



LINCOLN COUNTY BOARD OF COMMISSIONERS

March 4, 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 2-26-13. The Invocation was offered by Ed and Paul D. led the Pledge of Allegiance.

#2-PUBLIC COMMENT

Ed called for public comment. Jo Whitlock, Caliente City Clerk, asked that Item 28 be tabled until the first meeting in April.

CONSENT AGENDA

- #3 Approve/Deny minutes of the February 29 and February 25 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).

Kevin made a motion to approve the consent agenda; seconded by Adam. All voted in favor.

#5-VOUCHERS

Recorder/Auditor Leslie Boucher presented the vouchers and cash balance report. General County has a balance of \$585,456.42 with estimated expenditures being \$177,691.52. General County will have a balance of \$407,764.90. Transportation has a cash balance of \$61,972.81 with estimated expenditures being \$4,226.13. Transportation will have a balance of \$57,746.68. Senior Nutrition has a balance of \$75,572.23 with estimated expenditures being \$15,979.61. Senior Nutrition will have a balance of \$59,592.62. Detention Center has a negative cash balance of \$67,494.03 with estimated expenditures being \$102,825.76. Detention Center will have a negative cash balance of \$170,319.79. Solid Waste has a cash balance of \$112,118.58 with estimated expenditures being \$22,431.05. Solid Waste owes LC Water Special Projects, Fund 87, \$27,484.15. Airport has a balance of \$5,047.99 with estimated expenditures being \$613.96. Airport will have a balance of \$4,434.03. Planning has a balance of \$29,885.30 with estimated expenditures being \$2,231.40. Planning will have a balance of \$27,653.90. **Paul D. made a motion to approve the vouchers as presented with the exception of the LCTS, Mountain Merc, and Meadow Valley Pharmacy vouchers; seconded by Adam. All voted in favor. Paul D. made a motion to approve the vouchers for Mountain Merc; seconded by Adam. Kevin disclosed he is part owner of the firm; he abstained from the discussion and vote. Motion carried. Paul D. made a motion to approve the vouchers for MV Pharmacy; seconded by Kevin. Adam abstained and disclosed that he is an owner of MV Pharmacy. 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.**

#6-OFFICER/DEPARTMENT HEAD REPORTS

DISTRICT ATTORNEY Daniel Hooge reported that C&O Holdings would like to meet; they have various proposals to put forward. A hearing was held last Tuesday concerning 2nd North in Alamo. No ruling has been made yet. **GRANTS ADMINISTRATOR** Elaine Zimmerman advised that competition for SNPLMA grants is stiff. Panaca ranked 6th and Alamo ranked 10th; the chances for either of those projects to be funded are slim. Elaine has CDBG Advisory and Hazard Mitigation the last portion of March; she will be gone. **EMERGENCY MANAGEMENT COORDINATOR** Rick Stever advised that LEPC is having an exercise on March 14 in Panaca at 5:30 p.m.

#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-MEADOW VALLEY JUSTICE COURT CLERK

Meadow Valley Justice of the Peace Mike Cowley addressed the Board and asked for permission to hire a part time court clerk as his chief court clerk will be taking maternity leave soon. Mike advised that he budgeted for several weeks in the upcoming budget year but he needs funding to cover the maternity leave for this fiscal year. 10-20 days is the estimated amount that Mike will need this individual. **Kevin made a motion to approve the hiring of a part time court clerk; seconded by Paul D. All voted in favor.**

#11-CORRECTIVE ACTION LETTER TO NV DEPARTMENT OF TAXATION

Paul M. made a motion to approve the letter of corrective action to the Nevada Department of Taxation for 2011-2012 over-expenditures; seconded by Kevin. All voted in favor.

#12-16-BUDGET AUGMENTATION

Kevin made a motion to approve the resolutions to augment the budget (Alamo Town Board in the amount of \$4,000; Alamo Town Capital Project Fund in the amount of \$4,735; General County in the amount of \$286,294; LC Water Special Fund in the amount of \$43,117; Panaca Town Building Fund in the amount of \$10,204); seconded by Paul M. All voted in favor.

#17-PANACA TOWN BOARD

Panaca Town Board asked for permission to purchase a plaque from Janice Barr. Paul D. recalled that there is a policy in place that the county doesn't pay for plaques, they are covered by donation. Panaca Town funds can't be spent on plaques. Due to county policy, permission to purchase the plaque using town funds was denied.

#18-19-HARE SCRAMBLES MOTORCYCLE RACES

Kevin made a motion to approve the Wildbunch Delamar Hare Scrambles motorcycle race to be held on 4-27-13 and the SNDR Murphy's Gap Hare Scrambles motorcycle race on 4-13-13; seconded by Adam. All voted in favor.

#20-ALAMO INDUSTRIAL PARK

Paul D. made a motion to approve the Alamo Industrial Park map of division into large parcels; seconded by Adam. Kevin disclosed that his eldest son works for Sunrise Engineering, who prepared the map; he abstained. Motion carried.

#21-ALAMO INDUSTRIAL PARK

Paul M. made a motion to approve the Alamo Industrial Park final subdivision map; seconded by Adam. Kevin disclosed that his eldest son works for Sunrise Engineering, who prepared the map; he abstained. Motion carried.

#22-GUN CONTROL

This item concerns issuing a letter to the Governor regarding gun control. There is a NV Legislator trying to put taxes on individual bullets and powder. **Kevin made a motion to write a letter pertaining to the Constitution and asking that the legislation should stick with it (the letter will be sent to NACO and anyone else that can help LC with supporting it); seconded by Adam. All voted in favor.**

#23-SNORE RACE

Bureau of Land Management is not going to permit the SNORE race. Ed advised he received an email from Assemblyman James Oscarson and Cathy LeFevre. BLM was present for discussion concerning the SNORE race previously and indicated there were no problems but they still shut the race down. Adam stated he spoke with Victoria Barr, who stands firmly in her opinion that the roads weren't brought up to par after the race. The weather has caused more damage and Victoria is claiming that if the roads had been brought up to spec the damage wouldn't have occurred. Paul M. suggested that a letter needs to be written to BLM outlining what the small infractions and Victoria's overreactions are costing the county. A conversation needs to be held with Victoria that lets her know that the minor things that she won't allow to be worked out cooperatively are having detrimental impacts on our local businesses. The county would prefer to work with BLM rather than having the races cancelled. Paul D. met with Victoria last week concerning this item. A letter was received from Pioche Overland. Victoria commented to Paul D. that the application wasn't refused, it was returned for resolution and payment of the \$100 fee. Paul D. advised that sometimes the Board members don't get both sides of the story; there are rules and regulations in place to protect the county. Paul D. hasn't had the opportunity to speak with the president of SNORE. Paul D. suggested that the business owners write a letter to the race president as well BLM. Victoria would be more than happy to discuss this, but there is a 90 day clause that may prevent the race from occurring on the date that SNORE desires. Paul D. asked that all parties be involved in the discussion. Victoria told Adam that she will be meeting with the SNORE president to try and work this issue out. Adam suggested that an email be sent to BLM requesting an update. Connie Simkins stated that if BLM wants to do a permit approval in 90 days they can do it; they've certainly done it in the past for race promoters they favor. Elaine Zimmerman said that SNORE has gotten more and more lax in returning roads to pre-race conditions. Kevin suggested that he or Paul M. endeavor to get the parties together to work on a plan. No action was taken on this item.

#24-LANDFILL ISSUES

Paul M. offered an update on the landfill committee. A conference call with Recology took place last week. Treasurer Shawn Frehner, Denice Brown, Adam, Paul M., and Daniel were present to discuss billing problems. It was agreed that they would begin negotiations on the 2014 contract. There isn't much that can be done right now; we've already worked through this billing cycle. The committee can meet again to work out policies on who gets the discounts. As far as our obligations to Recology, there isn't much that the county can do now other than to plan for the future and work on contract negotiations. Kevin suggested that we must determine right now what it would take for the county to operate its own solid waste program, including a land fill. We must address this now as it takes time to get the proper permits. Questions need to be asked and answered now so that we are prepared with an answer prior to the renegotiation of the contracts with Recology. The hauling contract with Recology expires in 2014, but the landfill contract expires in 44 years. The contract doesn't limit the county from using a different landfill. Much of the information concerning the restrictions of the contracts needs to be vetted. The county owns a patented piece of ground at Delamar for a landfill site. Cory and Kevin traveled to the site. Adam will take on landfill issues. Paul D. recommended that the committee consider the history of the signing of the contract; bids were requested in the past for people that would haul the trash. At the time, the EPA provided a list of the EPA requirements. The costs and the requirements will influence the decision made with regards to contracts; Paul D. asked that the committee take this into consideration. The only way to get the county out of the billing business would be to provide curbside service. Recology would be willing to do the billing but they'd have to do curbside. Curbside would also limit what could be disposed of in those bins. Curbside pickup was proposed in the past; the community wasn't interested and fewer rollofs would've been provided. Fewer rollofs would mean that people would be limited in the amount of waste they can dump. Emilia Cargill stated that the development agreement with Coyote Springs includes that the county won't use, build, or permit a landfill/trash facility within a ten mile radius of Coyote Springs. Glenn Zelch stated that when Recology made presentation to the towns about curbside pickup it included approximately a 50%

increase in price. Compounding the increase was the limit on what items could be put in the bins and how often it would be picked up. No action was taken on this issue and the committee will continue to work towards a resolution.

#25-WILSON CREEK ALLOTMENT

Kevin discussed the Draft Standards Determination for Wilson Creek Allotment created by the Bureau of Land Management (BLM). Kevin read the draft letter addressed to Mr. Michael E. Abel, acting Field Manager, into the record. The draft letter reads as follows: "We have reviewed the Wilson Creek Standards Determination Document (WC SDD) along with attending the two meetings you hosted to receive input from the ranchers one on February 26 and the other for the general public on February 28. The Board of Lincoln County Commissioners feels that our citizens were not given enough opportunity and time to review and participate in the preparation of this Standards Determination Document. It appears that the BLM and its contractors have collected the data being used to make a determination as to range condition without the input of the ranching community or the public. During the two meetings last week, February 26 in Pioche, and February 28 in Caliente, you have been provided ample examples of insufficient, inaccurate and missing information in the WC SDD. We feel the only solution to this is to postpone the schedule that you proposed in your color chart provided February 26 and labeled "Wilson Creek Allotment Grazing Permit Renewal Timeline". We suggest you begin now to work with the ranchers and their range specialists to gain consensus on the data, then begin the process outlined in the "Permit Renewal Timeline" in 2014, one year from now, allowing our citizens sufficient time to consult with their range scientists to verify independently the data proposed for inclusion in your WC SDD. We ask that you provide an additional period of time for comments and another review of the Amended SDD following its "review comments and revise SDD" two-month period as noted in white in your "Permit Renewal Timeline". We request this additional step to be included **After** the "review comments and revise SDD" and **Before** the six-month period you have outlined to "prepare preliminary EA" as noted in mustard coloring in your proposed permit renewal timeline. The data must be accurate because it drives the conclusions as to range conditions. It is critical to the success of this new process and timeline to integrate consultation between BLM, the ranchers, and range specialists, to create a comprehensive and accurate data set, which then could guide the decision making process. We further observe that the assessment of the condition of the range, which is or should be the purpose and thrust of this document should be detached from the next step which would be "short and long term actions that could be taken to remedy the problem(s)". Instead the WC SDD cites "Management Recommendations". These immediate actions appear punitive and threatening, and are built upon the assumption that the data and conclusions are accurate. The conclusions and decisions made as a result of this effort will impact the lives and property and livelihood of many citizens of this county. They will impact the economy of this county. The important thing is not to meet some deadline, timeline, or expectation, but to be accurate. This Commission respectfully requests the Bureau of Land Management begin the timeline for this work in 2014, and extend it on into 2015 as indicated." Emilia Cargill, on behalf of Tuffy and Geiser Ranch Properties, attended the meeting last week in Caliente. The letter is a wonderful idea. Emilia suggested that an additional draft of the SSD be included. By simply lengthening the public review period, which is in red in the color chart from last week, it gives the BLM more time to look at that document. The public never sees another draft SSD. If BLM would allow another draft SSD then we can see it prior to it being attached to the environmental assessment. **Paul D. made a motion to approve the letter and to have all five Board members sign; seconded by Paul M. All voted in favor.**

#26-WILSON CREEK ALLOTMENT

This item was addressed under Item 25.

#27-WILSON CREEK ALLOTMENT

Daniel outlined the legal process for stopping the release of the BLM's Draft Standards Determination of the Wilson Creek Allotment. The process would have to start through the federal system. Under agency law, notice and hearing is required for nearly everything. The county could argue that we didn't receive enough notice and there weren't enough hearings. Decision making can't be arbitrary or capricious; findings of fact can be argued with as many of the parties involved weren't consulted. There are some avenues for redress, but it will have to be done through the federal process. The flow chart and numbering in the document doesn't appear to be correct. Their decisions and findings weren't based on fact; it appears BLM had a specific target and that's how the cuts were made. In 2002 the Wilson Creek ranchers took this issue to court. They had a stipulated

agreement between the parties; one of the stipulations was that the ranchers would complete a list of various things. Every one of the items included on the ranchers' list has been completed. The agency's part of the stipulations was that they would begin immediately to consult with each of the ranchers, on the ground, to get correct and full information prior to preparing the SSD. That hasn't occurred and the agency hasn't done its work. This is a violation of a federal stipulated agreement. The other problem the county has is standing; it must be harmed directly and the county can't sue on behalf of the ranchers. The county would have to figure out how it has been harmed directly. No action was taken on this item.

#28-CITY OF CALIENTE

This item was tabled to April 1st.

#29-BUREAU OF LAND MANAGEMENT BUSINESS PLAN

This item concerns the Bureau of Land Management's (BLM) business plan and the effects it will have on the Sheriff's Office once implemented. The plan removes funding for one of the patrol officers, Evan Schimbeck. Paul D. stated he is given to understand that Mrs. Thomas would be open to considering other avenues. Paul D. commented that the county may have to consider taking a portion of the land sales money and spending it so that BLM can't say that we haven't spent any of ours then question why we want theirs. Paul M. responded that if this money is to be spent, it must be done according to the ordinance and must not be spent on salaries. BLM's \$44 million was put there with specific purposes and guidelines for expenditure. Paul M. asked if there is anything in the act that requires LC to spend their money first. No but spending just a bit of the money will eliminate the argument that we haven't spent a dime. The Board is attempting to find another funding source through BLM to replace the SNPLMA funding that has previously paid for the patrol officer.

#30-STATE EMERGENCY RESPONSE

Rick Stever presented the application for the 2013-2014 State Emergency Response Commission Award. Rick will be applying for \$29,942 to be used for 30 minute air bottles, traffic cones, and other emergency management related items. All items requested must relate to hazardous material. **Paul M. made a motion to approve and sign the application; seconded by Kevin. All voted in favor.**

#31-PAHRANAGAT VALLEY SENIOR CENTER

Paul D. made a motion to approve and sign the contract with Sunrise Engineering for the Pahrnagat Valley Senior Center improvements; seconded by Paul M. Kevin disclosed that his eldest son works for Sunrise; he abstained. Motion carried.

#32-ECHO CANYON CAMPGROUND PROJECT

Paul D. made a motion to approve and sign Change Order #1 for Sunrise Engineering for the Echo Campground Project; seconded by Adam. Kevin disclosed that his eldest son is employed by Sunrise; he abstained from the vote. Motion carried.

#33-ALAMO INDUSTRIAL PARK

Paul D. made a motion to sign the community benefit letter for the Alamo Industrial Park Community Development Block Grant; seconded by Kevin. All voted in favor.

#34-COMMISSIONER REPORTS

COMMISSIONER PAUL MATHEWS discussed scheduling for budget hearings. Paul M. continues to work on BLM issues. **COMMISSIONER KEVIN PHILLIPS** reported that S594 is to start phase one of a two phase project to transfer sale of public lands from federal to the State of NV. It establishes a committee with one representative from each county to look at the complications of such a transfer. Kevin will be out of town March 8-16. **COMMISSIONER ED HIGBEE** will attend a CMC meeting on 3-12. **COMMISSIONER ADAM KATSCHKE** attended the Regional Development Authority meeting; budget plans were discussed as well as a plan for advertising the industrial parks. Regional Development will be requesting \$35,000 in the near future. Adam attended the Workforce Connections board meeting in Las Vegas. Adam has received a few complaints concerning what the public defender's role is. The public defender is currently suing the City of Caliente; the letter he wrote was as a private citizen. Public defender means you defend the citizens. Adam stated that this seems like a major conflict of interest and asked what the parameters are with regards to our public defender.

Daniel stated there is no conflict as the public defender is a private contractor with no fiduciary duties to the county. **COMMISSIONER PAUL DONOHUE** reported that 4-3 there will be a quarterly road agreement meeting. Paul D. will be out of town March 20-27.

#35-PUBLIC COMMENT

Ed called for public comment. None offered.

#36-ADJOURN

There being no further business for the Board to attend to, Ed adjourned the meeting at 1:09 p.m.

Attest: _____ Approve: _____

DRAFT