

Commission upholds RPC decision on a split vote



Written by Dee Holzel

Wednesday, November 04 2009 11:00



WINNEMUCCA — The Humboldt County Board of Commissioners voted 3-2 to uphold a decision by the Regional Planning Commission (RPC) in respect to the proposed Jungo Rd. landfill. The matter was before the commissioners on appeal Monday, November 2. Commissioners Dan Cassinelli and Mike Bell voted in favor of a motion made by Commissioner Garley Amos to uphold the decision by the RPC (see attached findings of the Commission). Commissioners Tom Fransway and Chuck Giordano voted against.

The appeal was pursued by Robert Dolan and Massey Mayo, of Dolan Law Office, who had previously requested a hearing by the RPC on the possible revocation of the Conditional Use Permit granted to Jungo Land & Development for a class 1 landfill. The two have alleged the planning commission was misled by the company who sought the conditional use permit (CUP) and they further alleged the company omitted pertinent information from their application. However, the RPC denied their request, which then went to the commission. Dolan and Mayo have 25 days to appeal the commissioner's decision to the 6th Judicial District Court.

Fransway indicated early in the proceedings he felt Jungo Land & Investments misled the RPC by failing to notify the board members they had an option to buy four parcels of land – not just the one the proposed landfill would operate on. While the issue of misleading the public was mentioned broadly in the appeal filed by Dolan and Massey, no mention of the parcels was mentioned specifically in the appeal. Cassinelli noted, "The permit is for one section of land. The other three sections are not our business." Fransway continued to ask what the other three sections would be used for, despite the fact there was testimony the parcels were optioned and not sold, and over the advice of legal council who warned him the question was outside of the scope of the appeal.

For his part, Cassinelli questioned why those with environmental concerns weren't taking those concerns to the proper agency: the Nevada Department of Environmental Protection (NDEP). He told one citizen who raised environmental concerns, "I think you're talking to the wrong board." He continued and noted the RPC's primary function is zoning – not environmental regulations. He said in reference to the allegations made by a speaker that there were omissions, "Everything was done properly to this point. You and NAG (Nevadans Against Garbage) need to go directly to NDEP and bring this up. They're the ones who are going to say yes or no, not Humboldt County."

Commissioner Giordano said he felt Monday's meeting, which lasted nearly three hours, was productive and hoped by sending the matter back to the RPC a similar meeting could be held. He further praised the members of the RPC who are serving in an unpaid capacity.

Fransway made the motion to send the matter back to the RPC, with guidelines for conducting a hearing, and funds to bring in experts, but only Giordano supported the vote and it failed. On a subsequent motion a majority of the commissioners voted to uphold the findings of the commission.

Despite the fact the meeting was agendized as "discussion and action" and not as a "public hearing"; Fransway ran the meeting as a public hearing without objection from the other commissioners. Although Russell Smith questioned Fransway about setting a time limit on the speakers, the commission chairman declined to do so. The chairman also allowed the speakers to address topics not on the agenda, such as environmental concerns, which was done without objection from the other commissioners.

Fransway also declined to recuse himself from the discussion, which had been requested from legal representation of Jungo Land & Investment, John Frankovich. Frankovich quoted Fransway as saying, "he would do anything to stop the landfill" and questioned whether or not the chairman could conduct the meeting without bias. When asked, Humboldt County DA Russell Smith said there were no provisions under the statutes that would require Fransway to recuse himself..

Attachments:

 **Commission findings** 143 Kb