



LINCOLN COUNTY BOARD OF COMMISSIONERS

July 18, 2011
Commission Chambers
Lincoln County Courthouse
181 Main Street
Pioche, Nevada

Commissioners

Paul Mathews
Kevin Phillips
Tommy Rowe
Paul Donohue
Ed Higbee

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

Chairman Tommy Rowe called the meeting to order at 9:10 a.m. Clerk Lisa Lloyd called the roll.

PRESENT: PAUL MATHEWS
KEVIN PHILLIPS
TOMMY ROWE
PAUL DONOHUE
ED HIGBEE

LISA LLOYD, Clerk
DANIEL HOOGE, District Attorney

There is a quorum present and the agenda was posted on 7-12-11. The Invocation is offered by Paul D. and Kevin led the Pledge of Allegiance.

CONSENT AGENDA

- 2* Approve/Deny minutes of the July 5, 2011 Regular Meeting.
- 3* Approve/Deny accepting Grant and Cooperative Agreement for Pioche Park Phase II in the amount of \$925,500.00. No match required.
- 4* Approve/Deny Notification of Grant Award from Aging and Disability Services Division for transportation in the amount of \$11,010.00. No match required.
- 5* Approve/Deny Intrastate Interlocal Contract for Public Health and Clinical Services. This is a cost of \$2,281.00 per month with a total contract not to exceed \$27,372 per Fiscal Year, for a total of \$54,744.00 for the two year period.
- 6* Approve/Deny Notification of Grant Award from the Aging and Disability Services Division Homemaker in the amount of \$37,200.00. Required match of \$5,106 from the Payment in Lieu of Taxes (PILT) fund.
- 7* Approve/Deny payment to Quad State Local Governments Authority in the amount of \$1,432.00 for Fiscal Year 2011/2012.
- 8* Approve/Deny Original and Renewal Business Licenses with staff recommendations (an itemized list of business licenses is available for public review in the Building Department prior to the meeting).

Paul M. made a motion to approve the consent agenda minutes, with the exception of Items 2 and 5; seconded by Kevin. All voted in favor.

#5-PUBLIC HEALTH CONTRACT

The Board agreed to table this item and address it on Thursday with Mike Willden. Daniel advised that this can be discussed under the agenda that has been posted for Thursday.

#9-VOUCHERS

Recorder/Auditor Leslie Boucher presented the vouchers and cash balance report. Leslie received a bill from Parole and Probation for \$878.53, but she didn't process it as it will be addressed on Thursday. General County has a balance of \$438,383.43 with estimated expenditures being \$270,269.24. This leaves General County with a balance of \$168,114.19. Transportation has a cash balance of \$27,039.35 with estimated expenditures being \$5,645.25. This will leave Transportation with a balance of \$21,394.10. Nutrition has a cash balance of \$3,388.73 with estimated expenditures being \$14,924.86. This leaves Nutrition with a negative balance of \$11,536.13. Detention Center has a cash balance of \$10,632.17 with estimated expenditures being

\$115,933.45. Detention Center will have a negative balance of \$105,301.28. The payment for June hasn't been received. Solid Waste has a balance of \$60,621.52 with no estimated expenditures. Solid Waste Fund owes Water Plan/Development Fund, Fund 87, \$27,484.15. Taxes aren't apportioned until the end of August. Airport has a balance of \$587.33 with estimated expenditures being 3,084.48. This leaves Airport with a negative balance of \$2,497.15. Planning has a balance of \$18,473.93 with expenditures being \$7,731.90. Planning will have a balance of \$10,742.03. **Paul D. made a motion to approve the vouchers as presented with the exception of the Mountain Mercantile and LC Telephone vouchers; seconded by Ed. All voted in favor. Ed made a motion to approve the Mountain Mercantile vouchers; seconded by Paul M. Kevin disclosed that he is part owner of Mountain Merc, and he abstained from all discussion and the vote. Motion carries. Paul M. made a motion to approve the LC Telephone System vouchers; seconded by Ed. Paul D. abstains from discussion and the vote pertaining to this issue as he is employed by LC Telephone System. Motion carries.**

#10-OFFICER/DEPARTMENT HEAD REPORTS

DISTRICT ATTORNEY Daniel Hooge discussed the changes in the Open Meeting Law, AB 59 and AB 257. Public comment is required to be on the agenda at the beginning and the end of the meeting or public comment is required after each item, before the vote; the Board has to do one or the other. Daniel has been working with Denice Brown on changes to the agenda. AB 59 has changed quite a few of the requirements of the Board. The law now states that a board is "any two board members" that talk together about any item of concern to the board. There is a \$500 civil penalty for anyone that is part of the violation, even if you're there but don't participate you are part of the violation. If anyone gets written up by the AG, then it has to be on the next agenda and mea culpa must take place at the meeting. Anytime hiring takes place it doesn't count as a character discussion. Daniel will send a memo to all board members advising of the changes. Paul D. commented that this is the stupidest change and he simply can't comprehend why this was put into law. **EMERGENCY MANGEMENT COORDINATOR** Rick Stever advised that they been working on the Hazard Mitigation Plan updates; this will be on the next agenda. **GRANTS ADMINISTRATOR** Shawn Frehner advised that the airport has gone out to bid. A drop ceiling will be put in the basement to cover the pipes from the HVAC system. The system will be tested on Wednesday. Shawn continues to work on obtaining storm windows for the courthouse. The Detention Center system is moving along. Shawn met with Sheriff Kerry Lee concerning the water heater and whether or not it can be paid for through the grant. Shawn commented that it is possible to use the grant money to replace the water heater, but it has to be high efficiency. Cory and Shawn attended a park upgrade meeting; a contract has been entered into with Jim Wilkin Trucking, who will start on August 1. Demolition will start in Panaca, but then they will move to Rachel to complete that project prior to finishing Pioneer Park in Panaca. There was only one bidder on the Million Dollar Courthouse. Shawn has been working on negotiating the contract, but they aren't willing to work on the roof only. Shawn is looking at going back to SHPO to do another scope change. All of the scope will be changed to include the roof. Plan changes are being made to save money on the retaining wall, which means they have to go through the whole approval process again. Shawn continues to work hard on getting this project to move forward in the limited amount of time they have. If the approval on the retaining wall it not received, the company will charge \$258,000 to do the roof and parapet. The other alternative is to go out to bid and do a quick version of a bid, but Shawn is concerned about the time frame and whether or not there will be other contractors who will bid it. Shawn believes the wall will proceed with the changes; she doesn't know how much of the wall will be done. The contractor knows they have us pinned against a deadline, but without it, we lose the entire grant. Shawn isn't comfortable giving them a contract for a wall that hasn't been approved. Best case scenario, all changes and plans get approved and the bid negotiation will work. Paul D. isn't comfortable giving the contractor that type of contract, where they can earn \$258,000 for the roof only. Paul D. is fine with going out for another bid. At this point, the most important issue that must be addressed is the roof. Paul D. thinks we need to tell the contractor thank you, but "see you later". There are hungry contractors that are afraid of this project as the building is falling apart as we speak. The required match is \$35,000. Whatever funding is spent will be matched with the \$200,000 grant. If it is possible to get a roof within the required time frame, the money can come from the PILT match fund. This will give enough time for bid. Shawn is asking for a scope change as well as another month-long extension. **LC NUCLEAR OVERSIGHT PROGRAM COORDINATOR** Connie Simkins volunteered to provide an affidavit for the North Creek Road. Southern NV Water Authority has announced their draft EIS; BLM will host nine meetings to seek input on the pipeline plans (Aug 2-Pioche, Aug 16-Alamo). US Fish & Wildlife has put out an agreement they've reached with the Center for Biological Diversity and the Wild Earth

Guardians that they will consider 54 endangered species in NV. By 2015 USFW must either come up with proposed rule that implements listing of each things or justification that each species is not warranted. Secretary Salazar has announced that they will do another layer for the PEIS for the solar energy zones as they've had over 9,000 comments. LC wants to continue to be a cooperating agency. LC must send a letter by July 20 to maintain our status and stand as requesting the Delamar and East Mormon zones be dropped from consideration. Toquop acreage has been doubled, which is right in the heart of the range area. LC has a lot to be proud of for the tour that Cory set up and Tommy coordinated over Wilson Creek and down the other side. Connie has received very positive feedback. Connie presented a map and talking points presented by Jeremy Drew, Resource Specialist. August 8-9 in Ely there will be a continuation of our efforts to do something about the pinyon-juniper; the meeting will be presented by NV PJ Partnership.

#11-HIGHWAY COMMISSION

This item is covered under separate agenda.

#12-NEVADA TEST SITE FIRE TRUCK

Rick Stever advised that the previous Emergency Manager, Marge Gunn, obtained a fire pumper from NV Test Site. It has been in Alamo, but they've decided they no longer have a use for it. Rick was told that if this pumper could be donated to Kanarrville, UT, then arrangements could be made for a mechanic to work on Pahrangat Valley Fire Department equipment. Rick doesn't see a need for this pumper. **Paul D. made a motion to commence the process to donate the truck to Kanarrville, UT, in exchange for mechanic work; seconded by Paul M.** Rick advised that Alamo will remove their equipment prior to sending the truck on. Tommy suggested that the hoses and other equipment could be used on the Rachel fire truck. **All voted in favor.**

#13-LINCOLN COUNTY FIRE DISTRICT

This item is covered under separate agenda.

#14-PANACA FIRE DISTRICT

This item is handled under a separate agenda.

#15-ORDINANCE #2011-04

Kevin made a motion to approve the ordinance modifying 7-2-1 "Curfew Hours Designated" of the LC Code, redefining the hours of curfew for juveniles; seconded by Ed. All voted in favor.

#16-WESTERN COUNTIES ALLIANCE

Ken Brown presented an update from Western Counties Alliance concerning public lands issues. Ken discussed Secure Rural Schools (SRS), PILT, geothermal, Secretarial Order 3310, RS 2477, and Wild Horse Burro. SRS is being phased out and the final payment will be received in 2012. SRS will be reauthorized for a five year phase out process. Full funding phase of PILT will be phased out in 2012 as well. WCA is gearing up for this. 49 of the 50 states receive PILT. There are ongoing discussions about changing the formula for PILT. The distribution formula is going to be changed for geothermal. The budget for the Secretarial Order was eliminated; it's for wild lands (formerly known as "wilderness"). However Secretary Salazar is going after more funds for wild lands. Ken discussed RS2477 roads and the need for at least one, two being preferable, affidavit showing that roads were in use prior to 1976. WCA is working to convince the BLM, on the Wild Horse Burro program, to amend the charter on the program to include a county elected official as part of the 9 member board. WCA is opposed to the amendments of the clean water act. Ken recommended that the membership costs be reduced from \$2,500 to \$2,300. Ronda Hornbeck commented that the RS2477 affidavits still have to go through the court process. Ken responded that it doesn't go through the courts unless quiet title is done. Ken commented that BLM might say that a recordation package isn't valid and they may require court action. Ken cited that a good job of inventory and recordation makes the risk worth it. Recordation, quiet title, recordable disclaimer, and Title 5 are the options to handle RS2477 roads. Nye County is going full steam ahead on the quiet title actions. Kevin is in favor of doing recordation. There is some discussion about putting a committee together to get these roads worked on. No action is taken this is an update only.

#17-GRANT

Paul M. made a motion to approve the grant match funds in the amount of \$3,770 from Fund 12 for a paratransit mini van from NV Department of Transportation; seconded by Ed. All voted in favor.

#18-TOQUOP ANNEXATION

Dylan Frehner, LC Water District, and Daniel Hooge addressed this item, which concerns Mesquite and C&O Holdings, LLC, to continue the stay on legal proceedings for continued negotiation or allow the stay to expire and proceed with litigation. LC stipulated to stay the litigation until July 31 so that they could negotiate key components of the interaction with the City of Mesquite. Daniel commented that they are bottlenecked right now. An agreement with Virgin Valley Water District needs to be worked out. Dylan advised that water is the biggest issue that must be worked out so that the other issues can fall into place. Paul D. stated that the biggest bottleneck is whether or not the annexation is legal. Paul D. isn't in favor of any more extensions. Chris Armstrong, C & O Holdings, requested the extension to stay due to the changes in Mesquite City Council members and City Management. Paul D. doesn't want annexation, but if a judge decides it's legal it will have to be worked out. Paul D. feels the resolution of this issue needs to be handled in the courts right now. Daniel recommended a 30 day extension. The county law suit is separate from the decision that will be worked out with Virgin Valley Water District. Paul M. agreed that the county could continue and pursue a court decision. Dylan recommended, as a private citizen, that there is a feeling that they also want a legal opinion. If that's the case, Dylan recommended that stay, figure out what the City wants to do, and if they want a legal opinion the county and city should seek it together. Paul D. is in favor of working with the VVWD, but reiterated the need to know if the annexation is legal. Wade Poulsen, LCWD General Manager, has met with the Mayor Elect and newly elected Council; this was before the election. In those conversations, these people were in favor of seeing if the annexation is legal. Wade suggested that the Board reach out and contact the Mesquite Mayor to request a meeting concerning this issue. Wade believes they are in favor of having the courts decide the legality of the annexation. Chris stated that the new people on the board see a process in the works and he doesn't believe they want to ruffle the process. Chris commented that all of the attorneys have been meeting to try and move this forward. Chris offered to get the elected side together. **Ed made a motion to extend the stay for 30 more days; seconded by Kevin. Paul M. stated he would like to see the stay lifted so that things can progress and we can obtain a resolution. Kevin, Ed, and Tommy vote in favor. Paul D. and Paul M. are opposed. Motion carries 3-2.**

#19-PRIVATE ACTIVITY BOND CAP

Paul M. made a motion to approve the resolution of the Board of Commissioners of Lincoln County providing for the transfer of the county's 2011 private activity bond cap to the NV Rural Housing Authority; seconded by Paul D. All voted in favor.

#20-CERTIFICATE OF TRANSFER OF VOLUME CAP

Paul D. made a motion to approve the Certificate of Transfer of Volume Cap in the amount of \$177,777.70; seconded by Ed. All voted in favor.

#21-2011 LEGISLATIVE FISCAL IMPACTS

This item is tabled. No action taken.

#22-SANBORN CONTRACT

Kevin made a motion to approve the addendum to the contract with Sanborn for orthophotos; seconded by Paul M. All voted in favor.

#23-LINCOLN COUNTY COURTHOUSE BOILER

There is no minimum bid price on the boiler. Paul M. asked if the boiler could be used in Panaca at the old elementary school. Richard Simpson advised that the boiler is fuel fired and it consumes a great deal of energy; it won't fit into the available space at the elementary school. Richard spoke with O'Flaherty's in Ely, the company that installed it, but they don't have any interested customers. **Paul M. made a motion to approve the sale of the LC Courthouse boiler; seconded by Kevin. All voted in favor.**

#24-2000 FORD TAURUS

Minimum bid will be about \$1,000. Paul M. commented that the airport was looking for a courtesy car and asked if this car would work. Yes. When people land there from out of state they could rent the car. Paul D. asked how much the insurance would be. **Paul D. made a motion to table this item; seconded by Ed. All voted in favor.**

#25-PANACA SHARED USE PATH COOPERATIVE AGREEMENT

Paul D. commented that he's looked at this and he's very nervous about taking it over. Paul M. spoke with Steve Chouquer, who had no issues with taking care of it. Paul D. commented that water damage is a possibility and it will wipe out sections of the road. Paul D. stated that replacement programs need to be negotiated. Cory Lytle advised that the county committed to maintenance on this path in 2007. Cory has talked to both Superintendent Holton and Steve Hansen of LC School District; they'd like to help as much as they can, but LCSD doesn't have money to lend towards helping. Steve Chouquer of the LC Road Department doesn't believe that road tax funding can be applied towards the maintenance. Cory isn't sure that the county can back away from this agreement. Paul D. asked if a letter was ever written or went to NDOT. Cory commented that the Board wrote a letter, but it simply says the county supports the project, not that the county will maintain it. Pete Peterson committed that the LC School District would work on the maintenance. Cory would like to work on softer language in the agreement. Paul M. has an issue with the amount of liability that NDOT wants to put on the county. Paul M. suggested that they sit down and talk to NDOT to discuss the terms of the agreement. Paul M. doesn't have a problem with the maintenance as long as NDOT backs up on the liability issues. Cory and Daniel will work together on this issue. No action is taken at this time.

#26-LINCOLN COUNTY PERSONNEL POLICY

Daniel advised that he drafted changes to the travel expense policy; tipping provisions were removed. Breakfast, lunch, dinner and hotel were reworked. Daniel was going to work changes on part time/full time, but the changes aren't needed and he's talked to Recorder/Auditor Leslie Boucher about this. Daniel continues to work on this document. No action is taken.

#27-COMMISSIONER REPORTS

COMMISSIONER TOMMY ROWE reported that Local Elected Officials Consortium has been sued; pursuant to the county's agreement with them anytime there is a law suit it comes with certain liability. Each county involved with the Southern NV Workforce Investment Board is liable. It appears that they will settle for about \$35,000, and if they can't find the funding elsewhere, LC's portion will be \$42.50. This bill will not be due for about 18 months. Tommy cited that Kevin will take the lead on the RS2477 roads. **COMMISSIONER ED HIGBEE** stated that Airport Authority and Senior Nutrition are in the red financially. Ed will work on solutions for this. **COMMISSIONER PAUL DONOHUE** wants to be involved in any meetings that involve the Toquop Annexation. Paul D. is very nervous about allowing the developer to line up meetings. Paul D. and Daniel will set up a time to meet with Mesquite Mayor. Paul D. discussed the Eagle Valley road. Technically this is a county road, and the state had funding to chip/seal it. There is a three mile zone that didn't get chipped as they ran out of chips. It was estimated that the county would have to pay \$60,000 to do the road. Paul D. received a call from Mike Free about the three miles and Paul is wondering if the state will offer to do the three miles as they will now be chipping another area in the county. If it is less than \$60,000 Paul D. will give the state approval to finish the three miles. Paul D. discussed the opportunity to establish counts on the roads; he's been working on making contact with Jan Peters about these roads. Paul D. has purchased all of the equipment to broadcast the Commission meetings. Paul D. is working on getting a separate circuit for it. LCTS wants control over the circuit so they can control speed.

#28-PUBLIC COMMENT

Tommy called for public comment. Jean Lucht discussed Item 5 and stated there are some questions that the Board may want to ask Mike Willden on Thursday. This contract is nearly identical to the one that's been signed for the last two years. Jean cited that the county could be billed if her office is unable to collect enough money through billing. Jean and Barbara have both had billing training and they check incomes. However, income is really low in LC and her office serves these people. Jean suggested that Item 5 be addressed at Thursday's meeting with Mike Willden. 90% of the people that Jean cares for a tier 1, or donation.

#29-ADJOURN

There being no further business for the Board to attend to, Tommy adjourned the meeting at 1:34 p.m.

Attest: _____ Approve: _____

DRAFT