

STATE LAND USE PLANNING ADVISORY COUNCIL

MINUTES

April 19, 2013

At the following location:

Paul Laxalt Building
401 North Carson Street, 2nd Floor Chambers
Carson City, NV 89701

Members Present

Eleanor Lockwood, Churchill County
Robert Conner, Douglas County
Steven Stienmetz, Lander County
Varlin Higbee, Lincoln County
Lorinda Wichman, Nye County
Austin Osborne, Storey County
Jake Tibbitts, Eureka County

Virgil Arellano, Lyon County
Garley Amos, Humboldt County
Nancy Lipski, Clark County
Laurie Carson, White Pine County

Members Absent

Bill Kirby, Esmeralda County
Bill Whitney, Washoe County

Others Present

Jim Lawrence, Nevada Division of State Lands
Skip Canfield, Nevada Division of State Lands, State Land Use Planning Agency
Jeremy Davidson, Douglas County Planning Commission
Candace Stowell, Douglas County
Jean Stone, NDEP
Joe McCarthy, Comstock Residents Association
Scott Jolcover, Comstock Mining
Elaine Spencer, Comstock Mining
Rachel Yelderman, Comstock Mining

CALL TO ORDER

The meeting was called to order at 9:40 AM and self introductions were made. A motion was made by **Garley Amos** to approve the agenda with two amendments, one to add public comment at the beginning of the meeting, and two, to strike "The Story of the Clock" since the speaker was unable to attend. The motion was seconded by **Nancy Lipski** and the agenda was approved with all members voting yes.

A motion was made by **Robert Conner** to approve the November 16, 2012 meeting minutes, seconded by **Varlin Higbee** and the minutes were approved with a majority vote, while **Laurie Carson** and **Garley Amos** abstaining.

PUBLIC COMMENTS

Joe McCarthy, Comstock Residents Association (CRA), expressed his opposition to open pit mining and Comstock Mining Inc impacts to the community.

AGENCY REPORT

Jim Lawrence gave a summary of pertinent bills being considered by the Legislature.

AB2: (Approved by the Governor)

Revises provisions governing SLUPAC:

- o Adds NACO as a non-voting member
- o Removed SLUPAC from NRS 232A.020 resulting in members being allowed to serve on SLUPAC as well as other Governor-appointed boards
- o Allows one or more names be submitted by County for the Governor's consideration
- o A majority of the voting members of the Council constitutes a quorum

AB138: (As of 5/29, in committee)

Under existing law, a person who intends to locate or expand a business in Nevada may apply to the Office of Economic Development for a partial abatement of one or more of the taxes imposed on the new or expanded business pursuant to chapter 361 (property tax), 363B (business tax) or 374 (local school support tax) of NRS. (NRS 274.310, 274.320, 360.750, 361.0687, 363B.120, 374.357) This bill provides that a business which makes a capital investment of at least \$1,000,000 in a program at the University of Nevada, Reno, the University of Nevada, Las Vegas, or the Desert Research Institute for the support of research, development or training related to the field of endeavor of the business and which meets certain other requirements is eligible to apply for a partial abatement of personal property taxes. In addition, this bill provides that a business which makes a capital investment of at least \$500,000 in the Nevada State College or another smaller institution within the Nevada System of Higher Education in support of college certification or research or training related to the field of endeavor of the business and which meets certain other requirements is also eligible to apply for a partial abatement of personal property taxes. The abatements afforded by this bill expire by limitation on June 30, 2023.

AB227: (As of 5/28, to enrollment)

This bill creates the Nevada Land Management Task Force, consisting of a representative from each county in this State appointed by the board of county commissioners, to conduct a study during the 2013-2014 legislative interim to address the transfer of public lands in Nevada from the Federal Government to the State of Nevada, in contemplation of Congress turning over the management and control of those public lands to the State of Nevada on or before June 30, 2015. The Task Force is required to submit a report of its findings and recommendations to the Legislative Committee on Public Lands on or before September 1, 2014. The Task Force is similar to an interim commission that is being recommended for creation in the State of Utah to study issues relating to the transfer of public lands in Utah from the Federal Government to the State of Utah.

AB356: (Approved by the Governor)

This bill encourages the development of recommendations for the preservation of the Nevada State Prison for use as a historical, educational and scientific resource for the State of Nevada.

AB396: (As of 5/29, in committee)

The Nevada Supreme Court expressly adopted the public trust doctrine in *Lawrence v. Clark County*, 127 Nev. Adv. Op. 32, 254 P.3d 606 (2011). Under this doctrine, generally, a state holds the banks and beds of navigable waterways in trust for the public and subject to restraints on alienability. Under existing law, the water of all sources of water supply within the boundaries of the State of Nevada is declared to belong to the public. (NRS 533.025) The use of water for recreational purposes is also recognized under existing law as a beneficial use of water. (NRS.533.030) In addition, Nevada has a recreational use statute in existing law which, with certain exceptions, limits the liability of an owner, lessee or occupant of a premises to persons who enter or use the land for recreational activities, including, without limitation, fishing and water sports. (NRS 41.510) Subject to certain specified restrictions, this bill authorizes persons to use water that is navigable or capable of being navigated by oar, paddle or motorized watercraft year round at or below the ordinary high-water mark for any otherwise lawful activity that uses water, including boating, fishing, swimming and wading.

This bill authorizes the owner of the bed of such water to place a fence or similar barrier across the water for legally authorized purposes, but requires the owner in such circumstances to: (1) authorize the placement of a ladder, gate or other device that allows portage around or over the fence or barrier; and (2) post a sign at a certain location along the water indicating the existence of the fence or barrier.

AB461:

(As of 5/28, to Senate)

Existing law requires the Division of State Lands of the State Department of Conservation and Natural Resources to acquire and hold all lands and interests in land owned or required by the State, with certain exceptions. (NRS 321.001) **Section 2** of this bill authorizes the Division to establish and carry out programs to preserve, restore and enhance sagebrush ecosystems on public land in this State or on private land with the consent of the owner of the land. **Section 3** of this bill requires the Division to coordinate the establishment and carrying out of a program of projects to improve sagebrush ecosystems in this State. **Section 3** requires the Division, when carrying out the program, to: (1) oversee a program to mitigate damage to sagebrush ecosystems through a system that awards credits to persons and governmental entities for taking measures to protect, enhance or restore sagebrush ecosystems; (2) identify and prioritize projects to improve sagebrush ecosystems or the scientific knowledge thereof; (3) coordinate activities with federal agencies; (4) suggest measures to avoid, minimize and mitigate the impact of activities conducted in areas which include sage grouse habitats to persons conducting those activities who make a request; and (5) submit an annual progress report to the Sagebrush Ecosystem Council created in **section 6** of this bill. **Section 3** further authorizes the Division to enter into agreements, to acquire, hold, sell or lease land, to award grants and to adopt regulations to carry out the program. **Section 5** of this bill creates the Account to Restore the Sagebrush Ecosystem within the State General Fund. **Section 6** creates the Sagebrush Ecosystem Council within the Department. **Section 6** requires the Council to: (1) consider the best science available in its determinations regarding and conservation of the greater sage grouse and sagebrush ecosystems in this State; (2) formulate and carry out certain strategies and programs for the conservation of sage grouse and for managing land which holds sagebrush ecosystems; (3) coordinate discussion among and provide advice to certain persons and governmental entities concerning the management of sagebrush ecosystems; and (4) submit a biannual report concerning its activities to the Governor.

SB121:

(Approved by the Governor)

Section 1 of this bill authorizes the State Land Registrar to transfer the Belmont Courthouse to Nye County, without consideration, and requires Nye County to pay the costs relating to any such transfer of the property. **Section 3** of this bill provides the legal description of the Belmont Courthouse. If the State executes a deed for real property which is transferred to a local government and which is part of a state park, the deed is required to include restrictions that: (1) protect the historical and recreational value of the property; (2) guarantee public access to the property; and (3) prevent the local government or any successor in title from transferring the property without authorization by a concurrent resolution of the Legislature. The deed must also provide that any breach of these restrictions results in a reversion of the applicable property to the State. (NRS 321.135) **Section 2** of this bill requires the deed transferring ownership of the Belmont Courthouse to Nye County to contain the preceding restrictions and provisions.

SB229:

(As of 5/27, in Senate)

Existing law sets forth the Tahoe Regional Planning Compact, an interstate agreement between the States of California and Nevada pursuant to which the bistate Tahoe Regional Planning Agency regulates environmental and land-use matters within the Lake Tahoe Basin. (NRS 277.190-277.220) Senate Bill No. 271 of the 2011 Session (SB271) requires the withdrawal of the State of Nevada from the Tahoe Regional Planning Compact on October 1, 2015, unless, by that date, an amendment to the Compact proposed by SB271 has been adopted by the State of California and approved pursuant to federal law, and the governing board of the Tahoe Regional Planning Agency has adopted an update to the 1987 Regional

Plan. SB271 authorizes the Governor, under certain circumstances, to postpone that withdrawal date until October 1, 2017. (Chapter 530, Statutes of Nevada 2011, p. 3710) This bill repeals certain provisions of SB271 upon enactment by the State of California of legislation that is effective on or before January 1, 2014, which: (1) adopts amendments to the Compact that are substantially identical to the amendments contained in section 1.5 of SB271, as amended by **section 2** of this bill; (2) agrees to cooperate with the State of Nevada in seeking to have those changes to the Compact approved by Congress; (3) adopts amendments to the Compact substantially identical to the amendments contained in **section 1** of this bill relating to the duty of the Tahoe Regional Planning Agency to take certain actions in accordance with the Compact and the regional plan and placing the burden of proof on the party challenging the regional plan or an act taken or decision made by the Agency pursuant to the Compact or the regional plan to show that the plan, act or decision is not in conformance with those requirements; (4) finds and declares support for the full implementation of the regional plan update adopted by the Tahoe Regional Planning Agency in December of 2012; and (5) acknowledges the authority of either the State of California or the State of Nevada to withdraw from the Tahoe Regional Planning Compact pursuant to subdivision (c) of Article X of the Compact or pursuant to any other provision of the laws of each respective State. **Section 2** of this bill revises SB271 to remove the proposed amendments to the Compact regarding the voting structure of the governing body of the Tahoe Regional Planning Agency and the burden of proof. If the State of California does not enact such legislation on or before January 1, 2014, the provisions of this bill expire and SB271 remains in effect.

Skip Canfield discussed the possible future role of SLUPAC as a more action-oriented board. Also, the Nevada State Clearinghouse can play a part in how counties comment on proposed activities on public lands. He also mentioned that it is important for counties to keep their Public Land Policy Plans up to date and adopted as an element of the Master Plan.

Update on the NEWLY-CREATED SAGEBRUSH ECOSYSTEM TECHNICAL TEAM

Tim Rubald, Program Manager, gave a status on the work being done by the newly-created Sagebrush Ecosystem Technical Team, and the Sagebrush Ecosystem Council that he reports to. The Team is comprised of himself and four staff with varied expertise, representing the Division of State Lands, Division of Forestry, Department of Agriculture and the Department of Wildlife. The Council has members representing agriculture, conservation and environment, energy, mining, sportsmen, ranching and tribal nations. The Team is charged with managing the Mitigation Credit System (Bank). This effort will consolidate project funds and mitigation dollars for Council-approved habitat improvements, protective processes, wildfire prevention and minimization, and other projects recommended by the Team and prioritized by the Council. The funds, in part, will be assessed from disturbances that cannot be avoided by a project, based on credit metrics.

COMSTOCK MINING, INC.

Corrado De Gasperis, President and CEO, Comstock Mining, Inc., gave a presentation on world economic conditions and the fiscal impacts of Gold and Silver, and the potential effects on Nevada.

Doug McQuide, Public Relations Director, gave a presentation on Comstock Mining's experience resolving property ownership conflicts between private entities and the Bureau of Land Management. The company has invested more than \$80 million in the area since 2003 and has 100+ employees. Mining interests extend from just southwest of Virginia City south to US 50. The processing area is located at American Flat. The company has committed to a strong reclamation policy including:

- Schedule of reclamation after closure of each disturbance
- Commence (no later than) 90 days from closure
- Reclaim within 30 days from reclamation start
- Proper, seasonal revegetation
- Post-operation monitoring and maintenance
- Accelerated reclamation within 500 feet of residence
- Strengthened requirements for Devil's Gate, V&T, and cemeteries

The company is also conducting tests and monitoring due to the area's designation as a Superfund site. Access became an issue due to a small area of BLM land that had to be traversed in Gold Canyon. The existing special use permit that was received from the County established a haul road paralleling the highway

to the processing area. One small portion of "Lot 51" went over BLM land, requiring the company and BLM to work together for a solution. For a while, hauling had to take place on the highway, causing community concerns. An EA will be completed, and as mining operations expand on to public lands, additional permits will be applied for with the BLM. Comstock Mining Inc is also committed to the area's historic history and promoting tourism. The company is actively renovating and rehabilitating historic structures in the area and has plans for a visitor's center that explains the company activities and the history of the Comstock.

PUBLIC COMMENT

Gail Sherman, Comstock Residents Association (CRA), stated that Virginia City is an historical landmark that could be negatively impacted by surface mining activities associated with Comstock Mining Inc. She also mentioned that it is difficult to work through the county regulation and get consistency because the mining activities are occurring on both Lyon County and Storey County lands. Additionally, she mentioned the "Restore Storey County Act", pending in Congress. This act will transfer 1745 acres of BLM to Storey County and could result in mining activities that do not have to follow the EIS process.

Joe McCarthy, Comstock Residents Association (CRA), stated that the Dayton resource area had been zoned 1-acre residential for 75 years. CRA requests a comprehensive mining plan be completed to determine the impacts to the community. Also, disturbing the soil could result in the release of toxic material that has long sat dormant from the 1800's mining. These disturbances could affect both air and water quality. The area should promote heritage tourism, not open pit mining. Historic preservation should be the economic engine of the area.

LUNCH

The meeting recessed for lunch at 11:50am and resumed at 1:00pm.

COUNTY PLANNING ISSUES

Eureka County - Jake Tibbitts: Eureka County still does not have any zoning, but do the prospect of rapid growth, development agreements are being considered. The Record of Decision for the Mt. Hope Moly mine has been released.

Clark County – Nancy Lipski: Coyote Gold Mine and Searchlight Wind Farm being developed. County is updating the Public Land Policy Plan. The MGM is being renovated, as well as the Flamingo and Imperial Palace. The defunct Echelon has been sold and will restart. Tule Springs National Monument Bill is in Congress.

Lyon County – Virgil Arellano: The Public Land Policy Plan has been adopted by the Lands Board. SLUPA should meet four times per year.

Lincoln County – Varlin Higbee: the County has completed the road inventory and the land use plan has been changed to address the sage grouse. Development agreements have been completed for Toquop plant.

Lander County – Steven Stienmetz: The land use plan committee has been meeting. A number of mines are moving forward with development plans.

Churchill County – Eleanor Lockwood: NAS Fallon joint land use study underway. Real concern about tax abatements for geothermal and how it affects county revenue.

Douglas County – Robert Conner: Candace Stowell presented. County working on the TRPA Stateline Area Plan, which will allow county to have more say over land use planning.

Humboldt County – Garley Amos: The Hycroft Mine expansion is bringing with it 750 jobs and a cooperative agreement to maintain the roads. Winnemucca has seen recent growth and the development of man camps due to the shortage of housing. The fairgrounds is accommodating an RV park.

White Pine County – Laurie Carson: The DEIS for the Midway Gold Pan Mine is expected soon, the mine will create 150 jobs. Solar panels are proposed at the airport. Interest in oil and gas exploration in the White River Valley, but there are water resource issues. The stress fractures in the 500Kv line are being fixed. Cummins Lake has high mercury content.

Nye County – Lorinda Wichman: Three-year process to complete county road inventory is ongoing. County master plan being updated including a study on renewable and transmission lines.

Storey County – Austin Osborne: The industrial park is seeing some growth. Colony Energy is a new tenant. The salt that was stored at the industrial park has been shipped back to Tonopah for the crescent dunes solar power plant. Old fashioned mucker mining is occurring at the Sutro mine. Concern about the EPA 5-year Superfund study proposed for Virginia City. Could have negative impacts to property owners if their property is identified. The Truckee River flood project could have impacts to Lockwood floodwalls.

COUNCIL MEMBER COMMENTS, COUNCIL DISCUSSION AND RECOMMENDATIONS

The members concurred with two future meeting dates. July 12, 2013 in Tonopah and October 11, 2013, location to be determined. The members also concurred that there should be a standing item on all future agendas to discuss and get updates on the work of the Sagebrush Ecosystem Technical Team. Other topics requested for future meetings include:

Development Agreements
Cloud seeding activities of the Desert Research Institute
EPA's 5-year Superfund study, impacts to property owners
How do counties work better with Federal and State agencies

ADJOURNMENT

The meeting was adjourned at 2:45pm.

Respectfully submitted,

Skip Canfield
/s/
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.