



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 19, 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
 SOVEIDA ROBINSON, HUMAN RESOURCES
 CATHY MYERS, DEPUTY CLERK

9:00 A.M.

Chairman, Steven Stienmetz, called the meeting to order.
Let the record reflect the presence of a quorum of five Commissioners.
Commissioner Stienmetz led the Pledge of Allegiance.
Let the record reflect the presence of Austin and Kingston via telephone conference.

APPROVAL OF AGENDA NOTICE

Chairman Stienmetz asked for a motion to approve the agenda notice. Commissioner Williams said so moved to approve. Seconded by Commissioner Bullock, the motion was voted and carried unanimously. **APPROVED**

APPROVAL & ACCEPTANCE OF MINUTES

September 8, 2011 Regular Session

The minutes for September 8, 2011 Regular Session were not ready for review at this time.

COMMISSIONER REPORTS

Commissioner Williams thanked those who called and sent cards during his illness. He said the Austin streets have finally been paved, but the Kingston roads are going to need more work because they found the base to be bad under the old road. Commissioner Williams said he has received some calls regarding the high speed internet in our area and thinks this issue should be put on the agenda to address the areas that are having problems. He feels the County



should be more proactive and get more reasonable costs for high speed internet for its citizens. Commissioner Williams said "Community Connect" had applied for a grant to provide reasonable pricing in Austin and Kingston, but he thought it should include Battle Mountain as well. Commissioner Williams said there are some boundary line and property disputes going on in Austin, and he was going to get with Mr. Etcheverry and Ms. Duvall to try to get these issues resolved. He said the Austin Water and Sewer Department was moving ahead with its Arsenic Project, and stated the test drill they did was not successful because of the levels of uranium. He informed the Board of a meeting on Thursday September 22, 2011 at 10:00 to discuss the environmental concerns with the proposed site.

Commissioner Mason said he attended the Planning Commission Meeting on September 14, 2011. He said the Lander County School District had been approved for their Wind Turbines. Six wind turbines were approved for the High School in Austin and three turbines were approved for the Lemaire School in Battle Mountain.

STAFF REPORTS

Executive Director, Gene Etcheverry, said there was a meeting on September 12, 2011 at 1:30 on the Austin Loneliest Highway Visitors Center Project. He said the 90% design is ready to be submitted to NDOT and the engineers estimate is \$110,000.00 over available construction funds through the grant. He said, also on September 12th they had the Austin Airport Fuel System Bids opened and the bids came in over two times more than the engineers estimate. He said they would have to scale down where they can on the Austin Loneliest Highway Visitor's Center. On the Austin Airport Fuel System there are certain environmental requirements that are in place today that weren't when the project was first started. He said it is being check into if the County will have to comply with those requirements and the project will have to be re-bid. Mr. Etcheverry reminded the Board that the NACO Conference was September 20-22, 2011. He said there was another round of Labor Negotiations on September 15, 2011 with the General Employees Bargaining Unit and it was unsuccessful. He said now they will have to go to Federal Mediation. Mr. Etcheverry said a Special Meeting needed to be scheduled for either September 28th or the 29th in order to go over the bid and possible awarding of bid for the Gold Creek Project and a closed session will also be conducted during that special session along with the payment of the bills. He said the Great Basin Water Forum for the Central Nevada Regional Water Authority will be in Ely, Nevada on October 14, 2011, and the Net Proceeds of Minerals Workshop is September 30, 2011 in Carson City.

PAYMENT OF BILLS

SNYDER MECHANICAL

Commissioner Garner moved to ratify check #38012 in the amount of \$2,629.55 to Snyder Mechanical. Seconded by Commissioner Bullock, the motion was voted and carried unanimously. **APPROVED**



HOLIDAY INN EXPRESS

Commissioner Garner moved to ratify check #38010 in the amount of \$357.04 to Holiday Inn Express. Seconded by Commissioner Bullock, the motion was voted and carried unanimously.

APPROVED

TINA MARIE BISIAUX

Commissioner Garner moved to ratify check #38009 in the amount of \$380.00 to Tina Marie Bisiaux. Seconded by Commissioner Bullock, the motion was voted and carried unanimously.

APPROVED

RENO GAZETTE - JOURNAL

Commissioner Garner moved to ratify check #38001 in the amount of \$974.22 to the Reno Gazette-Journal. Seconded by Commissioner Bullock, the motion was voted and carried unanimously. **APPROVED**

NACO

Commissioner Garner moved to ratify check #37993 in the amount of \$250.00 to NACO. Seconded by Commissioner Bullock, the motion was voted and carried unanimously.

APPROVED

Commissioner Garner moved to approve the submitted expenditures in the amount of \$1, 018,431.06 from check #38013 thru #38119. Seconded by Commissioner Bullock, the motion was voted and carried with Commissioner Garner abstaining from the vote on check #38016 and Commissioner Bullock abstaining from the vote on check #38058. **APPROVED**

PAYROLL CHANGE REQUESTS

1. Employee Change Request for employee number 1505, New Hire, Landfill Equipment Operator, \$16.10 per hour, effective September 14, 2011.
2. Employee Change Request for employee number 1542, Promotion, Office Manager, \$1,346.15 bi-weekly, effective September 12, 2011.
3. Employee Change Request for employee number 1547, New Hire, Relief Communications Officer, \$15.48 per hour, effective October 3, 2011.

Commissioner Garner asked if employee 1542 took the position of the employee that was relieved and if that employee had been deleted. Executive Director, Gene Etcheverry, said yes.

Commissioner Bullock moved to approve the payroll change requests as presented. Seconded by Commissioner Garner, the motion was voted and carried unanimously. **APPROVED**

PUBLIC COMMENT



There was no one available for public comment.

EXECUTIVE DIRECTOR

- 1) **Discussion For Possible Action Regarding Presentation By Doug Furtado, District Manager, Bureau Of Land Management (BLM), Mount Lewis Field Office, Regarding Various Public Lands Issues Including: Right-Of-Way; Roadways; & The McGinness Hills Geothermal Power Project; & Other Matters Properly Relating Thereto:** Doug Furtado, District Manager BLM Battle Mountain District, and Chris Cook, Field Manager of the Mt. Lewis Field Office, addressed the Board. Mr. Furtado said Mr. Cook replaced him as the Field Manager and would be coming before the Board in the future on all relative issues as it pertains to Public Lands in Lander County. Mr. Furtado said he wanted to provide some clarifications on some reoccurring issues associated with BLM's policies and their approach to 2477 assertions, particularly as it relates to proponents being permitted on public lands where it has been determined that they may affect County maintained roads. Mr. Furtado said he requested to be on the agenda because of a letter he received from the County Commissioners on August 12, 2011 regarding an agreement between Lander County and ORMAT for road maintenance associated with the roads on public lands in proximity of the McGinness Hills Project in Grass Valley. He said the BLM has no authority to require a proponent, in this case ORMAT, to engage the County or any third party in an agreement. He said as BLM permits these projects they apply conditions of approval, stipulations, terms and other conditions to the proponent, and in this case where it relates to road maintenance, the BLM is required to insure their activities do not cause damage or unsafe conditions on the roads. Mr. Furtado said the BLM is prohibited by its own moratorium to act on RS2477 assertions. He said Lander County, just like every other County in Nevada, have roads that they feel fall under RS2477. Although he is not in a position to recognize RS2477 roads, he has been working with other Counties to take interim steps to formalize and document the roads they have invested their resources and time, prior to the passage of FLPMA to this day, on maintaining. Mr. Furtado said several issues have come up that he feels he needs to provide clarification on. One being the agreement between ORMAT and Lander County for road maintenance for McGinness Hills. He said the BLM authorized and permitted the Power Plant at McGinness Hills and one of the conditions of approval on the permit was that ORMAT would be responsible for maintaining the part of the road that would be affected by their activities during the construction and the long term maintenance. He said even with the contract between Lander County and ORMAT, ORMAT will still be held responsible, by BLM, to insure that part of the road, within certain proximity of the Power Plant, is properly maintained during the life of the project. Mr. Furtado said there are options, one being the issuance of Title 5 FLPMA Rights-of-Way, and he encouraged contacting Lorinda Wichman or Joni Eastley in Nye County. He said the fear has been, if the County accepts a Title 5 FLPMA Right-of-Way, that it would affect the status of their RS2477 assertion. The Right-of-Way Grant, issued under FLPMA, says that the Right-of-



Way does not affect any prior existing valid right. So once they are able to recognize RS2477s then the Right-of-Way will be cancelled and RS2477 will be recognized on the master title plats and it will be a RS2477 road. Mr. Furtado strongly encouraged the County to consider supporting this concept. As it relates to permitting on public lands there is going to be a lot more of these issues. If the County had a Title 5 Right-of-Way on a road that was going to be impacted by a project, then Mr. Furtado could say the County is responsible not the third party. Then he can require the proponent to work with the County to make arrangements to get that done. Mr. Furtado said another option was a road maintenance agreement between the County and the BLM to where there was an agreement with the County to maintain the road. Then if a proponent came in he would have to say, if two miles of road under a road maintenance agreement is going to be affected then the proponent would have to work with the County to make arrangements before he can permit them. He said the other issue is liability, and Rights-of-Ways are all about liability. He said if he doesn't assign the affected part of the road to the company who would be using it, then the County is liable if there is an accident. The other issue is that proponents have come to the County to seek approval to construct facilities within the County Right-of-Way, assuming that is a RS2477 asserted Right-of-Way. He said if a Company comes to the County seeking approval to do construction or ground disturbing activities, within this perceived Right-of-Way, and they go out and do it without BLM approval then he has no choice but to hold them in trespass and that can be very costly to the company. Commissioner Bullock asked what happened afterward if the County gives a company a Right-of-Way and how they would get that back. Mr. Furtado said the County wouldn't have to give them a Right-of-Way, they could come to a third party agreement but the Company would still be responsible because there is no Right-of-Way. If the County applied for a Right-of-Way, a Title 5, then the Company would be required by the BLM to work with the County to operate and maintain that road. However, in the absence of that, it's just a road on public land with an asserted RS2477 and BLM has to treat it as if there is no RS2477. Mr. Furtado said two track and unmaintained roads would not be recognized as a RS2477 road. He said he didn't want to deny access to the public. Commissioner Williams said Mr. Furtado can't deny access and said he was way off base when he said he has some sort of authority over RS2477, but the law says he does not. The RS2477 road is there and it belongs to the people, the County just maintains it for them and the County is trying to protect the right for the people to come and go. Commissioner Garner said Fire Creek is a two track road that has been there for over 100 years and tractor trailers are going up and down this road. The Company using it wants to maintain it and bring it to a standard that is safe but BLM is telling them they can't. Commissioner Garner asked where the liability is going to be shifted when there is an accident. Mr. Furtado said they would come to the BLM because they have the money. Commissioner Williams said they would come to the County. Mr. Furtado said he would look into the permit on Fire Creek Road and make sure Klondex is maintaining it. Mr. Furtado explained an asserted road is when the County has been maintaining a road prior to FLPMA which repealed the 1866. Federal Case law says the Federal Agency



(BLM) has to recognize RS2477s and until it is recognized it is considered as an assertion! Mr. Etcheverry said he sees a perfect opportunity to incorporate all the roads right now and RS2477 Rights-of-Way as part of the Land Use Plan the BLM is currently working on! Mr. Furtado said he was going to ask the other Counties he works with to provide the Road Maintenance Plans to BLM and in the Land Use Plan he will identify all those roads as historical roads that are maintained by the County. Commissioner Garner asked why the County needed to provide everything to the BLM and why the BLM doesn't provide the County with a map of all their asserted roads. Mr. Furtado said he doesn't have any asserted roads. He stated some of the authorities the BLM has for roads on public lands! Mr. Etcheverry said they have someone working on getting all the County Roads on GPS and printed media. Commissioner Williams said the County has request cooperative agency status on the BLM's RMP Plan and it has been agenized twice. Mr. Etcheverry said it was agenized again for October 13, 2011. **NO ACTION – DISCUSSION ONLY**

FINANCE

- 2) **Discussion For Possible Action Regarding Budget Review & Update & Other Matters Properly Relating Thereto:** Gene Etcheverry, Executive Director, said Rogene Hill, Finance Director, was still trying to prepare for the onsite portion of the County audit! He said there has been no new information on how the budget is going since the last meeting. Mr. Etcheverry said they should have a close out report for the last Fiscal Year by the end of September. **NO ACTION - UPDATE ONLY**

COMMISSIONERS

- 3) **Discussion For Possible Action Regarding Interlocal Contract Between Lander County & The Nevada Department Of Health & Human Services Health Division, In An Amount Not To Exceed \$12,516.00 Per State Fiscal Year (SFY), For Environmental Health Services & Other Matters Properly Relating Thereto:** Executive Director, Gene Etcheverry, said this is the item that was on the last agenda, but it is now agenized correctly. It is the Environmental Services Contract so the State can do their inspections of the County's vendors.

Commissioner Garner moved to approve the Interlocal Contract between Lander County and the Nevada Department of Health and Human Services Health Division, in an amount not to exceed \$12,516.00 per State Fiscal Year (SFY), for Environmental Health Service. Seconded by Commissioner Bullock.

Commissioner Williams said as a business person they also have to pay various permits for these inspections. Every few years, when they increase fees, a notice is sent out on how it will impact the business. He said he understands, as a business, why they have to pay that fee, but not why the County had to pay the additional fee.



The motion was voted and carried unanimously. **APPROVED**

- 4) **Discussion For Possible Action Regarding Update By Kimberly A. Wolf, Regional Permitting Specialist, Barrick, On The Progress Of The Construction Of Approximately 4.5 miles of CR225 Near Cortez Mine & Other Matters Properly Relating Thereto:** Kimberly Wolf of Barrick Mine, presented the Board with an update on the relocation of 4.5 miles of County Road 222 near the Cortez Mine in Crescent Valley. Ms. Wolf said the hand out said they were 50% complete but they are actually 75% complete. Ms. Wolf said the road should be completed by the end of October. She did say there is a maintenance agreement with Lander County and they maintain about 16.5 miles of 225 as it leaves State Route 306 into the Canyon and out into Grass Valley. She said there was one additional item they needed to permit through the BLM and that was a fence along the section of 225. Ms. Wolf said they worked with NDOT to permit a fence from Crescent Valley South to the Pipeline Mine because of cow-vehicle interactions. Jay Wintle asked what Barrick was planning to do with the State Highway once it leaves were the new road has taken off. Ms. Wolf said NDOT is relinquishing that to Barrick! Mr. Wintle asked if he would maintain the Right-of-Way that he has on a section of that road, and Ms. Wolf said that he would. **UPDATE ONLY – NO ACTION**
- 5) **Discussion For Possible Action Regarding Ambulance Report By Tammy Dimitroff & Other Matters Properly Relating Thereto:** Let the record reflect Tammy Dimitroff was not available for this item. Executive Director, Gene Etcheverry, said she did provide the Ambulance report and he reviewed the report with the Board. He said there was a \$50,140.00 Revenue Loss and there were 136 Ambulance runs between January and September of 2011. Commissioner Garner said the \$50,140.00, with the current MOU at the Hospital, would be paid for out of the County's tax dollars. Mr. Etcheverry said they are now. Commissioner Garner said it would be an additional \$50,000 that would be paid under the current MOU, the way it is written now. **UPDATE ONLY – NO ACTION**

EXECUTIVE DIRECTOR

- 6) **Discussion For Possible Action Regarding Ratification Of Grant Agreement Between Lander County & The US Department Of Transportation, Federal Aviation Administration (FAA), For The Austin Airport Rehabilitate: Runway 18-36; Connector Taxiway & Tie-Down Apron Project, FAA AIP Project No. 3-32-0026-13 & Other Matters Properly Relating Thereto:** Gene Etcheverry, Executive Director, said this was the Grant Agreement for the Austin Airport Project. He said it was signed accepted to meet the FFA deadline and the contractor has been given a notice to proceed. Mr. Etcheverry said he is still waiting for a letter from Mr. Tapia to give notice to proceed on the Battle Mountain Project.

Commissioner Garner moved for the Commission to ratify the acceptance and execute the Grant Agreement between Lander County and the US Department of



Transportation, Federal Aviation Administration (FAA), for the Austin Airport Rehabilitate: Runway 18-36; Connector Taxiways and Tie-down Apron Project. FAA AIP Project No. 3-32-0026-13, in the total obligated amount of \$126,970.00. Seconded by Commissioner Williams, the motion was voted and carried unanimously. **APPROVED**

Mr. Etcheverry said he wanted to make one clarification statement that the \$126,970.00 is the Grant amount and that Lander County's 5% equates to approximately \$6,300.00 and it is budgeted.

CLERK

- 7) **Discussion For Possible Action Regarding The Canvass Of Votes For The September 13, 2011 Special Election:** Sadie Sullivan, Lander County Clerk, presented the canvass of the voted and explained how it is broke down by precincts and the totals that were voted: She said this is done each time there is an election for approval so it can be submitted to the State.

Commissioner Garner moved for the Commission to approve the canvass of votes for the September 13, 2011 Special Election. Seconded by Commissioner Bullock, the motion was voted and carried unanimously. **APPROVED**

PLANNING COMMISSION

- 8) **Discussion For Possible Action Regarding Zone Change Request For Jay Wintle, T32N, R44E, Sec 25, Battle Mountain, APN #011-110-08, To Change 164.89 Of The R-3 Zoning To: 48.74 Acres Of C-1 Zoning; 16.40 Of C-2 Zoning; & 99.75 acres Of A-1 Zoning; & Other Matters Properly Relating Thereto:** Gina Little, Community Services Office, addressed the Board and said this request had been brought before the Planning Commission and had been recommended to be brought before the Board of Commissioners for approval. Commissioner Garner asked if this zone changes came with plans. Mr. Wintle said it is just a zone change for possible future development. Commissioner Garner asked if the C-1 was on the 305. Mr. Wintle said yes and it is 275 feet deep.

Commissioner Garner moved for the Commission to uphold the recommendation of the Lander County Planning Commission and approve the zone change request for Jay Wintle, T32N, R44E, Sec 25, Battle Mountain, APN #011-110-08, to change 164.89 of the 295 acres from R-3 zoning to; 48.74 acres of C-1 zoning; 16.40 acres of C-2 zoning; and 99.75 acres of A-1 zoning. Seconded by Commissioner Mason, the motion was voted and carried unanimously. **APPROVED**

SHERIFF



- 9) Discussion For Possible Action Regarding Renewal Of Master Service Agreement Between Securus Technologies & The Lander County Sheriff's Office For Inmate Telephone Services & Other Matters Properly Related Thereto: Robert Quick of the Lander County Sheriff's Office, said this is a renewal of the contract and they have renegotiated their percentage for commission on this as well as additional features that are now available. He said the commission was increased by 12% on the phone calls. Mr. Quick said some of the additional features include call tracing and inmate voice messaging if they choose. He said they are also incorporating the phone system into the commissary program so inmates can purchase phone time through the commissary system instead of making collect calls.

Commissioner Bullock moved for the Commission to approve the renewal of Master Services Agreement between Securus Technologies and the Lander County Sheriff's Office for Inmate telephone services. Seconded by Commissioner Garner, the motion was voted and carried unanimously. **APPROVED**

ROAD & BRIDGE SOUTH

- 10) Discussion For Possible Action Regarding Road Maintenance Agreement Between Lander County & ORNI 39, LLC For Maintenance Of A Portion Of Grass Valley Road & Other Matters Properly Relating Thereto: James Barnes, Deputy District Attorney, said they had been working with Bryce Alstead, ORMAT's Attorney, and there has been a final version sent to him. After approval is received from Mr. Alstead it could be signed. Mr. Kessler asked if this was the version that came out the previous Friday, and said that ORMAT was ok with the changes. He said it isn't holding ORMAT up on construction just on financing. Mr. Barnes said if it was agreed upon then he could go print a copy of it and so it could be signed.

Commissioner Bullock moved for the Commission to approve the Road Maintenance Agreement between Lander County and ORNI 39, LLC, for maintenance of a portion of Grass Valley Road. Seconded by Commissioner Garner, the motion was voted and carried unanimously. **APPROVED**

COMMISSIONERS

- 11) Correspondence/Reports/Potential Upcoming Agenda Items: Executive Director, Gene Etcheverry, said he has already logged three upcoming agenda items from this meeting, including the Interlocal Contract and Plan of Operations from the Hospital. Commissioner Garner said he had a possible agenda item regarding the draft of the new Courthouse/Administrative Building and having a round table meeting with all the Department Heads and Elected Officials at the Civic Center. Mr. Etcheverry has requested that the Design and Engineering Firm (Stantec), for the Austin Loneliest Highway, revisit that project with the Commission because the stamp of approval for



that concept came out of a Commission Meeting and it needs to be revisited. He said it was \$110,000.00 over budget. Mr. Etcheverry explained why there was an increase in the cost and where they could cut costs. Commissioner Bullock said the Echo Bay Streets needed to be addressed in a face to face meeting with Newmont. He said he had been in contact with them and they need to be aware of what is going on, so Newmont need to be invited to a meeting. Mr. Etcheverry said he also had the issue with the high speed internet.

PUBLIC COMMENT

There was no one present for public comment.

ADJOURNMENT

There being no further business before the Board at this time, Commissioner Garner moved to adjourn the meeting of September 19, 2011. Seconded by Commissioner Bullock, the motion was voted and carried unanimously. **APPROVED**



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.