

PROCEEDINGS OF THE BOARD OF COUNTY COMMISSIONERS IN AND FOR THE COUNTY OF LINCOLN,
STATE OF NEVADA

October 1, 2007

#1-CALL TO ORDER/ROLL CALL/INVOCATION/PLEDGE OF ALLEGIANCE

The Board met in regular session with Chairwoman Ronda Hornbeck calling the meeting to order at 9:06. Clerk Lisa Lloyd called the roll with Commissioners Tommy Rowe, Paul Mathews, Ronda Hornbeck and Bill Lloyd being present. Commissioner Wade Poulsen is absent at this time, but there is a quorum present. The agenda was posted on 09-25-07 to comply with the open meeting law. The Invocation is offered by Tommy and Ronda led the Pledge of Allegiance. District Attorney Greg Barlow is present as is County Manager John Lovelady.

CONSENT AGENDA

- 2* Approve/Deny minutes of September 17, 2007 Commission meeting.
- 3* Approve/Deny amendment to the agreement for the transportation program in Lincoln County to recoup an additional \$16,000.00 due to increases in operating expenses.
- 4* Approve/Deny scheduled pay increase for Megan Zile; completion of 6 month probation period.
- 5* Approve/Deny State per-diem reimbursement rate that became effective 7/1/2007.
- 6* Approve/Deny Capital Outlay Request in the amount of \$19,237.90 from Information Technology budget to acquire computer equipment for various departments per current year budget..
- 7* Approve/Deny agreement with Swendseid & Stern as Bond Counsel for the USDA loan for the Pioche Sewer Project.
- 8* Approve/Deny letter to USDA Rural Development stating that the Lincoln County Grants Administrator has the signatory authority for routine grant tasks and matters such as reports, requests for funds, etc.
- 9* Approve/Deny submission of eGrant Roles Form to Division of Emergency Management for any FEMA grants for Flood Pre-disaster Mitigation of Fire Pre-disaster Mitigation.

Tommy made a motion to approve the consent agenda with the exception of Item 2 as the minutes are not ready; seconded by Paul. All voted in favor.

#-VOUCHERS

Recorder/Auditor Leslie Boucher presented the vouchers. **Bill made a motion to approve the vouchers as presented; seconded by Paul. All voted in favor.**

#13-OFFICER/DEPARTMENT HEAD REPORTS

RECORDER/AUDITOR Leslie Boucher presented the cash balance reports. General County has a balance of \$790,805.56 with estimated expenditures being \$155,660.20. This leaves General County with a balance of \$635,145.36. Transportation has a negative balance of \$12,062.14 with estimated expenditures being \$1,558.93. This leaves Transportation with a negative balance of \$13,621.07. Denice is waiting for \$12,560.00 which will be deposited as soon as it is received. Nutrition has a negative cash balance of \$5,549.25 with estimated expenditures being \$10,703.92. This leaves Nutrition with a negative balance of \$16,253.17. Denice has advised that she is expecting \$8,322.00 for deposit. Detention Center has a negative balance of \$358,656.49 with estimated expenditures being \$71,582.46. This leaves Detention Center with a negative balance of \$430,238.95. Cash to be deposited this week is \$154,770, which will leave a negative balance of \$275,468.95. Tommy questioned why this money isn't deposited as soon as it is received. Leslie advised that Tommy will have to speak with the SO concerning the timeliness of the deposit. Bill stated that it is very important that they get this money in as the DC is going deeper and deeper in the hole. **DISTRICT ATTORNEY** Greg Barlow advised that the jury trial for this week has been vacated. Greg attended a conference in Rhode Island last week, which he reported was excellent and well worth the time and resources. **SHERRIF** Kerry Lee advised that the roof repair has been completed on the Detention Center. All of the rock on the roof was removed. Walking paths have been put in and everything has been re-seamed. The rocks were replaced after the extensive repairs were completed. Taylor Lewis, Correctional Officer, was called up by the National Guard and will be gone for 6-18 months. His position has to be kept open and can't be permanently filled while he's gone. Kerry has spoken with one of the retired COs. Last week Kerry went to Joining Forces meetings in Mesquite, which is the federal money for DUI/seatbelt enforcement. Many rewards were received. LC received \$15,000 equipment grant through Joining Forces that can be used for radar units and camera units for the cars. Last Thursday night there was a high speed pursuit that came out of Utah. They were able to apprehend the suspect and he is now in custody awaiting extradition. Kerry stated that he isn't aware of any funds waiting to be

deposited into the DC fund. Tommy requested that these checks be deposited the same day that they come in. Kerry believes that Leslie may be mistaken that the SO already has the check. Kerry advised that they just purchased two washing machines, and they are gear driven as opposed to belt driven. Ronda requested that any time a car wreck goes through a rancher's fence, the ranchers need to be contacted to make certain that the fences are put back up so the cows don't get out. **EMERGENCY MANAGEMENT COORDINATOR** Marge Gunn-Nutman discussed NIMS training. A class has been scheduled for Incident Command System 200 on October 8-11, which requires a home study course. Gary Davis attended the Homeland Security Meeting on October 19-20 in Marge's place. Gary has contacted Ernie Chambers while he was there, and Ernie promised to send information regarding the available funding for communications. Registration is almost complete for the HazMat Explo. The breakout session at the wild land fire summit was very helpful and Marge presented a copy of the conclusions via email. HSEEP training will be held in La Vegas on October 16-20.

#19-COUNTY MANAGER ITEMS

b) Emergency Manager position—Marge Gunn-Nutman presented this item. Marge presented copies of her occupation profile for the Emergency Management Specialists in NV. The funding for Marge's position ended yesterday. Marge has applied for \$29,000 for the year as DOE funding will start up again next October. If the funding from the state is received, the county will have to fund at \$7,000. If funding is not received from the state, the county will have to augment the budget by \$14,000. Marge is not requesting that she be paid the same wage as the rest of the state. The total budget for the part time position is \$13,000, which is paid by the county. DOE paid \$13,000 and FEMA paid \$13,000. Half of the portion that the county has been paying is reimbursed by FEMA. The county portion of Marge's budget is \$30,000. DOE pays \$30,000 as well. This isn't Marge's pay. Marge's pay is \$3,200 per month with benefits on top of that. DOE's portion of the funding has ended and they will not start paying again until October of next year. LC will have to fund one year. The application that Marge has submitted with the state is for supplemental funding. Marge applied for \$29,000 of that supplemental funding for her salary and benefits, which will be matching funds. The award hasn't been received as of yet. Marge is optimistic that the state will do everything that they can to give the county the matching funds for her salary. The actual cost for the halftime position would be approximately \$12,000. FEMA pays back half of that through the state. Ronda stated that she believed that if DOE didn't pick up their portion then Marge would be taken back to part time until DOE picked her up or the other \$29,000 came in. Marge stated that she will not work part time as she can't get everything done and she would make more on retirement than she would part time. Ronda stated that part time was what was budgeted on the county's side. The county will have to come up with another \$19,000 plus benefits to keep Marge full time. It is believed that this will total approximately an additional \$25,000. Marge is positive that the supplemental funding will be received, but something has to be decided today as to whether or not she will continue to work. Ronda stated that it makes her nervous to commit \$25,000 in hopes that supplemental funding will be received. Paul suggested that the county buy some time by extending Marge's contract for one month to explore where the additional funds will come from. Marge stated that it is still unknown at this point if the supplemental funding has been awarded. Marge said that during the budget process, everyone thought that DOE was going to get this thing straightened out. A letter then went to DOE from Bob Lux and DOE dug their heels in and got upset. In April of next year, Marge will put in for a grant. Money is in the fund to cover the month-long extension if that is the Board's desire. **Paul made a motion to extend Marge's employment for one month as it is currently constituted, then an update and discussion/action will occur at the next meeting; seconded by Tommy. All voted in favor.**

#11-LINCOLN COUNTY WATER APPLICATIONS

This is the time and place set for public hearing regarding the transfer/assignment of water applications Lincoln County obtained from Southern NV Water Authority to Lincoln County Water District. Dylan Frehner, General Manager of LCWD, is present for this item. The Category Two Basins are the applications being considered. They include: Coal Valley, Garden Valley, Lake Valley, Patterson Valley and Pahroc Valley. In the past, with the Vidler applications, the county passed its 50% ownership to the water district on the condition that if they were sold, 30% would go back to the county. Since that time, the WD has taken steps to make certain that the water rights aren't sold. NRS 277.053 allows for the passing of real estate between two public entities without charge. Dylan advised that it is uncertain if these are real estate. The crux of the matter is that Dylan interprets the law that there is no need for an appraisal as this is one public body giving this to another public body. Greg disagrees and believes that an appraisal is needed. Greg advised that the transfer of the water is not permanent as it will be going to a public entity. Water transferred in this way means that if it is not used it will come back to the county. The county can't permanently alienate that water right from the county. Greg cautioned the Board to comply with the statutes concerning appraisals, public hearing, etc., to avoid liability. Greg questioned what a water application is. If the county advertised these applications for sale, a value would be placed on them. Unless there is a user applying for the water, then everything else becomes speculation. It could be challenged if someone came in with a valid use. If the county transfers these applications to the WD without following state law a cloud will be created on the

title. There is some discussion about how things are set up in Clark County and who controls the water. Ronda said that the WD was formed to help the county, not to hurt it. There will be no more sale of the water. Ronda questioned what would happen if the Board allowed the WD to have these applications with the clause that these waters will never be sold and they will be used for the benefit of LC. Greg asked, as it pertains to the applications, if there a user that is joining with the WD to use this water. If there is not a user, under the last Supreme Court case this year it becomes speculation and doesn't hold with the system. If there is no user, there is no need for the county to give up these applications at this time. These applications represent a county asset, and other county assets are not given away. The last time it was done there was an agreement to sell the water, which meant that the county got paid for it and recouped 30% of the funds. There was never a value placed on it at that time. Statute allows for the county to lease or sell the water, but the proper steps must be followed. If the water is not used by the leaser or purchaser, then it comes back to the county. The deed that was given for the water rights being considered deeded them over to the WD, but they belong to the county. As these are put into the WD's name, then they will be able to understand what they have to work with. Dylan stated that the WD is moving forward with creating a new water master plan for the county. All of the local water utilities have been invited to the public hearing to opine on what the uses and requirements will be. This is being done to plan for the future. The goal is to see what water rights the WD has to meet these projected requirements. SNWA has approached the WD concerning the 3,000 acre feet. Greg advised the Board to follow the statutory provisions and to protect the county and the WD. Ronda said that what Greg is saying is that they go out to public hearing, get an appraisal. Greg advised that it is his opinion that you can't just give the water away. Bill requested that Greg request an opinion from the Attorney General concerning this issue. Paul's opinion is that returning the county 30% of certificated water value will be much higher than what could be made securely with an appraisal on water applications. Dylan said that another issue that will occur is that the WD's goal isn't to sell the water. If the water isn't being sold, then there will be application fees to use the water that will raise the developer's costs. If the county wants to transfer, then Greg believes that these can be worked out as a contract. The county will still have to meet their duty as they can't give it away. Paul stated that the county doesn't have water rights; they only have water applications. The value would be established as applications become permitted. Paul's opinion is that when the value is established and there is a return on that, then the county should be reimbursed. To establish a value at this point isn't possible. Tommy reminded everyone that an appraisal is only good for six months. Dylan stated that the statute allows for the passing, without charge, to another public entity. An appraisal is not required. Ronda said that if an appraisal is required for any monies received once the applications become permitted water, the WD will be responsible for providing service. The county would have to be responsible for half of those bills. Greg stated that the county can commit these water applications to the WD. Greg further said that he sees no compelling reason for the title being passed over to the WD. There is no user clamoring for them. Paul stated that applications without a plan are in jeopardy. The county can secure these by pledging these to the WD when and if they are needed. This will resolve the issue as to appraisal. Greg questioned why the WD should hold title to a county asset. Greg further advised that the WD is a separate entity from the county. The WD is "on their own", and the county is not responsible for them. Dylan stated that by committing the water applications to the WD it will just add more hoops to jump through. **Paul made a motion that the county transfer the assignment of the county applications received from SNWA with the stipulation that it be reviewed by the AG for compliance with the law and that the county meet any and all stipulations/requirements from the AG's office after the review; seconded by Ronda.** Tommy asked if that means that the Board is directing the DA to request an AG's opinion. Yes. The Board agreed that the DA will have to send a letter of request to the AG. Dylan asked for clarification as to what will be done. If it is being done without charge there will have to be a resolution to transfer. Paul stated that the specifications of the contract will have to be defined at the time that the reply is received from the AG's office. Bill said that the Board should wait to hear from the AG before moving forward and making the transfer. **Paul restated his motion to include that the DA also submit the request to the AG (if the AG says that it can't be done, then the transfer will not go forward and to motion to transfer will be void).** **Bill is opposed. Motion carries 3-1.**

#13-OFFICER/DEPARTMENT HEAD REPORTS

LC ROADS SUPERVISOR Steve Chouquer advised that Alexander Road will be completed once the pipe is put in and a couple loads of gravel have been put in. The foot on Hoffman Street has been put in. Ronda stated that there were FEMA monies (\$86,000) to gravel the roads at Mt. Wilson. Ronda received a phone call asking if the same material in the years past was being used on the road. Ronda stated that the fill that was used 15-20 years ago was awful. The material was very sloppy. Ronda questioned if there was another pit to draw materials from. Steve advised that this is the only pit that they have and it doesn't have the overburden on it. The RD doesn't have the ability to crush the material, they only screen it. The clay will always be in the material. 90% of the time the road will be dry and approximately 2% will be slick. Steve brought in a pile of material that is representative of what is being used. The residents have advised that if the "slick" is being put back on the road, then they would prefer that nothing be done with the road at all. Ronda stated that if this is the direction that is taken, then these monies will be de-obligated; never to be received again. An 18 month extension was

received that expires in March 2008. Steve stated that they still have a four mile project in Carp that has to be done. If the residents don't want Steve to finish, he will use it elsewhere. There is a state pit about 13 miles away from Mt. Wilson, but it all has to be crushed. Steve stated that he will haul the material if it isn't wanted at Mt. Wilson, but it will be done so at a cost to the county, not under FEMA money. Chuck Brechler suggested that the RD put down a test strip of this material. Bill stated that Steve has had thirty years of experience with roads and he believes that Steve knows what he is doing. Steve advised that Mt. Wilson has priority for plowing when the snow comes. The RD keeps this road pretty dry. The only thing that could cause issues is if it rains for 2-3 days and they can't get in there to push the moisture off the roads. Steve stated that there is no way to know if the test strip will be effective as there may be no moisture for six months. For this amount of money it isn't possible to screen out the "fines". Maureen Mitchell advised that there are two areas that are really bad at this point. Maureen questioned if the whole road will be slick if this is done. Ronda advised that this will only be for four miles of the road. Maureen stated that they really don't have a problem with this road. Maureen stated that the only reason that they are speaking out at this time is because they want to make certain that they don't get the same material that they had before. Ronda suggested that Steve contact BLM concerning using another pit. Steve said that there aren't any other pits in the area. Test holes have been dug all over the valley to no avail. The state pit at Bristol has to be crushed, and the RD doesn't have the money to do that. They also don't have the money to haul material from another pit. Steve will do a 200 yard test on the road. There is a question of ownership on the Carp Road. Steve has talked to the Railroad, who has written a letter to Frank Siracusa.

#12-LIQUOR BOARD

Tommy made a motion to go into Liquor Board; seconded by Bill. All voted in favor. Ronda made a motion to adjourn Liquor Board and return to the Commission agenda; seconded by Bill. All voted in favor.

#15-GRANTS

Phyllis Robistow presented this item. a) Update—CDBG notices have been sent out and 2 requests for projects applications have been received. It has been suggested that a flood control master plan be completed. Phyllis attended the Alamo Town Board meeting on 9-25 and subsequently met with Jeremy at SNPLMA in Las Vegas concerning the plans that Alamo has approved for the two parks. The plans are acceptable to SNPLMA, so they will proceed. It is hoped that the bid documents will be ready by the end of month. Phyllis has started the work on FEMA grants for upcoming applications. They will need to be ranked for priority. Currently, there are three—Panaca Flood Control, Flood Control Master Plan and Cold Springs Dam. Phyllis will have a number of grant applications to do during the fall and winter: two for CDBG, as many as created for FEMA and the four for SNPLMA. In addition, Phyllis has to put the open space plan RFQ together, start the current Thompson project, and get the two parks projects in the Alamo bid out, plus work on the Caliente parks projects. SHPO has to do some work on the environmental for the four projects that are in Caliente right now. This could result in a delay. City of Caliente is aware of this possible delay. Round 6 projects are further ahead than any other projects. There is money in the contingency fund. Various items were removed due to previous budget constraints, but they have been added back in based on the monies in the contingency fund. Jeremy has asked that they put these items back in. Phyllis will meet with Jeremy and April concerning the Caliente projects on October 17. LC can go into FEMA for pre-disaster mitigation. Phyllis is working with Ken and Chuck on this.

#19-COUNTY MANAGER ITEMS

County Manager, John Lovelady, presented this item. a) Update—John advised that he attended the fire summit in Reno. Larry Stever has an application to become a fire safe chapter. There is access to funding to do fire safe things if you are part of the chapter. John discussed the legislation governing the insurance for retirees. John advised that the City of Las Vegas and certain bargaining units in Clark County have brought a suit against the state to keep SB 544 from implementing. The suit was won in Clark County and is now being appealed by the state at the Supreme Court. John is putting together a packet to understand what SB 544 really means. Ronda is concerned that the county may have to change insurance in order to protect the employees. In order to cover our people, the change will have to be made prior to September 2008. The county will have to be on the state insurance 60 days prior to October 31, 2008. John will have information prior to the end of the year as to whether or not SB 544 will be implemented. NACO is this week, October 2-5.

#14-ORDINANCE #2007-06

This is an ordinance authorizing the issuance of the Lincoln County, NV, Sewer Revenue Bond, series 2007, to pay, in part, the cost of a sewer project; providing the forms, terms and conditions of the Bond, the security therefore and the sale thereof to the United States of America; providing for the collection and disposition of revenues derived from the operation of the sewer system for the County, providing other matters relating thereto; providing for the adoption as if an emergency

exists; and providing for an effective date. Kendra Follett, Swendseid & Stern (bond counsel) and Phyllis Robistow are present for this item.

Wade joins the meeting at this time.

This ordinance will authorize the bond in the amount of \$210,000 at 4.375% over 40 years and payable at any time. All sewer revenues collected in the county will be used to pay it back. Rural Development has approved the rate. Larry Stever advised that they are prepared to take on this bond. Kendra advised that this can be adopted today under NRS Chapter 355.79 as if an emergency exists. Larry stated that they will start work on this immediately and materials have to be purchased by the first of December. DA Greg Barlow advised that his office has reviewed the ordinance. Ronda read the ordinance by title. **Wade made a motion to adopt the ordinance; seconded by Paul. All voted in favor.**

#22-MINING CLAIMS

Richard V. Wyman is requesting authorization for the Lincoln County Treasurer to advertise mining claims (43 mining claims, APN 09-012-26) for sale under the provisions of NRS 517.460. Bill stated that this is the Pan American mine. The Board advised that this is still tied up in court. This issue can't move forward based on pending court action. The automatic stay for the bankruptcy has been dismissed. Richard questioned if there is an existing court order prohibiting the sale. It is unknown. The last time it went up for sale there was a pending action in district court. Richard stated that there is nothing relevant going on that is different that the last time it was up for public auction. The original Pan American owners filed an action to set aside a default judgment. Greg will look into this and it will be discussed under the next agenda, October 15. No action is taken.

#20-BUILDING & SAFETY ITEMS

Ken Dixon presented this item. c) Ordinance #2007-05 to revise section 4 of the Lincoln County Code by adding Chapter 9—This item has been removed from the agenda. No action is taken at this time. a) Update—A meeting with bonding and financial consultants has been scheduled for 10-4 in Las Vegas for the proposed Special Improvement District for the Toquop area. All costs will be paid for by the developers. A financial advisor is needed as is bond counsel. The power district will not pursue this on their own; they want the developers to fund it. The money will come to the county and be disbursed by the county. It will be each developer's responsibility to pay their portion of the costs. The SID will encompass all of the acreage in Toquop. The developers will fund the costs for the Environmental Assessment for the power line. In conjunction, the SID will pick up the costs for the bypass route and some of the infrastructure in the Toquop area for primary access. It will also help to defray the building costs for the power transmission lines. Once all of these things are built, a GID will be formed to handle the maintenance. The HCP spells out that there has to be a General Improvement District. Once the roads are built, the GID will most likely maintain those. If the county has to do the maintenance, it will be a huge cost. Ken suggested that a workshop meeting with the consultants and the water district be held on 10-23. Chuck Brechler stated that the 90% completion report on the drainage study has been received. They are on schedule and will be finished by the November completion date. The traffic study 90% completion report due date is October 23. Ken and Chuck met with Mesquite. It is impossible to get access from their Exit 118 to the flat top mesa. In that meeting, Mesquite agreed to help on Exit 115. Ronda met with the Mayor a week later, who is very willing to work with LC on this issue. Chuck stated that there is a new sense of cooperation between LC and Mesquite. There is an NDOT transportation meeting/workshop for project submittal on economic set aside projects for communities under 5,000. There are some issues that Ken would like to bring up at this workshop, including lighting at the intersections at Pioche, Alamo and Panaca "Y" junction. Ken will let Melvin McCollum know that they need at least 9 spaces available at this workshop. Ken advised that something of a list needs to be created for the issues that need to be brought up at this workshop. b) Reactivation of the Lincoln County Flood Control District, funding options available for use by the District, and appointment of a Board of Directors for the District—Ken has worked with the DA on this issue. In 1961, statute that was referred to earlier does not apply. The 1947 act is what the county should be following. The Board should be composed of three members. There are volunteers from Alamo, Pioche/Panaca area and the Caliente area. Ross Stirling and Vaughn Higbee have expressed interest. Glenn Zelch and Steve Combs have also expressed interest in the Pioche/Panaca seat. Ronda suggested that Ken be on this board as he has been involved in the Cold Springs drop structure. Paul suggested that Ken serve as a staff member. Kevin Phillips is the only Caliente person that has been involved. This is a LC flood control district, and Ken questioned whether or not a representative from the City of Caliente has to be on the board. DA Greg Barlow advised that, no, there is no requirement for that. However, Caliente would want to be informed and involved. It would be very useful. Cory Lytle was discussed as a possible member as well. Ken feels that the communities that are involved in this issue should be on the board. Bill suggested that Eagle Valley needs to be taken into consideration as well. There is some discussion about Bevan Lister being on the board. Ronda suggested that Bruce Condie sit on the board.

Wade suggested that Ken speak with these people to see who is willing to serve. This will be the flood control board for all parts of the county, including Coyote Springs and Toquop. Ken will contact the above discussed individuals to see if they are interested. Chuck advised that this board will be very time consuming. Hopefully the outcome will be a flood control master plan for the entire county. Paul stated that this will need a budget. The county will have to provide funding. Ken believes it will cost about \$3,000 just for the board to get started. Ken stated that Doug Carriger has been in contact with Ruth Mathews and Virginia concerning the Cold Springs drop structure. They have indicated that she will give the county permission to enter her property to fix the structure.

Lunch 12:20-1:00

#17-ORDINANCE #2007-07

Clint Wertz presented this item. This is an ordinance for a Conceptual Development Plan known as the "Eagle Falls Planned community" on land located in southeast Lincoln County owned by the BLT Acquisition Group for parcels #08-251-03, 08-251-04 (known as parcels I & J) in the Toquop Planning Area. Current master plan designation is Planned Unit Development (PUD), current zoning is A-5, Large Scale Agriculture, and the subject parcels are comprised of 3,040 acres. The proposal is for a planned community including up to 10,032 dwelling units, 2 casinos, hotels, golf courses, commercial uses and related infrastructure. The purpose of the review is to determine compliance with the requirements of Title 14 of the LC Code, the Lincoln County Master Plan, NRS 278A and to ensure for public safety and facilities, county fiscal needs, regional infrastructure needs and cost sharing for an orderly development of the Toquop Planning Area. The applicant has provided necessary information to conduct a review and for staff recommendations to the Planning Commission and Board of County Commissioners. The 8-13 meeting was the third public hearing conducted on the matter. All conceptual PUD requests require at least two hearings for review. The LC Planning Commission recommended approval of this project with several conditions. Wade questioned why a conceptual plan would be approved without a development agreement. They were all submitted at the same time. One of the conditions is that the development agreement will have to carry out the conditions of this plan. Clint advised that legally the county is on the hook for the development agreement. It is a benefit to the county to approve things in this order. The planning department would like to see the conceptual land use map prior to the development agreement. The information from this map will be pieced together with all other proposed project to see how they coordinate with each other. Bill is saying that this process will set precedence for all the other developers. Paul stated that they meet the standards for the traffic/drainage studies. This will mitigate them drawing their own roads in. The drainage/transportation plan will have to fit in with all conceptual plans. Ronda stated that by handling things this way, it won't set precedence. Wade questioned the need for an agreement prior to agreeing to a conceptual plan. Wade would feel better having an agreement in hand prior to the PUD. Clint stated that a draft development was submitted with this package. One of the conditions is that the final version has to be submitted within 90 days. The master plan set the land use designation at planned unit development from public. They were then eligible to apply for the project in front of the Board now. future PUD applications will be required for future phases of the project. Any major modifications to the plan will require the re-submittal of this step. Ronda asked if the PUD was approved today, do Dennis and Brent understand there are no entitlements, approved zoning, the right to move forward with this without completion of the development agreement. Dennis Ryder responded that that he understands this completely in addition to the 90 day deadline. These are the guidelines that have been provided for them. Dennis stated that they will accept the 90 days, but if staff is unable to handle this, then there will have to be extensions. Dennis agreed to the conditions. They have to submit a final version of what is considered the development agreement. The development agreement has to be submitted within 90 days. Clint referred to Title 14 of the LC Code. In the Toquop area, they can't develop without having a development agreement in place. A draft has been submitted by the applicant. If this is sold, then all conditions will go with it. Clint read the conditions of approval. Within 60 days of approval, the fiscal impact report will have several items added to it, the conditions of approval will be recorded with the LC Recorder and the revised information listed in section 14-4-1 A will be submitted in a format suitable to the planning director. Within 90 days of approval, the applicant shall submit a final version of a development agreement for the county to review. Prior to submission of any future applications on parcels I or J the applicant or future owners will have to submit a revised land use plan. There are several requirements that will have to be met with the submission of any tentative maps for any portion of parcels I and J. Clint recommended approval with the attached conditions. Dennis requested a 90 day approval, as opposed to 60 days. The county is requesting a break down for 160 or greater acres. Dennis indicated that he understands the conditions. Dennis will continue to work through the 90 days to get a plan approved. Bob Gronauer, counsel for Olympia Land development, stated that they aren't in opposition to the entitlements that are being proposed. Olympia is concerned that the county is giving entitlements today. The way that this has been noticed in the agenda is not entirely correct. Bob believes that the way that this is worded on the agenda provides that the Board is giving legal entitlements. The proposals for a planned community are listed, including 10,032 dwelling unit, 2 casinos. When a PUD is done, one of the things that has to be done is that an umbrella for the

community is being set up, or parameters are being set. Bob questioned if this is not a legal entitlement, and someone wanted to come in after the approval today and change 2 casinos to 3 casinos, why would they have to come back through the process to amend the entitlements that there were given. As long as they stay within their entitlement rights as given today, no approval would be needed for, say, 9,000 dwelling units and 1 casino. The conceptual plan has conditions and, once those are met, the county doesn't have the legal right to deny 2 casinos or 1. Based on the approval today, the density parameters would be approved at 10,032 today, etc. This would go to tentative map, be approved, and then they would get their zoning. Final map wouldn't change the zoning at that point in time, but once the conditions are all fulfilled the zoning is vested. As long as they play within the game plan of Title 14, there are entitlements being given today. Olympia is concerned about the services, not the entitlements. The Board needs to make sure that they are getting the services for the entitlements that are being given today. Bob stated that he knows that all of the developers understand that the intent is to pay for their share. Bob wants to make sure everyone pays the full services and full share. Bob stated that they would prefer to see the conceptual plan and development agreement so that they can see what the county is getting. Bob stated that it doesn't hurt anything to hold this and hear the conceptual with the development agreement. Bob cautioned the Board. Bob stated that they would like to see two conditions added in the conceptual plan: Conceptual Development Plan 07-01 shall be null and void if a development agreement is not entered into between LC and the applicant or its successors or assigns; applicant, or its successors or assigns, and LC shall enter into a development agreement to address the following TOQUOP needs, including but not limited to, schools, parks, open space and trails, public facilities and public services. Marge Detraz stated that the Board needs to have a copy of the agenda printed in the LC Record. Ronda stated that the Board has tried to do this but time constraints don't allow for this. Marge stated that we've never had any casinos in LC. Marge questioned how many golf courses will be down there. Marge further questioned where the water will come from. Marge urged the Board to start looking out for LC. The citizens of LC don't have a lot of money, but these developers do. Marge stated that what is being done in Alamo is great. Dennis stated that the development agreement includes that they have to provide water; they aren't asking LC for water. Dennis advised that they are over 3 miles from a resort area. This brings in a big tax base. Dennis asked for a ten minute break on this item. Wade questioned how areas for schools, fire houses, police stations will be equally distributed. The second ones in may take the brunt for supplying these areas. Clint stated that parks, schools are based on the density potential and how many acres they have. 25% of the gross land acreage goes towards open space, school sites and many other things. Staff has looked at these situations. One parcel may be required to provide the main station and other sites may be required to provide sub stations. Clint stated that they will electronically meld the maps to see what these requirements will be. The exact dedications are handled in the development agreement. Ken Dixon stated that the basic infrastructure will be shared equally on an acreage basis and will be accomplished through the development agreements. Dennis stated that they understand that they have to pay their fair share and they are in agreement with that. All are amenable to the fact that if there is a PUD in place, the development agreement will have to follow. The entitlements are not there just because the PUD would be approved in the immediate future. Ronda is concerned that the way that it is listed on the agenda might give entitlements. Greg advised that there wouldn't be a problem if it is less than the density approved. However, if the density is above the level, the developer will have to come back before the Board. If this is approved today, then it is approved up to the levels listed on the agenda. They would be entitled to 2 casinos, 10,032 dwelling units, etc, if all the special conditions are met. Ronda suggested that this be re-advertised and brought back for public hearing in two weeks. Ronda further stated that she would like this to be worded differently on the agenda to avoid the possibility of entitlements. Ronda also stated that she would like to get away from any future problems that could occur based on how it is listed on the agenda. Spencer Hafen, BLT, questioned how the agenda item would be changed to accomplish what is being discussed today. The conceptual plan states the same thing as what is on the agenda. Paul stated that it is the whole idea that they would be approving the 2 casinos, 10,032 dwelling units, etc. Paul doesn't feel that it would do any good to reschedule this. Greg advised that the Board is free to go ahead as it is today. Greg further stated that it will not make a difference based on the way it is listed on the agenda. Dennis stated that he agrees that they will come in and go through the process discussed. Dennis would like to see a timeline. Dennis stated that they will be finished on their end well within the six months mentioned. Dennis added the condition that they will come in and go through the process. Greg stated that he doesn't see a problem with the wording of the agenda item. Greg said that there must be a clear understanding that there are other approvals that the developers will have to come in and get. How things are divided up as far as residential, commercial, etc. will still have to be decided upon by the Board. This is not complete and there is no entitlement to a great many things. Clint said that in the past there has been some issue with the way that things have been advertised. The maximum is what was published. **Paul made a motion to approve the Eagle Falls PUD, Ordinance #2007-07 with the stipulations/special conditions of the planning department and the two provided by Olympia (Conceptual Development Plan 07-01 shall be null and void if a development agreement is not entered into between LC and the applicant or its successors or assigns; applicant, or its successors or assigns, and LC shall enter into a development agreement to address the following TOQUOP needs, including but not limited to, schools, parks, open space and trails, public facilities and public services), to be completed within 6**

months (this is not designating commercial or other uses as these will have to come back before the Board for approval; there is no entitlement to any certain levels); seconded by Wade. Clint requested that the conditions be recorded earlier than the 6 months. Some of the conditions can't possibly be completed until they are right. The key is that the development agreement will catch up to the PUD. **All voted in favor.**

#18-LANDFILL ISSUES

Paul Yamamoto, Norcal Waste Systems Crestline Landfill, Inc., is present for this item. Paul Y. reviewed the history of the negotiations with the railroad. Paul Y. discussed the contracts as they relate to the rate increase. It indicates that the county and the company will work towards an arrangement for the rate increase. Paul Y. stated that the 15% rate increase that Wade suggested at the last meeting is quite a reduction. Paul stated that they have some alternatives. Ronda stated that a 30% increase is extremely dramatic. Paul M. stated that there is a significant concern with residents within the county that would incur a significant burden if the 30% occurs. Paul Y. suggested that a 25% increase for residents be considered, with 30% remaining as the increase for commercial. Paul M. asked if it is Norcal's plan or intention to continue to increase year after year until the existing deficit is met or are they hoping that something changes with the L.A. contract. Paul Y. proposed the 5% reduction would accrue to an interest bearing account that could be paid off when L.A. arrives at the landfill. The 5% would be approximately \$9,000 that would be set aside to accrue. Paul M. asked where the money would come from if it's not paid for by the public. Paul Y. stated that it would be paid for by the host fees. When the host fees start to come in, then they would be reimbursed to Norcal. Ronda stated that Norcal doesn't know if this is 5, 7 or more years down the road or if UPRR is even going to agree to this. Ronda stated that Norcal was on a fast track last time the decision was made for this. Paul stated that Norcal would be willing to forego payment on that account if the waste doesn't arrive. An agreement to this effect would have to be drawn up. Paul Y. stated that their counsel would draft it and bring it before the Board. Paul M. stated that about the highest rate that he's heard of from county to county is where LC is at right now; \$10 a month. Paul questioned why the cost is so much higher than other counties. Paul Y. advised that where a franchise agreement exists the commercial business supplements, which results in the residents enjoying a more favorable rate. The commercial density in LC doesn't support this. Paul M. advised that the rates in other counties also consist of curbside pickup. The increase of 25% will bring the monthly bill up to about \$12.50 per month. Ronda stated that the struggle that the county still has is that we haul our own. Even with this rate increase, Ronda pointed out that the customers will not be getting any more service for the additional costs. Wade questioned what the plan is to haul the garbage from the southern developments to Crestline will be and how it will affect the increases that the residents are bearing. Paul Y. advised that the conceptual plan for the southern areas is that a classic collection and transfer facility would be considered. A transfer station would be created in this area. It will be brought to a central location then trucked out to the landfill. Ronda reviewed what the increases will be on a year by year basis if the trend is 25% for the next several years. Peggy Westall complimented Ronda on her comments. Peggy stated that garbage is difficult for the average person. It's something that they have to get rid of. It seems to Peggy that it would be better for the garbage to be handled locally. Peggy asked the Board if they have any idea how much garbage the big cities have. Additional cities could be added. Peggy asked the Board to consider having Norcal create a waste site in the CA desert. They have as much desert as NV has and they could haul our waste. Marge Detraz stated that L&H was here and they had a company from Las Vegas that wanted to take the garbage. Now LC is taking this garbage from CA. Marge stated that the Board has a chance to vote against the waste company. Bill stated that the Board can't vote against this now as there is a contract in place. Marge stated that half of LC is senior citizens. There was a man from Panaca that stated that he can't pay any more for trash as he lives on social security. Marge further stated that no one in Panaca new that this was happening. Marge went to Neldon and Rob Mathews concerning this issue. Neither one of them want the garbage for 49 years. Ronda stated that the contract is what it is. There was a vote taken and it was approved. Louis Benezet stated that he has been interested in the garbage issue for more than ten years now. There was a problem with having the landfills shut down as the BLM wanted it done. The county was in the process of establishing a landfill on the Delmue range. At that time, US Med presented a plan and side tracked the county. Louis stated that he would like to see Norcal go to the people in L.A. to see what they can do to recycle and reduce their waste so that it isn't brought here. Louis would like to see recycling/sorting/transfers stations here in LC to reduce the amount of waste that has to go to landfill. Spencer Hafen questioned the need to ensure that Norcal meet the contractual requirements for the rate increase. Ronda stated that those requirements have been met. Las Vegas recycles, but there are no facilities in LC. Peggy stated that if cans and plastic are recycled in CA, you get paid for it. Peggy further stated that it isn't hard. Jim LeFevre stated that CA has a pay back system, which encourages recycling. Paul M. questioned when the equivalent of the 5% would be deposited in the account. Paul Y. stated that this is an account to keep track of a receivable. It is a tracking of a shortfall of revenue, or a tracking of what LC hasn't paid for all these years. The county will be forgiven the debt for every year that they don't pay the 5% if the contract with L.A. doesn't occur. If LC doesn't agree with the 30%, then the 5% will be added up and LC will have to pay this "debt" or it would be forgiven when the contract is received. Basically, it is pay them now or pay them later. Paul Y. stated that they are deferring 5%, which is

a sharing of the risk. Paul Y. stated that if the project isn't successful, it will be forgiven; if the project is successful, it will be paid for out of the host fees. Wade stated that the intent of the contract was that that money would offset any costs to the citizens of LC for increases to not have to go with a 30% increase. What they are proposing now is that the money will be itemized for shortfall. So, if three years down the road the L.A. contract comes through, then LC will receive payment for that. That money for whatever the shortfall was accrued during the three years would be paid back. Payment would be made to the account where the shortfall occurred. If the contract fails, LC will be forgiven all that has been accrued. Ronda stated that when this was first proposed, it was stated that CA waste would be brought to LC. During that time, the county would receive tipping fees. Now Norcal is saying that anything the county would have gotten over and above will be offset as they are going to be increasing the 30%. This will take away the income that would've been coming to the county. In essence, Norcal will be taking away the monies that had been promised if the trend continues for more than one year. Paul Y. stated that he isn't clear on the mechanism by which the monthly fee generated is offset by the waste coming in from L.A. Tom Norris understands that the host fee goes to the county, who has discretion to do with it what they will. If the county wishes to pay the residents' bill, they can. The amount that is being discussed would be a small portion of the host fees that will come. Paul Y. stated that he is talking about a deferment of revenue. Norcal is willing to defer the revenue from the increase to the residents. Spencer questioned if the increase only looks at the hauling of the waste. Yes. The increase has no reflection for the operation of the landfill. This would cover the maintenance of the trucks, the hauling, the gas, basically anything associated with the hauling of the waste. The loss being incurred is associated strictly with the hauling. Paul M. is concerned about what will happen next year, the year after, etc. It compounds itself where at the end of five years if the 5% is set aside the whole cost of the program will get tougher. Paul M. stated that a longer term plan needs to be developed. A better long term solution is needed. Tom advised that the county is bound by the 30% increase. Paul Y. stated that the commercial rates average about \$2 cubic waste. This is one of the lowest rates he's ever heard. If this was compared with other communities who have a larger commercial base, it is a very low rate. Paul Y. believes that there is a solution if the commercial rates are increased somewhat, not necessarily to bear the entire rate increase. Louis asked if it would cost less to haul the waste to the county's Class II landfill in Dry Lake Valley. Ronda stated that the county doesn't have the equipment. Tommy advised that the county has the land but no permits, which is at least a three year process. Marge stated that there were other companies in LV that wanted to be considered for this. They were turned down. Marge stated that Norcal has been hauling the waste for CA for 69 years and they should keep it in CA. Marge stated that the citizens of LC can have the Board recalled for doing this. Lura Besheers questioned what would happen if they don't get the contract from L.A. What happens to the citizens if they don't? Who will haul the citizens' garbage then? Lura questioned why they want more money from LC when they haven't gotten the contract that they promised. Paul M. believes that the 5% is insignificant as it doesn't defer the risk at all; it's still there. Paul Y. stated that their rate is a bill to the county, not to the citizens. It doesn't matter how the increase is divided up; the 30% increase exists, no matter what. The county decides how the 30% increase will be distributed between the county/citizens. The total amount paid to Norcal by the county is \$180,000 per year. Wade stated that when the county entered into this agreement, it was sold to LC that we would be able to have a say in the increase and rates. **Wade made a motion to accept a 15% increase to Norcal Waste; seconded by Paul. All voted in favor.**

#20-BUILDING & SAFETY ITEMS

d) Ordinance #2007-04, revising a portion of Title 11 of the LC Code concerning the use of recreational vehicles and storage containers as temporary living quarters and as alternative methods of construction for partial living quarters—Ken Dixon presented this item. Ken read the ordinance by title. This is an ordinance repealing Chapter 5 of the LC Code as found under Title 11 and replacing it with a revised Chapter 5, Sections 11-5-1 through 11-5-5 and adding Chapter 6 to Title 11 of the Lincoln County Code. Ken reviewed the ordinance. Ken asked if a grace period would be allowed. Will a year be given to those currently living in RV's to find a solution? The process for enforcement will be when someone calls in or as Ken travels the county and sees things. These people don't have to pay personal property tax. LC is being promoted in LC as the vacation getaway. This is the place to come fish, hunt, and come play. LC is starting to be a recreation destination and needs to be controlled. These people also don't pay garbage. Occupancy means staying overnight in a recreational vehicle for two or more nights. It is decided that this should be three nights. There is some discussion concerning relatives that come to visit in an RV and would like to stay for more than three nights. Wade stated that he doesn't want to see this become so restrictive that relatives can't come and stay. Jim LeFevre proposed that a permit and fee be required for those who intend to stay longer than three nights. Wendy Rudder stated that the Alamo Town Board had an issue. Alamo questioned why the power company was issuing power to people that hadn't gotten the permit to build or move forward in that direction. Wendy suggested that there be communication between the county and the power districts and sewer/water districts. Right now, if someone parks a trailer on their property, the power company hooks them up without requiring that they see the building permit. All utilities need to work together to enforce the code. An arrangement was made that LCPD will no longer hook up a building without clearing it through the building department.

The same arrangement needs to be made with Alamo Power District. Cathy LeFevre stated that there are many senior citizens living on a fixed income in travel trailers in order to be close to their kids. Cathy said that she doesn't see a problem with that as long as they meet all of the health codes. Ronda advised that this is something that can be handled under a special use permit. These SUPs are good for a year, unless they are received under a hardship condition. The hardship permit would expire upon the death of the individual or the change of circumstances. Ronda said that what the Board is trying to deal with is the weekenders that come in; not family members who desire to be closer to kin. Wade suggested that a long weekend, such as Labor Day, could be a special consideration. Ken discussed whether or not existing users will be grandfathered in. There is some discussion about people making homes out of storage containers. A permanent foundation would be putting it on a concrete slab and tying to the slab with bolts. Cathy stated that the cargo containers are tough and structurally they don't need a pad. Cathy stated that this would be a major hardship for those that are on a fixed income. Cathy is opposed to the requirement of a pad for these cargo containers. Richard Canning asked how he would move it to pour a slab under it. Ken stated that he has two of them and he just put them on a slab. Richard discussed what a slab would do for these containers as they are so sturdy. Richard questioned why they would make someone who already has one go to that expense. Cathy advised that one of the problems that she has is that the ordinances are published in the paper one time and by title only. Cathy stated that a better way is needed to share information with the public. **Wade made a motion to propose the ordinance and set it for public hearing on November 5 at 1:00 p.m.; seconded by Bill. All voted in favor.**

#24-PAHRANAGAT VALLEY FIRE DISTRICT R&PP

This item is tabled and no action is taken.

#23-QUAD STATE

This is a name change. **Paul made a motion to adopt the 4th and 5th amendments to the Quad State JPA; seconded by Wade. All voted in favor.**

Ronda leaves the meeting at this time and the Chair is turned over to Wade.

#21-PANACA CEMETERY

Paul Christensen presented this item. Panaca would like to put better roads through the cemetery, but they don't have the funds available to do it. Panaca is proposing that the county road department do this and put a type two base down. Down the line, they will try to get funds to put down black top. Four entrances are needed for the cemetery. They have the space on the east and west side to put in the roads, which means that the two center roads will be removed as they are taking up a great deal of plots. On the north end, a road will have to be straightened out and a water line will have to be moved. They would also like to put in a curb to make it look nice; not a gutter, just a curb. Bill stated that the RD can't oil parking lots, etc., but this is a road so he doesn't see why it can't be done. The county might have to reimburse the RD for this as they won't want to fund this out of their gas tax. The Board advised Paul C. that, prior to voting, they will need to know what the cost will be. Wade advised that Steve Chouquer will need to be involved in this to provide costs. There is about 1300 linear feet that need to be considered. Bill will contact Steve regarding this issue. No action is taken.

#25-PUBLIC COMMENT

There is no public comment.

#26-ADJOURN

There being no further business for the Board to attend to, **Paul made a motion to adjourn the meeting at 4:42; seconded by Bill. All voted in favor.**

Attest: _____ Approve: _____