MINUTES
CHURCHILL COUNTY SENDING SITE REVIEW COMMITTEE
February 7, 2025

Present: Randy Hines, Chairman
Bob Getto, Committee Member
Carla Pomeroy, Committee Member
Dean Patterson, Senior Planner
Diane Moyle, Administrative Assistant

1. Call to Order.

Chairman Hines called the meeting held in the Planning Department Conference Room of the Churchill County Administrative Complex, 155 North Taylor Street, Fallon, Nevada, to order at 8:30 a.m.

2. Public Comment.

Chairman Hines asked if there were any public comments, 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.

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

Member Getto moved to approve the Agenda as submitted. The motion was seconded by Member Pomeroy, and the Agenda was unanimously approved (2-0).

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

A. January 13, 2025

Committee members had previously been provided with the Minutes of the meeting held on January 13, 2025.

Member Getto moved to approve the Minutes of January 13, 2025 as submitted. The motion was seconded by Member Pomeroy, and the Minutes were unanimously approved (2-0).

6. Discussion Item.

A. Consideration and possible action re: Recommendation to the County Manager to make to the Board of County Commissioners regarding disposition of existing transfer of development rights certificates and for future purchases of conservation easements.

Chair Hines stated that this is a follow-up from the discussion they held on January 13, 2025 regarding potential changes to the TDR program. Ernie Schank had reached out because he was not able to attend due to illness, and Bob Getto stated that he told Member Schank to contact Randy Hines about not being able to be at the meeting. Joseph Sanford, Deputy District Attorney-Civil, indicated that Member Schank would probably have needed to recuse himself from any action related to any recommendation about what to do with the TDR certificates due to a potential conflict of interest as an owner of some of the private Transfer of Development Right certificates.

Dean Patterson, Senior Planner, shared a presentation regarding options discussed at the previous meeting and possible solutions related to the Transfer of Development Rights (TDR) program. He shared some considerations related to TDR certificates. He pointed out the extra cost on development if we start to require TDRs for certain types of permits or development, and in order to make suggestions related to what to do with existing certificates, what should be done with calculations for certificates in the future, and how to establish a market for TDRs depends upon whether or not they want to add additional costs on development in the county. He explained what could be done if they did not want to impose extra cost on development. Changing the current Transfer of Development Right (TDR) program to a Purchase of Development Right (PDR) program related to the Navy conservation easement purchases would be one change that could be made. He further shared some modifications that would be needed if they wanted to require developers to purchase TDRs. This could involve the creation of both a TDR program that is market-based and the PDR program that would be used for the Navy program. In order to make a market-based system work, there needs to be some sort of reset to address the excessive number of certificates that currently exist. He suggested as had been mentioned in the previous meeting to extinguish a portion of the county owned certificates equivalent to the percentage of Navy participation in the purchase of the easements, since the Navy had no interest in the TDRs. This would leave a more reasonable number of TDRs to use in a market-based system, and the privately held certificates should have the first right of refusal before any publicly held ones. Changes would also be required in the county code and master plan to reflect how to implement this.

Mr. Patterson outlined some of the things that needed to be addressed in order to correct the excessive number of TDRs that are generated through the calculation in the program and how unrealistic the amount of development calculated was. He suggested that the calculation be made more in line with actual parceling options related to the zoning district in which the property is located with limited bonuses. Changes would need to be adopted to the code in multiple places so that there is a demand or need for TDRs, including, exception requests to increase density, Planned Unit Developments (PUDs)-getting extra density beyond what the zoning would permit, zone changes to a higher density, accessory dwellings or second permanent dwellings, and so forth. He stated that the primary question to begin with is whether we want to put additional costs on development, which is where the TDRs would come into play.

Member Getto expressed his opinion that he was not in favor or placing extra burden on development in the county. Housing prices are not coming down, labor rates are not coming down, and although the cost of building materials may come down in the future, it hasn't happened yet. In order to attract development and industry, we should not impose more costs on them. He believes that the lack of infrastructure for this growth is part of the problem why more development isn't coming to our community. He gave examples of other jurisdictions that does provide the infrastructure. Part of the problem is determining which comes first—the development pays for the expansion of the infrastructure at the time of development, or the county installs the infrastructure in order to bring in the developers.

Member Pomeroy thinks that the county should just extinguish the TDR certificates because it would be a lot easier. The problem is compensating those that have privately owned certificates. She asked if the owners of the privately owned ones received these in exchange for accepting less payment for their conservation easement, and it was stated that they did not get paid less than the appraisal purchase price. These were offered as a way to compensate them for the difference in what the appraised price and their perceived value because there weren't many easement purchases to compare with the first several conservation easements for the appraisers to use. There was no guaranteed value; however, it was a perceived value that these would be worth something in the future. Many of those owners may not have participated in the program if they were not offered to keep a certain number of certificates that could be sold in the future, and the county would not be able to pay above the appraisal price. Joseph Sanford, DDA-Civil, wondered if they should consider moving forward to a PDR type program with the Navy easement purchasing and get away from the TDR type program. That could include extinguishing the existing certificates, but that would be something to determine later. We could stop generating new TDR certificates with purchases made in the future and just maintain those that exist until a solution can be agreed upon. He outlined that this item could be discussed by separating what they want to do moving forward from what to recommend be done with those that currently exist. Member Getto brought up previous comments that these certificates could be considered a liability if the county does nothing with them, and he asked legal counsel regarding this. Mr. Sanford responded that he doesn't believe that they are a large liability.

Member Pomeroy inquired about impact fees that are currently required for new development and questioned why we would need to add more since there are already these types of fees. Chair Hines noted that as Mr. Patterson had mentioned, these could be imposed for developers who wanted to increase the density beyond what is already allowed in the code. There was discussion about the purpose of these impact fees and what requires them. Joe Sanford, DDA-Civil, pointed out that requiring development rights would not constitute an impact fee because those types of fees are only allowed as imposed by the legislature, and the county cannot charge any fee that is not established in that manner. The idea behind some of these transfer of development right programs is being another way to impose something that is not considered an impact fee. He also noted that if the county was the only one who possessed any of these development rights, it could be construed as a fee, and it might be best to extinguish them at that point when there are no other private owners of these. He stated that if the county were to extinguish all of these development right certificates and just wanted to impose another development fee in its place, that would not be allowed. These have a purpose that could be used to impose additional constraints on higher density development that would not hinder the normal costs of regular development.

Member Getto went back to the initial question posed by Dean Patterson of whether or not they wish to impose more requirements on developers. Mr. Patterson reiterated that the path forward would be different based upon how they want the program to work. Member Getto remarked that he doesn't want to require developers to purchase TDR certificates at this time, nor at any point in the near future. That answer could be different in ten years. Joe Sanford recommended that if it is the desire of this committee to recommend a change to the program, they should suggest that the county transition from a transfer of development rights program to a purchase of development rights program, and then the future part would include whether or not the county should extinguish all of the development rights that currently exist. This could pose a problem in the future should the county wish to use this program differently, they would no longer have the bank of development rights to use for it. Dean Patterson responded that in the future they could develop a more market-based program where the developer goes directly to the farmer in order to purchase the development rights, and the county just administers the program to facilitate the transfer. Mr. Sanford noted that if there was a desire in twenty years to implement this requirement, the county might consider maintaining at least a portion of these development rights for that purpose.

Member Getto moved to recommend that the county change the existing Transfer of Development Rights (TDR) program to a Purchase of Development Rights (PDR) program for the Navy conservation easement purchases. Member Pomeroy seconded the motion, and it passed by a unanimous vote (2-0).

Chair Hines inquired if that completed Item A on the agenda, and Joe Sanford noted that they still need to determine what the committee wanted to recommend that the county do with the current development rights that have been established. Dean Patterson pointed out that there is an enormous number of TDRs in existence, more than would be needed for all developments that have been proposed in the county, and he suggested that even if the committee wanted to retain some of these to use in the future, they should probably consider reducing the massive number of them in some fashion. There was some discussion about the number of TDRs that could be considered proportionate to the amount of participation that the county had in purchasing easements that resulted in TDR certificates, and Mr. Patterson said that his figure came to about 2166 instead of the total 12,642 that the county holds currently. There was discussion regarding the potential value calculation per TDR generated by the easement purchases in order to give some mathematical calculation that the county could possibly offer to the private owners of TDR certificates in order to extinguish them. Member Getto suggested that they take the total amount that was paid for all easements and divide by the total number of TDRs. This total came to $2,025 per TDR. Then he asked to take the amount that the county paid for all of these easements and divide it by the total number of TDRs that were generated. This came to $402 per TDR. The second number would equate to an approximate $111,354 cost for purchasing the privately owned TDR certificates so that they could become owned by the county, and then the county could decide on whether or not to extinguish these. Joe Sanford pointed out this would be considering that $402 was the cost that the county has already paid for all of the TDRs in existence. There was discussion about whether or not this was a reasonable amount for the county to consider paying in order to gain ownership of the privately owned certificates. This amount of money of taxpayer funds is significant and amounts to about the cost of a full-time employee for one year. Mr. Sanford suggested that if they wish to make a recommendation, that they could recommend that the county consider paying $402 or less for each TDR certificate in order to gain ownership of those that are privately owned in order to extinguish them. He further stated that the county's position has always been that this entire program has been designed to give substantial benefits to our agricultural industry by bringing in money that wouldn't otherwise have been available. The Navy has not been willing to pay 100% for purchasing these easements, and the county considered that if the Navy would be willing to bring in 75% of the money to benefit the agricultural industry, they could see the community benefit of contributing the 25%. He shared that there could be some negative feelings toward paying an additional amount for the benefit that was already provided, but he can also see the value of alleviating this situation. Member Getto expressed his appreciation for this explanation because he can see both sides of the situation better. Dean Patterson remarked that the county sort of created the problem that now needs a solution, and the private owners were offered something of perceived value in exchange for accepting the offered amount for the easement. Then the county never created a mechanism whereby value could be created by requiring TDRs for development. Member Pomeroy pointed out that if there was no guarantee that there would be value for the TDRs and the owner didn't accept less than the amount that was offered, they assumed some type of risk that they would not have value at some point. Then she asked if this offer was what convinced them to accept the purchase price, and it was the consensus that it more than likely was the deciding factor of whether the owner would participate in the purchase or not. These could be considered as something that had potential value. It was also pointed out that these may never have any real value because of the way that they are calculated, there are so many more generated than can ever really be used. There should be some change made to the way these are calculated in order to make them more realistic and have some type of value. There was discussion about how a few of the purchases generated over 2,000 TDRs and that is ten times more than the number that are privately owned. The generation of the excessive number of development rights contributes to the problem. It was pointed out that the $111,000 amount in order to purchase the privately owned TDRs would be equivalent to the amount that the county has paid to purchase each of some of these easements. Member Pomeroy noted that the people that own these TDRs don't have to accept the offer that the county could make, and they could choose to hold onto these. Member Getto expressed his opinion that we don't want to generate any more TDRs with future purchases of easements. He would like the county to come up with a plan to get the privately owned TDRs into the possession of the county, and then just hold these certificates until some way to utilize them or extinguish them could be devised. Dean Patterson gave an example for frame of reference that based on the current TDRs with one residential credit being equal to one house with the average of 3.2 people per household (a general figure that is commonly used) that would be over 38,000 people, which is greater than the population of the county right now. If the number of TDRs were reduced to 2,100, that would be approximately 6,700 people, which is still nearly equal to the population of the City of Fallon. Chair Hines noted that at the previous meeting Dean Patterson had pointed out that the county doesn't even have 12,000 houses right now, so it is unlikely that this many more would be generated through development in the future. There was more discussion on what should be considered with the development rights that currently exist and what to do in the future versus coming up with a solution to the whole problem right away. There is no guarantee that the private owners will accept the offer from the county, so they may need to devise a mechanism to utilize TDRs for development of higher densities, not to impact general development. This could include requiring five TDRs per house, or something like that, instead of having one TDR equal to one house. There were some other ideas shared of ways to utilize TDRs with development in the future.

Member Pomeroy moved to recommend that the county attempt to purchase the privately held Transfer of Development Rights (TDRs) to get them into county ownership. Member Getto seconded the motion, and the decision was approved unanimously (2-0).

B. Consideration and possible action re: Recommendation to the Planning Commission regarding changes to the Transfer of Development Rights Program.

There was some discussion regarding the recommendation that the committee wanted to make regarding how the program is implemented moving forward as well as what code changes might be necessary for this. Joe Sanford, Deputy District Attorney-Civil, reiterated that this would be the time that the committee could recommend that the county consider whether any changes to the county code or master plan would be necessary to implement this program or if these can be done administratively. Dean Patterson, Senior Planner, inquired if the committee had any suggestions on potential changes to the calculation of TDRs (transfer of development rights).

Member Getto moved to recommend that the county review whether any code changes are necessary to no longer generate Transfer of Development Rights (TDRs). Member Pomeroy seconded the motion, and the decision carried unanimously (2-0).

7. Public Comment.

Chairman Hines asked if there were any public comments. Bob Getto inquired how a member of any board, who has interest in the privately owned certificates, be notified that they should not vote on this item, and Joseph Sanford, Deputy District Attorney-Civil, stated that they would probably know, and if necessary, he would make them aware.

8. Adjournment.

Chairman Hines adjourned the meeting at 9:23 a.m.

Approved: ______________________
Bob Getto, SSRC Member

Approved: ______________________
Carla Pomeroy, SSRC Member

Approved: ______________________
Ernie Schank, SSRC Member

Attested: ______________________
Diane Moyle
Administrative Assistant