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# The Humboldt Sun

Winnemucca, Nevada

Your Source for Community News

VOLUME 40, ISSUE 82

**WEEKDAY EDITION**

## RPC upholds Recology's Conditional Use Permit



**ARTS & ENTERTAINMENT**

Lowry Drama and Stagecraft presents "The Perils of Lulu" for two performances this week.

Page 5



**COMMUNITY NEWS**

Lowry High School's homecoming week featured a variety of events, including a car smash competition.

Pages 9-12



**SPORTS**

The Lowry High School cross country team swept the boys and girls team titles during a home meet last week.

Pages 13-17, 22

**Index —**

- Opinion ..... Page 3
- Announcements ..... Page 4
- Community Calendar ... Page 6
- No. Nevada Events ..... Page 7
- Classifieds ..... Pages 20-21

**Local Weather**

**Tue 10/13 57/37** Mostly cloudy and windy with showers developing later in the day. High 57F.

**Wed 10/14 65/31** Showers possible. Highs in the mid 60s and lows in the low 30s.

**Thu 10/15 69/32** Sunny. Highs in the upper 60s and lows in the low 30s.

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### Board votes against public hearing to revoke landfill application

By Jen Anderson  
The Humboldt Sun

WINNEMUCCA — Petitions asking officials to revoke the Conditional Use Permit (CUP) issued to Jungo Land Investments two years ago by members of the Regional Planning Commission were denied during the latter's meeting last Thursday.

In their findings, commissioners and staff said they found no basis to go forward with a public hearing on the issue, and voted unanimously last week to uphold their original decision. Joyce Cox was not present at the meeting.

In their statement, they said they found no "adequate evidence of noncompliance" to hold a hearing — a notion that was backed up by Humboldt County Deputy District Attorney Angie Elquist.

"What they need is hard evidence," she said, noting that so far officials are only hearing speculations and accusations. With that alone, commissioners cannot legally take action to revoke CUPs.

Their decision came in the face of pleas from several community members who asked that they slow down and take time to research the area before approving a use permit for a landfill that they felt could come with severe environmental implications.

Retired Nevada Department of Wildlife Biologist Jim French said the water table underneath



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Attorney John Frankovich (front row, left) listens along with his clients, Recology Planner Erin Merrill and Chief Operating Officer George McGrath, as the findings are read during Thursday's Regional Planning Commission meeting. Also pictured far right is Recology's community liaison, Gene Hill. The RPC board found that there was not enough evidence of noncompliance to warrant holding a public hearing to revoke Recology's Conditional Use Permit.

the proposed site is an active aquifer, according to studies performed by area mining operations in past years.

French referenced a previous comment by Recology officials that said surrounding water basins will not be affected by possible landfill leaching unless water can run uphill — he called it a "disingenuous comment."

"We're not talking about surface runoff here, we're talking about subterranean flow and it is an active aquifer," he said. "Jungo Flat didn't just happen — it happened for a reason."

French explained, saying studies done by mining geologists produced evidence that the flat was formed by drainage from the Quinn and Kings rivers, where the water eventually ended up in the Humboldt River and Humboldt Sink. He said that evidence shows the active aquifer underneath the proposed site will bisect the Humboldt River just north of Rye Patch.

"There is a connection," he said. "There are a lot of people who have spent a lot of time looking at this that had nothing to do with Recology and nothing to

do with landfills in collecting that data. It was more about gold mining."

Attorney John Frankovich, who is representing Jungo Land Investments (an agency under Recology), is the writer of the objection to the original petition and said concerns about groundwater are unfounded.

"The groundwater basins are designated by the state groundwater engineer," he said. "The groundwater basin in which this project is located is separate and distinct from the groundwater basin where Rye Patch is located,

where the Humboldt River is located. Based on that, there should be no known interconnection. That's based on information from the state water engineer."

Local attorney Bob Dolan drafted the petition challenging the issuance of the CUP and spoke during the public comment portion of Thursday's meeting. He said that Frankovich continues to play "fast and loose with the truth" in his statements regarding the proposed site and possible environmental implications. Dolan also told planning commissioners that the regulatory oversight agency in the neighboring state, the California Integrated Waste Management Board (CIWMB), will be defunct in January 2010, at which point the replacement agency will have no obligation under California law to continue oversight meetings. He said that since the RPC acted two years ago with the belief that CIWMB would keep stringent regulations and that has changed, the RPC has the right to review the CUP.

"That is a material change that you relied upon and your minutes reflect that in your transcripts," he said.

Recology's Chief Operating Officer George McGrath clarified that although it's true the integrated waste management board is dissolving in a few months, it will not leave a void as far as regulatory oversight is concerned. The oversight, he said, will be split between California's department of natural resources and the department of conservation, and possibly the department of toxic substance control.

Dolan also claimed that — See **LANDFILL**, Page Two —

## City votes to purchase car museum property

### Site could eventually house public safety facilities

By Jen Anderson  
The Humboldt Sun

WINNEMUCCA — The site intended as the location for America's Car Collection museum may eventually house the city's public safety department if officials are able to successfully broker a deal with owner and philanthropist Ralph Whitworth.

During the Oct. 6 Winnemucca City Council meeting, Mayor Di An Putnam said that a deal that has long been in the works could come to fruition if council members gave her permission to submit an offer for \$700,000 for purchase of the 2.23 acres and the two buildings on site. Putnam said the property would be paid for with \$400,000 down and the remaining \$300,000 split evenly over the next two years, interest free.

"Mr. Whitworth has always been responsive to the needs of our community," she said. "He is really, once again, looking at giving back to our community even though he wasn't able to economically increase it with a first class museum."

Century 21 listing agent Terry Miller attended the meeting on behalf of his client, Whitworth, and said that Whitworth had



JEN ANDERSON • The Humboldt Sun

The building once intended to serve as a repair/restoration garage for America's Car Collection museum may eventually house the city's fire and police departments following a unanimous vote by Winnemucca City Council members Oct. 6.

Miller engage in an aggressive 30-day advertisement for the property in hopes of getting a better offer. After that time period, and with no serious bites, Whitworth gave his verbal consent to Miller to proceed with the project in regards to the city purchasing the property.

"It's an unusual situation," Miller said. "If the buildings weren't there, I could probably

get close to \$700,000 just for the land, but the buildings make it an unusual situation."

City Manager/Engineer Steve West said \$400,000 of the purchase money would be taken from the reserve fund for fire and public safety, which is scheduled to be at \$448,000 this year after a transfer. West said it has taken about four to five years to build the account to that level. The

remaining amount could come from a few different places in the Capital Improvement Projects (CIP) fund, he said, depending on the council's desire.

"One thing the mayor and I have discussed is potentially utilizing some of the interest earned on the Nixon fire loss money — not the principal, just the interest," he said, adding that the fund is currently sitting at about

\$500,000, which could cover the cost of purchasing the buildings and retrofitting the main one to house both the city fire and police departments.

"We have a blueprint that shows what we're thinking might work," West said, noting that they would like to retrofit the bigger building to encompass fire trucks as well as staff offices for both departments.

Councilman Patty Herzog asked how the cost of purchasing the property would compare to the city's current situation of leasing space from the county inside the courthouse building.

West replied that they are estimating approximately \$50,000 annually for maintenance, insurance and utilities for the potential new facility, while it costs them \$18,000 now to lease space from the county. The difference would mean an extra \$32,000 to the annual budget, West said. In addition, the firehouse costs an estimated \$15,000 in utility costs, which would be vanquished if the fire department and police consolidated their facilities into one building.

"The beautiful thing about this building is that it's new; it's top quality. We think the maintenance costs long term will be pretty minimal and in the short term for sure," he said. "We think it's a real good use for our limited funding."

Contrary to what some may believe, there is no earmarked use for funds provided by the — See **MUSEUM**, Page Two —

**NEWMONT**  
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**Spot metal prices**  
New York Mercantile Exchange closing metals prices:

	GOLD	SILVER
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Thursday	\$1,054.90	\$17.78
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**MUSEUM**

(Cont. from Page One)  
Nixon fire loss insurance. However, it's a generally accepted notion that the money will be used for a future arts center. Putnam said it is still the city's position to use the principal as an endowment fund to attract grants, explaining that granting agencies typically like to see funds in place for building maintenance. "Having an endowment makes finding the grant money easier," Putnam explained, adding that monies from grants would be used to construct an arts facility while the endowment (insurance principal) would be

used for maintaining the facility. West added that the money contained in the Nixon fire loss interest is not as fluid as those in other CIP funds, and could not be as easily transferred to the general fund if the council needed money to offset deficits. "To me, the rest of the CIP money is a lot more fluid to do that with than the Nixon interest money," he said. "It leaves you a lot more flexibility in the rest of your CIP to be able to ship that back to the general fund." West said that the city has considered other locations for a public safety facility, but parking

issues have consistently posed a problem for officials. With this property, he said, there will be plenty of room for staff and visitor parking, as well as ample space for fire trucks leaving the bays when called out on emergencies. "We have lots of room," he said. "We're buying enough property on the sides of the building that there will be plenty of parking outside of where the fire department would have to drive out from their bays. I think it's a good win-win situation for the fire department and the city." In addition, firefighters will not have to worry about being

hampered by having to cross railroad tracks to get to their destination. With the facility's location near the boulevard, U.S. 95 and Interstate 80, emergency responders are hopeful that they will be in an even better position to react to calls. "I, personally, think it's too good to pass up," said city Assistant Fire Chief Cam Drake. Councilman Rich Stone made a motion to ratify the agreement to purchase the property and directed staff to contract with a surveyor for parcel maps. The motion passed unanimously with all council members present.

**LANDFILL**

(Cont. from Page One)  
Nevada Administrative Codes and Nevada Revised Statutes state that asbestos is considered a hazardous material and the fact that it was not disclosed as a landfill waste product on the CUP application gives the RPC valid reason to revoke the permit. Frankovich countered that nowhere in Nevada law is asbestos considered hazardous, and referenced both NAC and NRS, noting that NAC 444.965 through 444.972 specifically provide that asbestos may be placed in landfills in the state of Nevada. (Read the referenced NAC at <http://www.leg.state.nv.us/NAC/NAC-444.html#NAC444Sec965>).

"There are no misrepresentations," he said. "It is not a hazardous substance." Frankovich added that the petition filed by Dolan was not proper, since it seeks to revisit the initial issuance of the permit that was done over two years ago. "The Conditional Use Permit is final," he said. "When it was not appealed to the county commission two years ago, Jungo Land Investments was entitled to rely on that; has relied on that." He said that any action taken by the RPC to revoke the CUP would effectively nullify the planning process as a whole, affecting future property owners seeking the same type of permit. Further, he said the petition submitted by Dolan seemed "to be more designed to alarm or scare the local residents than address the facts of this project."

Planning commissioner Bob Edwards asked McGrath about the status of Recology's permitting process. McGrath said they still need the solid waste facility permit, the water permit and the air quality permit, all three of which are issued by NDEP. McGrath said he hopes to have the air quality permit this quarter and the solid waste permit hearing late this quarter or early next

**Regional Planning Commission findings —**

The RPC finds as follows:

- Jungo made no misrepresentation to the RPC regarding the type of material proposed for disposal. The CUP application stated solid waste will be received at the landfill, consistent with applicable State and federal laws. Solid waste includes C & D debris, tires, sludge and asbestos-containing materials. (See Nevada Revised Statutes, Chapter 444).
- There are no facts pertaining to adverse effects on abutting property or permitted uses on such property. The Humboldt County Planning Department Staff Report submitted to the RPC with the CUP application states, "(t)he proposed use (by Jungo) will have no adverse effect on abutting property or permitted uses thereon, if proposed conditions are adhered to." There has been no use of the proposed landfill, thus there is no factual data to establish an adverse effect on abutting property or the use thereon. The allegation is premature.
- There was no misrepresenta-

tion concerning the capacity of the proposed landfill. The CUP application stated the landfill design capacity would hold approximately 200 million cubic yards of solid waste, and the State of Nevada determined to allow 106 million cubic yards of solid waste. This is not a misrepresentation by Jungo, it is a State requirement.

- There was no failure to properly notice abutting property owners. The CUP application concerns one section of land. The landowners surrounding this one section of land were properly notified of the 2007 hearing when the RPC approved the Jungo CUP.
- There is no conflict with RPC member Bob Edwards. In 2007 when the RPC approved the CUP, Bob Edwards was an employee of the Bureau of Land Management and he disclosed the relationship at the RPC meeting and asked PRC legal counsel if he should abstain from voting on the CUP. Legal counsel advised Edwards he did not have to abstain because there was no

monetary gain or direct benefit to him.

- There is no evidence that Jungo is not in compliance with any of the CUP requirements. If all State permits are approved, the Jungo landfill will be a Class 1 landfill, similar to the Humboldt County Landfill that is currently in existence. Similar to the Humboldt County Landfill, Jungo will have to comply with the conditions of the CUP, all State and Federal permits, statutes and regulations. The Petitions allegations to the contrary are premature.

The RPC may revoke a conditional use permit for noncompliance under Humboldt County Code 17.68.100. There is no evidence that Jungo is not in compliance with the conditions of its CUP. Jungo did not provide false information to the RPC, it has made no misrepresentation to the RPC, and it has not deceived the RPC with regard to the CUP. Therefore, the PRC will not hold a public hearing to revoke the Jungo CUP.

quarter in 2010. He did not give an anticipated timeframe for the water quality permit. McGrath said Recology manages non-hazardous waste commodities with "a keen eye for how we can remove recyclables from the waste stream," and that they are "accustomed to scrutiny" because being under a microscope is how they get their permits. "For us, this is one of the parts of doing business," he said. McGrath said the company has been undertaking many engineering studies in the past several months and has been submitting numerous applications at a great expense to Recology. "We've spent hundreds of thousands of dollars not only in proving this site, but also in the origination of the material," he said. Community member Bob

Davidson Sr. reminded planning commissioners that the community went through a similar divisive situation years ago when the cyanide plant was looking to build a facility just outside of Winnemucca. "The cyanide plant here has turned out to be a good neighbor," he said, adding that in regard to the proposed landfill, he's neither in favor of it nor against it. "I'm for the best interest of the community, and I think we should all quit fighting and have it investigated properly and if it's good for the community, let it go," he said. French said that he is also in favor of further investigations, and encouraged officials to utilize local experts and opportunities offered through the bill recently introduced by Sen. Harry Reid, which offers the services of the U.S. Geological

Survey to study the impact of seepage from the proposed disposal site and possible water contamination. "I believe that it is prudent and demands all of the regulatory agencies ... to listen to a third party, USGS, and see what our risks are if we place that (landfill) right there," he said. "We really need to get down to the facts, get away from the emotion part of this thing and we need to make the decision on this thing based on the best information available and we need to make it based on minimizing risk to the public." Dolan said he plans on appealing the decision made by planning commissioners, which will take the issue to Humboldt County Commissioners at a later date. As of press time Monday, an appeal had not yet been filed with the county clerk's office.

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