

BOARD OF COUNTY COMMISSIONERS, WASHOE COUNTY, NEVADA

TUESDAY

2:00 P.M.

FEBRUARY 26, 2002

PRESENT:

Pete Sferrazza, Chairman
Joanne Bond, Vice Chairman
Jim Galloway, Commissioner
Jim Shaw, Commissioner
Ted Short, Commissioner

Amy Harvey, County Clerk
Katy Singlaub, County Manager
Madelyn Shipman, Legal Counsel

The Board met in regular session in the Commission Chambers of the Washoe County Administration Complex, 1001 East Ninth Street, Reno, Nevada. Following the Pledge of Allegiance to the flag of our Country, the Clerk called the roll and the Board conducted the following business:

02-199 AGENDA

In accordance with the Open Meeting Law, on motion by Commissioner Galloway, seconded by Commissioner Shaw, which motion duly carried, Chairman Sferrazza ordered that the agenda for the February 26, 2002, meeting be approved with the following changes: Remove from the Consent Agenda, **Item 6G(1)** a Resolution supporting Bureau of Land Management's purchase of environmentally sensitive and scenic lands through the acquisition of the Home Camp Land and Livestock Ranch. Place into the Consent Agenda, **Items 9** the 2000-2001 Annual Report for Law Library; **12(a)** Award of Bid for Spanish Springs Water System Improvements, La Posada Transmission Main Phase I; **12(b)** Award of Bid for Desert Springs 2B Water Storage Tank, Schedules A & B; **13** Agreement for Consulting Engineering Services between Washoe County and Stantec Consulting Inc., concerning facilities planning to determine the optimal method to provide sewer service in the Lawton/Verdi area; **14** Lease Agreement between Washoe County and 1020 Isenberg Limited Partners, concerning extending term of lease of office space to facilitate operation of Sparks Justice Court and associated offices; **15** Authorize two Full-time equivalent Positions, Network Engineer I and Senior Network Engineer; and Correct **Item 6H(1)** by inserting the correct amount of \$39,755.58 for reimbursement.

PUBLIC COMMENTS

Gary Schmidt, area resident, expressed appreciation to Chairman Sferrazza for requesting that an item be placed on a future agenda regarding the release of

public records. He stated that Washoe County has been illegally overcharging for the cost of copying records.

Aaron Schumacher, area resident, submitted and explained a document regarding aspartame that is in diet soda. He stated that the County needs to talk to their employees regarding the cost for copying documents. He read a poem to the Board.

Richard Hobbs, area resident, requested the Board reconsider their vote from last week, regarding a letter being submitted to the City of Sparks concerning the Copper Canyon project. He requested that the Board follow the law regarding the acquisition of lands for open space.

Christopher Sewell, area resident, suggested the County consider utilizing the internet to televise their County Commission meetings. He said not everyone gets the channel the meetings are televised on.

COMMISSIONERS AND MANAGER'S COMMENTS

Commissioner Shaw requested a follow-up on the public records issue. He suggested holding a workshop for the Board. Katy Singlaub, County Manager, stated that staff was directed to bring back information for a first reading of an ordinance.

Commissioner Galloway stated that Washoe County has lost a good citizen, Paul Morgan, who the Board had nominated to the Truckee Regional Planning Agency Advisory Planning Commission. He served for many years, and he also served as a temporary Regional Planning Governing Board member for 3 months. He requested that the County honor him with a resolution.

Chairman Sferrazza suggested that staff follow up on Chris Sewell's suggestion regarding the meetings being televised on the internet.

MINUTES

On motion by Commissioner Galloway, seconded by Commissioner Short, which motion duly carried, Chairman Sferrazza ordered that the minutes of the regular meeting of January 22, 2002 be approved.

02-200 AWARD BID NO. 2322-02 – JANITORIAL SERVICES – ENERGY WAY FACILITY - PURCHASING DEPARTMENT

This was the time to consider award of bid, Notice to Bidders for receipt of sealed bids having been published in the Reno-Gazette Journal on January 4, 2002, for Bid No. 2322-02 Janitorial Services, Energy Way Facility, on behalf of the Water Resources Department. Proof was made that due and legal Notice had been given.

Bids were received from the following:

BIDDER	AMOUNT
Sun West Building Services of Nevada	\$53,976.00 (2 year)
Varsity Contractors Inc.	\$58,800.00 (2 year)
McNeil's Cleaning Service	\$66,912.00 (2 year)
Best Janitorial Services, Inc.	\$67,599.12 (2 year)
F.A.A.D. Janitorial	\$72,576.00 (2 year)
Qual-Econ U.S.A. Inc.	\$78,720.00 (2 year)

Upon recommendation of John Balentine, Purchasing & Contracts Administrator, on motion by Commissioner Galloway, seconded by Commissioner Shaw, which motion duly carried, Chairman Sferrazza ordered that Bid #2322-02 for Janitorial Services, Energy Way Facility, on behalf of the Water Resources Department be awarded to Sun West Building Services of Nevada, based on their being the lowest responsive and responsible bidder meeting specifications, terms and conditions in the amount of \$2,249,00 a month for total bid award amount of \$53,976.00, for the two year period.

It was further ordered that the Purchasing and Contracts Administrator be authorized to enter into a two year Agreement with Sun West Building Services of Nevada for Janitorial Services, Energy Way Facility commencing March 1, 2002 through February 28, 2004 with two 2-year renewal options. Prices are to remain firm for the duration of the original agreement. Pricing for any renewal agreement shall be subject to renegotiations between the vendor and the Purchasing Department.

02-201 APPOINTMENT – COUNTY SUGGESTION PROGRAM
COMMITTEE – FINANCE DEPARTMENT

On motion by Commissioner Galloway, seconded by Commissioner Shaw, which motion duly carried, Chairman Sferrazza ordered that James Spoo be appointed to the County Suggestion Program Committee to serve a two-year term beginning March 1, 2002.

02-202 RESOLUTION – EXPENDITURES FROM COUNTY
COMMISSION DISTRICT 2 – SPECIAL FUNDING ACCOUNT –
GALENA HIGH SCHOOL VARSITY CHEERLEADERS

On motion by Commissioner Galloway, seconded by Commissioner Shaw, which motion duly carried, it was ordered that an expenditure of \$500 from County Commission District 2 Special Funding Account to Washoe County School District for Galena High School Varsity Cheerleaders for travel expenses to Anaheim, California, March 15 – 18, 2002, to participate in National Cheerleading Competition be approved and Chairman Sferrazza be authorized to execute the following resolution:

RESOLUTION -- Authorizing the Grant of Public Money to a Private Nonprofit Organization

WHEREAS, NRS 244.1505 provides that a board of county commissioners may expend money for any purpose which will provide a substantial benefit to the inhabitants of the county and that a board may make a grant of money to a private organization, not for profit, to be expended for a selected purpose; and

WHEREAS, The Board of Commissioners of Washoe County has determined that a certain amount of money is available in Fiscal Year 2001/2202, a grant of money which will provide a substantial benefit to the inhabitants of Washoe County and which is made to private, nonprofit organizations; now, therefore, be it

RESOLVED, By the Board of Commissioners of Washoe County that the Board hereby grants to the Washoe County School District for the Galena High School Varsity Cheerleaders, a grant of in-kind support for Fiscal Year 2001/2002 in the amount of \$500 to assist in traveling to Anaheim, California, March 15-18, 2002, in order to participate in the "National Cheerleading Competition."

{Business Impact Note: The Board of County Commissioners hereby finds that this Resolution does not impose a direct and significant economic burden upon a business, nor does it directly restrict the formation, operation or expansion of a business.}

02-203 APPROVE GRANT APPLICATIONS SUBMISSION – STATE OF NEVADA – COMMUNITY DEVELOPMENT BLOCK GRANT – GRANTS ADMINISTRATOR

Upon recommendation of Gabrielle Enfield, Grants Administrator, on motion by Commissioner Galloway, seconded by Commissioner Shaw, which motion duly carried, it was ordered that the Black Springs Community Building Expansion (Community Facilities), the Gerlach General Improvement District Uranium Water Treatment Facility (Community Facilities), the Reno Area Alliance for the Homeless (RAAH), Homeless Services Center (Planning) and Violence Intervention Center of Truckee Meadows (Planning) grant applications be submitted to the State of Nevada for Community Development Block Grant funding consideration, and Chairman Sferrazza be authorized to execute the documents for same.

02-204 INTERLOCAL AGREEMENT – STATE OF NEVADA DEPARTMENT OF MOTOR VEHICLES – WASHOE COUNTY MOTOR VEHICLE FUEL TAX – FINANCE DEPARTMENT

Upon recommendation of Darin Conforti, Senior Fiscal Analyst, on motion by Commissioner Galloway, seconded by Commissioner Shaw, which motion duly carried, it was ordered that the Interlocal Agreement between Washoe County and the State of Nevada, Department of Motor Vehicles concerning the administration and operation of Washoe County Motor Vehicle Fuel Tax, be approved retroactive to January 1, 2002, and Chairman Sferrazza be authorized to execute.

02-205 **AMENDMENT NO. 1 TO INTERLOCAL CONTRACT FOR IV-D SERVICES – STATE OF NEVADA, DEPARTMENT OF HUMAN RESOURCES WELFARE DIVISION – DISTRICT ATTORNEY**

Upon recommendation of Madelyn Shipman, Assistant District Attorney, on motion by Commissioner Galloway, seconded by Commissioner Shaw, which motion duly carried, it was ordered that Amendment #1 to the Interlocal Contract for IV-D Services between Washoe County and the State of Nevada, Department of Human Resources, Welfare Division, concerning child support enforcement be approved and Chairman Sferrazza be authorized to execute.

It was noted that the base agreement entered into in December 2001 provides for incentive payments to be made to each county based upon certain performance criteria. The NOMADS systems is incapable at the present time of producing the necessary information to allow incentive formula to be implemented. Therefore, the current amendment has been submitted to each of the counties as an interim measure. The amendment provides for a incentive distribution proportionate to each county's share of statewide collections.

02-206 **WASHOE COUNTY PARKS AND RECREATION DEPARTMENT ANNUAL REPORT FOR 2001**

Upon recommendation of Bambi Fehling, Public Information Officer, through Karen Mullen, Director, Parks and Recreation Department, on motion by Commissioner Galloway, seconded by Commissioner Shaw, which motion duly carried, Chairman Sferrazza ordered that the Washoe County Parks and Recreation Department's Annual Report for 2001 be accepted.

02-207 **RELEASE WELLS FARGO BANK IRREVOCABLE LETTER OF CREDIT NO. NHS351190 – EAGLE CANYON UNIT 3 – HAWCO INC. – WATER RESOURCES**

Upon recommendation of John Collins, Manager, Utility Services Division, through Steve Bradhurst, Director, Water Resources Department, on motion by Commissioner Galloway, seconded by Commissioner Shaw, which motion duly carried, Chairman Sferrazza ordered that the following action be taken:

- 1) The amended Wells Fargo Bank Irrevocable Letter of Credit No. NHS351190 in the amount of \$228,144.42 between HAWCO, Inc., and Washoe County for Eagle Canyon – Unit 3 (all sewer connection fees have been satisfied) be released;
- 2) The original Wells Fargo Bank Irrevocable Letter of Credit No. NZS401906 in the amount of \$488,800.00 between HAWCO Inc., and Washoe County for Eagle Canyon II – Unit 1 (all sewer connection fees have been satisfied) be released; and

- 3) Reimbursement to HAWCO Inc, for overpayment of \$39,755.58 be authorized.

02-208 **WATER RIGHTS DEED – NORTH VALLEY HOLDINGS, LLC –
WATER RESOURCES**

Upon recommendation of John Collins, Manager, Utility Services Division, through Steve Bradhurst, Director, Water Resources Department, on motion by Commissioner Galloway, seconded by Commissioner Shaw, which motion duly carried, it was ordered that the following action be taken regarding the North Valley Holdings LLC on behalf of Reynen & Bardis Development, LLC, or Cimarron West, LLC, or Cimarron East, LLC:

1. The Water Rights Deed for 3.14 acre-feet from a portion of Claim 130, 3.48 acre-feet from a portion of Claim 249, and 7.0 acre-feet from a portion of Claim 251, for a total of 13.62 acre-feet of surface water rights, between North Valley Holdings, LLC as Grantor and Washoe County as Grantee be approved; and Chairman Sferrazza be authorized to execute.
2. The Utility Services Division Manager be directed to record the Water Rights Deed with the Washoe County Recorder.

02-209 **CHANGE ORDER NO. 10 – CIVIL PROTECTIVE CUSTODY
EXPANSION PROJECT – PUBLIC WORKS**

Upon recommendation of Rodney Savini, P.E., Capital Projects Division Manager, on motion by Commissioner Galloway, seconded by Commissioner Shaw, which motion duly carried, Chairman Sferrazza ordered that Change Order No. 10 to the contract for construction of the Civil Protective Custody Expansion Project at the Washoe County Jail be authorized. It was further ordered that the contract administrator be authorized to execute the necessary documents and appropriate adjustments be made to the contract value and schedule.

02-210 **CHANGE ORDER – PEAVINE PICNIC PAVILION REPAIR
PROJECT – PUBLIC WORKS**

Upon recommendation of Anthony F. McMillen, Licensed Engineer, through Rodney Savini, P.E., Capital Projects Division Manager, on motion by Commissioner Galloway, seconded by Commissioner Shaw, which motion duly carried, Chairman Sferrazza ordered that the Change Order to the contract for construction of Peavine Picnic Pavilion Repair Project be authorized. It was further ordered that the contract administrator be authorized to execute the necessary documents and appropriate adjustments be made to the contract value and schedule.

**02-211 INCREASE AGREEMENT – NEVADA DEPARTMENT OF
TRANSPORTATION – REPLACEMENT BRIDGE ON
PEMBROKE DRIVE OVER THE STEAMBOAT CREEK –
PUBLIC WORKS**

Upon recommendation of Keith McAninch, Licensed Engineer, through Rodney Savini, P.E., Capital Projects Division Manager, on motion by Commissioner Galloway, seconded by Commissioner Shaw, which motion duly carried, it was ordered that an increase from \$12,600 to \$32,200 of the agreement with Nevada Department of Transportation, for design of a replacement bridge on Pembroke Drive over the Steamboat Creek be approved, and the Public Works Director be authorized to notify the Nevada Department of Transportation when the additional amount has been authorized.

It was noted that the Pembroke Bridge over the Steamboat Creek has been identified by the State bridge inspector as needing replacement. The replacement of the bridge is eligible for federal bridge replacement funds administered through the State on an 80/20-match basis. The Board approved an agreement with NDOT for the design of the bridge on December 3, 1999. This agreement provided for the design of a standard precast, reinforced concrete box culvert bridge. During the preliminary design analysis it was recommended that the reinforced box culvert bridge be changed to a simple span bridge. Washoe County's share of the design cost at 20 percent was \$12,600.00, but the estimate for the new simple span bridge design is \$32,200.00, therefore, an additional \$19,600.00 will be required to complete the design documents.

**02-212 AUTHORIZE PAYMENT – WATER UTILITY SERVICE –
REGIONAL DISPATCH AND EMERGENCY OPERATIONS
CENTER – PANTHER VALLEY WATER USERS ASSOCIATION –
PUBLIC WORKS**

Upon recommendation of Keith McAninch, Licensed Engineer, through Rodney Savini, P.E., Capital Projects Division Manager, on motion by Commissioner Galloway, seconded by Commissioner Shaw, which motion duly carried, Chairman Sferazza ordered that payment of \$24,050 for water utility service for the Regional Dispatch Center and Emergency Operations Center to the Panther Valley Water Users Association (amount includes water rights acquisition, domestic hookup fee, meter retro fit fee and Newlands Project fee) be approved.

**02-213 CORRECTION OF FACTUAL AND CLERICAL ERRORS ON
TAX ROLLS – ASSESSOR**

Upon recommendation of Jean Tacchino, Assistant Chief Deputy Assessor, on motion by Commissioner Galloway, seconded by Commissioner Shaw, which motion duly carried, it was ordered that the following Roll Change Requests correcting factual errors on tax bills already mailed, be approved for the reasons indicated thereon and mailed to the property owners, a copy of which is placed on file with the Clerk. It

was further ordered that the Orders directing the Treasurer to correct the errors be approved and Chairman Sferrazza be authorized to execute on behalf of the Commission.

James and Nadine Sanders, etal--Parcel #014-054-08 [-\$124.61] (1999 Secured Roll)
James and Nadine Sanders, etal--Parcel #014-054-08 [-\$124.60] (2000 Secured Roll)
James and Nadine Sanders, etal--Parcel #014-054-08 [-\$127.08] (2001 Secured Roll)
Schwengber Family LTD Partnership --Parcel #020-182-39 [-\$777.57] (1999 Secured Roll)
Schwengber Family LTD Partnership --Parcel #020-182-39 [-\$777.57] (2000 Secured Roll)
Schwengber Family LTD Partnership --Parcel #020-182-39 [-\$793.15] (2001 Secured Roll)
Ronald L. and Connie M. Parratt--Parcel #023-662-15 [-\$212.01] (1999 Secured Roll)
Ronald L. and Connie M. Parratt--Parcel #023-662-15 [-\$212.00] (2000 Secured Roll)
Ronald L. and Connie M. Parratt--Parcel #023-662-15 [-\$216.25] (2001 Secured Roll)
Lela M. Findley U/C--Parcel #074-010-44 [-\$81.61] (2001 Secured Roll)
Hugh L. and Marcie M. Ezzell--Parcel #076-210-20 [-\$378.98] (2000 Secured Roll)
Hugh L. and Marcie M. Ezzell--Parcel #076-210-20 [-\$384.98] (2001 Secured Roll)
Richard T. and Patricia A. Sheehan--Parcel #089-282-17 [-\$66.99] (2001 Secured Roll)
Louis H. and Kim C. Woods--Parcel #124-082-22 [-\$297.84] (1999 Secured Roll)
Louis H. and Kim C. Woods--Parcel #124-082-22 [-\$298.43] (2000 Secured Roll)
Louis H. and Kim C. Woods--Parcel #124-082-22 [-\$301.78] (2001 Secured Roll)

02-214 REMOVAL OF VERDI TOWNSHIP CITIZEN ADVISORY BOARD CHAIRMAN

Commissioner Bond said she believed Christopher Sewell's behavior was inappropriate as the Chairman for the Verdi Township Citizen Advisory Board (CAB). She said she is concerned about the demeanor of what transpired at the CAB meeting.

Commissioner Galloway said he believes the Commissioner needs to feel comfortable with the person chairing the CAB. He said although he felt there was inappropriate conduct, he will not say that he concluded it goes beyond an error in judgment, as there were conflicting statements in this matter.

Commissioner Short said people who serve on CAB's do so for the love of their community.

Chairman Sferrazza said in this matter there were conflicting statements of fact, but he agrees that the Commissioner has the right to determine who serves on the CAB for their community. He would like staff to review what direction is being given to CAB members regarding meetings with developers.

Commissioner Bond said Mr. Sewell has been a very staunch advocate for his community and she is only requesting that he stand down as chairman and not be removed from the CAB completely.

Commissioner Shaw suggested that a refresher course be required for members who have served on CAB's for a number of years, so something of this nature would not happen again.

Christopher Sewell, Chairman Verdi Township CAB, said he agrees with the suggestion made by Commissioner Shaw regarding a refresher course for CAB members. He said he understands this is a difficult situation for everyone, and thanked the Board for taking the time to listen to him yesterday.

On motion by Commissioner Bond, seconded by Commissioner Shaw, which motion duly carried, Chairman Sferrazza ordered that Christopher Sewell be removed as Chairman of the Verdi Township Citizen Advisory Board.

02-215 ANNUAL REPORT FOR LAW LIBRARY – BOARD OF TRUSTEES

Upon recommendation of Sandy Marz, Law Library Director, on motion by Commissioner Galloway, seconded by Commissioner Shaw, which motion duly carried, Chairman Sferrazza ordered that the 2000/2001 Annual Report for the Law Library be accepted.

It was further ordered that the resignations from Board of Trustee members Pat Pusich and Scott Buell, be accepted; that Mary Ann McKibben and Russ Muselman be appointed to fill the positions, as non-attorney members of the Board; and that Brian Sandoval be appointed to another term as an attorney member of the Board.

02-216 AWARD OF BID – SPANISH SPRINGS WATER SYSTEM IMPROVEMENTS – LA POSADA TRANSMISSION MAIN PHASE I – WATER RESOURCES

This was the time to consider award of bid, Notice to Bidders for receipt of sealed bids having been published in the Reno-Gazette Journal on January 16, 17, 18, 23, 24 & 25, 2002, for La Posada Transmission Main Phase I, on behalf of the Water Resources Department. Proof was made that due and legal Notice had been given.

Bids were received from the following:

BIDDERS	AMOUNT
Q&D Construction	\$551,022.00
Mike's Trenching	\$569,468.00
RP Weddell Construction	\$581,825.00
A&K Earthmovers	\$588,855.00
Horizon Construction	\$598,964.33
Gerhardt & Berry Construction	\$624,823.56
Interstate Utilities Constructors	\$644,395.00
Marv McQueary Const.	\$653,230.00
West Coast Contractors	\$654,058.00
Ledcor Industries	\$699,853.00
Burdick Excavation	\$712,329.00
White Rock Construction	\$719,003.00

Contri Construction	\$776,518.00
Engineer's Estimate	\$696,911.00

Cruz Construction submitted a non-responsive bid, therefore their bid cannot be considered.

Upon recommendation of John Collins, Manager, Utility Services Division, through Steve Bradhurst, Director, Water Resources Department, on motion by Commissioner Galloway, seconded by Commissioner Shaw, which motion duly carried, it was ordered that the following action be taken:

1. The bid for the Spanish Springs Water System Improvements, La Posada Transmission Main Phase I be awarded to the lowest responsive, responsible bidder, Q&D Construction, in the amount of \$551,022.00, and Chairman Sferrazza be authorized to execute the contract documents upon receipt.
2. The Utility Services Manager be authorized to issue the Notice to Proceed.

02-217 AWARD OF BID – DESERT SPRINGS 2B WATER STORAGE TANK SCHEDULES A & B – WATER RESOURCES

This was the time to consider award of bid, Notice to Bidders for receipt of sealed bids having been published in the Reno-Gazette Journal on January 9, 10, 11, 16, 18, 23 & 25, 2002, for Desert Springs 2B Water Storage Tank – Schedule A, Schedule B, or Schedule A & B, on behalf of the Water Resources Department. Proof was made that due and legal Notice had been given.

Bids were received from the following:

BIDDER	SCHEDULE A	SCHEDULE B	TOTAL
Resource Development Inc.	\$141,350.00	\$695,140.00	\$836,490.00
Landmark Construction	\$153,300.00		
Kiewit Western	\$205,000.00	\$1,075,610.00	\$1,280,610.00
Network Electric	\$150,550.00		
Gerhardt & Berry	\$146,046.00	\$1,013,668.00	\$1,159,714.00
Interstate Utility	\$162,910.00	\$759,318.00	\$922,228.00
Burdick Excavation	\$168,500.00	\$949,083.00	\$1,117,583.00
Granite Construction	\$187,705.00	\$814,545.00	\$1,002,250.00
K G Walters	\$209,928.00	\$914,159.00	\$1,124,087.00
Engineers Estimate	\$164,280.00	\$1,295,720.00	\$1,460,000.00

Upon recommendation of John Collins, Manager, Utility Services Division, through Steve Bradhurst, Director, Water Resources Department, on motion by Commissioner Galloway, seconded by Commissioner Shaw, which motion duly carried, it was ordered that the following action be taken:

1. The bid for construction of the Desert Springs 2B Water Storage Tank, Schedules A and B be awarded to Resource Development Inc., the lowest responsible, responsive bidder in the amount of \$836,490.00, and Chairman Sferrazza be authorized to execute the contract documents upon their receipt.
2. The Utility Services Manager be authorized to issue the Notice to Proceed.

02-218 AGREEMENT – CONSULTING ENGINEERING SERVICES – STANTEC CONSULTING INC – LAWTON/VERDI AREA FROM MOGUL TO GOLD RANCH RESORT – WATER RESOURCES

Upon recommendation of John Collins, Manager, Utility Services Division, and Paul Orphan, Engineering Manager, through Steve Bradhurst, Director, Water Resources Department, on motion by Commissioner Galloway, seconded by Commissioner Shaw, which motion duly carried, it was ordered that an Agreement for Consulting Engineering Services between Washoe County and Stantec Consulting Inc., concerning facilities planning to determine the optimal method to provide water sewer service in the Lawton/Verdi area from Mogul to Gold Ranch Resort (\$179,496) be approved and Chairman Sferrazza be authorized to execute.

02-219 AGREEMENT – 1020 ISENBERG LIMITED PARTNERS – OFFICE SPACE SPARKS JUSTICE COURT – GENERAL SERVICES

Upon recommendation of Tom Gadd, Director, General Services, on motion by Commissioner Galloway, seconded by Commissioner Shaw, which motion duly carried, it was ordered that a Lease Agreement between Washoe County (Lessee) and 1020 Isenberg Limited Partners (Lessor), for the purpose of extending term of lease of office space to facilitate the operation of Sparks Justice Court and associated offices for a 36-month term commencing March 1, 2002 and terminating February 28, 2005 (annual costs 1st year \$157,453.20 and 2nd & 3rd years \$159,495.48 each year) be approved and Chairman Sferrazza be authorized to execute.

02-220 TECHNOLOGY SECURITY PROGRAM – INFORMATION TECHNOLOGY

Upon recommendation of Cory Casazza, Information Technology Manager, and Matt Beckstedt, Information Technology Director, on motion by Commissioner Galloway, seconded by Commissioner Shaw, which motion duly carried, it was ordered due to the sharp rise in computer attacks in the last six months, that the following action be taken:

- A. The two FTE's (a proposed Network Engineer I and a Senior Network Engineer to be evaluated by the JEC) within the Information Technology Department be authorized.

- B. Staff be directed to conduct a risk assessment, develop a County technology security policy and report back to the Board in nine months.
- C. The FBI InfraGuard Secure Access Agreement be approved and Chairman Sferrazza be authorized to execute said agreement.

02-221 RESOLUTION – BUREAU OF LAND MANAGEMENT – HOME CAMP LAND AND LIVESTOCK RANCH – SOUTHERN NEVADA PUBLIC LAND MANAGEMENT ACT PROGRAM

Vahid Behmaran, Water Rights Supervisor, gave a brief summary regarding Home Camp Land & Livestock ranch.

Tina Nappe, area resident, encouraged the Board to support the acquisition of the Home Camp Land & Livestock ranch.

Brian Beffort, Friends of Nevada Wilderness, provided pictures for the Board to look at of the area, and encouraged the Board to support the acquisition.

Commissioner Galloway asked if Mr. Beffort would support the acquisition if public access was closed. Mr. Beffort stated he does not know of any plans to make this area a wilderness area. He said if private owners purchased this property, they could fence the land and gate the roads, which would end public access. Chairman Sferrazza said just by declaring this area a wilderness area does not close public access.

In response to Chairman Sferrazza's inquiry regarding plans for a wilderness area, Joe McFarlan, USDI BLM Surprise Field Office, said he would have to defer to Congress for that answer, but if this property was subdivided and sold, owners do have the right to fence and gate their property.

Aaron Schumacher, area resident, commented that the Board should not acquire this property, because the government would probably declare it wilderness land and block access to the public anyway.

Upon recommendation of Karen Mullen, Director, Parks and Recreation Department, on motion by Commissioner Short, seconded by Commissioner Bond, which motion duly carried, it was ordered that the following resolution supporting the Bureau of Land Management's purchase of environmentally and scenic lands through the acquisition of the Home Camp Land and Livestock Ranch using funds from the Southern Nevada Public Land Management Act programs be approved and Chairman Sferrazza be authorized to execute:

RESOLUTION

WHEREAS, The Southern Nevada Public Land Management Act of 1998 provides, from proceeds derived from the orderly disposal of certain Federal lands in Clark County, Nevada, acquisition opportunities for environmentally sensitive lands throughout the State of Nevada; and

WHEREAS, The landowners of the Home Camp Land & Livestock ranch are planning to sell the 17,500 acre property, which includes scenic and sensitive lands adjacent to the Wall Canyon Wilderness Study Area. The value of the property is estimated at \$3,500,000; and

WHEREAS, The Home Camp property includes key lands adjacent to public property, which have historically been used as access points for recreational users of all types. Private ownership of this property would likely block some access points to the newly created Black Rock-High Rock National Conservation Area and the 10 wilderness areas to the east of Home Camp; and

WHEREAS, There is broad public support for the protection of open space and access to public lands as evidenced by the recent passage of Washoe County Question One; and

WHEREAS, The Home Camp property contains specially designated species and important habitats including Greater sage-grouse populations and breeding grounds as well as stream habitats for the Wall Canyon sucker fish. The property also contains one of the only populations in the state of Nevada of the rare plant, prostrate buckwheat (*Eriogonum prociduum*). Numerous wetland areas are also located on the property; and

WHEREAS, The current landowners and Todd Jaksick, who has an option on the property, agree that the land belongs in public ownership. Further, should Mr. Jaksick acquire the land, his stated plans include subdivision of the land. Bureau of Land Management acquisition of the property would remedy this concern; and

WHEREAS, Integrating the Home Camp properties with adjacent public lands will avoid the problems of addressing multiple owners and will enable the BLM to prepare and manage for public benefit in an integrated management plan; and

WHEREAS, The Washoe County Commission remains committed to the implementation of the Washoe County Regional Open Space Plan adopted by Washoe County, the City of Reno, and the City of Sparks in 1994; now, therefore, be it

RESOLVED that the Washoe County Board of Commissioners strongly supports Bureau of Land Management acquisition of the Home Camp Land & Livestock ranch through the Southern Nevada Public Land Management Act program.

**PROVIDE DIRECTION TO STAFF REGARDING THE
ESTABLISHMENT OF A PUBLIC ART DISPLAY AT THE NINTH
STREET COMPLEX – FINANCE DEPARTMENT**

Darin Conforti, Senior Fiscal Analyst, explained the options to the Board regarding public arts display being established at the Ninth Street County Complex. He said the suggestion that art be displayed along the corridor between the Social Services Department and the Health Department was made by an employee through the County suggestion program.

Commissioner Galloway said he is a little concerned about public art displays. He suggested displaying community art for half of the year and fine arts the other half.

Chairman Sferrazza said he is inclined to support the community arts, because the County would have to spend more money to display fine art and generally those people have studios and other places to display their art.

Commissioner Shaw said he agrees with Chairman Sferrazza, in that community art should be shown at the County complex.

Commissioner Bond asked if there was a need to display the art work. Mr. Conforti said this was a suggestion approved through the Washoe County Suggestion Program from a public employee.

Commissioner Short said there are two new libraries coming up, and the display in the Northwest Library has been very successful. He said maybe they can look at those facilities to display the art, and he would agree that it should be community art. Mr. Conforti said the Northwest Library currently has a rotating fine arts display, and also has a contract with the Sierra Arts Council.

Katy Singlaub, County Manager, said she serves on the Board of Sierra Arts Foundation and there is no particular concern regarding the type of art to be displayed. She said it is a wonderful idea that art be displayed in the County building.

Commissioner Bond said she would not like to have people come before the Board and tell them they have been unable to have their art displayed in the County building. She said she would like to have more information before making a decision on this item, such as how it will be managed, the length of time art will be displayed, and how it will be determined who can participate in the display. Mr. Conforti said they are establishing a procedure to bring back to the Board with any associated costs.

On motion by Commissioner Shaw, seconded by Commissioner Bond, which motion duly carried, Chairman Sferrazza ordered that Option 2, Community Art Gallery, be authorized and that staff be directed to bring back to the Board a report and specifics on the process.

PROCESS OF POSITION RECLASSIFICATION – HUMAN RESOURCES DEPARTMENT

Joanne Ray, Human Resources Director, explained the different options for processing future reclassification requests. She said the requests before the Board today have been reviewed through the current process. At yesterday's Caucus they discussed withdrawing the County Clerk's reclassification, to give the WCEA an opportunity to review the documentation pertaining to that reclassification request.

Chairman Sferrazza said he really does not support either option, and he is concerned with the budgeting aspect of option 1. He would prefer that option 1 be in place but the actual salary increase and reclassification not be effective until the next fiscal year when the position could be budgeted. Chairman Sferrazza said in terms of the budget, specific positions are budgeted for and then during the course of the year new positions are being created and/or positions being reclassified outside of that budget. He said he has a real problem with these requests in light of the Hay Study being conducted and finalized, which he believes was an attempt to create equity within the County. The positions being reclassified were not budgeted for and they cost the County a substantial amount of money.

Ms. Ray explained the guiding principles that are provided in the staff report, and would also be included as part of the process. She reviewed the 3 principles, which indicate that department heads and managers strive to ensure that employees work within their class and perform duties and responsibilities consistently. If there are any changes that impact an authorized position that could result in a reclassification, that information should be submitted as part of the budget process. Ms. Ray said staff is requesting the Board adopt the 3 guiding principles and be included with whatever option the Board approves.

Chairman Sferrazza said he believes that a department head is not doing their job if they cannot look at least one year ahead. The Board projects what is going to happen during the year based on approved department budgets, and yet every month staff comes in and says a position is critical to their organization. He said that happens even one month after they have adopted the budget, and he can understand a true emergency, but the way it is written now the door is wide open and anyone can come in and say a position is critical and necessary for the operation of their department.

Katy Singlaub, County Manager, said she absolutely agrees with Chairman Sferrazza in that they have had an ongoing challenge with reclassifications that happen during mid-year. She said opportunities to reclassify positions arise mid-year and one of them is when a position has been vacated. Oftentimes department heads do not know a vacancy will occur, and when a position becomes vacant it presents an opportunity for the department to reorganize duties. Mrs. Singlaub clarified that Ms. Ray is saying, under the guiding principles the rule would be that it would only occur at budget time, and the exception could be entertained by the Board.

Commissioner Short asked if the positions before the Board today, are the only ones currently being reclassified. Ms. Ray said there are other requests that have come in since December 18, 2001, which is when the Board requested a procedure to deal with these requests for reclassifications.

Commissioner Galloway asked if a distinction needed to be made between the reclassification of a position that is vacant and a reclassification of a position that is filled. He said if an employee is threatening to leave if they do not get more money and there is no more money in their current job classification, he would not want a department head to write a new job description that might go beyond what that person is actually doing just to get more money to keep them here. Ms. Ray said she believes that reclasses do need to be considered throughout the year because issues will arise, as there were no desk audits done on any of the 1900 positions within the County when the Hay Study was conducted. Positions were considered based on the current job descriptions that employees and department heads agreed on and signed off on. Some of the issues occurring now are things that were not taken into consideration when they were going through the process. Ms. Ray said she does believe these requests will taper off.

Chairman Sferrazza said the effective date of the reclassifications for the future will be the date this Board approves it. He said the Board should not be approving retroactive pay raises anymore. Ms. Ray said the current effective date that is included in the contract is 90 days from the date of receipt by the Human Resources Department.

Commissioner Shaw said he believes these issues will all be resolved and worked out. He said the problem is that every other meeting they have requests for reclassifications and the Board thought that the Hay Study was going to make things equitable.

Ms. Ray said her recommendation is the Board adopt the 3 Guiding Principles, so that everyone knows the direction the Board wants to take concerning these requests. Chairman Sferrazza said he thought one of the guiding principles was that an employee was not supposed to work outside their class until the reclassification was approved by the Board. Ms. Ray said the Human Resources Department has requested that new duties not be assigned until the position has been approved.

Commissioner Galloway said the guiding principles provide that if the reclass is not following the budget process there is an option to do it mid-year, but there would be extra scrutiny. He asked that mid-year reclasses be provisional, such as subject to a desk audit within 90 days, and if it turns out the position is actually being under utilized in comparison with the new job description the reclass be amended. Ms. Ray said desk audits are being conducted now that the WERRCS Project has been completed.

Chairman Sferrazza suggested that the Director deny any requests for reclassifications that come in to the Human Resources Department that will not be approved or denied by the Board within the 90 days.

On motion by Commissioner Galloway, seconded by Commissioner Shaw, which motion duly carried, Chairman Sferrazza ordered that the following Guiding Principles be adopted:

- * Department Heads and managers must first strive to ensure that duties and responsibilities of employees under their supervision are consistent with those contained in the existing position and classification as authorized by the Board;
- * Permanent changes of responsibilities impacting an authorized position, which may reasonably require reclassification of the position or establishment of a new classification, should be submitted as part of the annual budget process;
- * If necessary, change in the responsibilities for a position may be submitted outside of the annual budget process only if there is a demonstrated immediate need; however, the change must be submitted to the Board prior to assigning new duties and responsibilities to the position.

On motion by Commissioner Galloway, seconded by Commissioner Bond, which motion duly carried, Chairman Sferrazza ordered that Option 1 be adopted as follows: All requests for reclassifications (including reorganizations) be reviewed by the Division/Director/Department Head and the Appropriate Assistant County Manager prior to submitting positions to the Job Evaluation Committee (JEC) for evaluation. The Assistant County Manager will determine if the program efficiencies warrant submitting the position to the JEC for evaluation. The Assistant County Manager will forward the request to the JEC or meet with the appropriate Department Head or Elected Official to discuss other options. Elected Officials may submit request for reclassification directly to the BCC, in lieu of being reviewed by an Assistant County Manager. The Board of County Commissioners could then request the JEC evaluate the position. It was further ordered that a desk audit be performed within 90 days after each reclassification.

On motion by Commissioner Galloway, seconded by Commissioner Shaw, which motion duly carried, Chairman Sferrazza ordered that the following reclassifications be approved:

Reclassification of Existing Positions:

Department	Current Position	Pay Grade	Date of Request	Recommended Class	Pay Grade
General Services	Building Maintenance Tech	K	12/11/01	Senior Building Maintenance Tech	M
General Services	Building Maintenance Supervisor	N	10/27/01	Chief of Building Operations	P

General Services	Painter	I	10/27/01	Building Operations Project Manager (New Class)	M
General Services	Telecommunications Superintendent	R	10/24/01	Telecommunications Manager (New Class)	T
Recorder	Program Assistant	K	02/07/01	Admin. Asst. I	K

Classification of FY 01/02 New Position:

Department	Current Position	Date of Request	Recommended Class	Pay Grade
Social Services	New Position	Approved by BCC for 01/02 Budget eff 4/02	Office Asst II	E

It was further ordered that the reclassification of an Administrative Secretary Supervisor position in the Clerk's Department be continued in order for Washoe County Employee's Association (WCEA) to review the documentation regarding the position.

02-224 ORDINANCE NO. 1149 – BILL NO. 1326 – AMENDING CHAPTER 20 - FUEL TAX

4:00 p.m. This was the time set in a Notice of Public Hearing published in the Reno Gazette-Journal on February 15, 2002, to consider second reading and adoption of Bill No. 1326. Proof was made that due and legal Notice had been given.

The Chairman opened the public hearing by calling on anyone wishing to speak for or against adoption of said Ordinance. There being no response, the hearing was closed.

On motion by Commissioner Bond, seconded by Commissioner Shaw, which motion duly carried, Chairman Sferrazza ordered that Ordinance No. 1149, Bill No. 1326, entitled, "AN ORDINANCE AMENDING CHAPTER 20 (REVENUE AND TAXATION) OF THE WASHOE COUNTY CODE BY REPEALING THE DEFINITION OF DEALER; ADDING THE DEFINITIONS OF RACK, TERMINAL AND SUPPLIER; CHANGING THE DEFINITION OF RETAILER; PROVIDING THAT FOR THE PURPOSES OF THE FUEL TAX MOTOR VEHICLE FUEL IS SOLD WHERE IT IS DISTRIBUTED FROM A TERMINAL; CHANGING MULTIPLE REFERENCES FROM DEALER TO SUPPLIER; CHANGING THE REFERENCE FROM DEPARTMENT OF TAXATION TO DEPARTMENT OF MOTOR VEHICLES TO CONFORM THE COUNTY MOTOR VEHICLE FUEL TAX ORDINANCE TO CHANGES IN THE STATE LAW; REPEALING THE SUPPLEMENTAL MOTOR VEHICLE FUEL TAX ORDINANCE; AND MAKING ALL SUCH CHANGES RETROACTIVE TO JANUARY 1, 2002 AND OTHER

MATTERS PROPERLY RELATING THERETO," be approved, adopted and published in accordance with NRS 244.100.

02-225 APPEAL - SPECIAL USE PERMIT CASE NO. SW0012-034 – OIL-DRI CORPORATION – COMMUNITY DEVELOPMENT

4:00 p.m. This was the time set, continued from January 22, 2002, to consider an appeal of the decision of the Washoe County Planning Commission to deny Special Use Permit Case No. SW0012-034 for the Oil-Dri Corporation of Nevada to establish a clay mining operation and related processing facility/finished-product plant on portions of six (6) parcels of land situated in the North Valleys planning area and the Warm Springs planning area. The project consists of two open pits, a plant site, haul roads, and an access road onto Lemmon Drive. The two clay mine pits would be located in the Hungry Valley portion of the Warm Springs Hydrographic Basin; and the clay processing facility would be located in the Lemmon Valley Hydrographic Basin. The two clay mines would be located in portions of Section 5, Section 17 and 18, T21N, R20E and Section 32, T22N, R20E; the processing facility would be located in portions of the SE/4, Section 24, T21N, R19E, MDBM, Washoe County, Nevada, within County Commission District No. 5. (APN: 080-710-04, 080-710-05, 080-710-06, 079-080-53, 089-170-01, and 089-170-02).

Chairman Sferrazza outlined the process to be followed and opened the public hearing.

Board members made the following disclosures concerning ex-parte contact regarding this item. Commissioner Bond disclosed that she met with advocates both for and against the proposed project. Commissioner Short disclosed that he met with Paula Berkley of the Reno-Sparks Indian Colony (RSIC) and some of the residents who live in Hungry Valley. He further stated that he met with the President of Oil-Dri a couple of years ago. Commissioner Shaw disclosed that he toured the site with staff and also met with Paula Berkley and Tribal Chairman Arlan Melendez. Commissioner Galloway stated that, since the Planning Commission decision, he has not met with any organized factions because he felt it was important to be fair to both sides; and it was impossible to meet with everyone. Chairman Sferrazza disclosed his relationship with the RSIC as their representative in various matters over the years and as a Tribal Judge in Nevada, but indicated that would in no way affect his ability to render a fair and impartial decision. He also advised he has not discussed the merits of this appeal with anyone because he believes the Commission is now acting in a quasi-judicial capacity and should only have contact with the parties when both sides are present or represented.

Dean Diederich, Planning Consultant representing the Washoe County Department of Community Development, gave a brief overview of the procedures outlined in the Development Code for considering special use permits and mining permits, stating the Board shall consider only those items cited in the appeal using the record and any additional evidence received relative to the application. He further stated the Board may confirm, reverse or modify the action of the Planning Commission based on its in-

terpretation of the required findings. Mr. Diederich explained that a special use permit is a discretionary approval recognized in Chapter 278 of the Nevada Revised Statutes as a decision to be made by the County Planning Commission and/or the County Commission to either approve a project as submitted, require modifications to a project, add conditions of approval, or reject a project as proposed if the necessary findings cannot be made. He also explained that approval of a project involving development of natural resources requires that additional findings be made; and in accordance with the Washoe County Development Code, mining operations have special review considerations, which he will detail later in the meeting. Mr. Diederich then discussed conditions of approval stating there are two tests that conditions have to meet; conditions should address impacts that can clearly be identified; conditions must be reasonable and related to the project; and the cost of meeting the conditions should be proportionate to the level of impacts created.

Mr. Diederich advised the proposed mining project has been determined to be a Project of Regional Significance; therefore, it must be found in conformance with the Truckee Meadows Regional Plan, which means that, if the Commission approves the project, it must then go to the Truckee Meadows Regional Planning Commission for their review and conduct of a public hearing. He also advised that the Board must be able to articulate how the necessary findings have, or have not, been satisfied. Mr. Diederich stated this is not a forum on the 1872 Mining Law or the mineral claims underneath. He said Washoe County is in no way trying to pre-empt federal law or the right of a mineral claim to be mined on federal lands, but Washoe County does have a valid interest in regulating the use of land to ensure that any individual use does not compromise the integrity of the adopted master plan for the community.

Stephen Mollath, attorney representing Oil-Dri Corporation, stated there is a critical distinction that needs to be made between the mining operation, which would be located on federal land, and the processing plant, which would be located on private land; and the two cannot legally be combined. He advised they have now received all of the other approvals needed for this project, including the Record of Decision from the Bureau of Land Management (BLM), the air quality permit from the District Health Department, the reclamation permit from the State of Nevada, and the water permits from the State Engineer. Mr. Mollath drew the Board's attention to correspondence and attached exhibits he prepared for the Board and began reviewing same. He stated that a denial by the Commission of the special use permit for the processing plant or the mining operation would in no way affect or preclude Oil-Dri's ability to move forward on federal land and conduct its mining operations. He stated that it is his legal opinion that under the 1872 mining law, right now Oil-Dri could move forward with all the issued permits and mine on federal land without any regulation from this Commission or the State except as set forth in the air, water and reclamation permits. He reviewed the legal analysis marked as Exhibit F in his handout and two court cases that brought him to that conclusion. Mr. Mollath stated the Board could impose reasonable environmental conditions on the mining operation, but such conditions cannot prohibit mining that is allowed by federal law.

Mr. Mollath stated what is really before the Board is the processing plant, and the issuance of a special use permit for that operation does allow the Board to impose

reasonable environmental and land use conditions to mitigate any impacts that are legally permissible in the mining operation on federal land. His conclusion was that it would be advantageous for the Board to issue the special use permit so they could retain the ability to impose additional mitigating conditions to address both environmental and land use impacts.

Jeff Codega, Codega Planning and Design, representing Oil-Dri, stated the Board needs to make its decision based on the laws, facts and studies that have been conducted, not emotion or speculation of what might happen sometime in the future; and they believe all the findings for approval can be made. In regard to traffic, Mr. Codega stated the adopted standard for Washoe County is 80 peak hour trips; and in the worst case scenario, Oil-Dri would generate 35 peak hour trips, which is far below the standard. He cited a February 14, 2002, letter from the Regional Transportation Commission (RTC) stating that the level-of-service (LOS) drop from "C" to "D" on Lemmon Drive would not be caused by Oil-Dri, but was contributable to the residential development already approved for Lemmon Valley. He stated that the Nevada Department of Transportation (NDOT) has a published standard that 4 percent of the traffic volume on arterial streets can be expected to be trucks, but because of the concern expressed about the truck traffic through the school crossing at Lemmon Drive and Patrician, Oil-Dri has committed to moving, upgrading, and modernizing the signage of the school zone to meet current standards and are also willing to fund a crossing guard position so there would actually be a live person out there. Mr. Codega further noted that the Lemmon Valley Land Company has provided a letter stating they will grant the access for the road into the project for the full 20 years.

Mr. Codega stated that in regard to water, Oil-Dri will use a well at the processing facility with an estimated demand of 17.2 acre-feet of water per year; Oil-Dri has purchased over 24 acre-feet per year in the Lemmon Valley hydrographic basin; and those water rights have been approved by the State Engineer. He further stated these are water rights that have been in use, so it will not impact drawdown in the basin; and the project's water usage would compare to a typical domestic well. Mr. Codega advised that the BLM Record of Decision requires that they have a monitoring well to ensure there are no impacts to adjacent properties; and, even though there is no evidence to conclude that there would be an impact because of the pumping, Oil-Dri has agreed to re-drill wells if there is a problem on the adjacent properties caused by them, or connect people to their community system. He further stated the processing plant will not use chemicals that could harm the water table, and the project will have no affect on the arsenic in the area.

Mr. Codega then addressed air quality concerns stating that because of the federal Environmental Impact Statement (EIS) required for this project, there is a tremendous amount of information and data available that has been thoroughly analyzed; and the particulates expected from the project should be insignificant. Further, Oil-Dri is planning to pave the access road into the site to reduce the amount of fugitive dust that currently occurs in the area, and there will be air quality monitoring.

Mr. Codega then said the project is consistent with the Washoe County Comprehensive Plan, as both the mining and the processing plant are permitted uses in the general rural land use designation, and the processing plant is an ancillary use to the mining use. Concerning visual impacts, Mr. Codega stated the plant would be situated in an area where it cannot be seen from any existing homes and would be approximately two miles from the RSIC property and three miles from existing homes. He advised that they would also be in compliance with all of the noise regulations of the Development Code; and that the noise modeling for the EIS showed only a slight increase in noise levels. He stated since the processing plant is located in a canyon, both visual and noise buffering is naturally provided.

Mr. Codega stated they would like to discuss two of the proposed conditions of approval, one of which was Condition 20, limiting the hours of operation to 6 days a week from 5:00 a.m. to 10:00 p.m. He stated that restriction would be a deal breaker in terms of the economic operation of the facility, and he explained the warm-up and cool-down time needed for such a kiln operation. He said the other condition is No. 29, concerning reclamation and restoration, and offered revised wording for the Board's consideration because they do not believe the reclamation could be accomplished the way the condition is worded.

Robert Vetere, Vice President of Oil-Dri Corporation, stated Oil-Dri has been a good neighbor and a community contributor everywhere they do business and want to do the same thing in Washoe County; they have played by the rules; and they have gone above and beyond everything that has been asked of them. He said it was important to note that their right to mine does exist, and it is up to the Commissioners to determine where and how the material will be processed. Mr. Vetere stated approval of this special use permit will be a direct benefit to the community; there will be 46 truck trips per day, which will be enclosed single, standard semi-truck-trailers; access will be through a private haul road to Lemmon Valley Road; there will be 100 jobs once the project is geared up in a few years; they will have a payroll of \$3.4-million per year; and they will pay \$100,000 in property taxes every year. Mr. Vetere stated if the processing plant is not permitted, they will be forced to locate that operation elsewhere, which would mean hauling the raw material out in probably three times as many trips everyday, in open trailers, and using Eagle Canyon Road to the Pyramid Highway. He said that would also mean there would not be 100 jobs, nor would they be paying property taxes or traffic impact fees. Mr. Vetere stated if the Board approves the project, they can exercise the maximum control over the project to the maximum benefit of the County.

Mr. Diederich disputed Mr. Mollath's contention that the Board should make a clear distinction between the mining operation and the processing plant, stating the processing plant is ancillary to the mining operation and it is the mining operation in its totality that the Board is reviewing for this special use permit. He then displayed maps on the overhead, locating the mining areas, the access roads, the haul road, and the processing facility; and stated the closest residence to the processing plant is approximately 3,000 feet, and there are four homes on the proposed access road. Mr. Diederich showed the proposed location for the processing plant and stated it would be fairly well

buffered visually by the surrounding hills, but he does not know if the hills would also buffer the light and noise from the plant. He stated staff identified three concerns to the Washoe County Planning Commission, which were 1) the impacts of the processing plant on the Lemmon Valley medium density suburban residential area, 2) the EIS identified that there are some water resource impacts that need further review, and 3) the truck traffic going through a residential area where 2,000 homes are proposed, as well as through an elementary school zone. He stated those were the reasons for staff's recommendation that the special use permit be denied. Mr. Diederich stated that no where else in the County is a residential area local road network expected to support this kind of consistent, daily truck traffic. He then listed other concerns that have been raised and noted the conditions of approval that should mitigate those impacts; and stated there would be monitoring of air quality, water, etc., throughout the life of the project to ensure impacts are kept to a minimum.

Mr. Diederich then addressed the applicant's request to be able to operate 24 hours a day, 7 days a week, stating the concern is there are a number of outdoor operations as part of the processing; there are conveyor belts and loaders; and there is a reasonable expectation that there would be a certain quiet time during the nighttime hours. In regard to Condition No. 29 concerning reclamation, Mr. Diederich stated the wording was crafted according to what the applicant indicated as their reclamation plan when the application was submitted. Mr. Diederich concluded his presentation by correcting some of the applicant's statements and providing answers to questions Board members had asked prior to the meeting.

Chairman Sferrazza then began calling on individuals who had requested to speak.

State Assemblywoman Debbie Smith expressed her concern about the amount of truck traffic by an elementary school. She also stated that economic diversification and providing jobs is important, but she has not been able to verify the numbers that have been presented. Assemblywoman Smith stated her wish that the Board protect the residents.

Arlan Melendez, Chairman, RSIC, provided historical information on how the Tribe obtained the land in Hungry Valley. He asked the Board members to disregard the notion that they would be doing the right thing by approving the permit and regulating the operation and to disregard the idea that the applicant could just move the plant to BLM land. He said the Tribe will remain steadfast in fighting this project at every level and each scenario presented to protect the quality of life of the Hungry Valley residents. He further stated there are still so many unanswered questions concerning impacts to the environment; there is no baseline data concerning air quality; the traffic impacts are still in question; and the project does not conform to the regional and area plans. Chairman Melendez said this is not just an "Indian" issue, nor is it a "Not-In-My-Back-Yard" issue; and their opposition is not based on emotion. At the same time Oil-Dri is claiming they want to be a good neighbor, they are making threats of worse things to come if their permits are not approved. He stated there are so many people in attendance because they

will be negatively impacted by this project and urged the Board to deny the project and protect the citizens and generations to come.

Pat Smith, RSIC General Counsel, stated that both staff and the Planning Commission, who are the land use planning experts and have spent a lot of time studying this project, have recommended denial because four of the required findings cannot be made. He displayed the four findings on the overhead and discussed each one in detail stating an industrial project is in direct conflict with the local plans and the Lemmon Valley Visioning Study; the site is not suitable because it will mean an unprecedented number of big trucks going through a residential area every day; and the project would be detrimental to the public health, safety and welfare, and would be injurious to property and the character of the surrounding area. Mr. Smith urged the Board to look at the cumulative impacts. He displayed a map on the overhead and showed the proximity of the mine and plant to the Colony's new cemetery, their traditional Pow-Wow grounds, the multi-purpose gymnasium where community activities are held, and the water wells. He also discussed the problems they have experienced with their own wells and the need to drill new wells and stated there may not be sufficient water. Mr. Smith said there is also a legal issue on the characterization of the plant; and that they believe it is a manufacturing plant, not a processing plant. Oil-Dri is manufacturing a finished product for its customers, and such industrial activity is prohibited in a general rural area.

Mr. Smith also discussed the 1872 mining law stating that it does not preclude the Board from denying this project; that it is the County who has jurisdiction on the private lands; and that they will be challenging the BLM's Record of Decision because they believe the EIS is flawed. He stated he does not believe the Congress in 1872 was thinking of clumping kitty litter when they enacted the 1872 mining law. Mr. Smith stated there is more than substantial evidence to affirm the Planning Commission's denial.

Tom Meyers, Ph.D. in Hydrology and Executive Director of Great Basin Mine Watch, stated the applicant's consultants claim the project will not pollute the groundwater, but tests performed in support of the EIS showed that water leaching through both the overburden and waste to be backfilled into the pits will have a concentration of arsenic at 11 times the federal standards; and speculation that the arsenic will be absorbed by the soil beneath the pit ignores the fact that more than one-third of the test holes drilled by Oil-Dri and reported in the EIS end in sand and gravel, which, once saturated, will act as a giant drain transmitting leachate to the groundwater. He stated another misstatement by the consultants is that the existing wells in the area show no arsenic. One of the Colony's new wells does exceed the federal arsenic standards; and these wells are just a half-mile down gradient from the pit. Dr. Meyers stated there is a very significant possibility that arsenic will contaminate the groundwater that feeds these wells. He emphasized that there will be negative impacts, but there is not enough information available to assess the degree of impact. Dr. Meyers stated there are also questions about whether the applicant will be able to reclaim the site, which was actually brought up by the applicant earlier; and the air quality permit was issued based on the assumption that reclamation would be 100 percent successful. He then cited instances in other states where mining has been disallowed on public lands because of fears that the groundwater

would be contaminated and other impacts; stated that Section 26 of the mining law states that a miner has a valid mining claim only if he can meet all local regulations; and stated that he can find no cases where a local government lost a takings claim based on denying a mine on public land.

Glenn Miller, Ph.D. in Agricultural and Environmental Chemistry and Chairman of Great Basin Mine Watch, stated that he is on the faculty of the University of Nevada, Reno, and the area in which he works is mine drainage and environmental contamination issues. He discussed the water migration test performed for the EIS and provided technical information disputing the conclusion of the studies done by the applicant. Dr. Miller stated there is a good database that suggests there will be higher concentrations of arsenic mobilized and there is a very substantial potential that the groundwater would be impacted.

Brad Bartlett, Attorney and Special Counsel for the RSIC on Air Quality, stated that in January they filed over 70 pages of comments with the District Health Department, Air Quality Management Division, regarding the Oil-Dri request; and today they filed a petition with the Washoe County District Board of Health challenging the issuance of the air quality permit because the County completely ignored their concerns. Mr. Bartlett explained the Clean Air Act's provisions for "clean air areas," which, in this case, would apply to areas outside of the Reno-Sparks metropolitan area and are designed to prevent the air in those areas from ever becoming as bad as it is in the metropolitan area. He stated that Oil-Dri's permit does not demonstrate compliance with the Clean Air Act's very stringent provisions for prevention of significant deterioration and the Air Quality Management Division has refused their request to apply these standards in this case. Mr. Bartlett then stated the RSIC has formally requested that the County perform an impact analysis, a risk assessment, and pre- and post-construction monitoring of the harmful effects of the pollutant PM2.5, or particulate matter of 2.5 microns. This is an extremely hazardous fine particle, and there are multiple EPA studies which demonstrate that exposure to this pollutant at levels lower than 65 micrograms per cubic meter in a 24-hour period can cause pre-mature death and increased hospital admissions. He stated there is a high rate of respiratory disease at the Colony, which is consistent with the national rate for Native Americans. Mr. Bartlett advised that the BLM, in the Record of Decision, stated it wants six months of background data before development can proceed, which begs the question of how they could have rendered such a decision without that data to begin with. He stated the air quality permit only requires monitoring every sixth day and only for PM10, not for the harmful effects of PM2.5.

Scott Nebesky, Planning Director, RSIC, stated the Board does have the right to regulate the use of land to ensure that individuals do not compromise the integrity of the adopted plan. The Commission is the steward of the adopted comprehensive plan and part of the stewardship is to sustain the caring capacity of the natural resources. He advised that in order to accomplish that, baseline information is necessary, specifically concerning air quality and water quantity and quality; and that baseline information has not been established. Without that information, the effectiveness of mitigation measures cannot be evaluated. Mr. Nebesky further stated this area can only carry a limited type of

development and asked where else in the Truckee Meadows would anyone even consider placing a mining operation next to a residential area. He stressed that this use is not compatible with the surrounding area; and the collateral damage and cumulative impacts of this proposal must be considered.

Todd Irvine, RSIC Government Relations Coordinator, stated there is no mitigation for the 48 40-ton trucks on Lemmon Drive everyday, passing by churches, schools, businesses and residences; and that includes one supply truck everyday carrying hazardous materials. He reiterated this would be an unprecedented level of truck traffic for a medium density suburban area.

Sarah Chvilicek, Chairman of the North Valleys Citizen Advisory Board (CAB), with other members of the CAB at the podium with her, stated that on November 5, 2001, the CAB voted unanimously to recommend denial of the Oil-Dri special use permit. She stated emphatically that the health concerns of the residents have not been addressed, nor has the preservation of cultural resources. She urged the Board to deny the permit noting the overwhelming opposition of the citizenry.

Gary Hall, Chairman of the Spanish Springs CAB, stated they have considered this project on two occasions and both times have unanimously recommended denial. He stated the particulates from this operation will become airborne; the prevailing winds will take them right to northern Spanish Springs; and the health of the residents needs to be addressed. He further stated the applicant has said that if their permit is denied, they will use Eagle Canyon Drive to haul the raw material out; and he reminded the Board that there are legal documents, which have been endorsed by the County, prohibiting the use of Eagle Canyon Drive on a permanent basis for any vehicle in excess of 8,000 pounds.

John Bradbury, SSCAB member, stated this project is not in the best interest of the residents of this area and it does not comply with the Washoe County Comprehensive Plan. He stated air quality impacts, the particulates as well as the gases and noxious odors that will be produced by the drying of the kitty litter, is reason enough to deny the special use permit.

Chairman Sferrazza asked if there were any other CAB's present. There was no response. He then reviewed sign-in sheets, both for and against, that had been provided for the people who did not wish to speak, noting there were 14 people in favor of the project and 143 against as of 5:30 p.m. The Chairman then read short comments from the numerous letters received, noting that there were 96 letters of opposition and 11 letters of support. He then called on the individuals who had signed up to speak, starting with those in favor of the project.

Chuck Alvey, EDAWN (Economic Development of Western Nevada), spoke in support of Oil-Dri's project and explained how the economic impacts of \$12- to \$14-million were calculated. He stated EDAWN talks to hundreds of inquiring companies every year and attempts to answer their questions about doing business here; and if a

company meets stated requirements and then is ultimately turned away, a credibility gap for both EDAWN and the County is created.

Local residents Eddie Anderson, William Montgomery, Denny Berg, Randy Henkle, Susie Mason, Chris Mumm, Dennis Bryan, and Jeff Spence spoke in support of approving the special use permit stating the community needs the good jobs Oil-Dri will provide; the tax revenue would be good for the economy and schools; there are ways to mitigate the traffic impacts; a message should not be sent out that these businesses are not welcome in Washoe County; several aggregate pits are already located near residential areas and there are no dust and health problems in those areas; the proposed project is a small mining operation compared to the aggregate pits that already exist; a lot of misinformation has been presented concerning harmful impacts; and the Commission needs to put this into perspective as there will be two small mining areas, approximately 30 acres each, in a valley that is 15,000 to 20,000 acres. Jerry Forsch and Peter Clarke submitted written comments on the speaker cards in favor of Oil-Dri and the jobs and economic benefits that would be provided, which were read by Chairman Sferazza.

The following individuals spoke in opposition to granting the special use permit: A. Brian Wallace, Chairman Washoe Tribe of Nevada and California, Norman Harry, former Tribal Chairman, Karel Malloy, Great Basin Mine Watch, Ron Hunter, Patagonia, Inc., Gary Feero, Bob Fulkerson, Progressive Leadership Alliance of Nevada, Charles Pacheco, Jill Ransom, Kelly Karpchuk, Mary Marshall, Marjorie Sill, Sierra Club, Loren Ellery, Health and Human Services Director, RSIC, Becky Lemon, Darlene Gardipe, Vicki Moore, Charles Laws, Tom Dressler, Sam Dehne, William Heckt, Shawna D. Kirsten, Robert Jones (Spotted Horse), Timothy Seward, General Counsel, Washoe Tribe of Nevada/California, Pauline Lamoya, who lives near the Sha-Neva pit, stated the County has difficulty enforcing the conditions it placed on that special use permit, Doug Gardipe, and Michael A. Cook, Alliance for Workers Rights.

After Mr. Cook spoke, the Board took a 15-minute break from approximately 8:05 p.m. to 8:20 p.m. All Board members returned and resumed receiving public testimony against the Oil-Dri Project from the following individuals: Philip B. Fow, a third-grade student, who also submitted signatures of 93 other students in opposition, Elaine Letcher, Clayton Hargrove, David Hunkup*, Conrad Martin, Robert Cameron, John Howe, Karen Hogoboom, Leona Galau, J. Edward Parker, Pat Fladager, Laura Fillmore, Neal Cobb, representing Golden Valley Homeowners Association, Michon Eben, who also presented a petition with over 4500 signatures in opposition, Doris Brooks, Lois Kane, Renee Smith, who passed around a sample of kitty litter and demonstrated the fineness of the dust, Carlos Archuleta, Peggy Lear Bowen, Jeannie Fow, Martin Clayton, Tom Kearns, Dorothy Hudig, School of Medicine Professor of Immunology specializing in pulmonary problems, Julie Dudley, Janice Gardipe, and Maria Huber.

*David Hunkup, RSIC, stated he operates the water and sewer systems in Hungry Valley and is also the Volunteer Fire Chief. He stated they recently drilled some new test wells in Hungry Valley and are looking for additional water resources because

their wells are going dry; the new test wells do show elevated arsenic levels exceeding the EPA 10 ppb; and that is an issue that has not been adequately addressed.

The following individuals submitted written comments in opposition on the speaker cards which were read by Chairman Sferrazza: Paul Powell, John McLeod, Pam Henning, Bonnie Tietje, Jeanine Paul, Mark Higgins, Phyllis Kaiser, Philip B. Fow, Jr., Mark Black, Norman Zuniga, Erica Borum, Betty Higgins, June Feero, and Roy Howard, Alliance for Worker's Rights.

Paula Berkley, RSIC Lobbyist, summed up the opposition position, stating Oil-Dri has maintained that they will have zero impact on air quality, water quality, and traffic. She stated the burden of proof is on Oil-Dri, and it is clear that they have failed. She suggested the Board could deny the special use permit and disallow this project based on the severity of those impacts. She also stated the manufacturing plant is not an allowed use in the adopted area plans, the Washoe County Comprehensive Plan, or the Lemmon Valley Visioning Study, which is further justification for denying the special use permit.

9:25 p.m. Chairman Sferrazza noted that the final tally on the sign-up sheets by individuals who did not wish to speak was 170 against and 17 in support. He then called on the applicants to make their rebuttal remarks.

Mr. Mollath stated the law required to be applied in this case is that Washoe County and the State may impose reasonable environmental, not land use, regulations and conditions upon a mining activity on federal land, but such regulations or conditions cannot prohibit or restrict the mining that is allowed by federal law; and the intent of Congress under the general mining law, is the free and open exploration of minerals on federal land. He said they have gone through a process established by law for the past three years to get to this point. Mr. Mollath stated one of those processes was the preparation of the EIS, which took a lot of time, input and information; the BLM issued their Record of Decision; and this meeting is not the proper forum to readjudicate the BLM determination. He stated the same applies to the air quality permit, the water permit, and the reclamation permit in that they all went through their required legal process, and each was approved by their controlling authority. He urged the Board to examine these facts and put emotion aside.

Mr. Diederich reminded the Board of the four findings they must make in order to issue a special use permit for a mining operation in the general rural zoning, as well as the additional findings necessary since this project would be for development of natural resources, and the special requirements that need to be considered for mining operations. He said the applicant has the responsibility to demonstrate how they have satisfied all of the necessary findings. He then reviewed specific sections of the North Valleys Area Plan showing that the project does not conform to NV4.1--no additional industrial uses, NV4.7T--ensure that permitted land uses do not exceed water resource availability, and NV6.5 and NV6.6--concerning community water and sewer. Mr. Diederich stated he was informed by the Department of Water Resources earlier today that there is a

waterline a little over a mile away that they could connect to. He then reviewed adopted policies of the Warm Springs Area Plan that the project does not conform to, as well as the Conservation Element of the Washoe County Comprehensive Plan. Mr. Diederich stated that staff is charged under Land Use and Transportation Policy LUT1.19 to assess all development, individually and cumulatively, for potential impacts.

Having concluded the applicants, the opponents, and staff presentations, on motion by Commissioner Galloway, seconded by Commissioner Bond, which motion duly carried, Chairman Sferrazza ordered that the public input portion of the public hearing be closed. The Board then began their deliberations with each member asking questions.

In response to Commissioner Shaw, Mr. Mollath stated that the impacts of the project are reduced, sometimes to zero, by virtue of all of the conditions placed on the project by all of the permits. Mr. Mollath expressed his disagreement concerning the burden of proof, stating it is on the protestants to show that the impacts are greater than what would normally be expected of a project of this type, would be real impacts, as opposed to possibilities, and would be substantial and compelling.

Madelyn Shipman, Assistant District Attorney, expressed her opinion that the appellant has a burden of proof to present evidence to refute the findings of the Planning Commission; and it is the opponents burden to show that the impacts cannot be mitigated through conditions.

Commissioner Galloway asked Mr. Diederich questions about the zoning and the area plans. Mr. Diederich displayed maps on the overhead depicting zoning designations of subject and surrounding properties and stated the mines would be in the Warm Springs planning area, but the processing plant would be in the North Valleys planning area.

In response to Chairman Sferrazza, Mr. Diederich stated the RTC Regional Road Impact Fee (RRIF) focuses on collectors, arterials and above; Lemmon Drive is in the Capital Facilities Plan, long term, for the impact fee; and if traffic impacts accelerate the need for impact fee improvements, an entity then has to compete in the process to get the road included, or control those impacts. Chairman Sferrazza asked if the Board had the right to decide issues concerning local streets. Mr. Diederich stated the Board has 100 percent control over local roads.

Chairman Sferrazza asked the applicant why they would not use the south clay pit until it was exhausted rather than the north pit, which is right next to the RSIC. Richard DeLong, Environmental and Resource Management, on behalf of applicant, stated the clay in each area has different physical characteristics; and Oil-Dri will use the clay from each area and blend it to make the product that specifically matches their customers requirements.

In response to Commissioner Bond, Mr. Diederich explained that the Lemmon Valley Visioning Study is a part of the North Valleys Area Plan; and it is the adopted area plans that become the Washoe County Comprehensive Plan, which staff must use for guidance.

Commissioner Bond asked if the permit was not approved, could the applicant put the processing plant on public land. John Singlaub, BLM, stated that one of the conditions of the applicant's currently approved plan of operation is that they obtain this special use permit, as well as all other appropriate permits. He said if this was not approved, the applicant would have to re-submit a modified plan of operation to the BLM, and they would be allowed to locate a processing plant on the existing mining claims. Mr. Singlaub stated under the General Mining Law of 1872, the BLM could not deny this, but both the BLM and the County could impose requirements covering the environment, public health and safety, building codes, and those kinds of issues. He further stated the County could not deny the processing plant on federal land. Commissioner Bond asked what the timeframe would be. Mr. Singlaub stated if a revised plan was submitted, the BLM would have to revise the draft EIS; go out for public review; and final EIS and the Record of Decision would take a minimum of 6 months, perhaps longer depending on public input.

Commissioner Bond then asked about the water the applicant is proposing to use and how long it would take to do an aquifer stress test to define the impacts on local wells. Dan Dragon, Supervising Hydrologist, Department of Water Resources, advised that, for a fractured rock aquifer, they would typically require a minimum 10-day aquifer stress test, run at a minimum of 110 percent of the capacity use planned for the facility. He also explained that, since the rights were transferred from another part of the basin, the State Engineer is looking at this as though there is no net increase in pumping from the basin. However, he said it was his opinion that defining the local impacts of pumping would be an important consideration for the Board.

Commissioner Short asked about the arsenic in the RSIC wells and if Oil-Dri's operation would in some way increase the arsenic levels. Mr. DeLong stated the wells are approximately 500 feet deep; Oil-Dri will be removing 40 feet of clay off the top; and that surface mining would not affect 500 feet of clay or contribute to arsenic levels. Mr. Hunkup stated the RSIC new test wells go down 550 feet, and there are different layers of clay, as well as different layers of sand and gravel. He stated if the arsenic that comes out of the pits finds its way down to the water table, it would contaminate their wells.

Commissioner Short asked Mr. Diederich to display the map showing the haul road and asked if there are nearby residences. Mr. Diederich pointed out the existing homes on the map and the proposed subdivision. Mr. Diederich then discussed a road lease agreement between Oil-Dri and George Peek, Lemmon Valley Land Company, and noted that staff had identified the term of the lease, 20 years with a 10-year termination clause, as a concern to the Planning Commission.

Commissioner Bond asked about monitoring the particulates at the PM2.5 level. Chris Ralph, Environmental Engineer, District Health Department, advised that the EPA has tried to develop a PM2.5 standard for a number of years with the idea that the smaller particulates have a bigger health affect proportionately than the larger particulates, but when they tried to implement the standard, the American Trucking Association filed a lawsuit against EPA, and the implementation was put on hold pending court proceedings. He further stated, in the meantime, the directive from the Supreme Court is that this standard cannot be implemented, and because the District Health Department acts on behalf of the EPA, they are legally prohibited from implementing this standard. Mr. Ralph said they do agree that the smaller particulates are proportional to bigger health affects, but they cannot go against the courts. Commissioner Bond asked if the equipment used to monitor the air quality would register that particulate level. Mr. Ralph stated the current standard is PM10 and their equipment monitors everything up to PM10 size, whereas equipment for PM2.5 would only monitor everything that was 2.5 or less. He also stated this would not be a zero impact project, but they do believe the impacts at the RSIC residences would be small.

Chairman Sferrazza asked Dr. Meyers about the arsenic issue and whether the mining operation would result in arsenic going into the groundwater supply. Dr. Meyers stated no one can be totally certain, but it would be his professional opinion that there would be a significant chance the arsenic would get into the groundwater. He further stated that he could say with absolute certainty that no one can say 100 percent that it would not.

In response to Chairman Sferrazza's question regarding Sha-Neva truck traffic on Lemmon Drive, Sharon Kvas, Planning Manager, stated Sha-Neva has a special use permit, which will allow them to mine BLM properties for the rest of the year, and they can request an extension of the permit.

In response to Commissioner Galloway, Mr. Ralph stated that based on the predictions, most of the emissions will be from the processing facility and not from fugitive dust. Commissioner Galloway asked if that was based on actually looking at a clay mining operation. Mr. Ralph stated the factors the applicant used in the overall report were a combination of sources. Commissioner Galloway asked Mr. Ralph to respond to the allegations that the air quality permit was issued on insufficient data. Mr. Ralph stated he would disagree with that statement. He further said the statement has also been made that the District Health Department ignored the Tribe's request on a number of issues, which he feels is another misstatement. He stated the Air Quality Division has followed the regulations and requirements for this permit; and there are baseline pollution levels for major sources of air pollution and Oil-Dri is not big enough to qualify as a major source. Commissioner Galloway then asked about the prevailing winds and dispersion of the emissions. Mr. Ralph stated the modeling that was done for the EIS predicted very low numbers at the Tribal property residences and buildings; he does concur with the results of that modeling; and the numbers would be even lower out in Spanish Springs.

Commissioner Galloway asked about the area being closed to mining at some point in time by an agreement between Washoe County and the BLM and the reason for that. Mr. Singlaub stated there is currently a withdrawal in place for about 170,000 acres surrounding the communities of Reno and Sparks and southern Washoe County because the citizens of this community are opposed to residential mining, but this project was grandfathered in. Commissioner Galloway asked if Oil-Dri could file new claims if this project was not approved. Mr. Singlaub stated Oil-Dri could only work within the claims they have, which total 2,200 acres in that area that were exempted from the mining withdrawal.

Commissioner Shaw stated he does not see a proposed condition concerning the aquifer stress test. Mr. Dragon stated, if the Board does approve this special use permit, he would request a condition that he be allowed to supervise the stress test on the wells Oil-Dri drills based on what the peak demand would be. Commissioner Shaw also asked about the option of Oil-Dri connecting to the County system. Mr. Dragon responded this new idea came to the surface after they looked at some of the wells out there, and there was a concern whether the existing wells could supply the demand for the project. He said the option for Oil-Dri would be to weigh the cost of drilling new wells against the cost of connecting to the County system.

Concerning the air quality permit, Commissioner Shaw asked if any information had been gathered from Oil-Dri's existing plants or if Oil-Dri is having air quality compliance problems in other states. Mr. Ralph stated they reviewed emission information from Oil-Dri's other plants, but not compliance issues. Commissioner Shaw asked if a condition could be added to make sure Oil-Dri is in compliance in other states should the Board approve this. Mr. Ralph stated staff could look into that and make sure it does not happen here.

Commissioner Shaw asked what action the other CAB's had taken on this permit. Commissioner Bond reported that Sun Valley recommended denial; and that Warm Springs had initially recommended approval and added several conditions, but at a second meeting, they also recommended denial.

Commissioner Shaw asked about the cemetery and the archeological find at the Colony. Mr. Hunkup advised the cemetery is in the foothills just to the east, and the mining operation would be visible from the cemetery. He also stated there are archeological finds all over this particular area.

Commissioner Galloway asked Ms. Shipman for her opinion as to what jurisdiction the County would have if this permit was denied and the applicant moved the processing plant to the federal land. Ms. Shipman advised that she can find no case law relating to a case such as this where a single application involves both public and private land components, which must be looked at as a whole; and she does not believe a denial would be overturned by a court. She further advised that she does agree that the Board could not deny a new application for the project located totally on federal land. She said it has been a long-standing practice between Washoe County and the BLM that special

use permits be required for activities on federal land, and the County would go through the regular permitting process. Commissioner Galloway asked if requiring connection to the water line would be a condition the County could place on the project if it were on federal land. Ms. Shipman stated that would be an environmental condition; therefore, she believes that would be something the County could require. She stated the County could condition the project on federal land, but not in such a way that operations would be prohibited.

Chairman Sferrazza stated there was a question concerning why the environmental impacts of the Sha-Neva haul road were not considered in the EIS. Mr. Singlaub explained that, of the options available, Chickadee was the preferred access; however, in the interim, Oil-Dri was able to come to an agreement with George Peek and use a private access road through his property. Chairman Sferrazza asked how many trips a day are generated by Sha-Neva and whether there is any condition on this permit that those trips will not continue. Sharon Kvas stated Sha-Neva has 20 to 50 one-way trips each day depending on the need for their material. Mr. Diederich stated there is no condition that Sha-Neva stop using the haul road. Chairman Sferrazza stated one of the assumptions made in the EIS is that those Sha-Neva trips are going to discontinue; and if they do not, the total impact would be 148 truck trips per day at the high end. Linda Shane stated they do not own the pit anymore, and she estimated that there were times when they had up to 50 loads a day out of the pit.

Commissioner Bond asked what kinds of material will be emitted from the processing plant by the scrubbers and by drying the clay. Mr. Ralph stated he does not believe there will be a lot of toxic material coming out of the plant. He stated they will be burning oil, so there will be some sulfur emissions; and Air Quality added more stringent standards to their permit to require them to burn a lower sulfur material than they had originally proposed. Commissioner Bond also asked what will happen if there are exceptionally high readings once the air monitoring begins. Mr. Ralph stated the first thing that would be done is to evaluate what caused the problem and then the Air Quality Division would address the problem.

Commissioner Shaw asked that staff respond to the applicant's request to modify conditions 20 and 29. Mr. Diederich stated the language proposed by staff should be retained, specifically as to the hours of operation. He said the purpose of the condition is to provide a period of quiet time during the sleeping hours for the surrounding community. As to the reclamation condition, Mr. Diederich stated the proposed condition is actually more liberal than what the applicant said they would do in their application. Commissioner Shaw stated he was very concerned about so many large trucks going past the elementary school and asked if there was anything the County could do to prohibit the trucks from going by during the times the children are walking to and from school. Mr. Diederich advised the applicants have agreed to condition No. 66, which states they will do a study on the segment through the school zone to make sure all appropriate Federal Highway Administration manual uniform traffic control devices have been complied with. He stated it would be unique for the County to limit truck traffic for one use, and

that it would be more appropriate to have the Public Works Department separately review whether there should be truck limitation zones for everyone.

Commissioner Shaw stated several years ago when he sat on the District Health Board, geothermal power came to Washoe County; and there were no regulations to cover that. He stated he is concerned about emissions, and he does not want another situation where something happens because the County did not have a policy in place. Mr. Ralph stated the geothermal was a new and different source of emissions, and they were surprised by the odor, but aggregate operations and material processing facilities have existed in Washoe County for a long time, although there are no clay mines.

Commissioner Galloway asked staff to clarify the comments made concerning Eagle Canyon Road. David Price, County Engineer, advised that Eagle Canyon Road is owned by the Bureau of Indian Affairs (BIA) from the point where Oil-Dri would make connection down to the school. He further stated when the BIA was granted the right-of-way to build their road, they signed an agreement with Spanish Springs Associates and either Sha-Neva or Rocky Ridge concerning limiting trucks wherein they agreed that they would not allow permanent truck traffic over 8,000 pounds. Mr. Price continued stating that when the County took over the first portion of the BIA road in 1990, the County also signed the agreement.

Commissioner Shaw stated he did review the tape of the Planning Commission hearing on this matter; the Board has received a lot of material and information; and he does have some concerns regarding making the findings of consistency with adopted plans, traffic, water, and air quality.

Commissioner Galloway stated he is concerned about the integrity of the planning that has been done for this area; the area was withdrawn from mining, but these claims were already in place; and such industrial use is in direct conflict with the North Valleys Area Plan. He cited other conflicts between the proposed project and both the North Valleys and Warm Springs Area Plans. He also stated if the Board does approve this, he would want to see a condition that they be required to hook up to the water line. Commissioner Galloway stressed the importance of being consistent with the adopted area plans.

Chairman Sferrazza stated he also believes the manufacturing portion is not consistent with the area plan; he is concerned about the access route traversing a planned residential area; and this could have a significant impact on the Lemmon Valley hydrographic basin. He stated he feels this project would have a significant environmental impact on the RSIC, a residential community.

Commissioner Bond stated there is no way to totally mitigate the impacts of an operation of this kind on any community, but she feels Oil-Dri has made every effort to try to mitigate the environmental impacts. She further said her other concern is that Oil-Dri is probably not going to give up this mine; they will start another process and put the plant right under the people's noses; and if that happens, the County will not have

that much control over the operation. Commissioner Bond stated perhaps the County should "keep the ball in its court" and do the best it can to condition the project and reduce the impacts. She stated there are a lot of conditions proposed by staff and she would want to add even more to address the issue of water supply if the Board approves this.

Commissioner Short stated the applicant has worked with the school district concerning crossing guards; while he is concerned about the water, Oil-Dri does have good water rights; and whatever the Board does, there is going to be a mine there. He stated his concern is that the County may not have that much control unless the Board approves this special use permit.

Commissioner Shaw asked if the County would still have control over the conditions if the Board denies the permit without prejudice and Oil-Dri comes back with a different approach. Ms. Shipman stated that with or without prejudice does not necessarily mean the applicant would have to wait a year before they come back because the Code says if there is a substantial change to the proposal, the one-year prohibition would not apply. She further advised that the real issue is whether the County would be able to enforce a permitting process for an activity located solely on federal land.

Commissioner Bond moved to uphold the appeal and grant the special use permit, stating there are conditions she wants to add if the motion succeeds. Commissioner Short seconded the motion. Following discussion wherein Board members expressed which of the necessary findings they could not make, Chairman Sferrazza called for the vote, and the motion failed with Commissioners Bond and Short voting "yes," and Commissioners Sferrazza, Galloway and Shaw voting "no."

Commissioner Galloway then moved that the appeal by Oil-Dri Corporation of Nevada from the decision of the Washoe County Planning Commission to deny Special Use Permit Case No. SW0012-034 be denied and the recommendations and findings of the Planning Commission be upheld. Commissioner Galloway specifically referenced the findings of consistency with area plans, site suitability, and non-detrimental, and stated that he could not make those findings with regard to the processing plant operation alone, with or without the mining operation. The motion was seconded by Commissioner Shaw; and, upon call for the vote, the motion carried on a 3 to 2 vote with Commissioners Bond and Short voting "no."

This motion was based on the majority of the Board having made the following findings:

1. **Consistency:** The proposed mining facility is not consistent with the action programs, policies, standards and maps of the Comprehensive Plan and the North Valleys Area Plan and the Warm Springs Area Plan. The proposed access road would traverse through an area planned for extensive residential development, causing truck traffic to utilize local roads before accessing designated collector or arterial streets.

2. **Site Suitability:** The site is not physically suitable for the type of development and for the intensity of the development. Recent reclamation/revegetation efforts in the vicinity of the SUP project have not demonstrated sufficient success to address erosion and dust control needs.
3. **Issuance Not Detrimental:** Issuance of the permit will be significantly detrimental to the public health, safety or welfare; injurious to the property or improvements of adjacent properties; or detrimental to the character of the surrounding area. The Final Environmental Impact Statement identifies impacts to the Reno-Sparks Indian Colony would occur even with all the proposed mitigation measures. The lack of specific mitigation plans should impacts to local groundwater resources occur, makes it impossible to determine if the SUP activities will be injurious to property.
4. **Private-Public Components:** The above findings would be appropriate without regard to the mining component of the application.
5. The Planning Commissioners gave reasoned consideration to the information contained within the staff report and information received during the meeting.
6. The Washoe County Commission gave reasoned consideration to information contained within the reports transmitted to the Washoe County Planning Commission and the Washoe County Commission, and information received during the Washoe County Commission public hearings.

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There being no further business to come before the Board, the meeting adjourned at 11:45 p.m.

PETER J. SFERRAZZA, Chairman
Washoe County Commission

ATTEST: **AMY HARVEY**, County Clerk

*Minutes Prepared by
Jeraldine Magee and Sharon Gotchy
Deputy County Clerks*