

PROCEEDINGS OF THE BOARD OF COUNTY COMMISSIONERS IN AND FOR THE COUNTY OF LINCOLN,  
STATE OF NEVADA

October 6, 2008

#1-CALL TO ORDER/ROLL CALL/INVOCATION/PLEDGE OF ALLEGIANCE

The Board met in special session with Chairwoman Ronda Hornbeck calling the meeting to order at 8:42. Clerk Lisa Lloyd called the roll with Commissioners Tommy Rowe, Paul Mathews, Ronda Hornbeck, Wade Poulsen and Bill Lloyd being present. There is a quorum present and the agenda was posted on 10-03-08 to comply with the open meeting law.

#2-TOQUOP POWER CORRIDOR ENVIRONMENTAL ASSESSMENT

Ronda advised that this emergency meeting is based on a phone conference that took place last Thursday concerning the ongoing Right-of-Way (ROW) for the LC Land Act Transmission Line. During the phone conference last week, BLT Group advised that they are interested in stopping the process where it is now. BLT took the stance that they wouldn't pay for their portion of Phase II, based on representations made by Mark Teepen. The county is under contract with LC Power for completion of this project. If BLT decides not to pay, it will put them in default. Ronda, Ken and John met with DA Greg Barlow concerning this issue. Greg advised that a lien must be filed against the BLT property, which is the basis for the emergency meeting and complies with the requirements of the open meeting law. There are several emails being sent stating what the developers think should be done. Lincoln Highlands (LH) has said that if the county goes forward with this and allows BLT to default, then they will go forward in making certain that the county repays them all of the monies that they've been assessed and paid to date. Ken Dixon received an email from a BLT representative. There are some conditions attached to their making the payment. Since then, Ken has received another email advising that BLT will make their payment. Phase I was over \$231,000 and the work to date puts LC out of balance by \$10,000. GMB and C&O holdings are current with their payments. Riverwest will be making their payment soon. The only developer who has refused to make payment to date has been BLT, but they have since changed their mind. Once these monies come in it will leave a balance of over \$40,000. Dave Luttrell explained where the county will be at the end of Phase II. Terry Manly and Matt Davis are present to discuss this issue. BLT's objection is that they want to stick with the corridors that will bring these things onto their piece of land; this has never been an option due to the topography. Ronda is concerned as there isn't anything in writing from BLT at this time advising that they will pay without any conditions attached. Ronda said that if BLT is willing to fund everything for the 2<sup>nd</sup> phase, with no conditions attached, it will go forward. Ken responded by saying that he has an agreement from BLT verbally, but nothing in writing. Greg advised that most lending institutions will not lend liens stand on their property. There are two other entities that haven't paid their portion. Greg has draft liens for all defaulting parties that could be signed today. Greg understands that the invoices went out in August and, in theory, all of these payments should have been in by the end of September. Greg advised that the Board can direct him to file the liens if payment isn't made within a certain amount of time. Contract provisions are that all payments must be made timely. Greg would file liens against all that haven't paid, not just BLT. Riverwest and MBM have said that they will make their payments, and Ken had confirmations in writing. Terry advised that his is based on a misplaced invoice for \$17,000 and he intends to make the payment; the check is being processed. Riverwest will have the funds to the county by the end of October. There is no grace period within the contract and the county must protect itself by following the terms of the contract, commented Greg. Currently, LC Power is under notice to stop work, which was done Friday morning. Paul said that a date for payment can be set for those who have offered written commitment; those that haven't, a lien can be placed. There was conversation last Thursday concerning the slowing down of things based on the economy. Terry advised that none of the discussions should be taken by BLT as an opportunity to not live up to the agreement. Matt said that the discussion centered around what would happen within the next several months. The additional monies in Phase II would allow for the dealing of BLM questions that result. The question is when the third phase funding will "kick in"; about the same time that BLM will be working on the water line. Matt doesn't want to see this stopped as the ultimate goal is to get the ROW grant, which allows for them to get in control of their project. Slowing the project down is not desirable, Matt commented. There is an agreement in place that all developers will fund through Phase IV. There is a new email from BLT advising that they will pay their portion for Phase II. Tommy advised that there shouldn't be a work stoppage. If work is stopped until the 20<sup>th</sup> it will result in a two week delay. Tommy feels that the county should pay the monies in order to avoid the stopping of work. As it stands right now, the county is \$7,000 short in the account. If everyone were to pay, there would be \$43,000 left over. The work has been stopped as there is no money. Terry commented that the county will have his check tomorrow morning by 10:00. Bill advised that he isn't in favor of the county using their funds to pay for anything. Ultimately, the county will collect the money and will charge prime plus 1.5%. Paul advised that those who benefit from this are the entities that need to fund it. The entire load needs to be on them. Paul agrees that the work should go forward, but the majority of the liability shouldn't rest on the county. **Wade made a motion to authorize Greg to sign**

**and file liens against all developers who haven't paid by October 20, 2008; seconded by Bill.** If there is a positive balance in the account, work is to continue. A notice of lien will be filed today. **All voted in favor.** John will send a letter to all developers who are late.

#3-PUBLIC COMMENT

There is no public comment.

#4-ADJOURN

There being no further business for the Board to attend to, **Paul made a motion to adjourn the meeting at 9:34; seconded by Wade. All voted in favor.**

Attest: \_\_\_\_\_ Approve: \_\_\_\_\_

DRAFT