

STOREY COUNTY COMMISSION MEETING
FRIDAY, MAY 9TH, 2008 11:00 A.M.
DISTRICT COURTROOM
26 SOUTH B STREET, VIRGINIA CITY, NEVADA
SPECIAL MEETING MINUTES

GREG "BUM" HESS
CHAIRMAN

HAROLD SWAFFORD
DISTRICT ATTORNEY

BOB KERSHAW
VICE-CHAIRMAN

JAMES G. MILLER
SHERIFF

JOHN FLANAGAN
COMMISSIONER

VANESSA DIXON
CLERK-TREASURER

Roll Call.

Present: Administrative Officer Marilou Walling, Chairman Greg Hess, Clerk Treasurer Vanessa Dixon, Commissioner John Flanagan, Comptroller Hugh Gallagher, County Manager Pat Whitten, Sheriff James Miller, Vice Chairman Bob Kershaw.

CALL TO ORDER AT 11:00 A.M.

The meeting was called to order by the Chair at 11:00 am

PLEDGE OF ALLEGIANCE

Chairman Hess led those present in the pledge of allegiance.

PUBLIC COMMENT

Chairman Hess stated he has been informed by outside legal council that this is not a hearing and that if anyone has anything they would like to comment on public comment is the time to do it. Chairman Hess then called for any public comment and asked that people come to the podium. He asked that public comment be limited to three minutes and that they state their name for the record.

Marc Picker introduced himself to the Board. He advised the Board that he is representing the interest of David and Ingrid Burgess in the matter listed on the agenda. Mr. Picker stated that he has noted that the Commission has seated Mr. Gunderson as special council for this matter and would note that he has an objection to this. Mr. Picker explained that there is a distinct conflict of interest as Mr. Gunderson represents a competing licensee, in fact the main competitive licensee with the subjects of today's hearing and that raises some issues. Mr.

Picker went on to state that part of the basis for today's agenda item is that David Burgess is convicted of a criminal act that would preclude him from holding a license, he added that this is premature on the County's part. Under federal law Mr. Burgess is not convicted of anything at this point, under federal law he does not become convicted until the federal court files a judgment of conviction at the sentencing. At that time the Judge will accept the verdict of the jury and that has not happened. Mr. Picker added that he reminds the Board that federal judges here in the district of Nevada, Judge Reid and Judge Haggen, have found that a brothel license is property interest. What has not been addressed is that Ingrid Burgess does have an interest in this and would be negatively affected. Mr. Picker stated that we would ask that the Board take a look at a number of things, first that Ingrid Burgess had been running the Old Bridge Ranch for 20 years, even though David Burgess is the licensee, there are 20 employees and \$100,000 a year paid in taxes by the Old Bridge Ranch through David Burgess' license and that are alternatives that should be looked at by the Board. By suspending this license there are 20 people that would be out of jobs and that would zero out the taxes that are paid. There are also tax liabilities and ramifications on this property and at this point there is an order that Mr. Burgess be looking at selling to property by May 31st to satisfy the tax debt and that is in process. Mr. Picker continued with if you have any business be it a brothel or a McDonald's it is easier to get fair market value for the business while it is open. If it is closed we are going to have some problems and the County is going to have similar problems to when the IRS closed the Mustang. Also in the last go around, in this similar situation Judge McKibbin allowed the business to stay open for 35 days to allow for the wrapping of business and for employees to find new jobs. We ask that you consider that, note that the landlord for the Old Bridge Ranch, and the property owner, the Peri Brothers are in favor of no suspension.

Mr. Picker stated that we would like to offer you a reasonable alternative, the Nevada Brothel Association President Jeff Arnold who is a licensed CPA in Nevada and Idaho and a licensed brothel owner in Elko and Lander County is prepared to step in a form of a receivership. He and George Flint the Executive Director of the Nevada Brothel Association would step in jointly as receivers under the supervision of this County to run the Old Bridge Ranch while it is prepared for sale and while the sale can occur. Having it open and having these people run it makes far more sense than closing it. In addition it appears that there have been some issues with outstanding taxes and returned checks; a formal notice was not received. We will not deny that there have been some bounced checks, due to a couple of issues. On March 28, 2008 there was a courtesy letter sent to Dave Burgess from the Storey County Clerk Treasurer stating that there were taxes that were due. This was unknown to the people running the Old Bridge Ranch at the time. They are prepared to pay the amount

in full today with a cashiers check. Based on all of that it appears that this is a premature action and it is not in the best interest of Storey County. You have employees and residents who lives would be greatly affected by this and a receivership would allow the business to remain in place while ensuring that Storey County can have some additional protection.

Mr. Picker stated in closing that the Storey County Code is designed to look at licensees and to see if they have felonies. Even if you look at the fact that Mr. Burgess was found guilty by a jury but not yet convicted, he has no role in the business as he is in custody in Wyoming and communication is very limited. He added that there are numerous employees of the Old Bridge Ranch are here to lend their support in favor of the proposed receivership.

Troy Regas stated that he is the brother of Ingrid. In the last 25 years Ingrid and Dave have probably paid the County over 2.5 million dollars in taxes, they have donated turkeys, and helped out on 4th of July. Mr. Regas stated that this process is happening very fast, and would like it if the County remembers all of the good things that the Old Bridge has done. Mr. Regas added that David was given an unfair trial, he listed numerous issues. He stated there are a lot people who need their paycheck.

Ingrid Burgess stated that she has been running the Old Bridge Ranch for the past 25 years and that she has worked very hard. She asked the Board to please give her a chance and allow her to run the business. She said that she has always been very respectful and has never been trouble. Mrs. Burgess stated "I have always been very supportive of the community, please really think about this, and give me a chance." She asked that the Board allow time for someone else to apply for the license. Mrs. Burgess concluded by stating, "I am not David and I am half owner, this is all I know and all I have done."

Maxine Hillkey was present on behalf of the Old Bridge Ranch. She is currently employed by Ingrid Burgess. She stated that she has known Ingrid and David for the last 25 years and that she was one of the original "Mustang Girls." She added that David and Ingrid have always been upright and done everything by the book. The girls would appreciate it if you would give us a chance.

George Flint was present to speak on behalf of the Old Bridge Ranch. He stated "that we have been through a lot of battles together, and I am rather proud of my clients. They get beat up a lot and treated like second hand citizens, but not in Storey County." He added that in Storey County we always feel well treated. Mr. Flint stated "that you have heard a suggestion that Jeff Arnold and my self step in as an advisory board until the ranch can be sold. I respect this industry and this would be a new responsibility I would keep things moving and keep

the money coming in.” Mr. Flint thanked the Board for allowing him to come before them and to air his thoughts and his hopes.

CONSENT AGENDA

(All matters listed under the consent agenda are considered routine and may be acted upon by the Board of County Commissioners with one action, and without an extensive hearing. Any member of the Board or any citizen may request that an item be taken from the consent agenda, discussed, and acted upon separately during this meeting. The Commission Chair reserves the right to limit the time allotted for each individual to speak.)

Approval of Agenda for May 9^h, 2008

Correspondence

Correspondence was received from Chairman Hess regarding work performed for Lance Gilman’s Mustang Ranch. The letter stated that Chairman Hess believes that the prior work poses no conflict of interest and that he intends to participate in the Special Meeting.

END OF CONSENT AGENDA

Motion: Approve Consent Agenda, Action: Approve, Moved by Commissioner Flanagan, Seconded by Vice-Chairman Kershaw.

With no further discussion the Chair called for a vote.

Vote: Motion carried by unanimous vote (summary: Yes = 2).

Yes: Commissioner John Flanagan, and ViceChairman Bob Kershaw.

DISCUSSION/ACTION: Suspension of Old Bridge Ranch/David Burgess Brothel License pending Revocation Hearing pursuant to Storey County Code 5.16.180 and 5.16.200.

Mark Gunderson, special council for the County and Board, was present. Mr. Gunderson stated that before the Board is a suggested emergency suspension order. Mr. Gunderson stated that he feels it is appropriate at this time. Mr. Gunderson read the emergency suspension order in the record. (A full copy of this order can be reviewed in the Storey County ClerkTreasurer Office.)

Mr. Gunderson stated that it would be appropriate for the Board to note that there is not anything in the Storey County Code that allows for the request of Ingrid Burgess to be approved.

Chairman Hess asked Mr. Gunderson if the County Code allows for the Board to grant the requested relief at anytime.

Mr. Gunderson stated that it is not at the suspension stage but may be possible at the hearing stage. Mr. Gunderson advised that he would have to look into the issue further. He added that he was not aware that this relief option would be presented today.

Mr. Picker answered Mr. Gunderson's question regarding notification of the relief option. He stated that up until this morning he did not know that Mr. Gunderson was the council and he had placed a call to the District Attorney.

Vice-Chairman Kershaw stated "this hits me hard because it is my neighbor, you are right any time we ask for something you come through." Vice-Chairman Kershaw asked for 5 minutes to talk to staff and council.

A 5 minute recessed called by the Chair at 11:25 am.

The meeting was called to order by the Chair at 11:30 am.

Vice-Chairman Kershaw stated that it is very unfortunate that David Bugress has done what he has done and that he is in trouble. This meeting did not have to be called. The order could have been signed by one commissioner and the Sheriff. He added that the Board can not take action on the proposed relief due to it not being on today's agenda. "I don't see how we have any other choice right now, it is what the ordinance says and I cannot go against it. There may be a way to solve this, but I do not know how we can avoid this. I cannot question what happened in a court in Wyoming. I want everyone to know that this is tough, and we do not have any other choice."

Motion: Suspension of the Old Bridge Ranch brothel licenses, Action: Approve, Moved by Vice-Chairman Bob Kershaw, Seconded by Commissioner John Flanagan.

Chairman Hess stated that we need to look at trying to find some sort of solution; they have been there for a long time.

Vice-Chairman Kershaw added “put yourselves in our shoes, there is only one person holding that license. This is a tough one and we could have done this behind closed doors.”

Vote: Motion carried by unanimous vote (summary: Yes = 2).

Yes: Commissioner John Flanagan, and Vice Chairman Bob Kershaw.

PUBLIC COMMENT

Sarah Martin stated that she understands your position as a commissioner, but David has not been convicted as of yet. She added that she doesn't understand why you hire outside council.

Chairman Hess stated that Harold has too much to do.

Ms. Martin stated that you want to use Mr. Gunderson even though there is a conflict.

Chairman Hess stated that Mr. Gunderson feels there is not a conflict.

BOARD COMMENT

None

ADJOURNMENT

The meeting was adjourned by the call of the Chair 11:45 am.

Respectfully Submitted,

By _____
Vanessa A. Dixon, Clerk/Treasurer