

MINUTES
CHURCHILL COUNTY PLANNING COMMISSION
November 12, 2014

Chairman Richardson called the regular meeting of the Churchill County Planning Commission to order at 7:00 p.m. in the Churchill County Administration Complex, 155 North Taylor Street, County Commission Chambers, Fallon, Nevada.

PLANNING STAFF PRESENT:
Michael K. Johnson, Planning Director
Terri Pereira, Associate Planner
Debi Kissick, Recording Secretary

CIVIL D.A. STAFF PRESENT:
Ben Shawcroft, Deputy District Attorney

CALL TO ORDER

Roll Call.

Present: Chairman Stuart Richardson, Vice-Chairman Tom Lammel, Member Charlotte Louis, Member Deanna Diehl, Member Paula Utter, Member Doug Hill, Member Mary Lou Lehman.

Pledge of Allegiance.

Public Comments: Chairman Richardson asked for any public comments for anything *not listed* on tonight's agenda. There were none.

Review and Adoption of Agenda: Chairman Richardson explained the procedures for scheduled agenda items and verified with the Recording Secretary that the agenda had been properly posted. Then he asked for any changes to the agenda. Director Johnson stated that there were none. Action to approve the agenda as submitted or revised.

Verification of notification of all landowners in accordance with NRS and the Churchill County Consolidated Development Code: Chairman Richardson verified with the Recording Secretary that notification was sent to all landowners in accordance with NRS and the Churchill County Code.

MINUTES

Review and Adoption of Minutes: October 8, 2014 Meeting & October 28, 2014 Workshop Meeting

Motion: To approve the October 8, 2014 Meeting Minutes as written, **Action:** Approve, **Moved by** Member Charlotte Louis, **Seconded by** Member Deanna Diehl, **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 7).

Motion: To approve the October 28, 2014 Workshop Meeting Minutes as written, **Action:** Approve, **Moved by** Member Doug Hill, **Seconded by** Member Charlotte Louis, **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 6), **Abstained:** Member Paula Utter.

OLD BUSINESS

The following Temporary Use Permits for a manufactured home or RV to be used on a temporary basis for hardship situation were acted upon:

Johnny Chenoweth – 4360 Vaughn Road, 007-311-25, Origination Date 12/13/00, mobile home for mother-in-law and stepdaughter to reside in.

Chairman Richardson asked for any comments or questions regarding this request; there were none.

Vice Chairman Lammel noted that originally this permit was for Johnny's mother-in-law and subsequently for his disabled daughter-in-law, but his mother-in-law has passed away. This needs to be changed to be for the step-daughter to live there. I do know these people personally and I do believe the information they sent is correct.

Motion: To renew the temporary use permit for a hardship mobile home for Johnny Chenoweth at 4360 Vaughn Road for another year based on the information provided in the renewal application, **Action:** Approve, **Moved by** Vice-Chairman Tom Lammel, **Seconded by** Member Deanna Diehl. **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 7).

Ernest & Diane Gonzalez – 6477 Cox Road, 008-113-07, Origination Date 12/08/10, RV on the property for his mother-in-law to reside in.

Chairman Richardson asked for any comments or questions regarding this request; there were none.

Motion: To renew the temporary use permit for a hardship RV for Ernest & Diane Gonzalez at 6477 Cox Road for one year based on the information provided in the renewal application. And, when the mobile home is no longer needed, that it be removed from the property, **Action:** Approve, **Moved by** Member Charlotte Louis, **Seconded by** Member Mary Lou Lehman, **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 7).

Vulcan Power Company/Gradient Resources – 16496 & 16560 Renewable Way, Assessor's Parcel Numbers 009-251-68 & 009-251-69, Origination Date 11/14/07, to set up four temporary manufactured homes on the property as temporary personnel and V.I.P. quarters and an RV for a watchman's quarters - *This permit is no longer needed.*

Chairman Richardson asked for any comments or questions regarding this request; there were none. **Vice Chairman Lammel** suggested that since Michael Johnson was now handling Code Enforcement, he should plan to check this property and the next renewal property to ensure these units have been removed. **Director Johnson** explained that was actually part of the process we do when TUPs are terminated.

Motion: To terminate the temporary use permit at 16496 & 16560 Renewable Way, origination date 11/14/07, for Vulcan Power Company/Gradient Resources based on the information provided in the renewal response, **Action:** Approve, **Moved by** Member Mary Lou Lehman, **Seconded by** Member Paula Utter, **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 7).

Vulcan Power Company/Gradient Resources in the Salt Wells Basin, Assessor's Parcel Number 002-691-01, Origination Date 11/14/08, to use an RV for a watchman's quarters - *This permit is no longer needed*

Chairman Richardson asked for any comments or questions regarding this request; there were none.

Motion: To terminate the temporary use permit in the Salt Wells Basin, origination date 11/14/08 for Vulcan Power Company/Gradient Resources based on the information provided in the renewal response, **Action:** Approve, **Moved by** Member Deanna Diehl, **Seconded by** Member Doug Hill, **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 7).

PUBLIC HEARINGS

7:07 p.m. Ray Hendrix request to extinguish Conservation Easement on APN 007-931-09 for property located on South Harmon Road. In February of 2001 a parcel map for the

Hendrix Ranch Partnership Cluster Development was approved, subject to the recordation of a conservation easement deed. Only one parcel map was recorded and they never moved forward with further development.

Ray Hendrix of 905 N. Downs Lane asked if anyone had any questions. **Chairman Richardson** explained for the record that there are certain standards for extinguishing conservation easements that are pretty tough. You have to establish or prove that circumstances have arisen that render the purposes of the agreement impossible to continue in terms of a conservation easement. When we first came up with these, the purpose behind the easement was to protect a certain sized agricultural ground and the water attached to it; in exchange the land owners were allowed to develop their ground in a way that would not have normally been allowed. But the initial purpose was to preserve that ground as water righted ground. According to our County Codes, in order to extinguish those easements you have to establish that it is impossible to carry out the purpose of that easement, i.e. to be able to use water and make it productive.

Mr. Hendrix replied, I want to keep farming that ground and the easement doesn't make sense because the cluster thing never worked, and then the market crashed. If I continue forward, I gave an 80 acre conservation easement for virtually nothing. This hasn't cost the County anything because I'm the one who fronted all of the costs. I just want to farm it. This is one of those things that got started a long time ago and it just does not work at this point. I guess I can continue with it, but there is no benefit to us. At one time we were doing some family planning and it made sense at the time, but none of that makes sense now. I've got the water—I can't tell you for sure whether the water got transferred off the developable lots or not, but I think it did. But I still own the water and my intent is to put that water back on it. **Chairman Richardson** had the following comments and questions:

1. We should have some good discussion tonight because this has never happened in the history of Churchill County conservation easements. We have experts in the audience and I may call on them to give some testimony tonight.
2. The whole purpose of this was that the easement ground be farmed and have water on it. So you have a tough hurdle to overcome and show us why you cannot continue it.
3. The other questions that I want to ask is, you do have the ability in the future to cut off another eight one-acre parcels, that while today there is no demand for, if ten years from now the market bounces back and all of a sudden people are looking for one-acre parcels. All of a sudden property that doesn't seem very valuable today becomes extremely valuable. Is there any reason that this cannot continue to be watered and farmed with the conservation easement? **Mr. Hendrix** said we can continue to irrigate and farm this, with the exception of the bottom developable parcels unless I continually pay for temporary transfer of waters onto them. This property really is entitled to have sixteen houses on it and I'm sure the Navy doesn't want that. This is a high-priority for the Navy; we're right off of the runway. Today I talked to a person from the Navy and he made that offer. So I may be interested in talking to the Navy down the road at some point, which would take care of the Navy's concern.

Chairman Richardson noted that a representative of the Navy was present and asked John Dirickson to please come up to the microphone and asked him to clarify the Navy's standpoint on having sixteen clustered homes as opposed to sixteen five-acre parcels.

John Dirickson of NAS Fallon said there are a couple of issues here. The best situation for the Navy since it is right off the Accident Potential Zone, which is a very noisy area, would be to leave it as it is; 88.8 total acres with one house. While eight additional homes is not

desirable, it is better than the conservation easement being fully extinguished which would allow it to be fully developed with sixteen home sites, which would be the worst case for us. As Mr. Hendrix said, when I called him today I let him know that his property is in a high priority location for the Navy to see a restrictive use easement (RUE) in place. As long as the program is alive and funded, any time he is ready to ask for a RUE in partnership with Churchill County and the Navy, it would immediately go on my list and I would suggest that the County put it on their list as well.

Chairman Richardson asked Mr. Hendrix if he understood all this; **Mr. Hendrix** affirmed that he did and added that he and John had a good discussion earlier today.

Chairman Richardson asked Mr. Dirickson if the Navy bought a RUE on this property, they would essentially buy the right for the other eight homes so they could not be constructed and the property would remain as it is. **Mr. Dirickson** said he could not speak for the Navy real estate experts in San Diego. But if your current conservation easement were to be erased and we were starting from that point forward, he knew they come in with the 90% -10% program with the County and purchase a RUE for the Navy and a conservation easement for the County, no additional houses would be built and it would stay that way in perpetuity and the groundwater would have to be returned to those eight undeveloped lots and be maintained from that point forward. Now moving forward today from where it is now, I don't know how that would work and I would have to have the real estate experts from San Diego to address that.

Chairman Richardson stated, I really want to hear what my colleagues have to say, but I am very uncomfortable with extinguishing an easement that was granted for the purpose of protecting the land. But if you have a simultaneous transaction where we extinguish the conservation easement in exchange for a RUE deed that would protect the whole acreage as it is, I don't think we would be violating the whole purpose of a conservation easement. In fact we have another expert in the audience who was the Planning Director at that time and asked if she could come up to the microphone and provide some input.

County Manager Eleanor Lockwood introduced herself and expressed that she was concerned that we have to focus on what the Chairman had said earlier. The County had developed through their ordinances, an allowance for farmers in the business of farming, rather than chopping up their property into ten and five-acre lots, to allow them to cluster that development potential on the unproductive portion of their land. But the caveat was that they would preserve an agricultural reservation to protect and keep farming here and keep water on the ground—some of them were for 30 years, but most of them were in perpetuity. So the County made exceptions for people who were in agriculture so that they wouldn't have to take agricultural ground out of production. By developing an agricultural reservation they keep the majority of the farm functioning and build on the unproductive portion of the property. So in this particular case, the way the deed restriction was written, which as the Chairman has indicated, if the purpose of the ag reservation or the conservation easement cannot be fulfilled, i.e. there is no longer water in the Newlands Project so you cannot apply water and cannot farm the land; that is the sole reason that we could extinguish the easement. I'm concerned we now have in place, at the request of the property owner, a conservation easement deed in order to do the cluster development. Albeit development went south, but we have in place a deed restriction allowing the area to continue to be farmed, in an area that the Navy is greatly concerned about. If we extinguish the easement now, there is a possibility that he will apply for a sending site and now we are in a position to use tax dollars to purchase something that we already have. We were required to notify the Navy when the cluster

development first came in, because they have always had great concern out there. The ag reservation is a great thing, but clustering the development is not necessarily a good thing. Whether you have sixteen houses on one-acre lots along the road or on five-acre lots spread out, if they don't like the noise they are going to complain.

My concern with what I think my colleague was saying is that if you determine that the purpose of the agricultural reservation (i.e. there is no water there and he cannot farm it) is there, and you extinguish it, now the developer can come back and apply for a sending site and get your approval. And now the County and the Navy are going to be approached and asked to expend taxpayers' money because it is a priority area. I think the Board of County Commissioners may be concerned about that. I sympathize with the situation. In 2005 when we changed our ordinances requiring subdivisions in the urbanizing area and we no longer allowed one-acre lots in the urbanizing area, many of the builders complained to us that there weren't any one-acre lots to build upon. So I wish we had had the one-acre lots for them to build upon, because they were certainly looking for them. And I believe that in time there will be builders who are still looking for those one-acre lots to build on. I will stress my concern that if this easement is extinguished and he indeed moves forward with a request for a sending site, I do not think my commissioners will want to spend taxpayers money for something that we already have in place.

Member Hill had the following comments and questions:

1. I can see the overall benefit to both sides.
2. Is there any way that the property owner can donate the County portion for a sending site, or that the Navy can say the only portion that is of value to us is the remaining portion not that cluster development? We're willing to take the whole thing but we're only going to estimate the value of that land. That would address the concern for using county tax payer dollars. **Manager Lockwood** cautioned the commission that doing this may set a dangerous precedent. The conservation easement deed restriction was written such that the conservation easement can be extinguished if the property owner can demonstrate to you that he can no longer fulfill the purpose of the conservation easement. We have the Encroachment Partnering Agreement with the Navy to see as little development as possible in the critical areas, we have an approved conservation easement here and you have an approved cluster development where you can build up to nine homes. They can most certainly apply for a sending site on the portion of the property that is not covered under a conservation easement and as John Dirickson has indicated, they are in a priority area.

Chairman Richardson suggested it might be worth finding out what the value of the nine lots is to the Navy, not to build on those nine lots. **Mr. Dirickson** affirmed that of the nine lots, one home is there so eight lots are undeveloped and would have a value since they are not covered under a conservation easement. The minimum acreage requirement is generally 20 acres, so the eight acres alone would not work. But if you clump the remaining eight acres with the land to the north, that would be a possibility.

Chairman Richardson asked for any comments or questions from the commission.

Vice Chairman Lammel had the following comment and questions:

1. I remember talking to Ray when we approved this and stating that forever is a long time.
2. However we need to look at this as to what the benefit is to the community. Yes the conservation easement is there and Mr. Hendrix and his family signed that conservation easement and took advantage of what was allowable in the law at that particular time.
3. I agree with Stuart's suggestion that maybe we can allow Mr. Hendrix to do a sending site

and give him the allowable TDRs but do it all at the same time, keeping the conservation easement active until that happens. I realize that tax payer dollars would be used in this case, but that would give Mr. Hendrix the benefit without additional houses out there as well as the Navy and the County since he plans to continue farming that land.

4. Mr. Hendrix, you didn't say it was your intention, but if this conservation easement is removed do you plan to apply for a sending site and transfer of development rights? **Mr. Hendrix** responded, "I hadn't really thought about it until I talked to John Dirickson earlier today. He said that if the easement is extinguished that would be an opportunity. The one thing that I would like to mention, that I think Stuart mentioned, is that I do have the right to put sixteen lots because of the acreage that I have. And that was not part of the Cluster Development. Do I have the right to put an additional seven lots?" **Director Johnson** answered his question, the answer would be no because when they did the map and conservation easement deed, he signed for nine lots, although in theory he could have had up to sixteen lots. But that was between him and Lumos and Associates back in 2000, when they made that agreement.

Manager Lockwood advised the commission, I don't have the conservation easement deed in front of me and I'm not practicing law here. I think it would be important to look at the CE language because a tentative map was approved with nine one-acre lots and the conservation easement that was established was more than was required for creating nine one-acre lots. Only one parcel map was recorded. So if indeed Mr. Hendrix was to move forward again with what he originally proposed back in 2000 he would have to re-establish parcel maps to re-create those eight parcels and probably do a tentative map. I'm thinking that if he decided to move in that direction, he would have to submit an amended tentative map to say under the rules of Churchill County Code, I am allowed to take the full divisional potential of a piece of land and then put a conservation easement on the remainder. I would imagine that if Mr. Hendrix wanted to move back with an amended tentative map and a parcel map, it would certainly be considered.

Deputy District Attorney Shawcroft read an excerpt from the easement deed: "*Parcels 3 through 11 will not be further divided.*" That is the only restriction that is in there related to those parcels. **Manager Lockwood** noted that the remainder of the parcel is under the conservation easement. If Mr. Hendrix came back with an amended tentative map, it could show the full divisional potential and he's already got the easement in place, but this would allow for the full sixteen lots.

5. Our intent with the Cluster Development was for you to get your full development potential. Now if you were to have a map drawn up showing the full development potential of sixteen lots and then go to John Dirickson (NAS Fallon) or his successor, then the Navy would be able to give you a value for not developing those lots. So we would have to include the property to the north that you own. **Deputy District Attorney Shawcroft** asked Mr. Dirickson if the Navy required the parcels for the conservation easement deed to be adjoining for this program. **Mr. Dirickson** did not think so. Basically the conservation easement deed language can be crafted for the different circumstances, and that is how it's been done for each different owner. Again I would have to defer that for the real estate folks in San Diego. **Manager Lockwood** noted that you can be really creative with a boundary line adjustment as well.
6. I would like everybody to speak up and share their thoughts. But I am seeing an alternative to extinguishing an easement, which would be very hard to support at this point in time for me because there is potential for you to recoup the development potential and

still retain all of that land in agriculture. It would be a win-win for everybody.

Member Diehl verified with Mr. Hendrix, you said you want to extinguish the easement so you can farm that land. But isn't the water taken off the lots? **Mr. Hendrix** was fairly certain he had to take the water off those one-acre parcels.

Member Lehman had the following questions:

1. I'm confused because you said you want to farm it. You haven't placed any impediments to stop you from farming that. If you own the water you can transfer it right back to those one-acre parcels. **Mr. Hendrix** said the water on the 70 acres is tied to that land and I cannot use it anywhere but there. I can take water from somewhere else and put it on those one-acre parcels, but they made me take it off to do the cluster development.
2. But you own the water and you can transfer it wherever you need it on your property yearly, right? **Mr. Hendrix** affirmed this to be true, but I've been doing that and they charge a lot of money to do that every year too.
3. I didn't know they charged a fee. **Mr. Hendrix** estimated it was \$1,000 minimum with the State Engineer. **Chairman Richardson** concurred and said it is very expensive to transfer the water every year.
4. That was part of my question. If you were only wanting to farm, because I hear everybody talking about opportunity, opportunity, opportunity. Are we talking about financial opportunity? **Mr. Hendrix** said that is the frustrating part to me. I got absolutely no financial benefit. At the time I started it, I needed the money. Well it drug on and took forever to get done. Then by the time we were finally getting someplace, the real estate market went kaput. So I have gotten zero value out of it. I guess that's my tough luck, but that is the reality. I guess my only option is to come back with sixteen parcels and the Navy can buy them or do the restrictive easement deed.

Director Johnson clarified for everyone that the only one-acre lot is on the bottom right on the overhead display, but the actual house is on the opposite corner of the eight-acre lot. **Mr. Dirickson** commented, eight homes, much less sixteen would not be a good situation out there because it is noisy. Eight homes means eventually we will have telephone calls complaining about the noise when the CAGs are in, flying late during the summer. That is why I say that if the conservation easement as it stands today were to be erased, to protect the Navy we would have to suggest to the County and to Mr. Hendrix to bring the land back under some type of an easement. And if we can include the north 40 acres in some kind of an easement, that is all the better.

Member Hill was confused; we're talking tax payers' money, eight lots and now sixteen lots. He's going to have to go through the mapping process, which is going to be expensive. Is there a way we can defer taking action on this tonight while Mr. Hendrix is working with the Navy on this? I don't feel comfortable making a decision on this tonight. **Manager Lockwood** suggested because John Dirickson is moving on, we think we know who his replacement might be, and we still don't know who the new face is down in Navy San Diego—I would ask John Dirickson to have a conversation with Mr. Chung and his higher ups to see how they can work with Mr. Hendrix and do the right thing. Not necessarily through the TDR program, but establish a restrictive use easement or something between the Navy and Mr. Hendrix, leaving the County out of it.

Chairman Richardson verified that the agreement for the Navy to cover 90% and the 10% land donation by land owner was approved. **Mr. Dirickson** affirmed that to be true, or the County to cover the other 10%. **Chairman Richardson** noted that even though it is only 10%, the County Commissioners may not want to cover that because it could be a

significant amount, especially if we already have it under a conservation easement deed. If Ray (Hendrix) can get the sixteen lots located so the Navy can give them a value and it would still be profitable for Ray with donating the 10%--that would be the best situation for all of us. **Member Hill** concurred, the Chairman raises a good point that going from eight to sixteen lots will certainly increase the value. So you increase the value and then negotiate with the Navy, you pay the 10% and the County is not involved in it. I know the Navy money is still tax payer money, but it protects the Navy land and Navy operations. **Mr. Dirickson** right now today there are nine one-acre lots and a 70-acre parcel? **Mr. Hendrix** clarified, there is actually one one-acre parcel, one eight-acre parcel and a 79.4-acre parcel with 70.96 water-righted acres. My question is, if there is 79+acres in ag reservation, can you really take seven more acres and turn those into housing and still meet the acres that you now require to be in a conservation easement? **Associate Planner Pereira** asked Mr. Hendrix where he would put the other parcels. **Mr. Hendrix** said that Steve Bell had drawn up a map for him showing where all sixteen parcels could go; he thought they were all going up the side of the parcel. **Director Johnson** noted there are nine lots, in theory he could have had sixteen, but he signed the agreement for nine. So sixteen only comes into play as far as I understand it, if this was extinguished because then he could go back to sixteen. **Chairman Richardson** disagreed; we're going back to the original intent of a cluster development. This is where he could make an argument; the original intent is to give the land owner the maximum development possible in the smallest possible area. If he has an 80 acre parcel in the five-acre zoning, he could have cut it up into sixteen parcels. **Director Johnson** countered that he chose nine parcels and that is what he signed in the agreement with the County. **Chairman Richardson** said that nine parcels might have been what was mapped out at the time, but there was no indication that he wanted to limit his full potential in that document. Putting my legal hat on, I think if he went to court he would have a good argument to say that every other conservation easement in this valley has the full development potential of that parcel, why have I only got this much? And if Steve Bell had actually mapped that out, he was actually considering that. So giving him what we've given everyone else puts him in the best possible position to negotiate with NAS Fallon to get as much payment as he can to put a restrictive easement for the Navy and him get some financial benefit for the property, and for the County's purposes the land will still be farmed because the water will be attached. **Manager Lockwood** explained the process for cluster development for those who have not been part of the process. You have an area of land, in this case there were 80 acres in the A-5 land use district and the first thing you do is present the Planning Commission with a tentative parceling map, which shows the number of lots you want to be created and the land on which you propose to have the conservation easement. Michael is right; the tentative map was approved by the Board of County Commissioners that created a conservation easement on 79.4 acres and only created nine one-acre lots. The conservation easement deed doesn't talk about the number of one acre lots; it just creates the easement on the 79.4 acres. So if Mr. Hendrix wanted to put sixteen lots out there, he would have to come back to the County as Doug had indicated, and present an amended tentative map that shows the full divisional potential of sixteen lots. He could then indicate that the conservation easement allows him to do this because the full divisional potential of the original parcel allowed him to do sixteen lots. The Planning Commission would have to recommend approval of that and the Board of County Commissioners would have to approve that map. He would then have to come forward with subsequent parcel maps actually creating the lots. If he could not put in all sixteen lots going down South Harmon Road, there may be a requirement that he would have to put in a road. One of the provisions that the Code also

allows with a Cluster Development you're not trying to encourage urbanizing, so it is likely they could get a variance from building a paved road and allow it to be a cluster road.

Deputy D.A. Shawcroft asked for verification as to where the additional lots would be situated. **Manager Lockwood** did not think it would be within the agricultural reservation, so physically it is not possible on that 79.4 acres because of the conservation easement. Where can he find an area to put those additional seven or eight lots?

When the question was asked if he is able to go forward and do this in the area where the conservation easement is, the two boards would have to extinguish the easement. Discussion ensued that we can amend the conservation easement deed. The cluster development does allow for the cluster to not be on that same parcel. There is a lot of expense in new maps, recording those maps, and the big question is will the Board of County Commissioners actually approve it? As opposed to just taking it as it stands right now with the current conservation easement and cluster development on it, going to the Navy using his upper parcel and asking how much would a restrictive easement deed be worth to them? **Deputy D.A. Shawcroft** answered from legal perspective, at the District Attorney's Office they look at deeds that are intended to last in perpetuity, and with almost every one of these deeds, as it is in this deed, the intent is it will last forever. It is very difficult for anyone to extinguish it. The concern that Mrs. Lockwood said is the concern of setting a precedent for others to come in for the same thing. If we want to say something is concrete and is going to last forever, then we need to change the language. If we start poking holes in these, where does it stop? From a legal perspective, it is hard to define where there is an exception and where there is not an exception. It is nothing personal towards Mr. Hendrix, it just creates a questionable precedent.

Member Hill noted that the word in perpetuity means forever and the deeds with Navy are also in perpetuity. If we are looking at the intent, I think that people somewhere else may not have land that the Navy wants, and that could open up a real problem if they request an extinguishment. But if we transfer a piece of property in perpetuity to another entity in perpetuity, we've really fulfilled the intent of the conservation easement; we're not just throwing it away. **Chairman Richardson** surmised what Doug was trying to say; there is not a single other cluster development that we have done in this valley that did not take advantage of the full development potential. How can you void a contract? Well can you can put in a request to reform it because there was a clerical error or some type of error in the addition or the math. We wanted to save this 88±acres and in order to do it we approved for him to form a cluster development. Which, if he did what everybody else in the valley has done, he would have reaped his full potential and put in 16 one-acre lots and the rest of the ground would have been protected by the easement. I think it is within our power and authority to amend the easement and correct the mistake in that we didn't make it clear to him at the time that he wouldn't be allowed to pick it up later. And then allow him to either come in and claim the full potential or negotiate with the Navy and find out what value the Navy has for the surrounding parcel and the eight acres that have not been developed on that parcel.

Mr. Dirickson verified that he understood this, we're not talking about the Navy taking ownership of anything through a purchase, just a restrictive use easement deed, which Chairman Richardson confirmed as the case; just a restricted use/conservation easement based on the value of not seeing those houses built there. **Manager Lockwood** interjected, I do have a concern that we have 15 or so tentative maps on file for subdivisions that create open space and trails that were very good in the eyes of the developers at that time. A tentative map is a tentative map at that point in time and when they come forward they have to say that we want

to do this and we want to do that. But if we go down that road of saying we're correcting an error that was made, I'm worried what might happen with all of those tentative maps that we have out there; "we didn't mean 600 houses, we meant 650 houses" and so on. It is a bad idea. At the time the majority of these developments that I am referring to, 2005 and 2006, those maps were being filed with us at an unbelievable rate and those developers were suggesting they wanted to do this and that and that they would do anything for that to happen. I am not associating Mr. Hendrix with that category, but I would be very cautious in saying there was an error. How many trails did we allow along the canals and TCID has indicated that probably will not happen? How many access points were we trying to push for and the developers didn't want to do that? How many traffic impact studies did we require and how many actually happened? We have an established easement and it states one purpose for the easement and if that purpose cannot be fulfilled, then there is reason for extinguishing it. I think there is an opportunity for the Navy to look into this, if it is a priority for them, let's try to find a mechanism whereby they can work with Mr. Hendrix to retrieve the land that he wants to farm and the Navy can step up to the plate and establish a conservation easement inclusive of the eight acre lot and potentially the other acreage. If we have a conservation easement in place, I don't think the County Commissioners would be supportive of undoing it and then two months down the road saying we'll buy another conservation easement.

Chairman Richardson called for a motion.

Vice Chairman Lammel said, I think we ought to table it tonight. Mr. Hendrix would you be willing to pay for transferring the water rights for your one-acre lots from another piece of property? That is a way of establishing that back into agriculture without extinguishing the conservation easement. **Associate Planner Pereira** clarified that you have to do that before you record the deed. **Manager Lockwood** added that the cluster development doesn't necessarily have to be on the same parcel as the easement; if he was to change things around, he would have to go through the whole mapping process. **Mr. Hendrix** recalled, as soon as I initiated the process I had to do the conservation easement. Why does the conservation easement have to be done before the cluster development is completed? Chairman Richardson said that was the process at the time, by signing the conservation easement deed the County is guaranteed that farmland will remain in farming and you are allowed to move forward with developing the lots at a smaller lot size. **Mr. Hendrix** complained that he had to do all of the work afterwards, he had to pay for all of the maps and all of that other stuff and the County had what they wanted immediately. **Manager Lockwood** clarified that the process actually is with the recordation of the first parcel map is recorded at the same time as the conservation easement deed. So the first parcel map created the one-acre lot and the eight acre lot, and at that time you are moving forward with the development so the conservation easement has to be recorded and put into place, simultaneously. This is because you are allowing him to build a one acre lot in a five-acre zone.

Mr. Dirickson will bring it up with Steve Chung, the Regional CPLO; the real estate is in a flux time right now and they are going to hand off all of our real estate actions from the core to one of the "integrated product teams" and once that is complete then I will have a new real estate specialist assigned to all of the Fallon easements again, and it will be that person that I work with on these types of details. But right now it's being handed off so it is hard to get an answer from then now because the old person doesn't want to make a decision as they are going out the door and the new person hasn't really been handed the file yet.

Associate Planner Pereira asked for some clarification. You're going to ask the Navy to put a conservation easement on nine acres plus eleven acres somewhere else? **Chairman**

Richardson clarified no, we are talking about the parcel north of this, which is large enough acreage for a restrictive use easement and not develop remaining eight parcels and the conservation easement deed for County will remain. **Associate Planner Pereira** noted that we do have parcel maps that are waiting to be recorded that have been sitting there for years. Those will just die? **Chairman Richardson** said yes, if they do the deal with the Navy.

But you mentioned something about sixteen parcels. Is the Navy going to do a restrictive use easement and the County do a conservation easement based on an amended tentative or is he going to have to record some maps to create the one-acre parcels first? In which case that costs a lot of money. **Chairman Richardson** thought that John Dirickson and Ray Hendrix would try to work that out without having to spend any more money if he understood it correctly. **Mr. Dirickson** noted, you keep saying Ray and the Navy. Don't forget that the Navy and County work together. Even in the case where a landowner is basically going to donate the 10%, they donate it in the County's behalf because we always have to have a partner to spend the dollars that we use for these easements. So the developer would donate the County 10% and only collect from the Navy.

Chairman Richardson reiterated that the conservation easement with the County would remain as it is, the parcels that were going to be developed and the huge parcel to the north would be under a restrictive use easement deed by the Navy if they are able to work out a deal. Now you would have everything protected under one form of easement or another and he would continue farming everything.

Chairman Richardson called for a motion to postpone or table taking action on this request to allow John Dirickson and Ray Hendrix time to see if any options are available.

Mr. Dirickson concluded, I am really hopeful that the new team is in place by end of this month so that I will be able to work with my replacement in December. **Director Johnson** suggested tabling or postponing this until Mr. Hendrix and John Dirickson (or John's successor) come in requesting to discuss this again. **Member Hill** asked Mr. Hendrix if this was acceptable to him, since he really hadn't said much. **Mr. Hendrix** said it was better than the alternative.

Motion: To table taking action on this request to extinguish the conservation easement until we receive further information. This will allow Mr. Hendrix and the Navy time to work out which course of action will work best to meet Mr. Hendrix's needs, the Navy's needs and to continue conserving and protecting the agricultural land and continued irrigation of that land,

Action: Approve, **Moved by** Member Deanna Diehl, **Seconded by** Member Charlotte Louis, **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 7).

Chairman Richardson thanked Mr. Hendrix and advised him that we would wait for him to contact us before placing this on the agenda again.

ACTION ITEM

8:08 p.m. Storm's Oasis Dairy LLC – An application for a **Sending Site and Transfer of Development Rights calculation** for property located at 7770 Flying K Ranch Ln, APN: 006-101-02, consisting of ±470.59 acres with ±374.76 water righted acres in the A-10 land use district.

Jason Storm of **Storms Oasis Dairy LLC** at 7770 Flying K Ranch Road stated that I am here today to try to transfer the development rights that I have to the Navy and to keep the property as the farm.

Chairman Richardson had the following questions and comments:

1. Have you ever done any other parcels, or is this your first one? **Mr. Storm** affirmed that this is his first and only one.

2. What Terri had eluded to earlier, are you familiar with conservation easement deeds or have you seen a sample one? **Mr. Storm** replied, I have seen a sample deed and I talked to my neighbors, the Freys who have already done one.

Chairman Richardson noted that there was no public present for comments or questions and turned the discussion over to the Planning Commission.

Member Lehman verified that Mr. Storm understood this is permanent. **Mr. Storm** confirmed that he understood this.

There being no further discussion, **Chairman Richardson** entertained a motion.

Motion: The property exceeds the minimum parcel size for a sending site and is located within the military operations buffer zone. Development of the property for residential use would not be supportive of the Churchill County Master Plan and may be detrimental to the operations of NAS Fallon. Therefore I move to recommend approval of the application for a parcel located at 7770 Flying K Ranch Lane (APN 006-101-02) as a sending site. Further I recommend that 610 TDRs be assigned to it, **Action: Approve, Moved by Member Paula Utter, Seconded by Member Doug Hill, Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 7).

Chairman Richardson thanked Mr. Storm and advised him that there is a ten-day appeal period and to contact the Planning Department for further permitting procedures.

Public Comments

Vice Chairman Lammel indicated that he drove by the dump station at the former Salt Wells site and it looks like the building has a hole in it and looks a little beat up. Michael has taken over code enforcement, so you may want to look at it.

Chairman Richardson asked for any public comments for anything *not listed* on tonight's agenda. There were none.

General updates: Planning Department update regarding current issues

Director Johnson had the following updates:

1. No workshop meeting this month since Thanksgiving is just two days later.
2. Stuart Richardson is hosting our Christmas party on December 16th at 6 pm.
3. For the next meeting we have an application for a zone change.
4. Enel has revised their Groundwater Monitoring Plan, everything is being signed right now between the County and the Enel people.

Consider Future Agenda Items: **Chairman Richardson** asked for a report on how the ethics training workshop meeting went. **Director Johnson** said it went well with four Planning Commissioners that were able to attend. We decided to make a few changes to the agenda, including adding this portion of the agenda for future agenda items. Often at the staff meeting members will ask for an update on Bango or something of that nature, and we would list that as a discussion item or as a general update for the meeting so people can see it, rather than we just happen to discuss it at this point in the meeting under general updates. We also discussed that often times at this part of the meeting we are discussing things like Bango, perhaps I'm giving an update on the expected startup date and we start haggling it out; that is not something that we are supposed to do. So if something like that comes up, we can schedule it for the next meeting. I think Ben did a very good job on it.

ADJOURNMENT

There being no further business to come before the Planning Commission, **Chairman Richardson** adjourned the meeting at 8:15 p.m.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Debi Kissick". The signature is fluid and cursive, with a prominent loop at the end.

Debi Kissick
Recording Secretary

Johnny Chenoweth TUP at 4360 Vaughn Road, APN 007-311-25 Timeline:

- Hardship TUP issued on 12/13/00 for a mobile home for 74-year old mother-in-law, Judith Soma and stepdaughter who is mentally challenged, to eventually live there also.

Renewal history:

2001 – 2012 stated that nothing had changed, early on we had required doctor letters and each of them indicated that she required full time assistance.

In their 2013 renewal they indicated that Judith had passed away, but Johnny's step daughter was still living there. She is mentally handicapped and will always need assistance.

Each year this TUP has been renewed.

Ernest & Diane Gonzalez at 6477 Cox Road, TUP at APN 008-113-07 Timeline:

- Hardship TUP issued on 12/08/10 for an RV on the property for his 84-year old mother-in-law to reside in.

2011 renewal stated that Diane's mom suffers from Alzheimer's so she needs supervision.

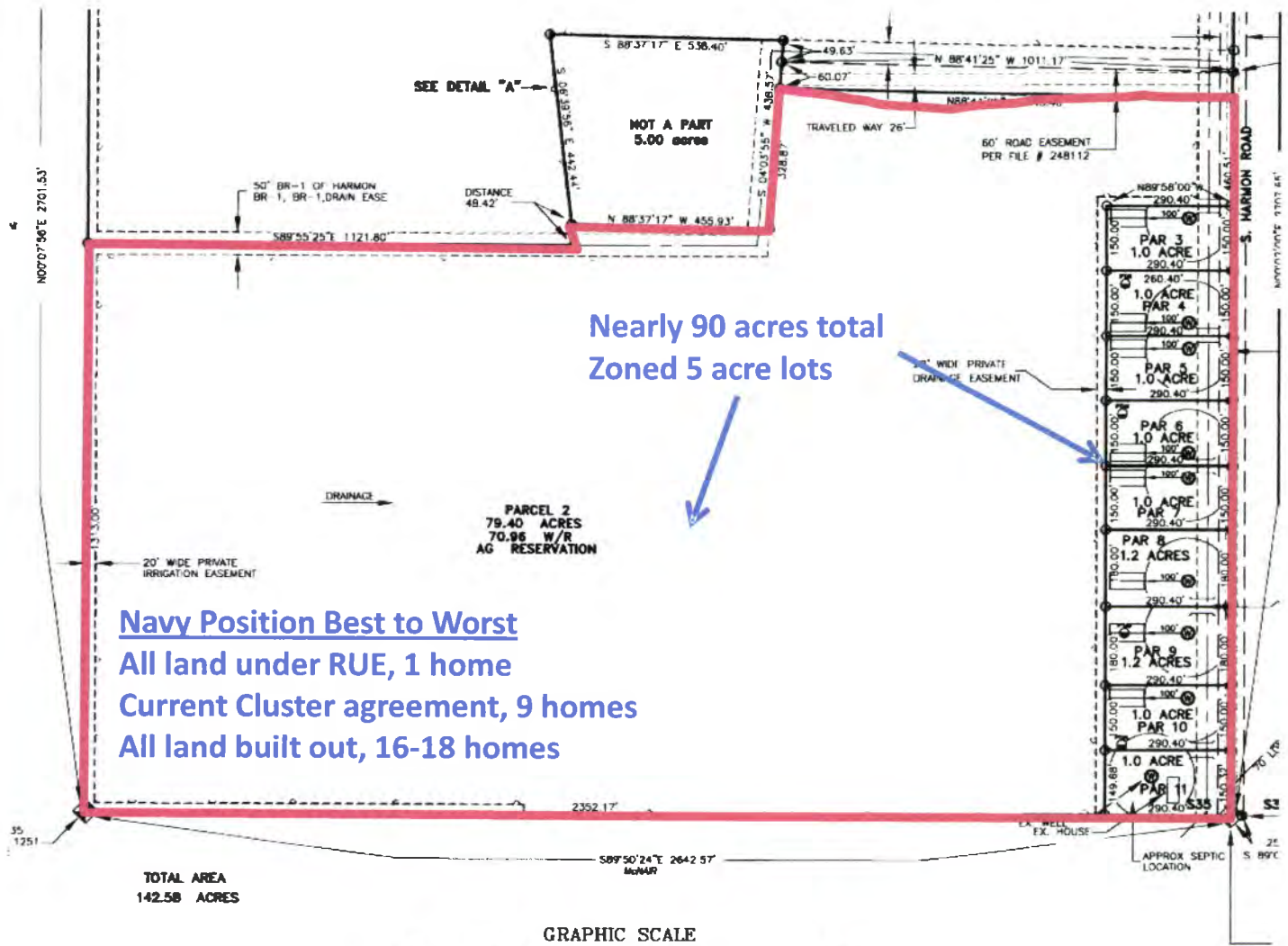
2012 renewal stated that Diane's mom was a year older and had vascular degeneration and was falling quite a bit.

2013 renewal stated that Diane's mom was getting worse and that they needed to monitor her medication every day; they needed to hire some extra help so they could get away now and then.

Each year this TUP has been renewed.

Vulcan Power Company – 16496 & 16560 Renewable Way, Assessor's Parcel Numbers 009-251-68 & 009-251-69, Origination Date 11/14/07, to set up four temporary manufactured homes on the property as temporary personnel and V.I.P. quarters and an RV for a watchman's quarters - ***This permit is no longer needed***

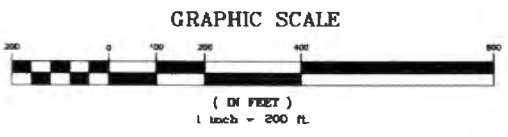
Vulcan Power Company in the Salt Wells Basin, Assessor's Parcel Number 002-691-01, Origination Date 11/14/08, to use an RV for a watchman's quarters - ***This permit is no longer needed***



Nearly 90 acres total
Zoned 5 acre lots

Navy Position Best to Worst
 All land under RUE, 1 home
 Current Cluster agreement, 9 homes
 All land built out, 16-18 homes

TOTAL AREA
142.58 ACRES





**Eleanor Lockwood
County Manager
155 N. Taylor St., Ste. 153
Fallon, NV 89406**

August 25, 2014



Re: Extinguishment of Conservation Easement Deed

Dear Eleanor,

In response to your letter regarding our interest in extinguishing the conservation easement on our S. Harmon property;

***We are no longer interested in any development on the property and intend to restore all water that has been removed as part of the Cluster Development. At this time we have no intention of transferring the water.**

***We have received no financial benefit as a result of the easement and the County expended no funds, therefore, we feel that it is only fair to extinguish the easement.**

Sincerely,

Ray Hendrix

