

Monday, January 25, 2010

A special retreat meeting of the Humboldt County Board of Commissioners was called to order on Monday, January 25, 2010, at 9:00 a.m. at the Paradise Valley Community Hall, Paradise Valley, Nevada. Those present were Chairman Chuck Giordano, Commissioners Garley Amos Jr., Dan Cassinelli, Tom Fransway and Mike Bell, Administrator Bill Deist, Comptroller Bruce Brooks and Clerk of the Board Tami Rae Spero.

**PUBLIC COMMENTS:** Chairman Giordano asked for public comment; none offered.

**COMMISSIONERS' RETREAT/PLANNING SESSION:**

**DISCUSSION WITH THE DISTRICT ATTORNEY REGARDING PROCEDURES/POLICY RE: CONTRACTS AGREEMENTS, ETC.:** District Attorney Russell Smith appeared before the Board. Commissioner Fransway commented on the importance of the County Commission being involved in things that are not routine, that are of major importance fiscally, have long term effects or can result in liability; he continued stating that the Commission has not been involved referring to the agreement between Humboldt County and Jungo Land & Investment and that they should have been from the get go as it would have resulted in transparency for the public and awareness by the Commission; he stated that he did not know if it warrants a policy but it is just good common sense noting that the Regional Planning Commission (RPC) had information before the Commission and he does not want that to happen again. District Attorney Smith responded stating that the matter was not secret that his office was doing research on liability issues for the County and commented on the fact that the proposal begins in the Planning Department, that there is no agreement out there, that there is proposed paperwork that has been marked confidential and that it is not ready for public view, and that has never been kept secret. District Attorney Smith discussed the type of contracts that the office deals with routinely and what is required by statute for presenting contracts to the Commission and how the Departments with the contracts should keep the Commission informed. District Attorney Smith offered to do a courtesy notification to the County Commissioners when working on big projects but he does not want that to replace the requirement for the departments to notify. Commissioner Fransway commented on the need for the Commission to have been kept informed and the need for the Commission to have a rapport with the Commission's legal counsel and stated that he did not want something like this to happen again so some kind of change needs to be made. District Attorney Smith noted that he would not agree to anything which would violate State Statute and reiterated the need for the departments to notify the Commission of pending contracts. Discussion occurred between Commissioner Fransway and District Attorney Smith regarding the proposed draft document being researched and that if the Commission

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had known about it the public would have known. Discussion continued regarding whether the proposed document is or can be a public document at this stage. District Attorney Smith suggested that a courtesy copy could be provided to the Commission which would be marked confidential and be provided during a legal meeting that would not be part of the County Commission meeting; he noted that he had discussed this matter with the Attorney General's office at length and that this would protect issues of a sensitive nature. Commissioner Fransway commented that the Commission deals with a lot of contracts at public meetings and Administrator Deist responded that those contracts had been through legal review before the public meeting. Discussion occurred regarding the process which occurred for the landfill project. Chairman Giordano commented on the landfill contract being an initial proposal and that it would not be final until it comes before the Commission as the Commission has the last say on it; he stated his belief that the District Attorney did what was suppose to be done. Commissioner Amos commented on the need for a point to start, the need for research and noted that there is no contract or permit so far. Chairman Giordano agreed and stated that courtesy information would be good but that it will not be a contract until the County Commission makes a decision. Commissioner Cassinelli commented on the need for information to be provided to the Commission as questions were being asked of the Commissioners that they had no answers to. Discussion occurred amongst the Commissioners regarding their involvement in the process, the need for communication and information being provided to the Commission from the District Attorney during legal meetings. Discussion continued regarding what the difference would have been if the Commission had been involved sooner and what information was out in the public via the RPC and the Landfill Committee. District Attorney Smith reiterated that it is not advised that contracts under negotiation be made public and that any courtesy notification would be made to the Commission during a legal meeting not during a public meeting. Commissioner Fransway stated that he was asking that the Commission be made privy to the document and that to be done in a public meeting. Discussion occurred between District Attorney Smith and Chairman Giordano regarding the need to keep the Commission informed. Commissioner Cassinelli asked if once the matter comes to the Commission and the Commission votes no what happens. District Attorney Smith indicated that he had discussed the issue with the Attorney General and reviewed how the ordinance could have been written and how it was written with regards to the County Commission's ability to approve; he further discussed the pending issue regarding the extension of the conditional use permit. Discussion occurred regarding the requirements of the ordinance and the Solid Waste Management Code with regards to approval by the City Council. District Attorney Smith again stated his recommendation that a standard legal meeting be held monthly with courtesy information provided to the County Commission at that meeting.

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Commissioner Fransway asked that it be a public meeting. District Attorney Smith stated that it would be a legal meeting not a public meeting. Commissioner Fransway stated that would not solve anything and asked that instead of a monthly legal meeting which is closed that the information be presented at a public meeting with a courtesy report.

*(District Attorney Smith left the meeting at 9:50 a.m. Deputy District Attorney Angie Elquist arrived at the meeting at 9:51 a.m.)*

**ADMINISTRATOR'S RETREAT MESSAGE:** Administrator Deist reviewed the retreat message for the Board (see attached). Discussion occurred regarding the NV Energy lawsuit and its potential effect on the County and other County entities. Discussion occurred regarding the need to allow waivers to the attrition policy but the need for the Commission to tighten up the approvals for the waivers.

**DISCUSSION WITH REPRESENTATIVES OF THE RPC REGARDING THE DEVELOPMENT OF A DIVISION INTO LARGE PARCEL ORDINANCE:** Bob Edwards and Stephen Nye of the Regional Planning Commission (RPC) Ordinance Subcommittee appeared before the Board. Mr. Edwards addressed the Board regarding what has occurred in the attempt to develop a large parcel ordinance; he discussed the issues arising from lack of legal access to the parcels and the issue of having no ordinance which would allow the enforcement of a requirement to obtain legal access and the belief that by approving these applications the County is approving trespass on private property; he commented on issues with two tracks being used as access. Mr. Edwards stated the purpose of this presentation is to determine if the County Commission is in agreement with pursuing the ordinance or would prefer to go with the status quo. Mr. Nye discussed what has occurred in other counties with this issue. Chairman Giordano stated that he would allow John Milton to address the Commission regarding the issue. Mr. Milton provided a handout to the Commission which set forth Nevada Revised Statute language regarding minor roads and discussed what statute allowed with regards to roads and asked that current access being made by ancillary roads be taken into consideration; he discussed what has occurred with parcels created in the past and again noted the need to be cognizant of the effect of the changes on the general public and other land owners in Humboldt County and stated his intent to continue to be involved in what will occur at both the RPC level and the County Commission level. Commissioner Amos stated that if property is landlocked it should not be subdivided unless the property owner can create access and commented on his concern for the future and problems which may be created; he stated that parceling should not be denied but that the land owners should be required to provide the access and that the land owners have a responsibility to do so. Commissioner Bell agreed that the ordinance should be looked at noting that it appeared that the intent was to protect the buyer

and to protect the County from liability. Mr. Nye noted that other Counties have ordinances that require at least minimal standards for emergency vehicles to access the parcel. Discussion occurred as to what is considered legal access and what could be required in the ordinance. Chairman Giordano stated his opinion that people who own property should have the right to sell as long as it does not impact their neighbors or go against regulations but he agreed that parcels should not be created without access and agreed that an ordinance should be pursued especially since other rural areas have ordinances in place and because there are going to be issues in some locations in the County in the future. Mr. Edwards stated his opinion that something could be crafted that would not have a severe impact that could be brought back to the County Commission. Chairman Giordano noted what he believes to be the two issues - the checkerboard and developers and the existing land owners that have been around forever and both must be protected. Mr. Edwards agreed stating that he did not want it to impact the farmer/rancher that wanted to cut out a 40 acre parcel for their children nor does he want it to close any ranch roads. Commissioner Cassinelli stated that he agreed that access should be provided; he continued noting that he had received questions from Joe Sikking regarding areas running out of water and concerns about lots being approved and then dropping wells and depleting the water source. Discussion occurred regarding actions taken by the State three years ago with regards to certain water basins, if proof of water can be required and if proof can be provided on 40 acre parcels. Chairman Giordano asked that legal counsel look at the issue. Commissioner Fransway commented on this being the first step for a large parcel map ordinance which would assist in giving buyers information; he noted that the main items which need to be included are legal access to the development, inside road development, access for public safety and utilities and the existence of mineral leases; he commented on the current practice of inclusion of jurats and stated that the plan seems to be on the right track if the water issue can somehow be included. Administrator Deist noted concerns with the issue of "taking" and suggested that be included in discussions with legal counsel and the RPC. Discussion occurred regarding buyers and their knowledge and responsibilities. Mr. Edwards stated that it appeared that he has the Board's okay to proceed. Commissioner Cassinelli noted that there would be no guarantee for approval when the ordinance is presented. Mr. Edwards agreed.

**County Administrator's Summary:**

1. **Go ahead with the development of the ordinance**
2. **In the development include access issues (including NRS definitions) water availability issues, the current jurat's being used on parcel maps related to roads and mineral leases.**

3. **Remember is will cover not only development ground but also ground already in use (ranch/farm issue or operations)**

Mr. Milton commented on the discussion regarding what had occurred in other Counties and again stated the need to be careful when drafting the ordinance that applies to all. Deputy District Attorney Elquist responded.

**FISCAL REVIEW AND BUDGET DIRECTION:** Comptroller Brooks commented on fiscal issues including need to look to coming years, changes coming on the resource side, issues with revenue and expenses equaling, concerns about taxable sales, the State of Nevada's fiscal dilemma, issues with the dual payment of net proceeds, the trend with net proceeds and the percentage of personnel costs in the County's budget. Commissioner Fransway commented on the current fiscal issues noting that with the revenue side going down elected officials and department heads should be directed to budget accordingly, that cuts need to be made so expenses do not exceed income and that he would not support a tax rate increase. Discussion occurred regarding the State's fiscal issues. Comptroller Brooks commented on the estimate of revenues and issues with those versus expenditures. Chairman Giordano asked that these issues be discussed with the elected officials and department heads at the Management Team meeting. Discussion occurred regarding employee costs, recommendations which will come at budget time, the issues with the NV Energy lawsuit, that new programs should not be included in budgets and that the departments need to assist in closing the gap between revenues and expenditures. The Commission agreed that the same budget process used for the past few years should be used this year. Comptroller Brooks suggested that the Board needs to begin thinking about employee negotiations. Administrator Deist suggested that if anything is considered that it be based as it has in the past on the CPI +/- . Comptroller Brooks continued stating that the Commission may have to begin looking at a plan if things continue to get darker such as furloughs or 40 versus 32 hours work weeks.

*(Recess for lunch at 12:01 p.m. return to meeting at 1:01 p.m.) (No legal counsel present for afternoon session)*

**VISIT MARTIN CREEK PROPERTY AND DIRECTION FOR FUTURE USE OR DISPOSAL AND VISIT TO PARADISE VALLEY WEED DISTRICT STORAGE SITE:** Chairman Giordano noted for the record that the Commission had not visited the Martin Creek property due to weather conditions but they had viewed the storage site prior to returning to the Community Hall.

**CONTINUED FISCAL REVIEW AND BUDGET DIRECTION:** Administrator Deist suggested that if the Commission wishes to look at options if fiscal issues continue a committee could be formed similar to

the Cost Reduction Task Force which was created in past years to look at fiscal issues for the County; he noted that the attrition policy had been a recommendation of that group and reviewed the make up of the group in the past.

**County Administrator's Summary:**

1. **No new taxes**
2. **Plan on potential impact of NV Energy suit.**
3. **Most likely no new programs.**
4. **Need to close gap between revenue and expenditures. Know will have but want to reduce.**
5. **Same process for the budget**
6. **COLA, if one, based on CPI +/-**
7. **Bring back for discussion reinstatement of a group such as the cost reduction task force and what that make up would be.**

**MATTERS RELATED TO THE ROAD DEPARTMENT INCLUDING RS 2477 ROADS (WHERE ARE WE AND WHERE DO WE NEED TO BE; DISCUSSION WITH ROAD SUPERINTENDENT REGARDING WHAT DIRECTION HE WOULD LIKE TO TAKE AND CONCURRENCE BY THE COMMISSION OR DIFFERENT DIRECTION:**

Road Superintendent Ben Garrett appeared before the Board. Superintendent Garrett provided the Board with a list of RS 2477 roads in the County and reviewed the locations on a map; he discussed what has occurred regarding BLM involvement, perpetual right-of-ways, what right-of-ways need to be obtained, the conversion to FLPMA right-of-ways and the plan to work on obtaining the right-of-ways in sections. Commissioner Fransway defined what RS 2477 roads are and stated that the County needs to remain vigilant as to federal legislation related to RS 2477 roads; he noted that NACO is a valuable resource for this. Discussion occurred as to why the right-of-ways need to be obtained now.

Superintendent Garrett reviewed a memo (see attached) for the Board regarding the road maintenance plan including pavement maintenance, gravel road maintenance, bridge maintenance, sign maintenance and equipment issues. Discussion occurred regarding the cost projections for pavement, available funding, a segment of Dutch Flat road, the Jungo project cost, the need to maintain the paved roads the County has, issues for developments with gravel roads including RPC requirements, the type of pipe to be used for drainage and bridge repairs, the mag chloride program, exploring other options for dust control, cattle guard replacements/costs and inventory, culvert necessities, signage issues, roller usage, approval of free use permits for gravel, options for crushing, the possibility of using mag chloride on a section of Shelton

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Lane, the Eden Valley Bridge issues including cost and critical nature, repairs for bridges in the McDermitt area, grader replacement, water tanker replacement costs and what equipment sharing was occurring with other governmental entities. Superintendent Garrett reviewed what had been accomplished in 2009 and discussed the weed proposal for the upcoming year.

**County Administrator's Summary:**

1. **Pavement management emphasis continue**
2. **Future development look at closer so get what needed done, including drainage**
3. **Continue to look at alternatives to mag which will control dust**
4. **Continue to work on compaction on gravel roads (purchase at least 1 pull behind roller per year)**
5. **Return with analysis of crushing options**
6. **Look at all options for grader replacement**
7. **Continue to look at equipment sharing where practical with other government entities.**
8. **PILT most of it to go here - have the money before you use it**

**WEED ISSUES ESPECIALLY PUNCTURE VINE:** Cooperative Extension Agent Brad Schultz appeared before the Board. Agent Schultz discussed the weed program for the past year including the types of weeds treated, the locations and the treatments used. Discussion occurred regarding community concerns regarding puncture vines in the County including at the County shop in Orovada and the ability to treat them. Superintendent Garrett stated the plan was to sterilize the area.

**ILLEGAL DUMPING:** Commissioner Fransway commented on the need for an ordinance to address illegal dumping in the County. Administrator Deist noted that the issue was addressed in the County's Solid Waste Management Policy. Discussion occurred regarding a recent newspaper article, the ongoing issue, the penalties, the issues with garbage along side the road, tarp penalties, the use of secret witness numbers and public awareness.

**RECAP OF THE DAY'S ACTIVITIES:** Administrator Deist reviewed the summaries for the Board. Chairman Giordano asked for other comments or additions from the Commissioners; none offered.

**PUBLIC COMMENTS:** Chairman Giordano asked for public comment. Tami Vetter asked about how the appointments to the RPC are handled; discussion occurred. Paul Bendell addressed the Board regarding the host agreement between the County and Jungo Land & Investment, issues with public trust arising from not only the agreement but from comments made about "pot stirrers", that he takes offense to those comments and the right of the public to speak in opposition. Mr. Bendell continued discussing the District Attorney's