



LINCOLN COUNTY BOARD OF COMMISSIONERS

October 20, 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 MATHEWS
ED HIGBEE
KEVIN PHILLIPS
ADAM KATSCHKE
PAUL DONOHUE

LISA LLOYD, Clerk
DANIEL HOOGE, District Attorney

There is a quorum present and the agenda was posted on 10-14-14. The Invocation was offered by Kevin and Ed led the Pledge of Allegiance.

#2-PUBLIC COMMENT

Ed called for public comment. Bill Hartman commented that the interlocal agreement, Item 16, is a great idea and he hopes the Board adopts it. Ed commented that the Board and public will discuss Item 13 in spite of the fact that it was put on the agenda incorrectly.

CONSENT AGENDA

- #3 Approve/Deny minutes of the October 3 meeting.
- #4 Tax strike and refund for Charles and Alma J. Prince, APN 008-061-02, -1,721 assessed. There is no septic on the parcel.
- #5 Tax strike and refund for Charles and Alma Prince, APN008-061-04, -5,597 assessed. There is no well on the 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 Kevin. All voted in favor.

#7-VOUCHERS

Recorder/Auditor Leslie Boucher presented the vouchers and cash balance report. General County has a balance of \$508,621.25 with estimated expenditures being \$158,385.57. General County will have a balance of \$350,235.68. Transportation has a cash balance of \$36,881.95 with estimated expenditures being \$4,721.08. Transportation will have a balance of \$32,160.87. Alamo Town has a balance of \$5,623.49 with estimated expenditures of \$5,284.19. Alamo Town will have a balance of \$339.30. Adam commented that Alamo Town's fund is extremely low. Alamo Town needs to watch their expenditures. Taxes will be apportioned at the end of this month. Senior Nutrition has a balance of \$74,335.58 with estimated expenditures being \$9,274.79. Senior Nutrition will have a balance of \$65,060.79. China Springs has a balance of \$3,543.24 with no expenditures. Detention Center has a cash balance of \$655,516.34 with estimated expenditures being \$75,584.51. Detention Center will have a cash balance of \$579,931.83. Solid Waste has a cash balance of \$56,906.39 with expenditures of \$24,094.68. Solid Waste will have a balance of \$32,811.71. Solid Waste owes LC Water Special Projects, Fund 87, \$27,484.15. Airport has a balance of \$583.95 with estimated expenditures of \$295.98. Airport will have a balance of \$287.97. Planning has a balance of \$59,263.85 with estimated expenditures being \$6,757.73. Planning will have a balance of \$52,506.12. **Adam a motion to approve the vouchers as presented with the exception of the Mountain Merc, Meadow Valley Pharmacy, LC Telephone, and Mainstreet Market vouchers; seconded by Kevin. All voted in favor. Kevin made a**

motion to approve the Meadow Valley Pharmacy and Mainstreet Market vouchers; seconded by Paul D. Adam abstained as he is the owner/part-owner of the pharmacy and store. 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. Adam made a motion to approve the LCTS vouchers; seconded by Kevin. Paul D. abstained as he is an employee of LCTS. Motion carried.

#8-OFFICER/DEPARTMENT HEAD REPORTS

SENIOR NUTRITION reported the Senior Kitchen will be closed all of next week as they are painting, installing new flooring, and rearranging. They hope they won't have to work on NV Day to complete their project, but, if they do, they'd like to know if they can use the holiday as a floating holiday at some other time. Paul M. responded that this matter needs to be placed on the agenda for action. Trina Lytle advised that they will be advertising for a replacement site worker in Caliente. **DISTRICT ATTORNEY** Daniel Hooge reported that 11-12 there is a hearing on the Hardy Motion to Vacate in the District Court. **EMERGENCY MANAGEMENT COORDINATOR** Rick Stever presented the engineering report from Gem Engineering on the sinking Emergency Management/Panaca Fire/Panaca Ambulance building in Panaca. **TREASURER** Shawn Frehner presented an update concerning the landfill survey she's presented in the past. On October 1 649 reminder statements were mailed to those with outstanding balances. The DA's Office has 54 active liens that have been filed. The unemployment rate for the County is 8.6%. Shawn presented the combined sales and use statistic report. Taxes will be apportioned at the end of this month because the second installment has come in. Kevin discussed the assessed value for Area 51 and how it is derived. The Treasurer uses the assessed vault and applies it to the tax rate then sends out the bills. The Commissioners establishes the tax rates. With Area 51, Shawn would receive the assessed value from the Assessor then apply the rate. The Treasurer receives the check for real property taxes from Area 51; if it's based on real property, the check goes to the Assessor. If the bill has been done, the assessment is already in the computer; in order for the Treasurer's Office to bill there must be an assessment in the computer. The Treasurer's Office must have an assessment to create a tax bill. **CLERK** Lisa Lloyd reported that Early Voting has begun and the turnout has been average so far. **GRANTS ADMINISTRATOR** Elaine Zimmerman advised that indigent accident and supplemental fund no longer exist. It's a set aside to counties with their match. The payment that was approved to the hospital might need review.

#9-PAHRANAGAT VALLEY HIGH SCHOOL GRADUATION NIGHT

Paul D. made a motion to approve the request from Rachel Hosier with Pahrnagat Valley High School for \$2,000 for graduation night; seconded by Paul M. All voted in favor.

#10-HIGHWAY COMMISSION

This item was handled under separate agenda.

#11-PANACA FIRE DISTRICT

This item was handled under separate agenda.

#12-LINCOLN COUNTY FIRE DISTRICT

This item was covered under separate agenda.

#13-ASHLEY HALL CONTRACT

This item concerns a request from Carol White for the Board for the termination of the contract with Ashley Hall & Associates for non-performance. Vaughn Higbee, on behalf of Ashley Hall, requested that this item be delayed as the questions that will arise should be answered by their attorney. Paul M. feels this is a legal issue as it pertains directly to a contract; there is no problem with this item being tabled. This contract isn't for the Board to discuss; it's a legal issue. DA Daniel Hooge advised that the Board would have a hard time taking action without the presence of the attorney. Paul M. stated that if the Board is going to hold the discussion both parties should be notified and present. **Paul M. made a motion to table this item to the November 10 meeting and that proper notification to Ashley Hall & Associates be given; seconded by Kevin. Paul D. and Adam are opposed. Motion carries 3-2.**

#14-FRANCHISE AGREEMENT

This item concerns the discussion/approval/denial/counteroffer of a proposal from Recology for a short-term franchise agreement for solid waste collection. The previous collection agreement ended October 1, 2014. The current proposal includes an initial term of 90 days with the possibility of 6 30-day extensions. The short-term agreement also includes a different rate schedule. The extension is supposed to be no-cost. Treasurer Shawn Frehner commented that as far as she can tell this is no cost. The flat fee is the monthly rate we are paying right now. DA Daniel Hooge spoke with Debbie Leonard, who claims those are the same rates that have always been used but they're not in the contract. The rates don't take effect unless the Board asks them to do something special. Standard work falls under the flat fee. Daniel spoke with Recology concerning a couple of points he didn't like. 4.1 talks about billing. If anyone requests additional work it must be a written request only. Treasurer Shawn Frehner advised that there will be a staffing problem if this isn't completed by the end of the year; the Board needs to take this into account. October 1st the County is out of contract but they've continued hauling. They'll continue to do so for the 120 days while this is being worked out; this is the benefit to the County. The County isn't obligated to purchase their equipment if we don't renew the contract with Recology. Recology's intent isn't that the purchase of the equipment is mandatory. Shawn referred to page 2, 1.2B; this makes the Elementary School's collection and recycling of cans illegal. The children recycle cans for their schools and this states that we can't do recycling in the County. Paul M. and Adam agreed they have no problem with the extension; they have their work cut out for them in the next 120 days. **Adam made a motion to approve the contract extension; seconded by Paul M. All voted in favor.**

#15-HOST FEE ORDINANCE

This was the time and place set for public hearing on an ordinance that imposes a host community fee based upon gross tonnage of solid waste received on all disposal sites operating within the jurisdiction of Lincoln County. Donald Williams, counsel for Virgin Valley Disposal, was present. Donald stated they are against this ordinance. Potential legality was reviewed and VVD is concerned. Mesquite owns the landfill and the garbage is being generated in Clark County and AZ, not LC. There was an Attorney General opinion that said a possessory use tax could be collected. Negotiations were held at that time. Page 2, paragraph 2, was referred to; there are no negative externalities caused by the site in LC. There are no negative externalities caused by the site and there isn't a single resident that lives in LC up or around that site. Even if the host fee were legal, the question as to how it is determined and where the proceeds go needs to be solved. What fund do the proceeds go in to? Donald referred to the 2007 Statewide Solid Waste Management Plan; he has concerns about this plan as well. That particular plan allows for the development of a system for collection but has nothing to do with a host fee. There are times when the government collects a host fee. Donald advised that Republic pays host fees, which were negotiated at conception. Donald referred to pg. 15 of the Statewide Solid Waste Plan. What does the host fee do to enable that in any respect? It doesn't do anything. Donald referred to 4.7.2 of that same provision. With the City of Mesquite owning the landfill Donald questions to legality of the host fee. Donald referred to the provisions of the settlement agreement that was reached in 2002 between LC/Virgin Valley. By signing and fulfilling the terms of the agreement, LC waives and releases all claims for past possessory use taxes. The parties have agreed that VV will pay LC a possessory use real property tax from July 1, 2002 forward in the amount of \$2,900 per year for future real property taxes. VV has lived up to that portion of the agreement. Donald referred to section 4 of the agreement; which requires the payment of attorneys' fees if there is a default. Donald asked the Board to live up to the 2002 agreement. The host fee, if calculated correctly, could cost the City of Mesquite and its residents an additional \$60,000 per year. Donald believes this is the wrong source to go to for additional revenues. Treasurer Shawn Frehner referred to the 2002 contract, which was found illegal because we couldn't negotiate possessory use. When the recent amount was received it was for more than the amount on the tax bill. The Treasurer can't receive more money than the amount billed so the check was returned. The agreement was not legal and was found as such by the Department of Taxation. The landfill is being taken care of properly and there have never been complaints with it. Who pays for the original scales that come in and have to be certified? The ordinance talks about the maintenance of the scale but not the certification to the State of NV. The scales that are there are simply for reporting to the State. People are charged by the yard, not by tonnage, at VVD landfill. Daniel stated this isn't property tax. Typically, east of the Mississippi includes landfill fees including host fees; in the west, these host fees are "hit or miss". The host fee is completely different than the property tax issue. That agreement deals with property tax, not host fees. Paul D. stated there are landowners in the area of the landfill who are concerned. Adam commented that the County seems to have more and more landfills popping up without the

County's permission. The Board is trying to set a bar that is fair for all landfills. Donald asked for additional time to negotiate things like scales and fees to see if we can come up with something that might work. The ordinance is to offset the County's cost and the host fees go back into the solid waste fund. The idea of the ordinance is to benefit the citizens of the County. Cory Lytle commented that there are 3 landfills in LC now; a special use permit is required for each. If there is no special use permit in place or it gets revoked, these entities can't operate legally in LC. The host fee is consistent with other jurisdictions in the country. LC isn't in it to benefit the landfill; it is to offset the County's cost. Cory suggested that the numbers be negotiated so they are consistent. Cory suggested that a conversion for tonnage being brought in be considered. The County doesn't want to burden other people, but others are burdening the County by putting the garbage in our County. Paul M. commented that at this point we can move forward and hold meetings to amend the ordinance, there's no need to reschedule the public hearing. Once completed, the Board can go through the notification process again. Paul M. and Adam will maintain contact with Mesquite to negotiate terms. No action was taken on this item.

#16-MEDICOLEGAL DEATH INVESTIGATIONS

This item concerns an interlocal agreement between LC and the Clark County Coroner's Office for medicolegal death investigations, which may include, but may not be limited to, post-scene forensic investigative work consisting of autopsy, toxicology report, DNA, determinations as to the cause and manner of death, etc. **Paul D. made a motion to approve the interlocal agreement between LC and the Clark County Coroner's Office for medicolegal death investigations; seconded by Paul M. All voted in favor.**

#17-ECHO CANYON CAMPGROUND PROJECT

Adam made a motion to sign Change Order #4 for JNJ Engineering Construction, Inc., in the amount of \$1,730.70 and an additional 34 days on the contract for the Echo Canyon Campground project; seconded by Kevin. All voted in favor.

#18-WESTERN ELITE YOUTH FUND

Adam made a motion to approve the donation of \$1,500 to Pahrnagat Valley High School from the Western Elite Youth Fund for students to travel to Washington, D.C.; seconded by Paul D. All voted in favor.

#19-LINCOLN COUNTY AIRPORT

Paul D. made a motion to sign the Notice to Proceed for Maxwell Asphalt, Inc. for the LC Airport pavement rehabilitation project; seconded by Adam. All voted in favor.

#20-LINCOLN COUNTY AIRPORT

Paul M. made a motion to approve the request to augment the budget of LC Airport (Panaca) for weed control in the amount of \$1,365, paid from the General Fund; seconded by Paul D. All voted in favor.

#21-WILSON CREEK ALLOTMENT MANAGEMENT PLAN

Kevin made a motion to approve the letter to Rosemary Thomas, BLM, requesting that Ken Vicencio be temporarily assigned back to Ely to complete the Wilson Creek Allotment Management Plan; seconded by Paul M. All voted in favor.

#22-QUARTERLY JAIL TOUR

This item was tabled to 11-10.

#23-COMMISSIONER REPORTS

COMMISSIONER KEVIN PHILLIPS attended the American Lands Council meeting; he presented the new map of the publicly-owned lands in the West. Kevin read the American Lands Council Policy Statement. **COMMISSIONER ADAM KATSCHKE** attended the Library Board meeting. Ann Smith has given a letter of resignation and she'll need to be replaced. The Board needs to address "in-city" mileage reimbursement for individuals who travel to various different places within a town. There is a fee set at \$.42 per mile. When the employee in question travels to a different city she can stay for 2-3 days and put approximately 60 or more miles on her vehicle while in that location. The total cost for the Commission desk is \$11,500 and Jerry will wait until

after elections to start. The Road Department has some blades that need to be replaced. Adam stated there is a suicide prevention 5K walk. **COMMISSIONER PAUL DONOHUE** met with the RTC to discuss the repairs to the road in Pioche. Paul D. met with the Room Tax & Fair Board; funds are lower than they've been in a while and the "belt will have to be tightened". Paul D. will attend a meeting concerning land in Caselton that was turned over to a trustee through bankruptcy court; they will be working on developing an avenue for those in Caselton to purchase the land their houses sit on. Victoria Barr's last day at BLM is 10-24; there is a farewell party for her at 10-22 at the Caliente Fire Department at 5 p.m.

#24-PUBLIC COMMENT

Ed called for public comment. Connie Simkins has been made aware of an effort by Senator Reid to reintroduce the Garden Valley Conservation Area; it consists of 805,000 acres of new special area. Existing uses will be allowed to continue as will the level of public access. Connie provided a map for the Board members. To date, LC has designated 700,000 acres of wilderness. Vaughn Higbee advised that he was notified that the BLM was going to issue an oil drilling permit by his reservoir. When Vaughn called Senator Reid's Office they were shocked that Vaughn was opposed to the area that they want because it's underground. Vaughn has been out riding this last week and gathering cattle; there are no stakes where it was. This is strictly a taking, or another way to get surface rights. Vaughn was told that they wanted to stop anything underground. The view shed to Heizer's is about 30 miles. This conservation area is enormous. The monument is supposedly a wonderful thing. If they want to protect the City, it is already being done so by the many sections that Heizer has. Why does the government want to take all of Coal Valley to protect it? Carol White commented that public service is a trust that should be held for the full benefit of the people; this isn't happening with the Ashley Hall contract. There were no innocent parties relating to this contract. There are different degrees of culpability. There are ongoing investigations regarding the Board's actions. Carol believes that those who weren't involved in the secret actions with Ashley Hall's contract should step forward and try to take corrective measures. If not, the people of LC will be forced to institute recall elections and ballot initiatives to limit the Commissioners' power. Louis Benezet commented that he was interested in the landfill discussion with those from Mesquite. Louis disagrees with the attorney's point of view concerning Virgin Valley Disposal and the landfill issue. There is a tremendous expense for handling a small population's garbage in LC. The garbage facilities are dictated by the scant availability of private property. It is a good idea for the County to look further ahead to correct the garbage situation in LC. We need to find a place to put it as well as instill recycling. If the County could get help through the host fees it would allow for us to have a decent garbage system in LC. Bill Hartman discussed Item 16; he will research this issue to report how many times the CC Coroner's Office has been called. Adam advised that a Landfill Committee meeting is needed.

#25-ADJOURN

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

Attest: _____ Approve: _____