



LINCOLN COUNTY BOARD OF COMMISSIONERS

September 17, 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 9:06 a.m. Clerk Lisa Lloyd called the roll.

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

LISA LLOYD, Clerk
DANIEL HOOGE, District Attorney

There is a quorum present and the agenda was posted on 9-11-12. The Invocation was offered by Ed and Paul M. led the Pledge of Allegiance.

#2-PUBLIC COMMENT

Tommy called for public comment. None offered.

CONSENT AGENDA

- #3 Approve/Deny minutes of the September 4 meeting.
- #4 Approve/Deny the advertising and hiring of a site worker/homemaker for the Alamo Senior Center.
- #5 Approve/Deny notice of a public hearing set for October 1, 2012 at 10:00 a.m. for a resolution to augment the budget for fiscal year 2012-2013 Youth Activities Counsel Fund in the amount of \$500.00. A donation was received making revenues in excess of those budgeted.
- #6 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 D. made a motion to approve the consent agenda; seconded by Kevin. All voted in favor.

#7-VOUCHERS

Recorder/Auditor Leslie Boucher presented the vouchers and cash balance report. General County has a balance of \$518,757.78 with estimated expenditures being \$152,334.47. General County will have a balance of \$366,423.31. Transportation has a cash balance of \$37,005.51 with estimated expenditures being \$1,357.02. This will leave Transportation with a balance of \$35,648.49. Senior Nutrition has a balance of \$61,568.06 with estimated expenditures being \$7,951.58. This will leave Senior Nutrition with a balance of \$53,616.48. Detention Center has a negative cash balance of \$27,995.95 with estimated expenditures being \$75,170.22. Detention Center will have a negative balance of \$103,166.17. Solid Waste has a cash balance of \$2,718.07 with no expenditures. Solid Waste owes LC Water Special Projects, Fund 87, \$27,484.15. Airport has a balance of \$611.60 with estimated expenditures being \$319.44. Airport will have a balance of \$292.16. Planning has a balance of \$14,095.39 with expenditures being \$1,733.70. Planning will have a balance of \$12,361.69. **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. Kevin made a motion to approve the vouchers for LCTS; seconded by Paul M. Paul D. abstained as he is an employee of LCTS. Motion carried.**

#8-OFFICER/DEPARTMENT HEAD REPORTS

DISTRICT ATTORNEY Daniel Hooge asked for clarification with regards to allowing an employee to go less than full time. The question has arisen as to what insurance coverage will be provided to someone who is less than full time, but more than 19.5 hours. Daniel has spoken with Leslie and there are about half a dozen employees who fall in this category. Daniel is asking for clarification from the Board as to what they want to do with the in-betweeners. The policy is very clear for anyone less than 20 hours and someone full time at 40 hours, but it doesn't address those people in between. Paul M. suggested that the policy be revised to address the people that fall in between the categories. There are one or two people that used to be full time employees at 35 hours per week; since then, full time has been changed to 40 hours per week. There are many counties that prorate the insurance for the in-betweeners and several others that require employees to work full time, 40 hours per week, in order to get insurance. The Board agreed that amendment to the personnel policy is needed; Paul M. will work with Daniel on this and it will be on a future agenda for action. Mesquite Board has approved the agreement with C&O Holdings; the next step is to de-annex and then LC will dismiss its lawsuit. **GRANTS ADMINISTRATOR** Elaine Zimmerman advised that RSVP has sent a letter to the Board thanking them for the donation. FAA has determined that they don't have enough funding to install certain portions of the airport; the application has been pulled. One of the requirements for victim's is to apply to the Board to have their treatment paid for by the county. This is a difficult situation as it really shouldn't be made public, nor approved at a public meeting. In the past, Phyllis Robistow handled these approvals so that the people didn't have to be put through additional stress. CDBG presentations will be made at the next two Board meetings. SNPLMA application period is coming up as well. **SENIOR NUTRITION** Toni Pinkham advised that one of their NGA's is for a meals on wheels truck; she asked if they could borrow the money until the funding comes back in from Division of Aging. No action was taken on this issue and it will be addressed at the next Commission meeting. **EMERGENCY MANAGEMENT COORDINATOR** Rick Stever advised that last week we had a couple of thunder storms that resulted in minor flooding and water accumulations. There wasn't any major damage with the exception of one road that got washed out. Rick will attend the statewide emergency manager's workshop the remainder of the week in Henderson. Paul D. stated that RSVP has been told that they have to move their office out of the depot in Caliente by next week. Toni Pinkham suggested that the big room for commodities be rearranged as her office and RSVP can use the room that they currently have for an office; this would only be until Panaca county building is ready. The Baptist Church has agreed to let RSVP do the food drop there and commodities will be done at the Caliente senior center.

#9-CONSTITUTION DAY

Kevin stated that today is the 225 anniversary of the signing of the Constitution of the United States of America. This is a great document that has blessed us as a people and nation. Kevin provided a pocket copy of the US Constitution and encouraged us all to read it and keep it handy. September 17 is Constitution Day and September 17-23 of each year is Constitution Week. Kevin commented that our greatest issues rely on difficulties that we have with Federal Agencies. Because we don't exercise eminent domain on the land masses within LC or NV we are nothing more than a fiefdom. 97% of the land mass in LC makes us a territory, not a sovereign state. Kevin discussed limited powers granted to the federal agents. The limited powers are defined, enumerated, specific, and limited. All other powers were reserved for the respective states and the people. We believe in the Declaration and declare that there are certain inalienable rights granted us. Our agent, the US of America, has limited and delegated powers and the authority to be supreme over those areas was delegated to the agent by the people. All other areas, the people and the states remain supreme. The only constitutional authority, not necessarily assumed Congressional authority, that the agent of the states and people has to possess ownership of real estate within any sovereign state of the federal government consists of land purchased for the purposes mentioned in the Constitution. Kevin is convinced that the federal government has no Constitutional authority to possess real estate within a sovereign state unless they buy it with consent of the state. Kevin stated that the Board members' task is to do their best to fix the issues at hand. Kevin asked that everyone study the Constitution and think about it.

#10HIGHWAY COMMISSION

This item was handled under separate agenda.

#11-LINCOLN COUNTY FIRE DISTRICT

This item was handled under separate agenda.

#12-PANACA FIRE DISTRICT

This item was handled under separate agenda.

#13-JURY BOX SEATING

Paul M. made a motion to approve the contract with Sauder Seating to replace the jury box seating and gallery in the courtroom, not to exceed \$25,000; seconded by Ed. All voted in favor.

#14-FRANK PORTER TAX DEED SALE

Frank Porter requested that his property not be included in the tax deed sale. Frank had an agreement with the previous Treasurer Kathy Hiatt and DA Daniel Hooge advised that there isn't anything wrong with honoring it. Tommy suggested that Frank's property be removed. **Paul M. made a motion to exclude Frank Porter's property from the tax deed sale; seconded by Ed. All voted in favor.**

#15-STEPHANIE ALLEN HOME FLOOD

Stephanie Allen stated that July 16 saw two tremendous thunder and rain storms. Apparently, the drainage culvert system that bisects her neighbor's yard and to the north of Stephanie's property hasn't been maintained. This system connects with a culvert that goes under LaCour Street. There's an open ditch that ends up at the highway. This is the second time in eleven years that her house has flooded. Both times, the conditions have been extraordinary. Stephanie had eight inches of water in her laundry room and bathroom; she invited the Board members to tour her home. The drainage system has been in place for many years. When Stephanie purchased the property she looked at the drainage system, which was clear and working fine. In the last five or six years, the neighbor's lot has become a fire hazard. With the change in administration at PPU it is possible that they forgot they needed to maintain that system. Stephanie's insurance will not cover the damage to her home because it's considered damage by water. Unless she had flood insurance, it isn't covered. Stephanie has mold growing in her home now. At the time of the flood, she had several members of the fire department helping her clear out the ditch and the water from her home. The ditch needs to be opened properly and any culvert that needs to be replaced should be replaced. She needs help clearing the silt that has built up against her home. Stephanie is in a hardship situation and needs help. Paul M. stated that the county can help with manpower, but the Board needs to consult with the DA prior to addressing the mold issues. Paul M. suggested that the Honor Camp crew that is contracted with Pioche Town be used to remove the silt and clear the drainage ditch. Stephanie suggested that this be divided into two separate issues: 1. restructuring the drainage ditch to its former dimensions, clear the weeds, and remove the silt from her home, and 2. provide her with labor to remove the damaged flooring and sheet rock. Once the sheet rock and flooring are removed, Stephanie will talk to the remediation experts to see what has to be done and they will provide a bid. This information will now be passed on to her insurance company in spite of the fact that they won't pay a dime for repairs. Paul M. stated that if the county is careful to use the resources properly it will avoid liability. All that Stephanie expects from the county is to clear the ditch and silt, and tear down the sheet rock and flooring. Paul M. stated that he doesn't want to make this a county insurance issue; he just wants to find some labor to aid Stephanie. Daniel stated that NDOT and Stephanie's neighbor will have liability. If presented to the county's insurance, the insurance company will say it's not our liability. Stephanie believes that it is PPU's responsibility to maintain their easements properly so that the systems function correctly. Daniel understands that PPU doesn't maintain culverts. The open trench and culvert system are part of the town's drainage system. Stephanie reiterated her offer to tour the property with the Board members. Paul M. stated the county wants to avoid all liability and implication of liability, but on the other hand it won't cost but a couple of hundred bucks to have a crew there for a day. Paul D. and Glenn Zelch will address this issue. No action was taken.

#16-FREEDOM FOURWHEELERS

Paul M. made a motion to approve Freedom Fourwheelers mud race on September 29; seconded by Ed. All voted in favor.

#17-LC NUCLEAR OVERSIGHT PROGRAM

Connie Simkins reported that Congress is considering a continuing resolution that will take us through the end of March 2013. It entails no funding for the Oversight Office/AULGs. The next President is scheduled to present a budget in February 2013; this resolution was designed to carry the twelve different spending bills to the time beyond when the next President puts forth a budget. There has been a program put forth in Hanford for

removing radioactive sludge. Japan has announced because of politics that they are aiming for zero nuclear electricity by 2040. France is now enjoying 70% nuclear generated electricity and the French President will be closing some of the older nuclear facilities by 2016. NWTRB will be holding a meeting in Idaho Falls on October 17; Dr. Mike Baughman will attend and report. There is work at Savannah River to reduce weapons grade plutonium and provides fuel for commercial grade power plants. In January 2013 in DC there will be a spent fuel management seminar; Connie will attend with a couple of Commissioners.

#18-EMERGENCY RESPONSE RUN BOOKS

Paul D. made a motion to approve printing of the Emergency Response Run Books by Nevada State Printing Office in the amount of \$8,323.00; seconded by Kevin. All voted in favor.

#19-BUREAU OF LAND MANAGEMENT LAND TRANSFER

The proposed land transfer at Desert National Wildlife Refuge (NWR) is approximately 5,949 acres and the proposed transfer at Pahrnatagat NWR is approximately 471 acres. The consulting firm aiding with this had an idea that existing uses were minimal; water rights will be maintained but Cory is concerned about seeing that written on paper. There is further restriction on the corridor just below the narrows. Cory stated that this is an issue that needs to be addressed by the private property owners and all entities involved. One of the largest pushes is that they need access to build a large visitors center. Gaining access to this will provide for the construction of the center. Ed has spoken with some of the Sharps; there is a section of ground near the Sharp Ranch that involves 40 acres they want to take. Ed stated that he has no idea where the boundary is nor what it will mean to the people that live in that area. Ed questioned whether or not taking this property will provide the opportunity for the Sharps to obtain a direct sale. Ed met with Mr. Sanders of Delamar Cattle Company, and they've already lost some vested interests based on some of the things these people have done. A spring was dug up and no longer seeps so the cattle do not get water in that area anymore. It is unknown if this will be fenced; if it is, it will remove some of the feed for ranging cattle. F&W has already cut some of the Delamar cattle off from water access. Ed suggested that this item be tabled and a public hearing be held in Pahrnatagat Valley so that people can be made aware of this. Ty Chamberlain stated that the group proposing this letter has nothing to do with BLM or F&W. The idea behind this is a fact gathering letter for Congress so that they might implement a land plan. Rosie Thompson has asked that the county mention a choke point if a letter is sent because there will really be a problem down there with all the land being put into the National Refuge. The Wildlife Refuge Association is the entity proposing the letter. The Board agreed that a letter voicing their concerns should be sent; Cory recommended that this be presented to the town board prior to taking action. Ronda Hornbeck suggested that questions be asked about who the group is, and what kind of work they do, that's presenting this issue. **Ed made a motion to table this item; seconded by Kevin. All voted in favor.**

#20-PUBLIC LANDS COMMITTEE

Cory Lytle addressed the course of action for forming a public lands committee and two-year review of LC Public Lands Policy Plan. A committee needs to be created to do cleanup on the policy. Kevin stated that the Board took action to charge Kevin with reassembling a committee to advise the Board on public lands issues; he's working on it. Kevin has spoken with a couple of people and he's getting ready to present names for appointment to an advisory committee. Kevin and Cory will work on this issue. No action was taken.

#21-COYOTE SPRINGS COMMUNICATION TOWER

Elaine Zimmerman, Grants Administrator, discussed the need for designation of a funding source to pay Abbey, Stubbs, and Ford for consulting services related to the completion of the power line extension to the Coyote Springs Communication Tower. There is no additional funding available through grants to pay for this contract. They refused to use the county contract and it didn't state that it would be contingent upon receiving funding. At this point, it won't be moving forward but if additional funding comes available we may have to pursue this further. Gary Davis suggested that this be pulled. At this point, chances are that the contract is moot and we won't be moving forward. Paul M. stated that he would prefer to take no action until we have a timeline and more details. We meet the FAA qualifications with our tower down there, but we have a request to light the tower. We have to get power to the tower one way or another, but there is no funding. Gary Davis discussed the cooperative agreement with Clark County, who has funds to pay for the power extension, but according to DEM they've lost their fifth request to appeal through DEM and FEMA to spend their money to get the grant; they have a \$300,000 investment in CS. DEM is saying they didn't follow the rules in accordance to their EA

related to migratory birds. This now affects us as they can't use their other grants to provide power; this has now been passed on to LC to provide the required power. It is estimated that it will cost another \$200,000 for us to address the power issues. Our consultant has told DEM that we have our own EA. One way or another we have to get power to the tower. There is a cancellation clause in the contract. At this time there is no sense in going forward. If we choose to use this company to pursue a grant/permits it'll cost \$21,000. No action was taken on this item.

#22-COYOTE SPRINGS COMMUNICATION TOWER

See Item #21 for discussion. No action was taken on this item.

#23-LACOUR STREET IN PIOCHE

Paul M. made a motion to approve the loan to Grants in the amount of \$86,494.15 for the LaCour Street sewer replacement until reimbursement arrives from grant funding (to be paid by PILT Fund); seconded by Paul D. All voted in favor.

#24-PANACA FIRE DISTRICT AERIAL FIRE TRUCK

LC filed a loan/grant application on behalf of Panaca Fire District for the purchase of an aerial fire truck. USDA has advised Elaine Zimmerman that this grant loan application had to be advertised; it has been. This is a public comment period in regards to the purchase of the aerial truck. Tommy called for public comment. None was offered. No action was taken.

#25-ALAMO LANDING FIELD

Paul D. made a motion to approve the contract with Priority Construction for the Alamo Landing Field Phase II project; seconded by Ed. All voted in favor.

#26-COMMISSIONER REPORTS

COMMISSIONER PAUL MATHEWS will attend the LCWD meeting on Wednesday at 10 a.m. Paul M. extended his appreciation for Congressman Amodei's statement regarding the oil/gas leases and limitations. Anything related to sage grouse and decisions being made because of them are critical to LC. Senator Amodei supports multiple uses of public lands, including cattle and other industries that use those lands. **COMMISSIONER KEVIN PHILLIPS** attended the open meeting at the BLM office to hear about the translocation of tortoises. Kevin attended a conference at University of Utah on Saturday concerning reclaiming our western lands, restoring power to the states, and other topics. **COMMISSIONER TOMMY ROWE** attended a meeting concerning the Toquop Power Plant; it has been stagnant. There is an organization that was brought in by Vidler Water and they are helping to move it forward. It will be a gas powered plant and will be done in two phases. The completion date is projected to be 2017. The first phase will include about 600 employees, the second will employ about 400. The completed project will have 25-30 full time employees. The tax benefit to the county will be incredibly beneficial. 9-11 Tommy attended a LEO meeting in Las Vegas. An additional \$100,000 was approved to move the part time position in LC to full time; they are working to find an office. Tommy attended a follow-up meeting with NV Connect. There will be a public meeting on 10-9 concerning the US Postal Service's future in LC. There is talk about closing the post office in Panaca. **COMMISSIONER ED HIGBEE** also discussed the power plant. Ed met with the group concerning the land transfer in Pahranaagat. Ed meets with the military civilian counsel tomorrow. **COMMISSIONER PAUL DONOHUE** will attend a negotiations meeting in Ely on 10-10; POOL/PACT will be putting it on. Paul D. met with the Mesquite Mayor. Mesquite agreed to de-annex and this will be done at a future meeting. Paul D. met with Kevin and the BLM concerning the quarterly road maintenance agreement. Paul D. also met with Dawne Combs and Tracy Lee with regards to a key system phone being installed. Dawne presented a list of phone charges to Paul D. We are in desperate need of a better communications system in the courthouse. There are several options to upgrade the system. Paul D. informally asked Dawne if she would mind gathering the annual amount spent for communications on the entire courthouse. Paul D. suggested that the Board members stay on top of the Toquop project themselves as opposed to relying on Vidler. The Board members need to be proactive with this project and the de-annexation of Toquop. Paul D. met with the Connect NV group. The President wants at least 3MB down and 500K up streamed to everyone in the US. 97.85% of LC residents have this streaming. NV Connect want everyone to be trained, including the senior citizens. Paul D. would like to serve on the

Governor's committee. September is Rehabilitation Month; Narconon invited Paul D. and his wife to a graduation ceremony at their facility.

#27-PUBLIC COMMENT

Tommy called for public comment. Ty Chamberlain discussed the incentives for the business communities with regards to Toquop power. One of the provisions of LCLA is that the funds can be used for BLM expenses (surveys, etc.). Ty believes that the Toquop power people would avail themselves of the funding, but he's been informed that LC wrote a letter stating that corporations shouldn't be included in that group as they should save the funding for the "little guy". Paul M. responded that the discussion included how broad or narrow BLM wanted people to access the funding. Paul M. stated that it was believed that it was more county focused access to BLM and that we can still work together. If there is some evidence to the contrary, it can be reconsidered. The county isn't trying to limit the developers from having access to the funds. As far as groundbreaking, it is anticipated that it will happen in June 2013. Connie Simkins advised that Western Watershed Chairman John Marvel has resigned. Connie made personal comments about the tortoise translocation project; she indicated that they should put them in Clark County as there are only four grazing allotments in CC and only two of those are active. The tortoises shouldn't be placed in any active, licensed allotments. Connie asked that the grazing operators in the area of the power plant are consulted ahead of time. It can be beneficial if done ahead of time. Adam Katschke discussed the power plant. In other counties, these large corporations are granted a property tax reprieve. Adam mentioned Stephanie Allen's situation and stated that the Board may be setting precedence where everyone's flooded homes are to be paid for in the event of extenuating circumstances. Ed stated if there is a letter that's blocking us from getting help with the power company we'd better do something about it. Paul M. stated that the letter simply restricts access to fund through the business plan. It says that only the county can access the funds to be reimbursed on surveys and such things. On this particular project, much of the groundwork was done. The survey for the sale hasn't been completed. Ty is working to get the land purchase to move forward as quickly as possible; the stumbling block is whether or not there are funds available for the appraisal. BLM is moving quickly on this project. One of the things the county will have to consider is improving the road. The intent of the business plan was to benefit LC and development in LC, especially the LCCRDA areas. Connie Simkins asked what has happened to the proposal to put a solar plant in the Toquop area and does the new company have plans to put in a substation. There are no plans for a solar plant. The Toquop power plant includes plans to put in a substation to get the power to the main line.

#22-ADJOURN

There being no further business for the Board to attend to, Tommy adjourned the meeting at 12:26 p.m.

Attest: _____ Approve: _____