



## LINCOLN COUNTY BOARD OF COMMISSIONERS

October 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  
TOMMY ROWE  
RONDA HORNBECK  
ED HIGBEE

LISA C. LLOYD, Clerk  
GREG BARLOW, District Attorney

There is a quorum present and the agenda was posted on 9-29-10. The Invocation is offered by Paul and Bill led the Pledge of Allegiance.

### **CONSENT AGENDA**

- #2 Approve/Deny minutes of the September 20, 2010, regular Commission meeting.
- #3 Approve/Deny revised grant award for Congregate Meals from the Division for Aging in the sum of \$3,540.00 plus match for \$625.00.
- #4 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.**

### **#5-VOUCHERS**

Recorder/Auditor Leslie Boucher presented the vouchers and cash balance report. General County has a balance of \$510,945.19 with estimated expenditures being \$167,572.46. This leaves General County with a balance of \$343,372.73. Transportation has a cash balance of \$24,155.77 with estimated expenditures being \$3,651.95. This will leave Transportation with a balance of \$20,503.82. Nutrition has a cash balance of \$32,930.25 with estimated expenditures being \$8,931.57. This leaves Nutrition with a balance of \$23,998.68. Detention Center has a cash balance of \$126,180.99 with estimated expenditures being \$79,286.58. Detention Center will have a balance of \$46,894.41. Solid Waste has a balance of \$119,628.12 with expenditures OF \$18,833.55. Solid Waste will have a balance of \$100,794.57. Solid Waste Fund owes Water Plan/Development Fund, Fund 87, \$27,484.15. Airport has a cash balance of \$1,815.04 with estimated expenditures being \$1,480.00. Airport will have a balance of \$335.04. Planning, Fund 110, has a balance of \$72,597.44 with estimated expenditures being \$7,463.20. This leaves Planning with a balance of \$65,134.24. **Ronda made a motion to approve the vouchers as presented; seconded by Tommy. All voted in favor.**

### **#8-GRANT APPLICATION**

This item concerns participation in an application for grant funding in the amount of \$1,000,000.00 to the US Environmental Protection Agency for a Brownfields Coalition Assessment Grant to conduct Environmental Site Assessments an area-wide planning in support of renewable energy, transmission, and economic development in the vicinity of identified brownfields sites. No match is required. Joni Eastley, Nye County Commissioner, reviewed this matter. US Environmental Protection Agency (EPA) Brownfields Assessment grant funding may be used for a broad spectrum of activities, including developing inventories of brownfields, prioritizing sites, conducting public outreach activities, conducting area-wide planning, conducting site assessments, and cleanup and reuse planning related to Brownfield sites. Assessment grants may be site-specific, community-wide, or for

a coalition. A coalition is comprised of three or more eligible applicants, one of whom acts as the lead applicant and is the formal recipient and ultimately responsible to EPA for expenditures under the grant. Individual eligible entities may apply for site-specific or community-wide grants of up to \$200,000 (some site-specific applications may obtain a waiver to receive up to \$350,000), while coalitions of eligible entities may apply for assessment grants of up to \$1,000,000. Members of a coalition are not eligible to submit applications for separate community-wide or site-specific assessment grants in the year they apply as part of the coalition. A coalition will be formed to apply for the grant. Said coalition will consist of: Nye County, Lincoln County, Esmeralda County, White Pine County, and Inyo County, CA. A Brownfields Coalition Assessment grant would enable the counties to work together to assess brownfields sites and engage in high-level planning activities to redevelop brownfields, particularly those along existing and potential transmission corridors. The funding would also facilitate identification and assessment of additional project opportunities for renewable energy and general economic development. The assessment grant would enable us to work together to assess the Brownfield sites, specifically one in each county. Nye County will act as the lead on this and their staff will write the grants. The Inyo County component makes this attractive to EPA. There is no financial burden on LC. **Ronda made a motion to approve; seconded by Tommy. All voted in favor.**

#### **#6-HIGHWAY COMMISSION**

This item is covered under separate agenda.

#### **#7-ROAD DEPARTMENT**

No action is taken on these items.

#### **#9-EMERGENCY MANAGEMENT**

Rick Stever reported he attended a meeting with State Division of Emergency Management in Ely. The state has a communications committee throughout the state. LC's seat was vacated and dropped for non-participation. Ronda advised that it was costing the County a great deal of money to attend these meetings and there was no benefit to the County; she stopped going. Rick commented that a subcommittee has been formed to address the rural counties since then. Rick completed the last NIMS required update. Each official will be issued a credential card with a barcode that outlines what qualifications individuals have for decision making; Rick responded that the County will not participate in this program until the Federal government funds it. Rick received notification from the state of a grant award, EPWG Supplemental Funding, which will go towards the purchase of a truck.

#### **#10-LINCOLN COUNTY EMERGENCY MANAGEMENT ADMINISTRATOR**

This is the time and place set for performance review of the Lincoln County Emergency Management Administrator, Rick Stever. Rick advised that current funding is marginal as far as being enough to attend all necessary meetings. Rick has a couple of funding sources to aid with meeting attendance. The biggest issue right now is time. It's difficult to make all the corrections, plan updates, etc., that are being required. The state realizes that there are economic problems throughout the state so they are having more teleconferences versus actual physical attendance at meetings. Rick doesn't feel the teleconferences work as well as when everyone is actually present. Rick is able to maintain a presence at the meetings, but time constraints prevent him from being able to do everything. Rick plans to hold emergency disaster exercises once a year, but if he can get a greater response from people who are interested in participating there will be more. Ronda asked if Rick is considering holding these drills in outlying areas such as Rachel and Mt. Wilson. Rick has tried to do this with regards to fire emergencies. The problem they've run into is meeting space and lack of cooperation. This is an ongoing process. Tommy complimented Rick on a job well done. No action taken.

#### **#11-OFFICER/DEPARTMENT HEAD REPORTS**

**SHERIFF** Kerry Lee advised that E911 is up and running; they hope to get a year or more out of the patch.

#### **#14-LIQUOR LICENSE FEE DUE DATE**

Sheriff Kerry Lee advised that changing the date to an annual payment due date will require a change in the ordinance. **Ronda made a motion to have Kerry work with the DA's office to draft an amendment to the current ordinance; seconded by Bill. All voted in favor.**

### **#13-TEAMSTER NON-BARGAINING UNIT PARTICIPATION AGREEMENT**

Deputy District Attorney Daniel Hooge reviewed the agreement. Ronda commented that it says that if the County contributes for one non-bargaining unit employee it must contribute for all of them. Does this mean that it covers everyone, even those who have opted to not take the insurance? It applies only to those who work 30 hours or more per week. Daniel advised that if there is someone who works more than 30 hours per week, but chooses to opt out it, will have to be addressed as an exception. Recorder/Auditor Leslie Boucher advised that there is one employee who works full time and has opted out of the insurance. Leslie advised that Teamsters is aware of this one person. Daniel advised that this will have to be worked out and he will talk to Teamsters to see if they're okay with the exemption of this one person. If Teamsters has an issue with this, the County will end up having to pay for it. **Ronda made a motion to approve, subject to the DA negotiating the exemption of the one employee; seconded by Tommy. All voted in favor.**

### **#12-NEVADA PARTNERS IN CONSERVATION AND DEVELOPMENT**

Lee Turner of the Nevada Department of Wildlife offered a power point presentation to the Board regarding the Nevada Partners in Conservation and Development. No action is taken on this item.

### **#15-TOQUOP ANNEXATION INTO MESQUITE**

There is one developer working with the City of Mesquite to annex certain acres of their property into Mesquite. Daniel Hooge met with Dylan Frehner of the LC Water District. They looked up case law and NRS. There is no clear law for annexing across county lines. Daniel believes the County has a good argument for the courts in that it's not something the Legislature had foreseen, or intended, on a city annexing across county lines. Therefore, it is not expressly permitted unless it's permitted in NRS. Support in the law exists if opposition is desired. There are some positives, as well as negatives, to the annexation. Wade Poulsen, General Manager of LC Water District, advised that LCWD plans on being the wholesale water provider to this area. From a legal standpoint, LCWD believes that the legislative acts of Virgin Valley and LC Water Districts spell out boundaries. VVWD's boundaries stop at the county line. In VVWD's act it says that they can annex in the same manner as a city. LCWD doesn't believe the Legislature ever intended for this to go over county lines. Dylan Frehner, legal counsel for LCWD, believes the fight will be on the County's side. Initial ordinance reading is 10-26 at the City. It might be better for the County to file a Writ before hand and be proactive. It is unknown what the City of Mesquite will do. LCWD is willing to help the County move forward, but they don't have a fight in this until VVWD says they will annex. Cory Lytle advised he will support whatever the Commission chooses. It doesn't make sense for one area of the Land Act to be annexed; it's an all or none type of situation. If only portions are annexed into the City it will cause pockets of service and costs go up. One thing to consider is that when the Land Act went through, it was to give LC an opportunity for growth. It didn't say the land would be opened up for purchase for the benefit of Clark County. It should be honored that this land was opened up to benefit LC, Ronda commented. LC would only get a portion of the taxes if this is annexed. This land is a huge opportunity for growth in this County. Bill advised if the County intends to oppose this it needs to be done now; the annexation will gain steam as it goes along. Ed questioned the developer's reasoning behind this. Cory believes it's because land values will automatically go up once the annexation happens and it will open financial doors. Glenn Zelch suggested this not be opposed until it is known how the tax structure will be split. Bill said the County will get the property tax and Mesquite will get the remainder, up to .366. Even if this area pulls out, infrastructure for all of the other pieces of the Land Act has to be provided. Wade spoke with a couple of the developers and it seems that all but one developer will apply for annexation. The annexation of one could create a chain reaction that forces the rest to annex. Sithe Global is opposed to the annexation as they will then have to pay taxes to both the County and Mesquite. Daniel spoke with the City attorney; she indicated that the City Council wouldn't involuntarily annex the rest of those. This annexation will have a huge impact on the remainder of Nevada. If the County sits back and does nothing, and then it is discovered a year or two down the road that it isn't legal, all of the cost comes back on the County. **Ronda made a motion to have the DA's office review the legalities of the annexation, including the pros and the cons, and to bring this back at the next Commission meeting.** Daniel advised that he's already done all of the legal research. There is no primary source of law for this situation. Daniel looked at other states to see how this same situation was handled. All of the other states came back with the same reasoning, if the Legislature expressly said it can be done over county lines, then it can be done. If it's vague, it can't be done. The Legislature needs to consider all of the complexities and expressly put it in the law. If it isn't included in the law, it can't be done. Paul asked if this is something that should be referred to the AG's office. Dylan agreed with Daniel's opinion. The AG's office

has no inclination to take this on and issue a legal opinion. If this is going to be taken on, Dylan believes it will have to be done through the court system. It would be filed here in our court. Glenn commented that the Legislature would appreciate LC and Mesquite coming to an agreement on this. Tommy reiterated the need to see the pros and cons of the annexation. Bevan Lister advised that he believes if a written opinion is received from the DA on a specific point of law it can be appealed to the AG's office, in which case the AG's office has no choice but to issue an opinion. Glenn cited instances of cities crossing state lines, details were worked out; it's much easier if both parties are in agreement. Ed commented that he would like to hear from the developer as to why they are requesting this. **Ronda rescinds her motion. Ronda makes a motion to have the DA work with the LC Water District to research the legalities and to present the pros and cons of annexing versus not annexing at the next Commission meeting; seconded by Tommy. All voted in favor.**

#### **#16-QUARTERLY JAIL TOUR**

**Tommy made a motion to table this item; seconded by Bill. All voted in favor.**

Lunch break 12:15-1:15

#### **#17-2010 COMMUNITY DEVELOPMENT BLOCK GRANT**

This is the time and place set to hear public input for 2010 Community Development Block Grant projects. Rick Stever, LC Fire District/LC Emergency Management, presented a request for an equipment station, office, training, and storage area. The District is beginning to acquire quite a bit of equipment and there is no place to store it. The County has land located east of the LC Detention Center that can be used to situate the 6,000 square foot building with a fenced storage yard. There are funds in the LCFD that can be used for match. Total project cost is \$310,000, grant amount is \$280,000. If received, Rick would budget maintenance funds. Phyllis Robistow, representing LC Airport Authority, presented a request for an access road to the Alamo Airport. An FAA grant was received to design the reconstruction of the runway 14/32 and taxiways including associated lighting, NAVAIDs and fencing. Approximately 3,500 linear feet of airport access road is needed. The portion of Airport Road, extending from Box Canyon Road to the terminal area will be regarded and graveled to provide vehicle access to the airport. A portion of Box Canyon Road will be relocated around the south end of Runway 32 to provide for the required Runway Object Free Area (ROFA). This also includes vehicle parking at the ramp area of the airport. Total project cost is \$770,000.00, grant amount is \$350,000. The match amount is \$420,000 and the source of the match is FAA and local funding. No action is taken at this time.

#### **#18-GRANTS ADMINISTRATOR**

The Grants Administrator position will be vacated on February 28, 2011 as Phyllis Robistow will be retiring. The Board hopes to have someone in place a few months prior to Phyllis leaving so that the new person might be trained. **Ronda made a motion to advertise the Grants Administrator position; seconded by Bill. All voted in favor.**

#### **#19-LINCOLN COUNTY OVERSIGHT PROGRAM**

Connie Simkins presented these items. a) Update—Mayor Larson will attend an ECA conference November 8-10. Connie continues to work on finding the contents of the continuing resolution issued last Thursday; it isn't possible to decipher if there is continued funding for the program. Connie will participate in a conference call regarding the Biomass Summit. BRC will meet November 15-16 and Connie will attend. Transportation Committee Meeting of BRC is in Chicago on November 2-3; no plans have been made for local representation. Connie will listen to this meeting via the internet. The four proposals for the biomass project have been ranked and the Commission will meet tomorrow, 10-5, to address them. b) Hiring web students for Lincoln County High School website development and maintenance—Connie recommended that this be postponed to the next meeting as interviews will be conducted. c) Proposed letter to Congressional Delegation re: substations in Lincoln County to provide access to transmission line for renewable energy projects—Vaughn Higbee reviewed the draft letter. Early this year the Commission sent a letter concerning taps, or substations, so that renewable energy could be moved up and down the SWIP line. Both Senator Ensign and Senator Reid were in favor of this project since there was a way to move the energy up and down the line. NV Energy and LS Power's plans contain no power substations. In order to tap into the kind of line NVE and LSP will have it will cost about \$80 million. Vaughn is requesting permission to look into making sure this disconnect doesn't exist. Vaughn would like to believe that our Congressional Delegation believes these are going to go in and they've been telling us

this is going to happen. If approved, this letter will be hand carried to our delegation and Vaughn will sit down with their staffs to work this out. If we have solar or biomass or any type of energy there really won't be a way to export it if this disconnect is true. Substations are what make renewable energy possible for rural Nevada. The big companies have failed to include the substations in their planning efforts and this issue needs to be kept on the front burner of our Congressional Delegation. **Ronda made a motion to approve the letter; seconded by Tommy. All voted in favor.** d) Invitation for Connie Simkins to appear and speak before the Nuclear Waste Technical Review Board in Dulles, VA, on October 26, 2010—**Tommy made a motion to approve; seconded by Ed. All voted in favor.** e) Grant application for \$12,000.00 of oversight funds to the City of Caliente for Flood Insurance Rate Map Analysis—Mayor Keith Larson advised that this will help the residents of Caliente. Currently, insurance rates have gone from \$300 to \$1,800 per year. The photos taken were done so after the 2005 flood and it shows a great deal of sediment. Since then, 6-8 feet of the sediment has been removed. It is hoped that the analysis from Sunrise will show that they qualify for better flood map ratings from FEMA. It has been devastating since FEMA came out with the flood maps; those who already had flood insurance were grandfathered in but several didn't have it. Caliente is asking for a re-draw of the map. Everyone in Caliente now falls in the flood zone. **Ronda made a motion to approve; seconded by Tommy. All voted in favor.**

### **#20-GRANTS**

Phyllis Robistow presented these items. a) Update—Phyllis presented updates to the Open Space Plan for review. A Needs Assessment was conducted two weeks ago; it was very well attended. November 29 will be the "wrap up" meeting. LC has been notified that the State will no longer sell bonds of any kind, including Question 1 or Commission on Cultural Affairs. Toni Pinkham received a new walk-in freezer from Three Square; this is a \$10,000 project fully funded by this entity. The ARRA funds will be deducted from a current check so the County will not need to worry about issuing a reimbursement check. Toni has been awarded, by NDOT, a new minivan. Unemployment for LC is 12.8% as of the end of August. b) Southern Nevada Public Lands Management Act funding agreement for Echo State Park—There is a rumor that State Parks might be closed by vote of the Legislature this spring. We currently have a grant for Echo. If the park is closed, the project can't be justified and the funding would have to be put on hold. On-hold status will result in the majority of the funds previously obligated for the project by the IGO/agreement/task order being deobligated and moved down the list to the next priority within the category. If the project becomes viable again, we would have to request the funds again. Phyllis is asking the Board members to let the Legislature know how important these parks are to the rural economies. Ronda suggested the Commission send a letter of support to the Legislature. No action is taken. c) Request from Rural Nevada Development Corporation to sponsor their annual CDBG housing rehabilitation grant request for 2011-2012—**Tommy made a motion to approve; seconded by Ronda. All voted in favor.** d) Pay increase for Phyllis Robistow, County Grants Administrator—Phyllis has worked in the grants position for 8.5 years and she has taken on many additional duties in the last few months. Phyllis advised she has done a good job getting grants as well as keeping them. Phyllis discussed her various duties. It has been more than two years since she got a raise. Bill asked if there isn't a freeze on raises right now. Ronda asked if anyone else who is non-union has received a raise. Cory Lytle was given a raise as he took on an entire new department in addition to the existing one. Phyllis commented that the Board needs to pay attention when they hire people; she's been her for 10 years and only received \$38,000 per year. Cory Lytle was recently hired, with no experience, at over \$50,000. Tommy agreed that Phyllis deserves a raise. Bill commented that Phyllis should be up there with the rest, and the County has been hiring people at \$50-60,000. Every time the Board has hired someone at a significantly higher rate Phyllis feels she's been slapped in the face. Paul commented that the Board worked very hard to balance the budget and they Board feels the burden of the inequality of the pay raises that have been given. Paul asked that the Board wait until the next budget cycle to start giving pay raises. Phyllis responded that the Board opened the door with giving Cory a pay raise. Paul responded that the pay increase was a direct result of a layoff and Cory taking over another department. Connie Simkins commented that she was hired at the bottom rung as well and she hasn't asked for more money. Bill reiterated the question as to whether there is a pay freeze on or not. Cory cited that he will be requesting an adjustment in pay for his department in a later agenda item. Ronda commented that once this is approved, the Board will have to give everyone a pay raise. The money simply doesn't exist in the budget. Bill commented that when he was Assessor he was given the Planning Department with no increase. Phyllis has been doing a great deal of extra work since Clint Wertz began having some problems last spring. Phyllis did the work because it had to be done. A couple of weeks ago Phyllis had to attend the Needs Assessment; this wasn't her project but there was no one here to take care of it. **Tommy made a motion to give Phyllis a**

**\$1,280 raise (this is \$1,280 total to be spread out over the remaining four months); seconded by Ed.** Cory Lytle stated if Phyllis is doing a bunch of Planning work it can be paid out of Planning. Ronda said that she thinks everyone in all of the different departments does a great job; she believes everyone takes on extra work. Everyone in this building has the right to the same opportunity with the same reasoning that they work very hard. Ronda advised the Commission hasn't had a raise for a long time either and they work really hard, too. Phyllis helped the City of Caliente a great deal with grants, especially with the SNPLMA projects. Mayor Keith Larson said that the City appreciates the work that Phyllis has done for them and agrees with the motion. Ed asked if there is any way to give Phyllis a severance bonus as opposed to a pay increase. Ronda asked if the County will now give bonuses to everyone that retires. **Bill and Paul are opposed. Motion carries 3-2.**

#### **#21-PLANNING DEPARTMENT**

Cory Lytle presented these items. a) Update—None offered. b) Resolution updating Planning Department fees to address implementation and agreements with the Title 15 Administrator and related duties—This item is tabled to the next meeting. c) Request for qualifications for the outsourcing of certain Planning Department projects and also possible large-scale Building Department projects, or portions thereof—This outsourcing includes land use reviews. **Ronda made a motion to approve; seconded by Ed. All voted in favor.**

#### **#22-BUILDING DEPARTMENT**

Cory Lytle presented these items. a) Update—Cory offered a quarterly update. Panaca Pioneer Park is on hold due to the Rachel issues. The list of demands that was given to the County by David Day has been met by the County. PVEC is happy. Everything is worked out. Daniel drove to Rachel to sign the lease agreement with PVEC. Daniel contacted Mr. Day letting him know that everything was done and the deed was ready to be signed. Daniel arranged to have a notary there. Mr. Day was offended that he only had six hours notice and now refuses to sign the documents. Phyllis will contact SNPLMA concerning separating the Panaca and Rachel grants. Daniel advised that everyone else in Rachel has been great to work with. Cory continues to work on the land trade with Panaca Farmstead. A funding source for parcel maps is needed. The energy upgrade to the Courthouse continues to move along; Sunrise Engineering has been here to help create a floor plan. Offices and rooms have been prioritized for service. A split zone system is what will be put in. Richard has done some maintenance on the Museum and Library; a leak was repaired. There is a leak in the roof at the Million Dollar Courthouse; mold is starting to grow in the walls. Cory is working on getting this fixed. PLUAC approved the draft Public Lands Policy Plan, and there are a few corrections and additions that need to be made. Cory offered an update on permits that were issued this year. b) Realignment of contract with Cory Lytle and Dawne Combs for addressing the Planning and Building Departments—Two weeks ago an agreement was signed for Cory that included a 10% raise. Cory is proposing to reduce the rate to 6% with the remaining 4% being paid to Dawn for all of the extra work she's doing. There would be about \$600 left over in the same Planning fund that could be used for some of the work Phyllis does. **Tommy made a motion to approve the realignment of salaries (6% increase for Cory, 4% for Dawne); seconded by Ed.** Bill commented that he still doesn't agree with the raises. **Bill is opposed. Motion carries 4-1.** c) Business License Department update. 2011 Business Licenses and License Directory—Dawne Combs compiled this directory. NAICS codes have been included. There are about 223 businesses this year. No action is taken.

#### **#23-SOLAR LEGISLATION**

There are no updates at this time.

#### **#24-PUBLIC COMMENT**

Paul called for public comment. Connie Simkins presented a binder of pictures from a trip she took to the top of Table Mountain on September 19. Connie put this together as this is a mountain that is dear to her, she was raised there. She would like to post them on the County's website as well as Nuclear Oversight. Connie would like to keep the wind generators from being placed there; it is precious, it is multiple use, and it should stay that way.

#### **#11-OFFICER/DEPARTMENT HEAD REPORTS**

**COMMISSIONER TOMMY ROWE** presented a map from the Tri-County meeting concerning a possible realignment corner on the northeast side of the UPRR corridor on the Carp, NV, side. LC will be given 300 feet on each side of the railroad.

**#25-ADJOURN**

There being no further business for the Board to attend to, **Ronda made a motion to adjourn the meeting at 3:36 p.m.; seconded by Bill. All voted in favor.**

Attest: \_\_\_\_\_ Approve: \_\_\_\_\_

DRAFT