



LINCOLN COUNTY BOARD OF COMMISSIONERS

September 15, 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 9:02 a.m. Clerk Lisa Lloyd called the roll.

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

LISA LLOYD, Clerk
DANIEL HOOGE, District Attorney

There is a quorum present and the agenda was posted on 9-9-14. The Invocation was offered by Adam and Paul M. led the Pledge of Allegiance.

#2-PUBLIC COMMENT

Ed called for public comment. Greg Barlow addressed the events of this last week. Last Tuesday, it took Greg 3.5 hours to get from west of state line to Caliente. The County needs to do better. As Greg came down Panaca Summit and he could see all the traffic, he realized that the traffic at the Y intersection had to be alternated. There were several big trucks hauling 2-3 trailers. The traffic was atrocious coming both directions; it was bumper to bumper and not moving. Greg commented that emergency services were nonexistent during that time since you couldn't get the vehicles through. Greg suggested that a conference be held with all local entities involved (NDOT, Sheriff's Department, Emergency Services) and the Governor to resolve this problem so it will never happen again. It took 48 hours to get any relief. LC is the designated heavy-haul route coming out of UT. Greg asked that the County pursue improvements for the highway. There is no place to pull a semi over. We have an opportunity to see if we can develop a better system. The intersection at the Y needs to be reengineered. Hwy 93 is not only the cutoff to Cedar but it is the heavy haul route and sees a great deal of traffic. To be as paralyzed as we were doesn't help the County at all. Greg asked the Commissioners to sponsor the meeting with all the stake holders to create a plan and resolution for improvement. Carol White discussed the purpose of the Open Meeting Law, which was enacted in order to keep government honest in their dealings. A clear and concise statement of topics to be considered at the meeting should be published on every agenda. Carol referred to the October 7, 2013 agenda item concerning the contract with Ashley Hall, which wasn't very clear. If it had been clearer, public comment would have been received. The Board is required to deliberate in this forum; from what Carol has seen in documents and records, the meeting wasn't conducted in an open forum. Carol stated that any action of any public body taken in violation of any provision of this chapter is void. Carol has filed formal complaints with the AG's Office concerning the Open Meeting violations of 12-19-11 and 10-7-13; she hopes that the AG will void both of those actions. Carol applauded the Treasurer, Assessor, and Commissioner Donohue for their personal integrity and professional ethics in embracing their oaths of office to defend the NV laws and best interests of the citizens. With the exception of the DA's staff, Carol has been treated with respect and dignity by the elected officials and other staff in the courthouse.

CONSENT AGENDA

- #3 Approve/Deny minutes of the September 2 meeting.
- #4 Tax strike and refund, personal property tax roll OG 000190, -692 assessed, \$20.75. Bureau of Land Management (BLM) oil and gas leases were suspended. All 3 leases have expired while suspended.
- #5 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).

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

#6-VOUCHERS

Recorder/Auditor Leslie Boucher presented the vouchers and cash balance report. General County has a balance of \$631,187.03 with estimated expenditures being \$152,176.55. General County will have a balance of \$479,010.48. Transportation has a cash balance of \$42,894.41 with estimated expenditures being \$7,194.57. Transportation will have a balance of \$35,699.84. Alamo Town has a balance of \$8,204.06 with estimated expenditures of \$762.87. Alamo Town will have a balance of \$7,441.19. Senior Nutrition has a balance of \$102,611.69 with estimated expenditures being \$13,639.11. Senior Nutrition will have a balance of \$88,972.58. China Springs has a balance of \$3,498.04 with no expenditures. Detention Center has a cash balance of \$384,678.67 with estimated expenditures being \$69,328.66. Detention Center will have a cash balance of \$315,350.01. Solid Waste has a cash balance of \$68,050.40 with expenditures of \$1,150.44. Solid Waste will have a balance of \$66,899.60. Solid Waste owes LC Water Special Projects, Fund 87, \$27,484.15. Airport has a balance of \$1,016.60 with estimated expenditures of \$263.78. Airport will have a balance of \$752.82. Planning has a balance of \$64,406.85 with estimated expenditures being \$2,446.05. Planning will have a balance of \$61,960.80. **Adam made a motion to approve the vouchers as presented with the exception of the Mountain Merc, Meadow Valley Pharmacy, and LCTS vouchers; seconded by Kevin. All voted in favor. Kevin made a motion to approve the Meadow Valley Pharmacy vouchers; seconded by Paul M. Adam abstained as he is owner of the pharmacy. 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. Kevin made a motion to approve the LCTS vouchers; seconded by Paul M. Paul D. abstained as he is an employee of LCTS. Motion carried.**

#7-OFFICER/DEPARTMENT HEAD REPORTS

DISTRICT ATTORNEY Daniel Hooge did some research on the BLM-federal officer issue. There have been similar situations in the past. UT has passed legislation prohibiting federal officers from enforcing state law; this went to federal court and was thrown out. Even though the state has an easement, federal laws apply. Daniel believes the federal officers have the right to police. Daniel recommended that the Board write a letter to the BLM stating the County's dislike for them enforcing state laws. Technically, it is legal for them to enforce state laws if they have regulations in place saying that they have the right to enforce them. This issue has been tested in federal court many times and has failed many times. As far as the County passing an ordinance outlawing federal officers enforcing state law, the ordinance would never have worked. It has been done before and has never worked. Ed stated that Senator Goicoechea is going to introduce a bill in Legislature that states that anyone who tries to enforce the laws in NV must have attended NV POST. Daniel doesn't believe that this will change much. It is illegal for a BLM ranger to enforce laws on land that isn't federal. The gray area is when they're on a state highway and the highway is on an easement that has been granted by the federal government. Judge Dobrescu ruled on a case that was in favor of the individual on the highway. Paul D. suggested that we investigate whether or not the highway was in existence before the BLM came to be; what came first, the road or BLM? Daniel can do research to see if we own the right-of-way, fee simple. The County could pass an ordinance and then the federal government would file an injunction in federal court. Paul D. asked if there were multiple counties who did this in the West, isn't this better than just giving up? Paul D. believes that if enough counties get on board it might garner the federal government's attention. Daniel asked if the Board wants to go forward with an ordinance. If so, he'll have it on the next agenda. White Pine has a resolution that supports the Governor's statements with regards to the Bundy issue, but there is no ordinance. Daniel will put this issue on the next agenda for discussion. **GRANTS ADMINISTRATOR** Elaine Zimmerman attended the CDBG forum last week. Elaine has an organizational standards meeting next week in Carson City. **EMERGENCY MANAGEMENT** Rick Stever reported that there was flooding and power outages last week. The locals handled themselves well and the County tried to cope with the influx of traffic as best as they could. Rick had to report to the state concerning the groceries and fuel situation. Caliente was considering opening an emergency shelter. The grocery stores were able to maintain their stock and accommodate the public. There were several gas stations that ran out of gas, but shipments arrived to replenish. There was a note posted on Facebook advising that the Caliente dam broke; this wasn't true. It created quite a stir in Clark County. Rick advised the people in Clark County that there is no Caliente dam. The shutdown of I-15 and the resulting increase of traffic here in LC was handled very well. **TREASURER** Shawn Frehner attended CFOA last week in

Winnemucca. She learned a great deal and the conference was good. Shawn will be in and out of the office this week due to a new grandbaby. Shawn is working on how her office will be handling cash deposits if the local bank closes. A letter was sent to Washington Federal concerning the closure and a response has been received. Shawn is looking for the most economical and safe way to handle the deposits if the closure takes place. **RECORDER/AUDITOR** Leslie Boucher attended CFOA; it was very educational. **BUILDING/PLANNING COORDINATOR** Cory Lytle stated that his office has received correspondence from the Room Tax Board concerning local businesses that haven't been paying their room tax. Cory will be sending letters to these individuals as to what's going on; copies of protocol will be included. There may come a time when the Commissioners have to suspend some of those licenses. There is a race this weekend on the Bristol Road. Cory was unaware that a portion of the Bristol Road was going to be closed this Saturday. Cory has spoken to the race proponents. They will use the Bristol Road and have the dirt bike riders drive the bar pit instead of closing off part of the road. This will keep the racers separated from the highway traffic and will eliminate the closure. Other options to reroute have been discussed. Cory will work with the race entity to figure out a different route for next year. There are several abandonment issues that will be on future agendas for consideration.

#8-HIGHWAY COMMISSION

This item was handled under separate agenda.

#9-LINCOLN COUNTY FIRE DISTRICT

This item was covered under separate agenda.

#10-PANACA FIRE DISTRICT

This item was covered under separate agenda.

#11-FREEDOM FROM WORKPLACE BULLIES WEEK

Paul M. made a motion to approve the proclamation declaring October 19-25 Freedom from Workplace Bullies week; seconded by Kevin. All voted in favor.

#12-INDIGENT FUNDS

Jason Bleak, Grover C. Dils Hospital Administrator, presented a request for payment from the Indigent Funds for long-term care patients. There were two individuals who resided at GCDMC for a great deal of time; due to different circumstances they became wards of the County. There were issues in the State Medicaid process; both applications were denied. There wasn't enough money in their private accounts to pay the hospital. This leaves the hospital in a situation where they are giving private care. There is an account for medical indigent. The hospital needs some help, especially for these two residents. The total amount for these two residents is approximately \$130,000, through the end of June. Invoices have been submitted. Grants Administrator Elaine Zimmerman advised there has been a great deal of changes to indigent funding. The County doesn't have to report some of the information in 438B, which section is misleading. Elaine commented that payment of these bills wouldn't taking us over 90%, which then limits the amount the County can pay. The County should be able to pay the full amount that Medicaid would have reimbursed. Adam commented that he doesn't know if it is a good idea to have the DA's Office be the public guardian. There are a couple of people in the County who might be willing to take this on. Adam would like to see the County pay a percentage when these types of situations occur. Daniel advised that we currently have a medical fund for assistance to indigent persons; this is a rollover account and all claims go to the Commissioners. Elaine doesn't believe the County should pay any more than the amount that Medicaid would reimburse. **Adam made a motion to approve the payment of \$130,601.70 from the indigent funds for long-term care patients (anything that comes back in from the patient will be paid to the indigent fund); seconded by Paul D.** Elaine advised that most of the Counties are moving away from a Medical Indigent Fund. With the ACA, those funds are no longer necessary. The County may follow suit with what some of the other counties are doing. Adam responded that there are loopholes in the ACA that may require the County's aid to the indigent. **All voted in favor.**

#13-RESOLUTION #2014-01

This item concerns discussion regarding the continuation or rescinding of Resolution #2014-01, which augments the LC Land Act of 2000 Special Revenue Fund with the increase from possessory use taxes obtained from the

Federal Government. Treasurer Shawn Frehner advised that a voucher hasn't been prepared for this item and this must be handled by budget transfer. Shawn needs to get this money transferred from General Fund into Fund 92, pursuant to the resolution. Shawn asked the Board to reconfirm that this is how they want this money handled. If approved, \$197,630.50 will be transferred. This is the first time that the money will be transferred; these are the current year's funds, 2015 tax year money. Our accountant has advised that the funds can only be used for capital projects once it is put in that fund. Kevin stated he sees no reason not to transfer this money or to rescind the resolution. Moving this money out will affect General County, County Indigent, Museum, and Nutrition. All of the money from the Air Force will be transferred. The resolution applies to all of the money received from the Area, not just the increase. Kevin believes that the \$95,000 should remain and the additional funds would be transferred. Paul D. would like to see the resolution rescinded as he was under the impression that, if the money was needed, it could be pulled back out and used. That's not the case; once the money is designated for capital improvements that the only thing it can be used for. Paul D. stated that he has no problem moving the money somewhere that it can be kept separately, but it needs to be somewhere that it can be used if an emergency occurs. There is a conflict between the budget process and the resolution. If the Board chooses not to transfer the funds, there is enough cash to cover expenditures in Fund 13. Recorder/Auditor Leslie Boucher advised that funds are being used from the Property Management Fund. Both General County and Fund 92 will have to be augmented, if the Board decides to transfer the money. Leslie advised that Senior Nutrition purchased office equipment for \$5,000 that was supposed to be paid for by Air Force; Leslie wasn't sure about the payment source. \$9,040.65 would be transferred out of their fund based on this resolution; these funds would cover that expenditure. Paul M. suggested this item be tabled and revisited at a future meeting in order to sort out some of the confusion. Leslie doesn't have to move any funds until June 30, which is the cutoff. Current language in the resolution conflicts directly with the current budget. Carol White stated she believes this action was taken in violation of the Open Meeting Law as the agenda didn't plainly state that this resolution would take all future possessory use taxes and tie them up in capital improvement. **Kevin made a motion to table this item; seconded by Paul M. All voted in favor.**

#14-COMMISSION CHAMBERS REMODEL

Adam has been working to get in touch of Jerry Klein; he'd like to get a tentative approval for an amount to remodel the desk in the Commission chambers. The Board agreed that this item will be tabled until Adam has a concrete amount for costs. No action was taken.

#15-WILDLIFE HABITAT ENHANCEMENT/EFFICIENT WATER TRANSPORTATION

Grants Administrator Elaine Zimmerman advised that the amount has been increased. Additional funding will be needed. **Paul D. made a motion to sign the amended Wildlife Habitat Enhancement and Efficient Water Transportation award from the NV division of Wildlife in the amount of \$75,874.52; seconded by Paul M. All voted in favor.**

#16-SOUTHERN NV PUBLIC LANDS MANAGEMENT ACT

Grants Administrator Elaine Zimmerman asked the audience if there were any presentations. No. Elaine advised that Caliente is working on a presentation, which will be given at a future meeting. No action was taken.

#17-COMMUNITY DEVELOPMENT BLOCK GRANT

Grants Administrator Elaine Zimmerman asked the audience for CDBG projects. None offered. Notice has been published. No action was taken on this item.

#18-NEVADA SESQUICENTENNIAL AD

Rachel Williford advised that NV's 150th birthday is being celebrated. She presented a request from the LC Record for the County to purchase an ad for the NV Sesquicentennial issue. **Adam made a motion to approve the purchase of a ¼ page ad for the NV Sesquicentennial issue; seconded by Paul D. All voted in favor.**

#19-SOLAR ENERGY ZONE DRY LAKE VALLEY NORTH

Connie Simkins advised that this is a restatement of our previous positions. **Paul D. made a motion to approve the comment letter to Mike Dwyer, BLM, concerning Solar Energy Zone Dry Lake Valley North mitigation planning; seconded by Paul M. All voted in favor.**

#20-MEMORANDUM OF UNDERSTANDING: LC/LC REGIONAL DEVELOPMENT AUTHORITY
Adam made a motion to approve the MOU between LC and the LC Regional Development Authority for this fiscal year; seconded by Paul D. All voted in favor.

#21-LC NUCLEAR OVERSIGHT PROGRAM

LC Nuclear Oversight Coordinator Connie Simkins advised that November 12-14 there will be an intergovernmental meeting with DOE in New Orleans; this item will be on the next agenda for action. The meeting is being sponsored by ECA and two people will be reimbursed with the exception of non-conference food and conference registration. Paul D. will be attending as will one other Commissioner. Last Thursday there was a continuing resolution for funding approved by the House through 12-11-2014, without riders or policy changes. There are two things that apply to DOE; they're cleanup efforts and funding for a plant in NJ and the WIPP plant in NM. There is nothing in there that applies to Yucca Mountain. The NV Legislative Committee on Public Lands Chairman took the land transfer resolution off the agenda for the August 30th meeting. Several of the state senators and assemblyman will be bringing it to the floor themselves rather than have it come up through the public lands committee. There is a public lands debate surrounding a UT bill for public lands this Thursday at 6 p.m. at SUU. The House of Representatives has passed a bill that deals with the endangered species act that is favorable to the way LC looks at things. The House has approved a measure that looks at blocking the waters of the US. Hawaii has a movement to add wood pellets to their coal powered power plant. The NRC has put out a new rule that confirms the safety of on site storage of used nuclear fuel. Connie continues to work in the Pinyon-Juniper Partnership and she'll attend a meeting with them in approximately 30 days. Connie continues to work on the sage grouse local planning effort. A letter supporting Table Mountain and the Atlanta Summit tree removal projects were sent. A letter to US F&W was approved previously that discusses with them the statement concerning the availability of food for ravens. F&W blames it on people, including road kill on the highways and garbage dumps. F&W will not issue any more kill permits or permits for chemically altered eggs to kill the ravens. A permit for 3,500 eggs is issued per year. It won't be raised until the human food sources can be removed. The letter states that it is almost impossible to remove these food services and they've asked for an increase in the depredation numbers.

#22-OPEN SPACE/DISPOSAL LANDS/DESERT LAND ENTRIES

Paul D. made a motion to approve the funding of \$25,000 for the applicable environmental studies regarding proposed and/or possible open space, disposal lands, or desert land entries per the LC Conservation, Recreation, and Development Act; seconded by Kevin. Ty Chamberlain advised that this amount will not be a cap. All voted in favor.

#23-PANACA TOWN CENTER

Adam made a motion to approve the lease agreements for the LC Health Nurse, Senior Nutrition, and Nuclear Oversight offices in the Panaca Town Center, effective November 1; seconded by Paul M. All voted in favor.

#24-COOPERATIVE EXTENSION ADMINISTRATIVE CLERK

Adam made a motion to approve the salary increase for the newly hired part-time administrative clerk for Cooperative Extension from \$12.00 per hour to \$13.00 per hour based on experience, retroactive to September 8th; seconded by Paul D. All voted in favor.

#25-COMMISSIONER REPORTS

COMMISSIONER PAUL MATHEWS will meet with Scott Seastrand in the near future. Paul M. stated it took him 7 hours to commute to Hiko and back Tuesday. Other roads within the County need to be addressed so there are alternate routes to get to the various communities. **COMMISSIONER KEVIN PHILLIPS** advised that 9-17 is the anniversary of the Constitution. Kevin read the 10th Amendment. The ruling by the 9th Circuit needs to be overturned; it's illegal and incorrect. Victoria Barr, BLM, has taken a job in Farmington, NM. Kevin is going to recommend that Ty Chamberlain take Victoria's place. **COMMISSIONER ED HIGBEE** commended the residents and entities in LC for the work they did to deal with all the diverted I-15 traffic last week. The numerous amounts of mustangs are ruining the ranges. Ed spoke with Pete Goicoechea and several other state senators/assemblymen concerning the traffic. **COMMISSIONER ADAM KATSCHKE** attended the LEO

meeting. **COMMISSIONER PAUL DONOHUE** has been very busy as a Commissioner the last couple of months, especially with the flooding. There are tons of washouts. The Road Department has installed a small retention basin by the Pioche Elementary School. Paul D. has attended several RTC meetings. Paul commended all the entities involved who worked so hard to deal with the I-15 traffic last week. Post I-15 traffic diversion, the County will need help getting the roads back in shape.

#26-PUBLIC COMMENT

Ed called for public comment. None offered.

#27-ADJOURN

There being no further business for the Board to attend to, Ed adjourned the meeting at 12:25 p.m.

Attest: _____ Approve: _____

DRAFT