

## NEVADA ASSOCIATION OF COUNTIES (NACO)

Board of Directors' Meeting  
October 21, 2016, 9:30 a.m.

### ADOPTED MINUTES

The meeting was called to order at 9:35A.

**Attendance:** Past President Wichman, Washoe County Commissioner Herman, Esmeralda County Commissioner Bates, Humboldt County Commissioner French, Carson City Mayor Crowell, Douglas County Commissioner Johnson & NACO Staff; Jeff Fontaine, Dagny Stapleton, Amanda Evans & Tori Sundheim.

**Remote Attendance:** President Carson, Vice President Weekly, Churchill County Commissioner Olson, Clark County Commissioner Kirkpatrick, Lander County Commissioner Waits, Mineral County Commissioner Tipton, Pershing County Commissioner Irwin, Washoe County Commissioner Lucey, Lyon County Commissioner Fierro, Tami Davis - Nevada Treasurer's Association, Nancy Parent - Nevada Association of Clerks & Election Officials, & Dave Dawley - Nevada Assessors Association.

**Other Attendees:** Douglas County Commissioner Thaler, Lyon County Commissioner Alt, Austin Osborn of Storey County, Rob Stokes, Elko County Manager and Gratton Miller from the office of Senator Heller.

1. **Public Comment.** Lee Bonner of the Nevada Department of Transportation informed the Board that the Department is modifying the county consultation process to include Commissioner participation in the workshops held prior to the Department's presentation to the individual Commissions. He noted that invitations will be sent and specifically noted that if workshop participation resulted in a quorum the counties would need to notice the workshop. Elko County Manager Rob Stokes informed the Board that he had just received notice that former Elko County Treasurer, Ceasar Salicchi had passed away the night before. Mr. Salicchi had served as the Elko County Treasurer for roughly three decades.
2. **Approval of Agenda.** The agenda was approved on a motion by Commissioner Bates with second by Commissioner French.
3. **NACO President's Report.** President Carson informed the Board that the White Pine County Commission had a discussion regarding proposed by-law change to include a public lands assessment to be added to the annual NACO dues assessment. She noted that her Commission had concerns with approval without a cap to the assessment and the item was tabled by her Board. Commissioner Tipton noted that the Mineral County Commission was in favor with a cap as well and their consensus was a 3% maximum cap. President Carson noted that the White Pine County Commission was willing to go up to a 4% maximum cap and that the public lands work the Association does is important, especially for counties without public lands and natural resources staff. Past President Wichman informed the Board that Nye County voted unanimously in favor of the additional assessment. Commissioner French told the Board that Humboldt County discussed the item and he believes they are in favor of the assessment based on the need to have consolidated efforts. Commissioner Waits said that Lander County is also in favor of the assessment with a cap and the item will need to be re-agendized for an official vote prior to the Annual Membership Meeting. President Carson reiterated White Pine County being in support with a maximum cap of 4% and Commissioner Waits suggested that Jeff do the calculations on what is needed in order to keep the cap as low as possible. Commissioner French noted that it is important to remember that the Board will review the need for implementation of the assessment based on an annual review of the needs of the Association and that there is the real possibility of not needing to implement the assessment on an annual basis and/or not assessing at the cap. Jeff informed the Board that he had distributed a spreadsheet that showed what the potential assessments, which are based on a formula using the

amount of PILT each county receives, would be. His calculations included what each county would pay at each of the different proposed cap levels. Based on the most recent PILT payments, the formula with a 4% cap would generate roughly \$100K. He also noted that PILT payments can be erratic based on the appropriations allowed for in Washington. He agreed that a cap is a good practice and that a maximum of 4% will work. Commissioner Tipton noted that based on the yearly review of the budgetary needs she feels that her Commission would be in favor of the assessment with a 4% cap and will trust the Board to make the decision on the percentage of assessment on an annual basis. President Carson concluded her report by mentioning SB3334 regarding RS2477 roads, which she believes will be on the agenda for the upcoming SLUPAC meeting in Eureka. She said that she will continue to speak with Donna Bath to determine how SB3334 would work and how it will affect previous actions.

4. **NACO Executive Director's Report.** Jeff informed the Board that Tori has been granted special admission to the Nevada Bar based upon her employment by the Association and that she can now serve as in-house council and officially offer advice to the Board. He also informed the Board that additional information had been sent to them as follow up to the September meeting. The first is a draft letter which can be used regarding the proposed action on data services and that the letter requests the slowing down of the process that the FCC is conducting regarding the change in the assessment of data fees. The second was requested to be distributed by Jim Hartman who had presented arguments against the passage of Question 2 regarding the legalization of recreational marijuana at the September meeting. Jeff noted one of the key pieces is that there is no specific opt out for counties other than through zoning changes and that there is no local input in the approval of licensing and that counties must make affirmation of zoning to the Department of Taxation within 90 days, or the Department will automatically assume that it is approved at the county level. Jeff informed the Board that there had been a hiccup in the nomination process for the office of Vice President and that as a result the Nomination Committee has removed their recommendation of Commissioner Lucey. Commissioner Waits had also wanted to be considered for the position but her email had been mistakenly overlooked. The Committee will now present both Commissioners to the General Membership for Consideration in November as well as open the position to nominations from the floor. Committee Chair Weekly apologized for the oversight and noted that he looks forward to the process going forward in November. Commissioner Lucey noted that he appreciated the original nomination and looks forward to addressing the General Membership. Commissioner Waits thanked Commissioner Weekly for his comments and noted that she too looks forward to speaking with the General Membership. Jeff informed the Board that he will communicate with the entire membership to ensure that the process is clearly defined. Jeff concluded his remarks by thanking Nye County for the work they have done to assist in planning the Annual Conference and that the event is expected to be very successful.
5. **Approval of Minutes of the September 23, 2016 NACO Board of Directors Meeting.** Commissioner Waites noted that the application deadline for the Senior Star program is October 31<sup>st</sup> not 3<sup>rd</sup> from her Board Member Update and President Carson noted a typo on page 2 in the 10<sup>th</sup> line from the bottom that was changed from the word "is" to "if". The minutes were approved as amended on a motion by Past President Wichman with second by Commissioner Bates.
6. **Approval of Endorsement for Pershing County Commissioner Patrick Irwin to Continue as a National Association of Counties Representative to the SAFECOM Executive Committee. SAFECOM was Formed in 2001 After the Terrorist Attacks of September 11, 2001 as Part of the Presidential E-Government Initiative to Improve Public Safety Interoperability, Allowing Emergency Responders to Communicate Effectively Before, During, and After Emergencies and Disasters.** Commissioner Irwin was unanimously endorsed to remain the representative to the Committee on a motion by Past President Wichman with second by Commissioner Bates.
7. **Update on the Consolidation of the University of Nevada, Reno College of Agriculture, Biotechnology and Natural Resources, Cooperative Extension, and the Nevada Agriculture Experiment Station.** Dagny informed the Board that since the consolidation was approved the Dean's offer to include county representatives on the search committee for the new director of Cooperative Extension had been carried out. Commissioners French, Herman and Kirkpatrick had been named to the committee as had she. Dagny also noted that the remainder of the committee will be comprised of

Cooperative Extension staff and Nevada First Lady Kathleen Sandoval. She noted that meetings are expected to begin. President Carson noted that she believes the team appointed to the Committee is a great one and that she looks forward to making additional headway on behalf of the counties.

8. **Update and Possible Action on AB191 Enacted in the 2015 Legislative Session which Authorizes a County to Place on the 2016 General Election Ballot a Question which Asks the Voters in the County whether to Authorize the Board of County Commissioners to Impose, for the Period beginning on January 1, 2017, Annual Increases to Taxes on Certain Motor Vehicle Fuels.** President Carson noted that she had requested the item be placed on the agenda in case there were any updates to the situation. Jeff told the Board that the Nevada Taxpayer's Association had come out in support, stating that "there is a clear user benefit relationship that NTA can support". He also noted that the Elko City Council voted in support as well. He told the Board that if he obtains any additional information he will distribute it to them. No action was taken.
9. **Update on Interim Legislative Committees, Studies and Priorities for the 2017 Legislative Session.** Committee Chair Lucey reported that the Committee has been meeting continuously with the support of Jeff and Dagny and thanked staff and the members of the Committee for their hard work. Dagny informed the Board that draft language is still expected from LCB on the BDR's NACO submitted and that she and Jeff are speaking with Legislators regarding Association priorities. She noted that there will be a legislative panel at the Annual Conference. She concluded her remarks with a review of the special session, noting that both bills introduced were "special acts" and were specific to Clark County. She noted that both were passed by the Legislature, the first authorizing the Clark County Commission to raise taxes for law enforcement and the second to raise room taxes to fund the proposed Raiders stadium and expand the convention center. She noted that it was the first time that the Legislature had mandated a county raise taxes for a specific purpose. Commissioner Kirkpatrick informed the Board that she had a meeting with Jeremy Aguero and the City of Henderson following the special session regarding a possible proposal by Senator Roberson to remove the commercial property tax cap in order to fund education and that such a proposal could have significant impacts to the work being done on the property tax issue. Jeff informed the Board that the individual agency budget requests had been posted to the website of the Governor's Finance Office and that he had reviewed them and identified a couple of areas of concern. The first could affect the NACO BDR submitted regarding PSI's the budget calls for increased dollars for Department of Parole and Probation for staffing, which includes PSI writers, and would result in \$2M or more passed down to counties. He also identified concern within the area of Child Protective Services and conversations with DHHS regarding the use of Medicaid for services within the department to offset county expenses and that the budget request appears to use these funds to offset general fund expenses. Jeff noted that he will work with the Governor's office and the agencies to gain additional clarity and information on the requests. Commissioner Kirkpatrick noted that she believes that the Department of Corrections budget request includes some unfunded mandates and service shifts to the counties that the Association needs to stay apprised of. She also noted that the budget request is a 'wish list' and doesn't necessarily mean adoption and that there is an opportunity to help shape the budget with staff conversations on specific issues. President Carson noted that her Board expressed concern with unfunded mandates and needing to use PILT funds for any new mandates during their discussion on the proposed NACO dues assessment component. No action was taken.
10. **Discussion and Possible Approval of Proposed Bill Draft Language Regarding Indigent Defense which will be Presented to the Advisory Commission on the Administration of Justice (NRS 176.0123) on November 1, 2016.** Jeff informed the Board that he had hoped to have David Carrol from the 6<sup>th</sup> Amendment Center on the call but were unable to connect. Jeff noted that the topic is important to address on behalf of counties and reviewed the discussion that took place at the September meeting of the Board. This is in regard to the Advisory Commission on the Administration of Justice (ACAJ) submitting a bill similar to SB451 from last session to create an indigent defense commission and provide state funding for county indigent defense. He discussed SB451 from the 2015 Session, which the NACO Board supported in concept but had concerns with the counties not being held harmless for future costs. He informed the Board that he had requested the Advisory Commission on the Administration of Justice remove the item from their September 27<sup>th</sup> meeting agenda and they did so. In the interim he has been working with counties and the 6<sup>th</sup> Amendment

Center on language for the proposed bill and the item is back on the Commission's agenda for their next meeting. He informed the Board that he sent a draft of the language to counties and DA's and based on feedback the language was redrafted and redistributed with a request to have comments returned to NACO by Tuesday the 25<sup>th</sup> so that language could be in turn sent to the Commission for possible approval of a BDR. He noted that Mr. Carroll along with the Sixth Amendment Center are good advocates for the issue and well respected, though he did make reference to lingering concerns. It was his recommendation that the Board continue to work on the issue and work towards a consensus of language to address those concerns. Commissioner Kirkpatrick informed the Board that although Clark County has some concerns with the language staff had been informed that the issue is important to the state as a whole and that it needs to be supported as a larger mission. Jeff informed the Commissioner that Assistant County Manager Wells recognizes the need to address the problem statewide and has a great grasp of the issue and has been good to work with. Jeff concluded his remarks with an overview of the concept: the Commission would be comprised of 13 members; 7 would represent counties and include rural representation; and the Commission would develop standards yet as a large concession from the advocates, the Commission would not be allowed to develop case load standards. He noted that the goal is for the state to provide services across county lines and allow for counties to opt into the state system and then be held harmless for any increased future costs. He reiterated that the issue is complicated but the idea is to make it flexible with options available to counties. No action was taken.

**Note: The NACO Board of Directors May Interrupt the Open Meeting and Exclude the Public from the Meeting for the Limited Purpose of Receiving Information and for Deliberation Relative to Agenda Items 11a, 11b, 11C and 11d below:**

11. Update and Possible Action Regarding Public Lands and Natural Resources Issues Including but Not Limited to:
  - a) **Bureau of Land Management's Proposed 2.0 Planning Regulations.** Jeff informed the Board that the BLM is expected to release the regulations as early as the end of the month or early November and that, though they will address areas of the draft for statutory compliance, all other proposed areas of change will remain. He noted that there have been discussions with other states and that all options need to remain on the table. He suggested that the Board will need to be able to move quickly once the regulations are released if there is an appetite to do anything based on the final document. No action was taken.
  - b) **The Center for Biological Diversity's Lawsuit against the U.S. Fish and Wildlife Service Seeking to Vacate their Decision not to List the Bi-State Sage Grouse as an Endangered Species.** This item was heard in closed session. No action was taken.
  - c) **The Bureau of Land Management's and U.S. Forest Service's Greater Sage-Grouse Approved Resource Management Plans (ARMP'S) including the Complaint for Declaratory and Injunctive Relief Filed by Western Exploration LLC, Elko County, Eureka County, Quantum Minerals, White Pine County, Lander County, Humboldt County Ninety-Six Ranch, LLC, Paragon Precious Metals, LLC, Churchill County, Washoe County and the State of Nevada.** Jeff informed the Board that he had spoken with Laura Granier and that there is not much to update. Tori noted that she had seen some case law come out of a district court in the 9<sup>th</sup> Circuit where the court had sided with those making the same argument. No action was taken.
  - d) **NACO's Appeal to the United States Court of Appeals for the Ninth District from the Judgment and Order of United States District Court for the District of Nevada Granting the United States Department of Interior's (Defendants') Motion to Dismiss the Complaint Filed by NACO and Other Plaintiffs on December 30, 2013 Seeking to Compel the Bureau of Land Management to Comply with the Provisions of the Wild Free-Roaming Horse and Burro Act.** Jeff informed the Board that he had spoken with Mark Pollot who said that all the briefs had been

filed and that the Government's Intervenors had filed a notice of related authority and there had been no dates set and that the case is in a holding pattern. Jeff noted a ruling in the 10<sup>th</sup> Circuit in a case filed by the state of Wyoming where the court dismissed the suit – the court said that though the BLM admitted the HMA's were over AML and hadn't done anything to address them, because the BLM hadn't taken action there was nothing to take legal action upon. Jeff noted that Mr. Pollot said the Wyoming ruling may not factor because it is in a different circuit. Staff was directed to follow up with Mr. Pollot on a regular basis. President Carson inquired as to the release of acreage to tribal control and how that affects the state's level of priority for gathers - it was noted that if a sovereign nation complains to the Bureau about horse populations it may increase priority. Staff will follow up on the details of how the Bureau may react to a complaint by the affected sovereign nation. No action was taken.

- e) **The U.S. Department of the Navy's Fallon Range Training Complex Modernization: Expansion of Land Ranges, Airspace Modifications, and Public Land Withdrawal Renewal Environmental Impact Statement.** Commissioner Tipton requested Commissioner Olson give an update to the Board on the actions taken by Churchill County. Commissioner Olson informed the Board that the county had retained RCI to assist in developing scoping comments and that they are actively engaging the community on the issue. He noted that Jeremy Drew of RCI had provided individual maps that addressed the impacts on various areas of the proposal and was able to provide detailed information to the public on how to comment. He noted that the County's public lands policy is three phase and said that their goal is to continue to work toward mitigating the effects of the proposal while still supporting the Navy's mission. Past President Wichman asked if the County had sent or could send the RCI report to other affected counties and Commissioner Olson said that the report would be shared. Past President Wichman noted that the expansions of several military installations in Nye County are resulting in no benefit to the county or no partnerships with the County and yet the County is still providing services. She stated that she would like to see an active conversation as to how the bases could best partner to assist the county in providing the services they require. Jeff informed the Board that comments are due on December 1st and inquired whether the Board would like to participate, noting that while the specific issue affects only a few counties, there are overarching issues regarding takings, grazing, mining and PILT. Commissioner Tipton also addressed the potential long term loss in mining and energy related revenues and the potential damage to counties if allotments, including grazing, are deemed to have no value. The Board's concerns also included the need to maintain, at minimum, current revenues and the need to have a true conversation about socioeconomic impacts. Tori said that she and Jeff could work with the affected counties on possible language for a letter and it was noted that (approval of?) the plan will take 5-7 years so there is time to address the situation. Staff was directed to prepare a comment letter to be brought to the Board for consideration at the November meeting.

12. **National Association of Counties and Western Interstate Region Board Member Updates.**

Commissioner French discussed the recent WIR meeting on Oregon and informed the Board that there were interesting discussions regarding marijuana and that both Oregon and Washington seem happy with their laws. He noted that the WIR priorities include: the FAST Act; streamlining to allow counties and/or partners to fast tract comments to federal agencies; emergency wildlife support funds; the proposal to use FEMA funding instead of agency funds ("borrowing") to fight wildfires and mental health reforms. Commissioner French informed the Board that according to NACo's Public Lands Director Chris Marklund, PILT is expected to be funded at only \$452M in the budget expected to pass before December 9th. Commissioner Tipton had no update other than the next meeting of the NACo Board is in Florida in December.

13. **NACO Board Member Updates.** Mayor Crowell informed the Board that his son has been appointed by the Governor to be the Director of Nevada's Department of Conservation & Natural Resources. President Carson told the Board that she had received an email from Cheva Gabor from the USFS regarding a meeting for implementation of the Sage Grouse plan amendment and Commissioner French noted that Humboldt County had held a coordination meeting with the BLMM and FS regarding the LUPA and mineral withdrawals. He noted that there is a lot the agencies don't know with regards to implementation; but that what they have made clear is that all existing claims will have to go through

validation with the DOI at the claimant's expense and that the Department will determine marketable mineral resources.

14. **Public Comment** – None was given.

The meeting was adjourned at 11:39A.