



MEETING MINUTES  
BOARD OF SUPERVISORS, COUNTY OF MONO  
STATE OF CALIFORNIA

Regular Meetings: The First, Second, and Third Tuesday of each month. Location of meeting is specified at far right.

Regular Meeting

MEETING LOCATION  
Mammoth Lakes BOS  
Meeting Room, 3rd Fl. Sierra  
Center Mall, Suite 307, 452  
Old Mammoth Rd.,  
Mammoth Lakes, CA 93546

October 15, 2013

9:00 AM

Meeting Called to Order by Supervisor Hunt, Chair

- Supervisors present: Alpers, Fesko, Hunt, Johnston, and Stump
- Supervisors absent: None

Pledge of Allegiance led by Leslie Chapman, Finance Director

**OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD**

- **No one spoke.**

Break: 10:12 a.m.

Reconvened: 10:17 a.m.

Closed Session: 12:00 p.m.

Reconvened: 2:04p.m.

Adjourned: 3:46 p.m.

**CLOSED SESSION WILL FOLLOW REGULAR MORNING SESSION**

**CLOSED SESSION**

- **The Board had nothing to report from Closed Session.**

**BOARD OF SUPERVISORS**

1a)

Closed Session--Human Resources - CONFERENCE WITH LABOR NEGOTIATORS. Government Code Section 54957.6. Agency designated representative(s): Marshall Rudolph, John Vallejo, Leslie Chapman, Bill Van Lente and Jim Leddy. Employee Organization(s): Mono County Sheriff's Officers Association (aka Deputy Sheriff's Association), Local 39--majority representative of Mono County Public Employees (MCPE) and Deputy Probation Officers Unit (DPOU), Mono County Paramedic Rescue Association (PARA), Mono County Public Safety Officers Association (PSO), and Mono County Sheriff Department's Management Association (SO Mgmt). Unrepresented employees: All.

1b)

Closed Session - Conference With Legal Counsel - CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION. Initiation of litigation

pursuant to paragraph (4) of subdivision (d) of Government Code section 54956.9. Number of potential cases: one.

1c) Closed Session - Public Employee Evaluation - County Administrative Officer - PUBLIC EMPLOYEE PERFORMANCE EVALUATION. Government Code section 54957. Title: County Administrative Officer.

1d) Closed Session - County Counsel Performance Evaluation - PUBLIC EMPLOYEE PERFORMANCE EVALUATION. Government Code section 54957. Title: County Counsel.

2) APPROVAL OF MINUTES

**M13-222** A. Approve minutes of the Regular Meeting held on October 1, 2013, as corrected.

**Johnston moved; Stump seconded**

**Vote: 4 Yes; 0 No; 1 Abstain (Fesko)**

- Supervisor Johnston: Board Reports, Johnston's comment under bullet point #1, change to read, "...discussion about recouping the 1% of TOT designated for affordable housing."

3) BOARD MEMBER REPORTS

**Supervisor Alpers**

1. No report.

**Supervisor Fesko**

1. Along with staff members, met with Liberty Energy last week; they are required to develop an emergency plan and share it with stakeholders. Liberty Energy serves Antelope Valley.
2. Met with constituents last week about items on the agenda.
3. Preparing to attend the upcoming Great Basin Water Forum.

**Supervisor Hunt**

1. Met with CalTrans last Thursday about the status of work on Conway Ranch; the MOU has been extended to April 1, 2014. Also received updates about the aquaculture plan and grantor contracts, status of conveyance agreement, and final draft of the Conway easement.

**Supervisor Johnston**

1. Attended the Mammoth Lakes High School senior dinner.
2. Met with a citizen of June Lake regarding CARB compliance.

**Supervisor Stump**

1. Participated in a conference call with AT&T regarding service in Chalfant. The fire district requested a presentation by AT&T, which is scheduled for October 29<sup>th</sup>.
2. AT&T decided to send a team to Crowley to evaluate cell service.
3. Attended the Mammoth Lakes High School senior dinner.
4. Acknowledged the Public Works facilities staff for rezoning the Bridgeport Hospital utilities, which will create a cost savings.
  - a. Jim Leddy, CAO: This change will save thousands of dollars in utility costs. Also the building will be used for records storage, thus eliminating the cost of renting storage units.

COUNTY ADMINISTRATIVE OFFICE

4) CAO Report regarding Board Assignments

**Jim Leddy, CAO**

1. Attended the Mono Basin RPAC meeting; discussed the emergency road. Due to the government shutdown, BLM did not attend the meeting so some questions remain unanswered.

2. Last Thursday attended the Mammoth Association of Governments meeting. Southern California Edison talked about their emergency response plan. Also on Thursday attended the meeting with Liberty Energy.
3. Received an email from a visitor about Highway 270 to Bodie. Staff researched the history of the highway and plans to meet with various agencies about the situation.
4. Mammoth Mountain Ski Area has suggested several dates to hold a MMSA-County Liaison Committee meeting. Suggested that the Chair and one other Board Member serve on the committee.
  - a. The Board agreed that Supervisor Hunt, Chair, and Supervisor Alpers should serve.

## DEPARTMENT REPORTS/EMERGING ISSUES

- **No reports/emerging issues.**

## CONSENT AGENDA

(All matters on the consent agenda are to be approved on one motion unless a board member requests separate action on a specific item.)

- **Supervisor Fesko pulled Items #6a and #8a.**

## FINANCE

### **Additional Departments:** Bridgeport Fire Dept.

- 5a) Bridgeport Fire Department Financial Audit - Bridgeport Fire Department requests a waiver of the annual audit requirement to be replaced by a biennial audit in accordance with Government Code Section 26909.

**M13-223** **Action:** By unanimous vote of the Board, waive the annual audit requirement for the Bridgeport Fire Department and replace it with a biennial audit in accordance with Government Code Section 26909.

**Stump moved; Fesko seconded**

**Vote: 5 Yes; 0 No**

## PUBLIC WORKS - ROAD DIVISION

- 6a) Purchase of Two New Probation Vehicles - Probation is in immediate need of two new Ford Explorers due to the addition of two staff, changing requirements of evening contacts (resulting in transports to juvenile hall or the Jail), and one officer doing contacts in three states. Probation has funds available out of the juvenile justice funds.

**No Motion** **Action:** Direct Staff to conduct more research about vehicle options, and bring this item back to the Board on November 5<sup>th</sup> for further discussion.

### **Board Comments**

- Supervisor Fesko: Can't see the justification at this time for two additional vehicles since the motor pool doesn't seem to be used to its fullest extent. A high-mileage car does not necessarily mean it is a bad vehicle. People need to use the older vehicles in order to meet mileage targets. Suggested fabricating custom-designed cages for use in a Subaru.
- Supervisor Johnston: Asked why the department wanted to buy expensive, gas-guzzling Ford Explorers. At some point the County needs to stop purchasing inefficient vehicles. The shop needs to figure out a modified cage system for smaller vehicles. He would like to discuss this issue at the next meeting after staff conducts more research.
- Supervisor Hunt: The department needs the vehicles, but he agreed they should purchase more cost-efficient cars.

### Staff Comments

- Karin Humiston, Probation Director: Understands the Board's concern about vehicle size. She outlined various problems with a Subaru:
  - Will not accommodate a "cage" for transporting offenders.
  - Cannot install radio equipment due to the location of the gas tank.
  - A high-clearance vehicle is necessary due to the nature of field work.
  - Officers need a place to secure a gun locker, and there is not adequate room in a small vehicle.Additional information:
  - The department currently has three vehicles with cages.
  - Vehicles from the motor pool have considerable mileage on them.
  - If an officer needs to make an arrest in the field, they need to have an appropriate vehicle.
  - The two new staff members are directly linked to AB109 funding.
  - Money for the cars is set aside through the Juvenile Justice Fund. Having the additional vehicles will allow the officers to spend more time in the community.
  - Would like the new vehicles within the next three months.
  - It is easier to transport youth in larger vehicles, and is more fuel efficient to use a larger vehicle than the van.
- Jeff Walters, Public Works: Subaru maintenance is not an issue. Was unaware about a problem with installing radios. Humiston is correct about the inability to install cages because a Subaru is too small; cages are purchased pre-manufactured for the vehicle.

### FINANCE

- 7a) A-87 Budget Amendments - Approved budget amendments to reflect changes discussed in the A-87, County Cost Plan workshop that was conducted during the Sept. 10, 2013 board meeting.
- M13-224** **Action:** Adopt the budget amendments as presented in the staff report to reflect changes discussed in the A-87 County Cost Plan Workshop that was conducted during the September 10, 2013, board meeting.  
**Stump moved; Fesko seconded**  
**Vote: 5 Yes; 0 No**

### COUNTY ADMINISTRATIVE OFFICE

- 8a) Letter to Congressman Cook Re Clean Continuing Resolution - Letter to Congressman Cook regarding support for a "Clean Continuing Resolution" to end the Federal Government shutdown immediately, without addressing current Affordable Care Act implementation concerns.
- M13-225** **Action:** Approve and authorize the Board Chair's signature on the proposed letter to Congressman Cook, as modified, regarding support for a "Clean Continuing Resolution" to end the Federal Government shutdown immediately.  
**Fesko moved; Johnston seconded**  
**Vote: 5 Yes; 0 No**  
**Board Comments**
- Supervisor Fesko: There are more issues than just the government shut down, such as the debt ceiling. Not sure the letter addresses all the issues, but can support it as proposed.
  - Supervisor Stump: Would like language added requesting that all parties act like adults. However, he can support the letter as proposed.

- Supervisor Hunt: the concept of the letter is to get government moving again so immediate economic issues are dealt with. Visitors to the area are very disappointed about park closures.
- Supervisor Alpers: Supports the letter as is but would like to include language about fiscal restraint.
- Supervisor Johnston: The County's economic well-being is based on tourism and most local land is federal. Concurred with Stump's comments.

Jim Leddy, CAO: Will add language about fiscal responsibility and showing responsibility for federal resources.

## REGULAR AGENDA

### CORRESPONDENCE RECEIVED (INFORMATIONAL)

All items listed are available for review and are located in the Office of the Clerk of the Board

### CLERK OF THE BOARD

- 9a) Helene T. Frakes Letter Regarding Bodie Road - Correspondence dated 9/16/13 from Helene T. Frakes of Bridgeport, CA regarding the deplorable condition of State Highway 270 (Bodie Road) and requesting the county work with local and State officials to get the road into decent condition.

#### Board Comments

- Supervisor Fesko: Has had past meetings with the ranger about paving the last two miles of Bodie Road. This is an important issue for the local communities since Bodie draws a lot of visitors. Negative experiences will spread by word of mouth.
- Supervisor Johnston: The state has not maintained the road properly. An adequate gravel road should be sufficient if properly maintained. The County shouldn't absolve the state of its responsibility.

#### Staff Comments

- Jeff Walters, Public Works: CalTrans only maintains the paved portion of the road. The state will maintain the entire road if it is brought up to CalTrans' paved standards. Briefly reviewed historical points about the road.
- Jim Leddy, CAO: Walters is organizing a meeting with various agencies to discuss the issue; will provide the Board with potential options.

Supervisor Stump: Asked staff to provide Frakes with an update.

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### ECONOMIC DEVELOPMENT

- 10a) Mono County Fisheries Request for Funding Assistance for Agriculture Well on Conway Ranch (Steve Marti / Dan Lyster) - The Mono County Fisheries Commission (MCFC) is requesting approximately \$16,000.00 to augment a commitment of \$14,084.34 from the MCFC (see attached letter from the MCFC) for the purpose of drilling an agriculture well on Conway Ranch.

#### Action: Pulled

- Steve Marti, Chairman of the Fisheries Commission: Requested to pull this item. The Fisheries Commission recently learned that there is an issue with the electrical panel that would be required to accommodate a well. They can't move forward until this issue is resolved.

## BOARD OF SUPERVISORS

- 11a) Mono County Fisheries Commission Appointments (Supervisors) - The Mono County Fisheries Commission currently has four (4) vacancies. The terms of office for these volunteer positions will commence upon appointment and expire on April 1, 2017. The vacancies must be filled by a Mono County resident with an interest or background in fishing and wildlife. This vacancy was properly listed in the newspaper and a total of five (5) applications have been received for consideration of these appointments.

**No Motion** **Action:** Postpone action; direct Staff to agendaize a discussion for preferably November 5<sup>th</sup> or 12<sup>th</sup> regarding the Fisheries Commission.

### Staff Comments

- Dan Lyster, Economic Development: One applicant withdrew (Petersen) due to scheduling conflicts; this leaves four commissioners up for reappointment. A notice calling for applications was advertised in the paper for several weeks. The current Commission has been functioning since April 2013.

### Board Comments

- Supervisor Fesko: There is sufficient representation from North County.
- Supervisor Alpers: Suggested having a representative from Eastern Sierra Fishing Coalition attend the meetings. He would like more South County representation. Supports the reappointments since continuity is important.
- Supervisor Hunt: People who are currently serving are not helping with the progress of Conway Ranch. He is also dismayed by the current contractor who has filed a lawsuit against the County; some members of the Fisheries Commission have been in court supporting the lawsuit. He will not support appointments until more applications are solicited and the Board discusses the need for the Fisheries Commission. Prior to the Fisheries Commission the County had a Fish and Game Advisory Board that adequately advised the Board; this was a broad group interested in Eastern Sierra issues. He can support reappointment of Jones and Mueller but suggested re-advertising for the other two seats.
  - Fesko: Regarding the lawsuit, the Fisheries Commission is not to blame and actions have been taken out of context. However, the Board does need to review the mission and determine if it is clear; it seems to be vague pertaining to Conway Ranch. Believes all seven commissioners have the County's best interest in mind.
- Supervisor Stump: Supports delaying the appointments, but the Board could appoint a minimum of one person in order to establish a quorum. Concerned that membership is heavily weighted on the north end of the County; would like to see if others are interested. The Commission can continue to function if the Board takes no action today.
- Supervisor Johnston: Agreed with Stump about needing representation from South County. Concerned about people choosing sides in the lawsuit. The scope of the Commission needs to be broadened in order to address other issues, such as sage grouse.
  - Alpers: Suggested foregoing any appointments until after a broader discussion so the Board can ensure that the Commission is serving the bigger scope of issues.

## SHERIFF CORONER

- 12a) Overtime Cost Discussion (Sheriff Ralph Obenberger) - Presentation by Sheriff Obenberger regarding overtime cost discussion and the possibility of hiring

more full time staff and/or reserve deputies in a possible cost saving measure (as requested by the Board of Supervisors).

**Action:** None.

**Staff Comments**

Sheriff Obenberger reviewed information pertaining to overtime in the Sheriff's Department:

- Department receives multiple grants that contain conditions. Would need to eliminate grant participation in order to reduce overtime in those functions. There would be a savings of \$130,000 in overtime, but would lose more funding than they would save. Overtime cost is covered by grant funding.
- Certain functions require overtime due to lack of manpower.
- Reviewed overtime costs amongst various public safety agencies. If the Sheriff removes grants from the budget, the percentage of overtime is in line with other agencies.
- Could hire more staff, but it is cheaper to pay overtime than fund a position with benefits.
- No one has applied for the reserve positions. These positions can help save money if a person is trained at a level 1; levels 2 and 3 require supervision of a deputy. This option is viable for bigger departments or those confined in a smaller area.
- Won't find deputy sheriffs that will work part time.
- Reviewed how staff members are assigned, and current practices and scheduling policies that help reduce overtime.
- Reviewed funding status of various grants.

**Board Comments**

- Supervisor Johnston: The State Controller has ranked Mono County as 9<sup>th</sup> highest paid based on total compensation; wants to find out why this is. During budget discussions, Johnston reviewed departments paying overtime and the Sheriff's Department is the highest. He wants to reduce overtime by having an adequate number of staff. Reviewed aspects of the Grand Jury Report pertaining to the Sheriff's Department, and the needs and recommendations stated therein. Believes additional staff would reduce overtime and provide a higher level of service.
- Supervisor Stump: Asked if new staff could be funded with grant money. Stump talked about a possible hiring scenario.
  - Obenberger: Would need to review grant restrictions.
- Supervisor Fesko: Not concerned with overtime as long as the department has policies that help reduce it.
- Supervisor Hunt: Supports the Sheriff's efforts and the Department's need for flexibility. Would like regular reviews at budget times.

## INFORMATION TECHNOLOGY

13a) Digital 395 Status Update (Michael Ort) - Provide an update on the status of Digital 395.

**Action:** None - Informational only.

Michael Ort, Praxis: Provided written information and maps, and reviewed the following:

- Outstanding work remaining.
- Locations of active service.
- Last mile services.
- Reviewed location of anchor hookups.
- Status of June Lake, Marine Corps base, and Walker.
- Goal is to complete Mono County as quickly as possible.
- Working on Benton, Benton Tribe, parts of Highway 120, and a section north of Mono Lake.
- Working with the PUC on funding issues and resolution of some problems.
- The PUC is reviewing environmental issues in Round Valley.

- Waiting for federal government to reopen so some issues can be resolved. All documentation associated with these issues has already been submitted.
- Working with Cal Tech and Office of Emergency Services on connecting earthquake sensors in the area.
- Reviewed work occurring south of Mono County.
- Plan to have system mostly operational by Halloween, with project closure by the end of November.
- Reviewed amount of money spent on environmental reviews and mitigation efforts to avoid desert tortoises.
- Some of the expense in June Lake is due to drilling through granite.
- Work began in Mono County because of the County's financial support, and the last splice will be in Mono County. Hoping to have a dedication ceremony at the dam where the work began.

Supervisor Stump recognized the efforts of past Supervisor Hap Hazard.

## COUNTY ADMINISTRATIVE OFFICE

**Additional Departments:** County Counsel, Probation, Public Health

14a) Mono County Grand Jury Response (Jim Leddy, Marshall Rudolph) - Draft 2012-2013 Mono County Grand Jury Response.

**M13-226** **Action:** Authorize Chair to sign letter and direct staff to submit the County's response to the 2012-2013 Mono County Grand Jury Report.

**Johnston moved; Alpers seconded**

**Vote: 5 Yes; 0 No**

### Staff Comments

- Jim Leddy, CAO: The County has an obligation to review the report and provide a response, which is due by November 6<sup>th</sup>. Before the Board today is a draft response. The Grand Jury Report was beneficial in better understanding areas to be addressed by the CAO and HR departments.

### Board Comments

- Supervisor Fesko: Pointed out that all Grand Jury members but one were from Mammoth Lakes. It needs to be stated that there should be participation from all communities.
  - Leddy: People apply to serve and the court reviews the applications; the Grand Jury requires a big time commitment. However, he agrees with the need for broader representation.
  - Marshall Rudolph, County Counsel: The presiding judge makes appointments and has commented that it is difficult to find people. The court wants suggestions about prospective members. He encouraged all Supervisors to pass along names to the presiding judge.

## CLERK OF THE BOARD

15a) CSAC Appointments for 2013-2014 - Selection from the Board of Supervisors of a member and alternate to serve on the California State Association of Counties (CSAC) Board of Directors for 2014.

**M13-227** **Action:** Elect Supervisor Johnston to serve on the CSAC Board of Directors for the 2014 Association year beginning November 19, 2013; elect Supervisor Fesko to serve as the alternate member.

**Alpers moved; Stump seconded**

**Vote: 5 Yes; 0 No**



Supervisor Johnston is the current appointee, and is willing to continue serving. Johnston is planning to attend the CSAC meeting. Fesko volunteered to serve as alternate.

**Side Note**

- Supervisor Stump: The Governor is planning to take time to visit the state so we should invite him to visit Mono County.
- Supervisor Hunt asked CAO Leddy to prepare a letter for the Chair's signature.

**COUNTY ADMINISTRATIVE OFFICE**

16a)

Special Recognition Event (Jim Leddy) - Supervisor Larry Johnston asked for this item to be added to the agenda for discussion. The concept is to put on a special event to recognize citizens who serve on Board of Supervisors appointed committees or commissions. No taxpayer funds would be utilized, as tickets for this event would be paid for by those invited to attend.

**No  
Motion**

**Action:** Direct staff to solicit feedback in order to determine the level of interest in this type of event.

Supervisor Johnston: The concept is to recognize the approximately 155 appointees working on behalf of the County on boards and commissions. This would be a formal event in December to thank those people and create an opportunity for them to meet each other. People would purchase a ticket to attend, so no public funds would be involved. It is unknown how many people would come; also, staff members who work with boards and commissions may want to attend. Johnston envisions holding this initial event at a centralized location such as Lee Vining Community Center.

Jim Leddy, CAO, provided the following information:

- Based on attendance of 100 people, the approximate cost of the ticket would be between \$41-56 per person.
- Attendance of more than 100 people would require a bigger venue in Mammoth.
- His office can send an email to potential invitees to determine the interest level; staff could also review the interest level prior to finalizing arrangements.
- No public funds would be expended on this event other than staff time required to organize it.

The Supervisors and CAO discussed the concept and other options for recognizing people's service:

- Many people do not like "black-tie" affairs.
- There should be some sense of the interest level before taking time to plan the event.
- The price could eliminate some people.
- Certain elements, such as live music, could be eliminated in order to reduce the cost.
- Holding an event in Mammoth would make it difficult for people from North County to attend due to the commute—especially if they encounter winter driving conditions.
- Consider a spring-time event to eliminate winter driving.
- The Board should recognize people without the obligation of their attendance at an event.
- The Board could hold a special meeting in the various communities to recognize people.
- The Board could send a personalized thank-you in addition to hosting an event.
- There is a potential negative political implication in holding this event.
- The CAO can take a poll amongst the commissioners for their reaction to this type of recognition.

**OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD**

**No one spoke.**

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**MOVE INTO CLOSED SESSION UPON COMPLETION OF THE REGULAR MORNING AGENDA. REGULAR SESSION WILL COMMENCE AT 2:00 P.M.**  
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**OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD**  
**No one spoke.**

**PUBLIC WORKS - ENGINEERING DIVISION**

- 17a) Road Rehabilitation Project Priorities for the 2014 State Transportation Improvement Program (STIP) (Garrett Higerd) - The 2014 STIP presents an opportunity for new road rehabilitation projects to be programmed for completion in the next five years.

**No Motion** **Action:** Board consensus on the priorities as outlined by Higerd in the staff report.

Garrett Higerd, Public Works: Discussed both Items #17a and #17b since they are closely related. Reviewed the STIP process:

- STIP is on a 5-year cycle for road rehab projects and is reviewed in every even year.
- Today's agenda item reviews potential projects for the next 5 years.
- Mono County will receive approximately \$6.3 million.
- Reviewed the strategy of putting some STIP shares toward MOU projects, which are projects funded jointly with other counties that also benefit Mono County. Outlined the amount of funding to be used for MOU projects.
- Referred to Appendix A in the agenda packet which is a list of on-going projects; reviewed the proposal for prioritizing 2014 STIP projects.
- Can use STIP funds for the match needed for the Convict Lake Road project.
- At this point funding amounts for projects are in flux.
- Would like consensus from the Board about priorities so staff can move forward and develop the projects.
- New money will be available in 2017-18.
- The project priorities list will be presented to the LTC at the meeting this week.
- The Rock Creek Road project is out to bid. Construction will begin next summer; this will be a two-summer construction project so events and access to camping will be impacted.
- Higerd will be talking at RPAC meetings in Lee Vining and Bridgeport about airport layout plans. He will also attend a meeting in Chalfant next week to discuss road projects.

**Board and Staff Discussion**

- Board agreed with the priorities outlined by Higerd in the staff report.
- Higerd and Gerry LeFrancois, Community Development, answered questions:
  - STIP funds are split based on need, and not a set formula.
  - The LTC has been discussing the idea of including Mammoth Lakes' roads in the Program Management System, and seems to be open to the idea.
  - The County is committed to preventative maintenance, so projects are in the two-year cycle.
  - Regarding the Convict Lake project, STIP funding can be used for environmental and engineering work. Conceivably the 2012 STIP plan could be amended to allow funding to be used for planning the Convict Lake project, and 2012 funds replaced with 2014 STIP funding. Local funding used for the pre-construction work may not be reimbursed.
  - Planning for Airport Road will happen in the next couple of years, and will probably require a NEPA study.
- Regarding the Rock Creek project, staff needs to notify businesses in advance of construction so they can plan.

- MOUs have allowed leveraging of funding and completion of projects; the state is pleased that Mono County participates in this program.
- LTC can work with the Town to leverage funds.
- It is unique for small counties to have a pavement management system.

- 17b) Convict Lake Road Rehabilitation Project – Update on Scoping Process for Federal Lands Access Program (FLAP) Grant Funding (Garrett Higerd) - The proposed project would rehabilitate approximately 2.7 miles of Convict Lake Road and add an up-hill bicycle climbing lane.

**Action:** None.

Garrett Higerd, Public Works, discussed this project in Item #17a, and added the following information:

- The FHWA would like to construct this project in the year 2017.
- State money will be leveraged to get federal funding.
- The state has been supportive of these types of projects.

## FINANCE

- 18a) Request for TOT Relief Due to Effects of Rim Fire (Leslie Chapman) - Request by Yosemite Gateway Motel that the County allow it and other motel operators to pay 3rd and 4th quarters of 2013 Transient Occupancy Tax over a period of time in payments -- charging interest only and waiving penalties for late payments. The request is based on economic effects of the Rim Fire and associated closures of Tioga Pass. Staff will provide an overview of the County's TOT ordinance, processing procedures, and other information relevant to the request.

**No  
Motion**

**Action:** Board consensus that the Traynors should follow the current appeal process outlined in County Code section 3.28.140, using their letter dated September 24, 2013, as the appeal request. Direct staff to bring back an ordinance amendment that addresses an appeal process for victims of natural disasters.

Supervisor Hunt recused himself since he is a relative of the Traynors. Hunt left the dais and Vice Chair Johnston conducted the meeting.

**Staff Comments**

- Leslie Chapman, Finance Director, presented the following information:
  - The Traynor's letter was on last week's agenda as correspondence, and the Board requested that this item be agendaized for discussion.
  - Reviewed the TOT ordinance. The 12% occupancy tax is added on every nightly rental and remitted quarterly to the County.
  - Due to circumstances created by the Rim Fire, the Traynors would like to make payments on their 3<sup>rd</sup> and 4<sup>th</sup> quarter TOT without paying penalties.
  - Approving this request would set a precedent, and would be akin to approving a loan to private citizens.
  - The Board needs to consider the implications of approving this request because there are many operators that may want to take advantage of this opportunity.
  - For the County, the 4<sup>th</sup> quarter TOT comes at a time when cash is needed.
  - Chapman expressed her concern about the overall impact of the Rim Fire on County TOT.

**Board and Staff Discussion**

- Chapman, and Marshall Rudolph, County Counsel, answered questions:

- Administering loans would increase the Finance Department's work, but Chapman is more concerned about cash flows.
- Public findings to justify waivers may be different for various communities.
- Relief needs to come at the point when an operator makes a formal appeal. Chapman can support giving relief but it needs to be done fairly; she can't support a loan program.
- Chapman supports a code revision, but in the meantime people can use the current appeal process.
- The current ordinance outlines a formal appeal process and the Board's authority; only the Board can waive penalties. The Board would have to find good cause and then could provide for a payment plan.
- Typically appeals are filed as a result of an audit.
- The tax is imposed on the transient renter, not the operator. The operator's duty is to collect the tax and pass it through to the County. The Tax Collector can only waive miscalculated or erroneous penalties.
- There is a legal way to grant relief if the Board finds a public purpose. The Board can let the appeal mechanism in the ordinance work, but it may not be obvious to the general public that this appeal process is available for this type of hardship. The Board may want to consider how to limit and define the process under these circumstances; there is no legal obligation to inform the public about this process.
- The Board could amend the ordinance to add language about disasters and hardships.
- Rose Glazier, Tax Collector, outlined the process of filing an appeal. When an appeal letter is filed, the date of tax payment is postponed and penalties and interest are frozen pending the Board's decision. The appeal section of the Code was added to allow for an appeal of an audit.
- The Traynors are not currently out of compliance since TOT is not yet due.
- Mono County taxpayers should receive help under these types of conditions. It is a dire circumstance when the SBA is willing to provide assistance with an emergency loan.
- The Traynor's request really isn't a loan but a postponement of a payment without penalty; interest will be paid. The County doesn't lose anything in the long run.
- Supervisor Fesko distributed copies of a list of responses from motel owners in his district; he read some of the responses that ranged from not supportive to agreeing with some compromise. His business collects TOT and sales tax, and he sets the money aside for payment when it is due.
- Closing of Tioga Pass impacts the entire Eastside.
- Concern was expressed about setting a precedent that will impact the County's cash flow.
- Section 3.28.140 of County Code allows the Board to waive tax, penalty and interest on a case-by-case review. The appeal process is in place and is limited to whoever wants to come before the Board.
- There should be a policy that would allow the Board to declare a disaster or emergency in order to help businesses address these types of situations.
- Board members talked about the merits of a formalized process specifically to address disasters versus taking appeals on a case-by-case basis as is now the practice under the current ordinance.

Tim and Kim Traynor: They have always paid their taxes and intend to do so, but they would like the Board to waive penalties for late payments; this action would provide short-term relief and allow extra time to make the payments. Along with a variety of actions, they have applied for an SBA loan, but that process could take months. Their TOT is in a reserve fund, but their operating funds have been used due to the circumstances caused by the Rim Fire and they need to make it through the winter. The Eastside communities depend on traffic to and from Yosemite, so there was a public impact because of the fire. Due to an audit several years ago, they were aware of the current appeal process, but in this current situation they wanted to be proactive rather than wait until taxes are late.

At the conclusion of this agenda item, Supervisor Hunt rejoined the Board at the dais.

ADJOURN: 3:46 p.m.

ATTEST:

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BYNG HUNT  
CHAIR

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LYNDA ROBERTS  
CLERK OF THE BOARD

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