

1 The Honorable Board of Lander County Commissioners met in
2 regular session in the Commission Chambers of the Lander County
3 Courthouse and Administration Building in Battle Mountain,
4 Nevada, 50 State Route 305, on August 9, 2018, at 9:00 a.m.
5 Transcript produced by Tiffany Elkington, C.C.R., #930.

6
7 **PRESENT: PATSY WAITS, COMMISSIONER**
8 **SEAN BAKKER, COMMISSIONER**
9 **ART CLARK III, COMMISSIONER**
10 **DOUG MILLS, COMMISSIONER**
11 **JUDIE ALLAN, COMMISSIONER**
12 **KEITH WESTENGARD, EXECUTIVE DIRECTOR**
13 **SADIE SULLIVAN, COUNTY CLERK**
14 **THEODORE HERRERA, DISTRICT ATTORNEY**
15

16
17 (Let the record reflect the presence of a quorum of five
18 commissioners. Let the record reflect the presence of Austin
19 via teleconference.)
20

21 CHAIRMAN MILLS: I call to order this Lander County
22 Commission meeting, Town Board of Battle Mountain and Austin,
23 Board of County Highway --

24 KEITH WESTENGARD: Come on, Ted.

25 CHAIRMAN MILLS: -- Commissioners, August 9, 2018.

26 Please join us in the Pledge of Allegiance.

27 Patsy, will you lead us?

28 COMMISSIONER WAITS: Thank you. Please join me in the
29 salute to our flag.
30

31 (Pledge of Allegiance)
32

33 CHAIRMAN MILLS: Okay. Thank you. We'd like a moment of
34 silence, please.
35

36 (Moment of silence)
37

38 CHAIRMAN MILLS: Thank you.

39 Lander County Commissioners may break for lunch from 12:00
40 p.m. to 1:15 p.m. Any agenda item may be taken out of order or

1 may be combined for consideration by the public body, and items
2 may be pulled or removed from the agenda at any time.

3
4
5 **COMMISSIONER REPORTS**

6
7 CHAIRMAN MILLS: Commissioners' reports on meetings,
8 conferences, and seminars attended.

9 Judie?

10 COMMISSIONER ALLAN: I have not attended anything.

11 CHAIRMAN MILLS: Okay. I don't have anything.

12 Sean?

13 COMMISSIONER BAKKER: I don't either. I just want to say,
14 Baldini, thank you for being here, and you look good.

15 So --

16 Okay.

17 CHAIRMAN MILLS: Patsy.

18 COMMISSIONER WAITS: Thank you.

19 On July 30th I did have a telephone conference with our
20 airport engineers regarding the Austin Airport Master Plan
21 draft. And we went through that. We had a number of -- of
22 simple corrections and things that needed to be changed. And so
23 they finished that up and emailed us that everything has been
24 sent to -- to the FAA. So that's on target.

25 On August 2nd I did have a -- a telephone conference. This
26 is our monthly meeting with the Justice and Public Safety, which
27 is the national committee I sit on for NACO. And with the -- just
28 a couple months remaining, actually, till the end of our fiscal
29 year, both chambers of Congress are making progress for funding
30 some of our appropriations for some real key federal programs that
31 affect us. And actually that was related to the Public and
32 Justice Safety. So they're on target. And generally the levels
33 are pretty much what it is this year. So that's a real good sign,
34 and we're happy about that.

35 On August 4th, last Saturday, the Kingston firefighters and
36 the Kingston town had their -- their annual fundraiser. Huge
37 success as always. It really is.

38 And they -- they gave us a couple awards. And I brought
39 those to actually read into the record, and we'll put in the
40 different offices.

1 This one is a very nice plaque to Keith Westengard. It said,
2 Presented to Keith Westengard in appreciation of your hard work
3 and dedication to the fulfillment of a new fire truck for the Town
4 of Kingston Fire Company. We thank you. 2018.

5 And the other one that we received is presented to the Lander
6 County Commission, Sean Bakker, Patsy Waits, Doug Mills, Judie
7 Allan, Art Clark III, with grateful appreciation for our new fire
8 truck. It will make a difference in the lives of many. Town of
9 Kingston Fire Company. 2018.

10 So I wanted to have that on the record. They were extremely
11 pleased. And the fire trucks and emergency services vehicles were
12 all there.

13 On August 6th we had our chamber of commerce meeting in
14 Austin. And a couple of things I did want to report.

15 The Great Basin Institute that got a -- actually a grant
16 for us to do some of our bike trails. And they did come out.
17 They are totally completed. All of our Carsonites are back up.
18 And -- and on all of the trails that we had previously marked.
19 And they did a lot of extra work on one of our trails on
20 Cayhill.

21 I also wanted to share with you -- you haven't seen it.
22 This was in one of the papers that Highway 50 announced its
23 official U.S. bicycle route in Nevada. The first one that we've
24 had. We're joining the national bike route.

25 Actually, it's been on all of the bicycle -- adventure
26 bicycling. And all of them had 50 on it.

27 But it's interesting. After all the -- the things that
28 we've done with the Nevada Department of Transportation
29 regarding this bike route, we've been asking for Share the Road
30 signs. We've been asking for some extra -- actually bike -- not
31 trails, but the -- but the bike paths on the other side where
32 they could designate. And they haven't done a thing. And it's
33 like, oh, surprise.

34 So okay. We are now official. And that's a wonderful thing.

35 And the other thing is we have the wine walk coming up in
36 Austin that I wanted to share with you. And that, of course, is
37 on, actually, the -- on Saturday in September.

38 And so hopefully you can join us there. Thank you.

39 COMMISSIONER CLARK: I have nothing to report.

40 CHAIRMAN MILLS: Okay.

1 **STAFF REPORTS**

2
3 CHAIRMAN MILLS: Staff reports on meetings, conferences,
4 and seminars attended.

5 KEITH WESTENGARD: Well, I have a little follow-up here.
6 Commissioner Waits had asked in the last meeting about the
7 abandoned mines. So I -- I'm doing some follow-up with -- and I
8 can't pronounce his last name. It's Robert. I can't -- I can't
9 even pronounce it. But he's the chief the -- of the abandoned
10 mine lands in Nevada Division of Minerals. So we'll be doing
11 some follow-up with that.

12 We did receive the sign for the veterans statue. And I
13 believe it'll be -- if it's not up already, it should be up real
14 soon for the dedication of that.

15 I spoke with Rex Massey recently regarding the Navy expansion
16 in Fallon. That's moving forward. We've -- we've brought some
17 questions forth. And we're just waiting for some answers back
18 regarding the sage grouse and some other impacts that it may have
19 on their expansion project in Fallon.

20 The U.S. Forest Service has extended its comment period on
21 the sage grouse. I -- I did forward you -- forward you each an
22 email regarding that if you any input on that. They did extend
23 it. So if you have any comments, let me know so that I can bring
24 it to the group.

25 We do have a sage grouse meeting coming up for the six
26 western states where we're going to discuss the -- the plan and
27 the proposed implementation and so forth of that -- of the sage
28 grouse.

29 We -- I -- I have a survey here that -- I know this is close
30 to Commissioner Clark -- has to do with our off-highway vehicle
31 use.

32 And then now it's involving the Department of Conservation
33 and Natural Resources as well as the commission on off-highway
34 vehicle use. So I'd like to get with you a little later on that.
35 We can talk a little bit about that. And there is a survey here.
36 And I believe I forwarded you each this --

37 COMMISSIONER WAITS: It's in our correspondence.

38 KEITH WESTENGARD: Okay. Good.

39 Oh. I did receive a -- a phone call from Mark Evatz. Did I
40 pronounce that right? Is that your general mine manager?

1 UNIDENTIFIED PARTICIPANT: Mark Evatz?

2 KEITH WESTENGARD: Evatz. Okay. Expressing his
3 appreciation for the purchase of the ambulance from Lander
4 County.

5 They're real happy with it. That has been completed. It
6 is at the Newmont mine site. And -- so they're very happy with
7 it. And they're very appreciative of working with the
8 commission and the county to get that done.

9 Also received a -- a little thank-you letter from the Battle
10 Mountain Chamber.

11 They wanted to let you know that -- or let you know that they
12 do appreciate the grant that you did afford them this year.
13 They're pretty happy with it.

14 With that said, I -- I do need to request, when we get to
15 that point, Item 1 on our agenda -- and you do have a letter
16 there -- that it be deferred or tabled.

17 The individual that's with Item 1 would like to come to the
18 September 13th meeting and address the commission regarding his
19 request.

20 Also, Item 2, having to do with the fire department, the
21 Battle Mountain volunteer fire department. I'm asking that be
22 deferred or tabled.

23 I had no backup. I didn't include any backup. And that was
24 my mistake. I -- I figured since you guys received those policies
25 and procedures at a previous meeting from -- from Sheriff Unger
26 that -- that you'd reviewed them. So we're going to table that.
27 And you will actually get --

28 I'm going to have to ask Ron for another copy of those.
29 And we'll include it in the backup of the -- of -- not the next
30 meeting that's in Austin. Don't forget the next meeting is
31 Austin and it's at 10 o'clock in Austin.

32 There will be backup in the September meeting.

33 And it -- we -- it can be addressed there.

34 Other than that, I don't think I have anything else.

35 CHAIRMAN MILLS: Okay. Thank you, Keith.

36
37
38
39
40

1 PUBLIC COMMENT

2
3 CHAIRMAN MILLS: We'll move on to public comment for
4 nonagendized items only.

5 Persons are invited to submit comment in writing and/or
6 attend and make comment on any nonagenda item at the board
7 meeting, if any, and discussion of those comments at the
8 discretion of the board. All public comment may be limited to
9 three minutes per person, again at the discretion of the board.
10 Reasonable restriction may be placed on public comment based
11 upon time, place, and manner, but public comment based upon
12 viewpoint may not be restricted.

13 Do we have any public comment?

14 (No comment.)
15
16

17 PUBLIC COMMENT

18
19 CHAIRMAN MILLS: Okay. We'll move to the consent agenda.

20 All matters listed under the consent agenda are considered
21 routine and may be acted upon by the Board of County
22 Commissioners with one action, without extensive discussion.
23 Any member of the board or any citizen may request an item be
24 taken from the consent agenda, discussed, and acted upon
25 separately during the meeting. Consent agenda materials are --
26 are available at the Lander County Clerk's Office for viewing,
27 and copies are available for a nominal charge.

28 One, approval of August 9, 2018, agenda notice; two,
29 approval of amended May 24, 2018, meeting minutes; three,
30 approval of June 14, 2018, meeting minutes; four, approval of
31 June 28, 2018, meeting minutes; five, approval of July 12, 2018,
32 meeting minutes; six, approval of July 26, 2018, meeting
33 minutes; and seven, approval of payment of bills.

34 KEITH WESTENGARD: Next -- next page too, --

35 CHAIRMAN MILLS: Oh.

36 KEITH WESTENGARD: -- Commissioner.

37 CHAIRMAN MILLS: Eight, approval of payroll change
38 requests.

39 Seems like those meeting minutes are starting to stack up.

40 Also, I have a -- I -- I do have one question on one of the

1 bills.
2 COMMISSIONER BAKKER: Okay. I'll make a motion to approve
3 the August 9 -- or -- you want to pull the 28th?
4 COMMISSIONER WAITS: I want to pull the 24th and the 28th.
5 COMMISSIONER BAKKER: The 14th and the 28th?
6 COMMISSIONER WAITS: Yes.
7 No. Well, did you -- did you folks get the 14th?
8 COMMISSIONER BAKKER: June four- -- I didn't -- I -- we got
9 June 28th, though.
10 COMMISSIONER WAITS: I got June 28th, but I have a
11 correction.
12 COMMISSIONER BAKKER: Okay.
13 COMMISSIONER WAITS: So I need to pull those.
14 CHAIRMAN MILLS: Oh, okay.
15 COMMISSIONER WAITS: But I didn't know if you got
16 June 14th and I didn't.
17 No. Oh, that's interesting.
18 Okay. All right.
19 COMMISSIONER BAKKER: Okay. Make a motion to approve the
20 August 9th, 2018, agenda notice; the May 24th -- or did you
21 want to pull those?
22 COMMISSIONER WAITS: No. Pull that.
23 COMMISSIONER BAKKER: Okay.
24 Wow.
25 COMMISSIONER WAITS: Number 7.
26 COMMISSIONER BAKKER: Yeah.
27 COMMISSIONER WAITS: No?
28 COMMISSIONER BAKKER: No.
29 COMMISSIONER WAITS: Under that.
30 COMMISSIONER BAKKER: And then --
31 CHAIRMAN MILLS: No.
32 COMMISSIONER BAKKER: And the payroll --
33 CHAIRMAN MILLS: (Indiscernible.)
34 COMMISSIONER BAKKER: -- change --
35 COMMISSIONER WAITS: Number 8.
36 COMMISSIONER BAKKER: -- requests.
37 COMMISSIONER WAITS: Okay. So your motion is to approve
38 Number 1 and Number 8, --
39 COMMISSIONER BAKKER: Yep.
40 COMMISSIONER WAITS: -- the agenda notice and the payroll?

1 Okay. I'll second that.
2 COMMISSIONER BAKKER: Okay.
3 CHAIRMAN MILLS: Sean made a motion. Patsy seconded.
4 Do we have any public comment?
5 KEITH WESTENGARD: I -- I'd like to make a little comment,
6 just for clarification on the payroll change requests, just so
7 that you -- the commission understands and it's on the record.
8 One of -- num- -- the first one has to do with the payroll
9 change request for Sandy Smith. And the reason that's in there is
10 in discussion with -- with Ms. Smith, it's -- it's been 11 years
11 since she has had any type of a -- of a evaluation and -- a merit
12 increase. So that's why that that is in there, for her to get a
13 merit increase. She hasn't had one in 11 years.
14 And part of that's my fault. I -- she sits over there, and
15 she just does her job. And I -- I really hardly ever hear from
16 Sandy. So we're bringing that up.
17 And as far as Laken Marine's go. That -- that should've
18 shown on the record -- or on the paperwork as a split. It's --
19 her 2 percent merit salary increase and then an additional 2
20 percent, which was budgeted for because of the extra
21 responsibilities that have to do with our new accounting system
22 that Laken has taken on.
23 So I -- I want to make that clear on the record for the
24 payroll change requests. And if there's any other questions
25 about mine, I would be happy to answer them.
26 COMMISSIONER BAKKER: I don't think anyone's disputing any
27 of those.
28 KEITH WESTENGARD: I -- I just wanted to make it clear. I
29 mean, and Fiscal Officer Cindy Benson is just doing a phenomenal
30 job for this county. She's awesome. And if I could have given
31 more, I probably would have. She's really doing a great job.
32 And I want the commission to know that.
33 Thank you.
34 COMMISSIONER BAKKER: Thanks, Cindy.
35 KEITH WESTENGARD: They -- they all are. They all are.
36 CHAIRMAN MILLS: Okay. Any other public comment?
37 (No comment.)
38 CHAIRMAN MILLS: All in favor?
39 COMMISSIONER BAKKER: Aye.
40 COMMISSIONER ALLAN: Aye.

1 CHAIRMAN MILLS: Aye.
2 COMMISSIONER WAITS: Aye.
3 COMMISSIONER CLARK: Aye.
4 COMMISSIONER BAKKER: Okay. So --
5 CHAIRMAN MILLS: So I -- my question on the payment of the
6 bills is we do show we're paying CORE Construction 75,000 for
7 boilers. I just want to clarify.
8 Because I understood the boilers were under warranty still.
9 And we've had continual problems with the boilers. We've
10 replaced them once. I'm just -- I'm -- is it under warranty or
11 not? I mean, that's really kind of my question.
12 KEITH WESTENGARD: Well, so this -- this is -- and -- and
13 Max isn't here. So I really can't fall back on Max for -- for a
14 complete analogy of what's going on.
15 But we had our initial boilers.
16 Is Anna in here? Ah. Anna's here. That's good. So if I
17 get off track, put me back on.
18 So we had our initial boilers that were -- that were put
19 into this building. They were designed too small.
20 So what we did was we increased the size of one of the
21 boilers to offset that -- that bad design, I guess.
22 Well, then what happened is we should have replaced them
23 both at the same time. But we only replaced the one to make it
24 bigger so we had a big one and a small one.
25 And what happened is the -- the -- it over -- there was some
26 overcompensation. So we ended up having to put both of them at
27 the same larger size.
28 To answer your question, it was out of warranty by that
29 time, so it did fall on us.
30 But -- but that -- that's it in the nut- -- in a nutshell.
31 And I -- I believe that covers it?
32 ANNA PENOLA: If you look -- Anna Penola, for the record --
33 it's being looked at with CORE.
34 CHAIRMAN MILLS: Okay. Did -- did we get any consideration
35 for -- I mean, it wasn't designed properly in the first place.
36 Did they give us any --
37 ANNA PENOLA: It's --
38 CHAIRMAN MILLS: -- credit for that or anything?
39 ANNA PENOLA: The -- I think we should talk about it with
40 Max after the meeting.

1 CHAIRMAN MILLS: Okay. All right. Good enough.
2 COMMISSIONER WAITS: Okay. On Number 2, the approval of
3 the amended May 24th minutes. And this is certainly partially
4 my fault with the commun- -- miscommunication. That should read
5 May 10th. So we'll have that correction on next time.
6 KEITH WESTENGARD: Yes.
7 COMMISSIONER WAITS: And on the June 28th, on page 75.
8 Line 12. They have -- they do not have Doug reading in the
9 agenda item. And so that needs to be changed. You know, that's
10 just a quick one.
11 CHAIRMAN MILLS: Oh, okay.
12 COMMISSIONER WAITS: So with that, I'll make a motion that
13 we approve the June 28th meeting minutes and the payment of
14 bills.
15 COMMISSIONER BAKKER: Second.
16 CHAIRMAN MILLS: Okay. Patsy made a motion. Sean
17 seconded.
18 Do we have any public comment?
19 KEITH WESTENGARD: Mr. Chairman, I actually do. We have a
20 comment related to minutes.
21 It's pretty obvious that we're having a lot of problems with
22 our minutes. And what it boils down to is our transcriber.
23 And what happens is our transcriber has to listen to -- to
24 minutes or the recordings several times because there's chitchat
25 going on that's picked up. There's -- there's sometimes people
26 try to speak from the back of the room.
27 So I'm re- -- respectfully requesting that in the future,
28 from this point forward if you could, when somebody wants to make
29 a comment, that they come to the front of the room, they identify
30 themselves, speak clearly. And that when there's chitchat out in
31 the audience that you would please advise them to either come up
32 and make their comment or -- or leave the room if they need to
33 have a discussion.
34 It -- it's really affecting it once our transcriber has to
35 listen to a -- a discussion two or three or four times. And then
36 the proof- -- proofer also has to listen to that same discussion
37 to make sure it's -- it's entered properly in the minutes.
38 So hopefully that'll -- it'll clean up our minute -- minutes
39 issue. And that we would start getting in a more -- in a more
40 timely way.

1 COMMISSIONER WAITS: The other concern -- and you can see
2 it in the minutes as we go through it -- is cell phones. And
3 the cell phone ringing will block out someone else speaking too.
4 So we need to be sure that everybody's doing that.

5 KEITH WESTENGARD: Thank you.

6 CHAIRMAN MILLS: Do we have any other public comment?

7 (No comment.)

8 CHAIRMAN MILLS: All in favor?

9 Aye.

10 COMMISSIONER ALLAN: Aye.

11 COMMISSIONER WAITS: Aye.

12 COMMISSIONER CLARK: Aye.

13 CHAIRMAN MILLS: Thank you.

14 So, once again, we're tabling Item Number 1 and tabling Item
15 Number 2.

16
17
18 **COMMISSIONERS**

- 19
20 3) Discussion and possible action regarding participating in a
21 lawsuit as a class member related to Payments in Lieu of
22 Taxes Act (PILT) for FY '15, '16, '17; case Nos. 17-739C and
23 17-1991C (consolidated); Kane County, Utah v. United States;
24 and all other matters properly related thereto.
25

26 CHAIRMAN MILLS: Move to Item Number 3.

27 Discussion and possible action regarding participation in
28 lawsuit as a class member related to Payment in Lieu of Taxes Act,
29 PILT, for fiscal year '15, '16, '17; Case Numbers 17-739C and
30 17-1991C, consolidated; Kane County, Utah v. United States; and
31 all other matters properly related thereto.

32 DISTRICT ATTORNEY HERRERA: Commissioners, if -- if you
33 recall, when Ken Brown was here, I asked him about this -- about
34 this lawsuit.

35 And that -- in his opinion, if we should -- should join it.
36 And his answer was a resounding, yes, we should --

37 COMMISSIONER CLARK: Okay.

38 DISTRICT ATTORNEY HERRERA: -- when -- when it comes up.

39 But he didn't think it was -- was going on at that point in
40 time.

1 So Keith got -- received some information about this class --
2 class action suit. And what it is, is we were under -- allegedly
3 underpaid on PILT, our PILT money, for four or five years. And
4 this is to recoup it on behalf of a lot of counties in Utah,
5 Nevada, and maybe other states. But --

6 And I'm sure Patsy knows more about this, than I do, from
7 NACO. So she can correct me if I'm wrong on anything.

8 But he received the information. I -- I read through it.
9 And it seemed to indicate that that's the class action lawsuit
10 that we needed to join to recover the underpaid PILT money.

11 So I asked him to put it on the agenda to -- to go by the
12 county commissioners and see if -- if you want to entertain
13 joining in on the lawsuit.

14 CHAIRMAN MILLS: How much -- how much is the underpayment?
15 Do you have any idea?

16 COMMISSIONER WAITS: They haven't given us any amounts at
17 all. And with -- and with a class action suit, it doesn't mean
18 it would be your whole amount, because they'd be taking their
19 costs out of it too.

20 CHAIRMAN MILLS: Right.

21 COMMISSIONER WAITS: So --

22 CHAIRMAN MILLS: So what's --

23 COMMISSIONER WAITS: We --

24 CHAIRMAN MILLS: -- what's our --

25 COMMISSIONER WAITS: -- we truly --

26 CHAIRMAN MILLS: -- potential net --

27 COMMISSIONER WAITS: -- don't know.

28 CHAIRMAN MILLS: -- gain.

29 COMMISSIONER WAITS: But being a plaintiff, we have nothing
30 to lose because there's no cost.

31 DISTRICT ATTORNEY HERRERA: Right.

32 CHAIRMAN MILLS: Okay.

33 COMMISSIONER WAITS: So --

34 KEITH WESTENGARD: We -- we really --

35 COMMISSIONER WAITS: Okay.

36 COMMISSIONER CLARK: I was --

37 KEITH WESTENGARD: -- don't --

38 COMMISSIONER CLARK: -- going to --

39 KEITH WESTENGARD: We --

40 COMMISSIONER CLARK: That --

1 KEITH WESTENGARD: There is --
2 CHAIRMAN MILLS: Keith, go ahead.
3 KEITH WESTENGARD: There's -- there's no -- we don't know
4 what it's going to be, to answer your question.
5 We have to wait and see what comes back. And then there'll
6 probably be a formula based on your county size, based on your --
7 on your public lands -- on our public lands, that we could figure
8 what our underpayment would be.
9 So --
10 CHAIRMAN MILLS: Okay.
11 KEITH WESTENGARD: -- once this is -- gets to court, we'll
12 probably get -- well, we will get more information before --
13 before it gets to court. We'll get more information. And we'll
14 have to come up with the form -- use their -- a formula to
15 figure out what our underpayment would be.
16 CHAIRMAN MILLS: So do -- do we have any indications that
17 we -- we really were underpaid?
18 DISTRICT ATTORNEY HERRERA: I believe the allegations that
19 all the counties were -- or all the counties involved in these
20 states were underpaid.
21 CHAIRMAN MILLS: Okay.
22 DISTRICT ATTORNEY HERRERA: Yes.
23 CHAIRMAN MILLS: Good enough.
24 COMMISSIONER ALLAN: Do we have any --
25 COMMISSIONER CLARK: My --
26 COMMISSIONER ALLAN: -- idea --
27 COMMISSIONER CLARK: -- question --
28 COMMISSIONER ALLAN: -- on timeline?
29 DISTRICT ATTORNEY HERRERA: On -- on when we have --
30 COMMISSIONER ALLAN: Well --
31 DISTRICT ATTORNEY HERRERA: -- to join?
32 COMMISSIONER ALLAN: When we have to join and -- and --
33 DISTRICT ATTORNEY HERRERA: We --
34 COMMISSIONER ALLAN: -- typically --
35 DISTRICT ATTORNEY HERRERA: -- we just --
36 COMMISSIONER ALLAN: -- these are --
37 DISTRICT ATTORNEY HERRERA: -- received this about two
38 weeks ago at the most.
39 COMMISSIONER ALLAN: So as far as timetable. And then, I
40 mean, joining into a lawsuit, this could be drawn out for

1 quite --

2 COMMISSIONER WAITS: But --

3 COMMISSIONER ALLAN: -- some time.

4 COMMISSIONER WAITS: -- time.

5 DISTRICT ATTORNEY HERRERA: Oh. Yes. Absolutely,
6 Commissioner. Particularly the class action suit variety.
7 Absolutely. But --

8 COMMISSIONER WAITS: In j- -- in joining the class action
9 suit, I think the -- the time limit was -- what? --
10 September 14, I believe?

11 DISTRICT ATTORNEY HERRERA: Yeah.

12 COMMISSIONER WAITS: Yes. Has to be in by September 14th.

13 So I'll go ahead and make a motion that we authorize our
14 executive director to -- to fill out an opt-in notice and that
15 we participate in the lawsuit as a class action member under our
16 entitlement Section 6902 of the PILT Act and do that as soon as
17 possible.

18 COMMISSIONER CLARK: Second.

19 I'll second that.

20 CHAIRMAN MILLS: Okay. Patsy made a motion. Art seconded.
21 Do we have any public comment?

22 COMMISSIONER CLARK: Yeah. My question was going to be
23 what did Ken Brown say? So you answered that question.

24 DISTRICT ATTORNEY HERRERA: He was all for it.

25 COMMISSIONER CLARK: Yeah. If -- Ken's our adviser on that
26 stuff. And he's good.

27 CHAIRMAN MILLS: Okay. All in favor?

28 COMMISSIONER BAKKER: Aye.

29 COMMISSIONER ALLAN: Aye.

30 CHAIRMAN MILLS: Aye.

31 COMMISSIONER WAITS: Aye.

32 COMMISSIONER CLARK: Aye.

- 1 4) Discussion and possible action regarding a scope-of-work
2 proposal from Day Engineering to provide design, bid
3 assistance, and construction administrative services for the
4 replacement of a retaining wall and backfill above the Austin
5 Visitors Center, and all other matters properly related
6 thereto.
7

8 CHAIRMAN MILLS: Item 4. Discussion and possible action
9 regarding a scope-of-work proposal from Day Engineering to
10 provide design, bid assistance, and construction administrative
11 services for the replacement of a retaining wall and backfill
12 above Austin Visitors Center, and all other matters properly
13 related thereto.

14 KEITH WESTENGARD: (Indiscernible.)

15 COMMISSIONER WAITS: Good morning, Marty.

16 MARTIN UGALDE: Good morning.

17 COMMISSIONER WAITS: Morning, Bert.

18 BERT RAMOS: Morning.

19 COMMISSIONER CLARK: Gentlemen, --

20 CHAIRMAN MILLS: Morning.

21 COMMISSIONER CLARK: -- good morning.

22 MARTIN UGALDE: Morning. Morning.

23 BERT RAMOS: Bert Ramos, for the record.

24 You guys requested that we look into the retaining wall
25 back there between -- behind the Austin Visitor Center. And
26 that's what this is regarding.

27 So Marty's come up with some kind of baseline ideas to get
28 a cheap as fix we can that's going to be lasting.

29 And that --

30 COMMISSIONER BAKKER: Okay.

31 BERT RAMOS: -- sums it up.

32 COMMISSIONER WAITS: I thought it seemed pretty clear. It
33 was time and materials. And I'm glad it came in as low as it
34 did, even though it's a lot of money. It certainly could be a
35 whole lot worse.

36 And the time frame, it looked like two weeks, you said, for
37 the project?

38 MARTIN UGALDE: Yes. Marty Ugalde with Day Engineering.
39 Yeah.

40 So I had a geotechnical engineer that's done work out there

1 before for us look at that and determine the cause of the
2 failure and everything.

3 And so -- not to say that it's the cheapest fix. I think
4 it is the most -- or the most cost-effective fix that we're
5 looking at. But we're looking at re- -- reestablishing a -- a
6 block wall behind the trees of the visitors center and redoing
7 the slope and reestablishing the curb and the sidewalk on the
8 street above, on Court Street.

9 But if we can get a contractor in there, the amount of work
10 that's involved and with the county providing the backfill
11 material, two weeks should be more than enough to -- to get that
12 done.

13 COMMISSIONER WAITS: Thank you.

14 CHAIRMAN MILLS: Well, looked pretty reasonable to me. I
15 thought it was all right.

16 So do we have --

17 COMMISSIONER ALLAN: I think --

18 CHAIRMAN MILLS: -- a motion?

19 COMMISSIONER ALLAN: -- the engineering --

20 COMMISSIONER WAITS: I'll --

21 COMMISSIONER ALLAN: -- cost estimate -- the construction
22 administration seems a little high, you know. Fifteen percent
23 for engineering costs, not really excited about that one.

24 COMMISSIONER WAITS: I'm sorry, Judie. I -- I didn't
25 understand what you were questioning.

26 COMMISSIONER ALLAN: I just think that -- that 15 percent
27 on the engineering costs is -- seems a little excessive.

28 I know there's a breakdown. And you've got your
29 inspection, whatnot.

30 Marty, how many jobs that we've had you engineer and have
31 you actually inspected? Been on-site and then inspected?

32 MARTIN UGALDE: The -- the company has an inspector on-site
33 on the projects that we've done for the county up until -- I
34 think it was Eisenhower Road and the pond projects.

35 But we've had a -- a guy by the name of Jack Orr who's been
36 involved in utility work for a long time. He's in -- he's got
37 many years of experience. And so we've been providing on-site
38 inspection for all the projects, --

39 BERT RAMOS: Every Day job.

40 MARTIN UGALDE: -- record -- recordkeeping, photos, field

1 reports, which I provide to the county after the job. And red
2 lines of all the -- where all the meters and valves have gone
3 and as-builts.

4 So I provide a complete construction document at the end of
5 the job.

6 But since the county has been using -- utilizing another
7 person for that, we have reduced that cost from 15 to 11 percent
8 only because on the construction admin part of the project, I
9 still process pay request, review submittals. I do some field
10 issue res- -- resolutions if -- if questions come up. And I
11 prepare the as-builts and everything.

12 So -- and I would like to add also that when we first got
13 involved with this, I -- Patsy had asked a question about doing
14 time and materials, which I'm thankful for because it has saved
15 the county money. And, in fact, the last project, the water
16 transmission main and Well 3 and the sewer project, they've -- the
17 county has saved money from our original proposal, which is a --
18 it's based on a percentage of an estimated construction cost as a
19 not-to-exceed fee.

20 But time and materials, we haven't billed for the full
21 contract amount because we haven't been able to -- I mean,
22 not been able to. I'm sorry. We -- we've not spent that much
23 time on it. So billing on a time-and-materials basis, we've
24 saved -- the county has saved money on -- on the engineer side
25 of that.

26 On this particular project with the wall, the construction
27 admin or the inspection's going to be by the geotechnical
28 engineer, which is what I would recommend, because it's a slope
29 failure.

30 And I -- I'd like the geotechnical engineer to be on-site for
31 that. And those are his -- those are his costs.

32 COMMISSIONER ALLAN: Okay.

33 COMMISSIONER WAITS: So even though the engineering cost is
34 there, at 10,153, it still come -- might come in less if the
35 time and materials come in.

36 So I'm -- I'm okay with that.

37 I'm -- the time and materials always makes it a little bit
38 better because you never know. And the contingency fund helps too
39 if there's something that -- some surprise and -- and we don't
40 know, we aren't expecting.

1 So with that, I'll make a motion that we a- -- approve the
2 proposal from Day Engineering to provide the design, bid
3 assistance, and construction administration services for the
4 replacement of a retaining wall and backfill above the Austin
5 Visitors Center for time and materials not to exceed \$10,150.

6 COMMISSIONER CLARK: Second.

7 CHAIRMAN MILLS: Okay. Patsy made a motion. Art seconded.
8 Do we any public comment?

9 (No comment.)

10 CHAIRMAN MILLS: All in favor?

11 COMMISSIONER BAKKER: Aye.

12 CHAIRMAN MILLS: Aye.

13 COMMISSIONER ALLAN: Aye.

14 COMMISSIONER WAITS: Aye.

15 COMMISSIONER CLARK: Aye.

16 COMMISSIONER WAITS: And thank you, everyone, --

17 CHAIRMAN MILLS: Yeah.

18 COMMISSIONER WAITS: -- for jumping on that. Because of
19 the urgency, we said, you know, whatever we can do. So I know
20 they've been out. They've been taking core samples and
21 everything. So we're on line. Now we just need somebody to bid
22 it?

23 MARTIN UGALDE: Yeah.

24 COMMISSIONER WAITS: And get it done. Thank you.

25 MARTIN UGALDE: Thank you.

26 Thank you very much.

- 27
28 5) Discussion and possible action regarding a scope-of-work
29 proposal from Day Engineering to provide design, bid
30 assistance, and construction administrative services for the
31 repavement of portions of S.R. 212, 214, and 215, a total
32 paving project of 12 miles, and all other matters properly
33 related thereto.
34

35 CHAIRMAN MILLS: Okay. Moving on to Item Number 5.

36 Discussion and possible action regarding a scope-of-work
37 proposal from Day Engineering to provide design, bid assistance,
38 and construction administrative services for the repavement of
39 portions of State Route 212, 214, and 215, a total paving
40 project of 12 miles, and all other matters properly related

1 thereto.

2 BERT RAMOS: And so this is just we're asking to go out to
3 bid for all the approved projects down there, not all, but for
4 all the approved paving projects down there in Austin outside of
5 Grass Valley Road.

6 Grass Valley Road, we're leaving alone until we get some
7 more working relationship with Ormat on that. So these are for
8 all the roads out in the valley.

9 COMMISSIONER WAITS: The interesting thing on this one is,
10 is it's not time and materials.

11 MARTIN UGALDE: I'm sorry if it -- it should be. It -- it
12 is. It will be.

13 It -- it -- it'll be consistent with all the other contracts
14 we've been doing.

15 COMMISSIONER WAITS: Okay.

16 MARTIN UGALDE: So I'm sorry if it's not -- it was not
17 worded that way. It should be. So --

18 COMMISSIONER WAITS: That was my only --

19 MARTIN UGALDE: My apologies on --

20 COMMISSIONER WAITS: -- my --

21 MARTIN UGALDE: -- there.

22 COMMISSIONER WAITS: -- only concern.

23 MARTIN UGALDE: Yes. I -- I know. It's a -- it's a big
24 number. But for -- for example, on that water transmission main
25 project, just a -- for example, the one to Anne Road, it looks
26 like maybe 40- or \$50,000 in savings on the engineering for that
27 project that we're not going to bill for because of time and
28 materials.

29 COMMISSIONER WAITS: Thank you.

30 MARTIN UGALDE: So --

31 And I'm -- and I'm assuming it'll be the same on here.

32 The -- the biggest part of this project will be the
33 surveying. And the reason I'm -- I'm going to do a survey is
34 because I drove those roads, with Rick, from Kingston. And
35 there's a few sections of road that need to be raised. There's
36 some drainage issues there. There's some culverts that need to
37 be replaced and at -- and at least one cattle guard that needs
38 to be raised. And there's -- all three of them have approaches
39 to State Route 722, which is an NDOT approach. So we'll have to
40 go through them.

1 But that -- that's quite a -- quite a -- a task --
2 surveying task for 12 miles of road and a lot of ink on paper.

3 But, again, I'm -- that with time and materials, we'll --
4 we'll do everything we can to keep that at a minimum and -- and
5 reduce those costs considerably, hopefully.

6 COMMISSIONER BAKKER: Okay.

7 COMMISSIONER WAITS: Uh-huh.

8 COMMISSIONER BAKKER: Are you good with that, Patsy?

9 COMMISSIONER WAITS: You bet.

10 With that, I will make a motion that we approve the
11 proposal from Day Engineering to provide design, bid assistance,
12 and construction administrative services for the repavement of
13 portions of S.R. 212, 214, and 215, a total paving project of 12
14 miles, with time and materials, and the amount not to exceed
15 \$517,550.

16 COMMISSIONER BAKKER: Second.

17 COMMISSIONER CLARK: Second. You got it.

18 CHAIRMAN MILLS: Okay. Patsy made a motion. Sean
19 seconded.

20 Do we have any public comment?

21 (No comment.)

22 CHAIRMAN MILLS: All in favor?

23 COMMISSIONER BAKKER: Aye.

24 CHAIRMAN MILLS: Aye.

25 COMMISSIONER ALLAN: Aye.

26 COMMISSIONER WAITS: Aye.

27 COMMISSIONER CLARK: Aye.

28 COMMISSIONER BAKKER: Thanks, --

29 MARTIN UGALDE: Thank you.

30 COMMISSIONER BAKKER: -- guys.

31 BERT RAMOS: Appreciate it.

32 CHAIRMAN MILLS: Thank you.

33 MARTIN UGALDE: Thank you very much.

- 1 6) Discussion and possible action regarding the proposal and
2 reading by title of Ordinance No. 2018-03 amending Title 2
3 Chapter 06, of the Lander County Code, deleting references to
4 an executive director and defining all matters relating to,
5 and to modify the duties and powers of the county manager
6 position, and all other matters properly related thereto.
7

8 CHAIRMAN MILLS: Okay. Item 6. Discussion and possible
9 action regarding the proposal and reading of title of Ordinance
10 Number 2018-03 amending Title 2, Chapter 06, of the Lander
11 County Code, deleting references to an executive director and
12 defining all matters relating to, and to modify the duties and
13 powers of the county manager position, and all other matters
14 properly related thereto.

15 DISTRICT ATTORNEY HERRERA: This is one of the ordinances
16 that I -- that I said I wanted to -- to fit with the -- with the
17 next one, which is Number 7 with the -- with the -- with the
18 public work director.

19 So we listened to the minutes a number of times for both the
20 contract and these ordinances. And -- and we've -- I believe that
21 I followed each and every directive -- directive that -- that you
22 as county commissioners gave me to do. And -- and this is the
23 result.

24 So --

25 COMMISSIONER BAKKER: Okay.

26 COMMISSIONER WAITS: I have --

27 COMMISSIONER BAKKER: With --

28 COMMISSIONER WAITS: -- just one question, concern.
29 Because I know we voted on the name. And I wasn't in favor of
30 changing it. But in -- in thinking about that, I'm going, when
31 someone is a manager or someone is a director, who do you think
32 is higher?

33 We have a lot of managers in a lot of different departments.
34 And in the outside world, not government, and -- and they're --
35 they're way down on the totem pole, supervisor, managers, I mean,
36 compared to directors. And I thought, I want to be sure that
37 you're still all okay from changing from executive director to
38 county manager before you approve the ordinance.

39 CHAIRMAN MILLS: As -- as I look at it, to me it's more
40 important to have your -- within our own organization have those

1 lined out however we want them to be, not necessarily in
2 relation to whatever is outside of our organization.

3 So whether we call them a manager or a director, as long as
4 the tiers are uniform and we understand what we're doing, I think
5 we're okay.

6 COMMISSIONER WAITS: Maybe.

7 But -- but if we go on to make Bert the director and -- and
8 any outside world -- and you say county manager and director,
9 who's going to be higher?

10 So you may know it, but --

11 CHAIRMAN MILLS: Well --

12 COMMISSIONER WAITS: -- I'm still going, --

13 CHAIRMAN MILLS: That part of that too in -- in discussing
14 this with Ted, I -- I -- manager and director are pretty much
15 the same thing.

16 DISTRICT ATTORNEY HERRERA: They're synonymous in -- in
17 most cases. Lit- -- technically by definition they're -- they
18 can be synonymous. Yes.

19 CHAIRMAN MILLS: Yeah. So it's whatever we define them to
20 be in -- in -- in my opinion.

21 COMMISSIONER WAITS: Well, you folks voted. I just wanted
22 to --

23 CHAIRMAN MILLS: So --

24 COMMISSIONER WAITS: -- be sure.

25 COMMISSIONER ALLAN: One of the -- one of the issues I do
26 have with the ordinance itself -- and personally I don't care
27 what you call the position. I think manager is a little bit
28 more clear to the public in his position of managing the county.

29 Like I said, I really don't care what you -- what it's called
30 either way.

31 I still don't agree with -- with the ordinance as it's
32 presented. And the tiers, as the county manager, in my belief,
33 should be directing the public works position, that the public
34 works should be underneath the county manager.

35 COMMISSIONER BAKKER: Okay. I'll make a motion to approve
36 the proposal on the reading by Title Number 2018-03 amending
37 Title 2, Chapter 06, of the Lander County Code, deleting
38 references to an executive director and defining all matters
39 related to, and to modify the duties and powers of the county
40 manager position.

1 COMMISSIONER CLARK: Second.
2 COMMISSIONER BAKKER: Do I need to read --
3 CHAIRMAN MILLS: Okay.
4 COMMISSIONER BAKKER: -- that summary in?
5 DISTRICT ATTORNEY HERRERA: You need to read the title in
6 at some point in time --
7 COMMISSIONER BAKKER: Okay.
8 DISTRICT ATTORNEY HERRERA: -- if -- if it's passed.
9 COMMISSIONER BAKKER: Okay.
10 CHAIRMAN MILLS: Do you want to do that before the motion?
11 Or --
12 COMMISSIONER BAKKER: I might --
13 CHAIRMAN MILLS: -- would you guys like --
14 COMMISSIONER BAKKER: -- as well. Title. An ordinance
15 amending Title 2, Chapter 06, of the Lander County Code,
16 deleting references to an executive director, and defining all
17 matters relating to, and to modify the duties and powers of the
18 county manager position, and all other matters properly related
19 thereto.
20 Board of County Commissioners of the county of Lander,
21 Nevada, do ordain -- I'm going to stop right there.
22 DISTRICT ATTORNEY HERRERA: Yeah.
23 CHAIRMAN MILLS: Okay. Sean made a motion. Art seconded.
24 Do we have any public comment?
25 (No comment.)
26 CHAIRMAN MILLS: All in favor?
27 COMMISSIONER BAKKER: Aye.
28 CHAIRMAN MILLS: Aye.
29 COMMISSIONER CLARK: Aye.
30 CHAIRMAN MILLS: Opposed?
31 COMMISSIONER ALLAN: Nay.
32 COMMISSIONER WAITS: Nay.
33
34
35
36
37
38
39
40

1 7) Discussion for possible action regarding the proposal and
2 reading by title of Ordinance No. 2018-04 amending Title 2,
3 Chapter 07, of the Lander County Code, deleting references to
4 supervisors and defining all matters relating to, and to
5 modify the duties and powers of the public works director
6 position, and all other matters properly related thereto.
7

8 CHAIRMAN MILLS: Okay. Item 7. Discussion for possible
9 action regarding the proposal and reading by title of Ordinance
10 Number 2018-04 amending Title 2, Chapter 07, of the Lander
11 County Code, deleting references to supervisors and defining all
12 matters relating -- defining all matters relating thereto, and
13 to modify the duties and powers of public works director
14 position, and all other matters properly related thereto.

15 COMMISSIONER BAKKER: Okay. I'm going to make a motion to
16 approve the proposal and reading by title of Ordinance Number
17 2018-04 amending Title 2, Chapter 07, of the Lander County Code,
18 deleting references to supervisors and defining all matters
19 relating to and modifying the duties and powers of the public
20 works director position, which I just read the title in, pretty
21 much, Theodore.

22 DISTRICT ATTORNEY HERRERA: Got to read the title.

23 COMMISSIONER BAKKER: Okay. Title, which is the same thing
24 I just said, an ordinance amending Title 2, Chapter 07, of the
25 Lander County Code, deleting references to supervisors and
26 defining all matters relating to, and to modifying the duties
27 and powers of the public works director position, and other
28 matters properly related thereto. The Board of County
29 Commissioners of the county of Lander, Nevada, do ordain.

30 COMMISSIONER ALLAN: Again, I don't agree with this
31 ordinance, that public works should be under the exec- -- the
32 county manager.

33 COMMISSIONER WAITS: I most certainly agree. I think our
34 county manager should be in control over all of this.

35 When we had five commissioners and we don't handle any
36 particular division and department, that's why we hire a county
37 manager or executive director to do all those things for us.

38 And otherwise, I mean -- actually, this has been kind of a
39 hornet's nest when I'm looking at it, because in July 2015 when we
40 actually pulled up the minutes on that and we had on the agenda

1 that we were going to hire a public works supervisor. And when we
2 looked, we actually did a whole description, of the -- the public
3 works supervisor's job description, and somehow it got changed on
4 the job description from supervisor to director. That's not what
5 the agenda said. That's not what we voted on, but it got changed.

6 So when Bert came on, he had director on the top of what he
7 signed for the description. But everything else was supervisor,
8 like this.

9 And so it -- it became very confusing. I know now we're
10 trying to -- to correct all that, but I -- I truly believe that we
11 have to have -- have something with our executive director or
12 county manager overseeing all these things because we can't. And
13 that's the whole point.

14 COMMISSIONER ALLAN: Absolutely. It's --

15 You've got a situation where you're giving certain --
16 certain responsibilities that this position answers to the
17 commission. But yet on the other hand, some of them answer to
18 the day -- you know, day-to-day operations to the county
19 manager. It's -- it's an absolute gray area. It's a mess. You
20 know, you're not defining clearly who's -- who's responsible to
21 direct this person and who they answer to.

22 And --

23 COMMISSIONER WAITS: And how they grow in their department.
24 Who does the evaluations? Do they have continuing education
25 and -- and leadership and management training? And are they
26 attending things?

27 And -- I mean, it's a big responsibility. There's no
28 question. But we're talking some -- some, you know, good salaries
29 here.

30 And -- and I -- I definitely am very strong that it should be
31 under our county manager.

32 COMMISSIONER ALLAN: That is the county manager's
33 responsibility, actually, to give direction to all of the
34 employees below him --

35 COMMISSIONER WAITS: You lose --

36 COMMISSIONER ALLAN: -- within the county.

37 COMMISSIONER WAITS: -- so -- I'm sorry. You lose so much
38 with the public. When the public comes in and wants to com- --
39 complain about a culvert that's full or whatever, yes, that
40 should come directly to the county. Yes, you should come to

1 Keith. And then Keith's the one that says, Bert, we need to
2 talk about this. And that's where the camaraderie comes in to
3 coordinate what's going on with the county. It should be one
4 person they go to at the county.

5 We're going to keep saying, I'm sorry. And you've made those
6 telephone calls that say, Well, no. That's not their
7 responsibility. Hang on. We move you here. We move you here.

8 I -- I think you're talking about clarity for the -- for the
9 public and for our county. I think it should be: Buck stops
10 here.

11 COMMISSIONER CLARK: Keith, how much do you know about
12 construction?

13 Do you know how to build a road or install a culvert or any
14 of that kind of stuff?

15 KEITH WESTENGARD: I don't know as much as Bert.

16 COMMISSIONER CLARK: Okay.

17 KEITH WESTENGARD: It would take me three times as long to
18 do what Bert does in, you know, --

19 COMMISSIONER ALLAN: Keith?

20 KEITH WESTENGARD: -- in any project.

21 COMMISSIONER WAITS: But that's not the point. We aren't
22 talking about --

23 KEITH WESTENGARD: I was just --

24 COMMISSIONER WAITS: -- construction.

25 KEITH WESTENGARD: -- answering Commissioner Clark's --

26 COMMISSIONER WAITS: No, --

27 KEITH WESTENGARD: -- question.

28 COMMISSIONER WAITS: -- no, no. No. I'm ju- -- I'm just
29 commenting.

30 KEITH WESTENGARD: Okay.

31 COMMISSIONER WAITS: I'm saying, we're talking about a
32 management position. We're talking about a supervisor.

33 Keith doesn't have to know how to build a road. We hire
34 people to build the roads. We repair them. Bert needs to know
35 how to repair a road, but he's not going to do it personally.

36 He's a manager. He is a supervisor. He's up out of the
37 ditch.

38 So what --

39 COMMISSIONER CLARK: He's --

40 COMMISSIONER WAITS: -- does --

1 COMMISSIONER CLARK: -- what?
2 COMMISSIONER WAITS: -- Keith know?
3 COMMISSIONER CLARK: He's what?
4 COMMISSIONER WAITS: He's up out of the ditch.
5 COMMISSIONER CLARK: No, he's not.
6 COMMISSIONER WAITS: He should be.
7 COMMISSIONER CLARK: That man gets down in the ditch with a
8 shovel and shows his --
9 COMMISSIONER WAITS: Well, that's --
10 COMMISSIONER CLARK: -- workers --
11 COMMISSIONER WAITS: -- not --
12 COMMISSIONER CLARK: -- how to do it.
13 COMMISSIONER WAITS: -- that's -- that's not necessarily
14 what he's doing. He's paid to be a now director. And that is
15 managing.
16 COMMISSIONER CLARK: Okay.
17 COMMISSIONER WAITS: And that's what Keith does. And Keith
18 knows everything about managing and evaluating managers and
19 supervisors.
20 KEITH WESTENGARD: I don't know if I know everything, but
21 --
22 COMMISSIONER WAITS: We're sending you --
23 KEITH WESTENGARD: But it --
24 COMMISSIONER WAITS: -- to school. You're learning, aren't
25 you?
26 KEITH WESTENGARD: I want to say that Bert and I, we have a
27 very good working relationship.
28 We -- we -- whi- -- whichever way this goes, Bert's going to
29 run his department. And I'm going to support the way he runs his
30 department as long as I'm in this position.
31 It -- this -- this -- this will allow Bert to report to you
32 on matters of contracts or -- or -- or his operation, which I
33 think is important for him to -- to have that ability.
34 If -- and then he reports to me on his day-to-day --
35 day-to-day operations.
36 If he -- if he can't come to you and talk with you about
37 things, there's a -- another level in there that may get
38 sidetracked.
39 If he -- if the public works director has the ability to come
40 directly to the commissioners and say, "This is what we're doing."

1 This is what the contract says, and we have a change order, and
2 this is why we have a change order," that gives the commission the
3 ability to make a solid decision. It takes that level out of it.

4 Bert and I are -- the public works and the county manager,
5 even in the future, they need to have a solid working
6 relationship. And this gives that. Currently we have that.
7 We -- we work well together.

8 Bert does --

9 COMMISSIONER ALLAN: Keith?

10 KEITH WESTENGARD: -- his job. I do mine. When something
11 comes up, he bounces it off of me or vice versa. And we come up
12 with the solution that we both agree on or that's in the best
13 interest of the coun- --

14 I may not agree with it, but if Bert tells me that it's in
15 the best interest of the county, then I'm going to support him.

16 COMMISSIONER ALLAN: So, Keith, actually, we have that now
17 with -- with the system -- under the updates. Is he can come to
18 the commissioners at any time and tell us, you know, what's
19 going on.

20 We can't tell him what to do without a quorum.

21 So that's where he needs someone to answer to on a day-to-day
22 basis for these questions. He comes before us on updates and
23 gives us the information on contracts and -- and progress on -- on
24 projects and whatnot as it's happening now.

25 To change that system, he needs to be able to -- you know, if
26 he's got a question and needs a split-second an- -- que- --
27 answer, is to go to you and say, you know, Keith, you know,
28 we've -- we've got a problem here. We need to do this. Can I do
29 that?

30 You have the responsibility and capability to -- to say yes.

31 Whereas when can you convene the commissioners to give him
32 that answer?

33 Exactly a question coming up about when the -- the well
34 drillers were sitting out at the golf course.

35 KEITH WESTENGARD: And -- and I want to say that in this
36 situation, in this -- it -- the way things currently are with --
37 with Bert as the public works director, he makes split-second
38 decisions, regularly. I mean, maybe not split-second, not
39 life-and-death, but --

40 COMMISSIONER ALLAN: Well, absolutely.

1 KEITH WESTENGARD: -- but he makes decisions. He makes
2 good decisions. And I have full trust in him making those
3 decisions. So I -- I don't want to -- I -- don't sell him short
4 on his abilities. I -- I don't --
5 COMMISSIONER ALLAN: I'm not doing that, --
6 KEITH WESTENGARD: Okay.
7 COMMISSIONER ALLAN: -- Keith. What I'm saying is that --
8 if -- a prime example was when the well drillers were finished
9 and there wasn't enough time to put it on the agenda to discuss
10 it. Do we want to keep them here and possibly put, you know,
11 send them to someplace else to drill or -- or cut them loose?
12 We couldn't tell -- give him that answer because of the time
13 frame. That was something that could've been discussed between
14 you two.
15 KEITH WESTENGARD: And -- and ac- -- actually it was. It
16 was more to bring to you after --
17 COMMISSIONER ALLAN: Well, and that's --
18 KEITH WESTENGARD: -- the fact and -- and -- and advise you
19 of what was going on and -- and get your --
20 COMMISSIONER ALLAN: And that's --
21 KEITH WESTENGARD: This does --
22 COMMISSIONER ALLAN: -- the thing is, is --
23 KEITH WESTENGARD: -- sound good, but get your input.
24 COMMISSIONER ALLAN: This -- this -- it -- it's not broken.
25 Why do we have to try and fix it?
26 KEITH WESTENGARD: I think. I don't think this is -- I --
27 I think this is cleaning up. And -- and I -- I'm going to have
28 to refer to you, Ted, on this for the legal part of it. But I
29 believe this is just cleaning up the way it actually should be
30 with a public works director and a county manager.
31 Is that --
32 DISTRICT ATTORNEY HERRERA: Well, my --
33 KEITH WESTENGARD: -- fair?
34 DISTRICT ATTORNEY HERRERA: Yeah. That -- that's -- that's
35 fair. My -- my intent was just to have them -- have -- have
36 them fit together well by ordinance.
37 I -- I don't have a position. I'm not going to take a
38 position on -- on the policy matters because it -- it's up to you
39 to do it, on what to call them or anything else. But whatever it
40 is, I want this -- the ordinances to fit together.

1 That -- that's what I want, for -- as the DA.
2 And as I did these ordinances and -- and these -- these
3 potential contracts that are coming up, I followed the directives
4 given to me at the last meeting.
5 And county manager is -- is -- is the term used by the NRS.
6 And -- and I know there's a difference between executive
7 director. Doesn't matter to me what you call them. Doesn't --
8 but when you -- when you call a person that has authority over
9 another person and you call them both directors, that's just --
10 needs to be fixed. I don't care how it's fixed.
11 But I don't know if I answered your question, Keith.
12 KEITH WESTENGARD: I -- I think so. This just gives the
13 public works director the ability to come and talk directly to
14 the commission.
15 DISTRICT ATTORNEY HERRERA: Right. With -- with --
16 COMMISSIONER ALLAN: He always has the ability to come and
17 talk directly to --
18 KEITH WESTENGARD: Well --
19 COMMISSIONER ALLAN: -- the --
20 KEITH WESTENGARD: -- I --
21 COMMISSIONER ALLAN: -- commission.
22 KEITH WESTENGARD: -- I think there's been some discussion
23 on that that -- that he really -- our -- our updates, we're --
24 we're doing some research on exactly if -- if that's something
25 we can do or if -- as far as a department head can actually come
26 and -- and do that.
27 Now if the commission directs it, it's one thing.
28 But for them to come up on a monthly or -- or quarterly or
29 whatever basis, there's -- there's discussion going on if that's
30 really a -- a -- a pol- -- a good practice to do. Because
31 there's discussion that all updates should come through me to
32 the commissioners or through the county manager to the
33 commissioners.
34 So this -- this cleans it up and gives the public works
35 director the ability to come directly to the commissioners and --
36 and speak with you.
37 My -- my understanding of how this is working.
38 CHAIRMAN MILLS: And my -- my view of it is, is -- is this
39 puts into writing the way we've been doing it. This is the way
40 it's been running. We're just putting in writing that this is

1 how we're running it.
2 And it -- it satisfies what we've been doing and -- and puts
3 it into code what we've been doing. And it's -- it just continues
4 on the way we've been doing things. And I -- I'm fine --
5 COMMISSIONER WAITS: Actually --
6 CHAIRMAN MILLS: -- I'm fine with it.
7 COMMISSIONER WAITS: Actually, there's a big change. The
8 big change is, is it's no longer under the direction of the
9 executive director or our county manager. That's the big
10 change.
11 KEITH WESTENGARD: Well, it -- it's still the day-to-day --
12 his day-to-day -- or --
13 CHAIRMAN MILLS: (Indiscernible.)
14 KEITH WESTENGARD: -- they're -- who are --, Public Works'
15 day-to-day operations still fall under the county manager's
16 responsibility.
17 This is just, like I said, it's -- it's a cleanup to give him
18 the auth- -- abil- -- ability to come before the commissioners.
19 COMMISSIONER WAITS: But it's like Judie said, it really
20 leaves it kind of a gray area. You're going to do evaluations?
21 KEITH WESTENGARD: I would --
22 CHAIRMAN MILLS: No, we're going to do the evaluations.
23 KEITH WESTENGARD: I -- I would --
24 CHAIRMAN MILLS: Keith is doing it.
25 KEITH WESTENGARD: I would -- the -- the county manager
26 will evaluate the public works director.
27 The coun- -- it -- it still falls under the -- the county
28 manager position. It just -- he's going to come to you for
29 contract issues. He's going to come to you for approval of
30 contract issues.
31 On his day-to-day stuff, if the public works director wants
32 a --
33 CHAIRMAN MILLS: Yeah.
34 KEITH WESTENGARD: -- a -- a day off or a vacation time or
35 day-to-day operations, we're -- we're going to discuss that. Or
36 the pu- --, Public Works and the county manager will discuss
37 that. And then it'll be brought -- decided if it needs to go to
38 the commissioners or not.
39 COMMISSIONER ALLAN: You know, it's really interesting how
40 really contradictory these two ordinances are.

1 You talk about administrative powers and duties of the county
2 manager and basically saying, you know, powers and duties set
3 forth in this chapter implied therefore shall be authorized to
4 assign and delegate the administration of these duties to any
5 department or person under the board -- board's control except
6 those with the public works division.

7 I mean, you have excluded Public Works in everything. Is --
8 are you going to be giving the evaluations? Are you going to
9 be -- you know, it's -- it is so muddled.

10 And if we are changing a county ordinance just so that our
11 public works director can come before us and give us an update,
12 maybe we should just put that part in the ordinance that gives him
13 the power or authority to do that and leave it as it is under the
14 executive director or county manager.

15 CHAIRMAN MILLS: But that's -- that's not all it is. What
16 we're doing is we're giving Bert authority over his department
17 to -- to --

18 COMMISSIONER ALLAN: He's --

19 CHAIRMAN MILLS: -- bring to --

20 COMMISSIONER ALLAN: -- got --

21 CHAIRMAN MILLS: -- us his budget and the projects that he
22 wants to work on, and --

23 COMMISSIONER ALLAN: He already --

24 CHAIRMAN MILLS: -- then he can --

25 COMMISSIONER ALLAN: -- does that.

26 CHAIRMAN MILLS: -- he brings that directly to us rather
27 than going through Keith.

28 COMMISSIONER ALLAN: And what about the other departments?
29 They present their budgets.

30 CHAIRMAN MILLS: That's all presented through Keith.

31 COMMISSIONER ALLAN: It -- but they still -- if there's
32 questions, we ask the department heads.

33 It's just to me is this is a -- is --

34 COMMISSIONER WAITS: Well, we definitely have to -- to
35 clean up what's going on as far as the job description and the
36 ordinance.

37 So --

38 Because those have not been agreeing, like I just mentioned
39 before. There was a slipup with what wasn't done properly --

40 CHAIRMAN MILLS: Right. That's --

1 COMMISSIONER WAITS: -- in 2015 --
2 CHAIRMAN MILLS: -- another.
3 COMMISSIONER WAITS: -- and the follow-up.
4 CHAIRMAN MILLS: That's another aspect of -- of --
5 COMMISSIONER WAITS: Right.
6 CHAIRMAN MILLS: -- this.
7 COMMISSIONER WAITS: But --
8 CHAIRMAN MILLS: It needs to be --
9 COMMISSIONER WAITS: -- if you all --
10 CHAIRMAN MILLS: -- completely --
11 COMMISSIONER WAITS: -- look at page 77 where you're
12 looking at the new ordinance with public works director, your
13 sections are correct, but your chapter is incorrect.
14 KEITH WESTENGARD: W- -- yes. We're -- I think we're going
15 to -- that was discussed. We were going to clean that up.
16 There was -- there was some --
17 DISTRICT ATTORNEY HERRERA: What's -- what's not correct?
18 COMMISSIONER WAITS: And all the way through -- I don't
19 know if you've seen your job description too. But are the job
20 description and the ordinance refers to plans, coordinates,
21 directs activities and programs -- all the way through --
22 provides direction to department heads -- all the way through,
23 nothing says that -- that he has to be in the ditch. If he
24 chooses to jump down and do something because he knows how,
25 that's fine. But that's not his job description.
26 COMMISSIONER ALLAN: And there's also -- there's also
27 reasoning behind that. But that's what his employees are for.
28 That's what they get paid to do. That is part of the bargaining
29 agreement.
30 COMMISSIONER CLARK: So --
31 UNIDENTIFIED PARTICIPANT: Oh, oh.
32 COMMISSIONER CLARK: -- let me get this straight, Keith.
33 He walks like a duck, quacks like a duck, but he's not a
34 duck?
35 You want all the responsibilities of a public works director
36 put on a manager.
37 KEITH WESTENGARD: I don't have an answer for that. I -- I
38 --
39 COMMISSIONER CLARK: Well, that's what the conversation
40 sounds like to me.

1 KEITH WESTENGARD: I -- I -- I think this fits the public
2 work -- Bert just perfect. It gives him what he needs to do.
3 And I -- I've been over this with Ted, with the DA, and -- and
4 Bert. And -- and I -- but the ultimate decision is yours. I
5 mean, it's presented to you as -- as we think -- as we think is
6 fit. But the ultimate decision is this board's.
7 And so I -- I -- I don't -- I don't know what else to say
8 other than it -- it's your decision to make.
9 We presented it as we feel --
10 CHAIRMAN MILLS: Okay.
11 KEITH WESTENGARD: -- is -- is appropriate.
12 CHAIRMAN MILLS: So Sean made a motion.
13 Do we have a second on the motion?
14 COMMISSIONER CLARK: I'll second it.
15 CHAIRMAN MILLS: Okay.
16 Sean made a motion. Art seconded.
17 Do we have any public comment?
18 MONICA SILL: Monica Sill, for the record.
19 I would like to ask the question of --
20 COMMISSIONER WAITS: Can you come up?
21 MONICA SILL: -- what kind of conversation has been had
22 with --
23 CHAIRMAN MILLS: Can -- can you --
24 MONICA SILL: -- your --
25 CHAIRMAN MILLS: -- come up forward and --
26 COMMISSIONER CLARK: You have to come up.
27 CHAIRMAN MILLS: We want to make sure you get recorded.
28 MONICA SILL: I have a loud voice. I'm sure you can hear
29 me.
30 I would just like to ask the question of what kind of
31 conversation has been had with your new HR director regarding
32 this issue and his recommendation?
33 COMMISSIONER ALLAN: Thank you for that, Monica.
34 KEITH WESTENGARD: Well, this conversation started prior to
35 the HR being in place.
36 So, at best, it's been a limited conversation with our HR.
37 He's got his hands full with a lot of other issues, which I
38 know is part of his HR position. But this started before he
39 was -- he was even -- or -- or he started in his position.
40 MONICA SILL: Just a --

1 CHAIRMAN MILLS: Does our HR director have any input?
2 Put you on the spot.
3 MATTHEW GOULD: Matt Gould, for the record.
4 I do handle a lot of the HR issues for the county. I don't
5 have specific comments on it because I -- I haven't been a party
6 to the entire conversation.
7 I feel it would be inappropriate for me to say, they're
8 right or they're wrong.
9 I do want to make sure that we preserve the right of people
10 who run departments to be able to come to the commission directly
11 if they don't feel they can go to the county manager.
12 My personal feeling is that we have spent a lot of time on
13 this, a lot of concern, and a lot of passion that could have been
14 spent elsewhere.
15 If you guys have specific questions for me, I will answer
16 them as best I can.
17 It is a unique position to -- to be put in, here, not having
18 all the facts of the situation.
19 But if you have specific questions, again, I'd be happy to
20 answer those.
21 COMMISSIONER CLARK: I don't have any questions, Matt.
22 COMMISSIONER BAKKER: Thanks, Matt.
23 CHAIRMAN MILLS: Okay. Thank you.
24 COMMISSIONER ALLAN: So I -- I have a comment.
25 MATTHEW GOULD: Should I stay here for your comment?
26 Sorry.
27 COMMISSIONER ALLAN: No. No.
28 MATTHEW GOULD: Okay.
29 COMMISSIONER ALLAN: Thank you, Matt.
30 Is agenda Item Number 11 is an update on budget review,
31 contracts, financial update, et cetera, under the Finance
32 Department.
33 Well, the Finance is under the county manager. And if
34 that's the issue that we have to create a new ordinance to allow
35 our public works director to come before the county
36 commissioners with updates, then what exactly is -- is Agenda
37 Item 11? It's the same principle. It's the exact same thing.
38 Our finance officer -- fiscal officer answers directly to
39 our county manager. It's a chain of command.
40 And that's just -- we're -- we're kind of picking and

1 choosing and -- and not being cohesive on our decisions of right
2 across the board.

3 CHAIRMAN MILLS: Okay.

4 KEITH WESTENGARD: Well, I don't have an answer for that,
5 Commissioner Allan. That is a -- that's a good point. That's
6 -- that's -- something that -- that we have talked about, as a
7 whole, are updates from department heads.

8 So you got a full house on that one. I don't know how to
9 answer it other than we are addressing things one at a time or
10 incremental.

11 COMMISSIONER ALLAN: I just used it for an example.

12 KEITH WESTENGARD: No, I -- I -- I understand that, but I
13 -- I don't have an answer for that one because, like I say,
14 we're -- we're addressing things incrementally or individually,
15 one at a time. That -- that may be something that -- that'll
16 come up in the future.

17 Well, it will, because it's a -- it's a update.

18 So --

19 We'll be dis- -- we'll see where it goes.

20 CHAIRMAN MILLS: Okay. Do we have any further public
21 comment?

22 (No comment.)

23 CHAIRMAN MILLS: All in favor?

24 COMMISSIONER BAKKER: Aye.

25 CHAIRMAN MILLS: Aye.

26 COMMISSIONER CLARK: Aye.

27 CHAIRMAN MILLS: Opposed?

28 COMMISSIONER ALLAN: Nay.

29 COMMISSIONER WAITS: Nay.

30 CHAIRMAN MILLS: Okay.

31
32 8) Discussion and possible action regarding an employment
33 contract for the Lander County manager, and all other matters
34 properly related thereto.
35

36 CHAIRMAN MILLS: Item 8. Discussion and possible action
37 regarding an employment contract for the Lander County manager,
38 and all other matters properly related thereto.

39 COMMISSIONER CLARK: Can we take a break for a minute? If
40 that's --

1 CHAIRMAN MILLS: Yeah.
2 COMMISSIONER CLARK: To --
3 CHAIRMAN MILLS: We'll go ahead and take a break.
4
5 (Break taken from 10:02 a.m. to 10:09 a.m.)
6
7 CHAIRMAN MILLS: -- meeting back to order.
8 We're on Item Number 8. Discussion and possible action
9 regarding an employment contract for Lander County manager, and
10 all other matters properly related thereto.
11 COMMISSIONER BAKKER: Okay. Made the changes.
12 CHAIRMAN MILLS: Let's see if we can get them in from the
13 hallway over there.
14 Okay. We're back in session.
15 COMMISSIONER BAKKER: Hear ye. Hear ye.
16 CHAIRMAN MILLS: So contract for county manager.
17 Ted, we've -- hopefully we discussed all this last meeting.
18 We gave all the parameters --
19 DISTRICT ATTORNEY HERRERA: I've -- I've --
20 CHAIRMAN MILLS: -- that the -- the commission agreed on.
21 COMMISSIONER ALLAN: Did you --
22 DISTRICT ATTORNEY HERRERA: I wouldn't --
23 COMMISSIONER ALLAN: -- read the agenda item?
24 DISTRICT ATTORNEY HERRERA: We went -- my office --
25 CHAIRMAN MILLS: Yes.
26 DISTRICT ATTORNEY HERRERA: -- went through that -- oh, I'm
27 sorry. Am I allowed --
28 CHAIRMAN MILLS: Go ahead.
29 DISTRICT ATTORNEY HERRERA: -- to --
30 CHAIRMAN MILLS: You're -- you're good. Go ahead.
31 DISTRICT ATTORNEY HERRERA: Okay. My -- my -- my office
32 listened to those -- the video and the tape of last meeting
33 in -- almost ten times to get this right.
34 So we -- we've got everything that -- that you directed me to
35 do.
36 Now, I do have one thing on these contracts, one -- when
37 we're we were moving them around and creating the contract, if --
38 Did you read in Number 8 already, --
39 CHAIRMAN MILLS: Yes.
40 DISTRICT ATTORNEY HERRERA: -- Commissioner?

1 Okay. Then on -- on the contract itself -- in the county
2 manager contract, on page -- page 2 of the contract, page 86 of
3 the -- of the book, it says "Section 3." That should be
4 "Section 4.2."

5 And on the next page, where it says "Section 5 below," it
6 should be "this section."

7 And down further, on paragraph 4.3, it should say -- under
8 "Section 4.2," instead of "3.1."

9 Now, if you, as a commission, decide to -- and -- and
10 that's true in both contracts.

11 I've made those small changes -- section changes in the
12 contracts if you approve them and decide to sign them, which those
13 changes I've just outlined have been made.

14 COMMISSIONER BAKKER: Okay.

15 COMMISSIONER ALLAN: So one of the issues -- not issues --
16 one of the concerns I have is the -- the contract as a -- as a
17 whole basically kind of is the understanding of this. But I
18 really would like to have some kind of verbiage stating that in
19 the event that the employee is terminated without cause -- and
20 basically without cause -- is he's entitled to severance. But
21 also in the contract, a clause stating that there -- they will
22 forfeit all rights under law for breach of contract.

23 Basically, write clear black and white that we terminate for
24 -- for no cause, we don't like the color of his shirt, --

25 UNIDENTIFIED PARTICIPANT: I don't like that color.

26 KEITH WESTENGARD: I don't like yours either.

27 COMMISSIONER ALLAN: -- he gets a severance, but he's not
28 going to be able to come back under breach of contract.

29 DISTRICT ATTORNEY HERRERA: Oh, you mean, you -- so he
30 can't sue?

31 COMMISSIONER ALLAN: Exactly. But I want it in black and
32 white and clear, Counselor.

33 DISTRICT ATTORNEY HERRERA: I -- I don't believe that would
34 be legal.

35 COMMISSIONER ALLAN: It's a hold harmless that he's
36 flat-out stating that under the contract I am agreeing that if
37 this is the case, I'm let go, I'm not going to come back and sue
38 you.

39 COMMISSIONER WAITS: Boy, that's -- that's part of his
40 rights. I mean, anyone --

1 DISTRICT ATTORNEY HERRERA: I -- I --
2 COMMISSIONER WAITS: -- can sue.
3 COMMISSIONER ALLAN: Well, may -- I'm asking you, why --
4 why can't you do that?
5 DISTRICT ATTORNEY HERRERA: Because you -- I don't believe
6 you can take away those rights from anybody.
7 COMMISSIONER CLARK: I don't think you can sign a contract
8 and waive away your rights.
9 DISTRICT ATTORNEY HERRERA: Right.
10 COMMISSIONER ALLAN: Okay.
11 COMMISSIONER WAITS: Judie -- Judie, it does say that he
12 holds office at the pleasure of the board.
13 COMMISSIONER ALLAN: I realize that.
14 COMMISSIONER WAITS: So it's like that gives you more --
15 more depth when you actually have a lawsuit. But you can't stop
16 anybody from suing. That is a right. And we can't --
17 DISTRICT ATTORNEY HERRERA: Right.
18 COMMISSIONER WAITS: -- take it away.
19 COMMISSIONER ALLAN: Okay.
20 DISTRICT ATTORNEY HERRERA: Employment law, I mean, the
21 mines, anything, they -- they can sue whether they have a case
22 or not, particularly in our litigious society.
23 And so putting prohibitions on them, I -- it's -- wow. I
24 don't know. I don't think you can do it.
25 COMMISSIONER WAITS: All you can add is the preponderance
26 of evidence in case he does that we would win. That's basically
27 it. But --
28 COMMISSIONER ALLAN: Well, I understand that. I know that.
29 It's just I would -- would've liked something that they are
30 accepting that you're going to get your severance. See you,
31 bye.
32 DISTRICT ATTORNEY HERRERA: That's -- I don't think they're
33 going to get any more rights even if they do sue. I mean, I
34 don't think we can stop them from suing. But I can certainly
35 tell you that they're not going to have any grounds for it.
36 COMMISSIONER ALLAN: Well, I understand that. But they're
37 still -- there -- there would still be costs in- -- incurred to
38 the county --
39 DISTRICT ATTORNEY HERRERA: If --
40 COMMISSIONER ALLAN: -- if they did. And --

1 DISTRICT ATTORNEY HERRERA: Yeah. But they'd have to pay
2 them back if it's dismissed.
3 COMMISSIONER CLARK: Right. It's the new law that you have
4 to pay it back if it's frivolous; --
5 COMMISSIONER ALLAN: Well --
6 COMMISSIONER CLARK: -- right?
7 COMMISSIONER WAITS: Only if --
8 COMMISSIONER CLARK: Or you lose.
9 COMMISSIONER WAITS: -- the judge okays it.
10 DISTRICT ATTORNEY HERRERA: Well, yeah. And they
11 usually --
12 COMMISSIONER WAITS: Yeah.
13 DISTRICT ATTORNEY HERRERA: -- do.
14 COMMISSIONER WAITS: They don't always okay it.
15 DISTRICT ATTORNEY HERRERA: No, they don't.
16 If -- if there's some merit to it. But if it's frivolous,
17 they absolutely can be sanctioned also.
18 COMMISSIONER BAKKER: Okay.
19 COMMISSIONER WAITS: Well, there are several things that I
20 still want to talk about.
21 And -- and I made the comment before. And I need to make it
22 again. I'm going, he serves at the pleasure of the board and for
23 us to commit longer than we're actually going to even be here for,
24 I don't think is the right thing to do when we know we have new
25 commissioners and new commissions always coming in. So I am not
26 in favor of a three-year contract at all.
27 I am not in favor of a year's severance pay. And I know that
28 Commissioner Clark made the comment, Well, that might deter them
29 from letting him go if we did that. But I think that's --
30 COMMISSIONER CLARK: Letting who go?
31 COMMISSIONER WAITS: Letting our county manager go. You
32 said that would help deter them if we kept a year's severance
33 pay. And --
34 COMMISSIONER CLARK: But I -- who are you talking about?
35 Bert or Keith?
36 COMMISSIONER BAKKER: Keith.
37 COMMISSIONER WAITS: We're talking about Keith.
38 COMMISSIONER CLARK: Okay.
39 DISTRICT ATTORNEY HERRERA: Right now.
40 COMMISSIONER WAITS: That's what's on the agenda. Yeah.

1 COMMISSIONER CLARK: It would make them think.
2 COMMISSIONER WAITS: Right. But my comment is I'm sure
3 they will think. You've got commissioners up here. We
4 certainly hope that all of them do. But with that, it's a waste
5 of taxpayers' money if indeed they want to get rid of a
6 executive director and they don't want Keith -- for us to pay
7 taxpayers' money for a year's severance pay.
8 I think that's overkill. I think that's way out of line.
9 I mean --
10 COMMISSIONER CLARK: Is that --
11 COMMISSIONER WAITS: In the --
12 COMMISSIONER CLARK: -- pretty much --
13 COMMISSIONER WAITS: -- in the real world, it's three
14 months, six months. I cannot see six months' severance pay.
15 And I do not like the part that they can actually hold
16 another position as long as they do their job.
17 COMMISSIONER CLARK: We can't --
18 COMMISSIONER WAITS: Keith has always been responsive no
19 matter if he's on vacation or a weekend or whatever. Hopefully
20 we don't have to bother him, but I know there are times they do.
21 So he's like a 24/7. And -- and basically I'm going, I
22 just don't think with what we have asked him to do and take care
23 of this whole county that he should be able to have -- hold
24 another position and another job. I don't like that part in
25 there at all.
26 Another business is what they say.
27 COMMISSIONER CLARK: But people do it in the county all the
28 time.
29 Is this pretty much standard contract language, Keith? That
30 --
31 DISTRICT ATTORNEY HERRERA: The -- the -- well, the -- it's
32 standard contract language. The terms are -- they're
33 interchange- -- I mean --
34 COMMISSIONER CLARK: Right.
35 DISTRICT ATTORNEY HERRERA: -- different than --
36 COMMISSIONER CLARK: But do these terms exist in other
37 kinds of contracts in public agencies?
38 DISTRICT ATTORNEY HERRERA: The terms do but not
39 necessarily the length of period for the terms.
40 Like -- like Patsy's pointing out that the amount -- the

1 severance pay, it can go from three months to twelve months.
2 The -- the -- the length of the contract, that's it. That's
3 a standard term length, but the length is dependent upon how
4 you -- you guys want it. The --
5 So these terms are -- are your decision. But the terms
6 themselves, the -- in general, they are standard -- yes -- in --
7 in all employment contracts. But it's the amount of time.
8 COMMISSIONER WAITS: U- -- usually there's a noncompeting
9 clause or something. But I've never seen one ever on a contract
10 that says that they can hold another job with another
11 organization or business.
12 DISTRICT ATTORNEY HERRERA: That -- that was in the
13 original contract presented to you -- to you commissioners.
14 And -- and you didn't tell me to take it out. And I -- I
15 followed your direction. And I --
16 COMMISSIONER WAITS: No, I questioned it. But nobody asked
17 you to take it out.
18 DISTRICT ATTORNEY HERRERA: Right.
19 COMMISSIONER WAITS: You did absolutely right. But I'm
20 questioning it again --
21 DISTRICT ATTORNEY HERRERA: No, and that's --
22 COMMISSIONER WAITS: -- because --
23 DISTRICT ATTORNEY HERRERA: -- fine with --
24 COMMISSIONER WAITS: -- I don't --
25 DISTRICT ATTORNEY HERRERA: -- me.
26 COMMISSIONER WAITS: -- want it --
27 DISTRICT ATTORNEY HERRERA: I'm just --
28 COMMISSIONER WAITS: -- in --
29 DISTRICT ATTORNEY HERRERA: -- telling --
30 COMMISSIONER WAITS: -- there.
31 DISTRICT ATTORNEY HERRERA: -- you I -- I did what I --
32 what I heard on -- and that's --
33 COMMISSIONER ALLAN: So --
34 DISTRICT ATTORNEY HERRERA: -- all.
35 CHAIRMAN MILLS: Well, --
36 COMMISSIONER ALLAN: If --
37 CHAIRMAN MILLS: -- I don't -- I don't have a problem with
38 the other job.
39 I have another job.
40 COMMISSIONER ALLAN: If -- if --

1 CHAIRMAN MILLS: I have --
2 COMMISSIONER ALLAN: -- we --
3 CHAIRMAN MILLS: -- two other j- -- I have multiple other
4 jobs. If we --
5 COMMISSIONER CLARK: I only --
6 COMMISSIONER WAITS: Yeah, but you don't --
7 COMMISSIONER CLARK: -- do --
8 COMMISSIONER WAITS: -- work 60 hours --
9 COMMISSIONER CLARK: -- one thing --
10 COMMISSIONER WAITS: -- a week --
11 COMMISSIONER CLARK: -- at a time.
12 COMMISSIONER WAITS: -- here.
13 CHAIRMAN MILLS: Yeah.
14 COMMISSIONER ALLAN: If we can't, --
15 CHAIRMAN MILLS: Well --
16 COMMISSIONER ALLAN: -- you know, stop them from suing us
17 because that's a right, how can we stop them from working
18 another job because that is a right?
19 COMMISSIONER WAITS: I didn't say I was going to stop him
20 from working. I simply said I don't want it in the contract
21 that he's allowed to do that. That's all.
22 If he goes down and wants to greet people at Walmart, I
23 mean -- well, I mean, you never know what you're doing on the
24 weekends. I'm saying --
25 COMMISSIONER ALLAN: In your pretty purple shirt.
26 COMMISSIONER WAITS: -- we probably wouldn't say anything.
27 But --
28 COMMISSIONER CLARK: That's --
29 COMMISSIONER WAITS: -- just to have in there that we're
30 fine with him doing, I mean, I'm not fine with him doing it.
31 He's got a big responsibility. I -- hopefully we compensate him
32 well. And I don't want him to think about that.
33 DISTRICT ATTORNEY HERRERA: So you don't want it mentioned
34 either way?
35 COMMISSIONER ALLAN: Out of the --
36 COMMISSIONER WAITS: Right.
37 COMMISSIONER ALLAN: -- contract.
38 COMMISSIONER WAITS: I just want it out.
39 DISTRICT ATTORNEY HERRERA: Right.
40 COMMISSIONER WAITS: Yes.

1 DISTRICT ATTORNEY HERRERA: Either way.
2 COMMISSIONER WAITS: Yes. I don't want to prohibit him --
3 DISTRICT ATTORNEY HERRERA: You can't --
4 COMMISSIONER WAITS: -- from --
5 DISTRICT ATTORNEY HERRERA: -- do it?
6 COMMISSIONER WAITS: -- doing it.
7 DISTRICT ATTORNEY HERRERA: Or you can't -- he's not
8 prohibited?
9 COMMISSIONER BAKKER: I'm fine with leaving it in. But
10 we -- we discussed this last meeting. We discussed --
11 COMMISSIONER CLARK: Yeah.
12 COMMISSIONER BAKKER: -- all this last meeting.
13 COMMISSIONER CLARK: And that's what I thought. We
14 discussed it all last meeting. And this was the result.
15 COMMISSIONER ALLAN: Well, it doesn't --
16 COMMISSIONER BAKKER: So --
17 COMMISSIONER ALLAN: -- mean --
18 COMMISSIONER BAKKER: -- with --
19 COMMISSIONER ALLAN: -- we can't discuss it again.
20 COMMISSIONER BAKKER: Okay.
21 COMMISSIONER ALLAN: And make --
22 COMMISSIONER BAKKER: I'll --
23 COMMISSIONER ALLAN: -- further changes.
24 COMMISSIONER BAKKER: -- make a motion to approve
25 employment contract for the Lander County county manager and
26 authorize the chair to sign.
27 COMMISSIONER CLARK: Second.
28 CHAIRMAN MILLS: Okay. Sean made a motion. Art seconded.
29 Do we have any public comment?
30 KATHY ANCHO: I do.
31 CHAIRMAN MILLS: If you can come forward, please.
32 KATHY ANCHO: For the record, Kathy Ancho.
33 As a citizen I just was going through just a couple of
34 concerns.
35 I had met with Ted to see that some of my concerns were
36 valid or not. And some of them aren't, so it was nice to meet
37 with him ahead of time to make sure I was a half of -- a little
38 bit on base.
39 On -- just to clarify a few things, like on Section 3.3
40 under the training.

1 And I know that this is reflected in the policy as well.
2 But I think that it needs to be outlined as well that if they
3 don't go to the training, that everything that's been upfronted
4 for travel and things like that needs to be immediately
5 reimbursed. And I know that if the policy says that, but at
6 least if the county policy was mentioned in this portion that it
7 can be reflected back that the money needs -- who -- you know,
8 to be returned if the training's canceled, or if somebody's sick
9 in the family and he can't go, it needs to be reimbursed.

10 And on 4.2, the same thing with the severance, the three
11 months. I think 12 months is a little extensive. I've done a
12 little bit of research and three to six months is usually the
13 standard. I mean, obviously there's companies who'd be 12. But
14 they're mostly in the private sector, not so much government
15 sector that pays that.

16 And then on -- for Ted, if I'm able to ask this question,
17 to clarify on 4.3, exactly what this statement's saying. I'm
18 not -- I don't understand what it --

19 DISTRICT ATTORNEY HERRERA: 4.3?

20 KATHY ANCHO: -- means. 4.4. It's 4.3. Yes.

21 DISTRICT ATTORNEY HERRERA: If -- if the county reduces
22 employee's salary, they're demoting.

23 KATHY ANCHO: Uh-huh.

24 DISTRICT ATTORNEY HERRERA: And if the county refuses to
25 comply with the -- the contract, it's a breach of contract.

26 KATHY ANCHO: Which I understand that, but isn't that
27 basically under 2.3 the same idea? If they don't comply, isn't
28 that redundant? Because under --

29 DISTRICT ATTORNEY HERRERA: No. Not --

30 KATHY ANCHO: -- two point --

31 DISTRICT ATTORNEY HERRERA: -- really --

32 KATHY ANCHO: -- two point --

33 DISTRICT ATTORNEY HERRERA: -- because --

34 KATHY ANCHO: -- three.

35 DISTRICT ATTORNEY HERRERA: -- because if there's multiple
36 causes of actions, there's -- for this one, if -- if the county
37 refuse -- if -- if they demote him, then they're refusing to
38 comply with the terms of the contract.

39 KATHY ANCHO: Okay. All right. I just didn't -- I
40 didn't --

1 DISTRICT ATTORNEY HERRERA: So that --
2 KATHY ANCHO: -- understand --
3 DISTRICT ATTORNEY HERRERA: -- it --
4 KATHY ANCHO: -- under that --
5 DISTRICT ATTORNEY HERRERA: -- it's really --
6 KATHY ANCHO: -- verbiage. I didn't --
7 DISTRICT ATTORNEY HERRERA: -- a demotion.
8 KATHY ANCHO: -- understand.
9 DISTRICT ATTORNEY HERRERA: It's a demotion --
10 KATHY ANCHO: Okay.
11 DISTRICT ATTORNEY HERRERA: -- clause.
12 KATHY ANCHO: Okay.
13 And then --
14 And this is under total other interpretation how -- I mean,
15 I read it one way. Somebody else reads it another.
16 Under 6.1 -- and I know what it's trying to say. And Ted
17 explained to me what it says. But under the set -- the way it
18 sounds here when you say: "Employee shall be entitled to 720
19 hours of sick or disability leave commencing on the execution
20 date of this agreement to continue for each subsequent year
21 and/or extension in Section 2.1 of this agreement."
22 The way it sounds right at that point is today he's getting
23 an extra 720 hours on top of what he already has. And I --
24 COMMISSIONER ALLAN: It should --
25 KATHY ANCHO: -- could be --
26 COMMISSIONER ALLAN: -- be up --
27 KATHY ANCHO: -- at --
28 COMMISSIONER ALLAN: -- to.
29 KATHY ANCHO: Pardon me?
30 COMMISSIONER ALLAN: Up to.
31 KATHY ANCHO: Up to. So --
32 COMMISSIONER CLARK: Not getting additional.
33 KATHY ANCHO: Okay. All right. That's what I'm asking.
34 Because am I reading in -- that's -- I don't want -- I'm -- from
35 overreading. I want -- that's -- oh, okay. And then that's
36 fine.
37 COMMISSIONER CLARK: He wouldn't get 720 and 720.
38 KATHY ANCHO: No, I know. I know. But that's why I did an
39 up to 720 hours. Okay. That's --
40 CHAIRMAN MILLS: We -- we can't give sick hours that

1 haven't accrued.

2 KATHY ANCHO: Well, no. I know. But that -- that's why I
3 say it is vague. And that -- that's -- I just wanted to clarify
4 because the way I'm reading it, I'm not -- wasn't reading it
5 correctly. That's why I wanted you guys to clarify for me.
6 That's all.

7 And then just the same thing under holding another
8 position. And -- and Ted advised me that, yes, everybody has a
9 right to hold a position. But the opinion is this -- this --
10 there's so much that -- how complicated this job is -- that out
11 -- having an outside employment just adds to the stress of this
12 job.

13 And I just think that, as far as the county and the
14 taxpayers go, that they should concentrate on this.

15 But everybody has a right to have a second job.

16 But still, it's my opinion that they shouldn't -- at least
17 take it out, the bare minimum, you know.

18 So that's all I have to say.

19 Thank you.

20 COMMISSIONER ALLAN: Thank you, Kathy.

21 KATHY ANCHO: Uh-huh.

22 CHAIRMAN MILLS: Do we have any other public comment?

23 COMMISSIONER ALLAN: So --

24 CHAIRMAN MILLS: If you'll come forward, please.

25 HARRY DIMITROFF: Harry Dimitroff.

26 I don't agree with the contract either. If they're
27 performing at their job, you know, and doing it, that everything
28 would be fine, wouldn't it?

29 Do we need to have a year's severance in that? Or --

30 I just -- I just -- I don't see it. But -- I --

31 COMMISSIONER WAITS: Well, do you --

32 HARRY DIMITROFF: -- think the decision's already been
33 made. And so --

34 COMMISSIONER WAITS: Well, unless you have some specifics
35 that you wanted to address in the contract.

36 HARRY DIMITROFF: And they've never had a contract before
37 until we just changed their positions; right?

38 COMMISSIONER WAITS: It's true. He hasn't had a contract.
39 But most executive directors, county managers do have a, you
40 know, one- or two-year contract.

1 HARRY DIMITROFF: Right.
2 COMMISSIONER WAITS: That's -- that's very common.
3 And we haven't done that before. So I kind of look at it
4 as, okay, maybe it's a renewal, you know, that we're doing this
5 that --
6 Because we probably should have had.
7 But -- but I've already pointed out the problems that I have
8 with it, --
9 HARRY DIMITROFF: Right.
10 COMMISSIONER WAITS: -- that three-year extension and the
11 severance and so forth. That's all.
12 COMMISSIONER CLARK: The big -- the big advantage of a
13 contract is you can have goals and objectives. That's the big
14 advantage.
15 HARRY DIMITROFF: Right.
16 COMMISSIONER CLARK: And I brought this up the first year I
17 was on the commission about goals and objectives and having a
18 contract, just because of that.
19 When you have a contract, you have a lot of authority and a
20 lot of power over an individual to direct them the way they need
21 to go or the way the board sees fit.
22 COMMISSIONER ALLAN: See, and I -- I have to disagree. I'm
23 looking at it -- I'm looking at it as an opposite of that. Is
24 we've actually lost some of our power by -- by giving an
25 employee a contract. Is it gives them more rights and benefits
26 and security. It's protecting the employee more than it's
27 protecting the county and the taxpayers.
28 Because if -- if we don't like this employee for whatever
29 reason, want to get rid of them, or unsatisfactory with -- with
30 their performance, we're going to pay them, because it's not that
31 they are not doing their job. It's not just cause. We're just
32 going to get rid of them because we don't like the purple shirt.
33 It's going to cost us.
34 KEITH WESTENGARD: I -- I want to make a point at -- to two
35 items.
36 The first is the three-year contract and then the contract in
37 general.
38 We give contracts every three years to every employee in this
39 county through our -- through our union negotiations.
40 COMMISSIONER CLARK: Yep.

1 KEITH WESTENGARD: So they're always there. Granted, there
2 is -- there's -- there's a little more meat to this, so to
3 speak. But to say that -- that we don't give contract -- we
4 give them to the employees -- matter of fact, negotiations are
5 going to be starting up here shortly for the next -- our next
6 three-year contract.

7 And -- and they have rights. They get luxuries in that -- in
8 those contracts that mys- -- that myself, the public works
9 director, the -- the -- the fiscal, that aren't entitled to. We
10 don't -- we don't have those luxuries that the union-protected
11 employees do. So they have it.

12 I'll agree with you, Mr. Dimitroff. They don't have a --
13 a -- a one-year buyout or anything. But there's --

14 HARRY DIMITROFF: Right. They don't --

15 KEITH WESTENGARD: -- a procedure --

16 HARRY DIMITROFF: That's what I was going to bring up.
17 They aren't -- they don't get a severance package when they're
18 terminated, --

19 KEITH WESTENGARD: That's right. But --

20 HARRY DIMITROFF: -- if they're not performing at --

21 KEITH WESTENGARD: -- but --

22 HARRY DIMITROFF: -- their job.

23 KEITH WESTENGARD: Right. But when they're terminated, we
24 have to follow a very strict procedure to terminate an employee.
25 They j- -- we -- they just can't -- we just can't walk in --
26 unless they're probationary, we can't just walk in and say, we
27 don't like the color of your shirt.

28 We have to follow a procedure, or they do have every legal
29 right to sue my- -- their -- their supervisor, personally, as well
30 as the county.

31 And so this -- this is -- I guess you could look at it as
32 it's our -- it's the public works and mana- -- county manager
33 union contract, I guess you could, for lack of a better term. So
34 --

35 COMMISSIONER WAITS: But it's like you said, we do have a
36 way if we have an employee that's not doing good evaluations and
37 is written up and whatever, we do have a way to terminate that.

38 But with this, I mean, we -- we certainly want to keep you
39 employed because when we look at your evaluations, I think you've
40 done extremely well.

1 But what if you get this three-year contract and decide that
2 you don't have to come to work anymore or you don't have to?
3 KEITH WESTENGARD: You know --
4 COMMISSIONER WAITS: Then --
5 COMMISSIONER CLARK: That's where the goals and
6 objectives --
7 COMMISSIONER WAITS: No.
8 COMMISSIONER CLARK: -- come in.
9 COMMISSIONER WAITS: No, there's nothing --
10 COMMISSIONER CLARK: Bang. Right there.
11 COMMISSIONER WAITS: No. No. We have --
12 COMMISSIONER CLARK: Yes.
13 COMMISSIONER WAITS: -- to give him a --
14 COMMISSIONER CLARK: Yes.
15 COMMISSIONER WAITS: -- year's severance pay.
16 KEITH WESTENGARD: All right. Let --
17 COMMISSIONER CLARK: No, no --
18 KEITH WESTENGARD: -- me --
19 COMMISSIONER CLARK: -- no.
20 COMMISSIONER WAITS: That's --
21 KEITH WESTENGARD: -- let me --
22 COMMISSIONER WAITS: -- the point.
23 KEITH WESTENGARD: -- say something. Let me answer that,
24 Commissioner.
25 So I -- I see what you're saying. I --
26 COMMISSIONER WAITS: Well, could --
27 KEITH WESTENGARD: -- clearly --
28 COMMISSIONER WAITS: -- we --
29 KEITH WESTENGARD: I clearly understand what you're saying.
30 However, that comes into the integrity part of being in this
31 position. And I think I've proven to this commission. I -- I
32 know there's people in this community who think I'm a real piece
33 of shit. And I'm going to put that on the record. Okay? But I
34 have dedicated my time to making this county as best as I -- I see
35 fit. So that comes to integrity.
36 If you -- if this commission thinks I'm going to take this
37 contract and say, Oh, I have a contract now. I can tell you to
38 go pound sand, that is not the case.
39 COMMISSIONER WAITS: No.
40 KEITH WESTENGARD: I want that clear and on the record.

1 COMMISSIONER WAITS: Okay. No, that's -- that's not what
2 I'm saying.

3 What I'm saying is, if you do, there is no way for somebody
4 on the commission to actually terminate that. And it's like
5 Judie said, where's our protections?

6 If it said, if you get three bad evaluations that are way
7 below par or something, that we could drop you down to three
8 months' severance pay, something. But there's no protections.

9 Not that we expect you to do that. But when you enter into a
10 contract, you want to do what's fair for both. And I'm saying
11 what's fair for other commissioners when they come in --

12 KEITH WESTENGARD: If --

13 Right. And I -- I understand it. And if it comes down to
14 where I get a poor evaluation, I -- goals and objectives are set
15 in -- for this par -- let -- let's take Keith out of it. Let's
16 put it as the county manager.

17 COMMISSIONER WAITS: Absolutely.

18 KEITH WESTENGARD: If -- if -- if goal -- if -- if I get a
19 poor evaluation in a commission meeting, because as we all know,
20 mine are open to the public or the county manager's are open to
21 the public meeting, that's what goals, objectives are set.

22 COMMISSIONER CLARK: Absolutely.

23 KEITH WESTENGARD: If those goals and objectives aren't set
24 and I get a performance plan, so to speak, I -- reevaluated or
25 position's reevaluated in three months and those goals and
26 objectives legitimately aren't met, I believe that would --
27 is --

28 COMMISSIONER CLARK: That's --

29 KEITH WESTENGARD: -- term for not doing your job and -- or
30 reason for termination for not doing my job.

31 COMMISSIONER CLARK: That's cause.

32 KEITH WESTENGARD: That is not a buyout or a -- or we don't
33 like the color of your shirt. That's cause.

34 I'm not -- the person is not doing the job.

35 That -- that's the way I look --

36 COMMISSIONER WAITS: Okay.

37 KEITH WESTENGARD: -- at it.

38 COMMISSIONER WAITS: I -- I don't see that in there. I see
39 just cause. But just cause is not defined as not doing your
40 job.

1 COMMISSIONER ALLAN: I mean, basically just cause here
2 defined --
3 COMMISSIONER WAITS: It's a criminal.
4 COMMISSIONER ALLAN: Right. And it -- and I will also
5 point out that one of the -- the previous contract mentioned
6 moral turpitude, which I see has been taken out.
7 And -- and I think Keith is absolutely correct in a lot of
8 ways. We -- we have to look at this not as this is a contract for
9 Keith, but this is a contract for our county managers. And we
10 have an existing one now, so it will come into play.
11 But Keith's going to retire someday and probably going to use
12 the same contract.
13 Is you have to make the verbiage correct for incoming
14 employees.
15 DISTRICT ATTORNEY HERRERA: Is that the original one?
16 COMMISSIONER ALLAN: Because we know what kind of job he
17 does now.
18 COMMISSIONER WAITS: I only see one thing of why we don't
19 have to pay a year's severance pay and that's -- that's for --
20 for unjust cause. That's all.
21 But for just cause, I don't see it.
22 So I don't see the protection on that side. That's all.
23 And so with that, I think the year's severance pay is really
24 overkill.
25 COMMISSIONER CLARK: Well, hopefully you never have to pay
26 it.
27 CHAIRMAN MILLS: Okay. Do we have any --
28 COMMISSIONER CLARK: No -- no businessman in their right
29 mind would ever do a job without a contract.
30 Contract sets your perimeter.
31 COMMISSIONER WAITS: I'm not arguing about a contract. I'm
32 arguing about the terms on --
33 COMMISSIONER ALLAN: Yeah.
34 COMMISSIONER WAITS: -- the contract.
35 And I think that's --
36 COMMISSIONER ALLAN: And I would also like to say that I
37 think that because there are kind of some corrections that do
38 need to be made in this, that we make those corrections and
39 bring it back. Because this is going to go on the record. This
40 is going to the clerk's office. We need that corrected

1 documentation for the clerk to file away.
2 DISTRICT ATTORNEY HERRERA: I've got it, my corrections.
3 I've made the changes.
4 COMMISSIONER CLARK: I can't hear you, Ted.
5 DISTRICT ATTORNEY HERRERA: The corrections I said I made,
6 just on the sections, I've made those and I have them.
7 CHAIRMAN MILLS: Do we have any further public comment?
8 FRANK SULLIVAN: Thanks.
9 CHAIRMAN MILLS: If you'll come forward, please.
10 FRANK SULLIVAN: How are you guys doing today?
11 COMMISSIONER BAKKER: Good. You, Frank?
12 COMMISSIONER CLARK: We're good, --
13 COMMISSIONER WAITS: Hello.
14 COMMISSIONER CLARK: -- Frank.
15 COMMISSIONER ALLAN: Hello, Frank.
16 FRANK SULLIVAN: Frank Sullivan, --
17 CHAIRMAN MILLS: Good.
18 FRANK SULLIVAN: -- for the record.
19 I just have one question.
20 So are there only two county employees that aren't covered
21 under a contract of --
22 COMMISSIONER ALLAN: No.
23 FRANK SULLIVAN: -- some sort?
24 CHAIRMAN MILLS: No. There are some others. And we're --
25 FRANK SULLIVAN: In the --
26 CHAIRMAN MILLS: -- looking at --
27 FRANK SULLIVAN: -- bargaining unit, by not their choice --
28 CHAIRMAN MILLS: Right.
29 FRANK SULLIVAN: -- or --
30 COMMISSIONER BAKKER: I don't --
31 FRANK SULLIVAN: I mean, --
32 COMMISSIONER BAKKER: -- know --
33 FRANK SULLIVAN: -- I'm --
34 COMMISSIONER BAKKER: -- if it's not --
35 FRANK SULLIVAN: -- a little --
36 COMMISSIONER BAKKER: -- by their --
37 FRANK SULLIVAN: -- I'm --
38 COMMISSIONER BAKKER: -- choice.
39 FRANK SULLIVAN: -- a little confused.
40 KEITH WESTENGARD: What -- what we have -- if -- if I may.

1 CHAIRMAN MILLS: Go ahead.

2 KEITH WESTENGARD: Okay. So with the exception of myself,
3 the public works, fiscal, HR, building and planning -- I'm just
4 talking about my department. I -- I don't think that the office
5 manager is covered.

6 ELIZABETH BARELA: No.

7 KEITH WESTENGARD: They're -- they're not covered under
8 bargaining -- under the bargaining unit contract. It's the --
9 the employees that are not department head- -- or considered
10 department heads or in those high, so to speak, high-level
11 positions.

12 COMMISSIONER CLARK: Frank, --

13 FRANK SULLIVAN: Yeah.

14 COMMISSIONER CLARK: -- some of the -- some of the people
15 aren't covered because they're -- it's just like in the school
16 district administrative office. They're confidential. So they
17 don't organize.

18 FRANK SULLIVAN: Oh. I follow you.

19 Okay. That -- that's -- that was my only question.

20 COMMISSIONER CLARK: Okay.

21 FRANK SULLIVAN: I was just really concerned with that.

22 And I don't see personally how anybody would, in a position
23 like this, would not want to work under a contract. And -- and I
24 can give you guys a hundred percent credit as far as whatever goes
25 in that contract, that's -- that's the policy you guys -- the
26 contract you have to agree to, I mean, as a board.

27 And the goals and the objectives is what Mr. Clark says
28 is -- that's how you -- that's how you manage them.

29 COMMISSIONER CLARK: That's how we managed the
30 superintendents; right?

31 FRANK SULLIVAN: That's -- I spent eight years in -- that
32 -- that -- it would be chaos without a --

33 COMMISSIONER CLARK: Yeah.

34 FRANK SULLIVAN: -- contract.

35 Thank you.

36 COMMISSIONER CLARK: Thanks, --

37 COMMISSIONER BAKKER: Thanks, --

38 COMMISSIONER CLARK: -- Frank.

39 COMMISSIONER BAKKER: -- Frank.

40 CHAIRMAN MILLS: Thank you.

1 Okay. Other public comment?
2 So to reiterate, Sean made the motion. Art seconded.
3 All those in favor?
4 COMMISSIONER CLARK: Aye.
5 COMMISSIONER BAKKER: Aye.
6 CHAIRMAN MILLS: Aye.
7 DISTRICT ATTORNEY HERRERA: Commissioner?
8 COMMISSIONER CLARK: Oh.
9 DISTRICT ATTORNEY HERRERA: Could --
10 CHAIRMAN MILLS: Oh.
11 DISTRICT ATTORNEY HERRERA: Could the -- could the motion
12 be and the second be amended to include those section changes
13 that as -- as described by the district attorney. Because
14 that's what's on the new contract.
15 CHAIRMAN MILLS: So Sean and Art, do you agree to --
16 COMMISSIONER BAKKER: I will --
17 CHAIRMAN MILLS: -- amend your --
18 COMMISSIONER BAKKER: -- amend my --
19 CHAIRMAN MILLS: -- motion?
20 COMMISSIONER BAKKER: -- motion to -- for the corrections
21 the DA did to the contract.
22 CHAIRMAN MILLS: Art, do --
23 COMMISSIONER BAKKER: You need --
24 CHAIRMAN MILLS: -- you agree with that amendment?
25 COMMISSIONER CLARK: Yeah. I'll second that.
26 CHAIRMAN MILLS: Okay.
27 So, again, all in favor?
28 COMMISSIONER BAKKER: Aye.
29 COMMISSIONER ALLAN: Aye.
30 CHAIRMAN MILLS: Aye.
31 COMMISSIONER CLARK: Aye.
32 CHAIRMAN MILLS: Opposed?
33 COMMISSIONER WAITS: Nay.

1 9) Discussion and possible action regarding an employment
2 contract for the Lander County public works director, and all
3 other matters properly related thereto.
4

5 CHAIRMAN MILLS: Okay. Item Number 9. Discussion and
6 possible action regarding employment contract for Lander County
7 public works director, and all other matters properly related
8 thereto.

9 COMMISSIONER BAKKER: This is kind of redundant.

10 KEITH WESTENGARD: I think everything's --

11 COMMISSIONER BAKKER: With that --

12 KEITH WESTENGARD: -- the same in -- in both contracts with
13 the exception of -- of the numbers, of course, on --

14 DISTRICT ATTORNEY HERRERA: Everything is the same
15 including the section changes.

16 KEITH WESTENGARD: Including the section changes.

17 DISTRICT ATTORNEY HERRERA: So --

18 CHAIRMAN MILLS: Right.

19 DISTRICT ATTORNEY HERRERA: -- if anybody makes a motion,
20 include the section changes, --

21 COMMISSIONER BAKKER: Make the motion to --

22 DISTRICT ATTORNEY HERRERA: -- please.

23 COMMISSIONER BAKKER: -- approve an employment contract for
24 Lander County public works director with the amended corrections
25 to -- that the district attorney made and authorize the chair to
26 sign.

27 COMMISSIONER CLARK: Second.

28 CHAIRMAN MILLS: Okay. Sean made a motion. Art seconded.
29 Do we have any public comment?

30 KATHY ANCHO: Just a quick one.

31 CHAIRMAN MILLS: If you'll come --

32 KATHY ANCHO: Sorry.

33 CHAIRMAN MILLS: -- forward, please.

34 KATHY ANCHO: I should have said it back on the last time,
35 but I had it written down.

36 From -- on -- for the record, Kathy Ancho.

37 One of the things that might be a suggestion is continuing
38 education. Maybe even put in, like, a 40-hours continuing
39 education for these gentlemen so that they have -- that they're
40 constantly going with the new changes of things and that it's

1 put in there that they do the tr- -- they do the -- up to 40
2 hours' worth of training a year. And that's just a -- I think
3 anybody in the managerial positions should have that type of
4 training. So that's all -- my only suggestion.

5 So --

6 CHAIRMAN MILLS: Okay.

7 KATHY ANCHO: -- thank you.

8 CHAIRMAN MILLS: Any other public comment?

9 (No comment.)

10 CHAIRMAN MILLS: All in favor?

11 COMMISSIONER BAKKER: Aye.

12 CHAIRMAN MILLS: Aye.

13 COMMISSIONER CLARK: Aye.

14 CHAIRMAN MILLS: Opposed?

15 COMMISSIONER ALLAN: Nay.

16 COMMISSIONER WAITS: Nay.

17
18
19 **BOARD APPOINTMENTS**

- 20
21 10) Discussion and possible action to appoint/reappoint two
22 individuals to serve on the Lander County Economic
23 Development Authority Board with terms expiring June 30,
24 2020, and to consider the following applicants: a) George
25 Fennemore, b) Sarah Edgar; and all other matters properly
26 related thereto.

27
28 CHAIRMAN MILLS: Okay. Item Number 10. Discussion and
29 possible action to appoint/reappoint two individuals to serve on
30 the Lander County Economic Development Authority Board with
31 terms expiring June 30th, 2020, and to consider the following
32 applicants: a) George Fennemore, b) Sarah Edgar; and all other
33 matters properly related thereto.

34 KEITH WESTENGARD: We've had the two individuals submit
35 letters of interest for the board, the LE- -- Lander County
36 Economic Development. And they are -- letters are before you in
37 your packages. We need your vote, approval or deny.

38 COMMISSIONER BAKKER: Okay. I'll make a motion to appoint
39 George Fennemore and Sarah Edgar to the Lander County Economic
40 Development Authority Board, terms expiring June 30th, 2020.

1 COMMISSIONER CLARK: Second.
2 CHAIRMAN MILLS: Okay. Sean made a motion. Art seconded.
3 Do we have any public comment?
4 (No comment.)
5 CHAIRMAN MILLS: All in favor?
6 COMMISSIONER BAKKER: Aye.
7 COMMISSIONER ALLAN: Aye.
8 CHAIRMAN MILLS: Aye.
9 COMMISSIONER WAITS: Aye.
10 COMMISSIONER CLARK: Aye.
11
12

13 **FINANCE**
14

15 **11) Update on budget review, contracts, financial update, and all**
16 **other matters properly related thereto.**
17

18 CHAIRMAN MILLS: Item 11. Update on budget review,
19 contracts, financial update, and all other matters properly
20 related thereto.

21 CINDY BENSON: Good morning.

22 COMMISSIONER BAKKER: Good morning, Cindy.

23 COMMISSIONER WAITS: Hi, Cindy.

24 CINDY BENSON: Cindy Benson, for the record.

25 Okay. I just wanted to report that our accounts receiva- --
26 receivables for the fourth quarter for the fiscal year '17/'18 are
27 as follows: The Water was \$186,142.77; Sewer, \$200,881.70; Water
28 and Sewer Miscellaneous, \$98; Landfill, \$35,644.15. Our total
29 accounts receivable for -- for all of these was \$422,766.62.

30 Our outstanding balances are for the Water is --

31 KEITH WESTENGARD: Today.

32 CINDY BENSON: -- \$2,760.89; Sewer, \$1,049.34. Water and
33 Sewer Miscellaneous is a -- is a positive \$500.98; and Landfill,
34 a positive number of \$14,273.75.

35 So our total outstanding balances are \$10,964.50.

36 For the quarterly fund balance report for the fourth
37 quarter of fiscal year '17/'18, the total revenue for the fourth
38 quarter is \$32,002,532, which is up 310 percent compared to last
39 year's fourth quarter.

40 Total expenses for the fourth quarter is \$8,778,149, which

1 is down by .29 percent compared to last year's fourth quarter.

2 The total revenue for fiscal year '17/'18 is \$50,698,566,
3 which is up 40 percent compared to fiscal year '16/'17.

4 The total expenses for fiscal year '17/'18 is down 101
5 percent compared to fiscal year '16/'17.

6 And those -- those numbers are on the quarterly fund
7 balance report that I gave you, the big one.

8 Okay. And then on the next one, the smaller one with the
9 yellow and the gray, that one is the fund balance report for
10 fiscal year '17/'18, which shows that there are -- is an increase
11 of 13 percent for the estimated ending fund balances compared to
12 the beginning fund balance.

13 And I've also included a five-year comparison on revenue and
14 expenditures, which is the smaller one, for -- just for you guys
15 to review.

16 I had to do some adjusting on the budget entries to clean up
17 fiscal year '17/'18 on some overexpenditures.

18 For the district attorney, I moved two -- \$10,220 from the
19 unemployment line to the salaries and wages line.

20 For the health nurse, I moved \$8,800 from the public health
21 nurse contract line to the salaries and wages line.

22 For the BM pool, I moved 30,000 from the unemployment line to
23 the utilities line.

24 And building and maintenance, I moved \$200 from the PACT
25 line to the salaries and wages line.

26 And that's all I have.

27 Any questions?

28 COMMISSIONER BAKKER: Thank you, Cindy.

29 COMMISSIONER CLARK: Thanks, --

30 CHAIRMAN MILLS: Thank you.

31 COMMISSIONER CLARK: -- Cindy.

32 CINDY BENSON: (Indiscernible.)

33 COMMISSIONER BAKKER: Keep up the good --

34 CHAIRMAN MILLS: Good deal.

35 COMMISSIONER BAKKER: -- work.

36 COMMISSIONER CLARK: Yeah.

37 CINDY BENSON: Thanks.

38 COMMISSIONER CLARK: Keeping our --

39 COMMISSIONER WAITS: Thank you.

40 DISTRICT ATTORNEY HERRERA: Mr. Chairman?

1 CHAIRMAN MILLS: Yes.

2 DISTRICT ATTORNEY HERRERA: At the end of the meeting, if
3 you -- if you will; I respectfully ask that we have a litigation
4 meeting in Keith's office, and I can bring you up to date on --
5 on the water pipe line (indiscernible).

6 CHAIRMAN MILLS: Thank you, Ted. I was going to ask you
7 about that for a double check on that, but I'm -- I'm glad you
8 brought that up. Thank you.

9

10

11 **CORRESPONDENCE**

12

13 CHAIRMAN MILLS: We will move to Item Number 12 for
14 correspondence, reports, potential upcoming agenda items.

15

16 (The following correspondence was received:

17 1. United States Department of the Interior, Bureau of
18 Land Management, Mount Lewis Field Office, regarding
19 Communications Site Management Plan Amendment.

20 2. State of Nevada, Department of Conservation & Natural
21 Resources, regarding Notice of Proposed Action by the State of
22 Nevada, Barrick Cortez, Inc., Water Pollution Control Permit
23 NEV2018109.

24 3. State of Nevada, Department of Conservation & Natural
25 Resources, regarding Notice of Proposed Action by the State of
26 Nevada, Barrick Cortez, Inc., Water Pollution Control Permit
27 NEV2018107.

28 4. United States Department of the Interior, Bureau of
29 Land Management, Mount Lewis Field Office, letter to Interested
30 Public regarding Environmental Assessment.

31 5. Nevada Department of Environmental Protection, notice
32 of public comment period beginning July 20, 2018, and a public
33 hearing on August 29, 2018, if requested.

34 6. State of Nevada, Off-Highway Vehicles Program,
35 regarding public input to enhance Nevada's off-road adventures.

36 7. State of Nevada, Department of Conservation & Natural
37 Resources, regarding Notice of Proposed Action by the State of
38 Nevada, Red Widow Mining Company, Inc., Water Pollution Control
39 Permit NEV2008102.

40 8. State of Nevada, Department of Conservation & Natural

1 Resources, regarding Notice of Decision, Water Pollution Control
2 Permit Number NEV0087061, Newmont USA Limited, Fortitude/Reona
3 (Phoenix) Project.)
4

5 CHAIRMAN MILLS: An item --

6 KEITH WESTENGARD: Our -- our next meeting will be in
7 Austin. Once again for a reminder. It'll start at 10:00 --
8 10:00 a.m.

9 And we have several items to bring up at that meeting. One
10 will be the Austin Youth Center. We need to bring that up for
11 discussion. We'll have backup for you.

12 COMMISSIONER WAITS: Will the -- will the Austin and
13 Kingston firefighters have their information in so we could
14 review --

15 KEITH WESTENGARD: That's --

16 COMMISSIONER WAITS: -- that while they're --

17 KEITH WESTENGARD: Yes.

18 COMMISSIONER WAITS: -- down --

19 KEITH WESTENGARD: We --

20 COMMISSIONER WAITS: -- there?

21 KEITH WESTENGARD: -- we -- yes. So that was the next
22 thing we're going to -- have -- invite Chief James and Chief
23 Chance, Austin/Kingston to attend the meeting.

24 Ormat is going to be invited to attend.

25 There was one other thing that --

26 COMMISSIONER WAITS: Summit.

27 KEITH WESTENGARD: Summit. That's right. That was it.
28 Summit will be there to discuss the line project.

29 Unless you have anything else, I don't -- I don't believe
30 there's anything else that's come up for us.

31 COMMISSIONER WAITS: Would you check the last activity
32 that we've had, that Summit has given us on anything physical
33 they have done in the Austin area? Can you check --

34 KEITH WESTENGARD: Yeah.

35 COMMISSIONER WAITS: -- with Planning and find out what --

36 KEITH WESTENGARD: What exact -- I can't remember off the
37 top of my head.

38 COMMISSIONER WAITS: I can't either. So --

39 KEITH WESTENGARD: It's -- it's been a while since I've
40 even received a bill from them.

1 COMMISSIONER WAITS: I know that too. That isn't always
2 good, because I know we had discussed moving on to a different
3 party. Right?
4 KEITH WESTENGARD: And that -- that may be, if you'd like,
5 can be --
6 COMMISSIONER WAITS: But --
7 KEITH WESTENGARD: -- worked into the --
8 COMMISSIONER WAITS: -- I would like our --
9 KEITH WESTENGARD: -- agenda wording.
10 COMMISSIONER WAITS: -- information.
11 KEITH WESTENGARD: Okay.
12 CHAIRMAN MILLS: Okay. Anything else on that?
13
14

15 **PUBLIC COMMENT**
16

17 CHAIRMAN MILLS: Okay. We'll move to public comment for
18 nonagendized items only.
19 Persons are invited to submit comment in writing and/or
20 attend and make comments on any nonagenda item at the board
21 meeting, if any, and discussion of those comments at the
22 discretion of the board. All public comment may be limited to
23 three minutes per person, again at the discretion of the board.
24 Reasonable restrictions may be placed on public comment based
25 upon time, place, and manner, but public comment based upon
26 viewpoint may not be restricted.
27 Do we have any public comment?
28 (No comment.)
29
30

31 **ADJOURNMENT**
32

33 CHAIRMAN MILLS: Okay. Motion to adjourn?
34 COMMISSIONER BAKKER: I'll make a motion to adjourn.
35 COMMISSIONER WAITS: Second.
36 COMMISSIONER CLARK: Second.
37 CHAIRMAN MILLS: All in favor?
38 COMMISSIONER BAKKER: Aye.
39 COMMISSIONER WAITS: Aye.
40 CHAIRMAN MILLS: Aye.

1 COMMISSIONER ALLAN: Aye.

2 COMMISSIONER CLARK: Aye.

3
4
5 (Meeting adjourned at 10:47 a.m.)
6
7
8
9
10
11
12
13
14
15
16
17
18


19 **CHAIRMAN OR VICE CHAIRMAN OF THE**
20 **BOARD OF LANDER COUNTY**
21 **COMMISSIONERS AND THE LANDER**
22 **COUNTY LIQUOR BOARD**

23
24
25 **ATTEST:**


26 **LANDER COUNTY CLERK**
27
28
29
30
31
32
33
34
35
36
37
38

39 *Note: The Board of Lander County Commissioners serves as the Town Board for the unincorporated towns of*
40 *Battle Mountain and Austin, Nevada.*