

EUREKA COUNTY BOARD OF COMMISSIONERS
SPECIAL MEETING
May 19, 2009

STATE OF NEVADA)
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COUNTY OF EUREKA)

CALL TO ORDER

The Board of Eureka County Commissioners met pursuant to law on May 19, 2009, for a special meeting with the Nevada Division of Forestry (NDF) to contemplate a Fire District Ordinance and contract between NDF and the County. Present were Chairman Jim Ithurrealde, Vice Chair Leonard Fiorenzi, Member Mike Page, District Attorney Theodore Beutel, Clerk & Treasurer Jackie Berg, NDF representatives, and several County volunteer fire department chiefs and members. The meeting was called to order at 9:02 a.m. and began with the Pledge of Allegiance. The interactive video conference system was connected and utilized between Crescent Valley and Eureka for the entire meeting.

APPROVAL OF AGENDA

Commissioner Fiorenzi motioned to approve the agenda as posted; Commissioner Page seconded the motion; motion carried 3-0.

PUBLIC COMMENT

Chairman Ithurrealde called for public comments. Martin "Sonny" Milano, Beowawe resident, stated that he has researched NDF involvement throughout the State and found that some counties have done away with NDF participation due to cost, which has allowed money to be allocated to county equipment rather than NDF equipment. Mr. Milano commented that he will not be on the Beowawe Fire Department if NDF is involved and he feels that a contract with NDF would be detrimental to the community and the County.

Bill Tilton, Eureka County Undersheriff, commented that the Sheriff's Office has had a good relationship with NDF. Mr. Tilton stated that it has been helpful to have NDF assistance during accidents, hazardous material clean-up, and traffic control.

Vicki Drenon, Crescent Valley resident, hoped that any decision made by the Commissioners would be based on the betterment of the community and fire protection, and not on egos. Ms. Drenon further commented that she did not care who was holding a hose during a fire as long as they were well trained, and she didn't see that happening without the assistance of NDF.

Terry Conaway, Chief of the Diamond Valley Volunteer Fire Department, stated that the department has had good and bad relations with the NDF. Mr. Conaway noted that some of the negatives of having NDF involvement include: too much State control over local resources; the manner in which the burn ban in the County is managed for weed and fuel load control; too much control over specifying and acquiring equipment; and vehicle maintenance and repair by NDF. Mr. Conaway suggested that the County take over the maintenance of fire equipment/vehicles so that the local departments can be prepared for a fire, and the volunteer firefighters should be spending time training and not working on equipment. The positives of having NDF involvement include: extra and adequate training; sharing of fire training materials; management assistance when coordinating multiple fire departments during a fire; providing dispatch and a radio frequency on a common spectrum; supplying access to the State Suppression Fund; coordinating air support, hand crews, and supplies on fires; and providing some fire equipment for volunteer fire departments. Mr. Conaway would like to see a realistic agreement between NDF and the County that carefully spells out the duties and

responsibilities of all entities, and felt a mutual aid agreement as well as a cooperative agreement would be useful.

Virgil Roper, Crescent Valley Fire Department volunteer, stated that he has been a paid, contracted, or a volunteer firefighter since 1975. Currently, Mr. Roper is working for the federal government as a federal equipment manager and inspector. Mr. Roper commented that he could not support the draft Fire District Ordinance as written, and felt that a memorandum of understanding (MOU) spelling out step-by-step responsibilities would be better. Chairman Ithurralde noted that the Fire District Ordinance was in draft form and the purpose of the day's meeting was to amend the ordinance as needed.

Phil Schmitz, Chief of the Crescent Valley Volunteer Fire Department, supported the idea of an MOU between NDF and the County. Mr. Schmitz commented that he would like to see the ordinance name County employees as responsible for maintaining fire vehicles and equipment, and that a fire warden may be useful for coordination during fires, maintenance, and training. Mr. Schmitz stated that NDF should not be involved in the ordinance and an MOU, subject to annual review, would be a better option.

SECURE RURAL SCHOOLS (SRS) FUNDING

SRS Title III Funds: Eureka County has been granted full funding through the Secure Rural Schools Act. Prior to receiving any funds, the County was required to select one of the options identified for utilization of the funds. The Title III option was chosen in November 2008 by the Commissioners, which requires that the money only be expended for items allowable under Title III. Natural Resources Manager, Jake Tibbitts explained that the County will receive annual payments from 2009 through 2012, and the money can be rolled over from year to year, as long as it is obligated by September 30, 2011.

Firewise Communities: Mr. Tibbitts explained that the majority of the funding must be spent on Firewise Communities programs. This requires that a board be set up for each participating community for the purpose of selecting projects. Firewise Communities cannot be set up County-wide, but must be specific to each community. Mr. Tibbitts is in the process of setting up a Firewise Community for the Town of Eureka, and letters of interest for serving on the board are being accepted by the Natural Resources Department. Mr. Tibbitts felt it would be beneficial to invite participation from NDF and the volunteer fire departments. Other areas that will be considered for a Firewise Community include Crescent Valley, Beowawe, and possibly Pine Valley. Virgil Roper suggested that some of the funds be spent on placing addresses on structures/residences and conducting brief inspections of properties for fire risks.

PROPOSED FIRE DISTRICT ORDINANCE

Consideration of Proposed Fire District Ordinance: Pete Anderson, State Forester Firewarden for the Nevada Division of Forestry, introduced himself and stated that he is stationed in Carson City. Mr. Anderson introduced Mike Dondero, State Fire Management Officer; Sam Hicks, Northern Region Fire Management Officer; and Joe Anelli, Battalion Chief. Mr. Hicks explained that he met with Ted Beutel, District Attorney, approximately one year ago to discuss an official ordinance or resolution that allows NDF to operate in the Eureka County Fire District and set up annual operating plans (AOP) with each volunteer fire department in the County. Then several months ago, NDF was directed by the Board to obtain feedback on the proposed ordinance from the local fire departments.

Without an ordinance, the County will continue working under a 1977 resolution that states all of the lands within the County are included in the Fire District. The Eureka Town and Crescent Valley Town volunteer fire departments have been allowed to function autonomously. NDF has been accused of taking away power, authority, and ability from the local fire departments and of creating jobs for itself. Mr. Hicks stated that the NDF representatives were

at the meeting to solidify the 1977 resolution with an ordinance and describe the interaction between NDF and the local fire departments with AOPs. An AOP by department would describe levels of service and various responsibilities, and would be a working document that could be evaluated and updated annually.

Commissioner Fiorenzi asked about the consequences if the Eureka and Crescent Valley fire departments were not included in the Fire District. Mr. Peterson explained that they would be independent entities reliant completely on Eureka County for funding, and he hoped mutual aid agreements would be in place so that all entities could work together in the case of a major fire. Discussion was had on the authority of the State Forester to tax fire departments in districts and the ability to tax the Eureka and Crescent Valley Town volunteer fire departments. Mr. Anderson explained that the State Forester has never imposed a tax on any fire district and it would only be done through a mutual agreement with the county. Commissioner Fiorenzi stated he did not want to impose a double tax on the citizens of the Town of Eureka and Crescent Valley. District Attorney, Ted Beutel, clarified that the authority for this tax was under Nevada Revised Statutes and would not fall under the ordinance; it would simply be referenced in the ordinance as it applies to the Fire District.

Mr. Hicks explained that an ordinance would describe what each entity could provide for the communities in Eureka County, would allow all parties to have a voice and agree to the provisions. Currently, nothing is set in stone as far as responsibilities in the Fire District. Various aspects of the ordinance were discussed in detail by the Board, NDF representatives, and the volunteer fire department members, including: fire protection in areas with large expansions of land; wildland fires; capabilities of the different departments; organization; insurance for volunteers; operations on fires; annual operating plans; equipment maintenance; cost reimbursement; control and containment of fires; risk management; liability; and a fire coordinator position. The discussion resulted in several language changes to the draft ordinance and a request from the Board that NDF provide reports showing a breakdown of reimbursable costs.

Mr. Roper informed the Board that he and other volunteers would like to see the fire coordinator position held by a County employee rather than an NDF employee. Additionally, he felt all County fire apparatus should be labeled 'Eureka County Fire' instead of 'NDF.'

Public Works Director, Ron Damele, asked who pays for a fire on private property if the County is not designated as a fire protection district (receiving federal aid) pursuant to NRS 473. Mr. Hicks responded that the responsibility would fall to the County, and further explained that fires starting on private property that burn onto federal land can be the financial responsibility of the person starting the fire; or in the case of lightning caused fire, each entity is responsible for their designated area (Forest Service, Bureau of Land Management, or County).

Chairman Ithurralde commented that an ordinance is necessary because the County has been relying on a resolution from 1977. In addition to an ordinance, Commissioner Page would like a contract between the County and NDF identifying a breakdown of responsibilities, and addressing private use of fire vehicles. Commissioner Fiorenzi said the ordinance would reaffirm what is already imposed by NRS, allow annual operating plans to be created with the volunteer fire departments, and holds more authority than a resolution.

Christine Smith, Diamond Valley volunteer, asked how the ordinance would be enforced. Commissioner Fiorenzi stated that the repercussions for breaking the contract could be addressed in the AOPs. Mr. Conaway stated that he does not agree with the ordinance and there are issues with the burn ban.

Mr. Hicks explained that NDF can't regulate agriculture burns in the instance where one crop is being burned in order to replace it with another crop. However, when pivot corners are burned for noxious weed control, a burn plan is required because it is considered a prescription burn. NDF has to follow NRS 527 which requires a burn plan if help from the fire

department is needed; however, if a farmer burns without help from the fire department, no burn plan is required, but the farmer is liable if the fire burns out of control. Mr. Conway commented that the burn permit process makes it difficult for the volunteer fire departments to help when a controlled burn is desired. Mr. Anderson said this could be addressed by having NDF and the County draft a large-scale burn plan for the purpose of burning pivot corners. Mr. Hicks stated that Ryan Shane, NDF Resource Management Officer, could assist in drafting this plan, which could be broadly written and still include the required conditions and criteria.

Direction to Staff Regarding Fire District Ordinance: Commissioner Fiorenzi made a motion to propose the draft Fire District Ordinance with the two changes. Mr. Hicks identified the edits as a modification to the language for the 'all risk' portion, and the addition that NDF would provide the Commissioners with a cost breakdown by incident. Commissioner Page seconded the motion. Motion carried 3-0. A public hearing will be held on the proposed ordinance at a later date.

CONSIDER CONTRACT WITH NEVADA DIVISION OF FORESTRY

Contract Between NDF and Eureka County: Ted Beutel, District Attorney, explained that NRS 277 allows County Commissions to enter into cooperative contracts with State agencies. In 2005, the Board, Sheriff, and District Attorney signed a County/NDF contract which was forwarded to the State to go before the Board of Examiners. Mr. Beutel further explained that the contract was drafted by the State and begrudgingly signed by the Board, but was never signed by the State or returned to the County, and no contracts have been considered since that time. Mr. Anderson did not know what happened to the 2005 contract, but promised to look into it. Mr. Beutel suggested that for understanding and compliance, a simplified contract would be more practical.

Commissioner Fiorenzi suggested walking through each portion of the contract in order to identify basic responsibilities. Inclusion of the Crescent Valley Volunteer Fire Department in the Fire Protection District was discussed. Mr. Schmitz and Mr. Roper relayed that they did not want to be included. Mr. Hicks stated that everyone involved wants to serve the public, which needs to be accomplished either together or separately, and NDF was willing to follow whatever direction the Commissioners provided. Commissioner Fiorenzi cautioned the Crescent Valley Fire Department to consider this decision very carefully, because if they opted out of the Fire District and any participation with NDF, they would be limited to serving the one-mile square area within the boundaries of the Town of Crescent Valley, and would be completely dependent on Eureka County for all funding and equipment. Chief Schmitz agreed that he wanted to give the decision some more consideration.

Each section of the proposed 2005 inter-local contract between Eureka County and NDF was reviewed by the Board and those in attendance. Contract items discussed and amended included: establishing a County prescription burn plan; worker's compensation for departments within the Fire District; physical examination requirements for volunteers; unsafe acts, review, and correction; labeling of fire equipment and vehicles; documentation and coordination for prompt repair of equipment; coordination of equipment location; yearly review of vehicle use; equipment response reports; grant applications and administration; equipment use agreement; operating outside of training realm; liability insurance and licenses on apparatus; fuel usage and tracking; vehicle maintenance tracking; and payment per response and incident. (At 12:30 p.m., Commissioner Fiorenzi left to attend another scheduled meeting).

Direction to Staff Regarding Contract: Chairman Ithurralde noted that this draft contract is a working document and changes may still be made. The changes made during the day's meeting will be incorporated into the document and dispersed to all of the volunteer fire departments for review. Chairman Ithurralde requested that the amended draft be available for

the Board for review at their July 6th meeting. Commissioner Page requested a generic template of an AOP. Commissioner Page motioned to direct staff to put the contract changes in writing and provide the draft for review by the Board at their July 6th meeting; Chairman Ithurralde seconded the motion; motion carried 2-0.

Not-for-profit status of the individual fire departments commissioned by the Secretary of State was briefly discussed, and it was stated that it is each department's responsibility to review their status.

PUBLIC COMMENT

Chairman Ithurralde opened the floor to public comments. Cathy Wolf and Phil Schmitz began to comment regarding some complaints they had, but Chairman Ithurralde stated that personnel issues could not be discussed in that venue. Mr. Conaway thanked the Board for including the volunteer fire departments in the process. The Chairman, in turn, thanked the volunteers for their efforts, and asked that the chiefs relay the information presented, along with the Board's appreciation, to all their department members.

ADJOURNMENT

At 1:07 p.m., Commissioner Page made a motion to adjourn the meeting; Chairman Ithurralde seconded the motion; motion carried 2-0. Chairman Ithurralde thanked everyone for their attendance.

Approved this 19th day of June, 2009.

/s/ J.P. Ithurralde
J.P. Ithurralde, Chairman

Attest: /s/ Jackie Berg
Jackie Berg, Clerk