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CHURCHILL CO COMMISSIONERS
Churchill County - NV
Tasha Hessey - Recorder
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Bill 2017-C
Ordinance 113

TITLE: AN ORDINANCE AMENDING CHURCHILL COUNTY CODE TO PROHIBIT ALL MARIJUANA ESTABLISHMENTS IN CHURCHILL COUNTY AND OTHER MATTERS PROPERLY RELATED THERETO.

SUMMARY: This ordinance is being brought forward due to the passage of State Question No. 2: Initiative to Regulate and Tax Marijuana (Marijuana Act) which became effective on January 1, 2017. In 2014, Churchill County passed Bill 2014-D, Ordinance 113 which prohibited medical marijuana establishments as a type of land use in all of the zoning districts within the county. This ordinance will further prohibit recreational marijuana establishments as a land use in all zoning districts within Churchill County.

WHEREAS, the voters of the State of Nevada at its 2016 general election approved State Question No. 2: Initiative to Regulate and Tax Marijuana which became effective on January 1, 2017. The initiative has been codified in Nevada Revised Statutes, Chapter 453D and referred to as the Regulation and Taxation of Marijuana Act (hereafter the "Marijuana Act"); and

WHEREAS, the Marijuana Act allows: 1) a person over the age of 21 to possess, use, consume, or purchase one ounce or less of marijuana or one-eighth of an ounce or less of concentrated marijuana, 2) a person to cultivate no more than six marijuana plants for personal use with no more than twelve plants cultivated at a single residence, and 3) the regulation and licensing of recreational marijuana by the State Department of Taxation; and

WHEREAS, marijuana establishments (MEs) are defined by the Marijuana Act as cultivation facilities, testing facilities, manufacturing facilities, distributors or retail stores. The Marijuana Act allows for potentially two MEs within Churchill County as the population is less than 55,000; and

WHEREAS, the Marijuana Act recognizes and requires that MEs must comply with all local ordinances and rules pertaining to zoning and land use; and

WHEREAS, planning and zoning is a matter subject to local regulation as a matter of local concern as significant local interests may differ from one locality to another; and

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WHEREAS, the Nevada Legislature empowered the Churchill County Board of Commissioners, the governing body of Churchill County, the authority to regulate and restrict planning, zoning, development, redevelopment, the improvement of land, and to control the location of structures for the purpose of promoting health, safety, morals, or the general welfare of the community as set forth in NRS Chapter 278 and NRS Chapter 244 as allowed by the Nevada Constitution; and

WHEREAS, the Nevada Legislature also delegated to the Churchill County Board of Commissioners the ability to regulate and restrict the use of buildings, structures or land within zoning districts established by the governing body as specifically set forth in NRS Chapter 278 and Chapter 244 as allowed by the Nevada Constitution; and

WHEREAS, the Churchill County Board of County Commissioners may make and enforce within its boundaries all local, police, sanitary, zoning and other ordinances and regulations not in conflict with the general laws as set forth in the Nevada Revised Statutes and Nevada Constitution; and

WHEREAS, preemption of the Churchill County Board of County Commissioners' authority to regulate zoning and land use is not implied by the explicit language of the Marijuana Act, including but not limited to the language in NRS 453D.100 and 453D.210, which does not prohibit the County from adopting and enforcing local marijuana control measures pertaining to zoning and land use for MEs; and

WHEREAS, the ability to restrict uses through zoning regulations includes the ability to prohibit uses as long as state law and local zoning regulations are not in conflict; and

WHEREAS, there is legal uncertainty between Federal laws and Nevada laws regarding marijuana use and marijuana establishments. The United States Supreme Court has held that the Federal Controlled Substances Act validly prohibits local cultivation and use of marijuana under all circumstances (*Gonzalez v. Raich*, 125 S.Ct. 2195 (2005)) and the Federal Controlled Substances Act prohibits marijuana use, distribution and possession and that no necessity exception exists to these prohibitions (*United States v. Oakland Cannabis Buyer's Cooperative*, 121 S. Ct. 1711 (2001)); and

WHEREAS, Churchill County is a large rural community with limited resources and a long tradition of applying strict zoning and land use standards to protect the unique qualities and communities in Churchill County and in some cases has banned certain types of land uses; and

WHEREAS, the Churchill County Board of Commissioners recognizes: 1) the 2016 voters of Churchill County voted against the passage of the Marijuana Act, 2) its 2014 ordinance prohibited medical marijuana establishments, 3) comments received by the public and community organizations advocating in favor of the passage of this Bill; 4) the conflict between Federal law and Nevada law; 5) the advice received by the Sheriff's Office advocating the passage of this Bill; and 6) its evaluation of the potential impacts of recreational marijuana establishments on the health, safety, morals, and the general welfare of the community at large,

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including the potential for increased criminal activity and secondary use and harm to juveniles; and

WHEREAS, the Churchill County Board of Commissioners recognizes the rights of qualifying individuals to possess and use marijuana in compliance with the Marijuana Act; and

WHEREAS, the Churchill County Board of Commissioners has found it to be in the best interests of the County to amend Churchill County Code to adopt zoning regulations prohibiting marijuana establishment uses as contemplated in the Marijuana Act in all zoning districts within Churchill County for the purpose of promoting the health, safety, morals, and general welfare of the community as authorized by NRS Chapter 278 and NRS Chapter 244 and as allowed by the Nevada Constitution.

NOW THEREFORE, based on the above considerations:

THE BOARD OF COUNTY COMMISSIONERS hereby ordain that:

CHURCHILLL COUNTY CODE, subsections 16.08.140E, 16.08.150E, 16.08.160E, 16.08.170E, 16.08.180E, 16.08.190E, 16.08.200E, 16.08.210E, 16.08.220E are amended by changing the following:

~~Medical~~ Marijuana Establishments.

Section 16.08.250 Use Table For Residential Zoning Districts is hereby amended by changing the following:

~~Medical~~ Marijuana Establishments					

Section 16.08.260 Use Table For Nonresidential Zoning Districts is hereby amended by changing the following:

~~Medical~~ Marijuana Establishments					

Section 16.24.010 Definitions Generally is amended by changing the following definition:

~~MEDICAL~~ MARIJUANA ESTABLISHMENTS: ~~An~~ Means a medical marijuana establishment as defined in NRS 453A.116 ~~and as may be amended~~, a marijuana establishment as defined in NRS 453D.030(11), or any commercial establishment where

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a member of the public is invited, or permitted to be, and the use of marijuana is permitted.

This ordinance shall be effective on the 1st day of November, 2017

PROPOSED AND ADOPTED this 18th day of October, 2017.

THOSE VOTING AYE: Harry Scharmann

Carl Erquiaga

H. Peter Olsen, Jr.

THOSE VOTING NAY: N/A

N/A

N/A

APPROVED:

H. Peter Olsen, Jr., Chair
Board of County Commissioners

ATTEST:

Pamela D Moore
Deputy Clerk of the Board

Churchill County Agenda Report

Date Submitted: September 22, 2017

Agenda Item #: Appointments - 1:30 PM

Meeting Date Requested: October 18, 2017

To: Board of County Commissioners

From: Benjamin D. Shawcroft, Civil Deputy District Attorney

Subject Title: **Public Hearing -** Consideration and possible action re: Bill 2017-C, Ordinance 113, an ordinance amending the Churchill County Code to prohibit all marijuana establishments in Churchill County and other matters properly related thereo.

Type of Action Requested: Adopt

Does this action require a Business Impact Statement? No

Recommend Board Action: motion to adopt Bill 2017-C, Ordinance 113, an ordinance amending the Churchill County Code to prohibit all marijuana establishments in Churchill County and other matters properly related thereto with an effective date of November 1st, 2017.

Discussion: This ordinance is being brought forward due to the passage of State Question No. 2: Initiative to Regulate and Tax Marijuana (Marijuana Act), which became effective on January 1, 2017. In 2014, Churchill County passed Bill 2014-D, Ordinance 113, which prohibited medical marijuana establishments as a type of land use in all of the zoning districts within the county. This ordinance will further prohibit recreational marijuana establishments as a land use in all zoning districts within Churchill County.

At a meeting of the board held on December 21, 2016, this issue was raised prompting discussion as to whether the county should allow recreational marijuana establishments in the unincorporated areas of Churchill County. A copy of those Minutes are provided with the Agenda Report. It appeared from comments made by the Commissioners at that meeting that a preference was to zone out recreational marijuana establishments (including cultivation and dispensaries) completely. The ordinance presented today does exactly that. Also provided is a memorandum prepared by the District Attorney's Office and the Planning Department, which provides an overview of the statutes related to this topic, a summary of what other counties and cities are doing, and an analysis of relevant sections of the Churchill County Code and Master Plan.

Churchill County
Agenda Report

Alternatives: Make changes to the proposed ordinance or table the matter until a future meeting.

Fiscal Impact: No fiscal impact.

Explanation of Impact: There will be no direct fiscal impact to the county by adopting this ordinance. However, the county will forego the ability to collect taxes and fees related to these types of businesses.

Funding Source: N/A

Prepared By: Pamela Moore, Deputy Clerk to the Board

Reviewed By:

Eleanor Lockwood
Eleanor Lockwood, County Manager — Date: September 27, 2017

Benjamin Shawcroft, Chief Deputy DA — Date: September 27, 2017

Alan Kalt, Chief Financial Officer — Date: October 03, 2017

Board Action Taken:

Motion: ____________

1) None — **Aye:** 0

2) None — **Nay:** 0

Renae Pahlke
(Vote Recorded By)

The submission of this agenda report by county officials is not intended, necessarily, to reflect agreement as to a particular course of action to be taken by the board; rather, the submission hereof is intended, merely, to signify completion of all appropriate review processes in readiness of the matter for consideration and action by the board.

MEMO
TO: County Commissioners
RE: Ordinance Prohibiting Recreational Marijuana in Churchill County
PREPARED BY: Benjamin Shawcroft, Chief Deputy District Attorney – Civil
Dean Patterson, County Associate Planner

The purpose of the memo is to provide a summary of the laws and regulations pertaining to recreational marijuana to assist the Board in its decision making. This will include pertinent bills that were passed during the 2017 legislative session and a review of the elements required to be considered for the adoption of amendments to the county's zoning ordinance.

A. Background – State Question

In the 2016 general election, the voters of Nevada voted to approve the passage of Question 2, which legalized the use, sale, and cultivation of recreational marijuana. The voters of Churchill County voted 59.86% against Question 2 while 40.14% voted in favor. The law went into effect on January 1, 2017 and is codified in the NRS as Chapter 453D.

B. Highlights of the Law

Licensing

No businesses will be able to sell or cultivate marijuana for recreational purposes unless they first obtain a license from the State of Nevada. The State began issuing licenses under temporary regulations earlier this year. Permanent regulations must be completed by 2018. For the first 18 months, the State will only be issuing licenses to businesses that already have a license to dispense medical marijuana.

Personal Possession or Cultivation

Under the law, persons 21 years old or older may:

- possess 1 oz. or less of marijuana
- possess 6 plants for personal use provided that cultivation takes place in enclosed area and is secured
- possess no more than 12 plants at a single residence at one time (2 people can each personally possess 6 plants). If a dispensary is within 25 miles of your residence, you cannot grow any marijuana (some exceptions for medical marijuana)

- give without remuneration 1 oz. or less of marijuana to another person provided that the transaction is not advertised or promoted to the public

Dispensaries

- Must have secure entrances so that only persons 21 years or older can enter
- Must secure the marijuana to prevent theft
- Cannot employ persons who have been convicted of a listed felony or who is less than 21 years of age
- Only 2 licenses will be given for a dispensary in counties with less than 55,000 people.

Cultivation Facilities

- Must take place at an address approved by the state
- Must be in an area that is enclosed and locked in a manner that restricts access to authorized individuals
- Must be covered unless it is enclosed with security fencing that is at least 8 feet high
- Cannot be visible from a public place by normal unaided vision
- License will only be issued to a current holder of a medical marijuana facility for the first 18 months.

Zoning

Under NRS 453D.100, local governments are authorized to adopt and enforce local marijuana control measures pertaining to zoning and land use for marijuana establishments. When applying for a license from the state, applicants are required to show proof that they are in compliance with local zoning laws under NR 453D.210. Thus, if Churchill County wishes to adopt zoning measures which prohibit marijuana establishments, it may do so under these provisions.

Conflicts with Federal Law

Part of the county's basis for prohibiting medical marijuana facilities in 2014 was the fact that medical marijuana was prohibited by federal law. The same is true now with recreational marijuana. Recently the US Attorney for Nevada, Dan Bodgen, issued a letter regarding a marijuana manufacturing operation on the Moapa Indian Reservation in Nevada and stated "Marijuana remains illegal under federal law." The United States Supreme Court has held that the Federal Controlled Substances Act validly prohibits local cultivation, and use of marijuana under all circumstances (*Gonzalez v. Raich, 125 S.Ct. 2195(2005))* and the Federal Controlled Substances Act prohibits marijuana use, distribution and possession and that no medical necessity exception exists to these prohibitions *(United States v. Oakland Cannabis Buyer's Cooperative, 121 S.Ct. 1711(2001)).* Furthermore, we have received information from TCID indicating that federal water distribution systems will not be permitted to be used for irrigating marijuana.

C. Bills Passed During 2017 Session

SB 344 (Advertising and Packaging): Prohibits packaging of all types marijuana edibles in a manner that appeals to children (lollipops, candy, brownies, etc.). Contains several restrictions on the advertising of marijuana products.

SB 487 (Taxes):

- Cultivation Facilities: the wholesale sale of marijuana from cultivation facilities to other facilities is charged an excise tax of 15%. The revenue is distributed to the Department of Taxation and local governments to cover the costs of administering the program.
- Retail Sales: the retail sale of marijuana or related products is charged a 10% excise tax in addition to any general and local sales tax. The revenue is put into the state's rainy-day fund.
- License Taxes: counties are permitted to impose a license tax of up to 3% of the total gross revenue of marijuana establishments and a business license fee.
- Counties are prohibited from imposing by ordinance any regulations which are more restrictive than state regulations.

SB 236 (Public Consumption): This bill would have permitted public consumption of marijuana at events or in businesses which have been authorized for such use by the local government. This bill failed to pass.

SB 375 (Agreements with Tribes): This bill allows the state and Indian tribes to enter into marijuana cooperation agreements where tribes can oversee the programs on tribal lands but will have to follow state laws.

D. Other Counties and Cities

City of Fallon – Medical marijuana establishments are permitted. One dispensary is open but is only licensed to sell medical marijuana. No decision has been made by the City whether to allow recreational marijuana establishments. The existing business is the only business that can apply to the state for a license to open a recreational marijuana facility in Churchill County (includes cultivation and retail) for 18 months.

Douglas County – Passed an ordinance prohibiting all types of recreational marijuana establishments.

Carson City – The city imposed a moratorium on all types of recreational marijuana establishments.

Washoe County – Allows all types of recreational marijuana establishments.

City of Reno – Allows all types of recreational marijuana establishments.

Elko County – Prohibits all types of recreational marijuana establishments.

Nye County – Allows all types of recreational marijuana establishments.

E. Amendments to Zoning Map and County Code (Prepared by Dean Patterson, Associate Planner)

In order to make an amendment to the county's zoning map and county code the board must review and make certain findings. These are 1) That the proposed amendment is in substantial compliance with and supports the goals and policies of the master plan, 2) That the proposed amendment will provide for land uses compatible with existing adjacent land uses and will not have detrimental impacts to other properties in the vicinity, and 3) That the proposed amendment will not negatively impact existing or planned public services or facilities and will not adversely impact the public health, safety and welfare. Those elements will be analyzed below.

1. The proposed amendment is in substantial compliance with and supports the goals and policies of the master plan.

   The Master Plan is silent on the subject of marijuana; however, the marijuana law allows local governments to exercise land use control over marijuana related activities. Most policies are not applicable to the control of marijuana, or are neutral in terms of general agricultural activity. There are, however, a few chapters and policies that have applicability.

   The marijuana law allows for marijuana cultivation. The Master Plan places special emphasis on agricultural production, and protection of water and agricultural lands in Chapter 3. Normally, cultivation of crops is encouraged, and water from the Newlands Project can be obtained for such activity. However, marijuana is illegal under federal law, consequently the federal Newlands Project water distribution system will not be allowed to be used to provide water for the cultivation of marijuana crops. Policy ED 4.2 states "Any new and expanded development must comply with Truckee-Carson Irrigation District (TCID) requirements to ensure continued efficient and effective water delivery throughout the Newlands Project." Water consumed for marijuana will not be available for legal crops. Codifying the federal prohibition of marijuana is in compliance with the Master Plan.

   The Master Plan also requires protection of the community from new development.

   > GOAL LU 2: All new development must be comprehensively designed to ensure a sustainable, safe, and healthy environment that integrates into the surrounding neighborhoods.
   >
   > Policy LU 2.1: In reviewing any development proposal Churchill County shall consider issues of community character, balance, sustainability, environmental impact, safety, aesthetics and efficient service provision.

   Prohibiting businesses that traffic in illegal substances directly supports the goal and policy above, by protecting safe and healthy environments, and considering the community character.

2. The proposed amendment will provide for land uses compatible with existing adjacent land uses and will not have detrimental impacts to other properties in the vicinity.

   Medical marijuana activities are currently prohibited in the County development code. This proposed change will extend the prohibition to recreational marijuana activities. Marijuana is illegal under federal law. Prohibiting both medical and recreational marijuana land uses will prevent incompatibilities with land uses from occurring as a result of illegal marijuana activities near them. This will also prevent detrimental impacts on properties that would have been in their vicinity.

3. The proposed amendment will not negatively impact existing or planned public services or facilities and will not adversely impact the public health, safety and welfare.

   Prohibiting a land use will have no negative impacts to public services or facilities. Prohibiting illegal activities will prevent adverse impacts to health, safety and welfare of the community including avoiding the potential for increased criminal activity and secondary use and harm to juveniles.

together and find that balance. He thinks that the partnership done pretty well over the last year and he would like to continue to work together.

Commissioner Erquiaga said there is a threshold where it is cost effective for an organization to have his own staff for IT and the question is, are we there? He would not have thought we were but this amount of money does give one pause. It is just a comment; he does not expect an answer.

Chairman Olsen said in other things he has been involved in, he has seen technology costs that are shocking but you cannot live without it either. He is not saying to get rid of it but he thinks they need to get their arms around this thing and move in a deliberate manner. The costs are so high and with some of the software changes we may have to do to change over from the AS400 or decide to slowly migrate away from the AS400, we are talking big numbers. We need to plan if that is what our future looks like over the next 3 to 4 years. We had better plan those outlays. With regard to Commissioner Erquiaga's comment, he is not sure what that threshold is either. Jere said he thinks that threshold is the key. If you have worked with technology before, there is more than just the cost. You have to look at the salary of 4 or 5 people to support an organization this size, plus the cost of maintaining it. What you get with IQ is a team of 35 people that have the knowledge base to be able deal with it when somebody calls in and says they are coming out to place a new video surveillance system over at JPO Tuesday, and you need help with it, they provide that pool of resources to be able to do that and it is really that threshold. Commissioner Scharmann said we cannot avoid it, we have to deal with the technology issues and he also agrees with Chairman Olsen when he said we need to take a full look at this and evaluate it. The one thing that he sees is that we are working at a level of efficiency that we did not have before we had IQ, so he thanked them. Commissioner Erquiaga said having worked a little bit in the world of IT, he thinks we are getting a lot. We are getting 24-7 on a lot of stuff but he had no idea it cost so much.

Commissioner Erquiaga made a motion to approve the contract with IQ Technology Solutions in the amount $18,745 per month for professional services providing IT support and managed services, effective January 1, 2017 to June 30, 2018. Commissioner Scharmann seconded the motion, which carried by unanimous vote.

1:40 p.m. Consideration and possible action re: Permitting of recreational Marijuana in Churchill County, *Benjamin D. Shawcroft, Civil Deputy District Attorney.*

Civil Deputy District Attorney Ben Shawcroft reported that with the passage of question 2, which legalized the use of recreational marijuana, we are bringing this matter to the board for discussion on what this means to Churchill County. Churchill voters voted 59.86% against vs. 40.14% in favor. The law will go into effect on January 1, 2017. Below you will find some highlights about the new law, followed by a brief outline of options that are available to the board.

Licensing

No businesses will be able to sell or cultivate marijuana for recreational purposes unless they first obtain a license from the State of Nevada. The State will not issue licenses until it puts into place regulations which must be completed by 2018. However, we have learned that the State intends to put into place temporary regulations so that it can immediately start to issue licenses. For the first 18 months, the State will only be issuing licenses to businesses that already have a license to dispense medical marijuana.

Personal Possession or Cultivation

- Persons 21 years old or older may
  - possess 1 oz. or less of marijuana
  - possess 6 plants for personal use provided that cultivation takes place in enclosed area and is secured
  - possess no more than 12 plants are at a single residence at one time (2 people can each personally possess 6 plants)
  - can give without remuneration 1 oz. or less of marijuana to another person provided that the transaction is not advertised or promoted to the public

Dispensaries

- Must have secure entrances so that only persons 21 years or older can enter
- Must secure the marijuana to prevent theft
- Cannot employ persons who have been convicted of a listed felony or who is less than 21 years of age
- Only 2 licenses will be given for a dispensary in county's with less than 55,000 people.

Cultivation Facilities

- Must take place at an address approved by the State
- Must be in an area that is enclosed and locked in a manner that restricts access to authorized individuals
- Must be covered unless it is enclosed with security fencing that is at least 8 feet high
- Cannot be visible from a public place by normal unaided vision

How will retail marijuana be taxed?

Cultivation facilities will be required to pay a 15 percent excise tax on the wholesale sale of recreational marijuana. Retail purchases of retail marijuana will be subject to state and local sales tax. Retailers will collect sales tax from consumers and remit it to the state.

Options for Discussion:

Option 1: The Board decides it does not want to allow dispensaries or cultivation facilities in the county. It is the opinion of the District Attorney's Office that the county still has the authority to prohibit any dispensaries or cultivation facilities in the county through its zoning power. If this happens then persons will still be allowed to grow up to 6 marijuana plants on their property for personal use if there isn't a dispensary within 25 miles of their property. If a dispensary is located with the City of Fallon then anyone within a 25 mile radius will not be able to grow marijuana. If the Board wishes to prohibit these businesses, an ordinance will need to be put in place making it so.

Option 2: The Board passes a moratorium on prohibiting the issuance of any business license for a dispensary or cultivation facility. This is a temporary measure which will prohibit this type of business from operation in the county until such time that the Board makes a final decision on whether to allow or prohibit these types of businesses.

Option 3: The Board decides to allow dispensaries and cultivation facilities in the County. If this is the Board's position then staff will develop zoning regulations for these types of businesses. A discussion will need to be had regarding potential zones that will be compatible with cultivation facilities or retail facilities.

Chairman Olsen asked if there was any public comment. Sheriff Ben Trotter said this new recreational marijuana law, as it is written, creates more questions that it provides answers. Specifically, from a law enforcement prospective, most of these will not be answered until the state comes up with some regulatory mechanisms for this new market, so he is not getting into the questions. It would be easy to rail against it but the votes have already been cast so he is just going to make a couple comments on actions that he, as the Chief Public Safety Officer in our community, believes we can attempt to safeguard our community a little more. He would support zoning out dispensaries and grow operations in Churchill County. It is confirmed that the City of Fallon will have a dispensary across from CVS Pharmacy. It has been approved by the City Council. Because of the 25 mile radius, it does limit those who can grow personal plants. The dispensary would provide the necessary access to marijuana and marijuana products for all Churchill County residents except Middlegate and Cold Springs, or the castle on the other side of Fernley. These people represent about 21% of our population, based on the 2014 census. Those who do live outside the 25 mile radius would still have the right to grow their own personal use plants. They are state granted rights but it is still a violation of federal law.

He also supports adopting an ordinance similar to the open container law that the county currently has which prevents open containers of alcohol in a motor vehicle. He suggests consideration or possibly adopting an open marijuana container law. This may reduce, to some degree, the opportunity for driving under the influence of marijuana. It certainly would give us some sort of aspect of enforcement to that end, which at this time, is based on what is written in a law that we do not have. A couple of other things he thinks the board should also consider is a ban on or regulation of edibles and allowable advertisements, such as billboards and posters for marijuana products and services. He believes the edibles and extracts of marijuana pose the single most significant risk to our children when they are not in a motor vehicle. Imagine trick or treating with the way they package the edibles. It could be potentially challenging to decipher between a pack of M & M's and a pack of whatever they name those. He also suggests, as far as the advertisements go, to require plain lettering and coloring, not an advertisement that will attract children or otherwise could be seen as catering towards children. The county may also have the ability to limit the size and quantity of these advertisements in Churchill County. These are just a few considerations. There are so many questions that it is hard to make an educated presentation on this at this time. These are just things that he thought of and thinks the board should consider.

Commissioner Erquiaga asked if we can ban edibles and Civil Deputy District Attorney Ben Shawcroft said that they do not have an answer to that yet, but they are definitely looking to it. Potentially, unless the state issues specific laws related to those things, to make it where it is a state question instead of a local question.

Chairman Olsen said that he thinks a lot of the points the Sheriff has brought up have a question of timing around it given that starting January 1 it will be legal to grow at least for a while in the county and legal to possess one ounce. An enactment of any ordinance the legislation the county might do will create a lot of conflicts. This is why he wanted talk about it now because they are rushing headlong into what could be a lot of problems and we need some guidance as to what to do for our community. He asked the Deputy DA if we could go ahead and put some ordinances in to give the Sheriff some of the tools in his toolbox that he has asked for here to begin that process now and adjust to whatever the state decides later if they do. Deputy DA Shawcroft said the Sheriff mentioned an open container law which is not addressed in the existing law. The Legislature is going to be in session and we expect them to codify this into the Nevada Revised Statutes because, right now, it is just in petition form so, when they do that they typically look at what other areas of statutes will be impacted by this, such as law enforcement, DUI's, open containers, advertisements, and edibles, all of these different things.

Timing is a challenging question because we do not know if they are going to address all of those things and if they do, when. Some of the things like open container can be addressed in the county code. With advertising, we could probably say we have more local jurisdiction. Regulations relating to edibles will probably be addressed more at the state level, so we may want to wait on that issue. We could look at some of the other issues and be more proactive instead of waiting for the state to do something. We will not have a dispensary open January 1st so adults will be able to start growing on January 1st. We cannot criminalize that or do anything about that, unfortunately. If the dispensary does open in the city then we will be able to do something about the personal use.

Chairman Olsen asked if there were any public comments. Mary Beth Chamberlain, with the Churchill Coalition, said she is concerned about adults letting marijuana and marijuana products get into the hands of youth. Deputy DA Shawcroft said there is punishment for someone who provides it to someone who is under the age of 21 by selling or giving it to them, that is against the law. From a prosecution standpoint, he has a real problem with the penalties they put in the petition because they are very minor; it is cheaper than a traffic ticket. If you do it more than once, then the penalty goes up, but it is very minimal. Commissioner Scharmann asked if he meant if it was very minimal passing it to children. Deputy DA Shawcroft said selling would be a little different, but if they are allowed to have access to it in their home or a friend's house or something like that, it is very minimal. Mary Beth Chamberlain said her understanding is that if we do not create laws that uphold their outlines, they will step in. This is under the Cole memo. Basically, you are saying it is a very minimal charge. Deputy DA Shawcroft said it depends on what the offense is. Mary Beth Chamberlain asked if we have to stay in compliance with the federal law on that according to the Cole memo. Deputy DA Shawcroft said we are not enforcing the federal law because use of marijuana is still a felony, but it will not be under state law. The prosecutor's office is not charged with enforcing federal law. That is up to the U.S. Attorney's Office. We only enforce state law, so we will not be charging people with a felony if they are using marijuana. It is not that we do not want to. Mary Beth Chamberlain said she was looking over the Cole memo and it said that if there are states that are not able to create a strong enough regulatory system then they will step in. Their laws will supersede. Deputy DA Shawcroft said we do not know what they are going to do, if anything.

Commissioner Scharmann said Mary Beth brings up a good point. Deputy DA Shawcroft made it clear that the DA is not enforcing federal law, but there is a real conflict here if we start setting guidelines for the use of marijuana and it is against federal law. Deputy DA Shawcroft said it is still against federal law; there is no doubt about that. Commissioner Erquiaga said every other state that has legalized it is violating the same federal law. Deputy DA Shawcroft said, just to clarify, the law says if you give marijuana to someone under the age of 21 or leave it around with the intent that they be able to obtain it, that is a misdemeanor and, if you do the same for someone who is under the age of 18, it is a gross misdemeanor. If you leave alcohol out, it is also a misdemeanor. Chairman Olsen said he thinks there has been a lot brought up about the edibles and the attractiveness to children and the studies we saw from Colorado said there was a 165% increase to poison control centers from children.

Colby Frey said he believes, regardless of whether the county votes yes or no on the grow facility, it is still going to be a concern. It is still legal to possess. He personally does not do anything like that but other residents can go to other counties and legally bring it back here or grow it themselves, so his big concern is having potentially thousands of people growing it on their own throughout the county. There is a lot that is involved with it. He did some research recently and there are big lights that are 1000 watts each and you need several of them to grow it, which can consume a lot of power so there is a potential for fires. They put out 500 degrees each and they have to duct it and have fans blowing through them and have humidifiers and a lot of things involved that people might start trying to do on their own in their back room. It also leaves the potential for small children to break into the back room and steal it or possess it if their parents are growing it in their house or even in the back yard. He is in support of having a dispensary and possibly a grow facility so the county can help regulate the industry rather than having everybody do it on their own, as well as taking away a lot of those concerns. He heard a horror story about a house burning down next door to a legal facility in Colorado. It burned because some guy tried to hook up 3 of those lights into a little tiny cord and plugged into a wall and burned his whole house down. That is the kind of stuff he would hate to see happen in our community. He was unaware of the city allowing a dispensary until now. He does not believe they have a state license yet so he does not think it is considered a dispensary for 18 months if the city does approve it.

Joe Frey said one of his concerns is that he wants to keep the county nice and a lot of the things Sheriff Trotter said resonate with him as far as the advertising goes. There are dangers of edibles and the things of that nature. He thinks some responsible regulation would be good. According to the new state law, the best way to regulate it is to have a dispensary and to eliminate the personal grow facilities. If something were to be the solution for the problem created by the state law, he would like to see it stay local and all of us work together to see that some of the potential problems are mitigated and still economically benefit the community through sales tax income for law enforcement and education of children about the dangers of drug use. He thinks it is a problem that is already here and this may give us an avenue to find some solutions to the problem and regulate it.

Russell Wedlake said he is a certified crop advisor and he works for Colby Frey and is a distiller and wine maker. He came in case the board had questions on the cultivation part of it. Chairman Olsen said one of the things he learned from their investigation is that you cannot use the water that runs through federal conveyances for growth. He toured a medical facility in Pahrump in November but, under the recreational law, are they still required to have it inside a building? Deputy DA Shawcroft said it has to be covered unless it is enclosed with security fencing at least 8 feet high and cannot be visible from any public place. That is just for commercial facilities. Colby Frey said he also heard that you should not be able to see it from an airplane, so that made people think that is why you had to grow it inside. Commissioner Scharmann said he does not think that is true though. If you talk about open with an 8 foot fence, then you can see it from an airplane. Colby Frey said that is where the discrepancy is. Some people believe if you can see it from an airplane then it has to be enclosed.

Joe Frey said their main concern now is that there is just so much up in the air right now. They wanted to make sure there was not a decision made today to stop it right here right now and be done with it but that this discussion needs to go further and have a little more thought put into it. At the same time, some protections need to be put in place by the county. We should keep an open mind and protect the community as we go forward and not just see a moratorium put in place on dispensaries. That, in the end, could be detrimental. Chairman Olsen said with the city having a dispensary, it is potentially a non-issue. The cultivation part still has to be decided. Joe Frey asked if we would need further confirmation if the city has allowed a dispensary and is moving forward before we said the county was going to ban dispensaries. He would like confirmation that the city has indeed allowed one and, whoever it is they allocated it to, if they have a state license. It is a pretty in-depth process to get licensed through the state. Chairman Olsen said the fellow that has the medical dispensary has the first right to have the recreational dispensary and he understands the city is going to follow state law and allow the dispensary to move forward.

Colby Frey said he understands that Churchill County and Fallon did not have a medical dispensary; it was a call center where people could go order it, pay for it, show them their medical card and then it would be delivered to their house, but he is not sure if that is fact. He also understands that the state is not giving out any new licenses for medical facilities for 18 months unless someone could get around it. If that dispensary was approved by the city recently, they would have to wait the 18 months and go through the approval process. They are not automatically approved. Chairman Olsen said they are approved. The vote was 2 to 1 at the meeting as a medical facility. Colby Frey said they were approved at the city level but now they have to go through the state licensing process, correct? Chairman Olsen said he thinks they have already cleared that hurdle. He does not have any verification of that though. Deputy DA Shawcroft said they have to have a state license and that is just for the medical component. They will not be able to have a license right now for recreational purposes. He does not know what the City Council did. Perhaps they just approved the location but it will not actually be a recreational dispensary until the state issues them a license and that cannot be issued until the regulations are in place. Colby Frey said he just got a text message stating that the state license and inspection is pending. It is not approved yet, so it could still be denied and, if the county was to make a decision today and that got denied, that would basically stop them. Deputy DA Shawcroft said he heard the license was pending for moving their current facility, not for the recreational license. He said he will look into that because he does not want to speak for the city.

Commissioner Scharmann said he wants to ask Mr. Wedlake if he is most familiar with Colorado or Oregon or where. Russell Wedlake said he is a certified crop advisor for the Pacific Northwest. He does not have personal experience growing marijuana but he knows the amount of water and energy it takes, the hazards of growing it indoors, and those types of things. Commissioner Scharmann asked Deputy DA Shawcroft if the county could place a restriction on one location for cultivation because one of the things that happened in Oregon was the thought that that was going to happen opened up the door for multiple locations for cultivation in rural counties. Deputy DA Shawcroft said the state is the entity that will be issuing licenses and there is no cap in the language of the law now on how many cultivation facilities can be in each county. There is for dispensaries but not for cultivation facilities. He is leaning towards the county not being able to restrict that without looking into it a little more. He could say they are only going to issue one license but that will expose them to litigation. Commissioner Scharmann said but we do have the authority to restrict dispensaries and cultivation in the county and then, if we do that, it allows people to have 6 plants each? He understands that but can we limit cultivation on a commercial basis? Deputy DA Shawcroft said we can zone it and, by zoning it, we can decide where we think it would be appropriate for a commercial cultivation facility. That is where our regulation ends. We can zone it out so that there are not any cultivation facilities or dispensaries but it is more zoning and where it is located as opposed to if we are going to allow 1 or 2. Commissioner Scharmann said, in Oregon, when they started building locations to cultivate it, they were inundated in some of the rural counties by cultivation operations to supply the Portland and Eugene areas and a lot of the people who were near these locations were irate because of those operations being next door. So, if we allow cultivation and do it by zoning, then we have to decide what location in the county is appropriate for cultivation. Deputy DA

Shawcroft said that we could open it up to any areas that normally have agricultural uses but, most likely it would require them to get a Special Use Permit. Commissioner Scharmann said if we did that, then is that the only restriction we could have, we could not restrict the number once we allowed it and zoned it. We could not restrict the number of operations? Deputy DA Shawcroft said he cannot say definitively without looking into it more but that is where he is leaning right now.

Colby Frey said they said earlier that if it is a commercial operation then you cannot use federal water; you have to have underground commercial water rights, which will take away a lot of people's ability to grow throughout the valley. On his farm he has terrible water and no quality water rights that would facilitate something like this, so he does not think that if you did have to have underground water rights and be able to pump it from a well, he thinks that will take away most people's ability to grow. He does not think you will see it throughout the whole valley.

Joe Frey said, as far as trying to limit the number of grow facilities, could you limit the amount that the dispensary is allowed to sell in the city or county if that suited the purpose of what the city or county was trying to accomplish? Deputy DA Shawcroft said, if we put a cap on how much a dispensary could sell, it would not really impact cultivation facilities but he does not think we would be able to do that. Commissioner Erquiaga, said by looking at the law, there is licensing for a retail marijuana store, cultivation facility, and then there is licensing for a distributor. Is that like a wholesaler guy that gets it from the cultivator and then he sells it to the dispensary? Colby Frey said that is part of the law that is still not written, but the whole campaign to get this passed is to regulate marijuana like alcohol. He knows about alcohol regulations and the way the alcohol industry works is called a 3-tiered system. There is the producer, wholesaler, and then the retailer establishment. We cannot sell as a producer to the retail establishment directly; it has to go through a distributor. He assumes that is what will happen. Russell Wedlake said he thinks there is one more license, manufacturing, which actually changes it from the plant to an edible or concentrate. That is another license. Even limiting it from this county would not limit it from coming in if there was a dispensary here. Chairman Olsen said he thinks Sheriff Trotter brought up some great points and at a minimum, we should pursue an ordinance adopting an open container law for marijuana. We should pursue a ban on edibles and extracts because he thinks some of those things are dangerous for children and pursue remedies that can be done about advertisement limitations. We have a lot of hearsay with the city, which is not a black mark against them, but he is just saying there are some unknowns there, although he thinks he has it on decent authority that they are going to allow state law to take its course. That would be for there to be a recreational dispensary inside the city . That takes the onus for us to worry about people having it in their backyard at least until June of 2017 when we are supposed to have some temporary regulations out. From the middle of winter until June of 2017, he understands the initiative allows people to do that. It also gives us an opportunity to continue to pursue what we, as a county, want to do out in the countryside as far as cultivation. Our voters spoke pretty resoundingly against wanting marijuana in the community but, even if we say no, it does not mean no. With the city potentially allowing a dispensary and the way the law is stated, it is going to be legal whether we say no or not. Some of these questions are going to be answered in time. He has learned a lot in the last 60 days, but, there is more to learn.

Commissioner Erquiaga said he thinks this was a bad idea and he is pretty sure the board feels the same way. Obviously, the people of Churchill County felt the same way, however, we are stuck with what we have and we have to deal with it. There will be sales tax collected on retail sales and he assumes CFO Kalt can answer although he thinks he already knows the answer, but, do we have a way to keep track of those taxes from those sales? Deputy DA Shawcroft said he thinks the Department of Taxation will probably have a code to keep track of the sales like they do with everything else. CFO Kalt said he believes they would have to set up a code that would say what it was. Commissioner Erquiaga asked if we could tell them that we wanted a portion of that money for children's education or things like that. CFO Kalt said we could implement a local ordinance to do that and the board could commit, as the highest governing board of our local government, those resources for specified purposes that they would designate. Commissioner Erquiaga asked if that would be true whether the revenue is in the city or county and CFO Kalt said that is correct. The way the consolidated tax, the 2 sales tax portions of supplemental city/county relief and the basic city/county relief is apportioned between the city and county and the special district in our case which is the Mosquito, Vector, and Noxious Weed Abatement District. Commissioner Erquiaga asked if the county could impose additional taxes. Deputy DA Shawcroft said he doubts if they could. They put in business license fees and application permit fees but he does not think they can add to their tax. Commissioner Erquiaga asked if they could make some of those business license fees tiered for marijuana versus some other business. County Manager Lockwood said she thinks they could call this a specialized or privileged business license, a little bit like we do with brothels. Therefore, there is a more stringent process and there are specific fees assigned to it. They specifically look at public health and safety. Commissioner Erquiaga said that the cultivation facility and that type of business could be under a Special Use Permit. Deputy DA Shawcroft said that would be his recommendation so they cannot just come in and ask for a business license. They have to get a Special Use Permit. Commissioner Erquiaga said he wishes they could just do nothing and the problem would go away. We are going to have it in one form or another. If you say the city does not have a dispensary and the county does not want one either, then everybody can have six plants and to him, that is worse. They can also go to a neighboring town that has a dispensary and, at the risk of sounding like money is the important thing, we lose that tax dollar. He really hates the thought of anybody being able to have six plants in their house. He would prefer to have it in a commercial growth facility that we can regulate and zone than to have it so 2 adults can have 12 plants in their house. He is not sure that they know enough to make a decision today. He does agree with everything the Sheriff said. Edibles scare him. He remembers a presentation he went to where a lot of people from his generation end up in the emergency room because it is not the marijuana that they smoked in college. They taste a cookie and it does not do anything so they eat the whole thing and end up in the emergency room thinking they are having a heart attack. Again, it was a bad idea but we are stuck with it.

Commissioner Scharmann said we are all given our opinions, bad law and then we have to deal with it. He feels there is no socially redeeming value to marijuana. He watched his dad die of cancer and the marijuana he smoked did not do him any good at all. It made him sick after smoking tobacco for 50 years. He is sure it helps others though. No matter what we do, the use of marijuana for our youth will increase, our car accidents will increase, and he doubts if we will receive any benefit from the taxes. Colorado schools have not seen any benefit from the taxes. If we allow one dispensary or one location to cultivate, we are taking the risk of what has happened in Oregon and that is multiple locations. He lives right by someone who has underground water rights and he is thinking about that real carefully. He believes marijuana is a stair step drug to others, so what can we do? We can sit here and say, 'well, we really cannot do anything except regulate it," which we can do. We can do something and he is prepared to vote on something like this and that is the county can still authorize to prohibit any dispensaries or cultivation facility in the county with zoning laws. We can stop it. If we did stop it in Churchill County and decide to take a stand on this, all these counties around us are watching what we are doing and wondering what Churchill is going to do and, if we give into this, they will too. We will be really sorry if we give in. He personally today would vote to zone our county so that we do not allow any dispensaries or cultivation facilities in the entire county. That stops it. The state can yell at us, maybe they will fine us in some way or figure some other way to hurt us, but it is not worth compromising our values in order to do this.

Chairman Olsen does not think the Governor's office is going to do anything along those lines. The Governor openly lobbied against it and that was reiterated by his Chief of Staff. They are taking ahold of the issue. They did not want this but they have to do something with it so they are getting ready to work through the regulations. If he had to vote today, he would be with Commissioner Scharmann. There is not much to be redeemed from this at all. People that want to do this, in his opinion, just want to get high and the medical thing is a ruse for the most part. There are a handful of people it has helped and he knows that from some folks first hand that it does help some. If it was that good medically, we could buy it at Walgreens or CVS and not at some special place. He agrees that this whole thing is a bad idea. Based on the information we have today, he would rather push the idea that DA Shawcroft brought up about pursuing what we know is bad. We know we do not want open containers in the cars and we want to keep the edibles away from kids and do everything we can. We do not want advertisements covering our roads or anywhere else. Let's pursue those things to make clear what our intent is to protect the community. Commissioner Scharmann said he would liken Deputy DA Shawcroft to look at the possibility of zoning Churchill County out of this thing so that we can bring that back and look at this again. Deputy DA Shawcroft said he has already looked at that aspect of it and feels it is similar to medical marijuana in the language of the bill where we are on sound legal footing to zone it out if that is the board's decision. Perhaps, in a month, we will know more of what the city is going to do. They have not done anything yet. If a dispensary is going to go in the city, that takes care of that 25 mile issue on personal cultivation. His inclination at this point, is that he has heard the boards concerns and will research some of these issues. Potentially there will be some ordinances that we will want to pass because they are not being addressed soon enough by the state. We will start working on that. In the meantime, we will come back, perhaps in a month or more when we know what the city is going to do for sure. Then we can get clearer directions from the board on what to do with the zoning. Commissioner Scharmann said the concerns that Sheriff Trotter and Chairman Olsen have mentioned do not preclude looking at zoning it out because we are still going to need open container laws because people are still going to be able to legally smoke it. Deputy DA Shawcroft said we will still need some ordinances in place. We do not necessarily need a motion or any action from the board today. He is happy to do some more work and then come back. Commissioner Erquiaga said he does not disagree with Commissioner Scharmann at all. If we could zone it out, there would be no marijuana facility, no grow or distribution, and no store or six plants. We cannot regulate the six plants. Chairman Olsen said they were very clever the way they did that and if we have had enough discussion on that issue, he wants to move on.

Andrea Zeller, with the Churchill County Coalition, said they have spent the last two and a half years visiting the states that have recreational marijuana; Washington, Oregon, Alaska, and Colorado. Their biggest concern about cultivation is what happens once the door is opened and we have the illegal grows. You can do Special Use Permits but, as Oregon saw, as soon as the doors were open, there were illegal grows everywhere. Not only was it the underground water, they were openly growing plants with their irrigation water as well. It had a huge impact on law enforcement and the funds of the county to go out and enforce that.

Mary Beth Chamberlain, with the Churchill County Coalition, said in regards to the six plants for personal use, instead of a cultivation facility she thinks we really need to look at the rates of crime. With these cultivation facilities, marijuana monies cannot be put in the banks because they are federal banks. They will not accept marijuana monies. Crime happens because people are aware of this so, in the communities where these establishments are, there is a lot of crime because people are aware that there is money on hand. We are going to be looking at a lot more crime, violent crimes, and the weight of that is going to be on the board. It will be on law enforcement. When you look at how many people will be growing six plants, these are things you need to look at. What percentage of the population really is doing that? What is it going to cost to lessen that over taking care of the costs of the cultivation or the dispensaries? (-1.32.30 that does not make sense)

Andrea Zeller said there are many home invasions. The rate increases, your grows and dispensaries and your stores have a high rate of break-ins and violent crimes occur such as people breaking into homes and businesses and stealing money because they cannot put their money in the banks and being run off the road. Then there is the law enforcement issue. That comes down to the county to have to police that, along with all the other things that go with that.

Commissioner Erquiaga says he believes everything that she says but he has read how Mexican cartels come in and those things but why will that change? Why will there be all these illegal grows here if we allow one grower? How can they come in then when they cannot come now? Mary Beth Chamberlain said how have they done that in Oregon and Washington? Commissioner Erquiaga said that Oregon and Washington have a lot more vegetation to hide grows, so why wouldn't they come now? Mary Beth Chamberlain said she thinks the gate has not really been opened yet here. Now it has because it is legal now. Andrea Zeller said some of our counties are seeing the illegal grows already and she knows that because of the ranchers. It is happening. It may not be happening in Churchill County because we are mostly irrigation, but it is happening. Mary Beth Chamberlain said that in Oregon, Washington, and Colorado, communities that would not let any dispensaries or marijuana establishments in within the city and suburbs caused it to move to the rural areas.

1:50 p.m. Consideration and possible action re: Presentation on the Comprehensive Annual Financial Report for the Year Ended June 30, 2016, *Alan Kalt, Chief Financial Officer, and Kristin Chinvarasopak, Engagement Partner with Eide Bailly.*

Chief Financial Officer Kalt was present with Kristin Chinvarasopak, Engagement Partner with Eide Bailly, for this presentation. CFO Kalt reported that the Comprehensive Annual Financial Report (CAFR) was delivered to Audit Committee on December 14th. The Audit Committee accepted and approved the audit report to be presented to the Board of County Commissioners. He had a PowerPoint presentation on the Comprehensive Annual Financial Report for the fiscal year ended June 30, 2016. The CAFR will be submitted to the Government Finance Officers Association for consideration in the Certificate of Excellence Program for financial reporting. The county has earned this award over the past eleven years.
Kristin Chinvarasopak said they issue 3 reports in connection with the audit. The first is the basic financial statement on pages 15-17. What that tells you is their opinion of whether or not the county's financial statements are fairly presented with Generally Accepted Accounting

NOTICE OF FILING OF PROPOSED ORDINANCE AND NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that proposed Bill No. 2017-C, Ordinance 113, was filed with the County Clerk for public examination on September 20, 2017, with a public hearing scheduled for October 18, 2017 at 1:30 p.m. and is entitled as follows:

TITLE: AN ORDINANCE AMENDING CHURCHILL COUNTY CODE TO PROHIBIT ALL MARIJUANA ESTABLISHMENTS IN CHURCHILL COUNTY AND OTHER MATTERS PROPERLY RELATED THERETO.

SUMMARY: This ordinance is being brought forward due to the passage of State Question No. 2: Initiative to Regulate and Tax Marijuana (Marijuana Act) which became effective on January 1, 2017. In 2014, Churchill County passed Bill 2014-D, Ordinance 113 which prohibited medical marijuana establishments as a type of land use in all of the zoning districts within the county. This ordinance will further prohibit recreational marijuana establishments as a land use in all zoning districts within Churchill County.

The public hearing will be held in the Churchill County Commission Chambers, 155 N. Taylor St., Fallon, Nevada, for discussion and action on the above noted proposed Bill 2017-C. Copies of the proposed ordinance are available at the County Clerk's Office, 155 No. Taylor St., Suite 110, Fallon, Nevada, for inspection by all interested parties.

KELLY G. HELTON
CLERK OF THE BOARD

Publish: October 6, 2017 **Ad #0000122587**

#110.97

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KELLY G. HELTON
CLERK OF THE BOARD

Publish: October 6, 2017 **Ad #0000122587**

Legal Ad Order Sheet

Date: 9/20/17
To: Jody Mudgett, Legal Clerk
Phone: 775 881-1201
1-877-999-9701 Ext. 201
Virginia Marsh. Legal Assistant
Phone: 775 882-2111 ext. 303
Fax: 775 887-2408
E-mail: legals@sierranevadamedia.com
IMPORTANT LEGAL ADVERTISEMENT Legal Ad for Bill 2017-C Ordinance 113
Please insert the attached Legal advertisement in LAHONTAN VALLEY NEWS
Please start the ad on (Date) Sept. 22, 2017
And run for __1__ time on Sept. 22, 2017
Special instructions: Post for Sept. 22, 2017
YES.... I AM SENDING THE AD VIA E-MAIL.
YES. Please EMAIL my proof to me prior to publication
[redacted]
Account Number: 1058302
Company Name: Churchill County Commissioners Office
Phone (775) 423-4092 FAX: (775) 423-7069
E-Mail Address: pammoore@churchillcounty.org and rpaholke@churchillcounty.org

Churchill County
Agenda Report

Date Submitted: September 8, 2017

Agenda Item #: Appointments - 1:35 PM

Meeting Date Requested: September 20, 2017

To: Board of County Commissioners

From: Benjamin Shawcroft, *District Attorney's Office*

Subject Title: **First Reading** - Consideration and possible action re: Bill 2017-C, Ordinance 113, an ordinance amending Churchill County Code to prohibit all marijuana establishments in Churchill County and other matters properly related thereto.

Type of Action Requested: Set Public Hearing

Does this action require a Business Impact Statement? No

Recommend Board Action: motion to set this matter for a public hearing on October 5, 2017 and direct the clerk to publish notice of the meeting as required by law.

Discussion: This ordinance is being brought forward due to the passage of State Question No. 2: Initiative to Regulate and Tax Marijuana (Marijuana Act), which became effective on January 1, 2017. In 2014, Churchill County passed Bill 2014-D, Ordinance 113, which prohibited medical marijuana establishments as a type of land use in all of the zoning districts within the county. This ordinance will further prohibit recreational marijuana establishments as a land use in all zoning districts within Churchill County.

At a meeting of the board held on December 21, 2016, this issue was raised prompting discussion as to whether the county should allow recreational marijuana establishments in the unincorporated areas of Churchill County. A copy of those Minutes are provided with the Agenda Report. It appeared from comments made by the Commissioners at that meeting that a preference was to zone out recreational marijuana establishments (including cultivation and dispensaries) completely. The ordinance presented today does exactly that. Also provided is a memorandum prepared by the District Attorney's Office and the Planning Department, which provides an overview of the statutes related to this topic, a summary of what other counties and cities are doing, and an analysis of relevant sections of the Churchill County Code and Master Plan.

Alternatives: Make changes to the proposed ordinance or table until future meeting.

Fiscal Impact: No fiscal impact.

Churchill County
Agenda Report

Alternatives: Make changes to the proposed ordinance or table the matter until a future meeting.

Fiscal Impact: No fiscal impact.

Explanation of Impact: There will be no direct fiscal impact to the county by adopting this ordinance. However, the county will forego the ability to collect taxes and fees related to these types of businesses.

Funding Source: N/A

Prepared By: Pamela Moore, Deputy Clerk to the Board

Reviewed By:

Eleanor Lockwood

Eleanor Lockwood, County Manager — Date: September 27, 2017

Benjamin Shawcroft, Chief Deputy DA — Date: September 27, 2017

Alan Kalt, Chief Financial Officer — Date: October 03, 2017

Board Action Taken:

Motion: ______ **1)** None **Aye:** 0

2) None **Nay:** 0

Renee Paholke

(Vote Recorded By)

The submission of this agenda report by county officials is not intended, necessarily, to reflect agreement as to a particular course of action to be taken by the board; rather, the submission hereof is intended, merely, to signify completion of all appropriate review processes in readiness of the matter for consideration and action by the board.

Bill 2014-C
Ordinance 113

TITLE: AN ORDINANCE AMENDING CHURCHILL COUNTY CODE TO PROHIBIT ALL MARIJUANA ESTABLISHMENTS IN CHURCHILL COUNTY AND OTHER MATTERS PROPERLY RELATED THERETO.

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WHEREAS, the voters of the State of Nevada at its 2016 general election approved State Question No. 2: Initiative to Regulate and Tax Marijuana which became effective on January 1, 2017. The initiative has been codified in Nevada Revised Statutes, Chapter 453D and referred to as the Regulation and Taxation of Marijuana Act (hereafter the "Marijuana Act"); and

WHEREAS, the Marijuana Act allows: 1) a person over the age of 21 to possess, use, consume, or purchase one ounce or less of marijuana or one-eighth of an ounce or less of concentrated marijuana, 2) a person to cultivate no more than six marijuana plants for personal use with no more than twelve plants cultivated at a single residence, and 3) the regulation and licensing of recreational marijuana by the State Department of Taxation; and

WHEREAS, marijuana establishments (MEs) are defined by the Marijuana Act as cultivation facilities, testing facilities, manufacturing facilities, distributors or retail stores. The Marijuana Act allows for potentially two MEs within Churchill County as the population is less than 55,000; and

WHEREAS, the Marijuana Act recognizes and requires that MEs must comply with all local ordinances and rules pertaining to zoning and land use; and

WHEREAS, planning and zoning is a matter subject to local regulation as a matter of local concern as significant local interests may differ from one locality to another; and

WHEREAS, the Nevada Legislature empowered the Churchill County Board of Commissioners, the governing body of Churchill County, the authority to regulate and restrict planning, zoning, development, redevelopment, the improvement of land, and to control the location of structures for the purpose of promoting health, safety, morals, or the general welfare of the community as set forth in NRS Chapter 278 and NRS Chapter 244 as allowed by the Nevada Constitution; and

WHEREAS, the Nevada Legislature also delegated to the Churchill County Board of Commissioners the ability to regulate and restrict the use of buildings, structures or land within zoning districts established by the governing body as specifically set forth in NRS Chapter 278 and Chapter 244 as allowed by the Nevada Constitution; and

WHEREAS, the Churchill County Board of County Commissioners may make and enforce within its boundaries all local, police, sanitary, zoning and other ordinances and regulations not in conflict with the general laws as set forth in the Nevada Revised Statutes and Nevada Constitution; and

WHEREAS, preemption of the Churchill County Board of County Commissioners' authority to regulate zoning and land use is not implied by the explicit language of the Marijuana Act, including but not limited to the language in NRS 453D.100 and 453D.210, which does not prohibit the County from adopting and enforcing local marijuana control measures pertaining to zoning and land use for MEs; and

WHEREAS, the ability to restrict uses through zoning regulations includes the ability to prohibit uses as long as state law and local zoning regulations are not in conflict; and

WHEREAS, there is legal uncertainty between Federal laws and Nevada laws regarding marijuana use and marijuana establishments. The United States Supreme Court has held that the Federal Controlled Substances Act validly prohibits local cultivation and use of marijuana under all circumstances (*Gonzalez v. Raich*, 125 S.Ct. 2195 (2005)) and the Federal Controlled Substances Act prohibits marijuana use, distribution and possession and that no necessity exception exists to these prohibitions (*United States v. Oakland Cannabis Buyer's Cooperative*, 121 S. Ct. 1711 (2001)); and

WHEREAS, Churchill County is a large rural community with limited resources and a long tradition of applying strict zoning and land use standards to protect the unique qualities and communities in Churchill County and in some cases has banned certain types of land uses; and

WHEREAS, the Churchill County Board of Commissioners recognizes: 1) the 2016 voters of Churchill County voted against the passage of the Marijuana Act, 2) its 2014 ordinance prohibited medical marijuana establishments, 3) comments received by the public and community organizations advocating in favor of the passage of this Bill; 4) the conflict between Federal law and Nevada law; 5) the advice received by the District Attorney's Office and the Sheriff's Office advocating the passage of this Bill; and 6) its evaluation of the potential impacts of recreational marijuana establishments on the health, safety, morals, and the general welfare of the community at large, including the potential for increased criminal activity and secondary use and harm to juveniles; and

WHEREAS, the Churchill County Board of Commissioners recognizes the rights of qualifying individuals to possess and use marijuana in compliance with the Marijuana Act; and

WHEREAS, the Churchill County Board of Commissioners has found it to be in the best interests of the County to amend Churchill County Code to adopt zoning regulations prohibiting marijuana establishment uses as contemplated in the Marijuana Act in all zoning districts within Churchill County for the purpose of promoting the health, safety, morals, and general welfare of the community as authorized by NRS Chapter 278 and NRS Chapter 244 and as allowed by the Nevada Constitution.

NOW THEREFORE, based on the above considerations:

THE BOARD OF COUNTY COMMISSIONERS hereby ordain that:

CHURCHILLL COUNTY CODE, subsections 16.08.140E, 16.08.150E, 16.08.160E, 16.08.170E, 16.08.180E, 16.08.190E, 16.08.200E, 16.08.210E, 16.08.220E are amended by changing the following:

~~Medical~~ Marijuana Establishments.

Section 16.08.250 Use Table For Residential Zoning Districts is hereby amended by changing the following:

~~Medical~~ Marijuana Establishments					

Section 16.08.260 Use Table For Nonresidential Zoning Districts is hereby amended by changing the following:

~~Medical~~ Marijuana Establishments					

Section 16.24.010 Definitions Generally is amended by changing the following definition:

~~MEDICAL~~ MARIJUANA ESTABLISHMENTS: ~~An~~ Means a medical marijuana establishment as defined in NRS 453A.116 ~~and as may be amended~~, a marijuana establishment as defined in NRS 453D.030(11), or any commercial establishment where a member of the public is invited, or permitted to be, and the use of marijuana is permitted.

This ordinance shall be effective on the ____ day of ______________, 2017

PROPOSED AND ADOPTED this ________ day of _________________, 2017.

THOSE VOTING AYE: ____________________________

____

____

THOSE VOTING NAY: ____________________________

____

____

APPROVED: ____________________________
Chair, Board of County
Commissioners

ATTEST:

____
Clerk of the Board

MEMO
TO: County Commissioners
RE: Ordinance Prohibiting Recreational Marijuana in Churchill County
PREPARED BY: Benjamin Shawcroft, Chief Deputy District Attorney – Civil
Dean Patterson, County Associate Planner

The purpose of the memo is to provide a summary of the laws and regulations pertaining to recreational marijuana to assist the Board in its decision making. This will include pertinent bills that were passed during the 2017 legislative session and a review of the elements required to be considered for the adoption of amendments to the county's zoning ordinance.

A. Background – State Question

In the 2016 general election, the voters of Nevada voted to approve the passage of Question 2, which legalized the use, sale, and cultivation of recreational marijuana. The voters of Churchill County voted 59.86% against Question 2 while 40.14% voted in favor. The law went into effect on January 1, 2017 and is codified in the NRS as Chapter 453D.

B. Highlights of the Law

Licensing

No businesses will be able to sell or cultivate marijuana for recreational purposes unless they first obtain a license from the State of Nevada. The State began issuing licenses under temporary regulations earlier this year. Permanent regulations must be completed by 2018. For the first 18 months, the State will only be issuing licenses to businesses that already have a license to dispense medical marijuana.

Personal Possession or Cultivation

Under the law, persons 21 years old or older may:

- possess 1 oz. or less of marijuana
- possess 6 plants for personal use provided that cultivation takes place in enclosed area and is secured
- possess no more than 12 plants at a single residence at one time (2 people can each personally possess 6 plants). If a dispensary is within 25 miles of your residence, you cannot grow any marijuana (some exceptions for medical marijuana)

- give without remuneration 1 oz. or less of marijuana to another person provided that the transaction is not advertised or promoted to the public

Dispensaries

- Must have secure entrances so that only persons 21 years or older can enter
- Must secure the marijuana to prevent theft
- Cannot employ persons who have been convicted of a listed felony or who is less than 21 years of age
- Only 2 licenses will be given for a dispensary in counties with less than 55,000 people.

Cultivation Facilities

- Must take place at an address approved by the state
- Must be in an area that is enclosed and locked in a manner that restricts access to authorized individuals
- Must be covered unless it is enclosed with security fencing that is at least 8 feet high
- Cannot be visible from a public place by normal unaided vision
- License will only be issued to a current holder of a medical marijuana facility for the first 18 months.

Zoning

Under NRS 453D.100, local governments are authorized to adopt and enforce local marijuana control measures pertaining to zoning and land use for marijuana establishments. When applying for a license from the state, applicants are required to show proof that they are in compliance with local zoning laws under NR 453D.210. Thus, if Churchill County wishes to adopt zoning measures which prohibit marijuana establishments, it may do so under these provisions.

Conflicts with Federal Law

Part of the county's basis for prohibiting medical marijuana facilities in 2014 was the fact that medical marijuana was prohibited by federal law. The same is true now with recreational marijuana. Recently the US Attorney for Nevada, Dan Bodgen, issued a letter regarding a marijuana manufacturing operation on the Moapa Indian Reservation in Nevada and stated "Marijuana remains illegal under federal law." The United States Supreme Court has held that the Federal Controlled Substances Act validly prohibits local cultivation, and use of marijuana under all circumstances (*Gonzalez v. Raich, 125 S.Ct. 2195(2005))* and the Federal Controlled Substances Act prohibits marijuana use, distribution and possession and that no medical necessity exception exists to these prohibitions *(United States v. Oakland Cannabis Buyer's Cooperative, 121 S.Ct. 1711(2001)).* Furthermore, we have received information from TCID indicating that federal water distribution systems will not be permitted to be used for irrigating marijuana.

C. Bills Passed During 2017 Session

SB 344 (Advertising and Packaging): Prohibits packaging of all types marijuana edibles in a manner that appeals to children (lollipops, candy, brownies, etc.). Contains several restrictions on the advertising of marijuana products.

SB 487 (Taxes):

- Cultivation Facilities: the wholesale sale of marijuana from cultivation facilities to other facilities is charged an excise tax of 15%. The revenue is distributed to the Department of Taxation and local governments to cover the costs of administering the program.
- Retail Sales: the retail sale of marijuana or related products is charged a 10% excise tax in addition to any general and local sales tax. The revenue is put into the state's rainy-day fund.
- License Taxes: counties are permitted to impose a license tax of up to 3% of the total gross revenue of marijuana establishments and a business license fee.
- Counties are prohibited from imposing by ordinance any regulations which are more restrictive than state regulations.

SB 236 (Public Consumption): This bill would have permitted public consumption of marijuana at events or in businesses which have been authorized for such use by the local government. This bill failed to pass.

SB 375 (Agreements with Tribes): This bill allows the state and Indian tribes to enter into marijuana cooperation agreements where tribes can oversee the programs on tribal lands but will have to follow state laws.

D. Other Counties and Cities

City of Fallon – Medical marijuana establishments are permitted. One dispensary is open but is only licensed to sell medical marijuana. No decision has been made by the City whether to allow recreational marijuana establishments. The existing business is the only business that can apply to the state for a license to open a recreational marijuana facility in Churchill County (includes cultivation and retail) for 18 months.

Douglas County – Passed an ordinance prohibiting all types of recreational marijuana establishments.

Carson City – The city imposed a moratorium on all types of recreational marijuana establishments.

Washoe County – Allows all types of recreational marijuana establishments.

City of Reno – Allows all types of recreational marijuana establishments.

Elko County – Prohibits all types of recreational marijuana establishments.

Nye County – Allows all types of recreational marijuana establishments.

E. Amendments to Zoning Map and County Code (Prepared by Dean Patterson, Associate Planner)

In order to make an amendment to the county's zoning map and county code the board must review and make certain findings. These are 1) That the proposed amendment is in substantial compliance with and supports the goals and policies of the master plan, 2) That the proposed amendment will provide for land uses compatible with existing adjacent land uses and will not have detrimental impacts to other properties in the vicinity, and 3) That the proposed amendment will not negatively impact existing or planned public services or facilities and will not adversely impact the public health, safety and welfare. Those elements will be analyzed below.

1. The proposed amendment is in substantial compliance with and supports the goals and policies of the master plan.

   The Master Plan is silent on the subject of marijuana; however, the marijuana law allows local governments to exercise land use control over marijuana related activities. Most policies are not applicable to the control of marijuana, or are neutral in terms of general agricultural activity. There are, however, a few chapters and policies that have applicability.

   The marijuana law allows for marijuana cultivation. The Master Plan places special emphasis on agricultural production, and protection of water and agricultural lands in Chapter 3. Normally, cultivation of crops is encouraged, and water from the Newlands Project can be obtained for such activity. However, marijuana is illegal under federal law, consequently the federal Newlands Project water distribution system will not be allowed to be used to provide water for the cultivation of marijuana crops. Policy ED 4.2 states "Any new and expanded development must comply with Truckee-Carson Irrigation District (TCID) requirements to ensure continued efficient and effective water delivery throughout the Newlands Project." Water consumed for marijuana will not be available for legal crops. Codifying the federal prohibition of marijuana is in compliance with the Master Plan.

   The Master Plan also requires protection of the community from new development.

   > GOAL LU 2: All new development must be comprehensively designed to ensure a sustainable, safe, and healthy environment that integrates into the surrounding neighborhoods.
   >
   > Policy LU 2.1: In reviewing any development proposal Churchill County shall consider issues of community character, balance, sustainability, environmental impact, safety, aesthetics and efficient service provision.

   Prohibiting businesses that traffic in illegal substances directly supports the goal and policy above, by protecting safe and healthy environments, and considering the community character.

2. The proposed amendment will provide for land uses compatible with existing adjacent land uses and will not have detrimental impacts to other properties in the vicinity.

   Medical marijuana activities are currently prohibited in the County development code. This proposed change will extend the prohibition to recreational marijuana activities. Marijuana is illegal under federal law. Prohibiting both medical and recreational marijuana land uses will prevent incompatibilities with land uses from occurring as a result of illegal marijuana activities near them. This will also prevent detrimental impacts on properties that would have been in their vicinity.

3. The proposed amendment will not negatively impact existing or planned public services or facilities and will not adversely impact the public health, safety and welfare.

   Prohibiting a land use will have no negative impacts to public services or facilities. Prohibiting illegal activities will prevent adverse impacts to health, safety and welfare of the community including avoiding the potential for increased criminal activity and secondary use and harm to juveniles.

together and find that balance. He thinks that the partnership done pretty well over the last year and he would like to continue to work together.

Commissioner Erquiaga said there is a threshold where it is cost effective for an organization to have his own staff for IT and the question is, are we there? He would not have thought we were but this amount of money does give one pause. It is just a comment; he does not expect an answer.

Chairman Olsen said in other things he has been involved in, he has seen technology costs that are shocking but you cannot live without it either. He is not saying to get rid of it but he thinks they need to get their arms around this thing and move in a deliberate manner. The costs are so high and with some of the software changes we may have to do to change over from the AS400 or decide to slowly migrate away from the AS400, we are talking big numbers. We need to plan if that is what our future looks like over the next 3 to 4 years. We had better plan those outlays. With regard to Commissioner Erquiaga's comment, he is not sure what that threshold is either. Jere said he thinks that threshold is the key. If you have worked with technology before, there is more than just the cost. You have to look at the salary of 4 or 5 people to support an organization this size, plus the cost of maintaining it. What you get with IQ is a team of 35 people that have the knowledge base to be able deal with it when somebody calls in and says they are coming out to place a new video surveillance system over at JPO Tuesday, and you need help with it, they provide that pool of resources to be able to do that and it is really that threshold. Commissioner Scharmann said we cannot avoid it, we have to deal with the technology issues and he also agrees with Chairman Olsen when he said we need to take a full look at this and evaluate it. The one thing that he sees is that we are working at a level of efficiency that we did not have before we had IQ, so he thanked them. Commissioner Erquiaga said having worked a little bit in the world of IT, he thinks we are getting a lot. We are getting 24-7 on a lot of stuff but he had no idea it cost so much.

Commissioner Erquiaga made a motion to approve the contract with IQ Technology Solutions in the amount $18,745 per month for professional services providing IT support and managed services, effective January 1, 2017 to June 30, 2018. Commissioner Scharmann seconded the motion, which carried by unanimous vote.

1:40 p.m. Consideration and possible action re: Permitting of recreational Marijuana in Churchill County, *Benjamin D. Shawcroft, Civil Deputy District Attorney.*

Civil Deputy District Attorney Ben Shawcroft reported that with the passage of question 2, which legalized the use of recreational marijuana, we are bringing this matter to the board for discussion on what this means to Churchill County. Churchill voters voted 59.86% against vs. 40.14% in favor. The law will go into effect on January 1, 2017. Below you will find some highlights about the new law, followed by a brief outline of options that are available to the board.

Licensing

No businesses will be able to sell or cultivate marijuana for recreational purposes unless they first obtain a license from the State of Nevada. The State will not issue licenses until it puts into place regulations which must be completed by 2018. However, we have learned that the State intends to put into place temporary regulations so that it can immediately start to issue licenses. For the first 18 months, the State will only be issuing licenses to businesses that already have a license to dispense medical marijuana.

Personal Possession or Cultivation

- Persons 21 years old or older may
  - possess 1 oz. or less of marijuana
  - possess 6 plants for personal use provided that cultivation takes place in enclosed area and is secured
  - possess no more than 12 plants are at a single residence at one time (2 people can each personally possess 6 plants)
  - can give without remuneration 1 oz. or less of marijuana to another person provided that the transaction is not advertised or promoted to the public

Dispensaries

- Must have secure entrances so that only persons 21 years or older can enter
- Must secure the marijuana to prevent theft
- Cannot employ persons who have been convicted of a listed felony or who is less than 21 years of age
- Only 2 licenses will be given for a dispensary in county's with less than 55,000 people.

Cultivation Facilities

- Must take place at an address approved by the State
- Must be in an area that is enclosed and locked in a manner that restricts access to authorized individuals
- Must be covered unless it is enclosed with security fencing that is at least 8 feet high
- Cannot be visible from a public place by normal unaided vision

How will retail marijuana be taxed?

Cultivation facilities will be required to pay a 15 percent excise tax on the wholesale sale of recreational marijuana. Retail purchases of retail marijuana will be subject to state and local sales tax. Retailers will collect sales tax from consumers and remit it to the state.

Options for Discussion:

Option 1: The Board decides it <u>does not want to allow</u> dispensaries or cultivation facilities in the county. It is the opinion of the District Attorney's Office that the county still has the authority to prohibit any dispensaries or cultivation facilities in the county through its zoning power. If this happens then persons will still be allowed to grow up to 6 marijuana plants on their property for personal use if there isn't a dispensary within 25 miles of their property. If a dispensary is located with the City of Fallon then anyone within a 25 mile radius will not be able to grow marijuana. If the Board wishes to prohibit these businesses, an ordinance will need to be put in place making it so.

Option 2: The Board passes a <u>moratorium</u> on prohibiting the issuance of any business license for a dispensary or cultivation facility. This is a temporary measure which will prohibit this type of business from operation in the county until such time that the Board makes a final decision on whether to allow or prohibit these types of businesses.

Option 3: The Board decides to <u>allow dispensaries and cultivation facilities</u> in the County. If this is the Board's position then staff will develop zoning regulations for these types of businesses. A discussion will need to be had regarding potential zones that will be compatible with cultivation facilities or retail facilities.

Chairman Olsen asked if there was any public comment. Sheriff Ben Trotter said this new recreational marijuana law, as it is written, creates more questions that it provides answers. Specifically, from a law enforcement prospective, most of these will not be answered until the state comes up with some regulatory mechanisms for this new market, so he is not getting into the questions. It would be easy to rail against it but the votes have already been cast so he is just going to make a couple comments on actions that he, as the Chief Public Safety Officer in our community, believes we can attempt to safeguard our community a little more. He would support zoning out dispensaries and grow operations in Churchill County. It is confirmed that the City of Fallon will have a dispensary across from CVS Pharmacy. It has been approved by the City Council. Because of the 25 mile radius, it does limit those who can grow personal plants. The dispensary would provide the necessary access to marijuana and marijuana products for all Churchill County residents except Middlegate and Cold Springs, or the castle on the other side of Fernley. These people represent about 21% of our population, based on the 2014 census. Those who do live outside the 25 mile radius would still have the right to grow their own personal use plants. They are state granted rights but it is still a violation of federal law.

He also supports adopting an ordinance similar to the open container law that the county currently has which prevents open containers of alcohol in a motor vehicle. He suggests consideration or possibly adopting an open marijuana container law. This may reduce, to some degree, the opportunity for driving under the influence of marijuana. It certainly would give us some sort of aspect of enforcement to that end, which at this time, is based on what is written in a law that we do not have. A couple of other things he thinks the board should also consider is a ban on or regulation of edibles and allowable advertisements, such as billboards and posters for marijuana products and services. He believes the edibles and extracts of marijuana pose the single most significant risk to our children when they are not in a motor vehicle. Imagine trick or treating with the way they package the edibles. It could be potentially challenging to decipher between a pack of M & M's and a pack of whatever they name those. He also suggests, as far as the advertisements go, to require plain lettering and coloring, not an advertisement that will attract children or otherwise could be seen as catering towards children. The county may also have the ability to limit the size and quantity of these advertisements in Churchill County. These are just a few considerations. There are so many questions that it is hard to make an educated presentation on this at this time. These are just things that he thought of and thinks the board should consider.

Commissioner Erquiaga asked if we can ban edibles and Civil Deputy District Attorney Ben Shawcroft said that they do not have an answer to that yet, but they are definitely looking to it. Potentially, unless the state issues specific laws related to those things, to make it where it is a state question instead of a local question.

Chairman Olsen said that he thinks a lot of the points the Sheriff has brought up have a question of timing around it given that starting January 1 it will be legal to grow at least for a while in the county and legal to possess one ounce. An enactment of any ordinance the legislation the county might do will create a lot of conflicts. This is why he wanted talk about it now because they are rushing headlong into what could be a lot of problems and we need some guidance as to what to do for our community. He asked the Deputy DA if we could go ahead and put some ordinances in to give the Sheriff some of the tools in his toolbox that he has asked for here to begin that process now and adjust to whatever the state decides later if they do. Deputy DA Shawcroft said the Sheriff mentioned an open container law which is not addressed in the existing law. The Legislature is going to be in session and we expect them to codify this into the Nevada Revised Statutes because, right now, it is just in petition form so, when they do that they typically look at what other areas of statutes will be impacted by this, such as law enforcement, DUI's, open containers, advertisements, and edibles, all of these different things.

Timing is a challenging question because we do not know if they are going to address all of those things and if they do, when. Some of the things like open container can be addressed in the county code. With advertising, we could probably say we have more local jurisdiction. Regulations relating to edibles will probably be addressed more at the state level, so we may want to wait on that issue. We could look at some of the other issues and be more proactive instead of waiting for the state to do something. We will not have a dispensary open January 1st so adults will be able to start growing on January 1st. We cannot criminalize that or do anything about that, unfortunately. If the dispensary does open in the city then we will be able to do something about the personal use.

Chairman Olsen asked if there were any public comments. Mary Beth Chamberlain, with the Churchill Coalition, said she is concerned about adults letting marijuana and marijuana products get into the hands of youth. Deputy DA Shawcroft said there is punishment for someone who provides it to someone who is under the age of 21 by selling or giving it to them, that is against the law. From a prosecution standpoint, he has a real problem with the penalties they put in the petition because they are very minor; it is cheaper than a traffic ticket. If you do it more than once, then the penalty goes up, but it is very minimal. Commissioner Scharmann asked if he meant if it was very minimal passing it to children. Deputy DA Shawcroft said selling would be a little different, but if they are allowed to have access to it in their home or a friend's house or something like that, it is very minimal. Mary Beth Chamberlain said her understanding is that if we do not create laws that uphold their outlines, they will step in. This is under the Cole memo. Basically, you are saying it is a very minimal charge. Deputy DA Shawcroft said it depends on what the offense is. Mary Beth Chamberlain asked if we have to stay in compliance with the federal law on that according to the Cole memo. Deputy DA Shawcroft said we are not enforcing the federal law because use of marijuana is still a felony, but it will not be under state law. The prosecutor's office is not charged with enforcing federal law. That is up to the U.S. Attorney's Office. We only enforce state law, so we will not be charging people with a felony if they are using marijuana. It is not that we do not want to. Mary Beth Chamberlain said she was looking over the Cole memo and it said that if there are states that are not able to create a strong enough regulatory system then they will step in. Their laws will supersede. Deputy DA Shawcroft said we do not know what they are going to do, if anything.

Commissioner Scharmann said Mary Beth brings up a good point. Deputy DA Shawcroft made it clear that the DA is not enforcing federal law, but there is a real conflict here if we start setting guidelines for the use of marijuana and it is against federal law. Deputy DA Shawcroft said it is still against federal law; there is no doubt about that. Commissioner Erquiaga said every other state that has legalized it is violating the same federal law. Deputy DA Shawcroft said, just to clarify, the law says if you give marijuana to someone under the age of 21 or leave it around with the intent that they be able to obtain it, that is a misdemeanor and, if you do the same for someone who is under the age of 18, it is a gross misdemeanor. If you leave alcohol out, it is also a misdemeanor. Chairman Olsen said he thinks there has been a lot brought up about the edibles and the attractiveness to children and the studies we saw from Colorado said there was a 165% increase to poison control centers from children.

Colby Frey said he believes, regardless of whether the county votes yes or no on the grow facility, it is still going to be a concern. It is still legal to possess. He personally does not do anything like that but other residents can go to other counties and legally bring it back here or grow it themselves, so his big concern is having potentially thousands of people growing it on their own throughout the county. There is a lot that is involved with it. He did some research recently and there are big lights that are 1000 watts each and you need several of them to grow it, which can consume a lot of power so there is a potential for fires. They put out 500 degrees each and they have to duct it and have fans blowing through them and have humidifiers and a lot of things involved that people might start trying to do on their own in their back room. It also leaves the potential for small children to break into the back room and steal it or possess it if their parents are growing it in their house or even in the back yard. He is in support of having a dispensary and possibly a grow facility so the county can help regulate the industry rather than having everybody do it on their own, as well as taking away a lot of those concerns. He heard a horror story about a house burning down next door to a legal facility in Colorado. It burned because some guy tried to hook up 3 of those lights into a little tiny cord and plugged into a wall and burned his whole house down. That is the kind of stuff he would hate to see happen in our community. He was unaware of the city allowing a dispensary until now. He does not believe they have a state license yet so he does not think it is considered a dispensary for 18 months if the city does approve it.

Joe Frey said one of his concerns is that he wants to keep the county nice and a lot of the things Sheriff Trotter said resonate with him as far as the advertising goes. There are dangers of edibles and the things of that nature. He thinks some responsible regulation would be good. According to the new state law, the best way to regulate it is to have a dispensary and to eliminate the personal grow facilities. If something were to be the solution for the problem created by the state law, he would like to see it stay local and all of us work together to see that some of the potential problems are mitigated and still economically benefit the community through sales tax income for law enforcement and education of children about the dangers of drug use. He thinks it is a problem that is already here and this may give us an avenue to find some solutions to the problem and regulate it.

Russell Wedlake said he is a certified crop advisor and he works for Colby Frey and is a distiller and wine maker. He came in case the board had questions on the cultivation part of it. Chairman Olsen said one of the things he learned from their investigation is that you cannot use the water that runs through federal conveyances for growth. He toured a medical facility in Pahrump in November but, under the recreational law, are they still required to have it inside a building? Deputy DA Shawcroft said it has to be covered unless it is enclosed with security fencing at least 8 feet high and cannot be visible from any public place. That is just for commercial facilities. Colby Frey said he also heard that you should not be able to see it from an airplane, so that made people think that is why you had to grow it inside. Commissioner Scharmann said he does not think that is true though. If you talk about open with an 8 foot fence, then you can see it from an airplane. Colby Frey said that is where the discrepancy is. Some people believe if you can see it from an airplane then it has to be enclosed.

Joe Frey said their main concern now is that there is just so much up in the air right now. They wanted to make sure there was not a decision made today to stop it right here right now and be done with it but that this discussion needs to go further and have a little more thought put into it. At the same time, some protections need to be put in place by the county. We should keep an open mind and protect the community as we go forward and not just see a moratorium put in place on dispensaries. That, in the end, could be detrimental. Chairman Olsen said with the city having a dispensary, it is potentially a non-issue. The cultivation part still has to be decided. Joe Frey asked if we would need further confirmation if the city has allowed a dispensary and is moving forward before we said the county was going to ban dispensaries. He would like confirmation that the city has indeed allowed one and, whoever it is they allocated it to, if they have a state license. It is a pretty in-depth process to get licensed through the state. Chairman Olsen said the fellow that has the medical dispensary has the first right to have the recreational dispensary and he understands the city is going to follow state law and allow the dispensary to move forward.

Colby Frey said he understands that Churchill County and Fallon did not have a medical dispensary; it was a call center where people could go order it, pay for it, show them their medical card and then it would be delivered to their house, but he is not sure if that is fact. He also understands that the state is not giving out any new licenses for medical facilities for 18 months unless someone could get around it. If that dispensary was approved by the city recently, they would have to wait the 18 months and go through the approval process. They are not automatically approved. Chairman Olsen said they are approved. The vote was 2 to 1 at the meeting as a medical facility. Colby Frey said they were approved at the city level but now they have to go through the state licensing process, correct? Chairman Olsen said he thinks they have already cleared that hurdle. He does not have any verification of that though. Deputy DA Shawcroft said they have to have a state license and that is just for the medical component. They will not be able to have a license right now for recreational purposes. He does not know what the City Council did. Perhaps they just approved the location but it will not actually be a recreational dispensary until the state issues them a license and that cannot be issued until the regulations are in place. Colby Frey said he just got a text message stating that the state license and inspection is pending. It is not approved yet, so it could still be denied and, if the county was to make a decision today and that got denied, that would basically stop them. Deputy DA Shawcroft said he heard the license was pending for moving their current facility, not for the recreational license. He said he will look into that because he does not want to speak for the city.

Commissioner Scharmann said he wants to ask Mr. Wedlake if he is most familiar with Colorado or Oregon or where. Russell Wedlake said he is a certified crop advisor for the Pacific Northwest. He does not have personal experience growing marijuana but he knows the amount of water and energy it takes, the hazards of growing it indoors, and those types of things. Commissioner Scharmann asked Deputy DA Shawcroft if the county could place a restriction on one location for cultivation because one of the things that happened in Oregon was the thought that that was going to happen opened up the door for multiple locations for cultivation in rural counties. Deputy DA Shawcroft said the state is the entity that will be issuing licenses and there is no cap in the language of the law now on how many cultivation facilities can be in each county. There is for dispensaries but not for cultivation facilities. He is leaning towards the county not being able to restrict that without looking into it a little more. He could say they are only going to issue one license but that will expose them to litigation. Commissioner Scharmann said but we do have the authority to restrict dispensaries and cultivation in the county and then, if we do that, it allows people to have 6 plants each? He understands that but can we limit cultivation on a commercial basis? Deputy DA Shawcroft said we can zone it and, by zoning it, we can decide where we think it would be appropriate for a commercial cultivation facility. That is where our regulation ends. We can zone it out so that there are not any cultivation facilities or dispensaries but it is more zoning and where it is located as opposed to if we are going to allow 1 or 2. Commissioner Scharmann said, in Oregon, when they started building locations to cultivate it, they were inundated in some of the rural counties by cultivation operations to supply the Portland and Eugene areas and a lot of the people who were near these locations were irate because of those operations being next door. So, if we allow cultivation and do it by zoning, then we have to decide what location in the county is appropriate for cultivation. Deputy DA

Shawcroft said that we could open it up to any areas that normally have agricultural uses but, most likely it would require them to get a Special Use Permit. Commissioner Scharmann said if we did that, then is that the only restriction we could have, we could not restrict the number once we allowed it and zoned it. We could not restrict the number of operations? Deputy DA Shawcroft said he cannot say definitively without looking into it more but that is where he is leaning right now.

Colby Frey said they said earlier that if it is a commercial operation then you cannot use federal water; you have to have underground commercial water rights, which will take away a lot of people's ability to grow throughout the valley. On his farm he has terrible water and no quality water rights that would facilitate something like this, so he does not think that if you did have to have underground water rights and be able to pump it from a well, he thinks that will take away most people's ability to grow. He does not think you will see it throughout the whole valley.

Joe Frey said, as far as trying to limit the number of grow facilities, could you limit the amount that the dispensary is allowed to sell in the city or county if that suited the purpose of what the city or county was trying to accomplish? Deputy DA Shawcroft said, if we put a cap on how much a dispensary could sell, it would not really impact cultivation facilities but he does not think we would be able to do that. Commissioner Erquiaga, said by looking at the law, there is licensing for a retail marijuana store, cultivation facility, and then there is licensing for a distributor. Is that like a wholesaler guy that gets it from the cultivator and then he sells it to the dispensary? Colby Frey said that is part of the law that is still not written, but the whole campaign to get this passed is to regulate marijuana like alcohol. He knows about alcohol regulations and the way the alcohol industry works is called a 3-tiered system. There is the producer, wholesaler, and then the retailer establishment. We cannot sell as a producer to the retail establishment directly; it has to go through a distributor. He assumes that is what will happen. Russell Wedlake said he thinks there is one more license, manufacturing, which actually changes it from the plant to an edible or concentrate. That is another license. Even limiting it from this county would not limit it from coming in if there was a dispensary here. Chairman Olsen said he thinks Sheriff Trotter brought up some great points and at a minimum, we should pursue an ordinance adopting an open container law for marijuana. We should pursue a ban on edibles and extracts because he thinks some of those things are dangerous for children and pursue remedies that can be done about advertisement limitations. We have a lot of hearsay with the city, which is not a black mark against them, but he is just saying there are some unknowns there, although he thinks he has it on decent authority that they are going to allow state law to take its course. That would be for there to be a recreational dispensary inside the city

. That takes the onus for us to worry about people having it in their backyard at least until June of 2017 when we are supposed to have some temporary regulations out. From the middle of winter until June of 2017, he understands the initiative allows people to do that. It also gives us an opportunity to continue to pursue what we, as a county, want to do out in the countryside as far as cultivation. Our voters spoke pretty resoundingly against wanting marijuana in the community but, even if we say no, it does not mean no. With the city potentially allowing a dispensary and the way the law is stated, it is going to be legal whether we say no or not. Some of these questions are going to be answered in time. He has learned a lot in the last 60 days, but, there is more to learn.

Commissioner Erquiaga said he thinks this was a bad idea and he is pretty sure the board feels the same way. Obviously, the people of Churchill County felt the same way, however, we are stuck with what we have and we have to deal with it. There will be sales tax collected on retail sales and he assumes CFO Kalt can answer although he thinks he already knows the answer, but, do we have a way to keep track of those taxes from those sales? Deputy DA Shawcroft said he thinks the Department of Taxation will probably have a code to keep track of the sales like they do with everything else. CFO Kalt said he believes they would have to set up a code that would say what it was. Commissioner Erquiaga asked if we could tell them that we wanted a portion of that money for children's education or things like that. CFO Kalt said we could implement a local ordinance to do that and the board could commit, as the highest governing board of our local government, those resources for specified purposes that they would designate. Commissioner Erquiaga asked if that would be true whether the revenue is in the city or county and CFO Kalt said that is correct. The way the consolidated tax, the 2 sales tax portions of supplemental city/county relief and the basic city/county relief is apportioned between the city and county and the special district in our case which is the Mosquito, Vector, and Noxious Weed Abatement District. Commissioner Erquiaga asked if the county could impose additional taxes. Deputy DA Shawcroft said he doubts if they could. They put in business license fees and application permit fees but he does not think they can add to their tax. Commissioner Erquiaga asked if they could make some of those business license fees tiered for marijuana versus some other business. County Manager Lockwood said she thinks they could call this a specialized or privileged business license, a little bit like we do with brothels. Therefore, there is a more stringent process and there are specific fees assigned to it. They specifically look at public health and safety. Commissioner Erquiaga said that the cultivation facility and that type of business could be under a Special Use Permit. Deputy DA Shawcroft said that would be his recommendation so they cannot just come in and ask for a business license. They have to get a Special Use Permit. Commissioner Erquiaga said he wishes they could just do nothing and the problem would go away. We are going to have it in one form or another. If you say the city does not have a dispensary and the county does not want one either, then everybody can have six plants and to him, that is worse. They can also go to a neighboring town that has a dispensary and, at the risk of sounding like money is the important thing, we lose that tax dollar. He really hates the thought of anybody being able to have six plants in their house. He would prefer to have it in a commercial growth facility that we can regulate and zone than to have it so 2 adults can have 12 plants in their house. He is not sure that they know enough to make a decision today. He does agree with everything the Sheriff said. Edibles scare him. He remembers a presentation he went to where a lot of people from his generation end up in the emergency room because it is not the marijuana that they smoked in college. They taste a cookie and it does not do anything so they eat the whole thing and end up in the emergency room thinking they are having a heart attack. Again, it was a bad idea but we are stuck with it.

Commissioner Scharmann said we are all given our opinions, bad law and then we have to deal with it. He feels there is no socially redeeming value to marijuana. He watched his dad die of cancer and the marijuana he smoked did not do him any good at all. It made him sick after smoking tobacco for 50 years. He is sure it helps others though. No matter what we do, the use of marijuana for our youth will increase, our car accidents will increase, and he doubts if we will receive any benefit from the taxes. Colorado schools have not seen any benefit from the taxes. If we allow one dispensary or one location to cultivate, we are taking the risk of what has happened in Oregon and that is multiple locations. He lives right by someone who has underground water rights and he is thinking about that real carefully. He believes marijuana is a stair step drug to others, so what can we do? We can sit here and say, 'well, we really cannot do anything except regulate it," which we can do. We can do something and he is prepared to vote on something like this and that is the county can still authorize to prohibit any dispensaries or cultivation facility in the county with zoning laws. We can stop it. If we did stop it in Churchill County and decide to take a stand on this, all these counties around us are watching what we are doing and wondering what Churchill is going to do and, if we give into this, they will too. We will be really sorry if we give in. He personally today would vote to zone our county so that we do not allow any dispensaries or cultivation facilities in the entire county. That stops it. The state can yell at us, maybe they will fine us in some way or figure some other way to hurt us, but it is not worth compromising our values in order to do this.

Chairman Olsen does not think the Governor's office is going to do anything along those lines. The Governor openly lobbied against it and that was reiterated by his Chief of Staff. They are taking ahold of the issue. They did not want this but they have to do something with it so they are getting ready to work through the regulations. If he had to vote today, he would be with Commissioner Scharmann. There is not much to be redeemed from this at all. People that want to do this, in his opinion, just want to get high and the medical thing is a ruse for the most part. There are a handful of people it has helped and he knows that from some folks first hand that it does help some. If it was that good medically, we could buy it at Walgreens or CVS and not at some special place. He agrees that this whole thing is a bad idea. Based on the information we have today, he would rather push the idea that DA Shawcroft brought up about pursuing what we know is bad. We know we do not want open containers in the cars and we want to keep the edibles away from kids and do everything we can. We do not want advertisements covering our roads or anywhere else. Let's pursue those things to make clear what our intent is to protect the community. Commissioner Scharmann said he would liken Deputy DA Shawcroft to look at the possibility of zoning Churchill County out of this thing so that we can bring that back and look at this again. Deputy DA Shawcroft said he has already looked at that aspect of it and feels it is similar to medical marijuana in the language of the bill where we are on sound legal footing to zone it out if that is the board's decision. Perhaps, in a month, we will know more of what the city is going to do. They have not done anything yet. If a dispensary is going to go in the city, that takes care of that 25 mile issue on personal cultivation. His inclination at this point, is that he has heard the boards concerns and will research some of these issues. Potentially there will be some ordinances that we will want to pass because they are not being addressed soon enough by the state. We will start working on that. In the meantime, we will come back, perhaps in a month or more when we know what the city is going to do for sure. Then we can get clearer directions from the board on what to do with the zoning. Commissioner Scharmann said the concerns that Sheriff Trotter and Chairman Olsen have mentioned do not preclude looking at zoning it out because we are still going to need open container laws because people are still going to be able to legally smoke it. Deputy DA Shawcroft said we will still need some ordinances in place. We do not necessarily need a motion or any action from the board today. He is happy to do some more work and then come back. Commissioner Erquiaga said he does not disagree with Commissioner Scharmann at all. If we could zone it out, there would be no marijuana facility, no grow or distribution, and no store or six plants. We cannot regulate the six plants. Chairman Olsen said they were very clever the way they did that and if we have had enough discussion on that issue, he wants to move on.

Andrea Zeller, with the Churchill County Coalition, said they have spent the last two and a half years visiting the states that have recreational marijuana; Washington, Oregon, Alaska, and Colorado. Their biggest concern about cultivation is what happens once the door is opened and we have the illegal grows. You can do Special Use Permits but, as Oregon saw, as soon as the doors were open, there were illegal grows everywhere. Not only was it the underground water, they were openly growing plants with their irrigation water as well. It had a huge impact on law enforcement and the funds of the county to go out and enforce that.

Mary Beth Chamberlain, with the Churchill County Coalition, said in regards to the six plants for personal use, instead of a cultivation facility she thinks we really need to look at the rates of crime. With these cultivation facilities, marijuana monies cannot be put in the banks because they are federal banks. They will not accept marijuana monies. Crime happens because people are aware of this so, in the communities where these establishments are, there is a lot of crime because people are aware that there is money on hand. We are going to be looking at a lot more crime, violent crimes, and the weight of that is going to be on the board. It will be on law enforcement. When you look at how many people will be growing six plants, these are things you need to look at. What percentage of the population really is doing that? What is it going to cost to lessen that over taking care of the costs of the cultivation or the dispensaries? (-1.32.30 that does not make sense)

Andrea Zeller said there are many home invasions. The rate increases, your grows and dispensaries and your stores have a high rate of break-ins and violent crimes occur such as people breaking into homes and businesses and stealing money because they cannot put their money in the banks and being run off the road. Then there is the law enforcement issue. That comes down to the county to have to police that, along with all the other things that go with that.

Commissioner Erquiaga says he believes everything that she says but he has read how Mexican cartels come in and those things but why will that change? Why will there be all these illegal grows here if we allow one grower? How can they come in then when they cannot come now? Mary Beth Chamberlain said how have they done that in Oregon and Washington? Commissioner Erquiaga said that Oregon and Washington have a lot more vegetation to hide grows, so why wouldn't they come now? Mary Beth Chamberlain said she thinks the gate has not really been opened yet here. Now it has because it is legal now. Andrea Zeller said some of our counties are seeing the illegal grows already and she knows that because of the ranchers. It is happening. It may not be happening in Churchill County because we are mostly irrigation, but it is happening. Mary Beth Chamberlain said that in Oregon, Washington, and Colorado, communities that would not let any dispensaries or marijuana establishments in within the city and suburbs caused it to move to the rural areas.

1:50 p.m. Consideration and possible action re: Presentation on the Comprehensive Annual Financial Report for the Year Ended June 30, 2016, *Alan Kalt, Chief Financial Officer, and Kristin Chinvarasopak, Engagement Partner with Eide Bailly.*

Chief Financial Officer Kalt was present with Kristin Chinvarasopak, Engagement Partner with Eide Bailly, for this presentation. CFO Kalt reported that the Comprehensive Annual Financial Report (CAFR) was delivered to Audit Committee on December 14th. The Audit Committee accepted and approved the audit report to be presented to the Board of County Commissioners. He had a PowerPoint presentation on the Comprehensive Annual Financial Report for the fiscal year ended June 30, 2016. The CAFR will be submitted to the Government Finance Officers Association for consideration in the Certificate of Excellence Program for financial reporting. The county has earned this award over the past eleven years.
Kristin Chinvarasopak said they issue 3 reports in connection with the audit. The first is the basic financial statement on pages 15-17. What that tells you is their opinion of whether or not the county's financial statements are fairly presented with Generally Accepted Accounting

NOTICE OF FILING OF PROPOSED ORDINANCE AND NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that proposed Bill No. 2017-C, Ordinance 113, was filed with the County Clerk for public examination on September 20, 2017, with a public hearing scheduled for October 18, 2017 at 1:30 p.m. and is entitled as follows:

TITLE: AN ORDINANCE AMENDING CHURCHILL COUNTY CODE TO PROHIBIT ALL MARIJUANA ESTABLISHMENTS IN CHURCHILL COUNTY AND OTHER MATTERS PROPERLY RELATED THERETO.

SUMMARY: This ordinance is being brought forward due to the passage of State Question No. 2: Initiative to Regulate and Tax Marijuana (Marijuana Act) which became effective on January 1, 2017. In 2014, Churchill County passed Bill 2014-D, Ordinance 113 which prohibited medical marijuana establishments as a type of land use in all of the zoning districts within the county. This ordinance will further prohibit recreational marijuana establishments as a land use in all zoning districts within Churchill County.

The public hearing will be held in the Churchill County Commission Chambers, 155 N. Taylor St., Fallon, Nevada, for discussion and action on the above noted proposed Bill 2017-C. Copies of the proposed ordinance are available at the County Clerk's Office, 155 No. Taylor St., Suite 110, Fallon, Nevada, for inspection by all interested parties.

KELLY G. HELTON
CLERK OF THE BOARD

Publish: October 6, 2017 **Ad #0000122587**

$110.97

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KELLY G. HELTON
CLERK OF THE BOARD

Publish:
LVN/FES
October 6, 2017
Account #1058302

Legal Ad Order Sheet

Date: 9/20/17

To: Jody Mudgett, Legal Clerk

Phone: 775 881-1201

1-877-999-9701 Ext. 201

Virginia Marsh. Legal Assistant

Phone: 775 882-2111 ext. 303

Fax: 775 887-2408

E-mail: legals@sierranevadamedia.com

IMPORTANT LEGAL ADVERTISEMENT Legal Ad for Bill 2017-C Ordinance 113

Please insert the attached Legal advertisement in LAHONTAN VALLEY NEWS

Please start the ad on (Date) Sept. 22, 2017

And run for __1__ time on Sept. 22, 2017

Special instructions: Post for Sept. 22, 2017

YES.... I AM SENDING THE AD VIA E-MAIL.

YES. Please EMAIL my proof to me prior to publication

Contact Name: Pamela D. Moore and Renae Paholke

Account Number: 1058302

Company Name: Churchill County Commissioners Office

Phone (775) 423-4092 FAX: (775) 423-7069

E-Mail Address: pammoore@churchillcounty.org and rpaholke@churchillcounty.org

MINUTES OF THE BOARD OF CHURCHILL COUNTY COMMISSIONERS

155 N. Taylor St., Fallon, NV 89406
September 20, 2017

Call to Order:

The regular meeting of the Board of County Commissioners was called to order at 1:15 PM on September 20, 2017.

PRESENT:	Chairman H. Peter Olsen, Jr.
	Commissioner Carl Erquiaga
	Commissioner Harry Scharmann
	County Manager Eleanor Lockwood
	Chief Financial Officer Alan Kalt
	Civil Deputy District Attorney Benjamin D. Shawcroft
	Deputy Clerk of the Board Pamela D. Moore
	Deputy Clerk Renae Paholke
ABSENT:	Clerk/Treasurer Kelly G. Helton

Pledge of Allegiance:

The Pledge of Allegiance was recited by the board and public.

Public Comment:

Chairman Olsen asked if there was any public comment but there was none.

Verification of the Posting of the Agenda:

It was verified by Renae Paholke, Deputy Clerk, that the Agenda for this meeting was posted on the 14th day of September, 2017 between the hours of 3:00 and 5:00 PM at all of the locations listed on the Agenda, in accordance with NRS 241.

Consideration and possible action re: Review and adoption of Agenda as submitted or revised:

Deputy Clerk of the Board Pamela Moore reported that there was a typo on the item scheduled for 1:30 PM in the title of the ordinance, which should read Bill 2017-C, Ordinance 113, so the Agenda needs to be revised accordingly.

Commissioner Carl Erquiaga made a motion to approve the Agenda as revised. Commissioner Harry Scharmann seconded the motion, which carried by unanimous vote.

Appointments:

1:15 PM - Consideration and possible action re: Recognition of Churchill County employees for years of service for the 3rd Quarter of 2017

Churchill County employees being recognized for their years of service during the 3rd Quarter of 2017 are as follows:

Autumn J. Bergreen, 5 years, Juvenile Probation Office
Lisa A Rigney, 5 years, Justice Court
Carol E. Lloyd, 5 years, Library
Kenneth R. Jonte, 15 years, Road Department
John P. Rowe, 25 years, Sheriff's Office

FISCAL IMPACT: N/A
EXPLANATION OF IMPACT: N/A
FUNDING SOURCE: N/A
ACTION REQUESTED: Accept

1:16 PM - Consideration and possible action re: Update of current activities, plans, or actions related to the Bureau of Land Management's Carson City District, including a presentation on cheat grass

Ken Collum, Field Manager, Stillwater Field Office, Carson City District, Bureau of Land Management (BLM) will provide an update on current activities, plans, or action related to the BLM, including a presentation on cheat grass.

FISCAL IMPACT: N/A
EXPLANATION OF IMPACT: N/A
FUNDING SOURCE: N/A
ACTION REQUESTED: None; Informational Only

Ken Collum, Field Manager, reported on the following topics:

Landscape Projects:

The Desatoya Landscape Restoration Project implementation continues successfully in its fourth year. Partners include: UNR, NRCS, NDOW, USDA-ARS, BOR, GBBO, and Smith Creek Ranch. The BLM has secured additional funds to support UNR and the USGS in determining the success of the treatments to date.

Carson City Interagency Division of Fire and Aviation:

Fire

Heavy cheatgrass fuel loading has made for an active fire season to date. Within the Stillwater Field Office boundary, approximately 70,000 acres (Churchill County) have burned to date. The Draw, Bravo 17, and Tungsten Fires account for the bulk of the acreage.

Emergency Stabilization and Rehabilitation (ESR) Plans have been submitted for the Draw and Bravo 17 Fires. The plans focus on re-establishing sagebrush habitat, erosion prevention, damaged fence, range improvement sites, and weed abatement. Plans were developed with input from permittees, NDOW, and other impacted public/agencies. The ESR Plan for the Tungsten Fire is being developed and is focusing on slope, soil, and drainage stabilization. This is critical in the burned drainage above the Ormat Tungsten Geothermal Plant.

Geothermal
Work at Ormat's Tungsten Mountain Geothermal Development Project is progressing. A Site License for construction of a power plant has been issued. Grading of the plant site has been completed and concrete work for the plant foundations has begun. The power plant is projected to be online by this fall.

The Stillwater Field Office is compiling public, agency, and tribal comments for the Dixie Meadows Utilization Project of Ormat. Analysis of the comments will determine the next steps for the project. Concerns about the overall project, the existing wetlands, and associated habitat have been expressed.

Solar Energy
Ormat has submitted a solar energy application to supplement the Tungsten Mountain Geothermal Project.

EGP Salt Wells Solar LLC, a subsidiary of Enel Power, is proposing to co-locate a solar generation facility at their existing geothermal plant in Salt Wells located just east of Fallon in Churchill County. This application proposes a 150 acre, 19 MW facility. The right-of-way application is being processed.

Lands and Realty:

The Bureau of Reclamation has expressed interest in moving ahead with the revocation of approximately 275,000 acres to be returned to management by the BLM. The BOR and BLM are working on an Interagency Agreement.

Mining:

At present, there are 12 authorized "Notices of Intent" to conduct exploration in Churchill County. Seven new and amended notices were processed for 2017.

Grazing Management:

Edwards Creek, Carson, and Porter Canyon EA
The Edwards Creek, Carson, and Porter Canyon Allotments S&G documents are written and are currently being reviewed. The Draft EA has been written and is currently being revised by the ID team and will possibly be released for public review this summer.

Eastgate Allotment EA
Work on the EA and permit renewal process for the Eastgate Allotment will begin this field season and will include the collection of photo points, frequencies, line-point transects, PFCs, rangeland health assessments, and utilization.

Heritage Program Education and Outreach:

In coordination with the Churchill County Museum, weekend public tours and educational outreach are being conducted at Hidden Cave.

Recreation:

2017 Upcoming OHV Events
All but the Northern Mono Chamber of Commerce are currently pending a Special Recreation Permit.

- Northern Mono Chamber of Commerce 9/26-30: ATV and UTV Jamboree west and south of Walker Lake.
- Rebelle Rally 10/13-20 (Mineral County): Women's Off-Road Auto-Navigation Event.
- Road Adventures 10/13-15 (Churchill County): Poker Run, Dead Camel Mountains. Jamboree using street legal vehicles.

2017 Completed OHV Events

- 5/20 High Desert Endurance, High Desert Classic - 41 participants - 50 mile horse endurance ride.
- 5/28 VORRA Hawthorne - 11 participants - competitive UTV race on a 52 mile course.
- 7/15-16 Sierra Trail Dogs - 86 participants - dual-sport motorcycle group camp & trail drive.
- 8/12 Modesto Ridge Runners (Letter of Authorization) - poker run event with UTVs.
- 8/18-19 Best in the Desert - Vegas to Reno - OHV competitive event; bike/quad category - 57 finishers, 35 did not finish (DNF); cars and trucks category - 147 finishers with 99 DNFs.
- 9/2 VORRA Fallon - 120 participants - competitive UTV race on a 42 mile course.
- Zero One Odyssey - SRP issued by Tonopah Field Office, no operations on Stillwater

Field Office side yet but we are part of the permitted route options. OHV non-competitive tours between May and October.

Mr. Collum said he was asked to do a presentation on Cheatgrass in Nevada. UNR volunteered to come out and do the presentation with me but were unable to make it today, so I will muddle through this the best I can. I do have a little cheatgrass background from working on the fire evasive assessment team when we came up with sage grouse protections. The second slide is a little bit old so I added another insert in there. As of 2003, 11B acres or 23% of Nevada had at least 10% cheatgrass cover. Since 2003, we burned at least 1.5M+ acres, which most of that is converted to cheatgrass at this time. You can see from the table at the top that, in Nevada, monoculture means that there is nothing but cheatgrass, which we see, especially on the I-80 corridor. Going towards Winnemucca, that sagebrush habitat most likely will not come back unless we have a breakthrough of some kind. We have 9M acres with a major understory component, meaning that there is cheatgrass in the understory between the sagebrush, which also means that any disturbance in that area will convert to cheatgrass. They are out-competing the perennial natives. Our future outlooks looks like basically a potential 40M acres in Nevada to become sagebrush dominant if we continue this path.

The third slide was an overview map. One item that came out of the study he was on a couple of years ago is that this is a map of soil temperature and moisture. It was determined through a paper by chambers and a number of others that you can map out these soil moisture types throughout the west and you can see that, in Nevada, it is red, which means warm, dry soil types, which is where Wyoming Big Sage is, which also means any disturbance in that area, if you have existing cheatgrass in the understory, will convert to a monoculture cheatgrass. As you go up into the bluer colors, that is usually higher elevations and they are right now fairly resistant and resilient to cheatgrass just because of higher elevation, cooler temperatures, and the natives are quite competitive in those areas. I want to focus a bit on that temperature/moisture regime because it really does explain, probably intuitively because of higher elevations versus lower elevations, of where we do get conversion to cheatgrass when there is a disturbance.

The fourth slide was a map of what Nevada looks like right now, with the yellow representing percent cover, which is cheatgrass dominant but this is based on data from this year. This was actually taken when we were still in green-up as opposed to being in brown-up that we are in now. You can see that it is fairly pervasive throughout the west where we do have dominant cheatgrass, especially if you look up in the Snake River plain.

Back to the temperature/moisture regime, it is all fairly intuitive but you can see that, at our low warm/dry soil types, Wyoming Big Sage is the most vulnerable to cheatgrass and the most difficult to bring back when there has been a disturbance, such as fire, and you move up through our various sagebrush all the way up to Mountain Big Sage in the higher elevations, which are fairly resistant and resilient to invasive annuals, such as cheatgrass.

To take a reference look, the next slide shows, on the top side, if we have a fire and we don't have cheatgrass, you become perennial grass dominated and it slowly converts back to sagebrush. That is what is called the transition state where, if we didn't have cheatgrass, that is what we would look like. We would have fire and get perennial grasses back and, eventually, we get sagebrush back. Because we have cheatgrass in the understory in the middle section, you have sagebrush with the perennial grasses and annual invasives intermixed in the understory, if you get a disturbance like fire, you will become cheatgrass dominated after that and it takes decades to try to reintroduce natives or naturally to get the sagebrush to come back.

Commissioner Scharmann said why do you not have the spread of cheatgrass in the top but you do in the middle section? Mr. Collum said the top is an original state and past grazing practices is the dominant effect of why we have the spread of cheatgrass throughout the west. The top state is where we haven't had those issues that have actually spread cheatgrass. There are not many places left like that. Right now, they are typically higher elevations, just having cheatgrass in the understory is not that big of a deal in a lot of places but, if you get a fire through there, then the cheatgrass will out-compete the perennials coming back at that time. At the bottom, you get a monoculture because you have crossed that threshold where you get a fire coming through on the lower left and that is what we see typically on the I-80 corridor where you get a monoculture of cheatgrass. Right now, we do not have a solution on how to bring those areas back. With a fire regime, if you get a lightning bolt out there, it is going to ignite, simple as that. If you have cheatgrass like we did this year and the understory is as thick as it was, it provides ladder fuel to ignite the sagebrush where, on the top section with the perennial grasses, you don't have those ladder fuels, so fires aren't as catastrophic as they are now with cheatgrass.

With our climate, we are in a warming trend. From being a geologist, I look at the west and especially Nevada and look at 11,000 years ago with the high water mark for Paleo Lake Lahontan and Lake Bonaview and, since then, we have been in a trend of warming and drying over the last 11,000 years. Of course, what happens then is that the snow pack does not allow for as much water storage, the drought tends to favor cheatgrass over perennials because they are more drought resistant, and, basically, it is reduced because your annuals find what minimal moisture they have in the soils but perennials can't find that moisture. Of course, this year, our wet winter increased the growth of cheatgrass. Cheatgrass will come up before our natives, will come up during our natives emergent, and will come up after, so it can come up at any time within that period. The bottom line on that is that wildfires are very conducive to the spread of cheatgrass. Typically, there is a seed bank that is already in the soil and I have seen a seed bank of cheatgrass up to 5-6 inches thick. That is our dilemma because the seed bank is there and it is viable from anywhere from 2-5 years.

Where we are at with this is that we had a lot of experimentation trying to burn it annually every year. You just can't get ahead of that. When we try to burn it, after we have a fire, we try to get into that first growing season, which is normally in November because, if we can seed in that first growing season, although we are then at the mercy of the moisture year, which hasn't always worked out well for us, you have a chance of competing in these warm dry soil types. For the natives versus the cheatgrass, if we have a bad year for moisture, typically, we do not spend a lot of money after that in fire areas to try to re-seed, especially on south facing slopes in these warm dry soil types because we just don't have success. On north facing slopes, we do have success but then they tend to come back on their own too. When we talk about seed coating, it means that we replant seedlings and they actually have fertilizer around them to help re-establish themselves and get ahead of the cheatgrass and get germinated before cheatgrass. It is very expensive and it is done with limited use. UNR has come out, over the last year, with fall cattle grazing because there is more protein in cheatgrass than originally realized, so they think that there might be a lot of potential for grazing in the fall in specific cheatgrass areas. Of course, it has to be targeted grazing just because there is so much cheatgrass, so can we target and graze for fuel breaks so that maybe we can reduce the re-occurrence of fire in those areas and, also, can we also put in "targeted grazing breaks" that can protect intact sagebrush habitat that maybe doesn't have a lot of component of cheatgrass in the understory. Of course, with climate warming, cheatgrass will rise up in elevation and we are already seeing that happen. We used to have 5,000 feet as our cut-off but we are up to a little over 6,000 feet, so can we also stop the encroachment upwards by targeted grazing and breaks just to keep it out of higher elevations?

We have drone technology for mapping and it would be great if we could seed by drone, which would be a lot cheaper. BLM is not there yet but UNR is doing research into that and then they are developing new herbicides that might be able to knock down the cheatgrass. Typically, after a fire, we put herbicide down to see if we can stem the flow of cheatgrass before we seed so that we can get potentially more success. There is a lot of bacteria and fungus research going on in small patches of naturally-occurring die-offs of cheatgrass. I think the largest one is about 120 acres, which just is not enough. UNR and other cooperatives were looking into why does that work and why does fungus kill bacteria and why do certain bacteria also kill cheatgrass. That is probably not going to involve any breakthrough in the near future and, besides, what could happen if we aerial spray bacteria and fungus throughout the west? Probably nothing. We do not want to go down that route.

Another item that is being looked at is that some natives seem to out-pace cheatgrass and Apoa is one of those but it seems like Apoa from selective areas that out-compete cheatgrass that are already in warm dry soil types, so they are already competitive and they are already living the hard life on these warm dry soil types. UNR is looking into that more to see if we are just not using the right seed mixes. For a long time after a fire, we used to get our Wyoming Big Sage from Utah and we would get some of our native grass seed from Saskatchewan but we are going more towards local seed now that is better suited to where we are located and we are seeing better success with that, which means we try to collect seed ahead of time. The other item is looking back at placeholder non-natives, such as crested wheat. Crested wheat was used in the past a lot to get rid of some things and increase forage. What we are seeing throughout the west where those original stands of crested wheat are actually converting back to sagebrush now. They actually do tend to keep the cheatgrass out and they help out with that repeated cycle of fire. It is looking at an old technique for a different reason and we are seeing various successes with that.

As mentioned, we have newer herbicides. I had also mentioned creating these cheatgrass breaks or buffer zones at elevations to maybe stem the flow of it moving north if we continue to get those temperature increases annually. Fuels reduction will prevent a fire from actually getting into sagebrush that doesn't have a lot of cheatgrass in the understory because, if you do get fire and there is any cheatgrass, it will become cheatgrass in the future. We have also ramped up where we are placing our resources. This year, we will take a close look at how that worked out because it looks like we burned a lot of ground, which we did this year but we also put out a lot of fires too. We were on the fires and kept them to less than 10 acres. Those fire fighters worked hard to do that. Occasionally, some of the fires got big but many of them were put out in this cheatgrass environment. It also involves a continuing education and outreach. Hopefully, we will have a breakthrough.

To address fire, we must have fuel breaks and safe areas around the community and reduction of fuel loads near homes. This year, it also meant watching out for cheatgrass, although we normally think about fuel breaks and defensible spaces related to sagebrush, Juniper, and Pinyon. We need to consider access for emergency responders. We have our evacuation plans. We also need to ensure home construction and maintenance that will not ignite if cheatgrass catches on fire. We have actually had crown fires in cheatgrass, which is kind of hard to imagine, where the stalks are unburned but the tops are burned, even though they are only 2 feet tall. It is a different environment this year because of the growth. If we don't get a lot of snow this year, the cheatgrass will not lay down. Snow really helps out to lay that cheatgrass down so it won't carry a fire as good as it does it if is standing up.

Chairman Olsen asked if there was any public comment but there was none, so he opened it for board and staff discussion. Commissioner Scharmann said it sounds like cheatgrass spreads because it is a hardier plant and it out-competes other more desirable plants and it spreads because it is more susceptible to the drought situation than other plants. Yet, you said that there must be some nutritional value to it because some cattle eat it during certain times of the year. Mr. Collum said that is correct and, typically, we would think that our window of opportunity is right when it is emergent and is in that green stage and the seeds haven't developed. It will be grazed then by horses and livestock but it is a very narrow window. With the amount of acreage we have in cheatgrass, right now that kind of targeted grazing would be more for fuel breaks and protecting areas that maybe don't have cheatgrass as opposed to trying to eliminate it throughout the west. Commissioner Scharmann asked how sheep graze on cheatgrass and was told that sheep are actually better than cattle because you can keep them more focused and in one area and you can put them in an area where maybe there is nothing but cheatgrass. With cattle, it is hard to keep them together and keep them moving, so sheep are better. Commissioner Scharmann said it looked like, from the map, that Nevada is more than other states, so why has cheatgrass spread in Nevada? You mentioned something about grazing, so was it inappropriate grazing that took place or what has caused the spread of cheatgrass? Mr. Collum said it was, originally, before the Taylor Grazing Act. Cheatgrass came over presumably on the ships with the pioneers from southeastern Europe and western Asia, so it came over in that fashion but then, once it got into the environment, then the grazing practices pre-Taylor Grazing Act is really what spread it around. What is happening now is that these big fires we have had over these last couple of decades is where we get the big spread and, once you increase that perimeter in that footprint of cheatgrass, then you have all kinds of mechanisms that can bring it out into other areas. You can have it windblown, you can have people driving across it, you can have it stuck in boots - whatever it is, it just increases that much more to be spread around. The main spread right now has been fire. Commissioner Scharmann said not grazing, so how does grazing affect cheatgrass? Mr. Collum said he would say that, right now, it is a net neutral. It all really happened pre-Taylor Grazing Act. Commissioner Scharmann said so it is not a case of, if grazing increased in Nevada, that it would negate cheatgrass. Would it lessen cheatgrass if we allowed for more grazing? Mr. Collum said he is not sure of the answer to that just from the fact that, right now, we haven't really used grazing targeted specifically on cheatgrass in broader areas. That is a good thought but we are talking about 11-40 million acres, so I do not have an answer for that.

Commissioner Scharmann said you talked about the burns and all of the fires. Is there a process that BLM takes to replanting in these burned areas hardier plants that will choke out the cheatgrass? Mr. Collum agreed but said it is expensive. With BLM, we call it the Emergency Stabilization and Rehabilitation Plan. Let's take the Draw Fire for example where 24,000 acres were burned. We can't possibly finance re-seeding all of that, so we try to be very selective about where we do either aerial seeding, broadcast seeding, or drill seeding where you actually push the seed into the ground. On the Draw Fire, I believe we selected 3,000 acres but it is mainly where you are trying to protect sagebrush stands that didn't burn and trying to prevent cheatgrass from coming back into those areas but, if it was already cheatgrass, under our rules for that money, we cannot actually spend money to make it better than it was. That is just the way that the law reads. There are places in these warm dry soils and southern slopes where we have virtually 0% success over the last X number of decades. It is just not worth spending the money in those areas. The positive aspect is that we do have NDOW as a partner to come in and they can spend money where BLM cannot and it could be to seed some of these areas. We are working with NDOW now on the 3 fire areas we had this year to do that. Our hands are kind of tied on what we can actually do and we have to be very targeted on that. In these warm dry soil types, if we have even low north facing slopes or northeast facing slopes, we have a better chance of success at those areas, so we will focus on those areas. If we can get our natives re-established, then they have a chance of countering cheatgrass coming into those areas but, unfortunately, it is a small area.

Chief Financial Officer Kalt said, with regard to the Dixie Meadows geothermal plant, what impact will the potential listing have on that Ormat project? Mr. Collum said what that ultimately means is that, if it is listed, they will fall under the Endangered Species Act and will have to come up with a conservation plan that would have to be approved by the Fish and Wildlife Service. I don't know how long that process takes to see if they will list it or not but, right now, Ormat, the Navy, BLM, and NDOW are working together to come up with a plan. Ninety eight percent of that habitat is on Navy land, so it kind of goes back to the Navy working with Ormat and NDOW to come up with a plan to monitor and mitigate if there are going to be impacts. CFO Kalt said it could likely keep that project going forward, it will not totally cancel that project out? Mr. Collum said it would not. This item was presented for informational purposes only and no action was taken.

1:25 PM - Consideration and possible action re: Authorization to move forward with improvements to Churchill County's Jet Park on the Reno Highway, not to exceed $55,000

Julie Guerrero said, on December 1, 2016, a presentation was made to the board regarding the clean-up and revitalization efforts of the county's Jet Park property in November 2016 and recognition of the Navy, Enel Green Power North America, Colorado TBC, and Mills Farm for their contributions. The site has been prepared and is ready for installation of additional improvements, should the board decide to move forward. With the location of this property situated on the Reno Highway, every person driving into town has a visual of the site, making it ideal for Churchill County to turn that into a gateway.

Site plans for the gateway/park have been developed. The suggested improvements include signage, which will be a primary focal point, with lettering and logos: "Welcome to Churchill County" "Home of Naval Air Station Fallon" ($31,000); an informational plaque with specs for the A-7 Corsair ($3,000); a flag pole ($3,000 + cost of concrete); 1-2 park benches ($2,000); LED lighting design to illuminate the aircraft, flag, and signage ($8,200); and xeriscape landscape (donation & service project). The costs identified above are roughly $47,000, plus the cost of concrete work for the flag pole and benches, re-striping of parking spaces, and contingency to bring the project to completion.

Thousands, if not tens of thousands of dollars, have been put into this project from the labor and equipment provided by the Navy to wash the jet (a service project several participated in last year) and the donation of labor and equipment by Enel and other partners to demo the old signage, flag pole, concrete barriers, and clean-up the site. The old flag pole, which was a re-purposed street lamp, was too close to the jet and needed re-painting. This pole has been re-purposed again and taken to the county's North Maine Ball Fields, as they were in need and did not have a flag pole. In addition to the donations that have already taken place, more have been pursued. The base's contractor working on housing is able to help with donations of supplies and manpower for the rock and xeriscape design. Meetings with a representative from NV Energy have taken place and we have an application to apply for the setting of a power pole and request for the donation of a power pole. Following a newspaper article on the efforts and future potential for the site, two private donors stepped forward and are willing to contribute.

Two presentations have been made to the Fallon Rotary Club to seek support for this project to help offset some of the associated costs. Rotary's fiscal year begins July 1st and they recently notified us that they selected the Jet Park project as their 2017-18 project. Not only did they secure funds and additional matching funds, but the Rotary E-Club (an internet based Rotary Club) is also contributing, bringing Rotary's total commitment to $8,000. Rotary's funds would go toward offsetting the project costs as listed above. With a solid financial commitment from Rotary, I wanted to come before the board for authorization to move forward and a commitment to contribute to the project. There are a number of other organizations I plan to present to, as well as two organizations on base, which I have already made contact with, and I believe there will continue to be community support and donations toward this project. Securing Rotary's commitment was to demonstrate to the board the desire and willingness of this community to get involved and support revitalization of this blighted site. I will pursue additional support from organizations and private individuals to offset the cost and reduce financial resources needed by the county. Many organizations, individuals, and businesses are working together to support and make this project a reality.

Following completion on the project, a ribbon cutting event would take place to recognize and thank all the donors.

FISCAL IMPACT: $55,000 / - Although a not-to-exceed amount of $55,000 is being sought to develop this site, that total will be offset with donations/contributions by other organizations, private individuals, and businesses. There will be opportunities to sell park benches, seek sponsorship of the flag pole, and recognition of donors on the back of the sign.

EXPLANATION OF IMPACT: As much of the funds as possible will be offset through outside support and donations. Should the board decide to move forward, funds are available in the General Fund.

FUNDING SOURCE: General Fund

ACTION REQUESTED: Accept

Chris Pierce, President of the Fallon Rotary Club, said Rotary did a combined partnership with the E-Club and has already submitted the required paperwork, having received approval from the District Governor, for this joint effort with Churchill County, if approved. The Fallon Rotary is putting in $8,000 from both clubs for this project. Captain Halloran has told me that I am fine with saying that he is willing to make sure that the county is provided any number of volunteers that are needed to help with the project, within legal rights. Thank you for bringing this project to my attention. I have heard many people speak about how they would like to see that area improved and I am one of those people. Anything that the county needs from Rotary they will help.

Chairman Olsen asked if there was any public comment but there was none, so he opened it for board and staff discussion. Commissioner Scharmann said he has no questions only because he has asked them all already. I have sat and talked about this already with Julie a few times, so I am satisfied with all of the answers to my questions.

Commissioner Erquiaga said I think it would be really nice to do the work to set that park aside from its surroundings. There are a lot of people that think it belongs to that car dealership that was located there. I think this looks like a great project.

Chairman Olsen asked Chief Financial Officer Kalt to give his opinion from the financial side as to where we would pull that money from and whether we have it. CFO Kalt said there is money within the Contingency Fund within the General Fund if the board approves going forward with this project to meet the funding amount that is not being able to be raised by the other folks. If the board wants to approve it for a funding amount of not-to-exceed a certain dollar level, that would be available if the board chooses to do so. The question he had is if there is room on that site for another more modern fancy jet? Ms. Guerrero displayed the slide depicting the outline of the property and said she will answer the question with a couple of bits of food for thought for the board because it would be nice to hear feedback from the board on the future desires for that park. The site itself does appear to have space and Captain Halloran has come to her twice to ask if we want an F-18. They have 2 F-18 jets available; one has already been requested by another community and he is holding out hoping that maybe we want one. It is a big commitment to take on an aircraft. We are responsible for that aircraft, which is loaned property through the Naval Aviation Museum in Pensacola, Florida. We have to have paperwork that we submit to them on an annual basis recertifying with photographs to show that we are keeping up with the maintenance. If the loaned property is damaged, it would be the county's responsibility to repair the damage. However, being that NAS Fallon is such an awesome neighbor and is in our community, they have been a tremendous help to us in the past when we have done maintenance. They do not have to do so but they have done so. They helped us take the A-7 Corsair off of the stick and had it repainted, which was a huge undertaking. They recently brought their water bowl and truck out there and got up and washed the jet. Taking on an F-18 is possible. I can explore what the costs would be for that because we could not have it on display at ground level like the base has several of their jets displayed. We would have to have it elevated on a stick so that there is no issue with vandalism and things like that. It is a possibility and there may be some other funding potential that she could investigate and report back to the board, especially when we are talking about bringing another aircraft and almost making it into a jet park. The other option would be potentially replacing the A-7, which might not make some of the older aviators happy, and replacing it with an F-18.

Chairman Olsen said I think it would be good to continue to explore all of those options mentioned, including an additional stand-alone F-18 on display or replacing the A-7. It may be an issue of cost where we can afford to do one but not the other. Given that the F-18 is not quite obsolete but nearing the end of the life cycle with the F-35 coming on, maybe it would be appropriate to make that change anyway. That is how I feel but wondered if the other Commissioners have an opinion. Commissioner Scharmann said he wants to talk about costs when she finds that out but, other than that, I don't really have an opinion. Ms. Guerrero said I can certainly report back to the board on what that would entail to take on another aircraft. Another potential option, thinking into the future, I know that County Manager Lockwood has mentioned a couple of times how nice it would be to have a gateway near Harmon Junction for people coming into the community from that area. That has been discussed in the past for a helicopter or another jet to develop a site out that direction, as well. There are a few things to be thinking about and I will certainly explore that information and report back to the board. Chairman Olsen said I told Julie that I was at $0 and then I went to $25,000 this year and then to a "we will see". She talked to me some more and if the board wants to go to $55,000 and our CFO says the money is there, it is either we are all in or don't do it.

Chief Financial Officer Kalt asked if the total cost is $55,000 so that, if you deduct the Rotary's $8,000 and all of these other donations, it would reduce that price? Ms. Guerrero said I feel confident, although I will add that this is about a $100,000 project in reality, but some of that cost savings is coming from not hiring an architect and engineer and professional landscaper and such and just working with the Navy and other volunteers and going direct to contractors. I believe the project can be completed at a not-to-exceed amount of $55,000. Over the course of the project, there are other groups, as I mentioned with the base where the Admiral's wife is affiliated with 2 different organizations that are excited to contribute to this project so, as additional funds come in, that will help offset the county's portion. All in all, I believe we can achieve this for $55,000 or less of the county's contribution. I have things to consider, such as having NV Energy set a power pole. I have met with them twice and have an application to apply for NV Energy to do that as a donation to us and even to donate the power pole. I do not want to put them on the spot and say that they are going to do that but the conversations have been very positive in that regard. The electrical, obviously, would be necessary for the lighting, which, again, is necessary for not just aesthetics but also for safety reasons. To answer Alan's question, the maximum contribution from the county would be the $55,000 and it may be less. By the end of the project, I will report back to the board giving a rundown of all of the different organizations that contributed financially and otherwise and what the total expense of the county was. Commissioner Scharmann verified that the $55,000 is for county funds only and does not include the funding from Rotary or anyone else. Ms. Guerrero said the funds from others may help to offset, so that is why I listed it as a not-to-exceed amount. Hopefully, through some of the other contributions, I will be able to report to you that it was much less than $55,000 but I don't want to sit here and sugar coat things. We may end up having to pay for a portion of the power pole setting; we may have to pay for some of the things associated with the landscape; and that is why I am asking for a not-to-exceed amount of $55,000.

Commissioner Harry Scharmann made a motion to move forward with improvements to Churchill County's Jet Park, in an amount not-to-exceed $55,000. Commissioner Carl Erquiaga seconded the motion, which carried by unanimous vote.

1:35 PM - First Reading - Consideration and possible action re: Bill 2017-C, Ordinance 113, an ordinance amending Churchill County Code to prohibit all marijuana

establishments in Churchill County and other matters properly related thereto

This ordinance is being brought forward due to the passage of State Question No. 2: Initiative to Regulate and Tax Marijuana (Marijuana Act), which became effective on January 1, 2017. In 2014, Churchill County passed Bill 2014-D, Ordinance 113, which prohibited medical marijuana establishments as a type of land use in all of the zoning districts within the county. This ordinance will further prohibit recreational marijuana establishments as a land use in all zoning districts within Churchill County.

At a meeting of the board held on December 21, 2016, this issue was raised prompting discussion as to whether the county should allow recreational marijuana establishments in the unincorporated areas of Churchill County. A copy of those Minutes are provided with the Agenda Report. It appeared from comments made by the Commissioners at that meeting that a preference was to zone out recreational marijuana establishments (including cultivation and dispensaries) completely. The ordinance presented today does exactly that. Also provided is a memorandum prepared by the District Attorney's Office and the Planning Department, which provides an overview of the statutes related to this topic, a summary of what other counties and cities are doing, and an analysis of relevant sections of the Churchill County Code and Master Plan.

FISCAL IMPACT: No fiscal impact.

EXPLANATION OF IMPACT: There will be no direct fiscal impact to the county by adopting this ordinance. However, the county will forego the ability to collect taxes and fees related to these types of businesses.

FUNDING SOURCE: N/A

ACTION REQUESTED: Set Public Hearing

Chairman Olsen asked if there was any public comment but there was none.

Commissioner Carl Erquiaga made a motion to set this matter for a public hearing on October 5, 2017 and direct the Clerk to publish notice of the meeting as required by law. Commissioner Harry Scharmann seconded the motion, which carried by unanimous vote.

1:40 PM - Second Public Hearing - Consideration and possible action re: Bill 2017-B, Ordinance 118, an ordinance establishing a Recorder's fee to provide for legal services for abused and neglected children

The 2017 Legislature passed Senate Bill 305, which established a requirement for all children in dependency cases, pursuant to NRS 432B, to be appointed an attorney. As part of the funding of this requirement, SB 305 increased the optional fees that a recorder may charge pursuant to NRS 247.305(4) from $3 to $6. Churchill County does not currently collect any fees pursuant to NRS 247.305 but has begun appointing attorneys to all open dependency cases for the representation of abused and neglected children.

This ordinance would allow for the collection of $6 on every recorded document, except an original marriage certificate, to be maintained in an account to pay for the provision of legal fees related to abused and neglected children. The county is negotiating a contract with an attorney to provide counsel for the children on all cases, and expects fees for that contract to range from $30,000-$50,000 annually.

FISCAL IMPACT: This ordinance is projected to collect approximately $30,000 annually in revenue for the county to offset costs associated with legal services for abused and neglected children.

EXPLANATION OF IMPACT: This ordinance is projected to collect approximately $30,000 annually in revenue for the county to offset costs associated with legal services for abused and neglected children.

FUNDING SOURCE: All revenue collected will come from persons or entities recording documents through the Churchill County Recorder.

ACTION REQUESTED: Adopt

Deputy District Attorney Sanford said this matter was tabled at the meeting held on September 7, 2017 for some additional investigation of the financial impact of other bills from the 2017 Legislature. The Recorder, Treasurer, and Comptroller held a meeting after the last Commission meeting to discuss those issues and it was determined that the overall effect of the other changes was that a projected $25,000 increase in Recorder fees would be collected absent whatever action you take today. At that meeting, there was also some discussion as to who is currently paying Recorder's fees, which was determined to be approximately 40% are filings of real estate transactions, 20% are mining related, and 40% are various documents from individuals such as trusts and other recorded documents.

The only piece that the Commission has any actual power to enact is a $1 to $6 fee based on the fact that the judicial branch is now required to appoint attorneys to represent abused and neglected children beginning October 1, 2017. Later today on the Agenda, the board will consider a contract to provide those services, expected at a base cost of $33,000 and possibly a little bit more on a case-by-case basis. The projected income from a $6 fee is $30,000 from this Recorder's fee. At the last hearing, no other county had enacted this provision. At the time, Nye County was awaiting a Business Impact Statement. Since the last hearing, Clark County has adopted a $5 fee increase, Humboldt County has enacted a $6 fee increase, and Nye County is still planning on the $6 fee, although I am not sure if that has passed or not as of this time.

Chairman Olsen asked if there was any public comment but there was none, so he opened it for board and staff discussion. Commissioner Scharmann said did you say in some of the materials you provided to us something about the amounts of who would be paying the fee and that there was a conclusion of 60%? Deputy DA Sanford said 40% of the filings are real estate related and are not considered to be related to a Ma and Pa establishment and 20% are related to mining where some of those are individuals, although there are some large companies with mining claims but, largely, it is individuals. The other 40% of documents are related to people coming to the window to file a personal document, so 60% of documents are expected to be impacting on individuals instead of businesses. That is also something that was addressed and discussed in the Business Impact Statement provided at the last meeting. The businesses that do the most recording, specifically Western Nevada Title Company, was aware of this ordinance and did not believe it would have a significant impact on their business, although there would be impact on individuals. Commissioner Scharmann said because they would pass the cost along.

Commissioner Scharmann said we are in a Catch-22 because we are trying to find a source to fund this mandated requirement from the state. It is tough. I, for one, do not want to hit the individuals but I also feel that we need to find a source for these dollars, so it is a difficult decision.

Chairman Olsen said I don't like raising taxes and that is essentially what we are doing but, as I stated last time, the state, back in 2010, handed us a $450,000 bill and no money to fix it. That has been an ongoing thing. They like to hand us bills with no way to fix it. I don't think the public knows that they came out of the Legislature saying that they had balanced the budget. Sure, they did balance the budget - by handing us the bill. That is how they did it. I don't like doing this but I am in favor of the $6 fee.

Commissioner Erquiaga echoed those comments. I don't like raising fees or taxes but it is a source of revenue.

Commissioner Harry Scharmann made a motion to approve Bill 2017-B, Ordinance 118, establishing a Recorder's fee in the sum of $6.00 to provide legal services for abused and neglected children effective October 1, 2017. Commissioner Carl Erquiaga seconded the motion, which carried by unanimous vote.

1:50 PM - Consideration and possible action re: Appointment of Kaitlyn Miller Law, PLLC as an independent contractor to provide services of representing children in NRS 432B cases (DCFS) in the amount of $33,000 and for a term of one year

During the 2017 Legislative Session, Senate Bill 305 was passed requiring judges to appoint attorneys to represent children in NRS 432B cases (DCFS cases). The purpose of this Agenda item is to appoint an attorney/law firm as an independent contractor to represent these children.

Kaitlyn Miller was recommended to the county as an attorney who has experience and interest in this area of the law. The county received information that she has been appointed by the court on these types of cases in the past and comes with a good reputation as someone who is passionate about these types of cases. After receiving this information, the county reached out to Ms. Miller asking about her interest in entering into a contract and she responded positively. After negotiations, the county and Ms. Miller settled on a compensation package that will include the following:

1. The county will pay $33,000 per year divided into 12 equal installments.
2. Ms. Miller will be required to do one evidentiary hearing under the existing fee. The county will pay Ms. Miller $100 per hour for any additional evidentiary hearings.
3. Ms. Miller will be required to do 3 mediations under the existing fee. The county will pay Ms. Miller $100 per hour for any additional mediations.

For the past several years, the Public Defenders have not provided representation to the children in 432B cases but have mostly represented the adults. With the law now requiring that the children be represented by an attorney, the court would most likely be required to appoint attorneys who are not our Public Defenders. The costs for these attorneys, we believe, would go well above $33,000. The funding for this contract is coming from an ordinance being proposed today that will generate revenue through a Recorder's fee. Revenue projections from this ordinance are anticipated to be between $15,000 and $30,000. The term of this contract will be for one year so that we can re-evaluate the revenues versus the number of cases being assigned each year. Since these services are considered "Professional Services", there is no need to advertise this contract.

FISCAL IMPACT: $33,000

EXPLANATION OF IMPACT: Flat fee contract with allowances for a possible increase if certain numbers are exceeded.

FUNDING SOURCE: Recorder fees (if ordinance is passed increasing fees)
General fund (if ordinance is not passed)

ACTION REQUESTED: Accept

Chairman Olsen asked if there was any public comment but there was none, so he opened the matter for board and staff discussion. He said I was kept abreast of these developments as they came along and I think we have negotiated a reasonable situation, while only tying ourselves up for a year and then re-evaluating given that none of us know for sure how it will go. This is a reasonable approach.

Commissioner Scharmann asked if these are the abused and neglected children that we just voted to provide funding for. Deputy DA Shawcroft said that is correct.

Commissioner Carl Erquiaga made a motion to appoint Kaitlyn Miller Law as an independent contractor to provide services of representing children in NRS 432B cases (DCFS) in the amount of $33,000 and as outlined in the contract. Commissioner Harry Scharmann seconded the motion, which carried by unanimous vote.

1:55 PM - Consideration and possible action re: Appointment of Jacob Sommer as an independent contractor to provide legal services to protected persons in guardianship proceedings at a rate of $16,800 annually for up to 40 cases and for a term of one year

During the 2017 Legislative Session, Senate Bill 433 was passed requiring judges to appoint an attorney to represent protected persons and proposed protected persons in guardianship proceedings. The purpose of this Agenda item is to appoint an attorney/law firm as an independent contractor to represent these people.

The County Manager reached out to Jacob Sommer who is a local attorney and a current Public Defender, to see if he was interested in performing these services. Mr. Sommer responded positively and a contract was negotiated.

Under the terms of the proposed contract, Mr. Sommer will be paid $1,400 per month ($16,800 annually) for up to 20 cases. Mr. Sommer will be paid an additional $1,900 for each case he is appointed to above the 20 cases. Based on the numbers reported by the court for prior years, it is anticipated that the number of cases assigned will be around 20 but there is no perfect way to predict this number. The term of the contract is for 1 year, which will allow the county to re-evaluate this contract after seeing the case numbers for the year as well as revenues.

The funding source for this contract is a $3 recording fee. The recorder's office is required to implement this fee. Projected revenue from this fee is $16,000 annually. The recorder will begin collecting this fee starting October 1, 2017.

FISCAL IMPACT: $16,000

EXPLANATION OF IMPACT: Contract amount.

FUNDING SOURCE: The funding source for this contract is a $3 recording fee. The recorder's office is required to implement this fee. Projected revenue from this fee is $16,000 annually. The recorder will begin collecting this fee starting October 1, 2017.

ACTION REQUESTED: Accept

Deputy District Attorney Shawcroft said there is a typographical error in the Agenda Report where it should read up to 20 cases.

Chairman Olsen asked if there was any public comment but there was none, so the matter was opened for board and staff discussion. He said, in the case of these guardianship cases where people have assets, how does that work? Deputy DA Shawcroft said, even if they have assets, the court is still required to appoint an attorney. However, that attorney will be able to ask the court to cover his expenses through that. We will not take that number out of his 20 cases in number if he is able to acquire those but that was accounted for, which is how we arrived at the $1,900 for each additional case. Staff will be tracking that and will work closely with the judge so that, at the end of the year, we can look at how many of these cases didn't have assets that the attorney could seek reimbursement from and we will know a lot more at the end of the year.

Commissioner Harry Scharmann made a motion to appoint Jacob Sommer as an independent contractor to provide legal services to protected persons in guardianship proceedings and to authorize the Chairman to sign the contract. Commissioner Carl

Erquiaga seconded the motion, which carried by unanimous vote.

2:00 PM - Consideration and possible action re: Presentation on historical taxable sales and CTX revenues in Churchill County, Nevada

Chief Financial Officer Alan Kalt will present a PowerPoint presentation on the historical taxable sales figures in Churchill County. The presentation will provide an overview of taxable sales and the Consolidated Tax (CTX) distributions from a historical perspective, review major business codes, and the fiscal impacts to the Churchill County's local governments.

FISCAL IMPACT: N/A

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED:

Comptroller Kalt provided a PowerPoint presentation on historical taxable sales and sales taxes in Churchill County. The presentation provided an overview of sales taxes, the historical perspective on taxable sales, review of major business codes levels, and the financial impacts to Churchill County's local governments.

The sales tax rate within the State of Nevada is as follows:

Washoe	8.265%	Humboldt 6.85%
Carson	7.60%	Lander 7.10%
Churchill	7.60%	Eureka 6.85%
Lyon	7.10%	Nye 7.60%
Douglas	7.10%	Elko 7.10%
Storey	7.60%	White Pine 7.725%
Pershing	7.10%	Lincoln 7.10%
Mineral	6.85%	Clark 8.25%
Esmeralda	6.85%	

• Sales tax is applied as a percentage of taxable sales of tangible goods. Distribution of most sales tax is the same statewide but 9 counties have adopted local options.

• Churchill County Example:

State 2.00%

Local School Support 2.60%

Basic City/County Relief .50%

Supplemental City/County Relief 1.75%

Subtotal Mandatory 6.85%

Local Option Fair Share Make-up .25

Local Option Transportation .25

Local Option Infrastructure Tax .25

TOTAL IN CHURCHILL COUNTY 7.60%

• Other counties electing various local options include Clark, Nye, Douglas, Lincoln, Carson City, Churchill, White Pine, and Storey.

Churchill County Revenues FY16B for Governmental Fund Types:

- Property Taxes $7,867,266
- Licenses and Permits $ 529,627
- Intergovernmental $9,815,835
- CTX $5,337,339
- Charges for Services, Fines & Forfeitures $1,590,495
- Miscellaneous/OFS $1,703,494

Statewide taxable sales:

Fiscal Year	Taxable Sales	Increase/Decrease
FY03	$33,908,130,387	+ 6.68%
FY04	$44,192,447,817	+30.33%
FY05	$43,960,513,744	- 0.52%
FY06	$48,581,095,722	+10.51%
FY07	$49,427,707,108	+ 1.74% (peak)
FY08	$48,196,848,945	- 2.49%
FY09	$42,086,614,338	-12.68%
FY10	$37,772,066,777	-10.25%
FY11	$39,935,010,577	+ 5.73%
FY12	$42,954,750,131	+ 7.56%
FY13	$45,203,408,413	+ 5.23%
FY14	$47,440,345,167	+ 4.19%
FY15	$50,347,535,591	+ 6.1%
FY16	$52,788,295,421	+ 4.18%
FY17	$56,547,741,530	+ 7.1% (record)

Line graphs depicted the statewide taxable sales trends for FY02-FY17 and taxable sales for Washoe and Clark Counties for the same period. Statewide taxable sales for FY16 vs. FY17 are as follows:

County	Percentage	FY16	FY17
Carson City	+9.7%	$961.7M	$1.055M
Clark County	+4.2%	$39.2B	$40.8B
Douglas County	+6.9%	$663.5M	$709.5M
Elko County	-2.3%	$1.450B	$1.450B
Eureka County	+24.2%	$235.1M	$292.06M
Humboldt County	-7.4%	$486.0M	$449.9M
Lyon County	+19.8%	$380.8M	$456.07M

Pershing County	+24.2%	$91.2M	$113.4M
Storey County	+568.5%	$240.8M	$1.6B
Washoe County	+5.8%	$7.55B	$7.98B

Churchill County Taxable Sales:

Fiscal Year	Taxable Sales	$ Inc/Dec	% Inc/Dec
FY04	$238,731,811	$12,277,517	+5.4%
FY05	$281,092,387	$42,360,576	+17.7%
FY06	$314,645,606	$33,553,219	+11.9%
FY07	$308,576,675	-$6,068,931	-1.9%
FY08	$294,410,686	-$14,165,989	-4.6%
FY09	$321,713,574	$27,302,888	+9.3%
FY10	$251,257,089	-$70,456,485	-21.90%
FY11	$249,111,479	-$2,145,610	-0.85%
FY12	$320,188,210	$71,076,453	+28.5%
FY13	$387,569,985	$67,381,775	+21.05%
FY14	$252,675,060	-$134,894,925	-34.8%
FY15	$283,496,646	$30,821,586	+12.2%
FY16	$282,997,665	-$498,981	-0.2%
FY17	$309,285,004	+$26,287,339	+4.2%

• Approved tax abatements waived payment of county sales and use taxes by 5.6%.
• The State Constitution requires the state to collect their 2% sales tax portion.
• The Department of Taxation Statistical Report includes taxable sales that are abated because the state collects their portion.
• This produces misleading taxable sales reporting. It is more important to look at the CTX revenue trends.
A line graph depicted Churchill County's taxable sales for FY02-FY17. Economic drivers for Churchill County include:
• Commercial and retail activity.
• Industrial and geothermal developments (tax abatements were approved for Enel Solar, DFA, Patua, and the Tungsten Geothermal Plants).
• Agricultural businesses.
• NAS Fallon military operations.
• Residential housing/construction.
• Auto sales and general merchandise stores.
The top 10 business codes that are tracked include: auto dealers, general merchandise, building

materials, eating and drinking establishments, food stores, durable goods, furniture stores, miscellaneous retailers, construction specialty trades, and utilities/geothermal. The Department of Taxation changed the tracking codes in 2004. The top 10 businesses represent:

Fiscal Year	Totals	$ Inc/Dec	% inc/Dec
FY03	$195,679,736	+$3,193,695	+1.17%
FY04	$202,439,295	+6,759,559	+3.5%
FY05	$229,596,520	+$27,157,225	+13.4%
FY06	$259,596,520	+$29,720,420	+12.9%
FY07	$231,110,395	-$28,206,545	-10.9%
FY08	$208,400,197	-$22,710,198	-9.8%
FY09	$185,547,899	-$22,852,298	-11.0%
FY10	$158,568,899	-$26,979,000	-14.54%
FY11	$154,465,517	-$4,103,382	-2.59%
FY12	$164,850,876	+$10,385,359	+6.72%
FY13	$316,473,772	+$151,622,896	+91.9%
FY14	$183,256,757	-$133,217,015	-42.09%
FY15	$182,937,956	-$318,801	-0.18%
FY16	$214,007,000	+$31,069,044	+16.99%
FY17	$230,494,762	+$16,487,762	+7.70%

A line graph depicted the top 10 business codes for FY02-FY17.
Auto Dealers

□ Fiscal Yr	Totals	$ Inc/Dec	% Inc/Dec
□ FY 02	$46,832,165		
□ FY 03	$51,080,003	$4,247,838	9.07%
□ FY 04	$53,920,392	$2,840,389	5.56%
□ FY 05	$64,791,467	$10,871,075	20.16%
□ FY 06	$64,290,574 -	$500,893	-0.77%
□ FY 07	$57,428,701	-$6,861,873	-10.67%
□ FY 08	$44,419,908	-$13,701,659	-22.65%
□ FY 09	$29,164,855	-$15,255,053	-34.37%
□ FY 10	$25,947,347	-$3,217,508	-11.03%
□ FY 11	$25,509,259	-$438,088	-1.68%
□ FY 12	$30,840,673	+$5,331,414	20.9%
□ FY 13	$33,434,935	+$2,594,262	16.7%
□ FY 14	$32,640,583	-$794,352	-2.4%
□ FY 15	$40,024,006	+$7,383,423	22.6%

FY16	$42,355,342	+$ 2,352,421	5.9%
FY17	$46,176,043	+$ 3,820,701	+9.0%

General Merchandise Store

Fiscal Yr	Totals	$ Inc/Dec	% Inc/Dec
FY 02	$38,548,913		
FY 03	$40,937,038	$2,388,125	6.20%
FY 04	$43,028,716	$2,091,678	5.11%
FY 05	$47,634,499	$4,605,783	10.70%
FY 06	$56,442,958	$8,808,459	18.49%
FY 07	$60,425,117	$3,982,159	7.06%
FY 08	$56,578,573 -	$3,846,544	-6.37%
FY 09	$47,821,343 -	$8,757,230	-15.48%
FY 10	$43,777,822	-$4,043,521	-8.45%
FY 11	$42,771,768	-$1,006,054	-2.29%
FY 12	$43,150,097	$378,329	0.88%
FY 13	$43,015,930	-$134,167	-0.7%
FY 14	$42,103,019	-$912,911	-2.1%
FY 15	$42,634,604	$531,585	1.27%
FY16	$44,296,173	$1,661,569	3.9%
FY17	$45,386,172	$1,089,999	2.5%

Building Materials, Hardware

Fiscal Yr	Totals	$ Inc/Dec	% Inc/Dec
FY 02	$17,891,507		
FY 03	$17,640,309	-$251,198	-1.40%
FY 04	$20,232,336	$2,592,027	14.69%
FY 05	$28,020,278	$7,787,942	38.49%
FY 06	$33,173,959	$5,153,681	18.39%
FY 07	$26,510,707	-$6,663,252	-20.09%
FY 08	$20,778,559	-$5,732,148	-21.62%
FY 09	$22,822,477	$2,043,918	9.84%
FY 10	$19,197,038	-$3,625,439	-15.88%
FY 11	$19,337,205	$140,167	0.73%
FY 12	$18,722,718	-$614,487	-3.17%
FY 13	$19,382,365	$659,647	1.6%
FY 14	$19,984,752	$602,387	3.1%
FY 15	$19,444,105	-$540,647	-2.71%
FY 16	$31,903,318	$12,459,213	64.1%
FY17	$22,455,700	-$9,447,518	-29.6%

Construction Specialty Trades

Fiscal Yr	Totals	$ Inc/Dec	% Inc/Dec
FY 03	$5,209,166	$518,128	11.05%
FY 04	$5,258,063	$48,897	0.94%

FY 05	$6,221,570	$963,507	18.32%
FY 06	$8,183,989	$1,962,419	31.54%
FY 07	$10,075,151	$1,891,162	23.11%
FY 08	$10,394,473	$319,322	3.17%
FY 09	$13,041,962	$2,647,489	25.47%
FY 10	$6,816,910 -	$6,225,052	-47.73%
FY 11	$5,389,069	-$1,427,841	-20.94%
FY 12	$8,602,601	$3,213,532	59.63%
FY 13	$10,262,210	$1,659,609	15.9%
FY 14	$9,579,325	$682,885	- 6.7%
FY 15	$5,323,211	-$4,256,114	-44.4%
FY 16	$7,281,090	$1,957,879	40.3%
FY17	$9,865,218	$5,584,128	35.5%

Food Stores

Fiscal Yr	Totals	$ Inc/Dec	% Inc/Dec
FY 03	$12,482,687	-$278,358	-2.18%
FY 04	$12,540,170	$57,483	0.46%
FY 05	$13,190,554	$650,384	5.19%
FY 06	$12,617,952	-$572,602	-4.34%
FY 07	$12,410,999	-$206,953	-1.64%
FY 08	$11,597,635	-$813,364	-6.55%
FY 09	$10,387,228	-$1,210,407	-10.44%
FY 10	$9,864,765	-$522,463	-5.03%
FY 11	$10,188,992	$324,227	3.28%
FY 12	$11,056,021	$867,029	8.51%
FY 13	$11,096,603	$40,582	5.5%
FY 14	$12,806,168	$1,709,565	15.4%
FY 15	$11,142,097	-$1,664,071	-13.0%
FY16	$10,239,865	-$ 902,232	- 8.1%
FY17	$8,813,078	-$1,426,787	-13.9%

Eating and Drinking

Fiscal Yr	Totals	$ Inc/Dec	% Inc/Dec
FY 03	$20,857,034	$1,690,405	8.82%
FY 04	$21,270,821	$413,787	1.98%
FY 05	$23,144,099	$1,873,278	8.81%
FY 06	$28,723,713	$5,579,614	24.11%
FY 07	$30,891,105	$2,167,392	7.55%
FY 08	$29,568,369	-$1,322,736	-4.28%
FY 09	$30,491,178	$922,809	9.47%
FY 10	$26,848,069	-$3,643,109	-11.95%
FY 11	$27,296,189	$448,120	1.67%
FY 12	$28,720,363	$1,424,174	5.22%

FY 13	$27,212,632	-$1,507,731	-4.0%
FY 14	$32,489,607	$5,276,975	19.4%
FY 15	$30,743,015	-$1,764,592	-5.38%
FY16	$33,210,967	$2,467,952	7.9%
FY17	$31,648,811	-$1,589,615	-4.8%

Furniture Stores

Fiscal Yr	Totals	$ Inc/Dec	% Inc/Dec
FY 03	$7,243,908	-$3,251,073	-30.98%
FY 04	$9,271,098	$2,027,190	27.98%
FY 05	$9,349,861	$78,763	0.85%
FY 06	$11,482,066	$2,132,205	22.80%
FY 07	$7,051,410	-$4,430,656	-38.59%
FY 08	$6,909,639	-$141,771	-2.01%
FY 09	$6,865,828	-$43,811	0.63%
FY 10	$6,070,827	-$795,001	-11.58%
FY 11	$4,530,561	-$1,540,264	-25.37%
FY 12	$5,087,411	$556,850	12.29%
FY 13	$5,453,322	$365,911	7.20%
FY 14	$5,374,868	-$ 78,454	-1.4%
FY 15	$5,584,353	$209,485	3.9%
FY16	$5,873,363	$289,010	5.2%
FY17	$5,275,516	-$597,847	-10.2%

Durable Goods

Fiscal Yr	Totals	$ Inc/Dec	% Inc/Dec
FY 03	$11,535,049	$2,144,004	22.83%
FY 04	$12,398,313	$863,264	7.48%
FY 05	$15,685,515	$3,287,202	26.51%
FY 06	$22,660,724	$6,975,209	44.47%
FY 07	$17,229,914	-$5,430,810	-23.97%
FY 08	$21,941,371	$4,711,457	27.34%
FY 09	$25,083,361	$3,141,990	14.32%
FY 10	$13,958,655	-$11,124,706	-44.35%
FY 11	$14,469,943	$511,288	3.66%
FY 12	$16,036,142	$1,566,199	10.82%
FY 13	$16,111,222	$75,080	0.11%
FY 14	$16,078,816	-$32,406	-0.21%
FY 15	$15,093,610	-$985,206	-6.13%
FY16	$17,666,258	$2,572,648	18.1%
FY17	$21,738,770	$4,072,512	23%

Miscellaneous Retail

Fiscal Yr	Totals	$ Inc/Dec	% Inc/Dec
FY 03	$18,815,834	$1,375,050	7.88%

□ FY 04	$17,575,407	-$1,240,427	-6.59%
□ FY 05	$23,883,610	$6,308,203	35.89%
□ FY 06	$26,967,481	$3,083,871	12.91%
□ FY 07	$7,055,629	-$19,911,852	-73.84%
□ FY 08	$4,509,189	-$2,546,440	-36.09%
□ FY 09	$4,306,265	-$202,924	- 4.50%
□ FY 10	$3,891,155	-$415,110	- 9.64%
□ FY 11	$3,121,411	-$769,744	-19.78%
□ FY 12	$2,634,850	-$486,561	-15.59%
□ FY 13	$2,539,004	-$ 95,846	- 3.59%
□ FY 14	$2,814,967	$275,963	10.9%
□ FY 15	$3,874,136	$1,059,169	37.63%
□ FY16	$3,692,744	$ 181,392	- 4.69%
□ FY17	$3,503,704	$ 189,040	-13.9%

Geothermal Business Codes

□ County Identified Specific Business Codes that appear to be related to Geothermal Development

□ 212 Mining

□ 213 Support for Mining

□ 221 Utilities

□ 236 Construction of Buildings

□ 335 Electric Equipment Manufacturing (TAS Energy)

□ 532 Rental & Leasing Services/Business Services

□ 541 Professional Scientific & Engineering

Geothermal Business Codes

□ Fiscal Yr	Totals	$ Inc/Dec	% Inc/Dec
□ FY 03	$5,363,702	-$ 4,695,182	-46.68%
□ FY 04	$5,327,000	-$36,702	-0.68%
□ FY 05	$6,312,755	$985,755	18.50%
□ FY 06	$16,843,933	$10,531,178	166.82%
□ FY 07	$8,654,163	-$8,189,770	-48.62%
□ FY 08	$17,575,725	$8,921,562	103.09%
□ FY 09	$62,676,636	$45,100,911	256.61%
□ FY 10	$35,310,614	-$27,366,022	-43.66%
□ FY 11	$36,738,359	$1,247,745	4.04%
□ FY 12	$74,726,205	$37,987,846	103.40%
□ FY 13	$147,965,549	$73,239,344	101.9%
□ FY 14	$9,429,675	-$138,535,874	-93.6%
□ FY 15	$9,074,819	-$ 354,856	-3.77%
□ FY16	$17,303,147	$ 8,228,328	90.7%
□ FY17	$35,361,690	$18,328,543	105.9%

Consolidated Tax Distributions

- Six-Pack of Taxes

Largest Intergovernmental Revenue 20%

- Sales Taxes : BCCRT & SCCRT
- Sin Taxes: Cigarette & Liquor Taxes
- Government Services Tax: MVPT Vehicles
- Real Property Transfer Tax: RPTT

CTX Distributions

Fiscal Yr	Totals	$ Inc/Dec	% Inc/Dec
FY 03	$4,790,166	$306,091	6.83%
FY 04	$5,083,657	$293,492	6.13%
FY 05	$6,016,443	$932,786	18.35%
FY 06 (Peak)	$7,013,036	$996,593	16.56%
FY 07	$6,556,710	-$456,326	-6.51%
FY 08	$6,016,896	-$539,814	-8.23%
FY 09	$5,927,194	-$ 89,702	-1.49%
FY 10	$6,094,258	$167,065	2.82%
FY 11	$6,515,956	$421,697	6.92%
FY 12	$6,496,871	-$19,085	-0.29%
FY 13	$6,709,063	$212,192	+3.26%
FY 14	$6,693,930	-$15,133	-3.66%
FY 15	$6,948,960	$255,030	+3.81%
FY16	$7,423,558	$474,598	+6.83%(Rebounded)
FY17	$7,509,822	$86,264	+1.16%

SCCRT & BCCRT

SCCRT

FY 2017	$4,593,572
FY 2016	$4,580,893
FY 2015	$4,246,327
FY 2014	$4,175,379
FY 2013	$4,217,886
FY 2012	$4,034,285
FY 2011	$3,733,127
FY 2010	$3,486,764
FY 2009	$4,940,101
FY 2008	$4,899,629
FY 2007	$5,297,892
FY 2006	$5,593,640
FY 2005	$4,731,364

BCCRT

FY 2017	$1,424,326

- FY 2016 $1,409,674
- FY 2015 $1,316,924
- FY 2014 $1,282,639
- FY 2013 $1,280,043
- FY 2012 $1,224,759
- FY 2011 $1,165,048
- FY 2010 $1,097,035
- FT 2009 $1,503,470
- FY 2008 $1,522,033
- FY 2007 $1,637,619
- FY 2006 $1,696,076
- FY 2005 $1,448,994

Cigarette & Liquor Taxes

Cigarette Taxes

- FY 2017 $88,262
- FY 2016 $ 75,030
- FY 2015 $113,974
- FY 2014 $99,721
- FY 2013 $105,281
- FY 2012 $109,371
- FY 2011 $116,779
- FY 2010 $120,498
- FY 2009 $134,114
- FY 2008 $136,331
- FY 2007 $165,753
- FY 2006 $171,855
- FY 2005 $176,230

Liquor Taxes

- FY 2017 $33,020
- FY 2016 $33,942
- FY 2015 $32,906
- FY 2014 $33,011
- FY 2013 $31,347
- FY 2012 $33,400
- FY 2011 $32,732
- FY 2010 $31,402
- FY 2009 $29,478
- FY 2008 $33,322
- FY 2007 $33,397
- FY 2006 $32,868
- FY 2005 $31,296

GST and RPTT Revenues

GST/MVPT

FY 2017	$1,232,785
FY 2016	$1,202,918
FY 2015	$1,151,212
FY 2014	$1,032,226
FY 2013	$985,248
FY 2012	$1,021,414
FY 2011	$1,099,725
FY 2010	$1,285,453
FY 2009	$1,302,715
FY 2008	$1,379,282
FY 2007	$1,404,094
FY 2006	$1,426,207
FY 2005	$1,312,773

RPTT Taxes

FY 2017	$137,860
FY 2016	$121,101
FY 2015	$87,616
FY 2014	$70,934
FY 2013	$89,257
FY 2012	$73,642
FY 2011	$368,544
FY 2010	$73,107
FY 2009	$81,286
FY 2008	$118,631
FY 2007	$152,845
FY 2006	$345,460
FY 2005	$248,232

Churchill County Tax Base

- Important to support local businesses

Live Local Fallon! Let it Live On!

- Various Retailers entered the market

Little Caesar's Pizza

- Chamber of Commerce / CEDA / NNDA
- Economic Development and Business expansion are good for local businesses
- Dairy Expansions, Residential housing +
- Enel Concentrated Solar Project
- Military training remains strong

Economic Factors

- Commercial Activity:

Retail, Manufacturing, Geothermal Growth, Agriculture Growth and Diversity DFA Project
NAS Fallon Growth and Sustainability

Job Retention and Creation
 Residential Activities:
Stability in Housing Market, Foreclosures, Vacancies, Days on Market, Starting New Construction: Base Housing Project
 Quality of Life: Balanced Community

Chairman Olsen asked if there was any public comment but there was none. Commissioner Scharmann said this is a good presentation and, although we have seen it many times, it is complicated so he appreciates the refresher.

Commissioner Erquiaga said you are showing annual figures but do you see month-to-month trends that repeat yearly as far as like peak periods for eating and drinking establishments for example. CFO Kalt said there is some seasonality involved. To state the obvious, general merchandise sales in December are significantly different in December than in January but, as far as eating and drinking, a lot of that is tied to 2 major factors, one of which is construction projects. For example, we had the jail project and senior center project going on. Some of those people who work on those projects may not live in the community and they tend to eat out more than a normal household so, when construction is going on, we tend to see an increase. Some of those folks may be living in RVs and eating out more. The other thing is related to NAS Fallon when they have CAGs coming in for training and we see a significant impact. Depending on the number of CAGs that cycle through in any one year or quarter, that would have an impact. Commissioner Erquiaga said I am wondering if we would see that and how you could divide it up to measure it with some seasonality in relation to outdoor recreation type of activity within the county. CFO Kalt said, for example, as you well know we are in the hunting season. If you try to go get a hotel room in Ely and those types of places, room rates are higher and when folks go out in the outdoors, that does have a positive impact. The other thing, from a recreational standpoint, when we have tournaments in town, when they host the FYFL Jamboree, Pop Warner, baseball/softball tournaments, and rodeos, we see an increase in eating and drinking establishments and related sales. Commissioner Erquiaga said I am trying to remember with gas tax if you see peaks in the fall when they are going to Sand Mountain, as the main benefit we see related to Sand Mountain would be the gas tax and perhaps food establishments. CFO Kalt said we track those things but I have not focused on the seasonal side. In my former life in retail, we did track seasonality and try to time when events occurred. For example, when the Silver State International Rodeo moved out, we saw an impact. When you lose an event like that but gain another, sometimes they offset each other. One of the keys is trying to figure out when the slow parts are and that is where the Chamber and the Downtown Merchants should try to fill those gaps. That is one of the things we are trying to do on the golf course is to determine how we can provide an event during slow times to spur increased activity. This item was presented for informational purposes only and no action was taken.

2:30 PM - ***Recess Board of County Commissioners' Meeting for purposes of convening the Liquor Board***

Commissioner Carl Erquiaga made a motion to recess the meeting of the Board of County Commissioners to convene the Liquor Board at 2:59 PM. Commissioner Harry Scharmann seconded the motion, which carried by unanimous vote.

*****Reconvene Board of County Commissioners' Meeting.*****

The meeting of the Board of County Commissioners was reconvened at 3:08 PM.

Letters Received:

A- Consideration and possible action re: The Bureau of Land Management (BLM) provides Notice of Availability for the Draft Environmental Impact Statement for Newmont USA Limited's Greater Phoenix Project.

The Bureau of Land Management (BLM) provides Notice of Availability for the Draft Environmental Impact Statement (DEIS) for Newmont USA Limited's (Newmont's) Greater Phoenix Project (Project), a proposed expansion and operation of an open pit gold and copper mine approximately 12 miles southwest of Battle Mountain in Lander County, Nevada. The notice opens a 45-day public comment period that will end October 16, 2017.

The DEIS analyzes the affected environment, environmental impacts, and identifies environmental protection measures associated with the Project. The public is being asked to comment on the DEIS. The Project is located on public land administered by the BLM as well as private land. The proposed Project would increase total surface disturbance by 3,497 acres. The DEIS analyzes impacts to many resources including water quality, air quality, vegetation, and wildlife. Newmont would continue to employ approximately 500 employees and is anticipated to extend the mine life by approximately another 23 years.

The BLM has scheduled a public meeting on September 26, 2017, from 6:00 to 8:00 PM at the Lander County Court House, 50 State Route 305, Battle Mountain, Nevada 89820

FISCAL IMPACT: N/A

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED: None; Informational Only

B- Consideration and possible action re: The Bureau of Land Management (BLM) provides notice of the Final Decision for Argenta Round III Grazing Exclosures within the Argenta Allotment.

The Bureau of Land Management (BLM) provides notice of the Final Decision for Argenta Round III Grazing Exclosures within the Argenta Allotment. The Final Decision will authorize two riparian exclosures in in the Argenta Allotment for the purpose of providing riparian stabilization and improvement of valuable wildlife habitat. This project is targeted to exclose areas identified to be sensitive to livestock and able to recover quickly. After a review of comments received, a Proposed Decision was issued. The BLM received one protest letter to the Proposed Decision from Wildlands Defense. The BLM has carefully considered the protest points received and has determined to issue a Final Decision to authorize these two exclosures.

FISCAL IMPACT: N/A

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED: None; Informational Only

C- Consideration and possible action re: Nevada Division of Environmental Protection (NDEP) provides notice of Groundwater Monitoring and LNAPL Recovery Report for the former Smedley's Chevron.

The Nevada Division of Environmental Protection (NDEP) has reviewed the Second Quarter Groundwater Monitoring Report for the former Smedley's Chevron. Nine monitoring wells were gauged and monitored. Groundwater levels were approximately 0.25 feet higher compared to the First Quarter 2017 and ranged from 8.91 feet to 10.28 feet below top of casing. Groundwater levels have risen approximately 1.5 feet since the start of groundwater monitoring and are currently at historically high levels. Groundwater flows to the southeast with a hydraulic gradient between 0.0021 and 0.0026 foot per foot, which is generally consistent with previous monitoring events. No measurable light non-aqueous phase liquid (LNAPL) was observed in site monitoring wells during monitoring and LNAPL recovery activities have been discontinued at the facility. Benzene remains below detection limits in three wells: MW-2, MW-5, and MW-8. Benzene was detected in six monitoring wells and exceeded state and federal maximum concentration levels of 5 micro-grams per liter in those six wells. The report notes that this groundwater plume is co-mingled with a second groundwater plume at the facility and the two releases will be investigated together but, until the site has been adequately characterized, reports will be under a separate cover. NDEP concurs with the recommendation to continue quarterly monitoring activities.

FISCAL IMPACT: N/A

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED: None; Informational Only

New Business:

A- Consideration and possible action re: Request from Alan Kalt to participate in the

county's Retirement Incentive Plan and the county's payment of approximately $66,000 for PERS credit.

The Board of County Commissioners revised and approved the Retirement Incentive Plan in in October 2000. Revisions were made to the policy in December 2014 and further revisions were made and adopted by the board in December of 2015 (see attachment to Agenda Report). This is the first request we have received since the latest changes were adopted. The changes made in 2015 were as follows:

- Allowance for employees to apply any time during the year (instead of once a year), at least four months and no more than 12 months prior to proposed retirement date. An employee who is approved for the plan will be required to sign a liability waiver and release.
- Applications must meet all eligibility requirements. If extenuating circumstances exist whereby a specific requirement for eligibility cannot be met, the employee must submit an explanation of the circumstances and the board may consider a waiver.
- Rather than the county pay for the first year at 100% and the following two years at 50% per year, it was changed that the county will pay 50% for each year, with the county purchasing a maximum of 1.5 years (matching an employee's purchase of 1.5 years). (The county used to pay for two out of three years – now the maximum for the county is 1.5 out of three years.)
- If an employee has already purchased the maximum allowed PERS service credit, the county will transfer the funds for the county's portion of the PERS credit directly to the employee.
- Specify that the employee's portion must be paid by the employee and will not be paid by the county (including not using money prospectively from unused vacation or sick leave). The employee's portion may have been paid prior to application to the plan.
- There had been a limit of 2% of the total PERS-eligible employees who could be approved in any given year. This limitation was removed.

Approval of the application is at the discretion of the Board of County Commissioners. Each application is subject to review to determine the salary savings and financial advantage to the county.

Key components of the plan are:

- To be eligible for this program an employee must have completed 25 years of service and must be eligible to retire with 30 years of retirement credit under the provisions of the Public Employees Retirement System.
- Applications must be submitted to the County Manager at least four months and not more than 12 months prior to the proposed retirement date.
- The county will participate in the purchase of retirement credit of up to 3 years as

follows: 50% purchase by the county and 50% by the employee.

Alan Kalt submitted his application on September 11, 2017. His proposed retirement date (last paid day at work) is March 23, 2018. His last day in the office is projected as December 22, 2017. Mr. Kalt is requesting the county purchase 1.5 years of service credit. Records indicate that he has already purchased 2.5 years of PERS service credit on his own, so he has met the required employee purchase amount. As of his proposed retirement date, he would have 25.77 years of service with the county and 30 years of service credit with PERS. Because he will be at the maximum PERS credit, PERS will not allow the county to purchase PERS credit on his behalf; thus, if Mr. Kalt's application was approved, the county would transfer the funds for the county's portion of the PERS credit directly to the employee. This transfer would occur before his last scheduled day in the workplace (December 22, 2017). The estimated cost of the purchase is approximately $66,000, based on his current rate of pay. As has been the case in previous retirement incentive participants, a final number will not be known until a purchase agreement with PERS is in place. In determining whether there would be a financial savings to the county, staff has followed past practice and projected savings based on a new employee being hired at the first step of the current employee's pay grade, in this case Grade 83, and looking at the first three years of employment. Based on this projection, the county would save a total of $95,846 in salary costs in the first three years, which exceeds the $66,000 estimated cost for the PERS purchase.

In conjunction with this request, staff requests a waiver of Section 3.40.010 B of Title 3, which limits the accrual of vacation leave to 240 hours by the end of each calendar year. Title 3 says that unused vacation leave in excess of 240 hours will not be carried over in the next calendar year. In order for Mr. Kalt to have his last day at work be December 22, 2017 and have his last paid day at work be March 23, 2018, he would need to use vacation leave during that period. He currently has an annual leave balance of 350 hours and will be earning another 54 hours in 2017. Assuming he does not use any vacation leave between now and December 22, 2017, he would have 404 hours on the books. In the past, the county has waived the 240-hour accrual limit when, due to requirements of the job, employees were unable to take vacation. The waiver has stipulated that the employee must use the excess vacation leave in the following calendar year. Staff recommends waiver of the limit in this case due to Mr. Kalt's extensive involvement in capital projects and county flood mitigation efforts. If the waiver is not granted, Mr. Kalt's last day at the work site would have to be adjusted and the county would most likely end up paying the value of his excess annual leave to him through the county's annual leave conversion program.

FISCAL IMPACT: Approximately $66,000. Final amount to be determined.

EXPLANATION OF IMPACT: Cost of PERS service credit for 1.5 years. This is based on the employee's current salary, multiplied by 32.6% (the actuarial percentage published on PERS' website, based on the age of the employee), multiplied by 1.5 years.

FUNDING SOURCE: Compensated Absence

ACTION REQUESTED: Accept

Chairman Olsen asked if there was any public comment but there was none, so the matter was opened for board and staff discussion. Commissioner Scharmann said my question is for Alan. First of all, I don't have any objections to this but what I do want is the assurance from Alan, who is a Chief Financial Officer who has been indispensable for the county for many years. We have a time period of transition that we will be looking at that will be critical as we build the next budget and the new person comes in. I just need to have an assurance from Alan that he will be forthright with the budget process. He has so much institutional knowledge in his head that it might be easy for Alan to say that anybody can do the job but anybody can't do it. Personally, my feeling is that we are moving in the right direction and have been since I have been here and probably for many years before in regards to our budget development and budget management. What Alan can share with the new person coming in will be invaluable, so I just need to make sure that Alan is aware that we really want his assurances that he will be there and not just until December 22nd but also if the new person has questions, I would hope that he would be available through the March date, his final separation date, to counsel and confer with anyone who is taking his place so that there are no questions left unanswered.

Chief Financial Officer Kalt said I would be more than willing to do that. I have worked tirelessly for over 25 years. If you count the hours like an attorney would, I probably have about 39 years of service with the 60 and 70 hour work weeks that I have put in. I would be willing to make those work days if I were asked to come in. I would definitely want to do that. I would love to see the county continue to thrive and be awesome like we have been for so many years. I plan on staying in the community, so I would love to help make that transition as smooth as possible.

Commissioner Scharmann said that is not to say that, if you have a trip that you are planning or anything like that, I would not want you to eliminate those plans and be on-call. I would like it to be at your convenience but available.

Commissioner Erquiaga said I have some questions and comments. To me, this isn't about whether or not Alan has been a critical employee here. I think he has been, so it isn't about that. It is no secret that I was not in favor of this particular clause in the Early Retirement Incentive Plan 2 years ago. I just think this is about the Early Retirement Incentive Policy, which is designed to afford an employee the opportunity to retire with 30 years and, at the same time, save the county money, in theory. I think our first responsibility is to the taxpayers to make sure we make good use of their tax money and provide them with the services that they think they should get. The way this was explained is that Alan will already have 30 years if the county does nothing in March. Is that correct? HR Director Stark said that is my understanding. Commissioner Erquiaga said so then, basically, he is wanting reimbursement retrospectively for what he bought in the past. HR Director Stark said, in accordance with the policy, it says that if someone is at that maximum of 30 years that the county would reimburse the 1.5 years that they would pay to PERS to be given to the employee. He is asking for a match on a year and a half of that. Commissioner Erquiaga said you brought up one thing there. Is the $66,000 for a year and a half? Mr. Stark said that is correct. Commissioner Erquiaga said but he only purchased 2.5 years, so why wouldn't it be 1.25 years? HR Director Stark said because it is a 50/50 split so, if he bought 1.5 years, the county would buy 1.5 years, to equal 3 years. He has purchased a year beyond the year and a half that he would have to purchase. Commissioner Erquiaga asked how long ago the 2.5 years was purchased. HR Director Stark said it was in the past and probably several years ago, although I do not have the exact dates but I believe it was probably 5 or 10 years ago. I do not know off the top of my head. Commissioner Erquiaga said then it was purchased at a lower rate than today's rate would be. HR Director Stark said that is correct. Commissioner Erquiaga said why wouldn't we reimburse at the same rate? HR Director Stark said the way I have understood the policy is that it is based on the rate at the time the employee, or it is the same rate that we would pay if someone hadn't purchased enough time to get to 30 years. If someone came up and requested a purchase and this would get them to the 30 years, it would be the same rate in today's dollars. Commissioner Erquiaga said I don't think the policy says that at all. I think it just says that we will cut the check. I just don't understand why because that is a pretty good investment if you buy it at the rate from 10 years ago and now you get it at today's rate, especially in light of the fact that the wage it would be based on today is considerably higher than it would have been even 2 years ago. HR Director Stark said that is correct. Commissioner Erquiaga said if this policy had gone further into the oblivion that it was in prior to 3 years ago when employees that asked about it were told it didn't exist or we didn't know where it was and all of that, if that had not been resurrected and brought up to where it could be used, that 2.5 year investment from a long time ago would be a pretty smart investment. It would be brilliant. Since it has been brought back up, it seems like a case of buyer's remorse to me. I bought it and now I would like to be paid back for it. That might not be the intention but that is how it kind of appears. I am concerned about the perception of the taxpayers - are we spending their money right? This amount of money is twice what we budget for community support, I think. This amount of money would probably hire 2 people in a low entry-level job. It probably would have hired 2 janitorial staff to take on the new buildings that we denied a request for or modified a request for. I just think that $66,000 is a pretty darn nice parting gift. As I said, it was no secret 2 years ago that I was against this. I voted against this policy at that time and I still do not support it.

Chairman Olsen said the policy is on the books and it is open to everybody so, as long as it is, we are where we are. What is being asked for here is to carry that excess leave across the calendar year, is that right Geof? HR Director Stark said that is correct, in conjunction with the early retirement. Commissioner Erquiaga said there are really 2 parts to this request. HR Director Stark said I believe there are 2 motions on the Agenda Report. Chairman Olsen said we have to purchase 1.5 years, correct? Mr. Stark said it is up to the board to make that decision. Chairman Olsen said but we can? Mr. Stark said yes; what the policy says is that the county will match, basically, 50% for each year up to 3 years. Commissioner Erquiaga said that is the second motion, which was affirmed by Mr. Stark. Commissioner Erquiaga said but the county is not buying PERS service. The county would write a check to Mr. Kalt. Mr. Stark said that is correct. As indicated in the policy, again, if someone has their full 30 years, it would be transferred to the employee. Commissioner Scharmann said but you also stated that, with Alan's separation from the county and hiring at a lower level, there is a salary savings of about $30,000, correct? HR Director Stark said, if we calculate at the first step and even include step increases over the next 2 years, there would be a salary savings of $29,846. Commissioner Scharmann said that is what I would make sure the taxpayer understood if I were asked. Commissioner Erquiaga said but, if we don't do this, he can retire with 30 years and the savings is then $96,000 in the first year. HR Director Stark said that is correct. Chairman Olsen said the problem with that is that we have a policy, so are we going to follow the policy or not? Commissioner Erquiaga said the policy still grants us some discretion, although, 2 years ago when we added this clause in, there was also a move to strip some of our discretion from us, which I objected to rather strongly. However, at the time, in reading the Minutes, Mr. Shawcroft was quoted as having said that nobody is entitled to anything in this policy. We can elect to give it to them. He asked if that is correct and Mr. Shawcroft said it is. Chairman Olsen said I understand it is a burr to you but there is a savings and that is what the policy was intended to do. It represents a savings to the county and that would be the answer to any taxpayer. That would be my answer to them - there is a net savings to the county. This is a policy that we have had. We can review this policy again at some future date but it is what is available to everybody that would like to retire. I agree that we have discretion and we do not have to do anything that we do not want to do as it pertains to this but the policy is there for us to utilize.

Commissioner Erquiaga said what do we offer or feel obligated to provide to someone who retires without this policy? There would be a savings there. I think of a gentleman that retired this last summer who probably wasn't eligible for this because he probably didn't have the years in but there was a substantial savings when he went out at the top of his class and was replaced at the bottom of his class but we didn't offer him anything. Chairman Olsen said the incentive is so that people don't wait for the 30 years. You get to start over again on the steps and you get to do that 3 years early; that is the incentive to the county to want to do this. If we let it go to its fruition and make him stay the full 30 years and work it on out at the full 30 years, then you are going to pay more. It is mathematically certain that you will pay more than if we do what is being proposed here. In the case of somebody who doesn't have the full years in, that is their choice to quit when they quit. Commissioner Erquiaga said it is exactly their choice to quit when they quit and Mr. Kalt has chosen to quit now and he has 30 years. We don't have to provide incentive for him to leave because he has his 30 years. He could have taken part in this 2 years ago or 18 months ago and asked the county to buy 18 months and his 18 months was already purchased before and he could have walked out the door 2 years younger. That probably didn't fit his retirement plan and that is not for me to judge or determine but the fact is that he could have done it then and it would have been just like all of the others. I don't know of a case where we have ever cut someone a check for leaving. HR Director Stark said I don't know of a case where Churchill County has done so but I believe that CC Communications has done it in the past. Commissioner Erquiaga said I would point out that CC Communications has changed their incentive policy to match the county's, so I don't think their policy was that great before. Mr. Stark said the other comment I will make is that 18 months ago, Alan Kalt couldn't have participated because you had to have 25 years with the county. I guess he could have done it 9 months ago but he couldn't have done it prior to that because he didn't have the 25 years in. Commissioner Erquiaga said I just want to make sure that everyone understands that Alan does not need the county to buy 1.5 years' worth of time to make 30 years. Chairman Olsen said because he had already purchased some. Commissioner Erquiaga said because he has already purchased it. I did not advise him to purchase it. No one at the county advised him to purchase it; he did it of his own free will. It is a matter of whether you feel that our policy says that we should pay him back. Chairman Olsen said what is the difference between us buying it from him or buying it from PERS, other than the obvious ones you stated earlier? What is the difference to the policy whether we buy it from him or from PERS? Does it fit the policy? Commissioner Erquiaga said I suppose you could say that it does. My problem is paying it to an employee. Chairman Olsen said then do we, at some future date, need to address that and say that we are not going to do that anymore? Commissioner Erquiaga said I tried to do that 2 years ago and you all told me I was picking nits. Chairman Olsen said I don't know that we are going to get anywhere here. Your points are valid to you and you have made them. I am going to ask for a motion if there is no further discussion. Commissioner Scharmann said do you want these motions together or separate? Commissioner Erquiaga said I prefer they be separate. I have my own thoughts on the other one that we haven't discussed yet. Commissioner Scharmann began by stating the first recommended board action but was stopped by Commissioner Erquiaga. He said that is the one we have not discussed yet. If you would like me to tell you what I think of it right now, I can.

Commissioner Harry Scharmann made a motion to approve Alan Kalt's request and to authorize the payment of the value of 1.5 years of PERS credit to Mr. Kalt. Prior to seconding the motion, Chairman Olsen said I have a question. He asked HR Director Stark to point out to him where, in this Title 3 policy, it says that we can purchase these credits and for how much. HR Director Stark said the PERS credit is outside of Title 3. That is found in the administrative policy. Chairman Olsen said so we are not matching; it is not a 3 year split at 1.5/1.5. It is the maximum. County Manager Lockwood provided the policy to him to review. Chairman Olsen said I am a little lost here as to why, if Alan has 2.5, why we are buying 1.5 and how we get to 3. HR Director Stark said an employee can buy more than a year and a half. He has purchased 2.5 but he only needs 1.5 and for the county to match 1.5. Chairman Olsen said why are we not buying 1 from him and a half credit from PERS. HR Director Stark said because he is at the maximum. You can't buy any more PERS credit when he is at the maximum. PERS won't sell it to the county. Once he is at 30 years, they won't sell it to anyone at that point. Chairman Olsen said now I am more confused. I hear what you said and I get it but now I am more confused. HR Director Stark said the extra year that he purchased doesn't come into the equation. We are not paying him for that year, we are just matching his 1.5 that he bought in compliance with this policy. Chairman Olsen said I thought I understood this but I don't. Commissioner Scharmann said how many total years does he have right now before we start the whole process? Is it 26? HR Director Stark said work-wise, on his retirement date, he has 25.77 years with the county. Chairman Olsen said, when you add in all of the other dates that an employee is allowed to do, what is it? Mr. Stark said he will be at 30.07 on April 23rd. Chairman Olsen said that is using his time plus the 2.5 years? Mr. Stark said that is using time, sick leave and annual leave conversions, and the 2.5 years that he has purchased. Chairman Olsen said that is where I am losing it because I don't understand where D says that will participate in retirement credit up to 3 years with 50% purchased by the county and 50% by the employee. Mr. Stark said he has already purchased his half of the 3 years and he is asking the county to reimburse him for the other half of those 3 years. Chairman Olsen said but he has only purchased 2.5. Commissioner Erquiaga said he has only purchased 2.5 and we are giving him half a year. HR Director Stark said he has purchased 1.5 and that is his contribution towards the 3 years. Chairman Olsen said but you are buying some of that back from him if you pay him for 1.5 years. Commissioner Erquiaga said, if you are buying back 1.5 years, then he has contributed 1 year. Chairman Olsen agreed. Commissioner Erquiaga said that has been my point with 1.25 versus 1.5. HR Director Stark said I will use myself as an example. If I were at 27 years and I wanted to retire at 30 years, I would buy 1.5 years now and the county would buy 1.5 years. Commissioner Erquiaga said what if you were at 27.5 years and you needed 2.5 years. HR Director Stark said then I would request that the county purchase the matching amount. Chairman Olsen said that is where I am at. I don't know how we get to the 1.5 year part, so I can't second that motion because I can only go to 1.25 years. Commissioner Scharmann withdrew the motion.

Chairman Olsen said do we want to table this and go back and rethink it? We are not going to make you happy either way, Carl. Commissioner Erquiaga said you will make me happier if you don't give away a half a year. Chairman Olsen said we will make you half a happy maybe but I respect that you have your disagreements about this. I understand that but do we want to wait or go ahead? I would support 1.25 based on the math as I understand it here. HR Director Stark said if he had put in the request 9 months earlier, then he would be okay for 1.5 years but because he stayed an additional 9 months, he is only eligible for 1.25 years. Chairman Olsen said doesn't it make sense if you can't purchase past 30 and if you are, in the example that we just gave where we used you and you stayed to 27.5 years, we would buy half. That is what the policy says - half, up to 3 years. If you don't have 3 years left, we can't purchase it. We can only purchase what we can purchase, right? Mr. Stark said I understand what you are saying. Chairman Olsen said I don't care that Alan has purchased in the past or whatever. This is available to everybody. Anybody can do this. If you want to do it and if you want to invest your money there, it is available to anybody. I don't have a problem with it but I want to follow the policy that we have in front of us and that is what I understand.

County Manager Lockwood said, as Carl points out very, very clearly, we went through an arduous process last time in trying to amend the policy as points were raised when the Board of County Commissioners was considering the policy. Despite the fact that later on in this Agenda we are requesting moving forward with recruitment, I think it is important that the board makes a decision based on the math that you all understand. A suggestion I have is, based on the concerns that have been raised, would Commissioner Erquiaga propose a motion so that we can go back to the table and ensure that we present to you the math based on the concerns raised and then table the decision until your next meeting? Commissioner Scharmann said before we table this, will either of you support the 1.25 motion? Chairman Olsen said I would just as soon get it done. Commissioner Erquiaga said I think that is the answer. The other way does not fit the policy. Commissioner Scharmann asked Commissioner Erquiaga if he would approve a 1.25 motion. Commissioner Erquiaga said I can't guarantee that I will approve any of it but, if you are going to do it, it better be 1.25 or I am going to have a real problem with it. Chairman Olsen said let's proceed with the second motion because I think we at least have 2 votes there. Commissioner Erquiaga said I would like to have a little discussion about number 2. Commissioner Scharmann said we have been talking about number 2. Commissioner Erquiaga said which one do you want to do? Number 1? I want to discuss that. I wasn't given the opportunity. Is that what you just asked? What are we taking? Chairman Olsen said we can agree on the 2nd part first or at least 2 of us have agreed on that. We will get to that one and I know you have concerns and we will discuss them.

Commissioner Harry Scharmann made a motion to approve Alan Kalt's request and authorize the payment of the value of 1.25 years of PERS credit to Mr. Kalt. Commissioner H. Peter Olsen, Jr. seconded the motion, which carried by majority vote, with Commissioner Erquiaga opposed.

Commissioner Scharmann said so you weren't going to approve anything. Commissioner Erquiaga said I made it pretty clear that I don't support it but, to me, if you were to make it at 1.5 years, it would border on illegal. Commissioner Scharmann said we just changed it. You said that, "I think I will go for 1.25" or I might. Chairman Olsen said we have decided, so let's move on.

Now, let's discuss Alan's request to waive Title 3's requirement that an employee's annual leave balance must be reduced to 240 hours at the end of the calendar year and that we allow him to carry-over all of his annual leave into the calendar year 2018, with the stipulation that excess leave must be used within the calendar year. HR Director Stark said, under Title 3, there is a limitation of annual leave for our employees where they can only have 240 maximum accrual of annual leave. We allow them to exceed that 240 hours during the year but they have to get down to 240 by the end of the calendar year or they may lose that excess leave. We have an Annual Leave Conversion Policy that allows employees to convert annual leave to either PERS credit or Deferred Compensation Contribution to help employees get their annual leave balances down. Part of that policy requires employees to take at least half of their accrual during the year to qualify. At this point, Alan has not been able to take that half, so he is asking to be allowed to carry-over his annual leave balance into the new year and then he will use his annual leave basically as a terminal leave from December 22nd until March 23rd. That is the request on this waiver of the Title 3 policy.

Chairman Olsen said we are talking about 3 months. To me, I discussed this offline before, it is a flip of the page on the calendar is what is keeping him from using that annual leave and the fact that he does have multiple projects that he is trying to tie up before the end of the year before he leaves, which is negating his ability to take the leave. We don't really want him to take the leave. We would rather that he stayed here and worked it would seem to me. That is why I could support this, unless somebody can convince me that there is a flaw in what I have been told or my thinking. We have had plenty of opportunity for public comment already but I will open it one more time before we start. There was no public comment so he opened the discussion to board and staff.

Commissioner Erquiaga said it may surprise you but I could support this but I think there are a lot of other people in the county who were affected in a similar fashion this year with flood mitigation. I would support this if we offer the same opportunity to everyone for this year. Very likely, none of them would take advantage of it because they would rather convert to annual leave or put it in their Deferred Comp or use the time this year. I know there have been people who have tried to schedule their vacation around other people's presence and not presence and I think we should afford it to everyone for the same reasons of the flood mitigation. Commissioner Scharmann said you mean to go ahead and allow others to extend their leave past the end of the year? Commissioner Erquiaga said to carry more than 240 hours ahead this one year. Commissioner Scharmann said I think that is a good idea.

Chairman Olsen said since we have no back up and we have no idea what that will cause, I can't support that without staff coming back to us at our next meeting and showing us what impact it could have. It is not a bad idea and I know early on we made some adjustments to certain departments because of flood mitigation because we were trying to make allowances for that. We asked for an incredible amount from people and they gave it. HR Director Stark said what I don't have an answer to and perhaps I will turn it over to Deputy DA Shawcroft is whether this would actually require a modification to Title 3 or can this be a blanket policy? Commissioner Scharmann said what Carl was saying was an exception and to only allow it for a year, which is what I said I would agree with. Deputy DA Shawcroft said whenever we talk about waiving requirements and provisions in Title 3, my stomach acid goes up. Title 3 is County Code; it is the law; it doesn't provide for exceptions. I know that we have made adjustments but we have to also weigh the risks when we do that. I just want to make you aware that our risk goes up when we make exceptions to the code that don't exist. Chairman Olsen said that is part of my thoughts about waiting and making a decision after study on that portion. HR Director Stark said, to log my opinion, I agree with the concept. We just want to take a look and make sure we are doing it right.

Commissioner Scharmann made a motion to approve Alan Kalt's request to waive Title 3's requirement that employees' annual leave balances be reduced to 240 hours at the end of the calendar year, allowing him to carry-over all of his annual leave into the calendar year 2018, with the stipulation that the excess leave must be used within the calendar year. Commissioner Olsen seconded the motion.

Commissioner Erquiaga said so we are disregarding the rest of it; my other request about other people? Chairman Olsen said I didn't say I disregarded it. Commissioner Scharmann said I think that Pete was wanting to get more information. Commissioner Erquiaga said that is fine but whether you waive it for one person or you waive it for 150, you are waiving it. You are changing it from Title 3 and making an exception to Title 3. I think you either get more information or you don't. Chairman Olsen said we have a motion and a second on the floor and I am going to continue down that road. We can continue to discuss this and ask for more information or you can try another motion to extend it to everybody. Commissioner Erquiaga said we are not agenized for that, are we, individually? I don't think we are agenized for this to be honest with you. It doesn't say anything about it on the Agenda. Commissioner Scharmann said you have a motion and a second. Commissioner Erquiaga said that doesn't preclude discussion to go ahead and vote. Commissioner Scharmann said but you discussed that this should be tabled and all I am saying is that we have a motion and a second on the floor. Before you can decide to not act on this, you need to vote on the motion and the second. Commissioner Erquiaga said no you don't; you can make a motion to table it. I am confused. Chairman Olsen said I am going to continue on with the motion on the floor, restated below.

Commissioner Scharmann made a motion to approve Alan Kalt's request to waive Title 3's requirement that employees' annual leave balances be reduced to 240 hours at the end of the calendar year, allowing him to carry-over all of his annual leave into the calendar year 2018, with the stipulation that the excess leave must be used within the calendar year. Commissioner Olsen seconded the motion, which carried by majority vote, with Commissioner Erquiaga opposed without willingness to consider everyone at the same time.

Chairman Olsen said, when we get to Consider Future Agenda Items, I think that is a good place to bring that up and we will get it on a future Agenda.

B- Consideration and possible action re: Adoption of Resolution 292-2017 authorizing the District Attorney's office to initiate legal proceedings on behalf of Churchill County against persons or businesses for failure to pay property taxes.

A RESOLUTION BY THE CHURCHILL COUNTY BOARD OF COMMISSIONERS AUTHORIZING THE DISTRICT ATTORNEY'S OFFICE TO INITIATE LEGAL PROCEEDINGS ON BEHALF OF CHURCHILL COUNTY AGAINST PERSONS OR BUSINESSES FOR FAILURE TO PAY PROPERTY TAXES.

Every year, the Assessor submits a list to the District Attorney's Office of taxes which remain delinquent after attempts to collect have failed. Most of these tax bills are stricken from the tax rolls as being uncollectable. However, there are some tax bills which, due to the amount owed and other factual circumstances, warrant extra efforts to collect. Under NRS 361.635, the District Attorney's Office is directed to commence actions for the collection of delinquent taxes upon receiving authorization from the County Commissioners. This Resolution provides the authorization needed for the District Attorney's Office to initiate suit against those persons or businesses for the collection of delinquent taxes. Any collection of taxes through theses judicial proceedings will be submitted to the Churchill County Treasurer. Suit will only be initiated in those cases where the amount owing is sufficient to justify further collection efforts and where the District Attorney's Office finds that there is a high likelihood of success.

FISCAL IMPACT: Minimal.

EXPLANATION OF IMPACT: Staff time and fees.

FUNDING SOURCE: N/A

ACTION REQUESTED: Adopt

Chairman Olsen asked if there was any public comment but there was none. He said he would like to be notified of these things as they happen.

Commissioner Carl Erquiaga made a motion to adopt Resolution 292-2017 authorizing the District Attorney's office to initiate legal proceedings on behalf of the county against persons or businesses for failure to pay property taxes. Commissioner Harry Scharmann seconded the motion, which carried by unanimous vote.

C- Consideration and possible action re: Proposed 5%-10% increase in contract fee for the Public Defender over the term of the contract commencing December 1, 2017 through June 30, 2021.

The existing contracts with each of the three Public Defenders are for an annual amount of $120,000, which expires on November 30, 2017. During the Board of County Commissioners Budget Hearings in February 2017, the Public Defenders were afforded the opportunity to provide input to the board regarding the services they each provide, their case load, and the effectiveness of providing indigent defense. During the hearings, the Public Defenders requested some consideration for increase in the contract fee; however, the final budget approved by the board did not include an increase for FY 17/18.

During the last several years, we have made a concerted effort, where possible, to align contracts for professional services, with the county's fiscal year, so that increases may be better planned for during the budget development process. We are proposing that the new contract for Indigent Legal Services commence December 1, 2017 through June 30, 2021. As expressed during the budget hearings and during discussions with each Public Defender, the cost of doing business has increased over the last few years. Total number of cases assigned to all the Public Defenders has not increased since 2014: DCFS cases assigned since 2015 have remained the same. The proposed increase in the contract fee is being recommended based on the overall increase in CPI over the last 5 years (6.6% or 1.1% per year). It is recommended that the contract fee July 1, 2018 - June 30, 2019 be $120,600 (5% increase) and a 2.5% increase year 2 and 3.

FISCAL IMPACT: FY 18/19: $378,000
FY 19/20: $396,900
FY 20/21: $416,745
EXPLANATION OF IMPACT: Professional services
FUNDING SOURCE: General Fund
ACTION REQUESTED: Accept
County Manager Lockwood reminded the board of the county's obligation to ensure that people entitled to counsel under the Sixth Amendment receive meaningful and effective representation. The county had consciously made a decision to move from one Public Defender that we had prior to 4 years ago. As we have monitored this, it appears that three Public Defenders is working well. The total number of cases has remained relatively the same. There appears to be good distribution amongst the three Public Defenders and, on a budgetary side, we seem to have reduced the number of conflict cases. Since 2015, our total DCFS cases assigned to the Public Defenders has remained relatively flat. I would like to thank the Public Defenders, especially Jacob Sommer, who took the lead on this in trying to make a conscious effort to provide consistent reporting, to using the same definition for each of the cases, and I think we have met the goal. The reports are coming in and I think everybody is happy with those. Again, I want to remind everyone of our obligation to provide meaningful and effective representation. Three Public Defenders, at this time, seems to be the right number.

With regard to the component of effective representation, I think we could argue whether they have adequate resources to provide effective representation. In the current contract and in the proposed contract going forward, our Public Defenders are independent contractors. The contract allows them to have their own private practice. The Public Defenders represented to the board at our budget hearings and again to me when I met with them that the time spent on Public Defender work has increased over the last 4years, so there is less time for private practice, particularly if the Public Defender is a one person law office.

Going forward, we need to continue to evaluate if three Public Defenders is the right number and we need to analyze and determine if the fee paid is fair so that they can provide effective representation. In this regard, each of the Public Defenders that we appoint on December 1st are vital to the ongoing discussion of a fair fee. Again, I refer back to the timing of this Agenda Report. When I met with each of the Public Defenders and indicated to them that the final budget approved by the board had no increase but that I would take this under advisement, look at it, look at costs associated with doing business, and why this is in front of you today is because one of the Public Defenders categorically told me in a letter, which he followed up with letters to both the Justice of the Peace and District Court Judge, that he would in no way entertain being a Public Defender again. We, therefore, went out for a Request for Qualifications (RFQ) and indicated in that RFQ that the contract price was $120,000 per Public Defender but then consideration would be made by this board for potential increases in years to come. The proposed Contract is for 3 years and 7 months, which will align with our fiscal year budget development. I would like to suggest that we are doing that so that there is better discussion during our budgets as to what we provide each of our independent contractors and, specifically, in this case, our Public Defenders.

The recommendation on the Agenda Report today is for the board to consider a 10% increase over the term of the Contract, which, in this case, would be 3 years and 7 months. I would like the board to consider committing to ongoing monitoring and analysis of whether three Public Defenders is correct in meeting our obligation and if we are providing a fair fee to ensure that we continue to meet our obligation so that our Public Defenders have the resources to provide effective representation. How do we go about analyzing if we are providing a fair fee? Several suggestions have been provided to me by several people and these have been shared with the Commissioners by others and myself. I am very concerned about some of the proposals that have been presented to me. Others, I believe, have merit. Other counties are struggling with this decision, as they have over the last several years. One of our adjoining counties has struggled to make ends meet and have laid off hundreds of people in this particular case and they are continuing to struggle to try to make revenues meet their obligations. Other counties are important in this discussion. How do we ensure that our Public Defenders are providing that effective representation? I believe we should continue to have dialogue with them, as it is vitally important that we get input from our Public Defenders.

Looking back at affording opportunities for our Public Defenders to present to the board during budget hearings, I do not think that was the appropriate time to do an evaluation of basically how it was going and whether they had the means to provide effective representation or how had caseloads increased the time spent. Going forward, I would like to suggest that we have to include each of the Public Defenders in coming up with a realistic cost. Concluding this analysis by November 2nd will not happen. I don't think we will come up with a fair fee either for the Public Defenders or for the county with our budgetary constraints. I would, therefore, like to board to consider either what I have presented to you today or potentially to consider something such as providing a small increase to the Public Defender Contract from December 1st through

June 30, 2018 and then, as I have suggested, try to continue with our analysis and monitoring to determine if indeed we are paying a fair fee as we continue forward.

Chairman Olsen asked if there was any public comment.

Jacob Sommer said I am one of the three contract attorneys, as the board knows. I could talk for two hours about this but I will not. I just want the board to know that I am going to read a prepared statement because I want to make sure that you have information but also so I don't get off track. I will say in advance that I agree with many of the things that Ms. Lockwood just indicated and I am frankly heartened to hear the reference to the Sixth Amendment for the indigent people of our county. Those are issues dear to my heart and, hopefully, if you have further questions about that we can talk privately. Honorable Commissioners, today you are set to consider the funding of indigent defense in Churchill County. In light of the issues before the Commission today, I suggest that the question we might consider, as Ms. Lockwood has indicated, is does the current proposal regarding indigent defense provide those of our county with the protections that they need and deserve? Rather than tell you how I would answer that question personally, I hope you will consider the following information as you make this determination for yourselves. The American Bar Association Standards say, in regard to this issue, "Indigent defense counsel should receive prompt compensation at a reasonable rate and should be reimbursed for their reasonable out-of-pocket expenses. Counsel should be compensated for all hours necessary to provide quality legal representation. Contracts may be a component of the legal representation of indigent defendants and such contracts should ensure quality legal representation. The contracting authority should not award contract primarily on the basis of cost." So, the standard is not and should not be how low can we go or what is the lowest bid. The standard is reasonable compensation for quality representation. The question, as posed by Ms. Lockwood, is certainly what is a fair fee, what is fair compensation as it relates in the standard that I just indicated? Chairman Olsen apologized for interrupting but asked if there has been bidding process here. Mr. Sommer said no, I am just suggesting that the focus not be on numbers as opposed to the standard. There have not been bids requested. The answer to the question that has been posed is that, quite frankly, I can't give you an answer that everyone would agree on. I have no answer for you today but I offer you the following: just prior to establishing the contract amount 5 years ago, this board looked to surrounding counties to determine a reasonable compensation rate. For example, the comparison with Lyon County was used after looking at caseloads, number of attorneys, and similar work requirements. That was a reasonable comparison and this Commission set the indigent defense funding at 90% of the Lyon County numbers. Since 2012, indigent defense funding in this county has not increased.

When compared to the Nevada counties providing for indigent defense by contract, there appears to be a clear discrepancy and, in my view, a clear problem. There are 2 important things that I would like to discuss. The first is, as I noted, there has been no increase in the indigent defense funding in the last 5 years, since 2012. After multiple increases in funding, for example, in Lyon County, Churchill County is now at 64% of the rate of Lyon County. There are other counties that we could discuss with even greater discrepancies but, in approximately 6 months, the Lyon County indigent defense funding will increase substantially yet again. I recognize that we are not in Lyon County but, when we look at the other similarly situated counties, we can see that there are some discrepancies and the rates of compensation for those programs in other counties are substantially higher than Churchill County. My point here is that I struggle to see how we meet the standard of providing quality representation for reasonable compensation when funding indigent defense at 64% of neighboring counties with similar information and statistics. Certainly, it is not because we are doing only 64% of the work that they do. Indeed, I believe that is quite to the contrary.

The second issue I want to raise is the cost of increased business. Ms. Lockwood eloquently stated that that is a concern and a consideration. One personal experience, perhaps, is worth mentioning here. It is no surprise to you that health insurance costs have increased substantially. As a small business owner, my costs over the last 5 years in health insurance have increased 100%. I now pay more for health insurance than I pay for my mortgage. This is not just simply an indication that I am paying more for stamps and paper but there are substantial costs that are in play here for 5 years.

In summary, I think today you are being asked to approve funding of indigent defense in Churchill County at the same rate that we have been paying for the last half a decade. In light of that idea, the question I believe that you should be asking today is how can we possibly be meeting the standard to provide quality representation for reasonable compensation when our contract attorneys have not received an increase for 5 years, when they are paid a fractional amount of similarly situated contract attorneys, and when the costs of business have increased so substantially in the last 5 years. As an illustration, I noted earlier that Churchill County is currently funding indigent defense at 64% of Lyon County. If you approve the 5% increase as proposed in fiscal year 2018, at the time that goes into effect, Churchill County would then be funding indigent defense at 63% of Lyon County. The reason for that is because the Lyon County indigent defense contract will increase substantially yet again as I mentioned earlier. My point is that we need to be going forward as opposed to backward, which is the direction that it seems to be going. I am not here to complain, I am not here to whine, what I am here to do is provide information that I think is important regarding the indigent defense of our community members. I realize that this is not a popular topic and that there are many other considerations that this board needs to and should be considering in the context of this but I cannot, as a Public Defender, sit back as we watch the indigent people of our county be forgotten. That is really the purpose for which I am sitting here. As I said, I am heartened by the comments about the Sixth Amendment; those are important indeed. I intend to continue to represent indigent defendants in this county as long as possible. I enjoy what I do but we need to be very serious as we consider these very, very important issues. I cannot understate that. If you have any questions or if anyone on the board or in the audience has any concerns about indigent defense, I invite you to talk to myself or my colleagues who can provide some helpful insights. I appreciate the board's consideration and ask you to make a correct decision here, make a good decision that will allow our county to be where we need to be.

Charles Woodman said I am one of the other 3 Public Defenders that we have total. David Neidert, the other Public Defender, is having some eye surgery today so he wasn't able to be present. I think he sent you all a letter. I am the new guy. Jacob and David have had their contracts for the last 5 years. I came in to pick up what was left of the contract for Mr. Drakulich when he retired about 39 months ago. I started in July 2014, so I am in 3 years plus into the contract. The reality, as I look at this thing, not only from Jacob's perspective of satisfying the Constitution and, for what it is worth, I am a lover of the United States Constitution and everything it stands for, but I also look at this from a business perspective. Frankly, I am perplexed. As I go through just a punch list of items or issues that I want to present to you in a few minutes, I think you will see why I am perplexed. The contract has been fixed for 5 years, as Jacob states. My research shows that, from 2012 through the end of 2016, inflation nationally is about 10%.

For me, the big issue was, when we appeared before the board for budget hearings several months back, I sat down before that little meeting and asked Jacob and David what parameters everybody used when they set this contract up back in 2012. They said that they looked at the caseload here versus the caseload in Lyon County and they tried to normalize things a little bit and go off of the Lyon County contract. So, when we were getting ready for the budget hearing, we looked at the Lyon County contract and also the Douglas County contract for not only how much those contracts were paying but also at the caseload. I can tell you that, with the possible exception of where they are at with lawyers in Elko County, because they go up and down 1 or 2 lawyers every so often, Churchill County Public Defenders have the highest caseload of any Public Defenders in the state. With 3 of us here in this county, we are handling more cases per lawyer than any other Public Defenders in the state, with the possible exception of Elko County, depending on how many lawyers they have in their office. We looked at the new contacts for Lyon and Douglas Counties and, depending on which year you look at, because the new contracts that went to the Public Defenders in those counties have built in graduations each year over the 3 years of the terms of those contracts last and, depending on which year and which county you look at, the low side is Lyon County at $185K per year, although they are going up each year, and Douglas County is now over $200K per year. So, as we prepared for the budget hearings, we presented this information and, when we didn't hear anything back, we figured alright, that satisfies the budget folks and they will probably come back with something like they did five years ago, which was at about 90% of Lyon County, which wasn't going to be a big issue for us, even though, again, if you normalize it with what we are being paid per case, the numbers get worse for us because we do have the highest caseload. When we just heard a few weeks back from your County Manager that the contract was going to stay flat, the reality is we were flabbergasted.

I want to make you aware of a couple of numbers or items. Anyone can go on Transparent Nevada and see what public employees make. The District Attorneys that work in this county, all of whom I like, all of whom I have positive relationships with, when you look at their compensation packages, they are all making at least equal to the $120K on our contract plus, depending on who they are. The newer ones are right down where we are and the attorneys who have more experience are making substantially more than that. For what it's worth, as an attorney who has been licensed and practicing in this state since 1993, and I was a prosecutor in Washoe County years ago, I've got significantly more experience than any of the attorneys in the DA's Office. Those DAs, aside from having their paid time off, get vacation time, sick time, bereavement, family leave, all of that, health insurance, obviously, the wonderful PERS benefit of racking up retirement over the years spent, and nothing that they do comes out of their pocket. Now, from the $120K we are paid, let me throw out some examples of what we have to pay for: our office rent, our furniture, our staffs, not only their wages and we pay them for their paid time off, but we have to pay IRS taxes on top of their wages, not to mention employment security taxes, workers compensation, everything that goes along with having employees in this state. We have to buy malpractice insurance because: (A) we have to have it and (B) the contract actually requires a significant amount of it. As Jacob mentioned, we have to buy our own family health insurance, thank you Mr. Obama. I pay $1,976.00 per month to insure my family of 5. We have to pay for phones, both landlines and cell phones, computers, software, copiers, toners, files, paper, pens, postage – significant mailing out of all notices we mail to clients, paper clips, storage for our files, and our continuing legal education – all of which comes out of the $120K we are getting paid. Again, if you contrast that with DAs, they pay for none of that as that is all covered in their budget. Please do not think I am here to tell you that your DAs are overpaid, as I would not argue that at all. I think they are all making what they ought to be making, plus or minus. I am sure some of them would make a good argument they are ready for a raise.

If you look at some of the ratios, it gets really interesting. On a per capita basis, the DA's budget is 4th of all counties in the state. They are at $89 per person for their DA budget. If you look at what the county is spending on indigent defense, you are second to last - $89 on the DA's side per person; $14 per person on the public defense side. If you look at the percentage, the ratio of what you spend on public defense compared to the DA budget, for example, Clark County pays 77% to the defense side compared to the DA side. We acknowledge that the DAs, just like Ben Shawcroft, have to do some civil stuff that we don't do. We understand that, so you are always going to pay less for defense than for the prosecution side. We understand that. Clark County pays its defense 77% of what it pays its prosecutors. Elko County pays 57% to defense. Washoe and Carson City both pay 56% to defense compared to what they pay the DA. Churchill County pays 16% for defense over what it pays to the DA. If Churchill County budgeted the average per capita among all the counties in the state for its defense, it would have a budget of just shy of $556K per year – that would give the Public Defenders (3 total) a budget of $185,325 each, which right now would be a little bit below what Lyon County is doing but Lyon County is going to go up again July 1st and again the following July 1st. If Churchill County budgeted the average, that ratio of defense to DA budgets, it would have a budget of

$687,050 per year, which would put the Public Defenders at $229,018, which is closer to what they are paying in Douglas County. I am not here to say that you ought to pay us more than what they are paying in Lyon or Douglas Counties. I just want to make sure that the Commission is aware that, over the past 5 years, the reality is that the price of getting good public defense has increased with everything else.

Three and a half years ago, I used to come to Churchill County one day per month because, at that time, for about a decade, I had been one of your Court Masters and I would hear cases for the District Courts in domestic cases to take some of the extra stuff of Judge Stockard's docket. I had been doing that for over a decade. Back at that time, Judge Stockard asked if he could take me to lunch one day and he said he was really interested in having me put in on the public defense contract where we needed to pick up where Mr. Drakulich was leaving it off, because they had gone out for a Request for Proposal and the pool of applicants was not what he wanted in terms of quality representation. I did it and I knew what the deal was going in at $120K per year and I certainly did not want to disappoint the judge. It looked like it would work for my private practice, so I have been doing it for the last few years. A year ago, the county put out another Request for Proposals because, at that time, there was a chance I was going to lose my contract because I was running for public office in Reno. The fact I am still here tells you how well my election campaign went. At that time, the best candidate was my associate Peter Smith, who helps me cover this contract and helps me with all of my work. As has been pointed out, while Peter is an exceptionally bright young attorney, he has been out of USC law school about 6 years but he does not have any first chair trial experience. He has tried cases with me second chair but he hasn't tried any jury cases on his own. Although he was head and shoulders the best candidate a year ago, when I submitted a proposal to the manager on behalf of the three public defenders, the next thing we knew, as I think Ms. Lockwood has stated based on the letter from Mr. Neidert stating that for $120,000 that he wasn't going to stay in the game, the three of us talked and we submitted a proposal to the county asking you to pick from two alternatives. One alternative was to commission a study on what it ought to be based on with all the information available out there and agree with us that, between now and June 30th, you will enter into good faith negotiations to adjust it on July 1st to what it ought to be based on that study. The other proposal was that I use the major league baseball arbitration plan – which, the way that works, is that we pick an arbitrator, which I think ought to be a District Court Judge who understands what we do and who understands public defense contracts but we wouldn't want to use Judge Stockard, as that wouldn't be fair to him, but we take one of the counties where they have Public Defender contracts, rather than a Public Defender's office, pick one of those judges who is familiar with it and have him or her serve as the arbitrator. We then have both of us make a case – the Public Defenders make a case for what we think is a fair amount and the county makes a case for what the county thinks is a fair amount and, just like in the major league baseball arbitration plan, the arbitrator looks at all the information and picks the proposal that he or she thinks is the fairest. That was the proposal that the Public Defenders made for renewing things between now and next June 30th.

At the end of the day, I will go back to what I eluded to at the beginning – when we made a proposal at the budget hearings it was in line with how you created these contacts 5 years ago. We thought we would end in the same place – plus or minus 90% of what they are doing in Lyon County. However, when the board said no and that we were going to be somewhere down around 62% of what Lyon County is doing now, I was just perplexed. I believe in everything Jacob said – indigent folks, while it's not popular to spend public dollars to "defend the bad guys", they have to have it – it is what's fair – it is what's right. We get into some rigorous representation as we spar with the DAs over how our clients ought to be treated. I have two trials set in November that are both going to go to jury trial. When those cases were getting set and knowing when they were getting set I wasn't feeling very good about the county's position on our contract renewal – I had every opportunity to set both of those trials past the December 1st renewal date and let them be somebody else's problem if the county didn't "do the right thing", but I didn't do that because then my clients would have had to wait longer for their justice. You know the old saying, "justice delayed is justice denied". The two of us and Mr. Neidert are pouring our hearts and souls into this thing and, for what it's worth, to get a little bit personal – as I said, I have an associate, which I have to have because I have a busy practice in Reno, if I get priced out of this contract and it doesn't renew, it will have a little bit of an impact on my associate, Peter Smith, but it won't have any impact on me. Peter will be fine because, without having to spend time on this contract, I will fill in his time with additional work from my Reno practice. Mr. Neidert, to a lesser extent, will do the same thing, although he doesn't have an associate, so his ability to practice outside of this contract has decreased over the years but he will bounce back. Mr. Sommer has poured his heart and soul into this contract and has let go of about everything else he was doing before he had the contract.

Again, I am perplexed – I feel like, if you folks are informed and if you look at how we got to where we are, looking around at our neighboring counties, comparing some numbers, and keeping in mind that nobody is doing more cases per lawyer than we are, it would make sense to me to look at what the other counties have decided is fair and at least be in that ballpark, as opposed to 60% of that ballpark. I can't think of anything else I want to tell you. I know there are a couple of thoughts I am missing. I am certainly available to answer questions and I thank you for letting me have this time without interruption.

Chairman Olsen asked if there was any further public comment. Martin Crowley said I wasn't intending to speak but was only going to take notes for my friend, Dave Neidert, who had his eye surgery today. I am happy to report his surgery went well and he is home and it appears to be successful. Unfortunately, he has to go in next week for an additional eye surgery on the other eye but, hopefully, it will go as well as the one he just had this morning. Two of the three Public Defenders that you have contracts with today I encouraged to establish their practices here in Churchill County because I got acquainted with them and got to know their remarkable skills and their character, Mr. Neidert and Mr. Sommer. Mr. Sommer was clerking for a judge here several years ago and I encouraged him to establish his practice here and I am glad that he did so because the community has been well served by his presence. I have known Mr. Woodman for over 25 years and he is another remarkable attorney, with great, great skills and he has a great dedication to his clients to serve them in a way that is admirable. I don't say that lightly because I don't feel that about a lot of attorneys in the way that they practice. I won't go into the negative aspects of attorneys in the way they practice but you have here 3 of the most remarkable attorneys that you could possibly have. Here in this community, they represent people among the poorest people and they do it very, very well and with dedication to those individuals. I met Mr. Neidert when he was a Senior Deputy Attorney General and he prosecuted a couple of my clients. I thought he did it with great skill but also with compassion and professionalism. He later entered private practice and I offered him space in my office and then encouraged him to apply for the Public Defender contract here in Churchill County, which he did. I have consulted with David on several cases over the last 5+ years and he has an exceptional legal mind. His service to his clients is demonstrably evident in his success in his trials. You have now the best panel of Public Defenders that a county could ever hope to get and I do mean ever. I have known thousands of attorneys and you will not be able to get a panel better than these 3 attorneys ever. If you sit here in this position for the rest of your lives, you would not find or be able to achieve a greater set of attorneys with skills, experience, and dedication to their clients. I would hope that you would consider that fact in what you are getting here. By far, you have the best dollar value, not just that you are paying the least in the whole state but you have the best dollar value. No matter what you paid, you would be getting the best dollar value for these individuals because they are just remarkable, remarkable attorneys. I wanted to point that out.

As an aside, earlier this month, my wife pointed out an article, although I don't know if you heard about it, but the article talked about crime rates in Nevada and I was a little bit shocked when she revealed that the article said that Fallon had the highest crime rate. I was kind of perplexed and surprised at the same time. I am not really sure if anybody heard or read that article but that might be a factor as to why the caseload for this county is higher per capita than some of the other neighboring counties, although I am not really sure. I just brought that up anecdotally but that was an article that I had pointed out to me in the last week or two.

Chairman Olsen asked if there was any further comment but there was none, so he opened the floor for board and staff discussion. County Manager Lockwood said I know the board is now in an extremely difficult position. I would like to have your comments but I wanted to state to the board what I said earlier. We are not deciding on a Public Defender at this point in time. We have an RFQ going out. Mr. Crowley, some of your comments sort of indicated that we are defending our Public Defenders about picking who our Public Defenders are going to be going forward.

As I indicated earlier Commissioners, I am bringing this forward to you because I did hear the Public Defenders and we had approved the final budget. I think you are in an extremely difficult position at this point in time. I think one of the things that we could do, because it definitely has budgetary implications to our existing final budget, is to postpone this until the second meeting in December. As I said, we are going out to appoint Public Defenders potentially at the first meeting in November. For me and in working with the Comptroller and others that I have worked with, to discuss some of the ratios that have been proposed again, I do not believe that we are going to come up with that exact perfect figure now, 2 months down the road, or even 6 months down the road. However, if the board would like me to go back and do a little bit more research to pick up on some of the points that Mr. Woodman has raised, in particular, I am willing to do that. It will need to be the second meeting in October or potentially the first meeting in November.

Chairman Olsen said that is how I felt too. I am not ready to make a decision today. There have been a lot of numbers bandied about and I think that, if we don't do it at a regular meeting, the thought flashed through my mind to even do a workshop, which could be a half an hour or 40 minutes, to go through whatever the study was and then come back at the following meeting to make a decision or we can just leave it at a regular meeting. County Manager Lockwood said I will look at all of those options and see how fast I can gather data and put it together. I think it is very important that I work with CFO Kalt because, if indeed you are going to change anything this fiscal year, we need to find out where that money will come from and how it can be supported. Again, yes, we are making a conscious effort to ensure that you have effective representation.

Commissioner Scharmann said, while I agree with you that we should look at it more closely, this Commission, before I came on, made a huge commitment to go to 3 Public Defenders. That jumped it to $360,000, which was huge. Probably what we should have done, hindsight of 20/20, was to go ahead and look at incremental raises over the last 5 years so, now, we have gotten ourselves from 90% to 64% with Lyon County. I think we need to look at this a little more closely. The big factor, although I don't want these Public Defenders to think that your work is at a lesser priority than others, but we still have to look very closely at the budget. CFO Kalt's input on this is going to be important, as well, as to where we are going to find the funding if we make a significant increase. All of those things needs to be taken into consideration but I agree that we need to look at it a little more.

Commissioner Erquiaga said I think more information is necessary before we can go ahead. At least I wouldn't feel comfortable without it. I would really like to know Mr. Woodman's sources for the statistics he quoted. Mr. Woodman said a lot of the information is available with the Administrative Office of the Courts that oversees all of the courts in Nevada and compiles the statistics. I have gone to County Clerks and retrieved the most recent copies of the Public Defender contracts. We will get you the Administrative Office of the Court's statistics and copies of current contracts of other Public Defenders so you can look at it before you look at this item again. Commissioner Erquiaga said please understand I am not doubting your numbers; I just want to know the source for where they come from. Mr. Woodman said, of course, you have to know the numbers are legit and I just want you to know that one thing Jacob and I understand is being on the record, so we are not going to throw any bogus numbers at you. We will get you facts to back up the numbers we are giving you.

Commissioner Carl Erquiaga made a motion to table the matter for further research. Commissioner Harry Scharmann seconded the motion, which carried by unanimous vote.

D- Consideration and possible action re: Renewal of Agreement between Churchill County and Research and Consulting Services, Inc. for professional services in connection with the Churchill County Repository Oversight Program for an amount not to exceed $130,000 per year.

Provided for the board's review is a proposed agreement with Research and Consulting Services, Inc. (Rex Massey) to provide professional services in connection with the Churchill County Repository Oversight Program. The proposed agreement is for a two-year period, October 1, 2017 to September 30, 2019. The terms outlined remain the same as the prior agreement. Exhibit 'A' identifies the Scope of Services to be provided during the term of the contract. The Fee Schedule (Exhibit 'B'), shows an increase in the hourly amount from $99.50/hr to $105/hr for labor and an increase from $70/hr. to 75/hr. for a Research Assistant, however, the 'not to exceed' amount of $130,000 per year, plus direct expenses, remains the same. Funds are provided by the federal government to support the Oversight Program. A summary of activities and worked completed by RCS, Inc. during the prior contract period (October 1, 2015 through September 1, 2017) is included.

FISCAL IMPACT: Churchill County is an affected unit of local government for the Yucca Mountain Project. As such, we have an obligation to stay informed of the project and maintain public information in our Repository Oversight Program. We receive a direct payment from the federal government to support our Oversight Program. No General Fund or local tax dollars are used in support or against this proposed project. The agreement is contingent on Oversight grant funding of the project. Currently, there are adequate resources remaining in the program to continue support of this contract and program operations through the period of the contract.

EXPLANATION OF IMPACT: There is not an impact to the General Fund, as funding is provided by the federal government.

FUNDING SOURCE: Federal Government: Yucca Mountain Oversight Funds

ACTION REQUESTED: Accept

Chairman Olsen asked if there was any public comment but there was none.

Commissioner Harry Scharmann made a motion to approve the Agreement between Churchill County and Research Consulting Services, Inc. to continue support of the Churchill County Repository Oversight Program for a two-year period October 1, 2017 through September 30, 2019. Commissioner Carl Erquiaga seconded the motion, which

carried by unanimous vote.

E- Consideration and possible action re: Appointment of an At-Large Member to the Audit Committee.

Churchill County has an Audit Committee, which consists of three members. The members are as follows: County Commissioner, Chief Deputy Civil Division District Attorney, and an At-Large Position. The members have been Commissioner Carl Erquiaga, Ben Shawcroft, and Sean Richardson. The Comptroller's Office received a resignation letter from CPA Sean Richardson, who has served this committee for four years. We have appreciated Mr. Richardson's service and insights into the work of the Audit Committee. The At-Large position seeks to find someone who has expertise in accounting, auditing, financial reporting, and internal controls. The hope is to have a Certified Public Accountant serve in this seat. The Chief Financial Officer has reached out to several members of the community to see if they have a willingness to serve on this committee.

Phyllys Dowd is a Certified Public Accountant since 2005 and is currently serving as the Director of Business Services for the Churchill County School District (CCSD). Phyllys has served in this position for the past five years. Prior to working at CCSD, she worked for Lyon County School District as their Controller and for the Public Employees' Retirement System of Nevada as the Chief Accountant. She has a Bachelor of Science degree in Business Administration with a concentration in Accounting and a Masters of Business Administration degree from the California State University, Fresno. Phyllys would provide a great perspective and oversight to the Audit Committee.

FISCAL IMPACT: The Audit Committee is a volunteer, non-paid committee within the county. There would be no fiscal impact associated with the appointment of the committee members.

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED: Accept

Chairman Olsen asked if there was any public comment but there was none.

Commissioner Carl Erquiaga made a Motion to appoint Phyllys Dowd, CPA, to serve as the At-Large position on the Audit Committee for Churchill County. Commissioner Harry Scharmann seconded the motion, which carried by unanimous vote.

F- Consideration and possible action re: Resolution 293-2017 requesting assignment of a Deputy Attorney General in a conflict case from the District Attorney's Office.

A RESOLUTION BY THE CHURCHILL COUNTY BOARD OF COMMISSIONERS JOINING WITH THE DISTRICT ATTORNEY IN REQUESTING THE ASSIGNMENT OF A DEPUTY ATTORNEY GENERAL IN A CONFLICT CASE.

The District Attorney's office is requesting to have a Deputy Attorney General assigned to review and handle a case with which the office has a conflict of interest. NRS 228.130 requires the board to approve this request by resolution if it finds that such assistance from the Attorney General's office is necessary.

FISCAL IMPACT: Unknown

EXPLANATION OF IMPACT: The attorney general is authorized by NRS 228.130 to request payment by the county for its expenses in prosecuting cases that it handles on behalf of the county. Prior AGs have not always requested reimbursement, so it is unknown whether the new AG will request payment.

FUNDING SOURCE: N/A

ACTION REQUESTED: Adopt

Chairman Olsen asked if there was any public comment but there was none.

Commissioner Harry Scharmann made a motion to adopt Resolution 293-2017 requesting the assignment of a Deputy Attorney General to handle law enforcement Case No. F17-03724. Commissioner Carl Erquiaga seconded the motion, which carried by unanimous vote.

G- Consideration and possible action re: Discussion on recruitment and selection of a Churchill County Comptroller.

As a result of the 2016 Class and Comp Study, the board reclassified Comptroller Alan Kalt to Chief Financial Officer (CFO). The previous Comptroller position had been at Grade 78, which was 8 pay grades below the County Manager (who was at Grade 86). During the Class and Comp Study, it was recommended the position be reclassified to CFO based upon the extra duties the person in the position was performing. The recommended and approved pay grade for the CFO was Grade 83, which was 6 pay grades below the County Manager (who was reassigned to Grade 89).

At that time, the County Manager suggested that if Alan was to retire in the short-term, the county should recruit a Comptroller to replace him. Since the previous pay grade was Grade 78 ($88,442 to $118,893 annually), the county could post the position at that pay grade. (If the county wanted to return to an 8-pay grade difference between the Comptroller and County Manager, Grade 81 could be used - $95,243 to $128,024 annually). This recommendation, in part, meets the intent of the Attrition and Hiring Delay Policy, requiring staff to evaluate alternatives to each position. Hiring at a lower classification and range assumes the new employee will not be performing the same full duties as the CFO. A new class specification for the Comptroller is included for the board's review and approval.

The appointment of the Comptroller, as with many Department Head positions, is the responsibility of the County Manager. The Comptroller is vital to the organization and I strongly recommended that recruitment commence immediately, with the goal of selecting a qualified individual by mid-November so that Alan can provide guidance in the budget development process, which commences in early January. Although Alan's first official day of retirement is March 26, 2018, his last day in the office is December 22, 2017. It will be very beneficial if the individual selected can also participate in the financial status/priority setting workshop to be conducted late November/early December. Based on a relatively aggressive recruitment schedule, staff estimates the recruitment process could begin on September 21, 2017, with interviews on November 13-14, 2017, followed by having the new Comptroller in place by December 4, 2017, at the earliest.

The Comptroller is an at-will, department head position, who serves at the pleasure of the County Manager. As such, staff recommends the County Manager be assigned to oversee the recruitment process.

FISCAL IMPACT: Recruitment = approximately $8,000.
Salary and Benefits for crossover period = approximately $37,600.
EXPLANATION OF IMPACT:

- Recruitment: Approximately $2,000 for online recruiting. Estimating $6,000 for travel expenses of candidates for the interviews (6 candidates at $1,000 each).
- Salary and Benefits: Estimate is based on hiring at the first step of Grade 78 for eight pay periods (beginning 12/4/17). The estimate includes PERS and health insurance.

FUNDING SOURCE: Recruitment - General Fund – Already budgeted with funding in the Human Resources Budget (100-175-55810 Recruitment Costs).

Salary and Benefits - General Fund
ACTION REQUESTED: Accept

Chairman Olsen asked if there was any public comment but there was none. Commissioner Erquiaga said I know when we did the salary study 2 years ago, we talked about reserving the Comptroller position for when Alan retires. My question is, do we want to limit ourselves to that or should we be looking for a Chief Financial Officer? Who else is going to do the other jobs or duties he was doing if we don't have a CFO grade? County Manager Lockwood said I know exactly where you are coming from Carl and my suggestion is that we are looking at somebody who is extremely competent and we prefer to have somebody who has local government budget experience. We are leaving that open because we want to see what comes forward. My suggestion to you is that we move forward and try to recruit the best candidate possible. In that recruitment, what we might find is somebody actually comes forward with a lot of experience. I would still recommend that, if you look at the Comptroller's job description as you probably have, there is a broad range of things that a Comptroller can do and I think it remains to be seen whether or not the person that we can recruit has that level of skill and experience in doing all of those things. My hope that would be that, when I retire, which you all know will be sometime in 2018, we recruit for a County Manager who has good skills in budget management and public administration. So, when the new County Manager comes on board, I think you can then see how successful we were in recruiting a Comptroller, what skill set does he or she have, and then, for the decision to be made, we need something more in the Comptroller's Office after the new County Manager comes on board. That is my suggestion.

Commissioner Carl Erquiaga made a motion to approve the class specification for the Comptroller, assign it to pay grade 78, approve the immediate recruitment for a County Comptroller by possible appointment on December 4, 2017, and direct the County Manager to oversee the recruitment and screening process for said position. Commissioner Harry Scharmann seconded the motion, which carried by unanimous vote.

Consent Items:

A- Planning Department's Revenue Report for July 2017.

The Planning Department submits its Revenue Report for July 2017. Details can be found on the document.

FISCAL IMPACT: N/A

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED: Accept

B- Planning Department Revenue Report for August 2017.

The Planning Department submits its Revenue Report for August 2017. Details can be found on the document.

FISCAL IMPACT: N/A

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED: Accept

C- Consideration and possible action re: Recorder's Monthly Apportionment Report for August 2017.

Churchill County Recorder Tasha Hessey providers her Recorder's Fee Monthly Apportionment Report for August 2017. Details can be found in the report.

FISCAL IMPACT: N/A

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED: Accept

D- Consideration and possible action re: Building Department's Revenue Report for August 2017.

The Building Department's Revenue Report for August 2017 is provided for the board's review and consideration.

FISCAL IMPACT: N/A

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED: Accept

E- Consideration and possible action re: Sheriff's Office Civil Report for August 2017.

The Sheriff's provides his Civil Report for August 2017 for the board's review and approval.

FISCAL IMPACT: N/A

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED: Deny

None; Informational Only

Chairman Olsen asked if there was any public comment but there was none.

Commissioner Harry Scharmann made a motion to approve the Consent Agenda as submitted. Commissioner Carl Erquiaga seconded the motion, which carried by unanimous vote.

Consider Future Agenda Items:

County Manager Lockwood said we have discussed a potential workshop related to compensation for the Public Defenders. I would also suggest a financial status/priority setting workshop with you and I would like the board to start looking at calendar dates for that from mid-November through the first week in December.

Commissioner Erquiaga said I would like to see an evaluation or sort of an audit if you will of how the Early Retirement Incentive Policy has been applied going back to December 2014 when this resurgence of using it again started and compare how it has been done across individuals. I would envision something like a simple spreadsheet with columns for how many years they had, what they requested, and what they were approved for. I can provide what I think would be the pertinent information and you can pick and choose. I know that there could be some confidentiality issues but it has all been discussed in open meetings and you could redact anything that was confidential. It is all pretty much public knowledge anyway except people's Social Security numbers. I would like to see that information and see if there are bear traps that we have eliminated and bear traps that we need look at and determine if we need to revise that policy.

Commissioner Scharmann said we also said we will talk about allowing all employees to carry-over leave past the calendar year.

Commissioner and Management Staff Reports:

Chairman Olsen said he has been busy but doesn't really have anything he needs to report on considering the length of this meeting.

Commissioner Erquiaga reported on the following topics:

- Special Highway Commission meeting.
- Sagebrush Ecosystem Council meeting in Carson City, which is the group that deals with the state's sage grouse plan.
- Mosquito, Vector, and Noxious Weed Abatement meeting.
- 4 days hunting in White Pine County.

Commissioner Scharmann reported on the following topics:

- Lyon County Health Forum on September 12th related to the activity of our Board of Health.
- Met with Rob Carnahan, CEO at Banner, about the expansion of ambulance service in the future.
- Chancellor's open meeting for WNC to talk about replacement of the President.

County Manager Lockwood reported on the following topics:

- Division of Water Resources mapping of Newlands Project with meeting today.
- District Court needs assessment with Sletten Construction.
- NRCS, Navy, and NGO partners for conservation easement purchases.
- Out of office Friday through October 2nd.

CFO Kalt provided a written report and discussed the following topics:

- Audit.
- Sales tax update.
- RTC Treasurer's Report.
- USDA loan close out.
- Met with Ray Ferguson, Cliff Van Woert, and Frank Woodliff to finalize the final change orders and process the payment for the William N. Pennington Life Center. We still have the retention and need to make sure that all of the subs and lien releases are

received so we can go ahead and finish that out.

- FEMA weekly conference calls.
- Summary of where the various projects are.
- Software conversion.

Civil Deputy District Attorney Shawcroft had nothing to report.

Deputy Clerk of the Board Moore reported on the following topics:

- Jim Regan Memorial Golf Tournament, which was a huge success.

Claims and Payroll Transmittals:

The Claims and Payroll Transmittals were submitted for the board's consideration and approval.

Public Comment:

Chairman Olsen asked if there was any public comment but there was none.

Adjournment:

The meeting was adjourned at 5:05 PM.

APPROVED: ______________________
H. Peter Olsen, Jr., Chairman

APPROVED: ______________________
Carl Erquiaga, Vice-Chairman

APPROVED: ______________________
Harry Scharmann, Commissioner

ATTEST:
Kelly G. Helton, Clerk/Treasurer

____
Pamela D. Moore, Deputy Clerk of the Board

MINUTES OF THE BOARD OF CHURCHILL COUNTY COMMISSIONERS

155 N. Taylor St., Fallon, NV 89406
October 18, 2017

Call to Order:

The regular meeting of the Board of County Commissioners was called to order at 1:15 PM on October 18, 2017.

PRESENT:	Commissioner H. Peter Olsen, Jr.
	Commissioner Carl Erquiaga
	Commissioner Harry Scharmann
	County Manager Eleanor Lockwood
	Civil Deputy District Attorney Benjamin Shawcroft
	Deputy Clerk of the Board Pamela D. Moore
	Deputy Clerk Renae Paholke
ABSENT:	Chief Financial Officer Alan Kalt
	Clerk/Treasurer Kelly G. Helton

Pledge of Allegiance:

The Pledge of Allegiance was recited by the board and public.

Public Comment:

Chairman Olsen asked if there was any public comment but there was none.

Verification of the Posting of the Agenda:

It was verified by Renae Paholke, Deputy Clerk, that the Revised Agenda for this meeting was posted on the 13th day of October 2017, between the hours of 8:00 and 9:00 AM at all of the locations listed on the Agenda, in accordance with NRS 241.

Consideration and possible action re: Review and adoption of Agenda as submitted or revised:

Commissioner Carl Erquiaga made a motion to approve the Revised Agenda as submitted. Commissioner Harry Scharmann seconded the motion, which carried by unanimous vote.

Review and Adoption of the Minutes of the meeting held on:

A- September 7, 2017.

The Minutes of the board's regular meeting held on September 7, 2017 are submitted for the board's review, consideration and approval.

FISCAL IMPACT: N/A

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED: Accept

Commissioner Harry Scharmann made a motion to approve the Minutes of the regular meeting held on September 7, 2017 as submitted. Commissioner Carl Erquiaga seconded the motion, which carried by unanimous vote.

Appointments:

1:15 PM - Consideration and possible action re: Update of current activities, plans, or actions related to the Bureau of Land Management's Carson City District

Ken Collum, Field Manager, Stillwater Field Office, Carson City District, Bureau of Land Management (BLM), will provide an update on current activities, plans, or actions related to the BLM.

FISCAL IMPACT: N/A

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED: None; Informational Only.

Ken Collum, Field Manager of the Stillwater Field Office, Carson City District, Bureau of Land Management (BLM), reported on the following topics:

- Fallon FORGE Project EA
- Nevada Bureau of Mines & Geology surface project by Gabbs
- Valley Off-Road Racing Association 5 Year Permit about to expire and wanting to expand
- Sage Grouse Amendment 45-day scoping period
- Juniper Reduction in the Desatoyas
- Emergency Stabilization Rehabilitation Plan for Tungsten, Draw, and Bravo 17 Fires submitted
- Dixie Meadows EA
- Moving ahead with NEPA on Tungsten Solar and Tungsten Geothermal

Commissioner Scharmann said the cheatgrass presentation at the last meeting was very informative. If grazing animals will graze on cheatgrass and it is the biggest fuel there is for wildfires, then why aren't we expanding grazing rights? It seems to him that in years of drought wouldn't the best way to fight it to be to expand grazing rights during the drought season. Mr. Collum said the studies out of UNR are showing that cheatgrass is edible in the fall and in the spring and has enough protein to sustain cows at that time. They have developed a program for targeted grazing. The biggest issue with that is they are tied into their present permits. They want to re-address the permits to make them more flexible for seasonal use. There is a lot more research at UNR that says in the fall when they start seeing germination is the best time to start grazing. Right now, most of the permits do not have that flexibility to put cattle back out. There is a project going on in Elko right now where they are trying that along the highways or the target area. So, they are getting there but the targeted program will be more site-sensitive where they can, hopefully, use it to stop a fire, especially along the highways where they tend to start. There is a very small window where cattle will eat cheatgrass; once it gets a little bit bigger, then they tend not to. Commissioner Scharmann said it is good to know that the BLM is working on that and trying to come up with solutions.

Chairman Olsen asked if there was any public comment but there was none. This item was presented for informational purposes only and no action was taken.

1:30 PM - Public Hearing - Consideration and possible action re: Bill 2017-C, Ordinance 113, an ordinance amending the Churchill County Code to prohibit all marijuana establishments in Churchill County and other matters properly related thereto

This ordinance is being brought forward due to the passage of State Question No. 2: Initiative to Regulate and Tax Marijuana (Marijuana Act), which became effective on January 1, 2017. In 2014, Churchill County passed Bill 2014-D, Ordinance 113, which prohibited medical marijuana establishments as a type of land use in all of the zoning districts within the county. This ordinance will further prohibit recreational marijuana establishments as a land use in all zoning districts within Churchill County.

At a meeting of the board held on December 21, 2016, this issue was raised prompting discussion as to whether the county should allow recreational marijuana establishments in the unincorporated areas of Churchill County. A copy of those Minutes are provided with the Agenda Report. It appeared from comments made by the Commissioners at that meeting that a preference was to zone out recreational marijuana establishments (including cultivation and dispensaries) completely. The ordinance presented today does exactly that. Also provided is a memorandum prepared by the District Attorney's Office and the Planning Department, which provides an overview of the statutes related to this topic, a summary of what other counties and cities are doing, and an analysis of relevant sections of the Churchill County Code and Master Plan

FISCAL IMPACT: No fiscal impact.

EXPLANATION OF IMPACT: There will be no direct fiscal impact to the county by adopting this ordinance. However, the county will forego the ability to collect taxes and fees related to these types of businesses.

FUNDING SOURCE: N/A

ACTION REQUESTED: Adopt

Chairman Olsen asked if there was any public comment. Sheriff Trotter thanked each of the

Commissioners for having the best interest of our community in mind when you consider this. The community spoke strongly against legalization, even though it was passed statewide. Thank you for thinking of us, our children, and our future by considering a proposal like this. He is here to support the proposal to ban marijuana establishments throughout the county and he has an arms length list of reasons but he will keep it to a minimum. We already have a medical establishment within the city limits, so we do not need one in the county. Should the city allow a recreational dispensary, the 25 mile component of the law will bar non-medical personal grows for well over 90% of the residents of this county. The only outliers will be Middle Gate, East Gate, Cold Springs, and Duffy Road. Passing this ordinance will allow law enforcement to focus on duties we already are tasked with. We will not have to worry about the added regulatory action required of this vague and faulty statute. He also believes in being proactive and believes this ordinance is proactive and allows them to get ahead of this issue before the legal dust actually settles. We live in the desert and there is water aplenty this year. Growing marijuana requires more water than any of the other crops we traditionally grow in Churchill County. This could have a negative impact on our water in most years.

Paul Molloy said there seems to be in issue here in Churchill County with funds and he thinks this could be a resource for funds that are just waiting to be tapped into. He has no problem with the law enforcement aspect of it. Has anyone ever, instead of saying we are going to put in a moratorium, said we are going to put out a 5 year plan and see what happens and let the cultivation go or the selling go or whatever the case may be? It just seems that right now, with the legal dust settling on the subject, it is difficult for me to acknowledge that the county would want to go forward without exploring the options. Have you thought about saying, let's try it for 2 or 3 years and then you can always pull that license or permit? Chairman Olsen said it was a very flawed ballot question in the sense that it was yes no matter which way you answered. It left us with very limited ways that we could address what our community decided on. In Nye County, they were open arms but they were very desperate for money. Clark and Washoe answered the question the same way. Our community answered 60/40 against, so from his perspective, this is as close to no as one can get. That is why he has not considered those other choices because our community answered resoundingly against the idea, so he is trying to keep this as close to no as he can.

Commissioner Scharmann said, in regards to the money, from what he has read and heard, a lot of the money, especially in Colorado, that they thought was going to go to the schools, has instead, been channeled into prevention and law enforcement for the additional use of marijuana and all the problems that it is creating. I am not sure that we would really see a lot more money. I am hesitant also to talk about money because money is not the issue for me at all. There are other things that have helped me decide besides the almighty dollar.

Commissioner Erquiaga said his reaction on the 5 year moratorium is he would rather go the other way and have a moratorium that they can change later should it look like it is a great idea. Once you bring people in, there will be investments and a lot infrastructure that they have to build to have these facilities and it is not as simple as yanking that permit. There are so many unanswered questions. We are told that banks cannot take that money and he does not think the state knows how they are going to get those tax revenues into their system. They are essentially laundering money. A Humboldt County Commissioner told me that that is correct, we would be laundering money. He also is not sure that tax revenue is going to be as big as everyone thinks it is. He would rather wait and see if it is before he decides that is an attractive thing. We are only regulating what is in the county outside of the city so, should the city decide to allow a dispensary, there would be sales tax collected on it, plus the 15% excise tax. The sales tax would be divided up just as any other sales tax is and he does not know if the excise tax is divided up so, should they decide to do that, the revenue will already be in the system. It may not be in the county's pocket, but it will be in our community.

Commissioner Scharmann said he is glad Mr. Molloy came up and spoke about this. One of his concerns with being a rural county in Nevada is what happened in Oregon. It was basically passed by urban areas like Eugene and Portland. They do not want to cultivate in the urban areas, they want to cultivate in the rural areas, so now the rural counties are the ones paying the price because big money is coming in and buying up property to grow and a lot of the people living in the rural counties who did not think that this would affect their way of life have found out that it has affected their way of life big time and he does not want that to happen here.

Michael Johnson, Planning Director, said he agrees with Sheriff Trotter and he believes the county has done a fantastic job. In his office they probably get one or two calls a week from people who want to know when they can start to grow because they think it is going to be a cash cow and maybe it is but we have been telling them that the county will be prohibiting it and it has saved their office a lot of headaches. He also heard from TCID that their water cannot be used for growing marijuana.

Jim Falk said he agrees with those in opposition of marijuana. His insurance broker told him that, right after the bill passed to allow some areas in the state to allow recreational use, the insurance rates have started going up and will continue to go up in anticipation of more accidents. There are adequate examples from other cities and states that have allowed it and decide that is not what we want. He does not want it in the county where he lives.

Kristy Beikaras, Churchill Community Coalition, said she agrees with Sheriff Trotter that we do not need to be on the forefront of this change and we need to make good decisions and watch the impact as things progress in our state. We have seen Washington, Oregon, and Colorado and everything they are dealing with and she is glad our county is so informed with what is happening. The best thing that we can do is go very slowly with these changes. We do not need to be right on top of it; the money will always be there, so watching what is happening with the rest of the state would be the best option for us.

Commissioner Harry Scharmann made a motion to adopt Bill 2017-C, Ordinance 113, an

ordinance amending the Churchill County Code to prohibit all marijuana establishments in Churchill County and other matters properly related thereto with an effective date of November 1st, 2017. Commissioner Carl Erquiaga seconded the motion, which carried by unanimous vote.

1:35 PM - Consideration and possible action: Memorandum of Understanding between the Churchill County Planning Department and the Fallon Paiute Shoshone Tribe for the assignment of addresses for properties under the jurisdiction of the Fallon Paiute Shoshone Tribe, Reservation, and Colony

Since 2001, the Churchill County Planning Department has been responsible for assigning street addresses for properties located in Churchill County. This has included, on several occasions, the assignment of addresses for properties under the jurisdiction of the Fallon Paiute Shoshone Tribe, Reservation, and Colony. It has been determined that it would be appropriate to formalize this activity with a Memorandum of Agreement (MOA). Currently, the county does not charge for assigning street addresses and would continue in this fashion for the foreseeable future.

FISCAL IMPACT: N/A

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED: Accept

Chairman Olsen asked if there was any public comment but there was none.

Commissioner Carl Erquiaga made a motion to approve and accept the Memorandum of Agreement between the Churchill County Planning Department and the Fallon Paiute Shoshone Tribe and authorize the Churchill County Commission Chairman or Vice-Chairman to sign the Agreement. Commissioner Harry Scharmann seconded the motion, which carried by unanimous vote.

1:40 PM - First Reading - Consideration and possible action re: Bill 2017-F, Ordinance 7, an ordinance making an amendment to Title 3 of the Churchill County Code allowing employees a one-time opportunity to carry-over annual leave in excess of 240 hours into calendar year 2018, with the requirement that the excess leave be used in 2018

At the Board of County Commissioners' meeting on September 21, 2017, the board indicated an interest in allowing a one-time waiver of a vacation leave provision in Title 3 of the Churchill County Code. The section of the code under consideration is section 3.40.010, paragraph B, which indicates that an employee may only carry over 240 hours of vacation leave [also referred to as annual leave (AL)] into calendar year (CY) 2018. Vacation leave in excess of 240 hours is to be forfeited. The issue was raised when the retiring Chief Financial Officer requested a waiver allowing him to carry over additional vacation leave.

During calendar year 2017, multiple employees were involved in several projects (including flood mitigation) that required them to work extra time and/or did not allow them to use vacation leave. As a result, employees have accrued high levels of vacation leave and they may not have enough time to use the excess vacation leave before the end of Calendar Year (CY) 2017. Based on current vacation leave balances and accrual rates, staff estimates that as many as 33 non-represented employees could exceed the 240-hour limit by the end of the CY. While the county has an annual leave conversion program, participation is limited to 15% of the total employees enrolled in PERS. This would limit participation to a total of 21 non-represented employees. If the modification is limited to employees involved with flood mitigation only, staff estimates nine employees would be eligible for the one-time carry-over. If other special projects are added, potentially one other employee would be included. This change would only impact non-represented employees; represented employees have a collective bargaining agreement (CBA) they have negotiated.

The change that is proposed with this bill would allow all employees who have in excess of 240 hours of vacation leave on the books to carry over said leave into CY 2018. This is a temporary modification to Title 3 that would expire once we enter the new CY; thus, if employees fail to reduce their balances to 240 hours by the end of CY 2018, they would not be able to carry it over again. It appears the County Commissioners have the authority to make this change pursuant to both Title 3 (Section 3.40.010 A) and the Nevada Revised Statutes [NRS 245.210 2(b)], which both state "the Board of County Commissioners may by order provide for additional annual leave for long-term appointed officers and employees and for pro-rated annual leave for part-time employees."

This modification was on the department head meeting Agenda for October 11, 2017 as an item to be discussed with department heads and elected officials. It is also being placed on the Agenda for the Employee Management Committee for their meeting in October. By the time this item is considered at the Commissioners' meeting on October 18, 2017, the proposed changes will have been distributed to all employees and posted on the Churchill County Human Resources webpage.

There could be concerns with allowing employees to carry over the excess vacation leave. Some employees would have over 350 hours of vacation leave accrued as they head into the new CY. They would continue to accrue vacation leave at the rate of 14, 16, or 18 hours per month. This may make it difficult for employees to reduce their leave balances to the 240-limit by the end of 2018. It is likely that those who were unable to do so would be eligible to participate in the county's AL conversion program, but if they could not, they would forfeit the excess hours. If they are able participate in the AL conversion, there would be a financial impact to the county, as an employee could potentially be converting up to 280 hours in the AL conversion program.

Another option the board could consider would be a modification to the AL conversion policy, which is an administrative policy passed by the board. The policy could be modified to remove the 15% limit for CY 2017, which would allow all employees over the 240-hour maximum to convert the excess annual leave to PERS credit or to a deferred compensation retirement account. (If the board were to choose this option, it would be placed on the Agenda for the November 2, 2017 meeting of the board.)

If the board decides to move forward with this proposed bill, a public hearing would need to be scheduled for the November 2, 2017 meeting of the board.

FISCAL IMPACT:

1. None.
2. Worst-Case Scenario = $145,000 (All employees)
3. Worst-Case Scenario = $54,000 (Flood mitigation only)
4. Worst-Case Scenario = $68,000 (Flood mitigation and construction projects)

EXPLANATION OF IMPACT:

1. There would be no "hard-dollar" costs incurred if employees are allowed to carry over leave in excess of 240 hours and they reduce their balances below 240 hours (and do not participate in the AL conversion program). Employees would take the time off work.
2. Scenario 2 occurs if ***ALL*** employees are allowed to carry-over excess leave, they use only the minimum leave required to be used in 2018 to participate in the AL conversion program, and 21 employees (the maximum allowed under the policy) convert the maximum number of hours allowed in the AL conversion program. (*This does not account for any AL hours they may convert in 2017.*)
3. Scenario 3 occurs if the ***nine*** employees impacted by flood mitigation efforts are allowed to carry-over excess leave, they use only the minimum leave required to be used in 2018 to participate in the AL conversion program, and they convert the maximum number of hours allowed in the AL conversion program. (*This does not account for any AL hours they may convert in 2017.*)
4. Scenario 4 occurs if the ***ten*** employees impacted by flood mitigation and other projects are allowed to carry-over excess leave, they use only the minimum leave required to be used in 2018 to participate in the AL conversion program, and they convert the maximum number of hours allowed in the AL conversion program. (*This does not account for any AL hours they may convert in 2017.*)

It should be noted that it is likely that eligible employees will convert AL during CY 2017. Their participation in CY 2017 would reduce the potential liability for CY 2018.

FUNDING SOURCE: Compensated Absences.

ACTION REQUESTED: Set Public Hearing

Chairman Olsen asked if there was any public comment but there was none.

Commissioner Harry Scharmann made a motion to set a public hearing for Bill 2017-F on November 2, 2017. Commissioner Carl Erquiaga seconded the motion, which carried by unanimous vote.

1:50 PM - Consideration and possible action re: Discussion on National Incident Management System (NIMS) requirements for employees and elected officials to receive federal grant awards

The National Incident Management System (NIMS) was mandated by the Post-Katrina Emergency Management Reform Act of 2006. Homeland Security Presidential Directive (HSPD)-5, Management of Domestic Incidents, directs the Secretary of the Department of Homeland Security (DHS) to develop a National Incident Management System NIMS. Initially published in March 2004 and revised in December 2008, the NIMS provides a consistent national approach for federal, state, tribal, and local governments, the private sector, and nongovernmental organizations (NGO) to work together to prepare for, respond to, recover from, and mitigate domestic incidents, regardless of cause, size, or complexity.

HSPD-5 directs federal agencies to adopt NIMS and encourages adoption of NIMS by all other stakeholders: state, tribal, and local governments; private sector organizations; critical infrastructure owners and operators; and NGOs involved in Emergency Management. In addition, the adoption and implementation of NIMS by state, tribal, and local organizations is a condition for receiving federal preparedness assistance through grants, contracts, and other activities, as stated in HSPD-5, dated by the Post-Katrina Emergency Management.

Those who should complete NIMS training are national and state policy-makers (elected/appointed officials), key decision-makers from governmental and nongovernmental agencies and private sector organizations, such as:

- Federal departments and agencies.
- State, tribal, and local government Emergency Management agencies and trainers (i.e. state, tribal, and local NIMS coordinators).
- Managers overseeing those in mission-critical positions and organizations and professional development.

Everyone involved in Emergency Management (to include emergency operation center personnel in support of the field), regardless of discipline or level of government, should take the NIMS baseline curriculum courses (Independent Study-700 and ICS-100). Incident Command occurs in the field; therefore, the NIC recommends that only individuals with a command and general staff role take advanced ICS courses.

FISCAL IMPACT: N/A

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED: None; Informational Only.

Chairman Olsen asked if there was any public comment but there was none.

This item was provided for informational purposes only and no action was taken.

2:00 PM - Consideration and possible action re: Endorsement of a Letter of Commitment to join the Northern Nevada Development Authority (NNDA) and Lyon County as a Coalition member in submitting a grant application in the amount of $600,000 to the EPA under the Brownfields Program

Churchill County is currently a Coalition member with Lyon County and NNDA (Norther Nevada Development District) on a $600,000.00 Brownfield Grant that is approaching successful completion. To date the Coalition has accomplished the following:

o 33 Phase I Site Assessments (grant requirement of 20)

o 13 Phase II Site Assessments with four more in progress (grant requirement of 10)

o One Area Wide Plan (AWP) completed (grant requirement of 1)

o Two Certified Site packages completed, one additional package in progress

o Site Assessments completed for William N. Pennington Life Center, Churchill County Detention Center and the new Rail Park and Industrial Center in Hazen.

NNDA is seeking a new federal Brownfields Coalition grant in partnership with Churchill and Lyon Counties. The new grant application (due November 15, 2017) is for $600,000.00 over a period of three years. Funding will be used to perform Phase I and Phase II Environmental Site Assessments and site certifications at no cost to property owners to encourage redevelopment and business growth.

NNDA will be the grantee and lead Coalition member with guidance from both counties and CEDA. Upon receiving the grant, the Coalition partners will enter into a Memorandum of Understanding (MOU) outlining the partnership between both counties, CEDA, and NNDA. Award announcement will be made in the 1st or 2nd quarter of 2018 and funding will be made available October 1, 2018.

FISCAL IMPACT: None.

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED: Accept

Chairman Olsen asked if there was any public comment but there was none.

County Manager Lockwood indicated when they first started this grant process, one of the concerns was lack of personnel at the county level. Trying to identify a property owner who has a vision of redeveloping their property, what often happens is that there is a private transaction where somebody comes in and they see a good investment in a development opportunity and we are not a part of that transaction. Where this grant has assisted us greatly is Phase One on the jail site and Phase One and Two with monitoring implementation on the senior center site. In discussions with Mr. Haskins, she said she thought it would be a reasonable request to come to the board because, although they would like Nate at CEDA to be the point of contact, should they get the grant and move forward with this, there are still opportunities that the county is potentially looking at, CC Communications is looking at. We have had discussions on the potential relocation of CART and potential new facilities for CC Communications and down the road 10 or 20 years for a new justice facility. There are opportunities from the county's perspective to build on what we have already done.

Commissioner Carl Erquiaga made a motion to submit a Letter of Commitment to NNDA to join the Coalition and support submittal of the grant application. Commissioner Harry Scharmann seconded the motion, which carried by unanimous vote.

Letters Received:

A- Consideration and possible action re: Notification from the Nevada Governor's Office of Energy to Patua Project, LLC of its compliance with the terms of the Abatement Agreement.

The Nevada Governor's Office of Energy provides notification to Patua Project, LLC of its compliance with the terms of the Abatement Agreement.

FISCAL IMPACT: N/A

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED: None; Informational Only.

B- Consideration and possible action re: The Bureau of Land Management (BLM), Mount Lewis Field Office, has provided a Notice of Availability for the Final Environmental Impact Statement (FEIS) for the McEwen Mining Inc.'s Gold Bar Mine Project in Eureka County, Nevada.

The Bureau of Land Management (BLM), Mount Lewis Field Office, has provided a Notice of Availability for the Final Environmental Impact Statement (FEIS) for the McEwen Mining Inc.'s Gold Bar Mine Project, a proposed open-pit gold mine approximately 30 miles northwest of Eureka, Nevada. McEwen Mining Inc.'s Gold Bar Mine Project proposal would disturb 1,154 acres, including re-disturbing 420 acres of existing, non-reclaimed disturbance from a previous abandoned mining operation; 718 acres of new disturbance; and 16 acres of new disturbance as a result of exploration. Of the 1,154 acres, 185 acres would be on private land, and 969 acres would be on public land. The FEIS includes four alternatives that examine the mine's range of potential impacts to natural resources in the area, such as water resources, air quality, vegetation, wildlife, livestock grazing, recreation and cultural resources.

A Draft EIS was released for a 45-day public comment period, which ended April 17, 2017. A public meeting was held in Eureka, Nevada on March 22, 2017. The BLM's preferred alternative is the Proposed Action, which includes a number of environmental protection measures as well as mitigation measures. A Record of Decision is expected to be issued after the 30-day waiting period.

FISCAL IMPACT: N/A

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED: None; Informational Only.

Old Business:

A- Consideration and possible corrective action: It is alleged that a violation of the Open Meeting Law occurred at the Churchill County Commission meeting held on September 20, 2017. At the meeting on the 20th, the board took two actions related to the early retirement application of employee Alan Kalt (New Business - A). One of the actions related to that Agenda item approved a waiver of provisions in Title 3 of the Churchill County Code. It is alleged that this action was not clearly stated on the Agenda. In this Agenda item, Alan Kalt is asking the board to waive a provision in Title 3 which limits the number of leave hours an employee may carry into the following year so that he may carry over in excess of 240 hours with the stipulation that the leave be used within the following calendar year.

At the County Commission meeting held on September 20, 2017, the board discussed and voted on the application of Alan Kalt to participate in the early retirement program. After much discussion and deliberation, the board made two motions, one of which approved of a waiver of Title 3 of the Churchill County Code to allow Mr. Kalt to carry over accrued annual leave hours in excess of 240 hours into the following year. While this item is related to the subject matter listed on the Agenda, one might argue that it is not clearly stated on the Agenda that such an item would be voted upon. Therefore, out of an abundance of caution, it is recommended that the board take corrective action.

NRS 241.0365 provides that corrective action may be taken by a public body alleged to have violated the Open Meeting Law. When this is done, the Attorney General may decide not to commence prosecution of the alleged violation. Taking corrective action is not treated under the law as a confession of error.

This item is on the Agenda for the board to take corrective action for this alleged violation. It is recommended that the Chairman summarize the discussion had at the previous meeting and then to open the item up for further deliberations and public comment. The board will then take action on the item, approving or denying the waiver of the Title 3 provisions. The original Agenda Report is provided for review as the board takes action on this item.

FISCAL IMPACT: None.

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED: Accept

Chairman Olsen asked if there was any public comment but there was none.

Commissioner Erquiaga asked Deputy DA Shawcroft what their action should be. We have already said we are going have a hearing on November 2. We have to take corrective action but it seems redundant or something that we would take a second action to let Mr. Kalt have more than 240 hours regarding on Title 3. Chairman Olsen said he agrees there is some redundancy there in that he would support a negative motion on this matter because we are going to take it up in 2 weeks by ordinance.

Commissioner Erquiaga said he just noticed the recommended action on the Agenda Report #2, the value of 1.25 years, that has changed from what the Agenda said in September. What else has changed and how did that change? DA Shawcroft said that may be a question for the Clerk of the Board, that was printed off through BoardSync so he does not know how it got to 1.25 but it is not for consideration for the board today. That is all he noticed that was different.

Commissioner Scharmann said he was tempted to go forward with a motion on this issue, whether there was a second or not but he will not do that. He was considering it because he does think that Alan is a standout in this whole flood issue that we have had in 2017. He believes that much of the reimbursements that we are looking at from FEMA would not have been done without his overtime help and that is over $2,000,000. With that in mind, we are taking it up at a future meeting for all the employees, so he would not make any motion on this unless there needs to be one. Chairman Olsen said we do, in light of the alleged violation, need to take some corrective action and DA Shawcroft said that is will be the cleanest that way. Chairman Olsen said he agrees with Commissioner Scharmann on this issue. His support of Alan has no changed for all that he has done this year and all of the other years. He thinks we need to rescind the request that was approved on September 20, 2017, it is simple enough to say that. DA Shawcroft said yes, you are not rescinding anything you are just taking action to deny the request. If there was a violation of the Open Meeting Law, which we are not admitting, but if there is, then it is as if it never happened. Chairman Olsen said then we need a motion to deny Alan's request to waive Title 3.

Commissioner Carl Erquiaga made a motion to deny Alan Kalt's request to waive Title 3's requirement that employees' annual leave balances be reduced to 240 hours at the end of the calendar year based on the fact that we will take this up on November 2, 2017. Commissioner Harry Scharmann seconded the motion, which carried by unanimous vote.

New Business:

A- Consideration and possible action re: Approval of a Lease Termination Agreement with Soaring Eagle Ranches, LLC setting forth the terms and date of the termination of the lease of the Wild Goose Ranch in December 2017. Under the agreement, the county will receive rent in the amount of $98,455.50 and the county will waive back-rent in the amount of $49,227.75.

This Agenda item is to seek approval of a Lease Termination Agreement with the lessee of the county-owned Wild Goose Ranch. The county entered into a Lease with Soaring Eagle Ranches, LLC for the Wild Goose Ranch in 2015. The District Attorney's Office was notified in June 2017 that the lessee failed to pay rent for the first half of the year. In speaking with

Anthony Enos, managing member of the company, the DA's Office learned that they were having problems with access to the ranch and that this caused problems in being able to bring in fertilizer and remove hay from the property. These access problems were caused by the removal of the bridge crossing the V-Line canal as part of the flood mitigation efforts which was normally used as the primary access for the ranch.

The county's position is that many of the problems at the ranch were due to the neglect of the lessee and that he was not excused from paying rent. There is another road which can be used to access the ranch and the Churchill County Road Department made improvements to the road in July in order to make the ranch more accessible. The DA's Office sent a notice of default to the lessee to begin the process of evicting them.

Since that time, both the county and the lessee have expressed a willingness to terminate the lease. This Lease Termination Agreement is the result of several weeks of negotiations with the lessee's attorney. Under the agreement, the lessee is required to continue paying monthly rent in the amount of $16,409.25 per month until the lease is terminated. He is also required to pay back rent in the amount of $49,227.75. The county is waiving rent for 3 months totaling $49,227.75. The lessee is required to keep enough hay on the property to secure the payment owed to the county and the county is allowed to take steps to secure that hay. Once the total rent is paid to the county, the secured hay will be released to the lessee. The lessee is also allowed to terminate the lease earlier than the end of December once all rent is paid and all personal property is removed from the property.

FISCAL IMPACT: County is waiving $49,227.75 and will be paid $98,455.50 for the remainder of the lease.

EXPLANATION OF IMPACT: See above.

FUNDING SOURCE: N/A

ACTION REQUESTED: Accept

Chairman Olsen asked if there was any public comment but there was none.

Chairman Olsen said his concern is that hay gets wheels under it very easy so we need to hire someone to go out and determine the value of the hay because the value differs a lot from one stack to another and have that person come out and mark the spots and go out regularly and monitor if the stacks are still there. Then, if payments are made, we can release some of the stacks so that we can secure what is owed to us. He is encouraging DA Shawcroft to take all of those steps, he just wanted to make sure the rest of the board knew he had done that. Commissioner Scharmann asked if they wanted to go a step further and hire a broker to sell the hay. Chairman Olsen said they did not negotiate that. DA Shawcroft said this is only until the end of December and if he still has any hay out there, we would need to sell it if he still owes the county money. He can continue to take the hay but leave just enough to cover the rent. His obligation is to pay the rent, not pay us in hay but with money. That is just to cover us in case he does not pay.

Commissioner Harry Scharmann made a motion to approve the Lease Termination Agreement with Soaring Eagle Ranches, LLC as submitted. Commissioner Carl Erquiaga seconded the motion, which carried by unanimous vote.

Consent Items:

A- Consideration and possible action re: Notification from the Social Services Department of the receipt of an application submitted on behalf of Protected Person #13369 under NRS 159.

Notification of an application received on August 16, 2017 submitted on behalf of Protected Person #13369 for Guardianship pursuant to NRS 159. The court approved Temporary Guardianship under NRS 159 on September 27, 2017.

FISCAL IMPACT: N/A

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED: Accept

B- Consideration and possible action re: Recorder's Monthly Apportionment Report for September 2017.

Churchill County Recorder Tasha Hessey provides her Recorder's Fees Monthly Apportionment Report for September 2017. Details can be found in the report provided for the board's consideration and approval.

FISCAL IMPACT: N/A

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED: Accept

C- Consideration and possible action re: Recorder's 1st Quarter Report for Real Property Transfer Tax (RPTT) for July - September 2017.

Recorder Tasha Hessey provides her 1st Quarterly Report of Real Property Transfer Tax (RPTT) for the period July - September 2017. Further details can be found by reviewing the report provided for the board's consideration and approval.

FISCAL IMPACT: N/A

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED: Accept

D- Consideration and possible action re: Recorder's 1st Quarterly Report of Mining Claim Filing Fees for the period of July - September 2017.

Recorder Tasha Hessey provides the 1st Quarter Mining Claim Filing Fees Report for the period of July - September 2017 as required by NRS 517.185. Details can be obtained from reviewing the report that is submitted for the board's consideration and approval.

FISCAL IMPACT: N/A

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED: Accept

E- Consideration and possible action re: Building Department's Revenue Report for September 2017.

The Building Department provides its Revenue Report for September 2017 for the board's consideration and approval.

FISCAL IMPACT: N/A

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED: Accept

F- Consideration and possible action re: Planning Department's Revenue Report for September 2017.

The Planning Department submits its Revenue Report for September 2017. Details can be found in the report.

FISCAL IMPACT: N/A

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED: Accept

G- Consideration and possible action re: Sheriff's Office Civil Report for September 2017.

The Sheriff's Office submits its Civil Report for September 2017 for the board's review and acceptance.

FISCAL IMPACT: N/A

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED: Accept

Chairman Olsen asked if there was any public comment but there was none.

Commissioner Carl Erquiaga made a motion to approve the Consent Agenda as submitted. Commissioner Harry Scharmann seconded the motion, which carried by unanimous vote.

Consider Future Agenda Items:

Commissioner Scharmann said on the 11/2/17 Agenda, he would like to have a discussion on funding from county for youth center. He has a few questions for CFO Kalt and would like it to be in an open meeting.

Commissioner and Management Staff Reports:

Chairman Olsen reported on the following topics:

- Vacation hunting and shot a few pheasants.

Commissioner Erquiaga reported on the following topics:

- Went Deer hunting.
- Trip to Denver for training and visit with son and daughter in law.
- Museum Board.

Commissioner Scharmann reported on the following topics:

- NevadaWorks meeting, which included economic development.
- Revisit Public Lands and Natural Resource Committee at a future meeting.
- Mismanagement of range land and increasing grazing permits.
- Non-linkage between county governments and school districts with idea of representative at other board meetings to provide linkage to work together.
- Senior Center Coalition meeting regarding fees for charge of rental of rooms.

County Manager Lockwood reported on the following topics:

- Public Defense RFQ.
- Greater sage grouse LUPA.
- Court remodel options from Sletten.
- Desert Vista/Tim Tucker closed on Sage Springs Development.
- Jail Construction in final stage now with dedication ceremony to be planned in December.

CFO Kalt was not present.

Civil Deputy District Attorney Shawcroft had nothing to report.

Clerk/Treasurer Helton was not present.

Claims and Payroll Transmittals:

The Claims and Payroll Transmittals were submitted for the board's consideration and approval.

Public Comment:

- Public Defense RFQ.
- Greater sage grouse LUPA.
- Court remodel options from Sletten.
- Desert Vista/Tim Tucker closed on Sage Springs Development.
- Jail Construction in final stage now with dedication ceremony to be planned in December.

CFO Kalt was not present.

Civil Deputy District Attorney Shawcroft had nothing to report.

Clerk/Treasurer Helton was not present.

Claims and Payroll Transmittals:
The Claims and Payroll Transmittals were submitted for the board's consideration and approval.

Public Comment:
Chairman Olsen asked if there was any public comment but there was none.

Adjournment:
The meeting was adjourned at 2:49 PM.

APPROVED: ______________________
H. Peter Olsen, Jr., Chairman

APPROVED: ______________________
Carl Erquiaga, Vice-Chairman

APPROVED: ______________________
Harry Scharmann, Commissioner

ATTEST:
Kelly G. Helton, Clerk/Treasurer

____
Renae Paholke, Deputy Clerk