

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 January 13, 2011 at 9:00 A.M.

**PRESENT: STEVEN STIENMETZ, COMMISSIONER
RAY H. WILLIAMS, JR., COMMISSIONER
DEAN BULLOCK, COMMISSIONER
BRIAN GARNER, COMMISSIONER
DAVID MASON, COMMISSIONER
SADIE SULLIVAN, COUNTY CLERK
JAMES BARNES, DEPUTY DISTRICT ATTORNEY
GENE P. ETCHEVERRY, EXECUTIVE DIRECTOR
ROGENE HILL, FINANCE DIRECTOR
DONNA J. BOHALL, DEPUTY CLERK**

ABSENT: SOVEIDA ROBINSON, HUMAN RESOURCE DIRECTOR

Chairman Steven Stienmetz called the meeting to order.

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

David Mason led the Pledge of Allegiance.

APPROVAL OF AGENDA NOTICE

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

APPROVAL & ACCEPTANCE OF MINUTES

Regular Session Of December 9, 2010

Commissioner Williams moved to approve the minutes of the Regular Session of December 9, 2010, as presented. Seconded by Commissioner Stienmetz, the motion was voted and carried unanimously. Approved.

Special Session Of December 15, 2010

Commissioner Williams moved to approve the minutes of the Special Session of December 15, 2010, as presented. Seconded by Commissioner Stienmetz, the motion

was voted and carried unanimously. **Approved.**

Special Session Of January 4, 2011

Commissioner Mason moved to approve the minutes of the Special Session of January 4, 2011, as presented. **Seconded by Commissioner Williams, the motion was voted and carried unanimously. Approved.**

CORRESPONDENCE

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

DOUGLAS W. FURTADO, BLM, to INTERESTED PUBLIC, regarding solicitation of public comments for Eagle Butte Wildlife Habitat Enhancement Project.

MICHAEL D. NEDD, BLM, to READER, regarding draft programmatic EIS for solar energy development.

MICHAEL TRUDEN, BLM, to INTERESTED PUBLIC, regarding environmental analysis process for Adelaide Mine Exploration project.

NDEP, Notice of Proposed Action, Water Pollution Control Permit NEV0091045, Baker Hughes Drilling Fluids.

MATTHEW DeBURLE, NDEP, to WADE POSTEN, ORMAT NV, INC., regarding permit to operate Jersey Valley Geothermal Complex.

STEVE WALMSLEY, DIVISION OF WATER RESOURCES, to VARIOUS ENTITIES, regarding extension of time for Jersey Hot Springs, Butcher Canyon, Cedar Canyon & Home Station Wash.

DOUGLAS FURTADO, BLM, to PERMITTEES/INTERESTED PUBLIC, regarding proposed decision for transfer of grazing preference & issuance of term grazing permit for Kingston, Wildcat Canyon & Trail Canyon Allotments.

JANINE HARTLEY, NDEP, to PUBLIC WORKS DIRECTOR, regarding modification of Permit NV0023167 for BM Wastewater Treatment Facility discharge to Reese River.

VALERIE KING, NDEP, to SIR/MADAM, regarding notification requirements associated with unauthorized sanitary sewer discharges.

NDEP Memorandum, Drinking Water & Clean Water Revolving Fund priority list.

REPORTS

There were no reports for the Board's review.

COMMISSIONER REPORTS

Commissioner Williams updated the Board regarding a NACO board meeting he attended recently via telephone conference on behalf of Lander County.

Commissioner Stienmetz updated the Board regarding a LEPC meeting he attended recently.

Commissioner Stienmetz made the following comment for the record:

"Deb Teske resigned. We need to look at the job duties/job skills needed so when we advertise that position we have the right stuff out. I won't be here next meeting, but I'd like it on the agenda for the first meeting of February."

STAFF REPORTS

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

- * Kudos to Clerk Sadie Sullivan & Bill Schaeffer for their assistance in getting the packets ready for today's meeting;
- * Mr. Walsh from WCA passed away last week - funeral services will be this weekend in the Salt Lake City area;
- * WCA faxed a 10th Circuit Court of Appeals ruling against certain wilderness groups to LC recently;
- * The State EMS Region 3 Coordinator's house recently burned down - basic essentials of life are needed;
- * Annual Financial Disclosure Reports are due January 15th;
- * The DA is requesting a special commission meeting next week.

PAYMENT OF THE BILLS

Commissioner Garner moved to approve payment of the bills, check numbers 35386 through 35516 in the amount of \$1,058,436.01. Seconded by Commissioner Bullock, the motion was voted and carried with Commissioners Williams, Bullock and Stienmetz voting "AYE" and with Commissioner Mason abstaining from the vote on check number 35450 payable to himself in the amount of \$90.00 and Commissioner Garner abstaining from the vote on check number 35391 payable to Atlas Towing & Recovery in the amount of \$16.00. **Approved.**

Commissioner Garner moved to ratify payment of the bills, check numbers 35258 through 35325 in the amount of \$367,015.60. Seconded by Commissioner Bullock, the motion was voted and carried with Commissioners Mason, Bullock and Stienmetz voting "AYE" and with Commissioner Williams abstaining from the vote on check number 35317 payable to Toiyabe Café, Inc. in the amount of \$149.90 and check number 35323 payable to himself in the amount of \$283.00, and Commissioner Garner abstaining from the vote on check number 35261 payable to Atlas Towing Service, Inc. in the amount of \$125.00. **Approved.**

Well Fargo Remittance Center - County Credit Card

Commissioner Garner moved to ratify payment to Wells Fargo Remittance Center, in the amount of \$624.44, for various purchases made on the County credit card. Seconded by Commissioner Williams, the motion was voted and carried unanimously. **Approved.**

BM Postmaster - Assessment Notices

Commissioner Garner moved to ratify payment to the Battle Mountain Postmaster, in the amount of \$1,104.69, for postage to mail out assessment notices. Seconded by Commissioner Williams, the motion was voted and carried unanimously. **Approved.**

Bank Of America - Sheriff's Office Credit Card

Commissioner Garner moved to ratify payment to Bank of America, in the amount of \$369.93, for various purchases made on the Sheriff's Office credit card. Seconded by Commissioner Williams, the motion was voted and carried unanimously. **Approved.**

PAYROLL CHANGE REQUESTS

There were no payroll change requests submitted for approval.

PUBLIC COMMENT

Battle Mountain Bugle reporter Heather Singer appeared before the Board to introduce Pam Victory, new Humboldt Sun reporter, to the Board.

FINANCE

- 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:

"Accounts receivables for November: water & sewer - \$20,288.00; ambulance - \$46,130.00; and, landfill - \$9,684.00, for a total accounts receivables of \$76,102.00. Accounts receivables for December: water & sewer - \$22,241.00; landfill - \$8,531.00; and ambulance - \$55,102.00, for a total accounts receivables of \$85,874.00. There were four collection agency accounts written off due to the six month rule totaling \$711.00. Current collections of agency account is \$8,922.00. I've reviewed December costs and find no areas of concern. On the next agenda we'll be doing a budget augmentation."

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

- 2) **Discussion & Possible Action Regarding Switching Cell Phone Provider From Alltel/AT&T To Verizon:** Let the record reflect the presence of Austin via telephone conference. Executive Director Gene Etcheverry updated the Board regarding this matter, as follows:

- * A proposal to switch LC's cell phone service provider from Alltel/AT&T to Verizon is presented for consideration;
- * The recent corporate purchase of Alltel by AT&T has affected LC in several ways;

- * The most notable impact is the requirement by AT&T to replace all current cell phones with new devices;
- * The service coverage area is not as expansive as the former service area under Alltel & the quality of service is not on the same level as prior to the AT&T buyout;
- * Switching service providers will necessitate replacement of cellular devices & in some cases result in changing cell phone numbers;
- * The change should result in a slight decrease in the cost of service & produce an improved level of service;
- * Verizon is a contracted provider of cellular communications to the State of NV;
- * LC can place a service agreement with Verizon as a joinder agreement under the master State Contract.

There was general discussion regarding the pros and cons of switching Lander County's cell phone provider from Alltel/AT&T to Verizon. Argenta Justice of the Peace **Max Bunch** appeared before the Board to make the following comment for the record:

"I have a County cell phone. I've talked to our representative at Alltel/AT&T and he told me that we're going to continue to have our Alltel phone until April. I'd urge you to look at this and make sure that's what you want. I want to make sure you understand that there's some of us that would like to see what the service is like first before it becomes mandatory to change."

The Board directed staff to continue to research this issue. Let the record reflect that this matter was discussion and direction only. **No Action - Discussion/Direction Only.**

- 3) **Discussion & Possible Action Regarding Write-Offs Of Uncollectible Lander County Ambulance Billings:** Let the record reflect the presence of Austin via telephone conference. The Board reviewed and discussed the following proposed ambulance billing write-offs as presented by Executive Director Gene Etcheverry:

Run #2008479: DOS 10/13/10 - amount to be written off - \$97.00 (uncollectible per policy).
Run #2008630: DOS 5/15/10 - amount to be written off - \$450.00 (unbillable).
Run #2008672: DOS 7/27/10 - amount to be written off - \$92.00 (uncollectible per policy).
Run #2008622: DOS 6/3/10 - amount to be written off - \$105.00 (uncollectible per policy).

Commissioner Garner moved to approve write-off of the following runs: #2008479, #2008630, #2008672 and #2008622, in the total amount of \$744.00. Seconded by Commissioner Mason, the motion was voted and carried unanimously. **Approved.**

- 4) **Discussion & Possible Action Regarding Direction By Lander County Commission For FY 2011-2012 Budget:** Let the record reflect the presence of Austin, via telephone conference; Argenta Justice of the Peace Max Bunch; and Assessor Lura Duvall for this discussion. Executive Director Gene Etcheverry updated the Board regarding the process used to develop Lander County's tentative and final budgets. Finance Director Rogene Hill noted the following for the record:

"Budget packets were sent out December 29th asking for submissions February 7th at 5:00 p.m. I asked everyone to keep their operating budgets the same as prior year, tweaking their lines if need be. We have labor negotiations this year; we also have an increase in PERS that will cause an increase to our budget. Salary and benefits are 65% of each department's total costs. Budget workshops will be held the middle of March. If you have any questions please stop by my office."

Commissioner Williams made the following comment for the record:

"I felt, since three new commissioners were coming on, that it would be better if we had some kind of briefing where Rogene could go through these items in advance. We've had excess money come into the County - I think it's a chance for all departments to look at where they're at to see if there isn't something we can fix while we still have money. If we don't get it into our budget we might not have it next year. I think we should look at our equipment - look at our inventories and move up."

There was general discussion regarding Lander County's status as a guaranteed county under the current sales tax distribution formula. Commissioner Mason made the following comment for the record:

"I feel this year is a refining year. The commissioners the last four years have done an excellent job in paying the bills and getting this County to a point of excellent efficiency. This is a good year for us to extend that. Let the departments look and see what they need to fix things. This is a year we can really be efficient and get ourselves up-to-speed. If there's anything lacking we can rebuild our resources."

There was general discussion regarding the possibility of budgeting for a new administrative building/court facility in Battle Mountain. The Board asked Justice of the Peace Bunch to assist in forming a committee to research the feasibility of constructing a new administrative building/court facility next to the public safety complex. Commissioner Williams presented testimony in favor of budgeting \$1 million to begin the process for the proposed project. Ms. Duvall made the following comment for the record:

"This has been hashed out in the past only we didn't have the funding mechanism. Sometimes things work out to our advantage because right now construction costs are down. If we were to go forward with something, now might be the time to look at it. We're going to see an incredible amount of money from net proceeds again this year. Now might be the time to look at some kind of green building."

Let the record reflect that this matter was discussion only. **No Action - Discussion Only.**

COMMISSIONERS

- 5) **Discussion & Possible Action Proposing Language & Approval Of Resolution In Support Of Eureka County's Bill Draft Resolution (BDR) 48-525, Requiring State Engineer To Allow City/County To Participate In Developing & Carrying Out Plan Or Conducting Study Relating To Appropriation Of Water For Beneficial Use Under Certain Circumstances:** Let the record reflect the presence of Austin via telephone conference. The Board reviewed and discussed draft Resolution No. 2011-2, presented by Executive Director Gene Etcheverry, as follows:

RESOLUTION NO. 2011-02
Of The Board Of Lander County Commissioners

A RESOLUTION IN SUPPORT OF BDR 48-525 TO REQUIRE THE STATE ENGINEER TO ALLOW LOCAL GOVERNMENTS TO PARTICIPATE IN STUDIES OR THE PREPARATION OF PLANS TO APPROPRIATE WATER FOR BENEFICIAL USE

WITHIN THEIR JURISDICTIONS

WHEREAS, Eureka County, our neighbor to the East, sought to participate in the hearings and studies surrounding the appropriation of water within their county; and

WHEREAS, the State Engineer refused to allow Eureka County to participate in such studies and planning despite acknowledging that the proposed appropriation would likely have a significant impact upon said County; and

WHEREAS, that decision essentially eliminates input from local governments and their citizens in respect to the appropriation of water within said local governments' respective jurisdictions; and

WHEREAS, economic prosperity and even survival depends upon the wise use of water; and

WHEREAS, the inability to even participate in decisions concerning the use of water within a local government's jurisdiction risks condemning that entity and region to desolation as the history of the Owens Valley in California clearly demonstrates; and

WHEREAS, such callous disregard for the legitimate concerns of local governments and their citizens by bureaucrats in either Carson City or Washington, D.C. effectively denies such governments and their citizens even the right to be heard in contravention of the whole spirit of the Declaration of Independence and the Bill of Rights and indeed in contravention of any ideal of a decentralized, representative republic; and

WHEREAS, adding a new section to chapter 532 of the Nevada Revised Statutes to require the State Engineer to allow the participation of local governments in studies and plans to appropriate water within the jurisdiction of the said local governments would cure this problem and restore a proper balance between the State bureaucracy and local governments and their citizens.

NOW, THEREFORE BE IT RESOLVED, that Lander County hereby supports and heartily recommends passage of BDR 48-525 as currently written so as to require the State Engineer to allow the participation of local governments in plans, studies and appropriation proceedings regarding water that is or may be used in or taken from the jurisdiction of said local governments.

Commissioner Williams requested that the resolution be changed to reflect the verbiage *SB 68* instead of *BDR 48-525*. Commissioner Williams moved to approve proposed Resolution LC 2011-02, a resolution supporting Eureka County's bill *SB 68*, requiring the State Engineer to allow a city/county to participate in developing and carrying out a plan or conducting a study relating to the appropriation of water for beneficial use under certain circumstances; and authorize the Chair to sign. Seconded by Commissioner Mason, the motion was voted and carried unanimously. Resolution Approved.

- 6) **Discuss & Approve/Disapprove Recently Updated Promulgation Of Emergency Operations Plan:** Let the record reflect the presence of Austin via telephone conference. Executive Director Gene Etcheverry provided the following update to the Board:

- * The recently updated promulgation of the LC Emergency Operations Plan is presented for consideration;
- * The Emergency Operations Plan is developed, implemented & managed through LEPC;
- * The plan is reviewed annually, updated as necessary & then submitted to SERC;
- * The Letter of Promulgation is the mechanism through which the LC Board of Commissioners recognize & implement the LC Emergency Operations Plan.

The Board reviewed and discussed the Lander County Emergency Operations Plan Letter of Promulgation, as presented by Mr. Etcheverry. Commissioner Mason moved to approve the promulgation of the Lander County Emergency Operations Plan, authorize the Chairman to sign the letter, and direct the responsible Lander County staff member to immediately transmit the documentation to the State Emergency Response Committee (SERC). Seconded by Commissioner Williams, the motion was voted and carried unanimously. Approved.

7) **Discussion & Possible Action Regarding Battle Mountain Flood Study & Proceeding Ahead With Battle Mountain Flood Levee Project:** Let the record reflect the presence of Austin, via telephone conference, and Ben Veach, Summit Engineering, for this discussion. Executive Director Gene Etcheverry updated the Board regarding this matter, as follows:

- * Overview/discussion of the BM Flood Study & possible decision to proceed w/levee project is presented for consideration;
- * The latest public hearing for the BM Flood Study was held December 15, 2010 at the BM Civic Center;
- * Approximately 70 citizens participated in the public hearing;
- * The Board heard comments from citizens, Summit Engineering, FEMA & USACE;
- * The purpose of the meeting was to inform the community of the findings of the BM Flood Study, educate attendees on the possible impacts of the FEMA DFIRM project & accept public comment/input on the project;
- * Comments/input given during the public hearing appeared to be in favor of proceeding with the levee project.

Mr. Etcheverry noted the following for the record:

"There are two other items that are absent from this agenda, both of them purposely. One - we still have a sum of money over our heads that Army Corps would like us to pay. That'll be on a future agenda. If we proceed, Summit Engineering is prepared to contract with us to continue the levee project."

Mr. Veach presented a brief overview of the Battle Mountain flood study; recommended proceeding with the levee project; and noted the following for the record:

"It's been eleven years since the County signed an agreement with the Corps of Engineers. We're on the verge of losing the Corps' support, which includes funding for 65% of the project. Since the Commission's decision to proceed in October, we've located a CLOMR that will assure the results of our work will reduce the insurance rates in the 'A' zones."

Mr. Veach presented testimony regarding the benefits of proceeding with the Battle Mountain flood levee project. There was general discussion regarding the proposed scope of work for various phases of the project. Commissioner Bullock moved to formally commit to proceeding ahead with the Battle Mountain Flood Levee project under the Project Cooperation Agreement in place between Lander County and the US Army Corps of Engineers. Seconded by Commissioner Williams, the motion was voted and carried unanimously. Approved.

EXECUTIVE DIRECTOR

8) **Discuss & Approve/Disapprove Memorandum Of Understanding Between Lander County & RPM Holdings Regarding Assessor Parcel Number 001-073-07, Also Referred To As "Austin Visitor Center Parcel", Stating That Any Remaining Portion Of Parcel 001-073-07 (Lots 11, 12, 13 & 14) Not Used For Visitor Center Project Be Deeded Back To RPM Holdings:** Let the record reflect the presence of Austin via telephone conference. Executive Director Gene Etcheverry provided the following update to the Board:

- * A MOU between LC & RPM Holdings regarding APN 001-073-07 (Austin Visitor Center Parcel), stating that any remaining portion of parcel not used for visitor center project be deeded back to RPM Holdings is presented for consideration;
- * To facilitate the legal conveyance & subsequent parcel split of the four lots, the entire parcel was deeded to LC by RPM Holdings;
- * The visitor center site will occupy lots 14, 13 & approximately ½ of lot 12, leaving the remaining ½ of lot 12 & lot 11 to be deeded back to RPM Holdings.

Commissioner Garner moved to approve the Memorandum of Understanding between Lander County and RPM Holdings regarding Assessor Parcel Numbers 001-073-07 and 001-073-11, also referred to as the Austin Visitor Center Parcel, stating that any remaining portion of parcels 001-073-07 and 001-073-11 not used for the visitor center project be deeded back to RPM Holdings immediately after completion of the Loneliest Highway Visitor Center project. Seconded by Commissioner Williams, the motion was voted and carried unanimously. **Approved.**

- 9) **Discuss & Approve/Disapprove State Permit On Existing Type 5 Approaches #1-MP LA-49, 78 Station "P"-785+04ft Of Centerline LA Co. Rd. #204 "Dry Creek Road"**: Let the record reflect the presence of Austin, via telephone conference, and Road and Bridge Foreman/South Bert Ramos for this discussion. Executive Director Gene Etcheverry updated the Board regarding this matter, as follows:

- * NDOT ROW Occupancy Permit for Dry Creek Road is presented for consideration;
- * Preliminary field review of US 50 from LA44.84 to EU12.29, an area scheduled for a highway construction project during the summer of 2011, revealed no right-of-way occupancy permit on file with NDOT;
- * Dry Creek Road is a LC road &, as with all approaches to a highway, a ROW Occupancy Permit is required;
- * Once the permit is in place, the highway approach will be improved as part of the NDOT construction contract at no cost to LC.

Commissioner Garner moved to approve the State of Nevada Transportation Right-of-Way Occupancy Permit for one existing type 5 approach, #1-MP LA-49, 78 station "P"-785+04ft of Centerline LA Co. Rd. #204 "Dry Creek Road". Seconded by Commissioner Bullock, the motion was voted and carried unanimously. **Approved.**

- 10) **Discuss & Approve/Disapprove Request That Lander County's Share Of Sales Tax (.056%) Be Waived For Antelope Valley Wind Turbine Project**: Let the record reflect the presence of Austin, via telephone conference; Antelope Valley resident Michael Farr; and Antelope Valley resident Robert Dailey for this item. Executive Director Gene Etcheverry provided the following update to the Board:

- * Request to waive LC's share of sales tax for Antelope Valley Wind Turbine project is presented for consideration;
- * NRS Chapter 372 provides for the collection of sales & use tax by the Department of Taxation;
- * Other NRS chapters provide for the collection of various components of local sales tax;
- * Counties don't have the option to waive collection of sales taxes collected on behalf of the county;
- * A November 22, 2010 letter from the Department of Taxation to Michael Farr states that wind turbines

purchased & installed for the purpose of generating electricity to power irrigation well pumps do not qualify for exemption from sales tax as farm machinery/equipment;

- * Exemption from sales tax of farm machinery/equipment is specifically provided for in NRS 372.281;
- * The Department of Taxation applies the provisions of NRS 372.281 to conclude that a wind turbine for generation of electricity is not farm-specific.

Mr. Etcheverry recommended that the Board direct staff to write a letter supporting Mr. Farr in petitioning the Nevada Tax Commission for exemption of electricity generating wind turbines used to power irrigation pumps from payment of sales tax under the provisions of NRS 372.281; and to pursue legislation for consideration by the 2011 Legislature to specifically enumerate electricity generating wind turbines used for powering irrigation pumps as farm machinery/equipment and exempting the same from the payment of sales taxes. There was general discussion regarding the pros and cons of classifying wind turbines as farm equipment/machinery and exempting them from sales tax. Mr. Dailey presented testimony regarding the Antelope Valley Wind Turbine project, a renewable energy project for farming families residing in Antelope Valley. Mr. Farr presented testimony regarding the net metering agreement for the wind turbine project. Commissioner Williams made the following comment for the record:

"Nevada's trying to diversify; we're going to this new industry - solar power, wind power. I don't know what we're trying to accomplish here - we're just defeating the whole process. It's a great idea - I understand that. But there should be a pay-off someplace. A hundred units at \$80,000.00 is a lot of money; a lot of sales tax. We should promote this because we'd like to have more sales tax come in. It bothers me when they say we're going to promote all this good stuff in Nevada and then we're going to give everybody a rebate."

Commissioner Mason moved to direct staff to write a letter, for the Chairman's signature, supporting Mr. Farr in petitioning the Nevada Tax Commission for an exemption of electricity generating wind turbines used only for powering irrigation pumps from the payment of sales tax under the provisions of Nevada Revised Statutes (NRS) 372.281 and to pursue legislation for consideration by the 2011 Nevada State Legislature to specifically enumerate electricity generating wind turbines used only for powering irrigation pumps as farm machinery and farm equipment and exempting the same from payment of sales taxes. Let the record reflect that the motion died for lack of a second.
No Action.

- 11) **Discussion & Acceptance Of Loneliest Highway Visitors Center Project, Amendment No. 1 To Agreement No. PR070-09-063, Federal Project No. STP-050-4(005), Project ID 73504:** Let the record reflect the presence of Austin via telephone conference. The Board reviewed and discussed Amendment No. 1 to Highway Agreement No. PR070-09-063 for the Austin Loneliest Highway Visitors Center project, as presented by Executive Director Gene Etcheverry. Commissioner Williams moved to accept and approve Amendment No. 1 to Agreement No. PR070-09-063, Project No. STP-050-4(005), Project ID 73504, Loneliest Highway Visitor Center Project; and authorize the Chairman to sign the amendment. **Seconded by Commissioner Garner, the motion was voted and carried unanimously. Amendment Approved.**

- 12) **Presentation & Brief Overview Of 2011-2016 Airport Capital Improvement Projects (ACIP) For Austin & Battle Mountain Airports:** Let the record reflect the presence of Austin, via telephone conference, and Lew Lott, J-U-B Engineers, for this discussion. The Board reviewed and discussed the revised FY 2011-2016 Airport Capital Improvement Plans for the Battle Mountain and Austin Airports, as presented by Mr. Lott. Mr. Lott presented a brief overview of the various projects scheduled for both airports. Let the record reflect that this matter was an overview only. **No Action - Overview Only.**
- 13) **Discuss & Approve/Disapprove Professional Services Agreement Between Lander County & J-U-B Engineers For Environmental & Design Services For 2011 Austin Airport Capital Improvement Project:** Let the record reflect the presence of Austin, via telephone conference, and Lew Lott, J-U-B Engineers, for this discussion. The Board reviewed and discussed the Professional Services Agreement between Lander County and J-U-B Engineers for environmental and design services for the 2011 Austin Airport Capital Improvement project, as presented by Mr. Lott. There was general discussion regarding the scope of work for the project. Commissioner Williams moved to approve the Professional Services Agreement between Lander County and J-U-B Engineers for environmental and design services for 2011 Austin Capital Improvement project. Seconded by Commissioner Bullock, the motion was voted and carried unanimously. **Approved.**
- 14) **Discuss & Approve/Disapprove Professional Services Agreement Between Lander County & J-U-B Engineers For Design Survey & Geotechnical Investigation For 2011 Battle Mountain Airport Capital Improvement Project:** Let the record reflect the presence of Austin, via telephone conference, and Lew Lott, J-U-B Engineers, for this discussion. The Board reviewed and discussed the Professional Services Agreement between Lander County and J-U-B Engineers for design survey and geotechnical investigation for the 2011 Battle Mountain Airport Capital Improvement project, as presented by Mr. Lott. There was general discussion regarding the scope of work for the project. Commissioner Bullock moved to approve the Professional Services Agreement between Lander County and J-U-B Engineers for design survey and geotechnical investigation for the 2011 Battle Mountain Airport Capital Improvement project. Seconded by Commissioner Williams, the motion was voted and carried unanimously. **Approved.**
- 15) **Discussion & Possible Action Regarding Ordinance To Modify Membership On Lander County Board Of Health, Lander County Code 2.20; & Other Matters Properly Relating Thereto:** Let the record reflect the presence of Austin via telephone conference. Executive Director Gene Etcheverry updated the Board regarding this matter, as follows:
- * Proposal of an ordinance to modify membership on the LC Board of Health is presented for consideration;
 - * LCC 2.20.020 cites the membership of the LC Board of Health as consisting of the following five members - 3 commissioners, the Sheriff & the County Health Officer;
 - * Since adoption of the code, the county commission membership expanded to five members;
 - * Three commissioners present on any board constitutes a quorum, a violation of the NV Open Meeting Law;
 - * The County Board of Health has not been empaneled in LC in recent years;

- * The County Health Officer position has been vacant since late August 2010 when the previously named Health Officer, Dr. Habib, relocated out of the community;
- * Duties of the Board of Health are to oversee sanitary conditions within LC & make rules/regulations necessary to prevent, suppress & control contagious or infectious disease dangerous to the public health;
- * The Board of Health has various powers to abate nuisances, quarantine & dis-infect.

The Board reviewed and discussed Lander County Code Chapter 2.20, Board of Health, as presented by Mr. Etcheverry. Mr. Etcheverry recommended that the Board propose an ordinance to amend Lander County Code 2.20.020 to modify the membership on the Lander County Board of Health to consist of five members to include two county commissioners, the Public Health Nurse, the Sheriff and the County Health Officer. Commissioner Williams presented testimony in favor of including all five commissioners on the Board of Health. Commissioner Garner moved to propose an ordinance to amend Lander County Code 2.20.020 to modify the membership of the Lander County Board of Health to consist of all commission members, the county sheriff and the county health officer. Seconded by Commissioner Williams, the motion was voted and carried unanimously. Approved.

ROAD & BRIDGE SOUTH

- 16) **Discussion & Possible Action Regarding Right-Of-Way (ROW) Grant Offer For Southern Portion Of Grass Valley Road:** Let the record reflect the presence of Austin, via telephone conference, and Road and Bridge Foreman/North Donnie Negro for this discussion. Executive Director Gene Etcheverry provided the following update to the Board:

- * ROW grant offer #N-88968 for the southern portion of Grass Valley Road is presented for consideration;
- * The grant offer is 22.2 miles in total length & limited to existing disturbance to a width of 60 feet;
- * The ROW is granted pursuant to the provisions of Title V of FLPMA & is in perpetuity;
- * The ROW grant was considered by the Board on 11/30/2010 (deferred) & 12/9/2010 (no action taken);
- * The ROW stipulations enumerated in Exhibit 'A' met with contention during both prior meetings.

The Board reviewed and discussed Right-of-Way grant #N-88968 for the southern portion of Grass Valley Road, as presented by Mr. Etcheverry. Mr. Etcheverry noted the following for the record:

"We can write correspondence to BLM to appropriately address this right-of-way. Prior to FLPMA of 1976, this road was in existence. It used to be State Highway 21 and remains County Road 127. Since it pre-dates FLPMA, there's no reason for BLM to give Lander County a right-of-way grant for this road. We already have this right-of-way under RS 2477. By being a grant of right-of-way under Title V, we're subject to all conditions/stipulations under exhibit 'A'. If we already have the road and right-of-way under RS 2477, then there's no basis for a right-of-way grant under FLPMA Title V."

Commissioner Williams stated his opposition to accepting the right-of-way grant offer from BLM for the southern portion of Grass Valley Road. Mr. Negro made the following comment for the record:

"This 2477 roads is a can of worms. When Ormat went into Jersey Valley, part of their permitting process was someone had to put in for a right-of-way on this road. BLM lists this as a 299 road. They don't recognize our 2477 roads. This is something that has to come to a head. I don't know that just standing back and saying no is the thing to do. I think we need to have the District Attorney do more research on it for us. It's not just here in Lander County, it's all over the western US and Alaska."

Commissioner Williams moved to deny the Right-of-Way grant offer at this time. Seconded by Commissioner Garner, the motion was voted and carried unanimously. Disapproved.

PUBLIC WORKS

- 17) **Discussion, Update & Possible Action Regarding Battle Mountain Arsenic Project:** Let the record reflect the presence of Austin, via telephone conference; Steve Brigman, Shaw Engineering; Public Works Foreman Jacob Edgar; and Ralph Eaton, Legacy Construction, for this discussion. Mr. Brigman updated the Board regarding the status of the Battle Mountain Arsenic pipeline and tank projects. There was general discussion regarding the time line for completion of the project. Let the record reflect that this matter was an update only. No Action - Update Only.
- 18) **Discuss & Approve/Disapprove Change Order #2 For Legacy Construction & Development, Inc. For Battle Mountain Water & Sewer Phase 2 Water Project Arsenic Mitigation, Transmission Main & Water Wells:** Let the record reflect the presence of Austin, via telephone conference; Steve Brigman, Shaw Engineering; Public Works Foreman Jacob Edgar; and Ralph Eaton, Legacy Construction, for this discussion. The Board reviewed and discussed Change Order #2 for the Battle Mountain Water and Sewer Phase 2 Water Arsenic Mitigation project, in the amount of \$24,202.75, as presented by Mr. Brigman. Commissioner Garner moved to approve Change Order #2 for Legacy Construction and Development, Inc. for the Battle Mountain Water and Sewer Phase 2 Water Project Arsenic Mitigation, Transmission Main and Water Wells. Seconded by Commissioner Mason, the motion was voted and carried unanimously. Change Order Approved.

TREASURER

- 19) **Discussion & Possible Action Regarding Adjustment & Refund To Real Property Roll, APN 001-284-02:** Let the record reflect the presence of Austin, via telephone conference; Treasurer Grace Powrie; and Assessor Lura Duvall for this item. The Board reviewed and discussed a proposed real property roll adjustment/refund for Assessor's Parcel Number 001-284-02, in the total amount of \$1,760.26, as presented by Ms. Duvall and Ms. Powrie, respectively. Commissioner Garner moved to reimburse the 2009-2010 real property taxes on APN 001-284-02 in the amount of \$934.10 and reimburse the 2010-2011 real property taxes on APN 001-284-02 in the amount of \$826.16. Seconded by Commissioner Williams, the motion was voted and carried unanimously.

Reimbursements Approved.

SHERIFF

- 20) **Discuss & Approve/Disapprove Contract Between Lander County Sheriff's Office & Swanson Services Corp. For Inmate Commissary Services:** Let the record reflect the presence of Austin, via telephone conference, and Undersheriff Robert Quick for this discussion. The Board reviewed and discussed a Commissary Service Contract between Swanson Services Corporation and the Lander County Sheriff's Office for inmate commissary services, as presented by Undersheriff Quick. Undersheriff Quick recommended approval of the contract as presented. Commissioner Garner moved to approve a contract between Lander County Sheriff's Office and Swanson Services for inmate commissary services; and authorize the Sheriff to sign. Seconded by Commissioner Williams, the motion was voted and carried unanimously. **Approved.**
- 21) **Discuss & Ratify Cooperative Law Enforcement Agreement between Lander County Sheriff's Office & USDA, Forest Service, For Law Enforcement Services On National Forest Service Lands:** Let the record reflect the presence of Austin, via telephone conference, and Undersheriff Robert Quick for this discussion. The Board reviewed and discussed a fully executed Cooperative Law Enforcement Agreement between the Lander County Sheriff's Office and USDA, Forest Service, for law enforcement services on National Forest Service lands, as presented by Undersheriff Quick. Commissioner Williams moved to ratify the Law Enforcement Agreement between Lander County Sheriff's Office and USDA, Forest Service, for law enforcement services on National Forest Service lands, as presented. Seconded by Commissioner Mason, the motion was voted and carried unanimously. **Approved.**

BOARD APPOINTMENTS

- 22) **Discuss & Approve/Disapprove Appointments To 2010-2011 Advisory Boards, 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 three letters received requesting appointment to the various 2010-2011 Advisory Boards, presented by Executive Director Gene Etcheverry, as follows:

Scott Torgerson - requesting appointment to the LC Advisory Board to Manage Wildlife;
Marla J. Sam - requesting reappointment to the LC Board of Equalization;
David W. Ramsdell - requesting reappointment to the LC Debt Management Commission.

Commissioner Bullock moved to appoint Scott Torgerson to the Lander County Advisory Board to Manage Wildlife; reappoint Marla J. Sam to the Lander County Board of Equalization; and reappoint David W. Ramsdell to the Lander County Debt Management Commission. Seconded by Commissioner Williams, the motion was voted and carried unanimously. **Appointments Approved.**

23) **Discussion & Possible Action On Appointment Of Lander County Commissioner(s) To Different Advisory Boards, Categories 1, 2, 3 & 4:** Let the record reflect the presence of Austin via telephone conference. The Board reviewed and discussed the 2010-2011 Lander County Advisory Board Appointment list, as submitted. **Commissioner Bullock** volunteered to sit as the commissioner representative on the following boards: Lander County Debt Management Commission; Lander County Regional Transportation Commission - *alternate*; Lander County Planning Commission - *alternate*; Great Basin Development District Committee; Nevada Works; Humboldt River Basin Water Authority - *alternate*; DOE Board - *alternate*.

Commissioner Garner volunteered to sit as the commissioner representative on the following boards: Lander County Convention & Tourism Authority; Lander County Regional Transportation Commission; Lander Economic Development Authority; Lander County Advisory Resource Conservation & Development District - *alternate*; Local Emergency Planning Commission; Lander County Safety Committee.

Commissioner Stienmetz volunteered to sit as the commissioner representative on the following boards: Lander County Debt Management Commission - *alternate*; Lander County Convention & Tourism Authority - *alternate*; Lander County Public Lands Use Advisory Planning Commission - *alternate*; Nevada Works - *alternate*; Humboldt River Basin Water Authority; NACO Board - *alternate*; State Land Use Planning Advisory Committee; Lander County Hospital District.

Commissioner Mason volunteered to sit as the commissioner representative on the following boards: Lander County Board of Equalization; Lander County Planning Commission; Lander County Advisory Resource Conservation & Development District; State Land Use Planning Advisory Committee - *alternate*.

Commissioner Williams volunteered to sit as the commissioner representative on the following boards: Lander County Regional Transportation Commission; Lander County Public Lands Use Advisory Planning Commission; Lander County Public Lands Use Advisory Planning Commission; Central Nevada Regional Water Authority; NACO Board; DOE Board. Commissioner Williams offered to fill the vacant seat on the Austin Airport Advisory Board. Let the record reflect that this matter was discussion only. **No Action - Discussion Only.**

COMMISSIONERS

24) **Discussion & Possible Action Regarding Nevada Division Of Water Resources FY 2011-12 Budget For: A) Antelope Valley Groundwater Basin; B) Boulder Flat Groundwater Basin; C) Clovers Area Groundwater Basin; D) Crescent Valley Groundwater Basin; E) Humboldt River Distribution; F) Kingston Creek (Big Smoky Creek); G) Lower Reese River Groundwater Basin; H) Middle Reese River Valley Groundwater Basin; & I) Whirlwind Valley Groundwater Basin:** Let the record reflect

the presence of Austin via telephone conference. The Board reviewed and discussed the FY 2011-2012 budgets for the Antelope Valley Groundwater Basin, the Boulder Flat Groundwater Basin, the Clovers Area Groundwater Basin, the Crescent Valley Groundwater Basin, the Humboldt River Distribution, the Kingston Creek (Big Smoky Creek), the Lower Reese River Groundwater Basin, the Middle Reese River Valley Groundwater Basin, and the Whirlwind Valley Groundwater Basin, as presented by Executive Director Gene Etcheverry. Commissioner Garner moved to accept and approve the Nevada Division of Water Resources FY 2011-2012 budgets for the Antelope Valley Groundwater Basin, Boulder Flat Groundwater Basin, Clovers Area Groundwater Basin, Crescent Valley Groundwater Basin, Humboldt River Distribution, Kingston Creek (Big Smoky Creek), Lower Reese River Groundwater Basin, Middle Reese River Valley Groundwater Basin and Whirlwind Valley Groundwater Basin, seconded by Commissioner Bullock. Treasurer **Grace Powrie** appeared before the Board to make the following comment for the record:

"I'd like to table this if you would, please. The Assessor gets the list normally and this will go on the tax roll in July. We normally look at it together and I haven't seen any of the budgets. Normally 99% of them are okay, but there's a few that we can't contact. The State allows me to be the tool to collect taxes for the State. I'd like the chance to go through them and have them written off before we ever accept them. It'll save adjustments to the roll later in the year. It'll save time in my office and the Assessor's Office.

They used to go to the Clerk's Office and they used to give us a copy when they first walked in. In the past few years they've come in very staggered. Usually Lura and I get together and Soveida's always made a real good effort to try to get us copies together. I didn't see this on the agenda until we were sitting here today or I would have come over and got them."

Commissioner Garner withdrew his motion. Let the record reflect that this matter was deferred to a future commission meeting. **Deferred.**

- 25) **Discussion & Acceptance Of Appointment Of Karlene Andreola To Serve As Battle Mountain General Hospital Trustee, Hospital District Board, Seat B:** Let the record reflect the presence of Austin via telephone conference. **Phil Hannah**, Battle Mountain General Hospital CEO, appeared before the Board to request appointment of Karlene Andreola to serve as Battle Mountain General Hospital Trustee, Hospital District Board, Seat B. Executive Director Gene Etcheverry recommended that the Board honor the request of the Lander County Hospital District Board of Trustees for appointment of Karlene Andreola to fill vacant Seat B on the Hospital Board. Commissioner Williams so moved. Seconded by Commissioner Bullock, the motion was voted and carried unanimously. **Approved.**
- 26) **Discussion & Possible Action Regarding Lander County's Issues/Concerns To Be Addressed At The 2011 Legislative Session, Formulation & Appointment Of Members To Legislative Team:** Let the record reflect the presence of Austin via telephone conference. Executive Director Gene Etcheverry updated the Board regarding the need to formulate a 2011 Lander County Legislative Team; suggested that two commissioners, the Executive Director, the Assistant to the Commission, the Finance Director, the Treasurer, the Assessor and the Clerk serve on the legislative team; and

presented testimony regarding the need for the legislative team to meet weekly during the 2011 Legislative Session. There was general consensus in favor of appointing Deputy District Attorney Barnes to the 2011 Lander County Legislative Team. Commissioner Williams moved to formulate the 2011 Lander County Legislative Team and appoint membership. Seconded by Commissioner Bullock, the motion was voted and carried unanimously. **Approved.**

Commissioner Mason moved to appoint the Executive Director, the Assistant to the Commission, the Finance Director, the Treasurer, the Assessor, the Clerk, James Barnes (subject to District Attorney approval), Commissioner Williams and Commissioner Bullock to the 2011 Lander County Legislative Team. Seconded by Commissioner Williams, the motion was voted and carried unanimously. **Approved.**

27) **Discussion & Possible Action On The Following Projects/Services:**

Airport Projects: Let the record reflect that this matter was discussed previously under another agenda item. **No Update.**

Ambulance Service: Executive Director Gene Etcheverry updated the Board regarding ongoing challenges/issues with Lander County's ambulance services. Commissioner Stienmetz updated the Board regarding a first responder class scheduled at Dyno Nobel in late March or early April; and noted for the record that the class is open to all county employees. **No Action - Update Only.**

Economic Development: Executive Director Gene Etcheverry stated that no CDBG applications were received for this year's CDBG program. **No Action - Update Only.**

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

Street/Road Projects: Let the record reflect the presence of Road and Bridge Foreman/North Donnie Negro for this item. Mr. Negro updated the Board regarding the status of various street/road projects and issues affecting Battle Mountain. **No Action - Update Only.**

Water/Sewer Projects: Let the record reflect the presence of Public Works Foreman Jacob Edgar for this item. Mr. Edgar updated the Board regarding the status of various water/sewer projects and issues affecting Battle Mountain. **No Action - Update Only.**

Culture & Recreation: Let the record reflect the presence of Public Works Foreman Jacob Edgar and Treasurer Grace Powrie for this item. Mr. Edgar updated the Board regarding the status of various culture/recreation projects/issues affecting Battle Mountain. There was general discussion regarding the deteriorating condition of the Battle Mountain Cemetery fence. **No Action - Update Only.**

Contracts: Executive Director Gene Etcheverry updated the Board regarding the status

of various past due and upcoming County contracts. **No Action - Update Only.**

CLOSED LABOR SESSION PURSUANT TO NRS 288.220

- 28) **Closed Labor Session With Management Representatives To Receive Direction From Lander County Board Of Commissioners On Upcoming Labor Negotiations:** Commissioner Bullock moved to recess the meeting of the Board of Lander County Commissioners into Closed Session. Seconded by Commissioner Garner, the motion was voted and carried unanimously. Let the record reflect that no action was taken during the Closed Session.

Let the record further reflect that Commissioner Bullock moved to recess the Closed Session into Regular Session. Seconded by Commissioner Mason, the motion was voted and carried unanimously. **No Action.**

ADJOURNMENT

There being no further business before the Board at this time, Commissioner Garner moved to adjourn the meeting of January 13, 2011. Seconded by Commissioner Mason, 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.*