



LINCOLN COUNTY BOARD OF COMMISSIONERS

August 20, 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 9:04 a.m. Clerk Lisa Lloyd called the roll.

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

LISA LLOYD, Clerk
DANIEL HOOGE, District Attorney

There is a quorum present and the agenda was posted on 8-14-12. The Invocation was offered by Kevin and Paul M. the Pledge of Allegiance.

#2-PUBLIC COMMENT

Tommy called for public comment. Patsy Dye discussed taxes. She worked for Rainbow Canyon Retreat and stated that she crosses three water crossings to go to work. She realizes this is a state road but asked the Commissioners to approach the state to request repairs. Patsy stated there are 42 tax paying residents of the county that work at Rainbow Canyon Retreat. Something needs to be done with the roads as every time it rains it causes problems with the travel down the canyon; often times, when it rains, the roads get closed for several days. The weeds also grow over the road. Patsy has written a letter to the Governor. Patsy received a letter from the state advising that the weeds have to be studied prior to removal to ensure they aren't an endangered species. The water crossings are causing a great deal of trouble down the canyon right now. The creek has diverted itself and the water is now running through the road. Tommy stated that the contracts for repairs to the road are to be let out this month; repairs are in the works to that road. Once the contracts go out, the state has 90 days to repair the road. Ed stated that the local NDOT crew should have a mower and they should be able to take care of the weeds. Tommy advised that he will make a couple of calls to see what can be done. The Board discussed various meetings they will be attending and conflicts associated with such, including LC Water District meeting and a meeting at Coyote Springs.

CONSENT AGENDA

- #3 Approve/Deny minutes of August 6, 2012 meetings.
- #4 Approve/Deny in house transfer of Assistant Cook for Lincoln County Human Services to Head Cook at \$7.50 an hour.
- #5 Approve/Deny transfer/advertising/hiring of an assistant cook for Lincoln County Human Services at \$7.25 an hour.
- #6 Approve/Deny advertising/hiring of a part-time Homemaker for Lincoln County Human Services at \$8.25 an hour.
- #7 Approve/Deny advertising/hiring of a bus driver for Lincoln County Human Services at \$8.50 an hour.
- #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).

Ed made a motion to approve the consent agenda with the exception of the minutes (Item #5 will be retroactive to August 13); seconded by Kevin. All voted in favor.

#9-VOUCHERS

Recorder/Auditor Leslie Boucher presented the vouchers and cash balance report. General County has a balance of \$153,421.66 with estimated expenditures being \$147,934.55. Leslie is working with the auditor's office on a transfer of \$6,000; once complete the balance for General County will be \$11,487. Treasurer's Office will apportion taxes at the end of this month. Transportation has a cash balance of \$33,310.48 with estimated expenditures being \$3,048.82. This will leave Transportation with a balance of \$30,261.66. Senior Nutrition has a balance of \$44,058.21 with estimated expenditures being \$7,732.76. This will leave Senior Nutrition with a balance of \$36,325.45. Detention Center has a negative cash balance of \$117,412.49 with estimated expenditures being \$72,388.28. Detention Center will have a negative balance of \$189,800.77. Solid Waste has a cash balance of \$21,323.50 with no expenditures. Solid Waste owes LC Water Special Projects, Fund 87, \$27,484.15. Airport has a balance of \$7,965.11 with estimated expenditures being \$318.56. Airport will have a balance of \$1,646.55 after it pays back the \$6,000 loan. Planning has a balance of \$18,876.63 with expenditures being \$2,870.36. Planning will have a balance of \$16,006.27. **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 Mountain Merc vouchers; seconded by Paul M. Kevin disclosed that he is part owner of Mountain Merc; he abstained from the discussion and vote pertaining to these bills. Motion carried. Paul M. made a motion to approve the vouchers for LCTS; seconded by Ed. Paul D. abstained as he is an employee of LCTS. Motion carried.** Paul D. stated that the county went over the \$1,500 limit to Mountain Merc this month. Daniel stated that it is Kevin's responsibility to figure out what is "sole source".

#10-OFFICER/DEPARTMENT HEAD REPORTS

DISTRICT ATTORNEY Daniel Hooge stated that his office is really busy. **GRANTS ADMINISTRATOR** Elaine Zimmerman attended a CDBG workshop in Minden. SNPLMA and CDBG new rounds are coming up; requests for applications will have to be advertised. Elaine is closing out several old SNPLMA projects that have been completed. **SENIOR NUTRITION** Director Toni Pinkham advised that they are having problems with a delivery truck; it continues to go out and it has over \$150,000 miles on it. This truck has previously had its engine changed out. Toni hasn't heard anything from Division of Aging Services with regards to a new truck. **TREASURER** Shawn Frehner presented a report showing the monthly disbursements. To date, \$1,127,000 has been received in taxes and is waiting to be reapportioned. There is a difference of approximately \$300,000 from last year's amount.

#11-BUDGET TRANSFER

Paul M. made a motion to approve the transfer of \$60,020 from the Federal In Lieu Tax Special Revenue fund to the Detention Center Fund; seconded by Kevin. All voted in favor.

#12-HIGHWAY COMMISSION

This item was handled under separate agenda.

#13-LINCOLN COUNTY FIRE DISTRICT

This item was handled under separate agenda.

#14-PANACA FIRE DISTRICT

This item was tabled.

#15-EMERGENCY MANAGEMENT

Rick Stever presented discussion concerning the budget for Lincoln County Emergency management as well as a request for designation of a fund to pay the required \$4,200 to Code Red for contracted services. This contract provides the ability to record a message that gets sent to all LC residents. Originally, Rick had this expenditure in his budget but his approved services/supplies was cut to \$3,500. Code Red wasn't included in the Sheriff's budget. LC Power District has offered to share the costs for this service as well. Paul M. suggested that if this funding can't be put back into Emergency Management budget then PILT can be used to pay for this contract. There are some other issues that need to be addressed with Rick's budget; Paul M. stated that EM budget needs to be fixed as a whole. Paul M. will work with Leslie and Dan McArthur to realign the

budget. **Paul M. made a motion to pay the Code Red contract out of PILT; seconded by Kevin. All voted in favor.**

#16-EMERGENCY MANAGEMENT

Rick Stever presented a request for designation of a fund to pay \$200 for pest control. This item was discussed under the previous item; Rick will pay this cost out of services/supplies.

#17-EMERGENCY PREPAREDNESS MONTH

Paul D. made a motion to declare September Emergency Preparedness Month for Lincoln County; seconded by Ed. All voted in favor. Rick offered a short video concerning emergency preparedness.

#18-LOCAL EMERGENCY PLANNING COMMITTEE

Kevin made a motion to approve the mid cycle grant application for Local Emergency Planning Committee (LEPC), grant amount is \$38,000 and will be used for hazardous materials education program; seconded by Paul D. All voted in favor.

#19-LC YOUTH

Rose Creamer is requesting initiation of a project that would give the youth in LC a place to socialize as well as provide activities to keep them occupied.

#20-LINCOLN COUNTY/MESQUITE/C&O HOLDINGS AGREEMENT

Ed Lubbers presented discussion concerning a settlement agreement with regards to pending litigation. Under this agreement Mesquite would detach the annexation; the annexation would then be reversed. Ed L. presented a negotiation agreement between LC/C&O Holdings. Basically, this takes the situation back to where it was and we can then enter into local agreements with Mesquite and work towards getting the property developed. We will not dismiss with prejudice until the property is de-annexed. Dismissing with prejudice means neither party can re-file this lawsuit again. Paul D. stated that the possibility of C&O Holdings' intent to annex to Mesquite needs to be addressed, that we need to gain some type of insurance that they won't try and annex again so that we don't go down this road again. Ed L. responded that it is not his intention to annex with Mesquite; it is his intention to address development agreements with LC. Paul D. wants some type of insurance that we aren't going to end up in a lawsuit over an annexation again. **Kevin made a motion to approve the settlement agreement; seconded by Ed. All voted in favor.** Ed L. and Daniel will start working on needed agreements for the development.

#21-BUREAU OF LAND MANAGEMENT LAND USE PLAN AMENDMENTS

Dr. Mike Baughman offered a presentation concerning filing a formal protest to the proposed Bureau of Land Management (BLM) Land Use Plan Amendments Under the BLM Action Alternatives of the Solar Energy Development Programmatic Environmental Impact Statement. This is an attempt to identify solar energy zones in order to facilitate solar energy projects on public lands. Within these zones, they will designate that they've been studied extensively; this will speed up development on the ground. BLM is working to focus solar energy on public lands into zones that seem to be suited for this type of development. This letter is a continuing process of the county's participation in administrative proceedings. This process will provide NEPA clearance and amend the Ely RMP. The county, through this letter, will protest the land use amendment. The following issues are being protested: 1. Selection of the Solar Energy Development Program Alternative as the basis for amendment of the Ely Resource Management Plan; 2. Failure to include the following three areas as Solar Development Exclusion Areas within the proposed Amendment of the Ely Resource Management Plan: a. The previously proposed Delamar Valley SEZ; b. The previously proposed East Mormon Mountain SEZ; c. That portion of the Dry Lake North SEZ found by BLM to be unsuitable for solar development; and, 3. Amendment of the Ely Resource Management Plan to Identify Variance Areas for Utility-Scale Solar Energy Developments. **Paul D. made a motion to approve the letter of protest; seconded by Kevin. All voted in favor.**

#22-SOLAR ENERGY

Dr. Mike Baughman presented a comment letter to the BLM on Final Programmatic Environmental Impact Statement for Solar Energy Development in Six Southwestern States. **Paul D. made a motion to approve the letter; seconded by Kevin. All voted in favor.**

#23-BUREAU OF LAND MANAGEMENT

This item concerns a letter to BLM requesting that all BLM dealings with LC be handled out of the Caliente Field Office instead of splitting the county between Caliente and Schell offices. A letter concerning this issue was sent in March but a response hasn't been received. Paul D. suggested that the Board send another letter as well as a photocopy of the original letter sent in March; he also requested that all five Board members sign it.

Paul D. made a motion to approve the letter, include a photocopy of the other letter, and have all 5 Commissioners sign; seconded by Ed. Paul M. asked if the Board thinks this letter might affect range cons and AUMs. Paul M. is concerned that we might be asking for something that is bigger than the actual intent. The intent is asking for county business, not anything relating to county ranchers. The Board agreed that this should be included in the letter, that the letter be very clear that this is for *county* business only. Vaughn Higbee agreed with Paul M. and stated he's not in favor of this if it will affect his ability to appeal down the line as a rancher. If you don't have the ability to appeal, you've lost a tremendous amount of ground. **All voted in favor.**

#24-LANDFILL CHARGES

Treasurer Shawn Frehner stated they are in the processes of re-examining the way that landfill is paid. Shawn has been unable to locate anything that directs who receives discounts for mileage, part-timers, and senior citizens. Discounts have been given in the past, but Shawn hasn't been able to locate guidelines for such. Shawn asked the Board to consider this item so that she might have written guidelines. Paul D. suggested that the parameters may have been set in 1998. There was some discussion concerning the county's responsibility, or lack thereof, to collect these funds. The county has included these charges in their billing as a courtesy for the landfill owners; there is nothing requiring the county to do this. Shawn asked if the Board would prefer that the exemptions apply based on age or income. Ty Chamberlain suggested that it be based on income instead of age since there are some that can afford to pay it. Paul M. suggested that the exemption be by request only. Shawn suggested that a form be sent along with the landfill bill that would allow people to request the discounts. Paul D. stated that perhaps the Board should leave this issue alone since we are heading into contract negotiations next year. There was continued discussion concerning including income as part of the criteria. Vacant houses are exempt, snowbirds receive 50% discount, and if they're senior citizens and can't afford it they receive 50% discount. Distance from drop site is taken into consideration as well. Paul M. suggested that this be left as is. Paul D. agreed with the idea of considering age and income, not whether or not someone claims they live here part time. Further, Paul M. suggested that a fund or process be set up that people can apply for, particularly hardship cases. Then money can be transferred from one fund to another to cover those who can't afford it. Some of the people wanting a discount probably aren't as legitimate as others. Kevin reminded the Board that the net revenue stream must cover the cost of the business. Currently, the county is subsidizing the cost of landfill in order to help residents to afford it. No action was taken on this item.

#25-POINT & PAY LLC

Treasurer Shawn Frehner presented information concerning a contract with Point & Pay, LLC that would allow the Treasurer's Office to accept credit card payments for real property taxes with a 2.5% convenience fee being charged by Point & Pay directly to the tax payer. There is no charge to the county for this service. Two card swipers will be received at no cost. The money deposits into the county's account within two days. Since landfill isn't tied to anything, this system will not be used for those type of payments. This system is for property taxes only. **Ed made a motion to approve; seconded by Paul D. All voted in favor.**

#26-RESOLUTION #2012-21

This resolution concerns the Secure Rural Schools and Community Self-Determination Act (SRS) payment has been extended for this year. It is necessary for the Boards of each county to choose if they wish for the county percentages in Titles I, II, and III to remain the same as before or if they want to change them. **Paul M. made a motion to keep the percentages the same and to approve a resolution for Lincoln County, NV in the matter of FFY 2013 Elections for National Forest Related Safety-Net Payments; seconded by Ed. All voted in favor.**

#27-PANACA TOWN ISSUES

Gary Elmer presented issues with the Panaca dyke and travel on/over it. Motorcycles, four wheelers, and some cars are driving over the dyke. The dyke is getting quite a few divets in it. Paul M. asked if there is a plan for

where the town would like people to cross the dyke. Gary stated that PTB would like to get the dyke fixed and install some type of ramp to prevent this from happening again. Paul M. stated there should be a designated place for trail development that should be used for ATVs; all other places where they shouldn't be crossing should be fenced. The most important issue right now is to maintain the dyke. The divet in the dyke at the cemetery is the worst spot; if a major flood comes it will go right through. The town doesn't have the funds to fix the dyke nor erect a structure that will prevent further destruction. Paul D. will work on this issue. No action was taken.

#28-LC NUCLEAR OVERSIGHT

Dr. Mike Baughman advised that DC Court of Appeals issued a ruling in Akin County versus NRC on August 3. SB3469 was introduced into Senate; in a nutshell it's the nuclear waste policy act 2012. Vaughn Higbee summarized SB3469. Vaughn took a trip to Los Alamos and learned that the highest Olympic sized swimming pool is located there. It's over 7,000 feet. Vaughn also learned that there is a five acre piece of ground that is worth about \$2 billion. Vaughn was impressed by how little money is being done to clean up the NV test site. Connie Simkins discussed the solar EIS. Connie will attend the Committee on High Level Radioactive Waste.

#29-HYDRAULIC FRACTURING RULE MAKING

Connie advised that we are suggesting that we continue with what the State of NV is doing with regards to hydraulic fracturing rule making. **Paul M. made a motion to approve the letter; seconded by Ed. All voted in favor.**

#30-GOVERNOR'S COMPREHENSIVE SAGE GROUSE STRATEGY

Paul D. discussed the purpose of the Governor's plan for sage grouse and asked if the state's plan is as restrictive as a federal plan. There was discussion about both plans; the state's plan shows that we are being proactive to protect the species and be good stewards of the land. The theory from NV is to be proactive instead of reactive. **Paul D. made a motion to approve writing a letter that asks the Governor to stand behind the plan that was proposed by the sage grouse committee and to ask the BLM to implement and use the plan in their documents; seconded by Ed. All voted in favor.**

#31-GREAT BASIN COLLEGE

This item concerns a resolution supporting Great Basin College in reviewing funding options for education in rural NV communities; Vaughn Higbee presented this item. Due to revenue shortfalls within the NV college system, all funding for outreach has been swept into the university budgets. They are drafting reform that will leave out the rural areas. It takes more money to run a good education program in rural NV. However, what that does for rural NV is provide options. It is extremely difficult to obtain a good education if you live in a rural community and it costs 5-10% more if you have to travel to do it. CCSN eliminated all outreach programs so LC doesn't have one. University of NV wants to eliminate all outreach from their budgets. A committee has been created and they are seeking a line item in the Governor's budget that includes funding for outreach. This resolution calls for the line item. The community college system will take a 20% hit if the University of NV's plan is adopted. If educational opportunities aren't provided for people in the rural areas they will leave to go get their education. LC has the lowest per-family income in the state. **Ed made a motion to approve the resolution; seconded by Paul D. All voted in favor.**

#32-RESOLUTION #2012-20

Doug Oliver was present and offered an overview of the Atlanta Mine project. Dr. Mike Baughman then presented a resolution encouraging the Congress of the United States to Amend the Lincoln County Conservation, Recreation, and Development Act to adjust the alignment of the utility corridor to enhance economic development opportunities. **Paul M. made a motion to approve the resolution; seconded by Kevin. All voted in favor.**

#33-AXA EQUITABLE

Kevin made a motion to approve the addition of a contract rider for the Personal Income Benefit to the AXA Equitable, Equi-Vest Strategies Contract; seconded by Paul D. All voted in favor.

#34-ALAMO LANDING FIELD

Paul M. made a motion to approve the Notice of Award for Priority Construction, LLC for the Alamo Landing Field project; seconded by Kevin. All voted in favor.

#35-PIOCHE PARK

Ed made a motion to approve Change Order #4 for Trade West Construction for Pioche Park Phase II; seconded by Kevin. All voted in favor.

#36-LC FAIR & RODEO GROUNDS

Paul M. made a motion to approve Change Order #3 for Jim Wilkin Trucking for LC Fair & Rodeo Grounds project; seconded by Ed. All voted in favor.

#37-CALIENTE POOL PARK COMPLEX

Ed made a motion to award the contract to Sunrise Engineering for engineering and architectural services for the Caliente Pool Park Complex, Phase II; seconded by Paul M. Kevin disclosed that his son is a principle engineer for Sunrise; he abstained from the vote and all discussion. Motion carried.

#38-ECHO CANYON CAMPGROUND

Paul D. made a motion to award the contract to Sunrise Engineering for electrical, mechanical, and structural engineering design services for the Echo Canyon campground expansion project; seconded by Ed. Kevin disclosed that his son is a principle engineer for Sunrise; he abstained from the vote and all discussion. Motion carried.

#39-PANACA FIRE DISTRICT

Paul M. made a motion to approve the signing of additional United States Department of Agriculture (USDA) forms required for the Panaca Fire Protection District grant and loan for the aerial fire truck; seconded by Kevin. All voted in favor.

#40-NEVADA ASSOCIATION OF COUNTIES

Paul M. made a motion to approve payment of travel and registration costs for Adam Katschke to attend NACO on November 13-15; seconded by Ed. All voted in favor.

#41-COMMISSIONERS REPORTS

COMMISSIONER PAUL MATHEWS met with Victoria Bar concerning recognition for the SNPLMA funding for the LC Fair Grounds. **COMMISSIONER KEVIN PHILLIPS** advised that he attended the Energy Communities Alliance in Los Alamos to see how the cleanup is going there. Carlsbad is making a pitch for all of the high level waste that gets vitrified. **COMMISSIONER TOMMY ROWE** attended a Tri-County meeting on August 10 in Pioche. Tommy met with Paul D. and Link NV at Caliente City Hall later that same day. Tommy commented that the tin building at the fairgrounds needs air conditioning. It's incredibly hot in there. **COMMISSIONER ED HIGBEE** also went to Los Alamos. There are 10,500 employees at the Los Alamos lab. **COMMISSIONER PAUL DONOHUE** reported on the sewer project on LaCour Street in Pioche and the current status of the roads. RTC is going to pay about \$9,500 to repave the street. Next year, the funds that Pioche would normally receive from RTC will be received minus the amount given this year for the street. Paul met with Connect NV people; this brings broadband into rural sources but LCTS has already provided that service. The government wants everyone in the US to have access to at least 3MB. Paul D. stated that ideas for how broadband can be used to better our community can be submitted to the Connect NV task force. The fair went very well.

#42-PUBLIC COMMENT

Tommy called for public comment. Vaughn Higbee talked about LC Telephone. The reason that LC School District was able to get several million in funding for interactive video conferencing is because LCTS was light years ahead of all other rural counties. LC was the only rural county at the time that was done that had fiber optics. Due to that, LCSD received \$2-3 million in outright grants. If there's any way that the county can help LCTS it needs to be done. Vaughn expressed his appreciation for everything LCTS has done. Louis Benezet discussed a letter to NV Legislative Committee on High Level Nuclear Active Waste that was approved July 2. Louis stated that he has a problem with this letter; it suggests that a letter be sent from NV to the federal

government encouraging Yucca Mountain proceedings to resume. Louis has been trying to make the Commissioners aware that YM is controversial and there are several people opposed to this facility as well as the high level nuclear waste being transported through the county. One thing accomplished was to ensure the state's position of neutrality. Funding was received by LC to study the project and let them know what the impacts would be, good or bad. Louis is concerned because there are several people that feel YM is an economic opportunity and we should focus on the benefits. Louis stated that it has been agreed upon over the years that LC's position was neutral. LC has received a great deal of funding but we've stopped doing anything to understand the impacts to LC. The money continues to come in, and the lion's share goes to consultants who monitor this stalled debacle and periodically send in their bills. Louis doesn't see anything further for us to do at this point; the project has fallen at its own weight and he questioned why we are suddenly joining the group that is trying to revive it. Louis is against this. Denice Brown stated that the information that Treasurer Shawn Frehner received from Dan McArthur concerning the fuel tax, which was distributed by NRS to Caliente until the year 2002 or 2005, was incorrect. At that point in time, the state law changed and that's when the tax went directly to Caliente. There never was an agreement; it was all covered by NV Revised Statutes.

#43-ADJOURN

There being no further business for the Board to attend to, Tommy adjourned the meeting at 3:26 p.m.

Attest: _____ Approve: _____

[Large, stylized red signature or stamp, possibly reading "DRAFT" or similar, is present across the page.]