

Board of County Commissioners of Lincoln County
Agenda for July 31, 2013

9:00 Call to order and Pledge of Allegiance

10:00 Human Services Director Colette Barksdale to give her monthly report

11:00 Auditor Ronny Farmer to present the 2012 audit of the county's financial records

1:00 County Coroner Jennifer Nestor to answer questions about several expenditures for her office

1:30 Tricia Hale, Project Wind Developer for Limon Wind III, to introduce herself and give an update on the proposed project for NextEra Energy Resources, LLC

1. Approve the minutes from the July 30, 2013 meeting
2. Review and approve an Amendment For Task Order #1 for the Women, Infants and Children program for \$29,201 for the period of October 1, 2013 through September 30, 2014
3. County Commissioners' reports
4. County Administrator's report
5. County Attorney's report
6. Old business
7. New business
8. Approve additional expense vouchers if necessary

The Board of Lincoln County Commissioners met at 9:00 a.m. on July 31, 2013. The following attended: Chairman Ted Lyons, Commissioners Greg King and Doug Stone, County Administrator Roxie Devers until 2:30 p.m., and Clerk to the Board Corinne M. Lengel. County Attorney Stan Kimble attended in the afternoon and Will Bublitz with the Limon Leader and Eastern Colorado Plainsman attended from 1:10 p.m. until 2:55 p.m.

Chairman Lyons called the meeting to order and asked Ms. Devers to lead the Pledge of Allegiance. Mr. Stone made a motion to approve the minutes from the meeting held on July 30, 2013, as submitted. Mr. King seconded the motion, which carried unanimously.

The Board reviewed an Amendment for Task Order #1 for the Women, Infants and Children program in the amount of \$29,201 for the period of October 1, 2013, through September 30, 2014. Mr. King made a motion to approve the WIC Amendment, Mr. Stone seconded the motion, and it carried unanimously.

Mr. Stone reported meeting with Road Foreman David Seymour on July 22 and then checking roads with him. He and Mr. Lyons also had lunch with Chief Judge Bill Sylvester, and others. Mr. Lyons put in that they had brought up issues with probation, and Mr. Stone said they also mentioned that it is irritating to jurors when a case is settled or an agreement is reached when they have already reported for jury duty and are then dismissed. On July 23, Mr. Stone reported that District Three received sixteen loads of hot mix and patched several roads.

Mr. King reported meeting with Rob Handley who spent some time showing him the features of the Limon ALS ambulance. Mr. Handley told Mr. King that he would like to see dispatch separated from the sheriff's office and commented that the cement building out south of Hugo would be perfect for that. He also felt that there should be one ambulance command for the entire county. Mr. King also received calls from another couple of residents regarding support of the 51st state. Earlier, he spoke with District Two Foreman Mark McHone who was going to the sheriff's office to report that Andrew Johnson is farming about three feet onto some of the county roads up north.

Mr. Lyons reported having lunch with Chief Judge Sylvester on July 22, and also attending the Colorado Energy Listening Session regarding a statewide economic development assessment in Limon. On July 23, he received a phone call from a resident requesting the commissioners support the idea of a 51st state, and on July 25, John Forristall called to request some gravel be put on a road as it was getting impassable due to washboards. Mr. Lyons called Chris Monks and asked him to check on it. On July 26, Mr. Lyons attended the BOE hearing, and on July 29, he received another call from John Forristall about a demonstration by Dan Oakleaf regarding prairie dog control. Mr. Lyons also spoke with Daryl and Dolle Lehrkamp. On the Thirtieth, Bill Bennett stopped by Mr. Lyons' place to request that a bill be paid, as he did some work for the Lincoln Theater and needs to be reimbursed by the Lodging/Tourism board.

Ms. Devers had nothing to report, but asked if the commissioners had come up with any names for an alternate board member on Progressive 15. Ms. Devers said it may be helpful to look up the members.

At 10:00 a.m., Human Services Director Colette Barksdale met with the Board to give her monthly report. Public Health Director Sue Kelly and Robert Kraxberger accompanied her. Ms. Barksdale said she and Ms. Kelly would like to present information regarding the Connect for Health grant MOU with Kit Carson County. Ms. Kelly will be the point person and will complete the paperwork, but the departments will work together and share a .5 FTE from August 5, 2013, through December 31, 2014. The total grant amount is \$38,516.86; \$33,267 which is to be used for salaries and benefits. Ms. Barksdale said that it will average out to about \$1,000 per department per month, and the employees will work above and beyond their normal duties in their respective departments; they will not hire someone else. Ms. Devers stated that retirement is only paid on an employee's normal monthly salary, so those additional hours cannot be used regarding retirement benefits.

Mr. King asked what would happen if the U.S. House refuses to fund any Obama Care programs, but Ms. Barksdale responded that this program has nothing to do with coverage and should be completely separate. She added that it should be a good program because insurance companies will have to look at their competitors, but only thirty states are going to these exchanges. Some of the larger insurance carriers will wait a year or so before they come into Colorado's healthcare exchange. Mr. King said that the problem he has seen in the past is that many insurance providers won't cover people who live in rural Colorado once they do a risk assessment. He added that Blue Cross seems to be the only company that will insure rural Coloradans, but Ms. Kelly argued that they have clients with Tri-Core, Sigma, and Rocky Mountain, as well.

Mr. King made a motion to approve the MOU with Kit Carson County for the Connect for Health grant in the amount of \$38,516.86. Mr. Stone seconded the motion, which carried unanimously.

Ms. Kelly left and the commissioners reviewed the DHS time sheets and financial reports while Ms. Barksdale updated them on Project School Supply. All but six items have been delivered and extra items were given to the Woodlin and Miami/Yoder schools.

IV-E Waiver permanency roundtables will be held on August 20 and 21 in the jury assembly room and Ms. Barksdale invited the commissioners to stop in if they were so inclined.

Ms. Barksdale said that they did get the technology grant for Differential Response and they have ordered the iPads for staff members. They got a deal through Verizon Wireless and the data package will be \$22/month per iPad; however, they may get it reduced down to \$10 or \$12 per month since it is government.

At 11:00 a.m., Ronny Farmer met with the Board to present the 2012 audit of the county's financial records. County Treasurer Jim Covington attended that portion of the meeting. Mr. Farmer said that although management has always been responsible for county financials, it is ultimately the Board of County Commissioners that is responsible. He explained that a General fund cannot transfer dollars to the Road & Bridge fund, but can decrease the mill levy and increase it in Road & Bridge. He suggested the county may want to do that in 2014, and possibly even in 2015, since the General fund is supporting such a large fund balance.

Mr. Covington stated that the county has some mineral rights and asked if that income could be put into the Road & Bridge fund if they began producing. Mr. Farmer responded that it is possible, but the commissioners would need to adopt a resolution to do so, advising that it would be best to do it in anticipation of receiving the funds, as it may become a statutory violation afterwards. He added that a General fund can spend money for *any* legal purpose other than Road & Bridge.

Mr. Farmer pointed out the loss of \$27,481 in the Human Services department, stating that it is not unusual to see such a deficit, due to unfunded mandates. He added that, overall, the county is in very good financial shape.

Mr. Farmer also informed the commissioners that they should consider reducing the Public Health Agency fund balance, as it is a bit high at \$142,726. Those funds can only be spent for Public Health purposes—they cannot legally be moved to the General fund. Mr. Covington asked Mr. Farmer what he would recommend the fund balance be and Mr. Farmer stated that \$50,000 or \$60,000 would be sufficient.

No funds were overspent in 2012, and there were no statutory violations, and Mr. Farmer commented that all financial reporting, internal control and compliance, and separation of duties are all very good.

Mr. Covington told Mr. Farmer that they are looking at a new computer system and wanted to know if entering into a lease/purchase agreement in which the first payment would not be due until 2015 is acceptable. Mr. Farmer stated that it would be and when Mr. Lyons asked if it is better to lease or purchase things, Mr. Farmer replied that purchasing outright is always better, in his opinion.

Mr. Farmer produced several letters for the Board, among them his representation letter and the new engagement letter to perform the county's 2013, 2014, and 2015 audits. He added that he will submit the Cost Allocation Plan hopefully in a week or so.

Mr. Covington said he'd been contacted by Ed Rohrbaugh who owns some property that the county owns the mineral rights on. He wanted to know if the county would sell them to him and if it was even legal for the county to own them. Mr. Farmer said there was absolutely nothing stating that the county could not own mineral rights; in fact, he knows of a county that has actually purchased property through tax sale.

Once Mr. Farmer had gone, Mr. Covington informed the Board that Tyler Technologies gave him a quote for the new computer system the previous day. They currently pay approximately \$76,000 per year to CCI, and the annual payment with Tyler will be \$102,000 for the two offices combined. He asked if the Board wanted him to pursue it further and Mr. Lyons said they really didn't have much choice in the matter.

At 1:00 p.m., County Coroner Jennifer Nestor met with the Board to answer questions about several expenditures in her office. Deputy Coroner Jeri Mauldin accompanied her. Mr. Lyons stated that the commissioners had approved a voucher in May to Giddy Up, Inc. in the amount of \$462.59 and asked Ms. Nestor if she really felt the items purchased; 250 pens, 1,250 business cards, and a \$135 jacket were really necessary. Ms. Nestor responded that the pens were very basic pens imprinted with "Lincoln County Coroner" and the address and her cell phone number on them. She had given some to each deputy coroner so that they could hand them out to families who had lost loved ones, as she had done with the business cards. She gave each deputy 250 cards. The additional jacket was purchased because a larger size was needed.

Mr. Lyons then asked Ms. Nestor why she had not been turning in trip sheets for the vehicle, as that was something that anyone driving a county vehicle was required to do. Ms. Nestor apologized and said she would make sure that it is done correctly in the future.

Mr. Lyons also said that vouchers were submitted paying each deputy coroner that responded to a traffic accident \$50, and one to Zane Nestor for \$100, and he wanted clarification as to why she had paid them so much when she had been told that if more than one deputy responds to a call, they would have to split the \$50 fee. Ms. Nestor said that she thought the \$50 payment was per deputy, not per call. Mr. Lyons and Ms. Devers remembered the topic being discussed at least once before, so Ms. Devers went to look for old minutes to see if she could find when it was discussed and what had been decided.

Mr. Lyons asked Ms. Nestor why she was sending so many deputies to autopsies in Jefferson County, and she replied that it is a statutory requirement that deputies attend a certain number of autopsies per year. She added that Ms. Mauldin and Dale Rostron do not yet have their required number in for the year, so they go when they can.

Mr. Lyons asked who determines cause of death and Ms. Nestor answered that the pathologist does the autopsy and determines cause of death, then informs her so that she can fill out the death certificate properly. Mr. King asked if the pathologist gives her a report and she replied that they do get a report; however, they have been having problems lately so she has been sending deputies to the autopsies so that they can get the report right then and bring it back to her, as she has five days from the date of death to file the death certificate.

Mr. King asked why they changed from Douglas County if they are having problems and Ms. Nestor said that the pathologist that they have used for over thirty years now works out of Jefferson County rather than Douglas County, and they do not want to change pathologists. She added that she has spoken with Dr. Galloway and feels that the problems are taken care of.

Mr. King asked why she sent three deputies in two vehicles to a recent autopsy and was told that they had taken three bodies up; one had gone to autopsy and the other two for storage, as Love's Funeral Home had no room in their coolers.

Mr. Lyons asked if she had found the back to her cell phone and Ms. Nestor said she had not found it, but had gotten it replaced. She added that she would like to upgrade her cell phone if that was possible, stating that she didn't need a smart phone, she would just like an upgrade, as people have said they have problem hearing her sometimes. If she needs to, she will wait and budget for it next year. Ms. Nestor also said that Tara Christie is working on the magnetic sign for the coroner truck.

Mr. Lyons asked why she had purchased another coat, as he thought everyone had one, but Ms. Nestor stated that none of her current deputies were with her when she ordered the original jackets, except for Zane, so she had ordered some for the new deputies, and one in a larger size.

The group returned to the discussion regarding payment to deputies and Ms. Nestor again stated that she feels each deceased party becomes their own case, as there are numerous things that have to be done and each has to be dealt with individually. Mr. Stone stated that he could understand that and Mr. King wanted to know why Zane Nestor was paid double when there were actually four people from the coroner's office on scene to take care of four deceased parties. Ms. Nestor said it would be fine to withhold payment from Zane the next time he takes a call to make up for the other \$50 if they wanted to do that.

Ms. Devers returned with commissioner minutes from 2007 when Ms. Nestor was told that deputies would be paid "\$50 per death call." She also asked who takes pictures on a scene and Ms. Nestor said that they all do. Mr. Lyons asked the other commissioners if they should reduce the payments to the deputies and Mr. Stone said he felt they should leave it as is. Mr. King added that he felt they had to, based on the old minutes. Ms. Devers said that they would need to be very specific in the future. Mr. Stone told Ms. Nestor that the trip sheets are very important and she needs to make sure they are done and turned in on time, and Ms. Nestor promised that she would do better.

Ms. Devers asked if a decision had been made on the cell phone and Ms. Nestor said she would budget for the upgrade next year. When Ms. Devers asked, Ms. Nestor informed her that the business cards have the coroner's cell phone number and the deputy's cell phone number printed on them also.

At 1:30 p.m., Tricia Hale, Project Wind Developer for Limon Wind III, met with the Board to introduce herself and give an update on the proposed project for NextEra Energy Resources, LLC. Ted Weissman (also with NextEra), Joe Kiely, and Land Use Administrator John DeWitt attended the discussion, as well.

Mr. Weissman said they are planning a project to add onto their existing project and Ms. Hale put in that it will be a 200 megawatt project; basically the same size as Limon Wind I and II. The proposed site is all directly east of Limon Wind II, as they want to stay completely in Lincoln County. There will be roughly 115-120 towers and they hope to be in commercial operation by the end of next year. Ms. Hale went on to say that there are two phases to the process; the first being the option agreement where they obtain access to the land for environmental studies, soil analysis, and other impact studies. The option period is roughly for six years. Mr. Lyons asked if they had a set price for each landowner, but Ms. Hale responded that that information is confidential, but they do have a standard within their company, although it is always subject to change. Mr. Weissman put in that they do try to keep most of them the same. The second phase is exercising their option to lease the property. Ms. Hale explained that there are two choices for the landowner for payment; one a fixed amount option that is based on number of megawatts; and a variable amount option which is based on a percentage of the profits.

Mr. Weissman said that although the company has the right to place their towers wherever they choose once the landowner has signed the agreement, they do try to work with all landowners as they want to be good neighbors and benefit everyone.

Mr. Kimble asked what the setbacks would be for the new lease on Limon Wind III, namely the distance between the tower and residences, but Ms. Hale responded that the lease does not dictate that, the county's zoning regulations do. Mr. Kimble wanted to know if NextEra has a policy for residences when someone is not a lessor, and Mr. Weissman said that ordinances don't have to be changed to match a company; they setback a certain distance so that they don't overtly affect a property, whether it be for a participating or non-participating landowner. Mr. Lyons said the setback requirement would be at least 1,000 feet and possibly more, and Mr. Weissman stated that although the 1,000 foot requirement meets most of their requirements, they typically use at least 1,400 feet, and most often even further than that. They design to a decibel level and setback limit. Ms. Hale commented that it basically doubles the influence they have on neighboring lands if the setback is increased to 2,000 feet, and provided a map to support her remarks.

Mr. Lyons asked if they use the same standard design all over the country and Ms. Hale responded that wind farm design is completely different in other states as there are so many variables that affect the design and placement of towers. Mr. Stone wanted to know if wind farm design is all science-based, as the turbines seem to be placed so randomly, but Mr. Weissman said that if he could see the towers from the air he would realize that there is a distinct pattern to them. Mr. Stone also asked why there are often turbines that don't seem to be turning, and Mr. Weissman answered that on low wind days or when the wind isn't constant, the turbines can actually be seen lightly bouncing as if they are "hunting" for the wind. Ms. Hale added that since the towers are machines, they do require maintenance at times.

Mr. King wanted to know how wind leases affect severed mineral owners and Ms. Hale said they are aware of those and simply have to come to agreements. Mr. Kimble asked if Prairie Minerals owns any mineral rights in the area where the new phase is projected to go and Ms. Hale said they are not that far along on the design yet. However, if they discover that they do, the agreements will be in place prior to the beginning of construction. She added that once they identify the areas to be impacted, they complete extensive mineral searches for all the land parcels.

When Mr. Lyons voiced his concern with mineral owners who live out of state, Mr. Kimble said that a publication is considered to be notice, and Mr. Weissman said that they inform landowners that they will not get in the way of oil and gas exploration. Ms. Hale said she doesn't believe NextEra has a blanket setback; at least, she didn't recall anything in their leases that addresses setback for oil and gas, and Mr. Kimble stated the county would like to see the same agreement that they have with Prairie Minerals and Anadarco apply to all Lincoln County landowners as well. Mr. Weissman said that the agreement they have with severed mineral owners will be the same, and Mr. DeWitt commented that the Lincoln County development permit requires that notification be sent to landowners and severed mineral owners. Mr. Weissman said that they do both certified letters and newspaper publications, and then added that they like to be good neighbors and even contribute to local projects when they can.

Ms. Hale stated they would like to see the project go into production by the end of next year, but there is a slight concern that they won't be able to pull enough water from the same water table. She added that it is their goal to build a new substation, which may increase the number of full time employees in the area.

Mr. Weissman again stated that they do like to help with local projects and said they generally look to the commissioners for suggestions. Mr. Lyons said there have been multiple requests; it's just a matter of what will benefit the most residents in the county. Mr. Kimble reminded them that they would have to pay the use tax, but they were very aware of that fact.

Mr. Kimble stated that some companies agree to put up a bond and asked if NextEra does, but was told that they make their commitments to the landowner. Mr. Kimble asked what would happen if they were to become non-operational and Mr. Weissman said that they feel it is a non-issue as there will always be value in scrap, so it will always be feasible to take the towers down once they have served their 20-30 year life. Mr. Kimble also stated that Tony Ryan felt they would have to apply for new permits because of all the changes, and Mr. DeWitt agreed. He also asked why they permitted the transmission lines separately when they built Limon I and Limon II. Mr. Weissman said it had to do with the financing company.

Mr. Kiely spoke up to ask about the Federal Renewable Energy tax credit, stating that production had to be started at a certain time for the other two phases and they discussed a safe harbor clause. Mr. DeWitt said that they have been able to finish up the development applications in less than six weeks, as long as everything is timed with when the Land Use Board meets.

Mr. Bublitz asked if NextEra had begun signing leases with landowners yet and was told that they have. Ms. Hale and Mr. Weissman left, and Mr. Kiely gave the commissioners some information about an upcoming meeting regarding a possible natural gas fuel station being installed in Limon.

Once Mr. Kiely and Mr. DeWitt had gone, Mr. King made a motion to accept the engagement letter with Ronny Farmer to perform the county's audit for the next three years. The 2013 audit will not exceed \$14,800, the 2014 audit will not exceed \$15,550, and the 2015 audit will not exceed \$16,300. Mr. Stone seconded the motion, which carried unanimously.

Mr. Kimble had nothing to report, but Mr. King said he had new business and wanted to let the others know that Andrew Johnson had plowed the edge of the county road up north and got into the roadway. Sheriff Nestor sent a deputy up to speak with Mr. Johnson and a confrontation ensued. Mr. King said they may cite Mr. Johnson for damage to a roadway.

Mr. Lyons commented on the issue with the electronic recycling receptacle, stating that it was full, and Ms. Lengel said she thought James Martin said he would come and empty them. Mr. Lyons will call him.

Mr. Stone said he'd had a phone call regarding the county buying some bounce houses for kids to play in during the fair. There may not be time before this year's fair, but the person had asked Mr. Stone to check into it. Mr. Lyons told him to get prices, but then decided it may be a liability, and Mr. Kimble agreed that it probably would be.

Mr. Lyons asked Mr. Kimble if it would be legal to exchange a building or some other development in the county in lieu of a portion of the use tax with NextEra, and Mr. Kimble responded that they have already done it to a certain extent with reducing the tax from two percent to one percent and discounting the value on the towers, so it would not be unreasonable, in his opinion.

Ms. Lengel asked the Board to think about what they wanted to tell Ms. Nestor specifically in regard to paying her coroner deputies for calls, as it should be agreed upon and followed accordingly going forward. Mr. King felt that one body should equal one deputy; hence, \$50, and if more than one deputy responded they would then need to split the \$50. Mr. Lyons thought that whatever they decided should be signed by Ms. Nestor and the Board agreed to think about it.

With no further business to come before the Board, the meeting was adjourned until 9:00 a.m. on August 8, 2013.

Corinne M. Lengel, Clerk to the Board

Ted Lyons, Chairman