



LINCOLN COUNTY BOARD OF COMMISSIONERS

January 4, 2010
Commission Chambers
Lincoln County Courthouse
181 Main Street
Pioche, Nevada

Commissioners
Paul Mathews, Chair
Bill Lloyd, Vice Chair
Tommy Rowe
Ronda Hornbeck
Ed Higbee

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

Chairman Paul Mathews called the meeting to order at 9:00. Clerk Lisa Lloyd called the roll.

PRESENT: PAUL MATHEWS, Chair
BILL LLOYD, Vice Chair
ED HIGBEE
TOMMY ROWE
RONDA HORNBECK

LISA C. LLOYD, Clerk
GREG BARLOW, District Attorney

There is a quorum present and the agenda was posted on 12-29-09 to comply with the open meeting law. The Invocation is offered by Ed and Bill led the Pledge of Allegiance.

CONSENT AGENDA

- #2 Approve/Deny minutes of the December 21, 2009 Commission meeting.
- #3 Approve/Deny appointment of Ed Maloy to the Debt Management (Bond) Commission.
- #4 Approve/Deny reappointment of John Tibbetts to the Game Management Board.
- #5 Approve/Deny appointment of Dan McArthur as Independent Auditor for Fiscal Year 2009-2010.
- #6 Approve/Deny Business Licenses with staff recommendations (an itemized list of business licenses is available for public review in the Building Department prior to the meeting).

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

#7-VOUCHERS

Recorder/Auditor Leslie Boucher presented the vouchers and a cash balance report. General County has a balance of \$645,594.70 with estimated expenditures being \$156,950.64. This leaves General County with a balance of \$488,644.06. Transportation has a cash balance of \$588.36 with estimated expenditures being \$2,497.59. This will leave Transportation with a negative balance of \$1,909.23. Wendy Rudder, of RTC, is working to set up a meeting this week. Leslie questioned what fund would be used to pay this. A meeting will be held and Leslie will be able to transfer the money prior to the end of the month. Nutrition has a cash balance of \$48,799.54 with estimated expenditures being \$9,132.53. This leaves Nutrition with a balance of \$39,667.01. Detention Center has a cash balance of \$135,403.33 with estimated expenditures being \$89,216.89. Detention Center will have a balance of \$46,186.44. Solid Waste has a balance of \$39,234.65 with estimated expenditures being 17,767.50. This leaves Solid Waste with a balance of \$22,500.15. Monies are still being collected from the Solid Waste Small Claims and Fund 86 must have to be reimbursed. Airport has a cash balance of \$4,048.39 with estimated expenditures being \$242.25. Airport will have a balance of \$3,806.14, and \$381.59 will be transferred back into the General County Fund. Leslie requested that "purchases for private benefit is prohibited" needs to be included in the Food Bank Policy. Tri County Weed program needs to submit an itemized list for their phone bills. **Tommy made a motion to approve the vouchers as presented; seconded by bill. All voted in favor.**

#9-EMERGENCY MANAGEMENT

Rick Stever, Emergency Management Coordinator, presented this item. a) Update—Grant funding is available for an emergency operation center if the County can afford the 25% match. The current center can be

renovated or a brand new one can be constructed. \$350,000 is the estimated cost for building a new one and Rick wasn't certain how much it would be to add on to the Panaca Fire Station where the current center is located. Rick has been working with Sheriff Kerry Lee with regards to the AEDs. Discussions have included putting these units on a rotation schedule. Rick asked that a fund be created so that the rotation can be started. When the AEDs come in, Rick will make a list of where they will be located and who is responsible.

#8-HIGHWAY COMMISSION

This item is handled under a separate agenda.

#11-BUDGET AUGMENTATION

This item concerns a budget augmentation for the District Attorney's Capital Outlay fund; a new computer is needed. The estimated cost is \$2,400. The DA's secretary's computer failed and must be replaced; it's many years old. This wasn't budgeted as it was unexpected the computer would crash. Ronda asked that the DA's budget be reviewed first to see if funds are available. **Ronda made a motion to take the \$2,400 out of the DA's budget; seconded by Bill. All voted in favor.**

#12-LETTER OF SUPPORT FOR PIOCHE NEVADA BANK & TRUST

The Pioche Branch is being closed in March and this item concerns a letter of support to keep it open. Greg advised this closure has something to do with state statute, not the fact they aren't making money. Other offices have been closed throughout the state. **Tommy made a motion to approve the letter of support; seconded by Ed. All voted in favor.**

#17-LINCOLN COUNTY DETENTION CENTER SHOWERS

Sheriff Kerry Lee presented this item. The showers have been painted with swimming pool paint twice, but it isn't holding up. It has been suggested the resolution to the problems in the showers is to tile them. The cost for materials for all four showers to be tiled is about \$3,000. This includes an antibacterial paint to prevent mold and grout that prevents mold. The showers will have to be shut down for seven days at least; not all showers will be done at the same time. The biggest problem will be drying the showers out. \$3,500 is the cost for labor. Two of the showers are in extremely bad shape and must be tiled immediately. Kerry commented the facility budget has been partially spent on air conditioners and they still need a new hot water heater. There is some discussion about funding. Ronda suggested the Sheriff's budget be reviewed for funding of at least the first two. Kerry would like to get all four showers completed, if possible. **Ronda made a motion to approve tiling of four showers at the Lincoln County Detention Center, not to exceed \$7,000, and for the Sheriff to review his budget for funds to cover the work; seconded by Tommy. All voted in favor.**

#16-MOU BETWEEN LINCOLN COUNTY & CLARK COUNTY FOR COMMUNICATIONS RADIO TOWER

Phyllis Robistow presented a letter from Randy Tarr, Director of Real Property Management, concerning the Memorandum of Understanding (MOU). The County's portion is \$198,000. \$713,000 is the total cost of the project. The letter from Randy is only a Letter of Intent; no MOU was available at the time of the meeting. **Tommy made a motion to approve; seconded by Ronda. All voted in favor.**

#25-LETTER TO BUREAU OF LAND MANAGEMENT (BLM) RE: WILD HORSE GATHERS

The following is the letter being considered under this item:

Mr. Bob Abbey, Director
Bureau of Land Management
BLM Washington Office
1849 C Street NW, Rm. 5665
Washington DC 20240

Rosemary Thomas, District Manager
Ely District Office
HC 33 Box 33500
702 North Industrial Way
Ely, NV 89301

Re: Wild Horse Gathers

Dear Director Abbey and District Manager Thomas:

The social and economic structure of Lincoln County is highly dependent on public lands and the multiple use concept. This includes public lands ranching, and various forms of recreation. As such, Lincoln County is extremely interested in all aspects of public land management within the County.

The Ely District Resource Management Plan (RMP) approved in August of 2008 established two large Herd Management Areas (HMAs) in northern Lincoln County. The Silver King HMA and the Eagle HMA were both created by combining several smaller HMAs. The RMP also established a range of appropriate management levels (AML) of 150-324 horses for the Antelope HMA and 100-210 horses for the Eagle HMA. The upper limit is based on "available habitat" and the lower limit is based on "projected recruitment rate between gather cycles". BLM statistics available on the Wild Horse and Burro Program web site for FY 09 indicate that both HMAs are well over the upper limit of AML. The Silver King HMA is estimated to hold 365 horses (237 animals over the upper AML limit) and the Eagle HMA is estimated to hold 505 horses (295 animals over upper AML limit). These population estimations do NOT include the most recent foal crop, and are likely lower than what is currently on these ranges.

The RMP also designated eleven other HMAs in southern Lincoln County to be "dropped". This was to be completed by removing all wild horses in the HMAs found "not to provide sufficient habitat resources to sustain healthy populations". BLM statistics available on the Wild Horse and Burro Program web site for FY 09 indicate that significant numbers of wild horses remain on the following HMAs designated to be dropped: Clover Creek (44 horses), Clover Mountains (59 horses), and Delamar Mountains (76 horses).

It is the County's understanding that a gather is being proposed for the Eagle HMA scheduled for February 2010 to remove up to 506 excess wild horses in addition to 50 wild horses residing outside of the Antelope HMA. Lincoln County is in favor of this gather, and would urge the scheduling of gathers for the Silver King HMA and the three HMAs designated to be dropped noted above. We further understand that there is a nation-wide push for a moratorium on all wild horse gathers. Lincoln County is adamantly opposed to such a moratorium and the continued escalating damage to critical natural resources and multiple uses that it would cause.

The County has recently been advocating a "no net loss of animal unit months (AUMs)" concept when commenting on public lands projects. This concept is in an effort to support the public lands ranching industry that is critical to our social and economic wellbeing. The current horse populations are having a direct impact on the very public lands ranchers that are so essential to this County, including direct reductions of AUMs. Additionally, over population of horses are having direct negative impacts on riparian and upland areas that are critical to the County's viewsheds, watersheds, and wildlife. These are all vital to maintaining the County's tourism industry that includes hunting, fishing, hiking, OHV riding, sightseeing and photography.

It should be clear that Lincoln County supports the presence of wild horses on public lands provided they are kept within AML. However, current over populations continues to cause damage to our resources and other uses on public lands which the County relies upon. We appreciate your efforts to get within the management objectives outlined in the RMP, and ask for your continued efforts in completing that goal in an expedient manner.

Thank you,
Paul Mathews, Chairman

cc: Ken Salazar, Secretary of the Interior
Governor Jim Gibbons
Senator Harry Reid
Senator John Ensign
Congressman Dean Heller
Congresswoman Shelley Berkley
Congresswomen Dina Titus

Tommy made a motion to approve; seconded by Ed. All voted in favor.

#23-COUNTY FISCAL OFFICERS ASSOCIATION SPONSORSHIP

Treasurer Kathy Hiatt presented a sponsorship request for the 2010 County Fiscal Officers Association (CFOA) annual conference. There is no set amount for the sponsorship. CFOA will be June 22-24, 2010. In 2012 CFOA will be held in Lincoln County and more monetary support will be needed. This conference will bring in about 125 people. **Ronda made a motion to approve \$150 for CFOA, to be funded by the Commission budget; seconded by Ed. All voted in favor.**

#24-SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT COMMENT LETTER

Draft letter under consideration:

ON Line Project SEIS
Attn: Michael Dwyer, EIS Project Manager
Bureau of Land Management
702 N. Industrial Way

HC 33, Box 33500
Ely, NV 89301

Re: Lincoln County Comments to the ON Line Project SEIS

Mr. Dwyer:

The social and economic wellbeing of Lincoln County (County) is directly tied to the vast amount of public lands within the County. Therefore, the County is extremely interested in all large-scale projects on public lands including NV Energy's proposed ON Line Project (Project). This particular Project has the potential to result in significant positive and in some instances negative impacts on the County both in the short and long terms. As such, Lincoln County formally requests cooperating agency status for this Project.

The County has some concerns regarding potential negative impacts of the project on existing County infrastructure, natural resources and existing land uses. The attached issue-specific comments address those concerns. On the other hand, this Project will provide economic benefit to the County particularly during the construction phase, including possible energy development to service the proposed line. Completion of the Project will also provide infrastructure for future energy development, particularly as it relates to renewable energy.

The County would like to see this Project move forward providing it does so in a manner that sustains the natural resources and public land uses that the County relies so heavily upon.

Thank you,
Paul Mathews, Chairman

Attachments: Issue Specific Comments to the ON Line Project SEIS

Issue Specific Comments to the ON Line Project SEIS

Alignment:

The following sections of the proposed project are at least partly within Lincoln County: Segment 8 (southern portion), Segments 9 A-D, Segment 10 and Segment 11 (northern portion). The County understands that there are some safety concerns associated with the topography and proximity of Segment 9C to existing infrastructure. As such, the SEIS proposed several alternative alignments. Segment 9A would deviate from the SWIP Corridor westerly at the southern end of Delamar Valley to avoid the topographic area of concern. Segment 10 would deviate from the SWIP Corridor near the middle of Delamar Valley and track southeast to Kane Springs Valley where it would join into and follow the LCCRDA Corridor back to the SWIP Corridor near Coyote Springs.

At this time, Lincoln County supports the alternate routing that includes segments 9B, 9C, and 9A. Despite safety concerns, the County supports staying within the SWIP Corridor that was developed with extensive comment as part of the Ely RMP. In addition, Lincoln County has been working diligently with the BLM and grazing permittees in identifying potential solar energy study areas as part of the Solar PEIS that is currently being developed. Segment 9C would run directly through a portion of the Delamar Valley Study Area that has been proposed by Lincoln County, while Segment 9A would miss this area and run outside of the Lincoln County proposed solar study area as well as the BLM identified solar potential areas.

BLM Rights of Way and Construction, Operations and Maintenance Plan

The County would like an opportunity to be involved in the Right of Way process for all temporary and permanent facilities. The County would also like an opportunity to be involved in review and comment on the Construction, Maintenance and Operations (COM) Plan. Both of these processes are important to the County, and our staff, Commissioners and contract specialists can provide helpful insight for minimizing potential negative impacts during construction of the Project.

Water Resources

The SEIS indicates that there will be negligible impacts to groundwater resources. However, there is likely a need for a fair amount of water for both construction and operation processes, such as dust control, fire suppression, road rehab and maintenance for this Project. Where will water for these essential services come from?

Soils

The SEIS indicates that the contractor will be required to salvage topsoil in areas of heavy disturbance. The topsoil will be used as growth medium for restoration of disturbed areas. The County fully supports this approach, and would emphasize the need to protect stockpiles from erosion as a result of wind and/or precipitation, and also from establishing invasive species while stockpiled for post construction revegetation.

Vegetation

The SEIS indicates that the COM Plan will include a "Restoration Plan" for all disturbed areas. Restoration implies establishment of the identical plant community that existed pre-construction. This is virtually impossible and thus "site reclamation" would be more appropriate. The County supports this approach, and requests the following stipulations to be added:

- Mandate the use of both native and adapted plant species in an effort to minimize establishment of invasive weeds and to better ensure stand establishment.
- Allow County specialists to review and comment on the proposed Restoration Plan
- Require the Contractor to bond or pay for all restoration/reclamation efforts, including any areas that are disturbed outside of the designated disturbance limits

The SEIS discusses delineating all limits of disturbance with painted lath and flagging placed at 200-400' increments. The County does not support this approach and would recommend much more clearly defined limits. Ideally the use of bright orange construction fencing would be the recommended approach.

The SEIS discusses minimizing disturbances in white sage areas by locating temporary infrastructure areas at least a half mile away from white sage dominated sites. The County fully supports this approach, and would even recommend limiting access road widths and disturbance areas to the full practical extent in these areas. Reestablishing white sage is a most challenging and arduous task as reported by the USDA-ARS researchers.

Noxious and Non-native Weeds

The SEIS indicates that the COM Plan will include a "Noxious and Non-native Weeds Management Plan" for the project area. The County supports this approach, but requests the following stipulations to be added:

- Mandate the use of both native and adapted plant species in an effort to better compete with and minimize establishment of invasive weeds
- Allow County specialists, including the Tri-County Weed District, to review and comment on the Management Plan
- Require the project proprietor to bond or pay for all management actions required during the life of the project
- Integrate the Tri-County Weed District into the Plan and implementation process

Recreation

Recreation on public lands is an essential part of Lincoln County's social, economic and cultural wellbeing. The SEIS indicates that there will be no impacts in terms of access to public lands. The SEIS also includes a mitigation action item that states, "Construction schedules will be coordinated with permitted recreation activities to avoid conflicts". The County fully supports this.

Range

Public land ranching is an integral part of Lincoln County's social, economic and cultural wellbeing. As such, the County has adopted a "No Net Loss of AUMs" policy. The County does not support projects on public lands that will result in a loss or reduction of grazing opportunities.

The SEIS discusses "negligible" losses of AUMs; however, there are mitigation options that could be exercised in order to keep public land grazing operations whole. The County fully supports a mitigation provision similar to that listed under the recreation section that "Construction schedules will be coordinated with grazing permittees to avoid conflicts".

The County works in close cooperation with the N-4 State Grazing Board, and fully supports any comment and recommendations they may make to the SEIS in terms of ways to maintain ranching at current levels while at the same time implementing this Project.

Transportation

The SEIS discusses negligible impacts to transportation along US-93, but also acknowledges the heavy reliance on existing dirt and graveled roads. These roads are important County infrastructure and pose a serious maintenance challenge. As such, the County recommends including a mitigation action item that requires all County roads used to access project sites to be maintained per County standards, at project proponent's expense.

The SEIS discusses development of a "Construction Road Plan" as part of the COM Plan. The County requests an opportunity to review and comment on the plan before it is approved in order to ensure that all standards and practices are in concert with County standards.

Ronda made a motion to approve; seconded by Tommy. All voted in favor.

#27-GRANTS

Phyllis Robistow, Grants Administrator, presented these items. a) Update—Division of Aging audited the Senior Nutrition program and Homemaker. The report was favorable. Quarterly reports are due this month. b) Matching in-kind time from the Grants Department for the communications tower grant to Community Development Block Grant (CDBG)—Phyllis' time spent on this grant is applied towards the match. **Ronda made a motion to approve; seconded by Bill. All voted in favor.** c) Community Development Block Grant (CDBG) for a radio communications tower for emergency personnel—The County is applying for a grant to CDBG as previously approved by the Board. The grant request is \$198,000. This grant will cover the building, tower, and the equipment in the building. Rebel Communications provided an estimate for the equipment and installation. The Clark County portion acts as the match. Letters were sent to Senator Reid, but no response has been received. The County can't afford the \$198,000 on its own. This tower is for public safety, EMS, fire, etc. and will be located in Clark County. **Tommy made a motion to approve; seconded by Ronda. All voted**

in favor. d) Funding Agreement with State Historic Preservation Office (SHPO) for funding to rehabilitate the Million Dollar Courthouse in the amount of \$125,000—Phyllis hasn't received anything from Save America's Treasures, which is the funding Senator Reid secured for the County. The County has until December 31st for completion. If there are constraints on the Federal funding, SHPO will be flexible. **Ronda made a motion to approve; seconded by Ed. All voted in favor.**

#10-OFFICER/DEPARTMENT HEAD REPORTS

COMMISSIONER PAUL MATHEWS advised he received notification from Paul Yamamoto of Recology, Inc. (Norcal) that the request for proposals from Los Angeles has been pulled. Eventually this will have to be addressed as it deals with the amendment to our agreement. The County doesn't have any negative liability at this time, but Paul reminded the Board to keep the amendment in mind. **COMMISSIONER RONDA HORNBECK** discussed Southern NV Public Lands Management Act (SNPLMA) presentations that will occur next week. Ronda will not be a voting member when LC makes presentation.

#15-ORDINANCE #2009-10

This is the time and place set for public hearing on an ordinance establishing licensing and permit fees and procedures for locksmiths, institutional locksmiths, and locksmith employees operating within Lincoln County and providing exemptions from such fees and procedures. Paul read the ordinance by title. Paul questioned Item 5(b)(3)—fees. James Bienes reviewed the ordinance with the Board. Item 8(b)(1-3) requirements for retail space. This states the locksmith is required to share space. James feels the fee schedule is very steep and there isn't enough business in the county to warrant this. James has helped three people in the county during the three years he's been here. Sheriff Kerry Lee feels the intent of the ordinance is to check the individuals who are carrying "burglary tools", not to increase the fees. Various typos are addressed. Discussion returns to the requirement of a physical office space. James is a mobile locksmith and Paul doesn't believe he should be required to have office space. There is some discussion about the tow companies carrying "slim jims". Tommy questioned if these companies will be required to obtain a locksmith license. Yes; it states tow companies will be required to obtain a license in the beginning of the Definitions. James commented mechanic shops and tow companies are usually exempted. In the proposed ordinance tow companies are included in "Institutional locksmith". James intends to operate as a mobile, home-based business. James' lot has a business prohibition in Rachel. James commented he just misses some of the exemptions. James has a current business license and works as a federal contractor, not federal employee. Response time is based on when the call is received. Cory Lytle discussed the fees, which he believes can be set by the Board. Other than the background check, Cory doesn't believe there will be any follow-up involved with this license. DA Greg Barlow advised the fees are discretionary with the Commissioners. Kerry agreed if the business is mobile there should be no requirement for a retail space. Greg addressed the physical retail space. Greg commented that a physical location is needed in order to find these individuals. The Board agreed that current physical address should be sufficient. There are three separate fees: locksmith \$500 for 5 yrs., employee \$100 for 5 years, and \$100 for investigation. Kerry estimated it costs about \$75 to perform background checks. Ronda suggested fees be \$100 for locksmith for 5 years, \$100 fee for employees for 5 years, and \$100 for investigation. Greg reminded the Board they are licensing an individual, not a company. Kerry suggested the fee be \$100 total for each individual (this would include the background check). If any more employees are brought on, it would cost \$100 per employee. There is continued discussion about the fees. Paul suggested fees be \$100 for locksmith with an additional \$75 for the background check, and \$100 for the employee plus \$75 for background check. Greg will reword the ordinance to include \$100 for locksmith, \$100 for each employee, and \$75 for each background check. Greg will also reword the section requiring physical retail space. There is some discussion about section 9 and the date included, November 1, 2009. Section 9 is deleted, which eliminates being "grandfathered in". Paul recommended the public hearing be continued based on the work that must be done on the ordinance. Greg will review statute to make corrections, if possible, with regards to tow companies. **Ronda made a motion to continue the public hearing to January 19, 2010, at 11:00 a.m.; seconded by Ed. All voted in favor.**

#14-COST OF LAND USE STUDY

Carson Bise of Tischler/Bise presented a power point overview of the Draft Cost of Land Use Study, current project and phase 2 opportunities with relation to current fiscal issues facing the County. No residential land use pays for itself; all generate net deficits to the County. All nonresidential land uses generate net deficits as well. General Fund results are driven by property values. The County has minimal dedicated revenues for

infrastructure. Many special fund expenditures are covered by fund balances—this is fiscally unsustainable. The County's revenue structure can't provide current levels of service to current residents (current residents as well as new residents are not paying their way).

Lunch 12:00-1:00

#18-VACATION/ABANDONMENT OF PORTIONS OF US HIGHWAY 93 IN COYOTE SPRINGS

This is the time and place for a public hearing for the vacation/abandonment for Coyote Springs Investment LLC of a section of US Highway 93 through the Lincoln County portion of Coyote Springs, which consists of approximately 470.8 acres. The portion being considered is located on parcels APN 008-201-03, 008-201-19, 008-201-20, 008-201-25, 008-201-27 and 008-201-28. Clint Wertz commented that the Planning Commission addressed this item at a previous meeting and they've recommended approval of abandonment. There was some discussion about the value of maintaining the right-of-way (ROW). This ROW has been in place for quite some time. NDOT relinquished the ROW to LC, but nothing has been done beyond this. The corridor appears to be for surface use only, but there may be some financial benefit to the County by holding onto it. PC discussed whether or not this acreage should be considered for land swap with CS for location of County facilities in the future. Direction received from the DA's office is that there is no issue with the abandonment. Tommy advised the only access to Twin Canyons is through this area. There are also some guzzlers to be considered. The Trapper's Association and the County Game Board contacted Tommy about this issue and the access to these areas if the road is closed. Bill commented in 1971 this was abandoned to the County, but the County didn't accept it as it was too much of a liability. Bill further expounded by saying the County never accepted it. Ed remarked that his father was a Commissioner and he told Ed the County denied it. Greg commented the County would take no more action if acceptance of this abandonment was denied and it now belongs to the private land holder by default. Tommy remembered that the County took possession of all of the black top that was there. The County scoped it off and hauled it to the road between Caliente and Elgin. All of the culverts were removed as well. Harvey Whittemore reviewed the abandonment issue. CS's research shows that the County never accepted the offer of Hwy. 93. CS received a patent for the land from the government. CS is trying to remove the issue of abandonment. A portion of the land will be in the reserve swap lands; the access will be covered by an agreement through the various involved parties. None of the land proposed is north of Kane Springs wash. This request only covers the portion of the land to the south. CS is trying to clean up the matter of title only. The access has been chained off for liability purposes and access has been blocked off for the past 2 ½ years. Tommy requested that access to the Twin Canyon area be worked out. Harvey offered to look at this issue to see where access points might be available. The County didn't initiate this, CS did. **Ed made a motion to abandon whatever interest LC might have; seconded by Bill.** Tommy advised he will vote for the abandonment but he hopes the property owner will work with the sportsmen to ensure access through the area. **All voted in favor.**

#19-COYOTE SPRINGS DEVELOPMENT AGREEMENT-24 MONTH REVIEW

Clint Wertz presented this item, which is consideration of the Second 24 month review of the Coyote Springs Development Agreement between the County and Coyote Springs Investment, LLC, for the Coyote Springs Master Planned Community. The review isn't an amendment; it's a check-up as included in the agreement. **Tommy made a motion to consider and accept the review; seconded by Ed. All voted in favor.**

#20-ORDINANCE #2009-09

This is the time and place set for public hearing on an ordinance to merge the Coyote Springs-Lincoln County Fire Protection and Emergency Medical Service General Improvement District into the Coyote Springs-Lincoln County General Improvement District; reorganizing the resulting general improvement district (GID), changing its name and appointing the Board of County Commissioners as the ex-officio board of trustees. Wendy Rudder, Administrator of Coyote Springs GID, presented this item. GID Board of Directors have agreed this will be best for both districts. Ronda commented she was originally opposed to this, but since speaking with the Auditor, her fears have been alleviated. Paul read the ordinance by title. **Ed made a motion to approve the ordinance; seconded by Bill. All voted in favor.**

#21-COYOTE SPRINGS DEVELOPMENT AGREEMENT AMENDMENT

This item concerns a proposed amendment to the Coyote Springs Development Agreement that will allow unlimited acreage for electric generation, and station use within the Coyote Springs Master Planned Community (CSMPC). Such electric generation, station use within the CSMPC is subject to Lincoln County Code Title 15, application and approval process. Clint Wertz, Planning Director, discussed this item and reviewed the following document”:

Proposal for Development Agreement Amendment

Staff Recommendation
January 4th, 2010

Planning review thus far

- Planning Commission met on December 10th and voted to continue to special meeting if fees were paid (to get outside consultant review)
- Planning Commission supports the project concept
- All fees were not paid-no PC recommendation for BCC (staff had 3 days to prepare)
- Fees would have provided County resources to have outside review and protect its interests
- Owner has discouraged County from receiving outside assistance from consultants and University staff
- County policies have stated “the burden of large development projects is on applicants not county taxpayers”

Timeline

- Original Development Agreement approved 2-1-2005
- Contract review and amendment for double taxation in 2007 Owner agreed to renegotiate agreement for county concerns
- June of 2009, County staff met with Bright Source
- September of 2009 Coyote Springs initiated changes to code to allow for energy facilities
- November 20th applicant requests a December 3rd hearing with Planning Commission without application or fees
- November 23rd Planning Director provides letter to applicant with timelines and fees for proposed development agreement amendment
- December 7th 2009 application submitted without full fees
- December 7th 2009 Introduction of ordinance for amendment-set item for public hearing for January 4th
- December 10th 2009 first review by PC-continuance granted
- January 4th Public Hearing

Development Agreement Overview

- A negotiated contract between developer and County
- DA's were introduced to the County by CSI
- Pro's for County-
 - may request contributions to ensure project is fiscally sound.
 - eg(interim funding, off site improvements, guaranteed revenues stream (payment in lieu of revenue) ability to review finances of 3 rd parties to agreement.
 - Financial benefits to County beyond normal planning process
- Pro's for owner
 - Ensure rules do not change over time
- (large jurisdictions amend ordinances monthly, not Lincoln County)
- Ability to finance long term projects

Development Agreements (continued)

Cons for County-

- 1.Assumes base regulations are in place and County is prepared for project (no planning staff until 2006) no professional planning or fiscal review for County on original DA
- 2.Limits public involvement process for normal zoning procedures (back room deals)
- 3.Must have ability to negotiate effectively-DA's are a specialized area of law.
- 4.County must be aware of its public service (fiscal) needs prior to agreeing to long term deal. (County study just completed for current land uses, not future projects)
- 5.Change in elected officials only 2 of 5 current commissioners were involved in original agreement from 2004.

Proposed Change to DA

- 1.Should require new agreement
- 2.Not a planned community, industrial subdivision
- 3.Language in DA does not address concerns of a utility scale energy project, no county code section for review in place yet.
- 4.Would allow project to be permitted without further review or conditions (building permit only)
- 5.Does not reduce density (112,000 units)
- 6.County proposed language must be added to DA

Risks to County

- 1.Agreement not designed for proposed project.
- 2.Interim impacts to County services and finances
- 3.Opportunity Costs-property tax abatements will reduce revenue to County by 75 % when compared to other possible future industrial projects
- 4.Proposed project is 22,000 acres This equals 40% County's total tax base.
- 5.Fiscal note from Taxation regarding abatements and impacts/benefits to County will come after amendment.
- 6.No guarantee of revenue stream built into agreement
- 7.Possible loss of guaranteed sales tax revenue \$1.8 M (state receives its full tax 2%) (County goes from 5.1% to .25% after abatements) 10 % rule

Benefits to County

- 1.Unspecified revenue stream from property taxes (estimated at \$1-2 million per year)
- 2.Limited provision of services required by County
- 3.Could help County weather recession
- 4.Provides an opportunity for owner to develop other portions of project
- 5.Long term revenue stream from energy development for county provides opportunity for fiscal planning
- 6.Project would be locally assessed not centrally assessed
- 7.Possibility of happening-more likely than Planned Community

Fiscal report to County

- Lack of details on fiscal benefits. Page 19 of report states that calculating net fiscal impact is challenging (Net fiscal impacts are not provided)
- Assumes County will allow for planned community after life of solar project (beyond the 35 years remaining)
- Assumes construction and operations employees will reside in Coyote Springs (Lincoln County?)
- Assumes economic benefits to Lincoln County (associated land uses do not exist in area)
- Does not outline the impacts of sales tax abatements in early years on lost revenue from construction materials

Limitations of current DA

- 1.Does not address land use issues of large scale utility project
- 2.Applicable rules must include Title 13 and 2008 Master Plan
- 3.Triggers for law enforcement funding are triggered by residential permits not utility projects
- 4.Assumed GID would perform functions typically held by local government
- 5.No land use plan provided-Maximum flexibility for developer and limited control by County
- 6.No professional planning review by county of agreement

Proposed language changes to DA

- Law enforcement
- Applicable rules
- Special Use Permit
- Property tax provisions
- Acreage and density
- Approval of 3rdparty leases and finances by County
- Project Impact fees
- Future amendment to agreement

Necessary language to add to DA

Law enforcement needs during construction

Section 4.02 (C) reads "upon issuance of first residential building permit"
Strike "residential"

Section 4.02 (b) add (iv) Upon the first ground disturbance activities the owner shall provide \$80,000 per year in monthly installments for the first two years of the project"

Applicable rules

- County.
- Under section 1.01 (b) Definitions add subsection (vii) and Title 12, Title 13 and the "Orange Book" as adopted by Lincoln
 - Amend section (h) to state the "2008"County Master Plan and all amendments thereto.

Submit to special use permit

- Electric Generation Station is now listed in Title 15 as a permitted use.
- Section 3.05 (a) add section "vii"to state a "special use permit" will be required for any electric generation station use pursuant to Title 13."

Tax Guarantee

Add to section 12 of agreement "CSI agrees to pay property taxes as determined from the amount assessed and agreed to for the 2006-07 tax year until such time that values increase due to new development. Any further reductions or challenges to the assessed value will require the owner to pay an amount in lieu of taxes that would be lost to any successful appeal to the Nevada Tax Commission."This amount would include any costs incurred by the County to challenge any appeal and would be payable within 90 days of any final tax ruling"

Amend applicant's request Limit to 9,000 acres

•Notwithstanding the foregoing sentence, and in addition to the four thousand-five hundred (4,500) net acres described in the foregoing sentence, Owner may elect to develop an "additional 4500 acres" of the Planned Community (or any portion thereof as Owner may elect) for Electric Generation, Station (as defined in the CSPUD Code) use.

Acreage and Density

- Add Section 3.05 (a) (ii) (1) "Any non-residential or development above 9,000 acres approved through any land use application or permitted outright will result in the reduction of overall density at a rate of 5 units per acre for each acre developed"

County review and consent of any third party leases and financial info

12.04 Assignment (e)

In Connection with Financing Transactions. Owner and County has full discretion and authority to transfer, assign or encumber the Planned Community or portions thereof in connection with financing transactions, without limitation on the size or nature of any such transaction, the amount of land involved or the use of the proceeds there from, and may enter into such transactions at any time and from time to time "only and after full disclosure of financial statements to County and County approval of transfer is granted" without permission of or notice to County

Project impact fees to cover county staff time

Future amendment

- All costs to be paid by Owner including outside consultant deposits
- The owner will be the applicant
- Issues will include:
 - County personnel costs for interim period to facilitate project and its processing in a timely manner
 - Public facility contributions for any projects
 - Other issues identified in 2007 negotiations

Staff Recommendation

- Approval only with proposed language added to DA (cooperation) and future review of other outstanding issues at applicants full cost within one year.

Timeline

- Original Development Agreement approved 2-1-2005
- Contract review and amendment for double taxation in 2007 Owner agreed to renegotiate agreement for county concerns
- June of 2009, County staff met with Bright Source
- Sept 2009 Coyote Springs initiated code changes for energy facilities
- Nov. 20th applicant requests a December 3rd hearing with Planning Commission without application or fees
- November 23rd Planning Director provides letter to applicant with timelines and fees for proposed development agreement amendment
- December 7th 2009 application submitted without full fees
- December 7th 2009 Introduction of ordinance for amendment- set item for public hearing for January 4th
- December 10th 2009 first review by PC- continuance granted
- January 4th Public Hearing

The Planning Commission (PC) met on December 10th and voted to continue to a special meeting. Clint stated the application was received with part of the fees three days prior to the meeting; typically, they have a month to prepare. Clint's recommendation to the PC is that there isn't enough information, fees aren't paid in full, including the \$10,000 fee that is part of the fee schedule adopted by the Board. Clint's presentation today is his recommendation not that of the PC. PC supports the concept of this project; trying to find other uses for this land. One of the concerns of the PC is what the benefits will be to the County. There was an overall feeling that the applicant did "the runaround" on the normal process that all other residents must go through to get in front of the PC. Fees paid would have provided County resources to have outside review and protect its interests. NRS 278 allows the PC, if funds are available, to hire outside consultants—the PC can do this directly. The expert advice has been very limited. This one paragraph change changes the nature of the entire agreement to an industrial subdivision, and Clint doesn't feel this is the right fit for the County. County policies have stated the burden of large development projects is on the applicants, not County taxpayers. There is a risk to all of these projects and part of that is to ensure the County is protected; the fees and procedures Clint has put in place have always identified this as the primary goal. Clint commented that development agreements are negotiations for a contract and what's been presented is a one paragraph item with no room for negotiation. Clint feels this has been presented as "give us what we want, at this point in time we don't want to hear what your concerns are"; Clint takes issue with that. This is a negotiation and is no different than the Norcal contract. Clint reiterated he has concerns about this project. There are reasons that Development Agreements (DA) are done, including that the County can request contributions for public facilities, for interim financing funding, and many other things that can't be done through the normal planning process. This can be an enormous advantage to the County if employed wisely. The pros for the owner through the (DA) overview include ensuring rules don't change over time and it provides the ability to finance long term projects. The County Code that is in place right now was put in place in 1990; rules aren't being changed daily and many of the needed rules to protect both the County and developer aren't in place. This is a con for the County if the County isn't prepared. Originally, the County didn't get professional planning, fiscal, or any other type of outside advice on the original DA. The County did the best it could at the time, but it wasn't enough. The County needs to have the ability to negotiate effectively. Many of the Counties in the state don't use their own counsel; they seek outside sources. The gist of Carson Bise's presentation is that the County isn't paying its way; every year is running at a deficit. LC is a large county with a small amount of revenue to cover a large distance. Clint asked that the Board be willing to look at what the issues are. The language, as written, will allow the utility use to increase from the currently allowed 4,500 acres to 22,000 acres. Clint feels this constitutes an entirely new DA. Language in the DA doesn't address concerns of the utilities scale or energy. The energy electric station use, as it stands, is a permitted use outright. This means the owner can come in tomorrow and apply for building permits and be on their way; none of the County's impacts or concerns would be addressed. Clint reiterated this is a permitted use on the use table of Title 15; you don't go through the PUD process since this is for residential mixed use communities. Proposed language doesn't reduce density, either. There are 112,000 units on the books for CS and there should be a trigger to start reducing density if this ends up being non-residential development, Clint said. Clint presented language that should be added to the DA prior to moving forward today. Clint commented that, if the language isn't added to this agreement today as needed, all bets are off. A letter or promise from the developer doesn't matter, Clint said; the negotiation is the document. If the County doesn't get language inserted or modified to meet its needs this is a waste of time, Clint commented. The agreement isn't designed for the proposed solar energy project; these are two completely different projects. Interim impacts to the County services and finances (startup costs) are a risk to the County. The revenue benefits are there, but the problem is the unknown short term impact on the County while the project is being built. The proposed project is for 22,000 acres, which is 40% of the County's tax base not including Ag land. The owner is currently paying

property tax, which pays for the Planning Director, Deputy District Attorney and ½ of another person's salary. Property tax abatements will reduce revenue to the County by 75% when compared to what we get for non-energy projects. The County will end up with 25% of what we'd get on another project. This project ties up the land for 30-40 years. Legislative changes require the County to get a fiscal note from the State concerning the revenue the County will get on a proposed project; this information will come too late. The Fiscal note from Taxation concerning the abatements and impacts/benefits to the County will be received after the amendment. In most cases this information will help the County to offset a shortfall and how to manage the funds. There is no guarantee of revenue stream built into the agreement. There is also a possible loss of guaranteed sales tax revenue in the amount of \$1.8 million (the State receives its full tax—2%--but the County's rate goes from 5.1% to .25% after the abatements). If you go above 10% of local sales receipts you lose your guaranteed status for sales tax and you have to fight that at Taxation. Clint supports the project and thinks it's going to be good, but it will be an uneven distribution of benefits since Clark County will receive the majority. Clint's concern pertains mainly to the first few years; will we have enough staff? The project will be locally assessed, not centrally assessed. This is a positive thing for LC as far as property tax. The fiscal report provided by CS lacks details for fiscal benefits, Clint said. As the project stands right now this will be a "commuter" work force. Some of these jobs will hopefully go to LC residents. The impact to sales abatements isn't outlined in the report. This type of project requires a special use permit, Clint said. If language isn't inserted requiring SUP the County will have no discretion in applying conditions that will protect the County. Language needs to be added to provide funding for the Sheriff's office until revenue starts coming in. Clint commented that CS has tried to wiggle out of the rules; they want to follow Title 15. Clint made it clear at the PC meeting that Title 13 is the base County Code Title containing all rules. Clint remarked that right now, CS doesn't want to acknowledge Title 13, which has been in place since 1990; this is a problem. Clint advised that applicable rules include Title 12 and 13 of the LC Code and the "Orange Book". Clint discussed the tax guarantee; there are rumors CS is going to appeal their taxes. If the project doesn't go CS will appeal their taxes. Clint believes language should be added to section 12 of the DA that CS will agree to pay property taxes as determined from the amount assessed and agreed to for the 2006-07 tax year. When CS first started they agreed to pay double their taxes; we've already been taken to the state on this. If language is inserted, Clint cited, the County can protect itself. Clint suggested the applicant's request be limited to 9,000 acres based on the fact that this piece of land—Coyote Springs, Lincoln County—is 40% of the County's tax base when the Ag land is removed. Acreage and density; Clint suggested that above 9,000 acres can be used for non-residential projects. Right now the DA gives the County the authority to review and consent to any third party leases and financial information. This isn't just an agreement between the owner and the third party, it's an agreement between the owner, the third party and the County, Clint said. Clint's recommendation is approval only with the proposed language added into the DA and future review of other outstanding issues at applicant's full cost within one year. Clint asked that approval only be given after more information is received. Clint feels the project will benefit the County, but it isn't a done deal yet—it's still competing against other locations. Harvey Whittemore commented that it is offensive that a County employee would suggest that he or his company would "run around the rules, wiggle out, not keep promises and not proceed with this development the way we've proceeded". It is offensive and lacks respect. Harvey said this smacks of socialism where someone says the government gets to approve a bilateral agreement between CS and another party. CS didn't wriggle out of paying taxes; they agreed to pay twice the valuation. Harvey advised that CS is paying \$1M per year in taxes; above and beyond the valuation of the property due to their commitment to the County. Taxes have gone up five times the valuation of the property since CS took it over. The idea of limiting the agreement to 9,000 acres is Harvey's idea as he doesn't feel there is a need to have the amended language apply to the entire property. CS agrees the DA should limit the increase to 9,000 acres. Harvey asked the Board to read the DA. Harvey discussed the Special Use Permit, which isn't required under the DA. However, the DA requires a PUD process for each request. A tentative PUD will come before the County for each pod of development. To suggest that new rules are needed, Harvey said, is silly. Ronda said Harvey previously told her he agreed with the fact that CS doesn't have to come in for a PUD as this isn't a village or residential development so there is no requirement for PUD. This is industrial and the only requirement is for a permit, Ronda said. Harvey disagreed; there is a miscommunication. Greg referred to Section 5 of the DA, which refers to a village. Greg commented that any village plans will contain a certain degree of commercial space. Greg's understanding is that CS is willing to commit to the Board that any development within their properties, whether commercial, mixed use or residential, will have to submit to the PUD process for that particular parcel. Each project will require PUD. Harvey commented they won't add a SUP condition as the contract specifically states the process they will go to (PUD). CS will not agree to a SUP

unless part of negotiations with respect to a modification of this agreement at some point in the future. CS's agreements with other entities are proceeding under the DA rules. Harvey commented "we have a contact, let's keep it". Harvey is okay with the 4,500 acres. Harvey is committed to starting negotiations to address some of the issues brought up. Harvey didn't commit to any changes as this is part of the negotiations process. Harvey has been advised that Clint Wertz is adverse to this development; this is inappropriate. CS has invested every dime they have. Harvey remarked that, while someone says today that he isn't committed, he's having to lay people off in his company; \$500,000 worth. This amount of money could save jobs, but it is currently going to this County; Harvey is committed. Harvey discussed taxes; he has said he will file an appeal because people in this County think the economic turmoil hasn't hit the County and affected property values—it has. This doesn't mean Harvey won't continue to pay the same amount of property taxes; he would like to sit down and talk about it in order to figure out what needs to be done. The County needs to know what it means to pay taxes in excess of what the property valuations should be. Harvey doesn't want his name, or company name, to be blackened by a request to bring a project, which Jeremy Aguero determined would bring \$138 million net benefit to this County. Harvey asserted this development most certainly pays for itself; CS has paid more in taxes than in benefits it's received. The County didn't negotiate an agreement that didn't protect itself. Harvey drafted the first DA language for his firm Lionel, Sawyer and Collins. CS has assumed obligations to fund the GID to provide infrastructure services; the County will not be left "holding the bag". If fees are applicable pursuant to Title 15 CS will pay them. The Board has the authority to adopt fees that will be applicable to this development. Once these fees are adopted, Harvey will be willing to pay them. Harvey agreed to the 9,000 acres, opening up the DA for negotiations, fees will be paid once adopted by the Board, and he will be filing the appeal for taxes (Harvey is willing to sit down prior to the hearing with the Board of Equalization to discuss taxes so the County isn't left high and dry; if it means keeping the same tax burden, they will do it). If reducing the taxes is devastating to the County, CS will not do it. However, Harvey isn't going to pay for consultants from Maryland to say his development is bad. Harvey suggested that 5 times 4,500 be multiplied and subtracted from 112,000. This is the applicable math for reduction of density if the Board so desires. The notion that the County should be more concerned with the development of private property than the developer turns the world on its head, Harvey remarked. Of course CS knows how important this property is to LC. Clark County will not benefit more than LC as all the money from Bright Source will go to LC. Harvey agreed to limiting the amendment, impose the requirement to adopt a fee schedule, and then asked to sit down and talk about taxes. If the County is living beyond its means, it will have to make tough choices just like Harvey has. Harvey commented CS is picking up the tab. Paul disclosed that his family has a contract to lease property at the Brackenbury Ranch, through Tuffy Properties. Greg has advised Paul that he may participate fully once disclosure is made about his relationship with Tuffy Properties. Ronda doesn't take issue with the 9,000 acres and asked if there is an agreement in place with Bright Source. Yes, there is a signed agreement. Ronda takes issue with Harvey not be willing to make any other changes than the 9,000 acres. Harvey disagreed. Harvey agreed to the density reduction. Harvey advised maps and uses are in place but they are subject to change. Harvey is prepared to enter negotiations, including opening up the DA for amendment. Ronda asked if this could be 120 days from now. Yes, Harvey is prepared for this. Under the amendment changes, Harvey is not willing to discuss changes concerning Bright Source as there is a contract in place. Financiers and Pardee will say the amendments can only impact the developers, not them as they will not accept something unilaterally. Pursuant to DA, if three members of the Board vote to open negotiations Harvey has to take part; he doesn't have to agree to everything, but negotiations will take place. Harvey is not willing to hold discussions concerning any negotiations/changes pertaining to Bright Source as he has a signed agreement. Paul asked who will present the PUD. It will be joint application or solely Bright Source who will present the PUD. The amendment is current; most of the rest of the DA is ten years out. Paul suggested that the Board act on what's in front of them today and not worry so much about the future. Ronda asked why an amendment needs to be negotiated if it isn't going to affect Bright Source. Harvey is paying \$223,000 to the school today as well as another \$6,600 to schools on another account. Harvey is prepared to look at the DA to address the things suggested by Clint. Harvey commented he's willing to do a DA review every 4 months if necessary. Tommy commented that he hates to see anyone restricted as to what they are doing on their private property. Tommy further said if CS makes a profit, so will the County. Tommy doesn't care what hoops need to be jumped through, the Board needs to make the best decision for the citizens and the County. Bill remarked that a person has a right to do what they want on their own private property as long as all requirements are met. Ed agrees that people should have the right to do what they will with their property. Ed has read the DA and feels that CS has bent over backwards to be good to the County. Ronda discussed Title 13 and fees. All of the fees are encapsulated in

Title 13, and they apply to everyone and every development. If the fees are implemented in Title 15 Harvey will pay them (if they are existing Title 13 amounts), he said. Greg will review the issue of the fees and come back to the Board with a fee schedule. Greg will work with both Clint and Cory on the schedule. Greg commented the PUD process considers everything, not only health, safety, welfare roads, drainage services, utilities, public protection, etc, it is all there and subject to PUD. Harvey has committed to submitting to a PUD under the Chapter. Wendy Rudder of Lincoln Air said we need to invite clean businesses into the County; these businesses bring in skilled jobs. Eventually they will bring in people who want to live in this County. It is important at this time to bring in businesses that will not cause issues with the infrastructure. Wendy urged the Commission to adopt the amendment to get Bright Source in place. Vaughn Higbee supports property rights as long as it's not something that causes a major problem for the rest of the public. Vaughn has been involved in economic development in this County for many years. Vaughn commented the goal 25 years ago was to secure jobs for our kids; so far they've never come. Now we have a company that is going to make that happen. We should be thanking them and considering how we will make this work. Kevin Phillips commented that, upon his return from college in 1976 he served on an economic development board. Since that time, Kevin has worked to bring jobs into the County for the next generations. Kevin recommends approval of the amendment, raising the acreage to 9,000, as this will benefit the community long term. John Christian supports economic development in the County as well. John also supports approval of the DA amendment. John further appreciates the flexibility in dealing with this issue in a timely manner and requested that future agreements provide for flexibility with timing. John asked the Board to consider the impact they have on private businesses and asked that they support economic development. Nikki Holton, Superintendent of Schools, commented she is losing employees and facing more cuts. It is difficult to face people you've known your entire life and tell them they are losing their job. Any time we have the opportunity to hire as opposed to fire in this County we need to look at it strongly. Nykki supports continued economic growth and creation of jobs. Nykki recommended approval of the amendment. Marge Detraz cited she fought Yucca Mountain and won. Marge further cited that when Ronda worries about LC, people should listen. Marge said we need to do what's best for LC. Marge commented that they want to put solar in, but they haven't put one house in. Marge was very agitated that CS wants to put in solar and asked the Board to think about what's best for LC. Connie Simkins supports private property rights as well. Private property owners should have the opportunity to develop in a manner that doesn't adversely affect all of us. Connie encouraged the Board not to get in too big a hurry and to look at this amendment from every side. Connie also said that each and every developer needs to be treated the same. Let's make certain that our schools, roads, public infrastructure, etc., are all taken care of, Connie said. Connie asked that it all be in black and white as the amendment is being considered. Scott Seastrand, Western Elite, added support for the amendment. Scott commented CS has been a great neighbor and feels the proposed project is compatible. Western Elite has no conflict with the project and feels it would be a great project for this area. Scott doesn't see how this can economically impact the County in any way except for positively. In the end, virtually everyone will be benefitted by having the construction that occurs and the long term jobs created. The homes may never show up in this area, but this is a "bird in the hand" versus an idea that may never come to fruition. Scott commented CS can make this happen, but they need whatever help and efficiency the County can offer. John Sax of Haycock Petroleum spoke to the decisions they've made to commit them to the County. Two years ago they spent \$135,000 to put the propane department in to support the County. John supports the building of businesses in this County long term. Hal Keaton, former LC Commissioner, was a member of this Board when the DA was approved. Back then, the DA was clear and allowed for industrial construction. Hal doesn't see this amendment as anything but a win/win for all involved and encouraged the Board to look at the opportunities that come our way. Hal implored the Board to not let the few opportunities that LC gets pass by and asked that this be considered favorably. Paul Donohue agreed with economic development and advised the Board to never give up their ability to negotiate. **Ronda made a motion to approve the following: 1. the Development Agreement amendment with a maximum of 9,000 acres for electric generation and station use within Coyote Springs, including the originally proposed 4,500 acres, 2. to start the process/negotiations for an amendment to the Development Agreement (review period is to begin April 5th), 3. that Coyote Springs agrees that the proposed development using the 9,000 will come before the Board for the PUD process pursuant to Chapter 15, 4. Coyote Springs also agrees to abide by the fees that are set forth in Title 13 if they're adopted into Title 15, and 5. that Coyote Springs agrees to work with the Board concerning their taxes to try and keep LC as whole as possible (Harvey agreed to come and work with the Board fairly), 5. Coyote Springs agrees to 22,500 acres for density; seconded by Tommy.** Harvey commented that he can't agree to the reversion of the 9,000 acres; there will be a solar

development in that area even if it isn't Bright Source. If Bright Source falls through, Harvey will seek a replacement. The reality is that this will not work. Harvey committed to come in and talk about the taxes again, just not to the reversion in three years. Greg advised he will check, and work with Cory and Clint, on the fees in Title 13 as well as the resolution to make sure that everything is in place properly. Fees will be uniform across the board, Greg remarked. Carson Bise advised they were hired to provide information on how LC's revenue structure works. This is the sole purpose of their analysis; not to report that all development is bad. Much of the analysis done today is economic impact. Carson cited he was asked to review things that LC should be on the lookout for. Bill advised that the Board of Equalization will determine what the taxes are; this isn't within the jurisdiction of the Commissioners. Harvey committed to negotiating the taxes, even if the Board of Equalization reduces them. Harvey said, if they have to, they can lower the valuation and then enter into another agreement as done previously where Coyote Springs agrees to pay additional taxes based upon agreement between two parties; Harvey is prepared to enter into this type of discussion. Paul called for the vote. **All voted in favor.**

#22-ORDINANCE #2009-11

This is the time and place set for public hearing on an ordinance adopting an agreement between Lincoln County and Coyote Springs Investment LLC for the first amendment to the Coyote Springs Development Agreement. **Tommy made a motion to continue the public hearing to January 19, 2010, at 1:00 p.m.; seconded by Bill. All voted in favor.**

#13-BROADBENT & ASSOCIATES, INC.

This item concerns a presentation by Broadbent and Associates, Inc.(they've been hired by the State via American Reinvestment & Recovery Act funds) concerning a program to research and locate orphaned and/or abandoned gasoline and diesel fuel underground storage tanks (UST).

#26-PLANNING ITEMS

Planning Department Director Clint Wertz presented this item. a) Update—None offered.

#28-BUILDING DEPARTMENT

a) Update—None offered.

#29-PUBLIC COMMENT

Paul called for public comment. Vaughn Higbee cautioned the Board to be careful not to make Coyote Springs or any other developers a cash cow. There are a great deal of counties trying really hard to get people in to come and help them with economic development. Vaughn cautioned the Board against discouraging development in LC with the fees. Marge Detraz reminded the Board members that they represent the county and advised they have a responsibility to protect LC citizens and how their money is spent. Marge asked the Board to look these projects over carefully and not make rash decisions. Connie Simkins reported that the Online Energy Project had an additional alternative that would've taken the route directly to the east and dropped it into Kane springs Valley. Connie is pleased the Board didn't comment on this alternative. Ed Higbee said the Board needs to be careful not to strike an adversarial tone with the developers.

#30-ADJOURN

There being no further business for the Board to attend to, **Ed made a motion to adjourn the meeting at 3:18 p.m.; seconded by Bill. All voted in favor.**

Attest: _____ Approve: _____