



LINCOLN COUNTY BOARD OF COMMISSIONERS

April 21, 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 9:04 a.m. Clerk Lisa Lloyd called the roll.

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

LISA LLOYD, Clerk
DANIEL HOOGE, District Attorney

There is a quorum present and the agenda was posted on 4-15-14. The Invocation was offered by Kevin and Paul M. led the Pledge of Allegiance.

#2-PUBLIC COMMENT

Ed called for public comment. None offered

CONSENT AGENDA

#3 Approve/Deny minutes of the April 7 meetings.

#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).

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

#5-VOUCHERS

Recorder/Auditor Leslie Boucher presented the vouchers and cash balance report. General County has a balance of \$692,995.57 with estimated expenditures being \$156,323.89. General County will have a balance of \$536,671.68. Transportation has a cash balance of \$40,730.27 with estimated expenditures being \$5,009.73. Transportation will have a balance of \$35,720.54. Alamo Town has a balance of \$10,945.07 with estimated expenditures of \$3,396.80. Alamo Town will have a balance of \$7,548.27. Senior Nutrition has a balance of \$154,612.13 with estimated expenditures being \$12,371.79. Senior Nutrition will have a balance of \$142,240.34. China Springs has a balance of \$7,628.37 with no expenditures. Detention Center has a cash balance of \$468,971.01 with estimated expenditures being \$90,605.57. Detention Center will have a cash balance of \$378,365.44. Solid Waste has a cash balance of \$123,032 with estimated expenditures being \$2,373. Solid Waste owes LC Water Special Projects, Fund 87, \$27,484.15. Solid Waste will have a balance of \$120,659. Airport has a balance of \$5,227.58 with estimated expenditures of \$1,514.85. Airport will have a balance of \$3,712.73. Planning has a balance of \$10,444.59 with estimated expenditures being \$8,204.78. Planning will have a balance of \$2,239.81. There is a voucher from Dan McArthur for analysis of tax impact at Highland Knolls. The Water District and Vidler have paid their portion. Leslie asked where the county wants their portion taken from. Paul M. stated this is about two years old and it was a split project. Everyone was under the impression that it had been paid, but it turns out it hasn't. Leslie stated that she received a letter from Daniel advising that we can't pay invoices that are more than six months old. The voucher was submitted by Dan McArthur about three weeks ago; Paul M. is awaiting an answer as to whether or not it can be paid. As far as everyone knows, the bill has never been submitted but Dan is checking to see if that's true. The bill is for approximately \$6,000. Daniel stated that it is the rule; if the invoice hasn't been submitted within the six month

period it can't be paid. The bill was divided in thirds and the LC Water District and Vidler received and paid theirs. The bill will be held until it is determined if it can be paid legally. The tentative budget is on file in the Clerk's Office. Leslie reviewed the property management fund, which pertains directly to Item 19 on today's agenda. \$3,862.98 has been spent in salaries/wages. The budget has been overspent. \$46,041.10 is the amount spent and only \$41,000 was budgeted. None of the vouchers that are being submitted today are included in the current printout. Leslie asked the Board to take into consideration that vouchers need to be paid through the end of June. **Adam made a motion to approve the vouchers as presented with the exception of the MV Pharmacy, Mainstreet Market, Mountain Merc, and LCTS vouchers; seconded by Paul D. All voted in favor. Adam made a motion to approve the LCTS vouchers; seconded by Kevin. Paul D. disclosed he is an employee of LCTS; he abstained from the vote. Motion carried. Paul D. made a motion to approve the Meadow Valley Pharmacy and Mainstreet Market vouchers; seconded by Kevin. Adam disclosed that he is part owner of the pharmacy and the market; he abstained from the discussion and the vote. Motion carried. Adam made a motion to approve the vouchers for Mountain Merc; seconded by Paul M. Kevin disclosed he is part owner of Mountain Merc; he abstained from the vote. Motion carried.**

#6-OFFICER/DEPARTMENT HEAD REPORTS

DISTRICT ATTORNEY Daniel Hooge advised that he sent an email to the Board regarding the Hardy arbitration. The arbitrator is saying he has the authority to rewrite the contract to whatever is fair. The arbitrator rewrote the contract to say that we should pay \$359 per foot; Daniel is going to appeal as the arbitrator doesn't have the authority to rewrite the contract. LC paid change orders that required the contractor's acknowledgement and agreement with the price change. It now goes to our district court judges for review; Daniel will file a motion to vacate the award. Daniel received an email from the Air Force; pursuant to our contract, the Assessor goes down once a year along with a Commissioner. They will meet at Nellis annually, this year it'll be within the first couple of weeks of May. Paul D. stated that when the City of Caliente gets a grant it should be *their* grant. Our grants administrator shouldn't be responsible for it. Caliente should administer its own grants. If we are required to be involved in the SNPLMA grants, our legal department needs to write in "our out", according to Paul D. Either an out needs to be created for the county, or language needs to be included that makes all parties involved in the grant liable. Adam asked if Caliente is responsible for any of the arbitration results. The county signs the contract; so did Caliente. We are both on the hook for the full amount. There was a problem in the fact that it really isn't the county's project, it is the City's. The project was finished on time. Daniel doesn't feel the county has any business getting involved in the day-to-day business and construction. A pass through agreement should be signed with the City, and they would come back to us if there are time changes or construction changes. Had this been done in this case, the county would have no liability whatsoever. After meeting with the arbitrator and attorney, Daniel realized they were friends and now the county was in trouble. Attorney's fees haven't been included yet; Daniel sent the Board members the Interim Award. Daniel sent an email to the Board regarding medical marijuana. Many of the cities and counties are putting a moratorium on it right now, waiting to see what HHS is going to do with the state.

ADMINISTRATIVE ASSISTANT Denice Brown advised that the NACO dues are based on \$1 audited revenues, which increased to \$8 million. This is the reason for the increase in cost for the dues.

PLANNING/BUILDING DEPARTMENT SUPERVISOR Cory Lytle discussed special events. The normal process is followed for the races. During the last couple of weeks, a handful of filmmakers and photographers have applied. These individuals aren't calling in a timely manner. As long as the scenarios are simple and they can provide all the required documentation, Cory will handle them. If something out of the ordinary takes place Cory will bring it before the Board. **SHERIFF** Kerry Lee attended a summit last week concerning the legalization of medical and recreational marijuana. Washington and Colorado were the two main groups presenting. Kerry offered copies of the power point presentations for the Board's review. Laura Osland, Nye Communities Coalition (covers Nye, Lincoln, and Esmeralda), helped Kerry attend the Summit. Laura advised that the state will allow people to put a grow house in LC if they don't make a decision. The state will approve grow houses in any county that looks like it doesn't care. Laura offered to present information on this issue; she's been working on this since they started trying to legalize medical marijuana. The Governor of Colorado begged other state Governors not to put it on their books; there is no benefit to it as the societal costs far outweigh the monetary gain. The only people making money on it are those who are selling and growing it. There is no benefit to the communities for it; the communities will be paying for treatment. Laura has been fighting this issue for a very long time.

#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 DISTRICT

This item was handled under separate agenda.

#10-LIQUOR BOARD

This item was handled under separate agenda.

#11-E911 SYSTEM

Sheriff Kerry Lee stated that he is already over in services & supplies as well as communications. Kerry simply doesn't have the funds to pay for the repairs or replacement costs for the E911 system. The recorder itself is \$2,500, which makes the whole bill approximately \$4,500 to get the system back up and running. This doesn't replace the servers or call taker screen. Paul M. suggested that this be taken out of the General Fund or PILT. Kerry will work with Elaine on the Pos if the Board agrees to take it out of PILT. **Paul M. made a motion to fund the E911 system repairs from PILT, not to exceed \$5,000; seconded by Kevin. All voted in favor.**

#12-EDWARDS/ATCHISON STREETS IN PANACA

Gary Elmer addressed the Board and discussed a flooding problem that exists on Edwards Street and Atchison Street in Panaca. Quentin Gilpatrick presented photos to the Board from the last two rain storms. The water comes into Quentin's yard and through his front gate; there is no drainage or gutter system in the area to control the water. Gary asked for guidance as to how he should pursue getting gutters in place. Adam stated that discussions have been held about using funds through the Board of Highway Commissioners to do projects in the various county communities. There will be funding available in the upcoming fiscal year for assignment to a specific project. Engineering will be required for the curb and gutter project. Paul D. asked what will work right now, with the means and people that we have right now. What will work right now to stop the flooding of Gilpatrick's yard? Paul D. suggested that he and Shane Cheeney get together to look at the property to see what can be done right now to stop the water. Quentin asked why type II can't be put down and be packed down. If the type II is ended at his house it will result in the neighbor getting all of the water. The type II will have to go the length of the street and the water needs to be carried away from Main Street, which already has issues with pooling water. Gary reiterated the need for engineering to resolve the issues. Paul D. asked about the placement of the curb/gutter. Will it be next to the asphalt or will it be at the edge of the easement? If it is at the edge of the easement, the dirt between the asphalt and curb/gutter will wash away. If it is at the edge of the asphalt, people's fence lines will be moved out and will then be over the top of the utilities. Adam suggested that the Panaca Town Board look at FEMA funds, even if it takes a long time. No action was taken on this item as Paul D. and Shane will go look at the area to see what can be done.

#13-DONATION

This item concerns the recent request for funds from the Western Elite Youth fund to purchase an outdoor movie theater. Ben Johnson addressed the Board. The movie rights are the issue that will affect this project. Open Air Cinema has a 3 year warranty on the screen and projector. The light bulb has a 25 hour life expectancy and it's \$250 to replace. The screen Ben is looking at is 11'X20'. Ben has spoken with the supervisors of the State Parks in LC; they'd like to apply for the projector and screen to be used throughout the county. MPLC is a company that has an umbrella policy for \$1170 that will cover the parks; this allows for rentals from Netflix and Redbox. The amenities exist in the parks to accommodate large groups to watch the movies. Swank is the other motion picture company Ben has spoken with. It is approximately \$175 to rent a movie, which creates an issue of who will pay for the rental. The parks are willing to purchase some of the movies and a few local businesses have offered to pay for movies that can be shown throughout the county. Responsibility is a problem, and someone needs to be responsible for the projector. Ben, Cody Tingey, and Andrew Porter have offered to accept the responsibility. NV State Parks has to charge a fee of \$5 per vehicle to come into the park. Someone will also have to be at the park prior to the movie so that the screen can be set

up. This same individual would have to take it down. The projector and screen would be stored at Kershaw Ryan State Park. Laura Osland, Nye County Coalition, addressed the Board; she is also a substance abuse prevention specialist. Laura advised that if the youth are kept busy they don't get involved in other things. Getting the youth out and into the state parks will help them to appreciate their surroundings. June 2013 a movie was shown at Kershaw Ryan; 223 people attended. It cost \$1600 for one showing. The feedback from the showing in June was unbelievable; people continue to ask when the movies will return. Laura advised the Board that they will see a huge return on this investment. The Coalition will support the showing; they'll help with the movies and tying them to events. Paul M. asked if there is any way to partner on the expense of the movie theater. The funding that the county holds is for the youth in LC; this project will benefit all of the youth throughout the county. Laura responded that the Coalition can't purchase equipment over \$999. Elaine Zimmerman, Grants Administrator, commented that this will benefit the youth. The expense covers the movie rights and liability and will make this available for the most kids possible. Ben advised that State Parks has a donation account that they can use to purchase a couple of the movies. Laura Johnson has offered to purchase a couple of movies and it is possible that the district court may purchase some as well. Ben would ask the Board to sponsor one or two movies throughout the year as well. When the bulb burns out, State Parks will pay for it. The Youth Fund currently has \$12,066 and the next donation from Western Elite will more than cover the cost. Western Elite is willing to donate extra as they are very much in favor of this. Elaine advised that using some of the grant match funds is another possibility. The Methodist Church has all of the equipment to have an indoor theater; they will show a family film once per month. Ben would like to use Swank so that the films can be shown throughout the whole county. State Parks will purchase the FM transmitter that will allow those who are handicapped to stay in their vehicles and watch the movie. Adam suggested that Western Elite be approached specifically for this. **Paul D. made a motion to give up to \$12,000 for the movie theater; seconded by Paul M. Paul M. amended the motion to split the cost between funds (\$5,000 will be taken from PILT Grant Match and \$7,000 from the WE Youth Fund); Kevin seconded the amendment. All voted in favor for both the original motion and the amendment.**

#14-NOXIOUS WEED PROGRAM

Robert Little offered an update on the Noxious Weed Program, county and statewide measures. A noxious weed is an invasive plant that has been listed and is regulated pursuant to statute. The definition of noxious weed is any species of plant which is, or is likely to be, detrimental or destructive and difficult to control or eradicate. There are currently 47 noxious weeds listed in NV. The mission of the Noxious Weed Program is to effectively coordinate resources and efforts toward proactive prevention, control and management of invasive weed species in NV to benefit all land users in the state. Programs included are education/outreach, noxious weed grants, mapping/surveys, biological control, vegetation monitoring, CWMA coordination, weed free certification, and statute enforcement. The biggest noxious weed concerns in our county include the largest infestation of Dalmatian toadflax in the state, infestations of Scotch thistle, and infestations of perennial pepperweed. Even with current efforts/partners, in recent years there has been a large increase of pressure from stakeholders to the state and counties to increase statewide enforcement of noxious weed statutes. Noxious weed statutes can be found in section 555. Robert reviewed the noxious weed cost share abatement program and subsequent MOU. This is an unfunded mandate being put towards landowners. Liens can be put against properties. In 2005, a special fund was set aside to do abatements throughout the state. These funds haven't been used to date as some issues need to be resolved with regards to how the funds can be applied. If the work isn't being done to control the weeds, and the state feels it is an issue that requires abatement, they will come to the Commissioners to enter into an MOU to have the county perform the abatement on the property. If the landowner refused to pay the cost of the abatement, 80% of the costs would be funded through the state until the money could be recovered through property liens. Douglas County has already signed an MOU and is going through this process. No action was taken on this item as it was informational only.

#15-HOMELAND SECURITY WORKING GROUP

Adam made a motion to appoint Paul D. as a representative to the Homeland Security Working Group; seconded by Kevin. All voted in favor.

#16-INDEPENDENT AUDITOR DESIGNATION

Dan McArthur advised that there is a requirement for the Board to designate an auditor on an independent basis. Dan outlined what an audit entails. Dan instructed the Board that he is conducting the audit according to

US auditing standards and presented engagement letters. **Paul M. made a motion to designate Daniel C. McArthur as the designated auditor for FY 2013-2014 and to have Dan compile the budget for FY 2014-2015; seconded by Kevin. All voted in favor.**

#17-DELINQUENT TAXES

Treasurer Shawn Frehner presented an Affidavit showing the current year delinquent parcel notices sent totaled 536, prior year delinquent parcel notices totaled 220, and three year delinquent parcel notices totaled 64. 18 of the letters were returned and deemed undeliverable. **Paul D. made a motion to accept the Affidavit; seconded by Kevin. All voted in favor.**

#18-HUMAN SERVICES DIRECTOR

Paul M. made a motion to approve the payment of the Human Services Director's salary from Nutrition; seconded by Kevin. All voted in favor.

#19-PANACA TOWN CENTER

This item concerns a request for additional funds in the amount of \$75,000 for renovation of the Panaca Town Center. Funds will be used to address ADA compliancy for access and restroom renovation in addition to other necessary upgrades to the facility. The posting on the budget will be corrected so the money will be in the capital projects funds. The Ad Valorem Capital Projects fund is where the money will go. Dan McArthur will work with Auditor/Recorder Leslie Boucher to make certain the money gets into that fund in the correct manner. There will be no violation as the money being augmented to the fund comes from additional revenue that wasn't expected. As long as the augmentation takes place before June 30 there will be no violation to the law. Planning/Building Department Supervisor Cory Lytle outline the expenditures and the need for additional funds. Cory asked that the renovations be completed by the end of the fiscal year. Cory will meet with all entities that are going to be housed in the building to do a budget transfer or lease. The carpet is in really good shape and will be cleaned. **Paul D. made a motion to approve \$75,000 from the Ad Valorem Capital Improvement Fund; seconded by Paul M. All voted in favor.**

#20-DEVELOPMENT AGREEMENT FOR PARCEL C IN TOQUOP

Adam read the summary and title into the record. **Paul M. made a motion to propose an ordinance approving a development agreement and conceptual plan for a planned unit development by the BLT Acquisition Group, LLC, known as parcel "C" in the Toquop Planning Area and to set the public hearing date for May 19, 2014 at 11:00 a.m.; seconded by Kevin. All voted in favor.**

#21-DEVELOPMENT AGREEMENT FOR MESA VISTA

Adam read the summary and title into the record. **Paul M. made a motion to propose an ordinance approving a development agreement and conceptual plan for a planned unit development by the Lincoln County Investors, LLC, known as Mesa Vista in the Toquop Planning Area and to set the public hearing for May 19, 2014 at 11:00 a.m.; seconded by Adam. All voted in favor.**

#22-JOINT CITY COUNTY IMPACT ALLEVIATION COMMITTEE

Connie Simkins presented a revised Joint City County Impact Alleviation Committee (JCCIAC) recommended budget for the Oversight Program for the next two fiscal years, FY 2014-2015 and FY 2015-2016. The Regional Development Authority was able to enumerate what they've done in the past, present, and what they'll do in the future. RDA convinced the JCCIAC to increase the amount previously budgeted for them to \$6,600. This is the amount that Connie has been paying to the City of Caliente for rent of the office space she currently uses. The only place to take the amount from was line 3, services/supplies. The reason that supplies category is so heavy is because it pays for rent, Energy Communities Alliance membership dues, equipment for other offices, and normal office expenses. Connie reviewed expenditures from her budget as well as upcoming expenditures. If an ending fund carryover materializes, the possibility exists that this budget will be able to pay rent in the Panaca building. Adam asked if copier services can be shared so that each office doesn't have to pay a separate lease. Connie responded that she'd be happy to share the copier she currently has. Over the last 12 years, \$335,000 has been paid to the Regional Development Authority; Adam asked what benefit we've seen from it. Connie isn't privy to their budgets, but she is aware that they've completed two labor market surveys to gauge the possibilities of having people work when new business comes to the county. The RDA is receiving

loan payments that will be loaned to the “next guy”. Many of the people who have received the micro loans have advised RDA that they will not be paying them back. There is no way to force someone to repay the micro loans. Dave Hurd offered a presentation on the RDA’s activities. **Paul M. made a motion to accept the budget as submitted and hold discussions if needed after July 1; seconded by Adam. All voted in favor.** Dave Hurd suggested that it be reviewed on July 1 when the carryover amount is known. If the balance is that, or greater, the Board will revisit it and make adjustments.

#23-GRANTS POLICY

Elaine Zimmerman, Grants Administrator, requested that the Grants Policy be followed by all entities receiving grants and that full accountability documentation before and after the issuance of interlocal grant funds be required. There have been some issues over the last couple of years wherein entities haven’t spent the funds in the manner that they’ve requested the money for. Elaine needs to proof showing exactly how much will be spent on what. Once the funds have been received, Elaine needs proof showing that the funds were actually spent on what they were originally requested for. Elaine is required to account for every penny that comes in and out of her office; therefore, the need for backup showing what the funds have been spent on is of paramount importance. Adam agreed that receipts and proper documentation need to be turned in. No action was taken and the Board agreed they are now aware of the need and requirement for proper documentation.

#24-LC PERSONNEL POLICY

This item concerns the ratification of changes to Chapter 2, 2.8-2.21 of the LC Personnel Policy and discussion of Chapter 3, 3.1 through 3.10. Adam discussed 3.3.2, it says only the county manager can authorize release of information; this needs to be changed as we have no county manager. 3.5.1, job offer letters, it says that the Department Head will notify the Board of Commissioners, who will then send an official written offer of employment. This has never been done before and the language is awkward. There was some discussion concerning the Board extending the written job offer to new employees; Daniel stated it should read that the “Department Head” should extend the letters, then notify the Board. Notification of a job offer should always be done in writing. 3.5.2 reads that everyone is drug tested within 48 hours. At this time, there are only certain employees that are drug tested but the language reads as though we are testing everyone. The policy needs to clarify what will be required for reasonable suspicion and whether or not the county will perform random testing. There was some discussion about adding a no tolerance policy. Daniel responded that the no tolerance policy has been challenged a great deal lately. More and more, the arbitrators and courts are siding with the employees. You have to be able to prove that using drugs affects the way you work. Daniel will work with the ideas presented as well as review the POOL/PACT additions and bring this back on the next agenda.

#25-ASH SPRINGS

Kevin suggested that he and Ed be appointed to the committee to work with the BLM on the Ash Springs area. Paul D. suggested that the Board take funds and simply build a swimming pool in Alamo. Paul D. would like to keep the pressure on the BLM to fix the situation and manage the species. Daniel advised that if a subcommittee is created it will require the posting of agendas and minutes. Adam stated the reason for forming a committee is because the BLM will want to talk to someone that is in county government versus speaking with the citizens of the Ash Springs committee. Lisa suggested that the Board members treat this as they do their other assignments; assign two Commissioners to be responsible for this matter. They would be more of a liaison to come back to the Board but they don’t have any authority to make decisions. Daniel stated that he isn’t certain that the Board members would have to make assignments; Ed lives in the area and it is in Kevin’s district. Paul D. stated he is extremely cautious about the cost to get Little Ash up and running again. The question is how the Board can help the Little Ash committee put pressure on the BLM. **Paul D. made a motion to assign the responsibility of Ash Springs to Kevin and Ed (they can represent the county to BLM and Fish & Wildlife); seconded by Paul M. All voted in favor.**

#26-COMMISSIONER REPORTS

COMMISSIONER KEVIN PHILLIPS attended the JCCIAC meeting. Last Thursday Kevin attended the Western Multi-State Legislative Conference concerning the transfer of lands. Kevin will travel to Carson City for the State AB227 meeting. **COMMISSIONER ED HIGBEE** met with Emilia Cargill. Ed stated that the county is helping Eureka and White Pine with the NACO conference. **COMMISSIONER ADAM KATSCHKE** discussed the flooding issue in Panaca. Adam has the same flooding problem at his house, as do his neighbors. He spent a

great deal of money to divert the water but it now goes to the neighbor's house. Adam cautioned the Board in moving forward. Adam and Kevin have received requests from the International Mountain Biking Association; they're asking for \$15,000. Adam suggested it might be discussed at budget time. Adam attended lunch with E2G Group and Regional Development group. There are many people interested in the biomass projects. Adam met with Emilia Cargill. **COMMISSIONER PAUL DONOHUE** received phone calls from Chris Armstrong and Ed Lubbers that they aren't happy with some of the things being done with the other developers in Toquop. Paul D., Adam, and Daniel will meet with them tomorrow. Paul D. will be at POOL/PACT the rest of the week.

#27-PUBLIC COMMENT

Ed called for public comment. Louis Benezet discussed public lands; he'd rather have the federal government manage them than turn them over to someone who might do a worse job. Having the lands turned over to the state might privatize them. Louis advised the Board not to take a position on it until it is thoroughly understood. Elaine Zimmerman stated she has to be involved in the change order processes. Cory Lytle advised that CPR training was held Friday; it went well and an additional training will be held in the next few months. There is a state NDOT seminar/planning day being set for sometime in June. It will cover a state bicycle plan.

#28-ADJOURN

There being no further business for the Board to attend to, Ed adjourned the meeting at 3:47 p.m.

Attest: _____ Approve: _____

DRAFT