



LINCOLN COUNTY BOARD OF COMMISSIONERS

June 20, 2016
Commission Chambers
Lincoln County Courthouse
181 Main Street
Pioche, Nevada

Commissioners

Paul Mathews
Kevin Phillips, Chair
Adam Katschke, Vice Chair
Paul Donohue
Varlin Higbee

#1-CALL TO ORDER/ROLL CALL/INVOCATION/PLEDGE OF ALLEGIANCE

Kevin called the meeting to order at 9:04 a.m. Clerk Lisa Lloyd called the roll.

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

LISA LLOYD, Clerk
DANIEL HOOGE, District Attorney

There is a quorum present and the agenda was posted on 6-14-16. The Invocation was offered by Varlin and Paul D. led the Pledge of Allegiance.

#2-PUBLIC COMMENT

Kevin called for public comment. Maleen Millmine advised that her husband works for Recology. There is more garbage being picked up. The injunction didn't pass but there is another one being considered on Wednesday by the judge. If the injunction isn't granted, Recology will no longer service the County. Many people are against Recology. Maleen stated when the deal was signed for 49 years there was nothing on the paper stating that that is what they wanted; it wasn't included in the contract. Maleen doesn't understand how the County can get an injunction or be mad at Recology because this wasn't on there. The contract stated that no other dump sites could be built for that amount of time in LC. The first contract ended 10-2015 and everyone agreed to go monthly. Maleen understands it was supposed to end last month. Recology changed their minds due to the lawsuit. Maleen reviewed the most recent history of this issue, including Western Elite's (WE) potential involvement. WE isn't going to try and buy Recology. If the bins are taken, people are going to start dropping garbage at the sites. That will result in fines for the County as well as the people that live here. Cory Wadsworth discussed the breakdown in communication about getting POOL/PACT on the agenda for today. This issue will be on the July 5 agenda. Cory advised that there was a reduction in premium of about \$17,000. LC has performed well. Mike Rebeleati will be here on the 5th to make presentation.

CONSENT AGENDA

- #3 Approve/Deny minutes of the June 6, 2016.
- #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).

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

#5-VOUCHERS

Recorder/Auditor Leslie Boucher presented the cash balance report. General County has a balance of \$547,153.58 with estimated expenditures being \$183,328.93. General County will have a balance of \$363,824.65. **Paul M. made a motion to approve the vouchers as presented with the exception of the Mountain Merc and LCTS vouchers; seconded by Varlin. All voted in favor. Paul M. made a motion to approve the Mountain Merc vouchers; seconded by Varlin. Kevin abstained and disclosed he is part owner of this firm. Motion carried. Paul M. made a motion to approve the LCTS vouchers; seconded by Varlin. Paul D. advised he is an employee of LCTS; he abstained from the vote. Motion carried.**

#6-OFFICER/DEPARTMENT HEAD REPORTS

ASSESSOR Mark Holt advised they're working to close the rolls so they can turn them over to the Treasurer. **EMERGENCY MANAGEMENT COORDINATOR** Rick Stever advised that part of the funding for this office comes from the federal government. Rick received an email advising that the state has sent application but it is on hold pending FEMA's final approval. They will try to get the funding prior to the end of this fiscal year but it doesn't appear that will happen. A new program has been started through State DEM, NV Emergency Preparedness Association. **TREASURER** Shawn Frehner advised that her office received a letter from the State advising that her monthly reports for the court system haven't been submitted in a timely manner. The reason for that is due to the way our Commission meetings run. The courts submit reports by the 5th but we have to submit to the State by the 15th. This means they are processed the second Commission meeting and we are late. In future, the Board will be receiving a letter advising that monies will be paid out of cycle. State reports will now have to be cut as a special check in order to meet statutory requirements. Shawn received notification from the Department of Health and Human Services. This last year, a program called the Star Program has been offered. This program offers a maximum \$500 rebate for seniors and their property taxes. They have to meet certain qualifications, including 65 years or older, they must own a home in NV for at least one year or more in NV, they must have a limitation on income, they can't own more than one piece of property, and they can't have liquid assets of more than \$150,000. This application must be filed prior to September 30, 2016 and the paperwork is in the Treasurer's Office. Applications are submitted to the state. **CLERK** Lisa Lloyd advised that due to various unforeseen circumstances she had to let her deputy go. Lisa will be advertising for and hiring a new deputy within the next 6-8 weeks.

#7-HIGHWAY COMMISSION

This item was handled under a separate agenda.

#8-LINCOLN COUNTY FIRE DISTRICT

This item was covered under a separate agenda.

#9-PANACA FIRE DISTRICT

This item was covered under a separate agenda.

#10-BASIN AND RANGE NATIONAL MONUMENT

Alicia Styles offered an update on the Basin and Range National Monument. The scoping period is starting tonight in Ely from 5-7 p.m. The next scoping meeting will be in Alamo on 6-21 from 5-7. 6-23 will be the Caliente scoping meeting, also from 5-7 p.m. 6-25 a meeting will be held in Panaca and the 6-29 meeting will take place in Las Vegas. 7-6 will be the last scoping meeting and it will take place in Tonopah. These meetings give interested parties the opportunity to aid BLM in identifying concerns that need to be addressed. The public comment period ends 7-21.

#11-PRIMARY 2016 CANVASS

Clerk Lisa Lloyd advised that the Primary went incredibly well. There were no major issues. Turnout was very low at 28.16%. **Paul M. made a motion to approve the canvass of the 2016 Primary; seconded by Varlin. All voted in favor.**

#12-AGREEMENT WITH SEVENTH JUDICIAL DISTRICT COURT

Paul M. made a motion to approve the agreement with the Seventh Judicial District Court; seconded by Varlin. All voted in favor.

#13-TULE RANCH MANAGEMENT, LLC

Floyd Rasthman presented a request from Tule Ranch to install a pipeline within the County right-of-way on the Limestone Mountain Road to the Bowler's Ring. Shane Cheeney, Road Department Supervisor, has advised that he has no problems with this but it needs to be deep enough that it won't be hit. Also, if it is hit, costs to repair should be born by Tule Ranch. Floyd discussed how DOI deals with RS2477 roads/ROWs. Floyd reviewed Gayle Norton's memo regarding RS2477 determination. Floyd is asking for a letter of support to the BLM that announces the intent to approve the pipeline along the edge of the road. **Paul M. made a motion to**

approve the request for a letter of support as well as the request for the pipeline on the Limestone Mountain Road to Bowlers Ring; seconded by Varlin. All voted in favor.

#14-BUDGET TRANSFER

Paul M. made a motion to approve the resolution to transfer funds within General County for Fiscal Year 2015-2016; seconded by Varlin. All voted in favor.

#15-WESTERN ELITE YOUTH FUND

This item concerns a request from the LC Fair/Livestock workshop for \$2,500 in Western Elite Youth Funds for the purchase of equipment, supplies, and to provide support money to help prepare the youth for participation in the Clark County and Southern UT livestock shows. Tyler Heaton made this request. The youth will be trained in showmanship in preparation for the shows. There were some questions about the supplies and the possibility of splitting them between all of the clubs. Paul M. is wondering where the \$2,500 is going if it's for a workshop. The Board agreed to take no action on this item and it will be on the July 5 agenda.

#16-WESTERN ELITE YOUTH FUND

Paul M. made a motion to approve the request from the Alamo 4th of July committee for \$2,500 from the Western Elite Youth Fund to provide youth activities during the holiday celebration; seconded by Paul D. All voted in favor.

#17-ALAMO LANDING FIELD & #18-LINCOLN COUNTY AIRPORT

This item concerned bids received, licensing requirements, and possible rejection or acceptance of bids for the Alamo Landing Field apron, bypass, and taxi lane construction project. Paul D. advised that for individuals to even bid on an airport, project contractors must have an A1 license. The thought process was that the award can be bid and the contractor can be allowed time to get this type of license prior to doing the work. However, Paul D. spoke with Ernie, who advised him that he bills people and contractors all of the time because you can't even submit a bid without the A1 classification. Paul D. suggested that this whole project go back out to bid. Paul D. asked Chris Knox where the bid package explained the requirement for A1. Chris showed Paul D., who responded that this information and the requirements need to be listed on the very front page of these bids from here on out. It needs to state that individuals can't bid on a project unless they have the required certifications. If we proceed with the current bids we will get a lot of people in trouble; Paul D. prefers to stop where we're at now and rebid this. Elaine sent an email concerning the award recommendation letter that was submitted to her on June 13 after Chris Knox spoke with Varlin. Elaine had already placed the bids on the agenda for acceptance or rejection. Elaine did not want to proceed with a recommendation for award or new application to the FAA until the Board made the decision. There are two bids being discussed, one for Alamo and one for Panaca. Panaca has a beacon that needs to be replaced. The state contractors board doesn't feel it would be improper for the County to waive the A1 or general contractor's licensing requirement on the beacon replacement. Elaine stated that she doesn't feel it's right to waive the A1 requirement on one project but not the other. It can open us up to a lot of protests. With regards to the recommendation for award, they're looking to make use of the FY 2016 money. If we go out to bid again, the prices could go up again and it could put us outside the window for FY 2016 funds and result in us starting over for 2017. In the Alamo project, there was one contractor without A1 licensing. Jim Wilkin stated that A1 licensing isn't required everywhere; it's up to the individual airports. Jim is seeking A1 licensing at this time and advised that there is no reason that he can't have an A1 license. The contractor's board is claiming you have to have experience under four contractors for the last ten years. Jim has over 20 years' experience working on airports. Jim suggested this be held. Jim commented that state contractors board has no jurisdiction over the Commissioners; they work for the County. Jim stated that Armstrong is a company that does this thousands of times per year and they didn't require this. Jim suggested that the DA look at this and get an AG's opinion on this. Varlin spoke with Chris Knox; the requirement for A1 is a state requirement. Federal funding will not be in jeopardy. Elaine stated that it is part of the Nevada Administrative Code. Paul M. said there is a legal interpretation that has been deciphered in two different ways. This would need to be addressed and resolved prior to re-bidding. Paul D. said that Jim was given to understand that we could proceed forward with the stipulation that the contractor have the A1 licensing before the project started. Paul D. met with Jim last Friday. Paul D. called "Nicole" on the contractor's board, who referred him to "Ernie". Ernie told Paul D. that NV law requires the licensing and Ernie writes fines all the time because of the violations. Paul D. reiterated the need for the A1 licensing requirements to be included on

the first page of the bid document. The information must be clear in the bid documents. Paul D. has much trepidation over the fines that can be assessed to Jim Wilkin. Ernie advised Paul D. that all work on airports is subject to fines without proper licensing. Elaine commented that Jim has always gone above and beyond in assuring we receive quality product. Jim has always made sure that the prices are fair as well. Elaine is concerned that if we accept the award and move forward we get less work done for a higher price. If we bid it a third time, the prices are likely to go up again. Jim might be licensed by that time but we might get protests that we postponed the bids in order to get Jim licensed so we can give him the bid. Jim stated he puts a lot of money back into LC. When there is a job this size that he can do, the money should stay here in LC. Jim has had two contracts on airports in LC; these same requirements existed. If Jim had known six months ago that this was required, he would have gotten it six months ago. Jim feels the Board should issue this job as he earned the right and bid it cheap enough. Further, Jim could have the licensing within the next six or so days. Phyllis Robistow stated that bids went out for all kinds of things and were awarded to the lowest qualified bidder. These qualifications included licensing. In the past, if someone was rejected because they didn't have the proper licenses, it could come back and bite us if we issue the project to someone who doesn't have proper licensing. Elaine commented that Jim was able to work on those other projects is because those items didn't fall within the NAC requirements. This project has already been bid twice. Paul M. stated that in future he would like the legal answer, an AG opinion, for future situations like this. Paul M. asked if it would be possible to award the contract based on an AG decision that everything proceeded correctly. We're either in compliance or we're not; we need to know that. We need to award the bid to the lowest bid. It seems that we should allow the bid to go forward as we're asking for a legal opinion. If the legal opinion issued is such that we can't proceed then it can be addressed. Paul M. asked if we can issue a decision pending the opinion. Elaine stated this isn't to award the bids. It's to redo the application to the FAA. Varlin commented that Jim's track record is stellar and every bit of work he's done for the state has not only met but exceeded standards. The quality of the work is not in question but we have to stay within guidelines in order to avoid lawsuits from the contractors who are licensed. It may take six months to get an AG's opinion. Franklin referred to NAC, which requires the licensing to be in place prior to the bid. If the licensing isn't in place at the time of the bid, then the bid is void. Jim stated that the bid booklet advised that as long as the licensing was in place prior to the commencement of the project it is okay; this is what was stated in the contract. If we move forward, though, the County is not following the law. It isn't fair to the contractors to find this out after the fact. The engineer should have included the NAC requirements in the bid booklet. Franklin noted that there is no reason the Board can't reject the bids and put this back out to bid. Franklin commented that protest procedures must find with specificity what provisions of the law were violated. There is no law that says the Board can't reject a bid because they believe one of the contractors were treated unfairly. The bids can be rejected outright because further clarification in the bid documents is needed. Jim commented that if this had been in the bid booklet, his company wouldn't have bid the second time. The federal funding rolls over. **Paul M. made a motion to reject all bids for Items 17 and 18 on the basis that the bid documents were not clear enough; seconded by Varlin. All voted in favor. Paul D. made a motion to get an opinion from the AG concerning whether or not the County can accept a bid and the bidder can then get his A1 licensing within a certain period of time (the DA's office will formulate the question and it will be on a future agenda for approval); seconded by Varlin. All voted in favor.**

#19-DEPARTMENT OF ENERGY CONSENT BASED SITING MEETING

Paul M. made a motion to approve the attendance of Connie Simkins at the DOE Consent Based Siting meeting in Boise, ID, on July 14, 2016; seconded by Varlin. All voted in favor.

#20-RESOURCE CONCEPTS, INC. CONTRACT

Paul M. made a motion to approve the task based contract with Resource Concepts, Inc. for natural resources consulting services; seconded by Varlin. All voted in favor.

#21-NEVADA DEPARTMENT OF TRANSPORTATION BICYCLE & PEDESTRIAN PROGRAM

Bill Story, NV Department of Transportation Bicycle and Pedestrian manager, presented the proposed LC Bicycle Plan via powerpoint. **Paul M. made a motion to approve the LC Bicycle Plan; seconded by Paul D. All voted in favor.**

#22-TAX RATES

Varlin advised that the Board needs to do something about the tax increase in Rachel. Those living in town limits are paying for the parks. Those that live outside of town limits and that use the parks need to pay for them. Something needs to be done, some type of special assessment, for those using the parks. **Paul M. made a motion to approve the resolution adopting the tax rates for FY 2016-2017; seconded by Varlin. All voted in favor.**

#23-TEAMSTERS LOCAL 14

This item concerns memorandums of understanding with the three units of Teamsters Local 14 (clerical, road workers, and dispatchers) shifting the pay scale, which was previously tied to the State of Nevada’s pay policy 3, to the State of Nevada’s pay policies 1 and 2 with adjustments for translation. The resulting change will simplify PERS calculations for employees on both employer paid and the split pay plans and will not reduce any employees’ pay. Franklin advised that everyone will go down one grade but stay at the same step. This will go into effect on July 1, if approved, and result in a 2% increase. **Paul M. made a motion to approve the MOUs; seconded by Varlin. All voted in favor.**

#24-PURCHASING POLICY AND PROCEDURE

Paul M. made a motion to approve the purchasing policy for LC; seconded by Varlin. All voted in favor.

#25-COMMISSIONER REPORTS

COMMISSIONER PAUL MATHEWS attended the HCP and Tri-County meetings. Paul M. has fielded many phone calls concerning garbage. **COMMISSIONER VARLIN HIGBEE** advised that N4 grazing met. A task force with a neutral arbitrator is going to be put in place; this concerns those involved with the Wilson Creek Allotment. Paul M. suggested that Varlin be over BLM issues in tandem with Kevin. Varlin attended Workforce Connections and LEO. Varlin also attended LCCRDA meeting. Biomass continues to be a potential project for the County. **COMMISSIONER KEVIN** attended the BLM roads meeting. Kevin met with two BLM representatives this last Saturday concerning the gap between the ranchers and BLM with regards to the Wilson Creek Allotment. This is a conflict resolution team. Kevin will attend the NACO meeting on 6-24 in Carson City. **PHILLIPS COMMISSIONER PAUL DONOHUE** attended the RTC meeting. Caliente and Panaca were both awarded their requests as well as an additional amount of \$20,000. Pioche Town received \$20,000. If the projects are going to cost more, then they need to provide backup to the RTC. Paul D. attended the road meeting with BLM. It appears that we will still have to go 2/10 of a mile up the road for the gravel pit in Panaca but Paul D. will find out for sure. Paul D. attended LCCRDA.

#26-PUBLIC COMMENT

Kevin called for public comment. Cory Lytle stated that a gentleman from the Chamber put in and he received budgeted funds to buy movie projection equipment for the Thompson. Cory asked if the Board is all right with this purchase. Cory advised that he continues to work on the AC. The service guy will be here today. Basin and Range public scoping meetings take place this week. Cory will have a public scoping letter on the July 5 agenda. Jerry Carter stated that at the City Councilmembers voted to appoint two representatives on the solid waste committee if the Board wants them.

#27-ADJOURN

There being no further business for the Board to attend to, Kevin adjourned the meeting at 11:41 p.m.

Attest: _____ Approve: _____