



MEETING MINUTES
BOARD OF SUPERVISORS, COUNTY OF MONO
STATE OF CALIFORNIA

Special Meeting
April 20, 2010

Mammoth Lakes Board of
Supervisors Meeting Room,
3rd Fl. Sierra Center Mall,
452 Old Mammoth Rd.,
Mammoth Lakes, CA 93546

9:00 AM Meeting Called to Order by Chairman Hunt

Pledge of Allegiance led by Supervisor Hazard

OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD

No one spoke.

BOARD MEMBER REPORTS

Supervisor Bauer

1. The Mt. Andrea support letter is moving forward.
2. One campground in June Lake will open this weekend for the start of fishing season. Two of the lakes and all the creeks are open (free of ice).
3. Attended the Town-County Liaison meeting. Discussed a variety of issues including solid waste, property tax reassessments, air service, and Minaret Mall lease.
4. Learned at the ESTA meeting that the Forest Service will have a transportation planner on staff permanently. State of California plans to re-institute STA money (state transportation funds).

Supervisor Farnetti

1. No report.

Supervisor Hazard

1. No report.

Supervisor Hunt

1. Attended the Town-County Liaison meeting. Will discuss the Whitmore track at the next meeting.
2. Attended the ESTA board meeting last Friday. Discussed the following: 1) Reds Meadow shuttle (fees will remain the same); 2) Mammoth Mountain bus lease contract and ticket sales contract; 3) treasurer's report (still in the black); 4) working with employees to modify agreement.

Supervisor Peters

1. Attended Bridgeport RPAC meeting last Thursday. Discussed economic development issues, update about commissary project at Marine base, recruiting new members for the RPAC, and staffing the visitors' center.
2. Met yesterday with Forest Service members regarding opening camp grounds for this

- weekend (fishing season opener).
3. Hoping to meet this week with the new forest supervisor, Jeannie Higgins. Housing issues need to be discussed.
 4. Will meet on Friday with the sector chief of state parks whose area includes Bodie and Mono Lake.

COUNTY ADMINISTRATIVE OFFICE

- 1) **CAO Report regarding Board Assignments (David Wilbrecht)**
Receive brief oral report by County Administrative Officer (CAO) regarding his activities.

David Wilbrecht reported on the following:

1. Attended the Town-County Liaison meeting.
2. Met with the CAO of Inyo County about moving child support services regional leadership from Mono County to Inyo County since Julie Tiede has become the Director of Social Services.
3. Met with the budget committee; will report monthly to the Board.
4. The Marine base will soon be changing command leadership; this item will come before the Board in June.

- 2) **APPROVAL OF MINUTES**

M10-77

- A. Approve Minutes of the Regular Meeting held April 6, 2010, as amended.
Farnetti/Hazard, 5-0

Supervisor Peters asked to amend Page 9 of the minutes. During the presentation about the jail, Sheriff Scholl made a comment that relocating the jail would be devastating to Bridgeport. The Board amended the minutes by adding the following sentence: Moving the jail out of Bridgeport would be devastating to the community.

Closed Session: 9:05 a.m.

Break: 9:57 a.m.

Reconvened: 10:05 a.m.

Break: 11:15 a.m.

Reconvened: 11:25 a.m.

Lunch: 11:50 a.m.

Reconvened: 1:00 p.m.

Break: 3:10 p.m.

Reconvened: 3:16 p.m.

Adjourned: 4:22 p.m.

CLOSED SESSION

The Board had nothing to report from closed session.

BOARD OF SUPERVISORS

- 3a) **CONFERENCE WITH LABOR NEGOTIATORS - Government Code Section 54957.6.** Agency designated representative(s): Dave Wilbrecht, Brian Muir, Marshall Rudolph, Mary Booher and Rita Sherman. Unrepresented employee(s): all.
- 3b) **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION - Significant exposure to litigation pursuant to subdivision (b) of Government Code section 54956.9.** Number of potential cases: one.

DEPARTMENT REPORTS/EMERGING ISSUES

Mary Booher, CAO's Office: Received notice of funding availability for CDBG general allocation funds, limited to \$800,000. Booher will bring this item back to the Board in May for direction about expending the funds.

Sheriff Scholl: 1) Purchased the ATVs for the off-highway vehicle program; used grant funds for the purchase. 2) Will come before the Board on May 4th about sending deputies to training in San Bernardino. 3) Introduced former co-worker, Dan Peterson.

Brian Muir, Finance Department: Reviewed the investment report for the quarter. The portfolio earns about \$1 million more per year than if the funds were invested in LAIF.

Lynda Roberts Clerk-Recorder: 1) Provided an update about routine maintenance recently performed to voter registration records. 2) Provided a quarterly report about the number of foreclosure documents recorded January-March 2008-2010.

Evan Nikirk, Public Works: Provided a status report about roads open for the fishing season opener this weekend. All roads to the various lakes are open and accessible; they are still working on opening Rock Creek. Nikirk had no information from the Park Service or CalTrans about opening Tioga Pass.

- Tim Hansen: CalTrans has been doing some work but there is avalanche danger and new snow.

Stacey Simon, County Counsel's Office: On April 6th attended the U.S. Forest Service Region 5 round table regarding the planning tool. Purpose of the meeting was to discuss development of a new planning rule that will govern compliance with the NFMA (National Forest Management Act). The planning rule will specify obligations of federal agencies to coordinate and cooperate with local agencies.

CONSENT AGENDA

(All matters on the consent agenda are to be approved on one motion unless a board member requests separate action on a specific item.)

Supervisor Hazard pulled item #7a

FINANCE

4a) Annual Identity Theft Prevention Policy Report - Annual report required by the Identity Theft Prevention Policy of the County of Mono.

M10-78 Action: Receive annual report pertaining to Identity Theft Prevention Policy. **Bauer/Farnetti, 5-0**

SOCIAL SERVICES

5a) California Statewide Automated Welfare System C-IV Project - MOU between the C-IV Project and Mono County and second amended Joint Powers Agreement (JPA) among the 39 counties, including Mono, using the C-IV system. These documents have been approved by Allen Berrey, Dep. County Counsel, Mono County, and memorialize the new consortium regional representation model. The C-IV MOU has been amended to reflect the shift to the regional representation model; and a single 39-County JPA has been created and amended as all 39 counties will be using the C-IV system.

M10-79 Action: Approve the amended C-IV MOU and JPA and authorize the Chair to

sign both.

Bauer/Farnetti, 5-0

- 5b) Child and Family Services Mono Co, Self Assessment 2010 - County Self Assessment (Please see Board Report).**

M10-80 Action: Approve and authorize the Chair to sign Mono County's Self Assessment for 2010.

Bauer/Farnetti, 5-0

ELECTIONS

- 6a) Democratic Central Committee - Candidates to be declared elected to the Democratic Central Committee.**

M10-81 Action: Pursuant to California Elections Code section 7228, declare the following candidates elected to the Democratic Central Committee for a two-year term: Penelope Burdeno, Susan Sanders, Jean Wuamett (Supervisor District 2); Wilma Wheeler, Nancy Peterson Walter (Supervisor District 3); Zane Davis, Carolyn Davis (Supervisor District 4); Mary Ann Dunigan, Shirley Blumberg, and Carolyn Balliet (Supervisor District 5). Direct the Clerk to prepare a "Certificate of Election" for each candidate.

Bauer/Farnetti, 5-0

- 6b) Republican Central Committee - Candidates to be declared elected to the Republican Central Committee.**

M10-82 Action: Pursuant to California Elections Code section 7423, declare the following candidates elected to the Republican Central Committee for a two-year term: Vikki Bauer (Supervisor District 3); Debra VandeBrake, Jerry VandeBrake, Laretta Cochran, and Carla Barth (Supervisor District 4). Direct the Clerk to prepare a "Certificate of Election" for each candidate.

Bauer/Farnetti, 5-0

COMMUNITY DEVELOPMENT - PLANNING DIVISION

- 7a) Long Valley RPAC Membership Appointments - Consider appointment of four members to the Long Valley RPAC.**

M10-83 Action: Appoint Pat Agnitch and Lee Scotese as members to the Long Valley RPAC; refer the appointment of two additional members back to the RPAC for further discussion.

Hazard/Peters, 5-0

Supervisor Hazard: The Board of Supervisors previously approved the appointment of 5 members to the RPAC. The RPAC has been considering a nine-member board (rather a seven-member board), but until the RPAC makes a definite decision, Hazard asked the Board to appoint two member today and send this back to the RPAC for further discussion.

REGULAR AGENDA

CORRESPONDENCE RECEIVED (INFORMATIONAL)

All items listed are available for review and are located in the Office of the Clerk of the Board

CLERK-RECORDER

- 8a) The Wilderness Society - Letter from Sally Miller, Senior Conservation Representative--California, addressed to Daniel H. Morris, Natural Resource Specialist--General Recreation, Humboldt-Toiyabe National Forest, regarding support for Humboldt-Toiyabe National Forest Ground Operations & Law Enforcement Grants (cc: Mono County Board of Supervisors).

The Board acknowledged receipt of the correspondence.

PUBLIC WORKS

- 9a) **Contract Award for the Lee Vining Streetscape Project** (Mary Ellen Halpin) - Receive staff report concerning bids received in response to solicitation for bids, bid protests received (if any), and responsibility of the apparent low bidder for the Lee Vining Streetscape Project. Consider and potentially authorize the Public Works Director to enter into and administer an agreement for the work. Provide any desired direction to staff.

- M10-84** **Action:** Based on staff report concerning bids received in response to solicitation for bids, bid protests received (if any), and responsibility of the apparent low bidder: 1. Identify R&J Joy, Inc. (dba Joy Engineering), as responsible bidder submitting the lowest responsive bid. 2. Award contract to R&J Joy, Inc., for the Lee Vining Streetscape Project, in an amount not to exceed \$226,555. 3. Authorize the Public Works Director, in consultation with the County Counsel, to administer that contract, including making minor amendments to said contract from time to time as the Public Works Director may deem necessary, and authority to approve and issue change orders to the contract in accordance with the Public Contract Code §20142, in a cumulative amount not to exceed \$22,655.50, provided such amendments do not substantially alter the scope of work and are approved as to form and legality by County Counsel.

Bauer/Peters, 5-0

Mary Ellen Halpin, Public Works: On March 16, 2010, the Board approved the project manual and plans, which began the 30-day bid period. Public Works received four responsible bids; R&J Joy is the low bid. The project will be funded with ARRA funds in the amount of \$174,000; the remaining cost will be paid from excess County Transportation Enhancement Funds.

- 9b) **Contract Award for the Paradise Streets Rehabilitation Project** (Garrett Higerd) -Receive staff report concerning bids received in response to solicitation for bids, bid protests received (if any), and responsibility of the apparent low bidder for the Paradise Streets Rehabilitation Project. Consider and potentially authorize the Public Works Director to enter into and administer an agreement for the work. Provide any desired direction to staff.

M10-85

Action: Based on staff report concerning bids received in response to solicitation for bids and responsibility of the apparent low bidder: 1) identify Qualcon Contractors, Inc. (Minden, NV), as responsible bidder submitting the lowest responsive bid. 2) Award contract to Qualcon Contractors, Inc., for Rehabilitation of Paradise Streets, including the base bid and bid alternates #1 and #2, in an amount not to exceed \$570,237. 3) Authorize the Public Works Director, in consultation with County Counsel, to administer that contract, including making minor amendments to said contract from time to time as the Public Works Director may deem necessary, and authority to approve and issue change orders to the contract in accordance with Public Contract Code §20142, in a cumulative amount not to exceed \$41,011.85, provided such amendments do not substantially alter the scope of work and are approved as to form and legality by County Counsel.

Hazard/Bauer, 5-0

Garrett Higerd, Public Works: The Board approved the project documents on March 9, 2010. Public Works received five bids and Qualcon is the lowest responsible bidder; the bid came in below the engineer's cost estimate. The project will be funded with Prop 1B money; the funds are in the State Controller's office, and should be released soon.

BOARD OF SUPERVISORS

10a)

Horizon Air Service (Supervisor Bauer) - Consider and discuss funding a subsidy for Horizon Air Service into Mammoth-Yosemite Airport for the months of October and November 2010.

No Motion

Action: Refer this back to Karen Johnston who will relay the Board's ideas and suggestions to the appropriate parties.

Supervisor Bauer: Requested agendaizing this item after attending a Town-County Liaison meeting and learning that there would be no air service during October and November. Supports the year-round air service; consistency is important and tourism is an important revenue base.

Karen Johnston, Town of Mammoth Lakes, presented the following information:

- Mammoth Mountain Ski Area (MMSA) provides a guaranteed subsidy for winter service, and the Town will help guarantee summer service; however, there is a gap in October extending through Thanksgiving. This may provide an opportunity for a three-way guarantee with the County.
- The estimated guarantee would be \$45,000 for each party, assuming a reasonable load factor. The amount will be less if a flight is above the minimum number, and more if it is below the minimum.
- Flights in the fall would originate from Los Angeles, so higher-load occupancy is anticipated.
- This year will be the first use of service during the summer. In the past, MMSA has experienced good use of air service during the summer. Marketing and promotion will be important for summer service.
- Winter service was so successful this year that MMSA didn't have to pay a subsidy.
- A considerable number of local residents and business people use the service.
- Horizon needs a contract as soon as possible if service is to be extended in October and November. Before a contract is signed, the County needs to indicate a willingness to proceed. The contract could be written to limit the County's liability.

Board Discussion

- Supervisor Farnetti: Year-round service is an advantage for tourists and Mono County residents; air service helps fill rooms and generate TOT. But October is one of the slowest months of the year so this might not be a good investment. Expressed reluctance to support the service and reluctance to use contingency funds at this time.
- Supervisor Hunt: Concurred that October-November is the slowest time of the year and asked if there is a way to reduce liability to the County, such as capping the subsidy so the County is not obligated for more or spreading the risk out over a year. He would also like to see Horizon more involved by including other connections. During the upcoming budget process the Board will consider providing basic services and not moving into new areas. But he would like to participate and move towards developing a workable contract with conditions.
- Supervisor Hazard: Generally he does not support subsidizing air service, and believes there are more options. Horizon's requirement for percentage of seats sold seems too high. There is a market for year-round seats and if the ticket cost is less, more people will fly. Suggested creating programs, such as a fall colors tour. Also, the route should be broadened to include the Lake Tahoe area.
- Supervisors Peters: Concerned that the County is being asked to come in at the high risk time; this idea would be much more appealing if it involved the whole year and some protection against low times. Would like to see a contract, marketing plan, and projections before making a decision. Agreed with others' comments about capping the risk.
- Brian Muir, Finance Director: This decision needs to be considered in light of next year's budget and the need for cash.

Public Comment

- Tim Hansen: Concurred with Supervisor Bauer. The service should not be started and then stopped. The fall season seems to be booming.

PUBLIC WORKS

Additional Departments: County Counsel

11a)
11:00 a.m.

Public Hearing - Mono Lake Court Maintenance Termination (Garrett Higerd) -Receive staff report regarding the termination of maintenance of Mono Lake Court in Mono City. Conduct a public hearing. Consider and potentially adopt a resolution terminating maintenance. Provide any desired direction to staff.

R10-20
M10-86

Action: 1. **Adopt Resolution R10-20**, "A Resolution of the Mono County Board of Supervisors Terminating Maintenance of Mono Lake Court in Mono City, California". 2. Direct the Clerk of the Board to record a certified copy of the fully-executed resolution with the County Recorder. 3. Find that the above action is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to 14 CCR §15301 and §15061(b)(3). Direct the Public Works Director to file a Notice of Exemption for the project consistent with 14 CCR §15062. 4. Direct the Public Works Director to purchase and install a sign at the entrance to the alley which contains the following statutory-required language, "This road is not maintained. Mono County is not responsible for any loss or injury suffered by reason of its use."

Bauer/Hazard, 5-0

Garrett Higerd, Public Works: The alley in question was accepted with the other roads in 1961 when the subdivision map was created; however, the County has never improved or maintained the alley, and the original sub-divider never improved it. Recently, property owners requested to re-name the alley, Mono Lake Court, in order to get 911 service; they do not expect the County to provide maintenance. If the Board approves the recommended action, the law requires posting of a sign for one year stating that the road is not maintained. The parcel owners are aware of this potential action and received hearing notices.

Public hearing opened at 11:30 a.m. No one spoke. Public hearing closed.

LUNCH

OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD

No one spoke.

BOARD OF SUPERVISORS

12a) California State Association of Counties (CSAC) (Farrah McDaid, Senior Legislative Analyst) - Presentation providing updates on such items as state budget, County Government Month, new communication tools to be utilized by CSAC, and items of interest to Mono County.

M10-87 Action: Approve a resolution supporting April 2010 as National County Government Month.
Bauer/Farnetti, 5-0

Farrah McDaid, CSAC, provided the following report:

- State revenue projections are up; however, there is still an \$18.5 billion structural deficit. The legislature failed to produce a workable solution.
- CSAC works on the state budget every day to let the legislators know how their decisions impact counties.
- CSAC follows all the legislation and bills. Weekly information is found on the CSAC website.
- McDaid provided information about the upcoming legislative conference, and provided a packet containing information about a variety of topics and issues.
- McDaid provided an explanation about the initiative proposed by the League of California Cities. This is an initiative for the November ballot, but it has not yet qualified. The initiative would constitutionally protect Prop 42 funding and public safety funding, which could potentially have drastic effects for counties. CSAC has not taken an official position, but will do so if this qualifies for the ballot.
- There may be 29 initiatives on the November ballot.
- Various counties have expressed concern about starting the CSAC annual conference on a Tuesday. She will convey to CSAC the Mono County Board of Supervisors' concern.

Chairman Hunt read the resolution supporting April 2010 as National County Government Month, and presented it to McDaid.

COMMUNITY DEVELOPMENT - PLANNING DIVISION

13a)
1:00 p.m.

Appeal of Planning Commission's decision on Use Permit 10-001/Stone (Brent Calloway, Gerry Le Francois) - Public hearing regarding the appeal of Planning Commission denial of Use Permit 10-001/Stone for a kennel at 116 Crowley Lake Drive and request for waiver of appeal fee.

M10-88

Action: Deny appeal without prejudice and waive the fee; direct staff to schedule the item to be heard at the May 13, 2010, Planning Commission meeting, and provide required notices.

Hazard/Bauer, 5-0

Marshall Rudolph, County Counsel: Due to a conflict of interest (property owner in the area), he abstained from participating. Stacey Simon, Assistant County Counsel, took his place. At the conclusion of this item, Rudolph returned to the meeting.

Gerry LeFrancois and Brent Calloway, Community Development:

- Potential actions: Affirm, affirm in part, remand or reverse the Planning Commission action; potentially grant Appellant's request for a fee waiver.
- During the Planning Commission meeting when this request was originally considered, there were irregularities with the videoconferencing system that caused problems.
- Outlined the Planning Commission actions.
- Provided an aerial view of the area with an overlay of land use designations. Showed a site plan of the parcel in question.
- Outlined the proposed use: allow boarding of up to 10 dogs; dogs will always be supervised; dogs will be pre-screened; will walk the dogs on adjacent BLM lands.
- Showed photographs of the property and outlined proposed changes to accommodate the dogs. This would be a cage-free boarding facility.
- Applicant would be required to get an annual kennel license and be subject to annual inspections by Animal Control.
- The project has generated both support and opposition. Noise is a primary concern.
- Project went through a lengthy LANTAC process. Applicant has worked closely with departments to resolve community concerns.
- Outlined conditions that would be imposed on the use permit. Code enforcement and animal control will monitor the situation. The six-month trial period was suggested by Stone.
- The full board of the Planning Commission was not present when they heard this issue.

Opened the public hearing at 1:38 p.m. Public Comments:

- Amanda Stone and Vince Maniaci, applicants: Asked the Board to repeal the judgment on the use permit and waive the application fee for appeal. This area is zoned for this type of business on estate/residential property, is consistent with the general plan, and fits in the rural community. Provided a handout outlining the dog retreat business. Two of the three adjacent property owners have supported the project; the third is neutral. Addressed the noise issue and outlined actions taken to mitigate concerns; reviewed condition one of the use permit. During the trial period, applicants will discontinue the business if they can't control the noise.
- Fred Stump, resident of Crowley Lake: Supports the project. This service is needed as is the economic benefits of a business.
- Bridgett and Mark Busby, residents of Long Valley: Can't support the kennel; expressed concern about noise and impact to the water system.
- Wayne Craft, area resident: Opposes the kennel. There are currently seven boarding facilities in areas nearby.
- James Connelly, area resident currently residing in June Lake: Supports the project.

- Sobian Spring, resident of Crowley Lake: Supports the project.
- Mike and Susan Bunes, owners of Curley's apartments: Oppose the project; concern about losing business because of noise. Raised questions: Who will monitor the site if the owners are called away unexpectedly? Who will provide veterinarian services if needed? How will this impact wildlife? The leash law ordinance should apply if this business is approved.
- Kim Pham, resident of June Lake: Supports the kennel.
- Melissa Conti, area resident: Supports the kennel.
- Melanie Fogerty, resident: Opposes the business.
- Leslie Willoughby, Crowley Lake: Supports the business. Spoke about Amanda's ability to care for dogs and keep them in control.
- Diane Craft: Opposes the business. Presented information about noise (decibels). This is a residential neighborhood.

Public hearing closed at 2:35 p.m.

Board Discussion

- Supervisor Bauer: Allows dogs at her motel in June Lake; they have not experienced problems with barking. Supports the business.
- Supervisor Farnetti: More and more people are traveling with pets, so a kennel is needed. The zoning in the proposed area allows for this use.
- Supervisor Peters: His lodging facility allows pets, and he has not had problems with the dogs. The applicants deserve a chance.
- Supervisor Hazard: This situation seems to be fraught with conflict. The community has evolved into a residential community and away from commercial enterprises; generally speaking, he is opposed to commercial kennels in residential areas. Asked planning staff and legal counsel to resolve zoning conflicts. Expressed concern about certain aspects of the property, and expressed concern about lack of a full board for the Planning Commission hearing; both sides need a fair hearing before the full board. Suggested remanding this back to the Planning Commission and refunding the fee for the appeal hearing. The Board of Supervisors should only hear an appeal after it has gone before the full board of the Planning Commission.
- Supervisor Hunt: If the Board of Supervisors remands this issue back to the Planning Commission, a full board needs to be present on May 13th, or they need to hold a special meeting.

13b) **Appeal by DFG of Tentative Map #32-56/Mead** (Gwen Plummer) - Public hearing regarding appeal by the State Department of Fish and Game of Tentative Map 32-56/Mead (SCH#2009102084).
1:45 p.m.

No Motion **Action:** The Board continued the public hearing to May 4, 2010.

Gwen Plummer, Community Development: Outlined the issue. The recommended action is to open the hearing and continue it to May 4th as agreed to by the property owner and applicant.

Stacey Simon, Assistant County Counsel: Under the map act, appeal hearings need to be held within 30 days; today was the last available date for the hearing. However, as long as the hearing is opened and commenced within 30 days, it can be concluded beyond that period. The property owner has been out of the country and only returned yesterday. Both parties will attend the meeting on May 4th.

Public hearing opened at 3:20 p.m. Public Comment:

- Fred Stump, Crowley Lake resident: Has been aware of this project for a while. Made the following observations: 1) Property owner made concessions to protect wildlife. 2) The state has many options to acquire the parcel if they are interested in doing so. 3) Property owner should be allowed to develop.

COUNTY ADMINISTRATIVE OFFICE

Additional Departments: EMS

- 14a)** **EMS Billing Contract** (Mary Booher and Mark Mikulicich) - Proposed contract with Wittman Enterprises pertaining to EMS Billing Services.
- M10-89** **Action:** Approve County entry into contract with Wittman enterprises, and authorize County Administrative Officer to execute said contract on behalf of the County.
Bauer/Hazard, 5-0
- Mary Booher, CAO's Office: Before the Board is a contract for EMS billing services. Booher outlined the history of EMS billing. Wittman is the successful candidate to provide billing services. The cost of the contract will start at \$55,000; the cost of collection will increase if revenue from collections increases. Asked the Board to authorize the CAO to sign the contract.
- Brian Muir, Finance Department: The contractor will refer collections to the Finance Department after 45 days for further collection efforts.
- 14b)** **Human Resources-Human Resources Director Contract** (Mary Booher) - Proposed resolution approving an employment agreement with James Arkens and prescribing the compensation, appointment, and conditions of said employment.
- R10-21** **Action:** Adopt **Resolution R10-21** approving an employment agreement with James Arkens, and prescribing the compensation, appointment, and conditions of said employment.
Hazard/Bauer, 5-0
- Mary Booher, CAO's Office: This is a standard contract. Arkens will start employment on May 3rd as the Human Resources Director.
- Board members thanked Ms. Booher for the extra work she has done for the Human Resources Department.
- 14c)** **Housing Program Guidelines approval** (Mary Booher and Pam Hennarty) - Presentation by Pam Hennarty of Mammoth Lakes Housing providing update on the Homebuyer Program throughout the county and reviewing the proposed changes to the Homebuyer Program Guidelines.
- No Motion** **Action:** Item continued to May.

FINANCE

- 15a)** **Transient Occupancy Tax Audit Appeal** (Brian Muir) - Appeal by Double Eagle Resort/Spa regarding findings of a Transient Occupancy Tax audit on February 1, 2010, showing unreported room revenue, penalties and interest in the amount of \$1,925.58.
- M10-90** **Action:** Waive taxes, penalties, and interest in the amount of \$1,925.58.
Bauer/Farnetti, 5-0

Brian Muir, Finance Director: The spa and guest house were audited for the period January

2007-December 2009 according to the normal audit schedule, which found unreported TOT. The TOT is required to be collected for occupancies of 30 days or less.

Connie Black, Double Eagle Resort/Spa: Distributed information outlining the situation. Believes the audit was not objective and her business was subjected to an inconsistent and flawed process. The auditor spent most of the time auditing the residence and not the resort; this was the only home in June Lake audited for transient rentals.

Ralph Lockhart, associated with ownership of the guest house: The guest house is not owned by the resort and spa; Double Eagle Resort only checks people in and collects the money. Previously contacted Mark Magit and Nick Criss to ensure rental of the guest house would be in compliance; after these communications, believed they would comply with County codes. The home was rented for 30 days at a time, and was not re-rented if the tenants left prior to the end of the month. There seems to be an inconsistency in the audit regarding how the number of days was calculated. According to County code, partial days are considered full days. Asked the Board to waive the TOT, penalties and interest.

Discussion

- Supervisor Farnetti: People aren't charged for their check-out day, so it seems the rental would be 29 days. The information presented by the Blacks shows the charge being made by Double Eagle and not the separate company. The Board needs to be consistent on this issue and how they handle similar situations.
- Marshall Rudolph, County Counsel: Transient is defined as 30 days or less, and a 30-day rental is subject to TOT. Single family residences rented for 30 days or less are subject to TOT. The land use issue is separate from the TOT issue.
- Supervisor Bauer: The Blacks intended to comply and made efforts to work with the County to ensure compliance. The Board needs to have a discussion about the general plan and the transient occupancy tax ordinance since they aren't consistent.
- Mark Magit, Assistant County Counsel: Explained how this issue came about. There were compliance problems in 2007, which seemed to have been resolved to comply with the land use code. (Previously the issue focused on land use and not TOT.) Renting for a "month" may mean 30 days or 31 days depending on the number of days in the month.
- Supervisor Peters: This seems to have been a confusing situation, and there seems to be a discrepancy with language in the code. Because of the small amount of money involved, it seems best to grant the Black's request and move forward.
- Supervisor Hazard: The billing system for the guest house is confusing. People have the responsibility to ensure they are in compliance, especially when they retain legal counsel.
- Rose Glazier, Tax Office: The guest house was audited because of previous compliance problems; the tax office wanted to make sure the discrepancy had been corrected. Also, audits are performed on other rental houses.
- Supervisor Hunt: Agreed with Supervisor Peters; supported waiving the charges.

ADJOURN: 4:22 p.m.

Byng Hunt
Chairman

ATTEST:

LYNDA ROBERTS
Clerk of the Board

§§§§§