

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 July 9, 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.

Gene Etcheverry led the Pledge of Allegiance.

APPROVAL OF AGENDA NOTICE

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

APPROVAL & ACCEPTANCE OF MINUTES

Regular Session Of June 25, 2009

The minutes of the Regular Session of June 25, 2009 were deferred to a future Commission meeting. **Deferred.**

Special Session Of June 26, 2009

The minutes of the Special Session of June 26, 2009 were deferred to a future Commission meeting. **Deferred.**

Special Session Of July 7, 2009

The minutes of the Special Session of July 7, 2009 were deferred to a future Commission meeting. **Deferred.**

CORRESPONDENCE

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

DOUGLAS W. FURTADO, BLM, to INTERESTED PUBLIC, regarding public comment for Bald Mountain Wildlife Habitat Enhancement Project.

STEVEN WILLIAMS, US FOREST SERVICE, TONOPAH RANGER DISTRICT, to INTERESTED PARTY, regarding participation in US Forest Service Resource Advisory Committee for Nye & White Pine Counties.

JOE SAWYER, NDEP, to PARK BLAIR, AL PARK PETROLEUM, INC., regarding BM Drilling Report, June 16, 2009, BM Conoco, 501 E Front Street, BM, NV, Facility ID #5-000326, Petroleum Fund Case #1999000064.

STEPHEN DRUMMOND, BLM, to GENE ETCHEVERRY, regarding LC Road Department Big Creek Free Use Gravel Pit, Mineral Materials Management Approval.

REPORTS

There were no reports for the Board's review.

COMMISSIONER REPORTS

Commissioner Stienmetz updated the Board regarding a conversation he had recently with Raymond Etcheverry, owner of Food Town, who expressed appreciation for the recent pothole repairs made in town.

Commissioner Chapin stated for the record that he doesn't support the public defender raise approved at the last Commission meeting.

Commissioner Sparks updated the Board regarding complaints he's received concerning the hours of operation at the Battle Mountain Landfill. There was general discussion regarding the possibility of changing the hours to 8-5.

Commissioner Sparks noted the following for the record:

"I was approached by one of the coaches who wanted something fixed/replaced at the high school ballfield. I understand we own the property; but is there a standing written agreement in place so we know who's responsible for what? If not, we need to get something."

Executive Director Gene Etcheverry responded to Commissioner Sparks' comment, as follows:

"I believe there is a written agreement. I know I saw it three years ago when we had another issue with the fencing. I'll get that agreement so we can review it. As I remember, the agreement outlines that the school district is responsible for maintenance of the football and baseball fields."

Commissioner Williams made the following comment for the record:

"A lot of people in Gilman Springs expressed concern about the Homeowners Association spraying weeds. This is way out of the realm of the County, but the party doing this weed spraying said they were doing it in the interest of the Lander County Road Department. I told them to contact the Homeowner's Association. One individual was concerned because she felt it was causing her health problems.

Austin got through Gridley Days and the 4th of July in great shape. We had good attendance at everything down there. The Kingston Town BBQ is Saturday, August 1st and the Austin Fly-In is August 22nd."

STAFF REPORTS

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

"As of the ordering of the new boiler, which is in transit, we're above \$44,000.00 to get our pool up and running in Battle Mountain. There's a component aside from last year's shut down issues. There was some deferred maintenance issues with that boiler. There's an easy way to fix that. All boilers in the state are subject to state inspection and permit. We hadn't done that for a long time. Our new boiler comes with a state permit for installation. We have an agreement with the Department & Industry that the day they're ready to fire that boiler, they'll have a boiler inspector here to get it inspected."

Deputy District Attorney William Schaeffer made the following comment for the record:

"I'm going to be absent during part of the meeting to handle an appeal for LEPC to SERC. They put in for a \$30,000.00 grant, which you approved. Due to some kind of snafu where somebody didn't get it into the mail in time, they were late one business day, we were denied. The appeal comes up today. I'm going to be doing double duty. Also, we'll be postponing items 4 & 12."

PAYMENT OF THE BILLS

Commissioner Stienmetz moved to approve payment of the bills, check numbers 29804 through 29907 in the amount of \$367,618.31. 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 29895 payable to the Tire Factory in the amount of \$1,586.21. **Approved.**

Petty Cash - LC District Attorney’s Office - Investigative Buy Money

Commissioner Stienmetz moved to approve payment to Petty Cash/District Attorney’s Office, in the amount of \$1,000.00, for investigative cash to be used for buy money. Seconded by Commissioner Schmidt, the motion was voted and carried unanimously. **Approved.**

Wells Fargo Insurance Services Of Nevada - Airport Insurance Renewal

Commissioner Stienmetz moved to ratify payment to Wells Fargo Insurance Services of Nevada, Inc., in the amount of \$4,350.00, for renewal of the County’s airport insurance. Seconded by Commissioner Schmidt, the motion was voted and carried unanimously. **Approved.**

Elko County Library - 1st Quarter Library Contract

Commissioner Stienmetz moved to ratify payment to Elko County Library, in the amount of \$25,576.00, for the 1st Quarter payment for the Library Contract. Seconded by Commissioner Schmidt, the motion was voted and carried unanimously. **Approved.**

Hanica Insurance Agency, Inc. - Insurance Renewal

Commissioner Stienmetz moved to ratify payment to Hanica Insurance Agency, Inc., in the amount of \$281,780.15, for renewal of the County’s POOL insurance. Seconded by Commissioner Schmidt, the motion was voted and carried unanimously. **Approved.**

NV Public Agency Insurance Pool - Landfill Closure Premium

Commissioner Stienmetz moved to ratify payment to Nevada Public Agency Insurance Pool, in the amount of \$29,732.00, for the landfill closure premium. Seconded by Commissioner Schmidt, the motion was voted and carried unanimously. **Approved.**

Theodore C. Herrera - Public Defender Contract – July

Commissioner Stienmetz moved to ratify payment to Theodore C. Herrera, in the amount of \$3,541.50, for the July 1-15, 2009 public defender contract. Seconded by Commissioner Schmidt, the motion was voted and carried unanimously. **Approved.**

Harless Aircraft Service - Airport Contract Services - July

Commissioner Stienmetz moved to ratify payment to Harless Aircraft Service, in the amount of \$6,083.33, for airport contract services for July 2009. Seconded by Commissioner Schmidt, the motion was voted and carried unanimously. **Approved.**

Battle Mountain General Hospital - Public Health Nurse - Office Rent

Commissioner Stienmetz moved to ratify payment to Battle Mountain General Hospital, in the amount of \$550.00, for the July 2009 Public Health Nurse Office rent. Seconded by Commissioner Schmidt, the motion was voted and carried unanimously. **Approved.**

Youth Correctional Services - China Springs/Aurora Pines - 1st Quarter Payment

Commissioner Stienmetz moved to ratify payment to Youth Correctional Services, in the amount of \$4,784.25, for the 1st Quarter payment for China Springs/Aurora Pines. Seconded by Commissioner Schmidt, the motion was voted and carried unanimously. **Approved.**

Desmond Skeath - Library Rent - July

Commissioner Stienmetz moved to ratify payment to Desmond Skeath, in the amount of \$500.00, for the July 2009 library rent. Seconded by Commissioner Schmidt, the motion was voted and carried unanimously. **Approved.**

Home Depot Credit Service - Lumber - Fencing Repair

Commissioner Stienmetz moved to approve payment to Home Depot Credit Service, in the amount of \$125.00, for lumber to repair a fence at the Mountain View Golf Course. Seconded by Commissioner Schmidt, the motion was voted and carried unanimously. **Approved.**

Rita Rogers - Emergency Contract Labor/Pool Manager

Commissioner Stienmetz moved to approve payment to Rita Rogers, in the amount of \$542.40, for forty hours of emergency contract labor/Pool Manager. Seconded by Commissioner Williams, the motion was voted and carried unanimously. **Approved.**

NV DMV & Public Safety - Cargo Trailer License

Commissioner Stienmetz moved to approve payment to Nevada DMV & Public Safety, in the amount of \$6.00, for licensing of a cargo trailer. 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 \$3,221.79, for various purchases made on the Sheriff's Office credit card. Seconded by Commissioner Schmidt, the motion was voted and carried unanimously. **Approved.**

NV DMV & Public Safety - 2009 Ford Explorer License

Commissioner Stienmetz moved to approve payment to Nevada DMV & Public Safety, in the amount of \$6.00, for licensing of the Senior Center's 2009 Ford Explorer. Seconded by Commissioner Schmidt, the motion was voted and carried unanimously. **Approved.**

PAYROLL CHANGE REQUESTS

Payroll Change Request - Nicole Newgard - Public Works/Pools

Commissioner Stienmetz moved to approve a promotion for Nicole Newgard, from Water Safety Instructor/BM, at a salary of \$9.50 per hour to Assistant Pool Manager/BM, at a salary of \$11.65 per hour, effective June 25, 2009. Seconded by Commissioner Williams, the motion was voted and carried unanimously. Let the record reflect that the Public Works Department has approved the payroll change request and it has been reviewed by the Finance/Human Resource Department. **Approved.**

Payroll Change Request - Satica Jones - Public Works/Pools

Commissioner Stienmetz moved to approve the hiring of Satica Jones, Assistant Pool Manager/BM, at a salary of \$11.65 per hour, effective June 25, 2009. Seconded by Commissioner Schmidt, the motion was voted and carried unanimously. Let the record reflect that the Public Works Department has approved the payroll change request and it has been reviewed by the Finance/Human Resource Department. **Approved.**

Payroll Change Request - Mike Rangel - Sheriff's Office

Commissioner Stienmetz moved to approve the hiring of Mike Rangel, Deputy Sheriff/CAT 1/Grant Funded, a Grade Level 1 at a salary of \$20.11 per hour, effective July 13, 2009. Seconded by Commissioner Schmidt, the motion was voted and carried unanimously. Let the record reflect that the Undersheriff has approved the payroll change request and it has been reviewed by the Finance/Human Resource Department. **Approved.**

Payroll Change Request - Local 3 Bargaining Unit

Request for approval of a 2.5% negotiated salary increase for 49 Local 3 Bargaining Unit employees, effective July 13, 2009, was approved by consensus of the Board. Let the record

reflect that the payroll change requests were reviewed by the Finance/Human Resource Department. **Approved.**

Payroll Change Request - Law Enforcement Association Unit

Request for approval of a 2.5% negotiated salary increase for 28 Law Enforcement Association Unit employees, effective July 13, 2009, was approved by consensus of the Board. Let the record reflect that the payroll change requests were reviewed by the Finance/Human Resource Department. **Approved.**

Payroll Change Request - Sheriff's Association Unit

Request for approval of a 2.5% negotiated salary increase for 3 Sheriff's Association Unit employees, effective July 13, 2009, was approved by consensus of the Board. Let the record reflect that the payroll change requests were reviewed by the Finance/Human Resource Department. **Approved.**

Payroll Change Request - Exempt Salaried Unit

Request for approval of a 2.5% salary increase and year two of three year administrative salary adjustment for 12 exempt salaried employees, effective July 13, 2009, was approved by consensus of the Board. Let the record reflect that the payroll change requests were reviewed by the Finance/Human Resource Department. **Approved.**

PUBLIC COMMENT

Battle Mountain resident **Mike Jurad** appeared before the Board to make the following comment for the record:

"On August 1-2, the Wild Bunch Motorcycle Club is putting on a Poker Run & Bike Rally at Lion's Park. It's my understanding you can't have any overnight camping in the park. I'd like to get a waiver on that for July 31st and August 1st. There'll be a lot of guys coming through. When they go to these rallies they just bring a sleeping bag and lay it out on the ground. It would be nice if they could stay at the park."

Phillip Gomez appeared before the Board to introduce himself as the new Battle Mountain Bugle reporter.

Battle Mountain resident **Tom Hennigh** appeared before the Board to make the following comment for the record:

"I wanted to know if the form letter I wrote up and Gene distributed is acceptable for your signatures. If it is, we could send letters to Reid, Heller and other representatives. What we're going through with this federal government is downright scary. So many parallels have been made to what happened in WWII. Regardless of what

happens, we're already so far in debt we're going to be lucky if we get out of it in another 10-15 years. We've got to show that we're concerned about this."

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

"I've reviewed costs for June and see no areas of concern. There'll be during the month of July and half the month of August things, that if received, will be charged against June costs or FY 08-09. I'd like to have read into the minutes for FY 08-09: I'm transferring \$3,550.00 from line item 53926, emergency maintenance, to fixed assets, 54010, in fund 56. The auditor's will be in for two days next week; the audit process is beginning."

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

COMMISSIONERS

- 2) **Presentation & Discussion Of Phase I, Austin Flood Study Data By Ben Veach, P.E., Summit Engineering Corp., With Direction To Summit Engineering Regarding Phases II & III Alternatives To Existing Flood Zone Designation:** Let the record reflect the presence of Austin, via telephone conference; Building Official Joe Lindsey; and Ben Veach, Summit Engineering, for this discussion. The Board reviewed and discussed the Austin Current & Anticipated FEMA 100-Year Flood Limits Display Map, as presented by Mr. Veach. Mr. Veach noted the following for the record:

"We have FEMA dictated methods in place to approach them with the next stage of this project. This won't take long to fix as FEMA has certain levels of need for change. The first is if somebody did major improvements and the second is if there was a mistake in the original mapping. I can make the point that you have both. NDOT, in their wisdom, has come in and fixed this problem."

The Board reviewed and discussed Summit Engineering Corporation's proposal for professional services for the Austin flood zone, in the amount of \$30,900.00, as presented by Mr. Veach. Mr. Veach submitted a contract for the Board's consideration. Commissioner Sparks moved to allow Ben Veach of Summit Engineering to continue to Phase III for the changing of the flood zone designation of Austin; agree to the amount of \$30,900.00; and approve the contract, as presented, based on legal review and acceptance of the contract. Seconded by Commissioner Schmidt, the motion was voted and carried unanimously. **Approved.**

- 3) **Presentation By Dan Gralian, Nevada Cattlemen's Association With Possible Action Regarding Intervention On Case Brought By Western Watersheds Project:** Let the record reflect the presence of Austin, via telephone conference, and Dan Gralian, Nevada Cattlemen's Association President, for this discussion. Mr. Gralian read the following written statement into the record:

"I'd like to speak to you today about a mega-suit that the radical environmental group Western Watersheds Project has filed against the Department of Interior and Bureau of Land Management.

This lawsuit involves grazing allotments in Idaho's Owyhee, Burley and Bruneau Field Offices and Nevada's Elko, Ely, Battle Mountain and Winnemucca Field Offices. The protection of sage-grouse and sage-grouse habitat is Western Watersheds stated purpose behind this suit, but it's common knowledge that their primary agenda is to drive us ranchers off our public lands. And, it's not just the ranchers that Western Watersheds is against. They seem to be opposed to all public lands use including: oil & gas, mining, energy development, OHV's, recreational horseback riding and various other activities on public lands.

For the Elko BLM District, their complaint challenges the validity of almost all 10-year grazing permit renewals. They contend that these renewals were made without issuing any public notice, without notifying them of an environmental analysis for final grazing decisions. They claim that the BLM has never shared these decisions or permit renewals with Western Watersheds. The case is being heard in Idaho District Court by Judge Lynn Winmill, a judge that has a long history of being friendly to Western Watersheds and in most cases has ruled in their favor.

It is estimated that there are over 300 affected permits in Nevada alone. And, the vast majority of the permittees' holding these permits didn't know they were affected until the Nevada Cattlemen's Association contacted them. It goes without saying that an adverse decision in this case would have devastating effects on us ranchers, our families, our local communities and virtually all of rural Nevada.

The Nevada Cattlemen's Association is joined with the Idaho Cattlemen's Association through our Washington DC based Public Lands Council and are petitioning the court to obtain intervener status. The Public Lands Council has obtained the services of Western Resource Legal Center who specialize in natural resource and environmental law. By gaining intervener status, it's hoped we can become directly involved in the case. We want to keep close tabs on how the case is being defended by the Department of Interior and the BLM. And, hopefully, we will have some influence in the outcome of the case.

When Western Resource Legal Center learned of how many Nevada permittees were affected in this case, they agreed to take the Nevada Cattlemen's Association on as an individual client. Western Resource Legal Center has also arranged for Nevada Cattlemen's Association to obtain legal services of an Idaho attorney who will represent us in Idaho District Court.

Recognizing the far reaching effects that an adverse decision could have in this case, Nevada Cattlemen's officers met with our Attorney General when we were in Carson City. We briefed her and her staff on the case and we asked that they get involved. We followed up with a letter requesting that the State of Nevada petition the court for intervener status. Yesterday I learned that our Attorney General was making an Amicus Appearance to argue for a change of venue for Nevada's affected permittees.

To date we have made this presentation to Elko, Eureka, Humboldt and White Pine Counties and all four have voted to get involved in this case and intervene. I understand that the final call will be made by their District Attorneys. We'll be making this presentation to Churchill County Commissioners next week.

The Nevada Cattlemen's Association understands that Judge Winmill will not grant intervener status to all Nevada rural communities/counties. But, the filing for intervener status will wake him up and put him on notice that Nevada is watching and we're watching him closely and that we're not going to take this lying down.

So, I'm here before you today on behalf of the Nevada Cattlemen's Association to request that Lander County join the Nevada Cattlemen's Association, our Public Lands Council, the State of Nevada, Elko, Eureka, Humboldt and White Pine Counties in defending ourselves against these attacks being made upon us by this radical environmental group, Western Watersheds Project. This isn't just about us ranchers; it's about all rural Nevada. It's time that we stand up shoulder to shoulder and push back. The Nevada Cattlemen's Association asks for your support. Thank you."

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

"This is a western issue. We just joined the Western Counties Alliance. I think we should enlist their help, as well. Western Watersheds Project is recognized by folks such as Western Counties Alliance as not being western or rural friendly."

Commissioner Williams moved to request the District Attorney's Office to authorize, supervise or request for intervener status in the cases involving the lawsuit by the Western Watersheds; and to voice the Lander County Commission's support for intervener standards by the Cattlemen's Association against the action of Western Watersheds Project. Seconded by Commissioner Sparks, the motion was voted and carried unanimously. **Approved.**

Austin resident **Ray Salisbury** appeared before the Board via telephone conference to make the following comment for the record:

"The Forest Service has a new application to form a RAC committee in White Pine and Nye Counties. In the application every member of that RAC committee has to be checked by the FBI. I feel that Western Watersheds is a semi-terrorist concern and they should be checked by the FBI, too."

4) **Discussion & Possible Action Regarding Update By Kathleen Ancho, K.V.A. Drug & Alcohol Testing, On A County-Wide Drug Testing Policy &/Or All Related Issues:** Let the record reflect that this matter was deferred to a future Commission meeting. **Deferred.**

5) **Discussion & Possible Action Regarding 2009-2010 Pay Increase For Lander County Commissioners Per NRS 245.043:** Let the record reflect the presence of Austin via telephone conference. Executive Director Gene Etcheverry provided the following update to the Board:

- τ A proposal to increase the rate of pay for LC Commissioners, pursuant to NRS 245.043, is presented for consideration;
- τ The commissioner's salary was increased last year in a percentage amount equivalent to that of the three employee bargaining units & non-represented employees.

Mr. Etcheverry recommended that the rate of pay for Lander County Commissioners be approved to match the percentage amount of increase (2.5%) of the three Lander County employee bargaining units. Commissioner Chapin made the following comment for the record:

"I feel it's a low paid job. I think if we keep raising it the same as our employees, we'll get it up to be more attractive so we can get more people running for this position."

Commissioner Sparks made the following comment for the record:

"When we were looking for pay raises for the units, the reason we went to the 2.5% is because it's a negotiation. We were looking at the state of the economy-the increase in pay. I think if it could've been negotiated, we would have probably gotten away with a zero percent raise. This is one thing I have direct control of. I'm not in favor of a raise for myself at this particular point. It's not a lot you save, but we're trying to be fiscally prudent."

Commissioner Williams noted the following for the record:

"We fought hard to keep elected officials salary with the legislature. I felt that was a fair way to do it because we just went through this issue with nepotism, hiring, open meeting law, and what you can and can't do. It makes it almost look illegal to increase our own salary, but the legislature did this."

Commissioner Williams moved that the Lander County Commissioners be approved to match the percentage amount of increase of 2.5% of the three Lander County employee bargaining units. Seconded by Commissioner Stienmetz, the motion was voted and carried with Commissioners Williams, Stienmetz and Chapin voting "AYE" and with Commissioners Sparks and Schmidt voting "NAY". **Approved.**

- 6) **Discussion & Possible Action Regarding Job Description/Job Advertisement For Lander County Public Works Director Position:** Let the record reflect the presence of Austin, via telephone conference, and Steve Brigman, Shaw Engineering, for this discussion. Executive Director Gene Etcheverry updated the Board regarding this matter, as follows:

"The Commissioners need to be able to go somewhere to get something done. There needs to be clear lines of responsibility and accountability. Right now we don't have that. The Public Works Director job description is too broad and deep. No one is going to fully succeed. We need to make sure our next Public Works Director, or whatever title they'll hold, can succeed."

Commissioner Stienmetz presented the following suggestion for the Board's consideration:

"We need to have our leads responsible for certain things. Split that work out so we can hire somebody that can direct it, but doesn't have to work with them, and put more responsibility on the lead for doing stuff. We have to train our leads so they can do their job."

Commissioner Schmidt presented the following suggestion for the Board's consideration:

"I'd like to see it split - split Road & Bridge with Public Works. Maybe have not one person over the entire thing. Have one person and divide it into two."

Commissioner Sparks presented the following suggestion for the Board's consideration:

"I think we need a Public Works Director. The Public Works Director will be responsible for running leads who run their departments. It's going to be tough to find a Public Works Director that's experienced in all areas; that's been our shortcoming in the past. You have guys that have been in there working; they know their area. You just need a guy to run them that reports to the Commission."

Commissioner Williams presented the following suggestion for the Board's consideration:

"I feel Battle Mountain needs a Public Works Supervisor that can take care of your sewer & water, that has the certifications, and takes care of the parks. I feel the Road & Bridge Department should be back under individual supervisors. The scope of the distance totally overwhelms the guy to try to supervise from that distance. I felt this was part of Hank's failing - he just got spread so thin. The other thing was that he didn't have any sewer/water certifications. Right now we're doing everything under contract for those positions. I think your lead man in the sewer & water department should be your certified person and responsible for the safety of the people here.

I know it's a big decision to go back. Road & Bridge can come in here and give us a report on what they're doing. The sewer & water guys can come in and give us a report. I don't view it as a director - I view it as a supervisor. In the old days that's what we had. We had a sewer & water supervisor, a road & bridge supervisor, and a parks supervisor. I think the golf course should be turned over to a non-profit group that can get funds to operate it and be a totally independent organization. The employees that work for the golf course could be moved to the parks & recreation department. We could do away with the contract for the parks. I know it sounds kind of radical. I think it takes some sit down and looking at it. There's some money involved because we're probably not going to get by any cheaper by having individual supervisors than we are with one director. But, I think it's a lot more functional."

Commissioner Sparks questioned the legality of the Commissioners managing public works departments. Deputy District Attorney William Schaeffer made the following comment for the record:

"You can't do it directly like it was done in the old days. It would be incredibly difficult. Your main problem is going to be quickly responding to things. If the Commission's involved you have to be able to call a quick meeting of the entire Commission for a lot of things."

Commissioner Williams responded to Mr. Schaeffer's comment, as follows:

"I disagree with your opinion. I don't think we can supervise union employees, but we can be assigned to work with department heads as an intermediary. We can always come back to ratify it."

Mr. Schaeffer read the following Attorney General's Opinion into the record:

"NRS 244.020(2) states: *No county or township officer is eligible to the office of county commission.* With regard to the executive director, Lander County Code 2.06.020(B) states: *The executive director is a public officer as classified by NRS.* Therefore, the executive director is a county officer under NRS 244.020(2). As your letter indicates, the county commissioners appointed themselves as the executive

director and each of them performs a different duty of the executive director. By appointing themselves as the executive director, the county commissioners have violated NRS 244.020(2) because the executive director of a county is not eligible to hold the office as county commissioners. Moreover, NRS 244.130(2) states: *No person who is or has been an elected officer of the county shall be appointed county manager unless he has been out of office for at least one year prior to the date of his appointment.* Here each county commissioner was elected to office and each member currently holds that office. Although the executive director does not perform all the functions of the county manager because the executive director does not manage the public works department, the executive director performs substantially all the duties of the county manager. The action of the county commissioners performing the duties of the executive director is further prohibited by NRS 244.130 as no elected officer of the county shall be appointed county manager unless out of office for one year prior to the date of appointment. Such an appointment would exceed the commissioner's general supervisory authority under NRS 244.135. Therefore, the law prohibits the county commissioners from serving as the executive director of Lander County. Conclusion: Pursuant to NRS 244.020(2) and 244.130(2), the Lander County Commissioners are prohibited from occupying the office of county manager by assuming the administrative duties of Lander County's executive director.

You're dealing with the public works director. You still have many of the same sorts of problems because you have a public works director position. I don't know of anything that requires you to have a public works director, so you could change the ordinances. But, without changing the ordinances, you can't just suddenly act in that position. I'll have to double check - I think there's a special provision of what happens when the public works director is not in position."

Commissioner Chapin made the following comment for the record:

"I worked for road & bridge for 15 years. I went through the old style; I went through the new style. Neither one of them work worth a damn. I'll have to say the old style, when we had a road & bridge supervisor here and a road & bridge supervisor down there, we had gravel stockpiled, we had our roads graded up, we had a program of how we graded our roads because those people who did that were road people. For one person to run all those departments is ridiculous.

We set our last Public Works Director up to fail because he didn't have the proper people under him. Here's my thoughts, our County engineer can help us a lot. We can have our department heads, but we still have to have somebody for those department heads. We should have a road & bridge person running the road & bridge department. We have a lot of people that are very qualified in our county. All we need is that person on top to manage these people."

Finance Director Rogene Hill presented a brief history regarding the creation of the Public Works Director position. The Board reviewed and discussed a proposed County organizational chart, as presented by Mr. Etcheverry. Commissioner Williams made the following comment for the record:

"I still disagree with this idea of having one person over the top of road & bridge, parks, water & sewer. You're going back to the same philosophy. I still think road & bridge is totally different and should be treated different than sewer & water, building & grounds and parks. It takes a different type of a person to do that. Nobody knows better what they need in the road & bridge department than the person that's actually running the department."

Mr. Schaeffer presented a brief history of how Lander County functioned when Bonnie Duke was County Manager. There was general discussion regarding the best way to organize the public works department. Commissioner Williams stated his opposition to middle management in the workforce. Mr. Brigman made the following comment for the record:

"I've had a chance to work out here for eleven years. I've worked under the old system and the new system. Both systems got the job done at times, but it was tough. Roger Sutton, when he was Public Works Director, had the toughest job in the County. I think one of the things that brought Roger Sutton's stress level up more than anything else was that he thought he had to compete on the same level as the Executive Director. He wasn't subordinate to a County Manager; he felt he was subordinate to the Board. I think that put a lot of stress on his shoulders. He offered some leadership, but was stretched too thin which made his job tough.

The Public Works Director should be subordinate to the County Manager. I hear a lot of discussion about organization and I agree the organization should be looked at. The Public Works Director or Superintendent should be a position clearly defined as being subordinate to the County Manager. He could still report to the County Commissioners. I think the Public Works Director or Superintendent position in the County is a real opportunity. The last couple of cycles you haven't had a lot of respondents to fill the position because the construction and public works industry has been short of talent and labor. You have an economic condition a lot different now. If you advertise the job - maybe look at a young engineer and experience or somebody with public work experience without the education, somebody who's on the front-end of their career instead of the tail-end of their career."

There was general discussion regarding the possibility of changing the current organization within the Public Works Department to the following: appointing a road/bridge, culture/recreation and sewer/water supervisor to report directly to a county manager, who in turn reports directly to the Board. Mr. Schaeffer made the following comment for the record:

"Currently you have lead men in those positions, you don't have supervisors. If you're going to take out the Public Works Superintendent and have these people report directly to Gene, you're definitely going to have to make them a supervisory position. They may not want that because that will take them out from under their union protection. You would almost certainly have to pay them more money. On the other hand, you just eliminated a very high paying position so you have some money to spread around.

You're looking at two possibilities. One - leave the lead men where they are and put in those three positions as supervisors. Two- eliminate the lead man and promote them to supervisors."

There was general discussion regarding the following issues: **a)** the possibility of having two Road & Bridge supervisors, one in Battle Mountain and one in Austin; **b)** the possibility of having one supervisor over the sewer/water department and culture/recreation department; **c)** the need to modify job descriptions for the sewer & water department to include certifications; and, **d)** the need to modify Lander County Code to implement the proposed reorganization changes for the public works department. The Board directed staff to develop a plan and strategy, flow chart,

organizational chart and job descriptions for the Public Works Department. There was general discussion regarding the possibility of asking various members of the community to assist staff in this endeavor. The Board directed the District Attorney's Office to look at the ordinances for the proposed changes. Commissioner Williams presented testimony in favor of reviewing the County's personnel plan as part of this process. Let the record reflect that this matter was discussion and direction only. **No Action - Discussion/Direction Only.**

- 7) **Discuss & Approve/Disapprove Food Service Agreement Between Lander County & Lander County School District For National School Lunch Program For Austin School:** Let the record reflect the presence of Austin via telephone conference. The Board reviewed and discussed the Food Service Agreement between Lander County and the Lander County School District for the National School Lunch Program for the Austin School, as presented by Executive Director Gene Etcheverry. Commissioner Stienmetz moved to approve the Food Service Agreement between Lander County and the Lander County School District for National School Lunch Program for the Austin School for the 2009-2010 school year. Seconded by Commissioner Williams, the motion was voted and carried unanimously. **Approved.**
- 8) **Discuss & Approve/Disapprove Contract Between Lander County & Performance Computing/PC Internet For Computer Support Services For Various Departments In Lander County:** Let the record reflect that this matter was deferred to a future Commission meeting. **Deferred.**
- 9) **Discuss & Approve/Disapprove Renewal Of Contract Between Lander County & Love Cleaning For Janitorial Services For Lander County Courthouse & Annex, 2nd Street Annex Building (Commissioners) & Cooperative Extension Office:** Let the record reflect the presence of Austin, via telephone conference; Community Development Specialist Deborah Teske; and Kathy Love, Love Cleaning, for this discussion. The Board reviewed and discussed the Agreement For Janitorial Services between Lander County and Love Cleaning, as presented by Ms. Teske. Commissioner Sparks moved to renew the contract between Lander County and Love Cleaning for janitorial services for the Lander County Courthouse/Annex, Second Street Annex Building (Commissioners) and the Cooperative Extension Office. Seconded by Commissioner Schmidt, the motion was voted and carried unanimously. **Approved.**
- 10) **Discuss & Approve/Disapprove Contract Between Research & Consulting Services, Inc. (RCS) & Lander County For Update Of Lander County Water Resources Plan & Lander County Master Plan:** Let the record reflect the presence of Austin, via telephone conference, and Community Development Specialist Deborah Teske for this discussion. The Board reviewed and discussed the Agreement between Lander County and Research and Consulting Services, Inc., in an amount not to exceed

\$53,500.00, as presented by Ms. Teske. Deputy District Attorney William Schaeffer addressed his concerns that the proposed contract didn't contain a termination procedure. Commissioner Sparks moved to approve the contract, based on changes advised by legal, for Research and Consulting Services, Inc. (RCS) and Lander County for an update of the Lander County Water Resources Plan and the Lander County Master Plan. Seconded by Commissioner Williams, the motion was voted and carried unanimously. **Approved.**

Austin resident **Ray Salisbury** appeared before the Board via telephone conference to address his concerns regarding section 3.3 of the proposed agreement.

EXECUTIVE DIRECTOR

- 11) **Discussion & Possible Action Regarding Request For Qualifications (RFQ) For County Engineering Services:** Let the record reflect the presence of Austin via telephone conference. Executive Director Gene Etcheverry provided the following update to the Board:

- τ A RFQ for engineering services for LC is presented for consideration;
- τ The RFQ is necessary for substantiation of selection of a "County Engineer of Record";
- τ Pursuant to NRS 625, the selection process for engineering services for any public works project with a value exceeding \$35,000.00 shall be based upon competence & qualifications;
- τ Projects funded through federal programs require that engineering services for each project & for general county oversight be procured through a documented selection process;
- τ This federal requirement was implemented by passage of the Brooks Act (1972) & is codified throughout the applicable titles within the Code of Federal Regulations (CFR);
- τ A 1988 Engineering Services Agreement is in place between LC & Shaw Engineering to provide on-call & project-specific engineering to the County;
- τ This agreement has been recognized in the past as satisfying the "County Engineer of Record" status, but no information has been found to document the selection process through which Shaw Engineering became the County Engineer.

The Board reviewed and discussed a RFQ for Engineering Services, as presented by Mr. Etcheverry. The Board directed staff to publish the Request for Qualifications in selected newspapers throughout the state and empanel a five-member review committee, to include Commissioners Stienmetz and Williams, to review the submittals and provide a recommendation to the Commission at the second regular Commission meeting in September. Let the record reflect that this matter was discussion and direction only. **No Action - Discussion/Direction Only.**

DISTRICT ATTORNEY

- 12) **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 that this matter was deferred to a future Commission meeting per request of the District Attorney's Office. **Deferred.**

COMMUNITY DEVELOPMENT

- 13) **Discussion & Possible Action To Declare Various Items Surplus:** Let the record reflect the presence of Austin, via telephone conference, and Community Development Specialist Deborah Teske for this discussion. The Board reviewed and discussed a July 9, 2009 memorandum from the Community Development Department requesting five items be declared surplus, as presented by Ms. Teske. Ms. Teske updated the Board regarding the surplus sale scheduled for Saturday, August 15, 2009. Commissioner Williams noted for the record that he has a box of old adding machines, typewriters and a fax machine from the Austin Courthouse to include in the surplus sale. Commissioner Stienmetz moved to declare the items on the July 9, 2009 memo and Ray's box of adding machines, etc. as surplus items of County property. Seconded by Commissioner Sparks, the motion was voted and carried unanimously. **Approved.**

BOARD APPOINTMENTS

- 14) **Discuss & Approve/Disapprove Appointments To 2009-2010 Advisory Board, Categories 1, 2, 3, & 4; & Other Matters Properly Relating Thereto:** Let the record reflect the presence of Austin via telephone conference. The Board reviewed and discussed four letters requesting appointment to the various 2009-2010 Advisory Boards, presented by Executive Director Gene Etcheverry, as follows:

Sarah Burkhart - requesting reappointment to the Lander Economic Development Authority;
Shar Peterson - requesting reappointment to the Lander Economic Development Authority;
Bobby W. Hooper - requesting reappointment to the BM Livestock Events Center Advisory Board;
Jodi Moore - requesting reappointment to the BM Livestock Events Center Advisory Board.

Commissioner Sparks moved to approve the submitted letters to continue service on the appropriate boards. Seconded by Commissioner Stienmetz, the motion was voted and carried unanimously. **Appointments Approved.**

COMMISSIONERS

- 15) **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 updated the Board regarding ongoing problems with the Battle Mountain and Austin Ambulance Services; and noted that an EMT course is scheduled to commence in Battle Mountain after Labor Day. Deputy District Attorney William Schaeffer noted that SERC tentatively agreed to give Lander County the LEPC grant minus 5% for submitting the application late. **No Action - Update Only.**

Economic Development: Executive Director Gene Etcheverry provided the following update to the Board:

"We haven't heard in over two weeks from Ahern Tool Rentals. I don't know, between myself and Sarah Burkhart, how many contacts we've had with Liberty Enterprises. We'll have a grant acceptance for LEDA at their upcoming special meeting, which will then come before the Commission. We got \$50,000.00, as requested, for LEDA operations for the upcoming year."

No Action - Update Only.

Public Lands: Executive Director Gene Etcheverry presented testimony regarding various issues associated with the Central Nevada Regional Water Authority. **No Action - Update Only.**

Water/Sewer Projects: Executive Director Gene Etcheverry provided the following update to the Board:

- τ The public hearing on LC's water rates is scheduled today at 1:30 p.m.;
- τ The Executive Director's Office is following up on monitoring wells at the BMWT facility;
- τ The new restroom facility was completed recently at Elquist Park.

No Action - Update Only.

Street/Road Projects: Commissioner Sparks presented testimony in favor of changing the hours of operation at the Battle Mountain landfill from 6-4 to 8-6 as a convenience to the public. There was general discussion regarding the need for all landfill refuse to be covered before dark. Commissioner Sparks presented testimony in favor of implementing summer and winter hours at the landfill. Mr. Etcheverry offered to research this issue further. There was general discussion regarding the following issues: **a)** the current condition of Muleshoe Road; **b)** the agreement between Lander

Page 18

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

Meeting of July 9, 2009

County and Newmont Mining Corporation for maintenance of Muleshoe Canyon Road; **c)** the need for the Road & Bridge Department to install cattle guards in the Mule Canyon area; and, **d)** funds currently available in the budget for road projects in Lander County. **No Action - Update Only.**

Culture & Recreation: Executive Director Gene Etcheverry provided the following update to the Board:

"We've got bathrooms in Elquist Park now; hopefully we'll have power soon. We're working on an alternative to our courtyard we've maintained outside the pool bathrooms for ten years. People don't even know there's public restrooms at the south side of the pool building. We have a fairly large rodeo in town this weekend. Between Road & Bridge and our Livestock Events Center Committee, we've got a lot of progress done at the rodeo grounds."

No Action - Update Only.

Legislative Issues & Bills/BDRs: Executive Director Gene Etcheverry updated the Board regarding various legislative issues of interest to Lander County. **No Action - Update Only.**

Contracts: The Board reviewed and discussed a July 9, 2009 memorandum from the Finance Director regarding the status of the County's contracts, as presented by Executive Director Gene Etcheverry. **No Action - Update Only.**

PUBLIC HEARING

- 16) **Public Hearing & Approve/Disapprove Increase To Water User Rates For Battle Mountain Water System:** Chairman Chuck Chapin called the public hearing to order. Let the record reflect the presence of Austin, via telephone conference; Steve Brigman, Shaw Engineering; and Dora Wren, Shaw Engineering for this discussion. Mr. Brigman presented the following overview concerning the Battle Mountain Phase 2 Water Project to the Board:

BM WATER & SEWER PHASE 2 WATER PROJECT ARSENIC MITIGATION

- I. **Background Information**
- # Federal Government mandates that drinking water contain no more than 10 parts per billion (ppb) of constituent arsenic. The BM Water System drinking water currently contains approximately 24 ppb. NDEP requires the BM Water System to be in compliance by January 2011 with the federal mandate.
 - # The recommended project to bring the water system into compliance includes 2 new wells, 29,900 lf of transmission main & a new 1 million gallon steel water storage tank.
 - # Estimated total project cost - \$7,638,590.

- II. Project Funding
 - # LC CCP Funding - \$2,250,000
 - # LC Excess 1/4 Percent Tax - \$1,100,000
 - # US Army Corp of Engineers Grant - \$1,300,000
 - # Estimated Available Funding - \$4,650,000
 - # Balance to be Financed (Loan/Grant) - \$2,988,590
- III. Financing Options
 - # USDA/AB 198 Grant-Loan Combination
 - # USDA Loan
 - # Self Funded
- IV. Financing Comparisons
- V. Water Rate Comparisons
 - # Self Funded
 - # AB 198 Requirement
- VI. Water Rate Increase - 2009-2015
 - # Self Funded
 - # AB 198 Requirement

There was general discussion regarding the following issues: **a)** the benefits of self-funding the arsenic mitigation project through the general fund; **b)** the pros and cons of imposing some type of system obligation or stand-by fee for the water system; and, **c)** the possibility of expanding the water/sewer service area south, southwest and southeast of town. The Board directed staff to proceed with the self-funding option and to write a letter to AB 198 declining their grant/loan offer. Commissioner Sparks moved to adjourn from the public hearing. Seconded by Commissioner Williams, the motion was voted and carried unanimously. **Public Hearing Adjourned.**

COMMISSIONERS

- 17) **Discuss & Approve/Disapprove Contract Between Lander County & H.E. Hunewill Construction, Inc. For Lander County RTC 2009 Road Rehabilitation Projects:** Let the record reflect the presence of Austin, via telephone conference, and Steve Brigman, Shaw Engineering, for this discussion. The Board reviewed and discussed the Agreement between Lander County and H.E. Hunewill Construction, Inc., in the amount of \$433,133.50, for the Lander County RTC 2009 Road Rehabilitation projects, as presented by Executive Director Gene Etcheverry. Deputy District Attorney William Schaeffer noted the following for the record:

"I can't approve the agreement because all I have is an incomplete version, which isn't filled in with dollar amounts. You can approve it in principle and I'll look it over."

Mr. Etcheverry updated the Board regarding the various streets/roads included in the scope of work for the project. Mr. Brigman noted that the project is due to commence the end of this month or the beginning of next month. Commissioner Stienmetz moved

to approve the contract between Lander County and H.E. Hunewill Construction, Inc. for the Lander County RTC 2009 Road Rehabilitation project in principle, until approved by the District Attorney. Seconded by Commissioner Sparks, the motion was voted and carried unanimously. **Approved.**

- 18) **Discussion & Possible Action Regarding Ratification Of Contract For Maintenance & Service For Austin Television Translators & Equipment By Norm Powell, Valley TV & Communications:** Let the record reflect the presence of Austin via telephone conference. The Board reviewed and discussed the Contract for Maintenance Service for Austin television translators and equipment by Norm Powell, Valley TV & Communications, as presented by Executive Director Gene Etcheverry. Mr. Etcheverry updated the Board regarding a possible modification needed in the proposed contract regarding the per trip charge. Commissioner Williams moved to approve the contract with the changes to \$450.00 per trip amount; authorize the Executive Director to certify it to Norm for his signature; and authorize the Chair to sign. Seconded by Commissioner Schmidt, the motion was voted and carried unanimously. **Approved.**
- 19) **Presentation By Various Legislators Regarding Outcome Of 2009 Nevada State Legislative Sessions:** Let the record reflect that this matter was deferred to a future Commission meeting. **Deferred.**

ADJOURNMENT

There being no further business before the Board at this time, Commissioner Schmidt moved to adjourn the meeting of July 9, 2009. Seconded by Commissioner Stienmetz, 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.

