space together with parking areas, grounds and entrances located at 405 Short Street in Gerlach, NV used for modular housing for county employees retroactive to September 1, 2021 through September 1, 2026 [fiscal impact \$12.00 annually]. Community Services. (Commission District 5.)
- 21-0786** **5A3** Recommendation to approve an Easement Deed and Easement Agreement between Washoe County (Grantor) and Scannell Properties #497, LLC an Indiana Limited Liability company (Grantee) for constructing, installing, using and maintaining an Emergency Access Road and associated improvements over, across and through a portion of Washoe County property APN 530-931-13 located between the end of Isidor Court and Sha Neva Road in Sparks, Nevada [at the appraised value of \$12,400]. Said easement would provide for emergency ingress/egress to the adjacent residential development. Community Services. (Commission District 4.)
- 21-0787** **5B1** Recommendation to authorize the Tax Collector to strike names and amounts identified on delinquency/uncollectible Personal Property Tax list for fiscal years 2016-2017 through 2020-2021, totaling [\$65,244.24]. Comptroller. (All Commission Districts.)
- 21-0788** **5C1** Recommendation to approve, effective October 18, 2021, one (1) reclassification for the Incline Village - Crystal Bay Township Justice Court to reclassify Court Clerk I position (70008744), pay grade J 130 to Court Clerk II position (70008744) pay grade J 157 part-time, benefited (.80 FTE) and, if approved, authorize Human Resources to make the necessary changes [\$5,547 net impact]. Incline Justice Court. (Commission District 5.)
- 21-0789** **5D2** Recommendation to appoint Elliott Sattler and Jeff Clark to the Nevada Local Justice Reinvestment Coordinating Council for a two-year term ending on June 30, 2023, pursuant to Assembly Bill 236 (2019) (now codified at NRS 176.014). The Nevada Local Justice Reinvestment Coordinating Council advises and assists the Nevada Sentencing Commission in making data-driven policy recommendations to Nevada's Legislature by providing input on and recommendations regarding various criminal justice issues and matters that are important at the local level. Manager's Office. (All Commission Districts.)
- 21-0790** **5D3** Recommendation to accept the Community Foundation of Western Nevada Truckee River Fund grant in the amount of [\$219,164, with a Washoe County in-kind match in the amount of \$77,874.26] retroactive from October 1, 2021 - September 30, 2022 to improve water quality by reducing the amount of pollution in the urban Truckee River corridor

through outreach, education, data collection, river clean-ups, appropriately placed sharps disposal containers and maintenance/cleaning of Portland Loo bathroom facilities; authorize County Manager Eric Brown to execute grant documents and direct the Comptroller's Office to make the necessary budget amendments. Manager's Office. (All Commission Districts.)

21-0791 **5E1** Recommendation to accept grant funding [\$61,032 with no county match] from the State of Nevada Department of Health and Human Services for personnel, operating, and travel expenses relating to the National Violent Death Reporting System (NVDRS) program, retroactive from September 1, 2021 through August 31, 2022, and authorize the Chief Medical Examiner & Coroner of the Washoe County Regional Medical Examiner's Office to sign the award and approve amendments, and direct the Comptroller's Office to make the necessary budget amendments. Regional Medical Examiner. (All Commission Districts.)

21-0792 **5F1** Recommendation to authorize Washoe County Treasurer to auction all delinquent lands held in trust for a total amount not less than the amount of the taxes, costs, penalties and interest legally chargeable against the property. Treasurer. (All Commission Districts.)

21-0793 **5F2** Recommendation to accept Treasurer's status report for the period ending September 30, 2021, of payment of refunds and interest since last update in the amount of \$2,238,505 on certain property tax overpayments for residential properties at Incline Village/Crystal Bay, in compliance with the October 21, 2019 Order issued by the District Court in Village League to Save Incline Assets, Inc., et.al. vs. State of Nevada, et.al., Case No. CV03-06922, as modified and clarified by the settlement agreement regarding the processing of refunds. Treasurer. (All Commission Districts.)

There was no response to the call for public comment on the consent agenda items listed above.

On motion by Commissioner Hartung, seconded by Commissioner Hill, which motion duly carried on a 4-0 vote with Commissioner Herman absent, it was ordered that consent agenda items 5A through 5F2 except 5D1 be approved. Any and all resolutions or interlocal agreements pertinent to consent agenda items 5A through 5F2 except 5D1 are attached hereto and made a part of the minutes thereof.

BLOCK VOTE – 6, 7, 8, 9, 10, 13, & 14

21-0794 **AGENDA ITEM 6** Recommendation to approve Resolution R21-061 to augment the Equipment Services Fund [in the amount of \$2,000,000] to increase fiscal year 2022 budget authority to enable staff to place orders for replacement vehicles and equipment; and direct the Comptroller to make

the necessary budget amendments. Community Services. (All Commission Districts.)

There was no response to the call for public comment.

On motion by Vice Chair Hartung, seconded by Commissioner Hill, which motion duly carried on a 4-0 vote with Commissioner Herman absent, it was ordered that agenda item 6 be approved and directed. The resolution for same is attached hereto and made a part of the minutes thereof.

21-0795 **AGENDA ITEM 7** Recommendation to approve a Trail Easement and Agreement between Washoe County and Hunt Harris Ranch, LLC regarding an easement for a future trail through the Harris Ranch Subdivision in Spanish Springs, affecting the parcels currently identified as Assessor's Parcel Numbers 538-272-01, 538-281-04 and 534-600-21; and approve a Memorandum of Understanding between Washoe County and Hunt Harris Ranch, LLC affirming that the aforementioned Trail Easement and Agreement satisfies Conditions of Approval 7.b and 7.c for Tentative Subdivision Map TM16-007, approved by the Washoe County Board of County Commissioners on October 25, 2016. Community Services. (Commission District 4.)

Vice Chair Hartung recommended that staff continue to work with the developer about the homeowner's association taking over maintenance of the trail.

There was no response to the call for public comment.

On motion by Vice Chair Hartung, seconded by Commissioner Hill, which motion duly carried on a 4-0 vote with Commissioner Herman absent, it was ordered that agenda item 7 be approved.

21-0796 **AGENDA ITEM 8** Recommendation to: (1) accept the Nevada Department of Public Safety, Division of Emergency Management and Homeland Security "Lemmon Valley Home Acquisitions Phase I" grant award [in the amount of \$1,034,981.25 with a Washoe County cash/in-kind match in the amount of \$344,993.75] for the purpose of purchasing certain residential properties located in the Lemmon Valley area of Washoe County, removing all existing structures, buildings, materials and debris, thereby returning these parcels to vacant open space that are further deed restricted to prevent any future development; (2) approve the Subrecipient Grant Award agreement with a grant period retroactive from August 7, 2020 through August 6, 2023, and authorize the Chair to execute the same; (3) direct the Comptroller's Office to make the necessary budget amendments; and (4) designate the County Manager as the authorized representative with the authority to enter into and execute all necessary construction and purchase agreements for the properties, identified as APN 086-303-22 in a

purchase amount not to exceed [\$227,000.00], APN 086-305-01 in a purchase amount not to exceed [\$132,500.00], APN 080-301-08 in a purchase amount not to exceed [\$354,000.00], APN 086-523-07 in a purchase amount not to exceed [\$228,000.00], and APN 086-523-01 in a purchase amount not to exceed [\$145,000.00]. Community Services. (All Commission Districts.)

There was no response to the call for public comment.

On motion by Vice Chair Hartung, seconded by Commissioner Hill, which motion duly carried on a 4-0 vote with Commissioner Herman absent, it was ordered that agenda item 8 be accepted, approved, authorized, directed, and designated.

21-0797 **AGENDA ITEM 9** Recommendation to approve an Agreement for Professional Services between Washoe County and Karma Box Project to manage and operate the River Stewards Project to improve water quality by reducing the amount of pollution in the urban Truckee River corridor through river clean-ups, outreach, education, data collection, and maintenance/cleaning of Portland Loo bathroom facilities [not to exceed \$189,134.00]; authorize the Purchasing & Contracts Manager to execute the agreement. Manager's Office. (All Commission Districts.)

There was no response to the call for public comment.

On motion by Vice Chair Hartung, seconded by Commissioner Hill, which motion duly carried on a 4-0 vote with Commissioner Herman absent, it was ordered that agenda item 9 be approved and authorized.

21-0798 **AGENDA ITEM 10** Recommendation to approve an Agreement for Professional Services between Washoe County and the Housing Authority of the City of Reno to provide payment processing services and administer pass through direct financial assistance funds [\$1,525,000.00 for professional services, \$1,500,000.00 in pass-through funds for direct financial assistance, up to \$25,000 in billable administrative costs] from Washoe County's Emergency Rental Assistance 2 allocation from the United States Department of the Treasury, starting September 23, 2021 through June 30, 2022; authorize the Purchasing and Contracts Manager to execute the agreement. Item supports Washoe County residents facing possible eviction and/or experiencing housing instability during the COVID-19 pandemic. Manager's Office. (All Commission Districts.)

There was no response to the call for public comment.

On motion by Vice Chair Hartung, seconded by Commissioner Hill, which motion duly carried on a 4-0 vote with Commissioner Herman absent, it was ordered that agenda item 10 be approved and authorized.

21-0799 **AGENDA ITEM 13** Recommendation to approve reducing the hours of Court Referee position #70011177 from a benefitted 30-hour-per-week, part-time (.75 FTE) position to a non-benefitted 19-hour-per-week (.475 FTE), part-time position pursuant to NRS 4.355; to create a special salary adjustment for seated justices of the peace during any time that the Court is operating with fewer than the full complement of judges authorized by NRS 4.020(1)(b); and authorize Human Resources to make the necessary changes. [Total net fiscal impact of both requests is estimated at between \$136,129 to \$331,441 in salary savings.] Reno Justice Court. (All Commission Districts.)

There was no response to the call for public comment.

On motion by Vice Chair Hartung, seconded by Commissioner Hill, which motion duly carried on a 4-0 vote with Commissioner Herman absent, it was ordered that agenda item 13 be approved and authorized.

21-0800 **AGENDA ITEM 14** Recommendation to approve the reimbursement of costs incurred by the City of Reno, the City of Sparks, Truckee Meadows Fire and Rescue, and departments of Washoe County for expenses related to and in support of the Enhanced 911 Emergency Response System and portable event recording devices, as recommended by the 911 Emergency Response Advisory Committee on September 23, 2021, in an amount not to exceed [\$1,606,796.48] as specified within the adopted Enhanced 911 Fund's operating budget. Technology Services. (All Commission Districts.)

Vice Chair Hartung asked staff to provide an explanation of this agenda item as it was a one-time expenditure. Government Affairs Liaison Jamie Rodriguez explained this was a unique situation due to COVID-19 expenditures that staff was unable to fund. Based on conversations with Chair Lucey and Vice Chair Hartung, staff recommended some of the new expenditures be considered one-time funding while they waited for master plan updates to ensure they would be funded by the E-911 board in the future. Chair Lucey asked Ms. Rodriguez whether she was the liaison to the E-911 advisory board. Ms. Rodriguez confirmed she was.

There was no response to the call for public comment.

On motion by Commissioner Hartung, seconded by Commissioner Hill, which motion duly carried on a 4-0 vote with Commissioner Herman absent, it was ordered that agenda item 14 be approved.

11:09 a.m. **The Board recessed.**

11:23 a.m. **The Board reconvened with Commissioner Herman absent.**

21-0801 **AGENDA ITEM 11** Discussion and possible approval of a resolution to establish a list of fees to be charged to cover the actual costs of providing copies of public records in accordance with Washoe County's public records policy and NRS Chapter 239, including but not limited to NRS 239.052. Among other things, the proposed resolution defines actual costs to include personnel costs for staff time that exceeds 2 hours in filling any particular request, as well as provides a limited ability for department heads to waive all or a portion of fees in extraordinary circumstances. Manager's Office. (All Commission Districts.)

Chair Lucey indicated this item was a request from the District Attorney's Office in response to situations that occurred in recent years; it would also bring the County into accordance with Nevada Revised Statute (NRS) 239.

Assistant District Attorney Nathan Edwards explained the Legislature abandoned the extraordinary use standard for charging for public records requests in 2019, replacing it with new provisions tied to actual costs. The Board of County Commissioners adopted an updated public records policy in July of 2020 that allowed department heads to charge actual costs; this was the implementation piece that set the fee schedule. Statute required a fee schedule to be posted and adopted to affect the collection of fees.

Mr. Edwards indicated there had been a trend to intentionally overwhelm staff with requests for mass volumes of documents, requiring many hours and resources to gather the information. By using the County's own two-hour staff time rule, which had been in effect for a significant time, an item would need to be agendaized and approved by the Board to fulfill a large public records request. He noted large public records requests would be evaluated by the department head to determine whether completion would take more than two hours; if it would, the fee would include the salary of the person completing the request. The 2019 amendment made to NRS removed the extraordinary use standard, which they thought would eliminate the ability to charge for personnel time, but this change would allow for actual costs to be imposed. Proponents of a subsection in the 2019 statute amendment asked the Legislature to include a subsection prohibiting charging for personnel costs, but the Legislature removed that section believing it was something that could be collected to subsidize costs for the resources used.

Mr. Edwards noted onerous requests had been received by the County and a timeline was needed to determine a standard request. He believed there were people who wanted an overabundance of paperwork, which was time consuming to process. He stated one fee schedule would eliminate inconsistencies across departments and the County. The Washoe County Health District and the Truckee Meadows Fire Protection District (TMFPD) had already adopted fee schedules which were essentially the same as the one being proposed. Delays in adopting changes were due to the pandemic occurring shortly after the statute was passed by Legislature. He indicated Deputy District Attorney Lindsay Liddell, the subject matter expert, was in Chambers to answer questions.

Vice Chair Hartung wondered about the percentage of requests in the past that would trigger the new rule. Ms. Liddell answered it would apply to 10 percent of requests or less, and it only happened with a few individuals. She noted it could be a request for all emails sent by an employee for their entire career at the County. She said this proposal was an opportunity to recoup costs incurred while maintaining access to the records.

Vice Chair Hartung wondered whether two hours was a reasonable amount of time. Ms. Liddell indicated the District Attorney's Office would work with any timeline the Board considered to be beyond a normal request for public records. She said the two-hour rule was suggested because the Board of County Commissioners followed that rule for staff hours.

Vice Chair Hartung thought it was not unusual to pay for records requests, saying the County had to pay a significant amount for the Army Corps of Engineers to review permits. He wanted to ensure it was not abused by staff and it was equitable to charge for actual cost recovery, not as a way to profit from fulfilling those requests.

Chair Lucey wondered whether each department would be in control of their own fee schedule or if a set fee schedule would be used across the County. Ms. Liddell stated the proposed resolution would establish a countywide fee schedule for consistency. Chair Lucey wanted clarification that the two-hour rule would apply only to the time it took to fulfill the request and not the time it took to estimate how long the request would take. Ms. Liddell clarified it was for the time spent searching for records, reviewing them to ensure sensitive information was not included, and compiling the documents. Chair Lucey asked about the option to waive fees for educational, charitable, and journalistic purposes, as well as who would discern whether personnel fees would be waived. Ms. Liddell replied the records official should be the department head and decisions should be consistent to promote transparency.

Commissioner Hill agreed with Vice Chair Hartung and was not certain she had enough information to approve this item as she thought this was a significant issue. While working at the City of Reno, she had no issues fulfilling requests; asking for extensions for larger requests was part of her job. She expressed concern about abuse and ensuring that staff did not feel they were being retaliating against. She thought it was the job of the County to provide information and be transparent. With extreme cases, she wondered whether a nominal fee should be charged regardless of the request. She was interested in seeing the fee schedule and hearing details about other entities, especially Clark County. Chair Lucey thought Clark County had fee a schedule. Ms. Liddell confirmed they did and their fee list was outlined for different types of records, but she was unsure whether personnel time was included in that fee. She had reviewed different entities' fee schedules, noting Carson City charged for personnel time in certain circumstances even though they did not have a detailed fee schedule list online.

Vice Chair Hartung said the Open Meeting Law did not apply to the Legislature as they exempted themselves, and he wondered whether they would exempt

themselves from this issue also. Ms. Liddell indicated she was unsure since she had not worked for them.

Commissioner Jung agreed with Vice Chair Hartung and Commissioner Hill about their reluctance to implement this change without additional data. She thought general improvement district records should be readily available, but she understood a request for an employee's emails for their entire County career would require an extreme number of staff hours to compile because the documents had to be scanned for confidential information that would need to be redacted. She thought ownership of public records requests could be placed in the purview of the County Clerk for consistency and to lessen confusion. She believed in conformance with other entities, but the County held more records than the TMFPD and the Health District, so she was unsure whether the same policies would work in Washoe County. She explained these were fundamental services and thought the policy should be revised and brought back to the Board.

Chair Lucey agreed that 10 percent of the requests required extraordinary use and a significant amount of work. Public records should be available to the community. He thought there could be a question of accountability for individuals' requests, but he felt the fee schedule and enforcement lacked clarity. The two-hour rule was a good starting point, but he asserted more details should be included. The proposal stated actual costs would be charged based on information listed in NRS 239, but he wondered whether the fee schedule could change based on the costs of ink toner and paper. He expressed concern about who would be responsible to fulfill requests and whether that department would purchase the supplies to accommodate them. He stated the District Attorney's Office having to review 300,000 emails and search for confidential information was beyond abusive. If an individual demanded that information, he felt, fees should be paid to obtain it. He thought the Board was moving in the direction of implementing a process, but he wanted to know what local municipalities were doing and more details about the fee schedule and the types of requests. He believed this should move forward but staff should also be directed to bring back additional information.

Vice Chair Hartung wondered about the adeptness of employees to find information the public was requesting and whether one employee could be more knowledgeable than another. He agreed with Chair Lucey that more information was needed, including data from Clark County, along with an understanding of the challenges they had encountered.

Commissioner Jung reiterated a designated entity was needed to perform the requests and the Clerk's Office was the first department she thought of, but it could be a clearing house or another department as long as it was transparent. She envisioned a department that could process any public records request so individuals did not have to submit requests through different departments; it needed to be done equally across the board. She wondered who was savvy enough to accomplish this task. She wanted Washoe County to establish a process and be the best in doing so.

On the call for public comment, Ms. Holly Welborn, policy director at the American Civil Liberties Union (ACLU) of Nevada, expressed opposition to resolution R21-063 for a variety of reasons. She encouraged the Board to read a letter sent by the Nevada Open Government Coalition. She opined Senate Bill 287 had no concession for personnel costs, and charging for personnel costs would be a violation of the Nevada Public Records Act. She stated the records belonged to the public and they should have access to them without restrictions.

Ms. Janet Butcher opined employees were being paid for their time and wondered who could quantify one employee's ability to perform the same task as another employee. She stated all requests were not the same and some were more involved than others, and she hoped the Board would not pass this proposal.

Mr. Richard Karpel, executive director of the Nevada Press Association, expressed opposition to the proposed fees. He spoke about the 2019 Legislature eliminating a clause allowing the County to charge for extraordinary use. He believed full-time employees were considered overhead, making them ineligible for fees. He expressed concern that fulfilling public records requests was a side job that only needed to be completed when spare time was available. The Legislature passed a law requiring local government entities to provide members of the public with prompt access to public records, and he agreed the proposal lacked data.

Mr. Wayne Gordon opined most of the information included in this proposal was subjective. He remarked the government was allowed different access to records than the public was, which he thought was illegal. He said charging people for information was wrong and he believed documents should be available online for public access. He wondered who would decide whether a request would be eligible for a fee waiver. He spoke about the thousands of emails obtained from Dr. Anthony Fauci's computer.

Ms. Cindy Martinez thought Ms. Welborn expressed this matter as well as she could. She spoke about working for the government for 25 years and witnessing individuals wasting time or chronically complaining, which led them to develop a fee schedule for those people. She thought a fee schedule was designed to discourage individuals from requesting information. She opposed the development of another department to manage public records requests and the passing of this item.

Vice Chair Hartung understood the need for this item but did not want a request for 300,000 emails to change policy. He wanted more data and specifics about why this was policy change was triggered. He thought other municipalities had developed processes that resolved issues and had been tested. He was not opposed to considering processes that entities were using but wanted time to review data from staff, noting he was not ready to make motion.

Chair Lucey agreed with some of the public comments, saying salaries did vary as did levels of knowledge to process requests. He thought discussions about the types of media requests and specifics established for fee schedules were needed. He mentioned

not all requests were for information that was fully digital, even though the Recorder's and Clerk's Offices spent much time creating digital files. He wanted staff to produce more data and prepare for discussions about fee schedules, whether personnel costs were applicable, and who would manage this process. He said this was not a motion of approval but a request to bring back information.

Vice Chair Hartung wanted consistency and thought waivers and fees should be the same across the board. Chair Lucey agreed consistency was important, but the issue was complex; a fee schedule for the Clerk's Office could be different from that for Animal Services, Human Resources, or the Sheriff's Office due to the type of data.

Vice Chair Hartung asked County Clerk Jan Galassini whether her office had information stored on microfiche. Ms. Galassini replied they did but all documents had been digitized, retained with triple redundancy, and records that went before the Board were not subject to a fee.

On motion by Chair Lucey, seconded by Commissioner Hill, which motion duly carried on a 4-0 vote with Commissioner Herman absent, it was ordered that staff proceed with direction provided during the meeting and bring an updated staff report and fee schedule back to the Board for approval.

21-0802 **AGENDA ITEM 12** Recommendation and possible action to approve a Resolution to Delegate Decision Making Authority Regarding Litigation to the Chair of the Washoe County Board of County Commissioners and the Washoe County Manager pursuant to NRS 241.0357 Manager's Office. (All Commission Districts.)

Assistant District Attorney Nate Edwards stated this item related to a Nevada Open Meeting Law (OML) provision enacted when the Nevada Supreme Court threw out an appeal from the Ethics Commission for a District Court decision they did not like. Any time a notice of appeal deadline was not met in a case, it was considered a fatal defect and the case was thrown out. This action resulted in the Legislature passing Nevada Revised Statute (NRS) 241.0357, allowing local governments the ability to delegate litigation decision authority to the executive head of the governing body; in this case it would be the County manager or Board chair. He said this item would delegate authority on a variety of decisions related to litigation, due to mostly short deadlines that needed to be met. He noted a provision for settlement authority of up to \$150,000 was included in the proposal, which was an increase from the \$25,000 authority that already existed. He said the increase in settlement authority was the least critical of all the pieces of the proposal, while deadlines were the most. He stated Deputy District Attorney Michael Large was the litigation lead in the District Attorney's Office. A normal case load saw 30 to 40 active lawsuits at any given time, so the need for this authority could occur often.

Mr. Large said the Legislature passed NRS 241.0357 in 2019 in direct reaction to a prior decision, and this proposed provision was necessary for litigation due to timelines that were constantly changing. He stated this provision would allow the District

Attorney's Office to bypass Board approval and obtain approval from the Board chair to protect the people of Washoe County in litigation cases, which could include paying attorney fees and costs for other involved parties if not approved within the allotted time. He indicated the provision did not change the duties that the Washoe County District Attorney's Office had to the Board of County Commissioners; the Board would still be informed in attorney/client meetings regarding ongoing litigation and any offers. The only thing this provision would bypass was for approval to be done in an open meeting, allowing for the necessary decisions to be made quickly. He stated the resolution was written broadly enough that it encompassed anything that could potentially come up in the context of litigation.

Commissioner Hill wondered whether the County had failed to have items on the agenda in time or if they paid attorney's fees when the timeline was not met. Mr. Large indicated the situation had not occurred and was theoretical at this time, but it came up on a regular basis regarding offers. In those situations, he could usually have a private meeting with all parties or not respond to an offer, but that could potentially result in a worst-case scenario. He stated they had not missed a deadline for filing a notice of appeal or a compulsory counterclaim, which was another major issue that required approval by the Board. He stressed this provision would prevent significant issues from occurring in the future.

Commissioner Hill expressed concern about this and was not prepared to vote on this provision. She said it was not because she believed the chair could not make these decisions, but rather she believed in transparency and felt these decisions should be approved in open meetings. She thought people needed to know about any litigation being settled.

Commissioner Jung said this was a tool for litigation to be approved without Board approval, but items would still need to be heard by the Board at an open meeting, including information related to settlements, plaintiffs, and details of the lawsuits. Under Washoe County Code, Mr. Large replied, anything over \$24,999 had to be approved at an open meeting. This provision would provide the authority for the chair or county manager to enter into an agreement, bypassing the need to be approved in an open meeting. Commissioner Jung thought that was just inflation. The County appointed liaisons at the Legislature to defend Washoe County and fight for what was needed. She opined those snap judgements were made there also, and she did not believe this would be less transparent as lawsuits against the County were a matter of public record. Mr. Large confirmed that was correct. Commissioner Jung said settlements were larger than \$25,000 and this was a housekeeping matter. The County manager worked for each of the commissioners, and it would not be in the best interest to create issues with transparency. She expressed support for this item and thought it would not be used regularly.

Mr. Large mentioned the increase to \$150,000 was reflected by the tort cap applicable to municipalities, and he and Mr. Edwards thought that should be the amount of authority which could be approved by the Board chair or the County manager. Very few cases happened that fell within the current authority amount.

Commissioner Hill asked whether a compromise could be made that any litigation settlements approved by the Board chair or County manager would need to be listed on an agenda as an informational item. She thought this would be a way to be transparent because the public would not know about them unless they were approved at an open meeting. She believed the Legislature did that with some of its committees.

Chair Lucey said the ability to move flexibly to meet deadlines was essential in the course of law. He thought it was more important to meet those deadlines on behalf of the County and he was not concerned as much with settlements as he was with pleadings and filings. He agreed about a notification process for settlements and litigation to be brought to the Board for transparency. He wanted a change to the resolution to grant authority to the Board chair and the County manager together, not individually. The operations aspect would come from the County manager. He reminded them the chair was elected by the Board every two years, showing their confidence in him to carry out those decisions on behalf of the entire commission and the County as a whole.

Chair Lucey moved to approve the resolution with the noted changes.

Vice Chair Hartung asked whether he heard Commissioner Hill say a list of litigation information would be heard at a Board of County Commissioners meeting. Chair Lucey added to his motion that notification related to any settlements would be brought to this Board.

County Manager Eric Brown understood he was not a commissioner, but he said Commissioner Herman asked him to relay her concern about this item. He noted she did not indicate opposition to the resolution, but she expressed concern.

County Clerk Jan Galassini stated emails from Ms. Tammy Holt-Still and Ms. Susan Ambrose were received and placed on the record.

On the call for public comment, Ms. Cindy Martinez pointed out there was no language in the resolution to address any delegation mechanism if the Board chair and County manager were subject to litigation. She alleged a number of members of this Board were being sued and wondered about individuals making decisions about lawsuits in which they were named. She did not believe this was a necessary policy at the burden of the taxpayers since Mr. Large acknowledged this scenario had not yet happened. She asked that the resolution be denied.

Chair Lucey restated the motion.

On motion by Chair Lucey, seconded by Commissioner Hill, which motion duly carried on a 3-1 vote with Vice Chair Hartung voting no and Commissioner Herman absent, it was ordered to move forward with the resolution with the change that the County manager and the Board chair would jointly exercise any type of litigation decisions.

12:45 p.m. **The Board recessed.**

1:01 p.m. **The Board reconvened with Commissioners Herman and Jung absent.**

21-0803 **AGENDA ITEM 15** Public Hearing to: (1) consider objections to Resolution of Intent to Convey (R21-056); and (2) possible action to approve the purchase and sale between Washoe County and the Northern Nevada Youth Golf Foundation, d/b/a First Tee of Northern Nevada, a corporation for public benefit under NRS chapter 82, for the transfer of the property commonly known as the Wildcreek Golf Course on Sullivan Lane in Sparks, Nevada (APN 027-011-09) (approximately 110.72 acres) as authorized in NRS 244.284; and (3), if approved, First Tee will be required to operate the golf course for charitable or civic purposes for the community on terms specified in the purchase and sale agreement and related documents, and if the property ever ceases being so used, it will revert automatically to Washoe County; (4), the balance of the funds associated with the Wildcreek Golf Cost Center (680100) on the actual date of transfer be utilized as a 1:1 match for fundraising efforts by First Tee for improvements necessary for reconfiguration of the golf course for their needs; and (5) authorize the County Manager to execute any and all required documents necessary for the property transfer. (Commission District 3.) Community Services.

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

Vice Chair Hartung wanted language in this transfer to state the property would stay open space for public use into perpetuity.

Assistant County Manager Dave Solaro thought it would be easier for the Board to speak on this item and then provide direction to ensure the purchase and sale agreement included the language covering the eight bullet points listed on page 4 of the staff report. He noted bullet point 3 referred to the language he thought Vice Chair Hartung was seeking. Vice Chair Hartung indicated that language stated the property would revert to Washoe County, but he wanted to ensure that future Boards would be unable to change the intended use from public open space.

Chair Lucey read a section indicating that, in the event the title reverted to the grantor, the grantor would designate the property in perpetuity as a public park, open space area, and/or public golf course for the benefit of the general public. He believed Vice Chair Hartung's request was in the resolution. He thought the language would protect that action without limiting future Board activity on this property.

Vice Chair Hartung asked for the opinion of Assistant District Attorney Nathan Edwards or Deputy District Attorney Michael Large as he did not want future Boards to have the ability to change the use of this property. Mr. Edwards replied the clause

identified in the bullet point on page 4 of the staff report would carry out the intent Vice Chair Hartung was referencing. No matter what was done at this point, there would be a question about the effectiveness of binding future boards in perpetuity. He stated there was no way to know how things would work in the future. It was an odd situation where the grantor was restricting the grantor in the future; it was usually a grantor restricting another party. He thought this was as close as the County could get to protecting the use of the property.

Vice Chair Hartung asked about giving the property to the City of Sparks to deed restrict the property. Mr. Edwards replied it could be granted to the City of Sparks to be held in open space in perpetuity. Vice Chair Hartung asked whether the City of Sparks would agree to this. Mr. Edwards asserted this item could be approved today if there was the desire, and another item could be brought forward in the future to grant away the County's reversionary interest to the City of Sparks. Legally speaking, he said, that would be giving up property rights of the County, which could be a policy call for the Board to make.

Chair Lucey understood the concerns of Vice Chair Hartung and wanted to move forward to preserve this in perpetuity. The Board members had taken an oath to serve at the pleasure of community and the County as long as they were in these seats. He said needs could change in the future so to promise that was challenging, comparing it to the problems currently impacting the Reno-Sparks Convention and Visitors Authority which did not exist in the 1970s. He wanted to acknowledge they were not trying to bind future boards but working to preserve what they could today with the understanding that the Board could find a way to change the deed restriction in the future if the property was granted to the City of Sparks. As long as the property reverted to Washoe County, they would do their best to continue to preserve that for the community.

Vice Chair Hartung stressed he wanted future boards to be prohibited from making any changes. He asserted numerous offers had been presented to purchase the corner of North Virginia Street and North McCarran Boulevard. He said the work being done to preserve the property was wonderful, and he wanted to ensure it was done correctly.

Chair Lucey thought the intent of the project would be beneficial for the County, First Tee, and their operations to teach youth golf. Access for youth and the general public to a fully functional golf course was a great accomplishment.

1:15 p.m. Commissioner Jung rejoined the meeting via telephone.

On motion by Vice Chair Hartung, seconded by Chair Lucey, which motion duly carried on a 4-0 vote with Commissioner Herman absent, it was ordered that Agenda Item 15 be approved, authorized, and executed.

21-0804 **AGENDA ITEM 16** Introduction and first reading of an ordinance amending Washoe County Code Chapter 2 by adopting Supplement Number 15 to the Washoe County Code and all clerical and technical corrections made therein; and if supported, set the public hearing for second reading and possible adoption of the ordinance on October 26, 2021. If passed, this supplement will codify all ordinances amending the Washoe County Code that were adopted between February 2016 and June 2020, not including Washoe County Development Code (Chapter 110), which is published separately from the general Washoe County Code. District Attorney. (All Commission Districts.)

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

County Clerk Jan Galassini read the title for Bill No. 1863.

Bill No. 1863 was introduced by Vice Chair Hartung, and legal notice for final action of adoption was directed.

21-0805 **AGENDA ITEM 17** Public Comment.

Ms. Janet Butcher spoke about medical staff being reduced in the area, opining that these essential workers were being fired after all their hard work during the pandemic. She noted 80 percent of airline pilots were ex-military and were using their accumulated sick and vacation time so as not to lose it when they were fired. She said Pfizer received the largest criminal fine in history due in part to kickbacks from healthcare providers. Moderna stock had skyrocketed in the past year, and she claimed the majority of stockholders were members of Congress.

Ms. Cindy Martinez thought citizens would prefer to be at home instead of being the watchdogs for other citizens who were unable to come to meetings. She brought up a change in the leadership of the Republican party as the executive committee resigned, which provided an opportunity to drive the narrative back to a return to constitutional governance. She spoke about the passage of amendments for monthly meetings and bylaws which included sunset language on the governance of state parties.

21-0806 **AGENDA ITEM 18** Announcements/Reports.

There were no announcements or reports.

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1:24 p.m. There being no further business to discuss, the meeting was adjourned without objection.

BOB LUCEY, Chair
Washoe County Commission

ATTEST:

JANIS GALASSINI, County Clerk and
Clerk of the Board of County Commissioners

*Minutes Prepared by:
Doni Gassaway, Deputy County Clerk*