

## STATE LAND USE PLANNING ADVISORY COUNCIL

### MINUTES

**October 23, 2009**

At the following location:

Comstock History Center  
20 North E Street  
Virginia City, NV 89440

### Members Present

Juan Guzman, Carson City  
Eleanor Lockwood, Churchill County  
Rod Allison, Clark County  
Robert Conner, Douglas County  
Sheri Eklund-Brown, Elko County  
Jake Tibbitts, Eureka County  
Tom Fransway, Humboldt County  
Varlin Higbee, Lincoln County

Glen Bunch, Mineral County  
Butch Borasky, Nye County  
Roger Mancebo, Pershing County  
Austin Osborne, Storey County  
Bill Whitney, Washoe County  
Robin Bell, White Pine County

### Members Absent

Mickey Yarbro, Lander County  
Don Tibbals, Lyon County  
Bill Kirby, Esmeralda County

### Others Present

Jim Lawrence, Nevada Division of State Lands  
Charlie Donohue, Nevada Division of State Lands  
Skip Canfield, AICP, Nevada Division of State Lands (State Land Use Planning Agency)  
Clint Wertz, Lincoln County  
Kathy Lucich, US Forest Service  
Brian Amme, Bureau of Land Management  
Wes Henderson, Nevada Association of Counties  
Cindy Bell, Ely Nevada  
Cory Lytle, Lincoln County  
Kevin Ray, Nevada Commission on the Reconstruction of the V&T Railway  
Llona Strull, Parks 4 Paws  
Donna Curtis, Carson City  
Bob Webb, Washoe County

### CALL TO ORDER

**Chairman Mancebo** called the meeting to order at 9:05 AM and asked for self introductions. Upon completion, he asked for any corrections to the agenda. There being none, they were approved.

**Chairman Mancebo** called for any corrections to the May 29, 2009 meeting minutes. **Mr. Canfield** noted that he had received comments from **Vice Chair Eklund-Brown** and they were included in the updated draft. **Mr. Guzman** moved for approval, seconded by **Mr. Fransway**, the motion carried unanimously.

### AGENCY REPORT

**Jim Lawrence** provided a brief summary of activities related to the different sections of the Nevada Division of State Lands including the Nevada Tahoe Resource Team, the Question 1 Program and the State Land Office. He began by mentioning that although the downturn in the economy has resulted in cuts to staffing, NDSL is working hard to address existing and pending projects. The State is very interested in renewable

energy projects and NDSL has been working with the National Guard to install solar panels over the parking space structures at three facilities, one in Carson City and two in Clark County. The facilities will receive power at a fixed rate. It is projected that there will be a savings to the State in energy costs over 20 years in the amount of \$3 million. Work on the Truckee River is ongoing with the Nature Conservancy and the BLM for easements and authorizations to conduct restoration. The work is being coordinated with Washoe County and Reno on their flood control projects. NDSL has been working with Lyon County regarding the Silver Springs Conservation Camp for possible conversion to a vocational school. Future correctional activities could occur if Department of Corrections determines there is a need to repopulate the facility. NDSL partnered with Carson City, BLM and the National Guard for the Carson River cleanup project. A number of abandoned cars and other debris were flown out of the canyon. Permitting is also ongoing for the river access project. The former National Guard Armory site at Fairview and Carson Street is being rehabilitated by the removal of the old structures. NDSL and Carson City are also looking at the potential for transitional housing on State land downtown as well as a possible dog park and greenhouse.

**Skip Canfield** continued the agency report and discussed ongoing SLUPA activities. Round 2 of the Mt. Charleston License Plate Program is now open. Applications will be accepted until January 29, 2010 and there is approximately \$125,000 available. The State Land Use Planning Agency was awarded a grant to facilitate the development of a Joint Land Use Study for Floyd Edsall Training Center in North Las Vegas. Ongoing public land policy development is occurring in Esmeralda and Lincoln Counties.

**Juan Guzman** requested a brief discussion from a member of the public regarding State land at Roop and Musser Streets. He introduced **Llona Strull**, Parks 4 Paws and **Donna Curtis**. **Ms. Curtis** explained that Parks 4 Paws is trying to build a dog park in Carson City. Her request is for a temporary use permit to allow the dog park on the parcel at the southwest corner of Roop and Musser Streets. The site is bound on three sides by fencing, has existing dog refuse stations and is easily accessible. She stated that Carson City has offered to maintain the improvements and install the additional fencing. An agreement among Carson City, the State and Parks 4 Paws is requested, subject to annual renewal. Parks 4 Paws does not wish to buy or lease the property. **Mr. Lawrence** responded that the parcel is maintained by the State Buildings and Grounds and this and other sites downtown are considered dog-friendly, as long as it does not create a nuisance.

## **DEVELOPMENT AGREEMENTS AND THEIR IMPORTANCE TO A COUNTY'S FISCAL STABILITY**

**Clint Wertz**, Lincoln County Planning Director, provided the following presentation.

### **Development Agreements for Rural Nevada- Lessons Learned after 140,000 units**

#### **Lincoln County:**

- Coyote Springs-27,000 acres planned community-50 years
- Toquop PUD-Adjacent to Mesquite-13,000 acres-30 years
- Land disposals-57,000 acres identified in RMP
- Energy Developments

#### **Role of DA for County:**

- Ensure new development pays its own way
- Assurances for public facility contributions
- Interim Funding to defray county costs
- Special needs-communications, dog catcher
- Triggers for contributions
- Rules for review, default and amendments
- Protection of open space public access

#### **DA's for Developers:**

**Nevada Division of State Lands**  
State Land Use Planning Agency  
901 S. Stewart Street, Suite 5003  
Carson City, Nevada 89701-5246

Telephone: (775) 684-2723  
Fax: (775) 684-2721

- Lock into current applicable rules
- Spread costs out over time
- Secure financing for long term
- Vested Rights earlier in approval process
- Understand needs of County

**Statutory Authority:**

- NRS 278.0201 Agreement with governing body concerning development of land
- Duration of agreements
- Allowed uses (land use plan)
- Intensity of uses
- Public dedications

**Enabling ordinance:**

- Local jurisdiction needs to pass first
- Include any procedures to ensure public role and public benefit are met
- Outline "standard agreement" terms
- Specify that DA ensures current zoning rather than reduce current standards
- Specify any costs borne for county zoning review is covered by developer paid fees
- Specify maximum time limit (15 years)

**The litmus test:**

- Can your jurisdiction adequately represent itself in negotiations?
- Can implementation/monitoring be effective?
- Is there a dedicated individual to serve as liaison?
- Has master plan been updated to reflect large projects?
- Are basic rules and engineering standards in place?
- Remember that development agreements are voluntary

**Components of Development Agreements:**

- Applicable rules
- Land Uses, # of units,
- Duration of Agreement
- Timing of and triggers for contributions
- Public Facilities and public services
- Default procedures
- Financing and funding
- Role of DA for county and developer

**Fiscal implications:**

- Fiscal Impacts studies-cost/benefits study
- per unit or sq/ft of development versus public service requirements
- NRS 278A PUD Chapter-upgrade the language for fiscal studies
- Require developers to pay for your study
- Do not confuse with economic studies
- DA may need to include measures to make project balance fiscally.

**Lincoln County Fiscal Studies:**

- All residential and commercial products were losers long term
- High costs of public service per capita/long distances to cover-limited taxbase
- DA could include: interim funding, dedicated staffing for life of project, payment in lieu of revenues, exactions beyond what Dolan and Nollan allows.

**Other Financing considerations:**

- Impacts fees
- Residential construction tax
- Use of general improvements districts-Is the tax base adequate to cover services?
- Interlocal agreements-get approved before final approval
- Ability to review and approve the finances for applicants and their assignees-can they meet their negotiated obligations?

**Big Picture suggestions:**

- Get outside assistance if needed
- Can project be done without DA?
- Utilize UNCE staff
- Talk to your neighbors/seek advice
- Understand long term operating costs
- Keep duration of agreements under 20 years
- Develop a "model agreement" as a starting point for negotiation
- Require a deposit for review services and county time (24 months)
- Develop a large projects review process

**Mr. Wertz** concluded and asked for questions.

**Ms. Lockwood** asked if Lincoln County was able to fund the cost of new staff and staff time by the developer within a development agreement. **Mr. Wertz** answered yes.

**Mr. Allison** mentioned the importance of taking development agreements through the public process including review by any town board and then the county commissioners. **Mr. Wertz** added that it is very important to get the planning commissioners involved early in the process. **Mr. Allison** asked if Lincoln County has any actual ordinances on the major development project process. **Mr. Wertz** responded that for the Toquop area, a major amendment to the development code was adopted.

**Ms. Eklund-Brown** asked if there was zoning in place prior to the development agreements. **Mr. Wertz** responded that, in Coyote Springs example, the zoning was Planned Unit Development.

**Mr. Conner** asked what happens to the development agreement as County rules change. **Mr. Wertz** responded that if there are new rules that come in to play after an agreement is signed, the developers must respond and state that they choose not to adhere to the new rules, or adhere to them if the rules benefit the project. The exception is new State or federal regulations. **Mr. Conner** asked about the scenario where the developer goes bankrupt and what then is the responsibility of the County. Are performance bonds included in the agreements to ensure mitigation of disturbances to the land. **Mr. Wertz** responded no, the only thing in current agreements is the County's ability to review new buyers who take over land subject to a development agreement to make sure new buyers are financially able to proceed. **Mr. Allison** stressed the importance of performance bonds that address all off-site and on-site improvements in case of default. He also stressed the need to include permit thresholds in the agreement to ensure that, prior to a certain number of permits issued, certain promised improvements (e.g. parks) are developed. Also, developers typically want to rush a county into the agreement phase. The county needs to require that the developer

identify a public facilities needs assessment up front. Then the county should route that assessment out to all county agencies for feedback prior to moving forward with any agreement. **Mr. Guzman** said that Carson City requires an improvement agreement with Public Works and that is when the performance bonds are posted. **Mr. Allison** cited the City Center example. As part of the preliminary development agreement process, special meetings were set up to get applicant's best guess on expectations. These estimates were then routed to the different service providers for department review. Then a new meeting was scheduled between the service provider and the applicant to discuss the service providers concerns and issues.

**Mr. Osborne** mentioned Storey County's 50-year agreement with the Reno Tahoe Industrial Center where no new rules could be placed on the developers without their agreement.

**Ms. Lockwood** asked if the developer can pay for legal review of the development agreement. **Mr. Wertz** answered yes. The County Commission and County DA had to approve outside legal assistance, but in the end, it was a benefit to the County to have this additional insight. The County was in no way bound to take the outside advice. He added that Clark County hires outside legal advice at times for review of development agreements. **Mr. Osborne** added that Storey County relies on outside legal counsel for many issues.

### **EFFECTIVE COUNTY ROLE AND VOICE IN NEPA REVIEW**

Due to time constraints, this item was tabled to a future meeting.

### **THE V&T RAILROAD**

**Kevin Ray** provided a brief summary of activities regarding the Nevada Commission on the Reconstruction of the V&T Railway. The project is to connect the railroad tracks between Gold Hill and East Carson City through Carson River Canyon and run the V&T all the way from Virginia City to East Carson City round trip. The project originated in 2002 with an estimated total cost of \$24 million. The project is now estimated at \$54 million to complete. As of October 2009, close to \$44 million has been spent. As of 2009, the tracks are extended down to US 50. The project is "shovel ready" and the commission is working with Senator Reid's office to possibly qualify for stimulus funds.

### **LUNCH BREAK**

**Chairman Mancebo** adjourned the meeting for the train ride at 11:15 am.

### **MEETING CALLED TO ORDER**

**Chairman Mancebo** reconvened the meeting at 1:30 pm.

### **THE IMPORTANCE OF THE COUNTY'S ROLE IN THE FEDERAL COOPERATING AGENCY PROCESS**

**Brian Amme** (BLM) and **Kathy Lucich** (USFS) discussed the cooperating agency process. The cooperating agency role derives from the *National Environmental Policy Act of 1969* (NEPA), which called on federal, state, and local governments to cooperate with the goal of achieving "productive harmony" between humans and their environment.

The Council on Environmental Quality's regulations implementing NEPA allow federal agencies (as lead agencies) to invite tribal, state, and local governments, as well as other federal agencies, to serve as cooperating agencies in the preparation of environmental impact statements. Over the years, the BLM has established many productive cooperating agency relationships under informal policy. Our partners have rendered invaluable assistance to the BLM during planning and managing efforts that cover more than 260 million acres of public land in our nation.

In 2005 the BLM amended its planning regulations to ensure that staffs at all levels – state office or field office – engage their governmental partners consistently and effectively through the cooperating agency relationship whenever land use plans are prepared or revised.

The BLM is the first federal agency to promulgate regulations that establish a consistent, permanent role for cooperating agencies. We believe that by working closely with our state, local, tribal and federal government partners, we will improve communication and understanding, identify common goals and objectives, and enhance the quality of our management of the public lands.

**Ms. Lucich** distributed information from the Council on Environmental Quality, Citizen's Guide to NEPA. The US Forest Service has similar mandate regarding cooperating agencies to BLM.

**Jake Tibbitts** described Eureka County's experience as a cooperating agency relating to the project at Mt. Hope. He said that cooperating agency status gives teeth to the FLPMA consistency requirements.

### **COUNTY PLANNING ISSUES**

**Chairman Mancebo** asked each of the SLUPAC members to report on planning related activities within their areas of representation.

**Eleanor Lockwood**, Churchill County:

Master Plan updates are ongoing.  
Conservation easements around NAS Fallon have been very successful in addressing encroachment issues.  
Development in the county is at a standstill.  
County is in the process of reviewing three geothermal projects.

**Butch Borasky**, Nye County:

Beatty Open Space Plan adopted.  
Amargosa Valley Master Plan adopted.  
Proposal for 4,000-acre solar project.  
USFS travel management planning concerns, some important roads have been left off the maps.  
Southern Nevada Detention Center being built.  
Potential for privatizing planning and public works.

**Tom Fransway**, Humboldt County:

Thanked SLUPAC for the resolution adopted at the May meeting regarding grazing.  
Landfill controversy, planned solid waste dump on playa west of Winnemucca, would bring in waste from California. Concern about impacts to 3 aquifers.

**Glenn Bunch**, Mineral County:

Luning solar proposal.  
Borealis gold mine reopening.  
Potential mercury storage at Hawthorne.  
Road mapping is ongoing for USFS travel mgt. planning.  
Grant received for update to sewer and water municipal system.

**Varlin Higbee**, Lincoln County:

Open space plan is 60% completed. Emphasis on maintaining important areas that should not be disposed.  
Public Land Policy Plan progressing.  
Update to development code underway to address energy development.  
GIS upgrades.  
Coyote Springs Solar project proposed, 8,000 acres.

**Rod Allison**, Clark County:

City Center will be completed in 12/09.

Fontainebleau project stopped.  
Echelon stopped.  
Not a lot of big projects underway.  
Planning commission is meeting only twice a month, used to be 4 times a month.  
BCC reducing sessions also.  
Completing Enterprise and Spring Valley plans.  
Winchester, Paradise and Sunrise Manor plans underway.  
The regional plan team has completed the Parks, Trails, and Open Space elements of the plan.

**Jake Tibbitts, Eureka County**

Master plan update RFP had been sent out.  
Diamond Valley flow system study, the valley is four times over-appropriated.  
Mt. Hope Moly Mine moving forward, 44-year project plus 12 years reclamation.  
County is intervening in the Western Watersheds Project litigation on grazing and the sage grouse.  
County has a population of 1,500, could double with the new mine.  
New fire house constructed.  
Valley GID challenged with arsenic, mixing of wells underway.  
Water and sewer improvements to Main Street.

**Robin Bell, White Pine County:**

White Pine wind projects planned, Spring Valley closest to commencing.  
Possible nuclear power plant?  
Regional planning commission abolished.

**Bill Whitney, Washoe County**

County going from a one-map system to a two-map system.  
395 Freeway extension through Pleasant Valley.  
Truckee River flood project moving forward.  
Vidler water importation project from Fish Springs to North Valleys completed, but no customers, so no water in the pipe.  
Ruby pipeline man camp permitting underway.

**Juan Guzman, Carson City**

Lyon/Douglas/Carson water agreements in the works.  
Freeway has been extended to Fairview.  
Implementing the land bill.  
Cooperating agency with NV Energy power line.  
Wells are dropping and city is addressing arsenic issue.  
Question 1 program has seen \$2.1 million in acquisitions.

**Robert Conner, Douglas County:**

Map and text amendment process almost complete for the master plan.  
Building permit system has changed.  
Storm water master plan.  
FEMA error corrections.  
Park Cattle plan modifications.

**Sheri Eklund-Brown, Elko County:**

California Trail Center opening soon.  
Working on moving Western Watersheds suit to Nevada.

Challenging Army Corps claim to the upper Humboldt.  
USFS travel management plan challenging but now the DEIS is very good.  
China Mt wind.  
Some arsenic issues.  
Ruby pipeline benefits include potential for more industrial development.  
Contentious wild horse sanctuary issues.

**Austin Osborne, Storey**

USA Pkwy is to the Lyon County line.  
Master plan update is nearing completion and soon will be ready for public review.  
Dark Skies ordinance approved.  
Wind energy ordinance being reviewed by sound engineer.  
Tahoe Reno Industrial Park has slowed down, used to be 5,000 employees, now 2,900. Storey County employing much effort to attract solar, wind, and other renewable energies.  
Lockwood and 6/7 Mile Canyon flood issues under review by professional consultation.  
New G-Diesel facility at TRI Center synthesizes two carbon-based elements to make Diesel No. 1. The created diesel is less expensive than Diesel No. 2 and its production produces zero emissions.  
VC tourism has improved as local visitor numbers have risen. Tourists from the East Coast and abroad have dropped off sharply.  
New community health clinic (HAWC) opened in VC benefiting locals and senior citizens.  
Community center in planning stages and planned to be constructed in 2010.  
Wednesday inter-city bus transit now offered between Virginia City and Carson City. Objective is to provide transit for senior citizens, disabled, and youths.

**Roger Mancebo, Pershing County:**

Geothermal/solar potential.  
Coer Rochester mine opening.

**PUBLIC COMMENTS** (None)

**COUNCIL MEMBER COMMENTS COUNCIL DISCUSSION AND RECOMMENDATIONS**

Discussion was had on potentially holding the next meeting in Tonopah or Eureka.

**FUTURE MEETING CONSIDERATIONS**

**Clint Wertz:** Use permits for NEPA actions.  
**Sheri Eklund-Brown:** Cooperating agency groups' discussion.  
**Austin Osborne:** Special session issues.  
**Jake Tibbitts:** Grants workshop.

**ADJOURNMENT**

The meeting was adjourned at 4:35pm.

Respectfully submitted,



Skip Canfield, AICP, Senior Planner  
Meeting Recorder

Please note that minutes should be considered draft minutes pending their approval at a future meeting of the State Land Use Planning Advisory Council. Corrections and changes could be made before approval.

The meeting was digitally recorded. Anyone wishing to receive or review the recording may call (775) 684-2723. The recording will be retained for three years.