

Minutes from the September 15, 2020 County Commission Meeting

September 15, 2020

1:00 p.m.

Esmeralda County Courthouse

Commission Chambers

233 Crook Ave., 2nd Floor

Goldfield, Nevada

1. **CALL TO ORDER AND ROLL CALL.**

Delon "De" Winsor - Chairman
Timothy Hipp - Vice-Chairman
Ralph Keyes - Commissioner
Robert Glennen - District Attorney
Cheri Bickham - Clerk of the Board

2. **PUBLIC COMMENT.** (Discussion only. Action may not be taken on any matter brought up under this agenda item. It must be placed on an agenda, at a later meeting for action.)

Judge Danielle Johnson came up and said that at 2pm she has a meeting with the Deputy Director of the Department of Indigent Defense. She said years ago the ACLU filed a lawsuit against the 7 rural counties in the state and an order was released on September 2. The Deputy Director is coming to talk about what that order says. She will get back to the commissioners with the results of that meeting.

3. ***APPROVAL OF EXPENDITURES.**

General

Batch 1: \$107,927.07
Batch 2: \$9,974.58
Insurance: \$824.61
Utilities: \$2,010.54
NV St. Cont.: \$10,758.00
Payroll: \$81,946.00

Total Cnty: \$213,441.49

Commissioner Keyes made the motion to approve the expenditures in the above amounts. Commissioner Winsor seconded the motion. All in favor: Motion carried.

4. ***DISCUSSION/DECISION/APPROVAL:** Rejected Vendor Bills from Auditor's Office.

September 01, 2020

TO: The Honorable County Commissioners

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RE: Rejected Vendor Bill

I have received a past due invoice for Quill Corporation from Ken Elgan, Esmeralda County Sheriff. This bill totals \$350.26, which is a past-due amount. The bills break down as follows:

- 10/6/19 - \$24.59 – invoice number 9997695
- 10/5/19 - \$220.09 – invoice number 9991371
- 11/15/19 - \$105.58 – invoice number 2002472

I have rejected this invoice according to NRS 244.210, NRS 244.215 and NRS 244.250. These invoices are past the time frame to be paid along with the County bills.

I have researched the above referenced bill and found that it has not been previously paid.

This invoice can be approved by the County Commissioners if they so order, and only by a unanimous vote of its members and certified by the Clerk of the Board that all voted for its passage. Please review the invoices and designate if \$350.26 is approved or rejected for payment.

Sincerely,
Vera Boyer
Auditor/Recorder

Commissioner Keyes said the invoices are here. Commissioner Keyes made the motion to the pay the bills in the amount of \$350.26. Commissioner Hipp seconded the motion. All in favor: Motion carried.

5. ***APPROVAL OF MINUTES** from the August 18, 2020 meeting of the Esmeralda County Board of County Commissioners.

Mike Anderson asked Michelle to go back and listen to the recording and re-type that part of the minutes. Michelle said she would listen to the recording and re-submit the minutes at the next meeting.

6. ***FINANCIAL REPORTS**

A. Assessor	\$11,845.18	08/31/2020
B. Clerk	\$732.96	09/03/2020
C. Justice Court	\$39,755.00	09/02/2020
D. Recorder/Auditor	\$28,636.15	08/28/2020
E. Sheriff	\$840.00	09/08/2020
F. Taxes	\$700,514.76	08/31/2020
G. Goldfield Utilities	\$15,374.32	08/31/2020
H. Silver Peak Utilities	\$7,613.70	08/31/2020

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7. ***TREASURER'S REPORT**

LaCinda said before the Commissioners was the July reconciliation. We had the beginning balance of \$11,181,894.04, Deposits were \$586,393.52, Expenditures were \$670,888.55, with an ending balance of \$11,097,399.01. She said the commissioners had all of the back-up as well.

8. ***AUDITOR'S REPORT -**

Vera was on the phone and said there were two reports in front of the commissioners. One is old fiscal year and where we ended and the other is the new fiscal year and where we stand now.

9. **Update of Current and Future Meetings and Activities of Commissioner's Winsor, Hipp, and Keyes.** (This is only an update. No decisions will be made.)

Commissioner Keyes – Park Board is working on By-Laws. He also said he went to the CNRWA meeting and the NACO Meeting.

Commissioner Hipp said he went and toured Rhyolite Ridge. He said it was very informative.

Commissioner Winsor said he went to LEO and has no further meetings scheduled right now.

10. **Update of current and Future meetings and activities of Elected Officials and Department Supervisors as needed.**

(this is only an update. No decisions will be made.)

Nothing.

11. ***FOR POSSIBLE ACTION: DISCUSSION/DECISION:** Update the Bard of County Commissioners and community no where we stand with the CARES ACT funding. (Vera Boyer)

Vera Boyer said she is just going to update the commissioners with the first draw on the funds. She said she passed out a spreadsheet. She said they originally thought we got the full amount from the CARES Act, but we really only got half of that so we only got \$79,000 for the first round. Of that, we have spent \$31,982 of it. We need to decide on what to do with that.

Commissioner Hipp how the second round is going to work. Vera said we have to show the state that we can spend all of the first round. He asked her, if we do show that we can spend it, when the other half would be released. She said we need to spend it as soon as possible.

Commissioner Winsor opened items 12 and 13 so they could all be discussed with this item.

Matt Kirkland came up and asked Vera if we can charge the overtime that we used for Covid testing on this. Vera said not unless we can show cause on this. We have to get letters showing that it was

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necessary. He said he meant when they did the Covid testing in Goldfield, Silver Peak and Fish Lake Valley. She said she will check on and it and let them know. Vera said she has a direct line into the state and said that wages itself are not covered.

Commissioner Hipp asked Vera if she had any recommendations. She said we could upgrade our EOC. We could upgrade some of our community centers, if needed. You can do laptops, you can do washer and dryer in the ambulance barn, you can get equipment for the ambulances. You can do radio upgrades.

Patty Huber-Beth asked if we can get reimbursed for PPE that we purchased at the very beginning of this. Vera said we already reported to the state.

Matt Kirkland said we have emptied out all of our emergency response trailers of all of our masks, gloves, gowns, etc. He asked if they can re-stock those. Vera said yes. He said he would get Vera a list and pricing on that.

LaCinda Elgan came in and said for the Election we are going to have to order some extra equipment and she thinks that will be reimbursable as well.

There was a discussion about the EOC and the fact that the phones do not work there. Matt Kirkland came up and said we pay the phone bill there every month, and the phone company that is in there went out of business. He said Frontier went there and said that system was junk. Vera said if we get Valley in there, we can probably get wireless phone system. Matt said if we get fiber to the building we could. Mike Anderson came up and said he would suggest. He said when Valley was running fiber, they ran it to the building, just not inside the building.

Commissioner Winsor said each department needs to get the list of needed PPEs together and make sure we have enough supplies.

Vera asked when the last time was that FLV got new SCBA's (Self-Contained Breathing Apparatus). Commissioner Keyes said they are outdated. Vera said we can use CARES Act funding for that. Commissioner Hipp asked how much they are. Commissioner Keyes said they are expensive. Matt Kirkland said about \$3,000 each. Commissioner Keyes said they need a minimum of 4. Mike Anderson said that Fish Lake was supposed to get 10 air packs when Goldfield got theirs. Commissioner Keyes said he will look into it. He suggested that each commissioner in their districts should go look in their fire barns and see what they need. Commissioner Hipp said he wants to go check the EOC out.

No decision made on this or items 12 or 13.

12. ***FOR POSSIBLE ACTION: DISCUSSION/DECISION:** Discuss and approve spending the remaining CARES ACT funds. (Vera Boyer)

Discussed under item 11.

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13. ***FOR POSSIBLE ACTION: DISCUSSION/DECISION:** Discuss and decide if we will be asking for the rest of our allotted CARES ACT funding. This round will be done as a reimbursement from the state. There will be stricter guidelines on the second half of funding as to where or how this money can be spent. (Vera Boyer)

Discussed under item 11.

14. ***FOR POSSIBLE ACTION: DISCUSSION/DECISION:** Discussion/Decision-E.C.S.D.A. agreement vote and sign contract. (Sgt. Matthew Kirkland)

Vera Boyer had a question about annual leave and wanted to know if there would be a limit on annual leave payout upon death. Sgt. Kirkland said for sick leave the cap of 720 and annual is whatever is accrued.

Mike Anderson came up and asked how much all of this was going to cost. He said he had to commend Sgt. Kirkland because it is a pretty good agreement if the commissioners sign it. He said he got this two days ago and there is not much transparency in it. Commissioner Keyes said it was closed-door because it was negotiations and now it is public. Mike said he thinks there is a mistake from article 15. Commissioner Keyes said they did discuss it with Dan McArthur. Mike said they should know how much it is going to cost, then. Commissioner Keyes said they don't know how much it is going to cost. Commissioner Hipp asked what the amount was that Mr. McArthur said that they were going to have to put extra money in. Commissioner Keyes said something like \$30,000 extra dollars a year.

Commissioner Hipp said article 15 was compensation and asked Mike what the error was. Mike said maybe it is not an error, but where it says deputies will pay half of their PERS increase until the end of the contract in 2025 and then on article 26, number 1 it says the county agrees to pay any increase in the percentage of contributions required by PERS. Commissioner Keyes said their PERS is paid differently than the regular employees. Mike said he understands that. Commissioner Winsor said if they get an increase in PERS they are supposed to pay half and the county pays half. Mike asked if the county was paying 100% of their PERS before. Sgt. Kirkland said no. Commissioner Hipp said the wording of it is misleading. Commissioner Hipp said there is a stipulation that if they are paying into the shares; something on a state level, that they can't get PERS like the rest of the employees. Commissioner Winsor said so, they would have to wait until their 10 years before they could get their PERS because of the way it was stated before. Commissioner Keyes said it is PERS-reduced wages. Commissioner Hipp said if Mike quits tomorrow, he can get his PERS back. If the deputies quit tomorrow, they can't their PERS until they retire unless they are vested and then they have to retire, is the way he understands it.

Commissioner Hipp said he does not support this agreement and he is not going to vote for it. He said his biggest concern is what Mike pointed out to begin with, and that is it is going to cost the county an extra \$30,000 for this sick leave and he believes sick leave should be used as sick leave and not as a retirement bonus or used for other purposes, other than sick leave. It's called sick leave to be used as

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sick leave and shouldn't be paid out as a bonus and he agrees with Mike on that. Mike said he didn't have any questions the sick leave. Commissioner Hipp said when you are talking about the \$30,000, that is a part of it. Mike said that's on top of the \$3.00 per hour raise and then 100% of the PERS.

Vera Boyer came on the phone. County is paying the Sheriff's department 100% of the PERS. What they don't like is the reduced wage. She said she is talking with PERS now. She doesn't know how to go around that. She said she doesn't understand why they are saying it is not 100% county-paid. Sgt. Kirkland said it's not because it is coming out of his check. Commissioner Keyes said yes, at a reduced wage. Mike said it comes out of his reduced wage too. Patty Huber-Beth said when we are hired, we are offered whether or not we want to be employer/employee paid or completely employee paid, but have a reduced wage. If you choose employer paid, you take home more today, however, if you leave the county after you have been vested you don't take anything with you. It is only there for retirement. Holly Isenhour came up and not everyone gets a choice because she has worked for the State of Nevada since 2000 and at that time, they did not have a choice and were 100% employer-paid. In 2008, when the economy tanked, the state re-did the distribution so that you could choose. If you were already 100% employer paid you could maintain that and you got a lower wage. If you were a new employer you could choose. When she got hired here, she did not have a choice. She had to choose 100% employer paid.

Commissioner Keyes told Mike Anderson that the Sheriff's Association did not get the raise last year. Mike said they bargained for a different the year before so the commissioners can't say that. Commissioner Keyes said the deputies get a lot of overtime and that costs the county a ton of money. If we can retain the employees by paying a little better in the Sheriff's Department, hopefully we won't have to pay thousands of dollars a year training deputies. That was a discussion we had. No matter what we do, we can't make everyone happy. Mike said he would like to say there is not transparency on this deal, how this was done. The commissioners were in closed-door sessions and with Covid no one comes to the meetings any more so they really don't know. Commissioner Keyes said they have the right to go behind closed doors for labor negotiations. Mike said he's not saying they don't, he's not arguing that point. Commissioner Hipp said it was brought up to him about a month or 6 weeks ago that someone asked any these things weren't open to the public. He brought it up in a meeting and asked Bob. When we do a budget hearing, we have to finish the budget, and then bring it before the public and the public can make comment and then we can make adjustments if needed before we send it up to the state. But the person who talked to me said we aren't doing that with this deal, we are doing it all closed-session. So, he requested an opinion from Bob. Bob came back with an opinion and said that both sides can get as close as they think both sides are happy with (well, the majority of them are happy with) and then it needs to go before the public with the old version and new version, which was done. This gave the public a chance to come to the meeting and make opinions.

Mike said they were having problems getting or keeping personnel. Everybody does. Commissioner Keyes agreed. Mike said that was all he had.

Commissioner Keyes said he did some homework on this with other counties and this is a fair deal. Mike Anderson said to remember what he just said, a fair deal. He said some other counties did more.

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You try to balance things out. You have other counties tugging away at our employees. You have neighboring counties losing their employees to bigger cities and so-on. We get to train them and they leave.

Commissioner Hipp said his point was that we approve this and then the rest of the employees are going to be showing up wanting more as well. So, it is opening a can of worms. Mike Anderson said they'd be looking for a fair deal.

Vera Boyer asked what funding this was going to come out of. Commissioner Keyes said he discussed this with Sheriff Elgan and he said it probably would come out of his overtime budget. Sgt. Kirkland said it is not coming out the overtime budget. LaCinda Elgan asked Vera about the line item called salary adjustments they had put money into that Mr. McArthur referred to. Vera said they could take it out of there but it depends on what the commissioners are going to do with the raises. Sgt. Kirkland said the Sheriff's Office overtime from last year was \$90,000. They ended up spending \$173,882. They were \$83,000 over on overtime. Their salary and wages they turned back into the county \$264,307.56. You would take the \$83,000 out of that for the overtime. He said that is what they are trying to eliminate with this contract. He said he feels that we have it in our budget in our salary in our budget to cover this easily, especially being down 6 people.

Patty Huber-Beth asked a question. She said on the \$3.00 raise they are getting now and then the COLA for each year until 2025, are they not going to be negotiating other salary increases between those times? Sgt. Kirkland said no, just the COLA raises for the next 5 years, as of July 1 of each year.

Commissioner Keyes made the motion, after months of discussion, to approve the Esmeralda County Sheriff's Deputy Association agreement dated July 20, 2020 through June 30, 2025 as stated in the back-up material. Commissioner Winsor seconded the motion. All in favor: Commissioner Hipp said Nay. Motion carried.

15. ***FOR POSSIBLE ACTION: DISCUSSION/DECISION:** Approve setting up a fund for steel-toe boots for reimbursing staff after purchase for safety requirements for working in or around heavy equipment. (Deven Thackeray)

Patty Huber-Beth over the phone. She said that in addition to the back-up information that was presented with this item, they received a letter from Mr. Rick Hudson, Vice President of Risk Management at Willis Towers, who works with POOL/PACT. She said his letter states:

As per our conversation and email, OSHA 1926.95 sub-part E requires employers to assess the workplace to determine if hazards are present or likely to be present, that necessitates the use of personal protective equipment to include protective footwear.

Deven provided me detailed direction on the hazards that Esmeralda County Road Department employees encounter on the job. Several job duties require road department employees to work on or around heavy equipment.

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Michelle Garcia told Patty that the letter she is talking about only speaks about the road department and this is the wrong meeting to talk about it. Patty said it covers the solid waste department too. Michelle said the actual letter only speaks about the road department and can only be talked about in the Highway meeting. Mr. Winsor said that it should have been worded for all departments, including Maintenance and Utilities. Patty said there was a sample policy in the back-up if the commissioners decide to adopt that. Commissioner Winsor said the wording on the agenda item doesn't call for a policy change so that would have to be on a separate agenda.

Mike Anderson came up and said he doesn't know if we need a separate fund, but it is responsibility of the department head to make sure the employees have safety equipment. He thinks it should be after 6 months of employment.

Commissioner Hipp made the motion to approve reimbursement of purchase of steel-toe boots for staff working in and around heavy equipment upon hiring with a maximum of \$200 per year and renewing at the beginning of each fiscal year. The fund would be that department's service and supplies.

Mr. Thackeray had a letter to the Commissioners as follows:

Esmeralda County Commissioners:

9/9/20

Dear Honorable Commissioners:

As you know, in the last commissioner meeting, I informed you that I reached out to Pool/PACT's risk management team and inquired about operating heavy equipment and being required to wear steel-toe boots/shoes. I spoke with a Mr. Rick Hudson, Vice President of Risk Management at Willis Towers, who was referred to us by Pool/PACT. He stated that Pool/PACT was not an enforcing agency. However, if the county currently does not have a safety shoe policy in effect, he would recommend we adopt one. He sent some items which I've included here for guidelines (which I read at the last meeting) and a suggested policy. I am requesting a county-wide policy change to have all personnel who fall under these guidelines be provided safety boots/shoes.

Sincerely,

Deven Thackeray, Supervisor

Esmeralda County road & Solid Waste Dept.

16. ***FOR DISCUSSION ONLY:** DISCUSSION ONLY of Esmeralda County Annual Housing and Community Needs Development Statement required by Community Development Block Grant program.
(Maureen Glennen)

Maureen came up and stated that the commissioners are aware of what this is. She needs an update for the list of the community of suggested projects for each county for the housing and community

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needs statement. The backup behind it shows what has been done in the past. She said she would create a list and send it in. Commissioner Hipp said he remembered doing this last year. He said he would send what he thinks is the latest one to Maureen.

17. ***FOR POSSIBLE ACTION: DISCUSSION/DECISION:** Representatives of the Rural Desert Southwest Brownfields Coalition (RDSBC) would like to request a Letter of Commitment from the County prior to the submission of a Fiscal Year 2021 Environmental Protection Agency (EPA) Brownfields Coalition Assessment Grant Application. A draft grant application will be available for public comment on or before October 2, 2020, on the RDSBC Facebook Page. (Lorina Dellinger, Assistant County Manager, Nye County)

Eileen Christianson came up and gave a presentation, which is in the back-up. She just said they are continuing the coalition and it includes Linda, Mineral, White Pine and the Duckwater Reservation.

Commissioner Keyes made the motion to do a Letter of Commitment from Esmeralda County to the Rural Desert Southwest Brownfields Coalition (RDSBC) in support of the grant application to the EPA for the 20/21 grant cycle. Commissioner Hipp seconded the motion. All in favor: Motion carried.

18. ***FOR POSSIBLE ACTION: DISCUSSION/DECISION:** To approve to allow department heads to enter into On-the-Job trainings (OJT) or Youth WERKS Work Experience (WEX) with Nye Communities Coalition (NyECC) until June 30, 2021. A copy of the master contract and pre-award checklist is attached and this needs to be filled out once per fiscal year. Then NyECC staff would assist department heads with filling out the skills gaps and training plan for each OJT. We need to know the number of current employees and employee turnover (the last 12 months). (Jess Rosner)

Ed Kelly, Director of Nye Community Coalition on the phone. He said they previously had this on the agenda and did not obtain the number of employees and rate of employee turnover in last 12 months. Commissioner Hipp asked him to get that information from Vera by the end of the week.

No motion needed at this time.

Commissioner Hipp made the motion to recess for 10 minutes. Commissioner Keyes seconded the motion. All in favor: Motion carried.

19. ***FOR POSSIBLE ACTION: DISCUSSION/DECISION:** Update on Gold Point.

Commissioner Winsor said that Ben Viljoen, who has some mining properties over there and he is dealing with an Australian company and they are going to be surveying by air the area there and part of the survey is going to include part of the town. Commissioner Winsor said he had him get in touch with Kevin Haskew, as well. Commissioner Hipp asked if Mr. Viljoen was the former state mining inspector. Commissioner Winsor said yes, that is him.

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District Attorney Bob Glennen said the letter regarding Wiley Road will be ready today for review by the commissioners today and he can send it out today. He read it into the record:

Waiver of Property Rights – Wiley Road

This office represents Esmeralda County in the process of mapping then parceling the Gold Point Townsite as it is transferred by the United States Government as set forth in NRS 244.2825. Your property, which has been preliminarily designated as lot ____ block ____ of the Gold Point Townsite on which _____ is listed as owners, is partially located in the Wiley Road Right-Of-Way. In order to complete mapping, Esmeralda County hereby requests that you waive all of your rights and interests to the Wiley Road Right-Of-Way, in order for the townsite might be mapped without conflicts with the highway right-of-way.

Please sign the attached waiver and return to my office. If you have any questions or concerns, please call my office.

Mr. Glennen said he would make the corrections for review.

Commissioner Keyes said he talked with Kevin Haskew and he said he would like to come to the 10/20 commissioner meeting. He has gotten most of the 40 ft. roads done.

Commissioner Hipp asked if we need to put a time line in the letters stating they have a certain amount of time to oppose it. Some time before the 10/20 meeting. Commissioner Keyes suggested 15 days from the date of letter. Mr. Glennen suggested sending regular and certified mail. Commissioner Hipp suggested October 19 as the date the letters must be received by us by.

20. ***FOR POSSIBLE ACTION** – Closure of meeting, pursuant to NRS 288.220 for purposes of conducting labor negotiations, conferring regarding labor negotiations, issues and other personnel matters.

Michelle said she does so she didn't know if we wanted to do the Road first.

Commissioner Keyes made the motion to recess to the Highway Commission. Commissioner Hipp seconded the motion. All in favor: Motion carried.

Back to Order

Commissioner Keyes made the motion to close the meeting. Commissioner Hipp seconded the motion. All in favor: Motion carried.

21. ***FOR POSSIBLE ACTION** – Discussion, deliberation, and possible decision on labor negotiations, issues, and other personnel matters.

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Commissioner Winsor stated that pre-employment drug testing was discussed and it was decided that we could wait to drug test until school is over. D.A. Glennen stated that is what was in the policy anyway so we didn't technically decide anything.

22. ***FOR POSSIBLE ACTION** – Recess meeting, pursuant to NRS 241.015(2)(b)(2) for purposes of conferring with legal counsel regarding potential or current litigation.

Nothing.

23. ***FOR POSSIBLE ACTION** – Discussion, deliberation and possible decision on conference with legal counsel regarding potential or current litigation presented in recessed meeting.

D.A. Glennen the Judge dismissed our part of the EMRB case for a technicality on the EMRB deciding we should personally serve administrative appeals. The Supreme Court of Nevada decided that you don't have to do that so Judge Lane just set aside the order dismissing and said he wants a re-brief.

24. **PUBLIC COMMENT.** (Discussion only. Action may not be taken on any matter brought up under this agenda item. It must be placed on an agenda, at a later meeting for action.)

Commissioner Hipp when he was talking to John during the break, he brought up a good point and that is if the power goes out, normally your phone could still work. For Valley Electric if the power goes out, is there still power to the phone? Commissioner Keyes said we can battery pack the phone.

25. ***ADJOURNMENT:**

Commissioner Keyes made the motion to adjourn. Commissioner Hipp seconded the motion. All in favor: Motion carried.