

Monday, February 1, 2010

The regular meeting of the Humboldt County Board of Commissioners was called to order on Monday, February 1, 2010, at 9:30 a.m. in the regular place of meeting at the Courthouse, Winnemucca, Nevada. Those present were Chairman Chuck Giordano, Commissioners Garley Amos Jr., Dan Cassinelli, Tom Fransway and Mike Bell, District Attorney Russell Smith and/or Deputy District Attorney Angie Elquist, Administrator Bill Deist and Clerk of the Board Tami Rae Spero.

DISCUSSION & ACTION ON CORRECTION/APPROVAL OF MINUTES - January 19, 2010: The following motion was made by Commissioner Amos and passed unanimously:

To approve minutes of the January 19, 2010, meeting as written.

PUBLIC COMMENTS: Chairman Giordano asked for public comments. Lianne Iroz appeared before the Board and commented on an item scheduled on the Regional Planning Commission's agenda regarding the landfill and asked if, since there is a legal matter filed by Mr. Dolan, the RPC could postpone making a decision on the issue. Chairman Giordano looked to legal counsel for a response to the question. Deputy District Attorney Elquist stated that she did not think so but she would speak to the District Attorney about it. Mrs. Iroz continued noting that Nevadans Against Garbage had requested time on the RPC agenda but were told that they would address the RPC following the decision regarding the extension of the conditional use permit for the landfill project, she commented that it did not make sense and asked the County Commission to do something. Chairman Giordano commented on the RPC's authority and stated that legal counsel would need to provide the answer. Deputy District Attorney Elquist explained what the legal standard would be for approval of the extension for the conditional use permit. Discussion occurred between Deputy District Attorney Elquist and Mrs. Iroz regarding the ability for the RPC to proceed with the pending District Court case. Commissioner Fransway commented that it would be reasonable as the three years is not up until April to request that the matter be postponed so the public can be involved. Mrs. Iroz commented on how the item is on the RPC agenda under the consent agenda and her concerns about the ability for input on the item and the lack of information for the public that the extension was to be on the agenda. Commissioner Fransway voiced his opposition to the extension being included as a consent agenda item stating that it should be a stand alone item. Chairman Giordano concurred. Administrator Deist stated that he would meet with Planning staff and discuss the issue. Deputy District Attorney Elquist agreed and stated she did not think it would be a problem and she did not believe it would be a problem to put the Nevadans against Garbage before that item. Chairman Giordano and Commissioner Bell agreed that would be the thing to do. Following discussion Chairman Giordano asked for further public comment; none offered.

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ADMINISTRATIVE REPORT:

CONSENT AGENDA: Administrator Deist stated that he had nothing to present for this item.

SOLID WASTE MATTERS: Administrator Deist stated that there would be a Landfill Committee Meeting this afternoon.

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 an update on the Winnemucca Mountain Bike Trail Project would occur at the March 1st Commission meeting, that the Idaho Court had granted the motion to sever and transfer the Nevada issues in the Western Watershed matter to the Nevada Court and that Commission Committee assignments had not been brought back this year but if the Commissioners wanted to make changes the matter could be put on the next agenda. A news release from the USDA Forest Services regarding the selection of Jeanne Higgins as the new Humboldt-Toiyabe Forest Supervisor was provided to the Board for review. Upcoming dates of importance and meetings were reviewed.

REPORTS FROM COMMISSIONERS REGARDING OTHER BOARDS AND COMMITTEES

THEY SERVE ON: Chairman Giordano discussed the status of the Hospital addition project. Commissioner Fransway discussed the WSA work group session that he had attended.

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

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

REQUESTS RELATED TO FENCING THE PROPERTY ABUTTING THE SHOOTING RANGE:

LETTER TO BLM REGARDING FENCING AND SIGNAGE: Administrator Deist noted that Jim French had made a request at the last meeting that this item be placed on the agenda; he stated that he had contacted Scott Ritchie of the BLM to find out if prior to the County obtaining the property would the BLM be amendable to having it fenced and Mr. Ritchie stated he did not know if that could be done but he would investigate the question. Commissioner Fransway stated that he had spoken to the permittee in the area who had requested that a gate be installed in the fence. Commissioner Fransway noted his support for the Commission writing a letter. A.L. Brinkoetter appeared before the Board and explained the request and spoke in support of the letter. The following motion was made by Commissioner Fransway and passed

unanimously:

To draft a letter of support for the Chairman's signature to support the fencing project as a safety issue behind the Winnemucca Mountain Shooting Park and ask that the permittee be involved in the project.

LETTER REQUESTING SUPPORT IN OBTAINING GRANT FUNDING FOR PERMANENT

FENCING: Administrator Deist stated that the Commission had approved submission of a grant to NDOW not to long ago for items at the shooting range and that he had spoken to John McKay at NDOW and Mr. McKay had stated that if the match could be found that the amount requested for that grant could be increased up to \$80,000.00. Administrator Deist commented that he had spoken to Kent Arrien about it, so the main issue was to make sure the match could be found for the additional revenue as previous matches were done through in-kind work at the site by the people involved; he stated that Mr. Arrien was going to speak to the other folks involved to see what could be done. Mr. Brinkoetter commented on the need for the letter. Chairman Giordano stated that the safety factor aspect should be included in the letter; the Board concurred. Based on a question by Commissioner Cassinelli, Administrator Deist explained that the position taken by the Commission on these type of grants is that they would not provide the match that it would be provided through in-kind by the proponents of the project though if the match could not be obtained they would have the option of coming before the Commission to request assistance. Discussion occurred regarding the required match. The following motion was made by Commissioner Cassinelli and passed unanimously:

That the Commission write a letter of support but the proponents would need to come up with the match and that if they cannot come up with the match they need to come back before the Commission for further discussion.

REVIEW OF DENIAL OF PAYMENT OF BILL TO THE ROAD DEPARTMENT FROM A.S.A.P. EXPRESS DELIVERY ORIGINALLY BILLED ON MAY 25, 2007 BY COMPTROLLER'S OFFICE

AND SUPPORT OR OVERRIDE OF DENIAL: Comptroller Brooks appeared before the Board. Comptroller Brooks explained that an invoice dated 12/31/2009 from Fallon A.S.A.P. Express Delivery was recently received by the Road Department for \$32.41 and that according to the vendor's records the amount was originally billed on May 25, 2007, however a search of the County's records and bill payments shows no such invoice received or paid. Comptroller Brooks noted that NRS 244.250 requires claims to be submitted for payment within six months and that since the six month requirement has not been met he is refusing payment of the bill; he continued noting that NRS 244.215 also provides that the Comptroller shall

present the demand to the County Commission with an endorsed copy of the refusal and the reason for refusal and that the Commission can vote for either upholding the Comptroller's decision not to pay or can order the issuance of the warrant by unanimous vote of the members upon which the Comptroller shall immediately issue the warrant. Commissioner Fransway stated his support of the Comptroller's decision. Chairman Giordano suggested that information regarding the language contained in NRS be provided to the vendor to explain the refusal to pay the bill as well as notifying them that the County had no record of the bill. Comptroller Brooks noted that he had reviewed the matter with legal counsel. The following motion was made by Commissioner Bell:

To approve the denial with a letter being sent to the company along with the NRS.

Commissioner Fransway asked that the motion refer to the NRS and note that the Comptroller is in compliance with NRS. The following amended motion was made by Commissioner Bell and passed unanimously:

To approve the denial with a letter being sent to the company along with the NRS and that the Commission finds that the Comptroller is compliant with NRS 244.250.

(Deputy District Attorney Elquist exited the meeting and was replaced by District Attorney Smith at 10:15 a.m.)

UPDATE FROM HUMBOLDT COUNTY SCHOOL DISTRICT SUPERINTENDENT MIKE BUMGARTNER REGARDING BOND PROCEEDS AND THE "STATE OF THE SCHOOLS":

Humboldt County School Superintendent Mike Bumgartner appeared before the Board. Superintendent Bumgartner presented a power point presentation to the Board regarding the "State of the Schools" including budget concerns and repairs and upgrades done to the facilities with bond proceeds.

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

LP-09-08 - A large parcel map application submitted by Desert Mountain Surveying on behalf of Blue Sky Acquisitions, LLC to divide property into 14 lots. Property is located +/- 6 miles NE of Redhouse,

Section 3, T36N, R43E; APN #007-301-03: Provided to the Board were copies of the Planning Department Memorandum/Staff Report recommending approval, maps of the location and a copy of the Regional Planning Commission's Resolution #10-01 passed on January 14, 2010. John H. Milton, III of Desert Mountain Surveying appeared before the Board. Mrs. Lawrence reviewed the application noting the inclusion of the access jurat and the mineral's lease jurat and recommended approval. Mr. Milton addressed the Commission regarding access to the parcels. After discussion the following motion was made by

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Commissioner Cassinelli and passed unanimously:

To approve LP-09-08.

LP-09-09 - A large parcel map application submitted by Desert Mountain Surveying on behalf of Finance All, LLC to divide property into 12 lots. Property is located along Redhouse Road in Section 25, T36N, R43E; APN #007-291-49: Provided to the Board were copies of the Planning Department Memorandum/Staff Report recommending approval, maps of the location and a copy of the Regional Planning Commission's Resolution #10-02 passed on January 14, 2010. John H. Milton, III of Desert Mountain Surveying appeared before the Board. Mrs. Lawrence reviewed the application noting the inclusion of the access jurat and the mineral's lease jurat and recommended approval. Mr. Milton addressed the Commission regarding access to the parcels. Discussion occurred between Commissioner Cassinelli and Mr. Milton regarding water rights on the parcels. The following motion was made by Commissioner Amos and passed unanimously:

To approve LP-09-09 a Large Parcel Map Application Section 25, T36N, R43E, Assessor's Parcel Number 07-291-49.

REQUEST FROM THE DISTRICT ATTORNEY'S OFFICE FOR A WAIVER OF THE ATTRITION POLICY AS IT RELATES TO THE VICTIM/WITNESS ADVOCATE POSITION:

District Attorney Russell Smith appeared before the Commission. District Attorney Smith addressed the Board and stated that he was not requesting a waiver of the attrition policy but instead was requesting that the number of days required for the policy begin with January 1, 2010 rather than January 27, 2010 when the actual resignation was received. District Attorney Smith explained that the person in the position had taken a leave of absence beginning January 1, 2010 but due to family issues had decided not to return, so the resignation was not received until January 27, 2010; he explained the issues with this position needing to be on call all the time. After discussion Chairman Giordano asked that the item be included on the next agenda as it was agendaized for a waiver.

REQUEST FROM A.L. BRINKOETTER TO CHANGE THE SPEED LIMIT ON WESTMORELAND ROAD BETWEEN GRASS VALLEY ROAD AND COMMANDER FROM 35

MPH TO 45 MPH: Provided to the Board for review were letters in support of the change back to 45 M.P.H. from A.L. & Dorothy Brinkoetter, Nancy Brinkoetter, Bob Davidson Electric Inc., Brad & LaRay Larson, Mike & Mary Lynn Kenner of Kenner Concrete, Walt Curtis, Rose & Bryan Curtis of Curtis Machinery, Gerald & Sharon Conklin of Little Red's Excavating, Echeverria Construction Inc, Martin Avery and Vernon F. Anderson. Also provided was a letter in opposition to the change from Tige & Paige Brown.

Chairman Giordano stated that Sheriff Kilgore and Road Superintendent Garrett would be unable to attend due to conflicts. Administrator Deist noted that in November the Commission had passed a resolution reducing the speed limit on Westmoreland Road between Grass Valley Road and Commander to 35 M.P.H. based on a request from the Sheriff and concurrence from the Road Superintendent but now Mr. Brinkoetter has brought a request forward for the Commission to revisit the decision. Commissioner Fransway noted that at the November meeting there was some very pertinent information that was not provided or considered; he continued noting that when those particular lots were parceled in 1996 the County Commission made it contingent upon the property owners or potential buyers having shared access from private driveways onto Westmoreland which reduced the access by half and the reason for that was that Westmoreland Road was to be constructed as a major high speed road and the Commission wanted to restrict the access due to that reason. Commissioner Fransway stated that based on that information the rationale exists to reverse the previous decision and suggested the matter be revisited. Discussion occurred regarding the State's intent to take over ownership of the road and why it hadn't happened. Commissioner Bell commented on his review of the road and that 35 M.P.H. didn't make sense. Chairman Giordano commented on the daily traffic count. Commissioner Cassinelli commented on his agreement but noted that the speed would be 45 M.P.H. if changed back not 55 M.P.H. Commissioner Amos spoke in support of changing the speed limit back noting the creation of a speed trap and the lack of signage regarding the change. A.L. Brinkoetter, Walt Curtis & Gerald Conklin appeared before the Board and spoke in support of the change back to 45 M.P.H. Mr. Conklin suggested that the County look at putting a gravel walkway down the side of the road in that area to keep people off the road edges. Paige Brown appeared before the Board and spoke in opposition to taking the speed limit back to 45 M.P.H. citing children's safety and noting that most people travel in excess of the posted speed limit. Commissioner Cassinelli asked that the speed limit be monitored by law enforcement. Commissioner Bell concurred. After discussion the following motion was made by Commissioner Fransway and passed unanimously:

That because of the intent of the Commission when the area was parceled in 1996 and the subsequent design of Westmoreland Road the decision to reduce the speed from 45 to 35 be reversed back and set at 45 and to direct staff to bring back the resolution to the next meeting to reverse the decision.

ROAD MATTERS: Administrator Deist stated that Road Superintendent Garrett could not attend today's meeting and offered the following report which had been submitted by Superintendent Garrett.

REPORT OF PENDING ROAD DEPARTMENT PROJECTS: Grading and covering of roads is

ongoing, pipe installation is occurring in the Denio and Grass Valley areas, he is working in conjunction with Newmont for crushing and covering Midas Road and the BLM permit is due any day, he attended a Ruby Pipeline meeting at which it was noted that Redhouse Road has failed and the company has hired Sweeney to repair, bid packets for the stimulus project are ready.

MISCELLANEOUS ROAD RELATED MATTERS: None offered.

ADOPTION OF A RESOLUTION AUTHORIZING VERIZON WIRELESS AN OPTION TO LEASE A COMMUNICATION SITE ON A SEVEN ACRE SITE OF HUMBOLDT COUNTY PROPERTY LOCATED EAST OF THE INTERSECTION OF PIONEER ROAD, LASA ROAD AND NOUQUE ROAD IN MCDERMITT, NEVADA WITH COMMUNICATION SITE LEASE PAYMENTS TO THE MCDERMITT COMMUNITY FUND:

Provided to the Board for review was a map of the location and letters from the McDermitt Community Board and the McDermitt General Improvement District detailing the action for approval taken at their joint meeting of January 8, 2010. Commissioner Fransway stated that he would be abstaining from discussion and action on this item as he has a landlord/tenant relationship with Verizon; he left the meeting. William Macdonald, legal counsel, appeared on behalf of the McDermitt General Improvement District and the Community Board. Administrator Deist reviewed what had occurred related to this matter at the December 14, 2009 Commission Meeting. Mr. Macdonald reviewed the map provided and the requirements and contract presented. The following motion was made by Commissioner Cassinelli and passed with Chairman Giordano and Commissioners Amos, Cassinelli and Bell voting aye and Commissioner Fransway abstaining:

To adopt the resolution authorizing Verizon Wireless the lease on the seven acre site.

(Resolution No. 02-01-09)

Administrator Deist noted for the record that Commissioner Bell had left the meeting due to a personal issue at 11:42 a.m.

(Deputy District Attorney Elquist returned to the meeting at 11:46 a.m. and District Attorney Smith exited)

REVIEW AND ADOPTION OF THE RETREAT DIRECTION: A copy the Retreat Direction was provided to the Board for review (see attached). Administrator Deist reviewed the list showing the direction provided by the Commission at the retreat and asked if there were any additions or corrections. Commissioner Fransway asked that maintaining a 60% ending fund balance be included under fiscal issues. After discussion the following motion was made by Commissioner Fransway and passed with Chairman Giordano and Commissioners Amos, Cassinelli and Fransway voting aye and Commissioner Bell being absent: