

Monday, May 17, 2010

The regular meeting of the Humboldt County Board of Commissioners was called to order on Monday, May 17, 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, Deputy District Attorney Angie Elquist, Administrator Bill Deist and Clerk of the Board Tami Rae Spero.

DISCUSSION & ACTION ON CORRECTION/APPROVAL OF MINUTES - MAY 3, 2010

REGULAR MEETING: Chairman Giordano offered a correction; discussion ensued. The following motion was made by Commissioner Fransway and passed unanimously:

To approve meeting minutes of May 3, 2010, meeting as written.

PUBLIC COMMENTS: Chairman Giordano asked for public comments. None were offered.

ADMINISTRATIVE REPORT:

CONSENT AGENDA: Commissioner Fransway stated that he would be abstaining from discussion and action on item one as he has a business relationship with Verizon; he asked that the item be handled separately. 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 letter to Verizon Wireless clarifying the payment arrangement for the site in McDermitt: A copy of the letter previously signed by Chairman Giordano was provided for review by the Board. *Recommendation: That the Chairman's signature be ratified.*
2. Appointment of second Commissioner to the Appointed Official's Review Committee: It was noted that the committee is comprised of the Chairman and one other Commissioner; that Chairman Giordano has been the other Commissioner for a number of years but because he now serves as Chairman another Commissioner needs to be appointed. *Recommendation: That Commissioner Amos be appointed as the second Commissioner.*
3. Approval of purchase of MIA flag for Veterans Park: It was noted that a request for the Commission to purchase this flag for the Veterans Park had been received at the last meeting. *Recommendation: That the Commission authorize the purchase of a 3x5 MIA flag for Veterans Park.*
4. Request for Adjustment to the Humboldt County Real Property Tax Roll: Request 09-10-38 was provided for the Board's review. *Recommendation: That the Commission approve the adjustment as recommended by the Assessor and Treasurer.*

Chairman Giordano asked Bill Macdonald about liability issues with the site for Verizon; discussion

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ensued. Chairman Giordano stated that items two through four on the Consent Agenda would be handled as a separate item. The following motion was made by Commissioner Bell and passed unanimously:

To approve items two through four on the Consent Agenda and hold off on item one until a later time.

The following motion was made by Commissioner Amos and passed with Chairman Giordano and Commissioners Amos, Cassinelli and Bell voting aye and Commissioner Fransway abstaining:

To approve the ratification of the Chairman's signature on letter to Verizon Wireless clarifying the payment arrangement for the site in McDermitt with Commissioner Fransway abstaining.

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 a copy of a letter of resignation from the Regional Planning Commission from Joyce Cox was provided for the Board's review and that advertising will begin for the replacement. Administrator Deist discussed the recent field trip involving Jim Jeffress he had went on regarding the Wilderness Study Areas. Upcoming meetings and dates of importance were reviewed.

REPORTS FROM COMMISSIONERS REGARDING OTHER BOARDS AND COMMITTEES THEY SERVE ON: Commissioner Cassinelli reported on the Nevada Works meeting he had attended. Commissioner Fransway noted he had attended a CABNR meeting but indicated that Jeff Fontaine would be before the Board later in the meeting to discuss the issue.

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

To approve the expenditures.

SHERIFF'S OFFICE: Under Sheriff Curtis Kull appeared before the Board.

PRESENTATION OF CERTIFICATES TO SEARCH AND RESCUE MEMBERS FOR THEIR RECENT PARTICIPATION IN A SEARCH FOR TWO STRANDED INDIVIDUALS: Under Sheriff Kull detailed the actions of the Search and Rescue members which had occurred on April 22, 2010 and commended and provided certificates to the following individuals: Sherrie Moser, Barry Heigher, Ron Moser

and Tommy Swanger (not present); in addition he thanked Jerry Harper for his assistance with the rescue.

REVIEW AND POSSIBLE APPROVAL OF FORENSIC SERVICE AGREEMENT WITH WASHOE COUNTY FOR FISCAL YEAR 2010-2011: A copy of the proposed agreement was provided to the Board for review. Administrator Deist stated that this is an annual agreement, that the cost is slightly less than the previous year and that he recommended approval. The following motion was made by Commissioner Amos and passed unanimously:

To approve the forensic service agreement between Washoe County and the Humboldt County Sheriff's Office for fiscal year 2010-2011.

REQUEST FROM YOUTH AND FAMILY SERVICES FOR A WAIVER TO THE ATTRITION POLICY FOR THE WORK CREW SUPERVISOR POSITION IN LOVELOCK WHICH IS PRESENTLY VACANT: Chief Juvenile Probation Officer Ed Sampson, Assistant Chief Craig Tippens and Juvenile Master Sam Matheny appeared before the Board. Officer Sampson spoke in support of the request noting that Probation Officers and Detention staff are currently covering the duties and noted the number of juveniles currently on the work crew. Commissioner Fransway noted that this is a budgeted position and that the cost is shared with Lander and Pershing Counties; he asked if those Counties had any objections to the position being filled. Officer Sampson stated that he did not anticipate any objections but that these requests have always been brought before the Humboldt Board of Commissioners as the payroll is handled by this County. Discussion occurred regarding the time it would take to fill the position. After discussion the following motion was made by Commissioner Bell and passed unanimously:

To approve the request.

REPORT AND RECOMMENDATIONS FROM THE INSURANCE COMMITTEE REGARDING CHANGES TO THE COUNTY'S HEALTH INSURANCE: Comptroller Bruce Brooks and Leanne French representing the Insurance Committee appeared before the Board. Comptroller Brooks reviewed the changes to the insurance policies and the costs associated with the policies for the Board. Discussion occurred regarding the changes and the use of the number of claims in determining the costs associated. After discussion the following motion was made by Commissioner Fransway and passed unanimously:

To approve the recommendations from the Insurance Committee for change to the County's health insurance.

DETERMINATION/DEDICATION OF GERMAIN PROPERTY AT BAUD AND EAST FOURTH FOR THE USE AND BENEFIT OF THE WINNEMUCCA RURAL FIRE DISTRICT: Administrator Deist explained that at the last Commission meeting this piece of property had been donated to the County

by Gloria Germain Brown and that it was up to the County Commission to dedicate its use; he noted that representatives of the Winnemucca Rural Fire District had done all the leg work to obtain this donation. William Macdonald appeared before the Board and suggested that it would be appropriate to have a resolution regarding the dedication of the property prepared and brought before the Board for consideration. Commissioner Bell stated that he felt the best use of the property would be by the Fire District. Commissioner Fransway noted that was the intent of the owner when donating the property. Audience member, Mel Hummel commented that property owners across from the building located on the property had voiced concern that the building would be torn down. Commissioner Fransway noted that the department will determine the best interest for the property and stated that he would not be comfortable with any stipulations as Mrs. Brown has stated her agreement with the dedication to the Fire Department. The following motion was made by Commissioner Fransway and passed unanimously:

*That the County Commission determines that the Germain property at Baud and East
Fourth be used for the benefit of WFRD - Winnemucca Rural Fire.*

CONTINUED HEARING ON NUISANCE COMPLAINT AT 4370 SUNNY DRIVE, WINNEMUCCA, NEVADA: Copies of the complaint, reports and associated correspondence were provided to the Board for review. Neither the property owner, Alma Gutierrez nor complainants or representatives were present. Administrator Deist noted that two meetings ago the Commission had declared this property a nuisance and had given the property owners fourteen days from notice to abate the nuisance. Commissioner Fransway stated that he had viewed the site and there had been no change but there was an obvious hazard; he discussed what the possible next step by the County would be. Commissioner Bell stated that he had viewed the site and not enough progress had been made. Chairman Giordano commented on the work done and the current appearance of the site. Commissioner Bell noted the warning tape had been removed from the site creating a greater hazard. Chairman Giordano asked if the property owner had contacted the Clerk. Clerk Spero reviewed the contact received from the property owners and noted that the property owner was served on April 22, 2010 and that the notice made it clear that they had fourteen days from date of service to abate the nuisance. Commissioner Bell stated that the clean up could not be completed without equipment going in; he suggested that the County go in and do the work and put a lien on the property. Administrator Deist inquired of Deputy District Attorney Elquist about the ability of the county to go on the property; Deputy District Attorney Elquist stated she would research the matter. Commissioner Fransway suggested that while the issue is being researched the Commission take action to give notice to the property owners that if the nuisance is not cleaned up in two weeks the County will proceed. Commission Cassinelli asked what would

happen if the research shows the County cannot go on the property. Administrator Deist suggested language for a motion regarding abatement provided the District Attorney determines access can be made and suggested that a letter be sent to the property owners by the District Attorney regarding the need to abate as it may carry more weight. After discussion the following motion was made by Commissioner Fransway based on the failure of the property owner to do what was asked of them relative to abating a nuisance at 4370 Sunny Drive and passed unanimously:

To direct the District Attorney to draft a letter to the property owner giving them two weeks from today in order to abate the nuisance or the County will take remedy to do so and apply the costs as a lien on the property.

PLANNING MATTERS:

CONTINUATION OF PUBLIC HEARING AH-10-01 - An abandonment request submitted by Cleve and Delores Mallory to abandon 731.21 foot portion of Memory Lane, a 30 foot easement, lying north of Bruce Drive, next and within the easterly border of Assessor's Parcel #006-621-26 and #006-621-27:

Chairman Giordano read the title of the item set to public hearing. Petitioners Cleve and Delores Mallory were present. Administrator Deist reviewed what had previously occurred with this issue including the site visit at the last Commission meeting; he noted that the easement was created in 2005 for road and utility purposes and that the original request had been to abandon all of the easement on the property owned by the Mallorys but now it appears that the request is more to abandon that portion from Warner Drive back to Bruce Drive; he noted the opposition from other residents and an option suggested by Desert Mountain Surveying which would have the Mallorys give an additional 30 feet from Warner to the property line as shown on the map provided to the Board, this would give adequate room to turn from Warner on to Memory Lane to proceed to the other properties. Commissioner Amos asked the Mallorys why they wanted the abandonment. Mr. Mallory stated that since Bruce Drive has been abandoned the road is of no use to anybody, he pays the taxes as it is on his property and he had no say in allowing the easement so he feels it should be abandoned and put back in as part of his property. Discussion occurred regarding the location of the section that is being requested for abandonment. Commissioner Fransway noted that if the access for Bruce Drive was ever re-opened it would be a detriment not to have that easement. Mr. Mallory stated that if Bruce Drive was reopened he would put in the road himself. Mrs. Mallory noted the option given to Mr. Fosbinder to have the road installed in thirty days which he had indicated he was not going to do; she asked if the County planned on putting the easement in. Commissioner Fransway stated that it could happen though it is not planned currently. Mr. Mallory noted safety issues and the public endangerment situation due to the

lack of access on Bruce Drive off of US 95. Administrator Deist noted that the access to Bruce Drive was closed by the Nevada Department of Transportation. Mr. Mallory referred to the law that gives the County Commission final say on every road in the County. Chairman Giordano stated that this was not the issue under discussion. Fred Fosbinder addressed the Board and discussed eminent domain, that the poles along the road are not straight as to the property lines and suggested that the County put in the road and add additional taxes to the property owners to cover the cost. Helen Behlow commented on issues with access to her property and the current usage of the easement. Commissioner Bell noted the issues with the guy wires in the easement. Mr. Mallory stated that if Ms. Behlow put in the road within thirty days he would drop the request for abandonment; he reiterated his opinion that the road is of no use to anyone. Ms. Behlow stated she would have to talk to some people who have offered to do it but noted that Mr. Mallory would have to remove his stuff from the easement and the guy wire would have to be moved. Mr. Fosbinder again noted his belief that the County should put in the road and add additional taxes to the individual property owners. Chairman Giordano commented on the fact that these are not county roads. Administrator Deist stated that the roads are not in the county maintained system and he did not know if this road would meet the criteria to be brought into the system. Shirley Delaney addressed the Board and noted that this access has been there continuously since 2002 and these people need access to their property so she does not think anything should be closed. Mark Delaney offered comment and concurred with Mrs. Delaney's comments and stated that the access should not be abandoned. Commissioner Bell stated that what is before the Board today is not going to fix everything as the only thing before the Commission is the abandonment and that based on the recommendations of the Planning Commission he did not believe the Commission can abandon this; he noted that the other issues could be brought back in the future. Commissioner Cassinelli noted that once an easement is abandoned it is unlikely it will be returned. The following motion was made by Commissioner Fransway based on the RPC recommendation and on the access to the abutting properties and the potential for future extension of Memory Lane and future development in the area and passed unanimously:

To deny AH-10-01 at this time.

Commissioner Giordano stated any other issues would have to be placed on future agendas.

SET TO PUBLIC HEARING RH-10-03 - A rezone request application submitted by Desert Mountain Surveying as agent for Maximiliano and Maria Herrera to rezone property from RR-13 (Rural Ranchette District 13,000 square foot minimum lot size with Mobile Home Combining District Overlay) to R1-6 MH (Single Family Residential District 6,000 square foot minimum lot size with

Mobile Home Combining District overlay). Property is located on Walther and Turner Lanes, APN #10-364-03 and #10-364-04: Administrator Deist stated that this set to public hearing was being removed from the agenda today as there had not been a quorum at the last Regional Planning Commission meeting for action to take place; he stated that the item would be re-set for June.

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

REPORT OF PENDING ROAD DEPARTMENT PROJECTS: Superintendent Garrett reported on the mag chloride project, road grading, work planned by the railroad on railroad crossings in the County, a request by the McDermitt GID for the County to grade the road to the sewer ponds which has been done in the past, a meeting regarding Midas Road and Newmont's concerns related to the Ruby Pipeline project and damage to the road, the opening date for the stimulus bids and the possibility, if funds are available, to piggyback on the City's planned project for the National area for work on the County roads in the area. Superintendent Garrett stated that he had been contacted by Shirley Delaney who had inquired about the possibility of the County accepting Norma Drive into the maintained system if she brings it up to standards; Superintendent Garrett stated that he has checked the occupancy and it does meet the requirements but Mrs. Delaney has indicated that if the County would consider accepting the road she would proceed but if not she will not proceed with the improvements; he asked if the Commission would like the item placed on a future agenda. Commissioner Cassinelli stated that the County ought to accept the road if they bring it up to standards. Chairman Giordano noted that if the road meets the criteria the Commission has never turned down one before. Commissioner Fransway stated that there are numerous flagrant violations to the County ordinances in that area, so if it is done there should be a requirement that the properties need to be cleaned up. Commissioner Cassinelli agreed that there are bad looking properties out there but the road is what is being discussed and if it is going to improve the road he did not see what it would hurt. Commissioner Bell agreed. Chairman Giordano noted that the improvement of the road would not be a cost to the County and that the issues with the properties would come under the nuisance ordinance and would need to be addressed through that. Commissioner Fransway questioned if anything could be done legally about the situation as the Commission has an obligation to keep the County planned out; he asked legal counsel to look into whether the Commission could make a stipulation that the roads not be brought up to county standards until they comply with the ordinance out there; he noted the safety hazards in the area for example the difficulty of getting a fire truck into the area. Commissioner Cassinelli commented that the first thing to getting a fire truck into the area is improving the roads. Discussion occurred regarding the issues with the nuisances. Commissioner Bell stated that he had no objection to considering taking it into the system if they