

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 September 10, 2009 at 9:00 A.M.

**PRESENT: CHUCK CHAPIN, 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**

ABSENT: BRYAN SPARKS, COMMISSIONER

Chairman Chuck Chapin called the meeting to order.

Let the record reflect the presence of a quorum of four 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. **Approved.**

APPROVAL & ACCEPTANCE OF MINUTES

Regular Session Of August 13, 2009

Commissioner Stienmetz moved to approve the minutes of the Regular Session of August 13, 2009, as presented. Seconded by Commissioner Schmidt, the motion was voted and carried. **Approved.**

Regular Session Of August 27, 2009

Commissioner Stienmetz moved to approve the minutes of the Regular Session of August 27, 2009, as presented. Seconded by Commissioner Schmidt, the motion was voted and carried. **Approved.**

CORRESPONDENCE

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

STEVEN WILLIAMS, US FOREST SERVICE/TONOPAH RANGER DISTRICT, to INTERESTED PARTY, regarding land available for geothermal leasing.

ROBERT D. WILLIAMS, NV FISH & WILDLIFE OFFICE, to INTERESTED PARTY, regarding scientific review of northern leopard frog to determine whether to propose adding species in 19 states west of the Mississippi River & Great Lakes to federal list of threatened & endangered species.

REPORTS

The Board reviewed the following reports, which are retained in the Clerk's Office:

LANDER COUNTY CLERK - Monies Collected - July 2009.
LANDER COUNTY CLERK - Monies Collected - August 2009.
AUSTIN JUSTICE OF THE PEACE - Monies Collected - July 2009.
ARGENTA JUSTICE COURT - Fines & Forfeits - July 2009.
ARGENTA JUSTICE COURT - Fines & Forfeits - August 2009.
LANDER COUNTY TREASURER - Technology Fees - July 2009.
LANDER COUNTY RECORDER - Fees Collected - July 1-31, 2009.
LANDER COUNTY RECORDER - Technology Fee Annual Report - July 1, 2008 - June 30, 2009.

COMMISSIONER REPORTS

Commissioner Stienmetz updated the Board regarding a Tri-County Commission meeting he attended recently on behalf of Lander County.

Commissioner Schmidt made the following comment for the record:

"I got a call last night-concerns over the mountain of dirt from the airport project. They dumped it by the motocross. I went out to look at it last night; it's actually a pretty good pile right next to the freeway. His concern was that it was going to blow dust across the freeway."

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

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"That was done with myself and a representative from the motocross organization. Apparently there's crossed wires between folks in the motocross organization. During our break I'll go out to the airport and see where the dumping is taking place. Two different people asserted themselves in the process and the contractor is confused as to where we want the dumping to take place. Placement along the fence is going to be groomed so that it will perform as a barrier for some of the low transient dust during the motocross event and provide for a visual barrier for parking and activities. It also gives motocross some material they can use for their track."

Commissioner Schmidt updated the Board regarding a Nevada Works meeting he plans to attend in the near future on behalf of Lander County.

Commissioner Williams updated the Board regarding a Kingston Homeowners meeting he attended recently; and requested a copy of the court order that created the Kingston Town Board.

Commissioner Williams made the following comment for the record:

"At the last meeting we were presented a copy of the environmental assessment on the Underwood Allotment transfer and reallocation. I spent a lot of time going through this. Lander County filed in the past objections to BLM's water right request on that allotment. I thought it was important to read through this and make up some comments. I e-mailed you all a copy of my comments and also info'd our District Attorney. I never got a response back. The deadline on the comment period is tomorrow. I made up some comments and I'm going to submit 'em under my own name. I think when these things come up in our correspondence, we really need to look at them. I don't think we spend enough time looking at our correspondence as a whole."

STAFF REPORTS

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

"At 10:00 o'clock tomorrow is a meeting with the Austin District Ranger of the US Forest Service on our protest/comments with the US Forest Service Travel Plan. Some of our basic planks in our platform against it are: RS 2477, which the US Forest Service is failing to recognize; the adequacy of the maps used in the scoping process; and the non-inclusion of some fairly important entities in the scoping process."

PAYMENT OF THE BILLS

Commissioner Stienmetz moved to approve payment of the bills, check numbers 30455 through 30548 in the amount of \$121,188.62. Seconded by Commissioner Schmidt, the motion was voted and carried with Commissioners Chapin, Schmidt and Williams voting "AYE" and with Commissioner Stienmetz abstaining from the vote on check number 30532 payable to Donna Stienmetz in the amount of \$356.60. **Approved.**

Debbie Slade - Per Diem/Travel Expenses - EMS Conference

Commissioner Stienmetz moved to approve payment to Debbie Slade, in the amount of \$167.20, for per diem/travel expenses to attend an EMS Conference in Elko. Seconded by Commissioner Schmidt, the motion was voted and carried. **Approved.**

Shealene French - Per Diem/Travel Expenses - EMS Conference

Commissioner Stienmetz moved to approve payment to Shealene French, in the amount of \$167.20, for per diem/travel expenses to attend an EMS Conference in Elko. Seconded by Commissioner Schmidt, the motion was voted and carried. **Approved.**

Dennis Lowe - Per Diem/Travel Expenses - EMS Conference

Commissioner Stienmetz moved to approve payment to Dennis Lowe, in the amount of \$265.10, for per diem/travel expenses to attend an EMS Conference in Elko. Seconded by Commissioner Schmidt, the motion was voted and carried. **Approved.**

Guy Rock - Per Diem/Travel Expenses - EMS Conference

Commissioner Stienmetz moved to approve payment to Guy Rock, in the amount of \$265.10, for per diem/travel expenses to attend an EMS Conference in Elko. Seconded by Commissioner Schmidt, the motion was voted and carried. **Approved.**

Amanda Rock - Per Diem/Travel Expenses - EMS Conference

Commissioner Stienmetz moved to approve payment to Amanda Rock, in the amount of \$265.10, for per diem/travel expenses to attend an EMS Conference in Elko. Seconded by Commissioner Schmidt, the motion was voted and carried. **Approved.**

Bank Of America - Sheriff's Office Credit Card

Commissioner Stienmetz moved to approve payment to Bank of America, in the amount of \$181.31, for various purchases made on the Sheriff's Office credit card. Seconded by Commissioner Williams, the motion was voted and carried. **Approved.**

PAYROLL CHANGE REQUESTS

There were no payroll change requests submitted for approval.

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:

"Greens fees were up \$1,373.00 compared to last year and down \$131.00 from last month. Trail fees were up \$185.00 compared to last year and up \$155.00 compared to last month. I've reviewed costs for August and see no areas of concern. Auditors will be here the week of the 21st to start field work. FY 08-09 is now officially closed."

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

"Between our Finance Director and myself we've got a system in place to control and review costs. It's working really well. It's added another level of review. With Rogene looking at these first, we have the budgetary and financial control. When it comes to me I can see what's behind the expenditure, what the need is, if it's out of the ordinary, etc."

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

PUBLIC HEARINGS

- 2) **Public Hearing & Approve/Disapprove Ordinance No. 2009-07, An Ordinance To Adopt & Update The Latest Uniform Building Codes; & Other Matters Properly Relating Thereto:** Chairman Chuck Chapin called the public hearing to order. Let the record reflect the presence of Austin, via telephone conference, and Building Official Joe Lindsey for this discussion. The Board reviewed and discussed proposed Ordinance No. 2009-07, an ordinance to adopt and update the latest uniform building codes, as presented by Deputy District Attorney William Schaeffer. Mr. Lindsey presented testimony in favor of the proposed ordinance. Commissioner Schmidt moved to approve and adopt Ordinance No. LC 2009-07, an ordinance to adopt and update the latest uniform building codes. Seconded by Commissioner Stienmetz, the motion was voted and carried. **Ordinance Approved.**
- 3) **Public Hearing & Approve/Disapprove Ordinance No. 2009-08, An Ordinance To Modify The Duties & Powers Of The Executive Director; & Other Matters Properly Relating Thereto:** Chairman Chuck Chapin called the public hearing to order. Let the record reflect the presence of Austin via telephone conference. The Board reviewed and discussed proposed 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 Schmidt moved to approve and adopt Ordinance No. LC

2009-08, an ordinance to modify the duties and powers of the Executive Director. Seconded by Commissioner Stienmetz, the motion was voted and carried. **Ordinance Approved.**

- 4) **Public Hearing & Approve/Disapprove Ordinance No. 2009-09, An Ordinance To Eliminate The Office Of Public Works Director & Redistribute The Powers & Duties Thereof To One Or More Supervisors; & Other Matters Properly Relating Thereto:** Chairman Chuck Chapin called the public hearing to order. Let the record reflect the presence of Austin via telephone conference. The Board reviewed and discussed proposed 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 Executive Director Gene Etcheverry. Commissioner Schmidt moved to adopt Ordinance No. LC 2009-09, an ordinance to eliminate the office of Public Works Director and redistribute the powers and duties thereof to one or more supervisors. Seconded by Commissioner Williams, the motion was voted and carried. **Ordinance Approved.**
- 5) **Public Hearing & Approve/Disapprove Ordinance No. 2009-10, An Ordinance To Clarify The Duties, Authority & Chain Of Command Of The Building Inspector; & Other Matters Properly Relating Thereto:** Chairman Chuck Chapin called the public hearing to order. Let the record reflect the presence of Austin, via telephone conference, and Building Official Joe Lindsey for this discussion. Commissioner Stienmetz made the following comment for the record:

"I have a problem with the way this ordinance is written. Basically it's making Gene the Building Inspector. It takes all power away from Joe for enforcement. I thought it was our intent to only change who Joe reported to, not his duties. This thing changes the duties. I think it needs to be rewritten so that the only thing changed is that the Building Official shall be appointed by the Executive Director, not the Board of County Commissioners. Other than that, all his duties should remain the same. I think it's written wrong."

Commissioner Williams made the following comment for the record:

"Anytime a department is going to make complaints or put us in a liable position, there has to be some kind of check and balance. If you're going to make a complaint outside the county to an individual that the DA is going to have to defend and it involves something legal I think that process has to go through a certain amount of screening."

The Board reviewed and discussed proposed Ordinance No. 2009-10, an ordinance to clarify the duties, authority and chain of command of the Building Inspector, as presented by Deputy District Attorney William Schaeffer. Mr. Schaeffer noted the following for the record:

"There had been complaints in regards to the Building Department over the years that you're all aware of. This will take away that enforcement. It puts a supervisory thing into Gene's lap or my lap, or whoever occupies our respective offices in the future. It changes enforcing to reporting. I'd like to try this. If you don't like it, it only takes about a month to switch it back - just a little over a month; about six weeks from the time you say you want it switched back. It's not like it has to be permanent. I'd like to try it; I'd like the added check and balance because there has been problems."

Mr. Lindsey made the following comment for the record:

"We have in our ordinance guidelines for the appeal process when someone gets a violation letter. That's outlined in my job description. I've been for almost five years writing violations letters to people. I have guidelines I have to follow; I follow those guidelines.

I think as far as zoning it'd be worth a try to see how that goes. As far as building, if I find a violation it's going to hold up people for a long time before it gets through the proper channels. Time is money to a contractor. I don't feel building issues should be included in this."

Commissioner Williams presented testimony in favor of the proposed ordinance. Commissioner Stienmetz presented testimony opposing the ordinance as proposed. Commissioner Williams moved to adopt proposed Ordinance No. LC 2009-10, an ordinance to clarify the duties, authority and chain of command of the Building Inspector, seconded by Commissioner Schmidt. There was general discussion regarding the estimated time frame for modifying the Building Inspector's job description. Commissioner Stienmetz made the following comment for the record:

"This is taking all the power away from the Building Inspector. It's making him a reporter. It's not clarifying anything. It takes him from enforcing to reporting. If he's got a code violation, he can't be a reporter. He's got to be able to tell that contractor *this is what you need to do to get it in line*. If he doesn't want to do it, he can shut him down. This will not let him do that!"

Let the record reflect that at this time the motion previously made by Commissioner Williams and seconded by Commissioner Schmidt was voted and carried with Commissioners Williams, Schmidt and Chapin voting "AYE" and with Commissioner Stienmetz voting "NAY". **Ordinance Approved.**

COMMISSIONERS

- 6) **Presentation By Scott Kessler, Ormat Geothermal With Possible Action Regarding Potential Economic & Environmental Impact In Lander County As Drill Sites Go To Production In Jersey, Buffalo & Grass Valleys:** Let the record reflect the presence of Austin, via telephone conference; Scott Kessler, Ormat Geothermal; and Jerry Annis, Lander County Public Land Use Advisory Planning Commission member, for this discussion. Mr. Kessler updated the Board regarding the status of Ormat's proposed geothermal drilling sites in Jersey, Buffalo and Grass Valleys. There

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was general discussion regarding the following issues: **a)** the potential economic/environmental impact to Lander County as the drill sites go to production; **b)** the number of employees needed to run a geothermal facility; **c)** the possibility of receiving some type of compensation from Ormat for repair and maintenance of county roads; **d)** Ormat's current bidding procedure for pad site construction; and, **e)** the process required to change permitting on Ormat's geothermal wells from exploration to ranch use. Let the record reflect that this matter was a presentation only, with no action taken. **No Action - Presentation Only.**

7) **Presentation By Tami Vetter, Nevadans Against Garbage (NAG) With Possible Action Regarding Proposed Junco Landfill:** Let the record reflect that this matter was deferred to a future Commission meeting. **Deferred.**

8) **Discuss & Approve/Disapprove Agreement Between Lander County & Department Of Army Represented By US Army Engineer, Sacramento District, For Funding Assistance For Battle Mountain Water Tank Project, Phase 2:** Let the record reflect the presence of Austin, via telephone conference, and Dora Wren, Shaw Engineering for this discussion. Executive Director Gene Etcheverry provided the following update to the Board:

- τ An agreement for funding assistance for the BM Water Tank Project is presented for consideration;
- τ As LC began exploring funding options for the Phase 2 Water Project, ACOE was contacted to discuss funding assistance through the Water Resources Development Act for FY 2009/2010;
- τ The new 1MG water storage tank including surveying, easements, land acquisition & environmental reviews was determined by ACOE to be eligible for funding;
- τ The estimated cost for the water tank project is \$1,889,000.00;
- τ ACOE approved the project for funding assistance & will reimburse LC \$1,416,750.00, 75% total cost for this portion of the project.

The Board reviewed and discussed the Agreement between Lander County and the Department of the Army, in the amount of \$1,416,750.00, as presented by Ms. Wren. Commissioner Stienmetz moved to approve the Agreement between Lander County and the Department of Army, represented by the US Army Engineer, Sacramento District, for funding assistance in the estimated maximum amount of \$1,416,750.00, for the Battle Mountain Water Tank, Phase 2; and authorize the Chair and Assistant DA to sign. Seconded by Commissioner Schmidt, the motion was voted and carried. **Approved.**

9) **Discussion & Possible Action Regarding Request By Sage Homes, Inc./Reese River Ranches To Place Sign At Hwy 50/SR 305 Junction:** Let the record reflect the presence of Austin via telephone conference. Executive Director Gene Etcheverry updated the Board regarding this matter, as follows:

"Petitioner Jan Morrison has withdrawn this agenda item. Just to clarify the minutes of the last public meeting - this is indeed county owned land. The maps show it's county land; however, there are mining claims on this piece of land. That's where we stand as of last week. According to the Assessor and her records, and the tax receiver and her records, this is county land."

Commissioner Williams made the following comment for the record:

"This is a patented mining claim; the name of it is the Sagebrush Mining Claim. It's real property. I just want to repute that it's county land; it's not county land. When we put a sign there, we had to get permission from the property owners. I got a map that shows where that claim goes and where the highway goes through the claim. It belongs to the Maestretti family."

Mr. Etcheverry disagreed with Commissioner Williams stating that the land in question belongs to the County. Austin resident **Jan Morrison** appeared before the Board via telephone conference to make the following comment for the record:

"I have permission from the Maestretti's for the sign. What do I need to do as far as the County is concerned? Our understanding was that it wasn't on County land. We want to do whatever is right, but we need to get that sign up. We're in the middle of getting the sign prepared right now, so obviously we want it permitted and done right. We've also filed an application with NDOT on it."

Commissioner Schmidt moved to allow Sage Homes Inc./Reese River Ranches to place a sign at Highway 50/SR 305 junction, with the restriction that she get the proper permitting. Seconded by Commissioner Stienmetz, the motion was voted and carried. **Approved.**

EXECUTIVE DIRECTOR

- 10) **Discussion & Possible Action Regarding Current Management Services & Request For Proposal (RFP) To Provide Management Services For Mountain View Golf Course:** Let the record reflect the presence of Austin via telephone conference. Executive Director Gene Etcheverry provided the following update to the Board:

"The actual RFP is still in draft format. There are a couple of items that need clarification before we actually publish. The current management services arrangement with Tee's Management will expire under notice given to the Commission October 12, 2009. The recognized end of the golf season under that agreement is the end of November. There's going to be a period of approximately 43 days from October 13th through November 30th that Mountain View Golf Course will be without a management service. Therefore, since it doesn't have a management service in place, it will have to be closed. That will reduce revenue for the year and reduce use of a public facility.

My recommendation is to seek, on an emergency basis, proposals from interested parties for an interim agreement to operate the course. I'd like to get the draft Request For Proposal published prior to the meeting of September 24th. I know it's hard to go ahead without having a draft before you, but basically it's a

Request For Proposal. Alternative 1 is what we've done in the past, proposal for a management services agreement that covers operational aspects of the course; and Alternative 2 is a standard lease option where they propose to us how they propose to run that course, over what period of time; that would come back to the Commission to entertain proposals."

The Board directed staff to advertise the RFP for golf course management services before the September 24th Commission meeting. Let the record reflect that this matter was discussion and direction only. **No Action - Discussion/Direction Only.**

11) **Discussion & Possible Action Regarding Repayment To Scott & Leesa Marine For Annual Fees & Cart Storage Fees At Mountain View Golf Course:** Let the record reflect the presence of Austin, via telephone conference; Tammy Sample, Tee's Management Service; and Battle Mountain residents Scott and Leesa Marine for this discussion. Executive Director Gene Etcheverry updated the Board regarding this matter, as follows:

- τ A request by Scott & Leesa Marine for a refund of annual fees paid for play & cart storage at the Mountain View Golf Course is presented for consideration;
- τ The Marines are subject to a 'Notice of Trespass' served upon them August 21, 2009 banning them for entering the premises of Mountain View Golf Course;
- τ The "Notice of Trespass" was originated by Mountain View Golf Course Manager Tammy Sample for apparent disruptive activity which occurred at the golf course Thursday evening, August 20, 2009;
- τ The Marines have been precluded from the enjoyment of 102 days of golf, (August 21, 2009 through November 30, 2009), covered under the annual fees for course access & cart storage.

Commissioner Chapin questioned the legality of the Notice of Trespass served on the Marines. Deputy District Attorney William Schaeffer responded as follows:

"The purpose of a Notice of Trespass is served by this type of thing. It's true she's not the owner, but she is the manager. Arguably it's legal. The other side of it is she's not technically the owner, but normally in case law the lease holder or manager of any premises is treated as the owner for purposes of no trespass. I would've thought in most instances simply ejecting somebody for the day would take care of any problem. Just based on what I've heard, which isn't the entire story, seemed to me overkill. But, that's not my call."

Ms. Sample read the following statement into the record:

"I'd like to be given an opportunity to justify the reasons for my actions on this agenda item. I'm not here to argue, fight or slander anyone. If at all possible, I'd like to be able to give you my reasons with no interruptions. If you have any questions for me, please ask when I'm through.

Scott and Leesa Marine have been served with no trespass orders by the Lander County Sheriff's Department on my behalf. I believe I had reasonable cause to do so. The reason Mr. Marine was instructed to leave the premises is because he broke the rules as posted at the Mountain View Golf Course. The reason Mrs. Marine was instructed to leave the premises is because she demanded property from the

Mountain View Golf Course. According to my contract #0253722 in Section 2, sub-section C, I must provide and maintain a clean, golfer friendly atmosphere. On August 20, 2009, Mr. Marine came to the Mountain View Golf Course and did not sign in and brought outside beverages onto the course (please see attachment A). The rules are posted twice at the Mountain View Golf Course (please see attachment B, rule #8). At which time I sent my employee out on the course to ask Mr. Marine to please take his beverages back to his vehicle and sign in. When my employee came back he informed me that Mr. Marine told him to leave or ELSE! I believed that was a threat to my employee and went to the Lander County Sheriff's Department to ask for advice on how to handle uncooperative customers. The Sheriff's Department explained to me that I could ask them to leave and sign a No Trespass Order. Deputy Mike Johnson and Deputy Gary Campbell came to the golf course and explained to Mr. Marine, Mrs. Marine and Mr. Greenhalgh that I was asking them to leave the premises. Mrs. Marine told the deputies that I have no right to kick them off the course, only out of the clubhouse. The deputies then left and went to get a ruling. The deputies returned to the golf course and informed me that they got a ruling from the district attorney and also Mr. Etcheverry, the County Executive. The deputies told me that I had every right to ask them to leave the premises and sign the No Trespassing Order according to the ruling they received. The No Trespass Order was not served until August 21, 2009.

Mrs. Marine came into the clubhouse on the night of August 19, 2009 demanding property. I told her she could not have it and suggested she take me to court or call the Sheriff's Department, but she was not allowed to take the property. She did call the Sheriff's Department. Deputy Gary Campbell and Deputy Mike Rangel responded. The deputies informed Mrs. Marine that she could not have the property; that it was a civil matter; and she would have to take matters in a different path. They also told her she needed to leave, at which time she left.

Mr. Greenhalgh was also asked to leave the night of August 20, 2009. Mr. Greenhalgh spoke with Mr. Etcheverry. I also spoke with Mr. Etcheverry. Mr. Greenhalgh called me on the morning of August 21, 2009. Mr. Greenhalgh apologized for breaking the rules and told me it would never happen again. Mr. Greenhalgh was never served with a No Trespass Order and to this day continues to golf at the Mountain View Golf Course.

This has been an ongoing problem with the Marine's since the cancellation of a match play tournament. The Marine's were given a couple different opportunities to correct the problem and continue play at the Mountain View Golf Course. It is my understanding that the Marine's believe they have done nothing wrong. How can I provide a safe, clean, golfer friendly atmosphere if I cannot enforce the rules set forth by Lander County? Furthermore, it has been brought to my attention that this was a pre-meditated plan to purposely break the rules because it was believed that the Management Service could not enforce the rules. It was an act of vengefulness against myself personally and the Management Service. In closing, I would like to add that this was a very hard decision on my part. I do not like having to ask them to leave and truly wished that we could have come to an agreement. I do have a job to do and believe that I have justly fulfilled my duties as the management service for the Mountain View Golf Course. I do believe that a refund of monies paid to the county should not be refunded."

Mr. Etcheverry made the following comment for the record:

"I want to clarify one thing. Yes, I was contacted Thursday, August 20th as this was unfolding at the golf course. Yes, one of our Sergeants was given information by me that Tammy had the authority under her contract to *remove persons from both the course and the clubhouse if they were not following rules*'. I did not know of any Notice of Trespass, which is a step above removal, until the next morning on Friday the 21st. I just want to make that real clear."

Mr. Marine made the following comment for the record:

"When we were out there, Josh came out and was disturbing play. He was slapping the ball around and we couldn't play at that point. We asked him to leave. I teed up my ball; he slapped it off the tee. He was intoxicated - it was obvious. People have forgot to sign-in before. It's not the first time. Beverages have been out there. The Owl Club's catered. Mama's Pizza has delivered. She's brought the Nevada Club out there for breakfast; and we get the No Trespassing clause on that basis - for not signing in? The match play was wrong, yes. When you work in the mine you have a problem getting together at the same time to play. We weren't behind on our match play when she took it away."

Ms. Marine noted the following for the record:

"I'd like to clarify that when she said that the whole thing stemmed with the Marines on canceling the match play - I wasn't included in the match play; I wasn't involved in the match play; I wasn't signed up for the match play. I would like her to rescind saying that 'cause it was my husband that was in the match play, not I. I'm not apologizing - I didn't do anything wrong. I wasn't out there when the rules were broken."

Ms. Sample responded to Ms. Marine's comments, as follows:

"The rules were broken; they're in plain sight. They were given an opportunity to come back to the club house, put their beverages in their vehicle and sign in; it would've been over with."

Mr. Schaeffer made the following comment for the record:

"It does no good to go over what has occurred. The question is what to do now. I'd like to limit it to what to do now; that would be my suggestion. If management is willing to pull the no trespass order, I think that would handle it. It would be nice if management also agreed that prior to putting any no trespass orders in the future, specific clearance would come from the Executive Director."

Ms. Sample responded to Mr. Schaeffer's comment, as follows:

"I don't feel comfortable lifting the no trespass order if they don't believe the rules were broken. If they don't believe they've done it, how can you rescind something? What's going to happen tomorrow? What's going to happen next week?"

Mr. Etcheverry made the following comment for the record:

"Tammy, that's why you're the manager of the course. It's up to you to enforce the rules and function at a certain level. To go 0-60 on one person and not the other; I don't see that as a good management technique and what I call above the green line for golfers. You and I talked earlier the day of August 20th and I talked with the deputies that evening. I wasn't born at night, nor was it last night. We discussed about removal of people from the club house and course - not banning people.

My recommendation would be to lift the order of trespass under the agreement reached here from the discussions - that the Marine's can continue to golf and that the rules will be obeyed."

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Ms. Sample stated her opposition to allowing the Marine's back on the golf course until such time as she no longer provides management services for the golf course. Commissioner Stienmetz presented testimony in favor of allowing the Marine's back on the golf course after October 12, 2009, the date the current golf course management services arrangement will end per notice given by the contractor. Mr. Marine advised the Board that he and his wife will not be seeking any kind of reimbursement for annual fees or golf cart storage fees at this time. There was general consensus in favor of allowing the Marine's to resume play at the Mountain View Golf Course after October 12, 2009. Let the record reflect that this matter was discussion only, with no action taken. **No Action - Discussion Only.**

- 12) **Discussion & Possible Action Regarding Liquor License At Mountain View Golf Course:** Let the record reflect the presence of Austin, via telephone conference, and Tammy Sample, Tee's Management Service, for this discussion. Executive Director Gene Etcheverry provided the following update to the Board:

- τ The possibility of extending the liquor license for Tee's Management Service at the Mountain View Golf Course is presented for discussion;
- τ The quarterly liquor license will expire at midnight on September 30, 2009, leaving no license under which the contractor can sell or serve liquor from October 1, 2009 through October 12, 2009.

There was general consensus in favor of deferring this matter to the next Commission meeting so that a representative from the Sheriff's Office can be present to discuss this issue in greater detail. **Deferred.**

- 13) **Discuss & Approve/Disapprove Request By Battle Mountain Water & Sewer Department To Purchase Watson-Marlow Model 520U Rem Pump:** Let the record reflect the presence of Austin, via telephone conference, and Karen Morgan, Assistant to Public Works, for this discussion. Executive Director Gene Etcheverry updated the Board regarding this matter, as follows:

- τ A request from the BM Water & Sewer Department to purchase 2 Watson-Marlow Model 520U Rem Pumps is presented for consideration;
- τ The pumps will replace two pumps for chlorine distribution at the BMWWTF;
- τ One of the pumps at the BMWWTF has failed completely.

The Board reviewed and discussed an estimate from Ward Technical Products, Inc., in the amount of \$13,530.00, for two Rem Pumps and hardware to replace the pumps at the Battle Mountain Wastewater Treatment Facility, as presented by Mr. Etcheverry. There was general consensus in favor of using the currently functioning pump as a backup for emergency situations. Commissioner Stienmetz moved to approve the

replacement of two Watson-Marlow Model 520U Rem Pumps, at a cost of \$13,530.00, for the Battle Mountain Wastewater Treatment Facility. Seconded by Commissioner Schmidt, the motion was voted and carried. **Approved.**

- 14) **Discuss & Approve/Disapprove Proposed Kingston Airport Special Zone - KR-A1 Ordinance:** Let the record reflect the presence of Austin, via telephone conference; Community Development Specialist Deborah Teske; and Kingston Town Board member June Manhire for this discussion. The Board reviewed and discussed the Kingston Airport Special Zone-KR-A1 draft ordinance, as presented by Ms. Teske. Ms. Teske noted the following for the record:

"It was reviewed at several meetings with the Kingston Town Board. The Planning Commission heard this item in Kingston on August 12th. We had no dispute over the ordinance and how it should be worded, so we'd like you to approve this to be added to our code book. The Town of Kingston could then petition the Planning Board to change that strip of land they have along their airstrip to this zoning and allow for hangars to be built there."

Deputy District Attorney William Schaeffer noted the following for the record:

"It's not in the proper beginning form; but that doesn't stop you from proposing it. I can put the normal language that you have at the top of an ordinance."

Commissioner Schmidt moved to uphold the recommendation of Lander County Planning Commission and approve the proposed zoning ordinance; and hold a public hearing to adopt the ordinance at the October 8, 2009 meeting. Seconded by Commissioner Williams, the motion was voted and carried. **Ordinance Proposed.**

- 15) **Discuss & Approve/Disapprove Parcel Map For Newmont Mining Corp., 625 West Humboldt Street, Battle Mountain, APN 002-220-17, Splitting One Parcel Into Four Parcels:** Let the record reflect the presence of Austin, via telephone conference, and Community Development Specialist Deborah Teske for this discussion. Let the record further reflect that Commissioner Schmidt abstained from discussion of this agenda item. The Board reviewed and discussed the parcel map for Newmont Mining Corporation, 625 West Humboldt Street, Battle Mountain, APN 002-220-17, splitting one parcel into four parcels, as presented by Ms. Teske. Commissioner Stienmetz moved to sign the Mylar parcel map that the Lander County Planning Commission provided at the meeting. Seconded by Commissioner Williams, the motion was voted and carried with Commissioners Williams, Chapin and Stienmetz voting "AYE" and with Commissioner Schmidt abstaining from the vote. **Parcel Map Approved.**

YUCCA MOUNTAIN REPOSITORY PROGRAM

- 16) **Yucca Mountain General Program Update:** Let the record reflect the presence of Austin, via telephone conference; DOE Consultant Rex Massey; and Community Development Specialist Deborah Teske for this discussion. Mr. Massey presented the following Yucca Mountain Project Update to the Board:

YUCCA MOUNTAIN PROJECT UPDATE

- I. **Budget Status**
 - FY 2010 - \$198m Administration's Request
 - FY 2011 - Unknown
- II. **Alternatives To Yucca Mountain**
 - Blue Ribbon Commission to review alternatives for Yucca Mountain. Panel has not been formed.
 - Nuclear Waste Policy Amendments Act has not been changed.
- III. **Licensing Activities**
 - Lander, Churchill, Mineral & Esmeralda Counties adopted 15 contentions filed by other parties.
 - Pre-Hearing Conference scheduled for September 14 & 15 in LV.
 - All parties remain actively engaged in licensing proceedings.
- IV. **LC Oversight Program**
 - Completed cumulative survey results.
 - Attended June NWTRB meeting in LV.
 - Work continues on Baseline Report Update for 2009.
 - Continuing to track progress on licensing activities.
 - Continuing to monitor legislative changes to program.
 - 2010-2011 Work Plan to focus on licensing activities.

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

- 17) **Discussion & Possible Action Regarding FY 10 Yucca Mountain Work Plan:** Let the record reflect the presence of Austin, via telephone conference; DOE Consultant Rex Massey; and Community Development Specialist Deborah Teske for this discussion. Mr. Massey presented the following Lander County FY 2009-2010 Yucca Mountain Summary of Proposed Activities Program Plan to the Board:

LANDER COUNTY FY 2009-2010
YUCCA MOUNTAIN SUMMARY OF PROPOSED ACTIVITIES & PROGRAM PLAN

- I. **Program Management & Administration**
 - BM Office
 - Administrative Assistant
- II. **Program Oversight Activities**
 - Attendance at program related meetings.
 - Obtaining public information & assessing potential impacts.
 - Provide periodic status reports.
- III. **Public Information**
 - Public tours.
 - Periodic newsletters.
 - Public workshops.

- Operation & maintenance of local information library.
 - Publication of newspaper articles & press releases.
 - Tours of nuclear power facilities.
 - Attendance at Yucca Mountain project related meetings.
 - Public information survey.
 - Website update.
 - Status reports.
- IV. **Impact Assessment Activities**
- Geographic Information System (GIS) Capabilities
 - Transportation Activities
 - Community Survey
 - Baseline Report Update
- V. **Licensing & LSN Related Activities**

The Board reviewed and discussed the FY 2009-2010 preliminary budget for the Yucca Mountain Oversight & Impact Assessment Activities for Lander County, in an amount not to exceed \$360,000.00, as presented by Mr. Massey. Commissioner Stienmetz moved to accept and approve the Yucca Mountain Project Summary of Proposed Activities Plan for 2009-2010. Seconded by Commissioner Schmidt, the motion was voted and carried. **Approved.**

BUILDING

- 18) **Discussion & Possible Action Regarding Proposed Floodplain Management Ordinance; & Other Matters Properly Relating Thereto:** Let the record reflect the presence of Austin, via telephone conference; Building Inspector Joe Lindsey; and Ben Veach, Summit Engineering, for this discussion. The Board reviewed and discussed draft Ordinance No. 2009-11, an ordinance providing for flood plain management, as presented by Mr. Veach. Deputy District Attorney William Schaeffer noted the following for the record:

"The numbering is our ordinance following the current flood plain. I think I made one mistake; I don't think I did the strikeouts in the existing ordinance in this proposal. If you propose this, I'll get that in the version we get advertised."

Commissioner Stienmetz moved to approve the proposed flood plain management ordinance and set a schedule for no less than two public hearings, one in Austin and one in Battle Mountain, to discuss the draft ordinance. Seconded by Commissioner Schmidt, the motion was voted and carried. **Ordinance Proposed.**

DISTRICT ATTORNEY

- 19) **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 the presence of Austin, via telephone conference; District Attorney Hy Forgeron; and Kathy Ancho, K.V.A. Drug & Alcohol Testing, for this discussion. Executive Director Gene Etcheverry updated the Board regarding this matter, as follows:

"Before you is the decision on which direction we want to go with adoption of a drug/alcohol-free workplace policy. The draft policy has been before the Commission twice. It's the Commission's pleasure which way we go on the policy - if we stay the course, if we adopt the 6th District Court policy or if we adopt the policy drafted for us to implement the county-wide drug/alcohol testing procedures."

Deputy District Attorney William Schaeffer noted the following for the record:

"The three that were presented to you were: the 6th Judicial District; the one presented by Kathy Ancho; and a re-write I did of what Kathy did. That's where we left off."

Commissioner Williams addressed the following concern:

"We had this on our agenda 2-3 meetings ago. We had a packet about this thick which included comments from the bargaining units. We don't have it in this particular packet. If I read that correctly, those people were adamantly opposed to a lot of the restrictions presented in these drafts."

Mike Ayers, Operating Engineers Local Union No. 3 Business Representative, appeared before the Board to make the following comment for the record:

"Our position in negotiations wasn't against your drug policy. The bargaining committees didn't have a problem with it; they understand why you'd need that. They agreed with having a policy, just that an employee wouldn't be the testing facility. We were told that would be a conflict of interest and wouldn't happen. They put language in the contract that said they would talk to us about the policy once they have one. We agreed to that."

Mr. Forgeron made the following comment for the record:

"You're mixing the two things together when they probably shouldn't be. Your agenda properly sets out the order in which you should be acting - first considering a policy. The policy itself would be one that everyone agrees on; you have a requirement for a drug-free workplace and you have a means to enforce that goal by having random testing. The policy shouldn't be designed to designate who procedurally obtains and tests the samples, except in a general fashion. Once you have a policy, then you have the question of how to get it done. You probably need some kind of independent person, business or firm to accomplish that task for you. It sounds to me like the Union is concerned with a particular individual and/or county employee in general as being the initial collector. I was not privy to negotiations that took place, so I can't address those particular considerations. Once the County decides on the adoption of a policy, then it's time to meet the objections with respect to who's going to do it."

Having reviewed a lot of drug policies, personally I like the re-write Bill did. I think it might be a good idea if the Board indicated the particular policy or type of policy you're in favor of adopting at this point and refer it back to Local 3 for their comments on the specific policy before you actually adopt it. Their members are going to be affected by this. That might be appropriate for them to have input before you adopt the policy. When it comes right down to it, it's a cooperative effort between the County and the employees. It's the matter of efficient administration of the County's business on your behalf and a safe workplace for the employees. I guess that's kind of a round-a-bout way of saying it may not be a good idea to actually adopt a policy at this meeting, but maybe get your feelings on the ones that are out there and which way you're headed - to get some specific input on that language from Local 3 before you actually decide which way you want to go on the policy itself."

There was general discussion regarding the various drug/alcohol-free work place policies available for adoption; and general consensus in favor of deferring this matter to a future Commission meeting to allow time for review of the draft policies. **Deferred.**

- 20) **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.**

COMMISSIONERS

- 21) **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. 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 Executive Director Gene Etcheverry. Mr. Etcheverry recommended that the Board approve the contract without the provision for payment of indirect costs. Commissioner Stienmetz moved to approve the Interlocal Contract between Lander County and the Nevada State Health Division, Bureau of Community Health, for Community Health Nursing Services, without provision for payment of the indirect costs within the contract; and authorize the Chair to sign. Seconded by Commissioner Williams, the motion was voted and carried. **Approved.**
- 22) **Discussion & Possible Action Regarding Proposal To Move Regular Lander County Board Of Commissioners' Meeting From November 26th To November 23rd Due To Thanksgiving Day Holiday:** Let the record reflect the presence of Austin via telephone conference. Executive Director Gene Etcheverry updated the Board regarding the need to move the regular Lander County Board of Commissioners' meeting from November 26th to November 23rd due to the Thanksgiving Day holiday. Commissioner Stienmetz moved to change the regular Lander County Board of Commissioners' meeting date from November 26th to November 23rd due to the

Thanksgiving Day holiday. Seconded by Commissioner Schmidt, the motion was voted and carried. **Approved.**

- 23) **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 recent problems associated with the removal of dirt from the Battle Mountain Airport to the Battle Mountain Motocross Park. There was general discussion regarding the possibility of placing the remainder of dirt from the airport project in one of the county's open pits. Mr. Etcheverry updated the Board regarding the status of the Battle Mountain Airport Runway 12/30 project and the Austin Airport AWOS project. Battle Mountain resident **Jodie Price** appeared before the Board to address her concerns regarding the mountain of dirt being placed at the motocross park from the airport project. Commissioner Williams made the following comment for the record:

"Joe Dory said that he had an opportunity to receive a free 500 gallon convault fuel tank presently located at the Sierra Pacific substation in Austin. NVEnergy's cleaning their property, they don't use the tank anymore, and they'd like to give it to the Austin Airport. It's free for us to pick up. They'd need a county truck or something to haul it because it's around 12,000 pounds. This would give us an opportunity to have a fuel tank down there. If we had to move it later on, we could. I'd like Mr. Schaeffer to look over this very simple deed that they've made out."

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

"We're at the conclusion of a NEPA process with FAA. We'd better pass it by Abel. We can't place one down there right now."

There was general consensus in favor of asking the Austin Road and Bridge Department to pick up the fuel tank from NVEnergy and store it in their yard. Commissioner Williams requested a signature on the bill of sale. There was general consensus in favor of having the Executive Director sign the bill of sale for the fuel storage tank. **No Action - Update Only.**

Ambulance Service: Executive Director Gene Etcheverry updated the Board regarding the status of the Battle Mountain and Austin Ambulance Services. **No Action - Update Only.**

Economic Development: Executive Director Gene Etcheverry updated the Board regarding a Lander Economic Development Authority meeting he attended recently on behalf of Lander County. **No Action - Update Only.**

Public Lands: Executive Director Gene Etcheverry updated the Board regarding a US Forest Service meeting he plans to attend in the near future on behalf of Lander County. Mr. Etcheverry noted for the record that pursuant to a recent issue of the Reno Gazette Journal, State NDEP says there's nothing to worry about at the Antelope Valley dump site. **No Action - Update Only.**

Water/Sewer Projects: Executive Director Gene Etcheverry updated the Board regarding the status of the Battle Mountain Water Arsenic project and various issues at the Battle Mountain Wastewater Treatment Facility. There was general discussion regarding the status of the Austin Sewer Treatment Plant Relocation project. **No Action - Update Only.**

Street/Road Projects: Executive Director Gene Etcheverry updated the Board regarding the status of the Virginia/Water Street project in Austin. Commissioner Williams presented testimony regarding the outcome of his recent trip to Crescent Valley to view the Cortez by-pass road and Cortez Cemetery. Mr. Etcheverry updated the Board regarding the status of Battle Mountain's road projects. **No Action - Update Only.**

Culture & Recreation: Executive Director Gene Etcheverry updated the Board regarding ongoing conflicts between various soccer teams at the Battle Mountain Sports Complex. Mr. Etcheverry made the following comment for the record:

"I need to review the former agreement put in place between the County Commission and the LC Historical Society on the museum. If I remember the agreement right, we're not going to charge them for hook-up to water/sewer. We're going to provide the water/sewer, as in trenching, and provide the service to the facility. I think we're in it for utilities, as well. I need to review those agreements because they're ready for the water/sewer to be trenched in and hooked up. I'm fairly certain we're in for it 100%, but before we actually step forward I'll make sure that's the case."

No Action - Update Only.

Contracts: The Board reviewed and discussed a September 10, 2009 memorandum from Finance Director Rogene Hill concerning the County's past due contracts, as submitted. **No Action - Update Only.**

ADJOURNMENT

There being no further business before the Board at this time, Commissioner Schmidt moved to adjourn the meeting of September 10, 2009. Seconded by Commissioner Stienmetz, the motion was voted and carried. **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.

