



LINCOLN COUNTY BOARD OF COMMISSIONERS

November 19, 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: ED HIGBEE
PAUL MATHEWS
TOMMY ROWE
KEVIN PHILLIPS
PAUL DONOHUE

LISA LLOYD, Clerk
DANIEL HOOGE, District Attorney

There is a quorum present and the agenda was posted on 11-14-12. The Invocation was offered by Paul D. and Tommy led the Pledge of Allegiance.

#2-PUBLIC COMMENT

Tommy called for public comment. Ruby Lister addressed the Board concerning an item discussed in a previous Commissioner meeting and she also submitted the following Statement of Fact: "This statement of fact concerns a conversation held between Dan McArthur, Independent Auditor for Lincoln county, and myself, Ruby Lister, during the month of September 2012. Dan McArthur called me when I was away from home and left a message and a phone number to call him back. I did as he asked and returned the call. He said he was interested in what I remembered concerning a contract between Lincoln County and the City of Caliente involving gas tax funds. I repeatedly told him that to the best of my recollection I had never seen or knew of any such contract. I explained to him that during the time I served as Lincoln County Treasurer the state law required that the County Treasurer distribute a portion of gas tax receipts to any incorporated city on a quarterly basis. I also assured him that if there was any such contract or agreement there would be a copy in the Offices of the County Clerk, the County Auditor, the County Treasurer, and the City of Caliente. If this 'agreement' did not appear in those offices it must be nonexistent. Contrary to any statement given by or through Mr. McArthur, I did not tell him or anyone else that any such contract existed. I do not appreciate being misquoted. I related this information to Commissioner Phillips a few days after it occurred and I am surprised that he did not correct Mr. McArthur during the Commission meeting in September 2012 when the matter was discussed. I request that this Statement of Fact be entered into your minutes to clarify the issue. I certify that the above is a true statement of fact concerning this matter. ", signed by Ruby Lister on 11-19-12.

CONSENT AGENDA

- #3 Approve/Deny minutes of the October 15 and October 26 meetings.
- #4 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.

#5-VOUCHERS

Recorder/Auditor Leslie Boucher presented the vouchers and cash balance report. General County has a balance of \$680,100.71 with estimated expenditures being \$172,362.34. General County will have a balance of \$507,738.37. Transportation has a cash balance of \$32,947.59 with estimated expenditures being \$4,256.30. This will leave Transportation with a balance of \$28,691.29. Senior Nutrition has a balance of \$88,493.94 with estimated expenditures being \$6,900.68. This will leave Senior Nutrition with a balance of \$81,593.26.

Detention Center has a negative cash balance of \$24,066.05 with estimated expenditures being \$82,266.15. Detention Center will have a negative balance of \$106,332.20. Solid Waste has a negative cash balance of \$31,923.29 with no expenditures. Solid Waste owes LC Water Special Projects, Fund 87, \$27,484.15. Airport has a balance of \$2,794.86 with expenditures of \$293.67. Airport will have a balance of \$2,501.19. Planning has a balance of \$3,877.83 with expenditures being \$1,876.84. Planning will have a balance of \$2,000.99. **Ed made a motion to approve the vouchers as presented with the exception of the Mountain Merc; seconded by Kevin. 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. Ed made a motion to approve the vouchers for LCTS; seconded by Kevin. Paul D. abstained as he is an employee. Motion carried.**

#6-OFFICER/DEPARTMENT HEAD REPORTS

DISTRICT ATTORNEY Daniel Hooge spoke with Ed Lubbers, counsel for C & O Holdings. Now that the de-annexation is going through Ed L. would like to meet on December 11. If the Board meets with them it will have to be handled through a special meeting or a small committee of two Commissioners can handle it. Paul M. suggested that the meeting be handled by two Commissioners initially. The Board agreed. Paul M. and Paul D. will attend the meeting. **SHERIFF** Kerry Lee stated the lift station at the Detention Center has been giving them major problems for the last 30 days. There have been overflows. Kerry has requested \$10,000 in the past several years to work on the lift station; the money hasn't been spent. Kerry stated the first bill to have the company come and look at the lift station was \$5,000. The lift station has to be fixed or the DC is out of business. Jerry's has even come out to do some pumping. Kerry stated that both pumps have been replaced but the total cost to repair the lift station will be approximately \$17,000. The lift station has been repaired and is working right now. Last budget meetings \$12,000 was approved the fix the plumbing; the repairs weren't finished until after the new budget year started. Funding wasn't budgeted this year to cover the plumbing repairs. If there is still money in the fund, it can be augmented in December. Kerry stated that the repairs have to be made; there is no choice. Paul M. stated that it appears to be feasible that when the audit is complete the fund can be augmented. Recorder/Auditor Leslie Boucher believes that there is a good chance that the funding will be there in December. Paul D. suggested that a filtration system be installed in the lift station to prevent future problems. Kerry commented that maintenance on the lift station needs to be budgeted in the future. Kevin suggested that a long term solution for the community at large be considered. All of the people in the Vincent Development are on septic. **EMERGENCY MANAGEMENT COORDINATOR** Rick Stever discussed the vaccine pod for the county; it was held in Panaca. The State Department of Health came down and looked over our trailer; they are going to restock it.

#7-HIGHWAY COMMISSION

This item was handled under separate agenda.

#8-LINCOLN COUNTY FIRE DISTRICT

This item was handled under separate agenda.

#9-PANACA FIRE DISTRICT

This item was covered under separate agenda.

#10-THIRIOT PARCELS LOCATED ON SPRING ROAD IN PANACA

This item concerns the possibility of using Southern NV Public Lands Management Act grant funding to purchase Mr. Steven Thiriot's property adjacent to Pioneer Park in Panaca. Steven Thiriot was present via telephone. Elaine Zimmerman, Grants Administrator, advised that the land will help cut down on the approach angle to the parking lot at Pioneer Park. We were too late to apply for SNPLMA funds during the following phase. Elaine has contacted SNPLMA and we could use Phase 13 to do a land acquisition. An appraisal is needed as SNPLMA will only pay fair market value; this will be the county's responsibility. A scope change will have to be done. As it is, LC has been approved for Phase II in Round 13. Once we've received the financial agreement we can take the steps to do the scope change and explore the opportunity to purchase Thiriot's lots. Elaine has changed the nomination on Round 14 to include the cutting of type II from Phase II. The funding will be used for the purchase of the property. There are no guarantees that we will be approved for funding for Phase III and it will be about one year before we know if we will receive funding. The proposed Phase II

changes have been reviewed by Panaca Town. If we aren't approved for Phase III we may have to wait for another round to bring it forward again. The appraisal will have to be completed prior to making the scope change request. Adam Katschke stated that we are putting out fires instead of continuing with our plans. The Spring Road cuts through part of Dave Severns' property. Adam is willing to purchase the property in Panaca and so is Dave. Adam commented we have a plan and we are approving changes to maintain the look. The people that live along the road in front of the subdivision that connects to Spring Road were told at the time of purchase that the road would be improved. These residents are stuck without a road and Adam stated that changing the road will make the town look nice. Connie Simkins owns a piece of property adjacent to Beacon Group. Connie believes moving forward with the Phase II alterations is a good idea. Connie implored the Board to require Mr. Thirirot to provide the county with an abstract of title prior to purchasing the property; the county needs to know that they have clear title to the land that will be purchased. Dave Severns would like the county to purchase the corner of his property where the road goes through it. Connie stated there are several other property owners who may ask the county to purchase their property as the road cuts through it as well. Elaine stated that SNPLMA funding can't be used for anything but the purchase of the land adjacent to the park. The property would extend 5th Street all the way to the park then it would cause a ninety degree turn in the road. In 1997-1998 discussions were held about changing the shape of Spring Road. Phase II will change the entry to the park. Phase III would be the full improvements to the entrance of the park. Phase II would only include the addition of the property. The county couldn't come to consensus in 2005-2007. Cory Lytle suggested that if we go back to the original plan for the road, including the ninety degree angle, it would solve the issues. There are many utilities involved in changing the road; these issues haven't been addressed. By purchasing the property it is for the enhancement of the park only. As we move forward we have to keep in mind that the grant won't pay for the appraisal. Park improvement is the most important issue. **Paul M. made a motion to proceed further with the SNPLMA funding and to change the scope of work; seconded by Ed. All voted in favor.**

#11-THIRIOT REQUEST FOR COUNTY TO PURCHASE SPRING ROAD PARCELS IN PANACA

This item was somewhat discussed under Item 10. Steven Thirirot was present via telephone. Steven sent an email to Cory Lytle concerning Spring Road crossing his three lots in the North Hills Subdivision in Panaca. Steven is willing to sell the three lots to LC for \$3,000 each but he insists that the property taxes he's paid (\$254.23) be reimbursed to him on a prorated basis and that the Thirirot family not be responsible for paying any closing, escrow, or title insurance expenses for the transaction. DA Daniel Hooge stated that we will have to get at least two appraisal; typically it is customary that the seller provides title insurance, abstract of title on the property, and report. Steven responded that he isn't willing to provide the title insurance or items mentioned by Daniel. Daniel believes the cost for said items will be a couple of hundred dollars. Steven responded that he would be willing to split the costs with the county. Tommy felt this was a good compromise. Paul D. stated the problem is the consequence stick we're picking up, will the county be willing to split the abstract costs with future property owners that area affected? If Steven isn't willing to provide the abstract, Paul D. feels that's a deal breaker. Steven wrote a note to Tommy; he feels this property is completely different than any properties being considered to the north. It's an approved, platted property with all utilities present. Cory stated the subdivision was originally approved with the understanding that all road alignments that were to be put in but it was never completed pursuant to the original agreements and maps. Sherman Hinckley put the subdivision in and he claimed that the county had always intended to put in the road. Paul D. stated that the county will do the appraisal but Steven needs to do the abstract. Steven stated he is willing to do the abstract. An abstract of title needs to be requested from the title company, not an abstract report. Dave Severns' issue with the road going through his property is a separate issue. **Ed made a motion to proceed (the county will purchase the three parcels of land and Steven Thirirot is to provide the abstract of title), the taxes will be refunded on a prorated basis, Daniel will work to draft an agreement to address the details of the purchase, and the motion/purchase of property was subject to approval of the SNPLMA grant scope change; seconded by Paul M. Daniel will contact Cow County Title on behalf of Steven. All voted in favor.**

#12-ALAMO LANDING FIELD

Paul D. made a motion to approve payment to Alamo Power District in the amount of \$34,905.08 from Federal In Lieu (PILT) Grant Match Fund for work performed at the Alamo Landing Field due to lengthy delay in obtaining access to the new draw down system for the Federal Aviation Administration; seconded by Ed. All voted in favor.

#13-COMMUNITY DEVELOPMENT BLOCK GRANT

Kevin made a motion to approve and sign the Community Development Block Grant statements and assurances for the grants selected for application; seconded by Paul D. All voted in favor.

#14-SHERIFF'S OFFICE PATROL POSITIONS

Sheriff Kerry Lee advised that there is a vacancy in the patrol squad; at the end of this month there will be another vacancy. LCSO will be short two positions and this is 20% of the patrol division. There are some budget issues and the union made some concessions so these positions would be there until the end of the year. Testing procedures for applications will be taking place next week. Kerry is concerned that if he hires someone without a POST certificate it will be approximately 8 months until that person can be working on the streets. Those already employed should have the opportunity to apply for the position as well. Kerry is concerned about being down two positions for eight months. They are racking up the overtime now and Kerry has some grave concerns about not filling the vacancies. If someone were to be transferred from jail to patrol, he would come to patrol with the same number of years as they are under the same contract. If someone is hired that is already POST certified they won't be started out at the bottom as being certified from the start is a cost savings. If the position isn't filled the Commission has an easy choice to make and they can eliminate the position beforehand. There is a shortfall in the budget now, but LCSO can't operate with two officers down now. One of the positions is already in the process of being filled; today's conversation was about filling the other vacancy. Paul D. commented that he gets nervous in the thought process of cuts in public safety. Overtime is also an issue that must be addressed. Is the overtime equivalent to another person, or close? The other point is that the Board is making a decision on the back of public safety. Paul D. supported the replacement of the one patrol position, but he asked for time to digest what/not hiring another will do to overtime and other related costs. Current staff at LCSO are not POST certified. Kerry asked the Board to make a decision so that he knew how many positions he was looking at replacing. There was some discussion about the hiring freeze, whether or not it exists or has expired. Annual leave will have to be paid for the officer that is leaving. Kerry estimated the hiring date that will be used will be January 1. Daniel stated that when the Board approves a budget for elected officials it is up to the elected official to handle the budget. This gives the elected official the right to hire and fill vacancies when they occur. **Kevin made a motion to approve the filling of two vacant Sheriff's Office patrol positions; seconded by Ed. Paul D. was opposed. Motion carried.**

#15-PANACA TOWN LAWN MOWER

Paul D. made a motion to approve a request from Panaca Town Board to dispose of a John Deer LX 279 riding lawn mower that burned in the Pioneer Park shed fire; seconded by Paul M. All voted in favor.

#16-NATIONAL RADON ACTION MONTH

Paul M. made a motion to approve the resolution proclaiming January 2013 as National Radon Action Month; seconded by Kevin. All voted in favor.

#17-SILVER STATE CLASSIC CHALLENGE

Paul M. made a motion to support the Silver State Classic Challenge closure of SR 318 on Sunday, May 19, 2013 and Sunday, September 15, 2013; seconded by Kevin. All voted in favor.

#18-LC NUCLEAR OVERSIGHT PROGRAM

Connie Simkins presented the emergency response run books to the Board members; printed and electronic copies have been distributed to 26 county departments. Connie attended a November 1 Caliente City Council meeting and presented hard copies to the council members and city clerk. Connie addressed the rent that the Oversight Office pays for their rooms. City council is working to standardize the rent rates; Connie asked them to be kind when they consider the rates. Replacements to be nominated by city council were suggested for JCCIAC; appointment for the seat now held by Tommy will be made after January 1. Clark County Commission shut down report for the oversight program there will be presented tomorrow. White Pine County oversight office clerk for will transfer to White Pine County Assessor's Office; the WP oversight office is closing. Connie presented an article from Nuclear Energy Insider concerning mounting storage concerns. December 5-6 there will be a webinar on how to do the pilot project in Lake Valley, Clark County; Mike Baughman will participate. The next solar energy meeting will be January 30-31.

#19-LC NUCLEAR OVERSIGHT PROGRAM

Paul M. made a motion to approve the request from LC Nuclear Oversight Office to purchase a computer for the Lincoln County Treasurer's Office in the amount of \$2,432.28; seconded by Ed. All voted in favor.

#20-CERTIFICATION OF EXPENDITURES

Paul M. made a motion to approve the request from Nuclear Oversight Office for Certification of Expenditures Public Law 111-85 of 2010 letter to Dr. Peter Lyons, Assistant Secretary for Nuclear Energy, Department of Energy, Washington, D.C.; seconded by Kevin. All voted in favor.

#21-BUREAU OF LAND MANAGEMENT RESOURCE MANAGEMENT PLAN

Dr. Mike Baughman presented this item, which concerned the summary/review of comments and recommendations regarding the Bureau of Land Management (BLM) approved Resource Management Plan amendments, the associated Record of Decision for solar energy development in six southwestern states and possible updates to the 2010 Lincoln County Public Lands Policy Plan. The ROD indicates that the Solar Energy Development Program Alternative is in fact the BLM's preferred alternative. This means solar development will be allowed, and "incentivized", in Solar Energy Zone's (SEZs) but will also be allowed in "Variance Areas" outside of the SEZs. The only area where solar development is off limits is in "Exclusion Areas". LC advocated hard for SEZ alternative that would have only allowed solar development within designated SEZs. The BLM indicated that it felt both alternatives were "environmentally preferred" but the Development Alternative better met the BLM's objectives. The decision by BLM stands and isn't appealable to the interior land board of appeals. If a party doesn't agree with the decision they will have to go straight to the district court. The county may wish to adopt land use regulations governing development of solar energy projects in BLM identified variance areas which, in the event BLM elects to approve such projects, would have development standards and requirements significantly greater than those for solar projects developed in the BLM identified Dry Lake Valley North solar energy zone. Second recommendation is that LC may wish to adopt an ordinance setting forth project review fees and/or special use permit applications fees which are significantly greater than those which may be required for solar energy projects proposed in the BLM identified Dry Lake Valley North SEZ. It should be based on cost for doing the work for LC. The county's comments were adamantly against land acquisitions and withdrawing of BLM lands from other uses due to the adverse economic and fiscal consequences such actions would produce in LC. BLM is still talking about land acquisition for mitigation. LC may wish to make clear in its Public Lands Policy Plan update that it doesn't support acquisition of private land or certified water as a means to mitigate impacts of projects on public lands. We received some changes in the variance process. The inclusion of "lands with wilderness characteristics" is a dangerous extension of BLM's recent failed initiatives to use a "back-door" approach to identifying and designating new wilderness areas. LC should include opposition in the land use plan to any reference to "wilderness characteristics". It is recommended that the county coordinate and meet with the Governor's office to go over issues related to concerns with the amendments to the Ely RMP resulting from the ROD. It was recommended that county officials meet with BLM to talk about how solar energy related amendments to the Ely RMP will be implemented. The Ely RMP will now include 3, 344,963 of Variance Areas and 25,069 acres of developable acreage in SEZs in the Ely District. Much of this is in LC. There will be no solar energy development in either Coal or Garden Valleys. Delamar, Mormon Mountain East, and portions of Dry Lake North should be identified as unsuitable or exclusion areas in the planned update to the LC Public Lands Policy Plan. LC provided various comments suggesting other methods than those identified in the ROD to mitigate socioeconomic impacts which would serve to enhance/maximize economic benefits associated with solar energy development. 1. Design and implement local job fairs to maximize use of area residents as construction/operations employees. 2. Support local solar industry and/or union-based job-training programs to train local residents to obtain solar related construction and operations employment. 3. Design and implement local procurement outreach initiatives to encourage local project related purchases. 4. Make sure the point of delivery for all construction supplies and equipment is listed as LC to ensure that solar project related sales tax benefits are maximized. It is recommended that LC include in its update to the LC Public Lands Policy plan and ordinances regarding special use permit and/or development agreement requirements for solar energy projects that a Plan of Development be prepared and submitted to the county early in the process which addresses, among other things, the cumulative impact of the proposed solar energy project and other major energy and other public land uses under construction in the county. The county will need to remain cognizant of the

provision providing for notification to livestock grazing operators (BLM will coordinate with any potentially affected grazing permittee/lessee to discuss how a proposed solar energy project may affect grazing operations and to address possible alternatives as well as mitigation and compensation strategies), and the county will need to stay in touch with Permittee's whose allotments have solar development proposals to ensure that the BLM is in fact working to develop alternate project designs that would maintain grazing rather than removing it. LC may want to consider amending its special use permit process for solar energy projects in BLM identified variance areas to require the proponent to participate in at least one public meeting in advance of submitting its variance application to BLM. This meeting should be held in LC. It is critical for the county to have its Land Use Plans updated and adopted so that they are enforceable when a project comes online. No action was taken as this item was informational only.

#22-ENERGY COMMUNITIES ALLIANCE/DOE INTERGOVERNMENTAL MEETING

Kevin made a motion to approve the attendance of Ed and one other person to the Energy Communities Alliance/DOE Intergovernmental meeting in New Orleans December 12-14, 2012; seconded by Paul D. All voted in favor.

#23-SOLAR ENERGY DEVELOPMENT

Dr. Mike Baughman presented this item. JCCIAC has approved this for the last several years and provided funding to LC Regional Development Authority to complete the scope of work. Under the current budget year, the JCCIAC approved an allocation to LCRDA in the amount of \$35,000. The form of the MOA is the same as used in past years. The dates need to be corrected in the proposed MOA. **Ed made a motion to approve the memorandum of agreement between LC and LC Regional Development Authority regarding characterization of impacts of the proposed Caliente Rail Alignment upon Solar Energy Development within the BLM designated Dry Lake Valley North Solar Energy Zone, subject to the correction of the dates; seconded by Paul D. All voted in favor.**

#24-COMMISSIONER REPORTS

COMMISSIONER PAUL MATHEWS reported that the Tri-County Weed building project is moving forward. **COMMISSIONER KEVIN PHILLIPS** attended the NACO conference in Carson City. **COMMISSIONER TOMMY ROWE** also attended the NACO conference. Mike Willden is making recommendations that several of the statutory items that the county has to pay will be recommended for removal; the state will then pay them. Tommy will write a letter to the Governor requesting these changes. **COMMISSIONER ED HIGBEE** stated that things are moving forward with the LC Airport. The airport watch person left and it has been difficult finding someone to take her place. **COMMISSIONER PAUL DONOHUE** advised that the gentleman that owns the mill below Pioche would like to donate it to the county. Any environmental issues will be cleaned up prior to turning it over to the county. Cory, Paul D., and Denise will continue to work on this issue. Paul D. met with the Pioche and Panaca Town Boards to present the Thanks For Giving awards. There has been a problem with hunters around Pioche; shots have been fired much too close to town. Paul D. has spoken with Sheriff Lee concerning this issue. Sheriff Lee, in turn, has spoken with Fish & Game. The Commissioners could create an ordinance stating that it's illegal to fire a weapon within so many miles of town. There is already an ordinance that states you can't fire a weapon in town nor in the direction of residences. This item will be addressed at a future meeting. Paul D. received an invitation to attend the air show at Nellis AFB; he went and advised that it was very well done. The Room Tax & Fair Board has decided it would be important to have heating in the new fairgrounds building instead of swamp coolers. Paul D. discussed the tax issue presented by Charles Reifsnyder previously addressed at a Commission meeting. The Assessor's Office totaled the amount of taxes paid by Reifsnyder, \$2,777.11. Paul D. will put this on a future agenda for approval of the refund.

#25-PUBLIC COMMENT

Tommy called for public comment. Connie Simkins attended the NV Cattleman's Association meeting as well as the NV Lands Resource meeting. A broadcast was aired concerning sage grouse, which gives a great deal of resource information and explains why sage grouse benefit from livestock operations. Connie presented a Central Committee report dated November 13, 2012; the report included information about solar, wind, SNWA, turtle translocations, sage grouse conservation, wild horses, Muncey Creek fire, non-motorized trails, NV Energy SWIP South, Transwest Express, and Sunset Committee. Five of ten N-4 Grazing Board members attended the cattleman's convention. N-4 is in the middle of elections; nominations have gone out and been received as well

as the subsequent letters asking the individuals to serve. The name on the ballot is Delamar Cattle Company. If elected, this company can designate John Sanders to sit on the board and attend meetings. Connie has been involved in the creation of the newest county sage grouse plan. The Governor has come forward with a new plan to prevent the sage grouse from being listed. Other parts of the state are just getting started with ideas and plans similar to what LC has already been doing. The Conservation District leader in Carson has stated that the CD in each county will be the leader and each county will provide a plan to the CD office in Carson, who will then forward the information to the Governor. The new state supervisor of F&W was at the convention, Mr. Koch. Mr. Koch doesn't believe proper livestock grazing isn't a threat to sage grouse. The Grazing Board has taken a stand that the easiest, cheapest thing to do for the sage grouse is predator control.

#26-ADJOURN

There being no further business for the Board to attend to, Tommy adjourned the meeting at 1:22 p.m.

Attest: _____ Approve: _____

DRAFT