

Monday, November 2, 2009

The regular meeting of the Humboldt County Board of Commissioners was called to order on Monday, November 2, 2009, at 10:00 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, District Attorney Russell Smith, Administrator Bill Deist and Clerk of the Board Tami Rae Spero.

**DISCUSSION & ACTION ON CORRECTION/APPROVAL OF MINUTES - OCTOBER 5, 2009**

**AND OCTOBER 19, 2009:** Chairman Fransway offered a correction to the October 5, 2009 meeting minutes. The following motion was made by Commissioner Bell and passed unanimously:

*To approve minutes of the October 5, 2009, meeting with the corrections as noted.*

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

*To approve minutes of the October 19, 2009, meeting as presented.*

**PUBLIC COMMENTS:** Chairman Fransway asked for public comments. Jean McCoy addressed the Board noting that she and her family have all written letters to the Commission opposing the proposed Jungo landfill and spoke in opposition to the proposed site and addressed each Commissioner individually as to her opposition. Chairman Fransway asked for any further public comment; none offered.

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

1. Approval and authorize signature on contract with Commnet Wireless, LLC for TV/Communication Department: Administrator Deist stated that this item was being removed from the agenda as legal has not yet finished the review on the contract.
2. Approval of Banking Service Agreement with Wells Fargo and authorize signature: A copy of the agreement was provided to the Board for review. *Recommendation: That the Commission approve the agreement and authorize the Chairman to sign.*

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

*To approve the Consent Agenda as presented with item A1 brought back following legal review.*

**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 noted that the Legislative Committee on Public Lands would be holding a meeting here on Friday and asked that if the Commissioners have any input regarding public lands in Humboldt County that they provide the information to him quickly. Administrator Deist stated that a letter regarding the nomination of land for round eleven of the Southern Nevada Lands Act was provided for the Board's review; he noted the location of the land and asked if the Board would like this matter placed on an agenda for discussion. Administrator Deist continued stating that based on advice from legal counsel the questions received from the Nevada's Against Garbage at the last Commission meeting have not been put on the agenda and will not be until after the appeal of the RPC's action on the conditional use permit and the associated issues have been resolved. Administrator Deist noted that in the past when white goods are brought to the landfill the refrigerant or CFC's must be removed and in the past that has been handled by the Road Department staff, following discussion by the Landfill Committee it is believed the process would work better if contracted out so that will be implemented in the future. Upcoming meetings and date of importance were reviewed. Administrator Deist commented on an e-mail provided to the Commission from Elko County regarding a visit from a delegation from Alaska and inviting this Commission to join them for the meeting or dinner; Administrator Deist asked that if anyone intended to attend to please let him know so that he can RSVP. Chairman Fransway commented on the meeting occurring Friday by the Legislative Committee on Public Lands and his planned presentation. Chairman Fransway and Commissioner Giordano both stated that the matter regarding nomination of land for round eleven of the Southern Nevada Lands Act would need to be agendaized to allow people impacted to be involved.

**REPORTS FROM COMMISSIONERS REGARDING OTHER BOARDS AND COMMITTEES**

**THEY SERVE ON:** Chairman Fransway reported on the SLUPAC meeting he had attended.

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

*To approve the claims for expenditures of County funds as presented.*

**APPROVAL OF RESOLUTIONS RELATED TO SPEED LIMITS PER HUMBOLDT COUNTY**

**CODE 10.04.060:** Copies of the proposed resolutions were provided to the Board for review. Sheriff Ed Kilgore and Road Superintendent Ben Garrett appeared before the Board.

**WESTMORELAND ROAD FROM GRASS VALLEY ROAD TO COMMANDER:** Sheriff Kilgore spoke in support of the request to reduce the speed limit from 45 m.p.h. to 35 m.p.h. based on safety on the

section of Westmoreland Road from Commander to Grass Valley Road. Discussion occurred regarding the speed limits on the surrounding streets. After discussion the following motion was made by Commissioner Bell and passed unanimously:

*To adopt the resolution to reduce the speed limit from 45 to 35 on Westmoreland from Commander to Grass Valley Road as specified from the Sheriff's Department.*

*(Resolution No. 11-02-09)*

**JUNGO ROAD FROM END OF PAVEMENT TO COUNTY LINE:** *(Deputy District Attorney Angie Elquist left the meeting at 10:22 a.m. and was replaced by District Attorney Russell Smith)* Superintendent Garrett spoke in support of the request to reduce the speed limit from 55 m.p.h. to 45 m.p.h. on Jungo Road from the end of the pavement to the County line; he noted that the speed limit on the pavement portion is 45 m.p.h. and increases to 55 m.p.h. on the gravel portion he noted accidents which have occurred on the gravel portion and flat tire issues. Discussion occurred regarding whether the portion being changed was located within the City limits; Administrator Deist stated that the portion of the road being discussed is in the County. Commissioner Giordano noted that the reason this speed limit was raised previously was because that section was being very well maintained by the mine at the time and they had made the request but it is not maintained at the same level now so it would be consistent to go back to the speed limit which is consistent with the rest of it. Commissioner Bell commented on his experience with the road conditions. Sheriff Kilgore stated his support for the change. The following motion was made by Commissioner Giordano and passed unanimously:

*To adopt the resolution as presented.*

*(Resolution No. 11-02-09a)*

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

**PUBLIC HEARING ON RH-09-04 - A zone change request submitted by Conn Davis as agent for Vern and Owen Brinkerhoff to rezone 1.26 acres of property from RR-1.25 (Rural Ranchette 1.25 acre minimum lot size) District to NC-R (Neighborhood Commercial/Rural District). Property is located along Grass Valley Road; APN #13-481-06:** 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 Notice of Public Hearing. Chairman Fransway read the title of the item set to public hearing. Mrs. Lawrence reviewed the application and recommended approval. Chairman Fransway asked if the re-zone fits with the current master plan for the area. Mrs. Lawrence stated it did. Discussion occurred regarding the location of the property and the

reason for the rezone. Chairman Fransway noted that neither the applicant nor a representative was present for the hearing. Chairman Fransway asked for public comment; none offered. The following motion was made by Commissioner Amos and passed unanimously:

*To approve a rezone request on RH-09-04.*

*(Ordinance No. 11-02-09)*

**LP-09-05 - A final map approval for a division of land into large parcel map submitted by Desert Mountain Surveying as agent for Moana Investment, LLC to divide property into 4 lots of approximately 1 @ 164.17 +/-, 1 @ 165.31 acres +/-, 1 @ 166.45 acres +/- and 1 @ 167.59 acres +/-.**  
**Property is located approximately 2 +/- miles north of Jungo Road and 8 +/- miles northeast of Pronto.**  
**Section 9, T36N, R36E, M.D.B. and M., Humboldt County, Nevada. APN #05-361-10:**

A copy of the application with maps and a copy of the memorandum and Staff Report recommending approval were provided to the Board for review. John H. Milton III of Desert Mountain Surveying appeared on behalf of the applicant. Mr. Milton reviewed the location of the property and noted that the road access, mineral lease and conditional use permit language were all noticed on the map. The following motion was made by Commissioner Cassinelli and passed unanimously:

*To approve LP-09-05.*

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

**APPROVAL TO HAVE MILLER LOOP SURVEYED:** Superintendent Garrett noted that at a previous meeting issues with the right-of-way for the fencing project on Shelton Lane had been noted for the Board; he discussed issues with the easements and the locations of the right-of-ways that will be fenced; he requested approval to have the right-of-way on Shelton and the right-of-way in front of Fred Miller's property surveyed at an estimated cost of \$1,200.00 and a time frame of approximately two weeks. Administrator Deist suggested that while surveyors are in the area that the County have the area referred to as "Miller Loop" surveyed as there will be a need to redo the abandonment as there are some mistakes in the original document and by having the area surveyed it will confirm on whose property the roads lay. After discussion the following motion was made by Commissioner Cassinelli and passed unanimously:

*To approve the survey of the entire Miller Loop.*

Superintendent Garrett noted that the cost would be increased if the entire area is surveyed. Commissioner Cassinelli agreed but noted that it needed to be done.

**PURCHASE OF EQUIPMENT FROM WASHOE COUNTY:** Provided to the Board was a copy of a memo from Road Superintendent Garrett detailing the request (see attached). Superintendent Garrett

reviewed the memo for the Board noting that the cost of the trucks and plows had increased from an original estimate of \$6,300 to \$7,000 each to \$12,700 each; he noted that he had checked the value on auction and the amounts are still lower than the auction price would be. Superintendent Garrett reviewed the current status of the vehicles in the County's fleet, the amount paid by insurance on the wrecked plow and noted that two graders are set to go to auction; he requested approval to continue to pursue the purchase of the same vehicles approved in August at the new cost. Commissioner Cassinelli stated he was fine with it as long as the price does not go up any more. The following motion was made by Commissioner Cassinelli and passed unanimously:

*To grant the Road Foreman's request to purchase these trucks at the new price of \$12,700.00 for two 1995 Internationals and the 94 and 96 International trucks at \$12,700.00 a piece.*

Commissioner Giordano asked if the motor had been gone through on the 95 truck with the 7000 hours. Superintendent Garrett stated both the 95's had been gone through. Discussion occurred regarding transmission issues.

**REQUEST FROM KEVIN LEE, NDOT DISTRICT ENGINEER, TO DISCUSS APPROACH ROAD PERMITS BEING IN HUMBOLDT COUNTY'S NAME:**

Provided to the Board for review was a letter from Mr. Lee regarding the request (see attached). Kevin Lee NDOT District Engineer and Dave Lindeman, Assistant NDOT District Engineer appeared before the Board. Mr. Lee stated that as noted in his letter it had come to his attention that there were a few roads out there that are maintained by the County but the actual permit is in someone else's name such as the developer; he stated he would like to get that straightened out. Mr. Lee continued noting another discussion, which had come up, is in the future if there are developments out there that are truly going to be public roadways, that the County consider those up front so then the paperwork does not have to be worried about years later as is currently occurring; he noted the work can be put on the developer up front and that is occurring in other Counties and Cities currently. Chairman Fransway asked if the County holds the permit for the access will the County be held responsible for the maintenance from then on even though the encroachment and the permit are on NDOT right-of-way. Mr. Lee responded that the access permit states that whomever holds the permit is the responsible party; he discussed that the developer should be required to do the improvements up front but noted that land use changes can affect it but the entity should then have the approval or disapproval process in the zoning requirements. Discussion occurred regarding what the developer would be responsible for, how the County would recoup its costs, how other Counties handle it, what NDOT's requirements are, who would be

responsible for maintenance of turn lanes and the approaches and that the permit holder would be responsible but that does not happen under the access management manual systems & standards currently in place. Commissioner Giordano asked for clarification on the maintenance issue. Mr. Lee stated the actual turn lane would fall under NDOT's maintenance but once the turn is made the approach maintenance falls to the permit holder. Chairman Fransway noted that the people using the accesses pay County fuel tax and that may be an argument for the County to have the approaches in their name as long as the County is not responsible for the turn lanes and the travel area in the highway itself, just the approach; he continued that before any legal agreement could be entered into it would need to be on paper. Mr. Lee reviewed what other Counties do. Commissioner Bell asked if this would help with the Mallory situation. Mr. Lee stated no that in concept it would help in the future but it would not solve things from the past. Chairman Fransway suggested that NDOT draw something up on paper which details everyone's responsibilities and bring it before the Commission; he noted there would be questions on right-of-ways and that this would only apply to County maintained roads. Mr. Lee agreed that it needs to start somewhere; he noted that the only ones he is aware of are on US 95 north of town and they would have to be looked at on a case by case basis. Administrator Deist stated that if Mr. Lee would get the legal work to him he would review it at the staff level and forward it to the District Attorney for legal review and then it can be scheduled before the Commission. Chairman Fransway stated that a motion is not needed on this item, that the Board has consensus that NDOT needs to work with staff to develop something to bring back before the Commission.

**REQUEST FROM MR. AND MRS. MALLORY TO CONTINUE DISCUSSION OF REOPENING**

**BRUCE DRIVE:** Kevin Lee, NDOT District Engineer and Dave Lindeman, Assistant NDOT District Engineer appeared before the Board. Cleve and Delores Mallory appeared before the Board. Chairman Fransway reviewed what had occurred regarding this matter previously; he noted that the request was for the County to reopen Bruce Drive and he reiterated that the County does not have jurisdiction to reopen the approach the jurisdiction belongs to NDOT; he noted that at a previous meeting the Mallory's had been asked to resubmit an application for an encroachment permit to NDOT; he asked if that had occurred. Mr. Lindeman reviewed the application submitted by the Mallory's noting that section two was blank; he stated that Mr. Mallory had indicated that what would be entered on the application would be discussed at this meeting but that as it stands currently the application would be denied. Chairman Fransway asked the Mallory's why the application was incomplete. Mr. Mallory responded that at the first meeting the Commission had told Mr. Lindeman to put the cattle guard back in and put the approach back in and the details would be worked out later which Mr. Lindeman did not do; he continued stating that he did not feel that he should have to sign for the approach because it was Jim Delaney's approach, that Delaney was

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