

**IN A REGULAR MEETING OF THE WHITE PINE COUNTY COMMISSION HELD ON
FEBRUARY 10, 2021 IN THE COUNTY LIBRARY CONFERENCE ROOM IN ELY, NEVADA**

The Following Were Present:

County Commission
Richard Howe, Chairman
Travis Godon, Vice-Chairman
Ian Bullis, Commissioner (via Zoom)
Shane Bybee, Commissioner
Laurie L. Carson, Commissioner
Nichole Baldwin, Clerk of the Board

County Officials:

Tim Bunch, Human Resources Director
Sheriff Scott Henriod
Bill Calderwood, Public Works Director
Brett North, WPCFD Fire Chief
Elizabeth Frances, Finance Director
Mike Johnson, IT Specialist
James Beecher, Chief Deputy DA
Kristi Rozich, Aquatic Center Director

Also Present:

Donna Bath, Silver Lion Farms
George Chachas, George Town Media
Luigi Resta, WhitePine Water Power LLC
Kylie Odgers
Cody Odgers, Water Advisory Committee
Pat Stork, Ely Fire Chief
B.J. Almberg, Basin Engineering
James Alworth, City of Ely
Rudy Herndon
William Butts

Present via Zoom:

Geri Wopschall, Burton Hilton (WPC Assessor), Gary Perea, Tabatha Hamilton (Finance Office/EMS), Michelle Beecher (City of Ely), Bethany Coca (Finance Office), Lori Romero (Library Director), Gage Zobell, Holly Mishler, Brad Christiansen, Jeremy Drew (RCI), Ned, Terri Borghoff, Mike Coster, Beth, Ryan Benson, C. Odgers, Elanie Calderwood (Finance Office), Ely, Courtney, Elenor, Glenn, Brandi, Jeff Collins, Desiree Barnson (Social Services Director), Bill Wilson (Water Advisory Committee), and others.

Chairman Richard Howe called the meeting to order at 9:03 a.m. District Attorney James Beecher led the Pledge of Allegiance.

MOMENT OF SILENCE/SILENT INVOCATION

This was duly observed.

PUBLIC COMMENT

Via Zoom, Gage Zobell with Dorsey and Whitney who represents White Pine Water Power, provided public comment about the water agreement on the agenda today. He explained the benefit of this agreement being the ability for the county to preserve our water rights. Currently, these water rights are comprised of 25,000 acre feet that are in permit status and have not been put to use for quite some time. The benefit is one third of the rights will be transferred into permit status and once transferred back into the county, they will be preserved. He expressed his gratitude to be able to use these water rights for the public benefit. It was his understanding that water rights in other jurisdictions that have been

preserved for a long time have been lost, but through this agreement, the county's water rights will be preserved for decades. He noted work he'd done with "big money companies" and mines and his intent is to ensure the preservation of the county's water rights for decades to come.

Via Zoom, Bill Wilson with the Water Advisory Committee presented 3 questions. 1) How do you justify leasing water rights at below fair market value to existing users in Steptoe Valley during a time of deepening drought and lowering water tables? 2) What are the anticipated specific economic benefits within the "purpose of economic development" category and how do they compare to the financial hardships faced by the Nevada Northern Railroad to relocate their tracks and right of way? 3) What happens to the lease should the Water Power project be acquired by a 3rd party? He will email question to the Clerk.

Rudy Herndon with the Shellraiser Festival updated the Board that he had to postpone this concert again and is looking at the same weekend in 2022 in June. He will be coming back to ask the same questions at a later time. On another note, he wanted to start a dialogue with the Commission on restrictions to prefab housing in White Pine County. Our restrictions are more stringent than in a lot of other places and he spoke with the Division of Manufactured Housing and intends to introduce legislation in 2 years to address that gap. He spoke with Senator Goicoechea and others to discuss easing some of these restrictions to help promote availability of workforce and affordable housing. Chairman Richard Howe apologized for the postponement and he advised Mr. Herndon to approach the Regional Planning Commission with his housing issue.

Cody Odgers, Vice Chairman of the Water Advisory Committee handed out some information to the Board. He stated that he believed Commissioner Travis Godon has a conflict of interest pursuant to NRS 284A.240 in regards to his financial interest with a property near the pumped storage project and he believed Commissioner Godon should disclose that conflict and abstain from participating on that issue. He proceeded to inform the Commission about why he felt selling or leasing our county water rights is a bad idea. He noted that we are in the midst of the worst drought in 127 years. The pumped storage project is called "renewable energy", but will not qualify for green energy credits. During the Dec. 9th Commission Meeting, questions were raised about the negative impacts of this project to residents and businesses and it is not known if the Steptoe Valley basin is already over appropriated in its water rights. He felt this project calls for water that may not be available and advised that a portion of the basin in question was designated as restricted in the 1980's to protect our community from too much water being pumped out if it. Because of the location of this project and restrictions in place, White Pine WaterPower can only use a pipeline from north of the Kennecott tailings to the Gondor substation which is also utilized for the McGill municipal water, which is not designated for private industrial use. The project calls for 8,500 acre feet of water to be pumped into the restricted basin during construction, which would cause enormous and irreversible impacts on their aquifer. While the construction phase only requires this amount of water, taking that much out for 5-7 years would create long term negative impacts for all nearby residences, ranchers, and businesses. He advised that KGHM mine pumps approximately 3-4,000 gallons of water per minute through Gleason Creek into the Steptoe Valley aquifer, but this is scheduled to cease in 2024. Time was called and the Chairman advised that Mr. Odgers will have another opportunity to provide comment about these issues during the public hearing.

Luigi Resta, president of rPlus Energies and a developer of the pumped storage project, expressed his excitement for lots of reasons including economic diversity, keeping the water rights in Steptoe Valley, and the creation of a renewable project to help the state and country to change from fossil to renewable energy. He noted what is going on in Wyoming and the loss of oil and shale business being due to the fact that renewable energy is the lowest cost resource. This project will bring more solar and wind energy into our area, which are the cheapest sources of energy. They are building a project in Caron County, Utah which has a 125 year history of extracting coal out of that community. They are not able to pull coal this year, but his company is employing 200 people there for 30 years to increase their tax base and similar effects can be anticipated in White Pine County.

Bill Butts, representing the Central Nevada Regional Water Authority and a past chairman of the Water Advisory Committee, stated that we only have so much water. The mine has been dumping 3-4,000 gallons per minute into the valley. He noted that everyone has a water permit where he lives and we will get to the point to prove that this Board did nothing suggested by the Water Advisory Committee to study the aquifers to see how much water this valley can handle. He advised that this Board should stop everything and take a look at what is actually going on underground. The plan for water is for 100 years and the WAC is looking at this and we don't have the water. He advised the Board to take a long hard look. The project might sound good now, but might end up like the steam plants by Winnemucca which are operated out of Salt Lake City. He does not know what the employment rate will be after people go back to work as the steam plants did no good for that area. He asked to Board to find out what can we handle before we start giving our water away.

George Chachas expressed that he missed Commissioner Bullis and asked if he is still tied up with OSHA? He mentioned the dating policy later on the agenda and stated that that needs expanded to include elected officials. In regards to the item addressing the lack of a building official, he encouraged the Board to contract for the short term until they find someone who is qualified. He reminded the Board that the last inspector failed to do due diligence, failed to issue him a permit to roof his property, and allowed others to do work without proper permits. This Board should select someone who does not have prejudice against minorities and who does not take joyrides to Eureka for lunch with their wife in county-owned vehicles. He reminded the Board that they sold 40 acres for less than appraised value to an individual and failed to entertain higher bids. He informed the Board that he's making a formal protest against the Regional Planning Commission from the meeting held 1/20/21 and asked this Board for a review. He mentioned item 2C5j in regards to Western Oil and stated that the county needs to stop working on that road (1177) and require Western Oil to bring in their own contractors to address the roads they are damaging. The county cannot keep subsidizing private business. Mr. Chachas noted items 1A2, 3, and 4 pertaining to selling water rights for less than fair market value. He advised the county should lease them, not sell them as they are for our future growth. He added that the backup for the 1A4 was placed on his chair this morning and asked for information to come out in a timelier manner. Time was called.

Chairman Howe noted changes to the agenda as follows: page 7 item 4b is tabled with no action taken today; page 5, items 4a and 4b won't be acted on that today as the candidate withdrew her application for Airport Manager.

1. NOTICE OF TIMED AGENDA ITEMS:

A. 9:00 A.M. PUBLIC HEARING

1) PUBLIC HEARING/Discussion Only: The White Pine County Board of Commissioners will take public comment regarding the matter of the fair market value of County-owned water rights, Water Permit Nos. 72728 & 72729, during its regular meeting held on Wednesday, February 10, 2021. An appraisal of the value of 100.00 +/- AFA of County-owned water rights from Water Permit Nos. 72728 & 72729 has been conducted and is available for review on the White Pine County website at <https://www.whitepinecounty.net/DocumentCenter/View/6621/White-Pine-County-Water-Rights?bidId=>

District Attorney James Beecher provided a brief overview for this item to include the legal requirements pursuant to NRS. Items 2 and 3 are resolutions for the lease and sale of the county owned water rights and item 4 is the agreement which will only be acted on if 2 and 3 are approved. If the Commission approves all items, he asked that the final motion include the requirements in NRS 533.550. That includes where a sale or lease for longer than 5 years must have stated written findings that the sale or lease is consistent with prudent long term management of the water resources within the jurisdiction, it will not deprive residences and businesses within the jurisdiction reasonable access to the water resources for growth and development, that the sale or lease of these water rights provide a reasonable means of promoting development of the use of these water rights, and the means by which the water rights are sold or leased reasonably assures the public body will receive the value of rights or an economic equivalent. If approved, he will assist the Commission with making proper language.

Commission Vice Chairman Travis Godon put on the record that in regards to a before-mentioned conflict, his parents own land, but nothing had been discussed regarding a lease or financial interest related to this subject. DA Beecher was willing to discuss that outside of this open public meeting. If no conflict exists, Commissioner Godon would not need to disclose anything; if there is, he should disclose that information before going forward. Chairman Howe called a brief recess for a closed meeting between the DA and Commissioner Godon. After a short time, DA Beecher and Commissioner Godon reentered the meeting room and the DA advised that Commissioner Godon will make a disclosure, but he should vote on these items. He explained that the law favors disclosure and added a presumption that the Commissioner will be unbiased unless there is a clear case of conflict. DA Beecher's legal advice was for the Commissioner to disclose some facts and to ultimately vote. Commissioner Vice Chairman Godon disclosed that his parents have 150 acres on other side of Highway 93 across from the substation near this project and to his knowledge, there will be no financial increase to their property values, they have no water rights on that property, and there is no financial interests between him, his parents, White Pine WaterPower, or rPlus. DA Beecher added that with this being an industrial building in that area, there is no way of knowing the impact on property values nearby. Commissioner Godon restated that he has no financial interest in the project personally and does not know if his parents will. He will be voting based on advice from counsel.

Bill Butts addressed the Board and restated that he against this until we do a study to see what we can handle. He noted the mine is providing 3-4,000 gallons per minute and we don't know what will happen when we start pulling the water out for this project or how

much it will take. His personal well is down 4 feet from his last measurement. He asked the Board to table these items until a hydrologist can relay to everyone exactly what the Steptoe Valley water basin can handle. He reminded the Board that approving this action means telling the state that our water is good for 100 years and we don't have that; they need to take a long hard look at things first. He mentioned lots of "golf courses" in Crosstimbers and one on top of the hill near here while we have no idea how much water is being drawn out of the aquifer. The water this Board thinks we have is on paper, but there is nothing to actually put our teeth into. Mr. Butts has been measuring his well for 17 years. Commissioner Laurie Carson noted that Mr. Butts had been with the CNRWA for many years and knows what he is talking about when he brings these concerns up. Mr. Butts noted the water depths in certain locations in the area such as at the airport with a depth of 40 feet, Bob Robison's house has a depth of 125 feet, the fairgrounds has a depth of 25-30 feet, and Willie Locke's gravel plant has a depth of about 125-130 feet to water. Its time to put up or shut up and find out what is out there.

James Alworth addressed the Board as a private citizen. He's lived in Ely for 48 years and intends to die here. He expressed his concerns with mainly the upper reservoir. He explained that water will be pumped to the upper reservoir to a location to the west side of Duck Creek at an elevation of 8,500 feet with a proposed dam to be built taking up 59 acres of maximum surface area. He further explained that 59 acres is the same as 45 full sized football fields in surface disturbance. Cave Lake is described as a 32 acre reservoir and this is twice the size of that. It will be surrounded by a 6 foot fence with large earth moving equipment required for construction. An access road will need to be built starting at Duck Creek Road causing public land to be disrupted and the road will be paved. If it goes forward, the target date is 2030 with a projected lifespan of 80+ years and Duck Creek as we know it will be a thing of the past. He suggested White Pine County hold another public hearing to discuss the entire project, not just on segments of the project.

Mike Coster, via Zoom, is a resident in Crosstimbers. He opposed below market value sale of any county assets without direct principle benefit to the county. He felt the nominal benefits noted by the developers and advocates of this project are illusory and in reality, quite small. The loss of 4,800 acre feet of water from the KGHM mine is coming and this project will be drawing over 5,000 acre feet out of the same basin where he lives. The project made it known they will be seeking a tax abatement causing the county to end up subsidizing electrical power to be used exclusively outside of the county. He expressed his concerns about this Board being able to make its statutorily required findings without an up to date hydrological study. He stated that he is pro hydro power generally, but noted California consumers paying high quotas monthly. We need information on water usage based on a hydrological study and without one, he cannot support this. Lastly, the county should not be selling county-owned assets at below market value absent a direct benefit to county residents.

Cody Odgers continued where he left off previously. The mine dewatering in Gleason Creek will stop in 2024 putting a stop to the 17.7 acre feet per day back into Steptoe Valley basin. No matter the location of this project in Steptoe Valley, this fact along with what it takes for the project, long term negative effects on our aquifer are inevitable. He expressed a concern over the appraisal of the rights. NRS 244.2794(2) requires a County Commission to set forth a resolution setting the requirements for an appraiser, and he felt the one who

performed this assessment fell short in regards to the value. He asked how the person was chosen because he did not see that resolution, and why were the rights valued so low? He mentioned a statement made by the appraiser in which he said, "...the subject water rights are for industrial uses and not agricultural or quasi-municipal uses, their value would be at the lower end of the value range indicated by all of the comparable water rights sales researched." Mr. Odgers purported that this was false and the Commission would know that if they had used the resources the WAC could offer during this process. He brought up the Dec. 9th meeting where the developers were asked if they would seek a tax abatement, but made no real answer and ultimately, Mr. Resta said, "a \$2 billion project will look for some type of an abatement." They know they are getting the most precious resource the county owns and has spent 30 years fighting to protect and now this Board wants to give it away for a fraction of its value without considering the long-range effects on the restricted basin or for the families and ranchers in the area. He read NRS 533.550 and reiterated that their findings must be in writing. Mr. Odgers referred to the Jan. 27th meeting where past DA Wheable advised that the Board could not vote on the item concerning the water agreement at that time, but "defacto approved" it, and he asked how that was in compliance with the aforementioned NRS? He further asserted that the DA's statement and the actions of the Board violate statute as no written findings have been produced that lay out why this is prudent or in the best interest of White Pine County and its citizens. The Commission should not approve this project today as you have not complied with the statute and there is no economic development. What little value to be gained with this project is lost by the loss of farms, ranches, homes, and abandoned properties that do not pay property taxes? Commissioner Bybee expressed his desire to allow input from the Water Committee members and Commissioner Carson agreed under the circumstances where WAC was not able to hold meetings due to the lack of a secretary.

Gary Perea, via Zoom, commended Burton Hilton on his appraisal on the water rights and noted the difficulty to find the value on water. He felt the value was low, but stated that is not a factor. He felt the value should be placed on the number of employees the company will hire and if they hire below 20 employees, the rate of the water should go up and vice versa. In the agreement, the county should ask for monitoring wells to measure as the pumping goes on. He asserted that this should've gone to WAC to come up with a water plan in regards to the impacts on residents. The State Water Engineer is trying to change water law to the effect that once you change the use of the water, you can't go back. He cautioned that we need to watch the current legislature because this decision might not be able to be reversed.

Donna Bath approached the Board as a private citizen and stated that she is not in support of this project. She disclosed that she has property less than a mile from the project site. She voiced her concerns about her private property and about water, as well as the difference of information that the public is receiving. She agreed with James Alworth that we should stop to take a breather and hold a public meeting. The water in Duck Creek is important to the community as a whole and she did not feel that all of the pertinent information is getting out. She wanted to know what we are expecting out of this project and if it's benefits do outweigh the potential negatives?

Luigi Resta, president of rPlus Energies and developer of the pumped storage project, addressed the economic side and tax abatement. He stated that no projects like this have

been built in the United States for 30 years. He explained that he will commission an economic report for the state that he intends to share with everybody here. Mr. Resta tackled the confusion about the number of jobs and explained that 200 jobs will be created during construction and 25 jobs will be created during the operation phase. He wanted all stakeholder input for this to be a successful project for the entire community. He felt it was important that everyone be on board and supportive of this and he stated his willingness to have necessary conversations to facilitate that. He stated that the development process with the Federal Energy Regulatory Commission will take 5 years and they are just at the beginning of uncovering the project. In regards to the water rights, his intent is to help the community retain the water rights in Steptoe Valley by taking the lease from Robinson Mine who stopped holding that lease agreement and ultimately keep the rights here with the lease for 12 years. The first 5 years the water will be staying in ground with the next 5 years the water would be used for construction and dust control; he does not know what the actual usage will be. He explained the initial fill will encompass 5,000 acre feet to fill the lower reservoir and he will work with water users in the community to avoid filling when there is a shortage; they can do it in the winter time when water is high as they have flexibility. He further clarified that they will be leasing 8,500 acre feet of water that is associated with 2 permits over time to build credit to buy the 750 acre feet used to fill due to evaporative losses. Commissioner Carson stated that she wanted to be sure Mr. Resta will be looking at the detrimental negative impacts with water levels for the several ranches and farms that have been in the Duck Creek area for a long time. Mr. Resta noted his talks with Robinson Mine in regards to their hydrology reports. He assured her that they are working to not adversely impact water users in that area. If they need to drill a well and sleeve it to get into the next lower aquifer, they will do that. They do plan to commission hydrology reports to ensure there will be no adverse effects and they will be careful with when they draw water. Commissioner Carson stated that she did not know this was a restricted basin, but knew it was closed and added that is something Mr. Resta needs to address to mitigate those concerns. She further expressed that she is becoming more hesitant in regards with moving forward without definitive answers.

Gage Zobell, via Zoom, addressed the concern of the change of water use into a restricted/closed basin. He noted orders to restrict the basin in 1979 and in 1980, the orders made irrigation a non-preferred use so that could not be done in that area. However, in 1983, the water engineer declared the water in that basin to be allowed for industrial power generation. He was willing to talk to Cody Odgers about this further, but added that this water will be used for exactly that: industrial power generation. Following that, the water will go back to the way it was with a change application on the point of diversion and will be placed with the county as industrial power. From his legality perspective and from his conversation with the State Engineer, he has not noted an issue with their ability to change the rights.

Commissioner Godon appreciated everyone that is concerned, but at the end of day, the developers need to obtain the special use permit from the county, which the county can revoke if things go wrong or if it was found people were not being truthful, but at this stage this does no justice. He mentioned the Green New Deal putting our mines under attack and asked where we will be without the mines? He's pro economic development as long as it's

done responsibly. The writing is on the wall; if we don't do something, we will end up being cancelled.

Commissioner Carson reiterated that she is not against this project, she just wants more information. Commissioner Bybee is somewhere between Commissioners Godon and Carson in that he thinks economic development is paramount. We are on the brink of seeing political changes that will dramatically affect us in the long term. He admitted that we missed a step or two and was reminded how quickly we can dispel the concerns if we go through the steps properly and get WAC to address these issues so we're not under the gun trying to hammer this out. The Chairman agreed that a larger scale meeting should be held and that WAC and CNRWA should be involved as this is a delicate issue no matter what side you're on. The beneficial use of our water rights and what could happen in the legislature if they take mining away are important since we are a mining community. If we don't look at economic development to move this county forward, we could dry up and blow away. As a Commission, we have to look to the future. He noted that we saw President Biden cost 50,000 jobs in one day with a pen stroke. To move forward as a county, we need an avenue for economic development. He agreed that we need to look at what is in the best interest of White Pine County and getting good solid energy is the way of the future. He noted losing thousands of people overnight with a past mine closure. He further understood the impact on ranchers and farming, but this is an economic development package with a 100 year plan. Everything we've heard is not all negative.

Commissioner Bullis, via Zoom, thanked the people who brought the other perspective to the attention of the Board as they need all of this information to make this decision. He stated that he appreciates and trusts the other members of this Board to be good and smart people who operate in the best interests of the county. He wanted the attendees to know that their opinions are valued by the Board, they want to do the right thing and appreciate having all of the information. He stated that the Board is not trying to ramrod anything down anyone's throats and agreed that more information needs to come out before moving forward. If the only decision is for this Board to approve the permit to allow the developers to move forward, he's ok with that and acknowledged that there are a lot of reports that are noted to be done later, but he'd like to see those provided prior to issuing the permits, if possible. He stated that he is behind economic development and noted other projects in process that also require water that are close to seeing breakthrough. He wanted to be sure this project does not impact those because we need lasting economic development here in the county. Commissioner Godon stated that the Board should table items 2 through 4 and Mr. Resta should get with the Water Advisory Committee to get moving on information sharing.

George Chachas addressed the Board regarding Resolution 11 to lease county-owned water right for less than fair market value. He noted the last sentence which stated the project is to commence 2024 or 2025 and will require thousands of people to complete. He wanted to know if this project intended on providing housing. He is all for the project, but he wanted his questions answered. He further mentioned in the agreement, item 7c on page 5, it gives the right to lodge protests to the State Engineer and to oppose applications or filings. He cautioned the Board against potentially killing future growth and development in the area of the project.

Commissioner Carson asked the District Attorney if the county met their statutory obligations as set forth in NRS 244.2795 in regards to following the rules for the appraisal. The DA stated yes they did, that is what the resolutions are about and the addition he mentioned earlier would also cover the requirements in NRS 533.550. He advised the Board that everything is statutorily legal at this point and they now have two options; to call for a vote or move to table.

Bill Butts requested that this Board get the State Engineer or the basin engineer to provide much needed information at the next meeting. Gary Perea, via Zoom, wanted to make sure his comments were not in opposition to the project, but to make sure that existing water permit holders are protected. He also added that if we don't put these water rights to use, we could lose them in the future.

BJ Almberg from Basin Engineering stated that what he sees today is that people feel this Board is making the decision to approve this project, but that is not what is happening. What is on the agenda today is just to take it to the next step, to the State Water Engineer to determine if the water can be moved. He further explained that everyone's concerns and reports they are asking for is something that is the State Engineer's job to look at and prepare. It is his job to look out for the end users and all these questions will be asked by the engineer. The approval today by this Board is only providing the next step to propose the application to the State Engineer to determine potential impacts. He agreed that there are things that need to be looked at. He had stated that he had plans to meet with a hydrologist later today to determine what is going on and allow them to do the study and he noted preliminary models are in place for this area. He explained the questions and concerns raised today are already in discussion with a hydrologist. Scenarios are being explored to ensure no negative impacts on nearby ranches and farms as well as the possibility of pumping in the winter, and concerning the mine and dewatering. He understands the issues brought up today and the best time to get the State Engineer involved is when they are faced with the application. The state understands the issues because they are the experts and have that expertise to ensure there is minimal impact.

***2) Discussion/For Possible Action: Approval of Resolution 2021-11, a resolution of the White Pine County Board of County Commissioners declaring that it is in the best interests of the County to lease certain real property in the form of water rights without offering it to the public and for less than fair market value, if necessary, for the purpose of economic development**

Chairman Howe asked for a motion to table items 2, 3, and 4. Commissioner Carson moved to table items 2, 3, and 4. Commissioner Bybee seconded the motion and all 3 items were tabled with a vote of 4:1 with Commission Vice Chairman Godon voting in opposition.

Chairman Howe stated his desire to hold a public hearing quickly with approval of these tabled items to be brought back in April. This meeting needs to address this water issue and present all pertinent information to allow this Board to make an informed decision. Commissioner Bybee wanted the meeting to be held in a timely manner within 30 days and did not want to see a several month shut down. The WAC secretary was present and she stated that she will amend her upcoming agenda to include this topic and post it today to meet requirements. After discussion, a Special Commission Meeting was slated for Friday, February 26, 2021 at 1pm in the Aquatic Center.

Chairman Richard Howe Break called a short break at 10:26 am.

***3) Discussion/For Possible Action: Approval of Resolution 2021-12, a resolution of the White Pine County Board of County Commissioners declaring that it is in the best interests of the County to sell certain real property in the form of water rights without offering it to the public and for less than fair market value, if necessary, for the purpose of economic development**

***4) Discussion/For Possible Action: Approval of the Water Use and Option to Purchase Agreement ("Agreement") between WPW and White Pine County; and discuss statutory requirements per NRS 533.550 and NRS 244.2795 for final approval of Agreement. Luigi Resta, President, & Matthew Shapiro, CEO (White Pine Waterpower)**

At 10:36 am, the regular meeting was reopened and the Chairman temporarily recessed the regular County Commission Meeting for a regular meeting of the White Pine County Fire Commission.

The Chairman adjourned the meeting of the White Pine County Fire Commission to reconvene the Regular County Commission meeting at 10:45 am.

C. 9:30 A.M. PASSAGE OF PROPOSED ORDINANCE 517

***1) PUBLIC HEARING/Discussion/For Possible Action: The White Pine County Board of Commissioner will take public comment and consider the approval of proposed Ordinance 517, an Ordinance amending Title 2 of the White Pine County Code, creating standards for recruitment and application to boards, commissions, committees, or other bodies whose members are appointed by the Board of County Commissioners**

County Clerk Nichole Baldwin explained that this ordinance just simplifies and membership processes for statutorily created boards such as Tourism and Recreation Board and the Regional Transportation Commission to make them the same as advisory boards and town councils. This ordinance merely simplifies the process allowing it to be easily managed by the Clerk.

George Chachas stated his opposition to this ordinance and asserted that the county was not following NRS which sets out minimum standards for membership to these boards, which cannot be overridden. He further asserted that this Board has failed to abide by ADA and Open Meeting Law in regards to Public Records Requests. He asserted that the county has failed to collect proper licensing and fees and repeated his claim that Commissioner Bybee failed to collect track rental fees in the past. The Tourism and Recreation Board members are not properly selected. The County Code does not allow this Board to look the other way when it comes to its requirements and responsibilities. The Regional Planning Commission does not adhere to rules and regulations and the people sit on that board have no experience. He stated that this Board has to stay within the meaning of the law and stop displaying favoritism as their actions are killing our community.

Gary Perea, via Zoom, stated that he has no concerns about this ordinance, but hopes this Commission will discuss how to improve communication between advisory boards and

this Board. From what he's seen with PLUAC and Water Advisory Committee, things are being left out and he acknowledged that COVID played a part, but before COVID, there needed to be better communication.

Commissioner Godon made a motion to pass this ordinance and Commissioner Carson made the second. Motion passed.

D. 9:30 A.M. CERTIFICATION OF COUNTY ROADS

1) PUBLIC HEARING/Discussion Only: The White Pine County Board of Commissioners will take public comment regarding the approval of the Certification of Roads within White Pine County, Nevada pursuant to NRS 365.550. Public Works Director Bill Calderwood

George Chachas expressed his concern with Western Oil and the road they use and stated that needs to stop. He felt the road should be decertified until its brought up to standard. He stated that the county has failed to pave a county road his property is on and he's been waiting 20 plus years.

County Clerk Baldwin brought up a complaint she received that nothing was included in the backup material for the public regarding this item concerning what roads were being certified or what has changed. Public Works Director Bill Calderwood explained that this has to be approved before March 1st and his tablatures are large and difficult to scan in. Director Calderwood was asked to report on the changes since last year and noted that the tablature was reduced by a tenth of a mile due to changes in the route on Sprouse Road and County Road WP44A had eliminated 3.51 miles on mine property. He added that .5 miles of asphalt was added in Lund on First West Road. The DA stated his concern being that this is a public hearing, but not having anything for the public to comment on. Director Calderwood made another brief comment about the changes. Per the DA, simply noting the changes was sufficient. Director Calderwood explained that nothing is brought to this meeting because nothing is changed until its certified by this Board. Director Calderwood noted some changes made last year on Georgetown Ranch Road and County Road 212 and restated the changes to be certified this year.

***2) Discussion/For Possible Action: Approval of the certification of roads within White Pine County, Nevada pursuant to NRS 365.550. Public Works Director Bill Calderwood**

Commission Vice Chairman Godon moved to approve this item and Commissioner Bybee made the second. Motion passed.

E. 9:45 A.M. SILVER LION FARMS

***1) Discussion/For Possible Action: Approval of a letter of support for Silver Lion Farms to apply for incentives offered by the State of Nevada for businesses who choose to invest in Nevada and have proven to provide substantial economic benefit. Donna Bath, Silver Lion Farms**

Donna Bath representing Silver Lion Farms addressed the Board regarding this item and advised them that they are applying for an expansion; an abatement for taxes that they chose not to take for the first 2 years in an effort to help the county. Since then, they have incurred lots of costs due to COVID and are still expanding rapidly. SLF is still investing in

the community in various ways. She explained that they don't need a letter of support to go forward with their request, but want to be transparent. SLF is providing a great economic benefit to White Pine County. At the end of the first quarter of 2021, SLF invested over \$100 million in this project. She explained the impacts from this tax abatement will be an investment for this county and this region. SLF is seeking 3 megs of solar power and is currently trying to run at 3 megs, which is a burden causing them to spend half a million in propane in 2020 and just shy of \$1 million on electrical power in WPC. Mrs. Bath stated that the purpose is to remain good partners with White Pine County. Commissioner Bybee moved to approve this item and Commissioner Carson made the second. Motion passed.

F. 10:00 A.M.

***1) Discussion/For Possible Action: Approval of the notification of the White Pine County Board of Commissioners regarding the following: With Kennecott Nevada Copper Company (KNCC) cooperation, the Nevada Division of Environmental Protection (NDEP) has been overseeing additional soil and surface water investigations and reclamation work on KNCC property near the Town of McGill since 2017. In 2021, an additional soil investigation is proposed on publicly accessible areas in McGill to identify the potential for impacts from historic ore processing. Jeff Collins, NDEP**

Jeff Collins, via Zoom, introduced Holly Miller and Gerald Gardner also with NDEP. He also introduced Jeff Lechowski from Kennecott who was in attendance in case of technical questions from the Board. He appreciated the Board for their time and noted the fact sheet that was provided as backup and explained the past, present, and future operations of the old Kennecott ore processing application. What he had requested at the meeting was to use this document to introduce McGill residents to this project as part of public outreach to develop a partnership with the county and McGill Town Council. They are seeking this partnership to check progress in this project, perform soil sampling to supplement existing soil data, determine if Kennecott property proposes a health risk, and to make this Board aware that they will be requesting soil samples from private residents. Mr. Collins asked to proceed with proposed soil sampling and stated they will share the information they gather with the county to plan next steps. Commissioner Godon moved for approval and Commissioner Bybee made the second. Motion passed.

G. 10:30 A.M. UPDATE FROM BCT

1) Discussion/Update: Quarterly Report on Information Technology from Business Continuity Technology (BCT). Earle Keizer, Melvin Chatman, Jr.

Earle Keizer and Melvin Chatman, Jr addressed the Board. They provided a PowerPoint presentation. Mr. Keizer noted the absence of Fred who is working with the county on the Justice Center Project. Mr. Keizer advised the Board that BCT closed 146 tickets in the 4th quarter in 2020. They have experienced ongoing issues with Pioneer, LV.net, and are working on the IBM server backup strategy. Tyler Software was hit with ransomware, but was protected with software in place. He noted 2021 will be big for ransomware attacks. BCT continues to monitor emails and they are waiting for AT&T to turn on a signal to complete a library project. Mr. Chatman monitors everything that the firewall catches and noted an anti-virus software installed on all county PCs. Mr. Chatman offered

statistics that show their services are catching spam and other dangerous emails. Backup disaster recovery is being backed up on a regular basis and he explained this further. Webroot is blocking users' ability to click on bad links. Scareware prevents users from accessing bad URLs based on criteria set forth by Finance Director Frances. Websites for entertainment purposes are being blocked using firewall intrusion protection and intrusion prevention. BCT found 195 intrusions and prevented them. BCT has been very active on the Justice Center Project and they anticipate high level fiber to be set near the first of July. Three major things to be ordered to complete this: one is the UPS backup supply, another is the network switches and wireless access points still need to be done and lastly is the testing of network drops. BCT plans to configure all county infrastructure with the Justice Center to be used as a hub for other county buildings. BCT completed 285 hours of engineering time and 166 tickets. It was explained that the BCT/WPC joint venture incident response plan helps people if something happens in providing a checklist that takes the guesswork and fear away from the end user. It is also an ongoing living document to help users forever. There have been no security breaches due to active ransomware prevention resulting in no violation of state technology requirements. The Board thanked them for their time and update.

2. ITEMS FROM ELECTED OFFICIALS AND DEPARTMENT HEADS:

A. COUNTY COMMISSION

n/a

B. ELECTED OFFICIALS

n/a

C. DEPARTMENT HEADS

1. Kristi Rozich, Aquatic Center Director

***a) Discussion/For Possible Action: Approval to post the Summer 2021 McGill Pool Assistant Manager position internally with White Pine County. Also to approve that this position does not need to annually come in front of the board due to the yearly posting of this position with approval to only return to the board if there are changes to the McGill Pool Assistant Managers position**

Aquatic Center Director Kristi Rozich wanted to post this position internally first and then externally. She asks for this every year at this time and wanted to work with Human Resources to post in future years without Commission approval. Commissioner Bybee moved to approve this item and Commissioner Carson made the second. Motion passed.

2. Brett North, Emergency Management Director

***a) Discussion For Possible Action: Ratification of Grant Award from The Department Of Public Safety's Division of Emergency Management Emergency (DEM) Management Performance Grant (EMPG) FY2020 Program For RIMS Software Updates In The Amount Of \$20,000.00. The Required County Match Amount Is \$20,000.00 and Will Be Provided Through In-Kind Emergency Management General Fund Wages and \$650.00 Cash Match From The General Fund. The Period of This Grant is 10/1/19 through 9/30/21**

At 10:45 am, Chairman Howe brought up this item. Commissioner Bybee made the motion to approve it and Commissioner Carson seconded the motion, which passed.

3. Desiree Barnson, Social Services Director

***a) Discussion/For Possible Action: Ratification of the CSBG Family Resource Center Grant in the amount of \$14,093.00 with a required match of \$1,409.30 which will be in-kind as the Director's wages**

Social Services Director Desiree Barnson, via Zoom, explained that this is a new grant to help offset costs for food, rent, and utilities for needy recipients due to COVID. Commissioner Carson moved for approval and Commissioner Bybee seconded the motion, which passed.

***b) Discussion/For Possible Action: Ratification of the CSBG Supplemental funds in the amount of \$2,306.00 with no required match**

Director Barnson advised that this is a carry-over of funds from last year to this year. Commissioner Carson moved to approve and Commissioner Bybee seconded the motion, which passed.

4. Tim Bunch, Human Resources Director

a) Discussion Only: To conduct interview Sandra Y. Urias, an applicant for the Airport Manager position and determine if she meets the qualifications and expertise required for this position

This item was removed from the agenda at the beginning of the meeting.

***b) Discussion/For possible action: to approve applicant Sandra Y. Urias as the Airport Manager or continue search as determined by the BOCC**

This item was removed from the agenda at the beginning of the meeting.

***c) Discussion/For possible action: to approve additional WPC Personnel Policy 1.17 Employee Dating Policy**

Human Resources Director Tim Bunch explained that with this item, he is seeking consistency across the county and with POOL/PACT policies. He explained that he is still behind in updating policies, but in order to protect the county from future situations, he wanted to ensure things are clarified. WPC has a policy regarding family members or relatives, but nowhere does it state anything about dating between a department head or elected officials and staff. This was recommended by POOL/PACT to protect the county and he added that the current Code of Ethics does not speak in plain language on this specific topic. Chairman Richard Howe had stepped out of the room so Vice Chairman Godon entertained a motion to approve. Commissioner Bybee moved for approval and Commissioner Carson made the second. Motion passed unanimously with the Chairman's vote as he reentered the room.

5. Elizabeth Frances, Finance Director

***a) Discussion/ For Possible Action: Ratification Of Amendment To Agreement With The State of Nevada, Acting by and Through its Department of Transportation, For The Baker Multi-Use Path Project To Provide a Right-Of-Way Phase To The Project For The Acquisition Of ROW Due To The Unanticipated Need For ROW And To Fund**

The ROW Phase With Funds From The Construction Phase As Approved By Amendment No. 1 to Agreement No. PR117-19-063

Finance Director Frances explained that this is a no cost amendment to provide the State of Nevada permission to work on the right of way in Baker. The state can't grant us an easement on a right of way they don't own. This will be moving forward in a couple of years. Commissioner Godon moved to approve this item and Commissioner Bybee seconded the motion, which passed.

***b) Discussion/For Possible Action: Approval of Quarterly Grant Reports**

Commissioner Godon moved to approve the quarterly grant reports and Commissioner Bybee made the second. Motion passed.

***c) Discussion/For Possible Action: Approval of the Community Development Block Grant- Corona Virus (CDBG-CV) award from the Nevada Governor's Office of Economic Development in the amount of \$47,730.00 Covid-19 mitigation/prevention for the period of July 1st, 2021 through December 31th, 2022 with a required County In-kind match amount of \$0**

Finance Director Frances advised that this was a surprise that the county received this since they didn't apply for it. It is an entitlement from CDBG and follows the CDBG process requiring three public hearings to determine how the public wants this Board to use these funds. Via Zoom, Commissioner Bullis made the motion to approve and Commissioner Carson seconded the motion. It passed.

***d) Discussion/For possible action: Ratification of Grant Application being made by Elizabeth Frances/ Tabatha Hamilton to the Great Basin National Heritage Area, for funding of a mural at the Justice Center in an amount not to exceed \$ 9,000.00 with a required county Match of \$3,000.00 which is being sought through other grant sources**

Finance Director Frances noted the match amount is different than presented. The grant is for \$8,600 and the required match is \$3,400. They are planning to pursue Tour and Rec for that match and they have been working with Kyle Horvath for that and have identified other possible sources for the match. Commissioner Carson moved for approval and Commissioner Godon made the second. Motion passed.

***e) Discussion/For Possible Action: Approval to Submit a Waiver to Prevent White Pine County's Removal from the Supplemental City-County Relief Tax Guaranteed Status to the Department of Taxation**

Finance Director Frances provided a colorful printout that was handed out at the beginning of the meeting and explained that the county is consistently, since FY 2011, getting less distributions than what is being collected. If the county gets off of the guaranteed status, we forgo those funds in the years we have more, and if they collect less, we get more than what is being collected. Her handout showed how it is tracked in comparison to net proceeds. She explained that the county collected \$2,854,000 that is not being distributed to us. She had not fully evaluated this with GOED, but collections will go down per the Silver Lion Farm tax abatement to reduce collections by 2% for 2 years, resulting in a substantial decrease in revenues if that request for tax abatement is approved. If the county sees growth,

we might not have those concerns. The SCCRT waiver provides that once the county goes off, they will not be able to get back on. She added that if the energy project goes forward and we have millions of dollars in property taxes that will be assessed, the county will be fine, but if we continue to depend on mining, she does not recommend removal from the SCCRT status. She hates to see revenues not coming to the county and wondered how long the abatement will last, however, if we don't support the economic development projects coming into the county, they will start bypassing us and going to other locations. If we try to battle requests for tax abatements, business will be taken elsewhere. Commissioner Bybee clarified that this Board merely supported Silver Lion Farms' request for abatement and did not approve the abatement itself. He felt this is a program the county felt it needed, but he's not sure if its time to come off. Commissioner Godon noted that the numbers look bad now, but with the flick of a pen, the county could be spending twenty years in the yellow. With threats on the horizon, if they clear up next year, maybe we can look at this then, but it is an expensive gamble to take at this time. Commissioner Bybee felt this was good insurance and could take us to a level we know we can do business at. With that, Commissioner Carson moved to approve this item. Commissioner Godon made the second and the motion passed.

***f) Discussion/For Possible Action: Approval of a one year extension for Hinton Burdick CPAs & Advisors audit services in the amount of \$64,440 pursuant to their five year proposal that the County awarded for three years with the option for two one-year extensions**

Finance Director Frances noted this was discussed in the Fire Commission Meeting and she will go out for proposals next year. Commissioner Carson moved to approve, Commissioner Godon made the second and the motion passed.

***g) Discussion/For Possible Action: Approval of monthly financial reports for January 2021**

Commissioner Carson moved to approve the monthly financial reports. Commissioner Bybee seconded the motion and it passed.

***h) Discussion/for Possible Direction: Options for addressing the lack of a Building Official**

The Finance Director advised the Board that the city held an interview and will have another one tomorrow. She is concerned that if we don't have a licensed building inspector, our \$34,500,000 project will come to a halt at the Justice Center. The contract in place allows a dispute resolution and she read item 10. Director Frances felt that step is needed to be taken to be proactive to avoid the project stopping due to lack of an official. If the city hires someone that is not qualified, they will have problems getting a final sign off on the project. It's good to hire someone not qualified and train them, but in the meantime there is a need for a qualified building inspector to keep things moving in the county. Commissioner Carson noted that the existing building inspector had given 4 months' notice before his retirement. At a Special City Council Meeting, she gave public comment along with 5 employees from CORE Construction to voice concerns to the city for how important it was for them to move forward. She stated in the meeting how difficult it is that once we have subcontractors here, if they can't get the subcontractor's work looked at and those subs have other jobs to go to,

they charge extra to go back and forth. Currently the Justice Center Project is ahead of schedule and under budget, but she still has great concerns. Commissioner Carson made some suggestions such as changing the contract from city/county to county/city or going in on something with Elko, or possibly bringing back Chris Flannery. Chairman Howe felt that they cannot delay and noted the person being interviewed by the city is not a licensed building inspector, but will need to be guided along. Director Frances wanted to look for an independent contractor with an RFP and was asking for permission to start those discussions. Commissioner Godon made a motion for District Attorney Beecher and Finance Director Frances to open up negotiations to look for all possible options that are reasonably attainable. Commissioner Carson seconded the motion and it passed.

***i) Discussion/For Possible Action: Approval of Resolution 2021-09 to utilize \$1,200 from contingency to cover the cost for required appraisal of White Pine County property for housing development**

Finance Director Frances explained that a couple of extra parcels needed to be appraised in conjunction with the development project taking place on county land. Chairman Howe noted that a couple of the lots had to be squared up to meet certain needs. Commissioner Carson moved to approve this item. Commissioner Bybee made the second and the motion passed.

***j) Discussion/For Possible Action: Approval of Resolution 2021-10 to augment the White Pine County Road Fund from unanticipated and unbudgeted revenues in the amount of \$76,115 to provide for necessary repairs to County Road 1177 that are being paid for by Western Oil**

Finance Director Frances explained that this money needs to be legally appropriated in order to spend it where needed. Public Works Director Bill Calderwood advised the Board that Western Oil is behind about \$64,000 on invoices in response to a query from Chairman Howe. Commissioner Godon made a motion to approve this resolution and Commissioner Bybee made the second. The motion passed.

***k) Discussion/for Possible Action: Options for adding a display under the staircase in the new courthouse including approaching local businesses for contributions toward the display**

Finance Director Frances explained to the right of the main entrance in the Justice Center is an area that has a vacant spot. The thought of a creating a mining display or artwork to reflect the character of the county was noted and she was wanting to seek community help to fill this spot. Commissioner Carson moved to approve this item and Commissioner Godon made the second. Motion passed.

***l) Discussion/for Possible Action: Approval to proceed with fogging of buildings in White Pine County to reduce risk of COVID-19 and incurring overtime to accomplish this activity**

Finance Director Frances explained that these funds come out of the EMS budget. This Board approved to buy these fogging machines previously and this item requires approval because the use of those machines require the use of personal protective equipment and

proper knowledge to disinfect county buildings to be done once per month by the maintenance department with a requirement that no one be in the building for two hours after application. It is preferred to be done on the weekends and will result in overtime costs to come out of the COVID budget. She added that the Emergency Operations Center is occupied 24/7 by Med X and will need to be handled differently. She was looking for approval to move forward on this and noted the maximum overtime is contained in the backup. Commissioner Godon asked if the fogging kills the virus or provides ongoing sanitation, such as if someone were to walk in with COVID on a Monday resulting in contamination. Commissioner Bullis asked if this was something the county should be spending money on or if money could be better spent elsewhere? Director Frances will find out answers to the questions presented. She advised the Board that initially, they were told no PPE would be necessary and nothing in the literature addressed these concerns, per Director Bill Calderwood. The manufacturer told Tabatha Hamilton in the Finance Office that there was no period of time after spraying, but the literature requires 2 hours. Commissioner Bullis suggested going to YouTube to see if these machines have been used elsewhere and if there were problems. Commissioner Godon wanted this to come back after answers were found. There was discussion about marking one machine for the Aquatic Center to fog the locker rooms. Director Calderwood noted that when we had positive cases, a contractor sprayed infected offices for \$200. Commissioner Godon suggested they return one and keep one and bring this item back with more information. This item was left as discussion only.

***m) Discussion/For Possible Action: Consideration of amendment to FY2021-2022 property tax rate levied by White Pine County**

Finance Director Frances advised the Board that she received a notice from the Department of Taxation to let them know if the county had adjusted or planned to adjust their property tax rates. She is not recommending that, but is just bringing it up to allow for discussion. Commissioner Bybee moved to leave taxes status quo and Commissioner Godon made the second. Motion passed.

3. CONSENT AGENDA

The following are "action" items that may be considered in one motion/one vote. They are considered routine, non-public hearing items that have no protests. Any person representing an item or member of the public not in agreement with the recommendations by staff should request to have that item removed from the Consent Agenda. Any County Commissioner may remove any items from the consent Agenda and have it placed in the Action Items.

***a) Discussion/For Possible Action: to ratify Correspondence Sent on Behalf of the White Pine County Commission.**

***b) Discussion/For Possible Action: Approval of Payroll for County Elected Officials.**

***c) Discussion/For Possible Action: Approval of HR Transmittal for Payroll Changes.**

***d) Discussion/For Possible Action: Approval of budget transfers within and between functions or programs within a fund that do not increase the total appropriation of the fund.**

Commissioner Godon moved to approve the consent agenda. Commissioner Bullis, via Zoom, made the second. Consent agenda was approved.

4. NOTICE OF UNTIMED ITEMS

***a)** This item was removed from the agenda prior to posting

***b) Discussion/For Possible Action: Approval to write a letter of support to designate Baker, Nevada as the first International Dark Sky Community**
This item was removed at the beginning of the meeting.

***c) Discussion/For Possible Action: Approval of minutes from the following County Commission Meetings:**

- **Regular Commission Meeting and Special Joint Meeting with the Fire Commission January 27, 2021**

Commissioner Carson noted a couple of errors, one on page 2, 2nd sentence from the bottom has too many "they's". On page 4, she stated that "24,000 acre feet" may have been someone misspeaking, but the actual number was 25,000. Page 5, 8th line from the top, it was stated that the county paid for the appraisal. It was discussed that the minutes reflect what was actually said even if it is not accurate, per the DA. Page 6, 6th line from the bottom, should be "service", not "surface" from Mt. Wheeler Power. Commissioner Carson moved for approval with corrections. Commissioner Bybee made the second and the minutes were approved as corrected.

PUBLIC COMMENT:

Commissioner Godon stated that he will resign as liaison to the Water Advisory Committee at the next meeting. He did not see the point in continuing if he's getting treated (like he did at the beginning of this meeting) if they won't communicate with him.

ADJOURNMENT

Commissioner Bybee moved to adjourn the meeting and Commissioner Godon seconded that motion. The meeting was adjourned at 12:09 pm.

BOARD OF COUNTY COMMISSIONERS

WHITE PINE COUNTY
STATE OF NEVADA

BY:



CHAIRMAN

ATTEST:



WPC CLERK OF THE BOARD