

**Lincoln County Water District**  
181 Main Street, Suite 115, P. O. Box 206,  
Pioche, NV 89043, (775) 962-5164

***MINUTES***

***WEDNESDAY, JUNE 15, 2011, 10:00 A.M.,  
COMMISSION CHAMBERS, LINCOLN COUNTY COURTHOUSE,  
PIOCHE, NV***

Action may be taken on items denoted with an asterisk\*.

1. \* Call to order, open meeting compliance, roll call, prayer and pledge of allegiance.

**Meeting called to order at 10:08 a.m. Present: G. Tommy Rowe, E. Edwin Higbee, Jr., Paul H. Mathews, Kevin J. Phillips, Wade Poulsen-General Manager, Dylan Frehner-Legal Counsel, and Shannon Simpson-Administrative Assistant. Prayer: Paul Mathews. Pledge: Paul Donohue.**

2. \* Discussion/Action: Approve/Modify minutes from May 19, 2011, meeting.

***Motion by Paul Donohue to approve the May 19, 2011, meeting minutes, 2<sup>nd</sup> by Tommy Rowe, motion passes unanimously.***

3. \* Discussion/Action: Approval of vouchers paid on check dates June 6, and 20, 2011.

***Motion by Ed Higbee to approve the payment of vouchers for check dates June 6, 2011, and June 20, 2011, 2<sup>nd</sup> by Paul Donohue, motion passes with one abstention by Paul Donohue on the vouchers for check date June 20, 2011, due to the payment of the Lincoln County Telephone bill.***

4. Discussion: Board and Staff member reports –

**Wade:**

- Upcoming meeting with Virgin Valley Water District (VVWD) tentative date 08/11/11. VVWD Legal Counsel is only other party heard back from for the August date. VVWD General Manager should be back from medical leave in time for the meetings. Commissioner's Mathews and Donohue will be attending. Initial meeting will be held in Mesquite.
- Working Task Sheet - Toquop Service Plan decision 100% complete. Decision was made to work with VVWD through inter-local agreements. We'll be tracking that with VVWD.
- BDR Tracking - Nothing of huge significance happened in this Legislature regarding water. Change on AB-419, approved by the Governor and goes into effect July 1, 2011. It will require a groundwater management plan for critical basins. AB-329, wild horses being designated as wildlife. Bill excluded wild horses and burros as wildlife. The bill died for lack of action and did not get out of the Senate.

**Lincoln County Water District**  
181 Main Street, Suite 115, P. O. Box 206,  
Pioche, NV 89043, (775) 962-5164

**Dylan:**

- The attorneys who are getting together regarding the annexation are waiting to see what occurs with VVWD. They were hoping for a meeting by the end of June, not going to happen since meeting has been set for 08/11/11. The stay has been done out through July 31, 2011.
- Past two weeks working on documents to provide to the SNWA for the upcoming hearings. Met with the SNWA yesterday going through what testimony they want in October so that we can show beneficial use for that water here in Lincoln County and to have it designated pursuant to the agreement with Lincoln County.
- Phone conference with Vidler's attorneys with regards to the Interior Board of Land Appeals (IBLA) appeal for the Lincoln County Land Act right-of-way. No decision has been received from the judge to-date.

No Board members reporting.

5. Vidler Update. Don Pattalock unable to attend. Wade provided update:

- Week of July 12 – Wade and Vidler will go to Garden and Coal Valleys to install stream and precipitation gauges for the monitoring program. Looking for date to take Aaron Bunker-Chief Hydrologist from VVWD out to the Tule Desert to show him the monitoring program there. Applications for those sites have been approved by the Bureau of Land Management (BLM).

6. \* Discussion/Action: POOL/PACT proposal for coverage period July 1, 2011, to July 1, 2012.

- Wade presented proposal from Dolan and Edwards.
- Coverage hasn't changed from last year.
- Premium increase roughly \$160.00.

***Motion by Paul Donohue to approve the POOL/PACT proposal for coverage period July 1, 2011, to June 30, 2012, 2<sup>nd</sup> by Ed Higbee, motion passes unanimously.***

7. \* Discussion/Action: Regarding July 2009 amended agreement between Lincoln County Water District (LCWD)/Vidler Water Company and Coyote Springs Investment (CSI) for purchase of water in Kane Springs Valley, Basin #206. Any action may, but is not limited to, actions which are allowed by this agreement.

- Reason for item on the agenda is that the principal payment due to Vidler Water Company under the Second Amendment is owed and has not been paid. Met with Coyote Springs on several occasions to see how they want to rectify this. There was an initial plan proposed from Coyote Springs. Vidler responded since the default is on Vidler because the principal payment is due to Vidler since the District opted to take the monthly payments. Since the initial negotiations took place a month and a half ago there has been no contact from Coyote Springs. Steve Hartman (Vidler's attorney) and Dylan feel what needs to take

**Lincoln County Water District**  
181 Main Street, Suite 115, P. O. Box 206,  
Pioche, NV 89043, (775) 962-5164

place is to ask for a 3-month deadline to extend to Coyote Springs letting them know that we want to work with you, we want to see that this water is put to beneficial use, we have talked about doing payments on the other side as well with Vidler. Vidler is willing to accept the payments as well hoping that in the 3-months we can get this worked out, or if not terminate the contract or find another solution.

- Wade received a call from Doug Chen this morning wanting to set up a meeting with him and Seeno Group next week.
- The Agreement was made before our ordinance was passed in 2010. This situation kind of puts us in a conflict with that ordinance. The ordinance states that the developer will pay for the water outright, deed it back to the Water District and then we will provide that water on a will serve basis. In the above situation they are not buying the water outright. We are putting the water on hold and then we are wholesaling the water on a rate basis to the GID. In the long run if this agreement was terminated and restructured it may be more beneficial to the District.
- The problem is that since the contract is combined with Vidler, the Vidler portion is negligent at this time. The extra 3-months would give Coyote Springs an opportunity to get together with Vidler and work something out with them. Our side of the agreement is in tact.

***Motion by Kevin Phillips to delay enforcement of this Agreement for three months, 2<sup>nd</sup> by Ed Higbee, motion passes unanimously.***

8. \* Discussion/Action: Approval of LCWD Investing Policy.

- John Jemison – Senior Portfolio Manager - Mellon Wealth Group.
- Expands the investment policy for the District and gives the District ability to issue bonds in the future. Adds a separate section for the bond proceeds funds.
- Allow more leeway in how the funds are invested.
- Three overriding principles: safety, liquidity, and yield, in that order.
- New policy allows us to invest up to 7 years. Gives a few more investment options.
- Wade presented last portfolio statement as of June 6, 2011.
- Dylan sees no problem in drafting a policy of our own; set aside from the Treasurer.
- Drafting LCWD's own policy separate from Lincoln County's. The change is from 5-years to 7-years and expanding the types of investments.
- Wade – We are trying to maximize the interest the current market is offering.

***Motion by Tommy Rowe to approve the Lincoln County Water District Investing Policy, 2<sup>nd</sup> by Ed Higbee, motion passes unanimously.***

**Lincoln County Water District**  
181 Main Street, Suite 115, P. O. Box 206,  
Pioche, NV 89043, (775) 962-5164

9. \* Discussion/Action: Direction LCWD should take in relation to reimbursement to Lincoln County from the sale/lease of water rights.
- With current agreements, every time we go to sell water or water applications that the County owns the District has to give up 35% that could be used for water initiatives and future planning and operations of the Water District.
  - Need direction from the Board.
  - With this resolution we will be changing some of the funds and what that money can be used for, i.e., money will be used for capital improvement projects in the future, the Special Projects Fund used for matching of grants when infrastructure needs to be put in, or to make bond payments, loan payments, Emergency Fund can become a depreciation fund for infrastructure in the future for replacement of equipment, Planning and Development Fund used for our planning and development when we have to do water resource plan updates, conservation studies, engineering.
  - Wants this resolution to set-up what funds are used for what projects and what funds the County would receive.
  - Change what is currently being done with a set percentage into each fund and leave up to the Board's discretion into how much goes into each fund.
  - Paul Mathews – Currently the money goes into the Lincoln County Water Fund which is under that special ordinance where we don't spend it. We fund a few small projects off of the interest portion but the principal sits there within the safety of the ordinance that it needs to be spent on a capital project. Dylan – And even then it is restricted to water purposes.
  - Paul Mathews – Does this resolution pertain to all revenue sources or only sale of water?  
Wade – It only pertains to those applications that were the County's and that were transferred over.
  - Dylan – We did not bring any specific amount to propose. Wanted to hear what the Board had to say. His opinion is that the money that is coming from water should go to the District, 100%, to be used for the benefit of the citizens of the County.
  - The Board asked the District to come up with more specifics, different options. What is to happen with the 35%? Who is in a better position to manage those monies?
10. \* Discussion/Action: Resolution 2011-01 - A resolution declaring the Coyote Springs General Improvement District as the preferred place of beneficial use for municipal water and/or water rights under the ownership, control, and/or management of the LCWD and located within the Delamar Valley, Basin #182, Dry Lake Valley, Basin #181, and/or Cave Valley, Basin #180, water basins.
- As part of the upcoming SNWA hearing in October, the last time that this went to hearing the County prepared a letter stating that there was special action taken by the Board to designate that the water they received from the SNWA be used in any place where the County Master Plan would designate for development including Coyote Springs.
  - We would like to go a little further this time since last time we did not get beneficial use granted within Lincoln County. It only stated Clark County.

**Lincoln County Water District**  
181 Main Street, Suite 115, P. O. Box 206,  
Pioche, NV 89043, (775) 962-5164

- The resolution is more specific this time as to where we have designated where growth is going to be and where that water will be used.
- This time it would state both counties. We just want to make sure that we don't have to go back for a change application, do our own hearing, call our own witnesses, and do all the data again. Hope to piggyback on the SNWA hearings and get this accomplished through the resolution and Dylan's testimony.

***Motion by Tommy Rowe to approve Resolution 2011-01, 2<sup>nd</sup> by Ed Higbee, motion passes unanimously.***

11. \* Discussion/Action: Sending demand letter and notice of audit to the Bureau of Land Management (BLM) in response to the BLM's denial of the LCWD's request for reimbursement for right-of-way processing costs as authorized by the Lincoln County Land Act (LCLA) of 2000 and the Lincoln County Conservation, Recreation and Development Act of 2004.

***Motion by Paul Donohue to approve sending demand letter and notice of audit to the BLM with changes and Dylan to sign letter, 2<sup>nd</sup> by Kevin Phillips, motion passes unanimously.***

12. \* Discussion/Action: Amended Joint Litigation Strategy Agreement between the LCWD and Vidler Water Company covering litigation or potential litigation on the LCLA pipeline right-of-way and BLM's reimbursement dispute.

***Motion by Kevin Phillips to approve the Amended Joint Litigation Strategy Agreement, 2<sup>nd</sup> by Ed Higbee, motion passes unanimously.***

13. \* Discussion/Action: Letter to the SNWA identifying the location and use of water and/or water applications that Lincoln County is to receive pursuant to Lincoln County's 2003 Agreement with SNWA and Las Vegas Valley Water District from upcoming water hearings on Dry Lake Valley, Basin #181, Delamar Valley, Basin #182, Cave Valley, Basin #180, and Spring Valley, Basin #184.

- Based upon what was approved with the Resolution in Item #10, above, Dylan will make a change to the wording to be more specific regarding Coyote Springs.

***Motion by Paul Donohue to approve letter to the SNWA with changes more specific to Coyote Springs identifying the location and use of water and/or water applications that Lincoln County is to receive pursuant to Lincoln County's 2033 Agreement with SNWA and Las Vegas Valley Water District from upcoming water hearings, 2<sup>nd</sup> by Ed Higbee, motion passes unanimously.***

14. Public Comment and Discussion. No public comment.

15. \* Adjourn. ***Motion to adjourn passed unanimously. Meeting adjourned 11:50.***

**Lincoln County Water District**  
181 Main Street, Suite 115, P. O. Box 206,  
Pioche, NV 89043, (775) 962-5164

Submitted for approval by:  
Shannon Simpson, LCWD Administrative Assistant /s/Shannon Simpson\_\_\_\_\_

Approved by: \_\_\_/s/Kevin Phillips, Vice-Chairman\_\_\_\_\_

Signature  
\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

**Date: July 20, 2011**