



LINCOLN COUNTY BOARD OF COMMISSIONERS

December 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 9:03 a.m. Clerk Lisa Lloyd called the roll.

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

LISA LLOYD, Clerk
FRANKLIN KATSCHKE, Deputy District Attorney

There is a quorum present and the agenda was posted on 12-9-14. The Invocation was offered by Kevin and Ed led the Pledge of Allegiance.

#2-PUBLIC COMMENT

Ed called for public comment. None offered.

CONSENT AGENDA

- #3 Approve/Deny minutes of the December 1 meeting.
- #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).

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

#5-VOUCHERS

Recorder/Auditor Leslie Boucher presented the vouchers and cash balance report. General County has a balance of \$586,875.84 with estimated expenditures being \$153,167.13. General County will have a balance of \$433,708.71. Transportation has a cash balance of \$80,226.86 with estimated expenditures being \$3,810.63. Transportation will have a balance of \$76,416.23. Alamo Town has a balance of \$5,210.83 with estimated expenditures of \$3,754.23. Alamo Town will have a balance of \$1,456.60. Consolidated tax will come towards the end of December and taxes won't be apportioned until January. Leslie is concerned that Alamo Town will not have enough money to pay their bills. Alamo Town needs to watch their expenditures closely as they can't spend more than they bring in. Senior Nutrition has a balance of \$113,923.99 with estimated expenditures being \$10,552.87. Senior Nutrition will have a balance of \$103,371.12. China Springs has a balance of \$1,141.34 with no expenditures. Detention Center has a cash balance of \$678,188.55 with estimated expenditures being \$77,617.40. Detention Center will have a cash balance of \$600,571.15. Solid Waste has a cash balance of \$26,293.21 with expenditures of \$139.61. Solid Waste will have a balance of \$26,153.60. Solid Waste owes LC Water Special Projects, Fund 87, \$27,484.15. Airport has a balance of \$17,143.14 with estimated expenditures of \$10,756.73. Airport will have a balance of \$6,386.41. Planning has a balance of \$47,725.74 with estimated expenditures being \$1,927.88. Planning will have a balance of \$45,797.86. Adam advised that the Board needs to decide how they're going to pay the amount owing the hospital for the indigents. The hospital put a lien against one of the properties for \$111,000. The Board agreed to pay \$65,000 for both indigent people. If the hospital gets the total amount for the property, does the County get the money back? Denice Brown advised that there are issues with the Medlin property, according to Matthew Carling who is the attorney. Denice has filled out the applications for indigence but they're waiting for Daniel's review. If anyone needs information concerning this issue, Adam has it. Denice has spoken with Missy Rowe of the hospital; Missy is aware of where we're at in the process. **Paul D. made a motion to approve the vouchers**

as presented with the exception of the Mountain Merc and LC Telephone vouchers; seconded by Adam. All voted in favor. Paul D. made a motion to approve the Mountain Merc vouchers; seconded by Adam. 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.

#6-OFFICER/DEPARTMENT HEAD REPORTS

ADMINISTRATIVE ASSISTANT Denice Brown advised there is a local government summit 1-23-15; she forwarded the email to the Commissioners. Denice Brown received a calendar from NACO containing county responsibilities; she will be putting items on the agenda pertaining to the responsibilities that belong to the Commissioners. **SENIOR NUTRITION/TRANSPORTATION COORDINATOR** Toni Acuff advised things are going well. She will be out of town next week. **EMERGENCY MANAGEMENT COORDINATOR** Rick Stever advised that Keith Pearson has looked at the building in Panaca; the report wasn't good. Rick has since contacted another contractor but he hasn't heard anything. Rick will attempt to contact another local contractor. Rick is seeking estimates for tearing the building down, salvaging the building, and what it would cost to erect a new building. Rick also included blade work for the east side of the building. Keith doesn't feel it's safe to tear the floor out and dig down 15 feet. Rick presented information concerning the AED batteries. At the last meeting approval was given to purchase 12 batteries. Sheriff Lee has money in his budget to purchase the two for the jail and he may have enough to purchase two more for the vans. Kerry advised that he doesn't have money in the patrol budget to purchase the AED batteries. **SHERIFF** Kerry Lee asked that the policy regarding the purchase of foodstuffs be on the agenda for reconsideration.

#7-PANACA SENIOR CENTER

Toni Acuff advised that they will be completely out of the Panaca Senior Center by the end of the month. This item concerns repairs, maintenance, and who is responsible for the payment of the utilities and other bills associated with the Panaca Senior Center. The payment of the utility bill should come from the AA money, Paul D. said. Toni asked if it is possible to have the walk in freezer moved to the Panaca Town Center. Otherwise, they will have to pay Panaca Senior Center monthly. Cory Lytle advised that the Panaca Town Center has some things that need to be looked at: ingress/egress into rear of building, ADA improvements, and a place/power supply for the freezer will have to be found. Cory will look to see if the freezer can be moved there. As the LCWD begins their improvements on the west end it will require planning. Toni advised that now they aren't using the PSC, the Board will have to figure out how to fund the bug spraying, utilities, water, phone, trash, and anything associated with the use of the building. Toni simply doesn't have the money in her budget to pay for these things now that she's moved. All of the buildings being used by the Senior Citizens in the County are owned by LC. Each town has a senior board, which is responsible for the building. The utilities need to be transferred out of Transportation's name and put in General County. The County needs to figure out what portion is the County's responsibility and what portion is the Panaca Town Board's responsibility. The Commissioners agreed that the Senior Board will have to approach Panaca Town Board to request to have their bills paid. The County pays the insurance for the building. Adam asked if a lease agreement needs to be created so the County doesn't have to pay for the entire cost of the building. The history of the building was discussed. The land was donated by the Hinckley's for the senior citizens. Panaca Town Board has no money and their tax rate is 5-6 times lower than any other town in the County. There may be some type of restriction in the deed that says the land reverts to the previous owner if it isn't used for seniors; Cory will look at it. There is no intention by the County to change the use of the building; the Commissioners are simply trying to figure out how to pay for it. Toni and Adam will attend the next Panaca Town Board meeting to discuss this further. Adam presented the deed for review. The land came from Beacon Group and there are some requirements included in the deed; a legal opinion is needed. No action was taken on this item.

#8-VEHICLE AUCTION

There are 3 busses, a meals-on-wheels truck, and a Dodge Caravan no longer used by LC Transportation/LC Human Services that need to be auctioned off. Sheriff Kerry Lee advised that he has several vehicles that need to be stripped out and sold as well. Road Department and Pioche Town may have some as well. It would make sense to sell them all at the same time. There must be a deadline date for removal once the vehicles are purchased. **Adam made a motion to approve the sale of LC Transportation/LC Human Services vehicles; seconded by Kevin. All voted in favor.**

#9-HIGHWAY COMMISSION

This item was handled under separate agenda.

#10-LINCOLN COUNTY FIRE DISTRICT

This item was covered under separate agenda.

#11-PANACA FIRE DISTRICT

This item was covered under separate agenda.

#12-LIQUOR BOARD

This item was handled under separate agenda.

#13-GROVER C. DILS HOSPITAL BOARD

Clerk Lisa Lloyd advised that this seat will be on the 2016 ballot. **Paul D. made a motion to appoint Cathi Tennille as Hospital District Trustee, District C to fill the vacancy left by Joseph Ty Mizer; seconded by Adam. All voted in favor.**

#14-LC SOUTHEASTERN HABITAT CONSERVATION GENERAL IMPROVEMENT DISTRICT

This item was covered under separate agenda.

#15-ORDINANCE #2014-05

This is the time and place for the public hearing on an ordinance which allows for the permit and construction of aboveground utility projects not located within a Master Plan designated utility corridor, pursuant to NRS 278.26503. The intent is to simplify the process for those who want projects in these areas. Ed called for public comment; none offered. This is for 200kv or higher. **Adam made a motion to close the public hearing; seconded by Paul D. All voted in favor. Adam made a motion to approve the ordinance; seconded by Paul D. Kevin was absent for the vote. All voted in favor.**

#16-ORDINANCE #2014-06

This is the time and place set for public hearing on an ordinance which allows for the permit and construction of aboveground utility projects located within a Master Plan designated corridor, pursuant to NRS 278.26503. Ed called for public comment; none offered. **Adam made a motion to close the public hearing; seconded by Paul D. All voted in favor. Adam made a motion to approve the ordinance; seconded by Paul D. All voted in favor.**

#17-LC MASTER PLAN

Adam made a motion to table this item; seconded by Kevin. All voted in favor.

#18-RURAL DESERT SOUTHWEST BROWNFIELDS COALITION

Jennifer Hill offered a presentation entitled "Rural Desert Southwest Brownfields Coalition (RDSBC) Presentation to the Lincoln County Board of Commissioners December 15, 2014". The coalition consists of five members: Esmeralda, Inyo, Lincoln, Nye, and White Pine Counties. The primary goals are to protect the health and welfare of the population; protect the environment; promote economic development and job creation; and promote economic development and diversification through water-efficient renewable energy, particularly renewable energy development on former brownfields. No action taken on this item.

#19-BROWNFIELDS COALITION ASSESSMENT GRANT

Adam made a motion to approve the draft Final Report for the 2011 US Environmental Protection Agency (EPA) Brownfields Coalition Assessment grant; seconded by Kevin. All voted in favor.

#20-BROWNFIELDS COALITION ASSESSMENT GRANT

Paul D. made a motion to approve and sign the Memorandum of Agreement (MOA) among Esmeralda, Mineral, Nye, and White Pine Counties in NV and Inyo County, CA for the \$600,000 US EPA Brownfields

Coalition Assessment Grant awarded May 2011 to continue and expand program activities; seconded by Adam. All voted in favor.

#21-DETENTION CENTER

Kerry advised that he is all right with holding off on hiring the full time position; he would prefer two part time officers. Should the full time position be filled after the budget sessions, an individual can be hired from the part time employees. A full time person would have to be sent to POST. **Kevin made a motion to approve the hiring of two part time positions for the Detention Center; seconded by Adam.** Paul D. asked if Kerry doesn't want a full time position in addition to the two part time positions. Kerry responded that eventually he would like the full time position but he would like to review it in full during budget hearings. **Paul D. asked that the motion be amended.** Paul D. made a motion to hire a full time person as well as two part time persons at the DC; seconded by Adam. All voted in favor of motion to hire a full time person.

#22-BUDGET TRANSFER

Paul D. made a motion to approve the resolution to transfer FY 2014-2015 LC General Funds between departments; seconded by Adam. All voted in favor.

#23-PIOCHE PUBLIC UTILITIES

Pioche Town Board advertised, interviewed, and they have a recommendation. **Paul D. made a motion to approve the request and recommendation from Pioche Public Utilities to hire a part time office clerk; seconded by Kevin. All voted in favor.**

#24-ADVISORY BOARD REAPPOINTMENTS

Kevin made a motion to approve the reappointment of: Vern Holaday, Lola Sharp, and Lonny Walch to Alamo Town Board; Glenn Zelch, Cindy Free, and Tom Brown to Pioche Town Board; Kaye Fife to Library Board; Kevin Phillips to Flood Control Board; Jim Cole, Cory Lytle, and George E. Rowe to Game Management Board; Glenn Zelch, Kevin Phillips, and Vaughn Higbee to Debt Management (Bond Commission) Board; Paul Donohue and Kris Higbee to Fair & Recreation Board; Paul Donohue and Tim Perkins to Rural Transportation Board (RTC); seconded by Adam. All voted in favor.

#25-NV HIGHWAY PATROL LEASE

Paul D. made a motion to renew the lease between LC and the Department of Public Safety, Highway Patrol Division, for the use of an office in the LC Courthouse, in the amount of \$150.00 per month; seconded by Kevin. All voted in favor.

#26-REIMBURSEMENT

Kevin made a motion to approve the payment of \$298.27 to Denice Brown for items purchased for LC that went into NACO packets; seconded by Paul D. All voted in favor.

#27-NUCLEAR OVERSIGHT PROGRAM

Connie Simkins, Oversight Program Coordinator, offered an update on the program. Connie is completely moved out of Caliente and is now successfully installed in Panaca Town Center. The budget being talked about in Congress has been approved by the House and Senate; it doesn't contain any funding for Yucca Mountain. Connie presented a five month recap of the budget. Total approved for this year is \$157,300; to date \$50,633.26 has been spent.

#28-NUCLEAR OVERSIGHT

Adam made a motion to approve the letter to the Department of Energy certifying that Oversight Funding has been spent according to the Nuclear Waste Policy Act as revised; seconded by Kevin. All voted in favor.

#29-ENERGY COMMUNITIES ALLIANCE

Paul D. made a motion to approve the travel of Kevin and Paul D. to the Energy Communities Alliance meeting in Washington, D.C., on February 12-13; seconded by Kevin. All voted in favor.

#30-SOLAR & WIND ENERGY

Paul D. made a motion to approve the comment letter to the Bureau of Land Management concerning the proposed rule "Competitive Processes, Terms and Conditions for Leasing Public Lands for Solar and Wind Energy Development and Technical Changes and Corrections" published September 30, 2014 in the Federal Register; seconded by Kevin. All voted in favor.

#31-HOUSING AUTHORITY

Paul D. made a motion to approve the appointment of Wes Morton to the Housing Authority; seconded by Adam. All voted in favor.

#32-COUNTY HEALTH OFFICER/COUNTY BOARD OF HEALTH

Jean Lucht is currently the health officer; she was present for this item. Jean asked how the Board would like to handle this position. Would it be much the same as the fire districts? The County Health Board meets quarterly. Churchill is the only county with an active health board. Jean monitors outbreaks and other things; she would be the chairman of the board. Adam suggested that this be handled the same as Liquor Board; once per quarter. Lisa advised that she will be more than happy to post the agenda for this board the first week of the first part of the quarter. **Paul D. made a motion to reaffirm that Jean Lucht is the County Health Officer and to have quarterly meetings; seconded by Adam. All voted in favor.**

#33-AREA MONEY/POSSESSORY USE TAX

This item concerns the declaratory action lawsuit pertaining to the Area money (formerly referred to as "Possessory Use Tax"). Treasurer Shawn Frehner spoke with Teri Rubald at NV Department of Taxation. The state isn't bothered whatsoever by the lawsuit. Teri advised Shawn to hold off on apportionment as the state is working to determine legally how the money should be apportioned; they are waiting to hear back from the Air Force. The Board had directed Daniel to make an arrangement to work the issues out at a previous meeting with all of the entities that stand to have taxes taken away from them. NV Department of Taxation requested a meeting with the DA's Office early in October. Daniel, Franklin, Teri Rubald, the head of the Department of Taxation, and a representative from the AG's Office met in Carson City. The meeting resulted in the Department of Taxation saying they would contact the Air Force to see how the money should be apportioned. We await those answers. Paul D. asked who is "ultimately on the hook" for this. Shawn replied that she honestly doesn't know; she's been working together with everyone involved but there are no definite answers. Shawn was called about her comments at the last meeting concerning the forcing of the apportionment. Department of Taxation is trying to handle the apportionment legally. One of the hang-ups is that the Air Force states that this isn't a tax payment. At this point, no apportionment has taken place. The money continues to sit in the bank awaiting a decision. The Treasurer will have to allocate the funds but it will be done via opinion of the AG's Office. If we want to do this properly, we need to wait for the AG's Office to give direction as to how it should be properly distributed. Kevin commented that the state is encountering the same problem we have; there has never been a lawful assessment of this particular area of LC. The way this has always been handled is that the County receives a check, and the numbers are run backwards to derive the assessment. If there is an assessment, it's falsified. There is no assessment; there can be no assessment. Kevin reiterated his belief that this is PILT. The County asked for declaratory judgment to guide the County as to how these funds should be distributed. The law stipulates how a lawful assessment can be done but, with this area, none of those steps can be taken; this is PILT. The AG's Office and Tax Commission can't figure this out. Kevin feels it is premature for the Board to withdraw the declaratory action at this juncture. The Board voted to have all parties meet, including Department of Taxation, Hospital, School, etc., to come to a resolution and agreement. At this point, not all of the parties have agreed. No action was taken on this item.

#34-LANDFILL FEE WAIVER

This item concerns the policy governing the landfill fee waiver. Adam advised that there is a great deal of waivers for landfill. Total amount for waivers is \$36,635.49. The Board previously voted to send out bills annually. Adam isn't in favor of eliminating the financial hardship category for waivers. Vacant rental property: they can apply for a 25% waiver if it's vacant for more than 6 months. It is difficult to determine minimal use based on power/water. The vacant home is a 100% waiver. Seasonal and over 20 miles are 50%. Kevin stated that rationale has to be production. There are 39 people that have a second home in the County. Kevin feels the waivers need to stay in place. Adam commented that there should be a fixed amount paid by every

residence in the County. Everyone that has a livable dwelling is billed. Land use codes are pulled as well as those that aren't commercial. Rick Stever advised that he is a second property owner in the County; his second home isn't occupied by anyone unless he's there. He might generate a 5 gallon sack of garbage when he's there. Cory Lytle commented on the fee assessed per property; he asked that it be based on livable dwelling not the empty parcels. There was some discussion about separating the costs for hauling and landfill; Shawn advised she can bill it in any manner the Board pleases. Adam suggested that hauling be the amount considered for the waiver, not landfill. Landfill should not be waived. **Adam made a motion to continue the waivers as is for one year for the current billing cycle while the Landfill Committee continues to work on this; seconded by Paul D. All voted in favor.**

#35-FY 2013-2014 AUDIT BY DAN MCARTHUR

Dan McArthur presented the audit report for June 30, 2014. Dan discussed accounting estimates. The only significant estimate relates to the depreciation of the assets of the County. There is about \$.13 million in depreciation for all County-owned assets. The only difficulty that he ran into is related to a software problem related to capital assets. The software creator had to get involved to recreate some records due to the way the system rolled the records from one year to the other. It has been resolved. There are no errors in the financial statement. There were no disagreements with the Elected Officials with regards to the financial statements. The County Auditor signed the representation letter. Dan has had no other consultations with other CPAs. Dan looked at bid compliance as well as capital asset compliance. Every two years the County must do an inventory of the capital assets to be sure they're where they are supposed to be. Dan looked for budget violations as well as related party transactions (this is where we have transactions with Board members who own businesses in the County). Dan looked at investments and where they get deposited. The audit opinion presents fairly well and is clean. Dan reviewed the statutory violations on page 294 of the report. There are several funds/functions that are overspent: Alamo Clinic Special Revenue Fund (\$2,762); Solid Waste Special Revenue Fund (\$23,783); Alamo Town Special Revenue Fund-General Government Function (\$1,252), Public Works Function (\$1,689), Culture and Recreation Function (\$4,626); Pioche Town Special Revenue Fund-General Government Function (\$289); Pioche Public Utility Water Enterprise Fund (\$9,577); Pioche Public Utility Electricity Enterprise Fund (\$98,516). For the last several years there have been budget violations each year in each report; steps or controls need to be implemented to stop that process from taking place. The County has a purchase order system in place. Prior to purchasing something, a PO needs to be issued to make sure that there is still money available in the budget. This isn't happening; POs are being issued after purchases are made. Dan recommended that everyone in the County be educated about using the PO system prior to making purchases. If someone knowingly goes over budget they can be removed from office; it's a misdemeanor. There needs to be an improved approach using the PO system and people need to understand this ties to their budget from July to June each year. Purchases are paid during the year they're made, not when they are invoiced. There was some discussion as to how Pioche Public Utilities incurred their over expenditures. The PO system tracks the funds spent and makes it very clear when the funds in any budget are fully expended. When one gets over budget they can then call Leslie to come before the Commissioners and get a budget augmentation. Leslie has spoken with PPU and they've agreed to let Leslie know earlier in the year if an augmentation is needed. Dan offered an overview of where the General Fund sits and the cash balance. The financial statement shows the County in good financial position. The fund balance came in higher than anticipated. Dan addressed the Detention Center, pg. 91. Revenue for this year was \$2,464,000. DC has a \$343,000 profit and expenditures stayed nearly the same. The cash number has increased to \$450,000. Dan discussed related party transactions. Statute indicates that the County is not supposed to have any transactions with a business that a Board member owns or is related to unless it is a hardship to go somewhere else. The law also contains a \$1,500 per month cap. Anything over \$1,500 per month is a violation of the law. Inside the financial statements, if transactions with Board members become material it is supposed to be noted. Dan didn't feel the transactions were material upon review so they aren't noted. There is a difference with what is material in financial statements and the NRS. The DA sent letters out to every department head advising that we have Board members who own businesses within the community and transactions with those businesses need to be limited, not to exceed \$1,500. There are many, many departments. One department isn't going to know whether or not another department has pushed it over the limit. There need to be a couple of extra steps put in place to deal with this. When a department head uses these businesses, they should attach a statement advising that they went to the business as it is sole source or a hardship/great inconvenience to go somewhere else. It needs to be documented that this is a department head decision so that Board members aren't

appearing to promote their own businesses. When these transactions take place, Board members don't vote on the approval of those expenditures. The situation can still arise that the \$1,500 limit is exceeded. It is important for the department head to document why these businesses are being used. Further, each quarter the department heads need to be notified where we are so we don't reach the limit. These two steps being put in place will prevent the Board members from being put in a bad position. This is simply a suggested layer of county control. Documentation is needed in order to avoid exceeding the \$1,500 expenditure limit. It is important to show an arm's length transaction. Dan asked that policy related to purchase orders, policy for related party transactions, and purchase orders be worked on. **Paul D. made a motion to accept and approve the audit as presented; seconded by Adam. All voted in favor.**

#36-COMMISSIONER REPORTS

COMMISSIONER KEVIN PHILLIPS met with Congressman-elect Cresent Hardy. **COMMISSIONER ADAM KATSCHKE** attended a conference call with Recology; their whole goal is to make garbage affordable in LC. Recology will continue to take a loss while trying to make things as efficient as possible. Adam will meet with Recology again on 1-8. Adam has Teamsters this week as well as a Panaca Senior meeting this week. **COMMISSIONER PAUL DONOHUE** met with Congressman-elect Hardy. Congressman-elect Hardy also met with several local business owners. He wants to be very accessible to the rural areas. Paul D. advised that there was a gentleman taking pictures of the landfill site here in Pioche. This man is the landfill inspector for the state; he advised that LC has the best landfill facility and collector in the state. Paul D. attended a RTC meeting.

#37-PUBLIC COMMENT

Ed called for public comment.

#38-ADJOURN

There being no further business for the Board to attend to, Ed adjourned the meeting at 3:54 p.m.

Attest: _____

Approve: _____