

NEVADA ASSOCIATION OF COUNTIES (NACO)

Board of Directors' Meeting
September 28, 2018, 9:30 a.m.
NACO Office
304 S. Minnesota Street
Carson City, NV 89703

ADOPTED MINUTES

Attendance: President Elect Waits, Vice President French, Washoe County Commissioner Lucey, Mineral County Commissioner Tipton, Lincoln County Commissioner Higbee, Lyon County Commissioner Hunewill, Washoe County Commissioner Hartung, Nye County Commissioner Wichman, Churchill County Commissioner Olsen, Elko County Commissioner Steninger, Western Interstate Region Member Elko County Commissioner Dahl, Storey County Commissioner McGuffey and Nancy Parent, Nevada Association of Clerks and Election Officials (NACO Staff: Dagny Stapleton, Vinson Guthreau and Amanda Evans)

Remote Attendance: President Weekly, Clark County Commissioner Kirkpatrick, Nye County Manager Sutton, Nye County Assistant Manager Dellinger and Nye County PIO Knightly

Other Attendance: Joni Eastly; Hank James, NV Rural Electric Association; Sandra Douglas-Morgan and Dan Jacobsen, AT&T; Lee Boner and Doug Miller, NDOT; Linda Bisset and Carolyn Barbash, NV Energy; Michael Bertrand, Bertrand & Associates; Ryan Cherry, Yes on 3; Tom Grady; Mike Roberson, Coalition to Defeat Question 3 and Nevada Supreme Court Justice Hardesty.

The meeting was called to order at 9:32 a.m. President Weekly turned the meeting over to President Elect Waits as he was attending remotely.

1. **Public Comment.** None was given.
2. **Approval of Agenda.** The agenda was approved, with the notation that item 11 would be heard time certain at 11:30 on a motion by Commissioner Tipton with second by Commissioner Higbee.
3. **NACO President's Report.** President Weekly thanked staff for the Association's engagement on Twitter and encouraged the Board to follow the Association's account. He reminded the Board to make their arrangements for October's meeting of the Board in Clark County and to communicate with staff if they will attend both the Board meeting and the dinner Commissioner Kirkpatrick will be hosting on Thursday evening. President Weekly also noted the upcoming conference in Douglas County.
4. **NACO Executive Director's Report.** Dagny highlighted the Certified Public Official training program and referenced the brochure distributed to the Board. She encouraged participation in the program. She also discussed the draft conference agenda, also distributed to the Board, and informed the Board that the President's Reception will have a boots and denim theme. She concluded her remarks by reminding the Board that Commissioner Kirkpatrick has invited Board members to her home for dinner on October 18th, prior to the next NACO Board meeting in Clark County. Information on the dinner will be distributed to the Board closer to the event.
5. **Approval of Minutes of the August 24, 2018 NACO Board of Directors Meeting.** The minutes were approved on a motion by Commissioner Tipton with second by Commissioner Olsen.
6. **NACO Annual Conference Update Including Discussion on Date and Location of the 2019 Annual Conference.** Dagny noted that with the NACO Annual Conference taking place in Clark County, it became apparent that the approach to the NACO Annual conference would need to be adjusted. She informed the Board that she had reviewed how the conference was handled when Washoe County hosted NACO in 2010 and that that year NACO had held a one-day conference. She also stated that many of the sponsors that support the Nevada NACO Conference will be asked to

support the National Conference and as a result, opportunities for NACO Conference sponsorships may be limited, as potentially will the revenue generated for the organization. Dagny proposed hosting a single-day event on September 25, 2019. Commissioner Tipton inquired as to the POWER courses held as part of the Certified Public Officials program, and it was clarified that UNR would still be able to offer those courses the day before the NACO conference. Dagny stated that staff would research central and affordable locations for the 2019 Conference. Both former Nye County Commissioner Joni Eastley and Commissioner Hartung offered their counties as potential hosts. Dagny also informed the Board that Churchill County officially offered to host the NACO Annual Conference in 2020. Commissioner Tipton moved to approve an abbreviated conference with location to be determined in 2019 and for Churchill County to be approved to host the event in 2020. The motion passed on a second from Commissioner Wichman.

7. **Presentation of NACO's 2017 Financial Audit, Michael Bertrand, Bertrand and Associates, LLC.** Mr. Bertrand referred to the financial statements included in the agenda packet. He highlighted an increase in the Association's assets, changes to the state's pension system and an increase in revenues which resulted in an improvement to the Association's financial position. He discussed the Management Recommendations and noted that recommendations made the previous year were completed and that financial statements are being reviewed in a timely manner. He gave an overview of the audit process, the sample disbursements that were tested and general ledger adjustments. Mr. Bertrand also discussed a review of investment policies and stated that the Association's accounting policy is being reviewed by Fiscal Officer Alan Kalt and Dagny, due to his recommendation. He concluded his remarks by noting the diligence of Mr. Kalt in reviewing the Association's financial statements and noting that there are no serious issues to be raised with the Board. Commissioner McGuffey inquired as to the lack of policies and procedures, and Mr. Bertrand clarified that there are policies in place but that it is his recommendation to review and compile a procedures manual. He said that Dagny and Mr. Kalt are working on revisions to the current policies. The audit was accepted on a motion by Commissioner Tipton with second by Commissioner Hartung.

8. **Presentation on the 2018 Nevada Statewide Ballot Question #3: The Energy Choice Initiative.** Dagny informed the Board that the item would be heard in a structured format giving the proponents on each side of the issue equal time to present to the Board and rebut statements made following the initial presentations. Ryan Cherry presented in support of the initiative. He referenced the packet distributed that morning, including the language of the question. He reviewed the three ways the question would allow for the procurement of electricity, guarantees for protections for residential solar consumers to sell power back to the market, and the ending of NV Energy's certification as the provider of public necessity. He also informed the Board that the question requires development and implementation of rules and regulations to be approved by the Legislature by 2023. Mr. Cherry reviewed price change models of states that currently have competitive markets and concluded his remarks with forecasts for economic development in the fields of clean and renewable energy. Mike Roberson spoke in opposition to the question. He noted that no states have deregulated electricity through a constitutional amendment. He stated that the proposal is expected to cost \$4B to dismantle the current system and is projected to cause critical budget shortfalls to local governments. He informed the Board that should the question pass that all current service providers would be required to cancel any long-term contracts and divest their assets. Mr. Roberson stated that current Nevada rates are lower than the national average and up to 30% lower than rates in de-regulated states. He stated that deregulation would create a compete-to-sell market, rather than a compete-to-provide market, with no guarantees for service provided to Nevada consumers. He also addressed loss of franchise fees to the state and concluded his remarks with concerns of unintended consequences resulting from a constitutional amendment. Mr. Roberson yielded his final minutes to the Nevada Rural Electrical Association's Executive Director, Hank James. Mr. James informed the Board that the Association is a cooperative of power districts and other entities to acquire power on behalf of the members. He noted that the cooperatives are non-profit entities that provide power to areas of the state that would otherwise not be served. He expressed concerns with the proposed constitutional amendment and that the potential dissolution of current statutory language that enables electric coops to acquire and provide power to their service territories. Mr. Cherry stated that his group disagrees with Mr. James' concerns regarding the dissolution of the enabling language for coop's and stated that the question language provides these protections. He addressed municipalities that are producing power, noting that his group is prepared to work with all service providers in the drafting of rules and regulations. Mr. Cherry also disagreed with Mr. Roberson's statements regarding potential rate

increases and renewable energy projects. Mr. Roberson expressed additional concerns with constitutional amendments, a lack of policy protections, unknown details regarding implementation and concluded his remarks with the cross-section of groups that oppose the question. The Board expressed concern with the constitutional amendment included in the question, lack of local controls and lack of representation of rural communities. President Weekly noted that he has been facilitating educational presentations on the issue throughout his district and encouraged Board members to do so as well in order to provide constituents with the information to make an informed decision on the question. Commissioner Kirkpatrick informed the Board that she is the co-chair of the Coalition to defeat the question. The Board took no action on the item.

9. **Update from AT&T Including Provider of Last Resort Services in Nevada's Counties and AT&T's Role in Implementing FirstNet (First Responder Network Authority).** Dagny reminded the Board that in 2016 AT&T petitioned the Public Utilities Commission (PUC) to be relieved of their designation as the Provider of Last Resort (the requirement to provide landline service in areas where there are no other service providers) in several areas of the State. She informed the Board that Lander, Eureka and White Pine counties requested that the designation not be removed, and that as a result AT&T does not currently have the authority to remove land line service in those counties. Dan Jacobsen reviewed the actions taken by the Legislature in 2013 that allowed for the removal of the designation if certain criteria were met. He spoke to the fact that a large percentage of AT&T's customers no longer use land line services and that the cost to maintain land line infrastructure is no longer feasible. Mr. Jacobsen noted the 2016 application to have the designation removed and the modifications made to the application following the presentation of concerns of the counties. He informed the Board that there is no application currently submitted or pending submission to have the designation removed in the areas where it currently exists and that there has been no removal of land line services. Vice President French stated that Humboldt County has no appetite for releasing the designation and expressed concerns with lack of wireless coverage and internet service resulting in challenges to economic development. Mr. Jacobsen stated that wireless service is a competitive market and that return on investment is key in investment in infrastructure development. President Elect Waits inquired about rate increases and Mr. Jacobsen noted that there is a lack of subsidy available to help control rates, but that all rates across the State are the same. Sandra Douglas-Morgan presented on FirstNet. She informed the Board that FirstNet is a federal first responder agency created on the recommendation of the 9/11 Commission. FirstNet provides a dedicated and secure network for public safety agencies to communicate across the country. Ms. Morgan informed the Board that AT&T was selected as the provider partner through a competitive bid process in 2017. All 50 states have opted into the Network and AT&T will be working with all public safety agencies to identify gaps in coverage. FirstNet has resulted in \$40B in infrastructure investments in the largest public-private partnership to date. Commissioner McGuffey thanked AT&T for installing a cell tower in a portion of Storey County that lacked service. Vice President French inquired as to how the locations of towers was determined. Ms. Morgan stated that the locations were identified through cooperation with the Department of Public Safety, local agencies and the Department of Homeland Security. Vice President French encouraged the inclusion of local government engineering departments and the consideration of co-location of towers on existing county infrastructure sites.
10. **Update on the Nevada Right to Counsel Commission's Proposed Recommendations for Reforms of Nevada's Indigent Defense System.** Dagny informed the Board that the Commission is moving forward with recommendations. She reminded the Board that the Commission had contracted with the 6th Amendment Center who submitted their report to the Commission. The report found that the rural counties are doing their best to provide indigent defense without assistance or oversight from the State. The report also specifically noted budget constraints of the rural counties while some counties are not meeting national standards, it is not due to lack of effort or concern for indigent defense. Dagny informed the Board that the Commission's recommendation is a BDR that includes the recommendations within the report. The recommendations include: continuance of local control; the creation of a statewide oversight board independent of the judiciary and legislature that can set standards, conduct trainings and support and evaluate county public defenders. The recommendation also included that any standards or recommendations for changes by the statewide board would be funded by the State. Dagny informed the Board that the LCB will now draft the bill and the Commission will then review it. Dagny noted that NACO has four representatives on the Commission, Commissioner Tipton, Mayor Crowell, Joni Eastly and Tom Grady, and that Washoe and Clark Counties also have representatives on the Commission. Vice President French inquired as to if there

was discussion regarding giving the counties financial assistance for the services they already provide, since the state is legally responsible for indigent defense. Commissioner Tipton noted that it is unlikely that the State would pick up the costs and Ms. Eastly noted that it was discussed and that the language included in the BDR would cap the counties costs at what they are currently. Commissioners Wichman and Olsen noted that they are pleased with the results of the work completed by the Commission. Mr. Grady noted that the Commission was chaired by Justice Cherry and that he stated that the counties should not have to pay anymore than what they are for the services. Dagny also clarified that while the report did show deficiencies in rural county provision of indigent defense, it also stated that the only viable option is for the rural counties to continue providing the service and recommended that the State must support the counties. Ms. Eastly concluded the update with the need for continued work on caseload standards, and that broad sweeping standards will not work because of differences from county to county. Dagny inquired if the Board is satisfied with the direction its representatives on the Commission were taking and it was noted that the Board is very pleased. No action was taken.

11. Update on the Nevada Supreme Court's Committee to Study Evidence-Based Pretrial Release.

This item was heard time certain at 11:30a.m. Dagny gave background on the item and thanked the Justice Hardesty for attending. She stated that the issue of pre-trial reform was introduced to the Board around two years ago by the Justice. She noted that the proposed reform is to use a risk assessment tool to determine if a person facing criminal justice charges should be released on their own recognizance, released with monitoring or held in jail, in lieu of the state's current bail system. Dagny informed the Board that she served on the Committee on behalf of the Association and that the Board's initial direction was to determine fiscal impacts to counties to implement the tool, including potential additions to staff as well as additional monitoring costs. She also noted that fiscal impacts could also be positive due to reduced costs associated with decreased jail populations. The bulk of the work completed centered around the policy of using the tool, development of and validation of the tool. There are three validated versions of the tool being tested in the state. The three pilot counties officially testing the tool are White Pine, Washoe and Clark and they have reported results including fiscal impacts back to the Committee. Several other counties have begun using the tool, but they have yet to report any findings back to the Committee. Though nothing conclusive has been reported back to the Committee on costs associated with implementing the tool, the Committee did ask the Court to mandate use of the tool, and the Supreme Court will consider mandating use of the tool across the State. Dagny informed the Board that staff is requesting direction regarding implementation of the tool, and whether NACO would like to provide a letter to the Court that would include concern regarding fiscal impacts to counties and timing of implementation. Justice Hardesty remarked that the issue came about due to questions surrounding the constitutionality of the bail system and lawsuits being filed against counties throughout the country. He noted that through a subcommittee it was determined that the bail system in Nevada is inconsistent even within the same jurisdictional boundaries. Justice Hardesty informed the Board that the tool is to be used by Judges pre-conviction to provide guidance for determining risk of failure to appear or to commit a crime while released. He noted that tool's behavior predictors have been validated by millions of cases throughout the country over the course of several years. He also noted that the tool is not a solution to overcrowding in jails but to allow low risk offenders to be released pending trial. The Board was informed that the average jail population in Nevada is 10,600 and that 74% of that population is comprised of 1st time misdemeanor offenders. He noted that NRS requires release on own recognizance (OR) if applicable but without the tool there was no way for a judge to determine the potential risk associated with OR releases. The Justice went through the counties implementing use of the tool and noted that the feedback received is that the costs are negligible for implementation. Commissioner Wichman inquired as to providing direction to law enforcement officers to the issuance of tickets vs. arrest for non-violent minor misdemeanors, to which the Justice stated that NRS already allows for that option. Commissioner Lucey informed the Board that Washoe County experienced some issue with implementation across jurisdictions and encouraged careful implementation planning prior to officially adopting the tool. Dagny informed the Board that, though Justice Hardesty may have heard anecdotally that some pilot counties did not incur significant costs by implementing the tool, that was information that was never provided to the Committee, though it had been requested. Dagny inquired as to the Board's desire to take a position. Commissioner Olsen informed the Board that Churchill County has been using alternative court services and pre-trial risk assessment for several years and that they have experienced about a \$250,000.00 fiscal impact annually, which is significant for their county. Commissioner McGuffey noted that when he was a Justice of the Peace he had a great deal

of difficulty in determining bails and often consulted with colleagues. Commissioner Lucey stated that there is a need to have funds available to assist counties with implementation. Discussion from the Board also consisted of impacts to Human Services surrounding loss of employment, issues with child custody and housing. Commissioner Hartung moved to draft a letter to the Supreme Court indicating the Board's support for the implementation of a validated pretrial risk assessment tool on a statewide basis, and to request that, if the Supreme Court mandates the use of such a tool, they: 1) allow counties latitude in implementing the tool; and 2) gather additional information on potential budgetary and staffing impacts from implementation so that counties can adequately prepare to use the tool. The motion was approved on a second by Commissioner Steninger.

12. **Update on Interim Legislative Activities, Bill Draft Requests, and County Priorities for the 2019 Nevada Legislative Session.** This item was not heard in the interest of time as there were no significant updates to give the Board.
13. **Update and Possible Action Regarding Natural Resources and Public Lands and Issues Affecting Counties Including:** President Elect Waits had a prior commitment requiring her to leave the meeting and passed the gavel to Vice President French to conclude the meeting.
 - a. **The BLM and USFS Greater Sage Grouse Resource Management Plan Amendments.** Dagny informed the Board that the Association had submitted comments on the BLM's internal draft FEIS and that they are expecting to publish their final FEIS on or about October 12. Once published there will be a 30-day protest period and a Governor's Consistency Review period and then the final Record of Decision (ROD) is expected sometime in December. The Association also submitted comments on the Forest Services' Internal Draft EIS earlier in the month and they are expected to publish their DEIS sometime the following week. This publication will start a 90-day public comment period. Dagny informed the Board that the comments submitted had mirrored prior discussion and direction of the Board.
 - b. **The Department of the Interior Proposed Reorganization.** Commissioner Tipton informed the Board that the Proposed Reorganization is, for all intents and purposes, completed. She noted that the proposal is not intended to have an effect on state offices but is intended to give a path to relief beyond appeal to Washington D.C. for issues that the individual state offices are not able to resolve. She noted that through communications with Department Officials, there is hope that a representative will be present at the Annual Conference to provide further clarification on the plan.
 - c. **Update on Outcome of 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 and NACO's Motion to Intervene on Behalf of the US F&WS.** Dagny reviewed the history of the issue and informed the Board that the Judge found on behalf of the Center. She informed the Board that the Judge set precedent by over-ruling the science the Agency used when making their decision and noted that the remedy listed in the decision requires that the Agency re-open and prepare a new listing decision within a year and a half. Dagny informed the Board that the Agency is weighing a decision to appeal and that if the Department chooses to appeal then the AG's office will also appeal as an intervenor. If that occurs there is a potential for NACO to join the appeal - this decision and options for the Board to consider will be presented at the October NACO Board meeting. Vice President French reiterated that the decision sets a new precedent that could have far reaching effects for future listing decisions. Dagny suggested any members of the Board with contacts within the Secretary's office encourage the Department to appeal.
 - d. **NACO Public Lands and Natural Resources Committee Update.** Vice President French referenced the BLM's recent wild horse and burro gathers being conducted under 'emergency' actions. He also informed the Board that the next National Wild Horse and Burro Advisory Board (BLM) meeting will take place October 9-12 and he will report back. Commissioner Tipton informed the Board that comments had also been submitted on behalf of the Association on proposed ESA reforms. Discussion was also had regarding proposals to update the Forest Service's handbook.

14. **NACO Committee of the Emeritus Update.** Vinson informed the Board that the Newly Elected Official Training was in the final planning stages. He noted that the updates to the New Commissioner Handbook were complete and that the Committee had approved the panelists for the training. The panelists will be Committee members Joni Eastly and Tom Collins as well as Wayne Carlson from POOL/PACT.
15. **National Association of Counties and Western Interstate Region Board Member Updates.** The Board was informed that both Boards would be meeting in October in Arizona and that updates would be provided after those meetings.
16. **NACO Board Member Updates.** Updates were given by members of the Board on activities within their counties.
17. **Public Comment.** None was given.

The meeting was adjourned at 1:35 p.m.