



## LINCOLN COUNTY BOARD OF COMMISSIONERS

November 17, 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 DONOHUE (left the meeting at 12) LISA LLOYD, Clerk  
ED HIGBEE DANIEL HOOGE, District Attorney  
KEVIN PHILLIPS  
ADAM KATSCHKE  
PAUL MATHEWS

There is a quorum present and the agenda was posted on 11-10-14. The Invocation was offered by Adam and Paul D. led the Pledge of Allegiance.

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

Ed called for public comment. Paul D. advised that the incision on his arm opened up on his way home from New Orleans; he'll be leaving the meeting early.

### **CONSENT AGENDA**

#3 Approve/Deny minutes of the October 20 and November 10 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 with the exception of the minutes; seconded Paul M. All voted in favor.**

### **#5-VOUCHERS**

Recorder/Auditor Leslie Boucher presented the vouchers and cash balance report. General County has a balance of \$674,648.32 with estimated expenditures being \$137,839.04. General County will have a balance of \$536,809.28. Transportation has a cash balance of \$78,546.17 with estimated expenditures being \$2,968.47. Transportation will have a balance of \$75,577.70. Alamo Town has a balance of \$9,289.13 with estimated expenditures of \$4,769.99. Alamo Town will have a balance of \$4,609.14. Senior Nutrition has a balance of \$124,713.39 with estimated expenditures being \$13,816.21. Senior Nutrition will have a balance of \$110,897.18. China Springs has a balance of \$5,155.53 with expenditures of \$4,016.25. China Springs will have a balance of \$1,139.28. Detention Center has a cash balance of \$646,533.49 with estimated expenditures being \$79,543.18. Detention Center will have a cash balance of \$566,990.31. Solid Waste has a cash balance of \$44,972.47 with expenditures of \$142.42. Solid Waste will have a balance of \$44,830.05. Solid Waste owes LC Water Special Projects, Fund 87, \$27,484.15. Airport has a balance of \$7,086.88 with estimated expenditures of \$187.42. Airport will have a balance of \$6,899.46. Planning has a balance of \$51,198.72 with estimated expenditures being \$2,240.09. Planning will have a balance of \$48,958.63. Leslie advised that we continue to watch Alamo Town Fund. Leslie questioned a Panaca Town (PT) bill. \$181.81 was spent for sodas and various things but there is a policy that requires preauthorization for these types of expenditures. Leslie advised that Panaca Town called Paul M. but the policy still needs to be followed. Paul M. stated that he wishes that PT had come before the bill and gotten approval but they didn't. PT gave the individuals who did all of the work on the building in Panaca permission to get sodas and snacks while they were working. Paul M. advised PT that Leslie has the obligation to deny the payment and only the Board can override that. Adam asked Leslie to outline the manner in which an enterprise fund, specifically the Detention Center Fund, works. **Adam made 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 Paul D. All voted in favor. Paul D. made a motion to approve the Meadow Valley Pharmacy and Mainstreet Market vouchers; seconded by Paul M. 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 Paul M. Paul D. abstained as he is an employee of LCTS. Motion carried.

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

**DISTRICT ATTORNEY** Daniel Hooge advised that the Hardy hearing went well. **EMERGENCY MANAGEMENT COORDINATOR** Rick Stever has been approached by employees in the building who have attended trainings and other programs; emergency issues have arisen during the trainings. There are employees on all floors but there are a limited number of entrances/exits. Those on the top floor are concerned about what would happen in the event of an emergency. Rick suggested that this issue be addressed. In order to use a rope or chain ladder, the employees would have to crawl through two windows. Kevin suggested that Rick and Cory Lytle formulate an escape plan and present it to the Board for review. An escape plan for all of the offices in the courthouse needs to be created.

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

This item was handled under separate agenda.

#### **#8-PANACA FIRE DISTRICT**

This item was covered under separate agenda.

#### **#9-LINCOLN COUNTY FIRE DISTRICT**

This item was covered under separate agenda.

#### **#10-COMMUNITY HEALTH SERVICES**

Jo Malay, RN, MPH Director of Nursing for the State of Nevada Community Health Nursing Program presented services that are available to LC. Joe Pollock, Dr. Kerwin, and Nicole Rowe were also in attendance. 576 children were provided services last year in LC; 153 adults were served. Nicole advised that she goes to each of the schools in LC to perform hearing/vision screening. There are 996 students in our school district. Nicole does immunizations for those who need to be updated. 1,207 is the total number of patients served this year. Joe, program manager for Environmental Health, addressed the Board and reviewed the programs they regulate throughout the state. There haven't been any food borne illnesses in LC in the last 12 months. All statutorily mandated inspections were completed timely in LC. No action was taken on this item.

#### **#11-PIOCHE ABANDONMENT**

This is the time and place set for public hearing on the abandonment of an unnamed alleyway located south of Lots 7, 8, 9, and 10 and north of Lots 11 and 12 of Block 52, west of Lightner Street in Pioche, APN 001-043-03, 001-043-06, and 001-043-07. Building/Planning Department Director Cory Lytle presented this item. The two owners have agreed to this abandonment. **Paul D. made a motion to approve the abandonment; seconded by Paul M. All voted in favor.**

#### **#12-PIOCHE ABANDONMENT**

This is the time and place for public hearing on the partial abandonment of Fitzhugh Street between Meadow Valley Street and Cotton Avenue and between Block 22 and 24 in Pioche, APN 001-123-01. Building/Planning Department Director Cory Lytle presented this item. **Paul M. made a motion to approve the partial abandonment; seconded by Kevin. All voted in favor.**

#### **#13-COMMISSIONERS' RESPONSIBILITIES DURING AN EMERGENCY**

This item concerns the responsibilities of the Commissioners during an emergency; Emergency Management Coordinator Rick Stever presented this item. Rick offered some procedures and guidelines for the Board's review. The first item is to start keeping records. Rick believes all of the elected officials would have a duty

during an emergency. Some time ago, it was suggested that meetings with courthouse staff be held but this never happened. Rick feels these meetings could be beneficial. Rick commented that Caliente handles things on their own first then they turn to the County once they reach their financial and resource limits. Then, the City can declare a State of Emergency and the County would step in and help. The County would also declare a State of Emergency once all County resources and funds are expended. As things get beyond our control the state can then step in and help us. The last page Rick presented to the Board is a Declaration of Emergency; it outlines what we've expended and what we're requesting. If and when the time arises, the County must be able to follow the state-required policy. The Governor is the only individual who can call the federal government for help. Paul D. commented that whatever area the incident occurs in that's the Commissioner who should be called to do PR and make decisions (i.e., if the incident is in Pioche, Rick should call Paul D., etc.). If any resources are to be expended then an emergency meeting is required, Daniel advised, or the Board can pass a resolution that gives the Chairman the authority to expend money up to a certain amount. Paul D. asked if it was possible to authorize the Commissioner in charge of the emergency to expend the funds up to a certain amount as opposed to just the Chairman. Paul D. further suggested that a specific fund be delegated. There is already a County Emergency Fund as well as a Fire District Emergency Fund. Once the money goes into these funds it can't be removed except for any expense directly related to an emergency. Rick reiterated that record keeping is critical. This would fall on whatever Commissioner was called in and made responsible. Rick will send the information presented to the state DEM representative for review. No action was taken on this item.

#### **#14-AUTOMATED EXTERNAL DEFIBRILLATOR**

Emergency Management Coordinator Rick Stever advised that the battery in the automated external defibrillator (AED) in the courthouse has died and needs to be replaced. It's approximately \$200 per unit, including the battery and the pads. Sheriff Kerry Lee advised that he didn't budget for new batteries in the patrol vehicles; many of them need to be replaced. No action was taken as the Board would like to revisit this issue and include action for all of the AEDs in the County.

#### **#15-RESOLUTION ALLOWING EMPLOYEES TO HAVE DECEMBER 24<sup>TH</sup> OFF**

Toni Acuff advised that they'd rather have the day after Christmas off. Kevin asked if this isn't an additional paid holiday. It would be a paid day off. Kevin stated that due to their contract, they get so many days off and this would be an additional day off with pay. Ed commented that when he worked for the state he would have to take this day off. Denice advised that by doing this it allows the courthouse to be closed so that everyone can be gone at the same time. This would not apply to the Sheriff's Office, who are considered essential personnel. Kerry suggested that everyone can use their floating holiday that day. Adam commented that when he and Daniel negotiated with Teamsters they wanted the day before Christmas off. Cory Lytle stated that if the nonessential offices want to allow their employees to be gone they can require the employees to use annual leave. Cory doesn't believe in paying for a day that isn't a holiday. Kevin stated if the big deal is closing the offices in the courthouse to enhance their time with family he doesn't object; he's opposed to granting another paid holiday. Paul D. commented that keeping the employees happy is important, too. If the Board can do something to help the employees, they should. Happy employees make a happy life. No action was taken on this item and it will be on the next agenda to allow the courthouse to close on the 26th.

#### **#16-COMMISSION CHAMBERS REMODEL**

**Adam made a motion to wait for the new budget cycle to come up with the funding for a new Commission desk; seconded by Paul D. All voted in favor.**

#### **#17-LINCOLN COUNTY CASH**

This item concerns the authorization and designation of a fund to deposit \$5,000 into the "Lincoln County Cash" account at NV Bank & Trust. This account converts our cash deposits into a check which allows us to use our remote deposit scanner. This will save time and prevent so many trips to Caliente. The Treasurer's Office therein becomes something of a banking service. **Kevin made a motion to approve, to be taken from General; seconded by Paul M. All voted in favor.**

#### **#18-AREA MONEY**

This item concerns the structuring of a resolution for the money designated as the "Area Money". Daniel reviewed the budget process and the monies received for the last two years. The \$1.8 million received wasn't

budgeted and has yet to be apportioned. Daniel created a resolution that creates the Building and Facilities Fund. This resolution states that anything we receive that wasn't budgeted and went into the General Fund during the previous process will go into this fund. Nothing else goes into this fund at this time. Nothing in the future would go into this fund until it is discussed in the budget process. Paul M. commented that this resolution has been drafted differently than he imagined. The secondary amount wasn't taken into consideration, the \$1.8 million. Paul M. believed that the amount of money that was already received and there is the amount being considered to put in this fund; he thought they were two separate issues (the money we've already received and the \$1.8 million). The Board is creating a new department within the fund then the Board has to decide what amount they want to put in there. Paul M. suggested that no action be taken on the resolution as there are too many unanswered questions. Daniel will work with the Treasurer to get a number for each of the departments that received funds from Check No. 2. No action was taken at this time.

#### **#19-ASHLEY HALL & ASSOCIATES**

This was the time and place for consideration of a request from Carol White for the termination of a contract with Ashley Hall & Associates for non-performance. Paul D. was absent for this item due to a medical emergency. Carol advised that earlier in the meeting Paul D. indicated to Carol that he would like her to table this item as he'd like to hear it. Carol requested the Board continue this item until such time as Paul D. can be here. Carol commented that if the Board chose not to continue this item, she would withdraw it and leave it to the investigators. Carol advised that she has a right to have her district Commissioner, Paul D., available for this meeting. Ed responded that he doesn't see why Ashley Hall & Associates should have to rearrange their schedule to return for another meeting. Carol responded that she had to realign her schedule once prior for this as well. Carol believes the Board owes her, the people of LC, and Paul D. the same respect that was given to Ashley Hall on October 20. Carol expressed her desire to address the Board and didn't feel it was fair that she had to dispute anything with Ashley Hall's attorney. December 19, 2011 the Board entered into a contract with Ashley Hall; Carol believes the Open Meeting Law was violated at that time. The agenda items weren't listed properly and the Board didn't deliberate. As proof of that, the records indicate that Mr. Hall's presentation started at 2 p.m. The meeting was adjourned at 2:20 p.m. Ten other agenda items were handled during those twenty minutes; Carol simply doesn't see how the Board had enough time to properly deliberate. Carol referred to a copy of the contract, which isn't proprietary and confidential. The contract implies that the contractor was selected in accordance to the law. Carol referred to Items C, D, E, F, G, and H which were never done. Carol referred to the renewal clause. The legacy the Board is leaving the future Commissioners is that they will have to pay to terminate the contract. The law only allows the Board to encumber their predecessors to the extent that the money is allocated. The only way to terminate this contract is through breach. Carol stated that, since he never fulfilled the items in the contract, AH is in breach of the contract. James Adams, AH attorney, advised that they are present in order to make certain that incorrect statements didn't go unchallenged. James addressed the agreement between AH and LC. For many years, LC's position is that it was under-compensated with regards to certain government installations. It isn't possible to discuss many of the contents of the negotiations occurred. A contract was entered into due to AH and Vaughn Higbee's expertise in certain areas. As a result of the contract, the amount of money has multiplied tenfold, perhaps in perpetuity for the people of LC who need the funds. This was a consulting agreement to increase the revenues to LC. AH completed and fulfilled every measure of the contract. Although no evidence was provided, there were many meetings between AH, the Treasurer, and the Assessor. There was a lot of work and consultation done as well as numerous reports that the Commission reviewed. The contract was then amended to reduce the amount of compensation to make it commensurate with the money that was received by LC. James advised that no breach has taken place, neither by AH or LC. AH got the job done and the County is better for it. James and AH requested that the Board honor the contract. The County obtained 2600% more funding over the previous amounts received. James indicated that the Assessor's signature appears on an agreement between LC and certain elements of the US Government. This indicates to James that the Assessor was in agreement with the transaction. Carol stated that, while conducting research, she had been told that neither the Assessor nor Treasurer were included in the negotiations. The contract with the Air Force spells out the negotiations; we have no need for consultants. Carol suggested that even though the Assessor's signature shows up on the contract it might not have been above board. James responded that there is a typo in the contract but the signatures reflect the correct date in the contract. James referred to several dates when meetings and/or communications took place between AH and the Treasurer. Meetings were held between AH, the Assessor, and the Treasurer. The current contract is for four years; Adam asked if there is a reason to renew. Daniel advised there is no need to renew it after the

four years. Kevin commented that when this first started, Ed and Kevin requested and invited the Assessor to be on the team to get this done; her response was that she didn't want to be involved. Carol said it was due to the law preventing the Assessor from doing an assessment on Area 51. Kevin responded that this is PILT, not an assessment. Kevin said that he doesn't fault the current Assessor for that; the prior Assessors couldn't go there and make the assessment either. It took a great deal to make this happen; that's why the Board wanted to seek professional advice to make this happen. Ashley Hall stated that this entire thing was funded out of their pocket. Once LC got paid above the original \$95,000 then AH agreed they would receive the money that had been agreed upon. Ed stated if it wasn't for the hard work of AH we wouldn't have been able to pull this off. The Board members agreed they had no inclination to terminate the contract. No action was taken on this item.

#### **#20-RESOLUTION #2014-26**

This item concerns the parameters to be used for medical indigent funds and the possible adoption of a resolution governing the policies and standards for eligibility regarding access to medical indigent funds. The County has said we'll pay 50% but the hospital doesn't like that; they've said they can kick that individual out and get someone who will pay 100%. Adam commented that he has no issue with paying 50%. There is confusion concerning what type of payments should be going to the hospital for those who are living. Part of the confusion is the liability that the County has. When the Public Guardian (PG) has to take over a ward it isn't the County's liability. When paying their bills, the PG is limited to the resources that the individual receives. The hospital seems to think that since these individuals are wards of the County the County is then responsible for all of their bills. This indigent fund is for anyone who is indigent, not just those who are wards of the PG. It is very difficult for the PG to find places that will take these individuals but it isn't the County's liability; their medical bills don't transfer to the County. Daniel advised that the hospital does do a lot for the PG; he needs to maintain a good relationship with the hospital. Daniel suggested that the medical indigent fund be used to help pay for someone who needs a Medicaid specialist. Currently, initial decisions go through Toni Acuff with final decisions going through Elaine Zimmerman. The hospital wants it to go through someone else. Denice Brown advised that she doesn't know if Toni has worked with medical indigent whatsoever; she handles social services. It was unknown how many people have actually requested medical indigent funds. Adam reiterated that 50% is a decent amount. Elaine was concerned as there are some changes coming to medical indigent; these will be discussed at NACO. There is some discussion about eliminating the medical indigent fund altogether. The theory is that everyone should either be able to qualify for Medicaid or get healthcare under the Affordable Healthcare Act. The resolution, if passed, would help the two individuals who were at GCDMC but are now deceased. There is \$279,765 in Medical Indigent at this time. The state match is about \$120,000 and carryover for next year is needed. If the County does 50% the fund balance will be approximately \$230,000. Neither of the individuals involved had Medicaid. Daniel advised that Elaine is comfortable with the draft resolution being considered today. **Paul D. made a motion to approve the resolution; seconded by Paul M. All voted in favor.**

#### **#21-GROVER C. DILS & MEDICAL INDIGENT FUNDS**

**Paul M. made a motion to apply the resolution that was passed under #20 to the amount paid to Grover C. Dils Medical Center; seconded by Kevin. All voted in favor.**

#### **#22-SOUTHERN NV PUBLIC LANDS MANAGEMENT ACT PARKS, TRAILS, & NATURAL AREAS**

**Paul D. made a motion to sign the letter of recommendation for Ronda Hornbeck to temporarily serve as the Southern NV Public Lands Management Act Parks, Trails, and Natural Areas sub-group member from LC; seconded by Kevin. All voted in favor.**

#### **#23-DEPUTY DISTRICT ATTORNEY SALARY**

District Attorney Daniel Hooge presented this item, which concerns the job description and salary schedules for the Deputy District Attorney. Daniel advised that there are very few counties that have salary schedules for the Deputy DAs. The proposed salary increase per year is 4%. Paul D. commented that there may come a day when the County can't afford a DDA based on this schedule. Denice Brown stated it isn't fair that the DDA receives a 4% increase each year; it's more than any other employee has received and more than an elected official receives. Franklin advised that the steps are 4.8%. At ten years with ten steps it would've put the DDA over \$100,000 per year. For this reason, he went with 4%. Daniel advised that many of the collective bargaining unit schedules include a 5% increase for Law Enforcement. Cory Lytle stated that an option should

be given. If the County wants to include different classifications for level of skill; this might be an enticement for individuals to get out of the union. Adam responded that the County's agreement with the Teamsters is such that the County can never offer anything better than the Teamsters offer. Ultimately, the 4% increase per year is higher than others. That puts the DDA's position "in the sights" quicker and could make it one of the first positions eliminated. Paul M. asked why we can't get back to a scale; we are picking these positions off one at a time. Cory advised that an evaluation should be required prior to getting an increase. Paul M. reiterated the need to move everyone to the scale. Adam stated that, as part of the collective bargaining, they tried to get the scales in place. Shannon Simpson read the NRS regarding the formation of the union. None of the deputies fall under the word "clerical"; they are much more than that. If an elected official is absent, the deputies are required to perform the same duties as the elected official. To have different people in different offices getting wage increases is frustrating; it isn't right. Shannon doesn't see herself ever getting an increase. Shannon's husband Richard started out as building maintenance. Richard then was required to become a certified building inspector with certifications that have to be maintained. Richard is now the building contractor and he's being paid to remodel the office buildings in Panaca. Richard has never had a wage increase and he is underpaid for the tasks required of him. To have someone get a 4% increase just because they're here isn't right. Adam responded that the bargaining unit put them in clerical, not the Commissioners. In the old agreement, Building/Planning Secretary was proposed to be added to the agreement. Daniel advised that Melissa is classified as administrative assistant I at this time. Adam commented that the various deputies would all have very different job descriptions. A scale would be very helpful. The majority of the people in the courthouse aren't part of the union. Shannon stated that she isn't part of the union by choice; she is part of the union simply because of her job. The Board is obligated to follow the agreement; they can't arbitrarily remove positions. Shannon commented that it is very interesting that Teamsters is never here when we need them. Adam reiterated that he would still like to have a scale in place that applies to everyone. A fair scale needs to be identified so that all employees have fair pay increases. Adam also believes that the elected officials should have the authority to decide whether or not their budgets can handle an increase. Shannon asked why the elected official should be required to gain authorization to give a deputy an increase. The elected officials are stuck with whatever the collective bargaining unit agreement says; the elected officials are bound by it. Carol White pointed out that this Board doesn't have the authority to decertify the unit; the authority rests with the employee management relations board. It is possible for the Board to take action to petition the emergency management relations board to decertify. Carol believes the Board is "stepping in dirty water" by giving their employees \$10,000 raises when they haven't negotiated an agreement with the Teamsters. The Teamsters will come down hard on the Board at the next meeting because of this. Daniel responded that the Board has to take action to decertify; it's the Board's decision. If the unit falls below 51% the Board can take action to decertify. Paul M. advised that he has no problem with the job description for the DDA. Paul M. asked Daniel to take this back and work towards uniformity. Paul M. suggested that the Board take action to adopt a scale. Paul M. stated he prefers not to take action until some of these things are unified. Cory commented that he only wanted one more modification to the scale beyond descriptions; there should be a sliding reset with regards to inversely match the percentage of increase so the scale automatically resets to match inflation every five years. Daniel requested that the Commission establish a base for the DDA. **Paul M. made a motion to accept the job description for the DDA and the current salary he's receiving at \$65,000; seconded by Kevin.** Adam disclosed that the DDA, Franklin Katschke, is his cousin. **Paul D. was absent for the vote. Motion carried.**

#### **#24-ALAMO INDUSTRIAL PARK**

Paul D. was absent for this item. This item concerns the possible disposal of the Alamo Industrial Park. Paul M. advised that significant funds have been invested in this property. The County has some liability due to the fact that if we didn't generate jobs there was some risk. Elaine Zimmerman has indicated that grant has been closed and there is now no risk. There have been a few land sales in Alamo. By the BLM's appraised value, the County had to pay a certain price to obtain the land. A tremendous amount of work, including surveying, has been done on the property. The property has been advertised multiple times and is for sale. To continue to pay for the property, Paul M. commented, is the County's best option. The amount still owing is for the land itself. The power supply to the park is insufficient to do anything on a large scale. Adam commented that the cost of the lots is approximately \$200,000; the County wants whoever goes in there first to pay for the infrastructure. There is no sewer or water to the park right now. Because of the way this was handled through BLM, the County is the only one who could've purchased it. The County should never take the risk to develop this land. At the time, the Board believed the debt could be managed in such a way that it wouldn't impact the County.

Paul M. said it's nice that there is one more piece of private property there versus public land. Dylan Frehner advised this is something they City of Caliente has been looking at with their industrial park as well. The County can't give the land away or sell it for next to nothing. State law and BLM restrictions prevent the County for selling the land for anything less than the appraised value. Dylan recommended the Board look at a plan for potential leases in the future. No action was taken on this item.

**#25-COMMISSIONER REPORTS**

**COMMISSIONER ED HIGBEE** attended the Hardy vs. LC hearing last week. **COMMISSIONER ADAM KATSCHKE** advised that he and Paul D. attended the ECA meeting in New Orleans last week. Yucca Mountain is still on the radar. Those in the energy communities would like Yucca Mountain to be a repository. Adam will attend the NACO conference this week. Adam received feedback from several counties concerning the medical marijuana ban.

**#26-PUBLIC COMMENT**

Ed called for public comment. Louis asked what the lawsuit was between Hardy and LC. Daniel responded.

**#27-ADJOURN**

There being no further business for the Board to attend to, Ed adjourned the meeting at 1:44 p.m.

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

**DRAFT**