

Pursuant to NRS a joint meeting of the Nye County Board of Commissioners, Nye County Board of Highway Commissioners, Nye County Licensing and Liquor Board, the Nye County Board of Health, the Governing Body of the Unincorporated Town of Pahrump, the Governing Body of the Unincorporated Towns of Beatty, Belmont, Gabbs, Manhattan, and Railroad Valley, and the Board of Trustees for the Pahrump Pool District, was held at 10:00 a.m. in the Commissioners' Chambers, 101 Radar Road, Tonopah, Nevada 89049.

John Koenig, Chair
Debra Strickland, Vice-Chair
Lorinda Wichman, Commissioner
Donna Cox, Commissioner
Leo Blundo, Commissioner
Sandra L. Merlino, Ex-Officio Clerk of the Board
Chris Arabia, District Attorney
Sharon Wehrly, Sheriff
Tim Sutton, County Manager

Also present: Lorina Dellinger, Assistant County Manager; Kelly Sidman, Deputy Clerk; Savannah Rucker, Comptroller; Samantha Tackett, Administrative Manager; Marla Zlotek, Chief Deputy District Attorney

Not Present: Chris Arabia, District Attorney

Commissioner Cox was not present at this time.

1. Pledge of Allegiance

The Pledge was recited.

2. GENERAL PUBLIC COMMENT (Three-minute time limit per person.) Action will not be taken on the matters considered during this period until specifically included on an agenda as an action item (first).

There was none.

DISTRICT ATTORNEY

3. For Possible Action – Discussion and deliberation regarding: 1) retaining counsel to be selected by the District Attorney as counsel for handling of civil litigation in a case titled Nye County Management Employees Association, and Ronni Boskovich v. Nye County, Case 2019-007, State of Nevada, Local Government Employee-Management Relations Board; 2) authorize District Attorney to execute a contract for counsel legal services; and 3) fund from Contingency.

Commissioner Strickland made a motion to retain counsel in regards to items 1, 2 and 3; seconded by Commissioner Wichman; 4 yeas. Commissioner Koenig voted nay.

4. For Possible Action – Discussion and deliberation to approve and direct counsel to file with the court a Stipulation to Dismiss without Prejudice and remand water rights applications 71649, 71651-71655, 71657, 66073, 66074, 66075, 66076, 71203, and 71202 to the State Engineer in the following cases CV-23917, CV-26854, CV-36907, pending before the Fifth Judicial District Court.

Commissioner Wichman made a motion to approve withdrawing the applications; seconded by Commissioner Strickland.

Marla Zlotek said if the Board approved the stipulation to be filed with prejudice, then the water applications would be remanded and there would be an opportunity at that point to either withdraw or amend them. This was asking for approval to file the stipulation to dismiss.

Commissioner Cox was present.

Commissioner Wichman amended her motion to approve; Commissioner Strickland amended her second; 5 yeas.

5. For Possible Action – Discussion and deliberation to adopt, amend and adopt or reject Nye County Resolution No. 2019-18: A Resolution Requesting the Attorney General, with the Concurrence of the Board Of County Commissioners and the District Attorney, to Appoint a Special Prosecutor to Present Criminal Case CR7837, State v. Carmelo Motta; pursuant to NRS 228.130(5)(a).

Commissioner Blundo made a motion to adopt Nye County Resolution No. 2019-18; seconded by Commissioner Wichman.

Commissioner Wichman understood the issue with the District Attorney but wondered if someone else in the office could do it.

Marla Zlotek said no and the Attorney General declined their request for a special prosecutor.

5. For Possible Action – Discussion and deliberation to adopt, amend and adopt or reject Nye County Resolution No. 2019-18-Cont'd.

The motion to adopt Nye County Resolution No. 2019-18 passed with 5 yeas.

SHERIFF

6. For Possible Action – Presentation, discussion, and deliberation regarding a request from Nye County Sheriff's Office to enter into an agreement with Immigrations and Customs Enforcement (ICE) for the detention of ICE inmates.

Sheriff Wehrly said about five years ago she sat before the Board when the vote was passed to shut down the Tonopah jail for valid reasons. At that time she told the Commissioners she would look for a way to open the jail again and possibly generate some revenue without cost. She said that was what this was attempting to do.

Lieutenant David Burochowitz advised that the staff of the Pahrump jail had been below acceptable levels since 2012 compromising staff safety and raising liability. The average daily population was 180 and had steadily risen since 2012. On March 7, 2015, due to funding deficits the Tonopah jail closed. Since then the Sheriff's Office had been doing daily, sometimes twice daily transports between Pahrump and Tonopah for arrests and Tonopah Justice Court. That affected Nevada Highway Patrol (NHP), Esmeralda County, Parole and Probation and other people who had used that jail for years. It also caused issues with alcohol-related breath testing and getting that testing done within the required two hours. Since then the Sheriff and Lieutenant Burochowitz had been working to find a funding source to open the Tonopah jail and adequately staff the Pahrump jail. Numerous federal and state agencies were contacted and ICE was the only one interested.

Lieutenant Burochowitz explained the contract would provide the needed adequate staffing in the Pahrump jail, open the Tonopah jail and staff it, reduce liability to the County, reduce overtime costs due to short staffing, and provide increased and improved services. Revenue was anticipated to be \$92.00 per day per ICE inmates housed. They had 100 beds for ICE, but Lieutenant Burochowitz had heard they could give 500 to 600 people immediately if the County had the beds available. Annual revenue from housing would be \$3.358 million. The plan was the Pahrump jail would house ICE inmates and the remainder of the Pahrump inmates would be moved to Tonopah. Those would be inmates with minimal medical issues due to the lack of a hospital as well as inmates who had traditionally finished their preliminary hearings in Pahrump. Additional deputies had been scheduled in the plan as an additional transport team. For the transportation portion ICE required the County provide the trip back and forth to pick up the ICE inmates at their office. The statement of work spelled that out and it would be limited to up to 13 detainees per trip. An ICE vehicle would be provided for those detainees only and the annual revenue from transport would be \$94,640.00.

6. For Possible Action – Presentation, discussion, and deliberation regarding a request from Nye County Sheriff’s Office to enter into an agreement with Immigrations and Customs Enforcement (ICE) for the detention of ICE inmates-Cont’d.

Lieutenant Burochowitz explained implementation of the first phase would begin after approval today, including the hiring process. He discussed the requested positions, explaining the need for each, and said staff should be ready by July 20, 2019, for inmates arriving August 1, 2019. The ICE money would not start arriving until August so the County would have to cover the cost of those new hires. ICE would fund all needed Pahrump and Tonopah detention staffing additions as well as another Buildings and Grounds employee and an Information Tech System Administrator. Additional line items requested were increases to fuel; two vans; a uniform allowance; inmate food, clothing, hygiene and pharmacy; DirecTV in Tonopah; and new hire equipment. Total annual revenue was anticipated to be \$3,452,640.00 with total expenses of \$3,452,640.00, so that first year would basically be a wash, keeping in mind contingencies were built into everything to avoid being left with a bill.

Lieutenant Burochowitz said the second phase depended on a successful first year. If that happened then they would come to the Board and ask for it. The second phase would include building another housing wing with another 100 beds. By August 1, 2020, they hoped to have final plans developed and come October 2, 2020, begin construction with an estimated time of completion being a year. Those additional beds would generate \$6.716 million and transportation revenue would be \$189,280.00. Additional staffing would also be asked for. In total the estimated annual revenue after the second phase was \$6.905 million with expenses of \$4.349 million for total revenue over expenses of \$2.55 million. Lieutenant Burochowitz noted that money could be used to make the bond payment on the jail and alleviate it from the general fund.

Tim Sutton commented those bond payments were \$1.4 million annually.

Commissioner Koenig asked what the time limit was in case the Board could not vote on this today.

Lieutenant Burochowitz would not say there was a time limit, but ICE had other agencies fighting for this so Nye County would run the risk of losing it.

Commissioner Koenig asked what waivers Lieutenant Burochowitz was looking for.

Lieutenant Burochowitz said they were waivers of all staff having to be locksmiths, allowing the Sheriff’s Office to manage their files electronically, and the provision relating to the TB testing. ICE would like an airborne infection isolation room, but since the Sheriff’s Office did not have one they have allowed transport to a medical facility until they were no longer contagious.

6. For Possible Action – Presentation, discussion, and deliberation regarding a request from Nye County Sheriff's Office to enter into an agreement with Immigrations and Customs Enforcement (ICE) for the detention of ICE inmates-Cont'd.

Commissioner Koenig wondered if there was anything in the employment contracts that said five years from now if the contract went away so did the job.

Lieutenant Burochowitz advised it would be in the position announcement and offer they take, and a lack of funding was a cause for layoffs so he did not think they would have a problem.

Commissioner Cox wondered how many inmates could be housed in Tonopah and if any ICE detainees would be housed there.

Lieutenant Burochowitz advised Tonopah had 98 beds and the ICE detainees would only be housed in Pahrump for easy access to the court in Las Vegas.

Commissioner Strickland was concerned with the front end cost prior to being able to bill. She wanted some reassurances from the Sheriff that they would be willing to negotiate the numbers presented because they were coming in with \$3.4 million and putting out \$3.4 million which left no margin for error. She wondered if any contingencies had been built in.

Lieutenant Burochowitz advised each of the line items had roughly a 10% margin of contingency. Also, things were included that were not likely to be that high at all such as fuel. They took the current cost and really exaggerated the anticipated fuel costs.

Commissioner Blundo asked where the ICE detainees would be released.

Lieutenant Burochowitz stated they would never release an ICE detainee. They were taken back to the ICE office and were released by ICE.

Commissioner Blundo asked if Beatty would be utilized as beds at any point in this.

Lieutenant Burochowitz said it was not slated to be at this time as arrests were minimal, but if that opportunity arose they would be back in front of the Board.

Commissioner Blundo asked for an estimated amount of how much the County would have to prefund noting the money was for existing staff.

Savannah Rucker said one of the items on the agenda was a resolution to set up a fund for jail expenses and revenue to show the operational costs of both jails. In order to prefund an operating transfer out of the general fund from the existing budget for the jail into the jail fund would have to happen in the new fiscal year. That operating transfer would be \$3.597 million to the jail fund to support existing jail operations, along with the

6. For Possible Action – Presentation, discussion, and deliberation regarding a request from Nye County Sheriff's Office to enter into an agreement with Immigrations and Customs Enforcement (ICE) for the detention of ICE inmates-Cont'd.

revenue generated from the ICE contract as presented of \$3.4 million, with an expenditure budget for both jails of \$7.05 million.

Commissioner Wichman pointed out Sheriff's Office would be working off of their annual budget until this money started coming in.

Commissioner Koenig commented that at the end of the year she would be over budget.

Commissioner Strickland said only if the contingencies were not adequate, but the Board needed to watch this.

Mrs. Rucker explained how revenues collected after the close of the fiscal year were backdated to the prior fiscal year to avoid that budgetary issue.

If this was approved Commissioner Wichman recommended that the Sheriff's Office come back with a quarterly report so the Board could see how it was going, which Sheriff Wehrly agreed to do.

Commissioner Blundo asked what affect this would have on the community with families visiting ICE detainees.

Lieutenant Burochowicz thought it was very unlikely people would come as there were no face to face visits at the jail. This would also not be a facility for sentenced detainees.

Commissioner Cox was concerned with the cost of transporting inmates from Tonopah for medical emergencies since there was no local hospital. She thought it would be cheaper to house the Pahrump inmates in Pahrump and put the ICE detainees in Tonopah.

Lieutenant Burochowicz advised ICE was not willing to have their inmates housed in Tonopah because of the distance to Las Vegas for all purposes.

NHP Captain James Simpson, the northern command east commander, supported the reopening of the Tonopah jail for his troopers to book prisoners in. Right now if one of his troopers made a late arrest at the end of his shift they had to drive two and a half hours to Pahrump and then two and a half hours back, excluding the booking time. That created a safety issue for him having his troopers who may be tired traveling for six hours in addition to their ten hour shift.

6. For Possible Action – Presentation, discussion, and deliberation regarding a request from Nye County Sheriff's Office to enter into an agreement with Immigrations and Customs Enforcement (ICE) for the detention of ICE inmates- Cont'd.

NHP Sergeant Colby Powell said the best case scenario for them was a two and a half hour trip if they were in Tonopah. If they were in Round Mountain or Gabbs it was a six hour trip one way. They also faced a lot of issues not having medical personnel on staff. If someone was certified as a phlebotomist at the jail it would resolve a lot of issues involving DUIs and drugs and doing timely blood draws. Sergeant Powell thought it was very obvious being the third largest county in the country that a northern and a southern jail were required.

Jerry Elliston, a long term Tonopah resident and a Tonopah Town Board member, stated all of the conversations he had with people in Tonopah supported this mainly because of the jail which would be a great benefit to the community.

NHP Trooper Saul Bermudez added whenever they took anyone to Pahrump it took them out of their area. There were four troopers in Tonopah with two morning shifts and two evening shifts. When the evening trooper had to leave town there was no trooper in the area.

Joe Burdzinski was concerned for the safety of the Sheriff's deputies if this happened as well as the residents of Pahrump and Tonopah as people may want to come and be closer to their ICE inmates.

Commissioner Wichman made a motion to accept the agreement with ICE; seconded by Commissioner Strickland.

Commissioner Cox said she knew this was about money, but she had concerns about the health, safety and welfare of the people, property values and growth. She was here when the CCA detention center came in and since then she believed it became a full blown prison although it was initially deemed a detention center. The real estate values dropped when that came in and people started leaving. She said she would love to see the Tonopah and Beatty jails open, but not at the expense of Pahrump. Commissioner Cox also felt this was a Pahrump issue, not a Tonopah issue, and was truly not a benefit to the County.

Commissioner Blundo asked if an increase in street patrols was anticipated because of this contract.

Lieutenant Burochowitz said no. He explained this contract was intended to fund detention adequately. The long-term goal was to alleviate some general fund expenditures such as the bond payment. They hoped the Commissioners would see fit to assist the struggling street operations as well.

6. For Possible Action – Presentation, discussion, and deliberation regarding a request from Nye County Sheriff’s Office to enter into an agreement with Immigrations and Customs Enforcement (ICE) for the detention of ICE inmates-Cont’d.

The motion to accept the agreement with ICE passed with 4 yeas. Commissioner Cox voted nay.

FINANCE

7. For Possible Action – Discussion and deliberation to adopt, amend and adopt, or reject Nye County Resolution No. 2019-17: A Resolution to Create a Fund Entitled Nye County Jail Fund.

Commissioner Wichman made a motion to approve; seconded by Commissioner Strickland.

Commissioner Blundo referred to section 8 which stated the Nye County capital fund will supplement the Nye County jail fund with debt service funds in fiscal year 2020. He asked how much that would be.

Savannah Rucker said that was the bond payment of \$1.4 million.

Commissioner Cox said since this would cause the Sheriff to go over budget and the County was under State watch she did not think this was a good thing to be doing right now.

The motion to approve passed with 4 yeas. Commissioner Cox voted nay.

8. For Possible Action – Discussion and deliberation regarding the FY20 budget for the Nye County Jail Fund (10236).

Savannah Rucker said this was just discussion and the budget would be brought forward to the Board on May 29, 2019. Now that the resolution was approved this was the budget associated with the fund. Intergovernmental revenues were as presented by Lieutenant Burochowitz and the operating transfer in from the general fund for existing budget levels. The expenditures were broken down by jail and an ending fund balance of zero dollars was shown in anticipation of those upfront initial costs. She was not sure how this would roll out and wanted to give the Sheriff’s Office the leeway to operate their jail business. Additionally, with the last item there was a requirement for quarterly reporting from the Sheriff’s Office and Finance to the Board on the status of the fund and any future deficits or revenues in excess of expenditures that would be seen. She was also confident she could explain it to the CLGF.

There was no action taken on this item.

H/R AND RISK MANAGEMENT

9. For Possible Action – Discussion and deliberation regarding: 1) generating new positions to execute an agreement with Immigrations and Customs Enforcement (ICE) for the detention of ICE inmates; and 2) requesting approval to create and fill all positions required to execute this agreement.

Commissioner Wichman made a motion to approve; seconded by Commissioner Strickland.

Commissioner Blundo noted these were all the positions listed in the presentation. He wondered if the Sheriff's Office would start bringing it on a little bit at a time and what the plan was to address the rest of the positions.

Lieutenant David Burochowitz said sworn personnel would be first to get them to the academy and trained. The civilians would be brought on a month prior to August 1, 2019, and once the inmates arrived promotional testing would be done for the supervisory positions.

Commissioner Blundo asked if this staff level included anything discussed in the second phase.

Lieutenant Burochowitz said yes in the sense that this staff would allow for less staff in the second phase. It was hard for him to commit to the second phase staffing until he saw how the first phase went. If the first phase went as well as he anticipated then the second phase would be able to be reduced.

Commissioner Blundo asked if the Buildings and Grounds and the IT positions would be under their respective departments or under the Sheriff's Office specifically.

Human Resources Manager Danelle Shamrell said they were working on that, but the intent was they would report to the director of the department assigned to the jail and the ICE project, but those details would be specifically identified in the offer letter and worked out with the Lieutenant and Sheriff based on the needs.

The motion to approve passed with 4 yeas. Commissioner Cox voted nay.

**10. GENERAL PUBLIC COMMENT (up to three-minute time limit per person.)
Action will not be taken on the matters considered during this period until specifically included on an agenda as an action item (second).**

Horace Carlyle thanked the Commissioners for protecting the public health, safety and welfare not only in the south but also in the north.

11. ADJOURN

Commissioner Koenig adjourned the meeting.

APPROVED this 18th day

ATTEST:

Of June, 2019.

Chair



Nye County Clerk / Deputy