

The Honorable Board of Lander County Commissioners met in regular session in the Commission Chambers of the Lander County Courthouse in Battle Mountain, Nevada, on August 13, 2009 at 9:00 A.M.

**PRESENT: CHUCK CHAPIN, COMMISSIONER
BRYAN SPARKS, COMMISSIONER
STEVEN STIENMETZ, COMMISSIONER
CHRIS SCHMIDT, COMMISSIONER
RAY H. WILLIAMS, JR., COMMISSIONER
WILLIAM E. SCHAEFFER, DEPUTY DISTRICT ATTORNEY
GENE P. ETCHEVERRY, EXECUTIVE DIRECTOR
JOY SWEENEY, HUMAN RESOURCE DIRECTOR
ROGENE HILL, FINANCE DIRECTOR
DONNA J. BOHALL, DEPUTY CLERK**

Chairman Chuck Chapin called the meeting to order.

Let the record reflect the presence of a quorum of five Commissioners.

Chris Schmidt led the Pledge of Allegiance.

APPROVAL OF AGENDA NOTICE

The Notice of Posting was reviewed and found to be in order. Commissioner Stienmetz moved to approve the Agenda Notice, as posted. Seconded by Commissioner Schmidt, the motion was voted and carried unanimously. **Approved.**

APPROVAL & ACCEPTANCE OF MINUTES

Regular Session Of July 23, 2009

Commissioner Sparks moved to approve the minutes of the Regular Session of July 23, 2009, as presented. Seconded by Commissioner Stienmetz, the motion was voted and carried unanimously. **Approved.**

CORRESPONDENCE

The Board reviewed the following correspondence that is retained in the Clerk's Office:

PHILIP WILLIAMS, GREATER AUSTIN CHAMBER OF COMMERCE, to SKIP CANFIELD, regarding appreciation for help on Austin Community Plan.

STEVEN WILLIAMS, FOREST SERVICE/TONOPAH RANGER DISTRICT, to INTERESTED PARTY, regarding scoping document for King Solomon Mineral Exploration Project.

NV Division of Environmental Protection, Notice of Decision, Water Pollution Control Permit No. NEV2009101, Carico Lake Mining Company, Carico Lake Turquoise Mine.

NV DIVISION OF ENVIRONMENTAL PROTECTION, to AMANDA APPELT, WESTERN ENERGETIX, regarding results of initial EA activities & work plan to conduct additional ESA activities, Western Energetix Bulk Plant, 125 N. Mountain St., BM, NV, NDEP ID#5-000289, Petroleum Fund #2009000020.

TRACY LARKIN-THOMASON, NDOT, to CHUCK CHAPIN, LC COMMISSION CHAIR, regarding NDOT's Annual Work Program presentation.

NV Division of Environmental Protection, Notice of Proposed Action, application renewal of Water Pollution Control Permit NEV2004102, Nevada Rae Gold, Inc.

REPORTS

There were no reports for the Board's review.

COMMISSIONER REPORTS

Commissioner Stienmetz updated the Board regarding various individuals interested in bidding on the County's golf course and lawn maintenance contracts.

Commissioner Sparks requested an update on the status of the County's road project. Executive Director Gene Etcheverry stated that this project should commence Monday.

Commissioner Sparks requested an update on the status of the MOU between Lander County and the Battle Mountain schools for park enforcement. Executive Director Gene Etcheverry stated that the MOU is active and remains status quo.

Commissioner Williams updated the Board regarding a meeting he plans to attend tomorrow with NDOT representatives to discuss the possibility of placing a pull-out on the north side of Bob Scott Summit.

Commissioner Williams updated the Board regarding a Planning Commission meeting he attended yesterday in Kingston.

Commissioner Williams updated the Board regarding the status of ongoing work at the intersection of Virginia and Water Streets in Austin.

Commissioner Williams presented testimony regarding the outcome of various community activities held in Austin recently.

Commissioner Williams updated the Board regarding a Republican Central Committee BBQ he attended recently at Borealis Park.

Commissioner Stienmetz updated the Board regarding the status of ongoing construction at Battle Mountain General Hospital.

STAFF REPORTS

Executive Director Gene Etcheverry provided the following staff report to the Board:

- τ The Executive Director is working on encroachments/acceptance of roads for Reese River Ranches;
- τ The Executive Director is working w/State EMS for placement of an Austin Ambulance in Kingston;
- τ The Executive Director attended a meeting w/BLM representatives to discuss easements for the arsenic project;
- τ The Executive Director had numerous contacts w/NDEP concerning the situation in Antelope Valley;
- τ SPB, Shaw Engineering & Tetra Tech have been working on the situation at the BMWWTF;
- τ The financial package was recently completed for the BM Town Homes project;
- τ Two other housing developers have filed paperwork for housing projects in BM.

Mr. Etcheverry presented testimony regarding the status of the following projects: **a)** the SR 305 paving project; and, **b)** the Austin Loneliest Highway Visitor Center project.

PAYMENT OF THE BILLS

Commissioner Stienmetz moved to approve payment of the bills, check numbers 30114 through 30257 in the amount of \$364,315.52. Seconded by Commissioner Schmidt, the motion was voted and carried with Commissioners Chapin, Stienmetz, Schmidt and Williams voting "AYE" and with Commissioner Sparks abstaining from the vote on check number 30240 payable to the Tire Factory in the amount of \$1,005.00. **Approved.**

Advanced Data Systems, Inc. - Data Processing Services

Commissioner Stienmetz moved to ratify payment to Advanced Data Systems, Inc., in the amount of \$3,393.60, for data processing services. Seconded by Commissioner Schmidt, the motion was voted and carried unanimously. **Ratification Approved.**

NV Health Division - Permit Renewals

Commissioner Stienmetz moved to ratify payment to Nevada Health Division, in the amount of \$135.00, for permit renewals. Seconded by Commissioner Schmidt, the motion was voted and carried unanimously. **Ratification Approved.**

Home Depot Credit Service - 2009 Cargo Trailer & Supplies

Commissioner Stienmetz moved to approve payment to Home Depot Credit Service, in the amount of \$2,963.84, for a 2009 cargo trailer and supplies. Seconded by Commissioner Schmidt, the motion was voted and carried unanimously. **Approved.**

NACO - NACO Registration/Grace Powrie

Commissioner Stienmetz moved to approve payment to NACO, in the amount of \$275.00, for NACO registration for Grace Powrie. Seconded by Commissioner Schmidt, the motion was voted and carried unanimously. **Approved.**

Wildfire - Supplies - Austin Fire Department

Commissioner Stienmetz moved to approve payment to Wildfire, in the amount of \$3,196.00, for supplies for the Austin Fire Department. Seconded by Commissioner Schmidt, the motion was voted and carried unanimously. **Approved.**

Summit Engineering - Professional Services - Austin/BM Flood Plain Study

Commissioner Stienmetz moved to approve payment to Summit Engineering, in the amount of \$46,671.33, for professional services rendered in connection with the Austin and Battle Mountain flood plain studies. Seconded by Commissioner Schmidt, the motion was voted and carried unanimously. **Approved.**

Bank Of America - Sheriff's Office Credit Card

Commissioner Stienmetz moved to approve payment to Bank of America, in the amount of \$2,309.49, for various purchases made on the Sheriff's Office credit card. Seconded by Commissioner Schmidt, the motion was voted and carried unanimously. **Approved.**

PAYROLL CHANGE REQUESTS

Payroll Change Request - Elizabeth Eason - Sheriff's Office

Request for approval to hire Elizabeth Eason, Relief Communications Officer, at a salary of \$13.81 per hour, effective August 10, 2009, was approved by consensus of the Board. Let the record reflect that the Sheriff's Office has approved the payroll change request and it has been reviewed by the Finance/Human Resource Department. **Approved.**

PUBLIC COMMENT

There was no one present for public comment.

- 1) **Budget Review & Update:** Let the record reflect the presence of Austin via telephone conference. Finance Director Rogene Hill presented the following update to the Board:

"I've reviewed costs for the month of July and see no areas of concern. Things might look a little out of kilter as we have a lot of payments for insurance and community grants that are a one-time shot. Audit work continues. We'll be shutting down the books on September 10th for the year ending FY 08-09. We have two old ambulance bills that were denied from 2007: Ambulance Run 2007181 in the amount of \$1,250.00; and Ambulance Run 2007266 in the amount of \$850.00, for a total amount of write-off of \$2,100.00."

Let the record reflect that this matter was an update only. **No Action - Update Only.**

COMMISSIONERS

- 2) **Update By Ferrel Hansen, Rural Nevada Development Corp. (RNDC) On John Marvel Senior Village, Phase 2 Construction:** Let the record reflect the presence of Austin, via telephone conference, and Ferrel Hansen, RNDC, for this discussion. Mr. Hansen presented a brief history regarding Lander County's partnership with Rural Nevada Development Corporation; and presented testimony regarding the status of the John Marvel Senior Village, Phase 2 construction project. Mr. Hansen noted the following for the record:

- τ Final inspection of the project should be completed today;
- τ There are currently 8 applicants eligible & ready to move into the new units;
- τ There is currently 1 eligible applicant, with a potential of 4 additional applicants, on the waiting list;
- τ The project is ahead of schedule & under budget;
- τ The new units should be completed & occupied w/in the next two weeks.

Let the record reflect that this matter was an update only. **No Action - Update Only.**

- 3) **Discussion & Possible Action Regarding Request For Building Space From Lander County For Faith Based Community Youth Center Being Developed In Battle Mountain:** Let the record reflect that this matter was deferred to a future Commission meeting. **Deferred.**
- 4) **Discuss & Approve/Disapprove Agreement Between Lander County & Dessie & Mary Skeath For Lease Of Premises For Use As Public Library Situated In Austin, Nevada, County Of Lander:** Let the record reflect the presence of Austin via telephone conference. The Board reviewed and discussed a draft Lease Agreement between Lander County and Dessie and Mary Skeath for lease of the building located at 88 Main Street, Austin, for use as a public library, as presented by Executive Director Gene Etcheverry. Commissioner Williams made the following comment for the record:

"In the course of conversation that day, I understood the rent was lowered. I thought it was reduced to \$350.00. We need to put down what was discussed and agreed to in that meeting."

Finance Director Rogene Hill read the following excerpt from the May 14, 2009 Commission meeting minutes into the record:

"It says - Austin resident Chuck Austin appeared before the Board via telephone conference to make the following comment for the record: Mr. Skeath approached me and asked if I would speak on his behalf. His feelings run very deep on this issue. Mr. Skeath's position is fairly simple. You have a letter dated May 13th that outlines his position. I think it's generous. He's authorized me to negotiate even further. As an example, a new lease of seven years or better would result in a new floor covering commitment and a \$50.00 per month reduction on top of the 20% reduction he already offered.

So, that brings it down to the \$350.00. In the letter he stated \$400.00. If you went seven years that would reduce it by \$50.00."

Commissioner Williams moved to deny renewal of the contract until such time as we have the proper terms in the contract. There was general discussion regarding direction given to staff at the May 14, 2009 Commission meeting. Mr. Etcheverry made the following comment for the record:

"There was a meeting, subsequent to this meeting, which was on May 19th. At that meeting \$400.00 a month was discussed for a period of 5-10 years."

There was general discussion regarding the following issues: **a)** the possibility of increasing the term of the new agreement with Mr. Skeath to seven years in order to obtain the additional \$50.00 per month price reduction; and, **b)** the possibility of negotiating a better contract with Mr. Skeath at a five year term. Let the record reflect that at this time Commissioner Sparks seconded the motion previously made by

Commissioner Williams. The motion was voted and carried unanimously. **Contract Denied.**

The Board directed staff to renegotiate a contract with Mr. Skeath based on what was discussed today and during the May 14, 2009 Commission meeting.

- 5) **Discuss & Approve/Disapprove Interlocal Contract Between Lander County & Nevada State Health Division, Bureau Of Community Health For Community Health Nursing Services:** Let the record reflect the presence of Austin via telephone conference. Executive Director Gene Etcheverry provided the following update to the Board:

- τ The Interlocal Contract between LC & NV State Health Division, Bureau of Community Health, for community health nursing services is presented for consideration;
- τ The contract provides for community health nursing services in LC at an annual cost of \$21,214.87 per fiscal year, or \$42,429.74 over a 2-year period from July 1, 2009 through June 30, 2011;
- τ The Scope of Work sets forth the terms & provisions of the services, deliverables, & responsibilities covered under the contract.

The Board reviewed and discussed the Interlocal Contract between Lander County and Nevada State Health Division, Bureau of Community Health, for community health nursing services, as presented by Mr. Etcheverry. Deputy District Attorney William Schaeffer made the following comment for the record:

"There's nothing wrong with the agreement. The attachment I didn't look at as much. I make no warranties on that - that's the actual meat of the agreement. If that's what you want - approve it."

Commissioner Sparks moved to approve the Interlocal Contract between Lander County and the Nevada State Health Division, Frontier and Rural Public Health Program (FaR) for community health nursing services for a two-year agreement term beginning July 1, 2009 and terminating June 30, 2011, seconded by Commissioner Schmidt. Finance Director Rogene Hill made the following comment for the record:

"We're going to need to move money out of our contingency fund to fund that because we didn't budget. We only budgeted \$18,710.00."

There was general discussion regarding the approximately \$2,500.00 annual increase in contract price for FY 2009-2011. Commissioner Sparks stated his opposition to the proposed increase; and requested that his motion be stricken from the record. Mr. Etcheverry noted the following for the record:

"The State has a cost allocation formula they use for these contracts. Apparently their indirect cost rate was assigned at 13.4%, at least for this program, and that would account for the increase."

There was general consensus in favor of deferring this matter to a future Commission meeting to allow for further research of this issue. **Deferred.**

- 6) **Discuss & Approve/Disapprove Revised Deed From Marshall, Marshall & Marshall With Changes Made To Remove Date Restrictions Placed In Original Deed & To Adjust Legal Description To Conform To Identification Of Lots 13 & 14 In Assessor's Assignment Of New Parcel Number:** Let the record reflect the presence of Austin, via telephone conference, and George Agnor, Marshall, Marshall & Marshall, for this discussion. Executive Director Gene Etcheverry updated the Board regarding this matter, as follows:

- τ A revised Partnership Grant Deed from Marshall, Marshall & Marshall, with changes to remove date restrictions placed in the original deed & adjust the legal description to conform to identification of lots 13 & 14 in the Assessor's assignment of a new parcel number, is presented for consideration;
- τ The revised Deed is needed to proceed with the Austin "Loneliest Highway Visitor Center" project as the date for reversion of the property, in the event project was not undertaken, has been surpassed;
- τ Additional information submitted for consideration is a Grant of Permanent Easement on lot 12, immediately adjacent to the project to the west;
- τ This easement would allow for 1,274 square feet of the project to be built on lot 12;
- τ This would also result in lot 12 being a non-conforming, non-buildable lot;
- τ Zoning for all lots is C-1 &, as such, minimum footage for a conforming, buildable lot is 50 feet;
- τ The 12.74 foot easement taken from lot 12 results in both lots 12 & 11 rendered non-conforming, non-buildable. Granting of this easement would be in direct violation of LCC 17.58.030;
- τ All four lots continue to remain in one parcel. Paperwork to allow the Assessor to split the parcel into two parcels has never been signed & recorded;
- τ This parcel split must be performed in order to move forward with the project;
- τ A project cannot be built over established & existing lot lines. Completion of the parcel split will take care of this issue with respect to lots 13 & 14;
- τ The granting of a permanent easement on lot 12 exacerbates the problem as a 'project' cannot be built over a lot line, easement or otherwise.

Mr. Agnor made the following comment for the record:

"I disagree with Gene on a couple of things. We deeded a portion of lot 12, lots 13 and 14 for this project, not taking into consideration the necessity of separating out the parcels. The Assessor's Office asked us to submit a split lot request to split out lots 11/12 from 13/14, which we did. That's the Deed before you today. The only thing that remained in question was this approximately 12.26 feet of lot 13 that we want to give you an easement for. This is the first I've heard about NDOT taking exception to the easement.

Lots 11 and 12, because of the way the buildings sit in that particular block, at some point in time there's going to have to be an adjustment to a lot line that's going to decrease one of those two lots, either 11 or 12, to something less than 2,500 square feet."

The Board reviewed and discussed a plat map of survey for Phil Marshall, as presented by Mr. Agnor. The Board reviewed and discussed a revised Partnership Grant Deed from Marshall, Marshall & Marshall, as presented by Mr. Etcheverry. Commissioner Williams moved to approve the revised Partnership Grant Deed from Marshall, Marshall & Marshall to Lander County for lots 13 and 14, Main Street, Austin, Nevada, with changes made to remove the date restrictions placed on the original deed and to adjust the legal description to conform to the identification of lots 13 and 14 in the Assessor's assignment of a new parcel number. Seconded by Commissioner Sparks, the motion was voted and carried unanimously. **Approved.**

7) **Discuss & Ratify Letter To Herb Shedd, USDA Rural Development, Regarding Application Of Guy Bakker, 440 Ranch, Battle Mountain, NV For Grant Under USDA Rural Energy For America Program:** Let the record reflect the presence of Austin via telephone conference. Executive Director Gene Etcheverry provided the following update to the Board:

- τ A letter to Herb Shedd, USDA-RD, regarding the application of Guy Bakker, 440 Ranch, BM, NV for a grant under the USDA Rural Energy for America Program is presented for ratification;
- τ The USDA Rural Energy for America is a program designed to increase the quality, availability & sustainability of energy resources for rural areas;
- τ The Bakker application is seeking grant funding for installation of a 21kW solar photovoltaic electric system on the 440 Ranch;
- τ The project would contribute to renewable, sustainable & environmentally friendly electric energy while reducing the energy demands within our area;
- τ The letter of support was signed by Commissioner Sparks in order to meet the submission deadline.

Commissioner Schmidt moved to ratify the letter sent to Herb Shedd, USDA Rural Development regarding the application of Guy Bakker, 440 Ranch, Battle Mountain, NV for a grant under the USDA Rural Energy for America Program; and direct staff to draft a letter of support from the Commission to be signed by the Chairman. Seconded by Commissioner Stienmetz, the motion was voted and carried unanimously. **Ratification Approved.**

8) **Discussion & Possible Action Regarding Hazardous Waste Dump In Antelope Valley:** Let the record reflect the presence of Austin, via telephone conference, and Jerry Smith, Battle Mountain BLM District Manager, for this discussion. Executive Director Gene Etcheverry updated the Board regarding this matter, as follows:

- τ The Antelope Valley hazardous waste dump is a partially reclaimed pesticide/chemical waste repository where waste material was deposited in the mid-to-late 70s & into the 80s;
- τ The dump is situated on public land, administered by BLM, & was subject to hazardous waste mitigation & clean-up efforts conducted jointly by LC & BLM during the mid-to-late 80s;
- τ Water samples taken from nearby wells indicate increased levels of carcinogens.

Mr. Smith provided a brief history concerning the hazardous waste dump in Antelope Valley; and made the following comment for the record:

"We spent a great deal of money characterizing the site for contaminants. The report in '86 said the site was characterized as not providing any contamination. Around '88 we characterized the site again. Chemical results indicated that significant soil contamination didn't exist at the site.

At this point our plans are to ask for funding to re-characterize the site. Based on the characterization of the site, we'll devise a permanent closure plan. We'd welcome the County working with us to make that happen."

There was general discussion regarding the following issues: **a)** the current condition of the hazardous dump site in Antelope Valley; **b)** the feasibility of asking the state to take water samples at monitoring wells in Antelope Valley; **c)** the possibility of taking water samples at the dump site; and, **d)** BLM's efforts to clean-up numerous unauthorized dump sites on public lands throughout the State of Nevada. The Board directed staff to work with BLM representatives to help resolve this issue. Let the record reflect that this matter was discussion and direction only, with no action taken. **No Action - Discussion/Direction Only.**

- 9) **Presentation By Various Legislators Regarding Outcome Of 2009 Nevada State Legislative Session:** Let the record reflect the presence of Austin, via telephone conference, and Assemblyman Pete Goicoechea for this discussion. Assemblyman Goicoechea presented a detailed summary concerning the outcome of the 2009 Nevada State Legislative Session to the Board. There was general discussion regarding the following legislative issues of interest to Lander County: AB 415; AB 480; the off-road vehicle bill; and, AB 223. Commissioner Chapin addressed his concern regarding the following issue:

"I've had a lot of people call me, mostly state employees, on taking the eight hours per month furlough. It's the hourly employees getting hit by this; anybody under contract or tenured in the university system isn't getting hit."

Assemblyman Goicoechea responded to Commissioner Chapin's concern, as follows:

"Technically if they don't take the furlough, they have to take the 4.7% pay reduction. It's their choice. One way or the other you're going to get a 4.7% reduction in your salary."

There was general discussion regarding the following issues: **a)** the impact of the current recession on the State's budget; **b)** recent friction between the Legislature and Governor's Office as it relates to stimulus monies; **c)** the need for Lander County to become actively involved in reapportionment; **d)** the impact of term limits on Nevada's legislators and senators; and, **e)** the impact of the IS2 interruptible service rate to

Lander County's farmers. Assemblyman Goicoechea presented testimony regarding various water-related issues of interest to Lander County. Let the record reflect that this matter was an update only. **No Action - Update Only.**

DISTRICT ATTORNEY

- 10) **Discussion & Possible Action On Whether Or Not To Support In Principle The Elko County Led Amicus Brief Supporting Severance Of Nevada From Western Watersheds v. US Lawsuit In Idaho:** Let the record reflect the presence of Austin via telephone conference. Deputy District Attorney William Schaeffer provided the following update to the Board:

"Western Watersheds, an environmental group, is suing BLM in Idaho Federal Court under NEPA to take all cattle off the range. They're alleging it's causing problems with various species under the Endangered Species Act. Supposedly BLM hasn't taken into account the affects of grazing on public lands in their decision-making process. We'd like to be able to litigate our own fate in Nevada rather than in Idaho. The Elko County DA is trying to get all rural counties to join with him in asking the Federal Court to sever that litigation so Nevada can be litigated in Nevada and allow us to enter as an amicus under Elko's umbrella."

Commissioner Williams moved to support in principle the Elko County led Amicus Brief supporting severance of Nevada from the Western Watershed v. US lawsuit in Idaho, and other matters properly relating thereto. **Seconded** by Commissioner Stienmetz, the motion was voted and carried unanimously. **Approved.**

- 11) **Discussion & Possible Action On Whether Or Not To Go Forward With & To Hold A Public Hearing On Abandonment Of Road 225 Upon Completion & Acceptance Of Its Proposed Replacement Route:** Let the record reflect the presence of Austin, via telephone conference, and George Fennemore, Barrick Cortez, for this discussion. Deputy District Attorney William Schaeffer updated the Board regarding this matter, as follows:

"I did some brief research on the proposed closure of County Road 225 for the Cortez Mine. The reason they want it closed is that the mining operation has gotten to the point where that area will be covered with tailings. NRS 408.537 states that public lands roads also need state permission to be closed. As far as I know, BLM has not volunteered to give a perpetual grant for the new road - just a 30 year lease. If we don't get a perpetual grant then we need to look at closing the road and not abandoning it. The current road appears to be a RS 2477 road and is therefore perpetual. The proposal is to cover the current road with tailings.

NRS 408.547(2) and 328.085 seem to require the state to maintain its jurisdiction over the road. 405.195 seems to authorize closure without abandonment. It also must be complied with before the road abandonment or closure takes effect. 403.170 requires a public hearing before a road can be abandoned and publication at least ten days before. 405.195 also requires a public hearing before a road can be

changed in any significant way, including abandonment, closure or changing location and a tight time limit of between 30-45 days after submission of a petition for the public hearing to be held. 405.195 does not come into play unless at least five residents petition as indicated therein. If Road 225 is an accessory road, NRS 405.203 would have to be complied with which requires written notice to all adjoining land owners and all known land owners or raisers of livestock who use the road as well as publication for three successive weeks before the hearing.

My recommendation, if you want to go forward, is to tell us what you want and I'll try to work with George in getting the appropriate set-up. I think you're going to have more of a problem if you were to abandon it. I'd be against abandoning it unless they concur to grant a perpetual replacement."

The Board reviewed and discussed the proposed Cortez Hills Expansion/County Road Relocation project, as presented by Mr. Fennemore. The Board directed staff to proceed with closure of Road 225. Let the record reflect that this matter was discussion and direction only. **No Action - Discussion/Direction Only.**

- 12) **Discussion & Possible Action On Whether Or Not To Contract With Ecology & Environment, Inc. To Provide Review/Recommendations For Hazardous Materials Accident Management For Lander County's Local Emergency Preparedness Committee (LEPC):** Let the record reflect the presence of Austin via telephone conference. The Board reviewed and discussed the Contract Agreement between Lander County and Ecology and Environment, Inc., to provide review/recommendations for hazardous materials accident management for Lander County's Local Emergency Preparedness Committee, as presented by Deputy District Attorney William Schaeffer. Commissioner Sparks moved to accept the contract with Ecology and Environment, Inc. to provide review of and recommendations for hazardous materials accident management for Lander County's Local Emergency Preparedness Committee (LEPC). Seconded by Commissioner Stienmetz, the motion was voted and carried unanimously. **Approved.**
- 13) **Discussion & Possible Action On What Drug & Alcohol Free Work Place Policy To Adopt, If Any, & Whether Or Not To Propose It As An Ordinance Change:** Let the record reflect that this matter was deferred to a future Commission meeting. **Deferred.**
- 14) **Discussion & Possible Action On Contract For Coordinator To Aid Monitoring & Enforcement Of Drug Free Workplace Policy:** Let the record reflect that this matter was deferred to a future Commission meeting. **Deferred.**

PLANNING COMMISSION

- 15) **Discuss & Approve/Disapprove Parcel Map For Newmont Mining Corp., 625 West Humboldt Street, Battle Mountain, APN 002-220-17, Splitting One (1) Parcel Into**

Four (4) Parcels: Let the record reflect that this matter was deferred to a future Commission meeting. **Deferred.**

EXECUTIVE DIRECTOR

- 16) **Update, Discussion & Possible Action Regarding Phase 2 Of The Battle Mountain Flood Plain Study Conducted By Summit Engineering:** Let the record reflect the presence of Austin, via telephone conference, and Ben Veach, Summit Engineering, for this discussion. Mr. Veach updated the Board regarding this matter, as follows:

"My hydrologist and I visited with FEMA in Oakland a couple weeks ago. The meeting was to talk about Austin; to show them that their flood insurance study for Lander County didn't include Austin. They were very receptive and encouraging. The conversation changed to Battle Mountain. I explained to them that we decided to look at the Reese River, get a handle on the flows, come up with a solution, and keep the Army Corps of Engineers on the hook for commitments made. At that point, the conversation quickly changed to the flood ordinance. FEMA was quick to bring up the fact that the flood ordinance you have in force is not to their standards. As such, you're in non-compliance as you have an inadequate ordinance. The bottom line was that it had to be changed or they'd start taking a different action or enforcement. FEMA has a draft letter they want to send making all these dire procedures that have to happen next.

I think we need to revisit that and take a look at some of the issues that were of concern to the Commission. I'd like you to reconsider one that FEMA and the state have reviewed in format with the hope of approving that. In the new format the state adopted, there's an automatic up-dater. The flood ordinance stands on its own. I can work with Joe and Gene. I don't see anything that would keep you from passing the new one. It seemed to be pretty reasonable from an engineering point of view."

The Board directed staff to work with Mr. Veach and NFIP on the flood ordinance issue. Let the record reflect that this matter was discussion and direction only, with no action taken. **No Action - Discussion/Direction Only.**

- 17) **Discussion & Possible Action Regarding Purchase Of Skid Steer For Lander County Road & Bridge Department:** Let the record reflect the presence of Austin via telephone conference. Executive Director Gene Etcheverry provided the following update to the Board:

- τ Purchase of a skid steer for the Austin Road & Bridge Department is presented for consideration;
- τ Three bids were solicited & all bids were within the range where bid advertisement is unnecessary;
- τ Bids ranged in price from \$35,079.00 for a Caterpillar 232B2-C, to \$32,365.00 for a Case 430 Series III, to \$26,728.92 for a Bobcat S185;
- τ Purchase of the skid steer was budgeted in the 2009-2010 LC budget, Fund 057/Geothermal;
- τ The apparent low bidder is Bobcat West for a Bobcat S185 at a cost of \$26,728.92.

Mr. Etcheverry recommended purchase of a skid steer, Bobcat Model S185, at a cost of \$26,728.92, from Bobcat West (Pape Machinery) of Sparks, Nevada, from funds

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**Provide Safety, Quality Service & Responsible Fiscal Management
For Present & Future**

Meeting of August 13, 2009

budgeted in the 2009-2010 Lander County budget - Fund 057. Commissioner Sparks moved to accept the lowest bid. Seconded by Commissioner Stienmetz, the motion was voted and carried unanimously. **Approved.**

- 18) **Ratify & Accept Grant Offer From Federal Aviation Administration (FAA) AIP 3-32-0001-20, Part B - Rehabilitate Runway 12/30 (Approximately 7,300 Feet By 100 Feet), & Phase B - Rehabilitate Taxiway "A" For Battle Mountain Airport:** Let the record reflect the presence of Austin via telephone conference. Executive Director Gene Etcheverry updated the Board regarding this matter, as follows:

- τ The grant offer from FAA for the BM Airport is presented for ratification;
- τ The grant offer for AIP 3-32-0001-20, Part B, in the maximum obligated amount of \$1,905,927.00, was received July 27, 2009 & required immediate turn-around to FAA-ADO-SFO;
- τ The Executive Director & Deputy District Attorney signed the grant offer as accepted.

Commissioner Williams moved to ratify acceptance of the grant offer from Federal Aviation Administration (FAA) AIP 3-32-0001-20, Part B, rehabilitate Runway 12/30 (approximately 7,300 feet by 100 feet) & Phase B, rehabilitate Taxiway "A" for the Battle Mountain Airport for the maximum obligated amount of \$1,905,927.00. Seconded by Commissioner Stienmetz, the motion was voted and carried unanimously. **Ratification Approved.**

DISTRICT ATTORNEY

- 19) **Discussion & Possible Action Regarding Proposal Of Ordinance To Adopt 2003 International Code For Building Officials (ICBO); & Other Matters Properly Relating Thereto:** Let the record reflect the presence of Austin, via telephone conference, and Building Official Joe Lindsey for this discussion. The Board reviewed and discussed draft Ordinance No. 2009-07, an ordinance to adopt the latest Uniform Building Codes, as presented by Deputy District Attorney William Schaeffer. Commissioner Stienmetz moved to accept an ordinance replacing Lander County Code Title 15, Chapter 12, Section 020, by repeal and amendment, to adopt the latest building codes, provide simpler updating thereof, and other matters relating thereto. Seconded by Commissioner Sparks, the motion was voted and carried unanimously. **Ordinance Proposed.**
- 20) **Discussion & Possible Action Regarding Property Located At 110 Victorine Drive, Kingston, Nevada, APN 003-202-25, For Failure To Respond To FEMA/NFIP Assessment Issues Letter Dated August 28, 2008:** Let the record reflect the presence of Austin, via telephone conference, and Building Official Joe Lindsey for this

discussion. Executive Director Gene Etcheverry updated the Board regarding this matter, as follows:

"This item deals with the property located at 110 Victorine Drive, Kingston, Nevada, and the continued failure to comply with the National Flood Insurance Program/FEMA letter sent August 28, 2008. We know those conditions exist/persist on that property to date."

Commissioner Chapin made the following comment for the record:

"I think we should invite her to our next meeting and find out why these responses weren't met. We'll direct staff to get her here and start talking to see what's going on."

Let the record reflect that this matter was discussion and direction only, with no action taken. **No Action - Discussion/Direction Only.**

- 21) **Discussion & Possible Action To Amend Multiple Ordinances To Reorganize County Government By Redefining Authority Of Executive Director & Public Works Director Relative To Other County Officers, Which May Include Abolishment Of Offices &/Or Changes In Duties &/Or Authority; & Other Matters Properly Relating Thereto:** Let the record reflect the presence of Austin, via telephone conference, and Building Official Joe Lindsey for this discussion. Executive Director Gene Etcheverry provided the following update to the Board:

- τ Multiple ordinance revisions to reorganize county government by redefining the authority of the Executive Director & Public Works Director is presented for consideration;
- τ Reorganization of LC government will require multiple revisions to the provisions within LC code;
- τ These revisions will formalize the lines of responsibility, authority/reporting & reduce conflicts/omissions that would result from not revising the code.

The Board reviewed and discussed draft Ordinance No. 2009-08, an ordinance to modify the duties and powers of the Executive Director, as presented by Deputy District Attorney William Schaeffer. Commissioner Stienmetz moved to propose an ordinance replacing Lander County Code, Title 2, Chapter 2.06, by repeal and amending it to modify the duties and powers of the Executive Director, as noted. Seconded by Commissioner Williams, the motion was voted and carried unanimously. **Ordinance Proposed.**

The Board reviewed and discussed draft Ordinance No. 2009-09, an ordinance to eliminate the office of Public Works Director and redistribute the powers and duties thereof to one or more supervisors, as presented by Mr. Schaeffer. Commissioner Stienmetz moved to propose an ordinance replacing Lander County Code, Title 2, Chapter 2.07, by repeal and amending it to eliminate the office of the Public Works

Director. Seconded by Commissioner Schmidt, the motion was voted and carried unanimously. **Ordinance Proposed.**

The Board reviewed and discussed draft Ordinance No. 2009-10, an ordinance to clarify the duties, authority and chain of command of the Building Inspector. Commissioner Stienmetz moved to propose an ordinance replacing Lander County Code Title 15, Chapter 15.04, by repeal and amending to clarify the chain in command of the Building Inspector relative to the authority of the Executive Director, to better define the Inspector's duties. Seconded by Commissioner Williams, the motion was voted and carried unanimously. **Ordinance Proposed.**

22) **Discussion & Possible Action Regarding Letter Of Intent To Renew Golf Course Management Contract For Tee's Management At Mountain View Golf Course:** Let the record reflect the presence of Austin, via telephone conference, and Tammy Sample, Tee's Management Service, Inc., for this discussion. Executive Director Gene Etcheverry updated the Board regarding this matter, as follows:

- τ A letter of intent from Tee's Management Service, Inc., to renew the contract for management services at the Mountain View Golf Course for the 2010 golf season is presented for consideration;
- τ Terms of the current contract between LC & Tee's Management Service, Inc., require the contractor to submit a letter of intent, prior to August 15, to renew the agreement for the ensuing golf season;
- τ The contractor, Tammy Lynn Sample, submitted the letter of intent August 6, 2009;
- τ The contract provisions require LC to notify the contractor 30 days prior to the termination date, but no later than December 31st, in the event election is made not to renew the agreement.

Commissioner Williams moved to accept the letter of intent of Tee's Management Service, Inc., to renew the contract for management services at Mountain View Golf Course for the 2010 golf season and defer a decision to renew the contract until such time as a plan for golf course operations is adopted by the Commission, seconded by Commissioner Sparks. Ms. Sample made the following comment for the record:

"I'm requesting an answer on my letter of intent due to the fact that I have several licenses to buy. I need to get prepared as a business owner if I'm going to run the golf course."

Mr. Etcheverry noted for the record that today's agenda item deals solely with acceptance of the letter of intent, not renewal of the contract. Let the record reflect that at this time the motion previously made by Commissioner Williams was voted and carried unanimously. **Approved.**

23) **Status Update, Discussion & Possible Action Regarding Continuing Agreement For Maintenance & Oversight Of Lander County Water Rights:** Let the record reflect the presence of Austin, via telephone conference; Evan Fonger, Tetra Tech; Sam Billin, Tetra Tech; Steve Brigman, Shaw Engineering; and Dora Wren, Shaw Engineering, for

this discussion. Mr. Fonger presented the following Water Rights Summary overview to the Board:

LANDER COUNTY WATER RIGHTS SUMMARY & UPDATE

- I. Purpose
- II. Summary
 - Definitions
 - Unique Situation
 - Average Use/Peak Use in 2007/Low Year in 2008
 - Permits in Hydrographic Basins 59 & 64
 - Forfeiture
- III. Arsenic Mitigation Project
 - Proposed Wells Located in 059
 - Basin Over-Appropriated
 - PER
 - Unlikely To Get New Appropriation
- IV. Alternatives
 - Transfer
 - Purchase
 - Negotiation with DWR
- V. Recommendations
 - File Notice to Prevent Forfeiture for existing Certificated water rights
 - Meet with DWR
 - Transfer Water Rights from Well #2

Mr. Etcheverry made the following comment for the record:

"What I'd look for, in addition to Evan's presentation, is to confirm the direction to continue working with Evan on these water rights, get our applications filed and dovetail that work with what Steve's doing to make sure we're on-track."

There was general discussion regarding Lander County's current contractual agreement with Tetra Tech on a per-service basis. Let the record reflect that this matter was discussion only, with no action taken. **No Action - Discussion Only.**

- 24) **Discuss & Approve/Disapprove Professional Services Agreement Between Lander County & Shaw Engineering For Battle Mountain Water & Sewer Phase 2 Water Improvements/Arsenic Mitigation Project:** Let the record reflect the presence of Austin, via telephone conference; Steve Brigman, Shaw Engineering; Dora Wren, Shaw Engineering; Sam Billin, Tetra Tech; and Evan Fonger, Tetra Tech, for this discussion. Mr. Brigman presented the following Battle Mountain Phase 2 Water System Improvements Work Plan overview to the Board:

BM PHASE 2 WATER SYSTEM IMPROVEMENTS WORK PLAN

- I. Construction Projects
 - Drill/Case New Wells - Pump Testing/Well Development
 - Storage Tank Site Grading, Site Piping & Tank Erection
 - Equip Wells, Construct Pipeline, Appurtenant Facilities & Start-Up
- II. Final Engineering Design, Coordination & Project Implementation
 - Finalize Pipeline Routes & Select Final Alignment
 - Storage Tank Site Evaluation & Selection
 - Property & Right-Of-Way Acquisition
 - Prepare Environmental Reviews & Surveying/Mapping
 - Provide Hydro-Geology for Well Development & Water Rights Transfer/Appropriation
 - Geotechnical Investigations & Update Hydraulic Water System Modeling
 - Prepare Preliminary Design Drawings
 - Work with NV Energy to Prepare Power Line Extension Plans & Specifications
 - Prepare Preliminary Plan for Telemetry & Control System
 - Prepare Final Design Drawings & Bidding Documents
 - Regulatory Reviews & Permitting
 - Provide Bidding & Construction Phase Services
 - Provide Project Start-Up Assistance& Record Drawings
- III. Recommended Alternative New Wells & Transmission Pipeline
 - Preliminary Estimated Costs
- IV. Fee Worksheet From PER
 - Estimated Cost for Construction Administration
 - Estimated Cost of Engineering Design

The Board reviewed and discussed a Professional Services Agreement between Lander County and Shaw Engineering for the Battle Mountain Water and Sewer Phase 2 Water Improvements Arsenic Mitigation project, as presented by Mr. Brigman. Commissioner Sparks moved to accept and approve the Professional Services Agreement between Lander County and Shaw Engineering for the Battle Mountain Water and Sewer Phase 2 Water Improvements/Arsenic Mitigation Project based on legal review and acceptance, seconded by Commissioner Schmidt. Mr. Billin made the following comment for the record:

"For ten years we've been looking to do more significant work with Lander County. I'm surprised to see this on the agenda today being that you've got a Request For Qualifications due on Tuesday for your county engineer; these services are included in that. Not only my firm, but several other firms are preparing their response for Tuesday based on the knowledge this project was coming. I'm surprised it's being moved in four days before you're going to select a county engineer. I've been trying to express my interest to the County for years, certainly before any of you were on the board.

In 2000 my firm was short-listed, one of three, for your wastewater treatment plant design. We went through a selection process for that significant piece of work. You selected Shaw Engineering. No bad feelings about Shaw, but this isn't the only firm that can provide these services; it's not the only firm that can provide services at the speed you need or the knowledge base you have.

I'd respectfully request that you let me know what your intent is for Tuesday. Are you pursuing a county engineer of record that has qualifications in road, water, sewer and wastewater as you've indicated?

Are you prepared to embark upon the largest public works project in Lander County in the last ten years and probably in the next ten years without seeing what other services are available? There's a lot of engineering firms interested in providing these services to you. I'm spending money - people are working today in preparation of Tuesday's submittal. I'd respectfully request that you clarify what your intent is - what you're looking for and whether our firm should be continuing to pursue work for Lander County. We'd like to be treated in a fair and professional manner. Thank you."

Mr. Brigman noted the following for the record:

"I'll withdraw my proposal for Tuesday if that will clarify matters. I see that as two completely separate things. I don't see any reason we shouldn't move forward; we've been working on this for years. We've been consistently working on this. There's a lot of value in that consistency. I'd like to do this design work and get started on it right away."

Commissioner Williams made the following comment for the record:

"When this issue first came up, I wondered why we were doing this. Gene and I were sitting in the Department of Transportation when they told us we had to do this selective process. I thought we were moving ahead with that. It's scheduled to come up. I thought this might be premature."

Mr. Etcheverry noted for the record that Shaw Engineering has been working on this project since the Fall of 2001. Commissioner Chapin presented testimony in favor of approving the agreement with Shaw Engineering for the arsenic mitigation project. Commissioner Stienmetz made the following comment for the record:

"I feel this is a separate item. The reason we're going out for a county engineer of record has nothing to do with this project. I think we should proceed as we were going."

Let the record reflect that at this time the motion previously made by Commissioner Sparks was voted and carried unanimously. **Approved.**

COMMISSIONERS

- 25) **Discussion & Possible Action On The Following Projects/Services:** Let the record reflect the presence of Austin via telephone conference.

Airport Projects: Executive Director Gene Etcheverry updated the Board regarding the status of the Battle Mountain and Austin airport projects. **No Action - Update Only.**

Ambulance Service: Executive Director Gene Etcheverry stated that he is currently working on a new service application for an Austin Ambulance/Kingston Substation; and updated the Board regarding serious, ongoing problems at the Battle Mountain Ambulance Service. **No Action - Update Only.**

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**Provide Safety, Quality Service & Responsible Fiscal Management
For Present & Future**

Meeting of August 13, 2009

Economic Development: Executive Director Gene Etcheverry updated the Board regarding this matter, as follows:

"LEDA wanted it made known to the Commission that they still encourage our support. They want the Commissioner on that board to be there. They feel they're losing support. We got a second phase of the FIND project. We finally heard back from Paul Adams of Liberty Tree Enterprises. The renewable energy business park is still moving forward."

No Action - Update Only.

Public Lands: Executive Director Gene Etcheverry stated that he had nothing to report regarding this matter at the present time. **No Update.**

Water/Sewer Projects: Executive Director Gene Etcheverry explained that the Battle Mountain Water and Sewer Department is proceeding with installation of new transponders and meters. **No Action - Update Only.**

Street/Road Projects: Let the record reflect the presence of Steve Brigman, Shaw Engineering, for this discussion. Mr. Brigman updated the Board regarding the status of the Phase I Paving project. The Board reviewed and discussed the proposed Phase 2 Paving project, in the estimated amount of \$450,000.00, as presented by Mr. Brigman. There was general consensus in favor of putting the Phase 2 Paving project out to bid. Mr. Brigman noted the following for the record:

"We've talked before about change ordering the Hunewill contract. We can change order it \$100,000.00. We haven't identified anything to do. We could pick some more streets to pave. I'd like to put forth for consideration that we replace some of that concrete curbing on Forest."

Executive Director Gene Etcheverry made the following comment for the record:

"I have a question on the next project, which is stimulus. They won't accept any minor collectors, only major. I'd like to get with Steve to ask him what we could do on Broyles Ranch Road, East Antelope and the part of Eastgate we didn't pave last year. If the Board gives me direction, I'll fire off a memo this afternoon to NDOT to say 'pick us' for Broyles Ranch."

Commissioner Sparks noted for the record that the stop sign at Second and Tule Streets needs to be replaced. There was general discussion regarding the following issues: **a)** the possibility of barricading the through-fare behind the Flying J; and, **b)** the possibility of either closing or cleaning up the street behind Atlas Towing & Recovery. **No Action - Update Only.**

Culture & Recreation: Executive Director Gene Etcheverry updated the Board regarding the following issues: **a)** the status of the Battle Mountain Pool; **b)** the status of the restroom facility next to the pool; and, **c)** the status of the new Elquist Park restroom facility. **No Action - Update Only.**

Legislative Issues & Bills/BDRs: Let the record reflect that this matter was discussed previously under another agenda item. **No Update.**

Contracts: The Board reviewed and discussed an August 13, 2009 memorandum from Finance Director Rogene Hill concerning the County's past due contracts, as submitted. There was general discussion regarding the status of the Battle Mountain FBO contract. Commissioner Williams made the following comment for the record:

"I'd like to make one comment on our local sewer ponds. I was under the impression that after they finished the new sewer system they reclaimed those and cleaned them up. I think you got a note - something about we have to do something with them. It's really a bad situation over there. Those ponds are still sitting there just like they were when we drained them. They need to be cleaned up. They're not covered. The old RIBs are still open, but the other ponds are sitting there with sludge in the bottom of them. There's a lot of debris out there - big chunks of concrete, old rusty pipes sticking up in the air. Sooner or later we should clean it up and haul it to the landfill."

There was general discussion regarding the current condition of the sludge ponds at the Battle Mountain Wastewater Treatment plant. **No Action - Update Only.**

ADJOURNMENT

There being no further business before the Board at this time, Commissioner Stienmetz moved to adjourn the meeting of August 13, 2009. Seconded by Commissioner Sparks, the motion was voted and carried unanimously. **Meeting Adjourned.**

**CHAIRMAN OF THE BOARD OF LANDER
COUNTY COMMISSIONERS AND THE
LANDER COUNTY LIQUOR BOARD**

ATTEST:

LANDER COUNTY CLERK

Note: The Board of Lander County Commissioners serves as the Town Board for the unincorporated towns of Battle Mountain and Austin, Nevada.

