



## LINCOLN COUNTY BOARD OF COMMISSIONERS

February 21, 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 9:02 a.m. Clerk Lisa Lloyd called the roll.

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

LISA LLOYD, Clerk  
DANIEL HOOGE, District Attorney

There is a quorum present and the agenda was posted on 2-14-12. The Invocation was offered by Paul D. and Ed led the Pledge of Allegiance.

### **#2-PUBLIC COMMENT**

Tommy called for public comment. Ryan Wheeler introduced himself and described his company, Forsgren Associates Inc. His office is two miles south of the LC line and they are a civil engineering firm. There are eight offices in the western US and they typically work with the rural communities. They do surveying services out of their office, including mapping. Betsy Whipple discussed management of liquid assets for LC, which total around \$13 million and offered a proposal from her firm, Merrill Lynch.

### **CONSENT AGENDA**

- #3 Approve/Deny minutes of February 6, 2012.
- #4 Approve/Deny letter of support for Mary Jean Lucht, Lincoln County Public Health Nurse.
- #5 Approve/Deny the appointment of Dan Simkins to the Lincoln County Airport Authority Board.
- #6 Approve/Deny tax strike for Stanlee Jones, APN 3-094-12, House Functional Obsolescence, \$9,616 assessed.
- #7 Approve/Deny tax for Eagle Valley Land Holdings, LLC, APN 006-231-11, \$999 assessed. Tax dollar amount is \$29.96. Due to lack of continuous concrete floor under garage.
- #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; seconded by Ed. All voted in favor.**

### **#9-VOUCHERS**

Recorder/Auditor Leslie Boucher presented the vouchers and cash balance report. General County has a balance of \$886,454.25 with estimated expenditures being \$186,359.85. This leaves General County with a balance of \$700,094.40. Transportation has a negative cash balance of \$6,364.80 with estimated expenditures being \$3,434.17. This will leave Transportation with a negative balance of \$9,798.97. \$40,000 from RTC will be approved for transfer to Transportation fund today. Senior Nutrition has a balance of \$17,760.97 with estimated expenditures being \$9,865.40. This will leave Senior Nutrition with a balance of \$7,895.57. Detention Center has a negative cash balance of \$117,482.73 with estimated expenditures being \$77,697.11. Detention Center will have a negative balance of \$195,179.84. Solid Waste has a balance of \$102,342.97 with no expenditures. Solid Waste owes LC Water Special Projects, Fund 87, \$27,484.15. Airport has a balance of \$7,385.21 with estimated expenditures being \$378.18. Airport will have a balance of \$7,007.03. Airport loan is due 6-30-12 in the amount of \$6,000. Planning has a balance of \$18,906.96 with expenditures being \$3,054.39. Planning will have a balance of \$15,852.57. **Paul D. made a motion to approve the vouchers as presented with the**

exception of Mountain Merc and LCTS vouchers; seconded by Ed. All voted in favor. Ed made a motion to approve the vouchers for Mountain Merc; seconded by Paul D. Kevin disclosed that he is part owner of Mountain Merc; he abstained from all discussion and the vote pertaining to these vouchers. Ed made a motion to approve the vouchers for LCTS; seconded by Kevin. Paul D. abstained and disclosed he is an employee of the telephone company. Motion carries.

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

**DISTRICT ATTORNEY** Daniel Hooge advised he has a new Deputy, Tony Graf. Tony worked with the US Attorney's office for the last year. Daniel discussed the Mesquite Annexation suit; they are waiting out the discovery. Parties have hinted that they might want to talk to the Commissioners as part of discovery. There are two big sexual assault cases coming up that may cause the DA's budget to run into the red. **CLERK** Lisa Lloyd advised that she will be out of the office from February 28-March 6; she is traveling with the high school kids to Washington, D.C. Denice Brown reminded the Board that they have budget hearings tomorrow at 8 a.m. Toni Pinkham is advertising for a driver for Transportation as she is down to one. **PLANNING/BUILDING COORDINATOR** Cory Lytle advised that there are some issues on the fairgrounds property that will be resolved; their department is very busy.

#### **#11-HIGHWAY COMMISSION**

This item is handled under separate agenda.

#### **#12-BUREAU OF LAND MANAGEMENT ROAD AGREEMENT**

Tommy advised that he's been working with Ken Brown of Western Counties Alliance on this issue. Ken is an expert on RS2477 roads and he's requested that the Board postpone this road maintenance agreement for two weeks so that he might have a chance to better research this. Paul D. advised that this agreement and RS2477 roads aren't the same thing. Ty Chamberlain, Bureau of Land Management, was present to discuss this item. The trespass issues go away with the signing of this agreement. Ty stated that this agreement basically starts everything on a new page. Kixmiller and Oakwells trespass issues would be about \$150,000; these go away with the signing of this agreement as does the trespass on Mt. Wilson (Devlin). Paul D. referred to page one, paragraph six that discusses the rights-of-way. The purpose of this agreement is to take care of trespasses in the past and to start a new page in the history between LC and local BLM office. Ty said there is no hidden agenda. This agreement can be amended at any time and this is a living, working document. The BLM and LC shall meet quarterly to discuss various issues, including routine maintenance undertaken on covered roads, discuss possible additions/deletions from this agreement, and to discuss how the agreement is/isn't working for the parties. Ty believes this agreement makes LC's job easier. Most of these road widths are 60 foot and the width will be measured every mile. Aerial photos will be used for disturbance. Ty will measure every single mile of the 2800 miles of road. Drainage is covered under road maintenance but isn't included in road width. FLPMA is the governing document and ROWs will be granted under Title 5. Kevin referred to the trespasses on Kixmiller and Oak Wells; this agreement requires nothing additional that isn't spelled out by the 9<sup>th</sup> and 10<sup>th</sup> circuit courts. Kevin read a portion of one of the 10<sup>th</sup> circuit judgments. Coordination, cooperation, and discussion between entities is encouraged. Kevin continued to discuss RS2477. This agreement is, in effect, a coordinating exercise at its finest through FLPMA, Kevin said. This agreement expresses our commitment as defined by law through the appellate courts. We will need to seek, and be awarded, formal ROWs on the RS2477 roads. Tommy reiterated his request to postpone this for another two weeks in order to get help that will protect both sides. Tommy said we aren't going in on equal footing; BLM is holding the trespasses against us as sort of a blackmail deal. Ty advised that originally Ronda Hornbeck agreed to have a road maintenance agreement to address the trespass issues. Paul D. commented that he has been the one pushing to get the trespass issues to go away. LC was the one that suggested that the trespass issues go away if the agreement is signed. Kevin stated that whether we want to admit it or not, LC violated the law and erred; we aren't on equal footing. Kevin complimented BLM for fulfilling the directive of the Deputy Secretary. BLM has chosen to work with LC to resolve the issues. This agreement ensures that we know very clearly what our rights/abilities are with regards to road maintenance. BLM wants everyone on both sides to be well trained and have an understanding of what is expected. The last roads that will be administered under ROWs are desert tortoise. Tommy stated that the agreement contradicts many things. It requires us to let everyone know what we will be maintaining ahead of time. Tommy further stated that we don't have to let anyone know what we are maintaining on the roads that are older than 1976. Tommy reiterated his two week extension request. Tom

Brown stated that he would like the opportunity to read this agreement prior to the Board signing it. It hasn't been available through the Clerk's office and Tom believes this is the first time anyone has seen this agreement. Materials for the agenda should be available at least three days before the meeting. Kevin responded that this is the first time it's been available as a hard copy; previously it was handled through email. Shane Cheeney asked if the DA's office has reviewed this agreement; yes. Daniel has researched the case law thoroughly; it is a good agreement and is what the law requires. Daniel cited that the only requirement under the open meeting law is for the agenda to be posted three days before the meeting. It isn't required that materials for the meeting be made available three days prior to the meeting; we will work on making them available sooner, Daniel said. **Kevin made a motion to approve and adopt the road maintenance agreement; seconded by Paul M. Tommy was opposed. Motion carries 4-1.** Vaughn Higbee suggested that he and Tommy form a committee and rekindle the Sage Brush Rebellion; the only winner in this is the government.

#### **#13-LINCOLN COUNTY FIRE DISTRICT**

This item is handled under separate agenda.

#### **#14-PANACA FIRE DISTRICT**

This item is handled under separate agenda.

#### **#15-MUD RACE**

Kirt Johnson presented a request from Freedom 4 Wheelers to help pay for insurance for the mud race on May 5, 2012. \$935 is the approximate cost and the county is named on the insurance. Paul M. stated that last year the county helped with the insurance costs and stated that the hope was that F4W would be self-sustaining. \$1,200 has been raised in donations. Spectators pay \$7 to get in, \$2 of that goes to the National Ovarian Cancer Coalition. Kirt stated they want to help with tourism as well as support ovarian cancer research. Kirt will be receiving donations from the Fair & Rec Board and Paul M. cited that, in the future, it needs to be one fund or the other; county or Fair & Rec. **Paul M. made a motion to donate \$300 from Fund 94 for ovarian cancer education; seconded by Paul D. All voted in favor.**

#### **#16-STATE EMERGENCY RESPONSE COMMITTEE (SERC)**

**Paul D. made a motion to approve the grant application to State Emergency Response Committee (SERC), not to exceed \$30,000 for training and planning with regards to hazardous materials; seconded by Ed. All voted in favor.**

#### **#17-QUARTERLY JAIL TOUR**

This item was tabled.

#### **#18-ORDINANCE #2012-01**

Paul M. commented that he's received many calls questioning why the program we've used in the past isn't good enough. Why do we need an additional fee? What is the appeal process? Cory Lytle responded that the penalty fee covers the time county employees spend investigating a scenario. The fee puts the burden on the individual who hasn't obtained the permit to begin with. If this individual isn't paying a fee, then the taxpayers bear the burden for the investigation. There are very few times when a case like this will occur. Cory hopes that this ordinance will act as a deterrent so that people will just pay the \$90 to obtain the permit. This ordinance covers a gap in the code. Ed asked if it is possible that this ordinance will be used by the Assessor's office since the Assessor doesn't charge mileage to go out and do assessments. No, this ordinance will not be used to perform Assessor's work. Paul D. stated that he feels the county is creating something that simply doesn't need to be created. Paul D. further commented that he would just like to see this be gone. Tommy called for public comment. **Paul D. made a motion to let this proposed ordinance die; seconded by Ed.** Kevin disagreed and said that we need something in place to prevent structures from being erected illegally. **Kevin is opposed to the motion. Motion carries 4-1 and the ordinance is withdrawn.**

#### **#19-BNY MELLON WEALTH MANAGEMENT**

John Jamison and Ted Schlazer are present from BNY Mellon Wealth Management. John gave an overview of how they are managing the county's money. The number one objective of the county's portfolio is safety. Interest rates are the lowest they've been in decades. They will go up, but it is unknown when that will happen.

Safety is first, liquidity second, and creation of return is third. When the county policy was reviewed last summer, the longest maturity allowed was three years. Interest rates are to stay low until 2014. The potential maturity of each bond purchased was increased to 7 years and five year agency paper was added to the portfolio; this has worked out well. Charts show that we had five million invested until February. Kathy Hiatt added the remainder of the money from the local government investment pool to Mellon's portfolio as the return on the LGIP was below .2%. Some of the money is being put on the five year horizon to increase the yield, and a gap is being left in the middle. Some money is being left short to create liquidity. If interest rates move up in the next two years we'll have enough maturity to capture higher yields without increasing the risk in the portfolio. In the last 12 months we have generated 1.67%. The duration of the portfolio to this point is less than two years. Any 1% move will create about a \$40,000 loss in the portfolio. If we go to a five year duration, the loss is magnified dramatically. Interest rates can't go 2% lower. Ted discussed the way that Mellon handles the accounts and trading. Mellon charges a flat management fee with no markups. Nothing will happen until the election and interest rates will stay where they are. The volatility in the bond market has existed since last summer. Paul M. stated that when the consolidated tax continues to decrease, any money that we can generate on interest would be of great benefit. Paul M. stated that interest money would help the county better now. John stated that if interest rates moved up 3% at any time during the next ten years it would create a \$200,000 loss in the portfolio. Is getting \$20,000 per year worth getting a \$200,000 loss on one position? The county's budget problems are as much based on interest as they are on decreased tax revenue. If Mellon can find the county some deals, they are going to. Reality is that they can't add that much risk into the portfolio because the county will regret it later. No action was taken on this item.

#### **#20-FUEL REDUCTION**

Phyllis Robistow presented a request from Pioche Town Board for fuel reductions in Pioche. A grant is available through NV Department of Forestry (NDF). Approximately 750 acres will be treated. Paul D. stated that there are cattle grazing allotments that need to be taken into consideration; we'll have to work with the owners of the allotments. Phyllis responded that the town will get property owner permission for areas to be treated. Any area that permission isn't granted will not be done. Denice Brown advised that sage grouse habitat has been included in much of the areas where AUMs are and they've cleaned out a great deal of that. Some of the areas that Pioche is including in their request may have been completed. Denice stated that the cattle ranchers need to be told when the weeds will be sprayed as it is bad for the cattle. Paul D. suggested that the water tanks be included in the areas that are treated. Most of what is included in the request will be done by NDF. Pioche will hire a part-time person to address the fuel areas within town limits. **Paul D. made a motion to support Pioche Town Board with this endeavor; seconded by Ed. All voted in favor.**

#### **#21- PIOCHE TOWN PART-TIME EMPLOYEE**

This individual will be required to obtain a herbicide license. **Paul M. made a motion to approve the request from Pioche Town for the advertisement and hiring of a part-time employee, not to exceed 1,039 hours, for fuel reduction and maintenance; seconded by Ed. All voted in favor.**

#### **#22-PIOCHE TOWN SUMMER EMPLOYEES**

**Ed made a motion to approve the request from Pioche Town for the advertising and hiring of summer laborers/lifeguards/pool manager; seconded by Paul D. All voted in favor.**

#### **#23-PIOCHE PARK PHASE II**

Elaine Zimmerman advised that the bids were nearly \$200,000 over the grant amount. Joe Phillips, Sunrise Engineering, addressed the Board and stated that the low bid was \$894,000. We have about \$750,000 to work with. During the project \$50,000 will be rolled back into the project for contingencies. **Ed made a motion to issue the Notice of Award to Tradewest Construction for the Pioche Park Phase II project; seconded by Paul D. Kevin disclosed that Joe is his son; he abstained. Motion carries.**

#### **#24-PIOCHE PARK PHASE II**

**Paul D. made a motion to approve and sign Change Order #1 for Sunrise Engineering, Pioche Park Phase II, to include construction administration services; seconded by Ed. Kevin disclosed that Joseph Phillips, principal engineer for Sunrise, is his son; he abstained from the vote. Motion carries.**

**#25-MEADOW VALLEY WASH LINEAR PARK**

Ed made a motion to approve Change Order #6 for Hardy Construction on the Meadow Valley Wash Linear Park project in the amount of \$58,162.99; seconded by Paul M. All voted in favor.

**#26-VICTIMS OF CRIME ACT (VOCA) GRANT**

Ed made a motion to approve the signing of a letter of support for Victims of Crime Act (VOCA) grant application; seconded by Paul M. All voted in favor.

**#27-VICTIMS OF CRIME ACT (VOCA) GRANT**

Paul M. made a motion to approve the signing of the Victims of Crime Act (VOCA) grant application; seconded by Ed. All voted in favor.

**#28-SOUTHERN NEVADA DESERT RACERS'**

This item concerns the Southern Nevada Desert Racers' motorcycle race in the Mail Summit area to be held April 14, 2012. This race was originally approved at the February 6 meeting but the date on the agenda was incorrect. This item concerns the approval of the date change. **Paul M. made a motion to approve the race to be held on April 14, 2012; seconded by Kevin. All voted in favor.**

**#29-SILVER STATE TRAILBLAZERS**

Kevin made a motion to approve the Silver State Trailblazers motorcycle race on May 19, 2012 between Panaca and Pioche; seconded by Ed. All voted in favor.

**#30-BEAVER DAM/MOUNT WILSON TRANSFER STATIONS**

Cory Lytle presented this item, which concerns a contract with Pearson Brothers Construction in the amount of \$24,800 for the fencing of the Beaver Dam and Mount Wilson transfer station drop box facilities. This includes labor and materials for site leveling, dirt work, gravel and chain link fence. Cory believes the total amount of fencing needed is 340 feet. Cory believes this bid is high and he has some other ideas to get this done. Cory shared the bid proposal and advised that a contract hasn't been drafted as of yet. Paul D. suggested that an alternative would be to put this out to bid. The Board wasn't certain as to a funding source to complete this project. **Paul M. made a motion to have Cory contact other companies for proposals; seconded by Ed. All voted in favor.**

**#31-COMMISSIONER REPORTS**

**COMMISSIONER PAUL MATHEWS** discussed the old Panaca Elementary School. **COMMISSIONER KEVIN PHILLIPS** advised that last week was the IMC Habitat Committee meeting. **COMMISSIONER TOMMY ROWE** met with Ed at the Senior Center in Caliente to work through personnel issues. Tommy toured Highland Knolls on the 9<sup>th</sup> with regards to roads that aren't being bladed. The roads aren't being bladed since they are on private property. Tommy attended met with Mike Baughman and Victoria Barr concerning the Meadow Valley Road. Tommy toured the new Caliente library. They are short on book cases and Connie Simkins was able to get some from Mercury. The bookshelves in the library need to be connected as they are unsafe. **COMMISSIONER PAUL DONOHUE** attended the cattleman's lunch. Paul D. attended the Room Tax meeting in Alamo last week. Paul D. stated that the Room Tax and Fair Board needs to sit down with the Fair Committee to discuss who is responsible for what. Paul D. will set up a meeting for all involved to meet and discuss the issues. Paul D. will attend the RTC meeting tonight. Paul D. received a letter concerning Wendy Rudder and finances for the county. Wendy can continue to be the secretary, but she can't be involved with the finances for one year. Paul D. met a Nye County Commissioner when he was in New Orleans. Paul D. has been in contact with this commissioner concerning possessory use tax. Paul D. stated that he received a document outlining the funding Nye County receives for possessory use; it's a great deal of money. Paul D. will attend the POOL/PACT meeting on April 26-27.

**#32-PUBLIC COMMENT**

Tommy called for public comment. Rick Stever advised he received a request from the ambulance administrator to see if there is any funding to send someone to a billing seminar. The laws are changing drastically. Paul M. suggested that the ambulance administrator take the cost for the seminar out of her

services/supplies. Rick responded that she doesn't have funding available. The course is for ambulance personnel and teaches how to deal with federal programs. The registration fee is approximately \$800 and it's a four day seminar. Tommy advised Rick to put this issue on the agenda for formal action. Cory Lytle outlined the information received from Mike Ford on the land swap from the Desert National Wildlife Refuge to the Pahrangat Valley Wildlife Refuge. Cory advised that he and Rick are reviewing the first draft of the emergency run books. Cory is working with the Freedom 4 Wheelers. Land in Highland Knolls will come before the Planning Commission next month as a property owner is taking large tracts and breaking them into smaller parcels. This might result in further complications of the road issues in HK. Cory and Richard Simpson will be attending ICC training Thursday in Las Vegas. Dawne Combs is on vacation this week. The fairgrounds are moving along well and it's going to be a great project. Cory is helping with Pioche Park where needed. Cory is waiting for quotes on the HVAC for the Panaca building; everything is stubbed out and roughed in the walls. The patent on the piece of land set aside for a landfill in Delamar needs to be renewed.

**#33-ADJOURN**

There being no further business for the Board to attend to, Tommy adjourned the meeting at 3:32 p.m.

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

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

*[Large, stylized, handwritten signature in red ink, possibly reading "DORIS"]*