



LINCOLN COUNTY BOARD OF COMMISSIONERS

October 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. Clerk Lisa Lloyd called the roll.

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

LISA LLOYD, Clerk
DANIEL HOOGE, District Attorney

There is a quorum present and the agenda was posted on 9-29-14. The Invocation was offered by Paul M. and Kevin led the Pledge of Allegiance.

#2-PUBLIC COMMENT

Ed called for public comment. Carol White addressed the Board and advised that she believes they dodged a bullet with the Department of Taxation, however, there are bigger issues still at play. There are Federal agencies that are willing to pick up the ball to determine why Ashley Hall used his military clearance to extort more money from the Air Force. These same agencies are willing to find out who his political clout/ties are. Carol stated if the Board made a deal with the Tax Commission and that portion will go away, there are still other pending issues.

CONSENT AGENDA

- #3 Approve/Deny minutes of the September 15 meeting.
- #4 Tax strike, APN 8-061-30, Stefanie and Stephen Roemer, -7,502 assessed total due to lack of well on the property.
- #5 Tax strike and refund, APN 008-061-31, Vernon and Rebekah Bunker, -7,114 assessed due to lack of well on property.
- #6 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 Paul M. All voted in favor.

#7-VOUCHERS

Recorder/Auditor Leslie Boucher presented the vouchers and cash balance report. General County has a balance of \$540,034.89 with estimated expenditures being \$188,360.33. General County will have a balance of \$351,674.56. Transportation has a cash balance of \$41,665.44 with estimated expenditures being \$4,883.81. Transportation will have a balance of \$36,781.63. Alamo Town has a balance of \$8,697.86 with estimated expenditures of \$4,761.32. Alamo Town will have a balance of \$3,936.54. Senior Nutrition has a balance of \$89,469.15 with estimated expenditures being \$15,794.83. Senior Nutrition will have a balance of \$73,674.32. China Springs has a balance of \$3,498.04 with no expenditures. Detention Center has a cash balance of \$742,969.51 with estimated expenditures of \$87,681.78. Detention Center will have a cash balance of \$655,287.73. Solid Waste has a cash balance of \$70,205.03 with expenditures of \$24,001.60. Solid Waste will have a balance of \$46,203.43. Solid Waste owes LC Water Special Projects, Fund 87, \$27,484.15. Airport has a balance of \$752.82 with estimated expenditures of \$193.00. Airport will have a balance of \$559.82. Planning has a balance of \$62,026.81 with estimated expenditures being \$2,788.53. Planning will have a balance of \$59,238.28. There is a bill from Gem Engineering in the amount of \$2,900, which needs designation of a fund

for payment. Paul M. suggested that this voucher be held until Item 12 is done. A bill from POOL/PACT was received for a claim submitted by Rick for soil sampling in the amount of \$4,500. We also have a bill for \$2,000 for our portion. POOL/PACT is not going to help with the stabilization of the building. Gem is going to do a soil test/drilling down to 50 feet, which is why we decided to go with them. There is a bill from GCDMC in the amount of \$130,601.70. There is no way to prove income on these people and Leslie isn't comfortable taking this out of the indigent fund. Adam suggested that it might be best to wait to pay these. One of the individuals is deceased and the other person is in the application process for Medicaid. Statute requires the County to have an application process and contract, which is signed by the indigent person. The contract requires that the person repay the County if they ever do come into money via sales of real property and similar things. If there is no equity in the property, the County will not receive anything. Adam suggested that this voucher be paid out of General County. Daniel cited the County Ordinance, which says the way they apply is to go to the Board. The Code should be amended but it will take some time to complete. An actual application process should be done, income levels set, and then it can be sent up to the state for approval. Daniel reiterated the need to readdress our Code; he is currently working on it. This voucher will be held until the County completes the process to amend the Code. **Adam made a motion to approve the vouchers as presented with the exception of the Mountain Merc, Meadow Valley Pharmacy, and Gem Engineering vouchers; seconded by Paul M. All voted in favor. Paul M. made a motion to approve the Meadow Valley Pharmacy vouchers; seconded by Kevin. Adam abstained as he is the owner of the pharmacy. Motion carried. Adam made a motion to approve the Mountain Merc vouchers; seconded by Paul M. Kevin disclosed he is part owner of Mountain Merc and abstained from the vote. Motion carried. Kevin made a motion to put the Gem Engineering voucher on the LC Fire District agenda; seconded by Paul M. All voted in favor.**

#8-OFFICER/DEPARTMENT HEAD REPORTS

DISTRICT ATTORNEY Daniel Hooge advised that he's spoken with the State concerning the meeting for next Monday. Anyone who received a subpoena will not be required to go as an evidentiary hearing is not going to be held. Daniel spoke with Dagny from NACO regarding the Hardy case to see if SNPLMA funds can be used. The appeal is going forward but Daniel is hoping that the SNPLMA funds can be used along with a change order for the riprap. Dagny thinks SNPLMA will pay anything that was within the scope of the original grant but they won't pay opposing counsel's attorney's fees. **EMERGENCY MANAGEMENT COORDINATOR** Rick Stever advised that there was flooding in the County again last weekend. Rick has made several phone calls to those impacted. There were a few homes with minor damage, including water in the basement. There were several back country roads that were washed out but no stranded travelers. Rick received communications from the State Department of Health concerning Ebola. The state is looking at their testing and availability should something happen closer to NV. **PLANNING/BUILDING DEPARTMENT COORDINATOR** Cory Lytle advised that there will be another abandonment in Pioche that will come before the Board. Panaca Town Center is moving along; three offices have moved in and they're still waiting on IT but it's in the works. There have been some electrical issues with the A/C unit in the courtroom but they've been worked out. **TEASURER** Shawn Frehner spoke with the Department of Taxation concerning the Airport Authority having the personal property taxes deposited into their fund; she provided copies of the response to the Board. Legislation is required to make the airport authority official and allow for those monies to be deposited directly into their fund. If the Board desires to put personal property taxes into the Airport Fund it has to be handled through the budget process. John Jameson, Mellon Investments, is willing to meet with Commissioners prior to the commencement of NACO to review County investments.

#9-BUDGET TRANSFER

Paul M. made a motion to approve the budget transfer for FY 2014-2015 from Capital Improvement Fund to Vehicle Capital Projects Fund in the amount of \$86,000; seconded by Adam. All voted in favor.

#10-HIGHWAY COMMISSION

This item was handled under separate agenda.

#11-LINCOLN COUNTY FIRE DISTRICT

This item was covered under separate agenda.

#12-EMERGENCY MANAGEMENT OFFICE/AMBULANCE BARN IN PANACA

This item concerns the need to repair the ambulance barn/Emergency Management office in Panaca. Emergency Management Coordinator Rick Stever reported that he hasn't received the report from Gem Engineering yet, but it could cost approximately \$100,000 to stabilize the building. The entire building is settling in different directions. When POOL/PACT did the initial assessment, the worst corner had settled 3 inches. When Gem did their study, it had settled 4 inches. Paul M. commented that it is a difficult choice to make to spend \$100,000 on a building that didn't cost that much to begin with. Paul M. suggested that the use of the building could be changed and a new building could be erected on the other side of the parking lot. Paul M. stated that with the red iron frame there aren't brick walls that are going to fall over; it seems like each pillar could be jacked up and the foundation points could be secured independently. It is difficult to justify the expense of \$100,000. Rick is able to relocate but the biggest impact will be to the Panaca Ambulance, which used to be kept in the Town Hall. There are bay doors in the back of the Town Hall but not a drive through anymore since the remodel. Paul M. commented that the only funds we have that aren't budgeted this year would be in the General Fund. Paul M. suggested that the Gem Engineering bill be assigned to one of the budgets that are impacted by the settling, most likely LC Fire District. At the end of the project, the costs need to be balanced between all entities sharing the building. Rick stated that the LCFD budget can pay the engineering bill but there aren't any additional funds in that budget to pay for the repairs. Cory Lytle suggested if there is a proposal to tear the building down as opposed to fixing it we could go that route; tear it down, save the materials if possible. Cory discussed different possibilities for repairs. It might cost less to pay an engineer to do a study in order to lift it up and backfill. No action was taken on this item.

#13-EMERGENCY MANAGEMENT

Rick Stever advised that any time we have a major event in any one of the communities in our County the cell service goes down. During the re-routing of all the traffic from I-15, Rick was unable to contact the state as his ability to dial out was limited, if not completely eliminated. Rick is requesting the purchase of a satellite phone and plan for Emergency Management for when cell service isn't working. Rick believes it's approximately \$2,000 to get a phone and plan; there will be an additional monthly cost for minutes used. Kevin suggested that Rick research this and present a concrete plan and details at the next meeting. Captain Gary Davis commented that the Sheriff would like to be involved in this discussion and the satellite phone plan as well. No action was taken on this item.

#14-LIQUOR BOARD

This item was covered under separate agenda.

#15-SHERIFF'S K-9 VEHICLE

Captain Gary Davis presented a request to replace the LC Sheriff's K-9 unit vehicle. This is an unexpected emergency need and it'll cost about \$4,000 to replace the engine. The unit has well over 100,000 miles plus idle time. Sheriff Kerry Lee found a used Durango upfitted with a K-9 unit in the amount of \$27,525. The current vehicle doesn't have a place for an inmate so this would be an upgrade and allow for safer transport. This newer vehicle would last another 3-4 years and there is funding in the vehicle capital fund that is currently allocated for vehicle upfitting. Gary asked that the upfitting funds be reallocated to pay for the purchase and they would also use money from the Drug Forfeiture fund to pay for the Durango. **Adam made a motion to approve the purchase of the new replacement K-9 vehicle using the Vehicle Capital Upfitting funds and the Drug Forfeiture funds; seconded by Paul M. All voted in favor.**

#16-SOUTHERN NEVADA PUBLIC LANDS MANAGEMENT ACT

Grants Administrator Elaine Zimmerman presented this item. This is the time set for presentation from Caliente for the Southern NV Public Lands management Act (SNPLMA) application period. Councilman Victor Jones, Park Ranger Andrew Porter, and Mayor Stana Hurlbert (via telephone) were present for this item. Elaine provided support letters to the Board for consideration as well as the BLM application and maps. SNPLMA will take nominations every other year now. The project being put forward is for a very comprehensive trails system. City Council has approved the trailhead and they won't move forward on the remainder of the costs until approved by the Board. Trail will cost \$7 per linear foot and approximately 5 miles will be located in Caliente, which is approximately \$187,000. \$500,000 is the approximate cost for the trailhead. The people that use

these systems are affluent and will bring in a great deal of money to our communities. These groups have committed to maintaining the system. No action was taken as this was presentation only.

#17-SOUTHERN NEVADA PUBLIC LANDS MANAGEMENT ACT

Grants Administrator Elaine Zimmerman asked if there were any presentation; none offered. Pioche has talked to Sunrise Engineering about a third round for Pioche Park but Elaine hasn't heard anything. It appears that there is only one project this year; Caliente trails. **Paul M. made a motion to send the Caliente trails project through the nomination process; seconded by Adam. All voted in favor.**

#18-COMMUNITY DEVELOPMENT BLOCK GRANT

This was the time set for hearing on presentations for the upcoming Community Development Block Grant application period. Grants Administrator Elaine Zimmerman advised that Pioche has a couple of items they're considering. Elaine requested that information be provided and presentation made, but no one was present at this hearing. No action was taken on this item.

#19-RESOLUTION #2014-01

This item concerns the rescinding of Resolution #2014-01, a resolution augmenting the LC Land Act of 2000 Special Revenue Fund with the increase from the possessory use taxes obtained from the federal government. A transfer of \$197,630.50 from various County accounts to Fund 92 per the resolution would occur. Paul M. opined that we need to rescind this resolution as Fund 92 is the wrong fund. Paul M. suggested that the resolution be rescinded but a workshop be held to consider various County projects and the designation of funds. Kevin would like to see the funds accumulate for capital outlay or improvement. There was some discussion as to the creation of a public works type of fund and various project types. In a workshop setting, the Board could define what issues need a more proactive approach. Kevin stated the funds need to be applied to brick and mortar. Paul M. asked Recorder/Auditor Leslie Boucher concerning the placement of the monies. A department within the General Fund can be created for these monies but the amount will show in the cash balance. The money revenue and expenditures to this account can be tracked but it will be in the General Fund. Kevin isn't in favor of rescinding this resolution until "the ducks are lined up" and the Board knows exactly what to do. Leslie has instructed Treasurer Shawn Frehner that Shawn is unable to do anything with these monies. Leslie will have to take care of the funds. The money has been apportioned and Shawn is concerned that the departments that have it will think it's theirs. Cash balance shows that those departments have that money. If they spend it, it's gone. Leslie will have to do it through general transfer. Kevin stated the intent was to take care of the increase, not the normal apportionment that would go to various funds. It was to prevent the frittering away of the new monies. The way the resolution is currently written is incorrect; it doesn't say that. Shawn suggested that the base number be stated in the amended resolution so that future officers will know that it is any increase over the \$95,000 base amount; it must be spelled out clearly. Carol White believes that this resolution was part of the issue, or problem, the NV Tax Commission had with this Board regarding the possessory use taxes, which should be apportioned by state law. The Board passed this resolution to subvert the law and take monies away from where they were apportioned. Carol commented if there are capital improvements that need to be made, it should be done through the budget process and that this resolution should be rescinded. Paul M. responded that the Board's intent wasn't to take away any of the apportioned amounts from various funds. Paul M. feels a different fund or department needs to be created via workshop. Carol stated that the Tax Commission has a problem with this resolution and the way the Board is taking money that was apportioned by state law away from these different funds to put into a discretionary fund. **Paul M. made a motion to take no action on the resolution at this time and to schedule a workshop for 10-20 at 1 p.m. to discuss the specifics of the language of the resolution; seconded by Kevin. All voted in favor.**

#20-COMMISSIONER CHAMBERS REMODEL

Adam met with Jerry Klein concerning the remodel of the desk in the Commission room. Total cost is \$15,000. **Kevin made a motion to approve the remodel of the Commission chambers desk; seconded by Paul M.** Kevin stated that this remodel will be more conducive to a meeting of the Commissioners. The Board is much looser in their meetings than other entities, but the discussion and decision making should take place between the Board members themselves. Pursuant to law, Commission meetings are the only time and place that the entire Board can meet to discuss issues and make decisions. **All voted in favor.**

#21-BUREAU OF LAND MANAGEMENT RANGER AUTHORITY

This item concerns the creation of an ordinance regarding the authority of the Bureau of Land Management (BLM) rangers within LC. If we open this up too easily for the BLM to go to POST then it is believed that they will have full reign to become law enforcement officers. If the Board takes this route, it might be misinterpreted as implied consent. Ed asked if we do this is it the same as implied consent wherein if they fulfill the requirement and get the license then they can start enforcing the laws locally. Ed feels it's fine to have a ranger around, but he shouldn't be armed and able to enforce County and State laws. If the local folks elect a sheriff, he's elected to enforce the laws. If the people don't like how he's enforcing the laws, they can vote him out. If the federal government starts to uphold the laws there's no way to "vote that person out". There is a bill before the House that gives the federal government to charge whatever fees and fines they want on federal land; this would be litigated in federal court and the individual wouldn't be adjudicated in front of a court of their peers. If the federal government cites people, it should be adjudicated right here in LC. Adam asked that we get a copy of the job description for the rangers. Passing an ordinance will be very difficult as they fail in every instance, Daniel cited. Local agreements where they'll pay for a Sheriff's Deputy has been incredibly successful. Daniel commented that he doesn't know what the politics were behind the decision to stop funding the local shared officer, but it was the best arrangement. This item was for discussion only; no action was taken.

#22-COUNTY INDIGENT FUNDS

This item concerns the procedures to be used when the hospital requests assistance from the County Indigent Funds. DA Daniel Hoge advised that income levels/processes/procedure need to be put in place as well as an application. Elaine responded that the income levels are set by NRS; the whole process is set by NRS. The County already has an application. The County will exceed 100% or better after this payment is approved. The statutes determine the floor but not the ceiling; the Board needs to determine whether or not they're going to expand the persons they'd like to cover. Elaine cited the County Ordinance that sets it at the NRS rate. NRS 428 states if we exceed our indigent funds the County will still pay the match. We will still be required to pay those, even if we exceed our funds. We could go to the supplemental through NACO. Due to the passage of 452 all of that's been changed and the process has to be reviewed. Adam commented that it is approximately \$6,000 per month for individuals to be in the hospital. Even if they're bringing in \$3,000 per month they're still \$3,000 in the red. So, their income could be considered negative \$3,000; the hospital patients would all fall under that category. Elaine agreed, but stated we need to make sure we're following NACO's standards. If we over expend our funds, and we did it wrong, we will not get NACO's help. Deputy DA Franklin Katschke referred to NRS 438, which requires the County to pass a local ordinance. We have passed a local ordinance but the County is required to establish minimum guidelines that specify allowable income, assets, or other property. NRS 438 is a minimum guideline. NRS 439(b) states that the County can define an indigent person in whatever manner they'd like. The County needs to specify, in the ordinance, what the minimum guidelines for indigent medical services fund will be. The County can define indigent in any way they'd like. No action was taken and the DA's office will work on the ordinance.

#23-GRANTS

Adam made a motion to sign the Notification of Grant Award from the State of Nevada Aging and Disability Services Division for Home-Delivered Meals to LC Senior Services in the amount of \$67,010 with a required match of \$9,214; seconded by Kevin. All voted in favor.

#24-GRANTS

Kevin made a motion to sign the Notification of Grant Award from the State of Nevada Aging and Disability Services Division for congregate meals to LC Senior Services in the amount of \$30,000 with a required match of \$3,265; seconded by Paul M. All voted in favor.

#25-GRANTS

Paul M. made a motion to sign the Notification of Grant Award from the State of Nevada Aging and Disability Services Division for nutrition equipment to LC Senior Services in the amount o \$8,100 with a required match of \$1,430; seconded by Kevin. All voted in favor.

#26-SAGE GROUSE

Kevin made a motion to approve the letter to Rosemary Thomas, BLM, supporting the Atlanta Road Sage Grouse Habitat Improvement Project and the Table Mountain Sage Grouse Corridor Project (funding for each project will be granted through the SNPLMA – Eastern NV Landscape Restoration Project); seconded by Adam. All voted in favor.

#27-ALAMO SEWER & WATER

Kevin made a motion to approve the designated utility easement and associated map for Alamo Sewer & Water to access infrastructure on the south end of the Alamo Children's Park; seconded by Paul M. All voted in favor.

#28-RESOURCE CONCEPTS

Paul M. made a motion to approve the three tasks for Resource Concepts – 1) Watershed and GIS mapping, 2) Recap Wind Energy Denver meeting September 16, 2014 and related mapping, 3) Monitor and provide input to Dry Lake Valley North Solar Energy Zone mitigation planning, including input to Dry Lake Valley watershed planning by BLM; seconded by Kevin. All voted in favor.

#29-INTERTECH SERVICES

Paul M. made a motion to approve two tasks for Intertech Services – 1) Monitor and draft comment letters regarding Nuclear Regulatory Commission Safety Evaluation Report and 2) Recommendation on issues to be addressed in the Supplemental Environmental Impact Statement for Yucca Mountain to be prepared by the NRC; seconded by Kevin. All voted in favor.

#30-LINCOLN COUNTY AIRPORT

Paul M. made a motion to approve weed control (\$840) and pest control (\$125) at the LC Airport, paid from the Airport budget; seconded by Kevin. All voted in favor.

#31-ENERGY COMMUNITIES ALLIANCE

Kevin made a motion to approve the attendance of two Commissioners (Paul D. and Adam) at the Energy Communities Alliance and Department of Energy Intergovernmental meeting in New Orleans, LA, on November 11-14, 2014; seconded by Paul M. All voted in favor.

#32-QUARTERLY JAIL TOUR

Kevin reported that he attended the jail tour. Nothing was amiss; there are no emergency needs at this time. Adam met with Sgt. Trousdale and Lt. Neighbor to discuss how things are going at the Detention Center. The DC is full. They could always use more space and a better facility.

#33-COMMISSIONER REPORTS

COMMISSIONER PAUL MATHEWS met with Scott Seastrand and Ron Williams of Western Elite concerning fees and how their business will be affected. WE is now a permitted Class I landfill but they're not receiving Class I items yet. **COMMISSIONER KEVIN PHILLIPS** attended the Southwest 6 Defense at Hill Air Force Base. Kevin will attend the American Lands Council meeting next Tuesday. Kevin attended the debate at SUU between the Speaker of the Utah House of Representatives and Ken Ivory concerning the transfer of public lands. **COMMISSIONER ED HIGBEE** met with Colonel Vader Dempsey. **COMMISSIONER ADAM KATSCHKE** reviewed the Open Meeting Law, which allows the public to be present at the Commission meetings wherein the Board is able to discuss issues and make decisions. This is the only time the Board members can do this, with all five present. Adam attends several other meetings that are also required to follow the Open Meeting Law. The public comment period is open to anyone in the public; those individuals are allowed to comment on anything they wish that is on the agenda and it's limited to three minutes. At these meetings, a timer is started for each individual and their comments are limited to the exact three minutes allotted. If they go over that time, they're asked to wrap it up. The County's agenda is posted several days prior to the meeting; the public can contact any one of the Commissioners to discuss their concerns. The Commissioners then take these concerns to the meeting to be included in their deliberations. There is a large public gathering at the meetings Adam attends in Las Vegas, no one is allowed to speak under any item except for public comment. Commissioner Lawrence Weekly, who runs the meetings, doesn't even ask for comments

from the public except under public comment. This is the appropriate way to handle Open Meeting. Adam would like the public to approach him prior to meetings and stated he's more than willing to speak with anyone about anything on the agenda. Maleen Millmine asked, if the Board is supposed to be so serious during their meetings, why is there so much laughter and joking. Maleen asked if the Board knows about the separation between Church and State. The Board offers a prayer before every meeting; does this follow ACLU and the separation between Church and State. Maleen is very offended when the Board makes jokes about various items on the agenda that are serious. Maleen is going to the ACLU with regards to the prayer before the meeting. Adam reported that Rosemary Thomas of BLM is retiring. Adam met with Holly Gatzke and staff concerning workforce. Adam attended a workforce board meeting in Las Vegas as well as LEO. Adam toured the Clark County Detention Center's jail in North Las Vegas. There is a group interested in helping us to build a new detention center.

#34-PUBLIC COMMENT

Ed called for public comment. DA Daniel Hooge discussed the agenda and the Open Meeting Law, which requires clear and concise agenda items. There is no requirement to have all of the details on the agenda. Daniel commented that the focus needs to be on making certain that the item is concise. The question is whether or not people are going to understand the topic when they read the agenda. The agenda must be clear as to topic but it also must be succinct, or brief and short. The larger agencies have more people working for them so there is a great deal more debate; there's nothing wrong with that. The terms of contracts are discussed in meetings and can change via discussion and consideration. Daniel commented that he will try harder to ensure that the topics on the agenda are clearer. Bill Hartman commented that a common way to approach this is that, when someone wants to speak on an item on the agenda, they should contact the Chairman or the Clerk. Bill discussed the prayer at the beginning of the meeting. Bill feels the prayer is appropriate; the more the better. If someone wants to storm the ACLU and beat a dead horse in a losing battle, they can. Bill discussed the term "inmates". It is a catchall term; there are several different types of inmates, including gang members. The risk that comes with the inmates at the DC has never been considered. Bill asked the Board to consider the risk. Ed advised that Alamo High School is asking for funds from the Western Elite Youth Fund; this will be on the next agenda.

#35-ADJOURN

There being no further business for the Board to attend to, Ed adjourned the meeting at 12:42 p.m.

Attest: _____ Approve: _____