

STATE LAND USE PLANNING ADVISORY COUNCIL

MINUTES

February 10, 2017

**Nevada Attorney General Building
Moot Courtroom – Second Floor
100 N. Carson Street
Carson City, Nevada 89701**

Members Present

Lee Plemel, Carson City
Eleanor Lockwood, Churchill County
Nancy Amundsen, Clark County
Jake Tibbitts, Eureka County (Chair)
Art Clark, Lander County
Varlin Higbee, Lincoln County (Membership pending)
Harold Ritter, Lyon County
Lorinda Wichman, Nye County (Vice Chair)
Kathy Canfield, Storey County (Alternate)
Jeanne Herman, Washoe County
Laurie Carson, White Pine County

Members Absent

Randy Brown, Elko County
Jim French, Humboldt County
Jerrie Tipton, Mineral County
Roger Mancebo, Pershing County
Tori Sundheim, NACO

Others Present

Jeff Fontaine, Nevada Association of Counties
Dennis Belcourt, Nevada Attorney General's Office
Michael Johnson, Planning Director, Churchill County
Brian Amme, State Office, Bureau of Land Management
Sam Routson, Winnemucca
Sheila Anderson, Governor's Office
Charlie Donohue, Administrator, Nevada Division of State Lands
Skip Canfield, NDSL, State Land Use Planning Agency

CALL TO ORDER

The meeting was called to order at 9:10am and self-introductions were made. The Agenda was reviewed and approved, motion by **Laurie Carson**, second by **Lee Plemel**, approved unanimously. The Draft Minutes of the October 4, 2016 meeting in Eureka were approved with one minor name edit unanimously, motion by **Laurie Carson** and a second by **Nancy Amundsen**.

After discussion and accolades regarding the commitment and efforts of the Chairman **Jake Tibbitts** and Vice Chairwoman **Lorinda Wichman** during 2016, all were unanimously in favor of both retaining their respective positions for calendar year 2017.

PUBLIC COMMENTS

Jeanne Herman stated the need to get public lands in Nevada back in control of the State.

RS2477 ROADS WORK SESSION

Due to other unavoidable commitments, the Deputy Attorney General **Wayne Howle** was unable to attend and this item was tabled until next meeting. Prior to tabling, **Lorinda Wichman** reiterated the need to support HR.4313, currently under review in Congress. This bill, if approved, could help resolve RS2477 issues in the West. The bill includes three pages of helpful RS2477 history, provides for clear procedures including the need to meet legal standards, includes specification for meeting criteria and providing proof, and includes a 25-year period to get the road designations completed. The statute of limitations is proposed to be waived and there is the inclusion of categories of evidence which is very helpful.

ANNEXATION ISSUES BETWEEN CITIES AND COUNTIES

Nancy Amundsen mentioned AB 48, currently under review in the Legislative session. There have been issues in the northwest unincorporated area of Las Vegas in the "Estate Lot" residential areas. These are half acre to two acre lots. For a number of years Clark County has been trying to preserve these more rural equestrian neighborhoods from higher density encroachment caused by City of Las Vegas annexations. In 2002 an interlocal agreement was approved between the City and County to discourage annexations in that area. The agreement also required that densities be maintained in the area similar to the existing rural preservation district character. The agreement was renegotiated in 2008 with no changes. When time came for renegotiations in 2013, consensus could not be made with the City of Las Vegas to maintain the agreement. A change of leadership at the City no longer supported the agreement and wanted to pursue annexations and higher densities with urban services. The City wanted planning control over the area. Negotiations fell apart and the City declined to renew the interlocal agreement. Annexations and higher density development commenced and existing residents were upset. At the time, sewer would be provided by the City to any properties in the service area, including County parcels, without requiring annexation. This policy was then changed by the City by amending their service area to only those properties that are within the City (annexed). This created an issue for many property owners who wanted to develop their County estate lot parcels, the sewer was in the street, but now the City would not allow hook up unless they annexed. The Lone Mountain Planning Area has three provisions. One, if a property owner feels that they have been annexed without their approval, they can go to the County Commission and the County Commission can deem the annexation null, which would allow the district attorney to sue. Two, if a property owner wanted to hook up to the sewer in the street in front of their parcel and couldn't, they could come before the County Commission and the Commission could state the property owner was allowed to hook up and dictate that the district attorney could sue. Third, if a property owner voluntarily annexed into the City and wanted to increase the density, the County would notify them that they are in conflict with the adopted Lone Mountain Planning Area policies. This all led to a bill draft request by the County resulting in AB 48. However, due to timing of submittal of the BDR and the approval of the interlocal agreement, the County could not rescind the BDR. The County does not want to support AB 48 since the agreement is now in place.

AB 48 was summarized by the Legislative Counsel Bureau as follows:

*Under existing law, the provision of services by a public or municipal utility to real property located outside of the city but within the service area of the utility may not be conditioned upon the property owner agreeing to the annexation of the property to the city served by the utility. (NRS 266.293, 268.4107) **Sections 1 and 5** of this bill define such a "service area" to include all real property located within the boundaries of the city and located outside the boundaries of the city for which a connection to the utility can be made at a point located within 1,500 feet of any part of the existing system of the utility. **Sections 1 and 5** also: (1) prohibit the denial or restriction of service by the utility to real property because the real property is located outside the boundaries of the city; and (2) prohibit a city and utility from charging an owner of real property located within the service area of the utility but outside the boundaries of the city a different rate or fee than the rates or fees charged to owners of real property located within the service area of the utility and the boundaries of the city. Existing law provides for the annexation of unincorporated territory by a city located in a county whose population is 700,000 or more (currently Clark County). (NRS 268.570-268.608) **Section 3** of this bill provides that such a city is prohibited from annexing real property if: (1) the provision of services to the property by a public or municipal utility has been unlawfully conditioned upon the property owner agreeing to the annexation or denied or restricted because the property is located outside the boundaries of the city; (2) the annexation violates the terms of any written agreement between the county and city; (3) the annexation includes public*

land about which the county has a lease with the Bureau of Land Management for a recreational or public purpose; or (4) the city intends to use certain annexation procedures but the property does not meet the requirements for the city to use such procedures. **Section 3** also authorizes the board of county commissioners to detach the property from the city if the annexation occurred in violation of these restrictions. **Section 4** of this bill sets forth the procedures for the board to detach such property. Under existing law, the governing body of a city must provide notice to certain property owners before it decides whether to approve a proposed amendment to the boundary of a zoning district or a zoning designation. **Section 8** of this bill requires a city in a county whose population is 700,000 or more (currently Clark County) to also provide notice to the board of county commissioners if: (1) the proposed amendment involves a change that would increase the density or intensity with which a parcel of land may be used; (2) the parcel of land was annexed by the city less than 2 years before the date of the application for the amendment; and (3) on the date of annexation, the density or intensity with which the parcel could have been used pursuant to the county's zoning district or designation was less than the density or intensity requested in the application. **Section 8** also provides that if the city approves an increase in the density or intensity with which the parcel may be used, the increase may not take effect until 2 years after the date that the parcel was annexed unless the board of county commissioners agrees to an earlier effective date.

UPDATE ON AMENDMENT TO THE BLM'S DEIS FOR THE PROPOSED SAGEBRUSH FOCAL AREA WITHDRAWAL

Brian Amme from the State office of the BLM provided a summary of the status of the proposal as follows:

Background

Proposed Withdrawal of Sagebrush Focal Areas (SFAs) Recommended in 2015 Amended Land Use Plans Lands segregated September 24, 2015

Two year segregation, no extensions

~10 Million Acres Proposed in Six States: ID, MT, NV, OR, UT, and WY

BLM and USFS lands:

~9.1M acres BLM

~0.9M acres Forest Service

Withdrawal Regs at 43 CFR Part 2300

Requires Mineral Potential Report (MPR) and environmental assessment

USGS Conducted MPR

Identified areas of high, moderate, low and no mineral resource potential

Data used in the Reasonably Foreseeable Development and environmental assessment

Environmental Impact Statement (EIS)

EIS analysis selected due to high public interest and potential controversy

BLM is lead agency

Scoping conducted Sep 2015 to Jan 2016

Eight public meetings in Dec 2015

5,078 letters or other submittals were received

Mineral Potential Report and Reasonably Foreseeable Development is basis for analysis

Draft EIS released for 90-day public comment period in Dec 2016

What the proposed withdrawal would not do

Would not prohibit mining on lands within the proposed boundary. The proposed withdrawal protects valid existing rights.

Does not affect other BLM public land uses or National Forest System land uses such as grazing, leasing, mineral material sales or recreation.

EIS Purpose & Need

The purpose is to protect the greater sage-grouse and its habitat from adverse effects of reasonably foreseeable locatable mineral exploration and mining, subject to valid existing rights.

Nevada Division of State Lands

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

Telephone: (775) 684-2723

Fax: (775) 684-2721

The need is that only a withdrawal of these lands adequately constrains non-discretionary uses (i.e., mineral exploration and development related to hard rock mining) which could result in loss of critical sage-grouse habitat.

Alternatives With Detailed Analysis

No Action Alternative

Baseline for all alternatives comparison

Proposed Action

Withdraws ~10M acres

All areas are within SFAs

Subject to valid existing rights

Remove Areas of High Mineral Potential (HMP) Alternative

Removes ~559K acres of identified HMP areas

State of Nevada Alternative

Proposed by Governor of Nevada

Removes ~488K acres of HMP areas within SFAs

Substitutes ~388K acres of high value habitat adjacent to SFAs

State of Idaho Alternative

Proposed by Governor of Idaho

Removes ~538K acres of high and moderate mineral potential areas

Note: No Preferred Alternative identified in the Draft EIS

Next Steps

DEIS Public Comment Period

12/30/16 – 3/30/17

Public meetings scheduled for February 2017

Administrative Final EIS Review – June 2017

Final EIS – August 2017

Secretarial Decision – September 2017

The temporary segregation expires in September, 2017

Public Meetings Scheduled in Nevada on Tuesday February 21 in Sparks and Thursday February 23 in Elko.

After the summary, a discussion ensued amongst the members and staff was directed to draft a letter for the Chair's signature expressing support for a process that considers local plans and policies, and reflects issues that arise from NACO's involvement in reviewing the proposal. Also the letter will support the State alternative in the DEIS. Also discussed was the large withdrawal figure of over 300,000 acres and its potential negative impacts on multiple use interests.

Jake Tibbitts asked if the Duck Valley tribe had been consulted with and **Brian Amme** responded yes, the tribe was consulted as part of the outreach to the Shoshone Paiute tribe. Also asked was status of explorations in process and the reply was that in process exploration would continue if valid and existing rights were in place.

Laurie Carson stressed the need to support neighboring counties that are affected by the withdrawal because it will have an effect on the economy.

Sheila Anderson stressed the need to support the State alternative, which proposes an exchange of lands with limited mineral potential with lands that have good sage grouse habitat. The primary effort is also to support the no action alternative since this would have the least negative impacts on multiple use interests.

UPDATE ON BILL DRAFT REQUESTS RELEVANT TO SLUPAC

Members discussed a number of BDRs and associated bills.

BDR 22-796 is related to potential impacts to counties adjacent to economic development. **Jeff Fontaine** mentioned the Tesla gigafactory example, impacts to adjacent counties and the potential in the bill to require that adjacent counties provide impact reports on such developments. A discussion ensued that this provision may have difficulty gaining support amongst the counties due to limited staffing and the inability to review multiple projects in different jurisdictions.

Nancy Amundsen stated that Clark County is opposed to BDR 43, which would authorize local governments to enact ordinances allowing for marijuana social clubs, events and concert arenas to allow the public use of marijuana due to potential impacts regarding proximity to the Strip.

Jake Tibbitts discussed SB 73 which would revise provisions relating to conjunctive water management and tools for managing over appropriated groundwater basins and mentioned ongoing efforts in Diamond Valley.

Lorinda Wichman stressed that AB 43 was not a tax increase. AB 43, sponsored by NACO, revises provisions governing the partial abatement of taxes levied on residential and other property. She said that this is a county safety net for those times of economic downturn, for example, if assessed values drop, tax rates on those properties will only go down 3%.

Jeanne Herman mentioned AB 39 which would change the number of representatives on the Washoe Regional Planning Commission.

LESSONS LEARNED – COUNTY LAND BILLS

Jeanne Herman stated that the Washoe bill is on hold.

Laurie Carson stated that what was learned in White Pine County is the need to include potential associated land transfer and infrastructure costs in the original bill. Also, counties should make sure to scrutinize boundaries of proposed land transfers. She also stated that land bills can be a mixed blessing and cited SNPLMA, which has brought revenue to White Pine County for certain projects.

Nancy Amundsen said that sometimes, the only way to get things done is through an act of Congress.

Varlin Higbee expressed his displeasure with land bills due to drastic changes that occur once the bill is taken to Washington D.C.

COUNTY PLANNING ISSUES

Harold Ritter, Lyon County:

Expressed concern that the new State park along the Walker River was not vetted appropriately with Lyon County. Over 12,000 acres will be off the tax roll.

Jeanne Herman, Washoe County:

The County needs more capacity at the landfill due to an increase in refuse coming from California. Major flood issues county-wide.

Varlin Higbee, Lincoln County:

County is purchasing the landfill.
Coyote Springs residential development should commence in 2018.

Jake Tibbitts, Eureka County:

The Diamond Valley Groundwater Management Plan is proceeding. This is a critical management area. Mining is slowly picking up with the addition of 155 new mining jobs. There is the potential for a 180-acre milling operation on private lands in Diamond Valley. The pending Congressional Review Act includes rescinding BLM's Planning 2.0.

Laurie Carson, White Pine County:

A new public safety/courthouse facility is proposed. Transfer of prisoners at the current historic courthouse is not always safe. County supports HR 4313 which would clarify the process for reconciling the RS2477 issues.

Kathy Canfield, Storey County:

The County is conducting a damage assessment as a result of the storms and severe flooding that has occurred.

Eleanor Lockwood, Churchill County:

County is a cooperating agency on the proposed military lands withdrawal for NAS Fallon. Important for county and residents to be informed of a proposal of this scale. County signed a nondisclosure form but does not have any issues with the Open Meeting Law. Lahontan Reservoir is completely full, releases are needed downstream after emergency clean out of some areas of the river channel are made.

Lorinda Wichman, Nye County:

Pahrump Basin #162 groundwater management study underway. Potential at the Tonopah Airport for a plane fleet. Bond wasn't obtained for a mill site cleanup that the County is now forced to deal with, multiple barrels of acid. Lack of a hospital issue in the County has not been resolved.

COUNCIL MEMBER COMMENTS

COUNCIL DISCUSSION AND RECOMMENDATIONS/CHECK IN ON SLUPAC GOALS

Primary 2015-2017 SLUPAC focus areas:

- RS2477 Roads Protocol (SB 456)
- County NEPA Consistency Review Assistance
- Public Land Policy Plan Update Assistance and Outreach
- SLUPAC and Counties Role and Inclusion in Development of a Statewide Water Management Plan (AB 198)
- ACEC Procedures (AB 144)

Next meeting will be TBD in May or June.

PUBLIC COMMENT

None

ADJOURNMENT

The meeting was adjourned at 12:32 pm.

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.