

REGIONAL PLANNING COMMISSION MINUTES

The Humboldt County Regional Planning Commission (RPC) meeting was held on Thursday, July 9, 2015 at 5:30 p.m. in the Meeting Room of the Humboldt County Courthouse located at 50 West Fifth Street, Winnemucca, Nevada.

COMMISSIONERS PRESENT

Brad Bauman
Ken Hladek
Jean Kinney
Jennifer Legarza
Vickie Rock
Mike White

COMMISSIONERS ABSENT

STAFF PRESENT

Betty Lawrence

Niki Linn

LEGAL COUNSEL

Mike Masdonald

PUBLIC PRESENT

Mildred Ferraro
Mark Arroyo
Stephanie Huseboe
Ben Garrett

Stephen Ferraro
Lewis Trout
Scott Huseboe

I. OPENING

- A. Acting Chair Kinney called the meeting to order. Mr. Bauman led members and guests in the Pledge of Allegiance.
- B. Roll call was taken, there was a quorum present.
- C. **Public Commentary**

Acting Chair Kinney called for public comment. Lewis Trout commended staff and members of the RPC for their participation in the recent Ethics Training course. He stated that five members of the RPC were present and one requested a recording of the training, resulting in 100% participation. He added that the RPC was the only board or commission within Humboldt County with 100% attendance.

Acting Chair Kinney called for further public comment and hearing none, closed the public comment period.

D. Review, Correction and Approval of Minutes of June 11, 2015

Acting Chair Kinney asked if there were any corrections to the minutes of June 11, 2015. Mr. Hladek referred to the last paragraph on page 2 and suggested rewording the first

sentence to read, "Ms. Lawrence reported that Mr. Trout's current term expires June 30, 2015 and *filling of this position* is scheduled for the Humboldt County Commission meeting of July 13, 2015." Acting Chair Kinney called for additional corrections and hearing none, Mr. Bauman made a motion to approve the minutes as revised. Ms. Legarza seconded the motion, which carried with all in favor. Ms. Rock abstained because she was not present at the June meeting.

E. Requests for Postponement of Agenda Items

Acting Chair Kinney asked if there were any requests for postponement of agenda items. Ms. Lawrence stated there were no requests.

II. CONSENT AGENDA - Discussion & Possible Action

- A. SN-15-03** A request to reserve street names submitted by Richard and Mandra Hall for the existing 30' wide easement along the south boundary of Section 23 T35N, R33E. Requested name is: Haven Road.

Acting Chair Kinney asked if any member wished to pull this item down for discussion. Hearing none, she invited a motion. Mr. White made a motion to approve item SN-15-03 per staff's recommendation. Mr. Hladek seconded the motion, which carried unanimously.

III. PUBLIC HEARING - Discussion & Possible Action

- A. AH-15-01** An abandonment request submitted by Scott and Stephanie Huseboe to abandon a 332.63' x 60' portion of Christmas Tree Lane along the easterly property line of APN: 4139-12-100-003; the western property line of APN: 4139-12-200-001.

Acting Chair Kinney asked if staff had any comments on this item. Ms. Lawrence stated that she received correspondence after the agenda packets were distributed. She read into the record a letter dated July 8, 2015 from Jason Deputy, Paradise Valley Fire District Chief (copy on file). His letter was in opposition to the proposed abandonment based on safety issues and timeliness in case of an emergency at the Ferraro Ranch.

Ms. Lawrence next read into the record an email she received from Pete Ferraro (copy on file). Mr. Ferraro stated that hay is hauled on Christmas Tree Lane and family members use the road to go back and forth from his ranch to his parents, Stephen and Mildred's ranch. He is strongly opposed to the abandonment.

Ms. Lawrence directed members to Item C of the staff report and revised "...*may* utilize the roadway" to "...*does* utilize the roadway".

Acting Chair Kinney called for comments from Ben Garrett, County Road Superintendent. Mr. Garrett stated that when he made his initial comments on this project, he was unaware of all of the history involved. He stated that in 2000, there was a settlement agreement, in which the road split the property lines. In 2005, the settlement agreement between the Cassinellis, Humboldt County and the Ferraros was reopened and another portion of the road on the west side of Highway 290 was abandoned. He reported that the road was

realigned and the County built the fences. He mentioned that Mike Macdonald was directly involved in the settlement agreement. He reported that in 2007, the Ferraros split two parcels, one near the Huseboe property. In 2010, the Ferraros further split one of the split parcels into 4 parcels. He explained that it was evident from where the right-of-way was located that they wished to retain access to the property. Ms. Kinney thanked Mr. Garrett for his comments.

Ms. Lawrence reminded members that in this matter, the RPC is a recommending body to the Humboldt County Commission (HCC). She stated that she would like to amend her recommendation to "no recommendation" and encouraged members to consider all comments and make a decision.

Acting Chair Kinney called for additional questions. Mr. Baumann asked if the adjacent property owners were notified, which staff said they were.

Acting Chair Kinney invited comments from the public. Hearing none, she invited Scott and Stephanie Huseboe to address the board. Mr. Huseboe stated that they purchased the property that was parceled from the Ferraros approximately four years ago. He added that they let the County have the 60-foot easement that abuts the Ferraro's property. He stated that Christmas Tree Lane at Ferraro's property is private from there on so he did not feel that abandoning the 332 feet along his property would damage anyone.

Mr. Huseboe stated that the Ferraros would still be allowed to use the road. He stated that his wish is not to lock the gate but to keep the hunters out. Ms. Huseboe reiterated that their intent is to keep hunters from other areas out. She stated that last year she got in an argument with a hunter from Fernley who stated that it (Christmas Tree Lane) is a County road and he was allowed to hunt there. She explained that the road is surrounded by private property and no hunting is allowed on the road.

Ms. Huseboe stated that they have lived in Paradise Valley for 20 years and do not have any grudges with the Ferraros. She added that they have no issue with the Ferraros using the road and if an arrangement in writing or a legal document is desired, they have no problem with it. She reiterated that their goal is to keep "Joe Public" out. She explained that past their property, Christmas Tree Lane has been slowly abandoned although it used to be open for a long way. She stated that Mr. Garrett had advised them to put up a "Privately Maintained Road" sign because this road is not maintained by the County. Mr. Huseboe added that the road is maintained to the Cassinelli property but stops at their property.

Acting Chair Kinney called for additional comments. Mr. Hladek asked if there was a restriction on the road past the Cassinelli property. Mr. Huseboe stated there is a wire gate that is rarely closed but there is no restriction to the 60' wide easement.

Ms. Kinney asked if the abandonment were granted how the Huseboes would keep the public out. Mr. Huseboe stated he does not wish to lock a gate but would like the authority to tell someone to get off his private property.

Acting Chair Kinney called for additional comments from the public. Lewis Trout suggested that a possible resolution would be to add a condition to require the applicants to give the Ferraros an easement in perpetuity to use the road, which would guarantee access. He added that if the applicant placed a locked gate at the end of the County road, the fire department and the Ferraros would need to have a key to the gate for access. He stated that Mr. Macdonald might have suggestions on that type of approach.

Mr. Macdonald stated that he has concerns with the suggestion of an agreement between private parties and he does not believe the County should be involved in forcing property owners into negotiating easements. He added that with regard to an easement in perpetuity to the benefit of the Ferraro ranch, the ranch could change in decades to come with significant road use changes. Mr. Macdonald reminded members that the issue is abandonment of a County road, which would make it private. He referred to Nevada Revised Statute (NRS) 278.480, which states that "the governing body or planning commission...is satisfied that the public will not be materially injured by the proposed vacation, it shall order the street or easement vacated." He explained that the RPC would need to make that determination in its recommendation to the HCC, which would in turn need to make a similar determination.

Mr. Hladek referred to access by the fire department and stated that there is no guarantee that the fence across the road at the Cassinelli intersection would be open and asked if the Huseboes put in a gate, if it would just be an additional gate that the fire department would have to go through. Mr. Husebos stated that the Cassinelli's north gate is usually open unless they are running cows; the gate on the south side is usually open but it could be closed. Mr. Garrett stated that the gate on the north end is within the County's maintained portion of the roadway and should not be closed at any time although ranchers do sometimes close the gates when running cows.

Mr. Garrett explained that there are hundreds of miles of roads that have dedicated rights-of-way in the county that are not maintained by the Roads Department because unless they are brought up to standards and have the required occupancy; they are open to the public but are not maintained. Mr. Macdonald added that technically the HCC is the only body that has the authority to close a road that is open to the public. He stated that oftentimes the County is unaware of a gate closing off a road until a complaint is made. He clarified that the County has not made a strong stance that ranchers can never close a gate because keeping animals off the highway or roadway is a safety concern.

Lewis Trout asked Mr. Macdonald if based on the fact that the County does not maintain the subject road, the applicants would be allowed to put up a sign saying "Privately Maintained Road" at the point of which County maintenance stops. Mr. Macdonald stated that he did not see an issue with such a sign; however, the road would still be open to the public unless the HCC abandons it. He stated that he did not see the significance of such a sign related to the decision before the RPC to make a recommendation to keep the road open or close it. Mr. Trout stated that placing such a sign might accomplish the applicant's objective. Mr. Macdonald reiterated that placement of a sign would not close the road, as

requested by the applicant. He added that the applicant could place a sign on their property.

Ms. Rock asked if there is currently any signage on the road indicating that it dead ends. Mr. Garrett stated there is not but one could be installed. Ms. Rock suggested a sign saying, "Dead end road - private properties – no hunting access". Mr. Garrett reiterated that a dead end sign could be installed; however, there would be no reference to hunting.

Acting Chair Kinney called for additional public comments. Mark Arroyo who works for the Ferraro Ranch stated that they use the road a lot when hauling hay and added that if the road was closed, they would have to travel an additional mile and a half on the highway with a tractor and trailer to go back and forth from the Ferraro Ranch to Pete Ferraro's house.

Mr. Hladek stated that his understanding of the definition of closing a road from the applicant's standpoint would be the ability to put a barbed wire gate across the road, which would not inhibit transporting hay or other materials on the road. He said he did not believe the applicant wished to abandon the road; they wished to restrict access. Mr. Macdonald stated that the application is to abandon the road, which would enable the applicant to do whatever they wish with the road.

Mildred Ferraro, Ferraro Cattle Company, spoke in opposition to the abandonment although she would not mind signs being posted. She stated that in her limited, handicapped status, opening and closing a gate would be difficult for her. She added that her family, friends and neighbors use the road.

Mr. Hladek asked Mr. Macdonald if there is a substitute word for abandonment that would meet the applicant's objective. Mr. Macdonald stated that from the County's perspective, the road is currently open to all public; the law concerning abandonment is based on a decision to forever give up and close the road. He added that the County's standpoint would be based on NRS 278.480, section 5. Ms. Kinney asked if there is a procedure to un-abandon a road in the future. Mr. Macdonald stated that the County acquiring an easement, road, right-of-way, etc. typically occurs when subdivision or parcel maps are submitted. Additionally, local government may negotiate with property owners to improve a road or change the direction of the road, etc., whereby if negotiations break down, there could be a condemnation proceeding, which would be determined through a court process.

Ms. Rock reminded members that the RPC is being asked to decide whether to recommend approval or disapproval to the HCC; anything else is outside the scope of the decision made today. Mr. Trout suggested a third course of action, to continue the item until the applicant addresses some of the concerns of the adjacent property owners. If the applicant is willing to enter into a private agreement and if the RPC agrees to continue the item, it would give the applicant the opportunity to resolve some of the adverse circumstances that legal counsel is cautioning about. He stated that Ms. Ferraro seems to be someone who would be aggrieved if the abandonment were approved as presented

at this time. He stated that the application could be amended to resolve the issue if a continuance were granted.

Acting Chair Kinney called for additional questions or comments. Mr. Macdonald mentioned Mr. Trout's comment that the application could be amended; he reiterated that the application is to abandon or close the road and that is all that the County can control. Ms. Lawrence explained that in situations where the RPC is recommending to the HCC, typically the item would not be continued as the RPC does not have the final say. She added that the RPC could say that it has no recommendation to the HCC. The item will probably be heard by the HCC at the August 3, 2015 meeting. She reiterated Mr. Macdonald's comment that a private agreement between the parties is not a concern of the County or the basis of whether the application is approved. She also referred to the application and stated that there is nothing to amend.

Ms. Rock made a motion to recommend to the HCC disapproval of AH-15-01 Abandonment. Mr. White seconded the motion. Acting Chair Kinney called for a roll call vote, which carried with five in favor and Mr. Hladek opposed.

Mr. Macdonald clarified that the recommendation made by the RPC would go forward to the HCC, which would ultimately make the final decision.

IV. COMMISSION / STAFF / LEGAL COMMENTS / COMMITTEE REPORTS / TRAINING OPPORTUNITIES - Discussion & Possible Action

Ms. Lawrence had nothing to report.

V. CORRESPONDENCE / BUDGET / PERSONNEL - Discussion & Possible Action

Ms. Lawrence had nothing to report.

VI. PUBLIC COMMENTARY

Acting Chair Kinney called for comments from the public and hearing none, adjourned the meeting at 6:20 p.m. until August 13, 2015 at 5:30 p.m.



Jean Kinney, Acting Chairperson