

Pursuant to NRS a joint meeting of the Nye County Board of Commissioners, Nye County Board of Highway Commissioners, Nye County Licensing and Liquor Board, Nye County Board of Health, as the Governing Body of the Unincorporated Town of Pahrump, as the Governing Body of the Unincorporated Towns of Beatty, Belmont, Gabbs, Manhattan, and Railroad Valley, and as the Board of Trustees for the Pahrump Pool District, was held at 10:00 a.m. in the Commissioner Chambers, 101 Radar Road, Tonopah, Nevada 89048.

John Koenig, Chair
Dan Schinhofen, Vice-Chair
Lorinda Wichman, Commissioner
Butch Borasky, Commissioner
Donna Cox, Commissioner
Sandra L. Merlino, Ex-Officio Clerk of the Board
Angela Bello, District Attorney
Sharon Wehrly, Sheriff
Tim Sutton, County Manager

Also Present: Lorina Dellinger, Assistant County Manager; Kelly Sidman, Deputy Clerk; Samantha Tackett, Administrative Manager; Savannah Rucker, Comptroller

Not Present: Lorinda Wichman, Commissioner; Sandra L. Merlino, Ex-Officio Clerk of the Board; Sharon Wehrly, Sheriff; Tim Sutton, County Manager

1. Pledge of Allegiance

The Pledge was recited.

2. Approval of the Agenda for July 3, 2018 (Non-action item)

Lorina Dellinger said items 5 and 12-14 could be removed from the agenda.

3. GENERAL PUBLIC COMMENT (Three-minute time limit per person.) Action will not be taken on the matters considered during this period until specifically included on an agenda as an action item (first).

Herman Lewis complimented the Commissioners on lowering the deductible with POOL/PACT. While a short-term solution he thought it was wise because there were going to be so many lawsuits coming forward and he predicted there would be federal lawsuits not heard in front of Judges Wanker or Lane. Mr. Lewis thought when those payouts started happening POOL/PACT would hit a point when they were paying out considerably more than the premium and there would be a very good chance they would drop the County.

2. Approval of the Agenda for July 3, 2018 (Non-action item)-Reopened.

Lorina Dellinger said item 9 could be removed from the agenda also.

4. For Possible Action – Discussion and deliberation of the minutes of the joint meetings of the Nye County Board of Commissioners, Board of Highway Commissioners, Nye County Licensing and Liquor Board, Nye County Board of Health, the Governing Body of the Unincorporated Town of Pahrump, the Governing Body of the Unincorporated Towns of Beatty, Belmont, Gabbs, Manhattan, and Railroad Valley, and the Board of Trustees for the Pahrump Pool District teleconference on May 22, 2018 and regular meeting on June 5, 2018.

Commissioner Schinhofen made a motion to approve; seconded by Commissioner Cox; 4 yeas.

SITTING AS THE BOARD OF COUNTY COMMISSIONERS

5. For Possible Action - Emergency Items

This item was removed from the agenda.

6. Commissioners'/Manager's Comments (This item limited to announcements or topics/issues proposed for future workshops/agendas)

There were none.

TIMED ITEMS

7. 10:00 – Presentation of certificate and/or plaques to one (1) employee honored for their years of service.

The employee was not present.

9. 10:00 – For Possible Action – Public Hearing, discussion and deliberation to: 1) Adopt, amend and adopt, or reject Nye County Bill No. 2018-09: A Bill proposing to amend Nye County Code Section 17.04.200.A.3 Building Separation, relating to the requirement to have a minimum of ten (10) feet of separation between all buildings on a single parcel in a residential zoning district; providing for the severability, constitutionality and effective date thereof; and other matters properly related thereto; and 2) Set an effective date.

This item was removed from the agenda.

SITTING AS THE NYE COUNTY BOARD OF HIGHWAY COMMISSIONERS

Commissioner Schinhofen assumed the Chair of the Board of Highway Commissioners.

10. General road report by Public Works Director.

Regarding projects in the northern part of the County, Public Works Director Tim Dahl advised that in the near future they would do an inch and a half overlay on Valley View Road and Pablo Canyon Road as well as an extension of Belmont Road. All three of those projects were RTC funded. Currently they were finishing up striping on the Belmont Road which should be done today. They also got a durapatcher in the northern part of the County that would be used to patch potholes and cracks and maintain the roads to a much better degree than just putting cold mix on them. In Pahrump, Mr. Dahl stated the next section of Homestead would start on July 16, 2018. It was approximately a 60 day project and he asked the public to have some consideration and patience while that was going on. He then told Commissioner Borasky that Tri-County Weed Control would come down next week to evaluate the weeds and make recommendations to control them rather than just mowing them down annually and not being able to keep up.

SITTING AS THE BOARD OF COUNTY COMMISSIONERS

Commissioner Koenig assumed the Chair of the Board of County Commissioners.

ASSESSOR

11. For Possible Action – Discussion and deliberation regarding approval of an Assessor’s Office Change Request.

Commissioner Schinhofen made a motion to approve; seconded by Commissioner Cox; 4 yeas.

BOARD OF COMMISSIONERS

12. For Possible Action – Closure of meeting, pursuant to NRS 288.220 for purposes of conferring with the County’s management representatives regarding labor negotiations, issues and other personnel matters.

This item was removed from the agenda.

13. Closed meeting, pursuant to NRS 288.220 for purposes of conferring with the County’s management representatives regarding labor negotiations, issues and other personnel matters.

This item was removed from the agenda.

14. For Possible Action – Discussion and deliberation on labor negotiations, issues and other personnel matters presented in closed meeting.

This item was removed from the agenda.

RECORDER

15. Report of projected expenditures of money in the Recorder's Technology Fund to be used in the 2018-2019 Fiscal Year.

Recorder Deborah Beatty advised they would move forward with preservation and restoration of the old books in the vault along with imaging the newspapers in the Tonopah Museum at a cost of \$20,000.00.

Commissioner Cox asked where she kept the papers and things.

Ms. Beatty explained the original newspapers were with the museum. They were relinquished to the Central Nevada Historical Society in 1993, but per NRS the Recorder may microfilm each issue and keep a copy of it, which she would like to do.

TREASURER

16. Treasurer's Report.

The report was in the back-up.

COUNTY MANAGER

17. For Possible Action – Discussion and deliberation to allow Justice of the Peace Judge Jasperson, as he deems necessary, to invite any available Justice of the Peace, within the confines of NRS 4.340(2), to provide him temporary assistance, until a new Justice of the Peace for the Pahrump Township is elected.

Commissioner Schinhofen made a motion to allow the Justice of the Peace to do as he deemed necessary as Justice of the Peace within the confines of NRS 4.340; seconded by Commissioner Cox; 4 yeas.

18. For Possible Action – Discussion and deliberation regarding Bill Draft Requests (BDRs) Nye County submits for the 2019 Legislative Session.

Commissioner Koenig asked when this needed to be done by.

Lorina Dellinger advised the second meeting in August would be the last opportunity to take action. Right now there was the fire district language change and the possibility of amending NRS 259 regarding coroners. She was working with the Sheriff's Office and would submit possible language to the District Attorney's Office.

John Bosta objected to moving forward with the fire district item. The County had operated fire districts since 2011 under color of the law, but had not adopted tax money to support it, and now wanted to change the word shall to may so it could continue to

18. For Possible Action – Discussion and deliberation regarding Bill Draft Requests (BDRs) Nye County submits for the 2019 Legislative Session-Cont'd.

operate without doing the proper ordinances. Mr. Bosta thought the Board needed to adopt a fire district and develop a tax to pay for it.

TIMED ITEMS

8. 10:15 – Presentation by the Directors of the Nevada Association of Counties (NACO).

Dagny Stapleton, Executive Director of NACO, explained NACO was a statewide association representing all 17 of Nevada's counties. She recognized Commissioner Wichman and her service to NACO as well as Commissioner Schinhofen who also served on the board during Commissioner Wichman's tenure as president and past president.

Ms. Stapleton reviewed the governance structure of NACO as well as its staff. She introduced Vinson Guthreau, Deputy Director of NACO, whose background included 20 years of experience in government affairs and federal, state and local policy along with natural resources.

Ms. Stapleton noted staff also consisted of a natural resources manager. About three years ago they expanded their staff to include a dedicated natural resources and public lands person so they had been able to expand what they could do for the counties with that additional staff.

To accomplish its mission Ms. Stapleton said NACO was a forum for collaboration, a source of education and general assistance, as well as advocacy. Their resources included an annual conference, workshops, a Web site, board meetings, and legislative and public lands and natural resources subcommittees. As far as advocating, NACO represented county governments on seven statutory committees. They also advocated to the State Legislature on issues common to counties. Some NACO highlights from 2018 included county engagement, training and leadership development, and advocacy/outreach.

Ms. Stapleton recapped what happened at the 2017 legislature and what they worked on. One victory was funding for voting machines. There was also a lot of work on marijuana and they successfully lobbied to give the counties the right to site the businesses as they wanted and to license in the manner they would like. NACO also fought to make sure the counties could tax up to 3% on gross sales to insure the counties had the resources to pay for impacts seen from the legalization of marijuana. Other legislative items included the body cameras mandate and the authority for the counties to raise the 911 fees to pay for those as well as upgrades to the 911 system. A final bill was AB407, which would have given land grant status to UNLV. The effect would have been to allow the Cooperative Extension program to split north and south.

8. 10:15 – Presentation by the Directors of the Nevada Association of Counties (NACO)-Cont'd.

NACO fought that as it would have severely compromised that program and its funding. Ultimately the Governor vetoed that bill.

Mr. Guthreau discussed the 2019 legislative session. One of his main responsibilities was to staff the legislative subcommittees and take the lead on legislative relations. He reviewed the fiscal note process and said those notes were pretty important to all legislators. In the coming months Mr. Guthreau would send out an e-mail to all members asking for a single contact person for that so information could be obtained in a timely manner.

Looking forward to 2019, Mr. Guthreau stated NACO had five Bill Draft Requests (BDRs). The first one was regarding 911 fees and allowing counties to raise that fee. He said that legislation would expand the use of what that fee could pay for. A second BDR was regarding GIDs or special assessment districts, which was a reintroduction of a bill that did not make it through last session to address the difficulties several counties were having filling boards. NACO would also monitor the Governor's budget for potential impacts to local county governments. Additionally, NACO was involved in legislation to raise the five cent diesel tax. Mr. Guthreau said there would also be property tax reform, indigent defense issues, and NACO would continue to provide policy updates from the State regarding marijuana sales.

Ms. Stapleton then provided an update on the Right to Counsel Commission, which was looking at indigent defense reform. They would have a BDR that they would decide on in the next couple of months. The primary issue was that it was a State responsibility yet the counties all paid for it. She said that board recently commissioned and received a report from the Sixth Amendment Center. The main recommendation was to keep the service local and the hope was the recommendation from that board would be that the State needed to step up and fund a little bit more.

Lastly, Ms. Stapleton stated every county in Nevada was also a member of the National Association of Counties, which was a strong advocate for counties in Washington, D.C. and supported counties in all ways like information on federal legislation, training, and webinars on a wide range of federal issues. The National Association of Counties also had national policy steering committees and if a Commissioner or County staff was interested in an issue they could contact them and be appointed to one of those committees.

The Board took a brief recess.

Commissioner Schinhofen assumed the Chair of the Board of County Commissioners.

DISTRICT ATTORNEY

19. For Possible Action – Discussion and deliberation to: 1) acknowledge the findings of facts and conclusions of law set forth in the Order filed June 25, 2018 in case CV37545, Great Basin Water Co. v Nye County wherein the Court found the CUP remains in effect; and 2) direct the Nye County District Attorney to appeal the Order to the Nevada Supreme Court.

District Attorney Angela Bello explained this item was put on the agenda to acknowledge and advise the Board as well as the public of a recent district court ruling arising out of an appeal to the Board of an RPC decision filed by Kenny Bent after the RPC issued a CUP to UICN so it could construct rapid infiltration basins (RIBs) in the ponds at Willow Creek now known as Discovery Park. Ms. Bello reviewed the motions made at the appeal hearing. The first one failed (to affirm the decision of the RPC) and the second was withdrawn before the vote was taken (to reverse the RPC decision). That withdrawal came after Commissioner Wichman stated her position that another motion was not needed since the first motion to affirm failed and implicitly meant it had been denied, i.e., a reversal of the decision. The Board then took a break for lunch.

After lunch Ms. Bello raised concerns that a failed vote to affirm the RPC decision did not equate to a motion to reverse it. She verified with each member their belief and intent that their actions taken affirmed the RPC decision. Ms. Bello felt the second motion was in fact needed to protect any procedural error and clear up any confusion the public may have. At her suggestion the hearing was reopened, the motion to reverse the RPC decision was put back on the table and a vote occurred. After that UICN filed a complaint with the district court asking them to declare the second motion in the afternoon void due to a violation of the Open Meeting Law (OML). The court agreed and basically found that reopening the item after it had closed and those interested in the item had left violated the OML and the only action that had occurred was the first motion. Having failed it was basically no action on the item at all. Ms. Bello explained that meant that since there was no action there was no decision and no reversal or affirmation of the ruling so the RPC's decision to issue the CUP stood. The CUP now remained in effect and Ms. Bello asked if the Board wanted the District Attorney's Office to appeal the decision to the Supreme Court or Court of Appeals.

Commissioner Koenig made a motion to acknowledge the findings of facts and conclusions of law set forth in the order filed June 25, 2018, in Case No. CV37545, Great Basin Water Company vs. Nye County, and continue item 2 until the next regularly scheduled meeting in Pahrump on July 17, 2018; seconded by Commissioner Borasky.

Commissioner Borasky checked with Commissioner Koenig that he wanted to move this to the next Pahrump meeting.

Commissioner Koenig confirmed he wanted to move the discussion of whether the order should be appealed to the next regularly scheduled meeting in Pahrump. He

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believed the whole thing should be handled in Pahrump, but he was told he had to acknowledge it.

Commissioner Cox said normally she would agree with that, but she believed at this point something needed to be done immediately on it today and she would like to see this appealed. As long as the CUP existed they could move forward with what they wanted to do and it may cause all of this to be moot in another two weeks.

Commissioner Borasky withdrew his second.

Ms. Bello said the CUP was valid and they could go forward, but it would be at their own peril as they knew if the County decided to appeal they would have to stop.

Commissioner Borasky asked if the County would have to ask for an appeal if this was extended to the next meeting.

Ms. Bello said no. If UICN moved forward with taking action on their CUP that could be mooted by an appeal and a stay order along with a potential reversal. She pointed out that two weeks would come close to the time limit, but it was not critical.

The motion to acknowledge the findings of facts and conclusions of law set forth in the order filed June 25, 2018, in Case No. CV37545, Great Basin Water Company vs. Nye County, and continue item 2 until the next regularly scheduled meeting in Pahrump on July 17, 2018, failed for lack of a second.

Commissioner Cox made a motion to appeal this decision through the Supreme Court or whatever court the District Attorney recommended and to go forward immediately; seconded by Commissioner Borasky.

Kenny Bent encouraged the Board to appeal Judge Wanker's decision as she failed to note that the intent of the vote was clearly understood by all Commissioners and the audience that the CUP was denied by virtue of not approving it. He also believed she misapplied Code Chapter 16. Mr. Bent said the purpose of the OML was to help officials conduct effective and transparent meetings, but officials were not expected to be trained in procedural law nor should they be. What was important was that the intent of what the Board was trying to accomplish was understood by all. While Mr. Bent did not disagree with the opinion that the vote taken after lunch was improper, he thought something extremely important was revealed there. The District Attorney polled each of the Commissioners separately to see if they understood their earlier vote to not approve the CUP implied it was denied and all Commissioners stated yes. Another vote was

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taken and the same 3-2 outcome occurred. Mr. Bent thought that if nothing else that re-established without any doubt that the Commissioners believed voting down the approval effectively denied it. [See Mr. Bent's attached statement.]

John Bosta asked that his comments and written document be included in the minutes [attached]. He said after the public comment period was closed Commissioner Schinhofen made a motion to approve the RPC's decision, which died due to a 3-2 vote against it. That also meant the CUP was denied. Mr. Bosta disagreed with the third finding of the court that no action was taken in the morning as a vote was taken and that was action. Mr. Bosta felt the judge's ruling was improper and he beseeched the Board to take this to the Supreme Court for a decision.

Greg Dann commented on the RIBs specifically. He thought they were an egregious solution to the problem with growth as it was poor water and wastewater planning. He explained the science in RIBs was similar to the science of cleaning swimming pools with sand filters. However, in a sand filter situation there was a valve that backwashed the sand filters and that option was not available in the underground geology.

Herman Lewis said everybody knew what the intent of the vote was. He felt there were enough people in Pahrump and watching on Granicus to take this vote today to appeal. Mr. Lewis thought the Commissioners would face criminal liability or federal lawsuits if action was not taken today.

Dwight Lilly urged the Commission to go forward with a motion, but he also hoped they would come up with an idea for the Planning Department to develop some type of procedures for a reverse osmosis system to be included in future sanitary treatment of water as the community continued to grow.

Tim Hafen felt some of the comments made were not based on fact but rather on emotion and trying to sway an opinion. It was known that there were 11,000 domestic wells and each one had a septic tank. The stuff that came out of septic tanks went into the ground and water table. Mr. Hafen said he would much rather have effluent that was cleaned, tested and sanitized. It was drinking water quality and that was a lot better to put back into the aquifer than all the septic tanks that had a real possibility of polluting.

Don Cox disagreed with Mr. Hafen because the septic tanks had a natural filter from the ground down and were not being dumped straight into the aquifer. Putting it straight into the aquifer like Great Basin wanted to do was not the way to do it.

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The motion to appeal this decision through the Supreme Court or whatever court the District Attorney recommended and to go forward immediately failed with 2 yeas. Commissioners Koenig and Schinhofen voted nay.

Commissioner Koenig assumed the Chair of the Board of County Commissioners.

20. For Possible Action – Discussion deliberation to acknowledge the Findings of Fact and Conclusions of Law (“Opinion”) dated May 25, 2018, titled In the Matter of Nye County Board of Commissioners; Belmont Town Advisory Board, OAG File No. 13897-268 including the AOG Opinion as supporting material as required by NRS 241.0395.

Angela Bello explained this item was on the agenda to acknowledge the decision of the Attorney General on an OML complaint over a vote taken on December 19, 2017. On that date the Board addressed item 44, a request for a lease of a utility easement over County property. The Board voted to grant that request, however, the property that would benefit from that easement was only identified by an APN number, which was the incorrect number. The OML required that the public be noticed with a clear and complete statement of the topics to be addressed and because the item did not provide any other information to let the public know what exact property was being discussed the Attorney General found it failed the standard required by the OML.

Commissioner Schinhofen made a motion to acknowledge the findings of fact; seconded by Commissioner Cox.

Commissioner Cox asked if that meant the item needed to be brought back and reheard.

Ms. Bello advised it was moot and she understood the request for the easement was withdrawn.

Commissioner Koenig said it came back about a month ago to acknowledge the APN was wrong and reverse the whole thing because plans had changed.

Neal Jones said he was the person who filed the OML complaint and was making this statement on behalf of himself and his partner. He asked that his written statement be included in the minutes [attached]. Mr. Jones said he did not know that the utility easement in question had anything to do with the Belmont Saloon (aka Dirty Dick's Bar) because of the lack of information. He learned that fact when he made an open records request regarding illegal activities that had occurred with the wells and septic systems in

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Belmont. Within those records were e-mails between Commissioner Wichman, Tim Sutton and former Planning Director Darrell Lacy discussing this easement and how they did not want the Belmont Saloon, the direct beneficiary of the easement, named on the agenda item. After voting to grant the easement, the Planning Director said the County only voted for the easement in case it was ever necessary and that it was for the benefit of the Belmont Saloon. The County then decided it needed to rescind the easement with no legitimate explanation. Mr. Jones thought this latest effort by the County in its attempt to secretly grant an easement for the benefit of the Belmont Saloon confirmed the lack of governmental transparency, honesty, and responsibility. In the end it only created one thing in Belmont – a potential public health hazard.

John Bosta said he did not understand why this was is on the agenda because the OML said if the violation did occur then the action was null and void. To him it seemed a new agenda item needed to be brought back.

Ms. Bello explained NRS 241.0395 required the County to acknowledge the Attorney General’s findings and conclusions on its first next meeting after the opinion was issued.

The motion to acknowledge the findings and facts passed with 4 yeas.

21. GENERAL PUBLIC COMMENT (second)

Commissioner Schinhofen was not present.

Diane Southworth commented on the fact that there was nothing going on at Petrack Park for the 4th of July and she thought that was a shame. She felt this was a time to get communities together because of the division in the town and country. She would have loved to see something going on and said she was tired of Pahrump being last on the list for anything getting done.

Dwight Lilly said he would like to see the County oppose any BDRs that had to do with increases in property taxes, diesel fuel taxes, or small government taxes. He discussed air quality and said he would like to see the Commissioners address the issue of the safety and well being of the people of Pahrump. He suggested that on days where air quality exceeded safe levels that all County vehicles be parked to avoid putting more pollutants in the air along with restrictions including up to stop work orders on movement of dirt that could exasperate the dust situation.

John Bosta said he would like to see the County address the issue of removing a lot line between two adjacent lots. There were half-acre lots in Amargosa Valley and when

21. GENERAL PUBLIC COMMENT (second)-Cont'd.

people needed to move a lot line to drill a well they were required to have a surveyor survey the land at a cost of \$9,000.00. To him it seemed that the present ordinance on moving lot lines basically made a monopoly for land surveyors.


Butch Borasky, sitting at the public table, reminded everyone that the pancake breakfast would be tomorrow at 6:00 a.m. at the Calvada Eye and the parade would start at 9:00 a.m. He then quoted a very high up water official in Nye County, who said "the solution to pollution is dilution."


22. ADJOURN

Commissioner Koenig adjourned the meeting.

APPROVED this 7th day ATTEST:

Of August, 2018.


Chair


Nye County Clerk / Deputy

Statement for the July 3, 2018 meeting of the Nye County Board of County Commissioners, agenda item # 20.

My name is Neal Jones. I am the person who filed the open meeting law complaint. I am making this statement on behalf of myself and my partner, Janice Berard who is unable to be present at today's meeting. I ask that this written prepared statement be included in the minutes of this meeting.

As perhaps many who read it, I did not know that the utility easement item on the agenda for the December 19, 2017 meeting had anything to do with the Belmont Saloon (aka Dirty Dick's bar), due to the lack of pertinent information. Ironically, the way I did find out about the easement that the Commissioners voted to grant, was through an open records request that I made regarding the illegal activities that have occurred with the wells and septic systems in Belmont.

Within these records were copies of e-mails between County Commissioner Lorinda Wichman, County Manager Tim Sutton and former Director of Planning Darrell Lacy discussing the need to have this easement granted. Of special interest was that they specifically mentioned that they did not want the business, The Belmont Saloon, who would be the direct beneficiary of this easement, named on the agenda item. Omitting this important piece of information appeared to be an attempt by the County to deceive those who might be interested in or might be opposed to this agenda item.

After voting to grant this easement, the County Director of Planning then said that the County only voted for this easement, in case it was ever necessary, and it was for the benefit of the Belmont Saloon. So after clearly stating that they did not want the Belmont Saloon named in the original agenda item, they then admitted that the easement was in fact, for the benefit of the Belmont Saloon.

Then the County decided it needed to rescind the easement with no legitimate explanation.

This present 'easement' situation seems to be the continuation of a troubling pattern that has been used by both the State and County for the past three years, ever since a well driller came into Belmont drilling wells that ignored the State's mandate of maintaining a minimum 100 foot separation between wells and septic systems. This driller drilled wells with possibly zero separation between the wells and the existing septic systems, thus threatening the waters of Belmont.

There are multitudes of State laws to protect the health, safety and water quality of the community from such actions. I have approached the various State agencies that are responsible for upholding these laws, only to be given flimsy excuses for why they cannot do anything about this situation.

The County too has been involved in this mess, other than with the secretive easement:

- Being that they have no authority over water wells in Belmont and only limited jurisdiction over septic systems, the County joined into the fray and granted a permit for a commercial septic system at the Belmont Saloon. A septic system that the County admits it has no records or knowledge of.

- The former Director of Planning for the County has stated that he did not think it would be fair to the owner of the saloon for them to have to provide documentation for this alleged system, because; 1) the application is (17) pages long, 2) they would be required to get an engineer, 3) it would cost \$200 and 4) the County knows it would never meet the requirements for a legitimate septic system.
- Upon my inquiries, the County was unable to tell me if there is any type of a disposal field for this alleged system and if there were one, where it is in relation to the water wells immediately adjacent to this septic system. Their only justification was that the former Director of Planning for the County visited the Belmont Saloon, wandered out back, looked at the ground and then proclaimed that there were no issues with this system. Never mind that the former Director of Planning does not have any licenses or certifications in the State of Nevada for him to make these engineering judgements.
- The County claimed to have issued a “discharge permit” for the saloon’s septic system, until it was pointed out that the County is expressly forbidden by State law to issue these permits.
- The County then claimed to have issued a “general permit” for this system, failing to acknowledge that the existing system *must* be previously permitted as an individual sewage disposal system and in good working order. The Belmont Saloon’s alleged septic system does not meet either of these criteria.
- On May 4, 2018 I made an open records request to the County stating “Since it is my health and safety that you are putting in jeopardy, please provide the documentation of the alleged disposal field (size, construction, distance from existing water wells, etc.) for the alleged OSDS at the Belmont Saloon and exactly how the County established that this system was not a threat to the public health.”
The County’s response was: “Nye County does not have any public records responsive to your request.”
So much for protecting the health and safety of the community of Belmont.
- The County then said that even though they have absolutely zero information about this alleged septic system, they nevertheless reported that this system did not pose a threat to the public’s health.

In regards to the State’s involvement in all this:

The State has gone so far as to falsify records and put this false information into public documents. They then have lied about what they did when confronted with this information.

- On June 7, 2016, two investigators for Nevada Division of Water Resources were sent to Belmont to investigate my complaint against the well driller. Part of the complaint was to establish if there was a well at the Belmont Saloon. These investigators spoke with the owner of the Belmont Saloon, who informed them that there was a well at the saloon, concealed within the saloon structure. The owner further claimed that the well did not serve the saloon with water. The State investigators did not put any of this information in their official field investigation memorandum.

- A month and a half later, on July 19, 2016, these same two investigators were again sent all the way from Carson City, on a *special* trip to Belmont for the purpose of investigating if there was a well on the parcel of the Belmont Saloon. These two investigators, already knowing that there *was* a well at the Saloon, searched the 1/3 acre parcel of the Saloon, but could not find a well. These investigators then spoke to the same owner of the saloon again, but this time the owner told the State investigators that there was no well. These State investigators then wrote in their official report that there was no well at the Belmont Saloon.
- Several months later the story changed again. This time the owner of the saloon admitted to State Environmental Protection employees that, yes indeed there was a well at the saloon and it *did* serve the saloon with water.
- The Belmont Saloon does not have a water right to use water from the well, especially from a well that the State says does not exist.
- The State Engineer has stated, in writing that the saloon's use of this water would be an illegal use of water, but then did nothing about it.
- Instead the State Water Resources had the owner of the Belmont Saloon apply for a water right for the well that they previously and publicly documented did not exist. The State then went so far as to assign this particular water right application to their "Resource Specialist", one of the same investigators who reported earlier that there was no well at the Belmont Saloon.

This is typical of the behavior that Janice and I have come across when trying to protect our health, safety and water quality from the illegal, and might I add unconscionable activities by some people in Belmont.

It has become quite apparent that these same people have some very good connections with Water Resources, the State Engineer and other State and County agencies, by getting them to ignore illegal activities, falsify records and then try to cover-up their actions with lies.

This latest effort by the County in its attempt to secretly grant an easement for benefit of the Belmont Saloon further confirms that this is business as usual. Lack of governmental transparency, honesty, responsibility and accountability are the status quo...and in the end are only creating one thing in Belmont – a potential public health hazard that could affect not only Ms. Berard and I, but also the entire community of Belmont.

In conclusion, I would like to read a quote from Supreme Court Justice Louis Brandeis:
"The government is the omnipresent teacher. For good or ill it teaches the whole people by its example. Crime is contagious. If the government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that the ends justify the means – to declare that the government may commit crimes – would bring terrible retribution."

Thank you for the opportunity to speak at this meeting.

Neal Jones
 njones14791@gmail.com

Janice Berard
 jbnjreno@aol.com

713118
19

Dear Commissioners,

I am the one who filed the appeal to deny the approval of UICN's conditional use permit to infiltrate sewage effluent into the basin 162 aquifer. I am very familiar with the events that happened during that hearing on March 15 2016.

I encourage this board to appeal Judge Wanker's opinion that UCINs CUP is valid. She failed to note that the intent of the vote taken was clearly understood by all the commissioners and the audience that the CUP was denied by virtue of not approving it. That is exactly what was implied to all present. I also believe she misapplied County Code chapter 16 in her opinion.

The purpose of open meeting law is to help officials conduct effective and transparent meetings where everyone understands what is being done and voted on. Officials are not expected to be trained in procedural law nor should they be. What is important is that the intent of what the board is trying to accomplish is understood by all. This was taught to me in the open meeting class conducted right here in this room.

While I do not disagree with Judge Wanker's opinion that the vote taken after lunch was improper, something extremely important was revealed there. DA Angela Belo poled each one of the commissioners separately asking them if they understood their earlier vote to not approve the CUP implied that it was denied. All commissioners stated yes. Another vote was taken with the same 3-2 outcome. This can be verified by watching the Granicus video of that meeting.

If nothing else, this re-established without any doubt that the commissioners believed that voting down the approval effectively denied it.

After the public hearing was closed, Dan Schinhofen made a motion to approve the CUP. Lorinda Wichman seconded the motion. Dan Schinhofen then changed his motion to approve the CUP with the caveat that NDEP would address the water quality issue. Lorinda Wichman changed her second to comply with Dan's motion.

After a short discussion of the board a vote of 3-2 was taken against approving the CUP.

Butch Borasky then made a motion to deny without prejudice which would allow UICN to bring the item back at a later date. Donna Cox seconded. Lorinda Wichman commented (paraphrase) that a motion was not necessary as the prior vote killed the approval thus denying it. Butch rescinded his motion and Donna her second based on that commit.

If Mr. Borasky was misled into withdrawing his motion so a procedural challenge could be filed later, then shame on that attempt. There is no reason this board should allow toxins to be placed in our aquifer nor to negate the clear intentions and understanding of everyone who attended that hearing.

Thank you for your consideration of this testimony.
Kenny Bent

Please add this testimony to the official minutes of this July 3rd BoCC Meeting.

713118
#19

I request that my comments are reflected in the minutes and I submit a copy of my prepared written remarks for inclusion in the minutes also.

[When the BoCC closed the public comment period related to Mr. Bent's appeal, Commissioner Schinhofen motioned to **approve** the RPC's decision on UICN's CUP. That motion was seconded and a vote taken, resulting in a vote of three to two against Commissioner Schinhofen's motion.

Following the failure to pass of Commissioner Schinhofen's motion, Commissioner Borasky made a motion to "deny" without prejudice. That motion was seconded, but the vote on that motion was not completed and Commissioner Borasky withdrew the motion.

The BoCC than declared the public hearing on Mr. Bent's appeal "done" and took a lunch break.]

BLACK'S LAW DICTIONARY, Sixth Edition:
Affirm. To ratify, uphold, approve, make firm, confirm, establish, reassert.

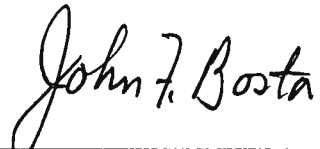
A vote taken, resulting in a vote of three to two against the motion to approve is a denial to affirm the decision of the RPC.

Findings of the Court

[3. After reviewing the transcript from the BoCC meeting at issue, the BoCC took no action on the matter at issue during the morning session. The Motion made by Commissioner Schinhoffen failed as the vote 2 Aye's and 3 Nay's to affirm the decision of the RPC. Therefore, the Count finds that a majority vote in favor of the action did not happen.]

The Finding No. 3 of the Court is in error, **action did happen**. The vote of three to two against the motion or vote 2 Aye's and 3 Nay's to affirm is the action of the BoCC in the morning session. **The Vote is the action. Therefore the BoCC should take action to affirm and direct the Nye County District Attorney to appeal the Order to the Nevada Supreme Court.**

Respectfully,



John F. Bosta