MINUTES
CHURCHILL COUNTY SENDING SITE REVIEW COMMITTEE
Monday, January 13, 2025

Present: Randy Hines, Chairman
Bob Getto, Committee Member
Carla Pomeroy, Committee Member
Ernie Schank, Committee Member
Dean Patterson, Senior Planner
Diane Moyle, Administrative Assistant
Colby Frey, Applicant
Cheryl Gallio for Arthur Peel, Applicant
Mario Peraldo

1. Call to Order.

Chairman Hines called the meeting held in Conference Room 102, Churchill County Administrative Complex, 155 North Taylor Street, Fallon, Nevada, to order at 8:32 a.m.

2. Public Comment.

Chairman Hines asked if there were any public comments on anything not on the agenda, and there were none.

3. Verification of the Posting of the Agenda.

Chairman Hines verified that the agenda had been posted in accordance with NRS 241 and Churchill County Code on January 7, 2025.

4. Consideration and possible action re: Approval of Agenda as submitted or revised.

Member Schank moved to approve the Agenda as submitted. The motion was seconded by Member Pomeroy, and the Agenda was unanimously approved.

5. Consideration and possible action re: Approval of Minutes of the meeting held on:

A. November 18, 2024
Committee members had previously been provided with the Minutes of the meeting.

Member Schank moved to approve the Minutes of November 18, 2024 as submitted. The motion was seconded by Member Pomeroy, and the Minutes were unanimously approved.

6. Public Hearing

A. Consideration and possible action re: An application filed by C & A Rentals LLC for property located off the Schurz Highway, Assessor's Parcel Number 006-092-16, consisting of approximately 72.53 acres with approximately 58.27 irrigated water rights in the A-10 zoning district. The applicant proposes to place a conservation easement on the property.

Chair Hines went through the calculations for the Transferrable Development Rights (TDRs) based upon information provided. It was noted that there was a difference in the irrigated water righted acres and the total water righted acreage on the Truckee Carson Irrigation District (TCID) water right detail form. It was stated that we want to make sure not to include water that cannot be beneficially used on the property. Colby Frey believes that there is an issue with water rights because he thought there were at least 60 acres of water rights on there. After discussing the issue, it was decided to use all of the water rights listed on the TCID water right detail form of 59.47 acres because they could be used there. Colby Frey will work with TCID to ensure that the irrigated acreage is updated.

Motion by Member Getto, based on meeting the criteria for a Sending Site, including zoning designation, minimum acreage, water rights, and military operations buffer area, that the application filed by C & A Rentals LLC concerning Assessor's Parcel Number 006-092-16, consisting of ±72.53 acres, with ±59.47 water righted acres, be approved as a Sending Site. Member Pomeroy seconded the motion, and it passed unanimously.

Member Getto made a motion based upon the calculations for acreage, irrigated water righted acreage, and location in the military buffer zone to recommend a total of 88 Transfer of Development Rights (TDRs) [there was a calculation error, and it was inadvertently stated as 89] be approved for APN 006-092-16 on Schurz Highway. The motion was seconded by Member Schank, and it passed unanimously.

B. Consideration and possible action re: An application filed by Arthur Peel for property located at 9350 Pasture Road, Assessor's Parcel Number 006-092-07, consisting of approximately 193.9 acres with approximately 154.20 acres of irrigated water righted property. The applicant proposes to place a conservation easement on the property.

Chair Hines went over the calculations for the Transferrable Development Rights (TDRs) based upon information provided. Our office used the water right acreage provided by the applicant because the Truckee Carson Irrigation District (TCID) water right detail didn't show irrigated acreage. Cheryl Gallio, representing her father, Arthur Peel, said that Colby Frey was farming this property. Mr. Frey said that he was using all of the water rights on this farm, so it was determined to use 155.32 water righted acres in the calculation, which increased the TDRs to 252. There was discussion about the water righted acreage and the fact that once the easement has been recorded that water would be tied to this property and could only be used there or on another conservation easement property. Colby Frey and Cheryl Gallio stated that they would work with TCID to ensure that the water rights are accurately reflected.

Member Getto further asked about potential home sites. There was discussion about the potential future use of the land, and the need to request additional sites should any be needed later. Points were brought up about the benefits for future generations or owners of this land to have the ability to build an additional home on the property, as well as the need to do this before an easement is placed. The appraisal price could be figured based upon the way it is and with an additional home site if they wished, but it would need to be requested now in order to be considered. Then they could choose which they want before moving forward with the purchase agreement for the easement. It was stated that if they do wish to have other home sites, they may need to consider dividing the property for those prior to placing an easement because it would not allow further division of the parcel once it has been recorded. If the two home sites were on the one parcel, they would both be owned by whoever owns that parcel, but if the homes were on separate parcels, they could be owned and sold separately. Mrs. Gallio said that her father wants to keep things as they are with the one home and farmland. They are not requesting additional sites for the future.

Motion by Member Getto, based on meeting the criteria for a Sending Site, including zoning designation, minimum acreage, water rights, and military operations buffer area, that the application filed by Arthur Peel concerning Assessor's Parcel Number 006-092-07, 9350 Pasture Road, consisting of ±193.9 acres, with ±155.32 water righted acres, be approved as a Sending Site. Member Schank seconded the motion, and it passed unanimously.

Colby Frey noted that this property is bordered on two sides by parcels that already have conservation easements on them. There was a little more discussion on the amount of water rights, and Mrs. Gallio said that she would meet with TCID to get this cleared up.

Member Getto made a motion based upon the calculations for acreage, irrigated water righted acreage, and location in the military buffer zone to recommend a total of 252 Transfer of Development Rights (TDRs) be approved for APN 006-092-07 at 9350 Pasture Road. The motion was seconded by Member Pomeroy, and it passed unanimously.

C. Consideration and possible action re: Development of ideas for making improvements to the operation of the Transfer of Development Rights Program, Churchill County Code 16.14, and related subjects of County Code.

Chair Hines explained that this is a program that has been in effect for over 20 years. It has come to our attention that this committee wants to come up with some solutions on how to use the program to make it work regarding the TDR certificates. Member Schank stated that most of what is in the ordinance deals with sending sites, and there is only one little section, CCC 16.14.040 that has to do with receiving sites. He recalled that the committee that was putting this all together were so eager to get the sending site because of the Navy involvement, that they finished that part, and they never went back to complete any work on the receiving sites. This is why he thinks that they have requested to have this meeting. Dean Patterson responded that all of the county personnel that were involved in the development of this program and ordinance are no longer with the county, and those remaining don't have that knowledge. Member Schank pointed out that he, Mario Peraldo, Jeannette Dahl and Rusty Jardine, Civil Deputy District Attorney, were part of the committee that developed this ordinance.

Dean Patterson, Senior Planner, presented information regarding the Transfer of Development Rights (TDR) Program as it is in Churchill County Code (see PowerPoint Presentation). He stated that policies have been established in the Master Plan regarding this program so that any changes made would need to be reflected in both. He shared how things have been implemented and noted areas where there are issues due to not having clearer regulations related to receiving sites and utilizing TDRs. It is unclear why only Planned Unit

Developments (PUDs) may be receiving sites. There is no calculation provided for how these would be used in a PUD. He noted that in the purchase part of the program, the appraisal is based upon the price of the development potential for the property and doesn't consider TDRs in their calculations.

Dean Patterson shared some of the issues with the number of TDRs available (12,000+ owned by the county and 200+ owned by private parties), lack of mechanism requiring TDRs for development or increasing density with development, no established value for a TDR, and the concerns with imposing requirements for using TDRs for development. Mr. Patterson described how the Equivalent Residential Credits (ERCs) in the calculations overinflates the true density allowed in the zoning district for the development potential due to the bonuses, and he shared how the current TDR certificates compares to the density of the city and county. He noted that other jurisdictions with these types of programs do not generate the same massive number of TDRs. One complication that arises with extinguishing TDRs, if that is the desired outcome, is that those that are privately held would need to be compensated, and there is no value for a TDR, so it is difficult to know what compensation would be sufficient. If we keep the TDRs, we should probably form the starting base for a functioning market based TDR system. We would still need to address the excessive number of TDRs so that what is left has some value, and it will need some extensive modification to the code so that the market system can work.

Mario Peraldo relayed the concepts as he remembers when they were working to develop this program. He said that farming is often not a very good business, and the only way you can make money is to sell your property. Then you end up with higher density development out from the center of your city; you have development scattered all over; and, generally, that is not a desired planning outcome. You want to have your higher population density closer to the town and less dense development further away. The higher density needs services, and if these are scattered, it is very hard to provide these. Then the Navy provided an interesting situation because they don't like people developing right next to their facilities and ranges. Most accidents happen within two miles of the airport. Anything that they can have to minimize the problems with interactions with the public from noise complaints to an airplane crashing into someone's house is beneficial. These were the two main considerations at the time. Another thing is that breaking up the agricultural land destroys it. After a while the agricultural benefit is lost. This is a unique area here. To maintain our agriculture here, we need to do things to conserve farming.

Mr. Peraldo noted areas where airports or bases have had a lot of development around them, and then these are less effective and have more problems. People don't like being near these areas, and those working on these facilities don't like the negative interactions with the public. Using conservation easements was intended to divert where the growth is going to be. At the time of developing this program it was decided that we didn't want growth around the Navy base, and the Navy was very happy to get involved with this program. He believes that this was one of the first programs for cooperation to conserve lands around the base and ranges. From the county's perspective, they could better direct where the growth was going to be, which at that time was intended to be more to the north and west of Fallon. The water plant was developed in that area for that growth.

Mario Peraldo spoke a little about TDR (transfer of development rights) and PDR (purchase of development rights). He looks at these to be very similar in that the purchase takes place with the easement, and then the transfer is done afterwards. He said that it sounds like there has been no movement to define where the growth should be taking place or a mechanism developed to utilize the development rights that have already been purchased. He thinks that development should require these development rights in order to increase density. Ernie Schank responded that even though they had an idea while developing the program, it was never made as a part of this ordinance. Mr. Peraldo said that there were some things discussed at the time and some questions that came up later, and he feel that it should have been made as open as you can so that there is room for flexibility. You can go too far on that side, and that appears to be what has happened. It was left open, and no decisions were made specifically on how to use the development rights. He thinks that we need to utilize the purchased development rights in developments that want to increase their density. It starts with defining the area where these should be used, and then decide how these should be used to increase the density. It seems that the second part wasn't completed in utilizing the development rights established through this program. Ernie Schank explained that as a committee, including the planning department and planning commission in the discussions, they wanted to preserve agriculture and preserve the water. They were afraid that what was happening in Fernley was going to happen here; that developers were going to come over from Reno and Carson City, and the State Engineer was going to allow transfers like he allowed in Fernley, which ultimately destroyed the agriculture economy there. The Navy wanted to preserve their runway areas, and so they were only interested in a very small area in the northeast quadrant and some in the southeast quadrant. They were not interested in anything west of Highway 95. The county wanted to preserve water because there is a lot of water in the areas that the Navy wasn't particularly interested in, and the county wanted to preserve those. The county wanted the growth to go in the area where there wasn't much agriculture and would be contiguous to town, which is the northwest quadrant. When they initially started this their idea was that TDRs would be used to more densely develop what the zoning allowed in the northwest quadrant. When they first entered into this, the Navy was the only contributor. There was also some agricultural land conserved through Question 1 monies. The hope was that it wouldn't preclude just the involvement of the Navy, and that there would be other participants that would help take care of the other quadrants. Subsequently, the Navy has expanded because of their training, and they have expanded the area in which they have an interest. It has expanded this program beyond what it was originally developed. It was originally intended to save water in the three quadrants where development wasn't desired, and make development go toward the northwest of town because of the elevation and was where the county was looking to develop the sewer and water system to keep it more centrally located within the urbanizing area. Growth would be encouraged to go in that direction to keep it away from the base and good agricultural land.

Dean Patterson used the zoning map on the wall of the conference room to show how the base is laid out and how the flight paths run. He shared the expanded areas for the ranges and training facilities. He further demonstrated the area for urbanization as stated by Mr. Schank and outlined in the Master Plan. He said, regarding what Mr. Peraldo and Mr. Schank mentioned about the options for using TDRs in that northwest area, there were a number of developers with Planned Unit Developments (PUD) underway, so that is probably why the ordinance says they would be used in these. There were about eight of these at that time. All of them together were probably double the population of Fallon, so it was kind of unlikely that the amount of development that was planned would actually occur because it would be basically tripling the size of Fallon. The idea was that they would somehow use the TDRs, but they got all of the density they wanted without having to purchase TDRs. There is no way to really figure out how many TDRs they would need and what it would equate to in density. Diane Moyle asked if it could be developed so that the amount of open space required in a PUD could be reduced by purchasing TDRs. Mr. Patterson agreed that was the point; however, it was never established how many TDRs for how much open space.

Member Schank thinks there are a couple of general things that they could recommend, and someone is going to have to have some authority to really look over this ordinance and make the changes that are required. One option would be to figure out how to make the TDR program work with TDRs. That is going to have to include some sort of reset and only keeping a number of certificates that could rightfully be used for whatever the county wanted to use them for. In doing that, you have to determine what activities require TDRs. He has spoken with Mr. Barbee, County Manager, who views this as a tax to require people to buy something in order to develop, and he understands that point of view. The easier option in his way of thinking, and after speaking with someone in Gardnerville, is for the County to figure out a method for extinguishing all of the TDRs, and from this time forward to just extinguish them with the purchase of an easement. The program is working to meet the purposes for which it was developed without putting these development rights into play. He thinks that at this point we don't want to stop development because it is needed. At the same time, if the county wants to make sure that development goes into the right area, they may want to incorporate some of this program, but that would be something that would have to be developed further. It is easier to figure out some way to extinguish all of the TDR certificates. This would involve figuring out how to get rid of those that are privately owned, and, originally, that was an option given to those owners because the county wasn't able to come up with enough money to pay the appraised prices. It only lasted a short time. Joseph Sanford, Deputy District Attorney-Civil, asked for clarification that they were given as some form of compensation to meet a price above appraisal that the applicant wanted to receive for their easement. This is a very critical distinction because there was an appraised purchase price. Mr. Schank thinks it was a little bit of both of these because when this started there was nothing for the appraiser to base the appraisals on. Now, they have something because there are several properties with conservation easements that have been sold. They went and used prices in Lovelock in the beginning because that area was not affected by development like we were here. This was the way that appraisers were trying to establish a base price. Those base prices were less than what many of the landowners believed was fair market value. He, and many others, wanted to preserve agriculture in this community and preserve the land for their children. He didn't want to have competition with developers who just wanted to purchase the land to be subdivided, which would destroy the agricultural economy in this valley. He entered into this agreement because he didn't feel the appraisal price was sufficient. He could go out and sell it on the open market and get more than he would get from the appraised purchase price. He bargained to keep a few of the TDR certificates, and that is the same with others who kept some as well. They felt this would compensate for what the true value of the land was. Mr. Sanford, DDA-Civil, verified that it wasn't to meet the appraisal, but it was to meet the perceived market value. Mr. Schank agreed because there wasn't really anything to base the appraised price on because there were no conservation easements in this valley.

Member Pomeroy thinks, at this point, to be fair to developers, it would be easier for the county to somehow compensate for the privately held TDRs and just get rid of the banked TDRs. Dean Patterson believes that those that are privately held could be extinguished by the landowner and wouldn't require anything from the county. The county could also decide to extinguish all or part of the ones they have; they may want to leave some in order to have some sort of TDR program. If it is in the bank, it greatly limits what can be done with the TDRs, and the county hasn't done anything with the bank, so he thinks we are okay with that. Member Schank expressed his opinion that the county holding these TDRs is a liability because they have used taxpayer money, and the Navy money is also taxpayer money, to contribute to this program and purchase those development rights. To him the TDRs become a liability because the community, at least initially, felt that there would be some value in those; their tax money was going toward buying them; the county held them, so there was a perceived value. Whether there is or not is something that could be argued. He thinks that the easiest way is to figure out how to extinguish all of the TDRs, and then figure out how to compensate those that are privately owned, so that they can get rid of everything. He mentioned one way is to figure out how much money was spent to purchase the easement and the TDRs that were generated with that easement and divide that by the percentage that the county participated in. If you take that amount and divide it by the number of TDRs, it will give some value amount for these. Dean Patterson believes this could be a good way to take a first cut at a value, and in addition, talking about extinguishing these, we know that the Navy has no interest in TDRs, so one of the things that could be done to reduce the stockpile is to reduce the number of TDRs by the percentage of participation that the county had in the purchase of the easement. The TDRs could be split by the percentage contributed and confirm with the Navy that they would like to extinguish these. That would greatly reduce the stockpile, at least 75 percent of the number. Then the county can decide what to do with the remainder.

Mario Peraldo suggested stepping back to a more general concept of where they started from. They wanted to move where the high density growth was going to be and to control development. When you start talking about lands for development, those are of greater value. This was a step toward keeping the farmer from selling his land to somebody that would break it all up and make money off of it because it would have higher density. This program would give the farmer a chance to recover some of this money but wouldn't lose the farmland. There wasn't a lot of work done on exactly how it was going to be transferred evidently. To him, TDRs and PDRs are the same thing. You just have to make the transfer valuable. The intent was to allow the farmer to get the value of the development without breaking up the land. You decide growth by zoning. Then a higher density should require the TDRs to increase the number. He believes that the northwest quadrant is still a valid concept. They believed that the PUDs would be one way to allow for higher density and utilize the TDRs. Member Schank believes that the area where the original committee wanted to focus on as receiving sites is zoned now where the developers can achieve the density they want without needing to purchase TDRs. This created the problem for this program, and Mr. Peraldo thinks that needs to be resolved in order for the program to work as designed.

Dean Patterson talked about the differences between the program established here versus the purchase of development rights program that is used in Douglas County, Nevada. The program there established it as a purchase of development rights program so that the developer purchases the rights directly from the farmer and it is a one to one ratio. The program here never established a ratio for utilizing development rights in the PUD regulations, so there is no comparison to know how many should be required for the parts of the development. Member Schank confirmed that the committee's intent was to use this program to preserve agricultural land and to keep the water here, Douglas counties' program is partly that, but theirs is more to preserve the floodplain. This actually protects the areas of development from the floodplain.

Chair Hines asked for clarification because as he understood Mr. Peraldo said this program was put together for development and Mr. Schank said it was for preservation. It was explained that the development portion is the by product of the conservation because it takes development away from the agricultural land and directs it where the county wanted it to go. Member Schank remarked that the county wanted to have a reason to make growth in the northwest area of the town, and the conservation easement program was a means to go about doing that while protecting the water in the valley. This also satisfied the Navy and what they wanted to accomplish. Diane Moyle pointed out that it is important to note that the community benefits for the purchase of these easement with the tax dollars was to keep water coming here. If you don't have water coming here, we are going to dry up the aquifer. The example is the division of properties along Soda Lake Road that are no longer being farmed with water applied to the land and how that affected the water wells in that area during the drought. Member Schank thinks that through this discussion that if they do make a recommendation, one of them is to go through the process to get a formal letter from the Navy saying that their part of the TDRs, which could be figured out based upon the percentage of purchase price, they would agree to extinguish. That would greatly cut down the number of TDRs. Then there would be a clearer vision of what they as a committee would recommend doing in the future. He agrees that we need to get rid of a huge number of these first. That would be an easy way to do it.

Joseph Sanford, DDA-Civil, thinks that the purpose for the recommendations to the Board at this time is to get a sense, especially from this committee, the method and procedure that you would like to see moving forward. Obviously, the Board will have to decide what they want to do from the county perspective. Right now, he believes that Dean Patterson did a great job outlining some of the issues. One of the main purposes of starting this program was to conserve the water, and that is being done now with this program, and it is being done in the purchase of development rights version of the program. This basically says that they are purchasing these development rights and conserving the water here. Regardless of what we do, he doesn't believe there is any appetite from anyone to jeopardize that portion of the program. The main discussion for moving forward is what we want to do with the actual transfer portion or development portion of the program. That one has a lot more issues because one part was to control development in the northwest quadrant of town, and so the development rights were created to be used in that area. This is where development has taken place anyway because of access to sewer and water are in that area. The cost of development is reduced there because the water and sewer system are established there. If we do anything that says that a developer must have a TDR to build and you must pay any money for that, it has increased the cost to do that development. In areas, like Douglas County, where that is occurring, where that cost is being paid, it is because the value of development in that area exceeds the cost with the additional requirement for TDRs. He pointed out that we can't get people to build today without any of the additional cost for requiring TDRs. Any dollar that we add potentially reduces development. The more important part as discussed here is to reduce open space requirements or allow higher densities with the use of a TDR. Mario Peraldo believes that it was to better control where the higher densities would be allowed. Mr. Sanford agreed that it was to increase density and not just to control where it was going because that is influenced by the construction of the infrastructure in that area as well as by saying that you can only provide TDRs in this area. He doesn't believe that they can legally limit where a TDR can be utilized. He would primarily like to focus on whether they allow the purchase of a TDR to increase density above what a regular zoning would allow, either by reducing open space or increasing the standard density. There is an externalization of the costs. Someone is essentially paying a farmer through our program to get this TDR piece that would be passed on through the home that is built as well as the fact that the people living in that area will have a tighter density than we had originally planned with our zoning. He thinks this is something to consider because every time a PUD comes up, density is one of the most significant issues. The public has a very strong opinion about how much density is appropriate. Just allowing density to increase through the purchase of TDRs is something that might have pushbacks from the public. It's not that it can't be done, and this would be a reasonable recommendation to make. He believes that when they make that recommendation, they will have to consider that there is some reason that it isn't done right now. There may be a good reason that the receiving site portion of the program didn't happen.

Mr. Peraldo suggested using TDRs where we want to go to higher density. It was never the intent of developing this program to decide where the higher density would be. It is still a concern of where we want to allow higher density. Most people don't want it in their backyard. His thought is that wherever we do go with higher density, it should use TDRs to achieve it. These should be used in areas where we would want to have higher density. He said that in a PUD is a great example because when they get to the density allowed under the current zoning, the only way they would be allowed more is by using TDRs. Mr. Patterson spoke more about the differences between Douglas County and Churchill County. One major difference is that the developer in Douglas County is requesting to change the zoning for the development in order to allow higher densities. Churchill County doesn't require zone changes for PUDs and allows certain densities for these types of development. We must have a better comparison for how many TDRs would be required for what type of development in a PUD. With Douglas County's program it is establishing the number of units a developer wants, and he must provide that number of units through development rights, and our program doesn't establish this calculation. Their program is completely market driven. Mr. Peraldo responded that the purchase portion has already been taken care of here. The farmer has already received compensation for their development rights. Member Schank stated that we know that the conservation part is working, but the question is whether the transfer of the development right portion be made to work. He doesn't believe that it can. He's not sure when the zoning and Master Plan were developed, but he thinks that they established where development would take place in that quadrant with no thought taken for this program and utilizing the development rights to increase densities. He thinks there are a few questions to answer:

1) Can we take care of the Navy's portion of the TDRs that were obtained by purchasing the conservation easement? That would get rid of a huge part of the TDR certificates that are banked.
2) Does the county want to make some sort of a TDR program where you are able to use TDRs to increase development, or use it for any variance that people might want to do? Some will say that is a "tax" and would stop growth.
3) If the county wanted to do require TDRs for development, then there would be a smaller bank of TDRs to deal with. If the county doesn't want to do that, then you would have gotten rid of about three-fourths of them because the Navy would extinguish theirs. Then the county only has to figure out how to extinguish what is left.

Chair Hines noted that all of the TDRs are actually owned by the county. The Navy didn't get any of the TDRs with the purchase of conservation easements. There was some discussion regarding using the percentage of purchase price for the easement in order to get a figure for a certain number of TDRs that could be extinguished since the Navy had no interest in obtaining TDRs. Chair Hines questioned if the county would need to discuss this with the Navy since they don't actually own any of the development rights, and Joseph Sanford agreed that the Navy wouldn't have an objection to extinguishing these development rights. Member Schank believes that the county should get rid of that portion of development rights, which removes a lot of the problem and it's a little easier to address what is remaining.

Diane Moyle brought up that they were talking about increasing the density, and she wondered if this could be applied to changing the zoning. If a developer wants to change the zoning from E-1 to R-1 or R-3, could it be required to obtain TDRs to increase that density to offset that. Dean Patterson agreed that it could be set up like that, but the question is whether the county wants it to be like that. Mario Peraldo believes that it would be more like what Douglas County is doing. The county has already done the purchase portion of the program, so the developer would work with the county for the development rights. Chair Hines inquired if we are considering extinguishing a portion of the TDRs based upon Navy participation in the purchase, would their portion of the payment price be removed from the calculation of what a potential cost of a TDR would be. It was believed that doing that would give a better idea of what any possible value could be for a TDR. Joseph Sanford wanted to clarify, because it is critical for this discussion, the TDR portion is not paid for by anyone. The conservation easement has an appraised value, and this is the difference between the property with a conservation easement versus the property on the open market. The value of the appraisal is for the conservation easement. No part of the appraisal is related to the number of TDRs. There is a TDR calculation that is done that establishes the number of TDRs eligible for the easement. The TDR is a separate part of this program and has no consideration in the purchase price, it is not considered in the appraisal at all. The county isn't buying the TDRs; they are paying a portion of the appraised value of the conservation easement, and they accept the TDRs as calculated through the program. There is no value created for a TDR through the purchase of the conservation easement. Member Schank thinks that by the county purchasing the easement and the TDRs were generated, there has to be some value for these, or the county would never have accumulated them. The value is in the easement that was established to preserve the farmland and the water rights remaining on the farm. Mr. Peraldo said that the only way to create value is to get the market involved, and that will require the county to establish a regulation requiring these for increasing density in a development. It was discussed that, based upon the current regulations, developers don't need to obtain TDRs to get the density they desire. In order for the receiving sites portion of the program to work, this must be changed, so that TDRs are required to increase density. Creating a market based system will take time and the benefit will not be determined any time soon. Member Schank pointed out that the county needs to determine whether or not they want to move in that direction. If they don't want to do that, then we need to figure out how to get out of this part.

Member Getto complimented Dean Patterson for the presentation because it was helpful for him. He thanked them for speaking with Douglas County as requested, and as he suspected, Douglas County's program, although sharing the same name, have different ways of making it work. After listening to the discussion, he agrees with Mr. Schank that one thing that needs to be done is to extinguish the TDRs that have been banked—about 12,000 owned by Churchill County and 277 owned privately. He thinks that a value should be established in order to compensate those that are privately owned and extinguish these. He likes the fact that we can track what was paid for the purchase of the easements, the percentage of that price that was paid by the county, as well as the number of TDRs that were generated. He thinks that would be a good basis for making an offer for the TDRs that are privately owned. Once these have been obtained, the county could extinguish them. He also thinks that moving forward all TDRs should be extinguished with the purchase of the conservation easement. Member Schank agreed that this should be recommended for all future purchases of easements. The program already works great for what we need it to accomplish with protecting farming and water. Until the county can decide how to utilize TDRs for receiving sites, it is best to extinguish these going forward. Mr. Peraldo still believes that the county needs to come up with a way to use the development rights when allowing a developer to increase density in order for that part of the program to work. Chair Hines said that if the county were to keep the TDRs and establish regulations to use them, that could be a long process in order to recover the value of the TDRs. The last development that was done was Onda Verde, minus the parceling stuff that has been done north of town, and that was done in 2007. It is now 2025, and there are a couple of future developments that won't be utilizing this program because they are already in the works. This could be a problem that continues on for a considerable amount of time. This would also add an additional cost to the development. Right now, development is occurring 30-60 miles toward the west, and it hasn't moved to our area yet. If we start adding more costs to that, it might hurt us. We want development here, we want to get apartments here, and so on, but when we start adding these requirements, it will deter that even more. Member Schank believes that we should employ the philosophy that if it isn't broke, don't fix it. The part of the program that works is fine. The part of the program that is broken is related to receiving sites. It would be a lot easier to remove that section and clean up the rest of it, than it would be to try to implement a program that would stop growth rather than encourage it. Mr. Peraldo reiterated that there needs to be a way to compensate those that kept some TDRs, but he doesn't believe that just extinguishing these development rights is the answer. They do need to be utilized for future growth where the county wants to see more density.

Dean Patterson summarized:

A. How do we make the program work if we are going to have this program?
B. How do we deal with private development right holders? If we are going to extinguish some, or all, of the development rights, there needs to be a way to compensate them.
C. Whichever course, some of the development rights need to be extinguished because there are just too many.
D. Do we even have a TDR program where you can transfer development rights from a farmer to a developer, or do we just get rid of that part of the program?
E. If you are going to keep a program, you need to extinguish a lot of the development rights, but keep some to ensure the program has something to work with. Member Schank said that the county needs to decide whether they want something like that.

It was decided to have another meeting on February 7, 2025 in order to formalize a recommendation to the County Manager to present to the Board of County Commissioners related to the Transfer of Development Rights program. The department will prepare a table of the information requested for the purchases of easements, including prices paid, number of acres conserved, number of TDRs generated, and the ownership of those development rights. This information, along with the draft minutes of this discussion, will be provided for the committee members to review and come up with suggestions for the recommendation. Joseph Sanford cautioned against trying to suggest how much money the county should spend because it isn't within their purview. He thinks it is within their purview to suggest changes to how the program could work more effectively. Member Schank thinks that they could recommend ways that the county might approach this to remedy the problem. Mr. Sanford agreed that they could recommend that the county move forward in the program to extinguish the transfer of development rights program and move toward a purchase of development rights program, and that they should make offers to private development rights holders as necessary. The members would like to get an idea of what they are asking for the county to do by looking at what has been paid and generated to make a better recommendation. Mario Peraldo also suggested at looking at the price in the higher density areas for development per acre, although it was pointed out that when looking at development in other jurisdictions, it is like comparing apples to oranges because the current zoning in Churchill County already allows for more dense development because the property is already zoned for it. There was discussion on the existing costs for development and what is already being required of developers for what they want to do.

The committee will need to make a recommendation to the Board of County Commissioners regarding what to do with existing TDRs, and any code changes would need to be a recommendation to the Planning Commission since that is under their purview. Any recommendation to not generate TDR certificates when purchasing conservation easements would need to be included in changes to the code.

8. Public Comment.

Chairman Hines asked if there were any public comments and there were none.

9. Adjournment.

Chairman Hines adjourned the meeting at 10:24 a.m.

Approved: ______________________
Bob Getto, SSRC Member

Approved: ______________________
Carla Pomeroy, SSRC Member

Approved: NOT AVAILABLE
Ernie Schank, SSRC Member

Attested:

____
Diane Moyle
Administrative Assistant

CHAPTER 16.14 TRANSFER OF DEVELOPMENT RIGHTS

16.14.010 Purpose

A. The purpose of the transfer of development rights (TDR) program is to provide a voluntary, incentive-based process for permanently preserving rural resources which provide significant community benefit such as agriculture, open spaces, aquifer recharge for current and future water supply (water recharge area), and a military installation buffer area. The intent of this chapter is to reduce development pressures and minimize development on agricultural lands, habitats, water recharge areas, flood zones and NAS Fallon and associated ranges notification areas by providing landowners a mechanism to sustain existing land uses and develop lands more compatible for urbanization. The TDR provisions are intended to supplement land use regulations, resource protection efforts, open space acquisition programs and to encourage increased residential development density inside designated areas, where those provisions can best accommodate little impact on the natural environment and provide for efficient public services.

B. The TDR provisions in this chapter shall only apply to "receiving site" development proposals requiring board of county commissioners' approval and "sending site" applications submitted after the enactment hereof.

(Bill No. 2006-F, 2006; Bill No. 2007-I, 2007)

16.14.020 Definitions

Community benefit. Recommended by the sending site review committee, planning director, planning commission and approved/ determined by the board of county commissioners as a benefit to the community, above and beyond those contributions and items required by the consolidated development code, county ordinances or state statute. Examples are preservation of agricultural lands, historic preservation, wildlife habitat preservation, etc.

Conservation plan. A comprehensive land use plan to manage and maintain the long-term protection of the sending site property under the easement established from the transfer of the development rights.

Deed restrictions. When a development right is sold, a legal restriction is recorded on the sending site giving notice that the development right can no longer be used at that site.

Development rights. The difference between the value of the existing use of the parcel (e.g., agricultural) and the value of its potential use (e.g., residential), as permitted by existing law. Thus, development rights indicate the future building potential. Development rights are measured in equivalent residential credits.

Easement, conservation. A legal agreement between a landowner and an eligible organization that restricts future activities on the parcel, parcels or portion thereof to protect its conservation, agricultural, open space or similar value in perpetuity.

Equivalent residential credit (ERC). A unit measure, where the residence "represents a permanent building on property" and is designed for single-family, residential use on a specified and designated zone. These are units of measure used to transfer development rights from designated sending sites to designated receiving sites.

NAS Fallon and associated ranges notification area. Those areas adjoining and surrounding NAS Fallon and its bombing ranges as delineated on a composite map on file at the office of the Churchill County planning department.

Receiving site. Privately owned property within Churchill County that has been designated in this chapter to accommodate urban development.

Sending site. Privately owned property within Churchill County that has been designated per this chapter to transfer development rights.

TDR certificate. A recorded document, issued by Churchill County, listing the number of development rights available from a sending site to be used at a receiving site.

Transfer of development rights (TDR). Refers to a process for protecting land by transferring the "rights to develop" from one area and giving it to another.

Water recharge areas. Areas identified in the water resources plan update or the master plan that provide aquifer recharge for current and future water supplies.

(Bill No. 2006-F, 2006; Bill No. 2007-I, 2007)

16.14.030 Sending Sites

A. For the purpose of this chapter, "sending site" means the portion of the parcel or parcels qualified under subsection B of this section. Sending sites must be a minimum of 20 acres in size and may not be in public ownership. Other areas may be considered on a case-by-case basis during the site evaluation process if they are special sites with community benefit and are identified as such by the sending site review committee. Sending sites shall be maintained in a natural state, open space suitable for passive recreation, or in agriculture.

B. A sending site must have properties or characteristics that have a community benefit such as agriculture preservation, retention of surface water rights, water recharge, access and use by the public, military operations compatibility, and would be degraded by increased residential development. The development right of such sites would be used in areas that are better suited for development. A sending site must meet at least one of the following criteria:

   1. Designation in the Churchill County master plan.

   2. Be located within the NAS Fallon and associated ranges notification areas.

   3. Designation in the Churchill County master plan as RR-20, A-10 or A-5, through either:

      a. Existing zoning of the parcel(s), or

      b. Identification of proposed rural or resource area or open space sites that meet the definition of open space, per Churchill County master plan.

   4. Identification as habitat for federally listed endangered or threatened species in a written determination by Churchill County, Nevada, division of wildlife, United States Fish and Wildlife Service, or a federally recognized tribe that the sending site is appropriate for preservation or acquisition.

   5. Water recharge areas set aside for the benefit of Churchill County.

   Other areas may be considered on a case-by-case basis during the site evaluation process if they are special sites with community benefit and are identified as such by the sending site review committee.

C. For the purposes of the TDR program, "acquisition" means obtaining fee simple rights in real property, or less than a fee simple right in a form that preserves, in perpetuity, the community benefit supporting the designation or qualification of the property as a sending site.

D. For parcels where the entire parcel or a portion of the parcel has been removed from irrigation, and/or stripped of vegetation within six years prior to application as a TDR sending site as determined by the planning department, the sending site applicant must provide an affidavit of compliance with the dust control requirements of title 8, chapter 8.15 of this Code and any additional revegetation conditions of their dust permit. If a portion of the parcel has been cleared or graded without any dust permit, that portion shall not be qualified or certified as a TDR sending site for six years, or until the site demonstrates sustainable, successful revegetation or profitable agricultural production.

(Bill No. 2006-F, 2006; Bill No. 2007-I, 2007; Bill No. 2015-D, 2015)

16.14.040 Receiving Sites

A. *Criteria*. Receiving sites shall be located in the urbanizing area in an approved planned unit development, or in a commercial or industrial planned unit development where the developer proposes to meet some of the open space requirements by the transfer of development rights, except within three miles of NAS Fallon boundary.

B. *Compliance with title required*. Except as provided in this chapter, development of a receiving site shall remain subject to all provisions of this title.

C. *ERCs*. A receiving site may accept ERCs from one or more sending sites.

D. *Property outside receiving areas*. Property located outside designated receiving areas may not accept transfer development rights.

(Bill No. 2006-F, 2006; Bill No. 2007-I, 2007; Bill No. 2015-D, 2015)

16.14.050 TDR Calculations On Sending Sites

A. A landowner must have a minimum of 20 contiguous acres to qualify as a sending site unless they are special sites with significant community benefit and are identified as special sites by the sending site review committee.

B. Existing residential structures that are used by family members or farm employees and are located on a parcel that is under agricultural production may be included in a sending site/conservation easement. A sending site may include one or two additional permanent single-family dwelling(s) if approved by the board of county commissioners. A proposed sending site must exclude sufficient acreage for each proposed residential dwelling and associated agricultural reservation. ERCs will then be calculated for the remaining acreage.

C. The number of ERCs a qualified sending site is eligible for shall be determined by applying the TDR sending site base density established in subsection F of this section to the area of the sending site and deducting any portion of the sending site already in a conservation easement or other similar encumbrance and any acreage required for proposed residential dwelling units or cluster developments.

D. Any fractions of ERCs that result from the calculations in subsection F of this section shall follow standard mathematical rounding practices in the final determination of total ERCs available for transfer.

E. For purposes of calculating the amount of ERCs a sending site can transfer, the amount of land contained within the site shall be determined as follows:

1. If the sending site is an entire parcel, the square footage or acreage shall be determined:

   a. By the Churchill County assessor's office records; or

   b. By a survey that has been prepared and stamped by a surveyor licensed in the state of Nevada; or

   c. By farm service agency (USDA) aerial photos.

2. If the sending site is a portion of a parcel, the square footage or acreage shall be determined by a survey that has been prepared and stamped by a surveyor licensed in the state of Nevada.

F. For the purposes of the TDR program, the following base densities will be used to calculate ERCs:

1. Sending sites designated on the zoning map as A-5, A-10 or RR-20 and in the master plan as outside of the urbanizing area shall be assigned a base density of one ERC per four acres, and

2. One ERC per irrigated water righted acre.

G. For the purposes of the TDR program, the following incentive or bonus densities apply:

1. Sending sites or a portion thereof located within a water recharge area or NAS Fallon and associated ranges notification area, or FEMA designated 100-year flood zone: 1.5 ERCs per ten acres.

2. Sending sites providing beneficial public access as defined by the County to recreation areas, walking trails, bicycle paths, wetlands, rivers, lakes, state parks, or federal lands: Ten ERCs per parcel.

3. Sending sites/parcels which total 100 or more acres: One ERC per ten acres.

4. Sending sites may qualify for concurrent or additive bonus categories, for example:

EXAMPLE ERC WORKSHEET

101 acres of qualifying land including 75 acres of irrigated agricultural land in a water recharge area, with public access to the Carson River	
Base TDRs (subsection F1 of this section)	25
Water right equivalent (subsection F2 of this section)	75
Bonus for water resource protection (subsection G1 of this section)	15
Bonus for beneficial public access (subsection G2 of this section)	10
Bonus for total over 100 acres (subsection G3 of this section)	10
Example TOTAL ERCs	135

H. The number of ERCs that a sending site is eligible to send to a receiving site shall be proposed by the landowner following the above-described criteria and subject to final approval by the board of county commissioners.

I. ERCs from one sending site may be allocated to more than one receiving site and one receiving site may accept ERCs from more than one sending site.

J. The determination of the number of ERCs a sending site has available for transfer to a receiving site shall be valid for transfer purposes only, shall be documented in a TDR certificate, and shall be considered a final determination, not to be revised due to later changes to the sending site's zoning and/or revisions to this document or process.

(Bill No. 2006-F, 2006; Bill No. 2007-I, 2007; Bill No. 2015-D, 2015; Bill No. 2018-E, 2019)

16.14.060 Development Limitations

A. Following the transfer of ERCs from a sending site, the portion of the parcel or parcels not designated in a conservation easement may accommodate residential structures on the buildable portion of the parcel, or parcels. This site must comply and be consistent with land use regulations of that zoning district.

B. Nonresidential uses on parcels zoned A-5 or A-10 shall be limited as follows:

1. Only those uses directly related to, and supportive of, the criteria under which the site qualified are allowed on the portion of the parcel designated as a sending site. The limitations shall be included in the conservation easement.

2. The portion of the parcel outside the sending site may develop nonresidential uses consistent with the land use district.

C. When a development right is purchased and subsequently used in a receiving site, the right to build a residential unit on the sending site is "extinguished".

(Bill No. 2006-F, 2006; Bill No. 2007-I, 2007)

16.14.070 Documentation Of Restrictions

A. A conservation easement granted through the TDR program shall be required for land and water contained in the sending site. The conservation easement may be placed on the entire parcel or parcels or only the portion of the parcel or parcels that is qualified as the sending site. The conservation easement deed that includes a legal description of the sending site and a map shall indicate the portion of the parcel or parcels restricted from future residential development, or limitations on future residential and nonresidential development within the conservation easement and the amount of water right. The map must indicate the boundaries of the conservation easement, existing structures and building envelopes. The following restrictions apply:

1. For a sending site zoned A-5 or A-10, the conservation easement shall preclude division of the subject parcel(s) but may permit additional residential sites and accessory dwelling units if approved by the board of county commissioners upon approval and/or as designated or established prior to acceptance of the conservation easement deed.

2. For a rural nonwater righted sending site, the conservation easement deed shall allow for restoration, maintenance or enhancement of native or established beneficial vegetation. A present conditions report, undertaken by a recognized authority, approved by the sending site review committee, shall be required to document the condition of native or planted vegetation and must be completed prior to approval and acceptance of the conservation easement deed by the board of county commissioners. If residential development will be allowed on the site under the conservation easement deed, the present conditions report shall be used to guide the location of residential development.

3. For a sending site qualifying as habitat for federally listed endangered or threatened species, the conservation easement shall be placed on the portion of the parcel or parcels needed for habitat protection. The conservation easement deed shall allow for restoration, maintenance or enhancement of native or beneficial vegetation. If residential development will be allowed on the site under the conservation easement, the present conditions report shall be used to guide the location of the residential development.

4. Up to five percent of the total acreage encumbered by a conservation easement may be developed in the future exclusively to support agricultural related activities or habitat preservation, or renewable energy production related activities. If these activities no longer require the water appurtenant to the land they have been developed on, the water rights may be sold or transferred by the landowner but only within Basin 101 to another property encumbered with a conservation easement or the water rights must be dedicated to Churchill County, Carson Lake and Pasture, or the Stillwater Wildlife Refuge with all properties being within Basin 101.

5. Once a conservation easement deed has been signed by the landowner and chairman of the board of county commissioners it shall be recorded with the county recorder. The planning director shall inform the board of the recordation of the document and request approval to issue the TDR certificates as outlined in the conservation easement deed. The planning director shall forward the TDR certificate to the beneficiary. The certificate shall document the total number of TDRs approved for the sending site and shall reference the conservation easement deed file number from the office of the county recorder.

(Bill No. 2015-D, 2015)

16.14.080 Sending Site Application, Review And Certification Process

A. *Application process*. Responsibility in preparing a completed sending site application rests exclusively with the applicant. The sending site application must include a site plan that shows the proposed conservation easement and a draft conservation easement deed that includes, at a minimum, the following criteria:

1. A description of the site including assessor's plat maps and aerial photos;

2. A brief description of the site resources, to include appurtenant water rights and public benefit tied to the property and preserved in the conservation easement;

3. A site plan depicting the proposed conservation easement area, existing and proposed residential units, existing and proposed farm buildings, any area already in a conservation easement or similar encumbrance;

4. Assessor's map or maps of the parcel or parcels;
5. Any or all of the following written in conformance with criteria established through a public rule consistent with the Churchill County master plan and appropriate Churchill County ordinances, state statutes and federal laws, if the site is qualifying as habitat for a threatened or endangered species:
    a. A wildlife habitat conservation plan, or
    b. A wildlife habitat restoration plan, and
    c. A wildlife present conditions report; and
6. A completed ERC calculation worksheet for estimating the number of available development rights.

The application must be accompanied with a nonrefundable fee, set by the Board, to cover the administrative costs associated with this process.

An application package must be submitted to the planning department for review by the sending site review committee.

B. *Sending site review committee.*

1. *Composition.* The planning director, or his/her designee, shall serve as the nonvoting chair. The sending site review committee will include three members appointed by the board of county commissioners. Members shall include a minimum of two agriculture representatives and one at large representative such as, but not limited to, agriculture, development, business, or real estate. Appointments will be three-year terms, or when a committee member is unwilling/unable to fulfill their obligation. The exception will be the first sending site review committee appointed. The committee will have a one year, two year and three-year appointment for the first three years. Vacancies will be announced in accordance with county policy. Another nonvoting member may include a representative from NAS Fallon if the property is within the NAS Fallon and associated ranges notification areas or may impact military operations.
2. *Notification.* The following local entities, which have an interest in or may be affected by easement establishment, will be notified and given the opportunity to provide feedback in the sending site qualification process. Entities listed below must provide feedback to the review committee within 30 calendar days following receipt of notification. Lack of comment from any agency contacted will be construed as support.

    Churchill County assessor's office

    City of Fallon

    Fallon Paiute-Shoshone Tribe

    Lahontan Conservation District

    NAS Fallon

    Newlands Water Protective Association

    Stillwater Conservation District

    Truckee-Carson Irrigation District

    U.S. Fish and Wildlife Service
3. *Application review.*
    a. The sending site review committee will review all applications. Local entity comments will be evaluated, the conservation easement deed and proposed restrictions reviewed, and TDRs verified. A written report shall be forwarded to the planning commission within 60 calendar days of application submittal. The report shall include a recommendation on the sending site, comments on the proposed development restrictions outlined in the conservation easement deed and the number of ERCs calculated.
    b. At a regular scheduled meeting the planning commission will review the sending site review committee's report, and forward a recommendation to the board of county commissioners.
    c. The board of county commissioners will approve or reject the sending site application and approve the total number of ERCs.
    d. If the sending site application is approved by the board of county commissioners the planning department shall prepare a letter of intent to issue TDR certificates upon recordation of a conservation easement. The letter of intent shall indicate the number of development rights available for transfer, a disclaimer that the approval as a sending site in no way commits or obligates Churchill County or the navy to the purchase of the conservation easement or any of the TDRs, and a statement allowing the county to reserve the right to review the current conditions compared to those at the time of the application and determine any change to the eligibility and/or amount of TDRs if a significant amount of time passes before recordation of a conservation easement. The

landowner shall sign the letter of intent acknowledging acceptance of the board's approval and conditions.

4. *TDR certification.* A TDR certificate will be issued by the county upon recordation of a conservation easement deed. If a conservation easement deed is prepared by a source outside of the county, the deed must be approved prior to recordation. The board of county commissioners shall review all conservation easement deeds upon recordation and may direct the planning director or his/her designee to issue the TDR certificates. TDR certificates shall reference the recorded document number of the conservation easement deed and may be sold.

(Bill No. 2006-F, 2006; Bill No. 2007-I, 2007; Bill No. 2015-D, 2015; Bill No. 2018-E, 2019)

16.14.090 Transfer Process

A. Development rights where both the proposed sending and receiving sites would be within unincorporated Churchill County shall be transferred using the following process:

   1. Following application review committee review of the sending site application as described in subsection 16.14.080B3 of this chapter, the sending site review committee shall forward its comments to the planning commission for their review, comment and recommendation. The sending site application package will be forwarded to the board of county commissioners for approval. If the package is approved, a letter of intent to issue TDR certificates will be sent. The letter of intent will authorize transfer of development rights as approved in exchange for the sending site conservation easement to be held in perpetuity. The sending site owner may then market the sending site development rights to potential purchasers.
   2. In applying for receiving site approval, the applicant shall provide the planning department with one of the following:
      a. A TDR certificate letter issued in the name of the applicant; or
      b. A TDR certificate letter issued in the name of another person or persons and a copy of a signed option to purchase those sending site development rights.
   3. Until the receiving site applicant delivers the TDR certificate issued in the applicant's name for the number of TDRs being used and the planning department records retirement/extinguishments of development rights executed, a tentative map shall not be approved. The planning department will be responsible for notifying other departments of all transactions.
   4. The public hearing held on the development proposal (either PUD application or PUD tentative map) shall also serve as the hearing on the TDR proposal.
   5. Development rights from a sending site shall be considered transferred to a receiving site when a final decision is made on the PUD application or tentative map.

(Bill No. 2006-F, 2006; Bill No. 2007-I, 2007)

16.14.100 Notice

Public notice provided for the PUD shall mention the quantity of development rights being transferred and the density bonus being considered for these.

(Bill No. 2006-F, 2006)

16.14.110 Transfer Of Development Right Bank

A. *Purpose*. The purpose of the TDR bank is to assist in the implementation of the transfer of development rights (TDR) program by purchasing, receiving, holding, selling and recording of transactions pertaining to development rights. The TDR bank may purchase development rights only from sending sites located in the rural area or in an agricultural district as designated in the county master plan. Development rights purchased from the TDR bank may only be used in designated receiving sites.

B. *Establishment and duties of the TDR bank board.*

   1. The TDR bank board is hereby established to oversee the operation of the TDR bank to measure the effectiveness in achieving the policy goals of the TDR program.
   2. The TDR bank board shall be composed of the Churchill County manager, comptroller, and legal counsel. The Churchill County manager shall chair the TDR bank board.
   3. The Churchill County planning department shall provide staff support to the TDR bank board. Staff duties include, but are not limited to:
      a. Generating recommendations to the TDR bank board on the TDR program and TDR bank issues on which the TDR bank board must take action;
      b. Assisting in the implementation of TDR bank board policy in cooperation with other departments;

c. Preparing agendas for the TDR bank board;

d. Recording TDR executive board meeting minutes;

e. Preparing administrative rules in accordance with this Code; and

f. Preparing annual reports on progress of the TDR program to the board of county commissioners, with assistance from other departments.

C. *Expenditure and purchase authorization.*

1. The TDR bank may purchase development rights from qualified sending sites at prices not to exceed fair market value and to sell development rights at prices not less than fair market value. The TDR bank may accept donations of development rights from qualified TDR sending sites.

2. The TDR bank may use county funds to facilitate development rights transfers.

D. *Administration of TDR bank.*

1. The planning department, in conjunction with the comptroller, shall administer the TDR bank fund, execute and record purchases and sales of development rights in a timely manner consistent with policy established by the TDR bank board. These responsibilities include, but are not limited to:

a. Managing the TDR bank fund;

b. Authorizing and monitoring expenditures;

c. Maintaining records such as transaction dates, amounts and locations of development rights purchases and sales;

d. Executing and recording development rights purchases, sales and conservation easements; and

e. Providing quarterly summary reports of TDR bank activity for TDR executive board consideration.

E. *Sale of rights by TDR bank.*

1. The sale of development rights by the TDR bank shall be at a price that equals or exceeds the fair market value of the development rights. The fair market value of the development rights shall be established by the prevailing market conditions.

2. When selling development rights, the TDR bank may select prospective purchasers based on the price offered for the development rights, the number of development rights offered to be purchased, and the potential for the sale to achieve the purposes of the TDR program.

3. The TDR bank may sell ERCs only in whole increments.

4. All offers to purchase development rights from the TDR bank shall be in writing. This document shall include a certification that the development rights, if used, shall be used only inside an identified receiving area, include a minimum ten percent down payment with purchase option, shall include the number of development rights to be purchased, proposed purchase price and the proposed date or dates for completion of the sale, not later than 120 calendar days after the date of receipt of the purchase offer by the planning department.

5. Payment for purchase of development rights from the TDR bank shall be in full at the time the development rights are transferred, unless otherwise authorized by the planning department.

6. Although TDRs may be negotiated/traded privately, final extinguishments of TDRs must be recorded at the TDR bank.

F. *Exception from surplus provisions.* The transfer of development rights from the TDR bank may be completed consistent with Churchill County needs and in accordance with the criteria of this chapter.

(Bill No. 2006-F, 2006)

Improvements to the Transfer of Development Rights Program

What is Transfer of Development Rights?

A system to transfer the allowance for development from one location, to another for use in a development.
>> This is different from a Purchase of Development Rights.

Ours is integrated into the Master Plan in many chapters – changes would have to be made in both code and the Master Plan.

Program provides opportunities for farmers (and limited other landowners) to gain money for their land while keeping it in production.
>> Typically, a Market-Based program

History

- Navy wanted to purchase development rights.
  - But it didn't want to do all the background and preparation work
- County wanted a transfer of development rights program
  - Set it up in Code (CCC 16.14) & Master Plan as traditional market system
- County serves as middle-man & does most of work // Navy provide most of $$$

Result

- TDR program is used to operate a "purchase of development rights" program with the Navy.
- If a Farmer wants to enter the Navy purchase program, they have to apply to the TDR program
- Navy pays most of the cost of the development rights purchase
  - There is no TDR market, so County creates and keeps the TDRs

Churchill County Program - CCC 16.14

- Sending Site Review Committee & Process.
  - People go through application process to enroll
  - Results in a development right number that can be sold
- County TDR Bank & Board
  - Very structured in members, process, and authority
  - Has never met or operated
- Receiving Site Process & Transfer Process
  - ONLY Planned Unit Developments (PUDs) can use TDRs
  - BUT There is no method or calculation for how many are needed
  - Reviewed and approved in the PUD review by PC and BOCC

Current Process for Sending Site & Navy PDR

- Submit an application, County helps figure out calculation
- Sending Site Committee meets – agenda, notice, hearing, formal decisions, etc.
- Recommendation forwarded to PC, then to the BOCC for final approval
- Decision enrolls the property in the TDR program and sets the number of TDRs
- Farmer gets a "Letter of Intent to Issue TDR Certificates" that can be used to market the TDRs to a developer.
- Navy & County choose sites and enters into agreements with farmers.
- Baseline study is done, and Navy does farm appraisal based on value of land after conservation easement (CE) – NOT number of TDRs
- Purchase Escrow - County & Navy do a CE with the farmer // Money is paid
- Navy & County split cost (currently 75%/25% but has also been 90%/10%)

  County issues all TDRs certificates to itself (canceling the Letter of Intent).

Problems

- HUGE stockpile of County-owned TDRs (~200 privately owned TDRs)
  - ~12,000 TDRs (equivalent to a home)
  - Comparison: Only ~10,500 residences in County / Fallon pop. = ~9,500
  - NOTE – No TDRs have been placed in TDR bank, so County's TDRs are held as a regular property owner.
- No TDR market has developed, so there is no way to use them

Causes

- TDR system is being used for a PDR program with LOTS of money.
- WAY too many TDRs are generated by individual applications
  - Normal lot allowance based on zoning is 1/10 ac. or 1/5 ac.
  - TDR Calculation easily results in ~1/1 ac. or even more
- No requirement for anyone to use TDRs, so they are not used
  - Only PUDs can use them, but no way to determine number needed.

Finding a Solution

Multiple Considerations

- Using TDRs places an extra cost on development
- Have to do something about the ~200 privately owned TDRs
- Have to determine how to establish a market for TDRs

Extra Cost On Development

- QUESTION: **Do we want to require developers to buy TDRs?**

Consequences of Answer

- No: Change TDR system to PDR system for the Navy program & Dispose of TDRs
- Yes: Modify system so it works for 2 paths - TDRs and PDRs & Reset the system (excess TDRs) so market can work
- Either answer results in very different edits to Code & Master Plan

Privately Held TDRs

- QUESTION: **How do we deal with private TDRs?**
  - whether or not we keep TDR system

Options

- End TDRs: Private TDR holders need to be compensated
- Keep TDRs: Should probably form the starting base for a functioning market-based TDR system.
  & Address the excess TDRs so they have value
  & Extensively modify Code so a market system works

Developing a TDR Market

- QUESTION: **How do we develop a functioning TDR market**

Obstacles

- Excessive volumes of TDRs are valueless in a supply and demand market
  - Need to greatly reduce the number
- Excessive numbers of TDRs are generated by each application - ~X10
  - Need to change TDR calculation to greatly reduce the # generated
- No requirement to use TDRs for any kind of development
  - Need change code so there is a demand or need for TDRs