

Monday, March 15, 2010

The regular meeting of the Humboldt County Board of Commissioners was called to order on Monday, March 15, 2010 at 9:00 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 FEBRUARY 16, 2010**

**AND MARCH 1, 2010:** The following motion was made by Commissioner Cassinelli and passed unanimously:

*To approve minutes of the February 16, 2010, meeting as written.*

Clerk Spero informed the Board that she did not have the minutes for March 1, 2010 ready to present, they would be submitted at the next meeting.

**PUBLIC COMMENTS:** Chairman Giordano asked for public comments. Annie Drake addressed the Commission regarding the USGS Hydrologic Report which was released last week and implored them to read the report and not to base any decisions on any summaries; she continued reviewing information contained in the report, referencing another USGS Report authored by the same person which discusses the quality of Nevada's aquifers and their susceptibility to contamination and discussing a bill proposed by Senator Reid called the Trash Act. Chairman Giordano asked for additional public comment; none offered.

**ADMINISTRATIVE REPORT:**

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

1. Ratification of Chairman's signature on AT&T contract: The Board had been informed at the last meeting that this contract had come in between meetings and had to be signed prior to March 1, 2010 to take advantage of the cost savings so the Chairman had signed the document. *Recommendation: That the Commission ratify the Chairman's signature on the AT&T contract.*

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

*To approve the ratification of signature and to approve the consent agenda as presented.*

**SOLID WASTE MATTERS:** Administrator Deist informed the Board that the Landfill Committee had awarded the recycling grant to Delong.

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

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

**MISCELLANEOUS REPORTS AND CORRESPONDENCE:**

**OTHER INFORMATION AND UPCOMING MEETINGS:** Administrator Deist noted that a letter from the Executive Director of the Humboldt River Water Basin Authority outlining the budget for fiscal year 2011 and a copy of a power point presentation to the Legislature's Committee on Public Lands had been provided to the Board for review. Upcoming meetings and dates of importance were reviewed. Administrator Deist informed the Board that a certificate of appreciation had been received from the Winnemucca Barrel Racing Association and that the budget information was now available on the County's website.

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

**THEY SERVE ON:** Chairman Giordano discussed a teleconference which he had participated in regarding sage grouse.

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

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

**RESETTING OF PUBLIC HEARINGS DUE TO TECHNICAL AND/OR PROCEDURAL ISSUES:**

Administrator Deist explained that at the Commission's last meeting they had set two items to public hearing including a rezone request and a public hearing on an appeal; he continued stating that the rezone notice had been submitted to the local paper for publication but due to a change of dates at the paper which the Clerk was not aware of the item had not been published in sufficient time for public hearing so the item would need to be reset to the April 5<sup>th</sup> meeting. Administrator Deist further noted that a memo regarding the appeal had been received from the District Attorney stating that based on NRS 278.3195.4(b) that an aggrieved party has 25 days in which to file for judicial review of the County Commissioners decision so the request would be that the review hearing date originally set be vacated and the new date be set to occur after the 25 days has expired, so that item should also be reset for April 5<sup>th</sup>. Deputy District Attorney Elquist concurred. Commissioner Fransway asked about the 25 day requirement. Administrator Deist stated his understanding that the proponent has waived that judicial review at this time and reserved the right to go to judicial review following the Commission's hearing. Deputy District Attorney Elquist concurred. Discussion occurred regarding how the 25 days is calculated and who could appeal the decision.

**SET TO PUBLIC HEARING RH-10-01 - A zone change request submitted by Victor and Gloria Beltran to rezone property from AG-5/TPZ (general agricultural district 5 acre minimum lot size with**

**an Airport Hazard Combining District-Traffic pattern Zone overlay) to RR 2.5/TPZ (Rural Ranchette District 2.5 acre minimum with an Airport Hazard Combining District-Traffic Pattern Zone overlay). Property located at 4895 West Commander; Assessor's Parcel #013-312-03:** The following motion was made by Commissioner Bell and passed unanimously:

*To re-set to public hearing RH-10-01 for April 5<sup>th</sup>.*

**SET TO PUBLIC HEARING AN APPEAL - Filed by Robert E. Dolan and Massey K. Mayo regarding the vote, decision and findings by the Humboldt County Regional Planning Commission regarding the five year extension of the Conditional Use Permit UH-07-05 submitted by Jungo Land and Investment, Inc. to allow them to develop a long term solid waste disposal site and approximately 25 miles west of Winnemucca in Desert Valley off Jungo Road; Assessor's Parcel #005-411-07:** The following motion was made by Commissioner Bell and passed unanimously:

*To re-set this public hearing on the appeal of the RPC vote to April 5<sup>th</sup>*

**DEVELOPMENT OF COUNTY POSITION ON POSSIBLE OWYHEE CANYON LAND NATIONAL MONUMENT:** Provided to the Board for review was information on the development of the national monument including a copy of a letter from the Elko County Board of Commissioners to the Owyhee County Board of Commissioners opposing the proposal. Administrator Deist reviewed the information provided to the Commission including discussion which had occurred between Nevada Association of Counties Executive Director Jeff Fontaine and BLM Director Bob Abbey regarding the issue; he suggested that it might be pertinent for the Commission to take a stand on the issue and forward that information on. The Commission discussed the need for public input and the agreement to oppose the action. After discussion the following motion was made by Commissioner Fransway and passed unanimously:

*That Humboldt County craft a letter of opposition to the proposed Owyhee Canyon Land National Monument and oppose it based on lack of public input and the County Commission's opposition to administrative action through the Antiquities Act.*

**PUBLIC HEARING ON 2009 ROUND II COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM INCLUDING GRANT APPLICATION PROCESS AND SELECTION, GRANT CONSIDERATION, PRIORITIZATION, AND RANKING, REVIEW OF PAST PERFORMANCE AND REVIEW OF THE HOUSING AND COMMUNITY DEVELOPMENT NEEDS STATEMENT:**

Provided to the Board for review was a copy of an e-mail from Mayor Willis-Putnam voicing her support for the CDBG grant to assist with a Humboldt County Scenario Planning & Community Engagement Proposal, a copy of the State of Nevada Commission on Economic Development Community Development

Block Grant Summary page for grant applications, a copy of the 2010 CDBG application for the Winnemucca Futures Project and information regarding the program entitled A Scenario Planning and Community Engagement Proposal for Humboldt County Nevada by Innovative Leadership. Brenda Willey, Assistant Administrator for Humboldt County, appeared before the Board. Ms. Willey reviewed the Summary of Past Performance and the Housing Needs study for the Board. Ms. Willey noted that one grant is before the Commission today as part of CDBG's second cycle and discussed what could be funded in that cycle including specialized planning and capacity building which is what this grant would fall under; she noted for the Board what must be accomplished at today's meeting with regards to the application. Bill Sims, Coordinator for the Humboldt Development Authority (HDA) appeared before the Board and reviewed the purpose of the grant as its preparer; he discussed what the grant would be used for, the total amount of \$10,000.00 being requested, what would be used for matching funds and which entities including County would be approached for providing the necessary additional funding. Ms. Willey discussed the presentation process. Commissioner Bell discussed the project and the involvement of the community. Discussion occurred regarding the amount requested and the possible weakness of the application given that all the necessary funds for the project have not been committed. Commissioner Fransway stated that the local match should come out of the HDA budget as Humboldt County and the County taxpayers already contribute to HDA annually and HDA has a healthy ending fund balance. Mr. Sims responded noted that he is only the Coordinator for HDA that it would be up to the Board of Directors to make that decision and his own intention is not so much to get financial support from each of the bodies discussed but to have them invested in the process and his intent would be to request that the Board of Directors fund the entire amount and then it would be up to them to go out and get the other entities to contribute to pay the HDA back. Commissioner Fransway discussed the County's involvement in HDA and the need for the funds to be provided by HDA. Chairman Giordano asked for public comment; none offered. The following motion was made by Commissioner Amos and passed unanimously:

*For the Chairman's signature on the grant application and supporting documents.*

**UPDATE FROM JIM JEFFRESS, BACKCOUNTRY LANDS COORDINATOR SPORTSMAN'S CONSERVATION PROJECT TROUT UNLIMITED, REGARDING THE PINE FOREST WORKING GROUP PROCESS AND PROGRESS:**

Provided to the Board for review was a copy of the Pine Forest WSA Working Group Report dated February 27, 2010. Jim Jeffress, Backcountry Land Coordinator for Trout Unlimited's Sportsmen's Conservation Project appeared before the Board. Mr. Jeffress discussed the Wilderness Study Areas in the Pine Forest including the process for their creation from

the beginning to amending them currently and a review of the process sanctioned by the Commission previously in which Trout Unlimited can help facilitate the local and regional interest groups in the Pine Forest, in primarily the two WSAs - Alder Creek and Blue Lakes, to look at and develop their own recommendations as to what should be the ultimate disposition of the WSAs; he reviewed what had occurred with initiating the process, what has been discussed so far, issues which have been identified, what the plan is for the future and what the time frame for the process is including the presentation for recommendations. Chairman Giordano asked that if any changes occur that the matter be placed on an agenda and the Commission be kept informed. Mr. Jeffress noted that there is an open line of communication between him and the County Administrator and requested that the Commissioners provide him with any issues or concerns that they are hearing from their constituents; he discussed what is being done to make the public aware of the process. Commissioner Fransway commented on his involvement in the process and commended Mr. Jeffress and the whole working group for getting into this issue and noted his expectation for good things to happen.

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

**VH-10-04 - A variance request submitted by Kenneth Buckingham to reduce the required 7' side yard setback on the north side of the lot to 2' in order to allow the recently placed soft-set manufactured home to remain as placed. Property is located at 130 1<sup>st</sup> North Street in Paradise Valley, NV; Assessor's Parcel #004-393-08:** Provided to the Board was a copy of the application with maps attached, information on notice provided and a copy of the Planning Department Staff Report recommending approval. Applicant Kenneth Buckingham appeared before the Board. Mrs. Lawrence reviewed the application and recommended approval. Photos were provided to the Board for review. Commissioner Fransway asked that the applicant be made aware of the Buildings & Safety Director's comments. The following motion was made by Commissioner Fransway and passed unanimously:

*To approve VH-10-04 with approval based on staff recommendation.*

*Deputy District Attorney Elquist departed the meeting and was replaced by District Attorney Russell Smith at 10:23 a.m.*

**SET TO PUBLIC HEARING A NUISANCE COMPLAINT AT 4370 SUNNY DRIVE, WINNEMUCCA, NV:** Provided to the Board for review was a copy of the complaint with photos and copies of the inspection reports provided by the Humboldt County Sheriff's Office, the Winnemucca Rural Fire Department and the Building & Safety Department. The Board concurred that the property appeared to be

a hazard. The following motion was made by Commissioner Bell and passed unanimously:

*To set to public hearing at the April 5<sup>th</sup> meeting.*

**APPROVAL OF 2011 NDOT GRANT APPLICATION FOR TRANSPORTATION SERVICES**

**PROVIDED BY THE HUMBOLDT COUNTY SENIOR CITIZENS:** Provided to the Board for review was an e-mail from Senior Citizens Director Dee Larios detailing the annual request and noting that she would be unable to attend today's meeting. Administrator Deist noted that this is an annual grant which has been in place for numerous years and that there are no changes from previous years. The following motion was made by Commissioner Fransway and passed unanimously:

*To approve the 2011 NDOT grant application for transportation administered by the senior citizens.*

**APPROVAL OF PROCLAMATIONS RELATED TO VICTIMS OF CERTAIN CRIMES:** Joann Casalez Director of the Winnemucca Domestic Violence Shelter (WDVS) appeared before the Board.

**PROCLAMATION OF APRIL 2010 AS SEXUAL ASSAULT AWARENESS MONTH:** A copy of the proposed proclamation was provided to the Board for review. Ms. Casalez spoke in support of the request and discussed the expansion of the Domestic Violence program. After discussion the following motion was made by Commissioner Amos and passed unanimously:

*To proclaim April as Sexual Assault Awareness Month.*

Commissioner Amos read the proclamation.

*(Proclamation 03-15-10)*

**PROCLAMATION FOR CHILD ABUSE PREVENTION MONTH 2010:** A copy of the proposed proclamation was provided to the Board for review. Ms. Casalez spoke in support of the request noting that this is a collaborative effort between the WDVS, the District Attorney's Office and the Family Resource Center; she discussed the planned events. The following motion was made by Commissioner Amos:

*To proclaim April as Child Abuse Prevention Month in Humboldt County.*

Commissioner Fransway requested that additional language be added to the proclamation stating that the District Attorney will prosecute offenders to the full extent of the law. District Attorney Smith agreed to the addition. Commissioner Fransway suggested the language be included as the last "whereas". Commissioner Amos offered the following amended motion and it passed unanimously:

*To proclaim April as Child Abuse Prevention Month in Humboldt County with the addition of the requested language as the last whereas.*

*(Proclamation 03-15-10a)*

Commissioner Amos read the proclamation.

**PROCLAMATION OF April 18 - 24, 2010 AS NATIONAL CRIME VICTIMS' RIGHTS WEEK:** A

copy of the proposed proclamation was provided to the Board for review. Ms. Casalez spoke in support of the request. The following motion was made by Commissioner Amos and passed unanimously:

*To proclaim April 18 to 24, 2010 as National Crime Victims' Rights Week.*

*(Proclamation 03-15-10b)*

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

**REPORT OF PENDING ROAD DEPARTMENT PROJECTS:** Superintendent Garrett reported that crack sealing is ongoing as is grading; he updated the Board on the plan to submit the Eden Valley Bridge project as a STIP project and the plan to survey Sheldon Lane.

**MISCELLANEOUS ROAD RELATED MATTERS:** Discussion occurred regarding grading Kelly Creek Road and potholes on Bottle Creek Road.

**REVIEW AND POSSIBLE TERMINATION OF CONFLICT COUNSEL AGREEMENT WITH PERSHING COUNTY OR DIRECTION TO THE DISTRICT ATTORNEY TO FILE A WRIT OF MANDAMUS TO ENFORCE USE OF THE CONFLICT COUNSEL AGREEMENT:**

A copy of letter regarding the issue from the Pershing County Commissioners was provided to the Board for review. Administrator Deist noted that if the Commission's decision is to terminate the contract the notification must be sent to Pershing County by April 1<sup>st</sup>, that the costs for conflict counsel are very high and that he has discussed the issue with the Justice of the Peace. Justice of the Peace Gene Wambolt appeared before the Board. Justice of the Peace Wambolt stated that since the last time he met with the Board of Commissioners regarding this issue he has obtained additional information as to Mr. Cochran's status in the form of an e-mail from the Director of Admissions for the State Bar, Patrice Eichman to Mr. Cochran's attorney which addressed the requirements of Rule 49.9 for supervision; he continued noting that Mr. Cochran has practiced in both Pershing County and in Humboldt County in Judge Wagner's Court so at this point in time on the communication he received from the State Bar specifically Patrice Eichman, he feels that Mr. Cochran can appear in Union Township Justice Court and practice law. Administrator Deist stated that would solve a great many problems as with the Justice of the Peace willing to appoint Mr. Cochran to the first line conflict counsel in Justice Court it should save money and would remove the need to terminate the contract with Pershing County. Discussion occurred regarding the need for conflict counsel. Justice of the Peace Wambolt noted that Humboldt County needs to provide office space for Mr. Cochran. Discussion occurred that no motion was necessary as the contract automatically renews annually unless notification is provided by a