

Monday, March 21, 2011

The regular meeting of the Humboldt County Board of Commissioners was called to order on Monday, March 21, 2011, at 9:30 a.m. in the regular place of meeting at the Courthouse, Winnemucca, Nevada. Those present were Chairman Garley Amos Jr., Commissioners Mike Bell, Dan Cassinelli, Tom Fransway and Jim French, District Attorney Michael Macdonald, Administrator Bill Deist and Clerk of the Board Tami Rae Spero.

**DISCUSSION & ACTION ON CORRECTION/APPROVAL OF MINUTES - FEBRUARY 22, 2011 REGULAR MEETING AND THE MARCH 7, 2011 REGULAR MEETING:**

Administrator Deist noted that only the February 22<sup>nd</sup> meeting minutes were being submitted for discussion and action. Commissioner Fransway offered two corrections to the February 22<sup>nd</sup> meeting minutes and the Board concurred with said corrections. The following motion was made by Commissioner Bell and passed unanimously:

*To approve the minutes with Commissioner Fransway's input.*

**PUBLIC COMMENTS:** Chairman Amos asked for public comment. Marlene Brissenden addressed the Board and thanked them for the job they have done in standing up for the people of Humboldt County.

Lynn Trost the Field Director for the Retired and Senior Volunteer Program (RSVP) appeared before the Board and discussed her program and spoke in support of the monetary request that will be considered by the Board at budget time.

Jeena Von-Schott addressed the Board and asked questions related to who approved the change to the ordinance in October of 2007 related to allow a second landfill. Administrator Deist stated that the approval was done by the Commission. Commissioner Fransway commented on what the change to the ordinance allowed. Discussion occurred to what specifically was allowed and whether it designated what type of project. Ms. Von-Schott continued noting that she had a letter from Senator Harry Reid indicating that he had been misinformed as to the status of the landfill and that he had received information that the issue is over with; she asked who had misinformed the Senator as to the status of this toxic dump. District Attorney Macdonald requested a copy of the letter. Ms. Von-Schott stated she would provide one and asked for confirmation that the issue is still out there and has not been resolved. District Attorney Macdonald responded that the County and the Commissioners are currently in civil litigation regarding the Jungo Landfill Project. Ms. Von-Schott offered comment regarding the project being a toxic dump. Ms. Von-Schott continued offering a statement regarding Commissioner Fransway and her objection to a demand made that he be removed as Commissioner when he had been elected by the citizens of the

County and had been the only Commissioner to stand between the citizens and getting the dump.

John Siegfried appeared before the Board and provided a copy of a letter to the Board and asked that the letter also be made a part of the minutes of the meeting (letter in its entirety attached to the minutes); he proceeded to read the letter regarding clarification of remarks which he had made during the public comment section of the March 7, 2011 Commission Meeting.

Fred Baryol appeared before the Board and offered comment responding to Mr. Siegfried's comments and noting that Commissioner Fransway was elected by the citizen's of Humboldt County and that if Mr. Siegfried wants him removed there are legal options available for that effort; he continued noting that he thinks Mr. Siegfried is wrong, that Commissioner Fransway has stood up for the community, that 70% of the voters in Humboldt County suggested that they did not want a landfill of this magnitude here and Mr. Fransway has honorably represented those citizens. Mr. Baryol offered his perspective that due to the pending litigation Commissioner Fransway should be able to use whatever means possible to communicate to whatever government individual possible; he continued noting in response to Mr. Siegfried's comments related to transparency in government that we all know that there are a lot of untransparent activities that happen in government that the whole idea is that you represent the people who elected you; he stated his opinion, which he requested be reflected in the meeting minutes, that Mr. Siegfried obviously has some skin in the game and comes from a position which is a minority position in the County.

Chairman Amos asked for additional public comment; none offered.

Administrator Deist suggested that as it was time for item three on the agenda and Senior Center Director Patricia Tindall was present that the item be heard and then the Commission come back to the Administrative Report; Chairman Amos concurred.

**APPROVAL OF SIGNATURE ON CAPITAL GRANT FOR BUS ENCLOSURE AND ON TRANSIT OPERATION GRANT AS REQUESTED BY THE HUMBOLDT COUNTY SENIOR**

**CITIZENS:** Copies of the Capital Grant Application and the Transit Operation Grant were provided to the Board for review. Patricia Tindall Senior Center Director appeared before the Board. Director Tindall spoke in support of the grant applications explaining the use of the Capital Grant for relocation of the bus enclosure and the building of a four bay bus garage and the use of the Transit Operation Grant for the Senior Bus Program. Administrator Deist stated that the Transit Operation Grant is an annual grant and there is no cost to the County as the match is made by the Senior Center; he recommended approval of the Chairman's signature on the grant applications. The following motion was made by Commissioner Bell and passed unanimously:

*To approve the Chairman's signature on the Capital Grant and the Transit Operation Grant.*

**ADMINISTRATIVE REPORT:**

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

1. **Appointment to the Paradise Valley Sewer District Board:** A letter of request for appointment from Dan Collins was provided to the Board for review. *Recommendation: That the Commission appoint Dan Collins to the Board.*

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

*To approve the Consent Agenda.*

**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.

Administrator Deist suggested as it was time for item number four that the Commission return to the Administrative Report when time allows. The Board concurred.

**REQUEST FOR A FEE WAIVER OR A GRANT TO COVER THE COST FOR USE OF THE INDOOR EVENT CENTER FOR THE 2011 "FIGHT LIKE A GIRL" BENEFIT BARREL**

**RACE:** Provided to the Board was a copy of an e-mail from representatives for the Winnemucca Barrel Racing Association detailing their request and explaining the event. Bonnie Cassinelli appeared before the Board on behalf of the Winnemucca Barrel Racing Association. Ms. Cassinelli discussed the event and the fund raising efforts for the LaRena Bengoa Foundation and spoke in support of the fee waiver or grant. Commissioner Cassinelli disclosed for the record that Bonnie Cassinelli is his sister-in-law but that he would be participating in discussion and action on this item as there is no monetary benefit for him. Discussion occurred regarding the grant provided last year and the results of last year's event. After discussion the following motion was made by Commissioner Cassinelli and passed unanimously:

*To approve the grant for \$800.00 for the barrel race.*

**CONTINUED ADMINISTRATIVE REPORT:**

**2011 LEGISLATIVE MATTERS: POSSIBLE FORMULATION OF COUNTY TESTIMONY/INPUT ON PROPOSED LEGISLATION, RESPONSE TO LEGISLATIVE COMMITTEE REQUESTS, NACO LEGISLATIVE REQUESTS FOR INFORMATION AND**

**RELATED MATTERS:** Administrator Deist noted that he had provided the Board with a copy of an e-mail from Jake Tibbets, Natural Resource Manager for Eureka County, related to a resolution which come out of the Public Lands Committee, SJR5 which expresses opposition to certain proposed actions concerning wild horse and burro herds on federal public lands in Nevada and urges Congress to take certain actions concerning those herds and requesting that the Commission send a letter to the Committee supporting the resolution. The following motion was made by Commissioner French:

*To authorize the Administrator to write that letter on behalf of the Commission.*

Commissioner French noted that it is imperative and that it is something that will have to be dealt with in the future if it is not done. Commissioner Fransway asked if it would be appropriate that the Board also mention the BLM's efforts within Humboldt County such as the gathers on the Sheldon, as he feels they have been very successful and certainly taken into account appropriate management levels of wild horses and burros in Humboldt County, as it faced opposition as well; he asked if the Administrator could add language to the letter relative to Humboldt County as to why the Commission supports the BLM gathers. Commissioner French commented that referring to the BLM meeting their mandates under the AMLs that are identified for Humboldt County particularly would address what Commissioner Fransway is saying specifically to each management unit. After discussion Chairman Amos called Commissioner French's motion to a vote and it passed unanimously.

Administrator Deist continued discussing a Speaker of the Assembly call he and Commissioner Fransway had sat in on relative to economic development, updating the Board on SB 86/AB 180 relative to eminent domain rights for the mines and discussions he had with Assemblyman Goicoechea regarding both bills and the lack of understanding as to split estates. Commissioner Fransway commented that he had watched the proceedings relative to AB 180 and he does not believe an amendment has any legs at all after listening to testimony and hearing concerns that it would be contrary to the Constitutional Amendment called PISTOL so he believed there will be concurrence between the Senate and the Assembly. Administrator Deist noted that it is the last day for bills to be introduced.

**MISCELLANEOUS REPORTS AND CORRESPONDENCE:**

**OTHER INFORMATION AND UPCOMING MEETINGS:** Administrator Deist informed the Board that Sandy Lutz had resigned from the Regional Planning Commission and as it is the City's turn to make the appointment they have been notified of the resignation, that notification had been received from the District Ranger that the RAC appointments have been made, that the County's CDBG grant application for the Senior Center will be presented to the advisory board on March 24, 2011 and that the Senior Center will have a representative at the meeting for the presentation and that the 2011 National Summit of

Mining Communities will occur in Elko in April and that Newmont has offered two participant registrations to Humboldt County if any of the Commissioners would like to attend. Commissioner Cassinelli asked if a Commissioner needed to attend the CDBG presentation to show support for the application. Administrator Deist responded that the Senior Center was sending representatives. Upcoming meetings and dates of importance were noted.

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

**THEY SERVE ON:** Commissioner Cassinelli reported on the Winnemucca Convention and Visitor's Authority's plan to fix up the east hall of the convention center and updated the Board on the status of the purchase of the property located across the street from the west hall.

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

*To approve the claims.*

**REVIEW AND POSSIBLE ACCEPTANCE OF PROPOSAL FOR KAFOURY, ARMSTRONG AND COMPANY TO EXTEND FOR AN ADDITIONAL FIVE YEARS TO SERVE AS THE COUNTY'S INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS FOR AUDIT PURPOSES:**

A copy of the letter of proposal from Kafoury and Armstrong Company prepared by Andree A.B. Rose CPA was provided to the Board for review. Andree Rose and Tara Stoker of Kafoury and Armstrong Co. appeared before the Board. Administrator Deist reviewed the proposal detailed in the letter including the fees for the next five years noting that the fees quoted are for the basic services but depending on the skills of the new comptroller more services may be required and then the cost would increase; he stated his recommendation that the Commission approve retaining Kafoury and Armstrong as the independent auditor as has been done in past years. Commissioner Fransway voiced his agreement with the Administrator's recommendation. The following motion was made by Commissioner Bell and passed unanimously:

*To accept the proposal from Kafoury Armstrong and Company to extend for an additional five years their services.*

**ADOPTION OF RESOLUTIONS DECLARING APRIL AS CHILD ABUSE PREVENTION MONTH AND SEXUAL ASSAULT AWARENESS MONTH AS REQUESTED BY THE WINNEMUCCA DOMESTIC VIOLENCE SHELTER INC.:** Provided to the Board for review were

copies of the proposed resolutions and letters from WDVS and Advocates for Victims of Abuse requesting the Board support of the requests. After discussion the following motion was made by

Commissioner Cassinelli and passed unanimously:

*To approve the resolutions declaring April as Child Abuse Prevention Month and Sexual Assault Awareness Month.*

*(Resolution Nos. 03-21-11 & 03-21-11a)*

**REQUEST FROM THE DISTRICT ATTORNEY FOR A WAIVER TO THE ATTRITION POLICY FOR TWO DEPUTY DISTRICT ATTORNEY POSITIONS, A CHILD SUPPORT ADMINISTRATIVE CLERK AND CHILD SUPPORT CASE WORKER II OR A CHILD SUPPORT COORDINATOR:**

A copy of a memo from the District Attorney regarding the request had been provided to the Board for review. District Attorney Michael Macdonald and Office Manager Nancy Jurad appeared before the Board. District Attorney Macdonald addressed the Board regarding the two Deputy District Attorney positions; he noted that one position has been vacant since November 2010 and the other has been vacant for three weeks, that he has been evaluating the needs of the office since taking office in January and continues to do so, that the resignation of Brian Williams in February had a significant effect on the office due to his years of experience in criminal prosecution, that currently there are three attorneys in the office including himself, that one deputy, Gary Millward, is currently assigned to child support and public guardian/administrator matters though he is being introduced to criminal proceedings and being assigned forfeiture matters and that days with multiple courts and Commission meetings result in the Office being stretched thin. District Attorney Macdonald continued stating that based on the caseload for both civil and criminal matters he believes that there is sufficient workload for one deputy to handle child support, public administrator/guardian duties, for two and 1/2 attorneys to handle criminal and juvenile matters and for the final one and 1/2 positions to cover civil matters including representation for the Commission and other Boards and for the other elected officials and departments. District Attorney Macdonald requested a waiver of the attrition policy for the two deputy positions noting the time it will take to hire and train. Commissioner French asked if the policy is to hire a deputy who has passed the bar exam or if those who haven't passed the Nevada bar are being recruited. District Attorney Macdonald discussed what has occurred in the past and stated the preference would be to hire someone who can hit the ground running as it is not the obligation of the County or his office to pay the salary for an individual that is still studying for the bar, if they are studying for the Nevada bar they need to do that on their own time; he qualified his statement as to out of state attorneys who can practice for a period of time under Supreme Court rules while they are waiting to take the Nevada bar exam. Administrator Deist noted that one position has met the requirements of the attrition policy as it has been open for 120 days which probably exceeds the amount as these positions are usually classified as

public safety so the waiver request is only for the one position that has only been vacant for three weeks. Chairman Amos and Commissioner French stated their support for the request. Commissioner Fransway stated his appreciation for District Attorney Macdonald taking the time to make an educated decision on whether the positions needed to be filled. The following motion was made by Commissioner Cassinelli and passed unanimously:

*For approval of the waiver to the attrition policy to fill the second position left vacant by Brian Williams and to approve filling the 120 days one too for a total of two deputy positions.*

District Attorney Macdonald addressed the Board regarding two positions in Child Support noting that one position for a Child Support Administrative Clerk has been vacant since November and so has satisfied the 120 day requirement and the other position is not yet vacant but the current Child Support Coordinator would be leaving her position in April; he continued asking that he be able to advertise for either a case worker II or a coordinator and that depending on the level of the experience of the applicants he will hire accordingly. After discussion the following motion was made by Commissioner Fransway and passed unanimously:

*To approve the request by the District Attorney for those two positions.*

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

**PUBLIC HEARING ON A REQUEST BY HUMBOLDT COUNTY TO ABANDON A PORTION OF THE RIGHT-OF-WAY (ROW) ON SHELTON LANE IN PARADISE VALLEY FROM THE EXISTING ROW OF 100 FEET TO 60 FEET. THE ADJACENT PROPERTY OWNERS ARE FRED L. MILLER, NFC LAND AND CATTLE LLC AND MILLER INVESTMENTS:** Provided to

the Board for review were a map of the area proposed to be abandoned and a copy of the Notice of Public Hearing. Road Superintendent Garrett explained that this is the next step in the process and explained the purpose of the abandonment related to issues with fencing a portion of Shelton Lane to prevent cattle from getting on the roadway. Administrator Deist stated for the record that notice had been provided as required by statute including publication in the Humboldt Sun and notice to the adjacent property owners as well as Paul and Stacy Miller as parties of interest. Chairman Amos asked for public comment. John H. Milton III of Desert Mountain Surveying, who had prepared the survey on behalf of the County, appeared before the Board and offered recommendations as to stipulations needed from Fred Miller regarding land exchange related to the triangle piece and Nevada Land and Cattle LLC regarding additional easement on the south side of the road. Administrator Deist stated that during the last

discussion with Fred Miller he had been in agreement regarding the exchange. Commissioner Cassinelli stated that he had spoken to Gay Lynn Miller on the phone and she had indicated that all was the same as previously discussed. District Attorney Macdonald recommended that language be included in the abandonment regarding being subject to receiving acreage from Fred Miller. Administrator Deist stated that he had discussed the additional easement with Gary Bengochea of NFC and he had no problem with the additional easement as long as the County moved any fences that might need moving. Mr. Milton continued commenting on the location of the fences in the area and recommending that a Record of Survey Boundary Line Adjustment be filed which shows what the County is getting and what the County is giving up with all parties signing the map.

Leland Miller offered comment agreeing to what the Commission is doing today but wanting to request a hearing on the rest. Administrator Deist clarified that he was referring to the abandonment of Miller Loop in 2001. Mr. Miller concurred. District Attorney Macdonald stated that he has been reviewing what occurred with that abandonment and would be contacting all the parties involved once he is in a position to address the issue.

The following motion was made by Commissioner Fransway:

*To approve the request for abandonment of a portion of the right of way on Shelton Lane in Paradise Valley from existing right of way of one hundred to sixty feet with the stipulation that the other acquisitions by Miller and Nevada First be settled and that the County be responsible for fencing any areas of acquisition.*

Administrator Deist questioned if the latter part of the motion regarding the fencing needs to be included today. Commissioner Cassinelli asked that "Miller" be clarified to be Fred and Gay Lynn Miller. Commissioner Fransway concurred and offered the following amended motion:

*To approve the request for abandonment of a portion of the right of way on Shelton Lane in Paradise Valley from existing right of way of one hundred to sixty feet with the stipulation that the other acquisitions by Mr. Fred Miller and Nevada First be settled.*

Commissioner French asked if the suggestion made by Mr. Milton relative to the record of survey is covered by the motion. Administrator Deist stated that would be the next step following the abandonment. Chairman Amos called Commissioner Fransway's amended motion to a vote and it passed unanimously.

**APPROVAL OF AGREEMENT WITH THE NEVADA DEPARTMENT OF TRANSPORTATION REGARDING THE REPLACEMENT OF EDEN VALLEY BRIDGE: A**

copy of the proposed Cooperative Agreement between the Nevada Department of Transportation and



Humboldt County was provided to the Board for review. Superintendent Garrett stated that this would be the next step in the process for entering into an agreement with Nevada Department of Transportation to replace the Eden Valley Bridge, that the Administrator and District Attorney have reviewed the document and that the cost to the County indicated on the last page is an estimate as the project is set out and will not be done until 2013 or 2014; he reviewed the amount currently set aside by the County for the project. The following motion was made by Commissioner Cassinelli and passed unanimously:

*To authorize the Chairman to sign the cooperative agreement.*

**APPROVAL OF A MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN HUMBOLDT COUNTY AND THE BUREAU OF LAND MANAGEMENT FOR COORDINATED ROAD**

**MAINTENANCE:** A copy of the proposed Memorandum of Understanding for Coordinated Road Maintenance between the U.S. Department of the Interior Bureau of Land Management Winnemucca District and the Humboldt County Board of Commissioners Humboldt County, Nevada setting forth the road maintenance responsibilities and/or operations for the mutual benefit of the cooperating parties for BLM road 2003 (Little Owyhee) and Humboldt County road HC-200 (Soldier Meadows) was provided to the Board for review. Superintendent Garrett noted that in the past the agreement had been that the roads would be swapped between the parties every year as to maintenance, that last year the agreement approved by the Commission was that the County would maintain the Little Owyhee (formerly Greeley Crossing) and the BLM would maintain Soldier Meadows every year but while the BLM was for the agreement they never signed the MOU as they needed additional language so this is the latest agreement from the BLM regarding the swap of the roads to cover a period of five years. Administrator Deist commented on the effort to get the agreement and noted that the District Attorney had reviewed the document and picked up some minor issues so the request today is that the Commission authorize the Chairman to sign the MOU once those corrections are made. Commissioner French asked if this agreement would affect public access across the reservation on Soldier Meadows Road and the 2477 provision that allows that access. Superintendent Garrett stated that the road is still included in the County's inventory it is just a maintenance agreement; he noted that he had been contacted by the Summit Lake Tribe to bring some provisions regarding maintenance on the Summit Lake and Soldier Meadows Roads before the Board and once he has received more detail from their legal counsel he would get the matter on an agenda. The following motion was made by Commissioner Cassinelli and passed unanimously:

*To accept the MOU for the five years between Humboldt County and the Bureau of Land*

*Management on the Little Owyhee Road and Soldier Meadows.*

**REPORT OF PENDING ROAD DEPARTMENT PROJECTS:** Superintendent Garrett updated the Board on grading and flood control/repair and noted that there would be no crack sealing or herbicide application until the weather improved.

**MISCELLANEOUS ROAD RELATED MATTERS:** None offered.

**SET TO PUBLIC HEARING AN ALLEGED NUISANCE AT 4120 BUCKLEY LANE ON PROPERTY OWNED BY CLIFTON AND JEANNIE BROWN:** Provided to the Board for review was a copy of the complaint filed by Larry Willis with photos and a copy of the investigation report provided by the Building & Safety Director Bobby Thomas. Property owner Clifton Brown was present in the audience. Chairman Amos read the title of the matter to be set for public hearing. Director Thomas appeared before the Board and discussed the issues at the site that he has been working with the property owner on since September noting that the property owner and the Building Department have an agreement in place to have the issues addressed by March 31<sup>st</sup>; he reviewed what has occurred including that the weather has impacted the ability to complete what he has directed the property owner to correct, that the property owner has been cooperative and had removed those items which were safety issues. Commissioner French asked if Director Thomas was comfortable that the action taken is adequate. Director Thomas concurred noting the agreement with the property owner. Commissioner Cassinelli asked if the property owner understands that once the weather clears up he must fix the problems. Director Thomas offered his belief that the property owner understands what must be done and noted that the property owner is in the audience today. After discussion the following motion was made by Commissioner Fransway:

*That based on discussion today and that there is a remedy in progress that the Commission tables this matter until a later date at which the Board will receive a progress report from the Building Department.*

Administrator Deist asked the District Attorney if a specific date was needed. District Attorney Macdonald suggested that while not required it would probably be helpful to the property owner and the County so there are no misunderstandings. The following amended motion was offered by Commissioner Fransway and passed unanimously:

*That based on discussion today and that there is a remedy in progress that the Commission tables this matter until the first Commission meeting in May at which the Board will receive a progress report from the Building Department.*

**CLOSED SESSION IN ACCORDANCE WITH NRS 288.220 FOR DISCUSSION WITH**


**MANAGEMENT REPRESENTATIVES REGARDING NEGOTIATIONS WITH THE EMPLOYEE ASSOCIATIONS:** The following motion was made by Commissioner Bell and passed unanimously:

*To close the meeting in accordance with NRS 288.220.*

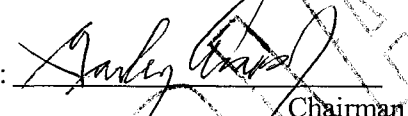
Following the closed session a motion to reopen the meeting was offered by Commissioner Cassinelli and passed unanimously.

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

**ADJOURNMENT:** Chairman Amos adjourned the meeting at 12:02 p.m.

ATTESTED: 

Clerk

APPROVED:  Chairman

UNOFFICIAL

**John Siegfried  
Po Box 238  
Winnemucca, NV 89446  
Monday, March 21, 2011**

A letter to the Humboldt County Commissioner's  
Hand Delivered at their meeting.

Mr. Chairman, Commissioner's, Ladies & Gentlemen:

I'd like to clarify the remarks that I made during the public comment section of your last meeting, March 7, 2011.

First of all let me say that I am disappointed that we are not going to be able to have a full discussion about Commissioner Fransway's performance at this time. I was looking forward to hearing Commissioner Fransway to response and hearing your views on the matters that I present. However, after discussing these matters with your legal counsel, I understand why this matter is not on the agenda for discussion and action today.

Secondly, I want to make it very clear that nothing in my concerns about Commissioner Fransway's performance has anything to do with his opinion or my opinion about whether or not a landfill should be sited in Humboldt County. I want this to be perfectly clear to all who hear or read of this issue.

I am extremely glad that the media has made such detailed and accurate coverage of my remarks at our last last meeting. Thank you Humboldt Sun and SPJ, without your coverage of recent events; I would not have been aware of actions taken by one member of our County Commission, that member being Commissioner Tom Fransway.

My primary issue to provide comment on today is the matter of a letter sent to the Governor on Humboldt County Commission letterhead signed by Commissioner Fransway. This letter made an unsuccessful attempted to stop the Nevada Division of Environmental Protection's review of a permit application being processed by them.

Now, some people may think the matter of signing and sending out a letter as he did is just a minor issue. So please allow me to explain why this is a very big issue.

Let's first look at how it is that Humboldt County has any authority at all. It flows from the State. The State Legislature decides what duties and powers our County has. It allows our County to hold elections and seat Commissioner's and the State empowers our County Commission to act on a narrow, well-defined scope of matters that are spelled out in state law: the Nevada Revised Statutes. Actions taken by our County Commissioner are only valid when our County Commission follows these laws i.e. for one; the Nevada Open Meeting Law.

Individual Commissioners have no duties or powers on their own. The only power an individual Commissioner has is when he is at this table with his fellow Commissioners deliberating and making decisions or when he is specifically given an assignment by the Commission as a whole. The Commission can only give assignments in open public meetings.

Therefore, since sending a letter to the Governor was never discussed at an open, public County Commission meeting, and the authority to write a letter to the Governor on County Commission letterhead was not delegated to Commissioner Fransway by a vote of this Commission in a public meeting, the question that begs asking is, exactly what statutory duty or power or authority was Commissioner Fransway operating under when he took County Commission letterhead and wrote and signed and mailed this letter to the Governor?

Now I'd like to move on to the second issue I have to provide comment on today:

A Commissioner is elected and he then takes an oath and is seated.

The oath is detailed and I've quoted a section of it here:

"...I will well and faithfully perform all the duties of the office..."

A Commissioner is paid to serve; in Fransway's case I believe something in excess of \$32,000 per year with benefits and PERS retirement.

A Commissioner also receives travel expenses to attend meetings and individual Commissioners are assigned to represent the Commission as a whole on various boards and report back to the Commission on items relating to that board's activities.

In Commissioner Fransway's case he has served for at least six years on the Humboldt Development Authority Board. As a Commissioner he has voted to fund the HDA and he has also voted to fund the HDA's Future project to the additional tune of \$3,500 of Humboldt County tax dollars.

This all leads me to the second issue that I have with Commissioner Fransway's job performance.

At an early meeting of the HDA Futures Project, a project to help plan the future development of our community, many if not all of our elected representatives were in attendance, along with many of our local citizens. Commissioner Fransway walked into the meeting and saw that representatives of Recology were there, and he turned around and walked out of that meeting. He never again, to the best of my knowledge attended or participated in any of this important community planning meetings.

So here is how I interpret that lack of participation: Commissioner Fransway was elected to serve, agreed to serve, took an oath to serve, receives County taxpayer dollars in the form of a salary to serve, has shown a past willingness to serve, voted to give tax dollars to help fund the meetings; and then he went AWOL. When things got a little uncomfortable for him, he turned his back on participating in planning the future of the community he is elected to represent, and he went home.

He could have (and I believe should have) stayed and listened and learned and participated and presented his views and done what he was elected to do; but he didn't. He just walked away. That in my mind is a failure to perform a fiduciary obligation and a violation of the public's trust.

How would such performance have fared at a *for profit business*? My experience tells me: possible dismissal or at least a formal plan of improvement with a note that any further such performance could result in disciplinary action up to and including termination.

To sum up my position on the matters I've presented to you today, I am requesting that you as a Commission, with the input and guidance of our District Attorney, accomplish the following:

- 1) See that each and every Commissioner returns any and all Humboldt County Commission stationery to the County Administrator's office.
- 2) Ensure that copies of any and all letters that any individual Commissioners have written on Humboldt County Commission stationery be provided immediately to all Commissioners and to the DA for legal review.
- 3) Ask the DA to initiate a training program for all Commissioners for the purpose of reviewing the duties, powers and authority granted to the Board of Commissioners by State law (NRS). A review of the Humboldt County Code also appears to be in order.

In closing, the fact that we are engaged in a lawsuit at this time must not be allowed to interfere with the proper and transparent operation of our County government.

The fact that we are in the midst of a lawsuit is directly related to actions by a County official or officials as a result of either a lack of understanding or a failure to comply with the statutory duties, powers and authority that comes with holding public office.

In my opinion, the truth behind what has occurred will be borne out by the outcome of the pending lawsuit.

To Tom Fransway, Commissioner, the end does not justify the means. No matter how much you want to achieve your stated end result, you may not abuse your position or trample on due process.

John Siegfried

