

Monday, October 6, 2014

The regular meeting of the Humboldt County Board of Commissioners was called to order on Monday, October 6, 2014, at 9:30 a.m. in the regular place of meeting at the Courthouse, Winnemucca, Nevada. Those present were Chairman Dan Cassinelli, Commissioners Garley Amos Jr., Mike Bell, Jim French and Marlene Brissenden, District Attorney Michael Macdonald, Administrator Bill Deist and Clerk of the Board Tami Rae Spero.

**PUBLIC COMMENTS:** Chairman Cassinelli asked for public comments. Patricia Tindall Director of the Senior Citizens Center appeared before the Board and informed them that the Center had been successful in receiving the 5311 grant funding for the transportation program. Chairman Cassinelli asked for additional public comment. Clinton Norris appeared before the Board and commented on the funding for the Extension service and their duties; he continued speaking in opposition to the use of "Battle Born" in reference to Nevada. No further comment offered.

**DISCUSSION & ACTION ON CORRECTION/APPROVAL OF MINUTES - JULY 21, 2014, AUGUST 4, 2014, AUGUST 18, 2014, SEPTEMBER 2, 2014 AND SEPTEMBER 15, 2014**

**REGULAR MEETING MINUTES:** Chairman Cassinelli asked for corrections/additions for the minutes of July 21, 2014; none offered. The following motion was made by Commissioner French and passed unanimously:

*To approve.*

Chairman Cassinelli asked for corrections/additions for the minutes of August 4, 2014; none offered. The following motion was made by Commissioner Amos and passed unanimously:

*To approve August 4, 2014 minutes.*

**ADMINISTRATIVE REPORT:** Administrator Deist suggested that due to the time that the Board come back to the Administrative Report other than an informational item regarding an appeal that went to the State Board of Equalization. Assessor Jeff Johnson appeared before the Board and explained what was occurring with an appeal filed by AT&T and Level 3 with the State Board of Equalization which if approved by the State Board could result in a dramatic reduction in their values which would affect all taxing districts in the County and which would result in a refund for the 2014-15 tax year. Discussion ensued.

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

*To approve expenditures as presented.*

**ADOPTION OF A PROCLAMATION DECLARING OCTOBER AS DOMESTIC VIOLENCE AWARENESS MONTH IN HUMBOLDT COUNTY:** A copy of the proposed proclamation was

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provided to the Board for review. Administrator Deist noted that this is an annual request. The following motion was made by Commissioner Amos and passed unanimously:

*To adopt October as Domestic Violence Awareness Month in Humboldt County.*

*(Resolution No. 10-06-14)*

**APPROVAL OF AN AMOUNT NOT TO EXCEED \$5,000 FOR THE NEVADA 150/NEVADA**

**DAY PARADE FLOAT:** Commissioner French explained the use of the funds for creating the Nevada 150 Humboldt County Float, transporting it along with the community members handling it to Carson City and presenting it in the annual Nevada Day Parade; he noted that he believed the amount to be high but did not want to have to come back for additional funds. Discussion occurred as to where the funds should come from. The Board concurred that they should come from the Commission's contribution line item. The following motion was made by Commissioner Amos and passed unanimously:

*To approve an amount not to exceed \$5,000.00 for the Nevada 150<sup>th</sup> Nevada Day parade float and the money is to come out of the Commissioners' contribution budget.*

**RECOMMENDATION FROM REGIONAL PLANNING COMMISSION REGARDING ZONES IN WHICH CERTAIN ACTIVITIES RELATED TO MEDICAL MARIJUANA WILL OR WILL NOT BE ALLOWED AND DIRECTION TO THE DISTRICT ATTORNEY'S OFFICE ON**

**DRAFTING OF AN ORDINANCE:** Provided to the Board for review was a memo from the District Attorney regarding the recommendations of the Regional Planning Commission (RPC) on medical marijuana establishments in commercial and industrial zoning districts within the County and City (see attached). Commissioner Brissenden suggested that a moratorium be placed on dispensaries for one year to see what the Legislature may do with the issue. Commissioner French agreed with Commissioner Brissenden's comments and commented on his opposition to dispensaries in the County unless it is controlled by pharmaceutical regulations. Commissioner Bell noted that the Commission did refer the matter back to the RPC for further review and that the RPC had put considerable time and effort into doing that, so he hated to just say no thanks without looking at the recommendations and that the recommendations provided seem to prohibit it in all but a few locations and even then it would be a conditional use. Administrator Deist noted that there have been no applications for Humboldt County related to medical marijuana dispensaries. Commissioners Brissenden and French concurred with the amount of work put into the process by the RPC but Commissioner French noted concerns he had with the status of the drug federally and issues with dispensaries in other locations. District Attorney Macdonald commented on what the State Legislature allowed to occur with medical marijuana dispensaries and questioned what the Commission would be waiting for if it placed a moratorium on the facilities. Chairman Cassinelli stated that he would not be in favor of a moratorium and noted the

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limitations on location in the recommendations provided by the RPC. District Attorney Macdonald reviewed the recommendations offered by the RPC. Commissioner French offered that what the Board would be waiting for would include Federal law changes and the result of the current petition seeking to legalize recreational marijuana in this State; he stated for the record that he is philosophically opposed to sending a message to the community that marijuana, medical or otherwise, a schedule one drug, is going to be okay in Humboldt County as it is covered by use of a dispensary. Discussion occurred regarding the current law regarding use of medical marijuana and what is allowed under those laws as well as what options are available to the Commission including directing the District Attorney to proceed with preparation of an ordinance adopting the RPC's recommendations, preparation of a moratorium or to bring back the previously proposed ordinance prohibiting in all zones. Chairman Cassinelli stated that he would support the original proposal or looking at the RPC's recommendations. Commissioner Brissenden explained her concerns as to the current federal law and stated her support for the moratorium. District Attorney Macdonald explained the difference between a moratorium and the previously proposed ordinance. Commissioner French asked if Congress were to change the law and the County had an ordinance prohibiting, what would occur. District Attorney Macdonald explained what could occur and how it could be addressed. Commissioner French stated that it would be in the best interest of this County to stick with the original ordinance. After discussion the following motion was made by Commissioner French:

*To adopt the option which is to prohibit distribution of marijuana from dispensaries in all zones in Humboldt County.*

Administrator Deist stated that the motion should be to bring back that ordinance as a final decision cannot be made today. District Attorney Macdonald concurred noting the need for publication to meet the public notice requirements. Discussion occurred as to what establishments would be prohibited. After discussion the following modified motion was made by Commissioner French and passed unanimously:

*To direct the District Attorney to bring back the original ordinance.*

Administrator Deist noted that it was time for a public hearing. Chairman Cassinelli stated that the Commission would proceed with item 7 on the agenda and come back to item 6 after planning matters.

**PLANNING MATTERS:**

**PUBLIC HEARING RH-14-05: A zone change request submitted by Lucille Maga, Brad Holgate with Transfuels Retail Operation, LLC to change the zoning from C (Commercial) to M - 1 (Industrial District). Subject property is located at 4505 W. Winnemucca Boulevard; APN 3537-**

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**02-401-001(013-042-32)**: Provided to the Commission for review was a copy of the Planning Department Status Report recommending approval, a copy of the application for re-zone, a copy of the parcel map and a copy of the Notice of Public Hearing. Chairman Cassinelli read the title of the item set to public hearing. Administrator Deist reviewed the application and indicated the Planning staff's recommendation for approval. Chairman Cassinelli asked for public comment; none offered. The following motion was made by Commissioner Bell and passed unanimously:

*To approve zone change request RH-14-05 as presented.*

*(Ordinance 10-06-14)*

**SET TO PUBLIC HEARING RH-10-06: A zone change application submitted by Mike Breiner with Five County Ventures, Inc. to change the zoning from R-1-6 (Single Family Residential 6,000 square foot minimum lot size district) to R-3 (Multiple-Family District). Subject property is located off of Bonnefield Street; APN 3638-32-127-003:** Chairman Cassinelli read the title of the item set to public hearing. The following motion was made by Commissioner Bell and passed unanimously:

*To set to public hearing RH-14-06.*

**REVIEW OF PROGRESS TOWARD ABATEMENT OF NUISANCE AT 4715 WEST THOMAS CANYON ON PROPERTY OWNED BY JESSE W. PEARSON:** Property owner Jesse Pearson appeared before the Board. Commissioner Brissenden stated that she has viewed the site and that it looked good but a privacy fence may be needed. Mr. Pearson concurred but stated that he had a few things to do before that could be done; he noted that there were still a couple items on the property that will be removed. The following motion was made by Commissioner French and passed unanimously:

*That the nuisance complaint at 4715 West Thomas Canyon on property owned by Jesse W. Pearson has been abated.*

Chairman Cassinelli stated that the rest of the Administrative Report portion of the meeting would now occur.

**CONTINUED ADMINISTRATIVE REPORT:**

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

**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 informed the Commission that CTX for July had been received and as in prior months taxable sales were down and that

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a representative from Senator Heller's Office will appear at the next Commission meeting to discuss the Sage Grouse Wilderness matter; he continued reviewing the status of the County Administrator recruitment process and reviewing the Nevada Association of Counties bill draft requests. Upcoming meetings and dates of importance were noted.

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

**THEY SERVE ON:** Commissioner Bell noted that copies of the Housing Study done by Humboldt Development Authority had been included in the Commission's packets. Commissioner French commented on offering input on the NACO BDRs; he continued commenting on a WIR meeting he had attended and discussion which had occurred regarding PILT and Secured Rural Schools. Commissioner Brissenden discussed the Hospital Board meeting she had attended, the recent Grass March event that had occurred at the fairgrounds, information she had regarding a planned Paradise Valley Community Building, the Paradise Valley Conservation District meeting she had attended and the Paradise Valley Candidates Forum that she had attended. Commissioner Amos commented on the Grass March.

**REPORT FROM CINDY ULCH REGARDING ENVIRONMENTAL HEALTH WORK IN HUMBOLDT COUNTY FOR WHICH THE COUNTY PAYS A PORTION OF THE COST:**

Appearing before the Board were Cindy Ulch, Supervisor for the Environmental Health Section of the Nevada Division of Public and Behavioral Health, Loretta George of the local EHS and Ellen Coons, Humboldt County Registered Environmental Health Specialist who handles the local regulatory work. Ms. Ulch offered a report on what the Environment Health Section has done in Humboldt County for the period of July 1, 2013 to June 30, 2014.

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

**REQUEST FOR WAIVER TO THE ATTRITION POLICY FOR AN EQUIPMENT OPERATOR**

**POSITION CURRENTLY VACANT:** Superintendent Garrett spoke in support of the request for a waiver to the attrition policy for an equipment operator position. After discussion the following motion was made by Commissioner Amos and passed unanimously:

*To approve a waiver to the attrition policy for an equipment operator position currently vacant in the Road Department.*

Superintendent Garrett confirmed that they would be looking at the applications they have on file first.

**REPORT OF PENDING ROAD DEPARTMENT PROJECTS:** Superintendent Garrett informed the Commission that the chip seal project for this year had been completed and he reported on road grading, pothole patching including the Cordero Road and in front of the Kings River school, mowing, cattle guard replacement, preparation for crack sealing and snow removal.

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

**HEARING BASED ON POLICY ADOPTED MAY 5, 1997 REGARDING RELEASE OF WATER FROM CHIMNEY RESERVOIR FOR STOCK WATER:**

Provided to the Board for review was a memo from Administrator Deist detailing both the request from Crawford Land and Cattle to release water from Chimney Reservoir for stock water and the 1997 policy adopted by the Commission related to the requirement for a public hearing for the release of water in years when the level of the reservoir is at or below 2200 acre feet (see attached), a copy of Commission minutes of May 5, 1997, a copy of the Memorandum of Understanding and agreement. Administrator Deist reviewed the memo for the Board noting the requirement for a public hearing and commented that representatives from the Division of Water Resources and Nevada Division of Wildlife (NDOW) were in attendance at this meeting. No representatives from Crawford Land & Cattle were present. Discussion occurred regarding where the water is going to be released to and issues with ditch loss when water is released. Commissioner French disclosed that the agreement that followed with the Commission Policy was asked for by him when he was a NDOW employee; he continued noting his recognition of the need for stock water but pointed out the County's investment in the reservoir and the effect of the loss of acre feet on the recreational fishery. Brad Bauman, fisheries biologist with NDOW appeared before the Board. Mr. Bauman provided photos to the Board of Chimney Reservoir taken the prior Friday and a handout detailing the fish stock, the cost associated with the stocking and the information as to the fish population and angler days; he reviewed the information provided for the Board. Commissioner Bell asked how low the water level can go without affecting the fish. Mr. Bauman indicated that was a guessing game but he believed that the level was close and that NDOW is concerned that any further drop in the water could force a die off. Commissioner French discussed what a drop in water level, as well as ice, could do to the fish population. Steve Del Soldato, Water Commissioner with Nevada Division of Water Resources appeared before the Board and discussed the measurements at the reservoir. Commissioner French stated that there would be a lot less risk to the County's investment to take the cows to the water. Commissioner Amos stated that he is an advocate for livestock watering and fish can always be replaced but he does not see the people here to argue their point. Commissioner Bell suggested he would like to know the benefits as opposed to the risks that have been stated. Commissioner Amos noted that not only livestock would benefit from the release as wildlife also uses the creek. Discussion occurred regarding how much water would need to be released and over what period of time the release would occur. Chairman Cassinelli commented that it was difficult to consider the request when there was no one available to ask about what they want to do. Administrator Deist stated that the requesters were informed that this matter would be on the agenda today. Administrator Deist asked the District Attorney what the options would be relative to the

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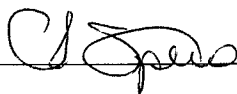
agreement. District Attorney Macdonald commented on the discussion indicated in the minutes from 1997 and the language of the agreement as to water levels and stated that upon review of the minutes and agreement it does not appear to be detailed as to what should or could occur when discussion is about levels below the identified threshold amounts. Administrator Deist asked Mr. Del Soldato if there was ever a minimum pool this year. Mr. Del Soldato responded that there was never a minimum pool to save water for stock watering purposes, that basically he released everything as it came in and that when it stopped making it to the reservoir was when he shut it off. Commissioner French commented on the water available below the reservoir and questioned why the livestock could not be brought to the water; he continued noting that the only time that the reservoir can be re-charged is during non-irrigation season and in his experience that non-irrigation season water is very light and again voiced his concerns as to the cost and risk being born by the public. Commissioner Amos noted that there is no guarantee that the fishery will survive the low water level even if no water is released and explained why there was an issue with moving the livestock to the water available below the reservoir as that water lays on outside allotments. Commissioner Bell asked if there was enough information to make a decision at this time. Commissioners Brissenden and Amos agreed that there was not. Chairman Cassinelli suggested that at this point the Board should stick with the agreement and if Crawford Land & Cattle want the matter reconsidered they would need to appear before the Commission. Administrator Deist asked the District Attorney if his interpretation was that since there was never 3500 feet they have no water coming. District Attorney Macdonald stated that is how it appears in both the original 1974 agreement but also the 1997 agreement. After discussion the following motion was made by Commissioner French and passed unanimously:

*To stick with the agreement and not release water.*

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

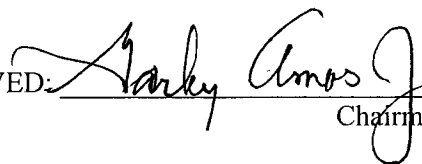
**ADJOURNMENT:** Chairman Cassinelli adjourned the meeting at 11:52 a.m.

ATTESTED: \_\_\_\_\_



Clerk

APPROVED: \_\_\_\_\_



Chairman

(Minutes approved by the Commission and signed by the Chairman on 1-20-2015)

**MEMORANDUM**

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**TO: COUNTY COMMISSIONERS**

**FROM: COUNTY ADMINISTRATOR**

**DATE: September 30, 2014**

**SUBJECT: OTHER INFORMATION AND UPCOMING MEETINGS**

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**OTHER INFORMATION:**

1. Recruitment Update: Attached is a brief summary of the applications received as of September 29, 2014. If an update is received prior to the meeting I will provide it at the meeting.
2. NACO Bill Draft Requests: Attached are the BDRs that NACO is submitting for the next session of the Legislature. Commissioner French will be asking for your input on these at the meeting.

**UPCOMING MEETINGS:**

- |                               |                            |
|-------------------------------|----------------------------|
| 1. <del>October 8, 2014</del> | Management Team            |
| 2. October 8, 2014            | Western Lithium Open House |
| 3. October 16, 2014           | IT Committee               |
| 4. October 16, 2014           | POOL/PACT Training         |
| 5. October 20, 2014           | Commission                 |
| 6. October 20, 2014           | Landfill Committee         |



# HUMBOLDT COUNTY DISTRICT ATTORNEY'S OFFICE

## Memorandum

To: Board of County Commissioners, Humboldt County  
Mayor and City Council, City of Winnemucca

From: Michael Macdonald, District Attorney *Mike*

Date: October 1, 2014

Re: Recommendations of Regional Planning Commission on medical marijuana establishments

Below is a summary of the recommendations made by the Humboldt County Regional Planning Commission at the September 18, 2014 meeting, concerning medical marijuana establishments in commercial and industrial zoning districts within the county and the city.

**Humboldt County:** For the unincorporated areas of Humboldt County, the following is recommended:

### **HCC Chapter 17.28 – NC-R Neighborhood Commercial/Rural District**

All medical marijuana establishments are prohibited.

### **HCC Chapter 17.30 – GC General Commercial District**

The following medical marijuana establishments are conditional uses:

1. Medical marijuana dispensary, and
2. Medical marijuana dispensary in conjunction with:
  - a. a cultivation facility,
  - b. a facility for the production of edible marijuana products or marijuana-infused products, or
  - c. both a cultivation facility and a facility for the production of edible marijuana products or marijuana-infused products.

The hours of operation of the dispensary will be limited to between 9:00 a.m. and 6:00 p.m.

The following medical marijuana establishments are prohibited uses:

1. cultivation facility without a dispensary
2. facility for the production of edible marijuana products or marijuana-infused products without a dispensary, and
3. independent testing facility.

### **HCC Chapter 17.32 – CH Highway Commercial District**

All medical marijuana establishments are prohibited.

**HCC Chapter 17.36 – M-L Light Industrial District**

The following medical marijuana establishments are conditional uses:

1. cultivation facility without a dispensary
2. facility for the production of edible marijuana products or marijuana-infused products without a dispensary, and
3. independent testing facility.

Medical marijuana dispensary is prohibited.

**HCC Chapter 17.38 – M-1 Industrial District**

The following medical marijuana establishments are conditional uses:

1. cultivation facility without a dispensary
2. facility for the production of edible marijuana products or marijuana-infused products without a dispensary, and
3. independent testing facility.

Medical marijuana dispensary is prohibited.

**HCC Chapter 17.40 – M-2 Heavy Industrial District**

All medical marijuana establishments are prohibited.

**HCC Chapter 17.59 – AID Airport Industrial District**

The following medical marijuana establishments are conditional uses:

1. cultivation facility without a dispensary
2. facility for the production of edible marijuana products or marijuana-infused products without a dispensary, and
3. independent testing facility.

Medical marijuana dispensary is prohibited.

City of Winnemucca: Within the city limits of Winnemucca, the following is recommended:

**WMC Chapter 17.77 – N-C Neighborhood Commercial District**

All medical marijuana establishments are prohibited.

**WMC Chapter 17.81 – G-C General Commercial District**

The following medical marijuana establishments are conditional uses:

1. Medical marijuana dispensary, and
2. Medical marijuana dispensary in conjunction with:
  - a. a cultivation facility,
  - b. a facility for the production of edible marijuana products or marijuana-infused products, or
  - c. both a cultivation facility and a facility for the production of edible marijuana products or marijuana-infused products.

The hours of operation of the dispensary will be limited to between 9:00 a.m. and 6:00 p.m.

The following medical marijuana establishments are prohibited uses:

1. cultivation facility without a dispensary
2. facility for the production of edible marijuana products or marijuana-infused products without a dispensary, and
3. independent testing facility.

#### **WMC Chapter 17.83 – L-M Limited Manufacturing District**

The following medical marijuana establishments are conditional uses:

1. cultivation facility without a dispensary
2. facility for the production of edible marijuana products or marijuana-infused products without a dispensary, and
3. independent testing facility.

Medical marijuana dispensary is prohibited.

#### **WMC Chapter 17.87 – M-1 Industrial District**

The following medical marijuana establishments are conditional uses:

1. cultivation facility without a dispensary
2. facility for the production of edible marijuana products or marijuana-infused products without a dispensary, and
3. independent testing facility.

Medical marijuana dispensary is prohibited.

**MEMORANDUM**

TO: County Commissioners  
FROM: County Administrator  
DATE: September 30, 2014  
SUBJECT: Water release from Chimney

We have received a request from Crawford Land and Cattle to release some water from Chimney Reservoir for stock water. The gate on this reservoir leaks and also due to the drought the reservoir has not filled. In March there were 2670 acre feet of water in the pool. When the reservoir was built the County participated in the cost and in return received the right to 3500 acre feet of water for recreation use.

In 1995 a memorandum of agreement was signed between Humboldt County and Nevada First Corporation. This agreement was for the sole purpose of setting forth operational guidelines for the storage and use of water in Chimney Reservoir. In May, 1997 the Commission adopted a policy that in years when there are insufficient resources to maintain the minimum pool at 3500 acre feet, there will be no release of water for stock watering purposes when the level of the reservoir is at or below 2200 acre feet without a public hearing. That is the purpose of this item on the agenda.

On September 25, 2014 the chart said the pool was at 450 acre feet, however the gage is not that accurate at this level and the estimate is 700-1000 acre feet of water per Steve del Soldato I have asked Steve, a representative of NDOW and Crawford Land and Cattle to be present at this meeting. I have attached the minutes from 1997 when this policy was adopted, a copy of the MOU referenced above, and the original agreement.