

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

December 15, 2008

#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 9:08. Clerk Lisa Lloyd called the roll with Commissioners Tommy Rowe, Paul Mathews, Ronda Hornbeck and Bill Lloyd being present. There is a quorum present and the agenda was posted on 12-9-08 to comply with the open meeting law. The Invocation is offered by Wade Poulsen and Tommy led the Pledge of Allegiance. County Manager John Lovelady is present as well.

CONSENT AGENDA

- 2* Approve/Deny schedule change for payroll to be paid December 19, 2008, instead of December 22, 2008.
- 3* Approve/Deny purchase of Desk for the Planning Department in the amount of \$795.00, funds to be paid from Planning Department Capital Outlay.
- 4* Approve/Deny Signing Community Development and Housing Needs Statement for Community Development Block Grant participation.
- 5* Approve/Deny Signing Annual Participation Statement for Community Development Block Grant participation.
- 6* Acceptance of resignation from Wade C. Poulsen, Commissioner District "C", and declaration of vacancy.
- 7* Approve/Deny appointment of Lonnie Cole to Pioche Fire Board – 2 year unexpired term.
- 8* Approve/Deny Tax Strike Robert Scott Cramer APN: 002-072-06, 2,260 Assessed, Veterans exemption missed on tax roll.
- 9* Approve/Deny Tax Strike Kitt Steenbock 2002 Trust, Unsecured Acct. EB13, 6,279 Assessed, Refund \$172.58.
- 10* Approve/Deny request proclaiming the month of January as "Radon Action Month" in Lincoln County, Nevada.
- 11* Approve/Deny Special Assessment for: Pahrangat Lake and its tributaries in the amount of \$10,788.28.
- 12* Approve/Deny Special Assessment for: Ash Springs Irrigation Company in the amount of \$19,766.24.
- 13* Approve/Deny Special Assessment for: Coyote Spring Valley Groundwater Basin for the amount of \$3,750.00.

Tommy made a motion to approve the consent agenda; seconded by Paul. All voted in favor.

#14-VOUCHERS

Recorder/Auditor Leslie Boucher presented the vouchers. There is a voucher for Deluxe Business Cards, \$146.60, for SO Christmas cards. There is also a voucher for Clark and Linford Jewelers for a plaque that was given to a retired employee of the SO. On August 20, 2007, Leslie and John were directed to prepare a policy; direction is needed. The policy would cover the purchase of plaques, food and cards. Tommy suggested that the policy include language saying that the gifts would be purchased with donated monies; the county will not pay for individual awards, luncheons, flowers, Christmas cards, plaques, etc. **Paul made a motion to deny the two vouchers for the SO, Deluxe Cards and Clark & Linford; seconded by Bill. All voted in favor.** There is a shortage of \$1,186.14 in the Nutrition Fund. **Tommy made a motion to augment the Nutrition Fund by \$1,186.14 from General Fund; seconded by Bill. All voted in favor. Paul made a motion to approve the vouchers as presented; seconded by Tommy. All voted in favor.**

#8-OFFICER/DEPARTMENT HEAD REPORTS

RECORDER/AUDITOR Leslie Boucher presented the cash balance reports. General County has a balance of \$816,911.92 with estimated expenditures being \$153,058.30. This leaves General County with a balance of \$663,853.62. Nutrition has a cash balance of \$1,791.87 with estimated expenditures being \$7,704.06. This leaves Nutrition with a negative balance of \$1,186.14. There is some discussion concerning the 501(3)c and the status of this program. Tommy feels that the money to cover this program needs to come from the General Fund. Tommy doesn't want to see the services for the seniors cut at this time. Detention Center has a cash balance of \$44,366.09 with estimated expenditures being \$53,824.21. This leaves Detention Center with a negative balance of \$9,458.12, but with the expected payment of \$187,390 DC will have a balance of \$177,931.88. Solid Waste has a balance of \$1,330.47 with estimated expenditures being \$17,250.00 for the January payment.

#15-BOARD OF HIGHWAY COMMISSIONERS

This item is handled under a separate agenda.

#17-PANACA FIRE DISTRICT

This item is handled under a separate agenda.

#16-OFFICER/DEPARTMENT HEAD REPORTS

COMMISSIONER TOMMY ROWE testified at the Surface Transportation Board. Tommy attended Tri County meeting in Ely. Tommy attended a presentation on parks and trails in LC, Southern NV Workforce Investment Board meeting in Las Vegas. **COMMISSIONER PAUL MATHEWS** met with the developers of the LC Land Act Area. The meeting was to decide the direction of the power line EIS. BLT continues to have a dissenting position on the EIS and they don't believe that the corridor being pursued is the best route. Through the preliminary engineering, Vidler has discovered that the current pipeline route will be the most efficient. LC Power will take the power line in whatever direction the water line goes, according to Dave Luttrell of LC Power District. Developers have voted to continue with the EIS, with the exception of BLT. BLT has basically said that the county will have to wait until January to receive a payment, and it isn't certain if the payment will even be sent. All of the developers were present either in person or by telephone. Paul advised that the developers that the county will not fund any deficits, even if BLT doesn't fund their portion. The developers have said that they will cover BLT's January payment (if BLT decides not to make the required payment) so that the project can continue.

#26-FISCAL YEAR 2007-2008 AUDIT

No action is taken on this item as Dan McArthur is unable to drive here based on the condition of the roads.

#19-WATER APPLICATIONS & PROTESTS

District Attorney Greg Barlow presented this item. Greg discussed the request by the State Engineer to confirm applications and protests in the Virgin Valley basin, as filed by LC since 1990. The county has until January 2 to advise whether or not the county is going forward. Wade Poulsen, General Manager of LC Water District, requested that the protests go forward. If the county chooses not to go forward, Wade asked that the protests be transferred to the LCWD. Ronda said that the financial burden, if the protests are dropped, could be significantly greater if nothing is done with them right now. Paul asked if LCWD representatives could represent the county. Yes, through an interlocal agreement. 55282, 55283, 55284, 55289-55298, 555988, 64794, and 64799 are the applications that the county is named on. 64794 and 64799 need to be added to the list of protestants. **Tommy made a motion to pursue the water filing protests and notify the State Engineer, 64794 and 64799 are to be included (District Attorney will prepare the response); seconded Paul. All voted in favor.**

#20-RESOLUTION #2008-50

This is a resolution declaring the intent to form a general improvement district (GID) for the purpose of providing and implementing an operating and funding mechanism for protection of endangered species as provided for in NRS 318.055(2) and NRS 318.1177. This GID will be known as the Southeastern Lincoln County Habitat Conservation Plan General Improvement District (SLCHCPGID). There must be some mechanism in place to fund the HCP or Section 7 fund in perpetuity. The correct way to do it is to form a GID. Once the Section 10 is issued, the developers will have to pay an amount per acre once they start moving dirt. Doug cited that a an approved service plan has to be put in place prior to putting the ordinance in place. There is a requirement for the service plan to be approved before an ordinance creating the GID can be approved and implemented. **Tommy made a motion to approve the resolution, effective December 15, 2008; seconded by Bill. Paul made a motion to amend the motion by striking the last paragraph from the resolution; seconded by Tommy. All voted in favor. Motion passed is to approve the resolution with the exception of the last paragraph.**

#21-COMMISSIONER ASSIGNMENTS

Since Wade Poulsen has resigned, a Commissioner is needed to take on the responsibility of the JCCIAC and to be over Public Safety. There isn't a board meeting for JCCIAC until the end of January. A Commissioner is not appointed to JCCIAC at this time. **Ronda made a motion to assign Paul to Public Safety; seconded by Bill. All voted in favor.**

#22-BOARD APPOINTMENTS

Paul made a motion to appoint the following to the various boards: Alamo Town Board-Sherry Barker, Lola Sharp, Lonny Walch; Panaca Town Board-Linda Lee; Pioche Town Board-Glennon Zelch, Karen Ernst, Stephen Combs; Library Board-Ann Smith; Obligation Board-Glennon Zelch, Vaughn Higbee; Fair & Recreation Board-Bill Lloyd, Kris Higbee; Regional Transportation Board-Ronda Hornbeck, Tim Perkins; LC School Board-Nichole Carter; seconded by Tommy. All voted in favor.

#24-COURTHOUSE CLOSURE

December 26th was already approved and there will be no withholding from the employees salary. The employees will not be required to use annual leave for December 26th. If Friday is a usual day off, then it will stand as such; there will be no additional pay for those that already have this day off. **Paul made a motion to approve the LC Courthouse closure and letter for December 26, 2008; seconded by Tommy. All voted in favor.** The LC Courthouse closure for January 2, 2008 will fall under the same terms as December 26, 2008. The Board felt that no closure should be made on January 2. **Tommy made a motion to deny the LC Courthouse closure for January 2, 2008; seconded by Bill. All voted in favor.**

#18-ORDINANCE #2008-04

This is the continuation of a public hearing concerning an ordinance amending Chapter 1 of Title 4 of the Lincoln County Code authorizing Lincoln County to regulate, control, and license all persons engaged in, associated with, or in control of the business of liquor sales within Lincoln County and to assess license fees for the privilege of operating such business within Lincoln County as authorized under Nevada Revised Statutes Chapter 244 and other matters pertaining thereto. District Attorney Greg Barlow reviewed the amended ordinance and fees contained therein. Fees can be modified by resolution. Fees are not prorated or refundable. Ronda asked who will keep a copy of the Awareness Training that has been provided. Greg believes that the people that attend the training get a card upon completion of the training in Las Vegas. John Crosthwait said that asking an employee to attend this training is asking quite a bit, especially in light of the fact that their wages are low. The Sheriff has talked about having someone come to LC to provide the training. John is all for the training, but feels that if it is to be required it must be provided here. Sheriff Kerry Lee has stated there is a strong possibility that training will be conducted in LC. John advised that all of the bar owners in the county are just barely making it. No profit has been made for several months. John said that putting new taxes on the business owners is a joke. Greg advised that there is no increase to the fees. This ordinance provides for fees in LC Land Act and Coyote Springs. Greg said that there is a set of fees for Toquop and Coyote Springs that are higher than the rest of the county. There may come a point in time when the county decides to raise fees for everyone, but that isn't on the agenda today. Doug Carriger commented that based on the current wording of the ordinance higher fees will apply to Title 13, 14 and 15. Doug suggested that Title 13 be removed as it applies to the general county. Tommy asked that a grace period be given for the required training. Greg will discuss this with the Sheriff. **Paul made a motion to approve the ordinance, removing Title 13 from the higher fees section (4-1-11(1)); seconded by Bill.** Tommy referred to 4-1-25(B) and asked if this applies to the ice chests sitting at the park on Labor Day and other events, including tailgate parties. Yes, according to Greg. It will apply to all events, but not to "public park". It applies only to public street, public road, or public sidewalk. The ice chest can be carried into the park, according to Greg. A permit will be required for the Pioche street dance. **All voted in favor.**

Lunch 11:34-1:00

#25-ORDINANCE #2008-12

This is the time and place set for public hearing on an ordinance entitled "Lincoln County Fire Protection District" (LCFPD). This ordinance organizes the LC Fire Protection District as a perpetual political subdivision of the state to provide for the prevention and extinguishment of fires in the county pursuant to NRS 474.460 to 474.540 and describes the boundaries thereof and the territory included. The ordinance authorizes contracts between the District and Lincoln County. Ronda reiterated her concerns about the previous vote to not be part of the Nevada Division of Forestry district. In the copy that Ronda had of the proposed ordinance it refers to the need to get approval from the state. Greg said that absolutely, positively the county will not be seeking approval from NDF for anything. This district will have nothing to do with NDF. Ronda reviewed the boundaries of the proposed district. This is about 70,000 private acres. If Toquop were removed it would take out 13,000 acres. Clint Wertz, Planning Director, cited that 41,000 is the amount of land that is private and assessed for private/rural. 23,000 acres have minor improvements or are vacant. 2,000 are lands with some improvements on them. The lion's share of the disposal lands that have been identified are in Meadow Valley. There is some discussion about the annexation of Tuffy Ranch properties into Caliente. Once the maps have been finalized the changes will be reflected on the tax rolls. The maps for the Panaca Fire District will have to be changed. The valuation of the 70,000 acres is about \$50 million. A fire chief will be required for the district and this needs to be put on the tax rolls before next year. Agreements will have to be put in place with all of the fire districts. The Commissioners will be the Board for this district. The tax commission will have to be notified. Budgets will also have to be set for this district. **Tommy made a motion to adopt the ordinance for the LC Fire Protection District; seconded by Paul. All voted in favor.**

#27-NORCAL

Ronda and Wade Poulsen reviewed the meetings with Norcal. Dan McArthur is present via telephone. Ronda, Wade, and Dan met with Norcal approximately one month ago. During the course of the meeting, they tried to determine an acceptable solution to Norcal's request for a 30% increase every year. Last year, the county accepted a 15% increase. Since the county didn't approve the full 30% last year, the increase proposed for this year is 46%, which includes fines/fees. The contract reads that Norcal can ask for a 30% increase, but they must be able to prove that the full 30% is what they

need to prevent their corporation from being in the red. Norcal's stand this year is that LC owes them a 46% increase. The 15% increase that was approved last year was paid by the county and not passed on to the residents of the county. Wade said that if the rate is raised by 15% and they paid the other 15% Norcal would attach it. When the bill came in it was at 46%. The payment hadn't cleared Norcal yet and that's why the 46% was included; the county had already paid it. The interest was taken off when the county paid the 15%. Norcal told LC that they were going to retract the additional 15%. Norcal is still asking for 45%. Norcal doesn't care how it's paid; they just want the 30% from last year and 40% for this year. We are still 15% under the rate that Norcal thinks it should be at. Wade advised that he disagreed with this. Norcal has said that they can't be in a position to negotiate a contract that is already in existence. Ronda presented a hypothetical situation. Through the course of the conversation (Norcal didn't agree to this), it was discussed that LC can decide to pay a percentage of what is being asked and put 25% of that into a deferred account. The monies in the deferred account would still be owing, but the county could pay 5%. Norcal has said that they might be willing to do that if LC is willing to extend the contract by 5 years; they need a longer term agreement. Norcal is in the process of bringing waste into the county. Norcal hasn't been able to get waste from CA, so they now have applications in several other states, including New York. Norcal is advertising in all of the solid waste publications in the country. New York was the one state that showed interest. If the contract is extended by 5 years, and at the end of that period they haven't been able to find someone to get solid waste from to bring into the county, then the county is not willing to pay on the money put into the deferred account. Tipping fees would initially go towards paying off the deferred account. After the deferred account was paid off then the tipping fees would come to the county. The only opportunity for Norcal to get the monies back would be to increase the tipping fees. If Norcal sells their interest, the agreement will follow to whoever it was sold to. It is five years above the current three years. Norcal could also charge 30% for each of those years. Wade said that this led to another discussion that included "enhanced pickup"; instead of dumping our garbage they will provide curbside pickup. Dan said that it wouldn't be 30% for each of the eight years. Once they break even that goes away. At the end of the current three years, if the county decides not to renew with Norcal the county will have to then go out and find someone else to do the hauling. Wade questioned if someone else could run it cheaper. Paul said that it would be worth exploring if it would get the county out of this commitment. For 5 years with a 30% increase it results in over a 200% increase; Ronda said this is ludicrous. Dan commented that he left the meeting with the impression that the agreement will be similar to the current agreement so that they have "break-even" numbers. To get Norcal to break even it needs to be about \$460 per year. Greg stated that Norcal wants an additional five years because they want to sell out. Greg believes that if Norcal can't get anyone to bring solid waste in from out of the county the landfill will be a "dead duck" for Norcal. Wade believes that Norcal is still looking for a long haul trash contract to bring the waste in. If the contract comes due and they are let out of the service contract for the county, they'll keep the fill site. The service contract would then go to someone else and that entity would have to pay Norcal the tipping fee, which will be passed on to the county. LC hasn't received any tipping fees to date. Norcal is charging the county tipping fees. The county should be getting a percentage back; Norcal was going to look at this. Wade advised that they also discussed what can happen to our service over the next 3 years. Part of the reason that there is so much heartburn over this is because the public continues to haul their garbage. If curbside is provided for the vast majority of the county, it would justify the rate increases they'll be hitting the county with anyway. The deferred account could easily end up at \$200,000-400,000. Norcal is willing to work with structuring things financially so that the county isn't constantly being bombarded by the 30% increase. Paul feels the estimate of \$200,000-400,000 is modest. The more indebtedness that the county has to Norcal, the tighter the noose. Paul commented that he is certain that Norcal will maximize the account for all that it's worth as they'll have years on the tipping fees to eat that up. Paul believes that this will put the county in a much more defenseless position than we are already in. Tipping fees are charged based on municipal waste taken from the county and their calculation on retail expense. Dan said that the only way to see if this is a legitimate charge would be to look at both operations. The county needs to look at both sets of books to see what the true cost of operations is. Dan said that this whole thing boils down to the tipping fee. Greg said that Norcal doesn't charge the county the tipping fee, but they create it as an expense, which eats into whatever revenue they have so that it puts them into a negative position. This results in the county paying retail rate. If the tonnage stayed the same, they'd need \$480 per household to break even. If the tonnage is increased significantly, it could drop to \$40 per household. Norcal is trying to amortize the cost of the purchase and permitting of the landfill. Paul said that this is the point of separating the landfill from the garbage hauling business. Paul doesn't understand why the county is paying people to make a profit when the county could provide the services at a much reduced rate. Dan suggested that the county could create their own landfill. The county has an approved, permitted site for a landfill, but the expense for building the landfill would have to be looked at. Developing the pit and the cost of equipment, etc., is about \$3 million. Dan said that he understands that the money will be set aside in the deferred account and if the county wasn't ever able to pay it, they wouldn't have to. If they aren't able to get the tonnage, the county will never have to pay the money. Norcal is looking for a rate that they can break even. The out of pocket cost to the county at max would be whatever the county agreed to as an increase on rates. The loss would be the tipping fee that the county would've been getting. The county will never have to write a check for the deferred account, but it could result in the county never receiving monies from the tipping fees. Until the deficit of the account is met, the count is obligated as if it is debt. At the end of the eight years Norcal led Dan to believe that Norcal would eat the deferred account. Ronda asked if there was any legal way to look at both sets of books. Greg and Dan are still working on

this year's rate increase. Norcal has dragged their feet about letting Dan look at the books. Greg agreed that the county needs to see both sets of books. Greg agreed with Paul that the county will never get out from under Norcal based upon the current contract. Greg asked Dan to get after Norcal to get in and see the books. Ronda said that the solid waste bills should be going out now. The Treasurer has asked for an amount that she is to bill for. On January 5th the Board will have to advise Kathy what the amount is to bill the residents. The current amount is \$138, but this doesn't include the additional 15% from last year plus the additional 30% recently requested. Norcal wants a 46% increase, which would be \$200.10 per household. Dan left the meeting with the impression "Commissioners tell us what you want and we'll take it back to our people for discussion.". Norcal is okay with the county getting rid of them or with the county trying to work towards a solution. Either way, Norcal is okay. If the bills get up to \$480 per year, there could be a "taxpayer rebellion". Ronda said that if the public is forced to pay this amount it will not happen; the county will end up paying for it. Norcal told Ronda and Wade that they can do the curbside pickup for the same amount that they're charging now. Those who live in the towns will get curbside pickup; those who live in the outlying areas will still have to haul their own. Regardless of how much garbage goes in their bins the county still has to pay the \$17,000. Paul said that the county needs to explore every option to get relief. Paul doesn't mind the deferment plan as long as it only applies to the current three years. Bill agreed. Ken Dixon said that there is no reason why, in light of today's market, the county can't do their own. For very little money the county can lease the required equipment to get the landfill up and running. There is some discussion about filing breach of contract. Paul said that he isn't brave enough to take a vote to increase the rates until he hears from the citizens. Paul suggested that the other factor that can be presented to Norcal is that they will have to collect their own fees; the county doesn't want to be the "middle-man" anymore. If Norcal wants to continue pressing the rates, let them be responsible for collecting the bills. If Norcal has to hire someone to do their bills the costs go up and will be passed back to the county. The county is required to provide some sort of service because the law says you can't burn it anymore. The county currently has a 10-12% nonpayment rate. Norcal is only entitled to what the county gives them. Under the terms of the contract, the extra percentage carries over and snowballs. Paul said that this is a deferment account whether the county likes it or not. Bill asked if it would be possible to take this to court. Greg advised that this might be a possibility, but would be discussed in another meeting. Dan will get a hold of Norcal to look at both sets of books. There is the question about how we get to \$90 per ton. The costs should be pretty low and Dan believes that they must've paid a great deal for the land. Dan feels that the county is in the driver's seat at this point. Norcal didn't like the articles written in the LC Record about them. \$1,627,000 is the amount paid over five years with the 30% increases. \$514 per household is the amount that would be charged at year 5.

#28-PUBLIC COMMENT

There is no public comment.

#29-ADJOURN

There being no further business for the Board to attend to, **Paul made a motion to adjourn the meeting at 2:44; seconded by Bill. All voted in favor.**

Attest: _____ Approve: _____