

# COUNTY OF NEVADA

## STATE OF CALIFORNIA

Heidi Hall, 1st District  
Ed Scofield, 2nd District (Vice-Chair)  
Dan Miller, 3rd District  
Wm. "Hank" Weston, 4th District (Chair)  
Richard Anderson, 5th District



## BOARD OF SUPERVISORS

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Julie Patterson Hunter, Clerk of the Board  
Richard A. Haffey, County Executive Officer  
Alison Barratt-Green, County Counsel

## SUMMARY MINUTES - Final

<u>Date</u>	<u>Time</u>	<u>Location</u>
Tuesday, October 11, 2016	9:00 AM	Board Chambers, First Floor Eric Rood Administrative Center 950 Maidu Avenue Nevada City, California

### REGULAR MEETING: 9:00 AM

Rollcall

The following Supervisors present:

Nathan H. Beason, 1st District  
Ed Scofield, 2nd District  
Dan Miller, 3rd District  
Hank Weston, 4th District  
Richard Anderson, 5th District

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### STANDING ORDERS:

Chairman Miller called the meeting to order at 9:00 A.M.

Pledge of Allegiance led by Mr. Jeffrey Thorsby, Administrative Analyst/Privacy and Security Officer.

Corrections and/or deletions to agenda.

ACTION TAKEN: Ms. Julie Patterson Hunter, Clerk of the Board, reported that an Addendum Agenda was posted, adding Agenda Item #22a.

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**SCHEDULED ITEMS: 9:01 A.M.**

1. [SR 16-0857](#) Resolution proclaiming the month of October 2016 as "United Way of Nevada County Campaign Kick-Off Month" in Nevada County. (Ms. Megan Timpany, Executive Director, United Way of Nevada County)

**Adopted.**

Enactment No: RES 16-483

ACTION TAKEN: Ms. Megan Timpany, Executive Director, United Way of Nevada County, reported that United Way of Nevada County's goal is to make sure every person in Nevada County has their needs met. She reviewed United Way's efforts throughout the County. Ms. Timpany thanked County employees for their fund raising efforts and presented the County with a Gold award for the \$13,000 raised in 2015. She thanked Mr. Gregory Paden, Assistant Treasurer-Tax Collector, for chairing the County's committee.

Mr. Paden reviewed the fundraising events planned by the County, including the Book Fair, various department raffles, and their efforts to encourage payroll pledging.

Chairman Miller read the Proclamation into the record and the Board members thanked Ms. Timpany, Mr. Paden, and United Way for their efforts.

**MOTION: Motion made by Supervisor Weston, seconded by Supervisor Scofield, to adopt Resolution 16-483. On a roll call vote the motion passed unanimously.**

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2. [SR 16-0868](#) Certificates of Recognition for Library Card Design Contest 2016 Winners (Ms. Laura Pappani, County Librarian):

Age 10 and Under: Adam Lee, Lake of the Pines

Age 11 to 17: Lauren Darzynkiewicz, Truckee

Adult: Eileen Adele Hale, Grass Valley

Librarian's Choice: Tyson LaPierre, Grass Valley

ACTION TAKEN: Chairman Miller introduced the agenda item and Ms. Laura Pappani, County Librarian, reviewed the staff report and introduced two of the winners of the 2016 Library Card Design Contest who were in the audience. Mr. Adam Lee, age 10 and under category winner, and Ms. Adele Hale, adult category winner, accepted their Certificates and the Board members congratulated them on their efforts. Ms. Pappani agreed to provide the Certificates to the additional winners who were not able to attend the meeting.

**PUBLIC COMMENT: 9:20 A.M.**

ACTION TAKEN: No public comment received.

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**CONSENT CALENDAR:**

Public Health Director: Jill Blake

3. [SR 16-0856](#) Resolution approving the Participating Provider Agreement and Memoranda of Understanding between the County of Nevada and Anthem Blue Cross pertaining to the Public Health Department receiving reimbursement at the established rate(s) for covered services provided to Anthem Blue Cross members and for coordination of services, with the Agreement term commencing from the date of execution by both parties and remaining in effect until terminated pursuant to this Agreement, and authorizing the Chair of the Board of Supervisors to execute the Agreement and Memoranda of Understanding.

**Adopted.**

Enactment No: RES 16-484

Director of Social Services: Mike Dent

4. [SR 16-0843](#) Resolution approving a renewal contract between the County of Nevada and Prevent Child Abuse California (PCA CA) for two (2) AmeriCorps members to provide child welfare improvement activities, in the maximum amount of \$31,740, for the period September 16, 2016 through September 15, 2017, and authorizing the Chair of the Board of Supervisors to execute the contract.

**Adopted.**

Enactment No: RES 16-485

5. [SR 16-0837](#) Resolution approving Amendment 1 to Standard Agreement 16F-5544 between the County of Nevada and the State Department of Community Services and Development (CSD) for 2016 Community Services Block Grant (CSBG) Targeted Initiative Funding (Res. 16-373), increasing the maximum amount from \$17,000 to \$32,078 , extending the expiration date from December 31, 2016 to May 31, 2017, authorizing the Chair of the Board of Supervisors to execute the Amendment, and directing the Auditor-Controller to amend the Health and Human Services Agency-Housing Division's budget for Fiscal Year 2016/17. (4/5 affirmative vote required.)

**Adopted.**

Enactment No: RES 16-486

District Attorney: Clifford Newell

6. [SR 16-0816](#) Resolution accepting Automobile Insurance Fraud Grant funding in the amount of \$25,421 from the California Department of Insurance to investigate and prosecute automobile insurance fraud and economic car theft cases, for use during the period July 1, 2016 through June 30, 2017, and authorizing the District Attorney to execute all necessary contracts, payment requests, agreements and amendments for the purposes of securing these grant funds.

**Adopted.**

Enactment No: RES 16-487

7. [SR 16-0817](#) Resolution accepting Workers' Compensation Insurance Fraud Grant funds in the amount of \$75,049 from the California Department of Insurance to investigate and prosecute workers' compensation insurance fraud, for use during the period July 1, 2016 through June 30, 2017, and authorizing the District Attorney to execute all necessary contracts, payment requests, agreements and amendments for the purposes of securing these grant funds.

**Adopted.**

Enactment No: RES 16-488

Director of Public Works: Steven Castleberry

8. [SR 16-0852](#) Resolution approving Amendment 1 to contract between the County of Nevada and Quincy Engineering, Inc. for the Combie Road Corridor Improvement Project No. 440814 (Res. 15-047), increasing the maximum contract amount by \$72,500 to an amount not to exceed \$651,990, authorizing the Chair of the Board of Supervisors to execute the Amendment, and directing the Auditor-Controller to amend the Fiscal Year 2016/17 Road CIP budget. (4/5 affirmative vote required.) (Dist. 2)

**Adopted.**

Enactment No: RES 16-489

9. [SR 16-0851](#) Resolution awarding and approving a contract between the County of Nevada and Mark Thomas & Company, Inc. for professional engineering services for the La Barr Meadows Road Corridor Safety Improvement Feasibility Analysis, Project No. 440817, in an amount not to exceed \$39,937, for the period October 11, 2016 through December 31, 2017, authorizing the Chair of the Board of Supervisors to execute the contract, and directing the Auditor-Controller to amend the Fiscal Year 2016/17 Road CIP budget. (4/5 affirmative vote required.) (Dist. 3)

**Adopted.**

Enactment No: RES 16-490

10. [SR 16-0860](#) Resolution approving Amendment 4 to the Agreement between the County of Nevada and Paratransit Services for the provision of specialized paratransit services in Western Nevada County (Res. 13-168), increasing the fixed vehicle service hourly rate to \$36.40 and the fixed monthly rate to \$58,569, for the period starting January 1, 2017 through December 31, 2017, and authorizing the Chair of the Board of Supervisors to execute the Amendment. (Transit)

**Adopted.**

Enactment No: RES 16-491

11. [SR 16-0849](#) Resolution accepting the award of Fiscal Year 2015/16 Proposition 1B, California Transit Security Grant Program-California Transit Assistance Fund (CTSGP-CTAF) funding, Grant No. 6861-2 (Res. 15-533), in the amount of \$72,167, for multi-phased bus stop improvements and equipment to improve and enhance transit system safety and security. (Transit)

**Adopted.**

Enactment No: RES 16-492

Human Resources Director: Charlie Wilson

12. [SR 16-0861](#) Resolution amending Authorized Personnel Staffing Resolution 16-240, adopted June 21, 2016, with the total number of FTE remaining unchanged at 785.75, effective October 11, 2016.

**Adopted.**

Enactment No: RES 16-493

Chief Information Officer: Stephen Monaghan

13. [SR 16-0862](#) Resolution approving a contract between the County of Nevada and CivicPLUS, Inc. for design and hosting of the County's public website, in the amount of \$35,925 the first year and \$5,310 per year thereafter, with the term of the contract ending five years following cutover from the County's current website and renewable annually thereafter, authorizing the Chair of the Board to execute the contract, and directing the Auditor-Controller to amend the Fiscal Year 2016/17 Information Systems budget. (4/5 affirmative vote required.)

**Adopted.**

Enactment No: RES 16-494

14. [SR 16-0846](#) Resolution awarding and approving a contract between the County of Nevada and Treehenge Construction, Inc., for the Laura Wilcox Tenant Improvement Project located at 208 Sutton Way, Grass Valley (Res. 16-426), in the amount of \$178,000 plus a contingency of \$17,800, for a total contract amount of \$195,800, authorizing the Chair of the Board of Supervisors to execute the contract, and directing the Auditor-Controller to amend the Fiscal Year 2016/17 Capital Facilities budget. (4/5 affirmative vote required.) (Facilities)  
**Adopted.**

Enactment No: RES 16-495

15. [SR 16-0848](#) Resolution awarding and approving a contract between the County of Nevada and Bill Litchfield Construction, Inc., for the Public Defender/Probation Co-Location Project located at 109 1/2 N. Pine Street, Nevada City (Res. 16-427), in the amount of \$228,678.41 plus a contingency of \$22,867.84, for a total contract amount of \$251,546.25, authorizing the Chair of the Board of Supervisors to execute the contract, and directing the Auditor-Controller to amend the Fiscal Year 2016/17 Capital Facilities budget. (4/5 affirmative vote required.) (Facilities)

**Adopted.**

Enactment No: RES 16-496

Clerk of the Board: Julie Patterson Hunter

16. [SR 16-0872](#) Resolution proclaiming October 16, 2016 as the 21st Annual Truckee River Day in Nevada County.

**Adopted.**

Enactment No: RES 16-497

17. [SR 16-0836](#) Approval of the Nevada County Resource Conservation District's amended Conflict of Interest Code.

**Approved.**

18. [SR 16-0864](#) Acknowledge Supervisor Scofield's acceptance of Ms. Loris Silvera's resignation as District II representative on the Nevada County Historical Landmarks Commission.

**Acknowledged.**

19. [SR 16-0841](#) Appointment of Ms. Stephanie Kreiter as a District V representative to the Mental Health Advisory Board, for an unexpired 3-year term ending June 30, 2018.

**Appointed.**

20. [SR 16-0859](#) Acceptance of Board of Supervisors Summary Minutes for September 13 and 27, 2016.  
**Accepted.**

ACTION TAKEN: Consent: Chairman Miller introduced the consent calendar.

*Approval of the Consent Agenda*

**Adopted.**

**MOTION: Motion made by Supervisor Beason, seconded by Supervisor Anderson, to approve the consent calendar. On a roll call vote, the motion passed unanimously.**

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**DEPARTMENT HEAD MATTERS:**

**Director of Public Works: Steven Castleberry**

21. [SR 16-0847](#) Resolution adopting the Combie Road Improvement Project Initial Study/Mitigated Negative Declaration, approving the proposed Combie Road Improvement Project, and directing the Director of the Nevada County Department of Public Works to file a Notice of Determination with the Nevada County Clerk-Recorder and the California State Clearinghouse within five days from the date of this action. (Dist. II)  
**Adopted.**  
Enactment No: RES 16-498

ACTION TAKEN: Mr. Steven Castleberry, Director of Public Works, introduced Mr. Joshua Pack, Principal Civil Engineer, who provided a PowerPoint presentation, and a general overview of the Environmental Clearance for the Combie Road Improvement Project. He reported that the Project will widen parts of Combie Road, install a traffic signal at Combie and Higgins Road, realign the Higgins Fire Station Access road, create a pedestrian and bicycle path linking with the existing path, relocate underground utilities, as well as a myriad of other improvements. He reviewed the Environmental documentation and California Environmental Quality Act (CEQA) process, and noted that comments from local agencies were reflected in the document. Mr. Pack explained that the Project's expected completion date will be in 2018.

Supervisor Scofield complimented and thanked staff for keeping him and his constituents up-to-date on the process.

Board questioning and discussion ensued.

**MOTION: Motion made by Supervisor Weston, seconded by Supervisor Scofield, to adopt Resolution 16-498. On a roll call vote the motion passed unanimously.**

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**Clerk of the Board: Julie Patterson Hunter**

22. [SR 16-0840](#) Election of one Supervisor and one alternate to the California State Association of Counties (CSAC) Board of Directors for the 2016/17 Association Year, beginning November 29, 2016.  
**Appointed.**

ACTION TAKEN: Chairman Miller introduced the agenda item. Supervisor Scofield and Weston expressed their interest in continuing to serve as member and alternate member to the California Association of Counties (CSAC) Board of Directors for 2016/17.

**MOTION: Motion made by Supervisor Anderson, seconded by Supervisor Beason, to elect Supervisor Scofield, representative and Supervisor Weston, alternate, to the California State Association of Counties (CSAC) Board of Directors for the 2016/17 Association Year, beginning November 29, 2016. On a voice vote the motion passed unanimously.**

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**INDIVIDUAL BOARD MEMBER ITEMS:**

- 22a. [SR 16-0885](#) Letter in Support of Western Sierra Health Clinic's Section 330(e) Service Area Competition Application (HRSA-17-054).

**Sponsors:** Dan Miller, District 3

**Approved.**

ACTION TAKEN: Chairman Miller reviewed his request for a letter in support of Western Sierra Health Clinic's grant application to continue efforts to expand comprehensive care services in the region.

Board questioning and discussion ensued.



**MOTION: Motion made by Supervisor Weston, seconded by Supervisor Scofield, to approve sending the letter. On a roll call vote the motion passed unanimously.**

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**\*CLOSED SESSION:**

[SR 16-0873](#) Pursuant to Government Code Section 54956.9(d)(2), County Counsel is requesting a closed session with the Board of Supervisors to discuss two matters in which there is significant exposure to litigation against the County.

**ACTION TAKEN:** Ms. Alison Barratt-Green, County Counsel, read the title of the closed session into the record and the Board entered into closed session.

Following the closed session, Ms. Barratt-Green reported that nothing occurred in closed session that is required to be reported out by law.

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**SCHEDULED ITEM: 10:00 A.M.**

**23.** [SR 16-0842](#) Public hearing to consider approval of proposed increases in the Nevada County Consolidated Fire District 2016/17 Capital Facilities and Mitigation Fees. The proposed fee increase is based on the Nevada County Consolidated Fire District Capital Improvement Plan and Mitigation Fee Expenditure Plan for Fiscal Year 2016/17 and Nevada County Consolidated Fire District Ordinance No. 16-01.  
Public hearing held.

Resolution adopting Development Impact Mitigation Fees (AB 1600) for the Nevada County Consolidated Fire District pursuant to Nevada County Land Use and Development Code Section L-IX.2.3, effective and operative December 10, 2016, and directing the Clerk of the Board to forward a certified copy of this Resolution to Nevada County Consolidated Fire District.

**Adopted.**

Enactment No: RES 16-499

**ACTION TAKEN:** Chairman Miller introduced the agenda item, and Mr. Brian Foss, Planning Director, reviewed the request for an increase in fees for the Nevada County Consolidated Fire District (NCCFD) 2016/17 Capital Facilities and Mitigation Fees.

Mr. Carlos Villareal, Willdan Financial Services, reported that he wrote the nexus study documenting the fee adjustments, and stated that essentially the existing fees will be consolidated into one County-wide fee. He explained that there will be a surcharge for areas that do not have certified fire hydrants. Mr. John VanGroningen, Finance Manager, NCCFD, reported that the District has not increased their fees for many years, and reported on the importance of changing the fees to be consistent across each jurisdiction.

Supervisor Anderson suggested they review their fees on a more regular basis to keep in line with actual costs.

Board questioning and discussion ensued.

Supervisor Weston asked about separate fee adjustments for the State Responsibility Area's (SRA) new construction requirements for sprinklers. Mr. VanGroningen responded that now there is only one rate for both sprinklers and non-sprinklers. Mr. Weston also asked if they have been in touch with the Contractors' Association. Mr. VanGroningen responded that they have been in contact with the Nevada County Contractors' Association and they did express their opinion that the fee increase was significant.

Supervisor Weston inquired about the study being based on the Consumer Price Index (CPI). Mr. VanGroningen responded that they used the Western States CPI, which was also used by the Fire District in 2012. Supervisor Weston wanted to know how long this study will be in existence and at what point would it be refreshed. Mr. VanGroningen responded that the study will be done every 5 years.

Supervisor Beason asked when was the last time fees were raised. Mr. VanGroningen responded that it was pre-consolidation.

Mr. VanGroningen reported that a public hearing was held, and no concerns were raised. He also informed the Board that constituents will be advised when the CPI increases go into effect.

Chairman Miller opened the public hearing for public comment. There being no public comment, Chairman Miller closed the public comment period.

**MOTION: Motion made by Supervisor Weston, seconded by Supervisor Anderson, to adopt Resolution 16-499. On a roll call vote the motion passed unanimously.**

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**\*ANNOUNCEMENTS:**

Pursuant to Government Code Section 54954.2, Board members and County Executive Officer may make a brief announcement or brief report on his or her activities. Board members and County Executive Officer may also provide a reference to staff or other resources for factual information, request staff to report back to the Board at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

ACTION TAKEN: Updates were provided by Board members.

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**SCHEDULED ITEM: 11:00 A.M.**

24. [SR 16-0844](#) Presentation by Mr. Rem Scherzinger, General Manager, Nevada Irrigation District (NID), regarding the Centennial Reservoir Project.

ACTION TAKEN: (Supervisor Weston absent.) Following a short break, Chairman Miller called the meeting to order.

Mr. Rem Scherzinger, General Manager, Nevada Irrigation District (NID), provided a PowerPoint presentation updating the Board members on the status of the Centennial Reservoir Project and their process moving forward. He reviewed the location of the proposed Reservoir and the suggested location for two new bridges, crossing from Nevada County to Placer County. Mr. Scherzinger highlighted the advantages and disadvantages of the potential bridge locations, and reported on the scoring categories and value index that will be used for the Project selection. He concluded his report and was ready to answer questions.

Board questioning ensued. (Supervisor Weston present.)

Responding to Supervisor Scofield's questions regarding the current crossing at Dog Bar, Mr. Scherzinger explained that if a bridge is not installed at that location after the Reservoir is built, Dog Bar Road on the Placer County side would become a private road and the Dog Bar/Magnolia Roads intersection on the Nevada County side would be elevated with culverts so that there would still be a connection.

Mr. Scherzinger responded to Supervisor Beason's questions regarding recreational opportunities, explaining that Centennial Reservoir is scheduled to be a five-horse power/five-mile per hour lake, so no major motorized watercraft would be allowed; the Reservoir will be tailored for small electric motors and kayaks. There will be opportunities for day use, overnight camping, a marina, etc. He responded to questions regarding fish and fishing, and reviewed the financial feasibility, the cost estimate for the potential crossing, and options for funding.

Supervisor Anderson asked if there would be road signage for bicyclists. Mr. Scherzinger responded that he would add that in to the request for the design of the Project.

Chairman Miller provided an opportunity for public comment. Ms. Carolyn Lasich, District II resident, inquired about the proposed location of the lower crossing. Mr. Scherzinger responded that the difference from the Dog Bar/Magnolia connection was 1,500-2,000 feet. To get to the other side from there, it would approximately be an additional mile. The existing bridge will remain working until the new bridge is complete.

There being no further public comment, Chairman Miller closed the public comment period and returned the questioning back to the Board.

Responding to Chairman Miller's questions, Mr. Scherzinger reviewed the various crossing alternatives. He responded to questions regarding how many people would potentially be displaced, and how many "takings" would need to happen for each bridge option.

The Board thanked Mr. Scherzinger for his presentation.

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Recess for lunch: Meeting recessed at 11:29 A.M.

**AFTERNOON SESSION****SCHEDULED ITEM: 1:30 P.M.**

**25a.** [SR 16-0854](#) Public hearing to consider the following matters:

The Planning Commission's recommendation to the Board of Supervisors to approve a proposed Zoning District Map amendment for property located at 11773 Slow Poke Lane, Grass Valley (APN 09-320-25), rezoning the subject property from Light Industrial with a Site Performance combining district (M1-SP) to Light Industrial (M1) (Z16-001), and repealing Ordinance 1101 which implemented the SP zoning on the site. The Planning Commission reviewed the proposed project on July 28, 2016, recommended approval of the Rezone on a 5-0 vote, and adopted a Mitigated Negative Declaration for the project (EIS15-019) on a 4-1 vote. (Dist. III)  
Public hearing held.

(Introduce/Waive further reading/Adopt) An Ordinance repealing Ordinance 1101 and amending Zoning District Map 052b to rezone 2.98 acres located at 11773 Slow Poke Lane (APN 09-320-25), from Light Industrial with the Site Performance Combining District (M1-SP) to Light Industrial (M1) (Z16-001) (Raymond W. Byers, Trustee).

**Adopted.**

Enactment No: ORD-2421

**ACTION TAKEN:** (Supervisor Weston absent) Chairman Miller called the meeting to order, introduced the agenda items, and reviewed the process the Board would follow during the public hearing and appeal.

Mr. Brian Foss, Planning Director introduced Ms. Jessica Hankins, Senior Planner. Ms. Hankins reviewed the staff report and provided a PowerPoint presentation regarding the Byers Warehouse Project and appeal of the Planning Commission's approval of the Project for property located at 11773 Slow Poke Lane, Grass Valley. Ms. Hankins provided background information regarding the contractor's equipment and storage yard, currently owned and operated by Mr. Byers, as well as some history regarding the site's current zoning. She reviewed the Site Plan for the proposed Development Permit, and explained that Byers is a home improvement service company that provides land clearing services, gutter installation and removal services, as well as other home improvement services, and employees approximately 15 to 25 employees who work at the site.

Ms. Hankins showed the proposed warehouse and reviewed the proposed changes to the site. She reported on the Zoning Map Amendment proposed as part of the Project, noting that the Plan could not move forward without approval of the Zoning Amendment. The Zoning Amendment would change the floodplain setback and would remove the current requirement that any project be connected to public water. The proposed uses are consistent with the current M1 zoning, and the Initial Study was circulated through the State Clearinghouse and no comments were received regarding the rezoning.

Ms. Hankins reported that on July 28, 2016 the Planning Commission voted to approve the Project. Subsequent to the decision, an appeal was filed by neighboring property owners, Mr. James Powell and Ms. Carolyn Fuller Powell. Two primary issues were raised by the Appellants, including the road width and offsite parking, alleging that the road is too narrow to allow regular and emergency traffic to pass. Additionally, the appeal suggests that the creek crossing be widened to prevent debris build-up and flooding. Ms. Hankins reported that the appeal also argues that Mr. Byers and his employees use the Empire Mine State Park lands west of Slow Poke Road for employee vehicle parking, and requests that all parking occur onsite. Responding to the appeal, staff completed an analysis of the Appellant's claims, and believes that Mr. Byers has already widened the property as much as possible within the constraints of existing easements; obtaining of additional easement width is not possible as Mr. Byers is not able to get an agreement from the property owners. The Warehouse Project will clean up the materials stored onsite. Staff contends that widening of the creek crossing is a civil issue that should be addressed by all of the easement holders. Ms. Hankins noted that Mr. Byers does maintain that during the winter months in order to provide access to his own property. Widening the culvert would also result in additional environmental impacts due to construction work that would be required within a riparian zone. As far as offsite parking, employee vehicles do park on State Park property; Mr. Byers has indicated that the vehicles are parked there for the convenience of his employees. Staff stressed that the County's role is to ensure standards are met. Staff's review showed that the warehouse plan meets County parking standards, which is for 30 spaces, and additional overflow parking is provided as well. Since the appeal was filed, Mr. Byers met with State Parks and he has indicated to staff that State Parks is fine with employees parking on their land, as long as they leave enough parking reserved for their vehicles and a few of the spaces re-vegetated that are closer to the creek.

Ms. Hankins noted that staff does not recommend any changes to the original approval. For the record before making recommendations, she noted that the Initial Study includes some incorrect information, which states that the Project is served by Nevada Irrigation District (NID), which is not the case. The Project is served by a private well, so staff wishes to correct that for the record, which has no impacts to the document. She concluded her presentation, recommending the Board adopt the Ordinance rezoning the property, and adopt the Resolution denying the appeal.

Chair Miller thanked Ms. Hankins for her presentation, and provided an opportunity for the Project Proponent to provide a presentation.

Mr. Rob Wood, AICP, SCO Planning and Engineering, Project Proponent, provided a PowerPoint presentation with a brief history of the Byers company and reviewed the proposed Project. He reported that they met with the State Department of Parks and Recreation regarding re-vegetation of some of the Empire Mine parking spaces, vegetation maintenance and parking signs. He provided a Summary of the Project, which proposes to clean up the existing outdoor storage areas, meet the needs of the local business, improve the existing site, improve road access, circulation and parking onsite, and improve water quality.

Board questioning ensued.

- 25b.** [SR 16-0874](#) Consideration of the appeal filed by James Powell and Carol Fuller Powell from the decision of the Nevada County Planning Commission approving a Development Permit (DP15-005), Map Amendment (AM14-001), Management Plans (MGT15-020 and MGT16-001), and Petition for Exception to road standards (MI15-020) for the subject property.  
Appeal heard.

Resolution denying the appeal filed by James Powell and Carol Fuller Powell ("Appellants") regarding the Planning Commission's July 28, 2016 approval of the Byers Warehouse Project ("Project") consisting of the adoption of a Mitigated Negative Declaration (EIS16-019) and approval of a Subdivision Map Amendment (AM14-001), Development Permit (DP15-006), Biological Management Plan (MGT15-020), Floodplain Management Plan (MGT16-001), and Petition for Exceptions to Road Standards (M115-020) for the Byers Warehouse Project on property located at 11773 Slow Poke Lane, Grass Valley (APN 09-320-25), and sustaining the Planning Commission's said actions on the Project.

**Adopted as amended.**

Enactment No: RES 16-500

**ACTION TAKEN:** Ms. Carolyn Fuller Powell, Appellant, commended Mr. Byers for having a successful business in Nevada County. She shared her concerns regarding the increased traffic, activity, and ongoing parking issues. Ms. Fuller Powell expected to have a conversation regarding the road access and parking problems when the Project was proposed, believing it was a good opportunity to improve the situation. She stressed that the proposed Project is next to their home, where they provide for six Nevada County foster children. They are in the process of refinancing, and explained that their property values are lowered due to the parking issues. She also had concerns regarding the potential fire hazards and their ability to get in and out of the property in the case of fire. Ms. Fuller Powell requested Byers employees park on Byers property, not the State Parks property or other places on the road.

Mr. James Powell, Appellant, objected to the proposed Project, believing it benefits only one of the parcels along a road that is comprised of four parcels. He described his home and his property, which lines up along side of Empire Mine State Mine Park property. The Mine property is highly timbered, with lots of brush, pine needles, and fire fuel. He has requested State Parks take some action to clean up the fire fuel, due to the severe fire danger. While they have agreed to do what they can within their limited budget, but to date he has seen nothing done. Mr. Powell reiterated that he is very concerned about the fire safety in the area. He noted his concerns regarding the parking issues, and road access, especially during an emergency, believing the road width needs to be increased to allow 2 cars to pass at the same time.

Mr. Powell referred to pages in the staff report regarding requirements for a public water supply, fire hazards, and road width. He asked for clarification of the access to water for the fire emergency crews in the case of a fire.

Mr. Powell mentioned that during the Planning Commission meeting, Mr. Byers testified that he owned the property on both sides of the road. Mr. Powell believed that with the information presented by the Planning Department, it is clear that Mr. Byers does not own the property on both sides of the road. He alleged that an agreement has not been made between the Byers and State Parks regarding the parking issues. He reviewed the rules and regulations of California State Parks regarding vegetation and wildlife, which are protected by State law, suggesting that the cars parking on the property should remain on designated roadways, and be parked only in designated parking areas. Mr. Powell stressed that this is not a designated parking area, and there is no other place for them to park unless they park on the Byers property. He believes parking on the Empire Mine parking lot is against the State Parks regulations, and onsite parking is more convenient for employees and should be provided. The neighbors are hurt significantly, creating fire danger and lowering property values. Their property values have lowered; alleging that this is because the need to pass all of the cars driving into his property. He referred to the parked cars as a "junkyard." Mr. Powell concluded the Appellants presentation.



Board questioning ensued.

Supervisor Beason wondered if the Powells had asked the State Park representatives why they were not enforcing the State Parks rules. Ms. Fuller Powell responded that she had called and talked to the State Parks representatives, who suggested that State Parks wanted the cars off of the property, but they have not made this issue a priority. However, they understood the parking problem.

Mr. Powell asked for clarification of the County requirement of 30 parking sites on the property; he wondered if this the same no matter how many people are working at the business.

Discussion ensued regarding dead end road standards. Supervisor Beason explained that if a property is a certain distance on a dead-end road, depending on parcel size, there is a distance by which they do not have to have secondary egress. Mr. Foss added that is why there is no secondary access requirement on the Project, because the parcel is located within the dead-end road standard.

Board questioning ensued.

Supervisor Anderson asked if the road was wide enough for fire equipment to access. Mr. Matt Furtado, Fire Protection Planner, responded that it is not ideal; the County standard requires a 50' easement, with room for 2 cars to easily pass. There are many pre-existing conditions on properties in Nevada County that make it difficult to meet the current County standards, although turnouts are proposed as part of the Project, allowing emergency vehicles to pass. He believed the issue was mitigated.

Supervisor Beason reported that the Board approved an Ordinance a few years back allowing turnouts to be installed instead of a secondary access on dead-end roads for certain types of residential construction. He suggested that this Project meets the same practical effect. Mr. Furtado agreed that this was their intention, to mitigate it using the same practical effect. If it were a new Project, there would be a new road per the County standard.

Supervisor Weston asked questions regarding the proposed turnouts and water storage. Mr. Furtado responded with information regarding the turnouts and provided information about increased water storage that will be added as part of the Project. Supervisor Anderson wondered if that increased water storage could be used to fight a fire on a neighboring property, such as the Powells. Mr. Furtado replied, yes.

Board questioning and discussion ensued.

Ms. Fuller Powell was pleased about the turnouts, but stressed the ongoing issues regarding the large Byers trucks traversing the road and difficulties in pulling over onto the side of the road. She asked if there was any way for the road to be widened. Ms. Hankins responded that the Project Proponent did request additional easement from the property owner, to no avail; she was not clear if there had been any monetary offering.

Chairman Miller opened the public hearing for public comment. There being none, Chairman Miller closed the public comment period and provided an opportunity for the Project Proponent to provide a Summation.

The Project Proponent, Mr. Rob Wood, representing Byers Enterprises, believed many of the issues were remedied by the Project mitigations. Currently, there is limited parking and with the improvements of the Project they will have a number of parking spaces on the site. He stressed that the fire danger is improved by the Project, due to the increased water storage. He also believed it was important to note that the road is currently maintained 100% at Byers expense. Mr. Byers never intentionally reported that they owned both sides of the property. Two to three feet from the pavement is owned by Byers; the rest is owned by State Parks. He reiterated that they have contacted State Parks. Currently, State Parks is allowing them to park there; he stressed that they should continue as approved and that it is not a good idea to fence off that area. He indicated that they will continue to maintain the vegetation in the area, and concluded his Summation.

Chairman Miller provided the Appellant with an opportunity to provide their Summation.

Ms. Fuller Powell appreciated the new information, and looked forward to seeing the parking improved and the esthetics of the area improved for all of the residents; she wanted to clarify that they merely want to drive to their house without feeling that they are driving through a junkyard. She did appreciate all of the improvements, in particular the turnouts, and she hoped that they would be able to accommodate the traffic. Mr. Powell wanted to clarify the Parks Department position on the parking. The Powells were told it is not allowed; Mr. Byers alleges that they met and have their approval. He asked the Board to contact Ranger Green at Empire Mine regarding the parking and concluded the Appellants Summation.

Supervisor Beason suggested the Powells and Mr. Byers work together to urge the Park to maintain the hazardous vegetation on their property to enhance the fire safety. The Board cannot tell Parks and Recreation who can or cannot park on their property. He suggested they investigate the potential for an easement for a turnout, suggesting that they pay for it.

Supervisor Scofield believed the 'junkyard' did not belong to Byers; the Project is a cleanup Project and has advantages that will make the area nicer. He noted that all property values have

lowered since 2005, not just the Powell's property. He also believed that the additional water storage was a positive step forward.

Supervisor Anderson referred to page 130 in the staff report regarding the mitigation measures; he wanted to ensure that the mitigations Measures 9a, b, and c were not deleted from the approval of the Project. Mr. Foss responded that the measures were approved by the Planning Commission.

Supervisor Weston questioned if this was a Use Permit hearing. Ms. Hankins clarified that it is a Zoning Map Amendment hearing and an appeal hearing. Supervisor Weston assumed that if Byers wanted to enlarge their business they would have to return to the Planning Commission for approval. Mr. Foss clarified that they would have to for increasing or adding to the structures, but not necessarily for providing additional services. Supervisor Weston asked about the item in the report regarding the first leach field that went bad and a second one was put in. He asked if there is an area for recovery if that happens again. Mr. Wood did not believe the first one went bad; actually, it was under a parking area, so it had a diversion valve. When the new one was approved there was a diversion valve installed in order to go back and forth between the two systems. Since it is a parking area, Environmental Health does not want the diversion valve to go back to the second area. He explained that the primary area is up the hill and he believed it had an associated area below that for a repair area if needed in the future. Supervisor Weston pointed out that on page 141 of the staff report, it states that the Project must be totally fenced, which was an original condition. Mr. Wood believed that at one time it was, because it was a smaller area that was being utilized. When first approved in 1984, that area was fenced and they have since expanded beyond that fence to the east. The only portion that needs to be fenced is on the east and west sides. Supervisor Weston stressed that that needed to be fixed. Mr. Foss stated that the intention is for the Project to be fenced.

Supervisor Weston commented on the State Parks agreement regarding parking, explaining that the County has no jurisdiction over parking on State property. It is between the Parks and Byers. He suggested that they get the agreement in writing.

Mr. Ray Byers, Project owner, did not realize that a fence was required all of the way around the property, he thought it was next to the creek only. If it is required all around the property and abutts a neighboring property, how does that work? Does the neighboring property owner have to share in the cost, or is it his responsibility? Supervisor Beason believed that if it is part of the Project approval, it is up to the owner.

Mr. Wood would like to stick to the current fencing; he did not believe a fence would add security on the steep side of the slope. He suggested they follow the biologist's recommendation, amending the fencing requirement along the riparian area to protect that area

as well as the creek. Supervisor Weston visited the area and felt that certain fencing was appropriate to screen the view of the site yard. He suggested the property owners work it out together.

Board discussion ensued.

Mr. Foss suggested they could work with the client to make sure there is adequate fencing for screening and security. If steep slopes or vegetation negate the need for fencing, then staff could work to make amendments to the Project, although it would require them to return later with the proposed conditions. With the Board's concurrence, staff will work with Byers regarding the fencing requirement. Supervisor Weston suggested they fence in the new water storage tank.

Supervisor Weston requested they look closely at parking on either side of the road, which makes it difficult for a fire truck to make a sharp left turn to get in to the properties along the road. Mr. Wood stated that they have been in touch with the fire department regarding the turn-outs they suggested for fire truck access. Supervisors Weston and Beason suggested adding a condition to add No Parking signs at both of the emergency turnouts. Mr. Foss concurred and stated that the Planning Department will recommend adding language to Condition D7 to indicate that per the Board direction No Parking signs will be required for the turnouts.

Supervisor Beason suggested the Powells call County Code Compliance regarding the "junkyard" on the road, and further suggested the parties work together with the State Parks regarding the parking issue.

Chairman Miller read the title of the Ordinance into the record.

**MOTION: Motion made by Supervisor Beason, seconded by Supervisor Weston, to adopt Ordinance 2421. On a roll call vote the motion passed unanimously.**

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**MOTION: Motion made by Supervisor Scofield, seconded by Supervisor Weston, to adopt, as amended, Resolution 16-500, denying the appeal but amending the Condition of approval D.7. to add language indicating the turnouts shall have signage indicating "No Parking." On a roll call vote the motion passed unanimously.**

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**ADJOURNMENT:**

ACTION TAKEN: Meeting adjourned at 3:17 p.m.

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**Signature and Attestation**

**Dan Miller, Chairman**

**ATTEST:**

**By:**

**Lelia Loomis, Deputy Clerk to the Board**