

**LYON COUNTY PLANNING COMMISSION MEETING MINUTES
JUNE 12, 2016**

The Lyon County Planning Commission met this day with a quorum. The following members were present: Betty Retzer, Harold Ritter, Mike Hardcastle, Doug Bennett and Audrey Allan. Rick Jones was absent. Attending staff were Jeff Page, County Manager, Robert Pyzel, Planner and Kerry Page, Planning Assistant.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

REVIEW AND ADOPTION OF AGENDA

Betty Retzer said that a request to hear a particular item earlier than was agendaized had been received. She said she wanted to approve that request. Jeff Page, County Manager, stated that the agenda must be approved before this request can be granted and Public Participation must first be made available prior to taking any action on any items. Ms. Retzer said she made that request so to include it in the adoption of the agenda but understands why that cannot happen at this time.

Audrey Allan made the motion to adopt the agenda as corrected. Doug Bennett seconded and the motion passed by a unanimous vote of those members present: 5 ayes; 0 nay; 0 abstentions; 1 absent (Rick Jones)

APPROVAL OF THE MINUTES

Audrey Allan made the motion to approve the minutes of the May 10, 2016, Planning Commission meeting, as presented. Mike Hardcastle seconded and the motion passed by a unanimous vote of those members present: 5 ayes; 0 nay; 0 abstentions; 1 absent (Rick Jones)

MISCELLANEOUS CORRESPONDENCE

There was none.

PUBLIC PARTICIPATION

Jeff Page announced that the County Commissioners will be taking action at their next meeting, to approve a contract with Farr West Engineering, to provide services for Community Development Director and Building Official. Mr. Page said that Farr West is in the process of hiring Dave Snelgrove who will act in those stated official capacities. Mr. Page said that both of the existing Building Inspectors, Joel Brown and Gene Stewart, will become employees of Farr West as of July 1st, but will provide the same services to Lyon County. Farr West will be directly involved in the Title 15 process alongside county staff. Mr. Page said that the county is continuing with setting up meetings with stakeholders to address the outstanding issues. He added that he will be conducting roundtables in the near future, with county residents, developers, contractors, etc. as an opportunity for them to discuss any problems they might have with the Community Development and Building Department processes.

Chairperson, Betty Retzer, stated that Item #9 will be moved up to be heard as the first item on the regular agenda.

REGULAR AGENDA ITEMS

- 9. REVIEW AND DISCUSSION TO REVISE LYON COUNTY CODE BY AMENDING CHAPTER 10.03.01 (G) – (for possible action)** - An Ordinance amending Lyon County Code Title 10 – Land Use Regulations; by amending: Chapter 3 – General Provisions, revising Section 1(G) – Recreational Vehicles; to provide additional conditions under which a Recreational Vehicle can be used for residential purposes; and other matters properly related thereto.

Angela DeFord, resident of Stagecoach, provided some history regarding her request for an ordinance revision. She explained that she was the victim of a residential fire where the home was a total loss. A building permit was pulled so that they could replace the mobile home on their property and lived in an RV while the home was being delivered. After the home was delivered it was discovered to be full of mold which made that home unlivable. After that time they continued to live in the RV while they applied for USDA funding to assist with the purchase of a new home. This process took longer than expected and in the meantime a neighbor complained incessantly about

them living in the RV, among other things. The situation led to a lengthy and very ugly neighborhood dispute including legal actions against each other. Mrs. DeFord stated that they did finally receive a new home and are now living in it, on their original property. Her request today is for an ordinance which can protect those people who find themselves in a similar situation in the future, caused by a natural disaster, from unnecessary complaints and lawsuits. She feels that providing an extended time period, possibly three years, to allow victims to pick up the pieces of their lives and rebuild without the threat of harassment from those that don't understand the situation, could be very important for those devastated by such a loss..

Rob Pyzel, Planner, stated that he understands the applicants concerns and sympathizes with them however he said that inserting a carte-blanche clause within any portion of the code is problematic. A property must be able to function as a residence with water, sanitary facilities, etc. He said this is why the code currently allows someone in this same situation to reside in an RV as long as they maintain an active building permit while they are rebuilding. Currently, they are allowed a one year period to rebuild plus an additional six months extension of the building permit. A period longer than this causes conflicts with the adopted building code requirements. If the Planning Commission decides they want staff to move forward with this issue, we will have to work within the building codes and the zoning codes, to come up with additional verbiage that will satisfy the needs of both the county codes and the applicant.

Audrey Allan asked what type of problems might occur if it was approved to allow an annual review of a permit, with a time frame of up to three years. Mr. Pyzel said that we try to have people conform to the county codes but this type of leeway could provide an opportunity for potential abuse. He added that this is a situation that needs to be discussed with the Building Official and other entities. Mike Hardcastle said there doesn't even need to be a cap as long as there is an annual review of the circumstances.

A lengthy discussion followed with suggestions of various ways to attack this issue. It was suggested that a separate clause be added to Title 10, Chapter 3, to solely address victims of natural disasters so that it does not apply to everyone who just wants to reside in an RV. Harold Ritter said there should be time provided for people to prepare building plans, etc. before the clock starts ticking. Mr. Pyzel said he could work something like that into the additional text.

Harold Ritter made a motion instructing staff to reconsider the ordinance text, considering the comments made today, and bring the revisions back to this board for additional review. Mike Hardcastle seconded and the motion passed by a unanimous vote of those members present: 5 ayes; 0 nay; 0 abstentions; 1 absent (Rick Jones)

1. SOUTH COMSTOCK TAILINGS DISPOSAL / ART WILSON COMPANY – SPECIAL USE PERMIT (for possible action) – Request for a special use permit to operate a small (less than 150 tons per day) gold processing / milling facility, including excavation (aggregate quarry and associated crushing), a cement batch plant, and mobile home for watchman's quarters, all within the Comstock Historic District and the RR-5 (Rural Residential-20 acre minimum) Zoning District; all located off of Gold Canyon Rd., Dayton (APNs 16-151-53 & 16-151-54) PLZ-16-0005

Chris Ross, Robison Engineering, represented the applicant. He explained the project and the associated uses. Mr. Ross said this is designed to be a zero-waste facility because the tailings will be dry-pressed allowing them to be used in precast cement products. Mr. Ross explained that they are working with NDOT on the improvement of the proposed accesses, which will be done at their expense, with the main access being off of Highway 50 to the south of the project. He said that full dust control will be implemented at the facility and all site lighting will comply with county requirements. Mr. Ross said that the proposed mobile home which was going to serve as a watchman's quarters is not allowed per the Comstock Historic District standards. He said they will construct a permanent, stick built structure which will conform to their requirements. Mr. Ross said they have already provided a full traffic study along with a reclamation plan.

Rob Pyzel, Planner, discussed the staff report requirements in detail. He explained that the mill site will utilize the Merrill-Crowe processing system which does require the use of cyanide however this process will be conducted in an enclosed facility and will be

done inside a building. There will be an aggregate quarry and crushing operation which will, of course, be operated outside although with limited daytime hours of operation. Mr. Pyzel said that due to the surrounding terrain the site is shielded from view of other properties along Gold Canyon Rd and Highway 341. He said the applicant is not proposing to interfere with the existing historic tailings on the site and added that they are working with NDEP to secure all required permitting. Mr. Pyzel said that the applicant was required, due to them being located within the Comstock Historic District, to perform an archaeological survey on the property. Mr. Cotts, the district's surveyor, provided a thorough investigation and determined that because this is private property, the property owner retains ownership of anything found on the property. The property owner can do whatever they want with those features and no disclosure of what those features are needs to be performed. Mr. Ross said that Mr. Bert Bedeau of the Comstock Historic Commission confirmed that there are no historic structures in the project area.

Doug Bennett asked if we are premature in providing conditional approval prior to the Comstock Historic District's approval. Rob Pyzel said no because the applicant will have to come back to the county for a building permit which will provide additional opportunity to ensure that all state and federal reviews and permitting have been attained. He added that the Planning Commission is reviewing a land use permit and the Historic District reviews architectural features.

Mr. Bennett asked for an explanation of how a rural residentially zoned property can be used for an industrial use. Rob Pyzel said that the rural residential zoning districts are the largest zoning district categories and allows a variety of larger uses including agricultural, sometimes with a special use permit as in the case of mining. The special use permit process allows the county to impose conditions to mitigate operations or functions that may negatively impact surrounding residential neighbors, such as lighting, noise and dust.

Mr. Bennett asked if the applicant expects to use explosives. Mr. Pyzel said he doesn't see why they would need to use explosives and that they will probably just use heavy equipment. Mr. Ross, for the applicant, said they are not proposing using any explosives.

Mr. Bennett then asked the applicant how they plan to mitigate the light, noise and dust problems. Mr. Ross said that a mitigation plan has been provided and added that most of the processes will be located inside a building, except for the crusher which will be located in such a way as to buffer a lot of the noise from surrounding properties. He said the terrain will limit the noise. Mr. Ross said that dust control measures will be implemented and any night lighting will be shielded and downwards facing. Discussion followed.

Audrey Allan asked about traffic counts in the case of an increase in production. Mr. Ross said they have addressed both best case and worst case scenarios and NDOT will require deceleration lanes off of Highway 50 at their expense.

Betty Retzer asked about the portion of the waste materials that cannot be recycled and what happens to those materials. Mr. Ross said that the waste water, which is not very dirty at all, will probably be dumped into the pit if it is not used for dust suppression. He added that the cyanide process is contained in a completely closed system so there is no waste product. A discussion followed regarding the hours of operation and Mr. Ross stated that those hours are negotiable.

Ms. Retzer mentioned that there is some discrepancy in the materials as to whether or not there will be a holding pond on site. Mr. Ross said there is no holding pond planned because the processed fluid will all be kept inside the building. He said there will be dry ponds located on the site which are only used in the case of a large drainage event.

Ms. Retzer asked about the historic tailings. Mr. Ross said that the historic tailings which are actually located on a parcel to the north of the subject parcel will be capped with an impermeable liner and topsoil that can be revegetated. Doug Bennett asked what safeguards might be provided to ensure that no one will dig the tailings up, possibly years down the road, not knowing the tailings are there. Mr. Pyzel said that the State will provide guidance on use in the area of the tailings in the future. He added that the conditions of approval could be recorded so that a title search would connect

those conditions to the site and provide notification to any future property owners that these conditions exist. Discussion followed.

Ms. Retzer asked about the noise and potential for dust and how those might be mitigated. Mr. Ross said that most of the activity will be conducted within the building and any noise or dust that is generated outside will be mitigated by the distance from other structures and topography.

When asked about the existing chain-link fence around the site, Mr. Ross said that it will be replaced with fencing in compliance with historic district requirements and it could possibly be made with wildlife compatible fencing per NDOW standards.

Discussion followed regarding the distance the site is from surrounding residences.

Art Wilson, applicant, said that there is not another mill site in the proximity of this site and this mill site will provide opportunity for other small miners in the area to have their materials processed locally. He continued with a lengthy discussion on the existing tailings, the processes and safety measures to be employed at the site. He said he recently met with NDEP and addressed their concerns.

Donald Capps, area resident, said that Gold Canyon Rd runs right through his property and stated his concern with the potential truck traffic and the potential for him to be liable to those that use that roadway. He said that water usage is also a concern.

Larry Goell, Comstock Mining, expressed his support for this project. He added that the ability for small miners to have their materials processed there will be a huge benefit to them when they don't have such facilities available to them right now.

Gayle Sherman, Silver City resident, asked where the ore is coming from and will Silver City be impacted by the truck traffic. Art Wilson said that he has no intention to haul material down Gold Canyon Road, as the road is not adequate.

Carol Godwin, Silver City resident, stated her concern that the area is a superfund site.

Paulla Comley, area resident for 23 years, expressed her opposition due to the potential for noise, dust and disturbance to the residents in the area. She asked that the meeting be tabled so that she can have opportunity to provide additional, substantial information regarding this project.

Julie Kidd, area resident, asked to be able to submit a letter to the commission prior to a decision being made. Rob Pyzel said that everyone is provided opportunity for public comment and additionally, the Planning Commission does not provide the final action on the project and it will go before the Board of Commissioners on July 7, where additional comments can be provided and stated at that meeting. Mrs. Godwin asked the Planning Commission to visit the site in person. Mrs. Kidd complained that none of her neighbors received notification about the meeting. Jeff Page, County Manager, stated that staff provides noticing per state statute requirements. He said that the county does not provide noticing regarding advisory board meetings. Discussion followed. Ms. Kidd said that she researched the property back to its patent, as well as the zoning laws for that district. She feels that the rules are now being changed to allow this type of facility, about one half mile from her front door. She feels the county is violating the covenant made with her when she purchased the property, when the zoning was disclosed to her. Ms. Kidd expressed her concern for the noise to be generated and the potential for her well to run dry.

Jeff Page, County Manager, recommended that anyone who has more than three minutes of discussion, to forward their comments to staff for presentation to the Board of Commissioners.

A letter presented by Erich Obermayr, Silver City resident, regarding cultural resources located on the sites, was entered into the record by reference and the recommendation for approval from the Dayton Advisory Board was acknowledged.

Denese Doherty, area resident, expressed her concern for the loss of quality of life. She feels that the facility is located closer to residents than what the applicant is representing. She is also concerned with the dust, noise and the hours of operation.

Austin Wieser, area resident, stated that the dust will present a hazard for those residents with health issues, as there is no way to control it.

Dean Cichowicz, area resident, said he bought his property for the peace and quiet. He is also concerned with the loss of water and feels the facility should be relocated to an industrial area.

Brad Wieser, area resident, said when he purchased his property 15 years ago, it was zoned residential. He doesn't understand why an industrial use should be allowed to operate in a residential area. Mr. Wieser feels that the state and the county are the only ones to benefit from this and said that it will directly affect his property value.

Bonnie Brown, Silver City resident for 43 years, asked how the ore will be transported to this site. She is concerned for her health and quality of life if this use is allowed.

Jeff Page, County Manager, said that he understands the concerns of the close by residents however this type of operation is a legal use within title 10 of the Lyon County Code, with the approval of a special use permit. He said there are two superfund sites within Nevada and both are in Lyon County. He said that the Comstock is one and the other is the Anaconda mining operation in Mason Valley. The superfund sites are a direct result of mining from years ago. He said that today, mining regulations are much more stringent, requiring reclamation plans and heavy permitting processes through state and federal agencies.

Discussion followed regarding the number of employees, truck traffic and hours of operation. Ms. Retzer asked about sanitary facilities for employees. Mr. Ross said that the hours of operation are negotiable. He agreed that 7 AM until 5 PM sounded reasonable. Mr. Ross said that they would not work on Saturdays. Mr. Wilson said that typically, this type of facility is a 24 hour per day operation and with the volume he is anticipating that is likely. He added that all of those operations will be conducted inside the insulated, mill building so that no sound will be generated outside. Mr. Ross said it is the crushing operation that will generate a lot of noise. Mr. Wilson said there will no more than 6 trucks per day in and out of the facility running at full capacity. He and Mr. Ross said that the crusher will not be operated on Saturday or Sunday. Betty Retzer reiterated that the crushing operation and the truck traffic will only be operated from 7 AM until 5 PM with no weekend hours and the milling operation, inside the building, will operate 24 hour per day and 7 days per week.

Betty Retzer asked if the surrounding wells will be impacted. Chris Ross said that the residences are above this site so those wells should not be impacted. Mr. Wilson said it is on a separate aquifer from the residences based on information from the State Engineer. The residents in attendance disagreed. Discussion followed. Ms. Retzer said that a study should be provided to ensure there is no impact to the surrounding residences. Harold Ritter said that will be decided by the State Engineer. Ms. Retzer asked again where the ore is coming from. Mr. Wilson said that a major portion will come from Storey County and be trucked down Highway 341, to Highway 50 and enter the property via Daney Canyon Rd. Rob Pyzel clarified that this is the most expedient route available. Mr. Wilson added that he is responsible for the maintenance of the county roadway being proposed for use by this facility.

Jeff Page clarified that the conditions provided by staff includes compliance with all state and federal regulatory agencies, including the State Engineer regarding water. He said that the county has no say in the use of a state highway, only if it includes use of a county roadway. He cautioned the Planning Commission in basing a decision on factors that can only be decided by a state agency. The State of Nevada does not allow the smaller counties to deal with environmental issues on their own. Discussion followed regarding enforcement actions and how they will be dealt with.

Mr. Pyzel said that condition #13 referencing the use of a mobile home for watchman's quarters, should be removed subject to the discussion had at the Comstock Historic District meeting, which disallowed that use. He added that a condition should be added regarding the hours of operation. Mr. Pyzel said the problem with specifying hours of operation for truck traffic is with our ability to enforce that.

Audrey Allan made a motion recommending approval of the special use permit for South Comstock Tailings Disposal / Art Wilson Company, based on the following findings A) The proposed use at the specified location is consistent with the general purpose and intent of the applicable RR-5 zoning district regulations; B) The proposed use will not be detrimental to the use, peaceful enjoyment, economic value, or development of surrounding properties or the general neighborhood; and is compatible with and

preserves the character and integrity of adjacent development and neighborhoods or includes improvements or modifications either on-site or within the public right-of-way to mitigate development related to adverse impacts such as noise, vibrations, fumes, odors, dust, glare or physical activity; C) The proposed use will not result in material damage or prejudice to other property in the vicinity; D) The proposed use will not be detrimental to the public health, safety, convenience and welfare; E) That the applicant has shown that reasonable steps can be taken to protect land, air, and water resources of both the applicant's property and that of surrounding property owners; F) That the scenic, historic, recreational, archeological and agricultural values of the applicant's property and those of the surrounding property owners are protected; and G) That, notwithstanding adverse findings on one or more of the above Findings D through F, the proposed mining activity is proposed by adding to the tax base, providing additional employment and otherwise contributing to the economic welfare of Lyon County, and subject to the following conditions:

1. The special use permit application information, specifically including but not limited to the Project Description and facilities plan dated April 25, 2016 and all other supporting documentation contained in the application and supplemental materials shall be incorporated as a part of the Special Use Permit. All activities associated with the Special Use Permit shall conform to the activities described therein.
2. The applicant shall continue to provide information to and coordinate with Lyon County and the Central Lyon County Fire Protection District on a regular basis (i.e., as necessary, but at a minimum annually) to: facilitate the provision of services; identify potential community impact changes; monitor operational activities, impacts and regulatory compliance; and provide adequate lead time for any changes to the proposed operations that would increase impacts and service needs.
3. The applicant shall submit an annual status report, at least 45 days prior to the anniversary date of the Board of Commissioner's approval, detailing the operations and activities of the past year and those proposed for the next year; compliance with the special use permit conditions of approval; status and compliance with local, state and federal permitting requirements; status of all bonds and financial security for permits, reclamation, etc.; proposed workforce changes; and any other information deemed to be pertinent to the special use permit by the applicant.
4. No change in the use, terms and conditions of this Special Use Permit, as approved, shall be undertaken without first submitting the changes to Lyon County Community Development Department and, if deemed necessary, having them modified through an amendment to this Special Use Permit with the associated public hearing process.
5. The applicant shall submit a traffic analysis, including any necessary mitigation measures for the Highway 50/Gold Canyon Road intersection and any affected County Roads, to be reviewed and approved by the County Engineer, Community Development Director and Nevada Department of Transportation ("NDOT"). The applicant shall construct any road and/or access improvements required to the satisfaction of the County Engineer, Community Development Director and/or NDOT prior to the issuance of a special use permit and commencement of operations on the subject site.
6. The applicant shall be required to review and update the traffic analysis on an annual basis, and provide a status report and any plan revision to Lyon County for annual review and approval. Significant changes in traffic volume or character shall require the implementation of mitigation measures deemed appropriate by the County Engineer and the Community Development Director.
7. The applicant shall undertake improvements and mitigation activities to reduce the impact of increased traffic attributable to the proposed project between the northern boundary of the project parcel to the intersection of Gold Canyon Road and Highway 50 to comply with applicable County road standards to the satisfaction of the Superintendent of the County Road Division.
8. Prior to the issuance of the special use permit or building permits or initiation of proposed construction and operations activities, the applicant shall enter into a road maintenance and mitigation agreement with Lyon County for maintenance of Gold Canyon Road between the northern boundary of the project parcel to the

intersection of Gold Canyon Road and Highway 50 to the satisfaction of the Superintendent of the County Road Division.

9. To improve the Central Lyon County Fire Protection District's capabilities to respond to incidents at the project site, the applicant shall provide for the training and equipment necessary and directly related to the proposed mining and processing activities. Such training and equipment shall be limited to: technical rescue involving industrial equipment and large trucks and hazardous materials response for incidents involving explosives (not to include EOD activities or equipment). The specific training and equipment requirements shall be determined through a review of more detailed information and plans submitted by the applicant, development of the project's emergency operations plan and joint discussions involving the applicant, the Central Lyon County Fire Protection District, the Lyon County Office of Emergency Management and the Lyon County Community Development Department. If the applicant and the Central Lyon County Fire Protection District cannot reach an agreement regarding the applicant's responsibility and financial obligation, the matter shall be submitted to the Board of Commissioners for clarification and resolution.
10. Prior to the commencement of mining and processing operations, the applicant shall prepare a Safety and Emergency Plan for the project site and activities. The plan will be developed with participation of and review by the Central Lyon County Fire Protection District, Lyon County Sheriff's Department, Lyon County Office of Emergency Management, Lyon County Local Emergency Planning Committee, and Lyon County Community Development Department.
11. The applicant shall comply with all State of Nevada, Lyon County, federal and special district rules and regulations as they apply to this special use permit.
12. The applicant shall procure and/or maintain a Lyon County business license.
13. The applicant will be required to obtain a building permit through the Lyon County Building Department prior to issuance of a Certificate of Occupancy for the watchman's structure which shall be a stick-built building in compliance with the Comstock Historic District standards.
14. No signage other than public safety and traffic signage are allowed as part of this Special Use Permit. The applicant shall ensure that the appropriate public safety and traffic signs and barriers are installed at appropriate locations to provide for the public's safety and site security.
15. All site and building lighting shall comply with the regulations in Lyon County Code Section 10.20.
16. The applicant shall comply with all applicable fire and building code requirements, including, but not limited to, requirements for provision of sufficient emergency vehicle access, adequate fire flows, and proper storage of fuels, flammable substances and explosives to the satisfaction of the Central Lyon County Fire Protection District and Lyon County Building Department.
17. The applicant shall acquire all federal, State of Nevada, Lyon County and special purpose district permits (e.g., Comstock Historic Commission) and obtain all necessary public inspections.
18. The Community Development Department may require the applicant to make improvements to mitigate traffic, noise or other adverse impacts identified after the issuance of the Special Use Permit. The applicant shall obtain Community Development Department approval of any such improvements prior to the issuance of any building permits, if necessary, and/or construction.
19. All of the requirements placed on the special use permit by the County Building Official, Central Lyon County Fire Protection District, Community Development Director, and other agencies with jurisdiction shall be met prior to the applicant commencing the construction and/or operations phase of this project as appropriate.
20. The substantial failure to comply with any conditions imposed on the issuance of a special use permit or the operation of a special use in a manner that endangers the health, safety or welfare of Lyon County or its residents or the violation of ordinances, regulations or laws in the special use or the non-use of the permit for a year may result in the institution of revocation proceedings.

21. The special use permit is subject to annual review by Lyon County. The applicant shall submit documentation of compliance with the federal and State permits as a part of the annual review.
22. The hours of operation are as follows: the aggregate operations including the materials crusher and concrete batch plant shall be 7 AM until 5 PM, Monday through Friday; the milling operation located inside the main structure shall be 24 hours per day and 7 days per week; and delivery truck traffic shall be allowed from 7 AM until 5 PM, Monday through Friday with additional traffic allowed as necessary.

Mike Hardcastle seconded and the motion passed by a unanimous vote of those members present: 5 ayes; 0 nay; 0 abstentions; 1 absent (Rick Jones)

2. **SIERRA PACIFIC POWER COMPANY dba NV ENERGY – SPECIAL USE PERMIT (for possible action)** – Request for a Special Use Permit for an above ground utility transmission project (a new 120kV electrical energy transmission line not located within a Master Plan-designated transmission corridor), from the point of convergence of the 636/601/638 transmission lines to the new, proposed Mason Substation; located westerly of Weed Heights area, Yerington (APNs 12-111-28, 14-451-06 & 14-401-13) PLZ-16-0012
3. **SIERRA PACIFIC POWER COMPANY dba NV ENERGY – SPECIAL USE PERMIT (for possible action)** – Request for a Special Use Permit for an above ground utility transmission project (a new 120kV electrical energy transmission line not located within a Master Plan-designated transmission corridor), to allow an upgrade of the two existing 25 kV distribution lines to a 120 kV electrical energy transmission line, from the new Mason Substation originating southwesterly from Weed Heights Rd., Yerington (APN 12-111-28) and terminating at the Smith Valley Substation, 280 Lower Colony Rd, Wellington (APN 10-301-25) PLZ-16-0013
4. **SIERRA PACIFIC POWER COMPANY dba NV ENERGY – SPECIAL USE PERMIT (for possible action)** – Request for a Special Use Permit for a utility project (a new 120kV electrical energy substation) to replace two existing electrical energy substations; relocation of an existing telecommunications antenna to the new substation site for remote telemetry for the substation; an increase in the maximum height of a telecommunications antenna from a maximum of 45 feet to 93 feet; and a waiver to the standard telecommunications facilities screening and landscaping requirements; located south of the Anaconda mine, southwesterly from Weed Heights Rd, Yerington (APN 12-111-28) PLZ-16-0014

Harold Ritter made a motion to hear items 2, 3 & 4 together as one item and vote on each separately. Mike Hardcastle seconded and the motion passed by a unanimous vote of those members present: 5 ayes; 0 nay; 0 abstentions; 1 absent (Rick Jones).

Mark Sullivan, NV Energy representative, introduced Linda Bissett, also of NV Energy, and proceeded with a review of the proposed project. Mr. Sullivan explained that this project will improve the infrastructure within the Mason and Smith Valley areas, as well as Topaz Ranch, Wabuska, Mason and Yerington. It is part 2 of the previously approved SUP for a new substation in Wellington. Today, the first SUP is for the relocation of the Mason Valley Substation including an increase in height for the telecommunications antenna to 93 ft.; one to extend the Mason Valley transmission corridor and another to extend the Smith Valley transmission corridor. Mr. Sullivan provided a visual aid to better showcase each aspect of the project. He explained that the Mason Valley substation will be relocated to a parcel just southwest of the existing parcel, on BLM property. He further explained the route each of the new transmission corridors will take. Mr. Sullivan said that this facility will be built at a 120kV capacity and operate it at 60kV where they can provide additional power as needed in the future, without interruption. This capacity will meet the needs for the county for a long time into the future. Mr. Sullivan continued his presentation. Audrey Allan asked if there are agreements in place already with the affected property owners. Mr. Sullivan said they are in the process of obtaining all of those agreements. Betty Retzer asked if the poles or the tower will require lighting. Mr. Sullivan said only if they are close to an airport and the FAA will determine that need. Typically, lighting is required at 200 ft. per FAA standards. Ms. Retzer asked about the possibility for underground lines. Mr. Sullivan said that underground lines are usually too expensive and are purely aesthetic. He said

the PUC dictates the rates that can be charged and underground lines cost considerably more for the consumer.

Rob Pyzel, Planner, explained the reason for separating this proposal into three separate SUPs. Mr. Pyzel presented the staff reports and said that staff recommends approval of all three SUPs. He said that this request is in compliance with the Lyon County Master Plan. Mr. Pyzel said the applicant is not asking for the maximum variance to the tower height and that the height will not interfere with any visual or physical aspects of the landscape. He added that the PUC has heard complaints from numerous Smith Valley residents and the area is subject to brown outs due to the insufficient capacity causing a great impact to the agricultural, mining and residential community.

Doug Bennett asked if the transmission corridors are capable of being moved if it interferes with someone's private property rights. Mr. Sullivan said there is only a certain area that is flexible. Studies were done to locate the best location and the impact to those property owners. NV Energy will only have surface rights in the easement area and the property owners will still have subsurface rights for mining and will have full access to their properties. Mr. Sullivan said they have worked with this particular property owner and feels confident that an agreement will be reached prior to the Board of Commissioners meeting. A lengthy discussion followed.

Betty Retzer asked about the likelihood of the power lines creating a hazardous situation for those close by. Mr. Sullivan said that there is no scientific proof that electro-magnetic fields pose a health hazard to humans or animals.

Carole O'Banion, Wellington resident, was unable to stay for the remainder of the meeting and presented a letter of opposition, which was entered into the record by reference. She was concerned with the height of the poles and said that some of the poles are located on her farmland. Mr. Sullivan said they don't normally buy property for pole location all they use is an easement.

Dave Cosner presented a list of questions posed to NV Energy. Mr. Sullivan said they will be responding to Mr. Cosner directly.

William Jacobsen, Wellington resident, stated he received an offer for an easement from NV Energy but their offer was ambiguous as to what they want. Mr. Jacobsen said that within the easement area, he has fencing, ditches and other features which could be disrupted if the easement goes through. He presented the commission with a copy of the offer he received.

Alan Coyner, of Mason Copper, affected property owner in Mason Valley, provided a letter stating that his company has not yet come to an agreement with NV Energy for easements across their patented mining claim properties. He requested that these items be tabled until the next meeting so that additional discussion can be conducted.

Deborah Hayes, Wellington resident, said that the transmission line is running directly across the valley floor. She feels that the setback distance between the poles and residences should be greater. Ms. Hayes said that there is more than one person who is unwillingly to accept this project close to their home. She takes exception to the statement made by Mr. Sullivan that this project is for the greater good and that they will just take their land away from them, when all they have to do is move the line 5 miles taking it away from private property. She feels there is also a danger to the crop dusters that do fly lower than 93 ft. Ms. Hayes said there are many studies detailing the impact of electro-magnetic fields on livestock and humans.

Dave Cosner, Wellington resident, said he has worked inside the substations where all of the power is contained and has never had an adverse effect from electro-magnetic fields. He expressed his support for the project and said that the poles will be in the same place they are now, except they will be taller. He added that the distance required for the transmission line is detrimental to installing an underground line.

Maralyn Abrott, Wellington resident, asked Mr. Sullivan to explain, referencing Mr. Jacobsen's concerns, why they need that size of an easement. Mark Sullivan said that most of the easements already exist so as long as whatever is within those easements does not interfere with the transmission lines, that condition will remain. He said that

any damage caused by NV Energy will be repaired at their expense and he doesn't anticipate any changes to any of the existing features located within any of the easements. Mrs. Abrott said that the Smith Valley substation is already approved and feels that it is a necessary project and will provide improved power capacity in the valley.

Debra Hayes asked if NV Energy has looked into the fact that Lower Colony Rd was recently being changed from a Lyon County road to a state highway with additional right of way width which will affect the easement area where the poles are to be located.

Agenda item #2: Mike Hardcastle made a motion recommending approval of the special use permit for an above ground utility transmission project (a new 120kV electrical energy transmission line not located within a Master Plan-designated transmission corridor), from the point of convergence of the 636/601/638 transmission lines to the new, proposed Mason Substation, based on findings A through H found in the staff report and subject to the following conditions:

1. The applicant shall comply with all State, County, federal and special district rules and regulations as they apply to this special use permit.
2. The applicant shall comply with all applicable fire, building, zoning and improvement code requirements.
3. The applicant shall submit documentation of approval by the BLM for NV Energy's APOD for the Mason and Smith Valleys Transmission Project prior to issuance of a grading/building permit for the transmission corridor.
4. The applicant shall acquire all State, County and special purpose district permits and obtain all necessary public inspections. This includes, but is not limited to, an air quality permit from the Nevada Division of Environment Protection if required.
5. The applicant shall provide an operational plan that sets forth how the facility will be maintained to mitigate any nuisances to surrounding properties including but not limited to dust. The plan must be submitted to the Community Development Department and approved by the Community Development Director before any final inspection is performed by Lyon County.
6. Commencement of the use is contingent upon satisfactory completion of all required access, improvements to County and International Fire Code standards, as required by the Lyon County Community Development Department and Mason Valley Fire Protection District.
7. The applicant shall comply with Lyon County's 1996 drainage guidelines, as revised.
8. No change in the terms and conditions of the special use permit, as approved shall be undertaken without first submitting the changes to Lyon County and having them modified through a public hearing process.
9. The substantial failure to comply with any conditions imposed on the issuance of a special use permit or the operation of a special use in a manner that endangers the health, safety or welfare of Lyon County or its residents or the violation of ordinances, regulations or laws in the special use or the nonuse of the permit for a year may result in the institution of revocation proceedings.

Audrey Allan seconded and the motion passed by a unanimous vote of those members present: 5 ayes; 0 nay; 0 abstentions; 1 absent (Rick Jones)

Agenda Item #3: Mike Hardcastle made a motion recommending approval of the special use permit for an above ground utility transmission project (a new 120kV electrical energy transmission line not located within a Master Plan-designated transmission corridor), to allow an upgrade of the two existing 25 kV distribution lines to a 120 kV electrical energy transmission line, based on findings A through H found in the staff report and subject to the following conditions:

1. The applicant shall comply with all State, County, federal and special district rules and regulations as they apply to this special use permit.
2. The applicant shall comply with all applicable fire, building, zoning and improvement code requirements.

3. The applicant shall submit documentation of approval by the BLM for NV Energy's APOD for the Mason and Smith Valleys Transmission Project prior to issuance of a grading/building permit for the transmission corridor.
4. The applicant shall acquire all State, County and special purpose district permits and obtain all necessary public inspections. This includes, but is not limited to, an air quality permit from the Nevada Division of Environment Protection if required.
5. The applicant shall provide an operational plan that sets forth how the facility will be maintained to mitigate any nuisances to surrounding properties including but not limited to dust. The plan must be submitted to the Community Development Department and approved by the Community Development Director before any final inspection is performed by Lyon County.
6. Commencement of the use is contingent upon satisfactory completion of all required access, improvements to County and International Fire Code standards, as required by the Lyon County Community Development Department and Smith Valley Fire Protection District.
7. The applicant shall comply with Lyon County's 1996 drainage guidelines, as revised.
8. No change in the terms and conditions of the special use permit, as approved shall be undertaken without first submitting the changes to Lyon County and having them modified through a public hearing process.
9. The substantial failure to comply with any conditions imposed on the issuance of a special use permit or the operation of a special use in a manner that endangers the health, safety or welfare of Lyon County or its residents or the violation of ordinances, regulations or laws in the special use or the nonuse of the permit for a year may result in the institution of revocation proceedings.

Audrey Allan seconded and the motion passed by a unanimous vote of those members present: 5 ayes; 0 nay; 0 abstentions; 1 absent (Rick Jones)

Agenda Item #4: Harold Ritter made a motion recommending approval of the Special Use Permit for a utility project (a new 120kV electrical energy substation) to replace two existing electrical energy substations; relocation of an existing telecommunications antenna to the new substation site for remote telemetry for the substation; an increase in the maximum height of a telecommunications antenna from a maximum of 45 feet to 93 feet; and a waiver to the standard telecommunications facilities screening and landscaping requirements, based on findings A through E found in the staff report and subject to the following conditions:

1. The applicant shall comply with all State, County, federal and special district rules and regulations as they apply to this special use permit.
2. The applicant shall comply with all applicable fire, building, zoning and improvement code requirements.
3. The applicant shall submit documentation of approval by the BLM for NV Energy's APOD for the Mason and Smith Valleys Transmission Project prior to issuance of a grading/building permit for the substation.
4. The applicant shall acquire all State, County and special purpose district permits and obtain all necessary public inspections. This includes, but is not limited to, an air quality permit from the Nevada Division of Environment Protection.
5. The applicant shall maintain a Lyon County business license while occupying the premises.
6. The applicant shall provide an operational plan that sets forth how the facility will be maintained to mitigate any nuisances to surrounding properties including but not limited to dust, weeds and rodents. The plan must be submitted to the Community Development Department and approved by the Community Development Director before any final inspection is performed by Lyon County.
7. Prior to commencement of the use, the applicant shall provide to the Lyon County Planning Department evidence of the issuance of an access/right-of-way easement and satisfactory completion of all improvements required by the Bureau of Land

Management for the new substation, or documentation that no new access/right-of-way easement and/or improvement are required.

8. Commencement of the use is contingent upon satisfactory completion of all required access, driveway and parking improvements to County and International Fire Code standards, as required by the Lyon County Community Development Department and Mason Valley Fire Protection District.
9. The telecommunication antenna and attached equipment shall have and maintain a non-reflective surface, be of a neutral color that blends with the surrounding background to the satisfaction of the Lyon County Community Development Department.
10. Noise-generating equipment associated with the telecommunications antenna shall be sound-buffered by means of baffling, barriers, or other suitable means that reduce the sound level measured at the property line to 75 dBA during the daytime hours and 60 dBA during the nighttime hours.
11. If outdoor lighting is provided within the substation site, it shall comply with the outdoor lighting requirements of Chapter 10.20 of the Lyon County Code. No lighting shall be permitted on the telecommunication antenna except as required by the Federal Aviation Administration ("FAA").
12. The applicant shall comply with Lyon County's 1996 drainage guidelines, as revised.
13. All of the requirements placed on the special use permit by the County Building Official, Mason Valley Fire Protection District, Community Development Director, and other agencies with jurisdiction shall be met prior to the applicant commencing use of the site.
14. No change in the terms and conditions of the special use permit, as approved shall be undertaken without first submitting the changes to Lyon County and having them modified through a public hearing process.
15. The substantial failure to comply with any conditions imposed on the issuance of a special use permit or the operation of a special use in a manner that endangers the health, safety or welfare of Lyon County or its residents or the violation of ordinances, regulations or laws in the special use or the nonuse of the permit for a year may result in the institution of revocation proceedings.

Audrey Allan seconded and the motion passed by a unanimous vote of those members present: 5 ayes; 0 nay; 0 abstentions; 1 absent (Rick Jones)

RECESS TO CONVENE AS THE LYON COUNTY PUBLIC LANDS MANAGEMENT ADVISORY BOARD

5. Public participation

None

6. Board member comments

None

7. Future agenda items for discussion and possible action (for possible action)

None

8. Public participation

None

ADJOURN TO RECONVENE AS THE LYON COUNTY PLANNING COMMISSION

10. STAFF COMMENTS AND COMMISSIONER COMMENTS

Rob Pyzel commended the Planning Commission on handling well, a very full agenda.

Doug Bennett expressed his concern over the perception of a threat of legal action from a member of the audience. He said that Jeff Page suggested when such comments arise, proceedings should be halted and legal counsel sought. Mr. Bennett asked if the correct action was taken by this board in proceeding with a vote, when a public participant indirectly threatened legal action. Jeff Page said if we stop moving forward every time a member of the public suggests legal action, we would never get anything

done. He gave an example of a similar situation. Mr. Page suggested that they move forward without engaging in the conversation and reminded the board members to not say anything a person could use against them in court. Discussion followed.

PUBLIC PARTICIPATION

Julie Cosner and Maralyn Abrott both thanked the Planning Commission for their affirmative vote on the NV Energy special use permit.

ADJOURNMENT

At approximately 2:40 P.M. it was unanimously motioned that the meeting be adjourned.

Betty Retzer, Chairperson

ATTEST:

Jeff Page, County Manager
as Community Development Director

Kerry Page, Planning Assistant