

## REGIONAL PLANNING COMMISSION MINUTES

The Humboldt County Regional Planning Commission (RPC) meeting was held on Thursday, October 6, 2016 at 5:30 p.m. in the Meeting Room of the Humboldt County Courthouse located at 50 West Fifth Street, Winnemucca, Nevada.

### COMMISSIONERS PRESENT

Mike White  
Ken Hladek  
Jean Kinney  
Lewis Trout

Vickie Rock  
Jennifer Legarza  
Brad Bauman

### COMMISSIONERS ABSENT

### STAFF PRESENT

Betty Lawrence  
Abel Del Real-Nava

### LEGAL COUNSEL

Gabrielle Carr

### PUBLIC PRESENT

Nicholas Anguiano  
Michelle Miller  
Thor Hoyte  
Kenneth Buckingham

Jacy Jackson  
Rendal Miller  
Adua Boyle

### I. OPENING

- A. Roll call was taken; there was a quorum present
- B. Chair Rock called the meeting to order and led members and guests in the Pledge Of Allegiance.
- C. **Public Commentary**  
Chair Rock called for public comments and hearing none, closed the public comment period. Mr. Trout asked to see if anyone from the public had any comments on moving item H, TH-16-05, be moved to after Item C of the Public Hearing portion of the meeting. Chair Rock asked how many members of the public were at the meeting for this item; how many want to attend the meet and greet at the convention center.
- D. **Review, Correction and Approval of Minutes of September 8, 2016**  
Chair Rock asked if there were any corrections to the September 8, 2016 minutes. Ms. Lawrence indicated that Mr. Trout had called with corrections which are reflected in the minutes to be signed by the Chair. Hearing no additional corrections she asked for a motion. Mr. White made a motion to approve the minutes as corrected. Ms. Legarza seconded the motion which passed unanimously. Ms. Kinney abstained from voting on the approval of the minutes as she was not at the meeting.
- E. **Requests for Postponement of Agenda Items**  
Chair Rock asked if there were any requests for postponement of agenda items. Ms. Lawrence stated there were no requests.

## II. PUBLIC HEARING - Discussion & Possible Action

- A. **UW-16-03** A special use permit application submitted by Nicholas Anguiano to allow a photography business in the R-3 zoning district. Subject property is located at 810 S. Bridge Street; assessor's parcel #3638-29-178-001.

Chair Rock asked if the board had any comments. Mr. Trout if Staff had any specific concerns regarding siting this activity in the R-3 zone. Ms. Lawrence stated that she had no concerns as this structure has been used as a business for many years. Mr. Anguiano approached the board. Mr. White asked about the required parking spaces and the utilization of the lot across Bridge Street. Mr. Anguiano said that he has permission to park in the lot. Ms. Lawrence indicated one of the conditions is the applicant submit something in writing from Mr. Swensen, the property owner of the vacant lot, stating that he gives his permission for parking. Chair Rock asked if there were any public comments. Hearing none she brought this item back to the board. Mr. Trout made a motion to approve this application. Mr. Hladek seconded the motion which passed unanimously.

- B. **UH-16-05** A conditional use permit application submitted by Kenneth Buckingham to allow a Bed and Breakfast in the M-3 zoning district. Subject property is located at 14945 Martin Creek Road, Paradise Valley, NV; assessor's parcel #4240-21-300-001.

Ms. Lawrence said that she received comments from Mr. Thomas, County Building Department. Mr. Thomas stated: "Guests and staff shall be limited to no more than ten for overnight stays, install smoke detector in each bedroom and floor, one carbon monoxide detector on each floor and one fire extinguisher on each floor." Chief Deputy District Attorney Carr recommended that local be added to the last sentence of the first condition of approval regarding laws. Mr. Buckingham approached the board. Mr. White asked Mr. Buckingham if he had been in contact with Mr. Garrett with the Road Department regarding Mr. Garrett's comments on possible road maintenance agreement. Mr. Buckingham indicated that there would be an increase in traffic on this road. Chair Rock asked if there were any comments from the public. Hearing none she brought this item back to the board. Mr. Trout made a motion to approve this application with the addition of local to the last sentence of condition number 1 as recommended by Staff. Ms. Kinney seconded the motion which passed unanimously.

- C. **AH-16-01** Continuation of an abandonment request submitted by Steve Dixon to abandon an approximate 285.85' x 60' ± portion of Anna Way, a 60' foot wide easement, between Delaney Drive and Ivan Drive; assessor's parcel #'s 3758-15-102-003 and 3738-15-126-001.

Chair rock asked if EMS had been contacted and if so did they have any comments regarding this application. Ms. Lawrence indicated that she had emailed Pat Songer, EMS Chief, and his response was that he had no

comments. Chair Rock asked if the board had any comments or questions. Hearing none she asked if there was any public comment. Hearing none she brought this item back to the board. Mr. Trout made a motion to recommend approval of this application to the County Commission as recommended by Staff. Mr. Bauman seconded the motion which passed unanimously.

- H. **TH-16-05** An ordinance amending Section 100 to Title 17 Zoning, Chapter 10 General Provisions to the Humboldt County Code to conditionally allow Medical Marijuana Establishments in certain zoning districts within the unincorporated areas of Humboldt County, and amending the prohibited uses listed in Commercial and Industrial zoning districts, specifically Humboldt County Code Sections 17.30.050 for GC General Commercial District, 17.36.050 for M-L Light Industrial District, and 17.38.050 for M-1 Industrial District, to delete Medical Marijuana Establishments as a prohibited use. To amend the conditionally allowed uses listed in Commercial and Industrial zoning districts, specifically Humboldt County Code Sections 17.30.040 General Commercial District, 17.36.040 for M-L Light Industrial District, 17.38.040 for M-1 Industrial District, and 17.59.040 for MID Airport Industrial District, to add Medical Marijuana Establishments as a conditional use and other matters properly relating thereto.

Chair rock asked if the board had any questions. Mr. Trout indicated that he had questions for counsel. Mr. Trout referred to the memorandum from the District Attorney dated October 1, 2014. He pointed out there was a summary of specific uses by each commercial district. This is not in the proposed text. There was discussion regarding the memorandum. The definitions and zoning districts where medical marijuana establishments are allowed or prohibited can be added to the proposed text. There was further discussion regarding adding this specific information to the proposed text. Mr. Hudek asked about Chapter 17.10.100 which states that medical marijuana establishments are prohibited, yet the text now says they are a conditional use. The title is inconsistent. Chief Deputy District Attorney Carr said her recommendation would be to take out the word prohibited and leave it addressing medical marijuana establishments. Chair Rock asked Staff if this item would go to the County Commission as it is shown. Chief Deputy District Attorney Carr stated it will go as one change but will be a recommended today. Mr. Trout asked about the recreational marijuana initiative pointing out that today they are looking at medical marijuana. He asked legal counsel if the initiative is passed would they (RPC) be looking at the same limitations we have for medical marijuana. Chief Deputy District Attorney Carr said there would be some code modifications anticipated which would be down the road if the ballot question passes. She explained the process.

Chair Rock asked if there were any comments from the public on this agenda item. Nicholas Anguiano approached the commission. He asked what this would mean for the local area in town. Does this involve the planting, growing and cultivation of medical marijuana within 2 miles of town, as an example? What kind of distances are we looking at from schools? Chair Rock indicated that what he is asking about is defined within Nevada Revised Statutes. The RPC is looking at these establishments within the unincorporated portion of the County. Jacy Jackson approached the commission. Ms. Jackson voiced concerns she has on an out of state company possibly opening a medical marijuana establishment in

Humboldt County and rushing to adopt ordinances to allow medical marijuana facilities with the possibility of legalization of recreational marijuana. Mr. Trout explained the process the State has to grant licenses for medical marijuana establishments. Chair Rock pointed out that this commission deals with land use issues; what is permitted, conditionally permitted or not permitted as a use in specific zoning designations. Ms. Kinney spoke regarding her understanding of the recreational marijuana initiative that will be on the ballot. Thor Hoyt, Corporate Counsel for Lucid Cannabis Company and Rendal Miller, Attorney approached the commission. Mr. Hoyt explained his reason for coming before the Planning Commission and speaking in support of the Regional Planning Commission recommending approval to the County Commission to adopt the ordinances as proposed. There was further discussion between the commission and Mr. Hoyt regarding marijuana land use regulations in other states. Mr. Anguiano approached the commission and asked about security for any of the types of medical establishments and the risks involved. Chair Rock explained that when the commission considered this in 2014 security was a big part of the discussion. The Sheriff, at the time, talked about security issues at length. Chair Rock explained the process of approving a conditional use permit includes many conditions, one of which may be a condition addressing security, based on comments received by any number of departments which would include the Sheriff's Office. Nevada Revised Statutes also addresses security for the various types of medical marijuana establishments.

Mr. Hladek asked about the action on this item. Deputy District Attorney Carr indicated that the action on this item would be a recommendation to the County Commission to make the proposed changes to the County ordinances. The District Attorney's office would draft a memorandum to the County Commissioners regarding the recommendations of the Regional Planning Commission. Mr. Trout stated he would like to see a consolidated text which includes the items from the memorandum dated October 1, 2014 and the proposed text changes presented at this meeting. Chief Deputy District Attorney Carr said the commission has two options: she can summarize the changes to the ordinances and if the commission feels that this summary adequately reflect what they would like to recommend then the recommendation can be made based on her summary; the second option would be to see all of this in writing and place this item on another agenda. Mr. Hladek stated he would like to hear the summary. Chief Deputy District Attorney Carr made the following recommendation of changes to TH-16-05: 1) the initial text at the top, which is all bold, will be identical to the text that is in the agenda; 2) under 17.10.100 the word prohibited would be removed. Item 3 would be as follows: a conditional use would be allowed in the G-C General Commercial District for either dispensaries or dispensaries that are connected to a cultivation facility, a facility for the production of edible marijuana products or marijuana infused products or both a cultivation facility and a facility for the production of edible marijuana products or marijuana infused products; in the M-1 Industrial, M-L Light Industrial and AID you would not have dispensaries but would allow a facility for cultivation, facility for the production of edible marijuana products or marijuana infused products, an independent testing facility. These would delineated in each section, what is conditionally allowed and what is not allowed or prohibited. The last item would be to recommend that in a district where a dispensary is allowed the hours of operation would be limited from

9:00 am to 6:00 pm. Mr. Hladek made a motion to continue this item to the next regularly scheduled meeting directing staff to update the ordinances to reflect what has been discussed today. Ms. Kinney seconded the motion. Mr. Trout questioned the hours of operation being included in the ordinance. Chief Deputy District Attorney stated that it is cleaner when it is written into the ordinance because it is clear to anybody. Mr. Trout asked for a roll call vote: Lewis Trout – aye; Mike White – aye; Brad Bauman – aye; Vickie Rock – aye; Jennifer Legarza – aye; Ken Hladek – aye; Jean Kinney – aye. The motion passes unanimously.

- D. TH-16-01** An ordinance repealing Humboldt County Code Title 17, Chapter 17.68 Conditional Use Permits and replacing all provisions of Title 17 Zoning, Chapter 17.68 regarding Conditional Use Permits, including but not limited to Conditional Use Permit Applications through The appeal process and other matters properly relating thereto.

Ms. Kinney pointed out some corrections to the text: 17.68.140 second to the last page if should be changed to of; 17.68.160 the end of the second line should be may not ma. Ms. Rock said she had called and spoke with Ms. Lawrence re 17.68.050, page 3, regarding the number of times the RPC has been considering items on the agenda with the time limit running out for automatic approval. She asked about something that would allow the commission to consider one continuance where additional information is needed that is pertinent to the application but has not been provided to the RPC. Chief Deputy District Attorney Carr stated that if the RPC fails to hold a public hearing or take action. A continuance would be a form of action. There was discussion on Ms. Rock's concerns. Ms. Rock pointed out another item 17.68.080 on page four. This references 5 working days, there are different kinds of work schedules. There was discussion and it was agreed that wherever "working days" is used it should be changed to "business days". In 17.68.090 item C on page 5 the word should be proposed not propose. Mr. Trout asked about item 17.68.120, the appeal process. He asked if the item needs to specify calendar days or business days. There was discussion regarding this item as well as the definition of who can appeal. Ms. Rock suggested that 17.68.120 read "an appeal of the decision of the Humboldt County Regional Planning Commission must be made within 5 business days. Mr. Trout countered with 10 business days. Deputy District Attorney Carr pointed out that if you are specifying business days, the last sentence can be removed. She also suggested to modify 17.68.120 to read "any person as defined under 17.68.130 may appeal the decision" and leave the rest the same. Mr. Hladek questioned why 17.68.120 needs to refer to a person since who can appeal is identified under 17.68.130. There was discussion regarding placing "or" after each definition of who can file an appeal. It was agreed that "or" would be placed at the end of C and D. Mr. Hladek had a question on 17.68.070 item B, should the applicant be notified if an item is continued. It was pointed out that the applicant would be notified if the item is continued. Chief Deputy District Attorney Carr explained the process if the hearing is held and a decision is made; if the item is continued. Ms. Carr pointed out that item A of this section does not clarify if the thirteen days are calendar or business. It was agreed that this should read calendar days.

Chief Deputy District Attorney Carr summarized and recommended the changes as follows:

- 1) 17.68.060 the first line will read not less than 10 days or more than 40 calendar days; two lines down where it references 65 days will reflect calendar days
- 2) 17.68.070 the word calendar will be inserted between 13 and days; the last line will read 5 business days versus working days
- 3) 17.68.080 the reference would be 5 business days
- 4) 17.68.090 C the word propose will be changed to proposed
- 5) 17.68.110 at the bottom of B will read "at least 10 business days prior to a public hearing..."
- 6) 17.68.120 would be modified to read as follows: "an appeal of the decision of the Humboldt County Regional Planning Commission must be made within 10 business days after the date of the final decision. If filed an appeal stays any further action on the permit until final resolution of the appeal." The last sentence will be removed.
- 7) 17.68.130 the word "or" would remain after B, would be added after A, C and D.
- 8) 17.68.140 the word "if" would be changed to "of"
- 9) 17.68.150 60 calendar days would be added
- 10) 17.68.160 each reference to 60 days would add the word calendar between 60 and days. At the end of the second line "ma" will be changed to "may".

Chair Rock indicated that we need to be consistent on how we indent the structure. She pointed out some examples. Chief Deputy District Attorney said that the codification company who does the formatting has the approved structure and format from the County so everything will be consistent. Ms. Kinney made a motion to recommend approval by the County Commission of Chapter 17.68 as presented by staff, amended by the board and summarized by legal counsel. Mr. White seconded the motion which passed unanimously.

- E. TH-16-02** An ordinance adding new Chapter 17.69 Above Ground Utility Projects to Title 17 Zoning, to the Humboldt County Code to allow for a permit for construction of an aboveground utility project located in a Master Plan designated utility corridor and an ordinance to allow for a permit for construction of an aboveground utility project which is not located within a Master Plan designated utility corridor and other matters properly relating thereto.

Chief Deputy District Attorney Carr informed the commission board that this is recommended language that was provided to us based upon legislation that passed in the last legislative session. We are utilizing the language that was proposed to us. Mr. Hladek pointed out that in many places in this proposed ordinance it states "shall notify Humboldt County", who in Humboldt County is to be notified? It was agreed that this should reference Humboldt County Regional Planning Department. Chair Rock asked if the commission had any other questions or comments. Mr. Trout made a motion to recommend approval by the County Commission of the new Chapter 17.69 with the changes noted as presented by Staff. Mr. Hladek seconded the motion which passed unanimously.

- F. TH-16-03** An ordinance repealing the Humboldt County Code Title 17 Zoning, Chapter 17.70 Amendments to Title and Plan adding a new Chapter 17.71 "Amendments to Title and Plan" and other matters properly relating thereto. Chief Deputy District Attorney Carr explained why this Chapter is being repealed

and a new Chapter added. Mr. Trout asked if the text of Chapter 17.71 is identical to the text of Chapter 17.70. Ms. Carr verified that yes, it is. Chair Rock pointed out some corrections: 17.71.020, second line, should read "motion" instead of "notion"; top of page 4 item C "no" should be changed to "not"; same item should read "master plan" and not "general plan"; 17.71.100 should read 10 business days. Chief Deputy District Attorney summarized and recommended the changes as follows: Page 1 17.71.020 second line change of the word notion to motion; 17.71.030 under C change no to not and general plan to master plan; 17.71.040 change to 65 calendar days; 17.71.050 second line "not less than 10 business days", paragraph B "at least 10 business days"; 17.71.070A "not more than 30 calendar days, B "not more than 3 business days"; 17.71.080 remove the number 439 after A; 17.71.100 "ten business days" in instead of "five days". Chair Rock asked if there were any additional comments relative to this ordinance. Mr. Hladek made a motion to recommend approval by the County Commission as presented by Staff, amended by the board and summarized by legal counsel. Brad seconded the motion which passed unanimously.

- G. TH-16-04** An ordinance adding new Chapter 17.70 Renewable Energy Generation Projects to the Humboldt County Code Title 17 Zoning, to allow for a Conditional use permit and an expedited conditional use permit for Renewable Energy Generation Projects to include an application process, requirements, and fees, and other matters properly relating thereto.
- Chief Deputy District Attorney Carr explained that this is another proposed Chapter as recommended by NACo based upon legislation which passed in the last legislative session. Chair Rock had some corrections: Page two, item E Transmission gen-tie lines needs to be defined as generation to distribution/transmission connection lines, placed in parenthesis after gen-tie lines; Item C, what staff would be determining the setback. There was discussion on how to best phrase this item regarding setbacks. Ms. Carr suggested the following language: "This specific distance will meet any setback requirements determined by qualified planning staff in conjunction with the applicant and any person or persons qualified to assess the setback." Chair Rock made some suggestions based on electrical design requirements. Mr. Hladek suggested that the National Electrical Code be referred to. It was agreed that this item will read as follows: This specified setback distance will be determined by the Regional Planning Department staff and applicant based on project design and its associated safety requirements in conformance with National Electrical Code (NEC) and shall be based on an analysis of the project's externalities together with the nature of the surrounding uses." Mr. Hladek pointed out that 17.70.010 should read "equal to or over 10 MW", not MV. The last line should read "biomass, fuel cells...". Under 17.70.020, Item Gc the Orange Book is referred to, what is the Orange Book? Standard specifications for Public Works construction will be added after Orange Book, in parenthesis. Item Q under this same section, second sentence referring to post-closure plan and agreement to enter into an agreement with Humboldt County to develop and submit said plan. Mr. Hladek asked why Humboldt County would require a closure plan if State or Federal entities do not require one. There was discussion regarding this item. Under Item R on the same page there are some corrections: third line forma should read form; county should be capitalized; third line sire should read site. 17.70.030 item A second line as should read is, first line of the this section should

read required instead of require, third line of should read if, fourth line should read determines instead of determined. Item C under this Section law enforcements should read law enforcement, bring County's satisfaction up to the last sentence, item D should read is required instead of will be required, Item E, second to last line is should be changed to are. There were clerical corrections to section 17.70.040 and 17.70.060.

Chief Deputy District Attorney Carr recommended and summarized the changes to this proposed ordinance as follows:

- 1) Under title of chapter the word energy is missing the letter "g"
- 2) 17.70.010 first line at the end should be MW not MV, the language in the statute referred to is biomass, fuel cells, geothermal energy...
- 3) 17.70.020C the sentence regarding setback shall read " This specified setback distance will be determined by the Planning staff and applicant based on project design and its associated safety requirements in conformance with National Electrical Code (NEC), and shall be based on an analysis of the project's externalities together with the nature of the surrounding uses." Under E, Transmission, gen-tie will have the definition, generation to distribution/transmission connection lines in parenthesis. Under G-c Orange Book will be defined as standard specifications for public works construction in parenthesis. Under R third line forma should be form, sire should be site and county should be capitalized in Humboldt County.
- 4) 17.70.030 first line require should be required, third line of is if, last line determined should be determines. Under A second line isolated or rural is defined as instead of as defined as. Under C remove the "s" from enforcement. Under D the applicant is required as opposed to will be required. Under E third to the last word residents are adequately protected as opposed to is.
- 5) 17.70.040 third line the applicant must have a pre-submission meeting with..., third to last line should read 65 calendar days, a coma needs to be added after met and application, add "part of " to read "as part of the application.
- 6) 17.70.060 twelfth line abandonment has the comma outside the quotes, it should be inside the quotes (Ms. Kinney), sixth and eighth lines from the bottom should reflect its with no apostrophe (Chair Rock), seventeenth line change to county and it should be capitalized (Ms. Rock, Ms. Carr will verify).

Mr. Trout made a motion to recommend approval by the County Commission of TH-16-04 as presented by staff with the changes and additions as summarized by counsel. Ms. Kinney seconded the motion which passed unanimously.

**III. PUBLIC COMMENTARY** – Chair Rock asked for public comments, there were no public comments.

**IV. ADJOURN -**

Chair Rock adjourned the meeting at 8:25 p.m. until November 10, 2016.

  
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Vickie Rock, Chair