



LINCOLN COUNTY BOARD OF COMMISSIONERS

January 3, 2012
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 9:03 a.m. Clerk Lisa Lloyd called the roll.

PRESENT: KEVIN PHILLIPS
ED HIGBEE
TOMMY ROWE
PAUL DONOHUE (leaves the meeting at 1:00 p.m.)
PAUL MATHEWS

LISA LLOYD, Clerk
DANIEL HOOGE, District Attorney

There is a quorum present and the agenda was posted on 12-27-11. The Invocation is offered by Kevin and Paul M. led the Pledge of Allegiance.

#2-PUBLIC COMMENT

Tommy called for public comment. None offered.

CONSENT AGENDA

- #3 For Possible Action: Approve/Deny minutes of the December 19, 2011 meetings.
- #4 For Possible Action: Approve/Deny reappointment of Angie Wright and Brad Loveday to the Alamo Town Board.
- #5 For Possible Action: Approve/Deny reappointment of Spencer Hafen and Caralee Frehner to the Panaca Town Board.
- #6 For Possible Action: Approve/Deny reappointment of John Crosthwait, Robin Simmers, and Vern Holaday to the Fair & Rec Board.
- #7 For Possible Action: Approve/Deny reappointment of Vaughn Higbee and Ed Higbee to the Airport Authority.
- #8 For Possible Action: Approve/Deny reappointment of John Christian and Phyllis Robistow to the Pioche Town Board.
- #9 For Possible Action: Approve/Deny reappointment of Kathy Hiatt, Peggy Hone and Suzanne Reifsnyder to the Library Board.
- #10 For Possible Action: Approve/Deny reappointment of Kevin Phillips and Vaughn Higbee to the Flood Control Board.
- #11 For Possible Action: Approve/Deny reappointment of Jim Cole, Cory Lytle and George E. Rowe to Game Management Board.
- #12 For Possible Action: Approve/Deny reappointment of Ed Maloy, Wade Poulsen, William T. Lloyd, and Gordon Wadsworth to the Debt Management (Bond) Commission.
- #13 For Possible Action: Approve/Deny reappointment of A. Paul Donohue and Gordon Wadsworth to the Board of Equalization.
- #14 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; seconded by Kevin. Ed was absent for the vote. Motion carries. There is some discussion about board appointments. Do the Commissioners need to abstain? Yes. The Board decides to address Items 7, 10, and 13 separately. **Paul M. made a motion to appoint Vaughn and Ed to Airport; seconded by Paul D. Ed abstained. Motion carried. Paul M. made a motion to appoint Kevin and Vaughn Higbee to Flood Control; seconded by Paul D. Kevin abstained. Motion**

carried. Paul M. made a motion to appoint Paul D. and Gordon Wadsworth to Board of Equalization; seconded by Ed. Paul D. abstained. Motion carried.

#10-VOUCHERS

Recorder/Auditor Leslie Boucher presented the vouchers and cash balance report. General County has a balance of \$525,959.01 with estimated expenditures being \$200,126.48. This leaves General County with a balance of \$325,832.53. Transportation has a cash balance of \$5,046.34 with estimated expenditures being \$3,370.21. This will leave Transportation with a balance of \$1,676.13. Senior Nutrition has a balance of \$1,148.01 with estimated expenditures being \$8,431.87. This will leave Senior Nutrition with a negative balance of \$7,283.86. Detention Center has a negative cash balance of \$199,972.23 with estimated expenditures being \$93,260.10. Detention Center will have a negative balance of \$293,232.33. November payment hasn't been received and December hasn't yet been billed. Solid Waste has a balance of \$40,567.04 with estimated expenditures being \$21,161.37. Solid Waste will have a balance of \$19,405.67. Solid Waste owes LC Water Special Projects, Fund 87, \$27,484.15. Airport has a balance of \$3,471.52 with no estimated expenditures. Planning has a balance of \$26,643.88 with expenditures being \$2,649.48. Planning will have a balance of \$23,994.40. **Paul M. made a motion to approve the vouchers as presented; seconded by Paul D. All voted in favor.**

#16-OFFICER/DEPARTMENT HEAD REPORTS

EMERGENCY MANAGEMENT COORDINATOR Rick Stever discussed Emergency Management and reminded the Board members to review the evacuation plan. Rick advised that 50% of the funds for Emergency Management come through a DOE program; these funds are dwindling. DOE/EEPWG would like to know if the county has any projects that will take several years to complete. The county has received a great deal of funding through this program and most of it has gone to the Sheriff/communications. The Sheriff has a proposed communication plan that will be put in place this coming year. Ely Emergency Management used their DOE contributions to purchase an emergency operations office building. **CLERK** Lisa Lloyd reminded the Board members to file their Financial Disclosures and Contribution/Expense reports by January 15; these must be filed electronically with the Secretary of State. **PLANNING/BUILDING DEPARTMENT COORDINATOR** Cory Lytle stated that he is working through BLM on transfer site renewals. Cory attempted to patent these transfer station sites, but the only one that is being patented is Alamo. They want renewals on all the other sites and are requiring that Beaver Dam and Mt. Wilson sites be fenced. Cory is working to create shape files for these sites. Cory will continue to work on this issue. The Right of Way (ROW) renewal on the Gregerson Basin site is due January 24. Cory asked if we should relinquish the ROW on this site or try to clean it up and maintain the ROW for the future. Cory stated that this site can be cleaned up with a pick up truck. This issue will be on the next agenda for action. ROWs to the transfer stations are being worked on. Cory discussed the Mathews drop structure and the portion that is located in the Wendell Mathews Estate.

#17-RESIGNATION

Paul D. asked what the law is concerning the authority of a deputy clerk/treasurer. Paul D. feels this vacancy needs to be advertised. There is some discussion concerning how this vacancy will be handled, including temporarily appointing the deputy as Treasurer. There will be two items on the next agenda: determination of process to fill the vacancy and to temporarily appoint the deputy as Treasurer until the Board formally appoints a Treasurer. Whoever is officially appointed will fill the Treasurer position until January 2013, after the 2012 election. **Paul M. made a motion to accept the resignation letter from Kathy C. Hiatt, LC Treasurer, effective 1-31-12; seconded by Ed. All voted in favor.**

#18-HIGHWAY COMMISSION

This item is handled under separate agenda.

#19-BUREAU OF LAND MANAGEMENT ROAD AGREEMENT

Ty Chamberlain is present from BLM and reviewed the road maintenance agreement. Paul D. stated that he thought this issue was still being discussed and was surprised to see the approval on the agenda. Kevin agreed with Paul D. Kevin was under the impression that this was going to be discussed amongst the members of the Board today; he isn't opposed to moving forward with this today. Paul D. stated that he doesn't know where the County Road Supervisor is at with this agreement; it is unknown if he's seen the agreement or has any changes.

If this agreement isn't approved, then the BLM will pursue the trespasses against the county. There is some discussion about whether or not the Road Department (RD) wants to just pay the fines as opposed to being governed by the agreement. Paul M. discussed the history of how this agreement came to be and agreed that the Board needs to allow Steve Chouquer time to review the agreement. Ty responded that he has no issue with allowing Steve to look at this prior to approval. Ty advised that the amount of work that can be done per type of road may have changes. Otherwise, this agreement is in keeping with how the RD is currently handling maintenance. The county is working on accumulating an accurate inventory list of roads as well. Other counties don't have agreements like this with BLM and they are concerned about being tied. Peers of the RD have advised against participating in this agreement with BLM. LC has a list of infractions and this is the point we've come to. The agreement doesn't appear to tie the county's hands, but Paul D. wasn't aware if the RD is in agreement with this proposed maintenance agreement. Ty stated that other counties have this agreement in place; it's at the national level and this agreement is boiler plate. Ty stated that this is a gentleman's agreement and is non-binding. Ed suggested that the Board hear about other perspectives for this agreement. Kevin stated that the other counties are under the same obligations we are; the agreement simply puts in black and white that which already exists in black and white. This is a decision of the appellate courts. There is continued discussion concerning the agreement and possible court decisions. Ty stated that he believes that BLM is protecting the people that don't have the ability to speak up and say something. The agreement doesn't tie anyone's hands nor does it narrow the focus of the RD. If a road washes out today, RD can repair it today. This agreement simply puts BLM on notice and makes them aware of what is being done to the roads. BLM's official policy is that they can't handle RS 2477; it's for the courts to decide. **Paul D. made a motion to table this item to the 1-17 meeting so that he can review it with the RD supervisors; seconded by Kevin. All voted in favor.**

#20-LINCOLN COUNTY FIRE DISTRICT

This item is handled under separate agenda.

#21-LIQUOR BOARD

This item is covered under separate agenda.

#22-DEPARTMENT OF MOTOR VEHICLES/LC ASSESSOR SERVICE TO PAHRANAGAT VALLEY

A letter was received from Pahrnagat Valley residents concerning the suspension of services from the DMV/Assessor's Office. Ed read the public request from the residents asking that DMV/Assessor's Office continue the monthly visits to Alamo. This is a great service to the people in the valley and the residents are very concerned about the discontinued service. Ed asked that the Board determine why this is being stopped and who is responsible for it; a campaign needs to be launched to get this to continue. There are about 220 signatures on the letter, and Tommy suggested that this letter be presented to the Assessor's Office. Tommy stated that he believes this was an office decision, not DMV. No action is taken on this item.

#23- DEPARTMENT OF MOTOR VEHICLES/LC ASSESSOR SERVICE TO PAHRANAGAT VALLEY

Paul D. made a motion to approve a letter to DMV and LC Assessor, including a copy of the signed letter by Pahrnagat Valley residents; seconded by Kevin. There is some discussion about whether or not this decision came from the state of from the Assessor's office. There isn't a dedicated line for use in Alamo, but the information can be received in Alamo and taken to Pioche to be entered into the computer. **Ed will write the letter. All voted in favor.**

#24-ORDINANCE #2011-05

This is the time and place set for public hearing on an ordinance for authorization for the Building and Planning Department (PBD) to issue Misdemeanor Citations. Cory Lytle was approached several months ago about the need for the county to have better control over issues pertaining to Building and County code. This ordinance gives the PBD the opportunity to approach individuals about the violations and to address the issues. This ordinance allows for the enforcement of the provisions of Title 11 and provides for prosecution. PBD can issue a red tag during the building process; most of the time issues are alleviated via discussion and a red tag isn't needed. Paul D. stated that he brought this issue to Cory. Paul D. was approached by the Assessor's office, who was out assessing and noticed that a new building had been erected on a piece of property without permits being issued. Paul D. stated that he feels this went too far in the creation of the ordinance and potential for

issuing citations. Jenny Logan addressed the Board and asked what this ordinance entails. There are buildings on her property that have been there for 30 years; permits weren't issued for those. Jenny asked if people would be cited retroactively and charged accordingly. Jenny suggested that there be a start and end point to the issuance of citations. There are many buildings that have been in existence long before the current residents purchased the property. Jenny stated she has a permit for a building on her property, but the Assessor's office had no record of it. Jenny was given a huge increase even though a permit had been issued and it wasn't added to the tax roll. Jenny stated that it isn't the property owner's fault that PBD and the Assessor's Office aren't aware of what each other is doing; the citizens shouldn't be penalized for the lack of communication. Paulie Shields stated that a portion of her home, the garage, was part of her building permit in 2001. Paulie is being penalized through her taxes. Paulie asked if the Assessor can just go on your property to see if there is anything new? Paulie suggested that the Assessor call and make an appointment; it should be at the property owner's discretion, not the Assessor's. Paulie is being assessed 1/3 more now and it stems from building permits issued eleven years ago. The Assessor's Office reassesses the county every 5 years. Prior to building a significant structure, a building permit must be obtained. Jenny advised that the ordinance makes it sound like the Board is sending someone out to cite people regardless of time frame. Paul D. responded that the ordinance would be effective for the immediate future, not retroactive. The ordinance doesn't pertain to the reassessment of Alamo or add new taxes. The intent of the ordinance was to simply ensure that people followed the requirement to obtain building permits. Paulie asked how the public is supposed to know what requires a building permit. Paul D. suggested that something needs to be prepared outlining the requirements for building permits. Cory responded that the county adopted the International Building Code in 2005. The county has chosen the more practical code items in the books. The requirements for a building permit are listed, including exceptions; copies of this are located in the building department. Cory suggested that people call his office and they will help them determine whether or not a permit is needed. Paul D. stated he will not vote for this ordinance to make it a misdemeanor. Scott Lauzau stated he is concerned with pre-existing structures. Cory stated that this wouldn't be retroactive. Paul M. advised that on the opposite end of the spectrum, there are some blatant violators who thumb their nose at the requirement for a building permit. Kim Lee advised that he obtained a building permit 6 years ago and couldn't get anyone to return his call for inspection. Kim applied for a permit and tried incredibly hard to get the building checked; it didn't happen. Kim stated that we've gone from a building department that can't follow up to a department that can issue citations. Kim treasures the absence of government control over everything. Kim stated we do not want to be Clark County. Mike Prince agreed with Kim's statements. Mike doesn't see any problems with issuing the red tag as it gets people's attention. Mike commented that he knows the Assessor will assess for new structures on your property; if you build something, you pay for it. Mike stated that we don't want to become like Clark County. Paul D. discussed the problems with red-tagging. If the building is red-tagged, the PBD can't require that the building be torn down if it doesn't meet code. Most of the time the red tag is sufficient, but it doesn't work in all cases. Red tagging works during the building process, but not once the process is complete. There is some discussion about condemning buildings in relation to the red tag. John Crossthwait said you can buy property and call the power company to get power installed. You can build a home and it's possible that no one knows about it. John feels the PBD needs to have some control to cease certain activities. John doesn't feel that you should be able to get power without some type of occupancy tag. Cory responded that he is working to get this in place. Ed stated he just built a new house and he was required to get clearance to get hooked up; this was during the last few weeks. Daniel advised that the Assessor will contact people prior to going on their property to assess. If the Assessor is denied access, she has the ability to assess the maximum amount. Kevin suggested that a date be inserted into the first paragraph outlining the applicable start date of the ordinance. The public agreed to a fine, but not a misdemeanor citation. Paragraph 3 will be reworded to eliminate criminal references. Penalties will be assessed if the building permits are applied for "after the fact". Linda Lee asked where the PBD got their rules and regulations; did they get them from big cities? Linda asked what can be done to revise what's in the building code. The International Building Code was adopted for LC, certain portions were exempted as they are non-applicable to the rural areas. The Board tries to use common sense when approving the code and they try to respect everyone. Public nuisance would be completely exempt from building codes. There is a process in the statutes for public nuisance; Daniel outlined this. **Kevin made a motion to have this ordinance rewritten and scaled down as suggested by the citizens, to be addressed/approved at a future meeting; seconded by Ed.** Paul D. stated we don't need an ordinance. There is some discussion about what would happen if this ordinance isn't passed. Glennon Zelch stated that an ordinance is needed that allows the county to enforce rules and regulations. Keith Simmers stated that the permits aren't being inspected when

they're supposed to be. Tommy responded that this was years ago before we got the current building department. The Assessor's Office gets a copy of every permit. Ty Chamberlain advised that every PBD has the authority to revoke the occupancy of a building; if a person refuses, the sheriff gets involved. Ty questioned where this will start and stop if the county gets involved in code enforcement. This statute was very vague about penalties and enforcement; Daniel stated he isn't certain that the PBD could pass a complaint to his office to be prosecuted. There isn't anything as far as the code is written now that provides for enforcement. Kim questioned the total amount of people that absolutely refuse to be held accountable to the permit requirements. **Paul D. and Paul M. are opposed. Motion carries 3-2.**

#25-ECHO WEB USER ACCESS

Paul M. made a motion to approve Tommy and Ed (he will not have access) as the authorized officials for the Echo Web User Access change forms; seconded by Kevin. Paul D. was absent for the vote. Motion carries.

#26-COMMUNITY DEVELOPMENT BLOCK GRANT

Paul M. made a motion to sign the Community Development Block Grant (CDBG) application and letter of support; seconded by Kevin. Paul D. was absent for the vote. Motion carries.

#27-COMMUNITY DEVELOPMENT & HOUSING NEEDS STATEMENT

Paul M. made a motion to approve the Community Development and Housing Needs Statement for Community Development Block Grant (CDBG) applications; seconded by Kevin. Paul D. was absent for the vote. Motion carries.

#28-PANACA ACCESS PROJECT

Paul M. made a motion to approve the Community Development Block Grant (CDBG) application for the Panaca Access Project (sidewalk, curb, gutter); seconded by Kevin. Paul D. was absent for the vote. Motion carries.

#29-ALAMO SENIOR CENTER REHABILITATION PROJECT

Ed made a motion to approve the Community Development Block Grant (CDBG) application for the Alamo Senior Center rehabilitation project; seconded by Kevin. Paul D. was absent for the vote. Motion carries.

#30-LC NUCLEAR OVERSIGHT

Connie Simkins advised that the Congress funding bill has been working its way through the House and Senate; it's now in a conference committee. The conference committee recommendations haven't yet been adopted. The recommendations include that DOE figure out how they manage nuclear fuel within 6 months of the publication of the final Blue Ribbon Commission Report. With regards to fuel cycle research and development, multiple geologic repositories will be required for the long term disposition of our fuel. \$3 million has been earmarked for development of models for partnerships to manage the repository and to preserve all Yucca Mountain documents. There is no funding for nuclear waste disposal. The conference report contains no rescissions of previously appropriated funds provided by the DOE. Nuclear Waste Technical Review Board meets in Arlington, VA, on January 9. Nuclear Energy and Environmental Management will be considered; there is no need to travel and attend. Connie stated that there is an upcoming court hearing in late March/early April; she will attend this hearing in Washington, D.C. along with one of the Commissioners. Exploration/processing of uranium is increasing throughout the world. The White House Counsel of Environmental Quality has come up with a new way to handle NEPA processes. Some of the NEPA that are done now by federal agencies are on the level of Environmental Assessments while others are on the level of Environmental Impact Statement, which is much more detailed. The new review process will make EAs equal to EIS. Some of this is good, but some of it is not. An applicant will be required to submit an environmental review when they submit the application so that these things can be looked at ahead of time. They call for the agency accepting the application to respond to the scope and scale of the comments. The environmental community will be all over this and will submit many comments. The agencies are required to set, and keep, a timeline for the EIS process. There is a court case working its way through the federal courts; it concerns permissible construction of the statute. Nuclear Energy Institute and Florida are on the other side of the case. In the

absence of a repository for the plants to put their waste the fees should be suspended. DOE responds that they can't suspend the fee as there isn't a repository.

#31-EMERGENCY RESPONSE RUN BOOK

Ed made a motion to approve a time only contract change order for Gnomon, Inc., for the emergency response run book mapping until March 31, 2012; seconded by Kevin. Paul D. was absent for the vote. Motion carries.

#32-SOLAR ENERGY DEVELOPMENT

Connie Simkins presented a draft letter and comments concerning the Draft Supplemental Programmatic Environmental Impact Statement for Solar Energy Development in Six Southern States. No action is taken on this item; it is information that will be acted on at the next meeting.

#33-COMMISSIONER REPORTS

COMMISSIONER PAUL MATHEWS advised that he toured the LC Detention Center last month. Everything is going well. Finances were discussed, including what it takes for DC to turn a profit. 75-80 inmates are required to stay in the black. Sanitation and health standards were discussed. The water heater has been replaced. The lighting and roof upgrades are complete. Discussion was had concerning the housing burden for female inmates. There is some discussion concerning the need to send a memo to employees regarding the change in the law for cell phones; blue tooth, or hands free, is now required and you can't text or talk on the phone while driving. Paul M. spoke with Cory Lytle concerning the current status of the county addressing program. There are still many people affected when they try to order something and have it shipped via UPS, FedEx, etc.; it says "undeliverable address". Dawne Combs stated that the addresses have been put out to TomTom and other companies, but it is the responsibility of FedEx and UPS to go to these entities to update their address databank. We put the addresses out there, but we can't force UPS, FedEx, Wal-Mart, etc., to go out there and update their files. Another issue with this is that street signs and address numbers need to be erected. **COMMISSIONER KEVIN PHILLIPS** cited that he continues to work on BLM road issues. Kevin feels one of the responsibilities of the Board is to protect the inalienable rights of the citizens; free access in reasonable ways ought to be one of those rights. Lorinda Wichman has an individual who works all of the time on RS2477 roads; she is willing to help the county with opening roads in wilderness areas. There is some discussion about whether or not RS2477 roads in wilderness must be specific to mining.

#34-PUBLIC COMMENT

Tommy called for public comment. Connie Simkins advised that there is a sage grouse planning meeting on 1-18. Connie has been doing some work on a wild horse tour for the end of January, first of February. N4 Grazing Board is having a meeting/luncheon on 2-10 in Panaca.

#35-ADJOURN

There being no further business for the Board to attend to, Tommy adjourned the meeting at 2:17 p.m.

Attest: _____ Approve: _____