

**IN A REGULAR MEETING OF THE WHITE PINE COUNTY COMMISSION HELD ON  
FEBRUARY 24, 2021 IN THE COUNTY LIBRARY CONFERENCE ROOM IN ELY, NEVADA**

The Following Were Present:

County Commission  
Richard Howe, Chairman  
Travis Godon, Vice-Chairman  
Ian Bullis, Commissioner (via Zoom)  
Shane Bybee, Commissioner  
Laurie L. Carson, Commissioner  
Nichole Baldwin, Clerk of the Board

County Officials:

Tim Bunch, Human Resources Director  
Sheriff Scott Henriod  
Martin Troutt, Road Dept. Lead  
Brett North, WPCFD Fire Chief  
Elizabeth Frances, Finance Director  
Mike Johnson, IT Specialist  
James Beecher, Chief Deputy DA  
Desiree Barnson, Social Services Director

Also Present:

Donna Bath, Silver Lion Farms  
George Chachas, George Town Media  
Luigi Resta, WhitePine Water Power LLC  
Kylie Odgers  
Cody Odgers, Water Advisory Committee  
Pat Stork, Ely Fire Chief  
B.J. Almberg, Basin Engineering  
William Butts  
Shania Marques, Ely Shoshone Tribe  
Shane Cooper, Titan Constructors  
Kenny Cooper, Titan Constructors  
Gage Zobell, Dorsey & Whitney

Present via Zoom:

Geri Wopschall, Burton Hilton (WPC Assessor), Gary Perea, Jason Kolenut, Mattie Jensen, DA's Office), Marcie Ryba (NV Dept. of Indigent Defense Svcs), Naomi Harris (Road Department), Karen Kreizenbeck (NV Public Defender), C. Odgers, Ely, Laura Oslund (PACE), Bethany Coca (Finance Office), Lori Romero (Library Director), Jeremy Drew (RCI), Terri Borghoff, Elanie Eldridge (Finance Office), Caroline McIntosh, DB, CMC, Jared Bybee (BLM), Adam, Steve L. Dobrescu (7<sup>th</sup> Jud. Dist. Court), Kristi Rozich (Aquatic Center Dir.), Marietta Henry, C. Halsey, J DIDS Patrick, K. Ross, KV, Tammy Szewezk, Patty Marques (DA's Office), Connie, Mike Wheable, Mary Kerner, Burton Hilton (Assessor), Tabatha Hamilton (Finance Office), and others.

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Chairman Richard Howe called the meeting to order at 9:01 am. Commission Vice Chairman Travis Godon led the Pledge of Allegiance.

**MOMENT OF SILENCE/SILENT INVOCATION**

This was duly observed.

**PUBLIC COMMENT**

Assessor Burton Hilton, via Zoom, updated the Board that a meeting was held 2/4/2021 regarding the Humboldt River with the State Water Engineer. At that meeting it was expressed that last year Nevada was not in a drought, but this year, White Pine County

is in an extreme drought due to only getting about 60% of the normal amount of moisture we typically get. The Humboldt River is having major challenges this year resulting in draft water orders coming out on 4/2/2021 for the public to review and comment on.

Marcie Ryba, Executive Director of Nevada Indigent Defense Services, via Zoom, introduced herself in relation to the item on public defender services on the agenda today. She advised that her agency adopted a new regulation on 1/28/2021 that will become effective 3/5/2021 and can be found at [vids.nv.gov](https://www.vids.nv.gov). She asked to be placed on this agenda after 3/5/2021 to offer assistance to the county in regards to this new regulation as it is required by statute.

Shania Marques, the Cultural Representative and Environmental Specialist for the Ely Shoshone Tribe, commented on the pumped storage project. As a member of the tribe and a citizen of White Pine County, she had concerns about Resolution 2021-11 that states it is in the best interest of the county to lease county-owned water rights without offering them to the public at less than fair market value. She did not understand how this could be in the best interest of the county or the Ely Shoshone Tribe; our water source is a hotspot, there are cultural resources in the area, it is a hunting ground, and one of the best places for elk. She asked how many permanent jobs would be created and how much valuable water would be used? She felt the need for more details to be sure this is what the county should do before acting on it today. Clerk Nichole Baldwin provided Ms. Marques a handout from yesterday's informational meeting at the request of Commissioner Laurie L. Carson.

George Chachas advised the Board that the Nevada Open Meeting Law has laws to address the issue of those that cannot hear what is being said in a public meeting setting; he noted the heater with a fan that has been impeding the hearing of the public in attendance. He noted items 1E, 1-3 and his support for that project, but still had questions to be answered. Item 2C3A about the Building Inspector was brought up next and he mentioned the fact that he had come before this Board with a lot of discrepancies from the last Building Inspector. He felt the last Inspector was the biggest detriment to growth in the county and did not want him to come back as a contract employee with the city. He noted numerous examples of selective enforcement and did not want to see a half-baked inspection on the new courthouse and jail. In regards to item 2C3D for public defender services, he asked if the contract for \$164,430 was for all three attorneys or per attorney and what was the average pay to the last firm the county had for the last 3-4 years? Chairman Howe advised Mr. Chachas that the public defender item will be addressed at 1pm to accommodate the attorneys. Mr. Chachas stated that Commissioner Ian Bullis had missed several meetings, and he was told that Commissioner Bullis was appearing on Zoom. Mr. Chachas advised that all letters presented to the Commission need to be read into the record; the precedent had been set and this Board should not be trying to change things mid-stream with the "new guy". Time was called.

Clerk Baldwin read a letter from Jason Bath into the record regarding his opposition to the pumped storage project.

Chairman Howe stated that we were advised by our District Attorney that we don't have to read letters in public comment from this point forward as copies will always be available in the back of the room. Public input is open during public comment and for public hearings from those in attendance. After public comment or a public hearing is closed, none will be allowed. He noted changes on page 5; items b and c under Tim Bunch were pulled for

today as more information was needed. On page 5, items b, c, and d under Elizabeth Frances will be heard at 1:00 pm. By request, he moved the item for Desiree Barnson on page 4, item 1, to the beginning of the agenda.

Chairman Richard Howe advised the room that he got a call from Senator Goicoechea in regards to our local DMV having no people on staff and causing it to be closed and people having to go to Eureka or Elko for DMV services. The Senator is going to get a temporary person from Carson City at our DMV in the next day or two so the office can open to serve the public.

**B. 9:30 A.M. NATURAL RESOURCES**

**1) Discussion Only: regarding the White Pine County Natural Resources and Public Land Issues Tracking List. Jeremy Drew, RCI**

Via Zoom, Jeremy Drew from RCI provided an update in regards to Senator Cortez-Masto who is chairing the sub-committee on public lands, forest, mining, forest, energy and natural resources; he felt it was a good fit for public land policy going forward. A DOI confirmation hearing was held yesterday and Senator Cortez-Masto asked for a commitment on collaboration with local governments from New Mexico. In regards to the Pine and Wah Wah Valley pipeline project and the MOU to become a cooperative agency, they signed a non-disclosure but can say he and Gary Perea are actively involved and they anticipate a public draft EIS in late spring depending on NEPA rules. As for the White Pine pumped storage project, PLUAC and WAC discussed this and both want to become cooperating agencies for the EIS. Commissioner Carson advised Mr. Drew at the public hearing yesterday, something will be on the next agenda pertaining to letters for cooperating status. Mr. Drew noted some draft orders coming out on 4/2/2021 specific to the Humboldt River Basin, but he won't hear much until after the legislative session. The Nevada economic assessment project still has a survey link open. The Bald Mountain Mine expansion draft EIS will be available in April with an MOU coming in the near future from the BLM. Robinson Mine will also have a final EIS coming in April. The Sagebrush Discovery Trail in Baker has a couple of transmission projects with applications submitted. BLM is currently and likely operating under the 2015 Greater Sage Grouse Land Use Plan Amendments that has mapping that is different from state mapping with limitations. The US Forest Service has pending objections and the final record of decision is set to head to the chief of the Forest Service for review. BLM had denied an application for the Pantheon Solar Project due to sage grouse and noted an amended application filed with FERC that may be coming back on White Pine County's radar.

**\*2) Discussion/For Possible Action: Approval of a draft Memorandum of Understanding between the Bureau of Land Managements, Ely District and White Pine County for Cooperating Agency Status on the Sagebrush Discovery Trail Project. Jeremy Drew, RCI**

Via Zoom, Jeremy Drew from RCI advised that the MOU was put together by BLM by request from the Baker Area Advisory Board and Craig Baker. BLM is looking for approval for BACAB or the county to be the cooperating agency. He cautioned the Board that the BLM wanted to get started with the EIS process in early March and suggested doing a second MOU for the county later. Commissioner Carson felt the county could move forward with Craig

Baker as a point of contact and we do our own MOU for the county later considering the pressing time line. The District Attorney had no problem with that suggestion, but admittedly did not research this prior to the meeting. Chairman Howe asked if the Board wanted advisory boards to be cooperative agencies or to stay with advisory boards merely giving guidance; if we allow all advisory boards to be cooperative agencies, it just adds a layer of government to every project. He felt it was not in the best interest of the community or White Pine County to approve this item. The District Attorney commented that the Commissioner can delegate more power to advisory boards and allow them to become cooperating agencies, but policy-wise, the Commission should discuss their concerns in regards to enhancing the authority of advisory boards or not. Commissioner Carson felt that this was different as the Commission was not familiar with this project like BACAB is. As a cooperating agency, you are privy to discussions before it goes to the public. Commissioner Bybee inquired as to advisory boards being umbrellaed under the Commission in MOUs for projects. Mr. Drew explained that MOUs are set up to allow the Commission to designate a point of contact and having the county as a signatory. Commissioner Godon moved to appoint and approve White Pine County as the cooperating agency on this project with the points of contact named as Jeremy Drew and Craig Baker. Commissioner Bybee seconded the motion and it passed.

### **C. 10:00 A.M. CDBG PUBLIC HEARING**

#### **1) PUBLIC HEARING/Discussion Only: Discussion and public input on possible activities to be included in applications for funding under State Community Development Block Grant- Corona Virus (CDBG-CV) Program. (July 1, 2021 to December 31, 2022). Elizabeth Frances, Finance Director**

Finance Director Elizabeth Frances explained legal requirements have to be met before the public can provide feedback. First, she advised that grant funds received thru CDBG have been consistently received annually with a few exceptions since 1984 including work on the slag ditch and sewer pond in McGill with applications for phase two submitted for next year for a total amount received of over \$3.8 million. They have received money for housing rehabilitation, planning and capacity building, and an economic development grant for over \$5.1 million. Next, she advised that we are seeking ideas for this specific CDBG grant as it pertains to coronavirus and infectious disease. The process is working backwards as the money was awarded first and now the process needed done. She explained what the grant can be used for and indicated that details are on the link in the backup material and on the county website under economic development. People can also contact Tabatha Hamilton at 775-293-6594. Two more public meetings will be held and she encouraged the public to take a look. The next public meeting will be held after 4/27/2021. Commissioner Bybee wanted to look at what we can do to support our venues and recreation facilities to help increase tourism. Chairman Howe suggested we utilize CDBG funds to build a pump station as the county was stymied on 17<sup>th</sup> Street for the housing development. Commissioner Carson wanted to stockpile PPE for the future, or for another public health pod. Finance Director Frances will talk to Public Health to get their ideas. Tabatha Hamilton via Zoom suggested the Board support the fairgrounds to put on events like the races with COVID restrictions to make events safe. Commissioner Bybee felt that idea should be a top priority. George Chachas



noted the noisy “heater” in the room being replaced for a quieter model and he was corrected that what he was referring to was an air filtration system.

Chairman Howe called a break at 10:27 am and the meeting was back in session at 10:33 am. The Chairman advised that Assemblyman Ellison and Senator Goicoechea have arranged to have a person at the Ely DMV Monday and he publicly thanked them for that.

**D. 10:15 A.M. PLUAC**

**\*1) Discussion/For Possible Action: Approval of a request from PLUAC for cooperative agency status with the potential leasing of the County-owned water rights, Water Permit Nos. 72728-72729. Public Lands Users Advisory Committee**

Commission Vice Chairman Godon made a disclosure about neither he nor his parents having any interest in this project. He pointed at a map to identify land his parents own and where the project is and the fact they are not next to or adjacent to one another with no deals existing and anything else being fake news.

Chairman Howe desired to not add the extra layer of government and to merely designate Jeremy Drew as a point of contact for PLUAC. Commissioner Carson explained that PLUAC wanted the county to become a cooperating agency and the agenda item was just worded funny. Kristi Rozich, via Zoom, confirmed that and stated PLUAC wanted this project to move forward. This item was changed to discussion only.

**E. 10:30 A.M. PUMPED STORAGE PROJECT**

**\*1) Discussion/For Possible Action: Approval of Resolution 2021-11, a resolution of the White Pine County Board of County Commissioners declaring that it is in the best interests of the County to lease certain real property in the form of water rights without offering it to the public and for less than fair market value, if necessary, for the purpose of economic development**

At 10:38 am, Commission Vice Chairman Godon made his disclosure again about he and his parents not having interests in this project and used the map to explain. Chairman Howe read a letter from Frederick Partey, chairman of WAC, in support of the pumped storage project into the record that contained certain requests from that board. The Chairman advised that this agreement is in place with WAC and rPlus Energies and will be adhered to. Commissioner Carson moved to approve the item and desired to change the last “whereas”, item number one “and requiring thousands of people to complete” to change the number to “300-500 people” as presented yesterday. Commissioner Bybee seconded the motion and it passed.

**\*2) Discussion/For Possible Action: Approval of Resolution 2021-12, a resolution of the White Pine County Board of County Commissioners declaring that it is in the best interests of the County to sell certain real property in the form of water rights without offering it to the public and for less than fair market value, if necessary, for the purpose of economic development**

Vice Chairman Godon made his disclosure. Commissioner Carson moved to approve this with the same change as in the previous resolution to change the wording to 300-500 employees. Commissioner Bybee seconded the motion and it passed.

**\*3) Discussion/For Possible Action: Approval of the Water Use and Option to Purchase Agreement (“Agreement”) between WPW and White Pine County; and discuss statutory requirements per NRS 533.550 and NRS 244.2795 for final approval of Agreement. Luigi Resta, President, & Matthew Shapiro, CEO (White Pine Waterpower)**

Vice Chairman Godon made his disclosure again. Mr. Luigi Resta thanked everyone for the meetings with WAC and this Board yesterday. Matt Shapiro thanked the Board for their support and the thought that went into this relationship. District Attorney Beecher advised that pursuant to NRS 533.530 the Commission has to make certain findings in writing that will be added to the agreement. The findings are that the sale or lease of water rights must be consistent with prudent long term management within the jurisdiction. The sale or lease must not deprive residents or businesses within the jurisdiction of reasonable access to the resource for growth and development. The sale or lease must be a reasonable means of promoting development and use of the water rights. And the means by which the water rights are sold and/or leased must assure the public body receives the actual value or comparable benefits. He read that and he asked that the motion be made and the findings be incorporated into the agreement. Commissioner Carson added that the agreement has been adjusted to include the provisions from WAC, all but number 6 where the Commission ties the value of the water to the number of jobs created as that was not deemed appropriate. The county will send letters to FERC and the BLM for cooperative agency status. Commissioner Bybee moved to approve and recognized the findings as stated pursuant to NRS 533.550 to be included. Commissioner Carson made the second. The motion passed.

**2. ITEMS FROM ELECTED OFFICIALS AND DEPARTMENT HEADS:**

**A. COUNTY COMMISSION**

**1. Vice Chairman Travis Godon**

**\*a) Discussion/For Possible Action: Approval to accept the resignation of Travis Godon as the commission liaison to the Water Advisory Committee**

Commissioner Godon moved to approve and Commissioner Bybee seconded the motion. Motion passed.

**\*b) Discussion/For Possible Action: Approval to appoint a new commission liaison to the Water Advisory Committee and/or make any necessary liaison position trades to accommodate said appointment**

Commissioner Carson wanted this appointment and asked for Commissioner Godon to trade for the Wildlife Advisory Board, and Commissioner Godon agreed. Commissioner Bybee made a motion to reflect that arrangement and Commissioner Godon made the second. Motion passed.

**\*c) Discussion/For Possible Action: Approval of Resolution 2021-16 to amend and/or extend resolution 2020-76 beyond the expiration date of March 9th, 2021**

Commissioner Godon explained that Resolution 2020-76 was set to expire after 90 days. If Governor Sisolak holds his word, the county maybe be in charge on May 1<sup>st</sup>. He felt it was important to extend this resolution to May 1<sup>st</sup> to ensure the Governor keeps his

promise and prior to that, the Board can meet to see how that looks. Commissioner Godon made the motion to approve and Commissioner Carson made the second. Motion passed.

## **B. ELECTED OFFICIALS**

### **1. James S. Beecher, District Attorney**

#### **\*a) Discussion/for Possible Action: Approval to appoint Melissa Brown to the position of Deputy District Attorney I at step 10**

District Attorney James Beecher reported that he had a conversation with Melissa Brown and she waived notice of closed meeting requirements. She came to the DA and asked for this adjustment to move from the special prosecutor position that is limited to prosecuting domestic violence and assault cases in White Pine, Lincoln and Eureka counties. This change would give her a bigger workload with slightly lower pay. Given she has spent the last 10 years as a special prosecutor, he felt step 10 was appropriate. Commissioner Carson moved for approval and Commissioner Godon made the second. Motion passed.

#### **\*b) Discussion/for Possible Action: Approval to reclassify the vacated Special Prosecutor position from the Deputy District Attorney II pay scale to the Deputy District Attorney I pay scale**

DA James Beecher advised that when Melissa Brown was a state employee, now a federally grant funded position and a county employee, they had made her a Deputy DA II to keep her pay the same. Since that position is now vacated, this change can save the county some money. Commissioner Bybee moved to approve this item and Commissioner Godon seconded the motion; it passed.

### **2. Nichole Baldwin, County Clerk**

#### **\*a) Discussion/For Possible Action: Approval to direct the District Attorney's Office to participate in discussions/negotiations with the City of Ely concerning a Cooperative Agreement for Election Services**

Clerk Nichole Baldwin explained that this first came before the Board in 2018 when Bob Switzer was the City Clerk, which the county approved, but the city did not. The next year, legislation passed requiring the city's election cycle to change to even numbered years and Jennifer Lee, the current City Clerk, has asked for this agreement to come back to avoid 2 simultaneous elections and to simplify the process for voters. It contains a provision for the city to pay \$0.15 per voter which equals roughly \$400 per election. It would only mean a separate ballot style and sample ballot, but not much additional work. Clerk Baldwin expressed that this makes sense and is in the best interest of city and county voters. This was acceptable to the District Attorney who has questions with the draft agreement and noted a lot of issues existing with the city. Commissioner Carson moved to approve this item and Commissioner Bybee made the second. Motion passed.

#### **\*b) Discussion/For Possible Action: Approval of the annual evaluations from the following advisory boards and town councils:**

- **Airport Advisory Board**
- **Library Board of Trustees**
- **McGill Town Council**

- **Ruth Town Council**

Clerk Baldwin explained that she sent out over a dozen letters to all advisory boards and town councils asking for this evaluation, which is required in the Advisory Board Standards, to be presented at the second meeting in February so the Commission can be made aware of the status of those boards and their needs prior to budget season. Commissioner Godon moved to approve this item and Commissioner Bullis made the second. Motion passed.

- \*c) Discussion/For Possible Action: Approval to accept the request for resignation by Burton Hilton from Seat 2 on the White Pine County Hospital Board of Trustees**

Clerk Baldwin explained that Burton Hilton is resigning due to a conflict. The vacancy will be advertised for 2 weeks and interviews will be held on March 10<sup>th</sup> at 11 am. Burton Hilton, via Zoom, advised that he was on this board for 7 years and 8 months. He wants to serve again in the future if the conflict is ever resolved and added that it was an honor for him to serve. Commissioner Godon moved to approve this item. Commissioner Carson made the second and the motion passed.

- \*d) Discussion/For Possible Action: Approval to replace the Ely Shoshone Tribe's representative to the Water Advisory Committee and the Local Emergency Planning Committee with Shania J. Marques due to a change in staffing**

Commissioner Godon moved to approve and Commissioner Bybee made the second. Motion passed.

**C. DEPARTMENT HEADS**

**1. Desiree Barnson, Social Services Director**

- \*a) Discussion/For Possible Action: Approval of the Ely Bus updated Title VI plan**

Social Services Director Desiree Barnson explained that the Title 6 plan is for Ely Bus and is on par with federal guidelines. Commissioner Shane Bybee moved for approval. Commissioner Godon made the second that the motion passed.

- \*b) Discussion/For Possible Action: Approval to hire a new employee that will be split half time between Public Health and Social Services**

Director Barnson explained that in her office, all programs offered are grant funded and she writes new grants yearly for new programs. Changes were made to move from a bandaid effect that addressed individuals' issues to case management, which meant they are working to address the bigger problem with recipients to reduce spending. Her office went mobile, meaning she goes to the clients to build rapport and build services that are effective. She noted an opportunity with the state who was willing to give the county \$80,000 to help with temporary help in her office and in public health given the fact that they are drowning in COVID-19 work. She explained that if her office had another person to answer questions and allow for field work, more of the work her office produces would get done. The Public Health Office needed another staff member to see people while others are in field supporting much needed programs. A budget analysis for this request showed a 30 hour/week person would cost \$10,150 from now until the end of the current fiscal year including over \$37,000 for the rest of the next fiscal year, which her indigent budget can more than handle. With this,



she is working to bring more programs to this community at the least cost to the county. Her request did not impact the general fund. Finance Director Elizabeth Frances advised the Board that the Social Services budget has that money available and she will include a new position for the upcoming budget sessions. It was noted that paperwork from the state in regards to the \$80,000 has not arrived and with that, Director Barnson asked for 100% to come from her indigent funds budget which had adequate funds. Clients that are eligible for her services are indigent, meaning this would be an appropriate utilization of her funds while creating a reasonable solution for public health and would allow social services to be more responsive. Director Barnson added that with the growth of these programs for seniors and young people being able to stay in their homes happy and healthy, she does not have to pay a 50/50 match for grants. And if she can mitigate the growing problem with young people, she will be fixing problems in the long term. Commissioner Carson stated that she had discussions with Director Barnson and listened in on some state conference calls and knows that data entry is a huge issue. She supported getting back what was lost, especially if grant money is available to cover it. Chairman Howe stated that he understood that public health is giving COVID-19 shots, but expressed concerns about making this position half social services and half public health without the \$80,000 from the state. He understood that this would come from the indigent budget and that the county has to increase it annually, but asked if this is this necessary. He knows the high season and the low season, but was concerned about all 12 months of the year and wanted to look at that during the budget sessions. Finance Director Frances clarified this is not fulltime, only three quarter time at 6 hours per day, and mentioned the alternative to do a temp hire to see how that works out. She suggested to take the \$10,000 until June 30<sup>th</sup> and look at hiring a temp; they will know more in June and that will buy time to see if the money is still available. Commissioner Bybee expressed that we have the need and since there is no impact on the general fund, the funds expended in that indigent budget will be used there. He liked the proactive approach to getting people when they are younger into self-sufficiency so as to not carry them for the long-term and he was in support of this item. Commissioner Ian Bullis, via Zoom, thanked the Finance Director for her explanation and suggestions and felt that was the best way to approach this. Commissioner Godon agreed with Commissioner Bullis and the Finance Director to do a temporary hire and figure out where they will be at a later time to be prudent. Commissioner Godon moved for a temporary hire for this fiscal year and for a permanent position to be inserted in the upcoming budget sessions. He then amended his motion to hire only a temp for now. Commissioner Bullis seconded the amended motion. Commissioner Bybee expressed his concern with a temp as it shrinks the field of applicants and qualified people who would apply. He added that the budget is forecasted and social services has the funds for next year and suggested that a non-temp person be hired that will open it up to better candidates; Commissioner Carson agreed. Vote passed 3:2 with Commissioners Carson and Bybee voting in opposition.

## **2. Tim Bunch, Human Resources Director**

### **\*a) Discussion/For Possible Action: Approval to revise the job description for Detention Deputy to keep with the current status and verbiage**

At 11:08 am, Human Resources Director Tim Bunch received a request from the Sheriff to look at the job description and to review the policy for each department. The

revision is to change from jail deputy to detention deputy and the sheriff asked to incorporate contraband in searches. Finance Director Frances requested, in the future, for a red lined copy in the back up to make readers aware of what is being changed. Commissioner Carson moved for approval. Commissioner Bybee made the second and the motion passed.

**\*b) Discussion/For Possible Action: Approval to revise the Public Works Director job description to keep up with the current status and applicable verbiage**

This item was removed at the beginning of the meeting.

**\*c) Discussion/For Possible Action: Approval to revise the Road Department Lead Supervisor job description to keep up with current responsibilities and applicable verbiage**

This item was removed at the beginning of the meeting.

**3. Elizabeth Frances, Finance Director**

**\*a) Discussion/For Possible Action: Direction on options for addressing the lack of a Building Official as discussed with the City of Ely**

DA Beecher advised that at the last city meeting, they hired a Building Official, Lee Walker, who is in the process of getting licensed. Tomorrow, the city has an agenda item to hire a contract Building Inspector and the last he heard, the only person that had applied was Brad Christiansen. He had not started negotiations with the city, but if something goes sideways tomorrow, he will address that. This item was left as discussion only.

**b) Discussion/Review/Analysis: Proposals Received in Response to RFP for Public Defender Services**

Chairman Howe brought the meeting back into session at 1:04 pm. Finance Director Frances advised that she received two RFPs; one from the existing contractors and one from the State of Nevada Public Defender's Office. She handed out a brief financial analysis of what services have looked like for the county for the past several years which show increasing costs and added that this Board must consider conflict counsel. Moving from the State Public Defender to private attorneys resulted in a jump in expenses. The state's proposed cost was \$431,857 and the private attorneys proposed cost was for \$493,290 plus additional charges for conflict counsel, capital cases, and domestic violence cases, which is new and might cost \$125/hour. She noted a considerable cost difference in the RFP's and wanted to hear from the private attorneys and the state. She noted that language in the proposals concerned her.

Karen Kreizenbeck from the Nevada Public Defender's Office addressed the Board via Zoom. She advised that there are a lot of unknowns with funding from the legislature not being final until the end of the legislative session. This budget included the independent hiring of experts and advice on how to proceed on a case. The number she provided came from a comparable county with a comparable population. Chairman Howe did not feel the proposal was informational as it did not mention conflict counsel or office expenses. Chairman Howe provided an example and asked what would take place in a case where counsel is appointed for both parents and a child? The response was that a third attorney would have to be sought due to only 2 public defenders being provided from the state. Jason Kolenut with Indigent Defense Services, via Zoom, had a preliminary budget that can be sent to legislature as amendments if the county opted to select them by March 1<sup>st</sup>, and he could

get an estimate by May 1<sup>st</sup> from the state, which would not be final until the session is closed at the beginning of June. Commissioner Godon came up with an additional average cost of \$83,000 for the state and an additional cost of \$30,000 for the private attorneys resulting in final costs of approximately \$513,000 for the state and \$525,000 for the private attorneys. Ms. Kreizenbeck advised that capital cases are at no extra cost other than experts. They would hire an attorney to live in Ely with no extra fees, or contract with the current attorney on the case. She did not know if she could hire a death penalty attorney or have someone from Carson cover the case, or possibly contract with someone who is death penalty qualified. She is at a disadvantage not knowing what work has been done and what remained to be done, but she would be prepared to absorb the cost. Director Frances advised that the capital case is set for trial in Sept. through Nov. of this year. The county would hire expert witnesses and everything else would be included. Ms. Kreizenbeck is trying to build the expert funds amount into the budget to avoid the county having to pay those expenses. Director Frances heard concerns that the county was becoming a revolving door for young attorneys to get their feet wet and move on. Ms. Kreizenbeck is hopeful the state has new programs to entice attorneys to work in rural counties, although it has historically been difficult. Mr. Kolenut advised that the number provided was a solid number, but things could be added or struck from the budget by legislature. He indicated that there was currently no office space right now if they have to start July 1<sup>st</sup>. Chairman Howe asked if housing was included in the bid considering how hard it was to find good housing locally. Mr. Kolenut stated that office space for 4 positions and equipment was included in bid, but the costs built in might not be all inclusive. Ms. Kreizenbeck advised that the benefit of going with the state is the Carson office was having many resources; 6 trial attorneys to cover, court staff investigators, and institutional knowledge.

Kirsty Pickering and Jane Eberhardy addressed the Board from the private attorney perspective and proposal. Ms. Eberhardy cleared up the issue of domestic violence cases that are entitled to a jury trial when those are done in Justice Court are included in the contract. But a lot of cases are in the city and the city does not do litigation; municipal courts do not handle jury trials by law so they are transferred to Justice Court. No jury trials took place in 2020, but a backlog exists that will go to trial for the city and the county. Only 6 jurors are required and the trials are scheduled for 2 days each. The cases that occur in the city are not handled in municipal court by law. These extra cases are burdening a lot of entities involved and wanted to bring this to the attention of the Board to look at cost sharing. About 10 domestic violence cases occur in the city per year and there had been an increase in criminal activity and domestic violence cases recently. It was explained that the private attorneys absorbed these additional costs for 2 years and they have nothing to show the expense that belongs in the city. Ms. Pickering noted generous offers were made last year from the DA's Office as a result of the pandemic and the fact they could not go to trial. In response to a question from Director Frances, Ms. Pickering explained that a program called DIDS was established through the Indigent Defense Board that requires them to report complete caseload information directly to them; they were hoping DIDS would report this information to the county to avoid duplicating efforts. Ms. Pickering was ok with providing the county a separate report. Discussion was had in regards to how expert witnesses were charged, changes in the in law with drug cases and DUIs, and conflict counsel with 432B cases.

Ms. Eberhardy ran numbers for 2018-2020 conflicts. 2018 had 39 felonies that had conflicts, of those, at an average cost of \$5,000 per case, the county would have to pay \$195,000. 2019 had 42 felonies with conflicts; at \$5,000 each, the cost would be \$210,000. Adding in DCFS 432B cases with multiple parties, 2018 total costs plus felony conflicts would've been \$265,000 and \$260,000 in 2019. 2020 had 37 felonies with conflicts at \$185,000 plus 4 DCFS cases with 2 conflicts for a total of \$231,000. 2 juvenile cases with conflicts were billed at \$3,000 each in 2020 that would be added to the total. Ms. Pickering noted this was a significant savings. Chairman Howe wanted to hear from the state about conflict counsel. Ms. Kreizenbeck advised that the state does not provide conflict counsel, the entire office would be out in the case of a conflict. In response to a query from Director Frances about the capital case, Ms. Pickering explained that she and Mr. Sears have already been appointed to that case and Mr. Sears is rule 250 qualified. The trial is set for 8 weeks in September and they are already being paid a flat amount and will not be able to take additional cases while in trial causing Ms. Eberhardy to pick up the slack. They will be relying on Ms. Eberhardy to handle anything extra and they would not be billing extra for that creating a cost savings. Hiring the State PD's Office would mean everything would have to be redone in a hurry to get caught up for the trial in Sept. since they would not be able to start until July. Ms. Pickering disclosed that there will be additional attorney's fees near \$30,000 in addition to expert witness fees, which will end up being very high. Mr. Sears described the situation with the Collman case that required a special prosecutor from Carson and a 2<sup>nd</sup> trial lawyer from Las Vegas; capital cases are terrible for costs and can break a small county. Historically, the county has received assistance from the state, but no one can budget for that kind of case.

Discussion was had about what the end figures might look like. Mr. Sears expressed that he likes working for the county and they all like their jobs. He reminded the Board that this is a request for proposal, not a demand; the county can negotiate and added that he wants to make this a better place and they are willing to lower the price. Commissioner Bybee expressed a big fear of paying a low ball price and getting their money's worth. He was not comfortable with stepping backwards, but was comfortable with the level of service being provided, but can it be afforded? Commissioner Carson advised that she was here when the change was made from the state to private attorneys and recalled the reasons to make the change. Finance Director Frances will hold negotiations on the contract. Commissioner Carson wanted that in the first year as the county was waiting for actual numbers in regards to net proceeds of mines; this can be revisited in May. Via Zoom, Commissioner Bullis wished he had more time to do the math, but was leaning toward staying status quo unless there was a massive financial difference. There are pros and cons on both sides, but he had not heard a huge change; he wanted more feedback from the judges.

**c) Discussion/Report: Options Available to Provide Public Defender Services**

This item was discussed in the previous item.

**\*d) Discussion/For Possible Action: Award Public Defender Services or Enter into Negotiations with One or More Attorneys/Firms/Governments for Services Based on Responses Received to RFP**



The Chairman expressed that this Board has a duty to provide good service to defendants to ensure they get the best defense. The decision can be made based on the conversations had today to allow them to choose one and include an option for negotiation. Commission Vice Chairman Godon moved to enter into negotiations with the private attorney option and to ensure the Finance Director was satisfied with reporting requirements and that the private attorneys propose the best price. Commissioner Bybee made the second and the motion passed.

**\*e) Discussion/For Possible Action: Reconsideration of County Commission direction to utilize Airport CARES Act funds for allowable operating expenses as opposed to repair of runway 12/30**

Finance Director Frances noted the memo in the backup. When they use CARES Act funds for capital improvement projects, they have to enter into additional requirements for utilization of those funds. If they use the funds for operation and maintenance, it frees the budget in the general fund to transfer that money into the airport capital improvement fund to avoid federal entanglements. Commissioner Godon added that the Airport Advisory Board was good with this and he moved for approval. Commissioner Carson seconded the motion and it passed.

**f) Discussion/Update: Distribution and brief overview of fiscal year (FY) 2022 preliminary budget binders**

Director Frances handed out the binders at the beginning of the meeting and budget workshops will begin the week after next. Expenses were in the binders, but revenues will be finalized by the Department of Taxation after March 25<sup>th</sup>. She made copies of this information available to the public on the county's website.

**g) Discussion/Update: Progress of White Pine County Treasurer's Office related to outstanding reconciliations of the County's various bank accounts**

Finance Director Frances noted the corrective action plan for FY 2020 in the audit findings which required her to follow up with the Commission in February and April 2021 to advise this Board of progress being made. Most accounts were caught up through December 2020 and the main checking account was caught up to September 2020. At this point, October has been completed and November is pending.

**\*h) Discussion/For Possible Action: Approval of Resolution 2021-13 to augment the Fiscal Year (FY) 2021 General Fund from unanticipated and unbudgeted beginning fund balance by \$17,000 to cover the nonrecurring costs for the 1000 MB internet service approved at the January 27, 2021 Commission meeting**

Commissioner Godon moved to approve and Commissioner Bybee seconded the motion, which passed.

**\*i) Discussion/For Possible Action: Approval of Resolution 2021-15 to utilize \$2,400 from contingency to cover the cost for required appraisal of White Pine County property for housing development**



Commissioner Godon moved to approve this item. Commissioner Bybee made the second and the motion passed.

**\*j) Discussion/For Possible Action: Approval of Resolution 2021-14 to augment the Fiscal Year (FY) 2021 General Fund from unanticipated and unbudgeted beginning fund balance by \$11,000 to cover the primary election ballots for the fiscal year (FY) 2019-2020 primary election**

Commissioner Bybee moved for approval and Commissioner Godon made the second. Motion passed.

### **3. CONSENT AGENDA**

The following are "action" items that may be considered in one motion/one vote. They are considered routine, non-public hearing items that have no protests. Any person representing an item or member of the public not in agreement with the recommendations by staff should request to have that item removed from the Consent Agenda. Any County Commissioner may remove any items from the consent Agenda and have it placed in the Action Items.

**\*a) Discussion/For Possible Action: to ratify Correspondence Sent on Behalf of the White Pine County Commission.**

**\*b) Discussion/For Possible Action: Approval of Payroll for County Elected Officials.**

**\*c) Discussion/For Possible Action: Approval of HR Transmittal for Payroll Changes.**

**\*d) Discussion/For Possible Action: Approval of budget transfers within and between functions or programs within a fund that do not increase the total appropriation of the fund.**

Commissioner Carson moved to approve and Commissioner Godon seconded that motion, which passed.

### **4. NOTICE OF UNTIMED ITEMS**

**\*a) Discussion/For Possible Action: Approval of minutes from the February 10, 2021 County Commission Meeting**

Commissioner Carson noted one change given to the Clerk in regards to Bill Butts being a member of the CNRWA for 40 years, but was actually a well user for that amount of time. Commissioner Carson moved to approve with the correction. Commissioner Bybee made the second and the motion passed.

Chairman Howe recessed the meeting at 11:22 am until 1:00 pm.

### **PUBLIC COMMENT**

There was none.

### **ADJOURNMENT**

Commissioner Bybee moved for adjournment and Commissioner Godon seconded the motion. The meeting was adjourned at 2:15 pm.

BOARD OF COUNTY COMMISSIONERS

WHITE PINE COUNTY  
STATE OF NEVADA

BY:

  
\_\_\_\_\_  
CHAIRMAN

ATTEST:

  
\_\_\_\_\_  
WPC CLERK OF THE BOARD