

Monday, October 5, 2009

The regular meeting of the Humboldt County Board of Commissioners was called to order on Monday, October 5, 2009, at 9:00 a.m. in the regular place of meeting at the Courthouse, Winnemucca, Nevada. Those present were Chairman Tom Fransway, Commissioners Chuck Giordano, Dan Cassinelli, Garley Amos Jr. and Mike Bell, Deputy District Attorney Angie Elquist, Administrator Bill Deist and Clerk of the Board Tami Rae Spero.

DISCUSSION & ACTION ON CORRECTION/APPROVAL OF MINUTES: SEPTEMBER 21, 2009: Chairman Fransway stated that the Clerk had informed the Board that the minutes for the September 21, 2009 meeting were not ready and would be presented at the October 19th meeting.

PUBLIC COMMENTS: John Siegfried offered comment including an overview of his educational and business experience including his work with hazardous materials, his concern about misinformation going around the community about the landfill noting his feelings that much of it is propaganda and politically based, that some of the information is coming from outside sources and he commented that he would prefer that Humboldt County's officials make the decision based on fact not fiction and that the emotion and politics be taken out of the decision; he commented on Senator Reid's legislation and opposition to those actions, his concern about the dissension and conflict between the City and County regarding the issue and closed by asking that decisions be based on fact not fiction, all input, that is good for all citizens in the County, do not make decision based on what is politically expedient but is what is good for the County. No further public comment offered.

ADMINISTRATIVE REPORT:

CONSENT AGENDA: The following items were presented under the consent agenda by Administrator Deist for the Board's review/action:

1. **Request for Adjustment to the Humboldt County Real Property Tax Roll:** Requests 09-10-22 and 09-10-23 were provided to the Board for review. *Recommendation: That the requests be approved as recommended by the Assessor and the Treasurer.*
2. **Approval of Budget Amendment for Star City CDBG Grant:** Copies of a letter from Chairman Fransway to Des Craig of the Commission on Economic Development-CDBG, explaining the amendment, the old budget and the new budget were provided to the Board for review.

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Recommendation: That the budget amendment be approved.

3. Approval of the CDBG Quarterly Report: A copy of the quarterly report for review at the meeting was provided to the Board. *Recommendation: That the report be approved and the Chairman authorized to sign.*

The following motion was made by Commissioner Giordano and passed unanimously:

To approve the Consent Agenda as presented.

SOLID WASTE MATTERS: Administrator Deist stated that he had nothing on this item.

PUBLIC LANDS PLANNING MATTERS & FORMULATION OF COUNTY POSITION ON BLM, FOREST SERVICE AND THE FEDERAL FISH AND WILDLIFE SERVICE

PROPOSED ACTIONS: Administrator Deist stated that he had nothing on this item.

MISCELLANEOUS REPORTS AND CORRESPONDENCE:

OTHER INFORMATION AND UPCOMING MEETINGS: Administrator Deist informed the Board that the Hospital had notified the Commission of the vacancy which occurred on the Hospital Board due to the death of John Russum; that the position has been advertised and the applicants will be brought before the Commission at the second meeting of the month; he stated that at the second meeting of November the President and Executive Director of NACO will address the Commission. In reviewing the upcoming meetings and dates of importance, the Administrator Deist noted that RESPECT day is October 10th and that he had received an email Friday morning from RESPECT requesting time on the agenda to request assistance with picking up the trash that is collected that day; he noted that it was too late to put them on today's agenda and stated that unless directed otherwise he would handle the matter administratively working with the Road Superintendent to take care of getting equipment out to handle it.

REPORTS FROM COMMISSIONERS REGARDING OTHER BOARDS AND

COMMITTEES THEY SERVE ON: Chairman Fransway commented on a letter received which indicated that Coeur Rochester is a step closer to re-opening as the BLM had decided to go forward with an EA rather than an EIS. Commissioner Giordano commented on the cost of the hospital and running it including the cost of a new MRI and liability insurance. Commissioner Giordano read a statement (see attached) regarding the conduct of the Chairman at recent meetings citing Roberts Rules of Order and comments received from the community regarding their concerns about the order

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of the meetings. Following the statement Commissioner Giordano stated that as there are four meetings left under the current chairmanship, if the Chairman is willing to conduct those meetings under the guidelines of Roberts Rules of Order he would not have a problem from this point forward as long as those guidelines are followed; he stated that he had spoken to people directly related to the City Council and they do not want to hold another meeting with the Commission under this relationship, he noted that the relationship between the County and City had been worked on for years to make happen and it is falling apart quickly and stated that is why he has made this statement and he strongly believes in it. Chairman Fransway responded noting that he has served as Chairman four times over his stint on this body, that there have been very contentious issues in the past and that if the Chairman must step up to control order then he believes that is his duty to do so, when he sees a meeting taking a wrong turn he will do what he can to get it back on track, when he sees that there are indications that animosity is happening from either side of the table he will step in to do what he needs to do to bring it back; he responded to Commissioner Giordano's statement that he is conducting the meeting for personal or political gain noting that he took great offense to that as he has no gain to come his way on this and that he was re-elected to the County Commission and he intends to fill the four years and he has no intention of doing anything else. Chairman Fransway stated he would not apologize for the way the meeting was conducted because of some of the things which were said at the previous meeting which, if he would have been on the ball, he would have taken care of and he wasn't going to let that happen again, that this is an emotional issue and he will not take part in any way in silencing the public that the Commission is here to represent; he will do the best he can to contain those meetings and that he has all due respect for the Commission's counterparts on the City level. Commissioner Giordano responded stating that the public has every right to come up here and voice their opinions, that is healthy government but as Commissioners they have the right when they have the floor to finish what they are saying and he could think of at least two instances where they were cut off in the middle of the conversation; he pointed out that comments against the landfill were allowed to finish while comments not opposing it were cut off and noted that he does not believe the Commission has been effective because they have not been able to sit down and discuss it between themselves to get the ball rolling and that as a Commission they must be open minded and listen to the public and to themselves to make a good decision but

that hasn't taken place and that is not healthy government. Chairman Fransway stated that he has been open minded and that he has made the decision that it is not for Humboldt County and that is his prerogative and it is his prerogative to allow his constituency to know where he stands, he has done a lot of homework on the issue. Commissioner Giordano stated that the rest of the Commission had too. Chairman Fransway stated then they need to make a decision, are they for it or against it. Commissioner Giordano stated that there needed to be an agendized meeting to discuss the issue, that a decision cannot be made right now and that he was not going to make a decision for or against because we have not got to that point yet. Chairman Fransway suggested the matter be agendized at the next meeting so that the Commission can take a position on this and go forward from there. Commissioner Giordano agreed but noted that while not counting the public out, if that occurs when there is a lot of public comment, the Commission is not effectively going anywhere with it; he noted an issue with the public clapping every time the Chairman says something they like and that is something that needs to be set forth by the Chairman, that just as he (Commissioner Giordano) as Commissioner shows respect by listening to everything people say so to should they show respect when the Commissioners are speaking and that has not been taking place lately. Commissioner Bell agreed with Commissioner Giordano and noted that he did not believe the Commission could have a healthy conversation or meeting when they have a partisan Chair that says "I am against this thing"; he noted that he had been in classes with a foremost leading expert in boards and when a board makes a decision that is a board decision and while he does not disagree that a person can have their own opinion, when that opinion is brought before this board then you are no longer neutral on the issue and that absolutely disrupts the process of what the Commission is trying to do here as there are many more issues with this landfill besides "we don't want it" including legal ramifications. Commissioner Bell also stated his agreement with Commissioner Giordano that the Commission cannot make a decision for or against until the Commission has everything in front of them; he noted that he has researched the issue for hours and stated that he thinks the Commission must be fair and that he did not believe another meeting regarding the landfill can be held with the current Chair, that the Vice-Chair should conduct the meetings when they deal with landfill issues so that the meeting can be constructive and not tear the Board apart; he commented on his concerns with what had occurred at the joint meeting with the City and as a

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Commissioner apologized to the City Council for what had happened and agreed with Commissioner Giordano that meetings should be conducted per Roberts Rules of Order. Commissioner Amos stated that he concurs with Commissioner Giordano and that he feels the Board is lacking professionalism and competence right now in conducting their meetings and that the Commission needs to get back on line and put the meetings in proper order and perspective; that the Commission is not currently serving the public, the constituents right now the way they should be served. Commissioner Cassinelli agreed and noted that there has not been a chance for anything good about the landfill to be presented; he commented on the need to explore the amounts that could be received and discuss with the City what improvements could be made with any money received; he continued commenting on the need to look at all sides of the issue. Chairman Fransway asked if the Board wished to take action regarding the Chair. Commissioner Giordano stated that as only four meetings are left if good, normal, productive meetings can be conducted he won't say anymore. Commissioner Bell agreed.

CLAIMS FOR EXPENDITURES OF COUNTY FUNDS: The following motion was made by Commissioner Amos and passed unanimously:

To approve the expenditures.

REQUEST FOR WAIVER TO THE ATTRITION POLICY FOR AN UPCOMING VACANCY IN THE SHERIFF'S OFFICE PATROL DIVISION FOR A RESIDENT DEPUTY IN MCDERMITT: Sheriff Ed Kilgore appeared before the Board. Sheriff Kilgore stated that Deputy Mike Bunch is set to retire October 21, 2009 and spoke in support of the request for waiver of the attrition policy. After discussion the following motion was made by Commissioner Giordano and passed unanimously:

To waive the attrition policy for an upcoming vacancy in the Sheriff's Office Patrol

Division for a resident deputy in McDermitt.

REQUEST TO SUPPORT REVERSAL OF THE PUBLIC UTILITIES COMMISSION (PUC) DECISION TO IMPLEMENT THE IS-2 TARIFF THAT REQUIRES INTERRUPTED SERVICE FOR AGRICULTURAL IRRIGATORS: Provided to the Board for review were a copy of a letter from Winnemucca Farms Inc. To Chairman JoAnn P. Kelly of the Public Utilities Commission and a letter from Nevada First Corporation to Administrator Deist supporting Mr.

Routson's request. Sam Routson of Winnemucca Farms Inc. appeared before the Board. Mr. Routson detailed AB 144 which passed during the 2007 State Legislative Session which includes language for interrupted service; he discussed the issues this would create for Winnemucca Farms and other agricultural businesses; he asked that the Humboldt County Commission also join with producers, ranchers and other surrounding counties in a letter to the PUC pointing out the opposition to continuing this policy of mandated interruption with a penalty of 32-cents a kilowatt. Discussion occurred regarding the legislation. Chairman Fransway suggested that any letter written be provided to other folks as well such as the Governor; he commented that the legislation is contrary to agriculture and suggested that perhaps the AG should be asked to look at it. Mr. Routson confirmed that contact had been made with the Governor, Assemblyman Goicoechea, other rural representatives, the Nevada Farm Bureau and others regarding the issue; he noted the December meeting of the PUC will be the most opportune time for a reversal of the decision. Discussion occurred regarding possible effects on the economy, effects on flood and pivot type of irrigations, costs difference between Harney Electric and NV Energy, the impact on Lander County and Antelope Valley, the impact of interrupted irrigation on crops and the effect on food production. After discussion the following motion was made by Commissioner Giordano and passed unanimously:

That the Commissioners are in favor of doing as much as they possibly can towards this and having Sam and Bill work together on what they think would be an effective letter to send to any involved parties to inform them of the Commission's thoughts and what the Commission wants them to do with it.

DISCUSSION REGARDING THE REPAIR OR REPLACEMENT OF THE STAFF VEHICLE (2005 EXPEDITION): A copy of a memo from the County Administrator detailing the issue and a memo from the County Road Department setting forth the options and costs for repair were provided to the Board for review. Administrator Deist explained that recently the Ford Expedition, which is used by all Departments, developed some major mechanical issues, that the vehicle has over 80,000 miles on it at this time and has saved the County considerable expense since it was put into use, that the vehicle is receiving a great deal of use by the employees and per the contracts the County is to provide a vehicle if possible. Administrator Deist noted that he was not

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sure the County needed this big of vehicle if the choice would be to replace it, as a smaller vehicle would get better gas mileage and thus generate further savings. Road Superintendent Garrett appeared before the Board and discussed the problems with the vehicle; he placed the vehicles value at between \$9,200.00 and \$13,700.00 and the estimated cost for the repair AT \$7,000.00. Chairman Fransway commented on the value of the vehicle per Delong Ford and his concerns about getting rid of it. Discussion occurred regarding the warranty on a new engine, the life of the vehicle with a new engine and the possible need to put in a new transmission in the future and the cost. Commissioner Giordano commented that while he is not an advocate of getting rid of a vehicle at only 80,000 miles, this has been a problem vehicle and by the time you put everything into it, it would still be a used vehicle; he suggested looking at alternatives. Commissioner Bell commented on the ability to auction the vehicle and suggested that a minivan be looked at as it can hold a lot of people but if there are only a couple using it, it is economical to run. Commissioner Cassinelli stated that the vehicle should be kept and repaired at the County shop and that the purchase of a car for smaller groups be looked at during budget time. Commissioner Giordano asked if the cost is included in the current budget for repair? Administrator Deist stated that the money would need to be found. Commissioner Cassinelli asked what would be used until the vehicle is fixed. Administrator Deist stated that mileage would probably end up being paid. Superintendent Garrett noted that there are some Sheriff's vehicles coming off line and while they are high mileage rigs they might be usable. Commissioner Giordano asked what the time line for repair would be. Superintendent Garrett estimated a month. The following motion was made by Commissioner Cassinelli:

To fix the Expedition and in the budget coming up, we budget for another vehicle that gets better mileage.

Chairman Fransway stated he would support the motion if it were not to add another vehicle to the fleet, so he would be voting no. Chairman Fransway called the motion to a vote and it passed with Commissioners Cassinelli, Giordano, Amos and Bell voting aye and Chairman Fransway voting nay.

AUTHORIZATION TO OBTAIN AN APPRAISAL OF THE PROFESSIONAL BUILDING AT 33 W. 4TH STREET FOR POSSIBLE PURCHASE: Administrator Deist explained that the

owner of the Professional Building has asked if the County would be interested in purchasing the building and the first step would be to get an appraisal with the cost being \$3,000.00 to utilize the same appraiser used for the Events Complex appraisal; he noted that the piece of property fits in the area the County presently owns and it would generate revenue, as there are current renters in the building. The Board agreed to move forward with the appraisal. The following motion was made by Commissioner Amos and passed unanimously:

To proceed with the appraisal of the Professional Building.

PLANNING MATTERS: Betty Lawrence, Senior Planning Technician for the Planning Department, appeared before the Board.

PUBLIC HEARING ON RH-09-03 - A zone change request submitted by Desert Mountain Surveying on behalf of John and Jhona Bell to rezone property from M - 3 (Open Land Use District) to NC-R (Neighborhood Commercial/Rural District). Property is located along State Route 88/S, Main Street, Paradise Valley, NV; APN #04-531-22, 04-531-23 and .46 acres of 04-531-24: Provided to the Board for review was a copy of the application with a map, a copy of the Staff Report recommending approval and a copy of the minutes of the September 10, 2009 Regional Planning Commission meeting at which the request was approved. Present before the Board were John H. Milton, III of Desert Mountain Surveying, property owners John and Jhona Bell and legal counsel for the Bells, Rita Fowler. Chairman Fransway read the title of the item set to public hearing. Ms. Lawrence reviewed the application for the Board and recommended approval; she noted correspondence received from the Kearns and from Assessor Johnson and that this property is not in the Paradise Valley sewer district. Chairman Fransway asked about the size of the parcels involved. Mr. Milton reviewed the request in reference to the map and noted that this request meets the requirements of the master plan for the area. Chairman Fransway asked for public comment; none offered. Commissioner Cassinelli asked why, when the properties were so close to the sewer, the Bell's weren't requesting to hook up to the sewer. Ms. Fowler stated that the properties are outside the district boundaries and they did meet with the sewer district and the district represented that they were over capacity. After discussion the following motion was made by Commissioner Cassinelli and passed unanimously:

To approve RH-09-03.

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(Ordinance 10-05-09)

APPROVAL TO RENEW BANKING CONTRACT WITH WELLS FARGO WHICH

EXPIRES DECEMBER 1, 2009: A copy of a memo from Gina Rackley, Treasurer, detailing her request for permission to extend the County's banking services agreement with Wells Fargo was provided to the Board for review. Treasurer Gina Rackley and Pat Foley, Business Banking Manager and Vice-President of the Government Services Banking team with Wells Fargo Bank appeared before the Board. Treasurer Rackley spoke in support of the request and requested permission to work with Deputy District Attorney Elquist to finalize an agreement to bring it back before the Board for final approval prior to the December 1, 2009, expiration date. Mr. Foley addressed the Board regarding the services provided. After discussion the following motion was made by Commissioner Cassinelli and passed unanimously:

To renew the contract with Wells Fargo Bank.

DISCUSSION WITH THE ASSESSOR AND TREASURER REGARDING A PROGRAMMING ERROR THAT CREATED AN INCORRECT BILLING OF CERTAIN

PROPERTY TAXES: Assessor Jeff Johnson and Treasurer Gina Rackley appeared before the Board. Assessor Johnson addressed the Board and explained the error in the billing program which had affected the calculation for the tax billing for 89 parcels in 2008-2009. Treasurer Rackley commented on what had occurred in the program noting that in today's expenditure run there were 38 refunds for parcels which overpaid, 30 credits to parcels which still had amounts owing and 7 which increased with a total net impact to the County of \$830.26 and that letters had went out to the affected tax payers and the program glitch has been corrected; she noted that this affected all counties that use ADS for their programming. Chairman Fransway clarified that the Board is not be asked to take any action today, they are just acknowledging that the error occurred and what is being done to correct it. The Assessor and Treasurer agreed.

ROAD MATTERS: Road Superintendent Ben Garrett appeared before the Board.

REQUEST FROM MR. AND MRS. MALLORY FOR FURTHER DISCUSSION OF

OPENING BRUCE DRIVE ON TO U.S. 95: Provided to the Board for review was a copy of a letter from the Nevada Department of Transportation (NDOT) to the Regional Planning Commissioner (RPC) Chairman dated March 23, 2006 regarding UH-06-04, a copy of the RPC

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minutes of April 13, 2006 and June 8, 2006, a copy of letter from Solaegui Engineers to the Regional Planning Department regarding traffic counts dated May 26, 2006, copies of County Commission minutes for May 15, 2006 and June 5, 2006, a copy of a letter from NDOT to the RPC Chairman dated June 6, 2006 regarding UH-06-04, a copy of a letter from NDOT to James L. Delaney dated June 12, 2006 regarding the encroachment permit for Bruce Drive, a copy of a letter from NDOT to Cleve and Dee Mallory dated September 7, 2007 regarding a commercial encroachment permit, a copy of a letter from NDOT to Cleve and Dee Mallory dated September 21, 2006 regarding the closure of Bruce Drive, a copy of a memo from the County Administrator to the County Commission dated May 30, 2006 regarding the tie vote on the Mallory appeal, a copy of an e-mail from Theresa Wriston, Deputy District Attorney to Administrator Deist dated May 16, 2006 regarding the tie vote on the Mallory appeal and a copy of a letter from NDOT to James Delaney dated May 24, 2006 regarding the encroachment permit for Bruce Drive.

Chairman Fransway disclosed for the record that he is an appointed member of the State Board of Transportation but has been advised by legal counsel that he does not need to abstain from discussion and action on the item. Cleve and Dee Mallory appeared before the Board. Chairman Fransway reviewed what had occurred previously with this matter which had resulted in the closure of Bruce Drive and noted that Mr. and Mrs. Mallory are requesting that the Commissioners consider reopening Bruce Drive; he noted that the County did not close Bruce Drive and commented on issues with the Bruce Drive situation. Mrs. Mallory noted that Bruce Drive was one of the first roads there according the Elko office of NDOT and had a permit number. Mr. Mallory referred to the conditional use permit condition number eleven which required a traffic study or Bruce Drive would be taken out; he stated that they had provided a traffic study and the Planning Department was fine with the traffic study but Dave Lindeman of NDOT stated that he was not happy with the traffic study, so then they came before the Commission as the Commission makes the final decisions on the permits and asked the Commission to look over the traffic study and make a decision as to whether it was acceptable or not and the Commission voted two for and two against. Chairman Fransway noted that the matter came before the Commission on an appeal regarding the traffic study by the Mallory's, that a conditional use permit only comes before the Commission on an appeal of the decision made by the RPC, that at the appeal hearing Chairman Milton abstained from discussion

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and action which left four Commissioners at the table, subsequently testimony was taken and it was a two to two vote on whether to grant the appeal and a two to two vote, upon conferring with legal counsel, substantiated a no vote/no action and the appeal was denied. Mr. Mallory continued stating that the Planning Department did not turn it down, Dave Lindeman of NDOT turned it down and that is why they came to the Commission as they have the final say so, if the Commission had voted in their favor, Bruce Drive would not have been taken out according to condition eleven on the application; he stated that they had done their part by coming up with the traffic study, there were other things entered in there but nothing on their conditions, they did what they were suppose to do; he stated his question was why the Commission did not want the traffic study. Commissioner Cassinelli stated that the minutes provided show that Mrs. Hammargren stated that the appeal requested that the traffic study be removed from the permit, so they had been requesting to have the study removed. Mrs. Mallory agreed that had been their request but noted that right after that the traffic study came in and they handed them out to the Commission as they got it just before the Commission met on the appeal. Chairman Fransway again noted that the Commission had voted two to two to leave item eleven which required the traffic study and he stated that the Commission is not the final authority as to how you can egress and ingress onto US 95, the Dept. of Transportation does that. Mr. Mallory continued stating that they had done the traffic study, the traffic study was coming when the meeting happened, it finally arrived and they were o.k. with it and they were going in to approve their special use permit and Dave Lindeman refused it, so then they came to the Commission as according to the application the Commission has the final say so, so what he wants to know is why the traffic study wasn't good enough, why was it turned down. Chairman Fransway stated that from his understanding the traffic study is not an approved traffic study from NDOT basically what it is, is no more than an opinion. Dave Lindeman, Assistant District Engineer with NDOT appeared before the Board. Mr. Lindeman reviewed NDOT's records regarding Mr. Delaney's permit for the subdivision which included Bruce Drive. Chairman Fransway asked if the issue with Bruce Drive currently is the change of use from residential to commercial and if that was why a full blown traffic study was required by NDOT for safety reasons. Mr. Lindeman agreed. Discussion occurred between Mr. Lindeman and Chairman Fransway regarding the encroachment permit being issued for a thirty foot right-of-way and the BLM not providing additional right-of-way.

Commissioner Bell asked about the traffic study produced by Solaegui Engineers. Mr. Mallory stated that was the engineer recommended by Mrs. Hammargren who said that this was the engineer recommended by Dave Lindeman; he noted the engineer stated in the study that there is not enough traffic to worry about having any changes to the road or anything else but Mr. Lindeman turned it down, submitting a letter to Mrs. Hammargren just before the meeting. Mr. Mallory relayed the conversation between himself and Mr. Lindeman regarding why Mr. Lindeman had rejected the traffic study and noted that he had spoken to Mr. Lindeman's boss Kevin Lee regarding the issue. Mr. Lindeman stated that what was received was a letter requesting that a traffic impact study was not necessary due to the fact that the projected vehicles per hour were less than 100; he agreed that there are less than 100 vehicles per hour but under the authority of the District Engineer a traffic impact study can be requested if it is a congested area and this is a congested area as there are too many side roads in too short of a distance in accordance with NDOT's policy; he continued noting that with a commercial use property, a traffic impact study would have to show within NDOT's policy that a right turn lane must be built and the issue was who would fund the turn lane. Chairman Fransway confirmed that the letter received from Solaegui Engineers stated that a traffic study was not warranted. Discussion occurred regarding the June 6, 2006 letter from NDOT to the RPC Chairman. Mr. Mallory addressed the issues that had been raised regarding RV's slowing down traffic and ATV's crossing the road noting that they dropped the RV portion of the plan thinking theoretically that would drop the issue with the ATVs and RVs but that wasn't good enough either. Chairman Fransway commented that the issue has always the safety of the public and noted that without an encroachment permit there would be no access to US 95; he asked Mr. Lindeman what the status of the permit was. Mr. Lindeman stated that his understanding was that Mr. Mallory was going to provide a permit for the approach and that he understood that Kevin Lee the District Engineer told him that he would be more receptive to an approach just to the commercial business as opposed to Bruce Drive. Discussion occurred between Chairman Fransway and Mr. Lindeman regarding how an approach just for the business would work with Mr. Lindeman noting that there had been discussion about an emergency access gate for emergency personnel to use. Chairman Fransway stated that he had noticed the other day that the wire fence blocking Bruce Drive had been cut and that could be a public safety issue; he continued stating that he thinks the matter should go

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back to NDOT and that Mr. Lindeman should get Mr. Lee involved and they should figure out what needs to be done to Bruce Drive. Commissioner Giordano asked if there is a process for a renegotiation and a solution through NDOT. Mr. Lindeman stated that NDOT is waiting for a permit request from Mr. Mallory so it can be processed and that Mr. Lee has said that the \$1,000.00 permit fee could be waived. Mr. Mallory stated that getting back to the original question on his special use permit, it does not say that he has to put in turning lanes, get a permit or that he has to go do all this stuff with NDOT, it says he needed a traffic study and he would be good to go, the road has been taken out, just to be taken out and as far as he is concerned it was done to delay his project or get them to postpone it or whatever; he continued stating that when he had spoken to Mr. Lee, who had spoken to both Mr. Lindeman and Administrator Deist, Mr. Lee had stated that the County put the turning lanes on the other exits, that when a developer like Delaney drops the ball and does not take care of the stuff he is suppose to, it is up to the County because they gave him permission and sold him permits to do the housing development. Mr. Mallory stated that then the access is taken out because he wants to put a business in there and Kevin said that is not right, that the County has no business doing that and that it is up to the County as far as he was concerned. Administrator Deist stated that what he and Mr. Lee had discussed was whether or not the County would be willing to take the access permits and what he had told Mr. Lee was that would be a Commission decision; Administrator Deist continued stating that since that time he has met with Mr. Lee, Mr. Lindeman and Road Superintendent Garrett and discussed the issue and if the matter were to come before the Commission his recommendation would be that access permits would be taken only on County maintained roads and Bruce Drive is not in the County maintained system. Mr. Mallory stated that the County had put turning lanes and upgrades on MacRae and Delaney Roads and they were not in the County maintained system. Administrator Deist stated that the County had worked with NDOT on that. Chairman Fransway noted that the rational behind that work was that those locations were school bus stops and it was a safety issue, so those were a different circumstances, he also noted that if the County were to do an encroachment permit it would need to be done to NDOT standards including a traffic study if required. Mr. Lindeman agreed. Mr. Mallory continued noting that this property has been zoned M-3/commercial for fourteen or fifteen years, that Delaney had that done through the County Planning and Zoning Department and when they purchased the property it was