



LINCOLN COUNTY BOARD OF COMMISSIONERS

January 28, 2013
Commission Chambers
Lincoln County Courthouse
181 Main Street
Pioche, Nevada

Commissioners

Paul Mathews
Kevin Phillips, Vice Chair
Adam Katschke
Paul Donohue
Ed Higbee, Chair

#1-CALL TO ORDER/ROLL CALL/INVOCATION/PLEDGE OF ALLEGIANCE

Chairman Ed Higbee called the meeting to order at 9:00 a.m. Clerk Lisa Lloyd called the roll.

PRESENT: ED HIGBEE
PAUL DONOHUE
ADAM KATSCHKE
KEVIN PHILLIPS
PAUL MATHEWS

LISA LLOYD, Clerk
DANIEL HOOGE, District Attorney

There is a quorum present and the agenda was posted on 1-23-13. The Invocation was offered by Adam and Kevin led the Pledge of Allegiance.

#2-PUBLIC COMMENT

Ed called for public comment. David Brown of Caliente and Nathan Reeve of Panaca read a letter concerning the United States, what our country was meant to be and what it is now. Ed advised that a drought is taking place in NV at this time and read some information concerning such that was sent by BLM. A letter was received from BLM concerning county sales of land. Sales have been on hold due to funding issues and LCCRDA. Paul M. stated that he doesn't understand how this can be a funding issue; there are funds available. Paul M. and Kevin will follow up on this issue with BLM. Hiko, Toquop, and Cowboy's Dream are the lands that are being sold at this time.

CONSENT AGENDA

- #3 Approve/Deny minutes of the January 7 meeting.
- #4 Approve/Deny reappointments to the Lincoln County Local Emergency Planning Committee: Ed Higbee, Kerry Lee, Rick Stever, Harry Birkmier, Ken Dixon, Nicole Rowe, Glen Zelch, Louise Buettner, Gary Davis, Rachel Williford, Chuck Reifsnnyder, Travis Joyner, Steve Rowe, Ryan Rhodes, Lonny Walch, Larry Stever, Richard Higbee, George Rowe, and Miles Umina.
- #5 Approve/Deny updates to the Emergency Operations Plan.
- #6 Approve/Deny reappointment of Bill Lloyd to the Pioche Town Board.
- #7 Approve/Deny tax strike for 2012-2013, Dennis Perkins, APN 11-200-16, 2,334 assessed, tax refund for 2011-2012 in the amount of \$77.32. There is no well on the parcel.
- #8 Approve/Deny the advertising and hiring of a replacement server and/or homemaker for Alamo.
- #9 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).

Kevin made a motion to approve the consent agenda; seconded by Adam. Ed abstained. Motion carried.

#10-VOUCHERS

Recorder/Auditor Leslie Boucher presented the vouchers and cash balance report. General County has a balance of \$528,504.55. Transportation has a cash balance of \$56,611.99. Senior Nutrition has a balance of \$57,391.38. Detention Center has a negative cash balance of \$91,409.96. Solid Waste has a cash balance of \$92,296.66. Solid Waste also owes LC Water Special Projects, Fund 87, \$27,484.15. Airport has a balance of \$5,575.61. Planning has a balance of \$31,136.31. **Paul M. made a motion to ratify the vouchers; seconded by Kevin. All voted in favor.**

#11-OFFICER/DEPARTMENT HEAD REPORTS

DISTRICT ATTORNEY Daniel Hooge advised that the Steeles have filed another law suit on 2nd North. Daniel advised the Road Department to go forward unless they get an injunction. Daniel believes this lawsuit is an idle threat and there is no basis; he will file a motion to dismiss it. Daniel discussed the Mesquite annexation; the developer and Mesquite have done their part and it's officially de-annexed and is no longer part of the City of Mesquite. Daniel will now dismiss LC's lawsuit against them. Mercedes contacted Teamsters; they will be here this afternoon to meet but it will not be for serious negotiations, it's more like a meet and greet. The arbitrator has been chosen for the lawsuit with Hardy Construction. Daniel has a conference call this week and he understands that they will be pushing for resolution some time this summer. **EMERGENCY MANAGEMENT COORDINATOR** Rick Stever advised he's been working with the local emergency planning committee to update the operations plan and the emergency contact list; these will be filed with the state. Denice Brown advised that the Justice Court is getting ready to change out the benches in the courtroom. The old chairs are being sold for \$100 per row and there are four left. **RECORDER/AUDITOR** Leslie Boucher advised that February 25 is a budget hearing. **SHERIFF** Kerry Lee presented a letter he received from Western Corrections Group (WCG). Due to circumstances, WCG's letter advises that they regretfully withdraw their non-solicited proposal and terminate the land lease. Paul D. stated that in the immediate future, the Board needs to address the issues the DC has with female inmates and the kitchen.

#12-HIGHWAY COMMISSION

This item was handled under separate agenda.

#13-2013 LEGISLATIVE SESSION

Senator Goicoechea discussed the upcoming Legislative Session. There will be a great deal of room in the budget and it appears that they aren't looking for any real changes in the rural areas. Senator Goicoechea is interested in reform in exchange for the sunset taxes. The Senator would like to see prevailing wage addressed. Our honor camps appear to be safe this session. The Senator advised that he still has a bill draft if LC has something it is interested in or concerned about. No action was taken on this item as it was informational only.

#14-LINCOLN COUNTY FIRE DISTRICT

This item was handled under separate agenda.

#15-PANACA FIRE DISTRICT

This item was covered under separate agenda.

#16-WESTERN ELITE

Scott Seastrand offered an update on the current activities of Western Elite. It is estimated that the current 40 acres being used has a 20 year life span then the other side will be developed. WE continues to have an ongoing highway cleanup effort. Over the last four months there has been a great deal of rain. Discussions were held with NDOT concerning some track out onto Hwy. 93 that was occurring. There is now a 200 foot area that is fluted. If you water the track out too much then you get dirt; if you don't water enough you get fine dirt. They continue to work on getting the right amount of maintenance to address the track out issue. NDEP is WE's regulating authority and WE is listed on their website; should anyone want more information on WE it can be found there. WE has a minor recycling effort at the landfill. WE has been working towards a Class I application. It has been in the process for the last two years. In the event that WE gets permitted, they will negotiate a fair hosting fee with the county once they have customers. Ronda discussed the donation of monies to the schools. Scott responded that he understands the payments to the schools were voluntary and part of the Class I permit. The contributions to the school were never agreed upon, even though some were made voluntarily in the past. There is nothing in writing; the contributions to the schools were voluntary. Ronda believes the funds paid to the schools totaled about \$20,000 and this took place in the time period that Ed Wright was a commissioner; in lieu of the tipping fees, WE said they would be willing to pay monies to the school. Scott stated that this issue was brought up at a previous commission meeting and research into this issue didn't turn anything up. WE is financially stable and they will continue to move forward, but at this time, margins continue to be tight with regards to the market in Las Vegas. WE is grateful to still be in business. If WE had agreed to make regular

payments to the schools and it was done in writing they would certainly live up to that. Paul D. stated that originally WE's facility was going to be used for recycling. The original agreement discussed included that the material that came in would equal the material that went out. EPA approached the county as more material was going in than was going out. Paul D. was receiving calls advising that the state was going to shut them down but then all of a sudden there was a Class III facility there. One of the concerns pertaining to the Class I facility is the water table. Paul D. stated that he doesn't know that the county and WE has ever had a working relationship. Paul D. recalled that all contributions to the school district were voluntary. WE has already filed for a Class I permit. Paul D. suggested that LC be cautious as this will be the third Class I pit in LC if permitted. Paul D. asked that all parties involved work together. Paul D.'s perception of the history of WE is that they don't care if the county supports or opposes the Class I, they will go forward anyway. Scott stated that WE has had no violations and they are a "model citizen". WE is working hard to conduct their business and meet all the requirements. The water table issue has been taken into account and the State is reviewing it. The permit application still has to go through the public comment period. The State will take in all of LC's comments and consider them. Paul D. advised that he isn't accusing WE of "pulling anything", but from his perspective WE has a business plan and that's their goal, regardless of whether or not the county is on board. Scott responded that their real desire isn't to offend but is to be a real partner and an asset to the county. Ronda commented that she hopes that WE will come back and work with the commission while asking what they can do for the community, what they can do to be a better citizen in the community. In the past, the Board has asked that WE come to the meetings and work with the county. Kevin asked if the Class III permit encompasses a Class II as well since LC is in the process of considering what to do with the county's waste. Would WE have to have a Class I to begin receiving waste from LC? If obtained, the Class I would be able to handle all of the waste. WE doesn't currently have a Class II nor does it have an application in for that type of permit. If the Class I is approved a section will be constructed to receive that material and then host fees will be discussed. Scott stated he will return and attend a WE board meeting; he's going to bring up the issue of what more WE can do for the community. The Planning Commission will have to approve a special use permit for Class I. There is no current zoning for a Class I landfill, that's why this goes through the special use permit process. Adam stated that WE's facility looks great. Adam discussed tipping fees and landfill taxes. Scott reviewed the definition of a host fee. A host fee is paid to a county who gifts the company a franchise. Clark County has host fees because they give away the franchise. No action was taken on this item as it was informational only.

#17-INDEPENDENT AUDITOR

Kevin made a motion to appoint Dan McArthur as independent auditor for 2012-2013; seconded by Adam. Paul D. asked if the Board has ever considered looking at other firms and reviewing price. It is possible that we can hire another reputable firm at a lesser price. Bret Whipple is interested in submitting a proposal. Paul D. stated that he thinks very highly of Mr. McArthur but no one knows how much the county pays for this service. **All voted in favor.**

#18-PUBLIC LANDS COUNCIL

Kevin made a motion to approve the membership payment of \$5,000 to join the Public Lands Council, to be paid from the PILT Fund; seconded by Adam. Paul D. abstained. Motion carried.

#19-NV ENERGY

Mark Sullivan, of NV Energy, offered a power point update presentation concerning the ON Line Transmission Project, One Nevada Transmission Project. Expected completion is the end of 2013. The project is 235 miles long, running south from a point near Ely to Apex. It has a 500-kilovolt capacity. Sturgeon Electric Company is the general contractor. Wilson Utility Construction Company is the new substation contractor. HDR and SWCA environmental consultants are responsible for environmental compliance monitoring and mitigation services. 300-400 workers will be employed at the peak of construction. This project provides access to isolated renewable energy resources in parts of northern and eastern NV. The project connects NV Energy's northern service area with its service area in southern NV as well as enhances overall energy-sharing efficiencies for NV Energy's power generations resources. Some of the construction activities were suspended in 2012 to identify, test, and confirm the feasibility of a technical solution to mitigate wind-induced vibrations experienced on some of the ON Line tower structures. The solution involves retrofitting the tower structures susceptible to wind-induced vibrations with "helical strakes".

#20-SOLID WASTE

Paul D. received several phone calls concerning garbage bills being sent to people that don't live here. Paul D. met with Treasurer Shawn Frehner concerning these calls. Shawn followed statute when the billing was done. This year bills were sent to anyone that has a structure that is livable within the county. One of the things the county has done in the past is that we've employed the theory that if you didn't add to the supply of solid waste within the county you didn't have to pay. That old guideline was changed with the new billings. Treasurer Shawn Frehner presented information concerning how other counties handle landfill as well as several letters of protest received from various residents. Shawn reviewed the discounts given. If someone is in a financial need situation Shawn has given them a 50% discount. If someone only stays on a property part time or doesn't live there Shawn has given them a 50% discount. Shawn asked for guidelines and asked at what point individuals become seasonal or full time, or what point do they get a 100% discount. The code requires all persons requesting a waiver to fill out an application. Shawn presented a draft landfill application for the Board's review. Adam stated that he met with Shawn concerning this issue. Adam stated that the county is paying for something that all residents in the county are using. People complain about their rates; if they aren't here they don't think they should pay it. Right now, people can call in and say they're on a fixed income and the fees get waived but there isn't a set amount for that income. Having a second home, people feel that they're being disadvantaged. However, if we have second homes anywhere else we are still required to pay all the associated fees. Adam feels that a waiver should be created, including guidelines for who should be eligible for discounts. Paul D. commented that the question is whether or not we are going to bill the people who are part of the supply of waste or are we going to bill everyone who has a residence here. Paul D. isn't comfortable asking what incomes are. Paul D.'s original thought was that the people who use the service should be billed. However, the benefit of everyone in the county paying is that it reduces the cost to everyone involved. Shawn stated there are two issues: 1. The county *must* have a landfill and it must be maintained. It doesn't matter how many people are contributing, we are required to have it because the county signed a contract. 2. The garbage. In the other counties, where they run their own landfill, they bill separately and it's a fixed fee. Whether we have our own landfill or not the county is required to provide some place for people to get rid of their waste. There is a certain overhead expense that exists with running a landfill whether you put garbage in it or not. Shawn feels that this is the reason that everyone should have a part in it. The county has to provide it, whether you live there or not and whether you contribute or not. With the contract we have with Recology, is there a way to separate the two amounts? Every county has a different way of handling this issue; no two counties are doing the same thing. Shawn received a protest from a woman in Panaca who received a letter from the DA's office as 2008, 2009, and 2010 haven't been paid. This woman called and advised that she doesn't own the property and that she pays it to her landlord. The woman says she isn't liable for it and refuses to pay it. The landlord wasn't billed. If the landlord collected the money, he/she hasn't paid the bill to the county. This woman was living and contributing to the trash, but she doesn't feel she should have to pay it. Some landlords include these billings in the cost of the rent and some don't. Shawn advised that she will not send the bills to the tenant; she only sends them to the property owner. DA Daniel Hooge advised the real problem is a collected problem. It's nice to try and make everything fair, but in reality collecting is incredibly taxing on the DA's Office and the Treasurer's Office. This process needs to be made easier. As negotiations come up for the landfill, the county can put the billing back onto the landfill company. A standardized practice of what is discountable and what's not is needed. Seniors who call receive discounts; people who don't live here full time, and call Shawn's office, get a 50% discount. People who call and don't think the rate is fair have been referred to their commissioner. Shawn has tried to be fair across the board but she recognizes there are some situations that could be different. Senior citizens who have a financial need are getting the discount if they call in. The previous Treasurer, Kathy Hiatt, required the seniors to bring in their social security check and they had to earn less than \$10,000 per year in order to qualify for the discount. Denice Brown advised that human services has criteria for helping people with their rent, etc. They also have income limits and Denice suggested that this be used. Paul M. commented that he feels what Shawn is doing with the 50% discount is fair. Paul M. suggested a committee be formed to deal with the senior discounts and how people can be qualified for the various discounts. Paul M. also suggested that Recology be involved in the discussion as they have a part in this issue. Rather than take a shotgun approach, the various discounts/areas need to be defined. Paul M. suggested that he, Adam, Daniel, Shawn, and Denice be on the committee. The Board advised Shawn to get rid of the Panaca renter protest. A gentleman called and said he has three vacation properties in Pioche but he only comes here once in a while. The Board agreed that because he's seasonal he gets a 50% discount and must pay on one of the properties

but the other two are exempt. As of today, \$92,299.66 has been collected. This is 28% of what the outstanding was. This is a normal collection. No action was taken and the committee will report the first meeting in March.

#21-SOLID WASTE

This item was handled under the above listed item.

#22-LC SHERIFF'S OFFICE SCHOOL EDUCATION PROGRAM

Grants Administrator Elaine Zimmerman received an invoice for the education program, but the invoice states it was for that budget year. Elaine needs clarification that this program will be continued every year. This program was implemented last year to make up the \$20,000 shortfall in the budget and was part of the law enforcement negotiations. **Paul D. made a motion to approve the payment of the invoice for the LC Sheriff's Office school education program, paid from the Land Act Education Fund; seconded by Paul M.** The Board asked that Sheriff Lee have his officers come and make presentation concerning the programs being used in the schools. Kerry stated he would like to look at having a school resource officer again. **All voted in favor.**

#23-ALAMO SEWER & WATER GENERAL IMPROVEMENT DISTRICT

Paul M. made a motion to approve the summary page for the Alamo Sewer & Water GID Water Resource Plan for the 2013 Community Development Block Grant application; seconded by Kevin. All voted in favor.

#24-COMMUNITY DEVELOPMENT BLOCK GRANT

Paul M. made a motion to approve the signing of the Community Development Block Grant request for release of funds and certification for the Pahrangat Valley Senior Center improvement project; seconded by Adam. All voted in favor.

#25-LC AIRPORT

This item was tabled.

#26-LC AIRPORT

This item was tabled.

#27-CHARLES REIFSNYDER TAX REFUND

This item concerns the designation of a fund to pay Charles Reifsnnyder refund based on a property assessment error. Paul M. suggested it be taken from the General Fund. **Adam made a motion to pay the refund from General County Fund, not to exceed \$3,000; seconded by Paul D. All voted in favor.**

#28-RESOLUTION #2013-01

Cory Lytle presented this item and stated this resolution updates the 2011 and 2012 codes. Cory would like to set the 2012 codes and then "let it ride" for a few years before making adjustments again. **Kevin made a motion to approve the resolution adopting updated versions of the International Building Codes and National Electrical Code to be included under Title 11 of the LC Code; seconded by Paul M. All voted in favor.**

#29-RESOLUTION #2013-02

Paul M. made a motion to approve the resolution modifying the adoption of the International Residential Code to make exception to Sections E3902.12 and E4002.14 and the National Electrical Code to provisions in Article 334 to be included under Title 11 of the LC Code; seconded by Paul D. Adam was absent for the vote. Motion carried.

#30-COMMISSIONER REPORTS

COMMISSIONER KEVIN PHILLIPS attended the information monitoring committee of the HCP as well as took part in the Quad State teleconference. **COMMISSIONER ADAM KATSCHKE** will attend the county Board of Equalization hearings tomorrow. **COMMISSIONER PAUL DONOHUE** met with the Road Department and two

members of the Panaca Town Board concerning road conditions in Panaca; they will continue to work on these issues. Paul D. attended the Room Tax meeting.

#31-PUBLIC COMMENT

Ed called for public comment. Cory Lytle has had a couple Toquop developers call concerning master plans. As the plans come forward Cory will pass them on to the Sheriff's Office, DA's Office, and Commissioners. Cory is working on fee revisions for Planning/Building. The road inventory maintenance plan continues to be worked on. Jason Pitts is still working on the GIS/roads issue but it seems to get more and more complicated. Cory is coordinating with various entities concerning the R&PP applications. Cory is also working on open space applications. Cory hopes to have the disposal acreage completed by May. Cory will be examining the Delamar landfill site.

#32-ADJOURN

There being no further business for the Board to attend to, Ed adjourned the meeting at 2:33 p.m.

Attest: _____ Approve: _____

DRAFT