



State Land Use Planning Advisory Council

MEETING PACKET

Friday January 17, 2020

The Springs Preserve-Cienega Room

333 S. Valley View Blvd

Las Vegas, NV 89107

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NOTICE OF PUBLIC MEETING AND AGENDA OF THE STATE LAND USE PLANNING ADVISORY COUNCIL

A public meeting will be held on:

Friday January 17, 2020 9:00 AM

At the following location:

The Springs Preserve-Cienega Room,
333 S. Valley View Blvd., Las Vegas, NV 89107

Please note that times listed are estimates

- 9:00am 1) CALL TO ORDER
Introductions
- 9:05am 2) PUBLIC COMMENT
This is an opportunity for the public to provide public comment on any item included on the agenda or any other land use planning and any other related topic not included on the agenda.
(Pursuant to NRS 241.020, no action may be taken upon a matter raised under this item until the matter has been specifically included on an agenda.)
- 9:10am 3) REVIEW OF THE AGENDA (For possible action)
(Agenda is reviewed for unforeseen circumstances such as the inability of a scheduled speaker to attend, to move an item to a different time during the meeting to accommodate a speaker, etc.)
- 9:15am 4) APPROVAL OF MINUTES (For possible action)
- Approval of Minutes from the December 7, 2018 SLUPAC meeting
 - Approval of Minutes from the September 27, 2019 SLUPAC meeting.
- 9:20am 5) HOST PRESENTATION: SPRINGS PRESERVE (For Discussion Only)
Staff with the Springs Preserve will provide the Council with an overview of the facility, its mission, and history.
- 9:35am 6) ELECTION OF CHAIR AND VICE CHAIRMAN FOR 2020 (For possible action)
Pursuant to NRS 331.740(6) the Chair and Vice Chair serve a one year term.
Members - State Land Use Planning Advisory Council

- 9:45am 7) ELECTION OF FOUR MEMBERS TO SERVE ON THE SLUPAC EXECUTIVE COUNCIL (For possible action)
 The Executive Council (NRS 321.755) consists of four SLUPAC members and the Administrator of Nevada Division of State Lands and is charged with, upon request, resolving inconsistencies in land use plans between two or more adjacent or overlapping local governmental entities which cannot be resolved between them. The terms of each member of the Executive Council have expired. To the extent practicable, the members selected to serve on the Executive Council must be representative of the various geographic areas of this State. Each member of the Executive Council shall serve for 2-year terms.
Members - State Land Use Planning Advisory Council
- 10:00am 8) CLARK COUNTY LANDS BILL PRESENTATION (For Discussion Only)
 Clark County staff will provide the Council with an overview of the Southern Nevada Economic Development and Conservation Act and the status of the bill.
Members - State Land Use Planning Advisory Council
- 10:30am 9) AFFORDABLE HOUSING DISCUSSION (For Discussion Only)
 Marilyn Kirkpatrick, Clark County Commissioner will lead the Council in a discussion on affordable housing within Clark County and discuss the **county's ongoing efforts towards addressing the** issue.
Members - State Land Use Planning Advisory Council
- 11:00am BREAK
- 11:15am 10) REVIEW OF OPEN MEETING LAW AND SLUPAC POWERS & DUTIES (For Discussion Only)
Tori N. Sundheim, Counsel from the Attorney General's Office, will provide the Council with a review of Open Meeting Law and the powers and duties of SLUPAC as defined in NRS 321.740 and 321.750.
Members - State Land Use Planning Advisory Council
- 11:35am 11) RECOMENDATION TO REPEAL OR REVISE SLUPAC BYLAWS AND DIRECTION ON POTENTIAL SLUPAC LEGISLATIVE CHANGES (For Possible Action)
 Currently, the SLUPAC bylaws allow members to designate an alternate member by contacting **agency staff in writing or by telephone. However, SLUPAC designation of alternates isn't allowed by** NRS. In addition to this inconsistency, **the bylaws otherwise don't appear to offer guidance to Council** members beyond what is provided in statute. Therefore, it is unclear what purpose and value the bylaws serve. The Council will discuss and provide direction to staff on whether to revise or repeal the SLUPAC bylaws. The Council will also discuss and provide direction to staff on whether to seek legislative clarification or changes to the SLUPAC powers and duties.
Members - State Land Use Planning Advisory Council
- 11:55am 12) COUNTY PLANNING UPDATES (For Discussion Only)
 Updates from SLUPAC members on planning and land use related activities within their areas of representation.
Members – State Land Use Planning Advisory Council
- 12:55pm 13) FUTURE AGENDA ITEMS (For Possible Action)
 The Council will discuss and recommend items to be placed on a future SLUPAC agenda. Primary SLUPAC focus areas that were previously identified for 2019-2020 include: RS2477 roads protocol (NRS 405.204(3)), County NEPA Consistency Review Assistance, Public Land Policy Plan Update Assistance and Outreach, and public lands management specific to reclamation-related fuels management, grazing, and fire.
Members – State Land Use Planning Advisory Council
- 1:15pm 14) SCHEDULING OF FUTURE SLUPAC MEETING DATES AND LOCATIONS (For Possible Action)

The Council will discuss and recommend dates and possible locations for future SLUPAC meetings. Traditionally, the Council has met four times in a year and has held its meetings in various geographic areas throughout the State.

Members – State Land Use Planning Advisory Council

1:25pm 15) PUBLIC COMMENTS

This is an opportunity for the public to provide public comment on any item included on the agenda or any other land use planning and any other related topic not included on the agenda.

(Pursuant to NRS 241.020, no action may be taken upon a matter raised under this item until the matter has been specifically included on an agenda.)

1:30pm 16) ADJOURN (For possible action)

Members – State Land Use Planning Advisory Council

Following the adjournment of the SLUPAC meeting, staff from the Las Vegas Valley Water District will provide an optional tour of the Springs Preserve campus.

PLEASE NOTE:

(I) Times listed for all items are estimates.

(II) Items on the agenda may be taken out of order at the discretion of the Chair; the public body may combine two or more items for consideration; and the public body may remove an item or defer discussion of an item on the agenda at any time.

(III) Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify Scott Carey in writing at the Nevada Division of State Lands, 901 S. Stewart Street, Suite 5003, Carson City, Nevada 89701 or by calling 775-684-2723 no later than January 6, 2020.

(IV) Documentation and supporting agenda items are available on the Nevada Division of State Lands Website at www.lands.nv.gov/land-use-planning/state-land-use-planning-advisory-council/slupac-meeting-agendas-and-minutes and will be available at the SLUPAC meeting. For further information you may contact Scott Carey at 775-684-2723 or at scarey@lands.nv.gov.

Notice of this meeting was posted at the following locations:

Department of Conservation and Natural Resources, 901 S. Stewart Street, Carson City, NV 89701

Division of State Lands, 901 S. Stewart Street, Suite 5003, Carson City, NV 89701

Nevada State Library and Archives, 100 N Stewart St, Carson City, NV 89701

The Springs Preserve, 333 S. Valley View Blvd, Las Vegas, NV 89107

In addition, this notice of meeting was posted on the Nevada Division of State Lands website at: www.lands.nv.gov and on the Nevada Public Notice Website at www.notice.nv.gov.

STATE LAND USE PLANNING ADVISORY COUNCIL
DRAFT MINUTES

December 7, 2018

Kahle Community Center, 236 Kingsbury Grade Rd, Stateline, NV 89449

Members Present

Jake Tibbitts, Eureka County (Chair)
 Nancy McDermid, Douglas County
 Jim French, Humboldt County
 Lee Plemel, Carson City
 Sami Real, Clark County
 Sandy Hoover, NACO
 Ralph Keyes, Esmeralda County
 Don Alt, Lyon County
 Jeanne Herman, Washoe County

Members Absent

Michael Johnson, Churchill County
 Delmo Andreozzi, Elko County
 Art Clark, Lander County
 Varlin Higbee, Lincoln County
 Jerrie Tipton, Mineral County
 Lorinda Wichman, Nye County (Vice Chair)
 Roger Mancebo, Pershing County
 Austin Osborne, Storey County
 Laurie Carson, White Pine County

Others Present

Skip Canfield, State Land Use Planning Agency
 Jerry Elkins, Central Nevada GIS and Cartography Services
 Cheva Gabor Humboldt-Toiyabe National Forest
 Tim Mueller, Nevada Department of Transportation
 David Pritchett, Bureau of Land Management Nevada State Office
 Charlie Donohue, Nevada Division of State Lands
 Denise Castle, JOIN Inc
 Steve Teshara, Tahoe Transportation District
 Lew Feldman, Tahoe Douglas Visitor Authority
 Carol Chaplin, Lake Tahoe Visitors Authority
 Wesley Rice, Commissioner-elect Douglas County
 Kyla Bright, Lander County
 Curtis Moore, Elko County

CALL TO ORDER

The meeting was called to order by Jake Tibbitts at 9:15 am and self-introductions were made by those present.

PUBLIC COMMENTS

None.

AGENDA/APPROVAL OF MINUTES

Due to time and members of the Council's travel needs, the portion of the agenda related to traveling to the Douglas County Community & Senior Center in Gardnerville was removed from the agenda. A motion to

approve the agenda with this change was made by **Jeanne Herman** and seconded by **Nancy McDermid**. The motion was approved.

The draft minutes of the September 7, 2018 meeting in Battle Mountain were reviewed. A motion to approve the minutes as submitted was made by **Nancy McDermid** and seconded by **Jim French**. The motion was approved.

The draft minutes of the October 29, 2019 RS 2477 workshop in Carson City were reviewed.

Jake Tibbitts proposed changes to the minutes. On Page 3 in the first paragraph to add “in all respects” at the end of his remarks comparing Utah and Nevada. On Page 3 in the first paragraph to clarify that his remarks about Title V rights of way are in reference to Title V of FLPMA not just Title V. On Page 3 in the first paragraph to clarify that a county does not have to apply to the BLM for acknowledgement, that the rights of way are for Title V under FLPMA and the rights of way are not just for roads. On Page 3 in the last paragraph to clarify that even if there is a congressional or executive order to resolve RS2477 conflicts, that counties will still need to have documentation for those roads outlining why the roads existed, what they are, and for the counties to continue to have those protocols.

A motion to approve the minutes with these changes was made by **Curtis Moore** and seconded by **Jim French**. The motion was approved.

RS2477 ROADS WORK SESSION

Jake Tibbitts led the discussion and Skip Canfield introduced Resolution 2018-2.

Jake Tibbitts proposed several changes to Resolution 2018-2. The first change was to replace the term conflicts with “cloud of title” in the 6th whereas and now therefore be it resolved sections. The second change was in the 3rd whereas to change protocols to “protocol” and the cite NRS 405.204 (3) instead of SB456. The third change was in the now therefore be it resolved section to add in “and requests” after supports.

Jim French stated that it is important for the Council to support pursuing a congressional action in parallel with obtaining a Presidential Executive Order to seek relief on the RS2477 issue.

Nancy McDermid questioned why the phrase “and/or” is included in the now therefore it be resolved section of the resolution. Nancy stated that the phrase “and/or” is ambiguous and provides the Federal Government a way out of taking action on the RS2477 issue.

Following this discussion, **Jake Tibbitts** proposed changing the ending of the now therefore it be resolved section to read, “including but not limited to by Presidential executive action and Congressional action”.

A motion to approve the resolution with the changes as outlined and discussed by the Council was made **Jim French** and seconded by **Don Alt**. The motion was approved.

After the resolution was approved, there was discussion amongst the Council about the ongoing county efforts with respect to RS2477 roads and the next steps needed to work with the Federal government on this issue.

UPDATE ON THE RECENTLY ADOPTED ONE NEVADA TRANSPORTATION PLAN

Tim Mueller with the Nevada Department of Transportation provided the Council with an update on the One Nevada Transportation Plan. Tim provided an overview of the outreach that was conducted throughout the state and shared highlights of plan which was adopted earlier this year by the State Transportation Board.

There was discussion amongst the Council about Interstate 11 and ongoing corridor planning efforts taking place throughout the state. The consensus of the Council was that the Interstate 11 is an important project for the entire state and requested that an update on this project be added as a future agenda item.

UPDATE ON THE NEVADA ECONOMIC ASSESSMENT PROJECT

David Pritchett with the BLM and Cheva Gabor with the US Forest Service provided the Council with an overview of the Nevada Economic Assessment Project (NEAP). David explained that the intent of NEAP is to assist Nevada counties with compiling and analyzing data that can be used statewide for various types of planning and policy assessments. **Cheva provided an overview of the Federal government's use of the data** that will be collected and how the information collected will be used.

Jake Tibbitts suggested that David and Cheva come back at a future meeting and provide an update to the Council on the progress of the NEAP.

JOIN INC

Denise Castle with JOIN Inc provided the Council with an overview of the organization and the workforce development & job training opportunities that Join Inc. provides in Northern Nevada.

UPDATE ON STATELINE TRANSPORTATION MATTERS

Steve Teshara, Chairman of the Board of Directors for the Tahoe Transportation District introduced this item to the Council. He stated that he was filling in for Carl Hasty, District Manager for the Tahoe Transportation District.

Lew Feldman with the Tahoe Transportation District provided the Council with an overview of past and ongoing transportation planning efforts in the Stateline area. The Council reviewed and provided feedback to Lew on the US 50/South Shore Community Revitalization Project.

A FEW DOUGLAS COUNTY FACTS FROM PARKS AND RECREATION

Due to time and members of the Council's travel needs, this portion of the agenda was removed.

TRAVEL TO LUNCH

Due to time and members of the Council's travel needs, this portion of the agenda was removed.

LUNCH

Due to time and members of the Council's travel needs, this portion of the agenda was removed.

COUNTY PLANNING UPDATES DURING LUNCH

Due to time and members of the Council's travel needs, this portion of the agenda was removed.

TRAVEL BACK TO KAHLE PARK

Due to time and members of the Council's travel needs, this portion of the agenda was removed.

COUNTY PLANNING UPDATES CONTINUED

Brief summaries:

Jim French, Humboldt County:

Jim stated that that Humboldt County is in the final stages of updating the county's master plan which will include a county water management plan. Jim further stated that it's important for other counties to have relevant strategic master plans in place as Federal natural resource planning efforts continue to move forward.

Lee Plemel, Carson City:

Lee stated that Carson City did not have an update.

Nancy McDermid, Douglas:

Nancy stated that although her term on the council is through 2020, her term is up on the Douglas County Commission and Wesley Rice has been elected to her commission district. Nancy provided an update on the Stateline to Stateline bikeway project at Lake Tahoe and the future phases of the project. Nancy stated that the Nevada Land Trust has purchased the Ascuaga ranch in Jack's Valley. Nancy stated that this will be another addition to the 25,000 acres of conservation easements that have been put in place in the county over the past 12 years.

Wesley Rice, Commissioner elect for Douglas County introduced himself to the Council and talked about ongoing planning issues in Douglas County.

Curtis Moore, Elko County:

Curtis stated that Elko County did not have an update.

Sami Real, Clark County:

Sami provided an update on the county's marijuana regulations including the licensing of new retail establishments and possible ordinance changes to allow for marijuana lounges. Sami stated that the County is also working on new regulations including fees and design standards to allow FCC approved small scale cell towers on public infrastructure.

Sandy Hoover, NACO:

Sandy provided an update on ongoing projects that NACO is working on including: the 2019 Legislature, BLM-Forest Service greater sage grouse plan, and the Fallon NAS modernization plan. Sandy stated that her last day with NACO will be on December 26th and that NACO is in the process of recruiting a new Natural Resource Manager.

Charlie Donohue, Nevada Division of State Lands:

Charlie stated that a new bill (AB 5) dealing with county master plans has been introduced for the next legislative session. Charlie suggested that the members of the Council take a look at AB 84 which deals with the State's conservation bond.

Ralph Keyes, Esmeralda County:

Ralph mentioned that there was a recently a discovery of a large lithium deposit within the county that is very large, readily accessible, and could greatly impact the county.

Don Alt, Lyon County:

Don stated that the county is having trouble trying to balance growth and agriculture, particularly in Dayton where a new bridge crossing the river and flood control improvements are needed. Don stated that the Silver Springs water basin is currently 6 times over allocated and that the county working on potential solutions.

Jeanne Herman, Washoe County:

Jeanne stated that the county is dealing with a lot of issues dealing with growth including effluent water being pumped into dry lake beds and causing flooding. Jeanne stated that the Truckee Meadows Water Authority recently completed a study that projected the population of the county to be 563,000 in 20 years. Jeanne stated that the county is in the process of updating its regional plan.

Jake Tibbitts, Eureka County:

Jake stated that the county recently completed an inventory of all of the potential mountain biking trails adjacent to the town of Eureka which could lead to the development of new bike trails. Jake provided an update on the Diamond Valley groundwater management plan and the next steps in the approval of the plan.

Art Clark, Lander:

Kyla Bright, Lander County Planning Coordinator provided the update for the county. Kyla stated that the master plan update has been approved with the exception of the land use plan due to sewer infrastructure issues. Kyla stated that the county has recently approved three marijuana business in Battle Mountain and one business in Austin.

There was discussion from the Council about the possibility of having a future agenda item on marijuana businesses around the state.

COUNCIL MEMBER COMMENTS

COUNCIL DISCUSSION AND RECOMMENDATIONS FOR REVISITING SLUPAC FOCUS AREAS

Don Alt suggested that the counties look into valid and pre-existing rights (VER) on Federal lands with the BLM. **Jake Tibbitts** suggested that the Council staff find a representative from the BLM to bring forward additional information to the Council on this issue at a future meeting.

Jake Tibbitts suggested that during the first meeting of 2019 that the Council get together and plan out a strategy session on the focus areas with the new Council members and identify issues to highlight during the 2019 Nevada Legislature.

There was discussion by the Council that the next meeting would be held in mid-March in Carson City, NV.

PUBLIC COMMENTS

None.

ADJOURN

The meeting was adjourned at 1:21 pm.

Respectfully submitted,

Scott Carey

/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.

State Land Use Planning Advisory Council

Council Meeting Minutes

September 27th, 2019

9:00 am – 12:00 pm

Northern Nevada State Veterans Home
36 Battle Born Way, Sparks, Nevada 89431

MEMBERS PRESENT

Art Clark, Lander County
Bill Calderwood, White Pine County
Jake Tibbitts, Eureka County (Chair)
Jim Barbee, Churchill County
Jim French, Humboldt County
Jeanne Herman, Washoe County
Kathy Canfield, Storey County
Lee Plemel, Carson City
Lorinda Wichman, Nye County (Vice Chair)
Roger Mancebo, Pershing County
Sami Real, Clark County

MEMBERS ABSENT

Austin Osborne, Storey County
Delmo Andreozzi, Elko County
Don Alt, Lyon County
Garth Price, Mineral County
Nancy McDermid, Douglas County
Ralph Keyes, Esmeralda County
Varlin Higbee, Lincoln County

OTHERS PRESENT

Charlie Donohue, Division of State Lands
Ellery Stahler, Division of State Lands
Tori Sundheim, Nevada Attorney General's Office

CALL TO ORDER

The meeting was called to order at 9:02am and self-introductions were made.

PUBLIC COMMENTS

Charlie Donohue, Administrator of the Nevada Division of State Lands addressed the vacancy of the Division's Land Use Planner position and apologized for the delay in conducting this meeting. Charlie expressed his hope that this meeting will help keep the Commission on track for scheduling future meetings.

AGENDA

The agenda was reviewed by the Council. **Jake Tibbitts** made a motion to approve the agenda as submitted, the motion was seconded by **Lee Plemel**. The motion was approved.

NOMINATIONS AND APPOINTMENTS

Ellery Stahler, Deputy Administrator of the Nevada Division of State Lands noted that there are a few members whose appointments are expiring 2019 and some who have already expired. Ellery then presented a slideshow outlining the appointment process and all pertinent information and forms to be completed by each SLUPAC member. **Jim French** pointed out that **Don Alt** is not active. Charlie Donohue added that **Nancy McDermid** turned down her election but advised she would still serve as a representative of Douglas County. Charlie stated it is up each county to select the members who will serve to the end of their appointed term or not. **Jake Tibbitts** noted that these positions are Governor appointed and each member would either have to resign from their position or complete their nominated term. **Kathy Canfield** asked how the Council will handle alternates for members who cannot be present in meetings. Charlie Donohue suggested adding the issue of alternates to a future meeting agenda, after Tori Sundheim, the State's Deputy Attorney General, and other members of the Council have reviewed the State's laws and the Council's bylaws. After Ellery's presentation, **Jim French** pointed out that this appointment process is similar to his experience with appointment of the Indigent Accident Fund's board process, and that he had a difficult time getting calls returned and submitting the required paperwork. Jim further noted that it is likely that SLUPAC members will have the same issues. **Lorinda Wichman** added that she had the same issues as Jim. Ellery stated that the strategy should be to get all paperwork completed and submitted at the same time to hopefully avoid these issues.

COUNTY PLANNING UPDATES

Brief summaries:

Lorinda Wichman, Nye County:

Lorinda stated that Nye County is facing a grazing issue in the Reece River Valley and a plan needs to be brought to the County Commission. The US Fish and Wildlife Service put Lahontan Cutthroat Trout in the Reece River and ranchers in the Reece River Valley Western Watersheds have filed a lawsuit against the USFWS who are now claiming that it's an endangered species habitat. **Jim French** added that this is a topic that the Council should discuss, including looking into the Species Management Plan, and also stated that the Lahontan Cutthroat Trout is a threatened species, not endangered. **Jake Tibbitts** stated that there is a lot happening in Nevada counties related to the Lahontan Cutthroat Trout and how to move forward with stakeholder engagement. Jake added that it is important for SLUPAC members to stay informed on this topic. **Jim French** stated that NDOW was approached by the USFWS to come up with a plan. NDOW did meet with Stakeholders to come up with recovery criteria but the Species Management Plan was reopened to negotiations. Charlie Donohue asked how many grazing allotments will be affected by this, to which **Jim French** responded an analysis was conducted and found 86 will allotments will be affected. **Jake Tibbitts** suggested adding this issue to a future Council agenda for further discussion.

Art Clark, Lander County:

Art advised the Council that Lander County has many updates, such as extending county infrastructure, water and sewer. The county has a project in place to implement a walk and bike path. There is a ball field currently on the drawing board that will consist of 5 fields which can be adjusted to play different kinds of baseball, and minor alterations can be made create soccer fields. Art stated that two new roads have recently been opened in Lander County. Art reported that Lander County is looking to implement \$40 million in projects in the future. Art added that NDEP will be monitoring four different areas and will be making efforts to map out an onsite filtration system. **Jake Tibbitts** noted that septic and deep well issues have become apparent in many rural counties and he would like to see this become an agenda item for a

future SLUPAC meeting. Charlie Donohue suggested inviting Nevada Department of Environmental Protection and Nevada Division of Water Resources staff to a future meeting to discuss and present on groundwater monitoring.

Kathy Canfield, Storey County:

Kathy stated that Storey County is facing flooding issues and has been attending meetings with FEMA to conduct hazard identifying assessments along the Truckee River. She advised that there is critical infrastructure in the flood plain and the County is working to ensure all mapping is correct. Kathy added that Storey County also working with the Army Core to look at emergency action plans in the event that such a plan is needed.

Jim French, Humboldt County:

Jim advised that Humboldt County is in the final stages of revising the county's master plan, which involves RS2477 roads. There is currently a contractor working for the county on legal descriptions for 8,000 miles of roads in Humboldt County to establish RS2477 eligibility. Jim added that the Targeted Grazing Program has recently been implemented and, although it has been challenged in court, it's important from a planning perspective to identify targeted grazing plans in relation to wildfire management. Jim stated that wild horse and burro issues are affecting public and private lands and that he would like to discuss this with the Council at a future meeting. Jim stated that NDOT has been asking questions in relation to this issue and its presence on Highway 50.

Bill Calderwood, White Pine County:

Bill stated there is a lack of housing in White Pine County and that the mines are struggling to employ full crews due to this housing deficiency.

Jim Barbee, Churchill County:

Jim reported that Churchill County's RS2477 mapping process has been completed and that the County will be starting its master plan update process. Jim also advised that a Request for Proposals is going to be released to find a developer to build multi-family housing and workforce housing in Churchill County as they are also experiencing a lack of housing. Jim stated that the land for this project will be the County's contribution to the project. Jim stated that Churchill County is looking at working with FEMA to conduct flood re-mapping in the County below the dam. Jim further stated that the BLM is doing flyovers and that the County will work with involved agencies to determine the impact of any mapping changes. Jim then discussed the Fallon Range Training Complex consolidated request, noting that it should be finalized in August at the latest. Jim stated that Churchill County has created a consolidated mitigation proposal to bring to Congress. Jim added that they are working on language to present to the Department of Defense, and that there will be more information to present to SLUPAC at future meetings **Jake Tibbitts** suggested that SLUPAC set up a special meeting or conference call to determine if SLUPAC should "sign on" to this issue as, per statute, this is a process that the Council should be involved in.

Roger Mancebo, Pershing County

Roger advised that the Bureau of Land Management signed the \$80 thousand participant cap, noting that they typically end up with \$10-20 thousand more.

Jake Tibbetts, Eureka County:

Jake stated that planning and land use issues in Eureka County are typically related to Federal land. Jake informed the Council that the Diamond Valley Groundwater Management Plan was approved by the State Engineer in January. Jake added that the plan is under various stages of appeal, which was to be expected, and that no stay or injunction has been placed on the plan. Jake stated that Diamond Valley is the “poster child” of mismanaged water and that the valley provides two-thirds of Eureka County’s water. Jake reported that the Environmental Protection Agency has been in the Town of Eureka for the past four to five years remediating lead and arsenic contamination issues. Jake also noted that the Town of Eureka has limited land use regulations and that in order to be compliant with the EPA, some institutional controls had to be implemented. Jake stated that these controls will be regulated by the County.

Lee Plemel, Carson City:

Lee reported that Carson City is still interested in the RS2477 process. Lee added that the District Attorney’s office has right-of-way access to public lands and is figuring out how to formalize the legal access to public lands.

Sami Real, Clark County:

Sami stated that there has been a push for affordable and attainable housing in Clark County and that the county is beginning to direct efforts towards addressing this issue. **Lee Plemel** added that the definition of affordable housing was changed in the last Legislative session under SB 473. Charlie Donohue noted that this may be a topic for a future SLUPAC meeting as it seems to have an effect on all of Nevada’s counties.

Charlie Donohue, Division of State Lands:

Charlie reported that as of September 1, 2019 State Lands has implemented a new fee schedule for all permits relating to navigable waters on Nevada’s State Lands. Any revenue collected by the Division of State Lands in excess of \$65,000 will be put into an account dedicated to the preservation and restoration of the Lake Tahoe environment. Charlie stated that the new fee schedule and all pertinent information is live on the State Lands website. Charlie added that work is starting on the Truckee River Industrial Center GID pipeline to bring wastewater treated in Sparks to the industrial center on USA parkway. The pipeline will go through one of NDOW’s Wildlife Management Areas and will require right of way from the State. The Division of State Lands has received comments from a local tribe regarding water volume; however the request is for use and occupancy, not water rights. Charlie noted that the majority of the associated project area is located on private property and the Division of State Lands is satisfied with the pipelines proposed route. Charlie stated that the Division will be going to the Board of Examiners/Interim Finance Committee meeting in October to accept a donation of 160 acres of land in the Mason Valley, adjacent to the Mason Valley Wildlife Management Area. The 160 acres will be managed by Nevada Division of Wildlife. The Walker Basin Conservancy plans to remove water rights from the land and have a portion of the water flow down to Walker Lake in an effort to improve the lake. Charlie stated that the Division of State Lands has been part of similar projects in the past and that they have historically been successful.

COUNCIL MEMBER COMMENTS

COUNCIL DISCUSSION AND RECOMMENDATIONS FOR REVISITING AND REVISING SLUPAC FOCUS AREAS

RS2477 Roads Protocol (SB 456): **Jake Tibbitts** pointed out that in the last Legislative Session, it was established as misdemeanor crime to knowingly block access to public lands. Jake stated that this new law has brought forward concerns from private land owners. Jake stated that it's important that SLUPAC, the Attorney General's Office and NACO work cooperatively together to formalize title issues on public and private land as land owners are having issues determining where these lines and roads are. Jake stated that different counties are handling this issue in different ways, and Eureka County will be handling this on a case-by-case basis. Jake stated that it is of the highest priority at this time to work with the Legislative Council Bureau and the Attorney General's office to resolve conflicts as they come up.

County NEPA Consistency Review Assistance: **Jake Tibbitts** suggested using the Executive Council as a resource.

Public Land Policy Plan Update Assistance and Outreach: **Jake Tibbitts** stated that the Nevada Division of State Lands will need to provide assistance to Counties during this process.

Public lands management, specific to reclamation-related fuels management, grazing, fire. After a brief discussion on the agenda item above, **Lorinda Wichman** made a motion to continue these priority items, the motion was seconded by **Roger Mancebo** and approved by the Council.

The Council identified the following items to be added to future agendas:

- Lahontan Cutthroat Trout issue
- Septic and Deep Wells issue
- Wild Horse and Burro issue
- Affordable Housing issue
- Swan Lake issue
- Sage Grouse issue
- NAS Expansion issue

Jake Tibbitts added that the Council has not had any presentations from the Sagebrush Ecosystem Technical Team regarding the Conservation Credit System and would like to schedule one as it has an impact on public lands management. Charlie Donohue added that he thought Kelly McGowan, Sagebrush Ecosystem Technical Team Program Manager, wouldn't have a problem presenting this information to the Council.

The Council tentatively planned the next SLUPAC meeting to take place on January 17th, 2020 in Clark County.

PUBLIC COMMENTS

None.

ADJOURN

Jeanne Herman made a motion to adjourn the meeting, motion seconded by **Jim French** and was approved by the Council.

The meeting was adjourned at 11:52am.

STATE LAND USE PLANNING ADVISORY COUNCIL Membership Roster			
COUNTY	REPRESENTATIVE	EXPIRES	PHONE
Carson City	Lee Plemel Planning Director 201 N Carson Street Carson City, NV 89701	12/31/20	775-887-2180 LPlemel@carson.org
Churchill	James Barbee County Manager 155 N Taylor Street, Suite 194 Fallon, NV 89406	12/31/22	775-423-5136 jbarbee@churchillcounty.org
Clark	Sami Real Planning Manager Department of Comprehensive Planning 500 S Grand Central Parkway Las Vegas, NV 89155	12/31/20	(702) 455-3129 Sami.Real@ClarkCountyNV.gov
Douglas	Nancy McDermid Former County Commissioner 1594 Esmeralda Avenue Minden, NV 89423	12/31/20	nmcdermid@me.com
Elko	Delmo Andreozzi County Commissioner 982 Northside Drive Elko, NV 89801	12/31/20	775-934-8117 dandreozi@elkocountynv.net
Esmeralda	De Winsor County Commissioner PO Box 517 Goldfield, NV 89013	12/31/19	775-530-7443 commissionerdewinsor@gmail.com
Eureka	Jake Tibbitts (Chairman) Natural Resources Manager PO Box 694 10 S Main Street Eureka, NV 89316	12/31/19 12/31/19 Chairman Term	775-237-6010 JTibbitts@EurekaCountyNV.gov
Humboldt	Jim French County Commissioner 5615 Patrician Way Winnemucca, NV 89445	12/31/22	775-843-8327 jlfrench6472@sbcglobal.net
Lander	Art Clark County Commissioner 50 State Route 305 Battle Mountain, NV 89820	12/31/18	775-761-6011 aclark@landercountynv.org

Lincoln	Kevin Phillips County Commissioner PO Box 90 Pioche, NV 89043	12/31/19	kevin@lcturbonet.com 775-962-1463
Lyon	Don Alt Former County Commissioner 3945 Cypress St Silver Springs, NV 89429	12/31/20	donalt1939@gmail.com
Mineral	Garth Price County Commissioner PO Box 1450 Hawthorne, NV 89415	12/31/19	775-945-2446 garthdprice@gmail.com
Nye	Lorinda Wichman (Vice Chairman) County Commissioner Nye County Courthouse PO Box 153 Tonopah, NV 89409	12/31/20 12/31/19 Vice Chairman Term	775-761-1626 lawichman@gmail.com
Pershing	Roger Mancebo 590 14 th Street Lovelock, NV 89419	12/31/22	rmancebo24@gmail.com 775-273-2351
Storey	Kathy Canfield Senior Planner 1064 S C Street Virginia City, NV 89440	12/31/19	(775) 847-1144 kcanfield@storeycounty.org
Washoe	Jeanne Herman County Commissioner PO Box 11130 1001 E 9 th Street Reno, NV 89520	12/31/22	775-358-0555 jherman@washoecounty.us
White Pine	Bill Calderwood Public Works Director 953 Campton Street Ely, NV 89301	12/31/22	775-293-6552 bcaldерwood@whitepinecountynv.gov
Nevada Association of Counties (Non-Voting)	Colby Prout Natural Resources Manager Alternate: Dagny Stapleton Executive Director		Office: 775-883-7863 Cell: 775-600-3280 cprout@nvnaco.org (775) 883-7863; dstapleton@nvnaco.org

STATE PLANNING OF USE OF LAND

General Provisions

NRS 321.640 Legislative findings and declaration. The Legislature hereby finds and declares that:

1. It is in the public interest to place the primary authority for the planning process with the local governments, which are closest to the people;
2. Unregulated growth and development of the State will result in harm to the public safety, health, comfort, convenience, resources and general welfare;
3. The cities of the State have a responsibility for guiding the development of areas within their respective boundaries for the common good, and the counties have similar responsibilities with respect to their unincorporated areas;
4. City, county, regional and other planning must be done in harmony to ensure the orderly growth and preservation of the State; and
5. State participation in land use planning should be limited to coordination of information and data, the acquisition and use of federal lands within the State, providing land use planning assistance in areas of critical environmental concern when directed by the Governor or requested by local governments, and providing assistance in resolving inconsistencies between the land use plans of local governmental entities when requested to do so by one of the entities.

(Added to NRS by [1973, 816](#); A [1977, 1553](#); [1979, 151](#); [1989, 1672](#))

NRS 321.655 Definitions. As used in [NRS 321.640](#) to [321.770](#), inclusive:

1. “Administrator” means the executive head of the Division.
2. “Area of critical environmental concern” means any area in this State where there is or could develop irreversible degradation of more than local significance but does not include an area of depleting water supply which is caused by the beneficial use or storage of water in other areas pursuant to legally owned and fully appropriated water rights.
3. “Planning agency” means:
 - (a) The planning commission for the city in which the land is entirely located; or
 - (b) A county or regional planning commission, if there is one, or the board of county commissioners or Nevada Tahoe Regional Planning Agency, within whose jurisdiction the land is located.
4. “Public lands” means all lands within the exterior boundaries of the State of Nevada except lands:
 - (a) To which title is held by any private person or entity;
 - (b) To which title is held by the State of Nevada, any of its local governments or the Nevada System of Higher Education;
 - (c) Which are located within congressionally authorized national parks, monuments, national forests or wildlife refuges, or which are lands acquired by purchase consented to by the Legislature;
 - (d) Which are controlled by the United States Department of Defense, Department of Energy or Bureau of Reclamation; or
 - (e) Which are held in trust for Indian purposes or are Indian reservations.

(Added to NRS by [1975, 102](#); A [1977, 1554](#); [1981, 922](#); [1993, 389](#); [1997, 971](#); [1999, 1376](#))

State Land Use Planning Agency

NRS 321.700 Creation. In addition to any other functions assigned to it by law, the Division is hereby designated as the State Land Use Planning Agency for the purpose of carrying out the provisions of [NRS 321.640](#) to [321.770](#), inclusive, and fulfilling any land use planning requirements arising under federal law.

(Added to NRS by [1973, 817](#); A [1975, 103](#); [1977, 1554](#); [1997, 972](#))

NRS 321.710 Administration; activities which have priority; personnel.

1. The Administrator shall administer the activities of the State Land Use Planning Agency. The Administrator has authority and responsibility for the development and distribution of information useful to land use planning.
2. The activities of the State Land Use Planning Agency which have priority are:
 - (a) Provision of technical assistance to a county or city in areas where such assistance is requested;
 - (b) Activities relating to federal lands in this State; and

(c) Investigation and review of proposals for designation of areas of critical environmental concern and the development of standards and plans therefor.

3. In addition to the assistant provided by subsection 3 of [NRS 321.010](#) the Administrator may appoint, subject to the availability of money, such professional, technical, administrative, clerical and other persons as the Administrator may require for assistance in performing his or her land use planning duties.

(Added to NRS by [1973, 817](#); A [1975, 103](#); [1977, 1037](#), [1127](#), [1554](#); [2017, 650](#))

NRS 321.720 Duties of Administrator concerning local governments.

1. The Administrator shall develop and make available to cities and counties information useful to land use planning, including:

(a) Preparation and continuing revision of a statewide inventory of the land and natural resources of the State;
(b) Preparation and continuing revision of an inventory of state, local government and private needs and priorities concerning the acquisition and use of federal lands within the State;

(c) Preparation and continuing revision of an inventory of public and private institutional and financial resources available for land use planning and management within the State and of state and local programs and activities which have a land use impact of more than local concern;

(d) Provision, where appropriate, of technical assistance and training programs for state and local agency personnel concerned with the development and implementation of state and local land use programs;

(e) Coordination and exchange of land use planning information and data among state agencies and local governments, with the Federal Government, among the several states and interstate agencies, and with members of the public, including conducting of public hearings, preparation of reports and soliciting of comments on reports concerning information useful to land use planning;

(f) Coordination of planning for state and local acquisition and use of federal lands within the State, except that in the case of a plan which utilizes both federal and private lands the governing body of the area where private lands are to be utilized has final authority to approve the proposal;

(g) Provision of assistance to counties to develop programs to increase the responsibility of local governments for the management of lands in the State of Nevada that are under federal management; and

(h) Consideration of, and consultation with, the relevant states on the interstate aspects of land use issues of more than local concern.

2. To the extent practicable, the Administrator shall:

(a) Compile any information developed pursuant to subsection 1; and

(b) Make the compilation available to cities and counties.

(Added to NRS by [1973, 817](#); A [1975, 103](#); [1977, 1554](#); [1989, 1672](#); [1997, 1031](#); [2017, 650](#))

NRS 321.735 Powers and duties concerning federal lands; action by certain cities and counties not precluded.

1. The State Land Use Planning Agency may represent the interests of the State, its local or regional entities, or its citizens as these interests are affected by policies and activities involving the use of federal land.

2. The provisions of this section do not preclude a city or county whose governing body has adopted a master plan pursuant to [NRS 278.220](#) from representing its own interests in accordance with [NRS 278.243](#).

(Added to NRS by [1977, 1128](#), [1553](#); A [1983, 1883](#); [1999, 1422](#))

NRS 321.7353 Notice of federal acquisition of private land to be provided to affected cities and counties; submission of written comment.

1. Upon receipt of a notice of realty action from the United States concerning the purchase by the Federal Government of private land or the exchange of public land for private land, the State Land Use Planning Agency shall give written notice of the proposed action to the governing body of each county or city affected within 1 week after its receipt of the notice.

2. The governing body of each affected county or city may, in addition to submission of comments directly to the Federal Government, deliver its written comments on the proposed realty action, including an estimation of any related reduction in the total assessed valuation of the real property within the jurisdiction of the local government and recommendations for mitigation of the loss of assessed valuation, to the State Land Use Planning Agency within 30 days after receipt of the notice.

3. If the State Land Use Planning Agency elects to submit written comment to the Federal Government upon the realty action, it shall include in its submission any comments it received pursuant to subsection 2.

(Added to NRS by [1999, 1376](#))

NRS 321.7355 Plan or statement of policy concerning lands under federal management.

1. The State Land Use Planning Agency shall prepare, in cooperation with appropriate federal and state agencies and local governments throughout the State, plans or statements of policy concerning the acquisition and use of lands in the State of Nevada that are under federal management.

2. The State Land Use Planning Agency shall, in preparing the plans and statements of policy, identify lands which are suitable for acquisition for:

- (a) Commercial, industrial or residential development;
- (b) The expansion of the property tax base, including the potential for an increase in revenue by the lease and sale of those lands; or
- (c) Accommodating increases in the population of this State.

↪ The plans or statements of policy must not include matters concerning zoning or the division of land and must be consistent with local plans and regulations concerning the use of private property.

3. The State Land Use Planning Agency shall:

(a) Encourage public comment upon the various matters treated in a proposed plan or statement of policy throughout its preparation and incorporate such comments into the proposed plan or statement of policy as are appropriate;

(b) Submit its work on a plan or statement of policy periodically for review and comment by the Land Use Planning Advisory Council and any committees of the Legislature or subcommittees of the Legislative Commission that deal with matters concerning the public lands; and

(c) Provide written responses to written comments received from a county or city upon the various matters treated in a proposed plan or statement of policy.

4. Whenever the State Land Use Planning Agency prepares plans or statements of policy pursuant to subsection 1 and submits those plans or policy statements to the Governor, Legislature or an agency of the Federal Government, the State Land Use Planning Agency shall include with each plan or statement of policy the comments and recommendations of:

- (a) The Land Use Planning Advisory Council; and
- (b) Any committees of the Legislature or subcommittees of the Legislative Commission that deal with matters concerning the public lands.

5. A plan or statement of policy must be approved by the governing bodies of the county and cities affected by it before it is put into effect.

(Added to NRS by [1983, 1882](#); A [1989, 1673](#); [1995, 643](#); [1997, 1032, 3251](#); [2011, 2478](#); [2013, 1620](#))

State Consent to Federal Use of Public Land

NRS 321.736 Hearings and recommendations of local planning agencies.

1. Upon receipt of an application by the United States for consent to a use of public land, the State Land Use Planning Agency shall give written notice of the application to the planning agencies of the local governments within 1 week after its receipt of the application.

2. Each planning agency so notified shall within 45 days after the notice is sent hold a public hearing on the application at the place where it normally meets. If the land is located within the jurisdiction of two or more planning agencies, each of those agencies must hold a hearing.

3. Each planning agency shall notify the public by publication in one issue of a newspaper of general circulation published in each of the counties in which the land is located. The notice must be published at least 20 days before the date set for the hearing and set forth a description of the land and the use for which consent is sought as stated in the application. The cost of publishing the notice must be borne by the United States or by someone in its behalf.

4. Each planning agency shall deliver its written recommendation on the application, including the reasons for its recommendation, to the State Land Use Planning Agency within 15 days after the conclusion of its hearing on the application.

5. The application must contain such information and supporting documents as are prescribed in regulations adopted by the State Land Use Planning Agency and approved by the Director of the State Department of Conservation and Natural Resources.

(Added to NRS by [1981, 921](#))

NRS 321.737 Transfer or referral of certain applications to State Engineer. In considering applications to obtain consent to a use of the public lands, the State Land Use Planning Agency shall transfer the application to the State Engineer for his or her decision or refer it to the State Engineer for technical or engineering advice if the

application or use affects water rights, reclamation, flood control or protection of watershed. The water law of this State is the rule of decision in all matters relating to water rights.

(Added to NRS by [1981,922](#))

NRS 321.738 Hearing and recommendation of State Agency.

1. The State Land Use Planning Agency shall hold a hearing on an application for consent to use public land within 45 days after it receives the written recommendation from the planning agencies. The State Agency shall give notice of its hearing as required by law. At its hearing the State Agency shall receive any testimony pertaining to any use of the land which is not repetitive and shall consider the written recommendation of the planning agency.

2. The State Agency shall deliver its written recommendation on the application, including the reasons for its recommendation to the Governor within 15 days after the conclusion of its hearing on the application.

(Added to NRS by [1981,922](#))

NRS 321.739 Grant or denial of consent by Governor.

1. The Governor in deciding whether to grant or deny the consent of the State to a use of public land shall:

(a) Balance the interests of the Federal Government and the State; and

(b) Not apply standards or impose conditions respecting the use of land which are more restrictive than those generally applicable to other persons or governmental agencies in this State.

2. In granting the consent of the State the Governor shall not grant or waive any right, privilege, immunity or other incident of sovereignty provided for in [NRS 328.085](#).

3. Any recommendation of the State Land Use Planning Agency which is not acted on by the Governor within 30 days after receiving it and which is not in conflict with the requirements of this section is automatically approved unless the Governor in a writing which is attached to the application and recommendations defers the decision for a good cause.

4. The consent of the Governor to a use of public land must be evidenced by a certificate signed by the Governor and delivered to the United States. A copy of the certificate must also be delivered to the State Land Registrar.

(Added to NRS by [1981,922](#))

Land Use Planning Advisory Council

NRS 321.740 Creation; appointment, number, terms and expenses of members.

1. The Land Use Planning Advisory Council, consisting of 17 voting members appointed by the Governor and 1 nonvoting member appointed by the Nevada Association of Counties, or its successor organization, is hereby created. The provisions of subsection 6 of [NRS 232A.020](#) do not apply to members of the Advisory Council who also serve as county commissioners, and the Governor may appoint any such member of the Advisory Council to one other board, commission or similar body.

2. One voting member must be appointed to the Advisory Council to represent each county. At least 30 days before the beginning of any term of the representative of a county, or within 30 days after the position of that representative becomes vacant, the board of county commissioners of that county shall submit to the Governor the name of its nominee or a list of the names of not more than three nominees who are elected officials or other representatives of the county for the position to be filled. If a board of county commissioners submits the names of two or more nominees, the board shall number its nominees in order of preference. That order of preference is not binding upon the Governor. The Governor shall appoint the person so nominated or, if more than one person is nominated, one of the persons from the list of nominees.

3. If a board of county commissioners fails to submit the name of its nominee or a list of nominees within the time required by this subsection or subsection 2, the Governor may appoint to the Advisory Council any resident of that county as the representative of the county. If a board has timely submitted the name of its nominee or a list of nominees and the Governor fails to appoint a person so nominated:

(a) If one person has been nominated, that person; or

(b) If two or more persons have been nominated, the person listed by the board first in order of preference,

➤ shall be deemed to be a voting member of the Advisory Council as of the beginning of the new term or, in the case of an appointment to fill a vacancy, the first meeting of the Advisory Council that is held not less than 30 days after the submission of the nomination unless, before that date, the Governor notifies the board in writing that none of its nominees will be appointed to the Advisory Council. Within 30 days after the date of any such notice, the board shall submit to the Governor the name of a new nominee or a list of new nominees.

4. After the initial terms, each voting member serves a term of 3 years and is eligible for reappointment to the Advisory Council.

5. The nonvoting member of the Advisory Council serves at the pleasure of the Nevada Association of Counties, or its successor organization.

6. At its first meeting each year, the Advisory Council shall elect a Chair from among its members.

7. A majority of the voting members of the Advisory Council constitutes a quorum for the transaction of business, and a majority of a quorum present at any meeting is sufficient for any official action taken by the Advisory Council.

8. A board of county commissioners may provide that, while engaged in the business of the Advisory Council, a voting member of the Advisory Council is entitled to receive from the county he or she represents the per diem allowance and travel expenses provided by law for state officers and employees generally.

(Added to NRS by [1973, 819](#); A [1977, 1191, 1478, 1556; 2013, 342](#))

NRS 321.750 Duties. The Land Use Planning Advisory Council shall:

1. Advise the Administrator on the development and distribution to cities and counties of information useful to land use planning.

2. Advise the State Land Use Planning Agency regarding the development of plans and statements of policy pursuant to subsection 1 of [NRS 321.7355](#).

3. Work cooperatively with the Attorney General and the Nevada Association of Counties as required pursuant to subsection 3 of [NRS 405.204](#).

(Added to NRS by [1973, 819](#); A [1975, 105; 1977, 1556; 1997, 1033; 2015, 2634](#))

NRS 321.755 Executive Council.

1. The Executive Council of the Land Use Planning Advisory Council is hereby created to resolve inconsistencies between the land use plans of local government entities.

2. The Executive Council consists of the Administrator and four persons selected by the Land Use Planning Advisory Council from among its members. To the extent practicable, the members selected to serve on the Executive Council must be representative of the various geographic areas of this State. Each member of the Executive Council shall serve for 2-year terms.

(Added to NRS by [1977, 1552](#); A [1979, 151; 2015, 375](#))

Resolution of Inconsistencies in Local Plans

NRS 321.761 Technical assistance; submission of matter to Executive Council.

1. If an inconsistency in land use plans develops between two or more adjacent or overlapping local government entities which cannot be resolved between them, one or more of them may request the State Land Use Planning Agency to study and assist in resolving the inconsistency.

2. Upon receipt of such a request the Administrator shall convene a meeting of all the affected entities and shall provide technical assistance and advice in resolving the inconsistency.

3. If, after subsequent meetings over a reasonable period of time as determined by the Administrator, the affected entities cannot resolve the inconsistency, the matter shall be submitted to the Executive Council of the Land Use Planning Advisory Council for a decision.

(Added to NRS by [1977, 1552](#))

NRS 321.763 Duties of State Agency; adoption, enforcement and expiration of plans and regulations.

1. When an inconsistency in land use plans is submitted for decision, the Executive Council may direct the staff of the State Land Use Planning Agency to conduct studies, assemble information and prepare proposals for alternative courses of action if necessary.

2. The Executive Council shall conduct public hearings in the affected areas before arriving at a decision in the matter.

3. In rendering its decision, the Executive Council may sustain the position of one or more of the local government entities involved or prescribe its own land use plan for the area of inconsistency. The Executive Council may adopt land use regulations to carry out its decision.

4. All land use plans and regulations adopted by the Executive Council pursuant to this section supersede inconsistent plans and regulations of the affected local government entities, but the local government entities are responsible for enforcing the plans and regulations of the Executive Council.

5. In the event of noncompliance with such plans or regulations, any affected local government entity may bring an action to obtain injunctive relief against such noncompliance.

6. The Executive Council, upon petition from all of the affected local government entities or on its own motion, may determine the expiration date of the plans and regulations imposed pursuant to this section.

(Added to NRS by [1977, 1552](#); A [1979, 152](#))

Planning for Areas of Critical Environmental Concern

NRS 321.770 Duties of Administrator and Land Use Planning Advisory Council.

1. The State Land Use Planning Agency shall provide assistance in land use planning for areas of critical environmental concern:

(a) When the Governor directs that the Agency review and assist in land use planning for an area the Governor finds to be of critical environmental concern.

(b) When one or more local government entities request that the Agency advise and assist in land use planning for an area which affects them and which they consider to be of critical environmental concern.

2. Upon receipt of a directive or a request pursuant to subsection 1, the Administrator shall study the problems of the area described and meet with the affected local government entities to receive their initial comments and recommendations. The Administrator shall then submit the matter of planning for the area of critical environmental concern to the Land Use Planning Advisory Council for consideration and recommendation.

3. The Land Use Planning Advisory Council shall include in its procedures one or more public hearings upon notice given by at least one publication at least 20 days before the hearing in a newspaper or combination of newspapers having general circulation throughout the area affected and each city and county any portion of whose territory lies within such area. The notice shall state with particularity the subject of the hearing.

4. Following completion of the hearings and consideration of other information, the Land Use Planning Advisory Council shall make its final recommendations for land use planning policies in the area of critical environmental concern. The recommendations may include proposed land use regulations to carry out such policies.

5. No land use regulation adopted by the Land Use Planning Advisory Council pursuant to this section may become effective without the approval of the Governor.

(Added to NRS by [1973, 820](#); A [1975, 105](#); [1977, 1556](#); [2015, 375](#))

STATE LAND USE PLANNING ADVISORY COUNCIL

BYLAWS

Adopted May 2, 1980
Amended October 9, 1981
Amended June 14, 1987
Amended November 25, 1996
Amended August 10, 2007
Amended February 7, 2014

ARTICLE 1 – GENERAL

1.1 NAME:

The name of the Council is the Land Use Planning Advisory Council.

1.2 MEMBERSHIP:

The membership of the Council shall consist of one elected official or representative of local political subdivisions from each county as appointed by the Governor and one non-voting member appointed by the Nevada Association of Counties or its successor organization (NRS 321.740). All such members shall hold office for terms of 3 years or until their successors have been appointed and have qualified. (NRS 232A.020)(August 10, 2007)(February 7, 2014)

1.3 DESIGNATION OF ALTERNATES:

In the event a member cannot be present, that member shall designate a person to represent him as an alternate at Council meetings. Designation must be confirmed by the member in writing, or by telephone, to the State Land Use Planning Agency. The alternate has voting privileges on all matters except policy recommendations to the Governor. (June 14, 1987)(August 10, 2007)

1.4 OFFICERS:

The Council shall elect from its own members a chairman and vice-chairman, whose terms of office shall be one year, and who may be re-elected. If a vacancy occurs in either office, the Council may fill such vacancy for the unexpired term.

The State Land Use Planning Agency shall serve as secretary, record minutes, send out announcements, and manage other related administrative affairs.

1.5 EXECUTIVE COUNCIL MEMBERSHIP:

The council shall elect from its membership four persons to serve with the Administrator of the Division of State Lands as an Executive Council. The Council shall elect two alternate members to the Executive Council; said alternate members to replace Executive Council members in cases which involve the regular members' counties. Each member and alternate member of the Executive Council shall serve for two year terms (NRS 321.755).

ARTICLE 2 – MEETINGS

2.1 MEETINGS:

The Council shall hold at least two (2) regular meetings each year. Special meetings may be called by the Chairman and the Administrator of the Division of State Lands. All meetings shall be open to the public except on those matters excluded from the Nevada Open Meeting Law (NRS 241.010-241.050). (October 9, 1981)

2.2 NOTICE OF MEETINGS:

Adequate notice shall be given in advance of all meetings to members of the Council and members of the press. Notice of all meetings shall be consistent with the guidelines contained in the Nevada Revised Statutes Chapter 241.

2.3 PLACE OF MEETINGS:

Meetings of the Council shall be held in such places as the Council members may select.

2.4 QUORUM AND VOTE REQUIRED:

A quorum is constituted by ~~nine (9) members present~~ a majority of the active voting members of the Advisory Council at a duly noticed meeting. A majority of those voting shall be required to take action with respect to any matter. Abstentions will not be considered a vote. (November 25, 1996)(February 7, 2014)

In the event less than ~~nine (9)~~ a majority of the active voting members of the Advisory Council ~~members~~ are in attendance at a duly advertised meeting, so as to not constitute a quorum, such meeting may continue as an informational meeting where no action is taken. (November 25, 1996)(February 7, 2014)

2.5 PARLIAMENTARY:

“Robert’s Rules of Order” shall govern the conduct of meetings in all cases in which they are applicable.

ARTICLE 3 – DUTIES

3.1 ADVISORY ROLE:

The Council shall advise the Administrator on the development and distribution to cities and counties of information useful to land use planning (NRS 321.750).

3.2 LIAISON ROLE:

The Council members shall serve a liaison function between the local governments in their respective counties and the State Land Use Planning Agency.

3.3 REVIEW AND COMMENT ROLE:

The Council may review and comment upon proposed actions of the Executive Council prior to final positions being established.

3.4 EXECUTIVE COUNCIL DUTIES:

The Executive Council shall render decisions on inconsistencies between local land use plans in conformity with the provisions of NRS 321.761—321.763.

The Executive Council shall make recommendations for land use planning policies and regulations in areas of critical environmental concern in conformity with the provisions of NRS 321.770.

ARTICLE 4 – MISCELLANEOUS

4.1 LIBERAL CONSTRUCTION:

These rules and regulations shall be liberally construed to secure just, speedy and economical determination of all matters before the Council.

4.2 DEVIATION:

In special cases, and for good cause not contrary to statute, the Council may permit deviation from these rules and regulations upon a finding and to the extent that strict compliance is determined to be impracticable or unnecessary.

List of Past SLUPAC Meeting Dates and Locations

<u>Meeting Date</u>	<u>Day</u>	<u>Location</u>
September 27, 2019	Friday	Sparks
December 7, 2018	Friday	Stateline
October 29, 2018	Monday	Carson City
September 7, 2018	Friday	Battle Mountain
June 1, 2018	Friday	Ely
February 9, 2018	Friday	Las Vegas
September 8, 2017	Friday	Reno
August 14, 2017	Monday	Carson City
February 10, 2017	Friday	Carson City
November 4, 2016	Friday	Eureka
August 12, 2016	Friday	Carson City
May 13, 2016	Friday	Tonopah
January 29, 2016	Friday	Battle Mountain
October 23, 2015	Friday	Carson City
July 31, 2015	Friday	Stateline
April 10, 2015	Friday	Elko
Dec. 12, 2014	Friday	Reno
Sept. 12, 2014	Friday	Ely
May 23, 2014	Friday	Carson City
February 7, 2014	Friday	Las Vegas
October 11, 2013	Monday	Fallon
July 12, 2013	Friday	Tonopah
April 19, 2013	Friday	Carson City



State Land Use Planning Advisory Council: Open Meeting Law and Authority Review

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TOPICS COVERED

OPEN MEETING LAW

- Attorney General Manual
- NRS Chapter 241 (Open Meeting Law)
- NRS 321.740 (SLUPAC)
- Robert's Rules of Order not Required

SLUPAC PURPOSE AND AUTHORITY

Open Meeting Law Purpose

“... the Legislature finds and declares that all public bodies exist to aid in the conduct of the people’s business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.” NRS 241.010

“The spirit and policy behind the OML favors open meetings and any exceptions thereto should be strictly construed.”
McKay v. Board of Supervisors, 102 Nev. 644, 730 P.2d 438 (1986).

Prevents SLUPAC from...

“deliberat[ing] or act[ing], outside of an open and public meeting, upon a matter over which [SLUPAC] has supervision, control, jurisdiction or advisory powers.” NRS 241.016(4). 241.016(1).

This includes Subcommittees. NRS 241.015(4).

Agendas and Support Material

An agenda must provide full notice and disclosure of discussion topics and any possible action.

-Sandoval v. Board of Regents, 119 Nev. 148, 67 P.3d 902 (2003).

Deliberation and action must be properly noticed.

-NRS 241.010; 241.015(1).

Agenda Items

- Discretion of the Chair
- Public comment at beginning/end or before any action item
- “Have all the topics been described clearly in the agenda in order to give the public adequate notice?”
 - OML Manual p. 8
- Action items clearly denoted as “for possible action”
- Add items at any time prior to 9 AM of the third working day before the meeting
- Remove at any time

Support Material

- No later than the time the material is provided to members of the governing body.
- Handouts
- Slides, video
- Materials provided to the body during a meeting must be uploaded to the website within 24 hours.

Public Comment Pitfalls

- Restrictions must be reasonable “time, place, and manner” restrictions. NRS 241.020(d)(7). This means NO:
 - Halting comment based on viewpoint of speaker;
 - Halting comment upon belief defamation is occurring; or
 - Halting comment critical of a public official.
- But, presiding officer may halt comments that become unduly repetitive or that stray from the scope of a specified agenda topic for which comment is offered, or halt conduct that is willfully disruptive. *See Kindt v. Santa Monica Rent Control Bd.*, 67 F.3d 266 (9th Cir. 1995); *White v. City of Norwalk*, 900 F.2d 1421, 1425-26 (9th Cir. 1990).
- The OML does not “[p]revent the removal of any person who willfully disrupts a meeting to the extent that its orderly conduct is made impractical.” NRS 241.030(4)(a).

Meetings

A quorum is a simple majority of the total voting body (NRS 241.015(5)); action requires majority vote of members present (NRS 241.015(1)).

NRS 241.015 says:

- **Quorum** of members of a public body gathering together with:
- **Deliberation** toward a decision; and/or
- **Action**: which means making a decision, commitment or promise over a matter within the public body's supervision, jurisdiction, control or advisory power.

SLUPAC Has a Special Quorum Law NRS 321.740 (7)

“A majority of the voting members of the Advisory Council constitutes a quorum for the transaction of business, and a majority of a quorum present at any meeting is sufficient for any official action taken by the Advisory Council.”

Emergency Meetings

An emergency meeting may only be called where the need to act upon a matter is truly unforeseen and circumstances dictate that immediate action is required. NRS 241.020(9).

Is it a Meeting?

- Walking Quorum
- Constructive Quorum
- Social Gatherings (Not a meeting so long as no deliberation or action)
- Using Technology for a Meeting
- E-mail pitfalls– “Reply all” email chains
- Exception: Attorney-client conference (action to be taken publicly)

Roberts Rules of Order: Not Included in Open Meeting Law

Parliamentary procedure is not addressed in the OML – Duties of the presiding officer, recognizing speakers, motions and voting, making a clear record. *See Robert's Rules of Order* (11th ed. 2011).

Disclosure and Abstention

Disclosure and abstention **prior to consideration of a topic** in conformance with Ethics in Government Law (NRS Chapter 281A). Abstain only in a clear case where the independence of judgement of a reasonable person in your situation would be materially affected by the conflict of interest disclosed. *See* NRS 281A.420; *see also Carrigan v. Commission on Ethics*, __ Nev. __, 313 P.3d 880 (2013).

Violations

- Actions taken in violation of the law are void. NRS 241.036
- When a violation of the OML occurs or is alleged, the OAG recommends that the public body made every effort to promptly correct the apparent violation. NRS 241.0365.
- Corrective action requires that the public body engage in an *independent deliberative action* in full compliance with the OML. *See, e.g., Page v. MiraCosta Community College Dist.*, 102 Cal. Rptr. 3rd 902, 930 (Cal. Ct. App. 2009).
- A public body must clearly denote that corrective action may be taken at a meeting by placing the term “for possible corrective action” next to the appropriate agenda item. NRS 241.020(2)(d)(2).

Legislative Update – AB 70

- Ability to delegate litigation decisions
- Ability of a public body to receive certain training outside of a public meeting, so long as there is no deliberation or action on any matter within the public body's jurisdiction and control
- Better defines “subcommittee or working group” as having a majority of members or staff members of the public body and that is authorized to make a recommendation to or take action on behalf of the public body

Legislative Update – AB 70

- The OAG will not investigate complaints about alleged violations that occurred more than 120 days before the complaint was filed, unless:
 - Violation was not discoverable at the time the violation occurred, *and*
 - The alleged violation did not occur more than 1 year prior to the complaint
- Authorizes the OAG to decline to investigate if it determines that the interests of the complainant are not significantly affected by the alleged violation, unless:
 - Complainant would have standing in a court of law
 - Complainant is (1) a natural person who resides in the jurisdiction of the public body; or (2) a non-governmental entity with a mission to foster or promote transparency in government

Legislative Update – AB 70

- Increased administrative fines for violation. Now \$500 for first, \$1000 for second, \$2500 for third subsequent
- If a member of public body relies on legal advice, no criminal penalty or administrative fine may be imposed.

SLUPAC Membership

- 17 voting members, one to represent each county. NRS 321.740(1)
 - Each voting member serves a term of 3 years and is eligible for reappointment to the Advisory Council.
- 1 non-voting member, NACO. NRS 321.740(1)
- Within 30 days of a vacancy the Board of County Commissioners submits the names of two or more nominees to the Governor, in order of preference. NRS 321.740(2)
 - The Governor appoints one person from the list.
 - If the County fails to provide a nominee, then the Governor may appoint “any resident of that county” as the representative. NRS 321.740(3)
- If the Governor fails to appoint a nominee *or* notify the board in writing that none of its nominees will be appointed, then:
 - The first nominee on the list is appointed “as of the beginning of the first meeting of the Advisory Council that is held not less than 30 days after the submission of the nomination” NRS 321.740(3)(b)

SLUPAC Alternates Not Allowed

NRS 241.025(1) Designee of member of public body not allowed, unless the designation is expressly authorized by the legal authority pursuant to which a public body was created.

NRS 321.740 does not provide express authorization as written.

Land Use Planning and 2477 Roads

The Land Use Planning Advisory Council shall:

1. Advise the Administrator on the development and distribution to cities and counties of information useful to land use planning.
2. Advise the State Land Use Planning Agency regarding the development of plans and statements of policy pursuant to subsection 1 of [NRS 321.7355](#).
3. Work cooperatively with the Attorney General and the Nevada Association of Counties as required pursuant to subsection 3 of [NRS 405.204](#).

NRS 321.750

Resolving Land Use Plan Inconsistencies

1. The Executive Council of the Land Use Planning Advisory Council is hereby created to resolve inconsistencies between the land use plans of local government entities.
2. The Executive Council consists of the Administrator and four persons selected by the Land Use Planning Advisory Council from among its members. To the extent practicable, the members selected to serve on the Executive Council must be representative of the various geographic areas of this State. Each member of the Executive Council shall serve for 2-year terms.

NRS 321.755

Resolving Land Use Plan Inconsistencies

NRS 321.761 Technical assistance; submission to Executive Council.

1. If an inconsistency in land use plans develops between two or more adjacent or overlapping local government entities which cannot be resolved between them, one or more of them may request the State Land Use Planning Agency to study and assist in resolving the inconsistency.
2. Upon receipt of such a request the Administrator shall convene a meeting of all the affected entities and shall provide technical assistance and advice in resolving the inconsistency.
3. If, after subsequent meetings over a reasonable period of time as determined by the Administrator, the affected entities cannot resolve the inconsistency, the matter shall be submitted to the Executive Council of the Land Use Planning Advisory Council for a decision.

Resolution of Inconsistencies in Local Plans

NRS 321.763 Duties of State Agency; adoption, enforcement and expiration of plans and regulations.

1. When an inconsistency in land use plans is submitted for decision, the Executive Council may direct the staff of the State Land Use Planning Agency to conduct studies, assemble information and prepare proposals for alternative courses of action if necessary.
2. The Executive Council shall conduct public hearings in the affected areas before arriving at a decision in the matter.
3. In rendering its decision, the Executive Council may sustain the position of one or more of the local government entities involved or prescribe its own land use plan for the area of inconsistency. The Executive Council may adopt land use regulations to carry out its decision.
4. All land use plans and regulations adopted by the Executive Council pursuant to this section supersede inconsistent plans and regulations of the affected local government entities, but the local government entities are responsible for enforcing the plans and regulations of the Executive Council.
5. In the event of noncompliance with such plans or regulations, any affected local government entity may bring an action to obtain injunctive relief against such noncompliance.
6. The Executive Council, upon petition from all of the affected local government entities or on its own motion, may determine the expiration date of the plans and regulations imposed pursuant to this section.

Planning for Areas of Critical Environmental Concern (NRS 321.770)

1. The State Land Use Planning Agency shall provide assistance in land use planning for areas of critical environmental concern:

(a) When the Governor directs that the Agency review and assist in land use planning for an area the Governor finds to be of critical environmental concern.

(b) When one or more local government entities request that the Agency advise and assist in land use planning for an area which affects them and which they consider to be of critical environmental concern.

2. Upon receipt of a directive or a request pursuant to subsection 1, the Administrator shall study the problems of the area described and meet with the affected local government entities to receive their initial comments and recommendations. The Administrator shall then submit the matter of planning for the area of critical environmental concern to the Land Use Planning Advisory Council for consideration and recommendation.

3. The Land Use Planning Advisory Council shall include in its procedures one or more public hearings upon notice given by at least one publication at least 20 days before the hearing in a newspaper or combination of newspapers having general circulation throughout the area affected and each city and county any portion of whose territory lies within such area. The notice shall state with particularity the subject of the hearing.

4. Following completion of the hearings and consideration of other information, the Land Use Planning Advisory Council shall make its final recommendations for land use planning policies in the area of critical environmental concern. The recommendations may include proposed land use regulations to carry out such policies.

5. No land use regulation adopted by the Land Use Planning Advisory Council pursuant to this section may become effective without the approval of the Governor.

Questions??

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Reference Slides

NRS 321.7355 Plan or statement of policy concerning lands under federal management.

1. The State Land Use Planning Agency shall prepare, in cooperation with appropriate federal and state agencies and local governments throughout the State, plans or statements of policy concerning the acquisition and use of lands in the State of Nevada that are under federal management.
2. The State Land Use Planning Agency shall, in preparing the plans and statements of policy, identify lands which are suitable for acquisition for:
 - (a) Commercial, industrial or residential development;
 - (b) The expansion of the property tax base, including the potential for an increase in revenue by the lease and sale of those lands; or
 - (c) Accommodating increases in the population of this State.The plans or statements of policy must not include matters concerning zoning or the division of land and must be consistent with local plans and regulations concerning the use of private property.
3. The State Land Use Planning Agency shall:
 - (a) Encourage public comment upon the various matters treated in a proposed plan or statement of policy throughout its preparation and incorporate such comments into the proposed plan or statement of policy as are appropriate;
 - (b) Submit its work on a plan or statement of policy periodically for review and comment by the Land Use Planning Advisory Council and any committees of the Legislature or subcommittees of the Legislative Commission that deal with matters concerning the public lands; and
 - (c) Provide written responses to written comments received from a county or city upon the various matters treated in a proposed plan or statement of policy.
4. Whenever the State Land Use Planning Agency prepares plans or statements of policy pursuant to subsection 1 and submits those plans or policy statements to the Governor, Legislature or an agency of the Federal Government, the State Land Use Planning Agency shall include with each plan or statement of policy the comments and recommendations of:
 - (a) The Land Use Planning Advisory Council; and
 - (b) Any committees of the Legislature or subcommittees of the Legislative Commission that deal with matters concerning the public lands.
5. A plan or statement of policy must be approved by the governing bodies of the county and cities affected by it before it is put into effect.

NRS 405.204 Legislative findings and declaration; action by Attorney General authorized; duty to develop, maintain and assist in implementation of legal protocol.

NRS 405.204(3) The Legislature therefore directs that: (a) If an agency of the United States responsible for the lands over which an accessory road or a public road runs pursues the closing of such a road, demands a fee or permit for the use of such a road, prescribes or asserts management authority over such a road or in any other way creates a case or controversy as to the use or title to such a road, the Attorney General, pursuant to this section or [NRS 405.195](#), as applicable, may participate as a party in a quiet title action pursuant to 28 U.S.C. § 2409a or bring an action for a declaratory judgment as soon as practicable in cooperation with or on behalf of:

- (1) The State and its residents;
- (2) The county or counties in which the road lies;
- (3) Owners of lands served by the road;
- (4) Holders of grazing, mineral or other rights served by the road; and (5) All other users of the road,

to protect the ownership of and title to the road, or to vindicate the rights of all users to the unimpeded maintenance, use and enjoyment of the road, and the rights of owners of lands or holders of rights served by the road to just compensation for any closing found necessary.

Additional Resources

- NRS Chapter 241: <https://www.leg.state.nv.us/NRS/NRS-241.html>.
- Summary regarding the OML available at:
http://ag.nv.gov/About/Governmental_Affairs/OML/
- OAG's Open Meeting Law Manual
 - Statutory provisions,
 - Explanation of requirements,
 - Examples,
 - Compliance checklists, and
 - Sample Forms: agenda, minutes and notice of meeting to consider a person's character, etc.
- Contact your legal counsel.
- DAG assigned to assist with OML issues each day (775) 684-1100 or (702) 486-3420