



# REGIONAL PLANNING COMMISSION

## MEMBERS

Terry K. Herman, Chair  
Florence 'Marge' Frandsen, Vice-Chair  
Fred Lokken  
Kendall Mattina  
Marvin Moss  
Jim Newberg  
Steve Rogers  
Oscar Sanders  
Mark Sullivan  
Dave Ziegler, Director

## MINUTES

### Regional Planning Commission (RPC) REGULAR MEETING WEDNESDAY, 6:30 P.M., June 9, 2004

The Regional Planning Commission met in regular session in the Washoe County Commission Chambers, 1001 E. Ninth Street, Reno, Nevada and conducted the following business:

The meeting was called to order by Chair Herman at 6:30 p.m.

#### 1. ROLL CALL

The clerk called the roll and the following Commissioners were present: Terry Herman, Marge Frandsen, Fred Lokken, Kendall Mattina, Marvin Moss, Jim Newberg, Steve Rogers, Oscar Sanders, and Mark Sullivan.

Also present were: Dave Ziegler, TMRPA Director; Norman Azevedo, Legal Counsel; Randy Baxley, TMRPA; Rosanna Coombes, TMRPA; Patricia Rogers, TMRPA; and Lora Richards.

Chair Herman asked for thirty seconds of silence in memory of President Ronald Reagan.

#### 2. APPROVAL OF AGENDA

Chair Herman requested that agenda item 5.G be addressed immediately after agenda item 5.A.

COMMISSIONER LOKKEN MADE A MOTION TO APPROVE THE JUNE 9, 2004, AS AMENDED, SECONDED BY COMMISSIONER MATTINA. THE MOTION CARRIED UNANIMOUSLY WITH NINE (9) MEMBERS PRESENT.

#### 3. APPROVAL OF MINUTES

##### A. May 12, 2004, regular meeting

COMMISSIONER LOKKEN MADE A MOTION TO APPROVE THE MAY 12, 2004, REGULAR MEETING MINUTES, SECONDED BY COMMISSIONER ROGERS.

Chair Herman requested an explanation for the question marks under agenda item 6.B.3. Mr. Ziegler responded that the question marks will be replaced with "administrative record".

COMMISSIONER LOKKEN AMENDED THE MOTION TO INCLUDE THE CORRECTION, SECOND CONCURRED. THE MOTION CARRIED WITH SIX (6) IN FAVOR AND THREE (3) ABSTENTIONS BY COMMISSIONERS MOSS, SANDERS, AND SULLIVAN.

##### B. April 28, 2004, regular meeting (corrected)

Mr. Ziegler stated that after reviewing the minutes, it was determined that there was no need for a correction. The statement that was desired was already in the minutes. The minutes have been signed and filed.

#### **4. PUBLIC COMMENTS**

Gene Gardella spoke about the benefits of a group effort in making decisions. The RPC's task is to measure an applicant's proposal against the applicable set of standards to determine if it meets the standard requirements. The RPC should also be sure that a proposal does not just benefit the applicant but the people who live there. This process requires the RPC to listen to the applicant, Regional Planning staff, and the citizens. This input comes from many perspectives and brings an understanding of what the community values are.

Brian Kelly stated the importance of remembering that this is an open forum. The developer has a lot of interaction with Regional Planning staff and is able to present their ideas and concepts. The public has to rely on the RPC to protect them. When your staff tells you that there is a problem, you should look at it a lot harder.

#### **5. BUSINESS OF THE DAY**

- A. PUBLIC HEARING - Conformance with the provisions of the Regional Plan and the settlement agreement in District Court Case No. CV02-03469 for City of Reno zoning map amendments and Mortensen/Garson Development Standards Handbook (CR04-007), including: (1) zoning map amendment from SPD (specific plan district) and HC (hotel casino) to HC, IC (industrial commercial), AC (arterial commercial), NC (neighborhood commercial), PF (public facility), LLR-1 (large lot residential - 1 acre), SF-15 (single family residential - 15,000 square feet), SF-9 (single family residential - 9,000 square feet), SF-6 (single family residential - 6,000 square feet), MF-14 (multi-family - 14 units/acre), and OS (open space); (2) amendment to the Reno zoning code creating a new overlay district entitled "Mortensen/Garson Overlay District"; and (3) Mortensen/Garson Development Standards Handbook. The ±2,724 acre site is located on the north and south sides of Interstate 80 between the Garson Road and Verdi interchanges. The proposed development of this site is a project of regional significance. (Continued from May 26, 2004).

Dave Ziegler, Director of Regional Planning, stated that on May 26, the RPC voted on a motion to find the Mortenson matter in conformance with the Regional Plan. At the time of the vote, it was announced that the motion failed. Upon further study, it was determined that the motion had passed with five (5) commissioners in favor and four (4) opposed. Section II.5 of the Regional Planning Governing Board's Regulations on Procedure provides that an "affirmative vote by a majority of the quorum of the RPC" is required to make a finding of conformance for a project of regional significance. The staff reports dated April 22 and May 20 were incorrect regarding the number of votes required to find the matter in conformance with the Regional Plan.

Mr. Ziegler stated that the RPC has taken action on the first of the three questions regarding the Mortensen matter. The RPC has found the project of regional significance to be in conformance with

the Regional Plan. Two questions still remain. The first is whether Reno's zoning action is supported by the record and the terms of the settlement agreement. The second is whether the Development Standards Handbook (DSH) contains the required standards. Mr. Ziegler reviewed the standard of review for each of these cases on page 28 of the meeting packet.

Randy Baxley, Senior Regional Planner, stated that further evaluation of this proposal by Regional Planning staff is found in the staff report on pages 22-27. With the determination that the project conforms with the Regional Plan, some of the concerns are no longer subject to further review.

Mr. Baxley stated that the remaining issues primarily have to do with traffic. Based on correspondence and testimony from the Nevada Department of Transportation (NDOT) and the Regional Transportation Commissioner (RTC), it appears that there will be a degradation to the level of service (LOS) on I-80 and US-40 as a result of buildout of the proposed development. However, in reviewing the traffic study, Reno staff reports, and minutes of the Planning Commission and City Council, it does not appear that a consideration was given to possible alternatives to mitigate this impact, such as reduction in the overall size of the development, phasing of the development to coincide with planned capacity improvements, or possible changes in the layout and/or development mix. In light of the requirement imposed by the settlement agreement, and to address the impacts of traffic and LOS on the existing Verdi community, it is the judgment of Regional Planning staff that the absence of evidence that alternatives were considered does not meet the intent of the requirement imposed by the settlement agreement.

Mr. Baxley expressed concern regarding the difference in the projected levels of non-residential development contained in the fiscal analysis as compared with the traffic study. In the absence of consistent development assumptions used in the various supporting studies and analysis, including the traffic study, Regional Planning staff concludes that the action taken by Reno is not supported by the record and the terms of the settlement agreement.

Mr. Baxley stated that another concern has to do with the conformance review process for future amendments to the DSH. In a letter dated May 26, the property owners' representative proposed additional language for Section 6 of the DSH which would basically state that any changes to the development standards in Section 4 of the DSH would come back to the RPC for conformance review. In the settlement agreement there is a set of nine standards that are required to be in the DSH. Three of these standards are not contained in Section 4 of the DSH. Regional Planning staff believes that the proposed language should be expanded to include amendments to any of the nine sets of design standards required by the settlement agreement.

Mr. Baxley stated that Regional Planning staff recommends that the decision of the City of Reno in approving the proposed density and density distribution is not supported by the record and/or the terms of the settlement agreement, for the following reasons: impacts on traffic LOS on existing roadways and the existing Verdi community were not sufficiently evaluated; and there are different non-residential development assumptions between the revised fiscal model and the traffic study.

Regional Planning staff also recommends that the DSH does not contain the standards set forth in the Verdi Properties settlement agreement, for the following reason: the proposed procedures and criteria

to amend the DSH do not address proposed amendments to all of the standards required by the settlement agreement.

Commissioner Newberg asked Mr. Baxley if he would recommend that the DSH does contain the standards set forth in the settlement agreement if the language was changed to state that any changes would have to come back for conformance review. Mr. Baxley responded that this concern would be satisfied if all proposed changes to the development standards required by the settlement agreement are required to come back for conformance review.

Commissioner Moss stated that the DSH says that Section 18 of the Reno code would take precedence. Commissioner Moss asked if the settlement agreement would take precedence over that. Mr. Baxley responded that Title 18 in the Reno Municipal Code does grant power to the Zoning Administrator to approve certain levels of changes. The proposed language in the May 26 letter states that "changes in substance to the development standards identified in Section 4 shall be reviewed by the RPC prior to modification. This will not be interpreted to conflict with powers granted to the Zoning Administrator as defined in Title 18 in the Reno Municipal Code". Mr. Baxley stated that he can not address the specific section of the Reno Zoning Code that gets into those particular powers. Mr. Baxley suggested that Mr. Hester might be able to better address that question.

Commissioner Moss suggested that Mr. Hester may want to address this during the public hearing.

Chair Herman asked if the commissioners had any disclosures.

Chair Herman stated that he had a conversation with the applicant's representative, Bill Thomas. Commissioner Newberg stated that he also had a conversation with Mr. Thomas. Commissioner Mattina stated that she did receive some information from Mr. Thomas. Chair Herman confirmed that there was an information packet from Mr. Thomas distributed to the Regional Planning Commissioners. Commissioner Sanders stated that he spoke with Mr. Thomas. Commissioner Sullivan stated that he received a message from Mr. Thomas.

*[The public hearing was opened.]*

Stephen Mollath stated that the Regional Planning staff report indicates that the impact on I-80 and US 40 have not been properly or adequately studied. Therefore, the Reno City Council did not adequately look at the traffic issues on this case. Mr. Mollath stated that his concern is that there has never before been any study or analysis done as to what effect the federal highways have on particular projects. Regional Planning staff is asking the RPC to review this project using new regulations. The Regional Plan has already taken into consideration the regional highway issues. Mr. Mollath stated that if any changes are proposed for the DSH, it would have to go through the process for conformance review.

Bill Thomas, Summit Engineering, addressed the issues raised by Regional Planning staff. Regional Planning staff has said that the DSH does not conform to the settlement agreement because it does not include provisions for amendments to the standards. Mr. Thomas stated that the only things that can be changed are those things that are listed under the amendments section in the DSH. Anything other than that would be required to go through the conformance review process.

Regional Planning staff has said that the record does not support the City's approval. Mr. Thomas stated that he has never seen the capacity of the freeways being used as a threshold issue for planning decisions. Regional Planning staff is saying that until any development can show there is capacity available on the freeway, the development can not move forward. Mr. Thomas stated that if the RPC follows this advice, it is basically handing off planning decisions to the federal government as to when and where development occurs based on their plan for widening freeways. Mr. Thomas stated that there was a discussion that there is nothing about phasing included. Mr. Thomas pointed out that there is a safeguard in the DSH that requires that the project is properly phased.

Mr. Thomas addressed the issue of the different assumption that went into the report. The traffic study that was presented is one that has been done in a like manner for many project. The numbers in the traffic study are valid and consistent with other traffic studies. The traffic study and the fiscal study are done differently. The traffic study is an incremental increase. The fiscal study is one of adding both what is already there in the project on top of what would be added in the future. There is no requirement for a fiscal study in the DSH.

Mr. Thomas stated that regardless of which analysis is used, the conclusions about the impacts to the existing Verdi community are the same. There will be a net positive benefit to Washoe County. This development will be creating approximately thirty million dollars worth of improvements to water facilities to bring service water to this property. In addition, as a result of this project, ten million dollars will be spent on a sewer line.

Mr. Thomas stated that the City of Reno has recently changed the way that they are funding police and they feel comfortable that they can serve this area. Mr. Thomas also mentioned that there will be a surplus of 300,000 dollars that can go to whatever services the County chooses. That almost doubles the money for road maintenance in Verdi.

Mr. Thomas stated that this project is not something that was done quickly or under cover. There was more than one meeting a month held for over a year in preparing the DSH. Many of the requirements in the DSH are not part of the settlement agreement. They are commitments on the part of Mr. Thomas' clients to address concerns that were raised in the public review process.

Chair Herman asked that the people who spoke at the last meeting on this issue limit their comments tonight to just a referral of what was said at that meeting. All of the comments from the last meeting are already on record. If there is something new to add, please add the new.

Kim Toolouse stated that the issues he brought up at the last meeting have still not been addressed. Wildlife's corridors are still fragmented and still do not adequately address the needs of the wildlife in the area. Mr. Toolouse also spoke about the responsibility for nuisance wildlife. Mr. Toolouse spoke about the value of Nevada's wildlife resource.

Suzanne Walker stated that the traffic issues she addressed at the last meeting have not been taken care of or handled adequately in the DSH. The developers continue to talk about the money they will generate for the City and Washoe County. Ms. Walker spoke about what this project would do to adversely impact the tourist revenue in the area. The developers say that they are only required to maintain a certain level of service on the roadways that are not federally funded. The DSH states that

they will attempt to maintain a certain LOS. This language does not commit in a secure way that guarantees that the LOS will be maintained.

Brian Kelly stated that the vote taken at the last meeting was rescinded by Commissioner Frandsen and therefore the motion did not pass. Mr. Kelly suggested checking the minutes for the last meeting before continuing with this. Mr. Kelly stated that the settlement agreement clearly states that any impact on the traffic of the Verdi residents must be objectively justified. Mr. Kelly stated that the RPC bylaws say that this has to be passed by a two-thirds vote.

Gene Gardella stated that he spoke at the last meeting about water issues. Mr. Gardella stated that the groundwater resource owned by Boomtown is supposed to be used in this project for peaking purposes. Mr. Gardella stated that the demands on the aquifer will increase by three to four times. Mr. Gardella asked that the pipes that go from the current system out to Verdi be sized in such a way that if the wells fail in Verdi, water can be transported and provided to the municipal system in Verdi. Mr. Gardella also asked that TMWA's governing board accept the mitigation for well liability.

Dee Ann Radcliffe complimented Regional Planning staff on the staff report. Ms. Radcliffe discussed traffic issues, the DSH, and compliance with requirements of the settlement agreement. The settlement agreement mandates that the DSH include a traffic design minimizing traffic impacts on the rest of the Verdi community. Ms. Radcliffe stated that the improvements proposed will increase capacity only in the project area.

Parky May stated that Regional Planning staff did a great job reviewing this proposal. The DSH indicated a surplus to Reno of 1.1 million dollars per year at build-out. Revised numbers from the property owners presented after the Reno Planning Commission and Reno City Council reviewed this project, indicate that the number will only be 38,000 dollars per year at build-out. Mr. May stated that there is a significant discrepancy between the traffic study and the fiscal analysis. The Reno City Council deserves an opportunity to review these new numbers.

Susan Lisagor asked if the commissioners new before the vote at the last meeting that a straight majority would be adequate. If the commissioners did not know that, there might be a case for that motion to be null and void. Ms. Lisagor stated that it seems that would affect the way the commissioner's vote. Ms. Lisagor stated that whether the criteria of federal highway impact has been addressed in other projects is not of real importance. What is at issue is the particular nature of Verdi. There is no through road other than I-80 in and out of Verdi. Ms. Lisagor asked that the RPC show that they take their civic responsibility as seriously as the owner's representatives take their efforts to push the project forward.

Chair Herman read written comments submitted by Dawne Rice Spoon regarding the negative impacts relative to adequately addressing water, traffic, and wildlife.

Chair Herman read written comments submitted by Melinda Ragan regarding issues of traffic problems, wildlife, and water.

Chair Herman read written comments submitted by Edwin Durand stating that the development should not be approved as the impact on the community has not been properly addressed.

Chair Herman read written comments submitted by Madelaine Hunter regarding the development not following the County plan.

*[The public hearing was closed.]*

Commissioner Sullivan asked Norm Azevedo, Legal Counsel, if the RPC can legally consider the traffic on federal roads when reviewing projects for conformance. Mr. Azevedo responded that the applicant's concern is that this project is being singled out and held to a different standard than any other project in the community. Mr. Azevedo stated that whatever standard is set for this project will be the norm upon which similar projects are evaluated. Mr. Azevedo stated that he would have to defer to Regional Planning staff to determine whether that standard has ever been applied to another project. If it has not, that is a factor that should be taken into consideration.

The second factor I think is appropriate for your consideration is the word impact any impact or the words of the settlement agreement that are guiding you tonight would that, or does that settlement agreement direct you to do that. That is a question for this body. The testimony from the property owner's side is no. You need to make that determination on your own

Mr. Azevedo stated that since the RPC is being guided by the settlement agreement, there are a lot of terms in there that could have been subject to further delineation. Mr. Azevedo recommended looking at the settlement agreement and taking the terms that are delineated in there and do the best you can, given the guidance from the court.

Commissioner Sullivan asked if this is setting precedent. Mr. Azevedo responded that the property owners are saying there is a new standard being set. By applying that standard, any project similarly situated would be subject to applying the same standard.

Commissioner Sanders asked Mr. Azevedo if the impacts on the federal highway were contemplated with regard to the community at Verdi at the time the settlement agreement was entered into. Mr. Azevedo requested a one-minute recess to confer with Regional Planning staff.

Commissioner Rogers asked why Mogul was not involved with the traffic analysis along with Verdi.

*[Chair Herman called a one-minute recess.]*

Chair Herman called the meeting back to order.

Mr. Azevedo stated that this settlement agreement was almost exclusively negotiated outside of his presence and the presence of Regional Planning staff. Mr. Azevedo stated that he does not have any first hand knowledge as to what was contemplated among the parties. In answer to whether Verdi would include Mogul, Mr. Azevedo stated that he was not privy when it was negotiated. Mr. Azevedo stated that in looking at the language in the settlement agreement, Verdi means Verdi and Mogul is a different community. Mr. Azevedo stated that the property owner's attorney requested that he be allowed to make a statement on the record, at the Chair's discretion.

Chair Herman asked Mr. Mollath if he would like to proceed.

Mr. Mollath stated that he was involved with all the negotiations and there was no discussion of any impact on federal highways or the utilization of federal highway impact relative to this project, the DSH, or the settlement agreement.

John Hester, Community Development Director for the City of Reno, stated that Reno's code has an explicit list of things that the City has administrative discretion with. That list is very limited. One thing we do not have discretion with is the number of lots. We can not increase the number of lots. It is very minor things like setbacks and it is only 10 percent, so it is not very much discretion.

Commissioner Moss asked Mr. Hester if he interprets that he has that discretion in the settlement agreement. Mr. Hester responded that he interprets that Reno has the discretion if the DSH gives Reno the discretion. If the DSH says Reno does not have discretion in certain areas, we do not.

Commissioner Moss asked if Regional Planning staff has the information that was sent to the Regional Planning Commissioners. Mr. Ziegler responded that they do.

Commissioner Moss asked if it affects any of the staff reports. Mr. Ziegler responded that Regional Planning staff has reviewed the information and stands by the staff reports.

Commissioner Moss stated that item 6 on page 7 of the negotiated agreement indicates that there shall be review by the RPC of any zoning action that is taken. Commissioner Moss asked if these have been zoned at this point. Mr. Hester responded that they have been zoned.

Commissioner Moss asked if the map on page 3.2 shows the zoning. Mr. Thomas responded that is correct.

Commissioner Moss asked about the zoning categories. Mr. Thomas responded that each of the colors on the map represents a zoning category.

Commissioner Moss asked if they intend to use all 3,000 units that are authorized. Mr. Thomas responded that based on requirements of the settlement agreement, the project could be developed up to that many units. Each project would have to have a subdivision map and that would define the number of units.

Commissioner Moss stated that subdivision units do not come back to the RPC. Mr. Thomas responded that they do not. Any rezoning beyond 25 percent would come back to the RPC. The 3,000 count for units can not be exceeded. Mr. Thomas stated that he did not think Regional Planning staff was uncomfortable with that. Mr. Thomas stated that they were uncomfortable with any wording that says changes to the hillside standards might not be able to come back to the RPC. Mr. Thomas stated that the standards and agreements do not give us or the City the discretion or ability to change the hillside standards.

Commissioner Moss stated that the hillside standards and zoning are two different things. Mr. Thomas responded that is correct.

Commissioner Moss stated that this DSH only refers to zoning. Mr. Thomas stated that it includes zoning and standards.

Commissioner Moss stated that standards are not included in this paragraph. Mr. Thomas responded that he is referring to the whole handbook.

Commissioner Moss stated that elsewhere in the DSH it says it is possible to get variances on the hillside ordinance. Mr. Thomas responded that what it says is that in administering the hillside ordinance, there are procedures that can be used to administer it. That is right out of the Washoe County code.

Commissioner Sanders asked Mr. Thomas to talk about the change in numbers from the fiscal analysis provided to the City of Reno versus the one provided to the Regional Planning Agency (RPA), as well as the discrepancy between the one million and two million square feet of commercial space. Mr. Thomas responded that the model used to determine the impact to the existing Verdi community was the EPS study that was funded by the RPA. A draft copy of a memo explaining the model was used. Mr. Thomas stated that when a final version of the plan was discovered, the analysis was updated. The difference between the draft version of the plan and the final one is that the cost for residential development went up significantly. What did not change between the draft and the final is the cost for Washoe County. The analysis was updated based on the information received at a later time.

Mr. Thomas responded to the question regarding the discrepancy between the amount of square feet of commercial space stating that a standard of practice was used that says a certain amount of square footage occurs per acre. This was also validated against the RTC model, which generates a volume of traffic. Another method that was used in the fiscal study was an assumption of how much of the land would be developed per square foot. There is a disconnect between the information going into the two models. The traffic study did not include a substantial amount on the part that they will be contributing taxes. Mr. Thomas stated that the fiscal analysis was never part of the settlement agreement.

Commissioner Sanders asked Mr. Thomas how the RPC is to make the finding that this is supported on the record for the actions taken by the City of Reno now that there are different numbers. Mr. Thomas responded that you have to go back to the wording of the settlement agreement. The intent of the settlement agreement is to protect the service level for the people in Verdi. Mr. Thomas talked about the additional services and improvements that will benefit the people in the Verdi area as a result of this project.

Commissioner Sanders asked Mr. Thomas how the RPC is to find that it is supported by the record when different numbers are being presented at this point than what was used by Reno to evaluate it and make their findings. Mr. Thomas responded that the information regarding the new water system, sewer system, fire station, and police service was all there and presented to the Reno Planning Commission and the Reno City Council. The dollar amount may not have been there but that information was factually there. Mr. Thomas stated that the question is whether the numbers in the fiscal study were significant in terms of reaching their conclusion. Mr. Thomas stated that in the discussion that happened through all those public processes, not once did that issue come up. It was not an issue that was part of the concern that was to be addressed.

Commissioner Frandsen asked Derek Morse how many trips that would generate on an average day. Mr. Morse responded that it depends on what is in those uses. Some generate fairly light volumes and some generate heavy volumes.

Commissioner Frandsen asked what the approximate trip generation would be for a commercial development of one million square feet. Mr. Morse there are various ways being used to calculate that. Employees per acre for different types of employment was used in the model. In the impact fee, the unit for commercial uses is per thousand gross feet of floor area. That varies tremendously based on the type of commercial development.

Commissioner Frandsen stated that we are dealing with a 60 percent known and a 40 percent unknown. Commissioner Frandsen stated that she does not know how that 40 percent of unknown trip generation could not have an impact on the residents of a community. Mr. Morse stated that the settlement agreement apparently imposes standards that he does not normally deal with. Mr. Morse stated that the applicant was told that in the current regional model, about 60 percent of what they are saying would happen out there was already in the model. Now they are adding about another 40 percent over and above what was scheduled for land use and population in that area.

Mr. Morse stated that the primary difference he is seeing is the discussion of concurrency. The idea that at no time will the actual LOS on the roadway fall below the policy LOS has not been applied to the community in the past. If it had been in place in the last three or four years, there would have been no development allowed in this community because huge portions of the road system are deficient. Federal funds usually are generated based upon needs in the system and actual problems that are out there. They are not typically done in anticipation. There is not enough money in the County at the federal level to do that. Mr. Morse stated that it is up to the RPC to determine if the settlement agreement imposes that type of standard for this particular development.

Mr. Morse stated that there is a doctrine laid out by the US Supreme Court having to do with proportionality. Under that doctrine, a disproportionate contribution from any one developer that is disproportionate to their true impacts, can not be required. The impact fee is supposed to capture their impacts to the regional road system. To require something beyond that could lead into that case where they are being asked to do more than they reasonably can. The responsibility for building the freeways, typically does not fall on developers. That is a governmental responsibility through the RTC, NDOT, and the Federal Highway Department.

Commissioner Frandsen stated that the bottom line is that you do coordinate with NDOT on freeway capacity. Mr. Morse responded yes. The priorities for the NDOT for spending federal and state dollars within Washoe County must come through the RTC.

Commissioner Frandsen asked if the priorities can be adjusted based on need. Mr. Morse responded that is how the priorities are set.

Commissioner Sanders asked Mr. Morse if the impact fees are updated with every three-year rotation of the financial plan. Mr. Morse responded that the entire capital improvements plan is updated every three years.

Commissioner Lokken asked Mr. Azevedo if the action taken at the last RPC meeting was in compliance and legal. Mr. Azevedo responded that this body performs conformance reviews under two different statutes. They are distinctly different conformance processes. NRS 278.0282 contemplates the simple-majority vote. The conformance review performed at the last RPC meeting

was pursuant to NRS 278.0278. That statute is silent as to the requisite vote. Mr. Azevedo stated that in doing additional research, he found the regulation promulgated by the Regional Planning Governing Board (RPGB) which addressed the question of the silence contained in NRS 278.0278. In the absence of a specific rule found in Chapter 278, this is a public meeting governed by the open meeting law. The open meeting law in NRS 241.015 contemplates that an affirmative vote can be taken by a majority of the members present during a meeting of a public body that is not made up of elected officials. NRS 278.0278 does govern the actions taken at the last RPC meeting. If it did not, then NRS 241.015 would govern, which only requires a majority vote. The vote of five (5) to four (4) carried the action as to the conformance review. The other two items before the RPC require a majority vote. In response to a comment made during the public hearing tonight, Mr. Azevedo stated that the information before the RPC at the last meeting as to the necessary vote would not have changed the decision. That would contemplate that this body had an idea of what each member was going to vote at that particular time.

Commissioner Lokken asked for confirmation that what is then being considered now is whether or not the remaining provisions from the settlement agreement are in conformance with the Regional Plan. Mr. Azevedo requested a one-minute recess.

*[Chair Herman called a recess.]*

Chair Herman called the meeting back to order.

Mr. Azevedo referred to page 17 of the meeting packet regarding the two remaining questions.

Commissioner Lokken asked if separate motions are required. Mr. Azevedo responded that he supports staff's request for separate motions.

Commissioner Moss asked what needs to be included in that. Mr. Baxley responded that is referring to the development standards required by the settlement agreement to be included in the DSH. Language proposed by Summit Engineering would require changes to the standards contained in Section 3 of the DHS would have to come back to the RPC for review, but would not include the other three development standards contained elsewhere in the DSH.

Commissioner Moss asked if the language is not there now to require those amendments to come back. Mr. Baxley responded that the concern is that the proposed language would only apply to the standards contained in Section 4 and would exclude the other three standards that are required by the settlement agreement. Mr. Baxley stated that Mr. Thomas testified tonight that any amendment to the DSH regarding standard would have to go through the conformance review process. Mr. Baxley stated that he would defer the question as to whether that is the case or not to Mr. Azevedo.

Mr. Mollath stated that the legal perspective of the property owners is that any change made to the agreement has to go back through the conformance review process.

Commissioner Moss asked if that would include going back to the Verdi residents and the CAB. Mr. Mollath responded that the full public process would be applied.

Commissioner Mattina asked why there is concern that all of the standards be in one section of the DSH. Mr. Ziegler responded that Regional Planning staff does not care what section they are in.

Regional Planning staff just wants to make sure that nothing falls through the cracks. Mr. Ziegler stated that Mr. Mollath's statement speaks for itself.

Commissioner Sullivan asked for clarification of Mr. Hester's comment that the DSH would supersede the settlement agreement. Mr. Hester stated that in the Reno code some discretion on certain things is given. In the DSH, it is different. Mr. Hester stated that his comment was that what is in the DSH would take precedence over the code because this is a special planning area with its own code.

Commissioner Sullivan referred to pages 38 and 39 of the DSH regarding maximum dwelling units and variances. Those maximums are set by the settlement agreement and they are not going to go over that. The maximums can be moved around inside the restrictions in the settlement agreement. Moving anything over 25 percent of the density would require going back and asking for those approvals. Mr. Thomas responded that is correct.

Chair Herman stated that the issues of infrastructure improvements as related to showing sensitivity to announcements of attorneys is not something we have done in the past. Chair Herman stated that is not a requirement that should be imposed on an individual project. If it is a new standard, it needs to be incorporated in the Regional Plan. Chair Herman commented on the differing assumptions between the traffic analysis and the fiscal study. The traffic analysis was done on an incremental increase basis. The existing 2030 Plan has capital improvements for that area based on about a 60 percent level. The RTC 2030 Plan was found in conformance with the Regional Plan.

**COMMISSIONER LOKKEN MADE A MOTION TO FIND THAT RENO'S ZONING ACTION IS SUPPORTED BY THE RECORD AND THE TERMS OF THE SETTLEMENT AGREEMENT, SECONDED BY COMMISSIONER MATTINA.**

Commissioner Mattina stated that traffic has been discussed at great length and it has been reviewed by the RPC, Reno City Council, Reno staff, RTC, CIP, NDOT, and TID. The settlement agreement does not say there can not be any impacts. It says that there is criteria to consider impacts. There are going to be impacts. Commissioner Mattina stated that having alternatives listed in the DSH presupposes that there are going to be significant changes. Commissioner Mattina stated that we do not have control over the federal dollar for federal highways. The federal government is not going to come back and widen the highway with the anticipation that there might be development in the future. If we wait to have any development anywhere until after a highway is widened, there will be no development. Commissioner Mattina stated that she will be voting in favor of this motion.

Commissioner Lokken referred to the comment early in the presentation that new rules and regulations have been proposed in this process. This is not something that regional would normally see. The RPC has an obligation of oversight. Regional Planning staff's analysis did end up being misdirected because it did break new ground away from what Reno had considered and what the settlement process considered. Commissioner Lokken disclosed that he has talked to Mr. Ziegler about this. Commissioner Lokken stated that the RPC should have workshops in the future to revisit what we are supposed to be doing at this table. We are starting to basically re-think what all the entities are doing and that is not the RPC's job. The RPC's job is to look at the Regional Plan and regional form and to address the specific assignments given there.

Commissioner Sanders asked Mr. Baxley if he still believes that Reno's zoning action is not supported by the records, based on the testimony heard tonight. Mr. Baxley responded that he agrees that this is a review that we have never done before. We got into this area because this is the first time that we have had a project come before this body that has a court mediated settlement agreement that mandates that among the criteria that it all went to the evaluation is and any impacts of traffic LOS and level of congestion on the existing Verdi community check. Verdi is a community whose only means of access is a federal highway. The reason we addressed this issue and got into that evaluation is the fact that we did not see how you could comply with the terms of the settlement agreement in evaluating any impacts of traffic to the Verdi community without examining their only means of access, which is a federal highway. In light of that reasoning, Mr. Baxley stated that at this point, he does stand by his evaluation and recommendation regarding the concerns with traffic.

Commissioner Sanders stated that since the City of Reno is the applicant in this case, he would like to ask Mr. Hester some questions. Commissioner Sanders asked Mr. Hester if he believes that Reno's zoning action is supported by the record, based on testimony heard tonight. Mr. Hester responded that it is absolutely supported by the record.

Commissioner Sanders asked if that is based on testimony that was presented tonight. Mr. Hester responded yes and stated that in addition, we have a system here were with a regional land use plan, regional transportation plan that matches that, you have planning mechanisms, etc. there were impacts on . The point of it is you have a regional system for conformance of regional plans and funding mechanisms for conforming plan.

Commissioner Sanders asked Mr. Hester if he agrees that any change whatsoever, except for the ones identified specifically in the DSH, would have to come forward for conformance review. Mr. Hester responded that is correct.

Commissioner Sullivan stated the decision the City of Reno made is not supported by the record because there is substantially different information provided now. Commissioner Sullivan also stated that the fiscal analysis and traffic analysis need to match.

Commissioner Frandsen stated that she agrees with Commissioner Sullivan's comments. The magnitude of the project certainly has to play into this. Commissioner Frandsen stated that she can not rationalize that there will not be severe impacts to the existing community.

Commissioner Rogers stated that he will not be supporting this motion for the same reasons as Commissioners Sullivan and Frandsen.

Commissioner Sullivan stated that this decision will not set a precedent. This is a case by case basis and it is not based solely on the LOS.

Commissioner Lokken stated that we do not know if this decision is precedent setting or not. Commissioner Lokken stated that he would understand arguments heard tonight if we were not talking about a project that was not just 10 minutes from downtown Reno and connected by a federal highway. These areas are very logical extensions under the sphere under logical application of regional land use and form. On the issue of impact, the reality is that even the addition of one house would have some impact. We are struggling with interpreting the language of the settlement agreement that we were not

parties to. Commissioner Lokken stated that he believes that the wording “unreasonable impacts” is inferred in the settlement agreement. Otherwise, anything ever built has impact and, based on arguments heard tonight, we have to say no to it. That is precedent setting.

Commissioner Frandsen stated that regardless of what we wish the settlement agreement said, it is pretty literal with regard to any impacts of traffic, LOS, and level of congestion on existing Verdi community. Commissioner Frandsen stated that she does not know if the settlement agreement was written to be open to interpretation of that kind.

Commissioner Sanders asked for confirmation that the voting requirements outlined in the staff report are accurate. Mr. Azevedo responded that they are correct.

Commissioner Sanders stated that this is not a two-thirds vote. Mr. Azevedo stated that is correct.

Commissioner Sanders stated that, based on the interpretation of the settlement agreement, everyone seems to have a different interpretation on this matter. Commissioner Sanders stated that he has found it very confusing, frustrating, and difficult to take that language and make a logical conclusion on all of these items and their meeting the terms of the settlement agreement.

THE MOTION CARRIED WITH FIVE (5) IN FAVOR AND FOUR (4) OPPOSITIONS BY COMMISSIONERS FRANDBSEN, ROGERS, SANDERS, AND SULLIVAN.

COMMISSIONER LOKKEN MADE A MOTION TO FIND THAT THE DSH CONTAINS THE REQUIRED STANDARDS, SECONDED BY COMMISSIONER MATTINA. THE MOTION CARRIED WITH FIVE (5) IN FAVOR AND FOUR (4) OPPOSITIONS BY COMMISSIONERS FRANDBSEN, ROGERS, SANDERS, AND SULLIVAN.

Commissioner Sullivan asked if reasons for voting in opposition to the second motion need to be stated for the record. Chair Herman stated that the NRS requirement for that has to do with master plan conformance reviews and not projects of regional significance. Mr. Azevedo confirmed that is correct.

Commissioner Lokken requested a five-minute recess.

*[Chair Herman called a recess.]*

Chair Herman called the meeting back to order.

COMMISSIONER LOKKEN MADE A MOTION TO EXTEND THE MEETING TO 10:00 P.M., SECONDED BY COMMISSIONER NEWBERG. THE MOTION CARRIED UNANIMOUSLY WITH NINE (9) MEMBERS PRESENT.

- G. Informational presentation by Clarion Associates LLC and City of Reno staff regarding methods for preparing and implementing transit-oriented development (TOD) corridor plans.

Mr. Ziegler stated that Reno has contracted with Clarion Associates to prepare a best practices handbook and a framework for TOD corridor plans in the City and its sphere. Clarion visited the region earlier this year and interviewed local and regional planning staffs regarding the assignment. Mr. Ziegler stated that he would like to make a comment after Clarion’s presentation.

*[Mr. Azevedo left at 9:15 p.m.]*

Mr. Hester stated that the RTC, Sparks, Washoe County, and Reno staff were all involved in selecting Clarion Associates. Mr. Hester introduced Ben Herman of Clarion Associates.

*[Mr. Azevedo returned at 9:18 p.m.]*

Mr. Herman stated that Clarion was contracted to do three things. The first is to help develop a strategy for how to go from a big picture down to implementing corridor policies. The second is to look at other cities and see what they are doing with respect to addressing these issues. The third is to develop a framework for how these corridor plans could be done. Mr. Herman presented preliminary results of this contract.

Mr. Ziegler stated that at the RPC's regular meeting of April 14, 2004, he had raised an issue regarding the appropriate strategy for handling development applications in TOD corridors, prior to the adoption of the center and corridor plans. Mr. Ziegler stated that Mr. Hester has suggested that Clarion's presentation to the RPC may help in resolving this issue. Mr. Ziegler stated that there are good suggestions in the framework document and the best practices document provided with the meeting packets. From regional's perspective, this is the beginning of a discussion. If we do not pay attention to this issue, we are going to be precluding TOD development in the future and we need to get started on this.

Commissioner Mattina stated that whether you start with the TOD transportation system and redevelopment starts or redevelopment starts and the TOD system comes in, one needs to feed the other with an emphasis on both. These have gone hand in hand in cities that have been successful with redevelopment. Commissioner Mattina also emphasized the importance of safety in using public transportation.

Commissioner Sullivan stated that if that is the direction we are going, we need to keep in mind that the type of development that goes in those areas needs to be able to support that type of a transit system. Cooperation is needed between the entities to arrive at the end result.

Mr. Herman stated that one or two of the high priority corridors will require two jurisdictions. Mr. Herman also commented on the question of how far a city should go in putting the regulations in place today for development that wants to occur today when the transit system will not be there for six or seven years. There needs to be a safety net but it is not realistic to expect that these places will develop today as though the transit were there to support that type of development. You have to think about the question of how to make sure that what is done today does not preclude what happens there tomorrow. It is wise that regional and the Cities are talking about that now.

Commissioner Frandsen stated that she is hoping that these are issues that we will continue to discuss and work on.

Commissioner Rogers talked about the benefits that were realized after re-development in Pittsburgh.

Commissioner Moss what would regional's role would be in developing the TOD Corridor. Mr. Ziegler responded that there would be two roles. One is being involved in conformance reviews of projects of regional significance and master plan amendments as they come along in these corridors.

The other role would be, getting involved in a kind of facilitation and assistance role of trying to add value to the planning process at the local governing level by pitching in and helping any way we can.

Commissioner Sullivan stated that the right-of-way acquisition makes a big difference today. The costs are much less today if we know what we want as an end result. Our role in helping develop this is getting educated about the issue.

Mr. Herman commented on two things in terms of role. One is that the Regional Plan speaks to these but in a pretty general way. As these begin to get more detailed out, the RPC might need to look back at the Regional Plan and fine tune the policies. The second is to figure out what you want people to do and make it easy. If someone is planning the kind of development that the plans and policies call for, find a way to approve it administratively. If a project has met certain criteria and is in conformance with each city's plans, your job should be easy. There are parts of the review procedures that could be used as incentives to promote the kind of development that is desired.

Chair Herman stated that Mr. Herman is here to help us get definition and the Regional Plan needs some better definition. We will fine tune our policies to support whatever we come up with.

Commissioner Sullivan asked if Sparks or Washoe County has contacted Mr. Herman. Mr. Herman responded that he talked to both County and Sparks staff in the first stage of this project. Mr. Herman stated that he would assume that Reno staff would share these findings with them.

- B. Consideration and possible action on whether to reconsider the RPC's determination of nonconformance (May 12, 2004) regarding proposed City of Sparks Master Plan amendment, Upper Highlands at Cimarron East (CR04-004), changing the land use designation from Open Space/Rural to Estates Density Residential on a  $\pm 297$  acre site generally located east of the Highlands at Cimarron East development and southeast of the current terminus of La Posada Drive. (Note: If the RPC decides to reconsider this matter, it will be placed on a future RPC agenda.)

Chair Herman asked if a staff report was needed on this item.

COMMISSIONER ROGERS MADE A MOTION TO RECONSIDER THE UPPER HIGHLANDS AT CIMARRON EAST (CR04-004), SECONDED BY COMMISSIONER LOKKEN. THE MOTION CARRIED UNANIMOUSLY WITH NINE (9) MEMBERS PRESENT.

- C. PUBLIC HEARING - Regional Plan Conformance Review - City of Reno Master Plan amendment, Lowell Professional (CR04-010), changing the land use designation from Single Family Residential to Mixed Residential on  $\pm 2.5$  acres, located on the east side of Bonde Lane,  $\pm 430$  feet south of Del Monte Lane.

Chair Herman asked if a report was needed on this item.

*[The public hearing was opened.]* There were no requests to speak.

*[The public hearing was closed.]*

COMMISSIONER FRANSEN MADE A MOTION TO FIND THE LOWELL PROFESSIONAL AMENDMENT TO THE RENO MASTER PLAN IN CONFORMANCE

WITH THE TRUCKEE MEADOWS REGIONAL PLAN, BASED ON THE FINDINGS LISTED IN THE STAFF REPORT, SECONDED BY COMMISSIONER SANDERS. THE MOTION CARRIED UNANIMOUSLY WITH NINE (9) MEMBERS PRESENT.

- D. PUBLIC HEARING - Consideration of, and final action on, objection submitted by City of Reno on the RPC's determination of nonconformance (May 12, 2004) regarding proposed Reno Master Plan amendment, Silver Terrace/Moya (CR04-008) - changing the land use designation from Industrial to Mixed Residential on  $\pm$ 47.4 acres located southeast of Moya Boulevard adjacent to where Moya Boulevard curves north and south of Resource Drive in Stead.

Chair Herman stated that the RPC is informed on this matter.

*[The public hearing was opened.]* Mr. Thomas stated that he is present to answer questions.

*[The public hearing was closed.]*

COMMISSIONER ROGERS MADE A MOTION TO ACCEPT RECONSIDERATION, SECONDED BY COMMISSIONER SANDERS.

Chair Herman stated that staff suggested a motion that the RPC consider the City of Reno's objection and make a final determination affirming, reversing, or modifying the RPC's previous action. This is not a motion of reconsideration.

COMMISSIONER ROGERS AMENDED THE MOTION TO MODIFY THE RPC'S PREVIOUS ACTION AND FIND IT IN CONFORMANCE WITH THE REGIONAL PLAN, SECOND CONCURRED.

Commissioner Rogers stated that this project is ideal. It will have services by three transit systems. It will support the rural area, suburban area, and the urban area in Stead.

THE MOTION CARRIED UNANIMOUSLY WITH NINE (9) MEMBERS PRESENT.

- E. PUBLIC HEARING - Consideration and possible action on RPC Resolution 04-05, recommending adoption of a proposed amendment to the 2002 Regional Plan, removing a site of  $\pm$ 4.65 acres (i.e., the Bushey/Busi property) from the Reno-Stead Corridor joint planning area (Map 6) and placing the site within the cooperative planning area (Map 7).

*[The public hearing was opened.]* There were no requests to speak.

*[The public hearing was closed.]*

COMMISSIONER FRANSEN MADE A MOTION TO ADOPT RPC RESOLUTION 04-05, RECOMMENDING RRGB ADOPTION OF THE PROPOSED REGIONAL PLAN AMENDMENT FOR BUSHEY/BUSI, SECONDED BY COMMISSIONER ROGERS. THE MOTION CARRIED UNANIMOUSLY WITH NINE (9) MEMBERS PRESENT.

- F. Review and possible direction to staff on status of necessary amendments to City of Sparks master plan identified during the RPC's conformance review of the master plan on May 28, 2003.

Mr. Baxley stated that Regional Planning staff is looking for direction from the RPC to enter into discussions with the City of Sparks to identify a conformance schedule.

Chair Herman directed Regional Planning staff to enter into discussions with the City of Sparks.

COMMISSIONER FRANDBSEN MADE A MOTION TO EXTEND THE MEETING TO 10:15 P.M., SECONDED BY COMMISSIONER SANDERS. THE MOTION CARRIED UNANIMOUSLY WITH NINE (9) MEMBERS PRESENT.

## **6. DIRECTORS, MEMBERS, AND LEGAL COUNSEL INFORMATION ITEMS**

### **A. Report on actions and agendas of the Regional Planning Governing Board.**

Mr. Ziegler stated that there is a written report on page 93 of the meeting packet. Mr. Ziegler reviewed agenda items for the June 10, 2004, RPGB meeting.

### **B. Legal counsel's report - Status report and possible direction to staff on:**

1. District Court orders and appearances regarding the Regional Plan settlement agreement (October 17, 2002) and related issues, including but not limited to the water purveyor issues in the Verdi area;
2. Washoe County and SVGID appeal to District Court in dispute resolution case DR03-001-RPGB, regarding cooperative planning criteria; and

Mr. Azevedo stated that Judge Hardesty has set this case for oral argument on June 26.

3. Washoe County's petition for judicial review of the certification of Reno's annexation program as conforming with the Regional Plan.

Mr. Azevedo stated that the record on appeal was filed.

### **C. Report on meetings of interim legislative committees, legislative MOU, and conceptual legislation for 2005 session.**

Patricia Rogers, Community Outreach Assistant, reviewed the status of the legislative MOU.

Commissioner Lokken asked if there has been any resolution of the County paying its arrears. Mr. Ziegler responded that the matter has been resolved. The Board of Washoe County Commissioners voted to basically make the RPA budget whole by programming some contingency funds.

## **7. REQUESTS FOR AND ACTION ON FUTURE AGENDA ITEMS**

Chair Herman stated that he would like Regional Planning staff, in conjunction with the staffs of the three entities' Community Development Departments, to begin working on issues related to the next update of the Regional Plan. Chair Herman asked that any commissioner that are interested in participating in that working committee contact him or Regional Planning staff.

Chair Herman stated that we need to workshop the issue of what the RPC's role is in reviewing Regional Planning conformance and policies.

### **A. Review of tentative agenda items for June 2004.**

B. Review of 12-month calendar of projected RPC actions.

Mr. Ziegler asked Mr. Baxley if there are any conformance reviews scheduled for the June 23 meeting. Mr. Baxley responded that the reconsideration of the Upper Highlands at Cimarron will be on the June 23 agenda.

Mr. Ziegler reviewed agenda items for the June and July RPC meetings.

**8. WRITTEN CORRESPONDENCE**

A. Consideration and possible acceptance of individual annual reports submitted by local governments and affected entities pursuant to subsection 1 of NRS 278.0286.

1. City of Reno
2. Airport Authority of Washoe County
3. Reno Redevelopment Agency
4. Washoe County School District
5. Regional Transportation Commission
6. Washoe County District Health Department, Solid Waste Division
7. Washoe County
8. City of Sparks/Sparks Redevelopment Agency (joint)

Rosanna Coombes, Long-Range and Community Relations Planner, stated that she is only waiting on one report from the Air Quality Management Division. When all reports have been received, Regional Planning staff will be pulling apart the individual reports and compiling them into a regional report. The statute only requires that the entities submit these annual reports. Regional Planning staff is asking simply for a motion to accept the reports at this point.

COMMISSIONER MOSS MADE A MOTION THAT THE RPC RECEIVE THE REPORTS, SECONDED BY COMMISSIONER SULLIVAN.

Commissioner Lokken suggested that it would be useful in the future to have a workshop that would allow for input somewhere in the process after the reports have been accepted and before the regional version of the report is drafted.

THE MOTION CARRIED UNANIMOUSLY WITH NINE (9) MEMBERS PRESENT.

Mr. Ziegler stated that he is pleased with the work that Ms. Coombes and Ms. Rogers have done on the annual reports.

**9. PUBLIC COMMENT**

None

**10. ADJOURNMENT**

Chair Herman adjourned the meeting at 10:04 p.m.

Respectfully submitted by Christine Birmingham.

Reviewed by:

Approved by:

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Dave Ziegler, Director

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Terry K. Herman, Chair

Truckee Meadows Regional Planning Agency

Regional Planning Commission

**APPROVED BY THE REGIONAL PLANNING COMMISSION IN SESSION ON \_\_\_\_\_,  
2004.**