

City of Carson City
Agenda Report

Item # 17

Date Submitted: April 27, 2010

Agenda Date Requested: May 6, 2010

Time Requested: 20 Minutes

To: Mayor and Supervisors

From: Parks and Recreation Department - Open Space Division

Subject Title: Action to accept the recommendation of the Open Space Advisory Committee to pursue efforts with the Nevada Commission for the Reconstruction of the V&T Railway in order to purchase fee title for properties owned by Mr. Donald Bently and located in the Carson River Canyon, APNs 10-011-24 and 10-011-25. (Juan F. Guzman)

Staff Summary: Through his attorney, Scott Brooke, Mr. Donald Bently has authorized further proceedings and has requested specific information regarding the funding and timing of the acquisition of his lands located in the Carson River Canyon (Exhibit A). Representatives of the Nevada Commission for the Reconstruction of the V&T Railway and the Carson City Open Space Division have discussed the possibility of joining forces towards the joint acquisition of these lands. This action proposes the approval of an offer to purchase Mr. Bently's lands needed by the V&T Commission for right-of-way, with Carson City purchasing the remainder as open space.

Type of Action Requested: (check one)

Resolution

Ordinance

Formal Action/Motion

Other (Specify)

Does This Action Require A Business Impact Statement: Yes No

Recommended Board Action: I move to accept the recommendation of the Open Space Advisory Committee to pursue efforts with the Nevada Commission for the Reconstruction of the V&T Railway in order to purchase fee title for properties owned by Mr. Donald Bently and located in the Carson River Canyon, APNs 10-011-24 and 10-011-25.

Explanation for Recommended Board Action: Attached as Exhibit B is a draft letter prepared by the V&T Commission providing for the basis of an offer to Mr. Bently. The offer stipulates that the parcels of land will be purchased in a double escrow by Carson City and the V&T Commission for \$1.6 million. The two parcels in question encompass approximately 460 acres of land. On April 29, 2010, the Open Space Advisory Committee by unanimous vote took action to recommend approval of the purchase of the Bently property in coordination with the V&T Commission (Exhibit C). By joining forces with the V& T Commission, Carson City increases the opportunity to purchase this land. The Bently parcels adjacent to the Serpa ownership in the Carson Canyon have been designated as a high priority for the Open Space Program. This potential acquisition furthers the implementation of the Carson City Aquatic Trail and is in keeping with the provisions of the Carson River Master Plan and the Open Space Master Plan. This proposed acquisition is compatible and further compliments the transfers of lands from the Bureau of Land Management into Carson City ownership through the Carson City Federal Lands Bill omnibus legislation. By coordinating with the V&T Commission, Carson City's opportunity to complete this transaction is increased. Mr. Bently has expressed a favorable disposition to sell these lands to the V&T Railroad Commission. At the close of escrow Open Space will own approximately 471.2 acres and the V&T Commission 25 acres.

Applicable Statute, Code, Policy, Rule or Regulation:

- Carson City Open Space Master Plan
- Unified Pathways Master Plan
- Carson River Master Plan
- Nevada Revised Statutes, Chapters 244.275, 342
- Carson City Municipal Code Chapter 13.06

Fiscal Impact: Approximately \$1,370,696 plus a portion of closing costs undetermined at this time (see Exhibit D - Summary Appraisal)

Explanation of Impact: The offer drafted by the V&T Commission asks Mr. Bently to donate \$300,000. Staff has not reduced that amount from the fiscal impact figure. Additionally, staff has obtained a favorable recommendation for a Southern Nevada Public Land Management Act towards the acquisition of these lands. The grant will not be finalized until approximately September or October of this year and will cover approximately 40% of the purchase cost attributable to Open Space.

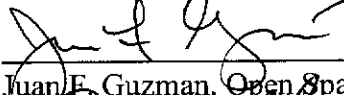
Funding Source: Open Space Acquisition Account with a present balance of \$3.2 million

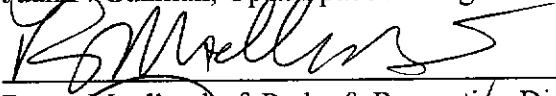
Alternatives:


- Not to approve the recommendation of the Open Space Advisory Committee
- Instruct staff to redraft the terms or arrangement with the V&T Commission towards the acquisition of the property

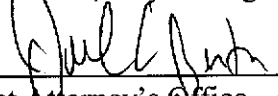
Supporting Material:

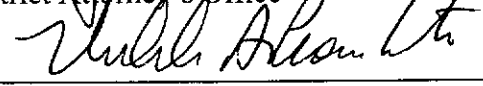
- Letter signed for T. Scott Brooke, Esquire, indicating Mr. Bently's willingness to negotiate the sale of this property. (Exhibit A)
- Draft letter of the Nevada Commission for the Reconstruction of the V&T Railway to the Bently Family Limited Partnership by Michael Smiley Rowe and Dwight Millard, Chairman of the Commission. (Exhibit B)
- Staff report prepared for the consideration of the Open Space Advisory Committee for the meeting of April 19, 2010. (Exhibit C)
- Summary pages of the appraisal prepared by Lyn C. Norberg, M.A.I., and dated April 15, 2009. Complete appraisal report contains approximately 200 pages and is available upon request. (Exhibit D)

Prepared By:  **Date:** 4/27/10
 Juan E. Guzman, Open Space Manager

Reviewed By:  **Date:** 4/27/10
 Roger Moellendorf, Parks & Recreation Director

 **Date:** 4/22/10
 Larry Werner, City Manager

 **Date:** 4/27/10
 District Attorney's Office

 **Date:** 4/27/10
 Finance Department

Board Action Taken:

Motion: _____ 1: _____ Aye/Nay

(Vote Recorded By)

BROOKE · SHAW · ZUMPFTT. Scott Brooke
brooke@brooke-shaw.com

12 August 2009

Michael Smiley Rowe, Esq.
Rowe & Hales, LLP
Post Office Box 2080
Minden, NV 89423

Re: V & T Railway—Bently Family Limited Partnership Property

Dear Mike:

This is to follow up on our recent discussions concerning the interest of your client, the Nevada Commission for the Reconstruction of the V&T Railway, to acquire a right-of-way through property owned by my client, The Bently Family Limited Partnership.

As you will recall, the Partnership authorized appraisal of the easement and the property in March of this year, and the appraisal was completed and provided by you in July. As I advised you, Mr. Bently generally viewed the appraisal favorably and concurs that acquisition of the entire property is preferable because of the severance difficulties created by an easement.

This will confirm my indication to you that Mr. Bently has authorized further proceedings, and now requests that you provide specific information regarding the available funding and the timing of any acquisition. In the event that the Commission is in the position to move forward in the reasonable near term, Mr. Bently has indicated his willingness to negotiate a sale of the property.

Please let me know if you have any questions. I look forward to receiving your reply.

Sincerely,

BROOKE · SHAW · ZUMPFT



T. Scott Brooke, Esq.

TSB/mmr

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cc: Donald E. Bently

Post Office Box 2860
1590 Fourth Street, Suite 100
Minden, Nevada 89423

Attorneys at Law

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www.brooke-shaw.com

2 April 2010

VIA RENO-CARSON MESSENGER

Bently Family Limited Partnership
c/o Scott Brooke, Esq.
Brooke•Shaw•Zumpft
1590 Fourth Street
Minden, NV 89423

Re: *Nevada Commission for the Reconstruction of the V&T Railway*
("Commission")
Bently Family Limited Partnership Property, APNs 10-011-24 and 10-011-25

Dear Scott:

As was discussed with you in a meeting which took place last Friday, 26 March 2010, the Commission would offer to purchase the above-referenced parcels from the Bently Family Limited Partnership. Prior to stating the terms of the Commission's offer, I will confirm the representations made to you by Chairman Millard at our meeting: it is the Commission's intention to work with the Carson City Open Space Committee/Carson City ("Open Space") to establish a combined acquisition of the Bently Family Limited Partnership parcels. It is the Commission's contemplation that Open Space will acquire a portion of the property acquired by the Commission for its purposes after the Commission is deeded the areas which it requires for railroad right-of-way and related easements for slope, drainage, access, etc. It is the Commission's contemplation that any of the acquired parcels which are not necessary for the Commission's right-of-way purposes would be conveyed to Open Space in a simultaneous, or dual, escrow.

The Commission proposes to pay \$1.6 million to the Bently Family Limited Partnership. Of that amount, the Commission respectfully requests that Mr. Bently consider a donation of \$300,000 to the Commission, as a tax deductible donation due to the Commission's status, as a part of the transaction.

Close of escrow would be contingent upon approval by Open Space (and all committees and commissions required for such final approval) committing to the Commission that Open Space would acquire any of the property not needed for the reconstruction of the Virginia & Truckee Railway.

Due to the statutes, ordinances and/or regulations governing Open Space, it may be necessary for the Bently Family Limited Partnership to deed to the Commission the easements identified in previous submittals to you, including the project notification correspondence, maps and appraisals. The Commission understands that once Open Space acquires lands, it cannot convey any easements on those lands, but is permitted to accept lands subject to existing easements.

The Commission would bear all closing costs related to this transaction unless otherwise requested by the Bently Family Limited Partnership. The Commission would propose to use Northern Nevada Title Company unless a preference is expressed by Mr. Bently to employ a different escrow agent.

Alternatively, the Commission would offer to purchase the "larger parcel" as identified in the Self-Contained Appraisal Of: Proposed Permanent & Temporary Easement Acquisitions for the V&T Railway Project ("Bently") dated 15 April 2009 as prepared by Lyn C. Norberg, MAI. The larger parcel is an approximate 192.67 acre tract of unimproved land situated on the northwest side of Carson River in Carson River Canyon ("larger parcel"). As you know from Mr. Norberg's appraisal report, he recommended to the Commission that since the value of just compensation approaches the value of the larger parcel in the before condition, the Commission should considering offering the property owner the election of a total acquisition of the larger parcel. The Commission would offer to purchase the larger parcel for the amount of \$1,541,360.

As with the previous alternative stated above, the Commission respectfully requests that \$300,000 of the value of the large parcel be donated to the Commission by Mr. Bently.

All of the terms of this alternative offer would remain the same, including approval by Open Space of the acquisition of any portion of the larger parcel not required for the reconstruction of the V&T Railway.

Cordially,

MICHAEL SMILEY ROWE, ESQ.

MSR:ksl

**OPEN SPACE ADVISORY COMMITTEE
STAFF REPORT**

Exhibit C

MEETING DATE: April 19, 2010

AGENDA ITEM NUMBER: 3D

STAFF: Juan F. Guzman

REQUEST: Discussion and action regarding the purchase of the Serpa and Bently properties and coordinating efforts with the V&T Commission towards acquisition on the Carson River Canyon.

GENERAL DISCUSSION:

Attached for your review is a copy of an appraisal commissioned by Mr. John Serpa regarding the value of his property on both sides of Deer Run Road but primarily located east of Deer Run Road Bridge along the Carson River canyon. This same land was appraised in 2007 at \$2.1 million by Lyn Norberg at Carson City's request. The next step regarding this transaction is for Carson City to hire a third appraiser in order to review Mr. Serpa's most recent appraisal and provide comments as to the accuracy of the report in compliance with the standards and how reasonable is the range of value arrived at by Mr. Serpa's appraiser. This is the transaction that we have been partners with the Nevada Land Conservancy and in which they were successful in obtaining a grant for approximately 50% of the value arrived at by our appraiser in 2007. Therefore, we have a Question-1 grant for approximately \$1 million towards this acquisition.

As of more recently, staff has entered into conversations with the V&T Commission chairman and counsel. Their chairman presently is Mr. Dwight Millard, and their counsel is Mr. Michael Smiley Rowe. Staff, particularly our Park Planner, also continued conversations with the V&T designers and Ken Doerr, the project engineer. We had the opportunity to tour the site and converse with Mr. Scott Brooke, who is representing Mr. Bently on this transaction. Mr. Brooke conveyed to us that Mr. Bently is willing to sell to the V&T his entire ownership along the river canyon, which is also the same land that the Carson City Open Space Program is pursuing. The V&T does not have monies allocated at this time towards this entire acquisition. They do have monies, however, for the payment of the right-of-way needs which is located along the northern parcel owned by Mr. Bently.

Carson City Open Space is in the process of obtaining a SNPLMA grant that could pay up to approximately 40% of the estimated value of the acquisition. The estimated value of the acquisition was prepared by staff with the assistance of an appraisal prepared by Mr. Lyn Norberg for the two properties in 2007. The properties were valued at \$1.6 million.

The V&T has appraisals also by Lyn Norberg in 2009 for the portions of the property they desire to acquire in order to meet their right-of-way needs. In very general terms, the appraiser concluded that due to the damage caused to the property next to the northern property by the V&T right-of-way, the V&T should consider purchasing the entire parcel as opposed to just the section of the right-of-way they need. The V&T staff and Carson City staff have discussed the possibility of joining forces in order to be able to purchase both properties, the northern and southern sections at the same time. For that purpose, the V&T Commission has circulated a draft letter of intent prepared by their attorney explaining to Mr. Bently how this transaction could work. This has been attached for your review. Please be aware that this copy represents a draft.

The purpose of this item is therefore to explore the possibility of joining forces with the V&T in order to advance the acquisition of the Bently property. Staff has requested the presence of Mr. Millard at the meeting in order to facilitate discussions of issues that are not covered by this staff report and other matters of interest that may advance this transaction.

RECOMMENDED ACTION: Move to recommend to the Board of Supervisors that Carson City, through the Open Space Program, join forces with the V&T Commission towards the potential acquisition of the Bently property located within the Carson River canyon.

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A regular meeting of the Carson City Open Space Advisory Committee was scheduled for 6:00 p.m. on Monday, April 19, 2010 in the Community Center Sierra Room, 851 East William Street, Carson City, Nevada.

PRESENT: Chairperson Steve Hartman
Vice Chairperson Dan Jacquet
Member Terri Green-Preston
Member Tricia Lincoln
Member Howard Riedl
Member Bruce Scott

STAFF: Juan Guzman, Open Space / Property Manager
Kristin Luis, Senior Deputy District Attorney
Kathleen King, Recording Secretary

NOTE: This excerpt of the minutes is prepared at the request of Open Space Division staff. A recording of the entire proceedings, the committee's agenda materials, and any written comments or documentation provided to the recording secretary during the meeting are part of the public record. These materials are available for review, in the Clerk's Office, during regular business hours.

CALL TO ORDER AND DETERMINATION OF QUORUM (6:00:00) - Chairperson Hartman called the meeting to order at 6:00 p.m. A quorum of the committee was present. Member Fischer was absent. Member Lincoln arrived at 6:03 p.m. Member Green-Preston arrived at 6:05 p.m.

3-D. DISCUSSION AND ACTION REGARDING THE PURCHASE OF THE SERPA AND BENTLY PROPERTIES AND COORDINATING EFFORTS WITH THE V&T COMMISSION TOWARD ACQUISITION ON THE CARSON RIVER CANYON (6:14:23) - Mr. Guzman introduced this item and invited V&T Railway Commission Chairman Dwight Millard and Attorney Michael "Smiley" Rowe to the meeting table. Mr. Guzman acknowledged Chuck Pope, of the Nevada Land Conservancy, who was present in the meeting room. Mr. Guzman reviewed the agenda report.

(6:19:03) Mr. Millard acknowledged the accuracy of Mr. Guzman's report, and expressed appreciation for the opportunity to address the committee. Mr. Millard acknowledged Mr. Bently's agreement to sell his property, and advised "right now is an opportune time." Mr. Millard explained that the V&T Railway reconstruction "tend[s] to have more damages because when we go through the canyon, we have to have more slope areas ... that leaves a lot of extenuating damages after the fact." Mr. Millard expressed an interest in the V&T Railway Commission participating with the Open Space Program to purchase the Bently property. He advised of a letter of intent to purchase, which has been prepared pending the committee's action on this item, "giving [the V&T Railway Commission] an offer to buy the remainder after we're through with the construction in the canyon." He further advised that American Recovery and Reinvestment Act funding "has gotten us to the very edge of the Bently property." Purchase of the Bently property will allow the V&T Railway Commission to continue construction into the Carson River Canyon. Mr. Millard explained "by us not buying all of the right-of-way that is required; that if we gave Mr. Bently the remainder or the damages due, we feel that we can step up to the plate a little more on the Serpa property." He clarified the V&T Railway Commission's concern "to get the Bently project off the books and get your approval ... and move forward, because John [Serpa] is a little bit higher." He advised of

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having heard from Mr. Serpa an intent "to do something and if you guys want to do it, here it is. And he says, 'I'm willing to take terms.'" Mr. Millard suggested the possibility of considering terms such as "a commitment to John [Serpa] for five years and, in five years if we couldn't pay him off, ... Carson City could be in a position to raise room tax." Mr. Millard expressed confidence "there's a way to do this and we need to do it." He advised that once the V&T Railway construction progresses through the Bently and Serpa properties, "we are down to the Yerington mine and that's a good place to have a turnaround or a run by where we can actually terminate the train for a few years and ... operate out of the Carson City east gate depot." He discussed the importance of "get[ting] down the canyon sooner than later because that's really the gold star ... in the railroad run ..." He requested the committee's consideration "to get on board with us and buy this project and then we'll see what we can do with the Serpa property sooner than later ..." He advised that Mr. Serpa has agreed to "knock off approximately \$2.5 million as a donation" from the purchase price, and "he's also agreed that if we left him the remainder of 34 acres ..., he'd knock off another million which starts to bring it into the realm of 'we can do it.'"

Mr. Rowe advised of an "unequivocal acceptance of our appraisal from [Attorney] Scott Brooke" who has "indicated as soon as we're ready, they're ready." Mr. Rowe referenced a letter of intent to Mr. Brooke, drafted after a meeting between the two attorneys, Mr. Guzman, and "several others to go over this." He acknowledged the committee's interest in the Serpa property, but advised "we wouldn't if we can't get across the Bently parcel."

In response to a question, Mr. Guzman discussed the importance of using the Question #1 funding as soon as possible. He explained "the next logical step in the Serpa process" is to hire another appraiser to review Mr. Serpa's appraisal, and advised that he is in the process of identifying such an appraiser. Member Scott expressed appreciation for the V&T Railway Commission's attendance and participation, and looked forward to the opportunity partner "in something we can move forward in." Mr. Guzman acknowledged the 2007 appraisal of the Bently property at \$1.6 million. He further acknowledged the Open Space Program would "be working as a partner in a portion of that." In response to a further question, Mr. Millard advised, "We would like to get the \$300,000 as a donation off the \$1.6 [million]. Our portion is \$210,000, so you're obligation would be either \$1,090,000 or \$1,390,000." Mr. Rowe advised that the appraisal accepted by Mr. Bently is in value of \$1,488,376.00. Mr. Guzman acknowledged a request for a 40-percent grant has been submitted but not yet approved. He anticipates obtaining approval "sometime around July / September from the Secretary of the Interior." He acknowledged that once the Secretary of the Interior approves the grant, the funding could be used to reimburse expenditures. He further acknowledged the intent to convey to the V&T Railway Commission "to hold on for three or four months until we find out if we can get 40 percent grant." In response to a question, Mr. Rowe stated, "It's a little bit long, but we can maybe have a 120-day escrow." In reference to the letter of intent, he advised that the offer is contingent upon approval and working together. In response to a question, Mr. Millard advised of "no real urgency" on the part of the V&T Railway Commission "other than we don't want it to go away ..." In response to a further question, Mr. Guzman expressed reasonable confidence that the grant request will be funded. Chairperson Hartman suggested, "It's a question of in what order it occurs."

Vice Chairperson Jacquet inquired as to the rights to be reserved by the V&T Railway Commission in the subject transaction. "Is it just going to be a right-of-way for the railroad or is it going to more than that?" Mr. Millard advised of the need for "mitigating damages. Our right-of-way is not that big." Vice Chairperson Jacquet inquired as to the future land uses associated with the rights retained by the V&T Railway Commission. Mr. Rowe stated, "Probably none just because of the terrain and how steep it is there

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in the canyon. This is on a side hill. The railroad right-of-way itself is 50 feet and that's the area that would be improved, not only with track and the structure of the track, but also because of the ... grading ... that's necessary. The bulk of what needs to be retained are slope and drainage easements that are just there in case there needs to be a drainage improvement ... to stabilize the slope. ... once the initial work is constructed to stabilize the slope or effect the drainage, there wouldn't be any other improvement to it and not so noticeable. The track would be, obviously, noticeable." In response to a further question, Mr. Rowe advised of no intention to develop the land around the "turnaround spot." Mr. Rowe clarified, "We have to get across the Bently land. The topography is such that the balloon track could not be constructed there and maintain the grade that is needed for the locomotives. That would be down on the Serpa property where, in essence, a balloon track is being proposed and right now they're going through the environmental hearings ... on that. It would basically allow the engine to run around in a circle and back up hill." Vice Chairperson Jacquet noted the Open Space Program purpose to purchase undeveloped land which is generally used for passive recreation. He expressed concern over "go[ing] too far down the road in buying land adjacent to something that's going to be developed." Mr. Millard advised of no commercial plans, "other than possibly where you would go down and have tree logs as seats and possibly where you could do an outdoor barbecue. It would strictly be generic and it would be on the train's right-of-way property at that round-about. It would be no commercial, no water, nothing like that." He discussed the possibility of temporary restrooms in conjunction with events. He assured the committee of "no commercial endeavors of any sort."

Member Green-Preston expressed the understanding that the railroad bed is "the whole access into ... and out of the canyon." In consideration of a 50-foot wide easement, she expressed concern over "how passive recreation could happen." Mr. Millard advised that the Bently property is "already blocked ... from the upper side. ... We've already come around on the east gate depot and we have now joined back up with the original V&T right-of-way and that is now closed to public access." Mr. Millard advised of access to the canyon via "those junkyards. ... From the Serpa side, you really don't start blocking it out until you get down to ... Bertagnolli." Mr. Millard advised that if the V&T Railway Commission takes "that part" of the Bertagnolli property, "that'll start to cut off ... access into the canyon." Member Green-Preston expressed concern that the V&T is "taking the access," and discussed concerns with regard to emergency and recreational access. Mr. Millard advised that the wild horses have not "found it any problem." He acknowledged that equestrians would likely not ride on the original V&T right-of-way, but noted the right-of-way is 50-feet wide "and we generally have quite a bit of an area to the side of it." He acknowledged the possible incompatibility of trains and horses. He suggested the committee's responsibility over "how to make access and make it multi-use." He expressed the belief "there's nothing that would prohibit multi-use in that area other than just the compatibility of the horse and the train." Mr. Rowe advised that the V&T Railway Commission is developing a safety plan "because we've had issues with first responders before." He explained the appraisal report recommendation for "a complete take ... because of the fact that the railroad is on the road and that's generally the only way you get through the canyon ..."

Member Riedl expressed appreciation for the opportunity to share resources "to get the V&T railroad ... closer to Carson." He expressed understanding for restricting public access to open space "when we don't buy some of the rights to the property, such as ranching." He expressed concern over paying \$1.4 million and restricting public access from much of this open space. He expressed support for the purchase, "but we need to find a way to get public access to this open space whether it's paid through the V&T Railroad

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or their portion.” He recalled part of the environmental assessment including multi-modal passage. He acknowledged that railroads and pedestrians “are not a good mix,” but reiterated concern over the Open Space Program purchasing “a big chunk of this property and not have public access to most of it.”

Member Scott suggested considering “what we are acquiring.” He expressed the understanding that “a big element was basically the riverine side of this and the open space from the river.” He suggested it was probably blocked when the V&T was there “on a much narrower improvement.” He suggested anticipating open space access “in a different alignment than what ... in recent history we’ve all thought about as the road you could drive ...” He requested Mr. Guzman to describe the proposed Open Space Program acquisition. Mr. Guzman reminded the committee of discussion regarding potential access to the Bently property when it was first presented for consideration. Using a displayed aerial photograph, he oriented the committee members and the public to the Bently and Serpa properties, and pointed out present and future motorized access to a certain point and “a crossing coming off from the firing range.” In addition to the legal crossing, he pointed out motorized access to a certain section of the Bently property “which is also a riverine environment, wetlands ... through Kit Kat Ranch and the extension of those roads from Lyon County.” He pointed out the aquatic trail, and explained that the River itself will function as a way of traversing these lands. “Buying these properties is essential for the implementation of this plan and being able to have public access legalized.” Mr. Guzman further reminded the committee of a presentation relative to planning for a bicycle / pedestrian trail “all the way from the bridge down.” Committee direction, at that time, emphasized the importance of owning the property or a right-of-way easement to guarantee use prior to proceeding with any associated study. Mr. Guzman expressed the hope that motorized access will be heavily regulated “to make sure that the abuses that are in there right now, primarily dumping, ... do not continue.”

In consideration of a potential partnership between the Open Space Program and the V&T Railway Commission, Member Riedl expressed concern that the V&T Railway Commission allows adequate public access. He suggested that “with good planning,” crossings could be identified for hikers and bikers to get around the area. Mr. Guzman advised that V&T Railway Commission staff and City staff have been discussing the possibility of a legal crossing.

Member Lincoln noted that the property is presently privately owned. Purchasing the property “would be bringing it into public access.” Member Lincoln expressed the understanding that once the transaction is complete, the partnership between the Open Space Program and the V&T Railway Commission would be dissolved. “They’ll have their right-of-way. We have the other land, so we won’t be in constant negotiation with the V&T Commission on the day-to-day operation.” Member Lincoln suggested that the V&T right-of-way will eliminate a lot of the undesirable activity in the canyon.

Member Scott considered the Bently and Serpa properties as important open space, “but hopefully not overly developed open space in terms of the ... aquatic trail.” He expressed support for a future trail along the River, and the opinion “that’s ... particularly useful and would be a great addition with what we’re beginning to put together with the Jarrard purchase ... and some of the other ones.” Mr. Millard acknowledged no intent to fence the railroad right-of-way. Member Scott suggested that pedestrians and “more adventurous mountain bikers may find ways to get there.” He expressed concern over continued motor vehicle access to the River area in consideration of existing problems. Mr. Millard advised that the V&T Railway Commission “would be a good partner and put in crossings where you want them and gates where you want them and try to help you control traffic.” He further advised that the “only impact ... would

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be where we actually put the railroad tracks ... and the ties. ... the only thing that we're obtrusive about is the whistle." He offered to consider taking care of the litter.

In response to a question, Mr. Millard advised "anything that we put in can be used by anybody because we're not going to ... control it." He reiterated the intent to place temporary restroom facilities in association with events. "We would have no permanent facilities anywhere in this program." In response to a further question, Mr. Rowe advised that the V&T Railway Commission carries liability insurance through the public agency pool. Assuming that the draft letter of intent is accepted in its entirety, Mr. Rowe advised that the north parcel, as described by Appraiser Lyn Norberg, is 192.6 acres; the southern parcel is 305. Of that, the commission's total use area, even with drainage and slope, is 25.6 acres. Mr. Rowe explained, "If it goes through, as we've discussed tonight, then [the Open Space Program] would wind up with ... the ownership of everything subject simply to the easements that we put in place before you take ownership and that's 25.6 acres." To the extent of working together on the Bently acquisition, Mr. Millard reiterated the offer to "step to the table ... in helping you acquire the Serpa property."

Chairperson Hartman reminded everyone of the Open Space Program's enabling legislation which emphasizes viewshed and historic and cultural resources as part of the open space. He noted the benefit of the aquatic trail to provide "a great way to see our open space." Member Scott reviewed the "numbers." Mr. Rowe acknowledged the appraisal is \$1.488 million and the V&T right-of-way is \$210,000. In response to a question, Mr. Rowe advised of having discussed the possibility of a donation with Mr. Bently. "It wasn't rejected. Basically, he said, 'Make the offer.'" Member Scott suggested considering the "high - low parameters ... in terms of ... obligation" on the part of the Open Space Program, and reviewed the figures. Mr. Millard stated, "We're going to try to come to the table with \$1.5 million if we can justify that," and he reviewed the figures. He noted the importance of expending the available Question #1 funding, and expressed the opinion that if the Open Space Program intends to acquire the Serpa property "at any time, you need to do it now ..."

In response to a question, Mr. Guzman advised that the previously-discussed grant request represents 40 percent of the estimated value of \$1.5 million, or \$600,000. In response to a further question, he advised that grant funding opportunities are continually sought after. Member Lincoln noted that the V&T railway has experienced success thus far. She suggested "that should be bringing more sales tax dollars ..." Mr. Millard advised of discussions relative to transporting rafters to and from the aquatic trail.

Chairperson Hartman entertained public comment and, when none was forthcoming, a motion. **Vice Chairperson Jacquet moved to recommend to the Board of Supervisors that Carson City, through the Open Space Program, join forces with the V&T Railway Commission towards the potential acquisition of the Bently property located within the Carson River Canyon. Member Scott seconded the motion.** Member Scott expressed appreciation for the opportunity to work together with the V&T Railway Commission, and noted the benefit of the acquisition to both entities. He requested Mr. Millard and Mr. Rowe to convey to Mr. Bently, in the most appropriate way, the importance of the acquisition to the Carson City Open Space Program. Chairperson Hartman called for a vote on the pending motion. **Motion carried 6-0.** Chairperson Hartman thanked Mr. Millard and Mr. Rowe for their attendance and participation. Member Scott noted that Mr. Serpa's appraisal "conveniently ignores the Superfund site." A brief discussion followed.

LYN C. NORBERG, MAI

MEMO

May 19, 2009

To: Ken Dorr
Michael Rowe
Bill Kimmel

Re: V & T, Bently Property, Appraisal Report Revisions

Enclosed herewith you will find amended replacement pages to be inserted into your copy of the above referenced appraisal report. These revisions reflect a number of changes relative to the description of the project.

Lyn C. Norberg, MAI

PROJECT DESCRIPTION/APPRaisal PROBLEM

The Nevada Commission for the Reconstruction of the Virginia & Truckee Railway is in the process of reestablishing a historic railway between Carson City and Virginia City. This project (which is in the construction phase), involves reconstructing 16.7 miles of railroad track for tourism-related and economic development purposes. This reconstruction project is being conducted in phases. The first phase involved building 1.4 miles of track between Gold Hill to a point just past the Overman Pit. This phase is complete. The second phase involves building 9.7 miles of track to a point south of the US Highway #50 overhead that ends near the current terminus of Highlands Drive. This phase is nearing completion as of the date of this report. Phase 3A involves a 1.1 mile segment of track across BLM land that is scheduled to begin construction in the summer of 2009. Phases 3B and 3C involve building 4.1 miles of track through a portion of Carson River Canyon. The right-of-way needed for permanent easements across one of the landowners in the canyon represents the portion of the project that is germane to this appraisal (Bently). Phase 4 involves the construction of .4 miles of railroad track from the mouth of the canyon north to a proposed depot site in Carson City proper.

This appraisal is addressing ten permanent easements that will encumber a tract of unimproved land owned by the Bently Family Limited Partnership. Only one of these acquisitions is needed for the railroad corridor itself, the other nine needed more so for slope stabilization and/or drainage purposes. The ten permanent easement acquisitions combined encompass a total area of 25.65 acres. Three temporary easements are also needed for construction purposes. These takings encompass 2.67 acres.

DESCRIPTION OF THE PROJECT

The Nevada Commission for the Reconstruction of the Virginia & Truckee Railway is in the process of reestablishing a historic railway line between Carson City and Virginia City. This project (which is in the construction phase), involves reconstructing 16.7 miles of railroad track for tourism-related purposes. Phase 3B and 3C involve the 4.1-mile stretch of track that is to be installed through the Carson River Canyon. The right-of-ways needed for permanent easements across one of the landowners in the canyon (Bently), is the portion of the project that is addressed in this appraisal report. The easements needed across the larger parcel are identified on the color-coded map provided on the next page. Orange is identifying permanent easements with blue identifying temporary easements.

V & T RAILWAY RECONSTRUCTION - PROJECT PHASING
 NEVADA COMMISSION FOR THE RECONSTRUCTION OF THE V&T RAILWAY
 JUNE, 2009



CONSTRUCTION PHASES	COMPLETION DATE	CONSTRUCTION PHASES	COMPLETION DATE
PHASE 1 CONSTRUCTION (DOTTED) OVERMAN PROJECT (1.4 MILES)	SEPTEMBER, 2005	PHASE 3A CONSTRUCTION HIGHLANDS DR. TO BRINSWICK CANYON (11 MILES)	2009
PHASE 2A/2B CONSTRUCTION (AMERICAN FLAT TO MOUNDHOUSE (4.3 MILES))	OCTOBER, 2008	PHASE 3B/3C CONSTRUCTION BRINSWICK CANYON TO CARSON CITY (4.1 MILES)	TBD
PHASE 2C CONSTRUCTION (MOUNDHOUSE TO HIGHLANDS DR. (5.4 MILES))	SUMMER 2008	PHASE 4 CONSTRUCTION CARSON CITY TERMINAL OFF DRAKO WAY (0.4 MILES)	TBD

EXIST TRACK	- 18 MILES
NEW TRACK TO CARSON	- 18.7 MILES
TOTAL	18.5 MILES



SUBJECT PHOTOS



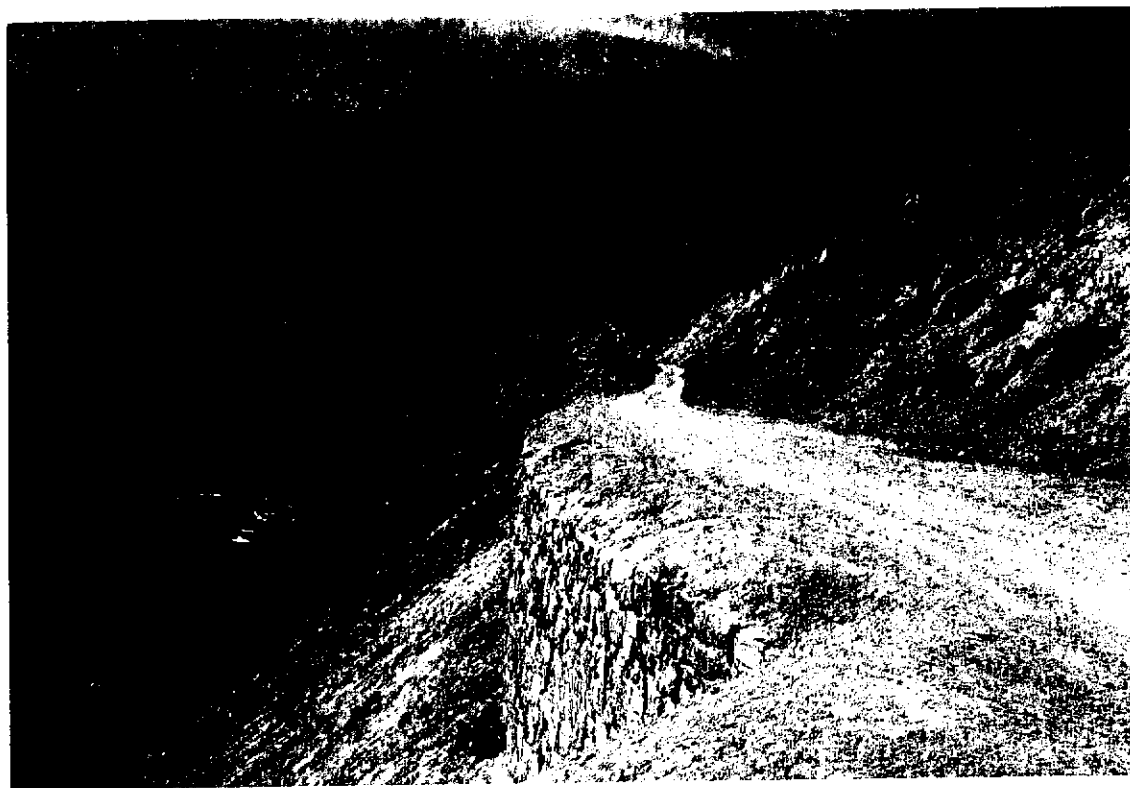
Looking to the northeast from the south boundary of the subject.



Looking easterly with the subject on both sides of the river. Note gap in the old V&T.



Rocky gap on the old V&T on NENE of Section 7.



From the rocky gap looking westerly along the old V&T alignment.

SUBJECT PHOTOS

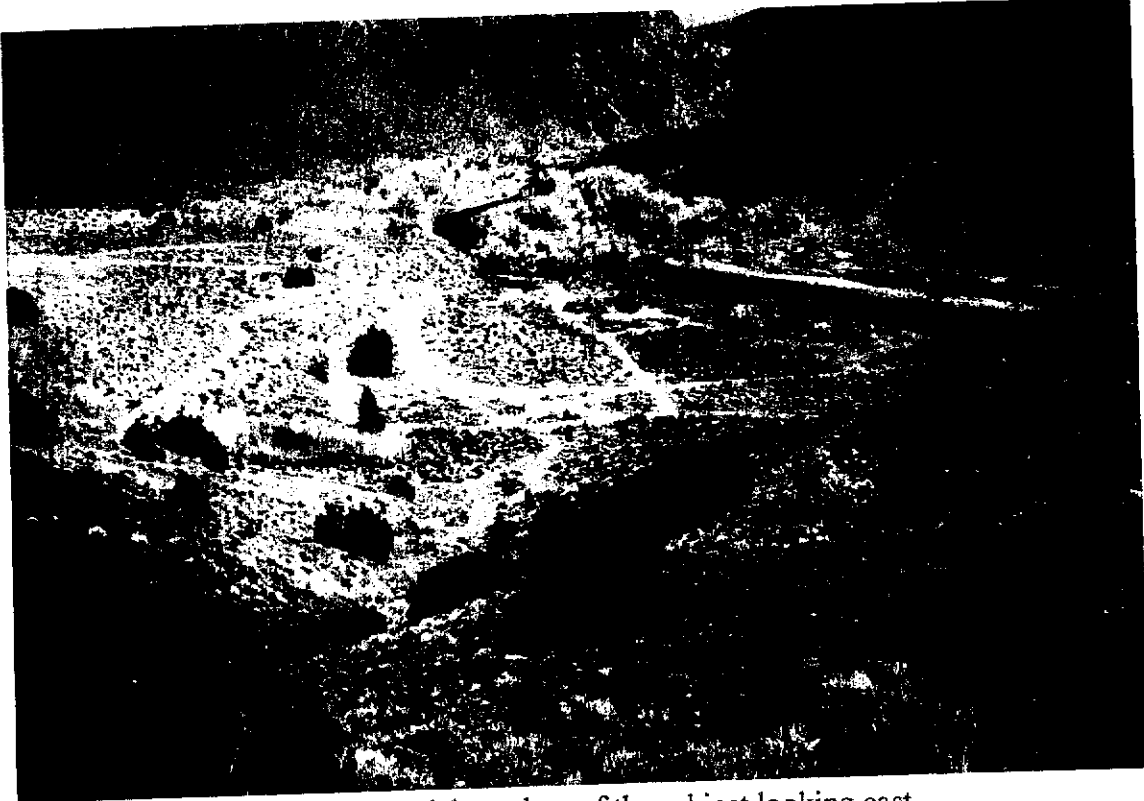


Looking southerly at the central portion of the subject. Note steep terrain east of the river.



From the rocky gap looking north. Note steep terrain west of the old V&T.

SUBJECT PHOTOS



From the north boundary of the subject looking east.



From the north boundary looking towards Moundhouse across off-site BLM lands

A SELF-CONTAINED APPRAISAL OF:

**PROPOSED PERMANENT & TEMPORARY
EASEMENT ACQUISITIONS FOR THE
V & T RAILWAY PROJECT
(BENTLY)**

THAT WILL ENCUMBER UNIMPROVED LANDS
OWNED BY THE BENTLY FAMILY LIMITED PARTNERSHIP
LOCATED EAST OF CARSON CITY, NEVADA

FOR THE PURPOSE OF PROVIDING OPINIONS OF
VALUE & JUST COMPENSATION

AS OF
MARCH 13, 2009

Prepared By:

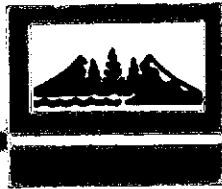
LYN C. NORBERG, MAI

Prepared On:

APRIL 15, 2009

Prepared for

THE NEVADA COMMISSION FOR THE
RECONSTRUCTION OF THE VIRGINIA & TRUCKEE RAILWAY



LYN C. NORBERG, MAI

APPRAISER/CONSULTANT

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CARSON CITY, NEVADA 89706

TELEPHONE 775-883-6655

FAXCIMILE 775-883-8594

Project: V & T Railway, Segment 3B
Acquisitions: Bently Family Limited Partnership
Carson River Canyon Tract

April 15, 2009

Nevada Commission for the Reconstruction of the Virginia & Truckee Railway
c/o Mr. Michael S. Rowe
1638 Esmeralda Avenue
Minden, NV 89423

RE: An Appraisal of Permanent and Temporary Easement Acquisitions for
The V & T Project, Segment 3B, Located in the Carson River Canyon East of Carson
City, NV (Bently)

Gentlemen & Ladies:

As per your request and authorization I have completed an inspection and an analysis of the permanent and temporary easements referenced above, which are more specifically identified in the following report.

The purpose of my study was to develop opinions of value and a recommendation of just compensation for a variety of easements that are needed for the V & T Railway Reconstruction project. This report and the opinions of value provided address an undivided fee estate in the larger parcel, subject to typical encumbrances such as mortgages, taxes, and standard governmental restrictions such as that associated with zoning, etc. No deductions have been made for any outstanding liens, loans, mortgages, deferred taxes, or special assessments. The property rights to be acquired include both permanent and temporary easements. This report and the value opinions provided are also subject to a series of limiting conditions referenced a few pages hence.

This report has been prepared exclusively for the use of the client and the other specifically identified users for use in conjunction with eminent domain proceedings. The report and the value opinions contained herein may not be used by anyone other than the intended users for any other purposes whatsoever.

The following report presents a review of all the pertinent data analyzed and supporting descriptive material used in forming my opinions of value and just compensation.

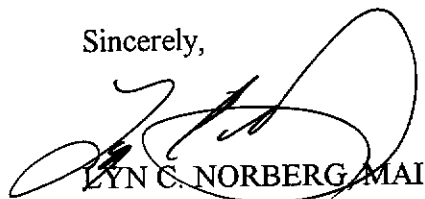
Based on the examination and study made, and utilizing an effective date of value of March 13, 2009, I have reached the following opinions as to the value of the larger parcel, the easements to be acquired, the value of the remainder tracts, and damages that will accrue to the remnants. These opinions are more formally outlined as follows:

Value of Larger Parcel—Before the Acquisitions:	\$1,541,360	
Value of the Permanent Easement Acquisitions:	<u>(\$ 205,200)</u>	\$ 205,200
Indicated Value of the Remainders:	\$1,336,160	
Value of the Remainders—After the Acquisitions:	<u>(\$ 208,900)</u>	
Damages:		\$1,127,260
Additional Compensation (Fencing & Cattle Guards):		<u>\$ 155,220</u>
Value of the Permanent Easements, Damages, & Additional Compensation Combined:		\$1,487,680
Value of the Temporary Easements:		<u>\$ 4,104</u>
Recommendation of Just Compensation:		\$1,488,376

As the recommendation of just compensation approaches the value of the larger parcel in the before condition the appraiser recommends the clients consider offering the property owner the election of a total acquisition in this instance.

Your attention is now directed to the body of the report for supporting documentation and the analysis that led to the development of these opinions.

Sincerely,



LYN C. NORBERG MAI

LCN:vld

09-07/V & T Easements_Bently

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