

Board of County Commissioners of Lincoln County  
Agenda for November 19, 2013

9:00 Call to order and Pledge of Allegiance

1. Approve the minutes from the November 7, 2013 meeting
2. Review the October 2013 report from the County Clerk's Office
3. Review the October 2013 reports of revenues and expenditures for County General, Public Health, Capital Projects, Conservation Trust, E911, Landfill, Library, Lodging/Tourism, Road & Bridge and the individual road districts
4. Review and approve an amended contract with the State Historical Fund for Project #2011-01-053, the door and window restoration and reconstruction of the Hugo Union Pacific Railroad Roundhouse
5. Review and approve a Design Capacity report form received from the Colorado Department of Public Health and Environment on the county landfill
6. County Commissioners' reports
7. County Administrator's report
8. County Attorney's report
9. Old business
10. New business

The Board of Lincoln County Commissioners met at 9:00 a.m. on November 19, 2013. The following attended: Chairman Ted Lyons, Commissioners Greg King and Doug Stone, County Administrator Roxie Devers, Clerk to the Board Corinne M. Lengel and County Attorney Stan Kimble, until 10:30 a.m.

Chairman Lyons called the meeting to order and asked Mr. Kimble to lead the Pledge of Allegiance, after which County Treasurer Jim Covington met with the commissioners to give a brief update on mobile homes. Mr. Covington said that four of the mobile homes that were issued county certificates were picked up by the owner of Limon Mobile Home Park, and he intends to assign another county-held certificate to them as well. Another was transferred to Troy McCue, leaving the county with two; one at Arriba and one at Bovina.

Mr. Lyons said he'd been thinking about Bill Noyce's presentation on November 7, and felt he had some very good points about investing the county's retirement funds. He asked Mr. Covington if there were some way to take \$500,000 from the county's surplus and invest it in different options that might have a higher rate of return, maybe for a year or so. Mr. Covington said that it would depend on what the money was invested in, as retirement funds can be invested differently than county funds. For instance, county tax dollars cannot be invested in the stock market, even though retirement funds can be. He added that Colorado laws are put into place for the benefit of the taxpayer to protect the county funds, and it is his job as the custodian of those funds to invest in the safest ways possible. He felt that bonds were the best investment option at this point.

Mr. Covington left and Mr. Lyons called for the attorney's report so that Mr. Kimble would not need to remain for the entire meeting if he didn't want to.

Mr. Kimble said he had three items to report on; the first being the flood plain ordinance issue. He had sent a letter to the commissioners entailing his comments and including the letter from FEMA outlining penalties that can occur if the county doesn't adopt the flood plain ordinance. Land Use Administrator John DeWitt was unable to locate any flood plain information for the county, although he had found it for the municipalities. Mr. Kimble felt that the county will eventually have to move forward to establish a flood plain, but it's a very difficult decision because it will most likely cause problems for county residents either way. By not adopting an ordinance, neither the county nor its residents will be able to participate in the NFIP (National Flood Insurance Program), which may be the only flood insurance available. Although the impact of not enacting the ordinance may not be great, the county will not be allowed to enroll in the NFIP unless the ordinance is adopted. He had suggested that Ms. Devers check with the county's insurance carrier to see how they perceive adopting or not adopting the ordinance, and Ms. Devers spoke up to say that she had contacted CTSI and was told that CAPP would provide coverage if a claim were filed against the county. She told them the county is not mapped for a flood plain and doesn't plan on doing so at this time. Either way, they will cover the county depending on the nature of the claim. Mr. Kimble went on to say that it may be worse for county residents if the county finds out that certain homes are located in a flood plain once it is mapped, and Mr. King put in that any drainage area might become a problem.

He added that it may make the resale of a property much more difficult if flood insurance is required by the lending institution. Current landowners may not care as much as those acquiring new properties if the flood insurance is required.

Mr. Kimble said that one option would be to go ahead and adopt the ordinance to be in compliance with the January 14, 2014, deadline and then work on researching where the flood plain could actually be, which might take quite some time. He said he didn't think it should cost the county any money, but it may, as he assumed engineers would have to make the determination through topography.

Mr. Lyons wanted to know what would be gained by enacting the ordinance and Mr. Kimble said it makes the county eligible to enroll in NFIP and allows the county to apply for certain grant funding or Hazard Mitigation funding through FEMA. He added that it may be possible that there is no information on flood plains in Lincoln County or there is a chance that flood plains will be unable to be determined. In that case, Jamie Prochno suggests the obligation to protect their property from flooding be put on the landowner through land use regulations.

Technically, if the county does not adopt the ordinance it will be in violation of state rules and regulations, but Mr. Kimble said it's possible that nothing too stringent will happen. Mr. Stone felt that not adopting the ordinance would deny residents the right to buy flood insurance.

Ms. Devers asked if Mr. Kimble could find out what belonging to the NFIP involves and Mr. King said he wanted to know what it would cost the county to do the flood plain mapping. Ms. Devers said she could contact the Army Corps of Engineers and FEMA to see if they would provide the service free of charge, and Mr. Kimble said he would contact Ms. Prochno again and ask her more questions, as well. Ms. Devers asked him to tell Ms. Prochno that the Board is uncomfortable adopting the ordinance until the mapping is done and to see if they would consider that option.

Mr. Kimble's second item to report concerned the CCI/Harris computer issue. He asked several other counties via List Serve, but most had not contacted a bankruptcy attorney at this time; they preferred that Harris assume the contract terms of CCI. Lincoln County is in a little different situation since the terms of the contract would only be for a year; until Tyler Technologies can get the new system in place. He added that the best option would be for Harris to cover Lincoln County for a year. If Mr. Higgins and Mr. Covington were to insist they are in default, then they run the risk of Harris taking the equipment away, so it still is a rather sensitive situation. Mr. Kimble will speak with other attorneys at his conference and see if he can obtain more information.

Lastly, Mr. Kimble said he'd met with NextEra's attorney, Tony Ryan, and they have filed the application process for Limon Wind III, which they hope to begin next March. John DeWitt is attempting to schedule a Land Use hearing for December, but is concerned with having it during the holidays. If the Land Use board approves the application, then they will follow up with the road and development agreements. Mr. Ryan said NextEra felt they had done quite a

bit to satisfy Prairie Minerals, but believe their agreements with all mineral right owners are good ones. They intend to contact all of those individuals and companies as soon as possible. Mr. Kimble said they did not have any problems with the sales and use tax to be collected, nor did they disagree with the county keeping the 1,000 foot setbacks.

Mr. Lyons asked what would happen if there are objections from residents at the Land Use hearing and Mr. Kimble said that it would delay the development agreement process. However, the Land Use board will pass their recommendations on to the commissioners to approve, deny, or approve the agreement with conditions and then it will be up to them to make the final decision. He added that the only reason the hearing would be continued would be if there was not enough information presented, which he didn't expect to happen, but said he will check on the procedure. If the commissioners get questions from concerned landowners, Mr. Kimble advised they recommend that those individuals attend the Land Use hearing and make their comments there, as they really should not answer questions since they sit as judges once the Land Use hearing is over.

Mr. Lyons felt that the Board has some big decisions coming up and Mr. Kimble said that most people don't care for regulations, but regulations are necessary, and it is absolutely impossible to satisfy everyone. Mr. Kimble said he had nothing further to report and left the meeting.

Mr. King made a motion to approve the minutes from the meeting held on November 7, 2013, as submitted. Mr. Stone seconded the motion, which carried unanimously.

The Board reviewed the October 2013 reports from the County Clerk and the Treasurer, as well as the October 2013 reports of revenues and expenditures for the County General, Public Health, Capital Projects, Conservation Trust, E911, Landfill, Library, Lodging/Tourism and Road and Bridge funds, as well as for the individual road districts.

Also reviewed was the amended contract with the State Historical Fund for Project #2011-01-053, the door and window restoration and reconstruction of the Hugo Union Pacific Railroad Roundhouse. Mr. Stone made a motion to sign the amended contract, Mr. King seconded the motion, and it carried unanimously.

Mr. King made a motion to approve the Design Capacity report form received from the Colorado Department of Public Health and Environment on the county landfill. Mr. Stone seconded the motion, which carried unanimously.

Mr. Stone reported checking roads south of Karval on November 12, as well as attending the fair board meeting. He called Ted Weissman with NextEra, who will get back to him. Travis Taylor said the building would cost between \$450,000 and \$500,000. Mr. Stone asked Mr. Lyons if he had any other information to add from the fair board meeting and Mr. Lyons wanted to know if anyone had heard further on the rodeo contract. Ms. Devers said that Julie Joffe had attended another conference and felt it was not worthwhile, as there were not even any rodeo contractors there. Mr. Lyons said there had been discussion about asking Amy Perry

to supply thirty rabbits and having Randy Trainer supply ten. He also said that if anyone has any changes or additions to the 2014 fair book they need to be made as soon as possible, and not mentioning Julie Joffe in the 2013 fair book was an accidental oversight and certainly not done intentionally.

On November 14, Mr. Stone attended the Colorado East Community Action Agency meeting and said he has taken deceased Cheyenne County Commissioner Bob Paintin's spot. High winds on November 16 caused a lot of tumbleweeds to blow, so on November 17 he checked roads and found several of them blocked again. He commented that the ditches are all full and if they get snowstorms down in his district this winter they may have major problems with drifting. Mr. Stone attended the Eastern TPR meeting in Limon on November 18, as did both Mr. Lyons and Mr. King. Mr. Stone said he had made phone calls to both Greg Brophy and Tim Dore requesting they support the elected officials' salary bill. Mr. Brophy told him that since he is running for governor he felt he couldn't be very vocal about it.

Mr. King reported attending the Centennial Mental Health meeting on November 13, and CMH is making an effort to respond to calls at the hospital quicker. Part of the problem is that if the patient has a high blood alcohol level, Centennial can't evaluate them until it has dropped to a lower level. On November 15, Mr. King spoke with Mark McHone who told him that all of the truck route signs had been put up in District 2 for the oil truck traffic. He attended the Economic Development meeting on November 18 where they completed the job description and newspaper ad for the new director. The Foreign Trade Zone application is 80% - 90% complete and the designation will take eight-to-nine months once the application is submitted.

Mr. Lyons reported attending the fair board on November 14. He also spoke to Terry Hubbell with CDOT about the rotomill for the landfill and was told they could have five or six loads if they would haul it off. He added that the state is getting a little more stringent about giving stuff away. Mr. Lyons also spoke with Chris Monks about County Road 26 and he would like to try the same material on it that they have used in other areas in the past, maybe next spring, since the oil trucks have now torn up the rotomill. He said the material is not magnesium chloride, but similar. In addition to the TPR meeting in Limon, he went by the landfill on November 18 and spoke with Mick Jaques. Mick would like the commissioners to start thinking about a new cell the first of next year. Mick also told him that the test results from the oil spill at the Fisher well came back and they can go ahead and use the soil for cover, as it is mostly dirt anyway. Mr. Lyons finished up his report by stating that he had contacted several state representatives asking them to support the elected officials' salary bill, but had to leave messages for most of them.

Ms. Devers said that Gini Pingnot with CCI had asked if one of the Lincoln County commissioners would consider speaking about the salary bill at the Eastern District portion of their conference in December, since they had passed the resolution in support of the bill. Mr. King said he would do so.

At the request of Public Health Director Sue Kelly, Mr. King made a motion to allow Heike Adams a county credit card with a \$1,000 limit. Mr. Stone seconded the motion, which carried unanimously.

The Board went over appointments to the various boards for 2014, and Mr. Lyons stated that at least two members no longer want to be on the fair board.

The Board reviewed the Official Abstract of Votes Cast and the Official Cumulative Report for the 2013 Coordinated Election from the County Clerk, and then Ms. Devers asked if the commissioners wanted to continue the practice of giving hams to the county employees at Christmastime, which they do. She also stated that CTSI is offering cyber liability insurance and she had each of the department heads fill out the information requested. However, every department had different responses, so she wasn't sure how to complete the paperwork, and called CTSI for help. Ms. Devers provided additional budget changes and then Mr. Lyons asked if there was any old business.

A follow-up site inspection letter from Land Use Administrator John DeWitt to Winterberg Towing stating that everything was cleaned up was reviewed and Mr. Lyons commented that it appeared that situation has been resolved.

With no further to come before the Board, the meeting was adjourned until 9:00 a.m. on November 26, 2013.

---

Corinne M. Lengel, Clerk to the Board

---

Ted Lyons, Chairman