

Storey County Planning Commission

Doug Walling, *Chairman*
Bret Tyler, *Vice-Chairman*

Virgil Bucchianeri ~ Lydia Hammack ~ John Herrington ~ Larry Prater

Minutes of 03 March 2011

MEMBERS PRESENT:

Virgil Bucchianeri, Lydia Hammack, John Herrington, Bret Tyler, and Doug Walling.

MEMBERS ABSENT: Larry Prater

OTHERS PRESENT:

Senior Planner Austin Osborne, Community Development Director Dean Haymore, Commissioner Bill Sjovangen, District Attorney Bill Maddox, Sergeant Jeff Bowers and Deputy Eric Kern

CALL TO ORDER:

With a quorum present, Chairman Doug Walling called the meeting to order at the Virginia City Highlands Fire Station at 6:02 P.M.

Pledge of Allegiance

APPROVAL OF AGENDA FOR March 3, 2011

Motion: Approval of Agenda, **Action:** Approve, **Moved** by Lydia Hammack, **Seconded** by Bret Tyler.

Vote: Motion carried by unanimous roll call vote (summary: Yes 4).

APPROVAL OF MINUTES FOR February 3, 2011

Motion: Approval of Minutes, **Action:** Approve, **Moved** by Lydia Hammack, **Seconded** by John Herrington

Vote: Motion carried by roll call vote (summary: Yes 4).

2011-011 SPECIAL USE PERMIT: By Sewell/Dohoney/Lynch (Gold Hill Divide)

Request for Special Use Permit to construct a radio controlled (RC) car race track in a horse corral located at 825 South "D" Street (APN 001-044-10 and 001-044-11), Virginia City.

John Dohoney spoke as one of the applicants. He was a key member in bringing Radio Control Races to Mira Loma Park. He commented on the staff report with the recommendation of denial because of the location. He felt that he had enough land to be able to accommodate the parking and didn't feel that noise should be a problem. He just believed that this would be good for Virginia City and tourism.

Chairman Walling asked about the parking and how it would be done. Mr. Dohoney replied that there would be no parking on the asphalt roads around the property. He had enough property to accommodate the parking and that "E" Street is not paved and could be used.

Chairman Walling then asked about the size of the area to be used for the race cars. Mr. Dohoney replied that it used to be a corral for horses and is 25,000 square feet.

Vice-Chairman Tyler asked about noise from the cars. Mr. Dohoney replied that the noise would be only during the operating hours and about 84 decibels. There would also be a PA system and that could be controlled. Each race is only about seven (7) minutes long. The hours of operation would be 9 till 5:30. Noise would only be heard for two hours during operating hours.

Senior Planner Osborne commented that there were some serious concerns because of this project being in a residential area. The owners of the hotel had no problems with the project. Senior Planner Osborne has spoken with the applicant on several occasions and feels that this is a great idea but a bad location. Senior Planner Osborne would like to work with the applicant and Community Services, VVCTA and other land owners in Virginia City to find a more suitable location. Senior Planner Osborne felt that it was not consistent with R1 and R2 residential zoning. Additionally, Senior Planner Osborne stated that the Storey County Fire Department and Emergency Management Department expressed concerns with parking, ingress/egress, and staging area for fire/emergency equipment and personnel. Senior Planner Osborne also stated that noise

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associated with this type of operation generate dust, large crowds, and 140 decibels of noise. He pointed further that the undeveloped right-of-way and other adjacent roadways are unable to accommodate vehicular parking.

Ron Carrete asked about the size of the cars and the frequency of operation. Mr. Dohoney replied that the races would be twice a month for a period of six months out of the year. He showed two of vehicles that would be used in the race. It was approximately 12” wide, 24” long, and 8” tall.

Leo Clewell commented that he felt that Senior Planner Osborne had covered the project and all concerns very well in the staff report.

Carlin McCorlin asked if the county would attempt to find a new location for the project. Senior Planner Osborne replied that the county team, including the Community Services Director, would do its best to find a viable location for the project. He continued that costs (ownership, leases, rent, fees, etc.) would be at the discretion of the property owner(s) on which the project may take place.

Planning Commissioner Bucchianeri asked what response had been received from the neighbors. Senior Planner Osborne said that each neighbor was called by telephone and notice by mail. Each was receptive of the idea but did not like the residential location. They cited noise, parking, dust, and vehicles on the roadways. The Virginia City Motel owner (across the street) did not express concern about either.

Planning Commissioner Herington commented on a Saturday only operations. Senior Planner Osborne said that the impacts would be too much for the location.

Jackie Marshall asked how many people would be involved. Mr. Dohoney replied that there would be 200 people with cars racing and that there would be spectators.

Senior Planner Osborne showed a 30 second YouTube video of a car race to demonstrate what the operation looks like. He stated that the purpose of the video was to show the scope of the operation as well as what “nitro” RC Cars look like in action. Osborne stated that the applicant was informed days before the meeting that the video would be shown and had no issues with the demonstration.

Planning Commissioner Hammack asked if it was necessary for the applicant to come back for another SUP at a different location if the fees could be waived. Senior Planner Osborne said that could be taken into consideration at the time.

Osborne stated lastly that he would be happy to brief the Planning Commissioners in the future on any progress achieved in finding a viable location for the operation to take place.

Motion: Denial of the Special Use Permit application with a recommendation that the Planning Staff work with applicant to find another location more suitable. **Action:** Approve, **Moved** by Bret Tyler, **Seconded** by Lydia Hammack

Vote: Motion carried by roll call vote (summary: Yes =4).

2011-010 SPECIAL USE PERMIT: By Taormina, Thomas (Highland Ranches)

Request for Special Use Permit to maintain existing amateur ham radio antenna towers and to install two additional amateur ham radio antenna towers, all of which will exceed the 45 foot height limitation established by Title 17 of the County Code. Project is located at 370 Panamint Road (APN 003431-18), Highland Ranches.

Planning Commission Hammack said that she had talked to the Storey County District Attorney as there is a perceived conflict of interest and therefore she has been advised to abstain from comment and voting. She was present at the meeting but did not engage in any discussion or vote on the matter applicable hereto.

Applicant Tom Taormina gave the following introduction:

On a sign posted on the community mailboxes by a member of the public he discovered that he had a new name “Tower Tyrant”. Mr. Taormina showed a copy of the flier someone posted. He continued with a line from General George S. Patton to set the tone for his presentation:

“I thought I would stand up here and let people you see, if I am as big of S.O.B as some of you think I am. After four years of searching, according to Mr. Taormina he and his wife discovered Northern Nevada and, in particular, Highland Ranches as the place to spend the rest of their lives. The deciding factor came from the interviews with neighbors who stated they were also drawn to the area because of the community culture of live and let live.

Mr. Taormina’s presentation continued for approximately twenty minutes. In that time, he provided the planning commissioners and the public background of amateur “ham” radio projects across the nation and world, discussed the benefits of ham radio to emergency communications, and added that this project while not the only reason for development, has become an integral component of the Local [Storey County] Emergency Management program. He also shared his experiences as a ham radio operator and added that the hobby includes a wide variety of interests, including the air communications, experimentation, and emergency services.

Mr. Taormina’s presentation also focused on background with regard to the Highland Ranches CC&R’s and his experiences with the Storey County Building Department. He stated that the CC&R’s contained no prohibitions of ham radio towers. He

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stated that over the years he had visited the Building Department in Virginia City and was told that there were no ordinances prohibiting ham radio towers and that, on a 10-acre parcel, we would not even need a building permit.

Mr. Taormina included in his discussion of background that he and his wife purchased their home in 1997 and had erected the first radio tower at 70' in October of that year. For the next year, they experimented with various antenna designs to validate that they had found a good location for high frequency ham communications. From 1998 to 2008, he continued that they erected towers with heights ranging from 35' to 140' above grade. During that period, according to Mr. Taormina, then Sheriff Pat Whitten approached them about forming a network of volunteer ham radio operators for the County to help the police and fire departments during emergencies. Some official appointments are as the County Radio Officer for the Amateur Radio Emergency Service (ARES), and for The Radio Amateur Civil Emergency Service (RACES)- which is part of Homeland Security. There is also ongoing training on emergency procedures through the County and through the ARRL, the national organization of ham radio. He stated that the emergency network has not had to be activated in the last decade, other than in drills.

He continued stating that his radio facility in connection with membership in the Local Emergency Management Committee and close working relationship with key local emergency management officials was a benefit to the county. He stated that he had plans to install a repeater antenna on the tallest tower that would provide communications for Northern and Southern Storey County. Thus far, he stated, installation of the device has been impossible.

His presentation covered pertinent information related to ham radio licensing by the Federal Communications Commission (FCC) and operation thereof within different frequencies, such as UHF and microwave. He discussed the need for various height and size antennas as they related to different frequencies and communication distances. His focus was on being able to communicate with the county, region, state, and the world.

He continued in discussion about federal law as it pertains to amateur radio. He said that amateur radio is, "Recognition and enhancement of the value of the amateur service to the public as a voluntary noncommercial communication service, particularly with respect to providing emergency communications. We want to be ready when our communities need us". He reiterated that amateur radio is a key component to local emergency communications.

He then turned his discussion to experiences with the Building Department over the years. He stated that Planning Director Dean Haymore, County Manager Pat Whitten, Sheriff Jim Miller, and Fire Chief Gary Hames have been aware of the antenna construction on Mr. Taormina's property. He said that Dean Haymore stated several times that a building permit was not needed for the towers. In May of 2008, Mr. Taormina planned to install 120' and 195' monopole antennas, purchased the devices, had Larry Prater [who did not attend this planning commission meeting] and another (PE) engineer wet stamp plans related thereto, and have sent to the Building Department. Dean, according to Mr. Taormina, stated again that the building permit was not needed.

The applicant continued that in 1999 a county ordinance existed restricting ham radio towers and that he was told again by the Building Department that no building permits were required. Mr. Taormina's discussion on this issue was to show that he was not attempting to "float" the law and that he did everything in his power to follow the correct local and state procedure for installing the towers. He continued that in 2008 he received a call from Dean Haymore informing him about the calls his office received about the new towers. He suggested that a building permit would be required. Then, a building permit was granted for the two new structures. He then said the Dean Haymore called again stating that a variance or special use permit may be needed.

Mr. Taormina continued that Deputy District Attorney Laura Grant stated that prior action by the Building Department waived the 45' limitation, but that she directed Dean Haymore to issue a Stop Work Order until the variance or special use permit was approved. In 2008, the Stop Work Order was issued for the entire project and he was ordered to apply for the special use permit. A copy of Deputy District Attorney Grant's opinion letter was supplied and shared with the applicant's attorney Fred Hopengarten. The presentation continued focusing on communications and miscommunications that took place between the DA's Office, the Building Department, and the applicant, similarly to that discussed above.

Mr. Taormina's presentation then focused on his suit against the county in Federal District Court. There was considerable discussion related to federal preemption of local ordinances and legal precedents. He summarized the ruling of the Federal Court in that he, the applicant, had not exhausted the local special use permit process and that the county had, thus far, neither approved nor denied the towers. The applicant was directed by the Court to exhaust the local special use permit process.

The applicant cited that SCC 17.62.010 which states, "Certain uses may be permitted by the board of County Commissioners in zones in which they are not permitted by this ordinance when such uses are deemed essential or desirable for public convenience or welfare" in his argument that this is the only item to be considered at the meeting. He discussed further that the special use permit application and its supporting exhibits contain specific objectives supporting the application. He stated also that the materials contained examples where other towers such as windmills may be over the 45' height limitation. He said none of these other supports enjoys the protection of federal and state preemption. With no wording in 17.62.010 to allow consideration of subjective opinions by neighbors as to aesthetics or home values, the SUP applications being submitted for consideration by the Planning Commission and the County Commissioners

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He stated that he attended a County Commission meeting and a Planning Commission meeting to become familiar with how those meetings are conducted, and expressed that he was encouraged by the objective conduct and professionalism both Commissions exhibited.

The applicant's presentation then focused on Senior Planner Austin Osborne's staff report to the Planning Commission. He pointed to elements thereof stating that Senior Planner Osborne has carefully researched all ordinances and applicable laws and has made conclusions and recommendations that are in the best interest of Storey County and all of its residents. He stated that the Building Department finds that the visual impact of the structures is conforming. Senior Planner Osborne concludes by recommending approval of the special use permit within certain guidelines and conditions. Mr. Taormina expressed his opinion that the application meets the requirement that the proposed use is necessary or desirable for the public welfare.

The applicant's attorney Fred Hopengarten, Attorney at Law Lincoln, MA (he stated that he may represent the applicant in the State of Nevada this time as the topic involves federal jurisdiction) said that per Federal Court Ruling that this meeting was to consider county code 17.62.10 only. He said that some of the comments received contain erroneous information. He also stated that there will be no lighting of these towers as they are below FAA minimum height for lighting. He stated that setbacks apply to structures over 6' in height and that the guywires would not apply.

Mr. Hopengarten stated that the Federal Court is requiring some kind of "reasonable accommodation" for Mr. Taormina and the towers.

Following the attorney's discussion, Senior Planner Austin Osborne summarized and provided discussion on the 1985 federal ruling of PRB-1, case law, and the local code. He stated that what Mr. Hopengarten said in this regard is true. The federal court under *Taormina v. Storey County* ruled that SCC 17.62.010 does apply and therefore Mr. Taormina does need to apply for a Special Use Permit for his towers above 45'. Senior Planner Osborne discussed the Court's analysis of SCC 17.12.044 as to how the code would apply to "towers" over "45 feet" in height. The Court interpreted the literal text meaning from the Code that "buildings" over 35' require a special use permit and that "towers" above 45', as literally written, shall not be permitted. However, the Court stated further that towers may be seen as buildings or structures and thus those exceeding 35' would be allowed with a special use permit. Furthermore, SCC 17.62.044 states that certain uses may be permitted by the Board of Storey County Commissioners in zones in which they are not permitted by this title or where such uses are deemed essential or desirable for the public convenience or welfare. Thus, the Court ruled, a special use permit for towers may be applied for regardless of whether or not 17.12.044 applies thereto. Most importantly, in this case as it applies to federal preemption, the county code does not outright prohibit radio communications towers over 45' in height.

Senior Planner Osborne continued by summarizing several past court rulings pertaining to local ordinances regulating height of amateur radio antenna towers. He stated that federal ruling under *Howard v. Burlingame, California*; *Snook v. City of Missouri, Texas*; and the Federal Communications Commission in the 1985 FCC PRB-1 require that the ham radio antenna applicant and the local jurisdiction (county) work to arrive at a reasonable agreement through negotiations on what will be appropriate for both. Accordingly, the local jurisdiction and the amateur radio applicant must engage in reasonable negotiations in order to arrive at a "reasonable accommodation" to allow the amateur radio operator to operate in mid-range communications, such as the county, adjacent cities, and states, and long range communications such as those with all parts of the country and world.

Senior Planner Osborne continued that "Reasonable accommodation" means that the applicant and the county are willing to work together during the application and public process to protect the amateur radio operation, the county code, and the citizens. The applicant has shown that he is willing to work with staff and that is the reason for two possible motions in the staff report.

Senior Planner Osborne stated that in the case applicable hereto, staff is proposing two possible motions to the planning commission: (1) to permit all existing towers on the premises and not allow more towers; or (2) to permit the two additional monopole structures proposed but require removal of two existing towers at the determination of the board. Staff may also support a third option motioned by the Planning Commission as long as the motion provides "reasonable accommodation" in accordance with federal law and is aligned with the findings brought forth by county staff.

Planning Commissioner John Herrington asked about maintaining the health, safety and viewshed for those who live around the applicant's property and if that was considered part of the "reasonable accommodation." Is that one of the considerations that is before us now? Senior Planner Osborne replied that condition number 17 in the staff report (regulations related to electromagnetic interference) had been removed as the regulation is totally within the jurisdiction of the federal government, particularly the FCC. He continued that health considerations would have to be proved and that proof thereof would need to be provided to the FCC as a complaint. Also, since the towers are PE engineered, wet stamped, and will be approved by the Building Department only if they are satisfactory to the adopted code, safety related to falling towers is not an issue that we can consider at tonight's meeting. Planning Commissioner Herrington asked if factual finding had been done by a mutual party to discover if a 90' tower would suffice for what the applicant wanted to do and what would be considered reasonable. Senior Planner Osborne replied that the county does not have staff that specializes in amateur radio communications; however, he stated that he and staff had researched the issues thoroughly based on available resources and found that both

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possible recommendations for special use permit approval would satisfy the applicant's need to effectively communicate in all geographical locations— east, west, south, and north— locally, regionally, nation-wide, and world-wide.

Chairman Doug Walling stated that "reasonable accommodation" was already in place by the county because the applicant is pursuing an active hobby and we have never shut him down. Senior Planner Osborne asked Chairman Walling if he meant that the existing facility, as is, would be considered reasonable accommodation. Chairman Walling replied that yes, we have already accommodated him. Community Development Director Dean Haymore said that the county had been accommodating and that this is why staff is recommending that the tower facility should remain as it is now.

Going back to "reasonable accommodations," Senior Planner Osborne stated that the applicant has stated verbally and included in his submitted application that his existing facility allows communications in all directions north, south, east, and west – and that he regularly communicates across the globe. He continued that the new monopole structures of 120' and 195' would allow faster communications for emergency related activities such as ham radio competitions. All of this should be taken into consideration at this evening's meeting.

Planning Commissioner Virgil Bucchianeri asked if the proposal was for two monopoles and the removal of two existing poles. He asked if it is going to look any worse than it does now.

Vice-Chairman Bret Tyler said he would have a hard time making a decision without being able to see what the monopoles would look like aesthetically without an illustrated visual. Director Haymore replied that there is a presentation that is here tonight that provides a visual for the new style poles and Senior Planner Osborne did send those to you.

The applicant's attorney Mr. Hopengarten explained that the monopoles were 20" in diameter at the base and 10" in diameter at the top whereas the existing lattice framework are either 12" and 18" from bottom to top, thus the new poles will be smaller at the top.

Mike Fortin, Highland Road, showed the planning commissioners and audience some photos on Power Point slides (available at the Community Development Department, Planning Division office) that had been taken and doctored to show the new towers and what they would look like.

Mr. Hopengarten interjected that health and interference [electromagnetic] are controlled by the FCC, Safety by building codes, and aesthetics plus all other normal considerations by 17.10.18. The court was quite specific that the ordinance in front of you is 17.62.10 and only 17.62.10.

Planning Commissioner Herrington asked if it would be considered accommodating to have only two towers at the 95' height rather than the 4 or 5 structures. Senior Planner Osborne said that perhaps the applicant would want to talk on this if there were the motion to allow only a portion of his facility. Which towers would exist and which ones wouldn't depending on some kind of analysis by a professional. He would want to ask the director if the county would be responsible to hire a consultant in this regard. The applicant has expressed that the current operations do provide for medium and long range communications.

Director Haymore commented that he addressed this 3 or 4 years ago and has 3 to 4 inches of documents relating to the tower issue and eliminating some of the antennas. There are a lot of reasons why everything could not be put on one tower and he is not an expert in this area.

Mr. Hopengarten claimed that the FCC has said that the ham operators should have the communications he desires to engage in. A lot of litigation has taken place because folks couldn't work things out. A reasonable motion, he stated, would be to accept and authorize staff to negotiate the details at a higher level.

District Attorney Bill Maddox commented that he would have to agree with Mr. Hopengarten. This is not an easy concept for the public grasp, especially since some of you want the Planning Commission to deny this and some of you out there are inclined to go along with the staff recommendations. Under normal circumstances they could do pretty much what they wanted to, but in this situation the FCC wants the ham operators to have their operations because we can see that it might benefit the country as a whole if the normal communications went down. So we are not going to let communities decide that yes or no they will or won't have them. In the *Shook* case which is probably the closest I can come to what you might understand, it says that the very least regulation necessary for the welfare of the community must be the very least of this regulation and we are involved in this regulation process right now. The county cannot impinge on the needs of the ham operator to engage in his operation. And they say that to encourage ham operators to do all their stuff – and I am not a ham operator nor ever have been so – that they would be a variable in this country to provide communication in emergency situations. If we fail to comply, we could potentially be in federal court and have a federal court judge tell us what we have to do as opposed to deciding here tonight on what is going to be done.

Chairman Walling said that the county had already reasonably accommodated Mr. Taormina and had not discouraged him to operate.

District Attorney Maddox replied that the county has not come to a resolution yet. Tonight if you completely deny his application then I believe the applicant would have one or two towers left and the question would be, would that be

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considered a reasonable accommodation. He would imagine that the federal judge would say no, but if you approve just what he has now, that would be considered a reasonable accommodation.

Director Haymore said that he thought they were in compliance and only issued the Stop Work Order because he had some issues with the proposed monopole structures. We did do some things wrong, did some things right, and have had to adjust since there was a change in the zoning ordinance. The Planning Commission's job is only to recommend to the County Commissioners who will have the final say and as well as do any negotiating with the applicant. We are here to bring the current towers into compliance or to allow Mr. Taormina to install the two monopoles and remove two existing towers.

Chairman Walling said that perhaps we were premature in hearing this application. Director Haymore replied that Senior Planner Osborne had done an excellent job with his research and the staff report for this application. There is a lot of information up there before you so you do have the ability to make a decision for reasonable accommodation. There are some strong feelings and opinions from the residents about this application and there are a lot of these that we cannot address but the judge and the FCC have asked for a "reasonable accommodation".

Planning Commissioner Bucchianeri said that the monopole might look better than the current poles and improve the situation.

Jed Margolin, Empire Road, said that he has been a ham operator for 50 years. Everything that Mr. Taormina does is not in the public interest. He wants these higher towers so he can continue with his contesting to see how many stations he can contact. The repeater for the county emergency communications is not even put up so at this time the county does not have a repeater. The repeater connects by line of sight which is very difficult because of the mountains in this area. Mr. Taormina has not been honest about his intentions and what he really wants the towers for which is to further his contesting and not for the safety of the county. The county needs a repeater and it also needs to assign a trustee to be responsible for it. There are fourteen licensed ham operators in the area and five of those are in the same family. The question is whether the new towers are essential for the emergency use or to further promote a world famous contest.

Dave Miles, Reno, commented that power poles are ugly and so are the towers but sometimes you just have to put up with that.

David Penning, Reno, said that he has been a ham operator since 1954 and he has a pacemaker since 1996. There is no safety issue for people who have pacemakers.

James Hoeft, President of HRPOA, said the majority of the homeowners have been against the towers for the past 10 years and are even more against the two new towers.

Michelle Adkins, Panamint Road, deferred to Mike Fortin.

Mike Fortin, Highland Road, presented a Power Point slide show illustrating the view from his house and a couple of other properties close by. He stated that due to the sight of the towers, prospective buyers would drive away without even stopping to look at the homes. He has been a resident since 1972 and would like the "tower farm" to disappear.

Catherine Hinkle, Highland Road, invited everyone to come and see the view from her house.

Rudy Wiedemann, Panamint Road, said that the towers were an eye sore but that the ham operators provided a valued use during an emergency so he had no problems with it.

Willie Henry said that the applicant was not being honest when he said that there had not been any complaints for 10 years when in fact the first complaint was in 1997 and then in 1999. All the towers should be taken down since he is submitting the Special Use Permit application after the fact. He needs to consider the affects on all the other residents.

Patrick Flannagan, Cartwright, said that he had been through two emergencies including one in San Francisco and if it had not been the ham operators more lives could have been lost. He would like to know what it has already cost the county in court costs, staff costs, etc. on this one issue. This money could have been spent on some of the more pressing issues of the county and that reasonable negotiations need to be done in regards to this application.

Valerie Lebel-Flatley, Cartwright, said that she is a 20 year resident and that Mr. Fortin said it all with his presentation. Neighbors should be fair to other neighbors and common sense seems to be lacking with this situation. Hobbies should not impact other people.

Kay Dean, Gold Hill, said that she is a 10 year resident and has major concerns regarding Care Flight trying to take off because of the towers. Another consideration is if the helicopters were to hit one of the towers, people could die.

Buddy Morton, Panamint, said that this idea of "live and let live" has screwed up his views which he moved to this area. He has put in complaints for two years and has no response from the District Attorney. Mr. Taormina should be fined \$1,000 a day for every day he has been in violation of the county ordinance. There is a petition with 106 signatures to take the towers down. Mr. Taormina was not even at the last county emergency test. His hobby has screwed up the neighborhood to no end.

Don Carlson, Sparks, said that he is with the State Public Safety Commission and appointed Mr. Taormina to represent Storey County because he has the equipment and station to be able to handle any emergency situation. There are no statistics

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of record on this planet that the towers affect the property values. The facts are just not there. The longer range towers would add to the health and welfare communications needed in an emergency situation. These ham operators are also used by the American Red Cross, Salvation Army and are a part of the civil defense programs. What price would you put on someone's head?

Kathleen Stormoen, Panamint, said that she would like to hear from the firefighters since any structure would impede fire fighting. The people in the county offices have denied any response to our complaints which have included having Mr. Taormina's guide wires on her property and yet are told that these towers are engineered. Mr. Taormina has sued the county and the Ranches Association. We are paying the county and yet they ignore the people who are complaining.

Gary Grant, Reno, commented that Mr. Taormina had a world class station here for the county and the US everyone should read the Congressional record report for 2009. I have worked many different disasters and even Homeland Security has praised the ham operators for their invaluable help. Because of Mr. Taormina's status, he deserves his antennas.

Patrick Kennedy, Virginia City said that he has 46 years experience as a ham operator. There are a lot of emotions relative to interpretation. When it comes to an emergency, if the community is not behind him 100% they are missing the boat. During the Santa Cruz flooding, it was the ham operators that stepped forward and helped to save many lives. With limited resources, just one repeater on line all the time is really important.

Dee Arnold Kafloz, Sparks, said that she has been an amateur ham operator for 30 years and is part of the National Weather Service and emergency services. They depend on Mr. Taormina for weather and fire reports. They really need the repeater up and not on a 45' antenna as they can not hear the reports. My concerns are for all of your families. Help can be better dispatched from what information we can garnish from the lots. Mr. Taormina has a good setup and can get information from all over the world.

Richard Tavan, Truckee, CA, said that he was shocked and dismayed by the attitude of the people that did not want Mr. Taormina to be free to pursue his personal interest. The ham operators are not only available for local emergencies but for worldwide ones as well. Mr. Taormina has a state of the art set up. Ham operators are always looking for ways to experiment with their towers and locations. The ham operators provide a valuable service to benefit all.

Vice-Chairman Tyler asked if Chief Hames had addressed guide wires and fire safety. Director Haymore replied that care flight would only land in open areas and usually down by the mailboxes. Emergency Management Director Joe Curtis has commented that the ham operators benefit the county. There are a couple of recommendations for motions to be forwarded on to the County Commissioners. It is up to the County Commissioners to negotiate with the applicant with the help of the District Attorney and County Manager.

Senior Planner Osborne concurred with Mr. Haymore and added that he had worked closely with Fire Chief Gary Hames and Emergency Management Director Joe Curtis in the development of the recommended conditions of approval. Moreover, he stated, the tower facility applicable to this hearing has been in place for quite some time. Our entire team, including Fire Chief Gary Hames, Emergency Management Director Joe Curtis, and Bill Moline of the Nevada Division of Forestry firefighting division have been aware of the tower facility all of this time and had brought forth no concerns with regard to lighting or coloring the towers and fire/life safety issues related thereto. Care Flight from REMSA has landed Medevac helicopters adjacent to the facility and expressed no concerns.

Senior Planner Osborne stated further to the Planning Commissioners and attending public that he, county staff, and the Planning Commissioners before them at this meeting all understand deeply the concerns expressed both from the perspective of the citizens and the ham radio operators. He reiterated the complexities of the project at hand and the need to consider the federal rulings which apply here.

Senior Planner Osborne asked the Planning Commissioners if they would like him to review the list of conditions and stipulations of the staff report as well as the modifications that were provided them in the submitted addendum. After being directed to continue, Senior Planner Osborne reviewed key elements and provided further explanation and clarification where needed.

Senior Planner Osborne then read aloud both of the recommended motions for approval. Per the request of the public and Planning Commission, he read both recommended motions again— emphasis was provided to the key elements thereof.

Planning Commissioner Bucchianeri said that the outcome of this application would settle the lawsuit that was against the county in federal court.

Vice Chairman Tyler commented that proposal B was not in violation of county code.

Motion: Based on findings and compliance with all conditions and stipulations stated forth in the staff report, I recommend approval of Case No. 2011-010 to maintain two (2) of the four (4) existing amateur radio antenna towers applicable to this SUP and permit installation of the additional two (2) monopole structures in accordance with the limitations set forth hereby, on the property located at 370 Panamint Road (APN 003431-18), Highland Ranches, Storey County, Nevada, and to include all conditions presented in the addendum.

Action: Approve, **Moved** by Virgil Bucchianeri, **Seconded** by.

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Motion died due to no second .

Motion: Deny Case No 2011-010 to maintain all existing non conforming towers

Action: Approve, **Moved** by John Herrington, **Seconded** by.

Motion died due to no second.

Motion: Based on findings and compliance with all conditions and stipulations stated forth in staff report, I recommend approval of Case No. 2011-010 to maintain the four (4) existing amateur ham radio antenna towers applicable to this SUP in accordance with the limitations set forth hereby and deny installation of any additional towers on the property located at 370 Panamint Road (APN 003-431-18), Highland Ranches, Storey County, Nevada and to include all applicable conditions presented in the addendum.

Action: Approve, **Moved** by Bret Tyler, **Seconded** by Doug Walling

Vote: Motion carried by unanimous roll call vote (summary: Yes 3, Nay = 1, Abstain = 1).

1. This Special Use Permit (SUP) No. 2011-010 shall be for the purpose of operating amateur ham radio antenna towers as defined and regulated pursuant to the motion made by the Storey County Planning Commission and approved by the Board of Storey County Commissioners on property located at 370 Panamint Road (APN 003-431-18), Highland Ranches, Storey County, Nevada. The operation shall remain in compliance with all of the provisions set forth by this SUP and federal, Nevada State, and Storey County codes and regulations including the Federal Communications Commission (FCC). Issuance of this SUP does not convey property rights of any sort or any exclusive privilege; nor does it authorize any injury to persons or property, any invasion of other private rights, or any infringement of state or local laws or regulations.
2. Requirements. The Permit Holder shall apply for all required permits and licenses, including building and fire permits, for the project within twelve (12) months from the date of final approval of SUP No. 2010-10, and continuously maintain the validity of these permits/licenses, or this approval shall be null and void. Additionally, the Permit Holder shall maintain and furnish proof at the beginning of each year to Storey County of a current valid license from the Federal Communications Commission (FCC) to operate an amateur radio. In the event the amateur radio license expires for a period of 30 days or more, the associated project shall be deemed abandoned and all associated towers and antennas must be removed within 180 days thereof at the Permit Holder's expense. This SUP shall remain valid as long as the Permit Holder remains in compliance with the terms of this SUP and Storey County, Nevada State, and federal regulations. No construction or permitting for construction shall commence prior to issuance of the SUP.
3. Transfer of Rights. This SUP shall inure to the record owner that resides at the residence of the Subject Property and to the Permit Applicant (Thomas and Midge Taormina) and shall run with the land defined herein. The SUP shall be non-transferrable.
4. Indemnification/Insurance. The Permit Holder warrants that the future use of land will conform to the requirements of Storey County, State of Nevada, and applicable federal regulatory and legal requirements; further, the Permit Holder warrants that continued and future use of the land shall so conform. The Permit Holder and property owner(s) agree to hold Storey County, its officers, and representatives harmless from the costs associated with any damage or liability, and any/all other claims now existing or which may occur as a result of this SUP. The Permit Holder shall maintain satisfactory liability insurance for all aspects of this operation under SUP No. 2010-10 for a minimum amount of \$1,000,000.00 (one million dollars) and provide proof thereof to Storey County prior securing rights to the SUP.
5. Emergency Telephone. Any persons located on the premises in connection with maintenance, repairs, or other work to the amateur radio system and associated antenna towers shall be made aware to dial Storey County **Emergency Services Direct Connect 775.847.0950** (in lieu of 9-11) when dialing emergency service from **cellular telephone. Emergency 9-11 still applies to landline telephones.**
6. Emergency Management Plan. A comprehensive emergency management plan shall be developed by the Permit Holder and submitted to the Storey County Emergency Management Department for review and approval prior to securing rights to the SUP. The plan shall include, but not be limited to, the following in case of failure of one or more amateur radio antenna towers and related appurtenances: (1) Permit Holder's emergency contact phone number(s); (2) emergency contact procedure, including for Dispatch 9-1, Storey County Emergency Direct Connect 775.847.0950, and Fire and Emergency Management Departments; (3) documenting and reporting; (4) post structure failure management, cleanup, reclamation, and material disposal; (5) electrical system shutdown procedure; (6) disclosure and management of hazardous materials (e.g., asbestos) or other conditions (e.g., radiation), if applicable; and (7) post structure failure damage reporting and treatment of affected neighboring properties.

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7. Closure/Reclamation. Any tower or antenna out of operation for longer than twelve (12) consecutive months shall be deemed abandoned. Removal of the abandoned tower(s), antenna(s), and other appurtenance(s) (appurtenances include, but are not limited to: foundations/pads; anchor points; guy wires; electrical wiring, connections, and conduit; and ground excavations) shall be completed at the Permit Holder's expense within 180 days after abandonment, to the satisfaction of Storey County.
8. Necessity to Local Jurisdiction. In accordance with section 17.62.010 of the County Code and applicable regulations under the Federal Communications Commission in determining that the Amateur Radio facility is used partly for the convenience and necessity of the local jurisdiction and community, the Permit Holder shall coordinate with the Storey County Emergency Management Department to develop a binding agreement acceptable thereby which will enable the Amateur Radio facility and/or the operator (Permit Holder) to be utilized by the County during times of Emergency Operations Command, or extended power or communication outages.
9. Plans Submittal. The Applicant shall provide Storey County Community Development Department site plans, drawn to scale, which shall include dimensions of existing and proposed structures (towers), including guy wires and anchor points, as applicable, setback dimensions, and driveway dimensions.
10. Setbacks. In accordance with Section 17.40.050 of the Storey County Code, minimum setbacks for each tower shall be as follows: (a) front yard, 30 feet; (b) rear yard, 40 feet; and (c) side yards, 15 feet. The minimum setback requirement shall apply to towers, antennas, foundation pads, and buildings. Reduced setbacks for guy wires, anchor points, and other appurtenances of the tower system shall be subject to the approval of the Storey County Building Department. Existing approved guide wire anchor(s) and associated guy wire foundation(s) shall be allowed to remain at their existing location(s) so long as they are located entirely within the Permit Holder's property.
11. Antenna Limitations. The amateur radio communication towers and related structures shall be used exclusively for Yagi array and wire amateur "ham" radio antennas. The structures shall not be used to support commercial carrier cellular telephone or any other commercial purpose antenna or device. The towers shall not be used to support other items not related to amateur "ham" radio operations, such as lights, flags, banners, pennants, anti climbing devices shall be installed at each tower to protect the public.
12. Noise. Installation or use of generator(s) (also include "alternator(s)") as a power source shall not be permitted unless they are muffled and remain in a sound insulated building sufficient in design to abate all noise that would take place at the parcel boundary line.
13. Lighting. Any outdoor lighting shall be installed and operated in accordance with Chapter 8.02 of the Storey County Code ("Dark Skies"). No tower or antennas applied thereto shall be constructed or altered to a height that would necessitate Federal Aviation Association (FAA) beacon lighting. There shall be no direct or indirect illumination of or on any tower or antenna system. The FAA shall be the responsible agency for requiring, or not requiring, beacon lighting or other signaling devices to be applied to the structures.
14. Visual Impact. All exterior finishes for each tower, including additional towers as applicable to the approved SUP, shall be non-reflective, dull in appearance, and gray in color (with a hue similar to that of the existing oxidized galvanized steel structures) in order to facilitate blending with the backdrop terrestrial and sky environment. The existing galvanized steel lattice towers may remain uncoated and exposed to the natural environment (as determined safe by the engineered design) in order to retain their naturally occurring dull gray exterior.
15. Design Limitations. The two (2) additional monopole structure towers, if approved as part of SUP No. 201010, shall be limited to a tapered design approved by Storey County with a base diameter not exceeding twenty (20) inches and a tip diameter not exceeding ten (10) inches. The height and width of all tower approved by this SUP shall remain as proposed in the SUP application or be reduced. No tower shall be constructed or altered to a height that would necessitate Federal Aviation Association (FAA) beacon lighting.
16. Electrical Distribution and Controls. The location, routing, and alignment of exterior electrical and communication controls, associated wiring, and power lines shall be approved by Storey County Building Department when applicable.
17. Compliance. The Permit Holder shall be responsible for maintaining the premises and managing operations in accordance with all conditions and stipulations set forth by SUP 201010 and all other federal, Nevada State, and Storey County codes and regulations. Failure to comply with the requirements herein shall elicit a written warning to the Permit Holder by Storey County on the first and second offense. A third offense shall warrant Storey County to revoke the SUP. Storey County shall reserve the right to conduct periodic reviews of the Permit Holder's compliance with all conditions and stipulations of the SUP.

DETERMINATION OF NEXT PLANNING COMMISSION MEETING:

Motion: Next Planning Commission meeting to be held at 6:00 p.m. on April 7, 2011, at the Storey County Courthouse

Action: Approve, **Moved** by Bret Tyler, **Seconded** by John Herrington

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Vote: Motion carried by unanimous roll call vote (summary: Yes 4).

CLAIMS: NONE

CORRESPONDENCE : NONE

PUBLIC COMMENT: NONE

STAFF:

Director Haymore said they the county was in the middle of working on the budgets for the coming physical year. The county is requesting each department to keep to the same budget as last year. The Planning Division has had to cut Professional Services. He also thanked the Planning Commissioners for authorizing the purchase of the portable microphone which was used for the meeting tonight.

PLANNING COMMISSIONER COMMENT: NONE

ADJOURNMENT : Chairman Doug Walling adjourned the meeting at 9:43 P.M.

Respectfully Submitted,

Donna Giboney, Sitting Secretary

Doug Walling Chairman