

IN A SPECIAL MEETING OF THE WHITE PINE COUNTY COMMISSION HELD ON FRIDAY, APRIL 27, 2018 IN THE COUNTY LIBRARY CONFERENCE ROOM IN ELY, NEVADA

The Following Were Present:

County Commission
Richard Howe, Chairman
Shane Bybee, Vice-Chairman
Gary Perea, Commissioner (By Phone)
Steve Stork, Commissioner
Nichole Baldwin, Clerk of the Board
Susan Lujan, Deputy Clerk

The Following Were Absent:

Carol McKenzie, Commissioner

County Officials

Kathy Ricci, Human Resources Director
Elanie Calderwood, Financial Analyst
Lance Gale, Airport Manager
Mike Wheable, District Attorney
Martha Rivera Sindelar, WPC Recorder
Catherine Bakaric, WPC Treasurer

Also Present

Bill Wilson, PLUAC
Travis Godon
Kathryn Griffith, WAC/LEPC
Ray Sawyer, Sheriff's Dept.
George Chachas, KGTV-10
Gayle Bartlett, Ag. Dist. 13/Fair & Rodeo Adv. Bd.
Meg Rhoades, Tourism & Recreation Board
Julie Heggie, WPC School District
Naomi Harris, WPC Road Dept.
Mike Coster
Wayne Carlson, POOL/PACT

Chairman Richard Howe called the meeting to order at 9:00 a.m. Financial Analyst Elanie Calderwood led the Pledge of Allegiance.

PUBLIC COMMENT

There was none.

DISCUSSION/TRAINING/UPDATE ON NEVADA'S OPEN MEETING LAW AND ETHICS IN GOVERNMENT

Mr. Wayne Carlson introduced himself as the Executive Director of POOL/PACT, and advised he is here today to give 3 presentations to the Board, by their request: The Open Meeting Law, Ethics in Government, and also to review the County Manager's position. First, he addressed the Open Meeting Law (OML) and noted everything is pretty straightforward; namely, deliberations, actions taken, etc. are to be done openly in a public setting. This is how the public knows what the government is up to, whether local, State, or Federal. Mr. Carlson proceeded through the Power Point presentation; first, he defined what a "public body" consists of. A public body must perform a government function; also, once the group makes a decision, that formally begins its life as a public body (such as a committee). He noted that quorums—or the lack of them—also figure into a public body. Serial communications were defined; he also explained specific exemptions to these determinations. District Attorney Mike Wheable advised that while during meetings sometimes we don't plan on having a discussion, if the Board moves in a direction that could impact the interest of the County, he would just provide advice outside the meeting and then they could return. Mr. Carlson clarified that comments the D.A. might make aren't privileged information; he would just be notifying the Board they are approaching discussion of a litigation issue, and to suggest tabling the matter until such discussion can be properly held. In reply to a query from Commissioner Gary Perea, Mr. Carlson advised that if the Board is going down a wrong path and a recess is taken, a private discussion could clarify the issue for an individual Commissioner. Ms. Meg Rhoades asked if when a vote is taken but the full Board is not in agreement for approval, the matter could be pushed to the next

agenda; that was clarified. Mr. Carlson added that in a quorum situation, a 2:1 vote doesn't represent the majority of the positions on an issue. Also, unless there is a legal authority, a substitute or alternate can't vote; the authority would be specified in the bylaws or structure of the public body. The next topic covered the requirements for public body agendas, as to how they are worded for matters to be discussed during the meeting. If agenda items must be moved around during the meeting, it also must be stated at the beginning, as well as being printed on the agenda for convenience; there is legislative authority for us to do that, he noted. Chairman Richard Howe asked if agenda items could be restricted to 10 minutes; Mr. Carlson indicated that if the matter is placed on the agenda and announced beforehand, plus if it's a pragmatic item, that would be acceptable. D.A. Wheable asked if public comment would be allowed for each agenda item; Mr. Carlson, advised that when you allow the public to engage in that action on an item, that triggers opening the door for all the other agenda items as well. In that case, he felt a formal opinion should be solicited from the Attorney General's Office. Next, Meeting Notices were detailed by Mr. Carlson, as to what is required so the public will be correctly informed. Any OML violations, as determined by the Attorney General, must be addressed at the next public meeting following the determination, it was noted. Corrections at the time and source of the violation are encouraged, he added. Emergency Meetings, such as would be needed in the event of a catastrophe or disaster, have a broader scope in that public health/safety also figures into those meetings. As many Emergency Meetings as deemed required may be held, and then getting back to normal business routines as soon as possible, he advised. Also, minutes must still be kept during those Emergency Meetings. For Closed Personnel Sessions, it was his strong recommendation that governing boards stay out of personnel issues. The County Commission is the final decisionmaker regarding appeals, and in the day-to-day operations that puts the possibility of conflict out there. He cautioned that the NRS is very specific as to what may be open to the public and what cannot. He advised that in a Closed Attorney Session deliberation may be done, while it cannot during Closed Personnel Sessions; however there are still regulations and confidentiality that need to be followed. District Attorney Mike Wheable noted that fact finding, interviewing, etc. is done by the Board, and then they make determinations. He wondered if all that authority be delegated to the Human Resources position instead; in that event, the individual can appeal as needed. Mr. Carlson noted that statutory requirements for documentation, etc., are Human Resources duties; most elected officials, such as a County Manager, wouldn't get into such detail due to the legal compliance that's required and the strong possibility of making mistakes and being in violation. While HR fills the need for an advisor, it's up to the Departments to choose if they would follow that advice, he clarified. Mr. Carlson summarized the main components of meeting basics, which are deliberation and action. Minutes and recordings of the public body were discussed next; he emphasized the essence of a debate and the motion/decision are the two important elements for minute-takers. In addition, the minute-takers should also request clarification of the motion when needed. The deadline for minutes is 30 working days to get them out to the public, even if they're in draft form. Mr. Carlson then cited how important transparency is in a public body; he cited an instance where members of a public body were meeting improperly and taking action improperly, which ended with those members being terminated and fined for OML violations.

At 10:36 a.m., Chairman Richard Howe recessed the meeting for a break. The meeting was reconvened at 10:46 a.m., at which time the action item on the agenda was taken.

DISCUSSION/ACTION/APPROVAL OF CONTRACT WITH INTERNATIONAL FORMULA ONE PYLON AIR RACING, INC. FOR THE AIR RACES SCHEDULED IN JUNE

District Attorney Mike Wheable advised this will be for discussion only; questions may be taken but no deliberation will be done. Chairman Richard Howe clarified that both Deputy D.A. Bryan Pyle and Airport Manager Lance Gale can discuss the matter, but no action will be taken. Airport Manager Lance Gale thanked the Board for having him here today. He advised that we are in a timeframe, and this contract needs to be done as soon as possible; he commended D.A. Wheable for doing a great job representing the public, the County, and all sectors for putting this together. Everything that needs to be addressed, including volunteers and liability, are included in the contract. Manager Gale noted that the IFOne people are also meeting together to get this approved. The waiver is in process; a "mock disaster" needs to be done; and the test flight group will be getting the course approved as well. He advised the IFOne people are very pleased with this agreement; they will be

doing some things for us, and visa versa. Deputy D.A. Pyle explained that the FAA accreditation requires that IFOne doesn't act in a commercial manner, in that the County can't pay them for their services, but we can provide them with prize money. They will handle it and disburse it in a manner which complies with the licensing they have. The amount of the prize money has been raised, it was explained, in order to address any issues they may have. D.A. Wheable clarified that the County didn't want to be bound into a couple of years down the road; the prize money is not to exceed \$40,000. There is a timeframe involved, and having it on the first Commission meeting in May would be good. A special meeting could be done if it's needed sooner, it was noted. Following some discussion, it was agreed the Board could review the contract prior to the meeting and any questions could be brought up at that time. As to providing the check for the prize money, the Board was in consensus that could be done right away.

DISCUSSION ONLY OF A COUNTY MANAGER POSITION INCLUDING POTENTIAL WAYS OF STRUCTURING THE POSITION/JOB DESCRIPTION, BENEFITS THAT CAN BE DERIVED FROM THE POSITION, RECOMMENDED BACKGROUND FOR THE INDIVIDUAL HIRED INCLUDING EXPERIENCE AND EDUCATION AND OTHER ASPECTS OF UTILIZING A COUNTY MANAGER THAT MAY OR SHOULD BE CONSIDERED BY THE COUNTY

Commissioner Gary Perea commented that he's in favor of having a County Manager at some point, but he has a real concern over the financial part of it, such as having an Assistant and an office, and associated costs.

Mr. Wayne Carlson, POOL/PACT, presented a Power Point (with handouts) of several aspects associated with having a County Manager on board. He began by illustrating how governance must be achieved by a balance of both power and trust: (1) Seek first to understand, then to be understood. (2) Lead, follow, or get out of the way! (3) Unity through diversity; speak with one voice, whether you agree as an individual or not. It was emphasized that as one unit, the Board and the County Manager must decide what's best for all citizens. Decisions are to be made based on policy; also, the Board may retain or delegate the decision-making authority. Mr. Carlson advised that if a fact-based situation arises, decisions must be made on the facts, and not on their opinions. He noted that day-to-day operations are monitored, and the Board gets things done by others, whether or not they have a County Manager. The Board sets the policies, are trustees of the public dollars, and they also assure the County Manager's performance; that, it was stressed, means "staying out of the purview of the County Manager's jurisdiction." He detailed some skills that the Board must learn and put into practice; also, collaboration between staff and the Board is always paramount, whether or not there is a County Manager. Basically, the County Manager carries out the Board's power, expressed through policy. He informs the Board, both objectively and completely, including the long-term consequences of a proposed action. Also, very important, the Board can no longer give directions to staff; that is now the County Manager's role. The various responsibilities of the County Manager were also discussed; they serve at the pleasure of the Board, implement policy, advise the Board on decisions, hires/fires personnel, prepare the budget, and handle administrative duties. District Attorney Mike Wheable noted that historically, the Commission is detail-oriented; they want to tell managers how to do their jobs, and so the Board might not be willing to give up their control. Mr. Carlson noted that the roles should be that the Board sets the policies, while the County Manager carries them out; the Board does supervise the County Manager. He did note that it's a problem of role definition. It was also advised that frees up the Board to focus on their mission, goals, etc. and "not have to worry about broken pipes" and day-to-day functions. Chairman Richard Howe noted our Department Heads already does some of that, "plus this Board does their homework." He continued that we can currently relate to all our Department Heads, as they are "in for the long term," and in his opinion, he would rather go to our inner sources, who are already familiar, rather than going to someone who may not be. Mr. Carlson did point out that staff would have a buffer through a County Manager, which they don't currently have. Also, while the staff will be evaluated by the County Manager, that person would in turn be evaluated by the Board. Commissioner Shane Bybee advised there was someone at the City of Ely who had the function of a County Manager, and it provided much consistency for the employees; they saved money and also saw projects and positive things go forward through the efficiency of having someone fill that role. Mr. Carlson then focused on the inevitable conflicts that could arise, noting that could actually be an opportunity for personal growth on both sides of the government. Chairman Richard Howe reiterated his thoughts, that we're doing fine as a Board without a County Manager. He thanked POOL/PACT

for coming today and providing information; he felt the Board's eyes have been opened to more of the pros and cons information on this matter. He advised that the Commission will assess everything and make a decision during the Commission meeting of May 9th.

At this point, District Attorney Mike Wheable had to leave the meeting and Deputy District Attorney Bryan Pyle took his place. The discussion continued pertaining to the Human Resources aspect of hiring a County Manager; during the recruitment process, everything must be legally compliant and as transparent as possible. He advised that POOL/PACT does everything regarding the recruiting except for the selection, as he noted; it will be up to the Board to choose. In reply to a query from Chairman Howe, Mr. Carlson noted that the process would take less than 6 months; there is also a possibility that a risk recruitment could fail, in which case we would need to go out again to find the best match. The Board appreciated all the information discussed today.

At 12:16 p.m., Chairman Richard Howe recessed the Commission meeting for a break. The meeting was reconvened at 12:23 p.m. Mr. Carlson briefly reviewed the subject of Ethics in Government for the Board, noting that the code of ethical standards applies to everyone holding public office. No gifts or economic opportunities are allowed for yourself or even others to whom there is a commitment in private capacity. The taxpayers pay the function of those in public office; you can't bid or contract with anyone, unless the Commissioner is a sole source provider. They can't use information not available to the public for their own interests; such information also must be available to the public first, he emphasized. If a question should arise, the Ethics Commission may be contacted. He did add that disclosures must be made, and when in doubt, it's best to disclose rather than not; those must be done at the time of the action taken, and in public. Also, abstentions are required when someone could be materially affected, although reasons for the abstentions don't inform the public in every example. He reiterated if there are any questions, contact the Ethics Commission. The Board thanked the POOL/PACT representatives for their information presentations today.

PUBLIC COMMENT

There was none.

ADJOURNMENT

At 1:05 p.m., Chairman Richard Howe entertained a motion to adjourn. Commissioner Shane Bybee made the motion; Commissioner Steve Stork seconded. Motion carried.

BOARD OF COUNTY COMMISSIONERS
WHITE PINE COUNTY
STATE OF NEVADA

BY:



CHAIRMAN

ATTEST:


WPC CLERK OF THE BOARD