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Case No. CV 1307113

Dept. 1

IN THE SEVENTH JUDICIAL DISTRICT COURT
WHITE PINE COUNTY, STATE OF NEVADA

Michael Lemich,

Plaintiff.

vs.

Cheryl Noriega, James Adams, Timothy McGowan, Ely Jet Center, Does 1 through 10, and Does Inc., 1 through 10, and Doe Trust, 1 through 10,

Defendants.

SPECIAL MOTION TO DISMISS
PURSUANT TO NRS 41.660 (Anti-SLAPP); REQUEST FOR ATTORNEY
FEES (NRS 41.670)

Comes now DEFENDANTS, CHERYL NORIEGA, JAMES ADAMS, and TIMOTHY MCGOWAN, by and through their counsel of record, CAVANAUGH-BILL LAW OFFICES and JEFFREY A. DICKERSON, and hereby respectfully submit their Special Motion to Dismiss pursuant to NRS 41.660. This case is a "SLAPP" lawsuit, or Strategic Lawsuit Against Public Participation - a lawsuit that has been filed to interfere with, or retaliate for the Defendants' Constitutionally protected activity. The entirety of Plaintiff's claims are based upon a legitimate Recall Petition by Defendants and is clearly aimed at creating a chilling effect to hinder the recall process. NRS 41.660 prohibits such suits, and NRS 41.670 places the costs of defending them on the Plaintiff's shoulders. Defendants' Motion is made and based upon all the pleadings and papers herein, as well as the attached Memorandum of Points & Authorities and attachments thereto and any oral argument the Court should entertain.

Dated this 28th day of August, 2013.

CAVANAUGH-BILL LAW OFFICES, LLC
401 Railroad Street, Suite 307
Elko, Nevada 89801

LAW OFFICE OF JEFFREY A. DICKERSON
9655 Gateway Dr., Suite B
Reno, Nevada 89521


Julie Cavanaugh-Bill
Nevada Bar No. 11533

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NOTICE OF MOTION

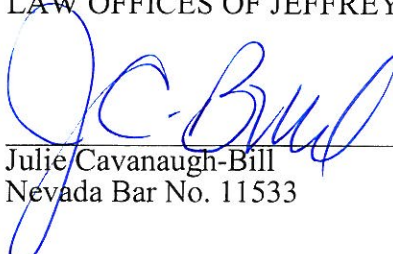
PLEASE TAKE NOTICE that the following SPECIAL MOTION TO DISMISS PURSUANT TO NRS 41.660 [ANTI-SLAPP]; and REQUEST FOR ATTORNEYS FEES AND COSTS (NRS 41.670); has been served upon you. If you oppose the Motion, you have ten (10) days plus three (3) days if this motion was received by mail (not counting weekends and holidays) from the day after this Motion was served on you, to serve on JULIE CAVANAUGH-BILL of the CAVANAUGH-BILL LAW OFFICES, LLC, 401 Railroad Street, Suite 307, Elko, Nevada, 89801, and file with the Court Clerk of the Seventh Judicial District Court, in and for the County of White Pine, State of Nevada, a written Response. If you fail to respond within ten days, the Court may enter an Order as requested by the Defendant without a hearing and without further notice to you, and without further chance to respond.

A hearing on this matter is requested and the Court is requested to set aside three (3) hours for the hearing.

Dated: August 28, 2013

CAVANAUGH-BILL LAW OFFICES, LLC
401 Railroad Street, Suite 307
Elko, Nevada 89801

LAW OFFICES OF JEFFREY A. DICKERSON



Julie Cavanaugh-Bill
Nevada Bar No. 11533

MEMORANDUM OF POINTS AND AUTHORITIES

I. Brief Statement of Facts

This case involves allegations by Plaintiff, a current White Pine County Commissioner, of defamation by Defendants for the filing of a Recall Petition against him. On or about July 8, 2013, Defendants filed a notice of intent to recall Plaintiff, County Commissioner Mike Lemich. See Exhibit (“Ex.”) A to Affidavit of Timothy McGowan. In the Recall Petition the Defendants assert that:

Mike Lemich, along with the Chairman, has spearheaded the economic disaster in which the County now finds itself. Lemich has shown himself combative, pushing a personal vendetta against the private operator at the airport and members of the Airport Board. His accusations, intimidation, lies and threats against both the operator and their customers have disregarded all rules of ethics. He has continued his attacks even though both County and private attorneys have stated that there are no issues of legality

He is personally engaged in dismantling the County Fire and EMS services, subjecting the County to numerous NRS violations and placing outlying communities in grave risk by diminishing these services, while attempting to transfer management of these services to the City of Ely. Intimidation has been his major tool in this endeavour. As the County representative to the City of Ely, he has abused his office in personal negotiations involving his own private land transfers, while simultaneously negotiating land exchanges for the County.

The statements contained in the Petition are true and based upon good faith by the Defendants. See Affidavits of Timothy McGowan, Cheryl Noriega and James Adams attached hereto:

1. “Spearheading the economic disaster”: The Defendants based this statement upon Plaintiff’s role in such County actions as the Ely Times Building purchase and the Aquatic Center. The Ely Times Building purchase was approved on April 11, 2013. Deficiencies and problems with the building were not addressed before the approval, and the purchase was done without a proper estimate of re-engineering costs (estimated costs have now increased from \$135,000 to \$350,000). Ex. B. The Aquatic Center also encountered lack of planning issues including emergency vehicle access, sufficient parking to meet the County Code, ingress and egress to Highway 6 in conjunction with Nevada Department of Transportation, cost overruns and failure to properly assess operating costs (estimates have varied between \$385,000 to \$512,000). Ex. C. Annual County Budget shortfall was made known in May 2013, with an operating deficit in the General Fund of \$37,890,

1 equipment from Fund Balance in the amount of \$125,500, and engineering transfers that will reduce
2 the General Fund Balance by \$2,263,700, leaving a total planned reduction in the General Fund
3 balance of \$2,428,090. Ex. D. A reported \$ 1.3 million shortfall was in the General Fund as of April
4 2013.

5 2. “Pushing a personal vendetta against the private operator at the airport and engaging in
6 accusations, intimidation, lies and threat.” Defendants have personal knowledge of these actions by
7 Plaintiff and the statements in the Petition are based on that first hand knowledge. See also Ex. E,
8 reflecting the public nature of this on going dispute.

9 3. “ Commissioner Lemich is personally engaged in dismantling the County Fire and EMS
10 services, subjecting the County to numerous NRS violations and placing outlying communities in
11 grave risk.” The Attorney General’s Office in File No. 12-006 gave the County a “last warning” for
12 Commissioner Lemich’s involvement in a meeting that was not duly noticed wherein this exact issue
13 was discussed and a decision made to consolidate the County Fire and Ely City Fire. Ex. F at
14 paragraph 7. The Attorney General’s office stated “We will not hesitate to take further action in the
15 future should a similar violation occur.”

16 4. “Use of Intimidation.” Defendants have personal knowledge of Lemich behaving in an
17 intimidating manner. In addition, Commissioner Lemich committed an assault and battery on private
18 citizen George Chachas. See Ex. J.

19 5. “Engaging in personal negotiations involving his own private land transfers, while
20 simultaneously negotiating land exchanges for the County.” Commissioner Lemich has used his
21 position to influence County Employees to publicly support the Midway Gold project with which
22 he has admitted to having a conflict of interest. Ex. G .Additionally, he failed to recuse himself from
23 the declared conflict of interest, disregarding advice from the District Attorney. Commissioner
24 Lemich also simultaneously engaged in real property negotiations with the City of Ely, both as a
25 County Commissioner and as a private businessman. Ex. H.

26 The first signatures were obtained by Defendants on or about July 25, 2013 - the lawsuit was
27 filed the same day, at 5:01 p.m., Mr. Lemrich filed his lawsuit claiming defamation, civil
28 conspiracy and emotional distress. His lawsuit rests entirely on the Recall Petition. These
statements are clearly protected under NRS 41.637 and - as is the case with the rest of Defendants

1 protected activity- Plaintiff's claims are explicitly based upon them, and those claims must fail. (PI's
2 Compl., ¶¶ 14-20). (Plaintiff's complaint erroneously cites to an earlier draft Petition that was not
3 filed, therefore, Defendants shall focus this Motion on those statements actually placed in the public
4 Recall Petition).

5 While not explicitly referenced in Plaintiff's Complaint, it remains clear Plaintiff's animus
6 for Defendants engaging in the Recall process permeates his claims. In fact, there appears to be no
7 doubt that Plaintiff's intent is to "chill" the Recall process - a process to which the Defendants have
8 constitutionally protected rights both under the Nevada Constitution Article 1 (9) and the United
9 States Constituion.. In a media article following the lawsuit filing, Plaintiff's attorney is actually
10 quoted as saying, "I haven't really looked into it...It would be an interesting point if anyone who
11 signs the petitions could also be named in the defamation suit." See Ex. I at page 3. The article,
12 which ran in the local media was entitled "Sign the Lemich/Lampros Recall, Get Sued?" Because
13 Defendants statements are absolutely protected, those claims should be disallowed and Plaintiff
14 should be ordered to pay Defendants attorney fees and costs.

15 **II. Legal Argument**

16 "SLAPP" refers to Strategic Lawsuits Against Public Participation. SLAPP lawsuits, are
17 intended to censor, intimidate and silence critics by burdening them with the cost of a legal defense
18 until they abandon their criticism or opposition. They also function to intimidate others to prevent
19 them from participating in the debate. Intimidation will naturally exist any time a community
20 member is sued by an organization or entity, since most laypersons are uncomfortable with litigation,
21 cannot afford to pay attorneys fees, engage in the petition process in good faith, and do not want to
22 have to explain their status as a Defendant in a lawsuit. States began to realize that there was a
23 problem growing relative to the initiation of SLAPP litigation. In 1992 California responded to this
24 problem enacting an anti-SLAPP statute (California Code of Civil Procedure § 425.16) protecting
25 those attacked with SLAPP lawsuits by providing to them the remedy of a special Motion to Strike.
26 Nevada was close on California's heels, enacting legislation similar in purpose, codified in NRS
27 41.645 through NRS 41.670.

28 The legislative history of Assembly Bill 485 (Bill Summary) describes a classic SLAPP
lawsuit as:

1 “... when a citizen makes a statement intended to influence public policy and is then sued for
2 defamation, interference or similar common law tort.”

3 **A. Procedural authority and Motion standard.**

4 Pursuant to Nevada’s Anti-SLAPP statute, if a lawsuit arises as a result of a good faith
5 communication in furtherance of the right to petition, the person(s) against whom the lawsuit is
6 brought may file a Special Motion to Dismiss. *See*, NRS 41.660(1). Upon the filing of such a Motion
7 the Court “shall treat the motion as a motion for summary judgement.” *see*, NRS 41.635, *et seq.*
8 Should the Court grant the special motion, “the dismissal operates as an adjudication upon the merits.”
9 *See*, NRS 41.660 (4) attorney fees and costs shall be awarded, and the persons against whom the
10 action is brought may bring a separate action to recover compensatory damages, punitive damages and
11 attorney fees and costs of bringing the separate action. *See*, NRS 41.670.

12 From the face of the Complaint, there is no doubt Plaintiff’s claims are impermissibly
13 predicated upon alleged action in furtherance of these Defendants’ First Amendment Rights to Petition.
14 The available documentation set forth above confirms this conclusion.

15 **B. Nevada’s Anti-SLAPP statute mandates dismissal of Plaintiff’s State-law
16 claims, which are based on actions protected by Defendants’ First
17 Amendment rights of freedom of speech and petition.**

18 **1. Nevada’s Anti-SLAPP Statute**

19 In 1993, the Nevada Legislature enacted legislation under NRS Chapter 41 entitled
20 “Liability of Person who engages in Right to Petition.” The legislation was introduced in response to
21 the vast number of retaliatory SLAPP lawsuits being brought against citizens who petitioned
22 government. *See*, S.B. 405, NEV. S. JUD. COMM., 38 (1993). The Legislature’s effort provided
23 “immunity from civil liability for claims based upon a good faith communication to a legislator,
24 officer, or employee of the Federal Government.” *Id.* at 2.

25 In 1997, the Legislature revised the provisions governing immunity for persons
26 engaging in communication in furtherance of the right to petition. *See*, A.B. 485, NEV. ASSEM. JUD.
27 COMM., 1 (1997). The bill implemented procedures for defendants to file a special motion to dismiss
28 if the action is brought against a person, business or organization who engaged in such good faith
communication based on exercising the First Amendment Right to Petition. *See id.*; *see also*, NRS
41.635, *et seq.* (Note). The Reviser’s Note further states “[s]uch lawsuits . . . are typically dismissed,

1 but often not before the defendant is put to great expense, harassment and interruption of their
2 productive activities” NRS 41.635, *et. seq.* (note). In so doing, the Legislature explained “[i]t is
3 essential to our form of government that the constitutional rights of citizens to participate fully in the
4 process of government be protected and encouraged.” *Id.*

5 As it currently stands, the statute provides that “[a] person who engages in a good
6 faith communication in furtherance of the right to petition is immune from civil liability for
7 claims based upon the communication.” NRS 41.650 (emphasis added). Examples of such good-
8 faith communications under NRS 41.637 include the following:

- 9 1. Communication that is aimed at procuring any governmental or electoral action, result or outcome;
- 10 2. Communication of information or a complaint to a Legislator, officer or employee of the Federal
11 Government, this state or a political subdivision of this state, regarding a matter reasonably of concern to the
12 respective governmental entity; or
- 13 3. Written or oral statement made in direct connection with an issue under consideration by a legislative, executive or
14 judicial body, or any other official proceeding authorized by law, which is truthful or is made without knowledge of
15 its falsehood.

16 NRS 41.637.

17 Therefore, where an action is brought against a person, business or organization
18 based upon good faith communications in furtherance of the right to petition, NRS 41.660 provides
19 the opportunity to file a special motion to dismiss - such as this one - at a very early stage in the
20 litigation. NRS 41.660(1)(a), (2).

21 **2. The Nevada Supreme Court recently recognized Anti-SLAPP’s applicability in lawsuits such as this, which are brought for the purpose of chilling the right to petition.**

22 In *John v. Douglas County Sch. Dist.*, 219 P.3d 1276 (Nev. 2009), the Nevada
23 Supreme Court for the first time rendered a decision applying Nevada’s Anti-SLAPP statute. Mr. John,
24 a security guard at Douglas County High School, was disciplined after an investigation. *Id.*, at 1278.
25 He was suspended and eventually terminated at the conclusion of the school district’s investigation.
26 *Id.*, at 1279. Mr. John filed a union grievance related to his discipline, and filed serial litigation against
27 those who testified at the grievances or participated in the investigation. *Id.*, at 1280. The school
28

1 district filed a Special Motion to Dismiss pursuant to NRS 41.635, *et seq.*, which was granted by the
2 District Court and upheld by the Nevada Supreme Court, *en banc. Id.*

3 In its decision, the Court recognized that “SLAPP lawsuits abuse the judicial process
4 by chilling, intimidating, and punishing individuals for their involvement in public affairs.” *Id.*, at
5 1281. The Court recognized that “representative democracy demands that citizens and public officials
6 have the ability to openly engage in discussions of public concern.” *Id.* That discussion of public
7 concern is precisely the conduct contemplated by Nevada’s Anti-SLAPP legislation. The Court looked
8 to comments made by a State Senator on S.B. 405, and recognized that “Nevada’s Anti-SLAPP statute
9 is predicated on protecting ‘well-meaning citizens who petition the government and them find
10 themselves hit with retaliatory suits known as SLAPP suits.” *Id.*

11 The allegations of Plaintiff’s Complaint concerning statements made by
12 Defendants are precisely the kind of petitioning activity protected by Nevada’s Anti-SLAPP statute.
13 Here, Plaintiff alleges that good faith statements contained in a Recall Petition are somehow
14 defamatory, part of a conspiracy and causing him emotional distress. This type of communication fits
15 squarely within the statute’s concerning for protecting well-meaning citizens who petition the
16 government.

17 **3. Plaintiff’s claim fails under Nevada’s Anti-SLAPP standard.**

18 A Special Motion to Dismiss under NRS 41.660 is treated as a motion for summary
19 judgement. *John*, at 1281. First, the district court can only grant the special motion to dismiss if there
20 is no genuine issue of material fact and the moving party is entitled to a judgement as a matter of law.
21 *Id.* Second, the nonmoving party cannot overcome the special motion to dismiss on the gossamer
22 threads of whimsy, speculation and conjecture. *Id.*

23 A party who moves for a special motion to dismiss bears the initial burden of
24 production and persuasion. *Id.* This means the moving party must first make a threshold showing that
25 the lawsuit is based on good faith communications made in furtherance of the right to petition the
26 government. *Id.*, at 1282. If the moving party satisfies this threshold showing, then the burden of
27 production shifts to the nonmoving party, who must demonstrate a genuine issue of material fact. *Id.*

28 As outlined above, all of Plaintiff’s claims against these Defendants are based upon
protected petitioning activity. Defendants have demonstrated their good faith.

1 Under NRS 41.635, *et seq.*, the definition of “protected activity” consists of “good
2 faith communication in furtherance of the right to petition.” In describing this standard, the Statute’s
3 Reviser’s Note states as follows:

4 The communications, information, opinions, reports, testimony,
5 claims and argument provided by citizens to their government
6 are essential to wise governmental decisions and public policy,
7 the public health, safety and welfare, effective law enforcement,
8 and trust afforded government and the continuation of our
9 representative form of government

7 NRS 41.635 (2007) (note).

8 The Nevada Supreme Court recognized that there are three classes of petitions
9 protected by the statute. *John*, at 1286. The first two classes are communications that are truthful or
10 made without knowledge of falsehood made for the following reasons: (1) to procure government or
11 electoral action, or (2) to address a matter that reasonably concerns the petitioned governmental entity.
12 *Id.*; NRS. 41.637(1)-(2). The third protected class is any written or oral statement made in direct
13 connection with an issue under consideration by an legislative, executive or judicial body, or any other
14 proceeding authorized by law which is truthful or is made without knowledge of its falsehood. *John*,
15 at 1286; NRS 41.637(3). Here, Plaintiff’s Complaint is based on clearly protected conduct that extends
16 across all three of these categories, and should not be allowed to continue.

17 Since NRS 41.660(3)(a) indicates this Special Motion to Dismiss should be
18 considered “as a motion for summary judgement,” Plaintiff has a burden to produce affirmative,
19 admissible evidence on this point - as well as upon all the other elements of his claims. *See, Wood v.*
20 *Safeway, Inc .*, 121 Nev. 724 121 P.3d 1026(2005)(adopting federal summary judgement standard).
21 Plaintiff must present affirmative, admissible evidence supporting each of the elements of its claims
22 or face dismissal. Because the Complaint is based upon protected activity, Plaintiff cannot satisfy the
23 elements of these claims against these Defendants and the Complaint should be dismissed in its
24 entirety.

25 **C. Defendants are Entitled, By Statute, to an Award of Attorney Fees and Costs.**

26 In enacting anti-SLAPP Legislation, the Legislature has provided for an award of attorney’s
27 fees and costs to those who have had their rights violated. In this regard, NRS 41.670 provides as
28 follows:

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If the court grants a special motion to dismiss filed pursuant to NRS 41.660:

1. The court **shall** award reasonable costs and attorney's fees to the person against whom the action was brought..." (emphasis added)

Defendants retained the services of attorneys Julie Cavanaugh-Bill and Jeffrey A. Dickerson to defend their interests and otherwise protect their constitutional rights. NRS 41.670 is a mandatory fee and cost statute. Consequently, Defendant is entitled to an award of attorney fees and costs incurred, as will be proven by affidavit.

CONCLUSION

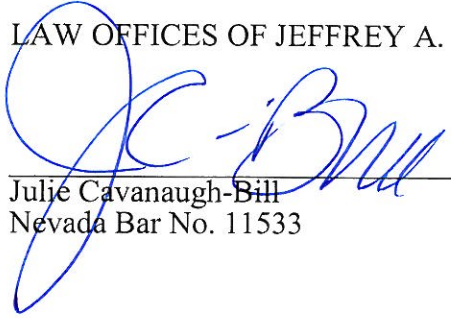
WHEREFORE, Defendants pray for the following relief:

1. That Plaintiff's Complaint be dismissed in its entirety be with prejudice;
2. That the time for obtaining signatures for the Recall Petition be extended by sixty (60)days to remedy the chilling effect caused by this lawsuit and the media statements, and
3. That Defendants be awarded their attorney fees and costs.
4. And for such other remedies as the court finds equitable and just.

Dated this 28th day of August, 2013.

CAVANAUGH-BILL LAW OFFICES, LLC
401 Railroad Street, Suite 307
Elko, Nevada 89801

LAW OFFICES OF JEFFREY A. DICKERSON



Julie Cavanaugh-Bill
Nevada Bar No. 11533

1 CASE NO.: CV 1307113

2 DEPT. NO.: 1

3 AFFIRMATION

4 Pursuant to NRS 239B.030,
5 This document contains no
6 Social Security Numbers

7 IN THE SEVENTH JUDICIAL DISTRICT COURT

8 WHITE PINE COUNTY, STATE OF NEVADA

9 MICHAEL LEMICH,

10 AFFIDAVIT OF JAMES ADAMS

11 Plaintiff,

12 vs.

13 CHERYL NORIEGA, JAMES ADAMS,
14 TIMOTHY McGOWAN, ELY JET
15 CENTER, DOES 1 THROUGH 10, and
16 DOES INC., 1 THROUGH 10, and DOE
17 TRUST, 1 THROUGH 10,

18 Defendant.

19 STATE OF NEVADA)

20 COUNTY OF *White Pine*)

ss.

21 JAMES ADAMS, being first duly sworn on oath, states and poses as follows:

22 1. I am a Defendant in the above entitled action, and I am an adult person
23 competent to testify to the facts set forth in the Special Motion to Dismiss.

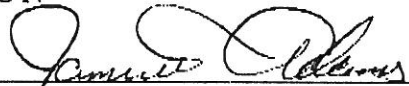
24 2. I have reviewed the Special Motion to Dismiss and the facts set forth therein are
25 true and accurate to the best of my knowledge.
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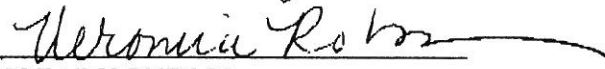
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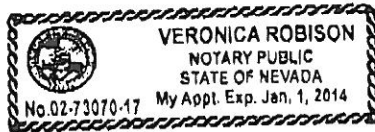
3. I supported and filed the Recall Petitions against Commissioners Michael Lemich ("Lemich") and John Lampros in good faith and based upon true and correct facts either known to me personally or by information that is true and correct to the best of my knowledge.

FURTHER AFFIANT SAYETH NOT.


James Adams

Subscribed and sworn to before me this 28 day of August, 2013.


NOTARY PUBLIC



CAVANAUGH-BILL LAW OFFICES, LLC
401 Railroad St., Suite 307
Elko, NV 89801
775-753-4357 775-753-4360 (fax)

1 CASE NO.: CV 1307113
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3 AFFIRMATION

4 Pursuant to NRS 239B.030,
5 This document contains no
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8 **IN THE SEVENTH JUDICIAL DISTRICT COURT**
9
10 **WHITE PINE COUNTY, STATE OF NEVADA**

11 MICHAEL LEMICH,

12 Plaintiff,

13 vs.

14 **AFFIDAVIT OF CHERYL**
15 **NORIEGA**

16 CHERYL NORIEGA, JAMES ADAMS,
17 TIMOTHY McGOWAN, ELY JET
18 CENTER, DOES 1 THROUGH 10, and
19 DOES INC., 1 THROUGH 10, and DOE
20 TRUST, 1 THROUGH 10,

21 Defendant.

22 STATE OF NEVADA)
23)
24 COUNTY OF White Pine) ss.

25 CHERYL NORIEGA, being first duly sworn on oath, states and poses as follows:

26 1. I am a Defendant in the above entitled action, and I am an adult person
27 competent to testify to the facts set forth in the Special Motion to Dismiss.

28 2. I have reviewed the Special Motion to Dismiss and the facts set forth therein are
true and accurate to the best of my knowledge.

3. I supported and filed the Recall Petitions against Commissioners Michael
Lemich and John Lampros in good faith and based upon true and correct facts either known

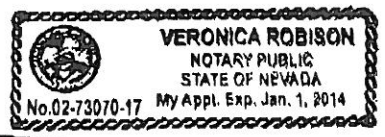
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775-753-4337 775-753-4360 (fax)

1 to me personally or by information that is true and correct to the best of my knowledge.

2 FURTHER AFFIANT SAYETH NOT.

3 Cheryl Noriega
4 Cheryl Noriega

5
6 Subscribed and sworn to before me
7 this 28 day of August, 2013.



8 Veronica Robison

9 NOTARY PUBLIC

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7 IN THE SEVENTH JUDICIAL DISTRICT COURT

8 WHITE PINE COUNTY, STATE OF NEVADA

9 MICHAEL LEMICH,

10 Plaintiff,

AFFIDAVIT OF TIMOTHY
MCGOWAN

11 vs.

12 CHERYL NORIEGA, JAMES ADAMS,
13 TIMOTHY MCGOWAN, ELY JET
14 CENTER, DOES 1 THROUGH 10, and
15 DOES INC., 1 THROUGH 10, and DOE
16 TRUST, 1 THROUGH 10,

17 Defendant.

18 STATE OF NEVADA)
19) ss.
20 COUNTY OF White Pine)

21 TIMOTHY MCGOWAN, being first duly sworn on oath, states and poses as follows:

22 1. I am a Defendant in the above entitled action, and I am an adult person
23 competent to testify to the facts set forth in the Special Motion to Dismiss.

24 2. I have reviewed the Special Motion to Dismiss and the facts set forth therein are
25 true and accurate to the best of my knowledge.
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1 3. I supported and filed the Recall Petitions against Commissioners Michael
2 Lemich "Lemich" and John Lampros in good faith and based upon true and correct facts either
3 known

4
5 to me personally or by information that is true and correct to the best of my knowledge.

6 4. As the recall Petitioners, I spoke with George Chachas personally about an
7 assault on him by Lemich. Mr. Chachas filed a complaint with the city and is currently
8 contemplating a complaint at the Attorney Generals Office.

9
10 5. The following attachments are true and correct copies of public documents
11 obtained personally or through Defendant Cheryl Noriega:

12 A. Attached hereto as Exhibit "Ex." A is a true and correct copy of the Recall
13 Petition filed by myself, Cheryl Noriega and James Adams, a notice of intent was filed July 8,
14 2013 and the first signatures were obtained on or about July 25, 2013.

15
16 B. Attached hereto as Ex. B is a true and correct copy of an excerpt from the April
17 11, 2013 minutes of the White Pine County Commission (WPCC) and July 1, 2013 Meeting
18 Notes from GMI Architects regarding the Ely Times Building.

19
20 C. Attached hereto as Ex. C is a true and correct copy of excerpts from the May 14,
21 2013, June 26, 2013, July 10, 2013 and April 11, 2013 Special meeting minutes of the WPCC
22 regarding the Aquatic Center as well as true and correct copies of the Resolution approving
23 the \$3,000,000.00 transfer for the Aquatic Center.

24
25 D. Attached hereto as Ex. D is a true and correct copy of a Memorandum from WPC
26 Finance Director, Elizabeth Frances and excerpt from WPCC April 10, 2013 minutes noting
27 and reporting a budget shortfall.
28

1 E. Attached hereto as Ex. E is a true and correct copy of a July 19, 2013 Ely Times
2 article reflecting the disputes over the Ely Jet Center.

3
4 F. Attached hereto as Ex. F is a true and correct copy of the Findings of Fact and
5 Conclusions of Law from the office of the Attorney General, File No. 12-006 reflecting a
6 March 2012 meeting wherein Lemich sought to consolidate the Fire Services; a Public
7 Statement from approximately May of 2012 where Lemich stated this was NOT his position;
8 and February 6, 2013 Commission minutes as well as April 26, 2013 and May 17, 2013 news
9 articles wherein Lemich again supports the consolidation despite his earlier statement.
10

11 G. Attached hereto as Ex. G is a true and correct copy of an excerpt from the WPCC
12 March 27, 2013 meeting minutes wherein Commissioner Lemich discussed his "association"
13 with Midway Gold and the District Attorney advised him not to take action; excerpt from the
14 April 10, 2013 meeting minutes wherein Lemich seconds a motion regarding Midway Gold
15 April 11, 2013 Town Hall Minutes and the May 2013 Employee Newsletter whercin he is
16 encouraging public comments for the project.
17
18

19 H. Attached hereto as Ex. H is a true and correct copy of the Regular Meeting of the
20 Ely City Council June 27, 2013 reflecting a discussion regarding the exchange of real property
21 between the City, the Railroad and Mike Lemich.
22

23 I. Attached hereto as Ex. I is a true and correct copy of an August 22, 2013 news
24 article regarding the lawsuit and the Recall Petition.

25 ///

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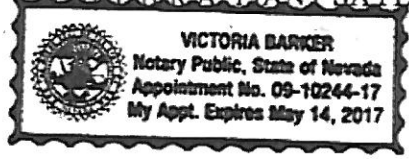
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J. Attached hereto as Ex. J is a true and correct copy of a police report filed by a private citizen, George Chachas against Lemich for assaulting him (social security number has been redacted).

FURTHER AFFIANT SAYETH NOT.



Timothy McGowan
Timothy McGowan

Subscribed and sworn to before me
this 28 day of August, 2013.

Victoria Barker

NOTARY PUBLIC
White Pine County
State of Nevada

CAVANAUGH-BILL, LAW OFFICES, LLC
401 Railroad St., Suite 307
Elko, NV 89801
775-753-4357 775-753-4360 (fax)

EXHIBIT A

Recall Petition

State of Nevada

Signatures of registered voters seeking the recall of

Mike Lemich

(Name of public officer for whom recall is sought)

Mike Lemich, along with the Chairman has spearheaded the economic disaster in which the County now finds itself. Lemich has shown himself combative, pushing a personal vendetta against the private operator at the airport and members of the Airport Board. His accusations, intimidation, lies and threats against both the operator and their customers have disregarded all rules of ethics. He has continued his attacks even though both County and private attorneys have stated that there are no issues of legality.

He is personally engaged in dismantling the County Fire and EMS services, subjecting the County to numerous NRS violations and placing outlying communities in grave risk by diminishing these services, while attempting to transfer management of these services to the City of Ely. Intimidation has been his major tool in this endeavor. As the County representative to the City of Ely, he has abused his office in personal negotiations involving his own private land transfers, while simultaneously negotiating land exchanges for the County.

He's been the subject of several State and local investigations, including a pending charge of assault on a local citizen.

Minimum number of signatures necessary 821

Date notice of intent was filed: July 8, 2013

County of White Pine

Only registered voters of this county who voted in the 2010 Election may sign below.

This space for
office use only

1	PRINT YOUR NAME (last name, first name, initial): <u>Barsell Barbara J</u>	RESIDENCE ADDRESS ONLY: <u>1st Garfield</u>
	Recall Petition YOUR SIGNATURE <u>Barbara Barsell</u>	DATE <u>7 25 13</u>
2	PRINT YOUR NAME (last name, first name, initial): <u>BARSELL RAND E</u>	RESIDENCE ADDRESS ONLY: <u>1st Garfield</u>
	Recall Petition YOUR SIGNATURE <u>Rand E Barsell</u>	DATE <u>7 25 13</u>

EXHIBIT B

Superintendent Calderwood then focused on the interior concerns: There are 4 rooms that were recognized as having problems. One room had a fire hazard, with insulation sitting on top of the lighting fixtures; there is a water stain located directly below a roof vent, and it is unknown if the roof is still leaking or if it was caused by another source; and there are water stains on the ceilings in other areas. He felt these are problems that occurred during some modifications that were done to the building, but the inspection report didn't reveal the cause of the water stains. It was important to note that the structural framing doesn't need any changes to meet the current code requirements; he felt only minor adjustments would be necessary. The building appears on the whole to be in good condition, and it performs as it was designed to do regarding lateral loads. Under plumbing/seismic bracing, Superintendent Calderwood advised that the piping system can be modified to accommodate remodeling as long as the water needs aren't substantially increased. Therefore, adding one bathroom with a couple of sinks would be acceptable, he felt. The HVAC system was reviewed with respect to the 5 zones already in place in the building: The HVAC in the warehouse area isn't operable. While that is true, he advised we could still use the working unit for 3-5 more years. Individual ductwork will need to be done for each of the office areas, as part of the HVAC system. Chairman John Lampros advised that since we're buying a used building that wasn't maintained regularly, we will need to check annually to see what needs to be replaced; Superintendent Calderwood agreed this is normal procedure. Commissioner Mike Lemich asked if we can put as many people into the Ely Times building as we have over in the Annex? There followed a brief discussion, after which Superintendent Calderwood continued with the inspection report findings. The electrical wiring isn't adequate from the main distribution panel to the sub panels, so new wire needs to be pulled throughout. Also, there are some breakers that will need to be brought up to code. He did note there's lots of room in the conduit boxes for additional circuits. There is also some T-5 cable already in there for the interior offices, so they won't have to open up the walls and install the cables in there. In reply to Commissioner Mike Lemich's query, Superintendent Calderwood doesn't have any cost estimates for these at this point in time. He continued that regarding the asbestos report, there were 17 areas sampled in the Ely Times building and they came back negative. However, if we do some additional work in an area that wasn't sampled, it was recommend we do have samples taken. Mold/air samples were taken, and it was found the air outside the building contained more spores than inside. Superintendent Calderwood asked District Attorney Kelly Brown if he'd had the opportunity to look at the environmental site assessment; D.A. Brown had, and advised he didn't find any problems there.

DISCUSSION/ACTION/POSSIBLE APPROVAL TO CLOSE ESCROW ON THE OFFICE BUILDING LOCATED AT 297 EAST 11TH STREET, ELY, NEVADA (ELY TIMES BUILDING) FOR A TOTAL PURCHASE PRICE OF \$385,000

Director Frances advised that the Board has heard the summaries of the reports, and that this is a building well suited to the needs of the County. It's structurally sound with some minor issues, which will be addressed during the remodeling process. Regarding the remodeling costs, WPC Building Inspector Chris Flannery felt the cost would run from \$35-45/square foot, being translated to \$110.00/square foot for the finished product, which was noted to be an excellent price for government office space. He felt this is a great opportunity to get this for the County, at this price. Getting the offices



July 1, 2013

MEETING NOTES

Present: See attached Sign-in Sheet
Regarding: White Pine County Administrative Building
GML Project No 802
Prepared By: Terrence J. Melby, AIA, LEED AP BD+C *TJM*

Please notify GML Architects - LLC within seven days of any changes to the following items which were noted, reviewed or discussed.

1. Terry gave a department by department overview of the Floor Plan. Individual meetings will be set up to review each department's space and layout.
 - a. Revised or adjusted layouts will be sent out to everyone next week as part of the Design handoff.
2. The Engineers were at the building completing their field work and were not present for the meeting.
3. The schedule is currently set for the engineers to turn in their drawings to GML on Friday, July 12th. The Design Development package will be passed out the first part of next week. The design was to be reviewed via a conference call.
4. Plans for the individual spaces were to be distributed by Wednesday, July 10th and the individual spaces reviewed one more time.
5. After the design was reviewed, the Construction Documents will be prepared within the next four weeks and then would be submitted for a building permit and put out to bid.
6. Elizabeth indicated the current construction budget is set at \$250,000. Terry thought that was low and recalls numbers up around \$350,000 being discussed. Tenant improvement work will be broken out separately from facility improvements.

Cc: All present

architects & planners

1575 DELUCCHI LANE · SUITE 120
RENO · NEVADA 89502
P · 775 · 829 · 8814
F · 775 · 829 · 8828
gmlarchitects.com

EXHIBIT C

\$288,000 to install those panels, to cover the 5,000 sq ft. He emphasized the panels aren't included in their bid right now, though. The difference between the current design utility cost and the cost if we added the photovoltaics would be roughly \$21,000, in order to service the extra amount on the bond. The bare savings between having or not having the panels would be slightly over 10 years on our payback, he added. To summarize, Mr. Roberts is happy with the pool design right now; it meets the capital construction costs as well as the operation costs that were established. In reply to a query from Commissioner Mike Coster, Mr. Roberts cited Director Frances' costs that had been distributed at an earlier meeting; Director Frances assured Commissioner Coster those are written into the budget. Also in reply to another query from Commissioner Coster, Mr. Roberts explained that both the peak load and the electrical consumption of the building will be reduced; the boilers are designed to do that, and he illustrated how that would work. He added that when the pool water is heated, the pool air is also heated. Commissioner Coster still had some questions about the figures and the consumption statistics, and cited other pools with less surface water than our design, and which costs them much more than what we are anticipating. Commissioner Laurie Carson asked that, even with the interlocking of the units and further savings when we go to the photovoltaics, if it would still take 10 years to recoup those costs? Mr. Roberts replied in the affirmative, and re-emphasized that none of these renewable resources were considered in the project's maximum price, they are our options. He felt there might even be another possibility, that of tying in with the School District's ground heat source system. He explained that a stand-alone source would be very difficult to achieve for just the pool, but there are some savings and efficiencies if such a tie-in might be arranged in the future.

Chairman John Lampros advised we haven't talked with the School District about any of these things. He also clarified that if there's an accident in the kiddie pool, we wouldn't have to shut down the big pool, which was why they were kept separate. He cited a special meeting that was held last year to discuss the pool, it was held in the evening to allow the public to attend, and there were only 3 families with children that showed up, besides the County staff and the architectural people. Chairman Lampros continued that if we have a problem with the electrical heating and utilities, "we aren't engineers!" He stated the County gave them a budget of \$7 million for a reason. The location of the pool, he clarified for the Board and assemblage, was by request of the School District; also, we need to build the pool itself before we can even begin to solve some of these issues. Chairman Lampros also was unhappy with Mr. Chachas' negativity regarding the pool and other issues; he continued to state that people have wanted this pool for the past 40 years, and exclaimed, "Let's progress and do it!"

Commissioner Mike Coster continued with his cost concerns, feeling that we're taking on construction and operating costs that we won't be able to afford in the long term. He added that he appreciates Mr. Roberts' dialogue with him about these issues. Director Frances asked Manager Robison if he was comfortable with these figures, and he indicated that he is. She continued that the photovoltaic option is an important one for us to consider; she noted we have \$333,000 in contingency for the pool, and if the project is managed very carefully and the money is still there by the end of the project, she strongly recommended we pursue that option, especially because it will help our long-term operating costs. At this point, Chairman John Lampros entertained a motion to scale down the pool as requested; however, Deputy District Attorney Mike Wheable clarified that no action on this may be taken on the agenda item, other than as it is written. Director Frances advised that the project can go forward with this new energy information; Deputy D.A. Wheable suggested a motion to scale down the pool per the agenda item, and if the motion fails the project can still go forward. The motion was entertained, but died for lack of a motion. It was clarified the project can proceed regardless.



BUILDING DEPT.:
DISCUSSION/ACTION/POSSIBLE APPROVAL TO DESIGNATE A REPRESENTATIVE FROM
WPC TO APPROACH WPC SCHOOL BOARD FOR AN AGREEMENT FOR FIRE ROAD ACCESS
AND ADDITIONAL PARKING AS NEEDED FOR THE WHITE PINE COUNTY AQUATIC CENTER

WPC Building Inspector Chris Flannery noted there is no agreement currently in place; there needs to be one for fire access, between the School District and White Pine County. He showed on a large map how additional parking is needed; he would like to see the Commission, and the District Attorney get together to see of an agreement can be done for this. The square footage involved is roughly 20,000 square feet; the only access is from the High School's main parking lot. He explained that the controls for the fire equipment is on the driver's side of the vehicle and how that would play into the one-way traffic direction that is in place now. The access would relieve the "choke point" for fire trucks and other emergency vehicles that may need to come in. Additionally, the State Fire Marshall is asking for an area of rescue, which is required by Code; he wants the pathway to be lit and accessible all the way to the public right-of-way, as he illustrated on the map. If an agreement could be reached to pave the area, which is now dirt, it would be a great win-win situation. Commissioner Laurie Carson wished clarified that the State Fire Marshall wants us to have a cooperative agreement in place; Inspector Flannery confirmed this. Inspector Flannery continued that there's no real bus parking available, either. He felt we should go to the School District and address these deficiencies; in reply to a query from Commissioner Mike Coster, it was also clarified this wouldn't involve a financial commitment at this point in time. He added that these all have to be put into place before he can issue a building permit for the structure. He would also like to be on the team to answer questions and provide such assistance as he can; he emphasized that time is running out. There was some discussion, after which Commissioner Richard Howe made a motion to appoint Commissioner Laurie Carson, District Attorney Kelly Brown, Finance Director Elizabeth Frances, Facility Maintenance Superintendent Bill Calderwood, and WPC Building Inspector Chris Flannery to represent the County and approach the School District regarding an agreement for fire access and additional parking as needed for the White Pine County Aquatic Center. Commissioner Mike Lemich seconded. It was noted that the D.A. should do the review, legal work and prepare the MOU (Memorandum of Understanding). Commissioner Richard Howe rescinded his motion and made a new motion that Commissioner Laurie Carson, Finance Director Elizabeth Frances, Facility Maintenance Superintendent Bill Calderwood, and WPC Building Inspector Chris Flannery be designated as representatives for White Pine County to approach the School District regarding an agreement for fire access and additional parking as needed for the White Pine County Aquatic Center. Commissioner Mike Lemich rescinded his second and provided the second for this new motion. Motion carried 3:1, with Commissioner Mike Coster voting in opposition.

Vice-Chairman Laurie Carson moved the meeting into the First Reading of Ordinance #449.

INTRODUCTION AND FIRST READING OF ORDINANCE #449, BILL 06-26-13
AN ORDINANCE WHICH MIRRORS NRS 453.336 PROHIBITING THE POSSESSION OF ONE
OUNCE OR LESS OF MARIJUANA BUT WHICH PURSUANT TO NRS 453.3361 ALLOWS FOR ANY
FINES COLLECTED UPON CONVICTION TO BE KEPT WITHIN THE COUNTY AND DIVIDED
EVENLY BETWEEN THE LOCAL SEVENTH JUDICIAL DRUG COURT PROGRAM, WPC
SHERIFF'S OFFICE, AND THE WPC DISTRICT ATTORNEY'S OFFICE

District Attorney Kelly Brown advised that Deputy District Attorney Mike Wheable worked on this Ordinance. It's the same as the NRS, which prohibits the possession of less than one ounce of marijuana; he explained how the fines currently go to the State. This Ordinance will have the same language, but also per NRS we are allowed to divide the fines, which will be divided between the Drug Court Program (which he noted lost much of its funding from the State recently), law enforcement, and the District

DISCUSSION/ACTION/POSSIBLE APPROVAL SEND A LETTER TO THE CITY OF ELY UTILITY BOARD REQUESTING A WAIVER OF WATER & SEWER HOOKUPS FOR THE AQUATIC CENTER

Director Frances advised this needs to move forward to see if the City will waive the hookups or not; a formal letter could be sent from the County to the City to request that. Vice-Chairman Laurie Carson felt that we could add in the letter if the City doesn't grant a waiver, and perhaps they might be willing to reduce the fees. District Attorney Kelly Brown advised that there is ample wording in the agenda item to cover a letter requesting either a waiver or a fee reduction. Following brief discussion, Commissioner Richard Howe made a motion to send a letter to the City of Ely Utility Board requesting a waiver of water/sewer hookups for the Aquatic Center. Commissioner Mike Lemich seconded. Motion carried.

DISCUSSION/ACTION/POSSIBLE APPROVAL FOR SELECTION OF AN ENGINEERING FIRM TO PERFORM QA/QC INSPECTION AND TESTING AS PROVIDED FOR IN THE GMP CONTRACT LISTED AS THIRD PARTY SPECIAL INSPECTION SERVICES FOR THE WHITE PINE COUNTY AQUATIC CENTER

Director Frances had noted there was a question raised on this today earlier. The inspection services would consist of soil verification and testing; she indicated this had been discussed during the weekly discussion meeting. The potential conflict of interest with Summit Engineering had been mentioned earlier. Commissioner Mike Coster added that the bids came in for about \$10,000 more than was budgeted. There were two firms who had submitted interest for this; Summit Engineering and Angle Engineering. Director Frances stated the question is whether the funds would come out of the contractor's contingency fund, or from the County. Vice-Chairman Laurie Carson asked if the language, "not to exceed" the amount, would be appropriate? Director Frances advised that the Board could do either one of these with an amount NOT TO EXCEED noted, and then go back and get the details.

Without holding the inspection, though, everything will come to a standstill before the next Commission meeting. If the Board approves this, it will cover the costs of the initial inspections. Commissioner Mike Lemich voiced concerns; we have an agreement with CORE Construction, we're the owner of their contract. Summit Engineering has people working up there, testing for Reck Bros., so while it's not that much different in price Summit is cheaper by a few dollars. Still, he continued, they are doing work for the contractors and he feels there's a conflict. Vice-Chairman Laurie Carson agreed with this. Director Frances noted the NRS indicates that if we have reasons NOT to select the low bidder, we can go with Angle Engineering, in that they are independent on our behalf and not performing dual roles. Commissioner Mike Lemich felt we should go with Angle Engineering. Commissioner Mike Coster felt Angle is a truly independent company, and if we disqualify Summit Engineering, what about the dollars associated with the other company? He wondered if we could approve up to the dollar amount, and then they could return to this Board to request more funds if needed. Commissioner Mike Coster made a motion to approve Angle Engineering Company as the engineer to perform the QA/QC inspection and testing as provided for in the GMP contract listed as third party special inspection services for the WPC Aquatic Center, in an amount not to exceed \$29,408, subject to further submission. Commissioner Richard Howe seconded. Motion carried.

CONSENT AGENDA: RATIFY CORRESPONDENCE; APPROVE PAYROLL FOR ELECTED OFFICIALS; APPROVE HR TRANSMITTAL FOR PAYROLL CHANGES/ APPROVAL OF BUDGET TRANSFERS WITHIN/BETWEEN FUNCTIONS/-PROGRAMS WITHIN A FUND THAT DO NOT INCREASE THE TOTAL APPROPRIATION OF THE FUND

Commissioner Richard Howe made a motion to approve the Consent Agenda as presented. Commissioner Mike Coster seconded. Motion carried.

6 that this is a standard of practice, in reply to a query from Commissioner Mike Coster. There was a question posed by the Board as to Angle Engineering's eligibility, insofar as being a responsive/-responsible bidder; D.A. Brown noted that is information the Board should have received. He will review the NRS, and admonished the Board that this is something they should have done prior to voting on the issue, which is why they are in a difficult situation now. Following brief discussion, Chairman John Lampros entertained a motion to rescind the award previously given to Angle Engineering. Commissioner Mike Lemich made a motion to rescind the award of QA/QC inspection and testing for the WPC Aquatic Center project to Angle Engineering based on corrected information relating to the original award as well as being in compliance. Commissioner Laurie Carson seconded. D.A. Brown noted that this motion, along with the discussion, makes it clear. Motion carried.

DISCUSSION/ACTION/APPROVAL TO SELECT AN ENGINEERING FIRM TO PERFORM QA/QC INSPECTION AND TESTING FOR WPC AQUATIC CENTER PROJECT BASED ON CORRECTED INFORMATION FROM THAT PROVIDED AT THE 6/26/13 COUNTY COMMISSION MEETING

6 Commissioner Mike Lemich advised there are now other issues involved; he is monitoring the project, and he felt Director Frances is also doing this, and Summit Engineering was doing their testing. Who is Summit working for, he wanted to know; if it's for Reck Bros., they can't work for the County, that's where the conflict lies. He added that we selected Angle Engineering due to the possible conflict with Summit Engineering; Summit's bid is for \$37,000, and yet the budget as set by CORE Construction was for roughly \$27,000, so "who will eat the \$10,000?" Commissioner Mike Coster agreed that's where we left it last time. Director Frances advised this was addressed yesterday during their weekly meeting; they had talked with Summit Engineering, who will be cutting costs as much as possible by scheduling with CORE Construction to coordinate tests more effectively. CORE also noted at the meeting that the balance would come out of the CMAR contingency fund. Chairman John Lampros stated that we didn't tell CORE to curtail things, such as finding cheaper generators or cutting the asphalt down; "this County gave them \$7 million to build a first-class facility, we want top of the line!" Inspector Flannery assured the Board that we will get all the bells and whistles, and while currently there's a tug of war going on between design and compliance, "we are close." He added that nothing has been cut back at this point in time. What we are doing is making changes prior to final approval of the plan, explaining it's a detail-oriented project. He summarized that anything other than what the Commission has agreed upon for the pool has to go through a process, beginning with their approval of any changes. Following further brief discussion, Commissioner Laurie Carson made a motion to select an engineering firm to perform QA/QC inspection and testing for WPC Aquatic Center project based on corrected information from that provided at the June 26, 2013 County Commission meeting; she would like to select Summit Engineering. Commissioner Mike Lemich seconded. Motion carried.

CONSENT AGENDA: RATIFY CORRESPONDENCE; APPROVE HR TRANSMITTAL FOR PAYROLL CHANGES; APPROVE BUDGET TRANSFERS WITHIN/BETWEEN FUNCTIONS/-PROGRAMS WITHIN A FUND THAT DO NOT INCREASE THE TOTAL APPROPRIATION OF THE FUND

Commissioner Laurie Carson made a motion to approve the Consent Agenda as presented. Commissioner Richard Howe seconded. Motion carried.

There was a question about the approximate cost to swim at the pool. Director Frances advised that they are looking at the different services that will be provided; fee schedules will be set up based on the programs. They are also looking at the other pools that were visited, in order to find a comparable fee schedule. When asked what the pool tax has generated so far, Director Frances noted that between \$450-500,000 is being generated for this. Regarding the projected operating costs, Mr. Roberts felt staffing would be the biggest cost. The daily operation, including anticipated power usage for that, would comprise the remainder; he felt the total operating cost would be less than \$400,000/year. Commissioner Mike Coster noted there was a written estimate of \$385,000 and as it was felt an Aquatic Director wouldn't be needed, that position had been eliminated from the estimate. He recalled that the other pools surveyed ran from \$500-900,000 depending upon the amenities and extras those pools offered. He noted this pool will be the state-of-the-art; however, he does have a concern if we would be able to operate this over the long term. Mr. Roberts advised that with today's existing technology, it would be roughly 28% more efficient than the pools that were surveyed, since they had been built some years ago. Vice-Chairman Laurie Carson advised that the County understands "we will have to have a sharp pencil to make this work." Commissioner Coster felt the utility portion will increase due to the rising cost of the utilities; he doesn't want to have to answer to the public in 3 years and tell them our tax rates are maxed out and the pool can't be operated. Vice-Chairman Carson assured that this is the County's job, and we will see to it that this works, that's her goal and it's always been the goal for the community. Mr. Roberts noted that for the LED lights, as a design utilizing those versus compact florescent lights, there is an 18-20 year payback for the light before savings are realized with the florescents; further, you can't put those florescent lights over a water source. He feels that we will actually see the other pools that were toured come back to us for an example, and for efficiency, they will want to redo theirs. Vice-Chairman Carson turned the meeting over to Director Frances at this point.

HISTORY AND OVERVIEW ON FACILITY UPGRADE PROJECTS THAT ARE CURRENTLY UNDERWAY OR BEING CONSIDERED

Finance Director Elizabeth Frances gave a power point presentation on the "White Pine County Facility Upgrade, Preparing for the Future." She provided a brief history and ages of the current County facilities. She advised of the various health and safety issues that have arisen, but due to the County's funding issues in recent years these things couldn't be taken care of and the employees are still in the Annex, working under those conditions. She noted that Net Proceeds of Minerals revenues can be used for one-time funding for large projects, such as looking at our facility needs to get to where we need to be for the long term. She cited a list of the many studies that were done over the past few years, as pre-requisites to solving some of these problems. The Nevada Dept. of Taxation, for example, wanted the County to do a Needs Assessment because they recognized our need to relocate our employees out of some of the older buildings. There was a Building Committee formed to do this, but then that faded away, until 2012 when the Committee was resurrected since it was evident our facilities were becoming too costly to repair. The Committee has been reviewing our needs and finding the most cost-effective solutions.

Director Frances advised of the items, listed in order of priority:

John Lampros, Chairman
Gary Perea, Vice Chairman
Laurie Carson, Commissioner
Richard Carney, Commissioner
Mike Lemich, Commissioner
a Burleigh, Ex-Officio Clerk of the Board

953 Campton Street
Ely, Nevada 89301
(775) 289-1558 or
(775) 289-3065
Fax (775) 289-8860

White Pine County Board of County Commissioners

RESOLUTION 2011-09 MODIFICATION OF RESOLUTION 2010-51 CREATION OF AD HOC COMMITTEE TO ASSIST IN THE DESIGN AND DEVELOPMENT OF A SWIMMING POOL

WHEREAS, White Pine County citizens have not had an indoor swimming pool to provide year round recreational activity since 1980, and

WHEREAS, White Pine has worked for decades to develop funding for a swimming pool, and

WHEREAS, In the October 2010 Community Assessment, the swimming pool was the highest priority identified by the participants County-wide, and

WHEREAS, At its October 27 meeting, the County Commission voted unanimously to devote \$800,000 from Net Proceeds of Mines tax revenue to the swimming pool construction fund and at its November 9 meeting, the County Commission voted unanimously to devote \$3,000,000 from the General Fund balance to the swimming pool construction fund, bringing the total funding available for construction to \$4,000,000 and

WHEREAS, the potential construction of a swimming pool for the citizens of White Pine County is now within reach and this is a long awaited step forward in meeting the recreation needs and improving the quality of life for all White Pine County citizens,

NOW, THEREFORE, BE IT RESOLVED, THAT THE WHITE PINE COUNTY COMMISSION agrees to form an ad hoc committee of White Pine County citizens to assist in the development of plans to proceed with construction of a swimming pool, and

BE IT FURTHER RESOLVED,


- 1) The White Pine County Swimming Pool Committee shall be comprised of five members including one County representative, one City representative, a School District representative, a Tourism and Recreation Board representative and one at large representative,
- 2) The duties of the White Pine County Swimming Pool Committee shall be to:
 - a) meet with area residents to determine priorities for location, configuration, and services to be included in the swimming pool,

- b) work with an architect/engineer appointed by the County Commission to develop site plans, architectural drawings, and cost estimates, and
- c) report to the County Commission on the desired priorities and plans for the swimming pool, and

3) The White Pine County Swimming Pool Committee shall be created to operate for a period of six months following appointment of a quorum of the membership

PASSED AND ADOPTED THIS 25TH DAY OF MAY, 2011, BY A VOTE OF

4 AYES ___ NOS 1 ABSENT



John S. Lampros, Chairman

5-25-11

Date

ATTEST:



Clerk of Said Board

5/25/11

Date

02/20/2009 07:54 7752892544

WHITE PINE CO CLERK

PAGE 04/07

John Lampros, Chairman
Gary Perea, Vice Chairman
Laurie Carson, Commissioner
Richard Carney, Commissioner
Mike Lemich, Commissioner
Linda Burleigh, Ex-Officio Clerk of the Board

953 Campton Street
Ely, Nevada 89301
(775) 293-6562
Fax (775) 289-2066
wpcommission@mwpower.net

White Pine County Board of County Commissioners

Resolution Number 2012-09

Resolution to Augment the FY2011-2012 Budget of the White Pine County General Fund in the Amount of \$3,000,000.00 in Order to Appropriate Previously Unbudgeted Resources

Whereas, the White Pine County receives annual payments for Net Proceeds of Minerals Tax; and

Whereas, the revenue received in the White Pine County General Fund is not budgeted for routine on-going expenditures but rather is allocated to one or more funds for use for one-time expenditures; and

Whereas, the County has been discussing the need for the construction of a new Administration Building to relocate departments currently housed in the Court House and the Annex building, this allocation would provide some or all of the funds needed for such a project; and

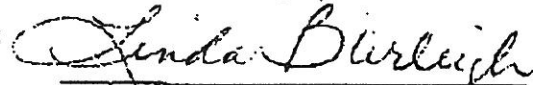
Now Therefore Be It Resolved that White Pine County shall augment the FY2011-2012 White Pine County General Fund budget by increasing Transfers Out (001-501-58101-000) by the amount of \$3,000,000.00 and transferring the balance to the Capital Improvement Fund (Account 081-000-38501-000) for future construction of an Administration Building.

It Is Further Resolved that the Clerk of the Board shall forward the necessary documents to the Department of Taxation, State of Nevada.

Passed, adopted and approved the 9th day of May 2012.

Ayes: 5
Nays: 0
Absent: 0


John Lampros, Chairman of the Board

ATTEST: 
Linda Burleigh, Clerk of the Board

**White Pine County
Resolution 2012-09**

General Fund - 04-30-12

Account No.	Description	Actual 4/30/2012	Budget	Proposed Transfer	Adjusted Balance
001-000-29905-000	Fund Balance	9,938,363.94		(3,000,000.00)	6,938,363.94
001-000-31311-000	Net Proceeds	3,217,893.00	3,268,430.00		
001-501-58101-000	Transfers Out	-	-	3,000,000.00	3,000,000.00

Capital Improvements Fund - 04-30-12

Account No.	Description	Actual 4/30/2012	Budget	Proposed Transfer	Adjusted Balance
081-000-29905-000	Fund Balance	932,828.43			920,183.00
081-000-38501-000	Transfers In	-	-	3,000,000.00	3,000,000.00