

NYE COUNTY AGENDA INFORMATION FORM

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☒ Action
 ☐ Presentation
 ☐ Presentation & Action

Department: Planning		Agenda Date:	
Category: Timed Agenda Item – 10:00 a.m.		March 1, 2022	
Contact: Brett Waggoner		Phone: 775-727-4249	Continued from meeting of:
Return to: Brett Waggoner	Location: Pahrump Planning		Phone:
Action requested: (Include what, with whom, when, where, why, how much (\$) and terms)			
<p>Public Hearing, discussion and deliberation to adopt, amend and adopt, or reject Nye County Bill No. 2022-01: Comprehensive Land Use Planning and Zoning, Chapter 17.10 entitled Special Use Permits by adding “where the combined systems are designed to collectively produce more than one (1) megawatt aggregate per day” to Chapter 17.10.020: Permit For Construction Of An Aboveground Utility Project Located In A Master Plan Designated Utility Corridor, And Adding “where the combined systems are designed to collectively produce more than one (1) megawatt aggregate per day,” to Chapter 17.06.030: Special Use Permit For Transmission Projects Outside Of Master Plan Designated Corridors; and providing for the severability, constitutionality and effective date thereof; and other matters properly relating thereto.</p>			
Complete description of requested action: (Include, if applicable, background, impact, long-term commitment, existing county policy, future goals, obtained by competitive bid, accountability measures)			
<p>Staff recommends adoption as written with an effective date of March 18, 2022.</p>			
<p>Any information provided after the agenda is published or during the meeting of the Commissioners will require you to provide 20 copies: one for each Commissioner, one for the Clerk, one for the District Attorney, one for the Public and two for the County Manager. Contracts or documents requiring signature must be submitted with three original copies.</p>			
Expenditure Impact by FY(s): (Provide detail on Financial Form)			
<input type="checkbox"/> No financial impact			

Routing & Approval (Sign & Date)

1. Dept	Date	6.	Date
2.	Date	7. HR	Date
3.	Date	8. Legal	Date
4.	Date	9. Finance	Date
5.	Date	10. County Manager	Date

☒ Place on Agenda

Item #: 8

BILL NO. 2022-01

NYE COUNTY ORDINANCE NO. _____

SUMMARY: A Bill proposing to amend Nye County Code Title 17, Comprehensive Land Use Planning and Zoning, Chapter 17.10 entitled Special Use Permits by adding “where the combined systems are designed to collectively produce more than one (1) megawatt aggregate per day” to Chapter 17.10.020: Permit For Construction Of An Aboveground Utility Project Located In A Master Plan Designated Utility Corridor, And Adding “where the combined systems are designed to collectively produce more than one (1) megawatt aggregate per day,” to Chapter 17.06.030: Special Use Permit For Transmission Projects Outside Of Master Plan Designated Corridors; and providing for the severability, constitutionality and effective date thereof; and other matters properly relating thereto.

TITLE: A BILL PROPOSING TO AMEND NYE COUNTY CODE TITLE 17, COMPREHENSIVE LAND USE PLANNING AND ZONING, CHAPTER 17.10 ENTITLED SPECIAL USE PERMITS BY ADDING “WHERE THE COMBINED SYSTEMS ARE DESIGNED TO COLLECTIVELY PRODUCE MORE THAN ONE (1) MEGAWATT AGGREGATE PER DAY” TO CHAPTER 17.10.020: PERMIT FOR CONSTRUCTION OF AN ABOVEGROUND UTILITY PROJECT LOCATED IN A MASTER PLAN DESIGNATED UTILITY, AND ADDING “WHERE THE COMBINED SYSTEMS ARE DESIGNED TO COLLECTIVELY PRODUCE MORE THAN ONE (1) MEGAWATT AGGREGATE PER DAY” TO CHAPTER 17.06.030: SPECIAL USE PERMIT FOR TRANSMISSION PROJECTS OUTSIDE OF MASTER PLAN DESIGNATED CORRIDORS; AND PROVIDING FOR THE SEVERABILITY, CONSTITUTIONALITY AND EFFECTIVE DATE THEREOF; AND OTHER MATTERS PROPERLY RELATING THERETO.

WHEREAS, pursuant to NRS 244.119, the Nye County Board of Commissioners (Board) is authorized to amend the Nye County Code; and

WHEREAS, pursuant to NRS 278.020, for the purpose of promoting the health, safety, and the general welfare of the residents of Nye County, the Board is authorized and empowered to regulate and restrict the improvement of land and to control the location and soundness of structures; and

WHEREAS, pursuant to NRS 278.315, the Board is authorized to provide by ordinance for the granting of special use permits; and

- a) Corridors must not conflict with any existing or planned infrastructure or utility projects;
- b) Proximity of the proposed corridor to any school, hospital, or urban residential area with a dwelling density greater than 2 units per gross acre should be taken into consideration and appropriate setbacks should be applied.

2. General criteria for approving the special use permit:

- a) Will be harmonious with and in accordance with the general objectives or with any specific objectives of the comprehensive master plan of current adoption, and the zoning map if applicable;
- b) Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the same area;
- c) Will not be hazardous or disturbing to existing or future neighboring uses;
- d) Will be a substantial improvement to property in the immediate vicinity and to the community as a whole;
- e) Will be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage structures, refuse disposal, or schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service;
- f) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community; and
- g) Will not involve uses, activities, processes, materials and equipment, and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glares or odors.

17.06.040 Application Process:

- A. If the aboveground utility project is on federally-owned land, prior to submitting the application for the Special Use Permit for Construction of an Aboveground Utility Project Not Located in a Master Plan Designated Utility Corridor, and at the beginning of the federal review and permit application process, the applicant must have a pre-submission meeting with Nye County staff to discuss the project and the application. The applicant then shall submit, as the application, the appropriate documents related to the environmental review by state and federal land management agencies. If the applicant is required to apply for a permit to construct under the Utility Environmental Protection Act from the Public Utilities Commission of Nevada, then the applicant's service of the Permit to Construct application to the County, pursuant to NRS 704.870(4), shall constitute the environmental review documents that make up the application.
- B. Application Fee: An application-processing fee, as established by the Nye County Board of Commissioners, shall be collected for any application for a Special Use Permit for Construction of an Aboveground Utility Project Not Located in a Master Plan Designated Utility Corridor. In addition, if the aboveground utility project is on federally-owned land the applicant may be required to pay the cost for an independent contractor or consultant to represent the county as a cooperating agency in the federal environmental review process if the county does not otherwise have the capacity or staff to do so on its own. Prior to hiring an

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TITLE: A BILL PROPOSING TO AMEND NYE COUNTY CODE TITLE 17, COMPREHENSIVE LAND USE PLANNING AND ZONING, CHAPTER 17.10 ENTITLED SPECIAL USE PERMITS BY ADDING “WHERE THE COMBINED SYSTEMS ARE DESIGNED TO COLLECTIVELY PRODUCE MORE THAN ONE (1) MEGAWATT AGGREGATE PER DAY” TO CHAPTER 17.10.020: PERMIT FOR CONSTRUCTION OF AN ABOVEGROUND UTILITY PROJECT LOCATED IN A MASTER PLAN DESIGNATED UTILITY, AND ADDING “WHERE THE COMBINED SYSTEMS ARE DESIGNED TO COLLECTIVELY PRODUCE MORE THAN ONE (1) MEGAWATT AGGREGATE PER DAY” TO CHAPTER 17.06.030: SPECIAL USE PERMIT FOR TRANSMISSION PROJECTS OUTSIDE OF MASTER PLAN DESIGNATED CORRIDORS; AND PROVIDING FOR THE SEVERABILITY, CONSTITUTIONALITY AND EFFECTIVE DATE THEREOF; AND OTHER MATTERS PROPERLY RELATING THERETO.

WHEREAS, pursuant to NRS 244.119, the Nye County Board of Commissioners (Board) is authorized to amend the Nye County Code; and

WHEREAS, pursuant to NRS 278.020, for the purpose of promoting the health, safety, and the general welfare of the residents of Nye County, the Board is authorized and empowered to regulate and restrict the improvement of land and to control the location and soundness of structures; and

WHEREAS, pursuant to NRS 278.315, the Board is authorized to provide by ordinance for the granting of special use permits; and

WHEREAS any such regulation, restriction and control must take into account the potential impairment of natural resources and the total population which the available natural resources will support without unreasonable impairment; and

WHEREAS, pursuant to NRS 278.26503, each governing body shall establish a process for the issuance of special use permits for the construction of electrical transmission projects of 200kV or higher when located outside of a designated master plan utility corridor, and

WHEREAS, pursuant to NRS 278.26503, each governing body shall establish a process for the issuance of a permit for the construction of an aboveground utility project which is located in a corridor for the construction of aboveground utility projects identified in the adopted master plan,

NOW, THEREFORE, the Board of County Commissioners of the County of Nye, State of Nevada, does hereby adopt, promulgate, and order compliance therewith within Nye County, the following amendments, and regulations:

NYE COUNTY CODE CHAPTER 17.10 IS HEREBY ADOPTED AS FOLLOWS: with Deletions shown in ~~strike-through red font~~, and additions and modifications shown in blue font:

17.10 SPECIAL USE PERMITS; ABOVEGROUND UTILITY PROJECTS

17.06.010 **Intent; Generally.** The intent of this section is to establish the land use and permitting requirements applicable to aboveground utility projects, as authorized by Nevada state law for all areas within Nye County, including those areas within the Pahrump Regional Planning District.

17.06.020 **Permit For Construction Of An Aboveground Utility Project Located In A Master Plan Designated Utility Corridor**

- A. Any aboveground utility project where the combined systems are designed to collectively produce more than ~~in excess of one (1) megawatt aggregate per day~~, which is planned to be located in a corridor for the construction of aboveground utility projects as identified in the Nye County Comprehensive Master Plan, shall notify Nye County prior to construction. Upon notification of Nye County, staff shall review the notification to confirm location within the master plan-designated utility corridor. This review, once completed, shall constitute approval of the project.

17.06.030 **Special Use Permit For Transmission Projects Outside Of Master Plan Designated Corridors**

- A. Special Use Permit For Construction Of An Aboveground Utility Project Not Located In A Master Plan Designated Utility Corridor
 - 1. A special use permit shall be required for any aboveground utility project where the combined systems are designed to collectively produce more than ~~in excess of one (1) megawatt aggregate per day~~, that is located outside a designated Aboveground Utility Corridor as designated in the Nye County Comprehensive Master Plan. In addition to the general criteria for approving the special use permit, no special use permit application shall be approved unless the applicant establishes that the proposed aboveground utility project use meets the following additional criteria:

- a) Corridors must not conflict with any existing or planned infrastructure or utility projects;
- b) Proximity of the proposed corridor to any school, hospital, or urban residential area with a dwelling density greater than 2 units per gross acre should be taken into consideration and appropriate setbacks should be applied.

2. General criteria for approving the special use permit:

- a) Will be harmonious with and in accordance with the general objectives or with any specific objectives of the comprehensive master plan of current adoption, and the zoning map if applicable;
- b) Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the same area;
- c) Will not be hazardous or disturbing to existing or future neighboring uses;
- d) Will be a substantial improvement to property in the immediate vicinity and to the community as a whole;
- e) Will be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage structures, refuse disposal, or schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service;
- f) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community; and
- g) Will not involve uses, activities, processes, materials and equipment, and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glares or odors.

17.06.040 Application Process:

- A. If the aboveground utility project is on federally-owned land, prior to submitting the application for the Special Use Permit for Construction of an Aboveground Utility Project Not Located in a Master Plan Designated Utility Corridor, and at the beginning of the federal review and permit application process, the applicant must have a pre-submission meeting with Nye County staff to discuss the project and the application. The applicant then shall submit, as the application, the appropriate documents related to the environmental review by state and federal land management agencies. If the applicant is required to apply for a permit to construct under the Utility Environmental Protection Act from the Public Utilities Commission of Nevada, then the applicant's service of the Permit to Construct application to the County, pursuant to NRS 704.870(4), shall constitute the environmental review documents that make up the application.
- B. Application Fee: An application-processing fee, as established by the Nye County Board of Commissioners, shall be collected for any application for a Special Use Permit for Construction of an Aboveground Utility Project Not Located in a Master Plan Designated Utility Corridor. In addition, if the aboveground utility project is on federally-owned land the applicant may be required to pay the cost for an independent contractor or consultant to represent the county as a cooperating agency in the federal environmental review process if the county does not otherwise have the capacity or staff to do so on its own. Prior to hiring an

independent contractor, the county and the applicant will meet and reasonably agree to the scope of the services required. Any such fee paid by the applicant to the county for an independent contractor shall reflect only the cost to the county of compensating a consultant to represent them in the federal permitting process. Upon conclusion of the federal permitting process, the applicant may request an audit and accounting from the county on the costs paid to and the services provided by the independent contractor.

SEVERABILITY. If any provision of this ordinance or amendments thereto, or the application to any person, thing or circumstance is held to be invalid, such invalidity shall not affect the validity or provisions or applications of the ordinance or amendments thereto which can be given effect without the invalid provisions or applications, and to this end the provisions of this ordinance and amendments thereto are declared to be severable.

CONSTITUTIONALITY. If any section, clause or phrase of this ordinance shall be declared unconstitutional by a court of competent jurisdiction, the remaining provisions of this ordinance shall continue in full force and effect.

EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after passage, approval, and publication as required by law, to wit, from and after the ____ day of _____, 2022.

Proposed on the ____ day of _____, 2022

Proposed by: Commissioner _____

Adopted on the ____ day of _____, 2022

Vote: Ayes: Commissioners:

Nays: Commissioners:

Absent: Commissioners:

BY: _____
Frank Carbone, Chairman
Nye County Board of
County Commissioners

ATTEST: _____
Sandra L. Merlino
Clerk and Ex-Officio
Clerk of the Board