

**BOARD OF COUNTY COMMISSIONERS
WASHOE COUNTY, NEVADA**

THURSDAY

10:00 A.M.
SPECIAL SESSION

MAY 7, 2020

PRESENT:

Bob Lucey, Chair
Marsha Berkbigler, Vice Chair
Kitty Jung, Commissioner (via telephone)
Vaughn Hartung, Commissioner (via telephone)
Jeanne Herman, Commissioner

Nancy Parent, County Clerk
Eric Brown, County Manager
Dave Watts-Vial, Assistant District Attorney (via telephone)

The Washoe County Board of Commissioners convened at 10:02 a.m. in special 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:

20-0277 **AGENDA ITEM 3** Public Comment.

On the call for public comment, a voicemail was received by Annemarie Grant. In it, she stated she was the sister of Mr. Thomas Purdy, who was hogtied and asphyxiated at the Washoe County Jail. Citing a letter by Dr. Randall Todd, she thought bad things happened when good people did nothing. Additionally, she said Dr. Todd felt Health District Officer Kevin Dick was unqualified and did not value transparency. She said she was unsurprised Chair Lucey felt Health District staff had the expertise to handle the pandemic. She thanked Commissioner Jung for requesting an update from the Sheriff about what he was doing to protect inmates from the COVID-19 virus since it was the Board's job under Nevada Revised Statute 211.020 to protect against escape, sickness, or infection. A copy of her comments was placed on file with the Clerk.

20-0278 **AGENDA ITEM 4** Announcements/Reports.

Commissioner Herman noted she heard on the radio that the Sheriff's Office and the jail had the COVID-19 virus problem under control. She relayed the comments of a citizen who installed air purifying systems for businesses who thought malls could use this system to help them reopen; the system was 99 percent effective against viruses. She pointed out the City of Reno received money for ground systems cleanup, and she thought any leftover money could be spent on a study of the contamination in Lemmon Valley.

20-0279

AGENDA ITEM 5 Discussion and possible reconsideration, based on new developments in available medications for the treatment of COVID-19, of April 18, 2020, direction to the Washoe County District Attorney's Office to file an amicus (or similar) legal brief on behalf of the county in support of the Nevada Osteopathic Medical Association's (NOMA) and Dr. Bruce Fong's legal challenge to the Nevada State Board of Pharmacy's (BOP) March 23, 2020, emergency regulation banning chloroquine and hydroxychloroquine prescriptions for the treatment of COVID-19 except in cases of hospitalization. An amicus brief is a document submitted by a non-party to a lawsuit that is intended to outline legal arguments and authorities for the benefit of the Court in ruling on the legal issues involved. NOMA presented its challenge by letter to the BOP on April 9, 2020, asking it to pass upon the validity of the regulation pursuant to NRS 233B.110 and asserting its invalidity on various statutory and constitutional grounds. NOMA's challenge seeks to allow licensed healthcare providers to prescribe these medications to treat people with COVID-19 regardless of hospitalization. (All Commission Districts.)

Chair Lucey indicated it was his decision to bring this topic to the Board of County Commissioners (BCC), but the COVID-19 (C19) pandemic was a rapidly changing situation. The initial intent was to protect the doctor/patient relationship and provide residents with the ability to receive treatment with their providers as they saw fit. He stated things had changed. He pointed out this never had anything to do with politics. With the addition of remdesivir and other treatment plans, he felt it prudent for the BCC to reconsider the amicus brief. He felt the State of Nevada and the Governor's Office had done everything in their power to address the C19 crisis. He praised the State for working with Washoe County on this brief.

Vice Chair Berkgigler stated she did not care what the President thought on this issue; her position was about respecting patient dignity and privacy. She thought healthcare issues should be between patients and doctors and they should not be political issues. She believed there would be less hoarding if drugs were obtained under a doctor's supervision. Even though that was why she initially supported the amicus brief, she subsequently learned new details that made her unhappy with the decision, and she recommended the Board change its stance on the brief.

Commissioner Hartung agreed with Vice Chair Berkgigler that it was about physicians' rights, but it had become politicized. He thought it was prudent to pull the amicus brief because it had turned into something that was never intended.

Commissioner Jung requested direction from the District Attorney's Office about what she did in her role as Commissioner. Additionally, she felt an item establishing a policy about when the County should ever file an amicus brief needed to come back to the BCC as soon as possible. She thought this could provide guidance for the Board. She said she did not recall ever supporting an amicus brief. She acknowledged this was a topic that needed a Board vote and the majority would rule.

Chair Lucey reiterated the C19 situation was evolving daily. He noted the press releases from the Washoe County Health District illustrated that hospitals were not yet at capacity. The initial intent was to protect those facilities so costs would not be impactful to the County; so far costs had not risen. Dr. Reka Danko from the Health District had informed him that most treatments, including hydroxychloroquine and chloroquine, were not being recommended by the Centers for Disease Control and Prevention (CDC) or utilized at hospitals. While the BCC was concerned about ensuring decisions were kept between doctors and patients, he felt like it was no longer an issue because of the availability of many treatments.

Commissioner Herman stated she was not aware of any changes. She emphasized the importance of the doctor/patient relationship and doctors' right to make recommendations for their patients. She felt the item should be brought back at another meeting because the Board did not have the legal advice they needed to change their minds.

Chair Lucey pointed out setting up alternate care sites would have resulted in costs but, since there had not been a surge in C19 cases, he did not see a reason to move forward with the amicus brief. He mentioned it would need to be decided today and he moved that the Board remove its consideration for filing an amicus brief and remove itself from any challenges of the Pharmacy Board in the way of NOMA.

Citing Rule 7.3 established for the BCC in 2017, Assistant District Attorney David Watts-Vial stated a motion to reconsider any action by the Commission could be made at the same meeting as the original action or the next regularly scheduled meeting, as long as it was within 25 days of the meeting where the original action was taken. The motion to reconsider had to be made by a Commissioner who voted on the prevailing side of the motion, but it could be seconded by any member of the BCC.

Chair Lucey clarified his motion was for the Board to remove its support for the consideration of filing an amicus brief supporting the NOMA lawsuit against the Pharmacy Board. It was seconded by Vice Chair Berkbigler.

There was no response to the call for public comment.

Commissioner Jung believed all leaders, particular those responsible for half a million people, had the right to change their minds. She felt this should be applauded and respected, not considered shameful. She looked for this attribute in leaders and thought this was often lost in local and national politics. She praised the Chair, the Vice Chair, and the rest of the Board, saying she would vote in the affirmative.

On motion by Chair Lucey, seconded by Vice Chair Berkbigler, which motion duly carried on a 4-1 vote with Commissioner Herman voting "no", it was ordered that the Board remove its support for the consideration of filing an amicus brief supporting the NOMA lawsuit against the Pharmacy Board.

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Chair Lucey stated Agenda Item 6 would be pulled because the Board did not have the ability to hear the item. It would come back to the Board at a later time if necessary.

20-0280 **AGENDA ITEM 7** Update on Washoe County's COVID-19 Road to Recovery – Presentation, update, and discussion on the County’s response to COVID 19, and the Governor’s Roadmap to Recovery, and possible action or direction to staff on proceeding into Phase 1 of the Recovery, led by County Manager Eric Brown and County Commissioner Vaughn Hartung.

County Manger Eric Brown said he had anticipated receiving direction from Governor Steve Sisolak before this item, but the Governor’s press conference was not scheduled until later in the day. Because of that, this presentation would not go into as great a depth as planned. He emphasized the Board of County Commissioners was actively engaged with the Governor’s Office and stakeholders in other jurisdictions to consider how to reopen northern Nevada in conformance with the Centers for Disease Control and Prevention’s guidance regarding social distancing and sanitation. He praised Chair Lucey’s leadership, saying the Chair worked with the State’s Local Empowerment Advisory Panel in developing guidelines for reopening, and Commissioner Hartung for his work with regional stakeholders to ensure benefits to businesses and the safety of the public. He thanked Assistant County Managers Dave Solaro and Kate Thomas for their involvement in listening to the needs of the community.

Chair Lucey thanked Mr. Brown for his tireless work to ensure the County was prepared both from a business standpoint and with regard to the safety of employees. He said Mr. Brown performed with grace and balance, and he thanked the Manager for his support, leadership, and calming demeanor.

Commissioner Hartung thanked Chair Lucey, Mr. Brown, Ms. Thomas, and Mr. Solaro, as well as Management Analyst Bojana Vujeva, Senior Environmental Health Specialist Jeffrey Brasel, the Reno and Sparks City Councils, and the other Commissioners. He described the effort to ensure public health and safety while keeping businesses viable as a Herculean lift; not allowing businesses to reopen would cause them to fail and hurt employees. He stated the goal was to apply methodologies used for essential businesses to non-essential businesses, and he was hopeful the Governor would speak about those methodologies in his address.

Chair Lucey agreed all Commissioners participated in this effort by answering citizen calls and speaking with colleagues at the Cities. He emphasized that all elected officials in the region were concerned with the safety and wellness of the 480,000 citizens who resided within Washoe County. Additionally, they were concerned with ensuring businesses survived any economic outfall that resulted from the COVID-19 (C19) pandemic. He said he looked forward to the Governor’s comments, adding the Governor was receptive to discussions by the County, the Cities, and other associations across the state. He thanked the Governor for his leadership and underscored the challenge of the

decisions the Governor had to make. He hoped to have information to disseminate soon after the press conference.

Commissioner Hartung thanked the family members of the Manager, the Commissioners, the Reno and Sparks Council Members, and the Governor for enduring the process.

Vice Chair Berkbigler thanked front-line firefighters and law enforcement personnel from the three local jurisdictions and throughout the state. She pointed out Gerlach, Incline Village, and Crystal Bay were inundated with visitors from California, but residents were still being kept safe. She lauded Sheriff Darin Balaam for controlling the traffic in Incline Village, as well as the Health District and the National Guard for their work.

Commissioner Jung echoed the comments made by other Commissioners and thanked all essential Washoe County staff who continued to work without the salaries of law enforcement officers or firefighters. She thanked everyone who worked in janitorial and food services. She requested that Congressman Mark Amodei or one of his staff members attend a meeting or provide an update regarding C19. She expressed frustration that local governments needed to put up money for disasters and hope to get reimbursed by the Federal Emergency Management Agency (FEMA) instead of receiving the money up front and having the local governments reimburse FEMA. She asked for an update about FEMA reimbursements from prior years as well a discussion on the federal policy. She reminded her constituents that they managed their own risk every day before C19 and they knew how to keep people safe. She encouraged them to use the data wisely and do everything to minimize their risk, offering to help anyone who did not know how to do so. She thanked Mr. Brown for his work and offered to help him and the Commissioners.

Commissioner Herman echoed everyone's comments and noted people understood the seriousness of the situation. She thanked the citizens, mentioning they suffered more than the Board knew with losses of jobs and businesses. Even with that, the citizens followed the rules and distanced themselves. She called them heroes for giving up a lot.

There was no response to the call for public comment.

20-0281 **AGENDA ITEM 8** Possible Closed Session for the purpose of discussing labor negotiations with Washoe County and Truckee Meadows Fire Protection District per NRS 288.220.

Chair Lucey stated there was a need for a closed labor session. The Board of County Commissioners meeting would adjourn at the conclusion of the closed session.

There was no public comment on this item.

On motion by Vice Chair Berkbigler, seconded by Commissioner Herman, which motion duly carried on a 5-0 vote, it was ordered that the meeting recess to a closed session for the purpose of discussing negotiations with Employee Organizations per NRS 288.220.

20-0282 AGENDA ITEM 9 Public Comment.

On the call for public comment, a voicemail from Mr. Andy Chapman was played where he introduced himself as the President/CEO of the Incline Village Crystal Bay Visitors Bureau. Regarding Agenda Item 7, he hoped to work with Commissioners and County staff on how to consider the Incline Village Crystal Bay area differently than the County as a whole during the transitional process. He expressed appreciation for the hard work of the Commissioners and staff.

20-0283 AGENDA ITEM 10 Announcements/Reports.

Vice Chair Berkbigler requested County Manager Eric Brown and Chair Lucey reach out to Mr. Andy Chapman to determine what the Incline Village Crystal Bay Visitors Bureau wanted done differently in that area versus the rest of the County.

Chair Lucey wished Vice Chair Berkbigler a happy belated birthday and a happy Mother’s Day to his wife and all mothers in the community.

Commissioner Jung said everyone had special relationships with women and she said she missed hugging and kissing her mother every day.

10:47 a.m. The Board adjourned for a closed session.

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11:26 a.m. There being no further business to discuss, the meeting was adjourned without objection.

BOB LUCEY, Chair
Washoe County Commission

ATTEST:

NANCY PARENT, County Clerk and
Clerk of the Board of County Commissioners

*Minutes Prepared by:
Derek Sonderfan, Deputy County Clerk*