



## LINCOLN COUNTY BOARD OF COMMISSIONERS

March 3, 2014  
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**

Ed called the meeting to order at 9:03 a.m. Deputy Clerk Marie Bleak called the roll.

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

MARIE BLEAK, Deputy Clerk  
DANIEL HOOGE, District Attorney

There is a quorum present and the agenda was posted on 2-25-14. The Invocation was offered by Adam and Ed led the Pledge of Allegiance.

### **#2-PUBLIC COMMENT**

Ed called for public comment.

Kevin has been concerned that it would appear that water in Lincoln County is over appropriated, causing the State Engineer to cut back on the area. Wade Poulsen explains that the number reflecting our area (25,000 acre feet of water for all five basins, collectively) is based on the reconnaissance report that was done in the 60's. He stated that there is water available but it is up to the applicant to prove that there is more water in the basin than what is stated in the reconnaissance report. He believes there is more water that what is stated in the reconnaissance report and said he has proven it but that the State Engineer uses that report as a bible of sorts. Paul Donohue advised the board of a chance meeting he had with a gentleman named John Burke. His company is the company that is redoing the parking lot surface at the Detention Center and he asked if the commissioners would be interested in having anything done around the courthouse. He quoted Paul \$5,500.00. Paul asked if that is something that should be worked through the road dept. Paul M. stated that the last time the county was chipping and sealing they did the parking lot area of the courthouse and that it came out of the road fund. He believes this wont need addressing until the next time the county roads do it. Paul D. feels it would be beneficial to have this done by Mr. Burke's company if the money is available. Adam agrees with Paul M. to wait until the next time the county roads department does it. Ed advised that the BLM will sell land in Tikaboo Valley on the 20<sup>th</sup> of March and that the BLM is seeking comment on the Lake Valley North Solar Energy Zone on April 4<sup>th</sup>. Joe Perez advised the board regarding Nevada's Prepaid Tuition Program and Lincoln County's high school seniors yearly trip to Washington DC; the liaison there informed him that their budget for this year was already exhausted but that they are very interested it sponsoring the entire trip next year. He also submitted for consideration the idea of looking into a possible solution in minimizing costs with long distance phone calls and phone systems and possibly opening for bid the ability to redesign the LC website. He feels he could submit a good bid through his company that could rectify current issues on the website.

### **CONSENT AGENDA**

- #3 Approve/Deny minutes of the February 18 meeting.
- #4 Approve/Deny original and renewed business licenses according to 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. All voted in favor.**

#### **#5-VOUCHERS**

Recorder/Auditor Leslie Boucher presented the vouchers and cash balance report. General County has a balance of \$656,211.85 with estimated expenditures being \$161,999.46. General County will have a balance of \$494,212.39. Transportation has a cash balance of \$65,255.10 with estimated expenditures being \$5,012.01. Transportation will have a balance of \$60,243.09. Alamo Town has a balance of \$7,061.97 with estimated expenditures of \$1,070.89. Alamo Town will have a balance of \$5,991.08. Senior Nutrition has a balance of \$151,371.46 with estimated expenditures being \$10,609.71. Senior Nutrition will have a balance of \$140,761.75. China Springs has a balance of -\$3,785.46 with no expenditures. Detention Center has a cash balance of \$379,586.46 with estimated expenditures being \$100,936.91. Detention Center will have a cash balance of \$278,649.55. Solid Waste has a cash balance of \$135,193.68 with estimated total expenditures \$24,989.91. Solid Waste owes LC Water Special Projects, Fund 87, \$27,484.15. Airport has a balance of \$5,224.79 with no estimated expenditures. Airport will have a balance of \$5,224.79. Planning has a balance of \$14,804.85 with estimated expenditures being \$2,690.68. Planning will have a balance of \$12,114.17. **Adam made a motion to approve the vouchers as presented with the exception of the LCTS, Meadow Valley Pharmacy and Mountain Merc vouchers; seconded by Paul. All voted in favor. Kevin made a motion to approve the LCTS vouchers; seconded by Adam. Paul D. abstained as he is an employee of LCTS. Motion carried. Adam made a motion to approve the Mountain Merc vouchers; seconded by Paul D. Kevin disclosed he is part owner of Mountain Merc and abstained from the vote. Motion carried. Paul D. made a motion to approve the Meadow Valley Pharmacy voucher; seconded by Paul M. Adam disclosed that he is part owner of the pharmacy; he abstained from the discussion and the vote. Motion carried.**

#### **#6-OFFICER/DEPARTMENT HEAD REPORTS**

**Daniel Hooge** advised the board with regards to the Hardy Construction law suit. He stated that the city asked for an extension and that closing briefs are due today. He said he probably will not hear anything for another 30 day but that he is still positive, referring to the facts that they cut the million dollar request down to half and that none of their evidence supported their claim. He believes the worst case scenario would be arbitration ordering a five digit fine. **Shawn Frehner** presents the board with a report showing revenue monies for last year and where we are at this year. She presents the board with the monthly report showing taxable sales summary. In this report she included the fiscal year for 2013 and 2014 so that comparisons may be made between the two years. Adam asked Shawn if she knew about any tax on medical marijuana sold. Shawn does not know; Paul D. requests that she find out. She said she would make a few phone calls to see what she can find. Shawn reported later in the meeting that she called the Department of Taxation and was directed to their call center who informed her that there is a 7.1% sales tax for the county on medical marijuana, plus 2% making the Marijuana Tax 9.1%. **Rick Stever** discussed the tremor 14 exercise and advised the board there is a final planning meeting in Las Vegas on March 10<sup>th</sup> at 1 pm. If any member of the board is interested in attending they can contact him. Rick asked the board if any of them would be interested in sitting in at the Emergency Operations Center, either at the test site or in Las Vegas. Ed stated that he may be interested. Rick also mentioned CPR training for courthouse employees. He stated that the week of April 14 is the best time for the instructor and that there would be no charge to offer this training to the courthouse employees. It is a four hour training. Ed requested that Rick do a survey to find out from the office heads what days and times would best fit their office schedules. **Cory Lytle** mentioned the medical marijuana issue. He believes he will have an application prepared for special use permit at the April 10<sup>th</sup> Planning Commission. He has a couple development agreements in draft form that will be introduced at the next Planning Commission Meeting on March 13<sup>th</sup>. He has a crucial special use permit review coming up in April regarding a couple issues they have had with a permittee. It will be reviewed in Hiko. He presented the board with a working draft of capital improvement plan. He referred to this as a generic update for the capital improvement plan; it is required every five years. No funds or expenditure years have been designated at this point.

#### **#7-HIGHWAY COMMISSION**

This item was handled under separate agenda.

#### **#8-LINCOLN COUNTY FIRE DISTRICT**

This item was covered under a separate agenda.

#### **#9-PANACA FIRE DEPARTMENT**

This item was covered under separate agenda.

#### **#10-COYOTE SPRINGS DEVELOPMENT AGREEMENT**

Emilia advised that this is the 24 month review that is required by statute as well as by the development agreement itself and Lincoln County's ordinance for development agreement. It is for the period of Jan 1, 2011 to Dec. 31, 2012. She submitted an application last December that went to the Planning Commission. After hearing discussion on it at two separate meetings the Planning Commission ultimately recommended approval for the board of Commissioners for their review. It is a review of compliance or non-compliance for the 24 month period. Ed asked Emilia what her goals are she said she would like to see us try to get a renewable company. She advised that she is in negotiations with someone for lease on Lincoln County property for 2,000 acres for a renewable energy, a photovoltaic user, who has strong relationships with the new management team coming into NV Energy. **Kevin made a motion for approval of Coyote Springs 24 month review, seconded by Paul M. All voted in favor.**

#### **#11-PANACA TOWN CENTER LEASE RESOLUTION #2014-05**

Cory Lytle advised that this resolution is required by NRS for one public entity to lease to another public entity. **Kevin moved to approve the resolution for the water district to lease space in the Panaca Town Center from the county, second by Adam. All vote in favor, motion carried. Paul M. makes a motion to set the Public hearing date for April 7<sup>th</sup> at 10 am; seconded by Kevin. All vote in favor.**

#### **#12-BUREAU OF LAND MANAGEMENT LAND DISPOSALS**

Cory Lytle advised that they are adding acreage with the City of Caliente that they are calling Round 3. **Kevin moved to approve letter of disposal of BLM land within the limits of Caliente, seconded by Adam. All vote in favor.**

#### **#13-YUCCA CHUCKERS MOTORCYCLE RACE**

**Kevin made a motion to approve the Yucca Chuckers motorcycle race to be held near Pahroc Summit on March 29, 2014; seconded by Paul M. All voted in favor.**

#### **#14-BRISTOL MINE TOWNSHIP**

Shawn Frehner advises that 2 of the properties have been in Treasurer in Trust since 1911, one since 1920, one since 1939, once since 1964, and once since 1966. It will take about 60 days to do a title search due to the extended length of time that these properties have been in Treasurer in Trust. Best efforts must be made to notify prior owners or family members so that they may have an opportunity to redeem the property. A suggestion was made that a notice be placed in the newspaper. Shawn has already ordered the title searches. Daniel advised that this will satisfy the need to have the petition brought forward, and that this will not need to come back before the board. BLM mentions there are funds available thru SNPLMA.

**Paul D. made a motion to approve the petition by Kevin Phillips to retain the Bristol Mine Township being held in Treasurer in Trust (parcels #006-371-01, 006-371-04, 006-371-05, 006-371-06, 006-371-07, 006-371-08, 009-012-15, 009-011-182); seconded by Adam. All voted in favor.**

#### **#15-GRANTS**

Elaine Zimmerman advised the board that this item regarding approval of the request to use Grant Match funds to supplement the equipment request in the 2015 State Emergency Response Commission grant application is no longer necessary as the request has been withdrawn.

#### **#16-GRANTS**

**Paul M. made a motion to approve the signing of the 2015 State Emergency Response Commission (SERC) grant application in the approximate amount of \$30,000 for Local Emergency Planning Committee (LEPC) equipment; seconded by Kevin. All voted in favor.**

#### **#17-PIONEER PARK**

**Kevin made a motion to approve the signing of the Notice to Proceed with ACHA Construction for the Pioneer Park Phase II project; seconded by Paul M. All voted in favor.**

#### **#18-RESOLUTION #2014-04**

Kevin made a motion to approve the resolution declaring the common raven a nuisance and threat to the health, safety, and welfare of the people of LC; seconded by Paul D. All voted in favor.

#### **#19-RESOLUTION #2014-06**

Kevin made a motion to approve the resolution recognizing May 2014 as Nevada Wildfire Awareness Month; seconded by Paul M. All voted in favor.

#### **#20-APPOINTMENTS**

This appointment is for a two year term.

Kevin made a motion to reappoint Ed Maloy, Wade Poulsen, William Lloyd, and Gordon Wadsworth to the Debt Management (Bond) Commission; seconded by Adam. All voted in favor.

#### **#21-BUDGET TRANSFER**

Shawn Frehner advised the board that the tax rate for China Springs has been reduced and that is why the fund is short. Paul M. and Kevin both feel that the tax rate being reduced must have been a mistake. Ed stated that this transfer will correct the issue while Kevin stated it will only fix it for now. Shawn suggested that it be reviewed during the next budget hearings. **Paul D. made a motion to approve the budget transfer in the amount of \$10,158 from General County fund to China Springs fund; seconded by Paul M. All voted in favor.**

#### **#22-CORRECTIVE ACTION PLAN**

Paul M. stated that this letter talks about budget violations and how they plan to fix them. He specifically mentioned the \$180,000 spent on the Tri-County Weed building in Ely. He said the money was not budgeted to be spent on that, resulting in the violation. The letter basically states that this will not happen again. **Kevin made a motion to approve the letter to the Department of Taxation adopting a Corrective Action plan for FY 2012-2013; seconded by Adam. All voted in favor.**

#### **#23-AIR FORCE POSSESSORY USE TAX**

The County has received \$1,874,000 from the federal government to settle allegations of underreporting of contractual obligations. The revenues are unique and not directly addressed by Nevada law. The Board is considering seeking a declaratory action from the courts or other guidance to address how the Board and other County Officers, such as the Treasurer, should treat the revenues. Daniel advised that it is up to the County Treasurer to apportion the money and that it is not the boards place to direct where the money should go. He advised the board to seek advice from the Attorney General or to go to the courts to get a declaratory action to help the Treasurer do her job. Shawn stated that she spoke to Daniel about getting an opinion from the Attorney General. She has not gotten the opinion at this point because there is a fee now associated with obtaining the opinion and the Treasurer budget will not allow for the unforeseen expense; she would need to come before the board to request money to pay that fee. Shawn feels that seeking the advice of a judge is the very best option. Shawn expressed her concern regarding the obligation the county is under to pay on the Ashley Hall contract. She is concerned that the money might be tied up while awaiting the declaratory action or advice from the Attorney General, making it impossible to make the payment on time. Daniel stated that it would probably take 30 to 90 days to get a decision from the courts. Paul M. stated that the amount due to Ashley Hall would depend on how the money is apportioned making it impossible to know how much is owed to him at this point in time. Kevin asked if it is possible to set aside the portion that would leave Lincoln County once it is apportioned, until the declaratory action or Attorney General's advice is obtained. Hospital administrator, Jason Bleak, advised the board that a portion of the money would be very well utilized by the Hospital District. Lincoln County School District Superintendent, Nykki Holton, expressed her frustration of not being included in a discussion on how the money is going to be spent. Paul M. said that at this point nothing has been done that would prevent the board from making decisions in the future about how to spend the money. Nykki is concerned by the possibility that if the money is put into the Capitol Projects fund the School District would not be able to receive any of it. Paul M. stated that at this point they are simply looking to obtain a declaratory action or advice from the Attorney General and that once it is received then discussions on the needs of the county and how to appropriate the money would begin unless the judge rules it automatically

apportioned. Paul D. questioned if there is any other option to which Shawn advised that if the board does not ask for a judgment then as the Treasurer she herself could make that request, or she could ask for the Attorney General's opinion, and she would have to decide what she felt was right. Kevin stated that as a member of the board his singular purpose is to try to make sure that we get the maximum amount out for the citizens of Lincoln County. Paul D. is concerned by the possibility that the judgment could come in ruling that the money be automatically apportioned eliminating the boards opportunity to discuss and decide where the money should go. If the courts did rule for the money to be automatically apportioned then the different county boards and entities would have a chance to go before the courts and be heard on their need for a portion. There was discussion on the decision being brought to the legislative level as well as the possibility of the court's decision being appealed to the Supreme Court. Another option is to simply allow the Treasurer to decide where the money goes and how it should be spent. Shawn stated that that could possibly open the door to law suits against her or the county if someone didn't agree with how the money was apportioned. Daniel stated that regardless, at least 20% of the total amount will go to the county and the rest would be apportioned. Melanie McBride stated that this money was based on buildings, improvements, and personal property that exists in Lincoln County and this was not just free money. Paul M. believes that if there is this much question regarding this issue then we simply need the declaratory action, and if it gets deferred to the legislator then so be it. But the farther they wait to spend or apportion the money without a declaratory action, the harder it will be to get to ground zero. Daniel stated that the only options available are to get a declaratory action, to get the opinion of the Attorney General, or to allow the Treasurer to apportion the money the way she felt was best. He advised Jason Bleak and Nykki Holton that according to law, money they would receive from this that came in as NRS 361 money, would have to be put into their Capitol account. Adam mentioned that this money is not guaranteed to us each year and said that they need to be careful budgeting it. Ed advised that they are required to meet with them every year to go over it and that it could go up or down from year to year. **Kevin made a motion to approve actions suggested by Treasurer and DA; seconded by Paul D; Paul D. withdraws his vote in favor of, stating that he is opposed; seconded by Paul M. Motion carried 4 to 1.**

#### **#24-PUBLIC COMMENT**

Ed called for public comment. Paul D. advised that he went to a wildfire threat meeting by a group at the University of Nevada Reno. They plan to do trainings to give people ideas and information on lowering their wildfire threat. Paul stated that we have a real threat on Mount Wilson, with 60% canopy coverage. Adam stated that he advised the International Biking Association that this board would not make it to their meeting in Caliente. At that meeting they will be discussion where to put the trails and how to fund it. Adam traveled with Commissioner Philips to the ECA meeting. He said it was very informative and that they learned a lot about the different types of nuclear wastes as well as some of the shortcoming facing the country as far as not having places to put the nuclear waste. He also mentioned the issue of Pioche only having one ambulance volunteer. He explained that the volunteers are required to take 160 hours. Four of the people that have taken the course have not passed the test reflecting poorly on our instructors which has resulted in the state preventing our instructors from instructing. At this time our county is basically without an instructor. Adam said they are looking at possible options for paying for an instructor for ambulance volunteers as well as different incentive options for the volunteers themselves. Adam stated that it has been suggested that the county pay for the training and pay the volunteer to take the training and as a condition the volunteer would be required to go on two ambulance runs a month, which they would still be paid for. There was discussion on the possibility of putting the ambulance under the fire protection district. Rick Stever stated that the ambulance is under the fire district in Pahranaagat Valley but here it is not. The first ambulance in the county was under the fire district but problems arose so they were separated. Rick advised that there are actually two volunteers in Pioche but they both work full time so it is difficult to get them. Jason Bleak stated that the hospital will help in any way they can. He mentioned possibly helping to pay for the training. Paul M. went to the Panaca Town Board meeting on the issue that Mrs. Bradfield and Mrs. Heiselbetz has brought before the commissioners a couple times. There was discussion on figuring out ways that the town board court could fund the \$10,000.00 through some of their capital improvement funds. He said it looks like the improvements will work. He is going to the Tri-County weed meeting in Ely on the 13<sup>th</sup>. Kevin went with Ed to Carson City to attend meetings on Friday the 21<sup>st</sup>. Ed attended the NACO meetings and Kevin attended the AB 227 transfer to public lands committee. He said things are moving along. Ed will attend a Civilian Military Counsel on the 11<sup>th</sup> at Nellis. There will also be a Little Ash meeting on the 11<sup>th</sup> at the Alamo Annex at 6pm. Ed also stated that sage hen issue has the state stirred up. Connie Simkins advised that the BLM will have a public meeting on the Dry Lake Solar on Tuesday March 25

from 4:00 to 6:30 with a comment deadline of Friday April 4th. They will be discussing their regional mitigation strategy for the solar energy bill. She also stated that the court cases between the Department of Energy and the Nuclear Regulatory Commission continue. DOE said the NRC will soon have all the information they will need to prepare a new draft EIS.

**#25-ADJOURN**

There being no further business for the Board to attend to, Ed adjourned the meeting at 12:31 p.m.

Attest: \_\_\_\_\_ Approve: \_\_\_\_\_

DRAFT