



STOREY COUNTY PLANNING COMMISSION

Meeting

Thursday August 20, 2020 6:00 p.m.
26 South B Street, District Courtroom, Via Zoom
Virginia City, Nevada

MEETING MINUTES

CHAIRMAN: Jim Hindle

VICE-CHAIRMAN: Summer Pellett

COMMISSIONERS:

Larry Prater, Kris Thompson, Jim Collins, Adrienne Baugh, Bryan Staples

-
- 1. Call to Order:** The meeting was called to order by the Chairman at 6:00 P.M.
 - 2. Roll Call via Zoom:** Jim Hindle, Adrienne Baugh, Larry Prater, Summer Pellet, Jim Collins, Bryan Staples
Absent: Kris Thompson

Also Present: Senior Planner Kathy Canfield, County Manager Austin Osborne, Chief Deputy District Attorney Keith Loomis.
 - 3. Pledge of Allegiance:** The Chairman led the Pledge of Allegiance.
 - 4. Discussion/Possible Action:** Approval of Agenda for August 20, 2020.

Motion: Approval of Agenda for August 20, 2020, **Action:** Approve, **Moved by** Commissioner Staples, **Seconded by** Commissioner Baugh, **Vote:** Motion carried by unanimous vote (**summary:** Yes=6).

No Public Comment.
 - 5. Discussion/For Possible Action:** Approval of Minutes for July 16, 2020.

Motion: Approval of Minutes for July 16, 2020, **Action:** Approve, **Moved by** Commissioner Prater, **Seconded by** Commissioner Collins, **Vote:** Motion carried by unanimous vote (**summary:** Yes=6).
 - 6. Discussion/For Possible Action:** Consideration, study and review of proposed amended service plan for TRI GID and possible action to (1) recommend approval, modification, or rejection of the amended plan and (2) appointment of member of Planning Commission to communicate Planning Commission recommendation to Board of County Commissioners.

Chief Deputy D.A. Loomis: Summarized the reasons why the GID service plan is proposed to be amended. Probably the most significant amendment is an amendment to allow the TRI GID to incur debt in the course of its operations which it is presently prohibited from incurring. TRI Center LLC has effectively been in charge of the GID through its water and sewer operating company. The contract with the operating company has been terminated and its operation taken over by the GID itself. The GID anticipates seeking loans to fund capital improvement projects and accordingly would expect to incur the debt associated with those loans.
In order to amend a service plan, the GID is required to file its proposed amended plan with the County Clerk who, in turn is required to deliver the proposed amended service plan to the planning commission. Under NRS 308.070(4) the planning commission is required to "study such service plan and a representative thereof shall present its

recommendations consistent with the Special District Control Law to the board of county commissioners at the hearing.” NRS Chapter 308 is titled the Special District Control Law. NRS 308.010(3) sets out the purpose of the law as : “It is the purpose of the Special District Control Law to prevent unnecessary proliferation and fragmentation of local government, to encourage the extension of existing districts rather than the creation of new districts and to avoid excessive diffusion of local tax sources.” In order to accomplish this purpose the proponents are required to file a service plan with the County. NRS 308.030 sets out the requirements of the service plan as follows:

1. Any prospective petitioner for the establishment of a special district shall file a service plan with the board of county commissioners of each county which has territory included within the boundaries of the proposed district. The service plan shall:

(a) Consist of a financial survey and a preliminary engineering or architectural survey showing how the proposed services are to be provided and financed.

(b) Include a map of the proposed district boundaries, an estimate of the population and assessed valuation of the proposed district.

(c) Describe the facilities to be constructed, the standards of such construction, the services to be provided by the district, an estimate of costs, including the cost of acquiring land, engineering services, legal services, proposed indebtedness, including proposed maximum interest rates and any discounts, any other proposed bonds and any other securities to be issued, their type or character, annual operation and maintenance expenses, and other major expenses related to the formation and operation of the district.

(d) Outline the details of any arrangement or proposed agreement with any city or town for the performance of any services between the proposed special district and such city or town. The form of any such contract to be used, if available, shall be attached to the service plan.

È If a board of county commissioners initiates the formation of a special district, it shall prepare such a service plan as an appendix to its initiating resolution.

2. Except where the formation of a district is initiated by a board of county commissioners, each service plan filed shall be accompanied by a processing fee set by the board of county commissioners not to exceed \$200 which shall be deposited in the county general fund. Such processing fee shall be sufficient to cover the costs related to the hearing prescribed by NRS 308.070, including the costs of notice, publication and recording of testimony.

Shari Whalen, General Manager for TRIGID (Tahoe Reno Industrial Center General Improvement District):

Presented an update on what’s happening with the TRIGID and the changes to the service plan; the service plan is almost 20 years old and a lot has changed in the TRIC which is our water and sewer service utility area. There is “housekeeping” that is occurring. Said there is now five full time employees working for the TRIGID. We are taking over all operations; financial, accounting, operators, etc. from the TRI Water and Sewer Company. In 2016 the GID did their first rate study and since 2016 the GID which has been operating without subsidy from TRI Water and Sewer Company (portions of this conversation were inaudible). Whalen highlighted some significant changes to the service plan:

-Reference to **requirements** of the TRI Water and Sewer Company or TRIC LLC for funding of operations of the TRIGID have been removed and are no longer a requirement under any contract. Those are all taken out of the service plan. Those also been removed from the water and sewer rules which have been included as an attachment to the service plan.

-An important thing to note in the service plan is that when the GID was formed the service plan precluded the GID from incurring any debt which made sense because the Water and Sewer Company was subsidizing the GID. Today the GID is operating independently of that old contract and there is no requirement for subsidy from the master developer or TRI Water and Sewer Company. In looking at the GID’s capital improvement program, we (GID) want to be able to responsibly incur debt as a tool to fund future capital improvements. The GID is particularly interested in state revolving loan funds which are principal forgiveness loans that are a very beneficial tool for a utility to improve their water and sewer infrastructure. One of the changes to the service plans is to allow the GID to incur debt.

Discussion between Chairman Hindle and Ms. Whalen regarding some details and clarifications to the amendment of the service plan. (portions of the conversation were inaudible).

Chairman Hindle asked Deputy D.A. Loomis if the county has gone through a similar process of accepting a service plan from the Lockwood GID. Loomis said that not since he has been with the county, but the statutes in chapter 309 Special District Control Law requires that the proponent of the amendment to the service plan appears before the planning commission and the commission should study the proposed amendments to the service plan to either accept, reject or modify the amendment.

County Manager Osborne: Added that the amendment proposed does not in any way change the status of the TRIGID. It is still a separate local government and is not affiliated with Storey County. Even if one day the board of county commissioners were to consider becoming the ex officio board, it would still maintain a separate local government status. Asked Keith Loomis to expand on this.

Deputy D.A. Loomis: Chapter 318 which is the one that governs GIDs in particular does provide that the board of county commissioners can be ex officio the board of trustees of the GID. That doesn’t make the GID a department of the county. It is still a separate independent government entity that is governed by the board of trustees in an ex

officio capacity.

No Public Comment

Motion: (1) Move to approve proposed amendment to the service plan for TRIGID, **Action:** Approve, **Moved by** Commissioner Staples, **Seconded by** Commissioner Prater, **Vote:** Motion carried by unanimous vote (**summary:** Yes=6).

(2) With no objections by the commission, Chairman Hindle offered to be representative of the Planning Commission to communicate Planning Commission recommendation to Board of County Commissioners. No official motion or vote was taken.

7. **Presentation (Annual SUP Update):** By Comstock Mining, LLC. (Gold Hill/American Flat) Special Use Permit Holder to present its annual compliance review in accordance with the conditions of Special Use Permit No. 2000-222-A-5.

Scott Jolcover, Comstock Mining Inc. presented a power point presentation (see attached). No active mining has taken place in 2019 through August of 2020.

- **Site Overview and Disturbance Acreage:** No changes to this in the last 12 months.
- **Review of SUP Compliance:** Compliant in all requirements of SUP.
- **Silver City Water Line Protection:** No mining took place in proximity to the Silver City Water Line.
- **Reclamation:** Successful earthwork completed for Hartford, Keystone, and Justice. No evidence of erosion, slumping or slope failure. Met requirements of reclamation permit, earthwork and revegetation. Bond requirement reduced from \$7.1 to \$6.8 million. CMI exceeded the credited amount by going above and beyond standard requirement including, but not limited to aerial seeding.
- **SR 342-2018 National DOI/BLM Award:** Awarded the 2018 "Fix a Shaft Today" award for the successful filling of the Silver State Mine Shaft and rebuilding of Nevada State Route 342 in Storey County.
- **Monitoring Report:** Dust monitoring will resume with future mining activities. Groundwater regular monitoring as required by permits. No noise issues were reported in the last 12 months. No blasting activities occurred in the last 12 months.
- **Tonogold Update:** Comstock Mining LLC membership interests are in the process of being transferred to Tonogold Resources Inc which will own the Lucerne mine property. In January 2019, a new Agreement was signed that allowed Tonogold to acquire 100% of Comstock Mining LLC, and provided an option for them to lease the American Flat facility for processing. This replaces the original Option. Tonogold has been meeting requirements and the transaction is expected to close in September of 2020. Tonogold has received permits from Storey County to commence drilling on parcels outside of the SUP which will likely start in September of 2020. Once the transaction closes, Comstock will notify the Planning Department, and add Comstock Processing LLC to the Special Use Permit, such that Comstock Mining LLC continues to be responsible for the Lucerne Mine, and Comstock Processing LLC will be responsible for the American Flat processing facility. The map has not changed in regards to the parcels in American Flat on the borderline of the SUP.
- **Mercury Clean Up (MCU):** Mercury Clean-Up LLC (MCU) is a full time global environmental company dedicated to the recovery and removal of Mercury from contaminated soils left behind by both past and present gold mining activities. MCU is committed to stopping the spread of elemental and Methylmercury. Comstock has invested \$3M in MCU to date has committed an additional \$2M to date to support this important technology. The United Nations signed an accord, it was called Minamata with 140 countries on board to basically ban the use of Mercury and do whatever possible to clean up Mercury pollution. MCU is using Comstock's American Flat facility to test and fine tune their mercury recovery technology in a two-year pilot test. Testing will be performed in full compliance with NDEP regulations and Comstock's approved Mercury sampling and analysis plan.
- **Comstock Foundation for history and culture:** Discussed long range plans to address the preservation of historic structures. Fully document or mitigate archaeological or surface resources affected by any undertaking. Foundation support includes a 1% Net Smelter dedication. From 2012-2016 Comstock Mining generated \$899,000 in royalties. Contributions to the foundation totaled \$935,000.

- Completed a third party audit of the Net Smelter Royalty at the request of Storey County and executed the SUP memorandum of understanding on February 18, 2020.

County Manager Austin Osborne: Said that Mr. Jolcover has been incredible at communicating with Senior Planner Canfield and me. He keeps us updated with any movements that are going on and brought the Tonogold folks to talk with us about any changes that are happening. The financial assessment review of the 1% net smelter return into the Comstock Foundation for historic preservation projects is currently being reviewed by the Comptroller's office and appears to be accurate. The board of county commissioners also made an amendment to the special use permit that all of that money henceforth be used in historic preservation projects in Storey County. Osborne said that the planning department and he have not seen any non-compliance issues from NDEP or the regulatory agencies.

Chairman Hindle: Comstock Mining has lived by the spirit and letter of this agreement. Said he is very complimentary of Scott and the other management. Hindle said that Comstock has proven that they can and are a responsible mining company.

- 8. Discussion/For Possible Action:** Bill 118/Ord 20-307 Text amendments to Storey County Code Title 17 Zoning Districts CR Commercial-Residential; C Commercial; R1 Single-Family; R2 Multi-Family Residential; E Estate; F Forestry; A Agriculture; I1 Light Industrial and I2 Heavy Industrial; NR Natural Resources and SPR Special Planning Review zones. Additions, modifications, elimination and clarifications including the listed land uses, minimum floor area, setbacks, minimum parcel area, distance between buildings and home enterprises are proposed.

Senior Planner Canfield: This is the commission's 15th meeting talking about this item. At the last meeting the sticking point was the minimum home size requirement for a residential unit in each chapter. One of the comments at the last meeting was to potentially reduce the minimum home size requirement to whatever the building code requires for size. Canfield said that she met with one of the building inspectors who researched the building code and she doesn't believe that this is going to do what we were hoping it would do. Minimum habitable room areas must not have less than 70 square feet. There are some other requirements such as dimensions, etc. but actually the requirements are very minimal which could allow for a very small home and it really depends on how it is designed. The idea just to rely on the building code could allow for homes that are very small and smaller than what was discussed at the last planning commission meeting. Staff is still recommending that the county keep the minimum home size consistent with how the R1 and the Estate zone is written currently and is proposing to move those same requirements (800, 1000 and 1200 square feet) to be consistent, throughout the code, in the Forestry (F), Agriculture (A) and the Natural Resources (NR) zones. Currently in Forestry there is no requirement, but there is the requirement to get a special use permit for a residence. This is the same for the NR zone. Another thing to consider is that if the square footage requirement is changed from 800 square feet (1 bedroom), does the square footage change for 2 bedrooms (1000 sq ft) and 3 bedrooms (1200 sq ft)? Canfield said that she would like to wrap this up, and potentially back away from the change regarding square footage if the commission cannot come to some kind of an agreement. Noted the correspondence from John Herrington regarding not allowing "tiny homes" in the 40 acres.

Chairman Hindle asked if there was any additional comment from the board and particularly Commissioner Pellett as to the minimum home size requirement. Pellett said that she stated her opinion at the last meeting and does not feel it necessary to comment further.

Public Comment:

Gary Mack, resident: Said he is curious as to the justification for 800 versus 750 versus 600 versus 650 and would like to note that the letter from John Herrington will be included in the record. Said that so far he hasn't seen it in any documentation that has come out from the committee. Mack said that all of the testimony that he has from himself and other residents, a dozen or more out here (40s) has been done verbally. Added that at a \$200 square foot typical cost to build, every one hundred square feet is \$20,000 in additional cost to citizens of the county. Would like the board to recognize that every hundred square feet is a significant cost savings.

Chairman Hindle: Correspondence and testimony will be included in minutes of the meeting.

Discussion between Staff, the commission, and the public. Points and discussion included:

- Minimum square footage has been 800 square feet since 1999 or prior (Canfield)
- Virginia City has numerous homes, potentially historic, that are under 800 square feet (Gary Mack)
- 800 square foot minimum is arbitrary, and why not 700 square feet (Pellett)

- Smaller homes (smaller than 800 sq ft) in other jurisdictions may have other variables/requirements such as how many people can occupy it, how many rooms, characteristics of a kitchen/bathroom, etc. (Hindle)
- Construction costs are generally \$200 to \$250 a square foot currently, should be some limit set for home size, 700 sq ft is a sizeable home (Collins)
- Less than 800 square feet is currently allowed for a dwelling in the CR zone (Canfield)
- Large and small homes can potentially be moved, just harder to move a large home. (Hindle and Collins)
- Assessor's office says homes under 800 square feet may get into DOT requirements for moving it. (Osborne)
- Discussions have been had before during the "Dean Haymore" days and if someone wanted to build a \$2M house out in the 40 acres that was fine but if the neighbor wanted to put a trailer and sani hut on their property that was a problem because there was no HOA. This is a "buyer beware" type of situation. (Prater)
- Believe that sovereignty of the land owner to do what they desire within reason; problem is that the commission is trying to decide what "reason" is. It is reasonable to try and accommodate the assessor's concern. (Hindle)
- Difference of assessment of vacant land and occupied land and the result of non-payment of taxes. Result is the same if someone is not paying or not the same. (Pellett and Canfield)

County Manager Osborne: Said he is trying not to take a position on this because there is an argument on both sides. This is a philosophical argument as well as a planning argument. The 800 square feet has been the code since 1999. Dean Haymore and his group put the original zoning ordinance back together. This was a carryover that has occurred and tiny house had not been discussed until recent times and seems to have become a trend. They have been considered in the commercial residential zone in downtown Virginia City because of historic uses and things that existed in the past. He has told people in the past to build 500 square feet on the first floor and the rest in the attic. You essentially have your tiny house. That is one way to work around the existing requirement of 800 square feet to create a "tiny house" footprint and still maintain the necessary square feet. In the Highlands there are protections in the tens and ones because of the HOA restrictions but the 40s are not (protected). Most people there (40s) are building four or five hundred thousand dollar homes including the property, well, septic, and then potentially a neighbor could bring in a tiny house that is a comparable house (rest of comment was inaudible).

Commissioner Pellet commented that a house with a downstairs that has 500 square feet on the first floor and a second story house in the attic, could still be moved. Stated that she doesn't feel that it's the governments job to dictate that someone would have to have the attic; it's an arbitrary requirement. Also stated that this is "your property, it's your investment and if somebody really is concerned about what their next door neighbor is going to have, I feel like that's when they move into HOA type communities versus moving onto a plot of land that is not restricted by an HOA." Stated that she wants to make sure that the requirements that the government places have a reason for them.

Senior Planner Canfield: Recapped where we are at in this process. All of the other changes to Title 17 have been adopted except for the zoning district revisions. The issue of size in the R1 and the Estate zone which is not only the Highlands but it is also Mark Twain and portions of lower and upper Virginia City already state the minimum square footage for a single family dwelling be 800 square feet for a 1 bedroom, 1000 square feet for 2 bedrooms and 1200 square feet for three bedrooms. No proposal has been made by staff to change that. The only proposal to the remaining zoning districts and in particular the Forestry, Agriculture and Natural Resources zones, is to make the minimum home size consistent with the R1 and Estate zone that already require a minimum of 800 square feet. Changing the minimum home size to something smaller than 800 square feet was not what we were looking at when the revision to Title 17 began.

Commissioner Pellett: Said that this is the time to discuss potentially allowing something less than 800 square feet even though that change wasn't being proposed initially. Said she remembers a year or two ago when some property owners came to the planning commission meeting who had been "red tagged" by the Building Department, asking the commission to look at this (allowing a small home), and do something about it. Wants to address the concerns of those people that showed up at that meeting.

County Manager Osborne: Stated that he thinks there is not a planning commissioner here tonight that doesn't want to make a motion on this tonight after discussing this for 15 meetings, and the round of zone text amendments prior to the amendment was probably 18 meetings. Osborne said he respects both sides on this issue (small homes).

There was a pros versus cons discussion on potentially approving a portion of the amendment excluding the minimum size requirement proposal in all zoning districts. After additional discussion including comments from the public (Gary Mack) the commission decided to recommend approval of Bill 118 Ord 20-307 as is and revisit potentially changing the minimum home size in the near future.

Motion: Approve Bill 118/Ord 20-307 text amendments to Storey County Code Title 17 Zoning Districts CR Commercial-Residential; C Commercial; R1 Single-Family; R2 Multi-Family Residential; E Estate; F Forestry; A Agriculture; I1 Light Industrial and I2 Heavy Industrial; NR Natural Resources and SPR Special Planning Review zones. Additions, modifications, elimination and clarifications including the listed land uses, minimum floor area, setbacks, minimum parcel area, distance between buildings and home enterprises are proposed. Motion included a modification to the I2 zone to remove “and existing residential uses”, **Action:** Approve, **Moved by** Commissioner Staples, **Seconded by** Commissioner Prater, **Vote:** Motion carried by unanimous vote (**summary:** Yes=6).

9. Discussion/Possible Action: Determination of next planning commission meeting.

Motion: Next planning commission meeting to be held on October 1, 2020 at 6:00 P.M. at the Storey County Courthouse, Virginia City, Nevada, Via Zoom, **Action:** Approve, **Moved by** Commissioner Pellett, **Seconded by** Commissioner Baugh, **Vote:** Motion carried by unanimous vote (**summary:** Yes=6).

No Public Comment

10. Discussion/Possible Action: Approval of claims – None

11. Correspondence (No Action) – None

12. Public Comment (No Action) – None

13. Staff (No Action) – County Manager Osborne told the commission about open air Town Hall meetings he is having in the different county communities. Osborne said he hosted one last week at the Highlands Mailboxes. A Townhall in Lockwood just north of the Truckee River bridge is scheduled for Thursday August 27th at 5:00 p.m. These meetings are announced in the Comstock Chronicle and at commission and board meetings, County website and Facebook page, and the Highlands Blog, and other community blogs. Commissioner Prater asked about using reverse 911 calls to alert people to the town halls. County Manager Osborne said that the county is very conservative when it comes to using the reverse 911 program. The county works with its Emergency Management Director and the 911 Communications Director and only uses the reverse 911 program only for absolute emergencies.

Senior Planner Canfield talked about coordinating field trips to TRI with the commissioners to show them the changes that are happening and current projects. May have to take commissioners separately due to the Covid issue.

14. Board Comments (No Action) –

15. Adjournment (No Action) - The meeting was adjourned at 8:06 p.m.

Respectfully Submitted, By Lyndi Renaud