



LINCOLN COUNTY BOARD OF COMMISSIONERS

June 27, 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 8:09 a.m. Clerk Lisa Lloyd called the roll.

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

LISA LLOYD, Clerk
DANIEL HOOGE, District Attorney

There is a quorum present and the agenda was posted on 6-21-16. The Invocation was offered by Adam and Paul D. led the Pledge of Allegiance.

#2-PUBLIC COMMENT

Kevin called for public comment. Peggy Decker addressed the Board. Peggy is pleased that the Commissioners are taking a stand against Recology. Peggy feels the County is being blackmailed by Recology letting the bins overflow. Peggy questioned Recology fulfilling their part of the agreement. Peggy has always paid for her garbage but has done so under protest as the fees are too high and she still hauls her own garbage. Maleen Millmine stated her husband works for Recology. Her husband, nor any of the employees, are responsible for what Recology does, they simply have to follow the rules. Maleen discussed the litigation with Recology. The contract ended 10-2015 and everyone agreed to go month to month; this was to allow everyone time to work things out. Nothing was done. Maleen looked at the EPA's website to check the laws. Western Elite (WE) has offered to take over the contract. Does this include businesses and schools? No. When it is all added up, won't it be close to the amount that Recology is asking for now? What do we do with our garbage until service is restored? A permit is required by the EPA. If you're going to dump garbage, a permit from EPA is required. Maleen stated that many people will start digging holes and burying the garbage. The EPA can charge enormous fines for this type of illegal activity. Maleen asked if the County intends to have the SO investigate who started the fires at the Alamo, Panaca, and Mt. Wilson dump sites. There are many people asking what we do, as individuals, with our garbage. It is legal for the inmates at the Detention Center to pick up the dump sites but all it takes is one bad incident.

#3-LANDFILL ISSUES

This item concerns hauling and landfill issues within LC. Paul M. offered a brief history and update. The judge will make a decision later this week with regards to the lawsuit and injunction. An action plan for moving forward needs to be decided on today. It was hoped that the injunction would be granted by the courts, requiring Recology to continue hauling. That would allow for the time needed to get new dumpsters in place as well as a plan for hauling. Paul M. commented that by going to court, we're trying to save the citizens of the County \$800,000 plus in costs to Recology. There is nothing in the County's business obligations that shows we have any obligation to close the landfill. If we lose the court case, we have limited choices. We can try to buy them out or we can pay \$160 per ton that we will be charged to dump trash there (this is equivalent to \$700,000 per year and doesn't include the cost to haul). Currently, citizens are paying about \$212 per year, or \$350,000 that we've been paying Recology to bury and haul trash. Just the burying will be twice that cost. Citizens will be facing a bill that is over \$600 per year. If we don't get relief from the courts or we purchase the landfill, the County is in trouble. The contract states we will pay \$160 per ton to bury the trash plus we have to haul it at

about \$30 per ton. The average landfill tipping fees are about \$30-36. Paul M. commented that a service contract for hauling needs to be signed with another company. This trash will have to go to Recology at \$160 per ton. Paul M. has been contacted by several people to see if they can bid on hauling the trash. Yes, but that doesn't change the fact that contractually the only place they can haul to is Crestline. The tipping fees are still so high that it will result in a \$600 per home bill to the residents in the County. The fastest option is to have WE haul the trash for six months at the same rate we've been paying Recology (\$23,000 per month but this is hauling only and we'll still have to pay \$160 per ton). Varlin asked what happens if the County refuses to pay the \$160 per ton. Paul M. commented we are in a better position to challenge the contract in court versus us simply refusing to pay it. The tipping fee at Apex is \$36 per ton but we'll have to get relief from the judge or a buyout to haul there. Paul M. doesn't believe the judge will give us much relief beyond a few days. The judge may require Recology to clean up what is there and then send us to arbitration. Paul M. stated we need to get a service plan in place for hauling and we need to get an offer on the table with Recology to settle this. The Board is trying really hard not to put the extremely high costs of this situation on the citizens of the County. Paul D. discussed the closure and post closure costs that could possibly be born by the County. Paul D. advised that from his perspective Recology hasn't made any efforts to streamline their business plan so that their costs are lower; we're being punished for their bad business plan. Paul D. commented that we found out from the newspaper that Recology was going to stop hauling trash. The County was never notified. Recology then called EPA. The trash inspector of NV will be here this week. Paul D. put an article in the newspaper and he's had several qualified people express interest in hauling. Paul D. asked if we can protest the \$160 per ton. This would allow us to afford hauling in the northern end of the County. Recology has to keep Crestline open for Caliente. Adam stated the \$160 tipping fee can increase at any time, they can charge whatever they'd like. Adam agreed that the Board needs to find individuals who can haul the trash. Adam commented that the County should have been given six months notice that Recology was going to be done. Only hauling municipal waste to Crestline will save the County hundreds of thousands of dollars. Paul D. stated WE approached the County; they were willing to purchase Crestline but they could only afford to do it for \$50,000 per month and the County would have to pay closure/post closure costs. The County simply can't afford those costs. Both a short-term and long-term plan need to be created. Paul D. discussed the bins. Whoever gets involved may decide to use a different type of bins but ultimately the County needs time to get this in place. The pros and cons of a landfill site were discussed. The Crestline site is currently open, engineered, and immediate. The price tag on it is a con and the litigation may result in it not being a possibility at all. Crestline isn't centrally located in the County. If the County decides to build a landfill, it directly results in cost and time. It will have to be engineered, then built with the correct liners, etc. This all takes a great deal of time and money. To have a classified, engineered, permitted landfill is expensive. The third option is WE and the Apex option. WE is willing to get a Class II permit, which takes municipal waste. WE has a license to build a Class I, which could accept construction waste, but that will take time and money to get up and operational. Crestline and Apex are the County's most viable options. The County generates between 12-20 tons of waste per day. If we're proactive on the construction waste, we might be able to narrow that. Kevin advised that "garbage cops" will be needed to police the waste. Only household waste is part of the contract. Adam advised that expenses will be low if we can sort construction waste versus household waste. There are a lot of miles to be considered with regards to hauling. Paul M. envisions local contractors hauling the waste to a central transfer station site. The waste would then be hauled from this site to the landfill. This would take about 2-3 chip trailers per week to haul. Whatever landfill site we're using would provide the chip trailers. This seems like a very efficient way to haul. It was close to \$1 million to open a new landfill in 1998; the cost would be significantly higher at today's rates. There was some discussion about how long it would take for a company to mobilize and be able to provide bins and hauling. We must move the trash right now. WE has the bins and necessary equipment. Paul M. stated WE will do the hauling for six months, which would allow us time to go out for RFPs. An immediate solution is needed to deal with the trash that is piling up but six months from now the County needs to have the "hybrid" option in place where there is a central transfer site location that the 2-3 chip trailers would then come and haul from. The current transfer sites belong to the County. Paul M. asked that the Board authorize he and Adam to negotiate a six-month service plan with WE to get the trash moving. The trash will have to be hauled to Crestline. A dollar amount needs to be identified with regards to the legal case. What is the highest amount we're willing to go? The Board discussed the possibility of arbitration. What will the judge be considering? The County doesn't owe Recology anything other than the tipping fee. Daniel stated the first issue to be resolved is whether or not the contract is legal. The contract itself is for 49 years and says they can charge anything they want. The law prevents the Commission from signing a contract like this unless it is funded. The ability for them

to charge whatever they want is something to be considered as well. There is an implied duty of good faith and fair dealing. In that contract is the implied duty to charge reasonable rates; you can't really charge whatever you want. At that point, the arbitrator would decide what is really reasonable and fair. The biggest fight will be over the arbitrator. The County doesn't want to go to arbitration. Daniel commented that arbitrators can do whatever they want; they can certainly consider dollar amounts versus solely whether or not the contract is legal. The County is simply interested in legal and fair rates. Recology wants out of here and the judge can decide whether or not they have to honor the contract. The County has continually given Recology offers, but every time they ask for more. Recology has never once given the County a number for resolution. Every time the County has given an offer they've asked for more. Maleen said Recology will sell for \$1.2 million for everything. However, the County has never received letters or proposals. When the County has asked, Recology has never given a concrete answer. The businesses must be taken care of and included in the new contract with whoever does the hauling. If WE receives the six-month hauling contract with the County, they need to be aware of the commercial bins as well. **Paul D. made a motion to authorize Paul M. and Adam to negotiate with WE with regards to a service plan and for the County to ask Recology to remove their bins.** Kevin suggested the decision be to offer a service contract for six months to anyone who can offer a service plan. Paul D. advised the County must have the trash hauled as soon as tomorrow. This is a legal requirement and there is a great deal of urgency. **Paul M. seconded the motion. All voted in favor.**

#4-PUBLIC COMMENT

Kevin called for public comment. Maleen Millmine discussed the removal of Recology's bins. It depends on the judgment from the Court. Once decided, all of the sites will be cleaned up and the bins will be removed. Ed Wright discussed the businesses, who haul their own trash for \$864 per year to Recology. Ed hauls at least two truckloads per day to the bins. There is no room for Ed to have a dumpster at his business. The cost to have a dumpster is about \$90 per month. Ed agrees with the idea of a central transfer station. The County needs to get completely away from Recology. Ed was a Commissioner at the time the contract was originally made. As soon as Crestline got its contract with CA all trash hauling for the County was supposed to be free. Ed stated there is nothing wrong with having 5 haulers throughout the County; there are enough people in this County who can make it work. If the trash isn't hauled immediately, there will be more fires. There are major health hazards associated with the accumulation of the garbage. If Ed has to pay \$1200 and the Detention Center closes, Tillie's will be required to close the very next day. Ed Rosemark stated Recology has very deep pockets and their lawyers feel like they're on very firm footing. Ed stated the hauling can't be done with two trucks. The haulers must be someone who is well established and can handle the volume. Whoever does the hauling must be well equipped. The County must do something immediately or it will get in trouble with the EPA. Ed suggested that long-term, if the County could purchase Crestline they could use the tipping fees to pay the closure costs. If the County could purchase and run it, it would be cheaper in the long run. Treasurer Shawn Frehner advised that the contract for collections has a three tier breakdown; this contract is no longer in place. The landfill contract states that all garbage in the County must go to Crestline. The definition for solid waste includes construction, household waste, and all manner of garbage. Shawn questioned why Recology is closed to the public. Shawn stated we can't put our refrigerators in the bins but private citizens can't haul them to Crestline either. Many of the citizens believe they've paid their yearly costs for landfill; the additional amount for tipping fees will have to come from the County's budget somehow. This is another issue that will have to be addressed. Lorell Bleak discussed the landfill in Mesquite, which is a Class I. Adam will speak with Lorell about Mesquite's landfill at a later time. Lorell is not in favor of burning the garbage. Russell Tracy sees the trash needs to be hauled today. He suggested that County workers and Honor Camp inmates haul today. This would give time to negotiate. Peggy Decker feels Recology is also blackmailing the County with regards to the \$160 per ton tipping fees. Maleen asked if the Sheriff's Office is going to investigate Mt. Wilson, Alamo, and Panaca's bins being burned. Kevin responded the Sheriff will be made aware of this portion of public comment. Ron Vincent discussed what it would take to take Recology over. Ron has a background in trucking and feels he might be able to haul for the County. Aaron Hagfeldt discussed the time frame. Six months is a good time frame but he suggested that the Board discuss and extension with WE. It will be a big burden and benefit at the same time for the County to own their own equipment and landfill. Aaron suggested the County's long term goal should be to own the facilities, even if they are leased out.

#5-ADJOURN

There being no further business for the Board to attend to, Kevin adjourned the meeting at 9:40 a.m.

Attest: _____ Approve: _____

DRAFT