

MINUTES OF THE BOARD OF CHURCHILL COUNTY COMMISSIONERS

155 N. Taylor St., Fallon, NV 89406

May 19, 2021

Call to Order:

The regular meeting of the Board of County Commissioners was called to order at 1:15 PM on May 19, 2021.

PRESENT:

Commissioner H. Peter Olsen, Jr., Chairman
Commissioner Gregory Koenig, Vice-Chairman
Commissioner Justin Heath
County Manager Jim R. Barbee
Comptroller Sherry Wideman
Chief Civil Deputy DA Benjamin Shawcroft
Clerk/Treasurer Linda Rothery
Deputy Clerk to the Board Pamela D. Moore

ABSENT:

N/A

Pledge of Allegiance:

The Pledge of Allegiance was recited by the board and public.

Public Comment:

Chairman Olsen asked if there was any public comment. Linda Thompson, Battle Born Patriots, said I am here to make sure we are on the next Agenda regarding the Constitutional declaration. We turned in the proper paperwork over a week ago. We are also planning on putting in a request for a new county ordinance. I didn't realize that one Commissioner was allowed to arbitrarily up and decide to muzzle a constituent from presenting an item for the Agenda, so the other Commissioners and the public never hear about it. Well, I am not so easily muzzled and I am here to make sure it is heard. Said Commissioner also informed my county lead that this board has done all that they can do. At this point, I beg to differ. You have done nothing but jump through Sisolak's hoops to our detriment in this county. Our Sheriff has shown more stones than this board. You all took an oath to uphold and defend the Constitution. Prove it. This Constitutional declaration will act as our shield against both the state and federal government's illegal and unconstitutional overreaches into our county and against our citizens. The new county ordinance would be our sword so we citizens can stand by our Sheriff's Department and help them defend our God-given rights if federal troops invade our county. Believe you me, that is in the works right now. Biden is sending the Attorney General into several large cities to investigate their police departments and talking about nationalizing the police. The State Legislature is voting on their nasty gun bill today. They will make half of our Nevada citizens and probably the same amount in this county alone. It's illegal and, with their ghost guns and taking away our rights, you guys have to protect the citizens of this county. It is time we stop always being on the defensive side and get on the offensive side. We need to stand up and fight that and let them know they cannot overrun our constitutional rights anymore.

Jim Falk said I would like to echo some of Mrs. Thompson's comments. I think it would be a wonderful gesture for you to join Lander County in supporting the Churchill County Sheriff's Department and the Fallon Police Department by joining the Constitutional Sheriffs and Police Officer's Association. I hope you will take this under serious consideration.

Verification of the Posting of the Agenda:

It was verified by Pamela D. Moore, Deputy Clerk to the Board, that the Agenda for this meeting was posted on the 13th day of May, 2021, between the hours of 1:00 and 3:00 PM at all of the locations listed on the Agenda, in accordance with NRS 241 and the Governor's Emergency Declaration related to posting during the Pandemic.

Consideration and possible action re: Approval of Agenda as revised:

Chairman Olsen said the appointment for approval of a shed at the Pennington Life Center has been pulled because the Fire Marshal said that the shed cannot be put on that property. Therefore, the Agenda needs to be revised accordingly.

**Commissioner Gregory Koenig made a motion to approve the Agenda as revised.
Commissioner Justin Heath seconded the motion, which carried by unanimous vote.**

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

A- April 21, 2021.

The Minutes of the meeting held on April 21, 2021 are submitted for the board's consideration and approval.

FISCAL IMPACT: N/A

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED: Accept

Commissioner Justin Heath made a motion to approve the Minutes of the meeting held on April 21, 2021, as presented. Commissioner Gregory Koenig seconded the motion, which carried by unanimous vote.

Appointments:

1:15 PM - Presentation of the 2021 Jim Regan Memorial Scholarships as follows: Allison Frost & Hailey Guerrero - \$1,500 each; Kalea Lattin & Cason Webb-Penn - \$1,000 each; and Callista Perez & Thomas Steele - \$500 each

The Employee Management Committee (EMC) met to score the Applications for the 2021 Jim Regan Memorial Scholarships. This year, a total of eight eligible Applications were received. After scoring, the EMC voted to award the following scholarships:

Allison Frost - \$1,500

Hailey Guerrero - \$1,500

Kalea Lattin - \$1,000

Cason Webb-Penn - \$1,000

Callista Perez - \$500
Thomas Steele - \$500

The board is asked to join EMC members and Evie Regan in awarding these scholarships.

FISCAL IMPACT: \$6,000.

EXPLANATION OF IMPACT: Over the years, since Jim Regan's passing, a golf tournament is held each year and the funds go into the Jim Regan Memorial Scholarship Fund. There are adequate funds in the scholarship fund to award these scholarships. The next fundraising golf tournament will be held on September 18, 2021.

FUNDING SOURCE: Jim Regan Memorial Scholarship Fund.

ACTION REQUESTED: Other

This item was done to make the presentation of scholarships only and no action was taken.

1:20 PM - Presentation and recognition of Lattin Farms and the Weishaupt Homestead for receiving the Centennial Award as Centennial Farms and Homesteads in 2020

Lattin Farms and the Weishaupt Homestead were recognized as a Centennial Farm and Homestead in 2020. Lattin Farms and the Weishaupt Homestead were founded in 1981, totaling more than 100 years combined of family heritage and farming in Fallon, Nevada. The Centennial Awards began in 2004 and, with the addition of the Lattin and Weishaupt families, 58 family-run operations have been inducted.

Lattin Farms was purchased by George William Lattin in 1918. Lattin purchased an 80-acre parcel of farmland that was later sold to his son Ralph, who grew alfalfa, corn, and cattle. Upon returning from World War II in 1946, Ralph's two sons, Bill and Dick, purchased a neighboring farm as the Lattin brothers. Five generations after the original purchase, Bill's son, Rick, continues to farm the now 400-acre farm and agritourism business. Many members of the Lattin family continue to live on the farm, where they carry on the Lattin family legacy through the Lattin Grower's Market, Lattin Kitchen, and agritourism business.

Albert and Addie Weishaupt bought 80 acres in 1918 in Fallon, Nevada. They built the Weishaupt Homestead where they farmed the land for alfalfa and raised dairy cows, sheep, hogs, and turkeys. In 1946, Albert and Addie's youngest son, Karl, returned from serving in World War II, marrying Bettie Atwater and raising three children. In 1977, Karl and Bettie bought the home from his parents. Karl still lives on the family ranch where his son, Dana, continues to farm.

Visit [agri.nv.gov/Centennial Awards](http://agri.nv.gov/Centennial_Awards) to learn more about the Nevada Centennial Awards Program and to read the full history of Lattin Farms the Weishaupt Homestead, as well as the rest of Nevada's Centennial families.

FISCAL IMPACT: N/A

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED: Other

This item was withdrawn prior to the meeting.

1:25 PM - Consideration and possible action re: Update of current activities, plans, or actions related to the Bureau of Land Management's Carson City District

Ken Collum, District Manager, will provide an update of current activities, plans, or actions related to the Bureau of Land Management's Carson City District.

FISCAL IMPACT: N/A

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED: None; Informational Only

Jake Vialpando, Acting Field Manager, had a PowerPoint presentation as follows:

CHURCHILL COUNTY

- **RENEWABLE ENERGY**

- *Dixie Meadows GT*

- ORMAT and contractor (McGinley) responding to public comments and modifying the EA and Aquatic Resources Monitoring and Mitigation Plan (ARMMP)
 - Responses to Public comments and modified EA and ARMMP documents will be available by May 17 for internal BLM and Solicitor review
 - Current timeline:
 - EA, FONSI and Decision by June 30

- **GRAZING & WILD HORSE MANAGEMENT**

- *Edwards Porter Grazing Permit Renewal*

- Proposed Decisions issued on April 19, 2021
 - Protest received from Wildlands Defense (Katie Fite)/Laura Leigh (joint protest)
 - They also appealed the Desatoya WH Gather final decision
 - 15-day protest period still open for some mailings
 - Including one reissuance to the Fallon Paiute-Shoshone Tribe (new address). Protest period would close around May 28
 - Stillwater is currently considering the Fite/Leigh protest and drafting a final decision.
 - Anticipate issuance of final decision by June 15

- **GRAZING & WILD HORSE MANAGEMENT**

- *Desatoya Wild Horse Gather Final Decision*

- BLM issued the final decision and environmental assessment on April 5, 2021
 - Wildlands Defense/Laura Leigh appealed and requested a stay of the decision to IBLA
 - SWFO's response to the appellant's request for stay is due to IBLA by May 20

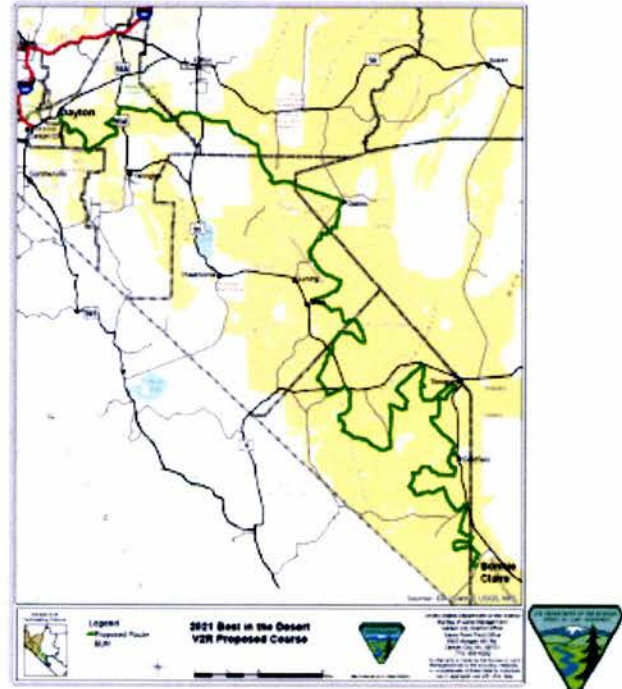
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CHURCHILL COUNTY

RECREATION

- **2021 Vegas to Reno Race**
 - Awaiting Delegation of Authority
 - No changes to race route at this time
 - Sierra Front Field Office taking the lead
 - NEPA will be a Determination of NEPA Adequacy (DNA)



Jake Vialpando said, as an additional follow-up from last month, I am not as involved with the forthcoming LME withdrawal with the Navy but Ken Collum made a clarification with what he spoke to last month and it was just regarding the potential withdrawal extension. He somewhat misspoke in regard to the public process. Once and if the LME withdrawal extension application is accepted by the Secretary of the Interior, notice must be published in the *Federal Register* which provides the public with a 90-day public comment period on the application and requires the agency to have a public meeting. That would be the opportunity for the public to offer comments on the withdrawal extension as outlined in the Code of Federal Regulations. Once the comment period is done, the BLM would finalize the package and submit to the Secretary for approval and if the Secretary approves the application, another PLO notice would be published in the *Federal Register*.

Chairman Olsen said do you have any timeline on that extension? Jake Vialpando said I have not heard anything but I have not been involved in that and it is not really being openly talked about within the BLM, so I don't have anything on that. I will convey to Ken Collum that you are interested in more information and for us to be prepared to talk about it more each time if that sounds good.

Chairman Olsen asked if there was any public comment but there was none. This item was done for informational purposes only and no action was taken.

1:35 PM - Consideration and possible action re: Presentation, discussion, and adoption of Churchill County's top two priority concerns for the Nevada Department of Transportation (NDOT)

The Nevada Department of Transportation (NDOT) appeared at the February 4, 2021 meeting to present and discuss its Work Program and to request that the county outline its top two (2) priority

concerns. The Work Program was approved at the February 4, 2021 meeting and the matter of adopting the county's top two priority concerns was tabled for further discussion and presentation at this meeting.

Staff met to discuss the county's concerns and make the following suggestions for Churchill County's top three priority concerns: 1) Sheckler/Taylor/US 95 Intersection Improvement; 2) US 50/Sherman Street intersection; and 3) US 50/Gummow Drive intersection.

FISCAL IMPACT: N/A

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED: Accept

County Manager Barbee said, per their request and what we were prepared to do A of months ago, we had the Highway Commission and the Regional Transportation Commission meet and discuss these topics and have coordinated with the city staff and we are bringing a recommendation forward that would place our top 3 priorities as: 1) Sheckler/Taylor/US 95 Intersection Improvement; 2) US 50/Sherman Street intersection; and 3) US 50/Gummow Drive intersection. As far as the US 50/Sherman Street intersection, the last time we had not made our decision and part of that was that Sherman was our 2nd priority list and she was under the impression that it was all but completed and underway and starting. As we dug in more on that, we discovered that there is still a lot up in the air on that and, just speaking as a parent that hits that intersection twice a day, it is not good, so we still want to keep that as our 2nd priority until we see that an agreement has happened on the design and until they actually start construction. Then we reevaluate down the line, the different areas that we have seen as issues.

We placed a 3rd priority as the US 50/Gummow Drive/York Lane intersection. I know those are two different intersections but what we are basically saying is those 2 entries onto Hwy 50 are quasi-connected because you have York Lane that intersects Gummow and, if it is busy at Gummow, then you go to York and vice versa back and forth. We think that intersection area needs to be taken into consideration with the recognition of the effect on that traffic area. Chairman Olsen said we have worked on this a lot, so that is why there is no discussion.

Chairman Olsen asked if there was any public comment but there was none.

Commissioner Gregory Koenig made a motion to adopt Churchill County's top three (3) priority concerns as follows: 1) Sheckler Road/Taylor Street/US 95 Intersection Improvement; 2) US 50/Sherman Street intersection; and 3) US 50/Gummow Drive/York Lane intersection. Commissioner Justin Heath seconded the motion, which carried by unanimous vote.

1:45 PM - Consideration and possible action re: Approval for the William N. Pennington Life Center to place an Out West Buildings storage shed at the William N. Pennington Life Center at 890 South Maine Street, Fallon, Nevada to be utilized for storage

The William N. Pennington Life Center has numerous activities and programs for seniors in our community. A new program undertaken this year was a gardening program. The center has numerous tools that need to be stored in between the gardening sessions but there is not sufficient

space inside the facility for these tools.

At the Coalition for Senior Citizens Board meeting held on April 22, 2021, the board approved the purchase of this storage shed from Out West Buildings for an approximate sum of \$4,000. Churchill County owns the property and building that houses the William N. Pennington Life Center and part of the lease outlines the need for an significant changes to come before the Board of County Commissioners for approval. Therefore, staff at the center is seeking approval to place the storage shed at the center. The shed will be placed on the cement at the back of the building to house the tools needed for the gardening program.

FISCAL IMPACT: N/A

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED: Accept

This item was withdrawn prior to the meeting because the Fire Marshal said that the shed cannot be put on that property.

1:50 PM - Consideration and possible action re: Application for Funding for the Churchill County Junior Livestock Show and Sale in the amount of \$2,500 for FY21 and FY22

A copy of the Application for funding submitted by the Churchill County Junior Livestock Show and Sale (CCJLS) in the amount of \$2,500 for Fiscal Year 2021 is provided for the board's consideration. The event was held on April 22-24, 2021 but, due to scheduling, the request was not able to be placed on the Agenda until May 19, 2021. The CCJLS is an annual recurring event held each spring. This report and requested action is also to consider granting \$2,500 in FY22, as it is the intent to continue providing support to this annual event.

The Churchill County Junior Livestock Show and Sale provides an opportunity for personal growth and development of the youth involved in 4-H and FFA, while teaching responsibility, leadership, and community service. This show allows these hardworking youth to showcase their projects and receive feedback from judges on ways to improve the livestock. Participants also learn about agriculture through their involvement and local residents have the opportunity to purchase locally raised meat.

The Application has been reviewed by the County Manager for completion of required materials and the criteria appropriate to warrant county funding (such as: non-profit status, funding sources, community benefit, etc.) The Application submitted by the CCJLS indicates a request of \$2,500 in support from the county. Funding was including in the FY21 budget and requested in the FY22 budget under the CCJLS line item.

FISCAL IMPACT: \$2,500 FY21

\$2,500 FY22

EXPLANATION OF IMPACT: \$2,500 was included in the FY21 Budget to support the Churchill County Jr. Livestock Show.

\$2,500 was requested in the FY22 Budget to support the Churchill County Jr. Livestock Show. If the FY22 tentative budget does not change, there will be \$2,500 to continue supporting this event.

FUNDING SOURCE: Community Support / Churchill County Jr Livestock Show: 100-401-70301

ACTION REQUESTED: Accept

Karen Bogdanowicz, with Cooperative Extension 4-H, made the request for funding as outlined in the Agenda Report and listed above. She said I am requesting funding to help with the Livestock Show. The show was a great success this year. The youth were very excited and very happy to be back showing their livestock and their hard work in person. They all did a great job. They worked hard to be prepared to show and go, meaning there is not going to be a lot of prep time, so they needed to have their animals ready to show before they arrived and the majority of them were ready.

We had 80 youth participating in the show and we had 59 of them that sold their animals. The numbers were down this year mainly in the swine. We were down about 10-15 livestock due to COVID. A lot of families, when it became time for them to purchase animals, were not sure of the future and opted not to this year, but they will be back next year. We were faced with being under the umbrella of UNR and had protocols that we had to meet and we had to keep our people at less than 150 and had to wear masks and social distance. Most everyone was very cooperative and appreciative. We did have to do our rabbit show virtually due to the hemorrhagic disease in rabbits. If that is within 150 miles of your county, then you are not allowed to show them in person. In the beginning of April, Washoe County had a case and then Lyon County had a case, so we did it virtually this year. Hopefully, next year we will do it in person.

We have seen a drop in our donations this year from our traditional supporters. The requested funds would be used for judges, fees, awards, promotions and any other improvements that are necessary to hold the show in the future.

Chairman Olsen asked if there was any public comment but there was none. He said you guys had great prices. Karen Bogdanowicz said yes, we did. The kids left with big smiles on their faces. The community is great. Chairman Olsen said, based on the lambs, they were about double what they were in Reno the next week. They did alright. It is a great program. It instills a lot of things in the kids, like how to take care of the animal and most of them use it for future education and those sorts of things. Most of the money does go to some future good for that child.

Commissioner Koenig said it wasn't quite clear to me. Is the request for \$2,500 for the next 2 years or just for this year and then you will be back next year? County Manager Barbee said, in the budget process, they were added to the budget as a line item back in 2021 and then we went into the COVID issues and adjusted the budget, which then pulled them out of the line-item process for community support. Now they have been added back into the line item, which you approved through the budget process and then you will also do a final approval tomorrow evening. The reason it is listed that way instead of having them come back in a month and give you the same presentation for 2022 moving forward, she is giving the presentation for 2021 and 2022 so you will basically see them coming back for the presentation for the 2023 budget. Commissioner Koenig said so we would be approving \$5,000 today? County Manager Barbee said it would be \$2,500 for this Fiscal Year that ends June 30 and they just had their fair 3 weeks ago and then you already approved in the budget for 2022, so this is simply the presentation. Everyone that is listed in the budget for community service will come back and present to you in 2022 so we are trying to save you a presentation is what we are doing. When the 2023 budget comes forward, it will be a line item like it is the 2022 budget.

Commissioner Justin Heath made a motion to approve funding in the amount of \$2,500 in FY21 for the Churchill County Junior Livestock Show. Furthermore, motion to direct the County Manager to issue a letter following approval of the budget notifying CCJLS if the full \$2,500 was approved for FY22. Commissioner Gregory Koenig seconded the motion, which carried by unanimous vote.

1:55 PM - Consideration and possible action re: Appointment of John Wyatt Getto to serve as an Alternate to the Board of Equalization to fill an unexpired term through December 31, 2023

The Churchill County Board of Equalization (BOE) has the authority and is directed to determine the valuation of any property assessed by the County Assessor. Based upon such determination, the Board of Equalization may change the correct valuation found to be incorrect as it is necessary to make it conform to the taxable value of the property assessed. The Board of Equalization is comprised of five (5) members and one (1) alternate appointed by the Board of County Commissioners, who serve four (4) year terms.

A vacancy occurred with the alternate position on the Board of Equalization when member Phyllis Dowd resigned. With her resignation the current BOE alternate, Alan Kalt, was moved into Ms. Dowd's position and the alternate position became vacant. Legal ads were published in the *Lahontan Valley News* on March 10 and 17, *The Fallon Post* on March 12 and 19 and again, after not receiving any applications, on April 14 and 21, 2021. One application was received from John Wyatt Getto. Mr. Getto is a business owner and a licensed Nevada realtor. He has an understanding of the duties and responsibilities of the board. Staff recommends his appointment as alternate on the Board of Equalization.

FISCAL IMPACT: N/A

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED: Accept

Jim R. Barbee, County Manager, made this presentation to the board as outlined above.

Chairman Olsen asked if there was any public comment but there was none.

Commissioner Gregory Koenig made a motion to appoint John Wyatt Getto to serve as an alternate to the Board of Equalization through December 31, 2023. Commissioner Justin Heath seconded the motion, which carried by unanimous vote.

The Oath of Office was administered to Mr. Getto following board action.

2:00 PM - Consideration and possible action re: Agreement between Churchill County, Nevada and the Housing and Urban Development in the amount of \$68,094 for the provision of Rapid Rehousing for individuals who are literally homeless

Churchill County has received funding from HUD since 2003 for the provisions of housing for individuals who are literally homeless. The funds allocated will support intense case management and housing costs for literally homeless residents to be placed up to 2 years and obtain supports to

become self-sufficient.

The barrier to current programming is the lack of motels for immediate placement from the streets and rentals that meet the habitability standards and fair market rent. Churchill County Social Services has obtained waivers for the above costs for rentals, but lack of availability still causes challenges.

The program receives a mixed funding stream from Housing and Urban Development (HUD) and the Nevada Housing Division (NHD) Tenant-Based Rental Assistance and Community Services Block Grant (CSBG) to cover 100% of the cost associated and match requirements with the Rapid Rehousing Program.

FISCAL IMPACT: HUD Total award \$68,094 11/1/2020-10/31/2021

Rental Assistance \$33,480 (rent and utilities)

Supportive Services \$28,485 (case management)

Administrative Costs \$6,129 (data collection and bookkeeping)

CSBG 20% match to case management

NHD TBRA 20% match for rent subsidies

EXPLANATION OF IMPACT: Funding to cover 100% of match costs and program costs.

FUNDING SOURCE: HUD, CSBG, and NHD,

ACTION REQUESTED: Accept

Social Services Director Shannon Ernst made this presentation as outlined above.

Chairman Olsen asked if there was any public comment but there was none.

Commissioner Justin Heath made a motion to enter into the Agreement, to accept funding as presented, and to authorize the Chair to sign the Agreement. Commissioner Gregory Koenig seconded the motion, which carried by unanimous vote.

2:05 PM - Consideration and possible action re: Interlocal Contract between Churchill County and the State of Nevada, Department of Health and Human Services, Division of Public and Behavioral Health, Community Health Program, not to exceed \$119,461.40 for FY22 and FY23

Per NRS 4399, 439.350, 439.360, and 441A, it is required that a county provide infectious disease testing, tracing, and treatment, as outlined in the scope of work attached to the Contract. Churchill County has contracted with the State of Nevada, Department of Health and Human Services, Division of Public and Behavioral Health, Community Health Program, to provide such services. The assessment amount is set during each Legislative Session for the upcoming 2-year contract period. The total assessed amount for the Fiscal Years (FY) 2022 and 2023 is not to exceed 119,461.40 or \$4,560.89 per month.

This Contract does not include other Community Health programming offered at the local office, which includes, but is not limited to, family planning, counseling, etc. These functions are covered under funding obtained by the State of Nevada on behalf of Churchill County. Should there be a reduction in grant funds, Churchill County would be notified and able to negotiate an additional assessment to maintain such services.

Churchill County and the State of Nevada have the option to cancel the contract at any time, should the county be able to demonstrate the ability to provide such services without the support of the state.

FISCAL IMPACT: \$4,560.89 per month \$54,730.68 annually and not to exceed \$119,461.40 per biennium. This cost does not cover the expense incurred for treatment, as funds have been allocated in the Social Services Health budget as required.

EXPLANATION OF IMPACT: Cost have been budgeted in the Social Services Health Department Budget accordingly for FY22 under 220-425. Additional costs for treatment have been allocated accordingly in 220-425.

FUNDING SOURCE: Indigent Services.

ACTION REQUESTED: Accept

Social Services Director Shannon Ernst made the presentation of this item as outlined above.

Chairman Olsen asked if there was any public comment but there was none.

Commissioner Gregory Koenig made a motion to approve an Interlocal Contract for FY22 and FY23 as presented. Commissioner Justin Heath seconded the motion, which carried by unanimous vote.

2:10 PM - Consideration and possible action re: Approval of a revised Professional Services Agreement between Churchill County and Pictometry International, a Delaware Corporation, for \$29,160.00 for a two-flight aerial imagery project

The Assessor's office uses four-way Pictometry imagery to complete its appraisal duties and responsibilities safely, accurately, and efficiently. The county's GIS parcel base maps also utilizes these aerial photos in conjunction with the Assessor's parcel data. The proposed Agreement with Pictometry International, a Delaware corporation, revises flights four and five of the November 2, 2017 Agreement. Under the 2017 Agreement, flight four captured 223 square miles of east county imagery, totaling \$105,455, and flight five captured 123 square miles of southwest county imagery, totaling \$58,255.

The Assessor's office is considering the available options for flights of the eastern and southwestern areas of the county. Since 2017, Churchill County has experienced a significant increase in new construction, especially new residences. Currently, the latest imagery of this area is from October of 2019. New imagery will also assist in the 2021 reappraisal cycle. The proposed revision will capture a 3-inch orthogonal frame imagery of 81 square miles (see map provided) to be flown in June 2021 and, again, in June 2022, at a cost of \$14,580.00 for each flight.

FISCAL IMPACT: \$29,160.00.

EXPLANATION OF IMPACT: The revised two-flight project Agreement will be funded with Technology Funds as a qualified expenditure not to exceed \$29,160.

FUNDING SOURCE: Technology Fund.

ACTION REQUESTED: Accept

Assessor Denise Felton made the presentation as outlined above.

Chairman Olsen asked if there was any public comment but there was none.

Commissioner Justin Heath made a motion to approve the Professional Services Agreement between Churchill County and Pictometry International and to authorize the Chairman to sign the Agreement. Commissioner Gregory Koenig seconded the motion, which carried by unanimous vote.

2:15 PM - Consideration and possible action re: A Tentative Parceling Plan Application filed by NEV DEV LLC for properties located north of Dillon Road, Assessor's Parcel Numbers 008-113-49 and 008-113-56, consisting of 80.64 acres in the E-1 zoning district, whereby the Applicant proposes to divide the parcels into 16 lots, with the previous version of this project, using long skinny lots, was denied and the Applicant has submitted a revised parcel layout

The Master Plan land use designation for this area is Urbanizing, with the intent that urban densities and infrastructure be extended from the central core of the community over time. The zoning district is E-1, which allows 1-acre lots (or smaller) if adequate services are in place.

The site is located on Dillon Road and on the north side of the Sky Ridge development – a large neighborhood of 1-acre lots on well and septic systems. Large 1-acre developments like that are no longer allowed without community sewer and water services (and paved roads). Most of the Sky Ridge development is completed, though 3 phases are still alive through Development Agreements.

The Applicant is requesting approval for a Tentative Parceling Plan to split 2 adjacent 40-acre vacant lots into 16 five-acre residential lots. Approval of the plan will allow the Applicant to proceed with the series of 6 parcel maps. The process for serial parcel maps is to do the first map of 3 small lots and a remainder, then, on the remainder, to do 3 small lots and a new remainder, then repeat the process until all lots in the plan are completed. Because they are used for larger developments, serial parcel maps are subject to additional requirements similar to subdivisions.

According to the development code, serial parcel maps are not allowed to create lots of less than 5-acres, so the Applicant has configured the plan to create 5-acre lots. In addition, creating 5-acre lots requires a paved road access. Dillon Road is paved, so the Applicant has arranged all lots to front Dillon Road and avoid the need to build a new paved road.

In the previous submittal, the resulting long skinny lots were 1/4 mile long with length to width ratio of approximately 8:1. This kind of lot configuration was not good planning practice and staff would normally recommend denying such requests because they obstruct the future development of the urbanizing area because the area behind the homes that front the road would be difficult or impossible to develop. To deal with the issue, staff suggested providing a road access to the north for each pair of lots that would allow future owners the ability to further divide the lot when services are available.

The Board of County Commissioners (BOCC) reviewed the proposal on January 20, 2021 and denied it due to the long skinny lots. The Applicant had technical difficulties with the Zoom meeting and was unable to participate. The BOCC allowed another hearing on February 4, 2021 so the Applicant could present their case for the project. The BOCC still denied the proposal but

provided guidance for future submittals. The Applicant met with county staff multiple times to propose an alternative with fewer lots, but staff did not support it due to road alignment problems. The currently proposed alternative is for 16 lots, but using more rectangular shapes in two rows. The south row has direct road frontage along Dillon Road. The north row of lots is provided direct road frontage by making them “flagpole” lots where each pair of lots extended strips of lot down a shared driveway to Dillon Road, upon which a public road easement is lain. The easement passes between a pair of south row lots that can also use the easement. The road easement will not be a road at this time, just a shared driveway that is privately maintained. However, it could be upgraded in the future if one or more of the four owners fronting the easement develops their property into small lots. This arrangement creates groups of 4 lots with access onto the road easement/driveway and they will all share maintenance costs through a private Road Maintenance Agreement. A recommended condition of approval will require Road Maintenance Agreements for each driveway and require signage that the driveway is a privately-maintained road.

The new proposal using flagpole lots is not an ideal lot configuration but, like the first proposal, it preserves the future developability of the 5 acre lots. The driveways also match the alignment of the existing roads in the Sky Ridge development so that the driveways have the potential to directly extend the roads.

Dillon Road fronts the south side of the development, is a paved county-maintained road, and is in good condition. It lies within a 60’ road easement on the south side of the property line that was established with the Sky Ridge development, and a 30’ road easement from the original patent along the north side of the property line, giving a total width of 90-feet. The Road Supervisor has reviewed the proposal and does not want individual lot access onto Dillon Road when the driveways are available. A recommended condition would prohibit access onto Dillon Road. Roberson Lane runs along the west property line, lying in a 60’ road easement centered on the property line, and is a privately-maintained dirt road that is highly degraded in some places. It is not adequate to meet the requirements for new lots to access publicly-maintained access. A recommended condition would prohibit using it for access by new homes in the development. The east property line also serves as the centerline of a 60’ road easement; however, the map is inconclusive about the status of the east half of these easements (off the property). A recommended condition would require accurately depicting these road easements. As noted above, the Applicant proposes a 60’ road easement between each pair of lots fronting Dillon Road that overlies the “flagpoles” to the rear pair of lots. These line up with the existing roads in the Sky Ridge development. These will be shared access driveways for groups of 4 lots. Staff recommends that access for all for lots be limited to only the driveway and not be allowed directly onto Dillon Road or Roberson Lane. In addition, these driveways will need paved aprons onto Dillon Road.

The county often recommends that the lands under existing roads be dedicated, along with recording the map so that the county has full ownership and authority of activities in the roadway. In this case, the existing Dillon Road is not on the property, Roberson Lane is a privately-maintained road, and no new roads are proposed. Staff does NOT recommend the dedication of road lands for Dillon Road. Staff DOES recommend that Roberson Lane be “offered” for dedication but rejected by the county at this time. Staff recommends that the driveway road easements be “offered” for dedication but rejected by the county at this time. As usual, all easements that are offered would be accepted by the county.

On making a site visit, the property is a mix of different land features. Each lot has a reasonable area of generally flat and easily developable land, which is usually near Dillon Road. Lot 5 will be significantly encumbered by a salt pan depression near Dillon Road, which is unsuitable for home construction due to water ponding, and unsuitable for septic system operation due to clay soils. However, the lot is big enough to provide a developable area away from the depression. The flagpole segments of Lots 6 and 7 will also cross the edge of the salt pan depression, and driveway construction will need to deal with it. The north row of new lots have much of their area located on sand hills. These are not high, but many have steep side-slopes. Making those areas more accessible for use will require minor grading of the steep slopes and developing these lots may be a challenge in locations where they may be pure sand.

A copy of the staff report is provided for review and decision.

- 1) Changes shall be made for compliance with Churchill County Code, including but not limited to:
 - a) Label the Roberson Lane road easement as offered for dedication.
- 2) Any final changes required by the County Surveyor shall be made prior to recording, including but not limited to the following:
 - a) Correction of typographic errors, legend symbol clarifications, and stray markings.
- 3) Note 4 shall be modified to read "Direct access for all parcels onto Dillon Road and Roberson Lane is not permitted. Access must be from shared access driveways."
- 4) Shared driveways shall be provided with future maps that implement this parceling plan that include the following:
 - a) Paved aprons meeting Road Department standards shall be provided for each driveway at its intersection with Dillon Road.
 - b) Shared driveways shall be constructed to county gravel road standards.
 - c) Each driveway shall be provided with signage near Dillon Road to state "Privately-maintained driveway."
- 5) A shared access Road Maintenance Agreement template shall be developed in coordination with county staff and approved by the Public Works Director. An agreement for each shared driveway shall be recorded along with the maps, creating the parcels using the driveway.

FISCAL IMPACT: N/A

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED: Accept

Dean Patterson, Associate Planner, made the presentation as outlined above.

Chairman Olsen asked if there was any public comment but there was none. County Manager Barbee said I just want to reinforce on the record that this will be a Road Maintenance Agreement that will be attached to the Deed so those 4 properties will be tied together, even after the property is purchased and then resold and then resold, is that correct? Dean Patterson said that is correct. Just for clarification, one of the conditions for approval is that Mr. McCreary has provided a template of such an agreement that he will need to work with staff on before the parcel maps are done and then we will make sure that everything that needs to be in the agreement is there to accomplish what

needs to happen. Also, just to declare for everybody, this is a Parceling Plan. Once this is approved, the applicant will move forward with a series of parcel maps to be implemented and those will come before you, as well.

Commissioner Heath said, these driveways are big enough to get a fire truck through? Dean Patterson said yes and they will be surfaced appropriately.

Commissioner Koenig said we denied you a couple of times and you came back with a plan we can approve of, so I appreciate your professionalism and thank you for doing that. This plan is a lot better.

Commissioner Gregory Koenig made a motion to approve the Tentative Parceling Plan Application for NEV DEV LLC to divide APNs 008-113-49 & 008-133-56 into 16 parcels, subject to the conditions listed in the Agenda Report. Commissioner Justin Heath seconded the motion, which carried by unanimous vote.

Letters Received:

A- Consideration and possible action re: Nevada Division of Environmental Protection's notification of its review of the Draft Base-wide Well Utilization Plan 2021 Update at Naval Air Station Fallon, Nevada.

The Nevada Division of Environmental Protection (NDEP) provides notification of its review of the Draft Base-wide Well Utilization Plan 2021 Update at Naval Air Station Fallon, Nevada. The draft expands on the previous groundwater monitoring well inventories (2011 and 2014) to ensure that all wells comply with and adhere to State of Nevada regulations and Nevada Division of Environmental Protection guidance.

The 2021 BWUP update was designed to accomplish the following objectives:

1. Evaluate the suitability of the wells listed in the groundwater monitoring well inventory and include all wells at NAS Fallon for continued monitoring and remedial activities.
2. Identify a monitoring well network based on construction and placement of new and existing monitoring wells.
3. Identify wells that are no longer useful to the NAS Fallon OUs or Underground Storage Tank (UST)/Petroleum Program Sites and that should be plugged.

NDEP had a number of comments to the Draft BWUP as outlined in the notice. The Navy is asked to respond to the comments. Following NDEP's review of and concurrence with the Navy's response to comments, NDEP will send out a formal concurrence letter.

FISCAL IMPACT: N/A

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED:

B- Consideration and possible action re: Bureau of Land Management's notification of temporary water hauls for authorization #2706132 for the Reville Allotment to manage

livestock in order to provide natural resource protection.

The Bureau of Land Management (BLM) provides notification of temporary water hauls for authorization #2706132 for the Reveille Allotment to manage livestock in order to provide natural resource protection. The Reveille Allotment is located approximately 50 miles east of Tonopah, Nevada and is characterized by steep mountains, salt-desert shrub/perennial grass foothills, and alkali valley bottoms. The allotment is approximately 652,858 acres and encompasses portions of the Reveille, Hot Creek, and Railroad Valleys, as well as parts of the Reveille, Kawich, and Pancake Ranges.

The grazing system for the Reveille Allotment was established with the June 2001 Final Multiple Use Decision, as amended by order of the Department of Interior's Office of Hearings and Appeals in March 2006, and permits year-round grazing of 25,730 Animal Unit Months (AUMs) of cattle.

After consideration from the public consultation information received from 1/2 Fallini 1983 1/2 H. Fallini Living Trust and the interested public, the proposed decision is to authorize temporary water hauls as outlined in the notice. Further details concerning the decision and appeal process are outlined in the notice.

FISCAL IMPACT: N/A

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED: None; Informational Only

C- Consideration and possible action re: Notification of the public hearing on the Tentative Budget of the Carson-Truckee Water Conservancy District for Fiscal Year 2021-2022.

Notification of the public hearing on the Tentative Budget of the Carson-Truckee Water Conservancy District for Fiscal Year 2021-2022 is provided for public information. The public hearing will be held on May 18, 2021, at 1005 Terminal Way, Suite 150, Reno, Nevada. Copies of the Tentative Budget is provided herewith and is available in the Clerk/Treasurer's office for public inspection.

FISCAL IMPACT: N/A

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED: None; Informational Only

D- Consideration and possible action re: Bureau of Land Management's notification of its issuance of the Final Environmental Assessment (EA), Decision Record, and Finding of No Significant Impact (FONSI) determining the need to gather and remove excess wild horses from within and outside the Pancake Complex.

Bureau of Land Management's notification of its issuance of the Final Environmental Assessment (EA), Decision Record, and Finding of No Significant Impact (FONSI) determining the need to gather and remove excess wild horses from within and outside the Pancake Complex. Appropriate Management Level for the Pancake Complex is 361-638 wild horses. The current estimated population is 2,703 wild horses, not including the 2021 foal crop.

The EA describes potential environmental impacts associated with implementing a 10-year wild

horse gather plan for the Pancake complex. The EA is consistent with BLM's management responsibilities under the Wild Free-Roaming Horses and Burros Act of 1971, as amended (Public Law 92-195).

Both the Proposed Action (Alternative A) and Alternative D would gather and remove excess wild horses from within and outside the complex and return periodically to gather excess wild horses and to administer population control measures. By implementing these actions, BLM would be able to improve vegetation, habitat, and watershed health. Removing excess animals would make significant progress toward achieving Standards for Rangeland Health.

FISCAL IMPACT: N/A

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED:

New Business:

A- Consideration and possible action re: Approval of an Actuarial Study of OPEB Liabilities under Governmental Accounting Standards Board (GASB) 75 by MacLeod Watts for Fiscal Years Ending June 30, 2021 and June 30, 2022, totaling \$11,200.

Churchill County is required to follow the Governmental Accounting Standard Board's (GASB) pronouncements. GASB 75 addresses the financial statement disclosure of post-employment benefits liabilities. The disclosure must be calculated by an actuary. This Contract is for a two-year period. The first year requires a full valuation, at a cost of \$7,800 for Fiscal Year 20-21. The second year requires a roll forward, at a cost of \$3,400 in Fiscal Year 21-22.

FISCAL IMPACT: Fiscal Year 20-21 \$7,800 and \$3,400 for Fiscal Year 21-22.

EXPLANATION OF IMPACT: This is required by the Governmental Accounting Standard Board's (GASB) pronouncements GASB 75.

FUNDING SOURCE: General Fund.

ACTION REQUESTED: Accept

Comptroller Wideman made the presentation as outlined above.

Chairman Olsen asked if there was any public comment but there was none.

Commissioner Justin Heath made a motion to approve the engagement letter from MacLeod Watts to perform an actuarial study of Other Post-Employment Benefits (OPEB) liabilities for Fiscal Years 2021 and 2022. Commissioner Gregory Koenig seconded the motion, which carried by unanimous vote.

Consent Items:

A- Consideration and possible action re: Report of the condition of each fund in the treasury and the statements of receipts and expenditures pursuant to NRS 251.030 and NRS 354.290.

A fund balance report is attached indicating the beginning balance, receipts, disbursements, and the ending balance of each fund for Churchill County as required by NRS 251.030 and NRS 354.290.

FISCAL IMPACT: N/A

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED: Accept

2:10 PM B- Consideration and possible action re: Renewal of Transportation Agreement to lease a bus from the Churchill County School District (CCSD) for the 2021 SUMFUN Program

The Parks and Recreation Department is requesting permission to renew the bus Lease for one (1) bus with the Churchill County School District to be used for transporting campers to designated field trips for the 2021 SUMFUN Program. The term of the Lease Agreement will be for three (3) months from Jun 10, 2021 - August 19, 2021.

FISCAL IMPACT: \$3,877.00.

EXPLANATION OF IMPACT: \$2.50 per mile x 1550.8 miles = \$3,877.00. Fees for the SUMFUN Program are based on the listed Lease terms of \$2.50 per mile, so there is no adverse impact.

FUNDING SOURCE: Recreation Budget - 303-5717 - Cost Built into program fees required of participants.

ACTION REQUESTED: Accept

C- Consideration and possible action re: Building Department's Revenue Report for April 2021 totaling \$64,675.75 in revenue for the month

The Building Department provides its Revenue Report April 2021 for the board's consideration and acceptance. The total of \$64,675.75 was received for the month.

FISCAL IMPACT: \$64,675.75

EXPLANATION OF IMPACT: Fees collected to help offset services provided.

FUNDING SOURCE: General Fund

ACTION REQUESTED: Accept

D- Consideration and possible action re: Public Works, Planning & Zoning Department's Revenue Report for April 2021 showing a total of \$233,200.24 in revenue for the month.

The Public Works, Planning & Zoning Department submits its Revenue Report for the month of April 2021 showing a total of \$233,200.24 in revenue. This report is provided for the Commissioners' review and acceptance.

FISCAL IMPACT: \$233,200.24 in revenue for the month.

EXPLANATION OF IMPACT: Fees to off-set services provided by the department.

FUNDING SOURCE: General Fund.

ACTION REQUESTED: Accept

E- Consideration and possible action re: Building Permit Activity Report for April 2021.

Provided for the board's review is the report showing the amount and type of building permits issued for the month of April 2021.

FISCAL IMPACT: N/A

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED: Accept

F- Consideration and possible action re: Recorder's Monthly Apportionment Report for April 2021 totaling \$26,319.60 in revenue for the month.

Churchill County Recorder, Tasha Hessey, provides her Recorder's Monthly Apportionment Report for April 2021, which shows a total of \$26,319.60 in revenue for the month. Further details can be found in the report. This report is provided for the board's consideration and approval.

FISCAL IMPACT: \$26,319.60 in revenue for the month.

EXPLANATION OF IMPACT: Fees to off-set services provided.

FUNDING SOURCE: General Fund,

ACTION REQUESTED: Accept

G- Consideration and possible action re: Sheriff's Civil Report for the month of April 2021 showing a total of \$22,859 in fees collected for the month.

Sheriff Richard Hickox provides his monthly Civil Report showing a total of \$22,859.00 in revenue collected for the month of April 2021. This report is provided for the board's consideration and acceptance.

FISCAL IMPACT: \$22,859.

EXPLANATION OF IMPACT: Fees collected help to off-set the costs of providing those services.

FUNDING SOURCE: General Fund.

ACTION REQUESTED:

H- Consideration and possible action re: Treasurer's Report for the month of April 2021, showing a balance of \$53,663,495.89 in the account.

Clerk/Treasurer Linda Rothery provides her monthly Treasurer's Report, showing a balance of \$53,663,495.89 in the account. It should be noted that the previous two reports were mismarked and should have been listed as the monthly reports for February and March. This report is provided for the board's consideration and acceptance.

FISCAL IMPACT: N/A

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED:

Chairman Olsen asked if there was any public comment but there was none.

Commissioner Gregory Koenig made a motion to approve the Consent Agenda as submitted. Commissioner Justin Heath seconded the motion, which carried by unanimous vote.

Consider Future Agenda Items:

There were not future Agenda items suggested.

Commissioner and Management Staff Reports:

Chairman Olsen reported on the following topics:

- I got called for jury duty, although I was not selected, I participated in the process. Hopefully, soon, we will be able to return to courthouse.

- I participated in the Senate House Natural Resources Committee over Zoom where lobbyist and Jeremy Drew were involved. Made a presentation to them.
- I met with Kai Anderson and Jim to discuss the FRTC.
- I participated in the House Armed Services Committee meeting via Zoom where Jeremy led most of conversation for us. This is the same thing we have been working on since 2016 in regard to the FRTC.

Commissioner Koenig reported on the following topics:

- I participated in the Lahontan Conservation District meeting where they are interested in the Nuisance Complaint.
- I attended Museum Board meeting. The new Director has a lot of good ideas and will put her stamp on things, which all seem to be for the better, as things are exciting.

Commissioner Heath had nothing to report.

County Manager Barbee reported on the following topics:

- I took my 2 kids to the Nevada Junior livestock Show in Reno. It was a great success and great family opportunity. We were able to see families from across the state showing their animals. The numbers were down due to impacts of COVID.
- I participated in the Extension Agent interviews which were preliminary and a couple will be doing final interviews. That position has been open for quite a while. Once funding is restored they will have to repost the position in the future. The person in the intermediate position will be able to apply.
- We are making progress on the Civic Center. The foundations are poured for the large building. We will have two large indoor attached arenas. There is more concrete work to be done. We are still on task to have the building arrive around the middle of June but the project continues to be on schedule. I try to swing by at least once a day, although I can't always do that.
- I had a meeting with NV Energy talking about the Green Link project, which is the green energy power line expansion that comes across north part of Churchill County in Dixie Valley to Fernley to be connected, with another connection at Silver Springs. We talked about growth coming this way on industrial and asked that they consider that and put a link to deliver power at the quantity needed to Hazen for future development of commercial and industrial there. Additional meetings are scheduled. We will be talking next week about possibility of partnering with them on some solar components to the new Civic Center. There are no guarantees but they are open to talking about it.

Comptroller Wideman had nothing to report.

Chief Civil Deputy DA Shawcroft had nothing to report.

Clerk/Treasurer Linda Rothery reported on the following topics:

- I have been working on investments. Things have dropped but we are seeing improvements.

Hope to have that benefit to the county.

- We are getting close to the fiscal year end.
- We are working on the new tax year.

Claims and Payroll Transmittals:

The Claims and Payroll Transmittals were submitted for the board's consideration and approval.

Nuisance Complaints:

- Consideration and possible action re: Complaints for Nuisance:

A. Filed by Jennifer Williamson against Olsen Brothers Dairy, dba Hillside Dairy, located at 4170 Bass Road, Fallon, Churchill County, Nevada, related to the use of propane cannons for bird control at the dairy, Assessor's Parcel Number 006-411-47, and adoption of Resolution 9-2021 declaring whether a nuisance exists associated with this property; and

B. Filed by Thomas Keyes against Sage Hill Partnership, dba Sage Hill Dairy, located at 3525 Keyes Way, Fallon, Churchill County, Nevada, related to the use of propane cannons for bird control at the dairy, Assessor's Parcel Number 006-292-64, and adoption of Resolution 10-2021 declaring whether a nuisance exists associated with this property

On April 12, 2021, a Complaint for Nuisance was filed by Jennifer Williamson against the Olsen Brothers Dairy, dba Hillside Dairy, located at 4170 Bass Road, Fallon, Nevada, Assessor's Parcel Number 006-411-47, related to the use of propane cannons for bird control at the dairy.

On April 22, 2021, a Complaint for Nuisance was filed by Thomas Keyes against Sage Hill Partnership, dba Sage Hill Dairy, located at 3525 Keyes Way, Fallon, Nevada, Assessor's Parcel Number 006-292-64, related to the use of propane canons for bird control at the dairy.

Churchill County Code 8.12.040(A) states: The Board of County Commissioners shall proceed to hear the complaint and any opponents and may consider the findings presented by the authorized official. At the hearing, the board shall receive the proofs offered to establish or controvert the facts set forth in the complaint. The board may adjourn the hearing from time to time, not exceeding fourteen (14) days in all. (B) On the final hearing of the complaint, the board shall by resolution entered into the Minutes, determine whether or not a nuisance exists and, if one does exist, the person or persons responsible for such nuisance to abate the same. (Bill 2002-I, 2002).

Churchill County Code 8.12.050 ABATEMENT OF NUISANCE: The person or persons responsible for the nuisance shall enter into abatement plan with the County Commissioners or their designated representative within fifteen (15) days after the Board of County Commissioners renders its decision. The abatement plan shall be commenced within thirty (30) days after the board renders its decision and shall be completed at such time as the Board of County Commissioners, or its representative, has set forth in the abatement plan. (Bill 2002-I, 2002).

Churchill County Code 8.12.060 ABATEMENT BY THE COUNTY: If the order is not obeyed and the person(s) responsible for the nuisance fails or neglects to remove the nuisance within the

time limit specified in section 8.12.050 of this chapter, the Board of County Commissioners may:
A) Order that the cost of abating the nuisance be a personal obligation of the property owner(s), and shall direct the District Attorney to collect the costs of abating the nuisance and interest thereon by use of all appropriate remedies; B) Order that the cost of abating the nuisance be assessed against the property, and shall confirm the assessment and have it filed with the County Recorder. Thereafter, the assessment shall constitute a lien upon the property. (Bill 2002-I, 2002).

NRS 40.140(1)(a)

A nuisance is defined as anything which is injurious to health, or indecent and offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

NRS 40.140(2)

(a) It is presumed that an agricultural activity conducted on farmland, consistent with good agricultural practice and established before surrounding nonagricultural activities is reasonable.

Such activity does not constitute a nuisance unless the activity has a substantial adverse effect on the public health or safety.

(b) It is presumed that an agricultural activity which does not violate a federal, state or local law, ordinance or regulation constitutes good agricultural practice.

Churchill County Code 8.12.010

It is presumed that, as defined in Nevada Revised Statutes 40.140, an agricultural activity conducted on farmland, consistent with usual and customary agricultural practice does not constitute a nuisance unless the activity has substantial adverse effects on public health and safety. No part of this section shall be construed to interfere or limit acceptable farming practices as outlined in title 16 of this code. It is expressly found that whatever nuisance may be caused to others by such uses and activities so conducted is more than offset by the benefits from farming to the neighborhood and community, and to society in general, by the preservation of open space, the beauty of the countryside and clean air and by the preservation and continuance of farming operations in the county and the state as a source of agricultural products for this and future generations.

FISCAL IMPACT: N/A

EXPLANATION OF IMPACT: N/A

FUNDING SOURCE: N/A

ACTION REQUESTED:

At this point in the meeting, Commissioner Olsen left the dais as he will abstain from participating as a board member but will be the Respondent. He turned the meeting over to Vice-Chairman Koenig. Vice-Chairman Koenig informed everyone that numerous letters or emails had been received and had been reviewed by the board and will be taken into consideration. Letters or emails had been received from the following: Jesse Lattin, Jim Morrison, Adam Nunley, and Jody Mazzarella in support of the dairies, Janet Schmidt in opposition but with alternative solutions; and Amber Morrow in opposition.

The following individuals were administered the oath prior to any testimony being taken: Chris Spross, Loreli Le Baron, Pete Olsen, Jr., Pete Olsen III, Mike Olsen, Preston Denney, Craig Williamson, Jennifer Williamson and Thomas Keyes.

Brian Sorensen said within about a mile and a half radius you would probably find 12-15 dairies that have existed over the last 50 years. Fallon has always been a very dairy-oriented community. I live probably as close to the Olsens as anyone does. They are right across the field from me and with regard to the complaints regarding the cannons, my wife and I live in a home alone. During the winter months when it is cold, we usually have our doors closed and the noise from the cannons is very minimal. Once they start going off all day long, it is easy to ignore them because they can hardly be heard. We have cannons at our dairy too. It is a necessary part of the dairy business because of the starling problem. I would like to say that my son, about a year ago, started trying to get the state to come in and poison the starlings to eliminate the problem and the state did not respond. This past fall he started in October contacting the state and they would say they were going to contact him. A month would go by and he would not hear anything so he would call them again. He did that clear up until the middle of February and they finally said it was too late, but they came in and made an attempt at poisoning the starlings but, by then, the starlings don't really group that much. About the middle of February, when they did come in and poison them, the cannons went off and there weren't any more cannons after that time until this time.

Doug Busselman, Executive Vice President, Nevada Farm Bureau, said we are here to speak in support of the dairy. We have done some research for the past week and we are interested from an organizational standpoint. Nevada Farm Bureau is a general farm advocacy organization and we are interested in working with the dairy producers in the area, as well as the State Department of Agriculture and the U.S. Wildlife Services entities to try to figure out what we might be able to do to bring about a solution. Whether or not it will replace the existing solutions or not, we do not know, but we are interested in trying to figure out a way to resolve the problem with the starlings. We support preexisting agriculture enterprises to be able to continue their enterprises after other people might move in after they have already started.

Chris Spross, Public Works Director, said on April 13, 2021, we received a Complaint from Jennifer Williamson and, upon receipt of the Complaint, we opened up an investigation. On April 3, 2021, we received a second Complaint from Thomas Keyes and we opened up an investigation. The matter came before the board to set a hearing. During that time period we passed the duties of the investigation on to Loreli Le Baron, who is our Code Compliance Official, so I will have her speak to her findings.

Loreli Le Baron, Code Compliance Official, said I was not able to do a complete investigation on the Keyes Agenda item and the Hillside Dairy, so we went with the Hillside Dairy since that one was first. We did add a little bit of information where we could as far as GIS. I have an appointment to meet with Mr. Keyes later this week, not that it might make a difference or not. With this presentation here, first I will provide the definition of a nuisance:

NRS 40.140.1(a) Nuisance Defined; Except as otherwise provided in this section: (a) Anything which is injurious to health, or indecent and offensive to the senses, or an obstruction to the free use

of property, so as to interfere with the comfortable enjoyment of life or property.

NRS 40.140.2(a-b) Nuisance Exception; It is presumed: (a) That an agricultural activity conducted on farmland, consistent with good agricultural practice and established before surrounding nonagricultural activities is reasonable. Such activity does not constitute a nuisance unless the activity has a substantial adverse effect on the public health or safety. (b) That an agricultural activity which does not violate a federal, state, or local law, ordinance or regulation, constitutes good agricultural practices.

Based on this information just in the statutes alone, it seems to me that I agree with both parties. It can be very loud when the cannons fire off. Preston Denney and I both heard them. It depends on your location of residence in relation to the dairy how loud it is. For most individuals, they did not seem to have an issue with it. Where we ran into an exception to the public nuisance aspect is when it comes to agricultural practices. I find that this falls under that category.

General Findings

- Cannons are common agricultural practices by farmers in Churchill County and Rural Nevada (USDA).
- Most effective and environmentally safe technique used by farmers (USDA/EPA).
- One (1) 5-gallon propane tank per cannon typically lasts the entire season.
- Farmers are open to other options that must be affordable and as effective.
- The USDA uses toxic bait known as starlicide on farming land at the beginning of the season, however, it is not guaranteed to be an effective damage control and prevention method to last the entire season.

In regard to the cannon itself, there are different models:

- The M8 Multi-Bang model is the industry standard used by bird and wildlife control experts.
- Produces random series of a single, double, and triple shots.
- Time duration between shots is adjustable from 30 seconds to 15 minutes.
- M3, M4 & M8 Models capable of producing 5,000 shots per a 5-gallon LP gas cylinder.
- The piezo ignition model generates up to 200,000 shots.
- The use of multiple shots at irregular time intervals over a short period of time is proven a most effective method for bird dispersal.

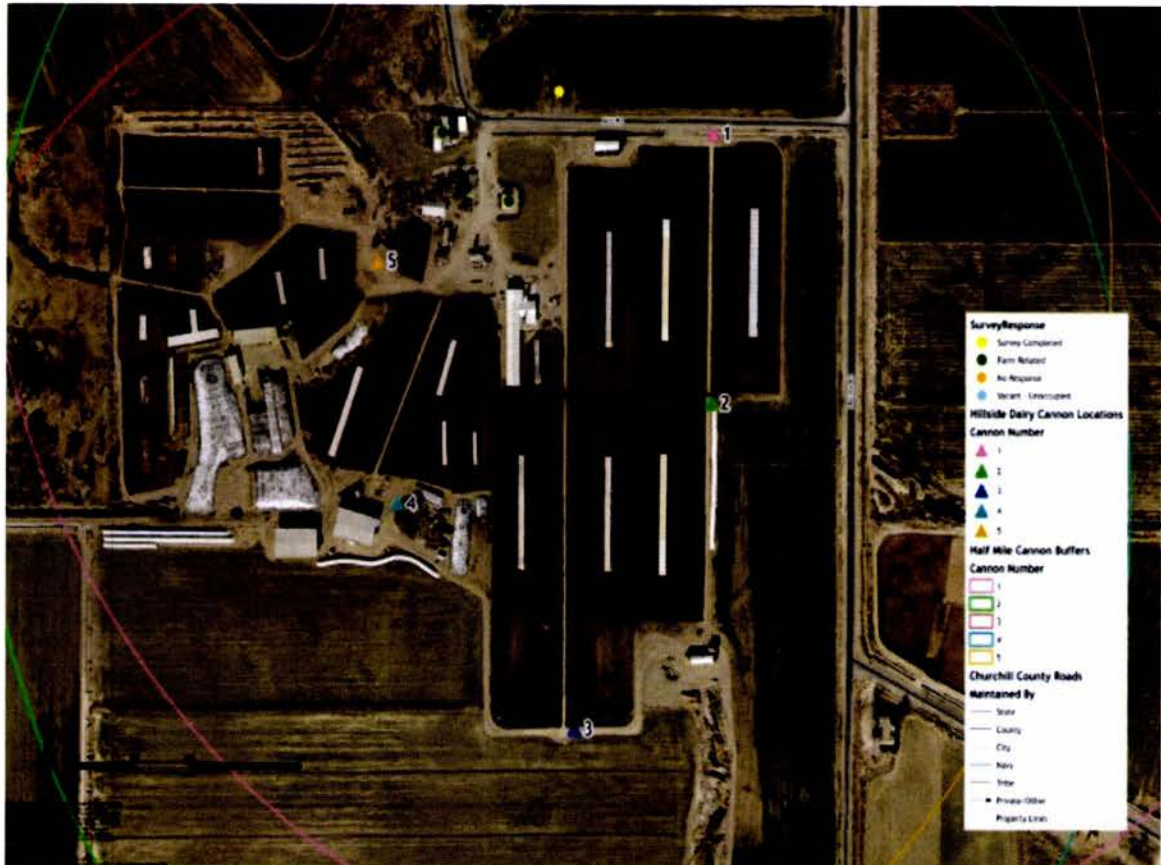
When Preston Denney and I did a walk-around and investigation at the dairy, we came up with some findings.

Hillside Dairy Findings

- Dairy Farm established at current location in 1972.
- Cannons used since 1980s from November until early March (starling season).
- Three (3) to four (4) months out of a year (12 months).
- Cannons fire between the hours of sunrise (6-8am) to sunset (5-6pm).
- Four (4) cannons used on a regular basis & one (1) as needed for the calves.

- Haystack walls used as sound deflectors.
- In compliance with local, state, and federal law.

Preston Denney, GIS Coordinator, said this map indicates the approximate location of each of the cannons. He demonstrated the location of the one that is used intermittently as needed by the dairy.

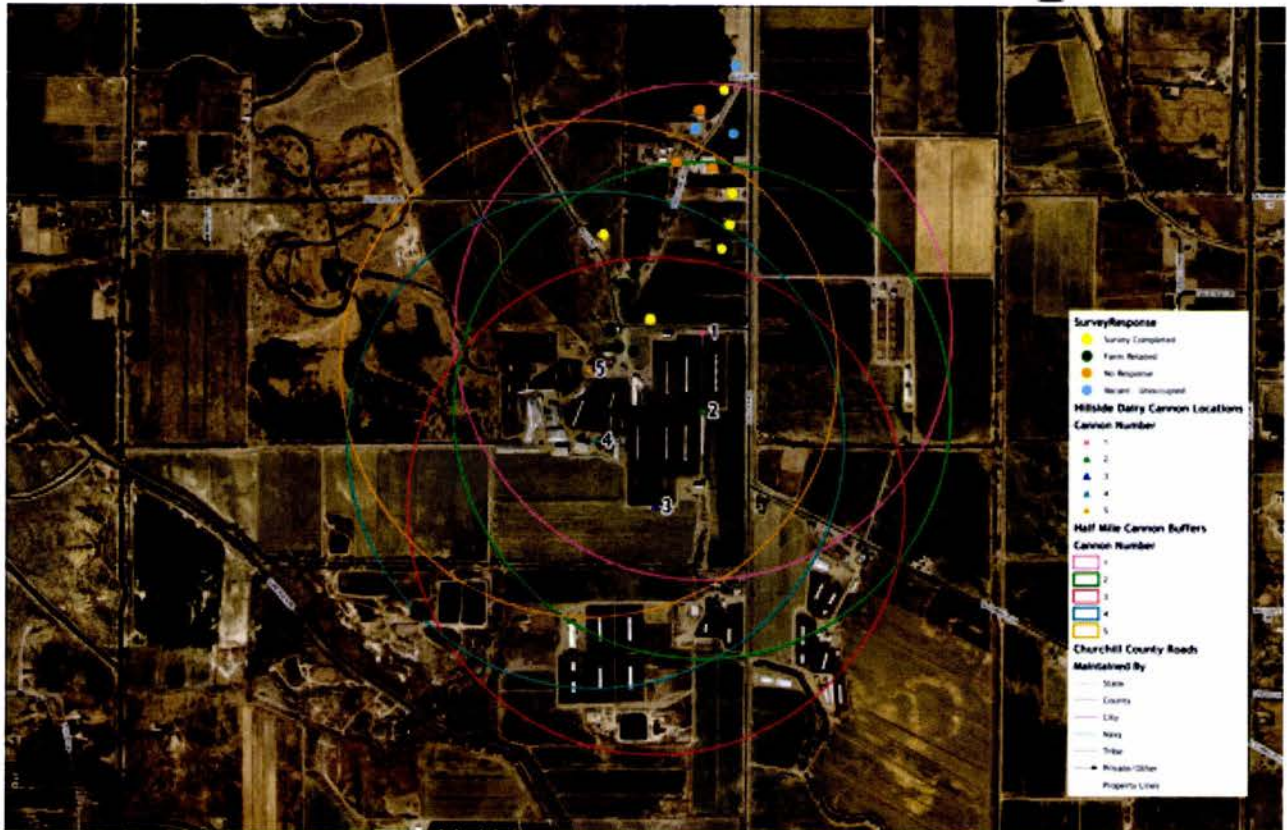


This next map is showing each cannon with a diameter around it of ½ mile. You can see that there are multiple residences that fall within the area of the cannon sound. It is not clear on this map but there are several homes that are indicated by green dots. Those residences are associated with the dairy. The yellow dots are residences that did respond to our survey and there are some blue dots that are vacant homes.

Commissioner Koenig said you only had 5 responses? Preston Denney said we had 6 responses.

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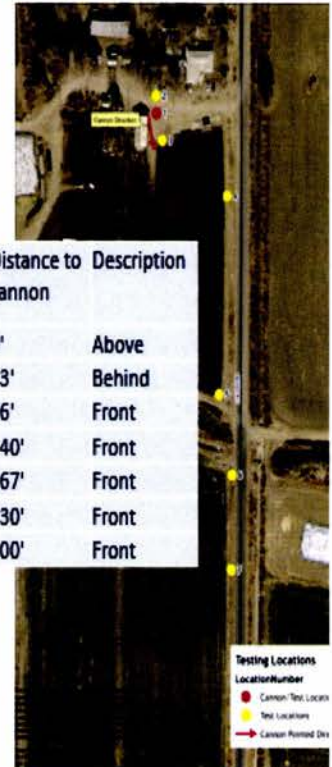
As part of our investigation, we wanted to hear what these cannons sounded like and what their impact is on the neighborhood. The Cottonwood Dairy, by the Sorensens, was going to set up one of their cannons and let us set it off for about 30 minutes. This is not the most scientific of studies, but it helped us get an idea of what we were facing. At the first point, which was right above the cannon, we got 93.3 decibels just off of one reading. Back where our vehicle was parked, we got 83 decibels. That was behind the cannon. The rest of these dots are in front of the cannon. This cannon was about 56 feet in front of the cannon and we got 87.3 decibels. We proceeded to walk down the road and stop at various locations and got the different readings on the map. The further we got, we started to trend downwards in the decibel level. I will tell you that when you are right next to the cannon, they are rather jarring when they do go off. Because they are unpredictable, you don't know when they are going to go off, so they do tend to make you jump a little when you are right next to them. As we got to this 4th point here, we really did not notice it as much; it was not as jarring, to me anyway. The further we got away; we were standing there having conversations without even noticing the cannons going off. Commissioner Heath said is this the same type of cannons that Hillside Dairy uses? Preston Denney said from what we understand, it is.

Loreli Le Baron said it is also important to note that, when we were out there having that conversation, it was at a higher decibel rate than the cannons firing off even at the 4th cannon. We found that the Naval Air Station jets were definitely louder than the cannon itself.

We conducted a cannon survey and there really are not a large number of residences. There are more dairy farmers and dairy-related buildings and structures. There are twenty-one nearby established residences within a ½ mile radius. The farm-related buildings were 9 out of 21, which averaged 33%. The vacant buildings were 3 out of 21, which averaged 14%. With the response to the survey, we received 6 responses out of 21 vacant buildings, occupied buildings in total, which came out to 29%. There were 3 that did not respond to the survey, which was 14%. The occupied residences unrelated to the farm, was 9 out of 21, which came to 43%. The occupied homes that responded were 6 out of 9, which were not for farm purposes, ranged to 67%. On the survey it was asked if the noise was considered a public nuisance and to provide an explanation of their reason for wanting it or not wanting it, and it came up at 83% said it was not a nuisance, which is 5 out of 6 and 1 of them said it was a nuisance.

Cannon Field Conduction Experiment

Point Number	Average dBS	Observed 1	Observed 2	Observed 3	Observed 4	Observed 5	Observed 6	Number of Observations	Distance to cannon	Description
1	93.30	93.30							10'	Above
2	83.00	83.00							133'	Behind
3	87.30	87.30							156'	Front
4	74.17	75.90	72.60	74.00					3240'	Front
5	67.30	63.70	68.60	69.50	68.50	66.20			5567'	Front
6	67.32	76.60	63.20	73.60	63.40	65.10	62.00		6730'	Front
7	66.00	66.20	63.80	67.60	67.10	66.70	64.60		6900'	Front



- Neighbors, especially those closest to the dairy, when interviewed, prefer the noise of the cannons compared to the infestation of starlings on their property and their diseased droppings.
- Neighbors state the cannons sound off randomly from November through March during day hours.
- The residents in this specific area are surrounded by farmland, dairies, and ranching land.
- Cannons can be loud based on locality of residents to the placement of cannon.
- Weather can affect perceived loudness, especially when overcast.

Investigation Findings

- Churchill County does NOT have a noise ordinance. Complaints regarding noise must be brought under the nuisance provisions of the Churchill County Code and applicable Nevada Revised Statutes (NRS).
- Per Churchill County Sheriff's Department, cannons firing off is not considered disturbing the peace as Nevada Revised Statute (NRS) 203.010 requires malicious intent.
- Based on the survey, most residents prefer the noise over bird infestation and exposure to diseased bird droppings.
- The cannons can fire unpredictably and predictably based on settings.
- The closer the resident is to the location of the cannon, the louder the noise.

Jennifer Williamson said I am here to present my Nuisance Complaint against Olsen Brothers Dairy, DBA Hillside Dairy. When we moved to Churchill County in 1999, we rented a home on Tarzyn Lane. This was right across the street from the Alegre Dairy at the time. We know what to expect from living that close to a dairy, however, we visited the Allen Road property many times to determine if the smell, flies and/or noise from Hillside Dairy would be a detriment to our expectations of living in the country. We determined for ourselves that none of these were a detriment to our living in the country. In fact, it was quite peaceful. We have never complained about the noise, flies and/or odor coming from the dairy.

Over the last 3 years, beginning around October and November and ending in March or April, Hillside Dairy used propane cannons to scare away starlings. According to my recollection, the cannons started being used on a limited basis in the winter of 2018, spring of 2019. In the winter of 2019 to the spring of 2020, the number of cannon blasts drastically increased. I personally observed upwards of 12 blasts per minute. My husband, Craig Williamson, calculated the blast average at 8 blasts per minute. In the winter of 2020 to the spring of 2021, I personally observed another increase of blasts upwards of 14 blasts per minute. My husband, Craig Williamson, calculated the blast average at 10 blasts per minute. You can see my husband's declaration for more information on this as Exhibit 1 of my complaint. Assuming 10 blasts per minute average, that is 5,400 blasts in a 9-hour day. I know of at least 4 cannons that exist at the dairy. Pictures of these cannons appear in Exhibit 5-7.

Nevada has a right to farm statute, NRS 40.140(2), which is part of the state's nuisance statute. It allows an exception to the definition of "nuisance", stating: It is presumed (a) That an agricultural activity conducted on farmland, consistent with good agricultural practice and established before surrounding nonagricultural activities is reasonable. Such activity does not constitute a nuisance unless the activity has a substantial adverse effect on the public health or safety. The Nevada lawmakers intentionally put in protection for homeowners against new practices that may be considered a nuisance.

In this particular case, the agricultural practice, which is the propane cannons, does not predate the formation of the residential subdivision, which is the nonagricultural activities. This abuts the dairy property, therefore, nullifying the right to farm protection.

The Miller Ranch Subdivision, which our parcel is a part of, was recorded on March 5, 1999. We purchased our property later that year and have lived there ever since. Commissioner Olsen confirmed in a letter to me dated February 27, 2020, that 3 years ago he began using the cannons along with shooting. Last year, he stepped up usage of the cannons by deploying more cannons proving the cannons were an agricultural activity. I mirror Commissioner Olsen's statement and testify that these cannons were not used until the last few years, based on personal observation. Prior to that, the cannons were never used since we moved onto our property in 1999.

Even if the agricultural activity in question was in effect before surrounding nonagricultural activities, such as a residential subdivision, the nuisance then can be tested against the second statement and the right to farm statute, which states even if they had been utilized prior to nonagricultural activities, which they were not, their use would be deemed a nuisance because they have "a substantial adverse effect on the public health or safety". For at least the past 2 years, the dairy has placed a cannon less than 15 feet from Bass Road. My husband took a dosimeter reading, even though the cannon was obscured by hay bales, and still found a reading of 94.7 decibels. You can see my husband's declaration for more information in Exhibit 1 of my Complaint. This decibel level is more than enough to startle a passing motorist, horseback rider, or bike rider. In fact, near Sage Hill Dairy, even though their propane cannons are further from the road, a resident on Keyes Way witnessed a horseback rider be thrown from her horse as a result of a cannon blast. More information about this incident and a declaration from Thomas Keyes was submitted as part of my Complaint, Exhibit 3.

I have personally flinched taking video of the cannons in action, even though I knew the blast was imminent. As will be covered later, these propane cannons could lead to hearing loss for those exposed to these loud and continuous blasts. The county needs to protect its citizens health and safety from Hillside Dairy's propane cannons. Because the cannons have an adverse effect on the public health or safety, they are a nuisance under Nevada Law. Propane cannons are a nuisance under Nevada Law. Nevada's nuisance law, NRS 40.140(1)(a), states that anything which is injurious to health, or indecent and offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property is a nuisance. The propane cannons are offensive to the senses and thus are a nuisance under Nevada Law. These repeated 130-decibel blasts occurring over 5,000 times most days, for a significant portion of the year, would be considered offensive to the senses by a reasonable person. A reasonable person would not want to experience this for up to six months of the year. Clearly, these propane cannon blasts are interfering with the comfortable enjoyment of our life and property and meet the requirements for them to be declared a nuisance by the Churchill County Commission.

Here are two videos that depict what I experience from outside and inside of my home. The noise is inescapable. That was 5 blasts from outside our home in 17 seconds. In each of those examples, there were 5 blasts from outside our home in 17 or 18 seconds, so imagine that over a minute and we show that it is what we are experiencing. These cannons sometimes start blasting before sunrise and have been left on all night, in the past. When cannons are being used, visitors and delivery drivers to my home are aghast at the onslaught to the senses from the loudness and sheer volume of the blasts. It is often the first thing someone says when they get out of their vehicle: what is that noise? I sent a humorous video of my dog snoring to a friend from inside my home from the room furthest from the cannon. Her response was, "what was that noise in the background, are those the

cannons?” We have personally heard the cannons from Whitaker Lane and have been told by other residents that they can be heard from Union Lane and as far away as Testolin Road. To humans, cannons are particularly disturbing, not just loud, but the sound of war. Because the cannons at the Hillside Dairy are offensive to the senses, they are a nuisance under Nevada Law.

This Exhibit is the manufacturer’s specifications for the cannon that is used by the dairy. Our southern property line is about 700 feet from the nearest propane cannon, which is located, by my estimate to be about 15 feet from the southern edge of Bass Road. At this distance, the propane cannon, which delivers a 130-decibel blast, produces very loud and offensive noises on my property. Hillside Dairy uses a Scare-Away Multi-Bang propane cannon. The Sheriff’s Report, which is part of my Nuisance Complaint, as Exhibit 8, documents this is the brand of cannon used by Hillside Dairy. Page 17 of the report, second paragraph from the bottom of the page, confirms the cannon being used as a Scare-Away Multi-Bang. If you look at the areas circled on this slide, which is an information piece from the manufacturer of the cannon, each cannon produces a 130-decibel detonation and each cannon covers 240 acres with a sound level of 100 decibels. Our property is located well within 240-acre coverage area, so me and my family are suffering 100 decibel blasts thousands of times a day.

According to the CDC, a person may feel annoyed by a noise of 70 decibels. From 80-85 decibels a person may feel very annoyed, so you can see what 100 decibels would feel like to me and my family. The propane cannons are offensive to the senses and thus are a nuisance under Nevada Law. Nevada’s nuisance law, NRS 40.140(1)(a), states that anything which is injurious to health, and offensive to the senses, are a nuisance under Nevada Law. These repeated 130-decibel blasts are not only annoying and offensive but will likely have an impact on our long-term health. Furthermore, a National Institute for Occupational Health and Safety (NIOSH) study, titled “Cardiovascular Conditions, Hearing Difficulty, and Occupational Noise Exposure within U.S. Industries and Occupations,” looked into the relationship between loud noise at work and its impact on health and found that 58% of hearing difficulty cases, 9 percent of high cholesterol and 14 percent of high blood pressure cases could be linked to loud noise. One blast from one of these cannons can lead to immediate hearing damage. As the CDC states, “Loud noise above 120 dB can cause immediate harm to your hearing”. This constitutes a substantial adverse effect on the public health or safety. The CDC states that noise above 70 decibels over a prolonged period of time may start to damage hearing. The Hillside Dairy’s propane cannons constitute a likely substantial adverse effect on the public health, as well as me and my family.

It is important to note that the county recognizes the need to protect homesteads from dairy noises. Chapter 16.04.020(F)(2) of the county code states: As a condition of approval of any subdivision or parcel map of any land in Churchill County adjacent to an existing agricultural operation, such as a dairy, hog farm, feedlot, goat farm/dairy, alfalfa/grain farm or other operation, the developer shall include a plan to buffer the odors, sights, and noises of the existing agricultural operation from the proposed residences and/or businesses.

In the current situation, the developer could not have put in place enough of a buffer to compensate for the future use of propane cannons because they did not exist at the time. The buffer originally put in place should be maintained and protected by the county. To do this, the cannons, which are a new and highly offensive noise nuisance should not be allowed to be used at Hillside Dairy. The

county needs to protect our homestead from this recent nuisance to our lifestyle. Equally important, these propane cannons are reducing our property value and the future ability to sell our home. It is unfair for our family to purchase a property and invest hundreds of thousands of dollars into the property to enjoy the peace and quiet of the countryside for nearly 20 years only to have this hard work, money and enjoyment of our property be significantly diminished by a new and recent farming practice that did not exist when our property was purchased.

State law defines the criteria for a Nuisance Complaint: The County Commission must apply state law when evaluating Nuisance Complaints. In Churchill County's Land Use Plans 16.04.020 (f) GENERAL PROVISIONS, where a right to farm is expressly stated, the county code acknowledges this fact: This chapter is not to be construed as in any way modifying or abridging any provision of Nevada Revised Statutes relative to nuisances, but rather is only to be utilized in the interpretation and enforcement of the provisions of this code and county regulations. Commissioner Olsen, in his letter to us, states he is using propane cannons to enable him to make more money. As is clear from State law, there is no allowance for a nuisance to exist just because it helps someone make more money. For this reason, Hillside Dairy's nuisance in the form of propane cannons must not be allowed to continue.

Hillside Dairy's propane cannons are a nuisance for any one of three reasons. One reason applies to the general public, which I am a member of. The practice of using propane cannons was not in effect prior to nonagricultural activities and, therefore, is not protected by the right to farm statute. Yet, even if it had been utilized prior to nonagricultural activities, which they were not, their use must be deemed a nuisance because they have a substantial adverse effect on the public health or safety. The other 2 reasons are strictly a legal matter between me, as the Complainant, and the Hillside Dairy as the respondent as to whether or not their actions are a nuisance against me. According to state law, anything which is injurious to health, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, which I have proved the cannons are, must be deemed a nuisance. Next, also according to state law, anything indecent and offensive to the senses, which I have also proven the cannons are, must be deemed a nuisance.

We have residents who support the use of propane cannons and those who don't support the use of cannons. Listed here are 66 residents who signed a Petition opposing the use of propane cannons. As stated in the slide above, two of the three prongs proving Hillside Dairy's use of propane cannons is a nuisance to me, is only between Hillside Dairy and me. Whether other people like the propane cannons or not, has no bearing whether or not their use is a nuisance against me. As a County Commissioner, your responsibility is to evaluate whether or not Hillside Dairy's use of propane cannons are either injurious to my health or indecent and offensive to the senses, thereby interfering with my comfortable enjoyment of life or property. The remaining reason proving Hillside Dairy's propane cannons are a nuisance is a public health or safety matter in general. This is where public comments or opinions may be helpful in evaluating this specific part of state law. You, as a County Commissioner, must apply the law as written to the facts presented and determine whether or not a nuisance exists in any of the 3 circumstances. I believe it clearly does exist. Thank you for your time.

Commissioner Koenig said, at this point, we will take testimony by any person who took the oath that is in favor of the complaining party. Pam Moore, Deputy Clerk to the Board said Mr. Vice-

Chair, before we do that, I want to put on the record the letters that we have received. We received letters in support of the dairy from Jesse Lattin, Jim Morrison, Adam Nunley, and Jody Mazzarella, and Dan and Diane Prockish, Janet Schmidt in opposition to the dairy but with alternative solutions; and Amber Morrow in opposition. All of those letters were provided to the public and the board and are part of the record and were taken into consideration.

Commissioner Koenig said now we will hear from Mr. Keyes.

Thomas Keyes said it is nice to meet you all. Some of you I have met before. I am here, although I don't have a lot of evidence, pictures, and all of that. All I am saying is I live within 150 yards of where there are massive blasts that rattle my screen door. The wind chimes that you have on your front porch start chiming. People get thrown off their horses right in the road and it is just unbelievable. I do have a problem with explosions and that affects my health. I don't know what else to say. Mrs. Williamson said just about all there is to say. It affects my health unbelievably. I don't like having to dodge and duck because of the massive explosions. Kids are running off that are playing in the yard. Pets are hiding under the front porch. It is ridiculous when it is on that side of the dairy, which is on the west side of Keyes Way. That is all I have.

Chief Deputy District Attorney Ben Shawcroft said for the record, Mr. Keyes you live next to the Sage Hill Dairy, correct? Mr. Keyes said yes, I do. Chief Deputy DA Shawcroft said can we put up the map to show where Mr. Keyes lives in relation to that dairy. Mr. Keyes said there are 4 subdivisions that surround the dairy. Preston Denney pointed to the map showing where Mr. Keyes lives. Mr. Keyes said just east of that there is a garage and there is a calf barn right there and farther up there are cannons in that row right there. It starts up there in the brown part and that is a major blast right there and that is right in somebody's front door. Then you go down a little and my grandson lives right there and his tetherball, whenever those blasts go off, the pole starts vibrating in the yard and the ball actually moves. That is how loud the blasts are. Then when the blasts come down to where the calf barn is, it goes off, that is where the lady was thrown off her horse. I was sitting on the porch, she was riding by, which happens regularly in a nice peaceful area, boom, she is thrown off into the dirt and the horse bolts up into my yard. So, it does affect people's health and safety.

Chief Deputy DA Shawcroft said in what year did you purchase your property? Mr. Keyes said I have lived there 44 years. The dairy has been there, there were 65 cows on it in 1968. I don't know how many there are now. The Olsen boys have done a great job at expanding that dairy. I don't have a problem with the dairy or the flies and very seldom do I get an odor. The only thing I have a problem with is the cannons. I want to get that straight.

Chief Deputy DA Shawcroft said when you built your home, the dairy was already there? Mr. Keyes said there was a dairy there with 65 cows on it. Then it closed down for quite a few years and then Jernigan bought it and he didn't like it and then sold because of the 4 subdivisions around it and the Olsens bought it and it has been a good expansion ever since. They have done a good job at it. The cannons are what is bothering me.

Commissioner Koenig said now we will take testimony by the responding party.



Nuisance Complaint
Sage Hill Dairy
3525 Keyes Way
APN: 006-292-64

*Notification Boundary
per Churchill County
Code: 800 Feet*



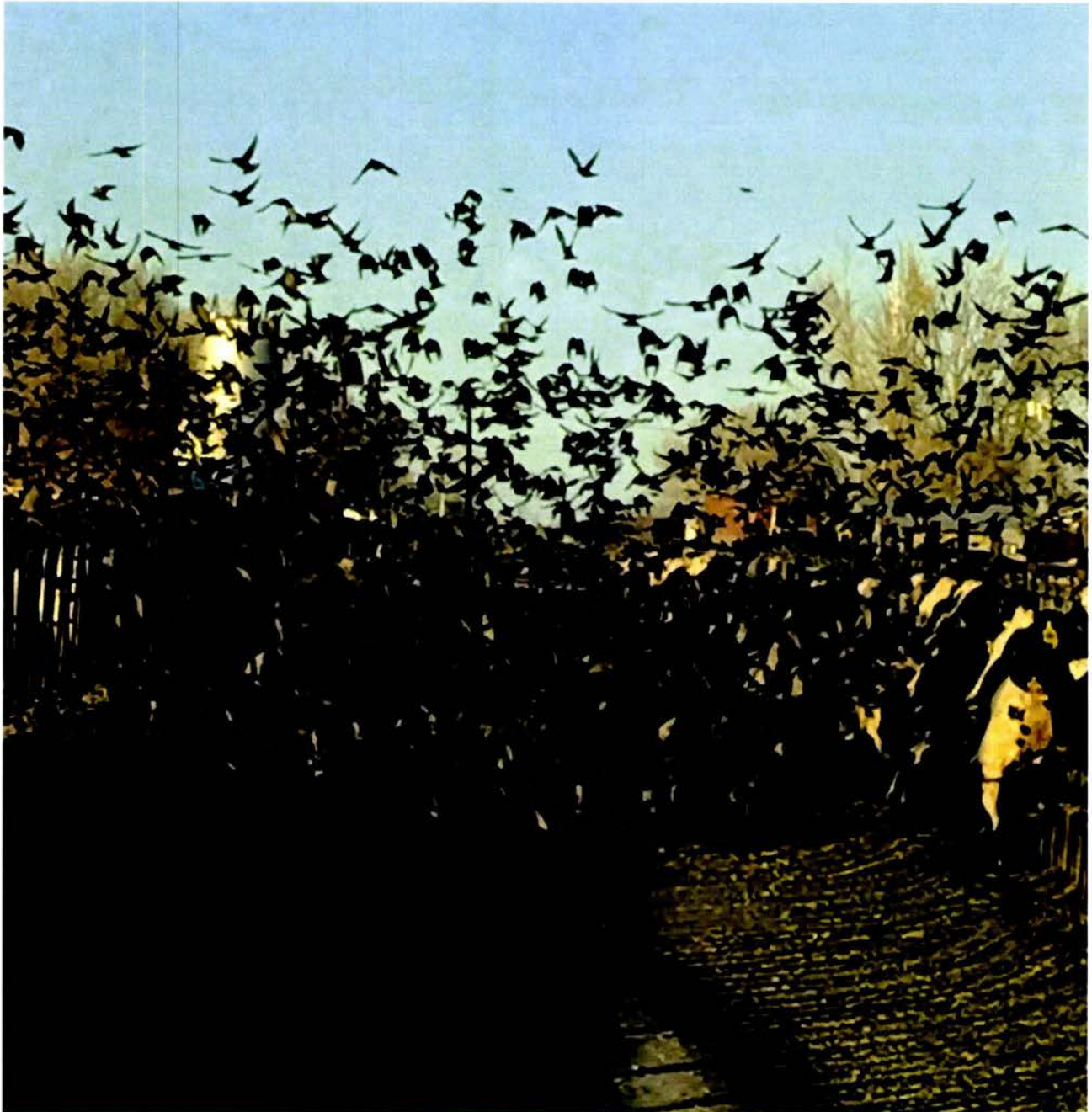
This map is intended to depict approximate boundaries and does not represent a survey. Any area

Pete Olsen said, to give you a little background on our business and our family, Hillside Dairy has been in continuous operation in Nevada since 1915. This is something I am very proud of. Our family has produced milk for northern Nevadans every day for 106 years. The last 49 years were in Fallon. Currently, my 2 brothers, Eric and Neil, are partners with me on Olsen Brothers Hillside Dairy. We kept the name Hillside Dairy because it is the one that my great-grandfather put on the dairy when we lived in Sparks. My sons are on their own dairy and my nephew is on his own dairy, representing the 5th generation in the dairy business in Nevada. We milk 2,500 cows and we have 40 employees who derive their livelihood from our operation. We have a nutritionist who visits our dairy every 2 weeks and takes feed samples and balances the rations for optimal health and production. We have computers and scales on our feed trucks and our feeders precisely weigh and follow the rations formulated by our nutritionist.

There are 14 dairies in Fallon that milk approximately 13,700 cows. In 2014, Dairy Farmers of America built a local processing plant. It was a \$100M investment into our community. Those things tend to stay around for decades in the community, producing wealth back into our community during that entire time. They have over 40 employees there. There is a plant in Reno supplied by Fallon dairies that has 100 employees, which supplies northern Nevadans with local milk products. There are literally hundreds of jobs directly attached to the dairy industry and the local economy here in Fallon. Before I begin my presentation, I want to thank you, the Commissioners, for doing the thankless job of having to listen to this and decide what the right

thing to do is. Also, the Sheriff's Office for their time reviewing this matter.

The issue is starlings and they are a non-native species. Our dairy is inundated with a flock of 30,000 to 40,000 birds beginning in late October to late March or early April, depending on the year.



They consume one ounce of feed a day and they favor the most energy-dense part of the ration, late corn. Current price is over \$330 a ton. A paper published for Washington State in 2019 analyzed the starling issue. The conclusion was a 4.4% loss of feed to the starlings at \$54.55 loss per cow per

year and we have 2,500 milking cows, which would be a \$136,375 loss per year to our dairy. The only caveat to that is that our feed cost has risen 50% since this paper was written. Corn was \$200 when it was written and now it is \$330. Our current losses are significantly higher.

Starlings are disease vectors for cattle, as well. They can spread salmonella, crypto, and other diseases. These diseases can be lethal to cattle. They also cause us to have to vaccinate cattle for those diseases. The initial vaccination is 2 shots and then a booster every year after that. We are fully justified in trying to control these pests.

I would like to address certain items in Mrs. Williamson's complaint regarding Item 3, I would like to clarify that I did increase the cannon numbers from 3 to 5 cannons so that it was spread out more evenly around the dairy. Item 3a, Mrs. Williamson assumes using cannons for bird control is a new practice, which she contends would gain her protection from Nevada's Right to Farm law. We have used cannons for bird control off and on since the early 1980s. The fact that she didn't live there when we did use them does not negate the fact that we have used them in the past and it is a normal natural farming practice to use cannons.

Using the decibel level, under Item 3b, cannons are a nuisance under Nevada Law, is one of her assertions. Using the decibel level, the Williamson's determined to be 94.6 on the road just up the other side of the bales, it can be calculated what the sound level would be at their home, which is 800 feet away from the nearest cannon. Using the inverse of the square footage, the sound level outside the Williamson's home could be calculated to be 55.6 decibels. The Sheriff's Office obtained lower actual numbers at the Williamson's home of 45-50 decibels per the Sheriff's Report. The CDC has a paper referencing what sound levels are objectionable to humans, which I have included. The CDC states that 55.6 decibels are less than the sound of a normal conversation. The CDC references that 70 decibels is the threshold for annoyance and 80-85 decibels damages hearing after 2 hours and 95 decibels would cause damage after 50 minutes of exposure. If you stood immediately on the other side of the straw bales, it would take 50 minutes of repeated exposure to have any injury to your hearing and certainly, as far away as they are, 55.6 represents a negligible effect. All of the allegations that Mrs. Williamson makes about health threats etc. are specious. Again, 55.6 decibels outside their home is not a threat to them according to the CDC, nor could it be construed by a reasonable person that they are an annoyance. According to the CDC, I agree with her, it says 70 decibels is the threshold for annoyance.

As a little history, 20 years ago we purchased the last 4 lots between our dairy and the Williamson's home from our neighbors, the Millers. They had promised to sell us those lots because they knew we wanted to keep a buffer between homes and the dairy. The urban/rural interface can be a tough one for people when they move out into the country. So, we purchased those lots and we paid \$180,000 for the land when it should have been worth \$90,000 as farmland. It was a great expense to ourselves to keep people away from this. We spent a lot of money.

With regard to Item 5, Mrs. Williamson's attempt to show why cannons are not the best way to handle birds, to give you some background on what measures we have taken over the years, I will go through all the control measures we have attempted. Let me begin by showing a paper from the University of Nebraska regarding nuisance bird control, which I have included. I quote "no wildlife control method is a panacea in integration of techniques and application of control methods

according to species ecology". It is critical to control threats proposed by wildlife. Shooting the birds requires quite a few shooters to keep the birds hazed off of the dairy. Currently, I would estimate it would require 4-6 shooters 7-8 hours per day during the season when the birds are here. Propane cannons: again, we have used these off and on since the early 80s. We currently use cannons from 10:00 AM to 5:00 or 6:00 PM stopping at nightfall. We routinely don't use cannons early in the morning because of the normal activity of feed trucks and herdsman moving around the dairy, which keeps the birds away. Only when the human activity around the cows is finished for the day in the morning, are the cannons turned on. I can't explain why Mrs. Williamson has a video of the cannons going off at 6:00 in the morning, or 7:00 in the morning, whatever time that was when she took that video, but I could have had somebody turn them on early. Cannons are an effective use in conjunction with one roving shooter. This rover patrols the dairy in a pickup and they only shoot 20-40 times a day, but it keeps the birds guessing whether it is a cannon or someone shooting at them. We have had a few instances where cannons were left on at night and we work really hard to not have that happen. Poisoning has been used too. It can be very effective if done correctly. Starlicide is the most effective product we have used. We tried Avatrol once, with disappointing results. It was also 5 times as expensive as Starlicide. In recent years, it has been impossible to get wildlife services to supply the Starlicide. During the Obama years, Starlicide was delisted. We can no longer purchase it. In desperation, we spent over \$5,000 on bird call loudspeakers. It worked for about 3 days and the birds habituated to the calls. It was a complete waste of money and we reverted back to shooting.

Many of the control measures Mrs. Williamson suggested are intended for barn cows. In the mid-west and the east, the cows are kept inside a barn for months at a time. Because of our great climate in Fallon, our cows live outside in open lots. It is impossible to exclude starlings with netting, reflective items, kites etc. We contacted Agri laser, that Mrs. Williamson has the video of to come and demonstrate their equipment at my son's dairy. They no-call no-showed the appointment. In a paper done by the University of Nebraska, they found static removing lasers and bright light conditions did not disperse starlings. In low-light dawn-dusk and overcast conditions, there is some efficacy. We all know one of the best reasons to live in Fallon are the many sunny days we have here, even in winter. Effectiveness of lasers would be doubtful on a sunny winter day. In the Wildlife Management Journal, their findings were that a moving beam did not repel European Starlings. There are human and cow health concerns with lasers. They can damage the eyes of cows and people working on the dairy. Another literature on this subject suggests, like other control methods, the birds do habituate to lasers if that is the only control method. Mrs. Williamson suggests we change our feeding times. We keep feed in front of the cows 24 hours a day. If I were to withhold feed from the cows for any amount of time each day, there would be an immediate loss of production. Something that years of observation has demonstrated to us is that these birds are smart and not easily fooled. In the fall, the birds are easy to repel but, by late winter, they are starving and are willing to risk being shot and hazed. They become very aggressive and difficult to keep away from our dairy.

The Petition Mrs. Williamson attempted on social media and by mailer was widely distributed in our community. She achieved a .24% positive response rate against a population of over 25,000 here in Churchill County. Less than 70 people signed her Petition. There is an unsolicited Facebook post on Fallon 411 on the subject. The last time I looked at it a few days ago, there were over 220 responses that were over 95% in favor of our dairy.

Mrs. Williamson wrote two letters to me last year. I responded to both letters addressing her concerns and I ended both letters with my cell number and a request to call me so we could discuss the matter. She has never contacted me directly. After the letters, I did make changes to the cannon placement closest to her home. I erected a one-ton bale wall to deflect the noise to the south towards the cows and away from her home. Another neighbor came to me in person and asked if I could make some changes. I did make more changes by setting up more bale sound barriers on other cannons that were farther away. That neighbor thanked me for the improvements and later asked for one last change in aiming on one of the most distant cannons. This I did and have not heard any negative feedback since then.

I would like to co-exist peacefully with our neighbors. I will continue to encourage the Williamsons to call me to discuss the matter and see if there are things that we can do that would mitigate some of the issue. As I said earlier, she continues to claim that there are 100 decibel levels near her home. That is not true. By the Sheriff's Report, and by using calculations, they tend to be in agreement with each other that the level of sound at her home is somewhere in the 50s or less, so it does not constitute a nuisance. It is not a new practice; we have done this for many years off and on. We have found that these newest cannons they came out with, the Multi-Bang, are much more effective. It does save me having multiple shooters running around the dairy. A cannon doing multiple shots on the dairy provides that sound without supplying the shotgun shells. If anybody has looked for shotgun shells right now, if you can find them, the last ones I paid \$15 a box for because there is a shortage. It keeps us from having to buy all those shells and hiring people because these people are not working for free. I am paying them and putting them in a pickup to run around. These cannons allow me to not use people, but to use the cannon itself, to keep the birds off the dairy. We have been sensitive with the placement and direction and we have used more bale barriers when we did hear people complain. We did move things. We did respond. I would be willing to do more if that is what it took if there was a way for us to do more to keep these things from bothering our neighbors as much. Again, I say you could argue how much bother are they if they are less than a conversation sound outside the home.

Mike Olsen said first I would like to thank you County Commissioners, the County Manager, the Sheriff's Office for providing a couple of deputies today, and the county staff. Thank you very much.

Sage Hill Dairy is a family-owned dairy. My brother and I have been partners on the dairy and have operated it since 2006. The dairy resides on 90 acres on the southwest side of town. We milk 675 jersey cows 3 times a day, operating 24 hours a day. The cows have been milked everyday here on this location since April 1968. We have 12 full-time team members, which some of them actually reside on the dairy. We work hard to farm 100% of our forage needs in Churchill County. We work with 20 different landowners to accomplish this.

This map shows the Thomas Keyes residence. Cannon placement is shown on the map.

Sage Hill Dairy



Thomas Keyes claims that we increased the frequency of the cannon blasts. Owners and employees of the dairy have not increased the frequency or the times per minute that the cannons fire. A little further explanation of the Multi-Bang Cannons is they go off randomly 1-3 times per cycle and our cycle is about a 2–3-minute cycle time. The 1-3 random firing is necessary to keep birds from habituating to it. Again, no person at Sage Hill Dairy has increased the frequency of the cannons. In fact, we have them adjusted to the lowest possible setting to be effective for starling control. Mr. Keyes may, however, be hearing reports of shotgun blasts that must be used jointly with the cannons to achieve the desired effect to haze them away from our cattle and feed. As the winter gets later in the year, the starlings become ever more increasingly brazen with their efforts to get food. They are, in fact, starving to death. Even shotguns barely deter their effort. However, my efforts to protect my livelihood and my farm and my team members must be balanced with the desire to be a good neighbor and coexist with my surrounding neighbors. Over the course of the last couple of weeks, I have had 5 neighbors of adjacent properties to the dairy reach out to me and say that they agree with our cannon use and they agree that they are not a nuisance. I refuse to name these neighbors today to avoid bringing them into this difficult conflict of pitting one neighbor against the other.

Mr. Keyes' second claim that he is experiencing 120-130 decibel sounds, is in no way possibly true. The advertised 120-130 decibel ratings that he noted in Exhibit B of the Complaint are those

measurements taken directly from the cannon barrel. In fact, to clarify, the house that Thomas Keyes lives in, from the nearest cannon, is about 475 yards away, not the 150 yards as he previously stated. The only true onsite decibel ratings that I am aware of were made by my father, Pete Olsen, and his neighbor, Craig Williamson. The readings both came up with was 95 decibels on the backside of one of the one-ton straw bales that are placed on Bass Road. We too use similar methods to avert the sound away from homes and using this inverse square law of maximum decibels that Mr. Keyes would be receiving in his home, would be 45 decibels, according to the CDC. According to the CDC, this decibel level falls somewhere between rainfall and normal conversation. Inside a home, at that distance with the sound deadening qualities of wood, insulation and sheetrock, I question if it can be heard at all. In comparison for all of you, that is the same noise level that a motorcycle that is 95 decibels driving over there in the Safeway parking lot that we would be able to hear in this room today, which is actually 465 yards, 10 yards closer than Mr. Keyes' home. In fact, we have been monitoring the decibel level in the crowd today and we got between 49-79 decibels.

His third claim is the loss of property value. This is a fairly subjective claim and would not be known unless Mr. Keyes himself actually sold his property. The facts that I can find are the 2 most recent sales on Keyes Way. The first one being 9/28/18 before the cannon use, at 3881 Keyes Way, sold for a price \$142 a square foot and the second most recent sale on 4/21/20 post-cannons being used, at 3767 Keyes Way, sold for a price of \$164 a square foot, an increase of \$22 a square foot. Both properties are adjoining the property owned by Sage Hill Dairy and between Mr. Keyes and the dairy.

In regard to the horse event, Mr. Keyes' claims that the cannon blast caused the horse to bolt causing the rider to fall off in front of his house. I would like to dispute this with some facts. First, the distance to Boyer Road is 400 yards. At the average speed of a walking horse, 4 miles an hour, it would take 3 minutes to walk those 400 yards. Using his claim that there are 4-5 blasts per minute, that would be 12-15 blasts during that 3-minute walk. Then he claims that the rider got back on the horse and then traveled back the 400 yards taking another 3 minutes while hearing another 12-15 blasts from the cannons. Given the facts, I would make an educated guess that it was not the cannon that caused the horse to shed its rider but it was actually another reason. It could have possibly been a dog barking, inexperienced rider, plastic bag blowing across the road, a fly biting a horse, a quail or a lizard going across the road, untrained horse, saddle or bridle not adjusted properly, etc.

The final thing that would warrant the use of cannons to protect my property is that the flocks of migrating starlings have caused great loss to our dairy. In a study conducted by Washington State in the winter of 2017 and 2018, it was found that the estimated loss due to starlings is \$55 a cow. On our dairy consisting of 675 milking cows, that loss would be estimated at over \$37,000 a year. In the same study, it shows energy ration the starlings eat reduces the energy ration available to the cows by 13% to 31%, thus causing concern for upset stomachs and malnutrition. During our many years in the dairy business we have tried many methods of starling controls including foil streamers, bird of prey decoys, electronic predatory bird streamers just to name a few. The only methods that we have seen to be effective are propane cannons, coupled with shooting birds with a shotgun or, having the USDA Wildlife Services come and poison the birds. It is necessary to have these government agencies administer the poison because effective poisons are not available to the general public. The cannons, coupled with shotgun use have been the most effective and cost-

effective method that we have tried to date. The price to run the cannons for the entire season is 2 5-gallon tanks of propane at less than \$30 so, from a business perspective, I can spend \$30 to mitigate a \$37,000 loss. At Sage Hill Dairy, we have not stopped looking for new ways to eliminate the loss caused by starlings.

We are currently looking at new technologies coming through drone industries. Some of them could be very neighbor friendly, however, at this time, they are not widely used or available. If the board does find in favor of Sage Hill Dairy's use of the cannons to protect against loss, I would invite Mr. Keyes over to the dairy to work together with us in placement of the cannons and noise barriers. It is not my intention to be a bad neighbor or cause a nuisance to anyone. I am only trying to protect my business and the livelihood it provides for my family, my brothers families and the families of the 12 team members that work at the dairy. As a last suggestion to anyone concerned with these cannons or starlings, I would like to ask for your help in lobbying the efforts of the Nevada USDA and the Wildlife Services to poison these starlings as a control measure, so please contact the USDA Director Mark Ono. His personal phone number is 775-622-6927.

Vice-Chairman Koenig said, at this time, we will allow for rebuttal first from the Williamsons and then Mr. Keyes.

Mrs. Williamson said Mr. Olsen asserts that the propane cannons were used decades ago by the dairy. It has no bearing on the situation. First, he presents no proof that the cannons were actually utilized then. Second, propane cannons were not utilized by the dairy from the time we moved onto our property in 1999 and up to any other point when they began using them in 2017-18. In other words, even if the propane cannons were utilized 30-40 years ago, the practice of using propane cannons was long abandoned by the Hillside Dairy. For this reason, it does not meet the definition of being an agricultural practice. In fact, the definition of practice is to carry out or perform a particular activity, method or custom habitually or regularly. The use of propane cannons has only been used regularly for the past several years and would be considered an established practice recently. The truth is Mr. Olsen has acknowledged in writing that the propane cannons are a recently established agricultural practice of the dairy. Per his letter dated to me 2/27/20, it is explained that he only began using propane cannons because the most effective poison used to control starlings was no longer available. As he wrote several years ago, they were able to use the poison to control the birds. Federal wildlife officials delisted the poison they had used and a replacement agent was very unsatisfactory. In other words, there was no other reason to use propane cannons prior to this as poisoning was controlling the starlings. That fact that the propane cannons are a recent agricultural practice at Hillside Dairy is further acknowledged by Mr. Olsen in the same letter. Mr. Olsen admits, in the 3rd paragraph of his letter, that 3 years ago he began using propane cannons along with shooting. Last year he stepped up usage of the cannons by deploying more cannons. Mr. Olsen noted in the Sheriff's Report that the Sheriff reported 55 decibel readings from our house when the propane cannons were running. If you read the report, the Sheriffs Deputy actually has his windows rolled up, so you are not going to get an accurate experience from that reading. We tested on the other side of the hay bales as a barrier and 94.7 is what we read. The pictures that we presented have one cannon surrounded by hay bales, not more than one, just the one on Bass Road. They do not run from 10:00 AM to 6:00 PM as I showed. That video was recorded at 6:30 in the morning. You can see the sun has not risen yet.

I sent two letters to Mr. Olsen and he only responded to one. Also, as I understand it, in the investigation that the Planning Commission did, Mr. Olsen did not provide the cannons he used for them to test. Our experience, that test was done at a different dairy than what we are experiencing. The manufacturer states that every blast is 130 decibels. How the Planning Commission investigation got 93 decibels 10 feet away is circumspect. Either wondering if the dosimeter was calibrated but if you are 10 feet away, that cannon is going to put out 130 decibels. The manufacturer says it covers 240 acres at 100 decibels.

Here is the same manufacturer of the cannons. They sell handheld lasers for under \$2,000 each and they themselves discussed that is dispersed birds without sound or harm. The Avian Dissuader was designed and engineered specifically for bird control. The 650-nanometer wavelength startle, frighten the starlings and drives them away. More and more wildlife specialists are turning to lasers for bird dispersal for 3 big reasons. There is no noise. The beams range carries a half a mile and the results are astonishing.

The screenshot shows the Reed-Joseph International Company website. At the top, there is a navigation bar with a phone icon, the text "Call Us 800-647-5554 (toll free 18006475554)", a search bar labeled "Search Products", and a shopping cart icon. Below the navigation bar is the company logo, which features a red silhouette of a rooster and the text "Reed-Joseph INTERNATIONAL COMPANY" and "(https://reedjoseph.com)". A "VIEW MENU" button is also present.

The main content area is titled "LASERS" in a blue oval. Below the title, there is a paragraph of text: "Disperse birds without sound or harm! The Avian Dissuader® was designed and engineered specifically for bird control. The 650nm wavelength beam will startle, frighten, and drive them away. More and more wildlife professionals are turning to lasers for bird dispersal for three big reasons: there is no noise, the beam's range carries a half mile, and the results are astonishing!"

Below the text, there are three product listings, each with a product image, a title, a URL, and a price:

- Avian Dissuader® - Red** (https://reedjoseph.com/products/lasers/avian-dissuader) \$1,395.00 / Each
- Avian Dissuader® - Green** (https://reedjoseph.com/products/lasers?product_id=88) \$1,395.00 / Each
- Fly Away Laser** (https://reedjoseph.com/products/lasers/fly-away-laser) \$995.00 / Each

A video was played about Idaho wineries using laser bird repellent to protect crops from birds and another video was played about the effect of Agri laser autonomic at an Idaho dairy farm with starling problem.

In the RGJ article that was published in January of this year, Mr. Olsen stated that he has been invaded with 20,000 starlings at a time. He just contradicted that and said it was 30,000 to 40,000. With what we experience and what we witnessed is the cannons make the birds fly away and within seconds they are dropping back down again. The birds become habituated to it after the first couple of weeks of when they first start using them and you have to do it more and more and more and it simply is not effective. As an aside, the efficacy of propane cannons, while initially somewhat effective, has been found to diminish quickly and ultimately to have little to no effect on starling

control. Propane cannons showed an effect on starlings' numbers at the test site with peak effects occurring within the first 15 days after introduction of the deterrent. Though starling numbers remain well within the control numbers, they did begin to climb again after 15 days, showing no significant difference from the control after the peak effectiveness. That is just one study that we have found. That is K. M. Steensma 2009 Efficacy of bird deterrent devices in agricultural areas of the Fraser Valley of British Columbia. That was a pilot study and we experience the same exact thing.

If cannons couldn't be heard in our home, why does our inside video clearly show you, we can hear the blasts very clearly. That is all we have.

Vice-Chairman Koenig said Mr. Keyes turn. Thomas Keyes said I am not here to call anybody a liar, but the horse incident did happen right after a shotgun blast or a cannon blast, I don't know which. I don't go around their property to look around for cannons or shotguns or anything else. My screen door rattling is a true statement. I have a form of PTSD, so when a blast like that goes off, I duck. If you don't, you got a problem. It is not 450 yards from where those blast and some other blasts are at. I have been over at a neighbor's house, which is in the upper part of that map. There is a residence right next to that yellow line. I have been over there when the cannons go off and the kids are running, the animals are running, the horses are jumping. I don't know what the decibels are, but when it is louder than a 30 ought 6 or a 308, I know the sound of those weapons and those cannons are that loud. I don't know what to tell you, but they are not just a poof, poof, poof. They are a blast, alright. There was a time about a year ago, I was taking some kids to the bus stop and I met one of the Olsen boys on their property and I asked them if they could turn it down a little. The answer I got was I have to do this to control the birds. That is as far as it went. I wave at them. I have never had a conversation with them about this incident, so there is not much else I can say other than my health is at risk. I have been there 44 years, well before these cannons started, which was 2 years ago. That is about all I have to say.

Chief Deputy DA Shawcroft said I have a question for Sage Hill Dairy. When did the use of the propane cannons start? Mike Olsen said 2 years ago.

Vice-Chairman Koenig said now is the time for deliberation.

Commissioner Heath said a normal conversation is 60 decibels and that was recorded in this room with my watch, which is not calibrated and the talking is about 60 decibels, so if you are at 55 decibels, that is less than what we do right here. With the lasers, and you see on that video, the birds will fly but they don't show where they flew to, so we don't know if they are flying back and also with the lasers, was there any talk with the Navy and could we use those with their instrumentations that they have.

Vice-Chairman Koenig said my point is, our job is not to advise the dairies on what is effective, nor decide whether propane cannons are effective. That is a moot point. Our job is to decide whether or not the cannons are a nuisance, not if they are effective or what alternatives they should use. That is not our job to tell the dairy you can't use cannons, go get some falcons. Our job is not to advise them on that. The only thing we are doing here is to listen to a nuisance complaint not an efficacy of propane cannons. I do think, common courtesy, we could be a little more accurate on not starting

until after the sun was up and maybe stopping when the sun goes down. Maybe it will fix some of those. They might have started a little bit early. I don't know that I want to get woken up by that, but I think maybe that could potentially get looked into. Commissioner Heath said but I don't think you could put a time on that unless you declare. Vice-Chairman Koenig said no I am just saying common courtesy. It is not going to be part of my motion or anything like that. That was just a suggestion.

I spent a whole lot of time on this and read this and I have actually talked to more than one attorney and looking at NRS 40.140.2(a) It is presumed that an agricultural activity conducted on farmland and so I want to know what is that definition of agricultural activity. I saw a couple of places that agricultural activity was actually a dairy. If we read it like that it is presumed that an agricultural activity conducted on farmland, consistent with good agricultural practice and established before surrounding nonagricultural activities is reasonable. The attorney I talked to said that NRS does not specify what that means. You can take that as the activity is the blasting of cannons or the activity is running a dairy, so if you look at the definition of the activity is running a dairy, then it definitely was established before the nonagricultural activities. That is one point and actually that is how I am leaning. I am looking at the agricultural activity as a running a dairy not as a cannon blast. Then it says such activity does not constitute a nuisance unless the activity has a substantial adverse effect on the public health or safety. This is also where I dug deeper than that. It says to assist in the determination, the court use the definition of a normal person in the community. I don't have any doubt that the Williamsons find it a nuisance. Just because one person in the community finds it a nuisance, does that make it a nuisance. When I tried to apply the normal person in the community definition, the Preston Survey said 83% said it was not a nuisance and 17%, nuisance. They did have 66 people sign that. We have a county of 25,000 and we have 66 people out of 25,000. Is that a normal person in our community? I really want to go back to the county ordinance that says it is presumed that, as defined in Nevada Revised Statutes 40.140, an agricultural activity conducted on farmland, consistent with usual and customary agricultural practice does not constitute a nuisance unless the activity has substantial adverse effects on public health and safety. No part of this section shall be construed to interfere or limit acceptable farming practices as outlined in title 16 of this code. It is expressly found that whatever nuisance may be caused to others by such uses and activities so conducted is more than offset by the benefits from farming to the neighborhood and community, and to society in general, by the preservation of open space, the beauty of the countryside and clean air and by the preservation and continuance of farming operations in the county and the state as a source of agricultural products for this and future generations. That is what I am thinking. Just a quick antidote. I had a dream, a bad dream that we got here right now, Justin, and I vote one way and you vote the other way and we just looked at each other like um, now what do we do. In my dream I could not tell who the other person. It was just kind of weird. Commissioner Heath said and that part that you see with the good agricultural practices, so if you bring in a new truck or new dairy equipment and it is louder than the other ones, would that become a nuisance in itself. There is no definition we can find here that really details what the agricultural practice is and then we don't also see what they mean by substantial. The NRS does not really detail that. Vice-Chairman Koenig said do you have more to discuss, or do you want to make a motion? Chief Deputy DA Shawcroft said you have your proposed motion to adopt a resolution. I have a proposed resolution that is supposed to be coming through the door in about 10 seconds. If you want to look that over and make sure you are comfortable with the contents of that and make sure it reflects your deliberations and such. Vice-Chairman Koenig said okay because we might be

in trouble if we have to come up with that. Do you have one for either side in case? Chief Deputy DA Shawcroft said I did actually. Vice-Chairman Koenig said I know you did. We will have to wait 10 seconds until we can go over them.

We have the resolutions in front of us and I am going to read them. Resolution 9-2021. A resolution finding that the activities at 4170 Bass Road, Churchill County Nevada do not constitute a nuisance and I want to read Resolution 10-2021. A resolution finding that the activities at 3525 Keyes Way, Churchill County Nevada do not constitute a nuisance.

WILLIAMSON COMPLAINT

Commissioner Heath made a motion to adopt Resolution 9-2021, a resolution finding that no nuisance exists related to the use of propane cannons for bird control at the property located at 4170 Bass Road, APN: 006-411-47. Vice-Chairman Koenig seconded the motion which passed unanimously.

KEYES COMPLAINT

Commissioner Heath made a motion to adopt Resolution 10-2021, a resolution finding that no nuisance exists related to the use of propane cannons for bird control at the property located at 3525 Keyes Way, APN: 006-292-64. Vice-Chairman Koenig seconded the motion which passed unanimously.

Commissioner Heath said I would implore all of you to work together so we don't have to have this again. Get with your neighbor and talk to them because there a lot of things that could be done here and different solutions.

Public Comment:

Chairman Olsen asked if there were any public comments. Tanya Freeman, county lead for Battle Born Patriots, said I do believe that this country is in a constitutional crisis. Each and every one of us is seeing what the President is doing and what our Governor is doing. We need to get a resolution to protect this county and protect the people of this county and protect the Constitution. We can no longer sit around and be complacent. This has to be done. We have to have a constitutional county. We have to have all of our rights protected.

David Perazzo said I just want to express my gratitude to the county and the city and how they did with COVID testing and the vaccine. I thought they did a very good job and I appreciated it and I thought it was a great thing for our county and the citizens of the county. I just want to express my gratitude.

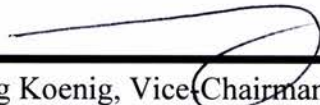
Adjournment:

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The meeting was adjourned at 4:25 PM.

Approved: 
H. Peter Olsen, Jr., Chairman

Approved: 
Greg Koenig, Vice Chairman

Approved: 
Justin Heath, Commissioner

ATTEST:
Linda Rothery, Clerk/Treasurer


Renae Pahoike, Deputy Clerk