

Board of County Commissioners of Lincoln County  
Agenda for March 18, 2014

9:00 Call to order and Pledge of Allegiance

9:00 Gregg Leverett to discuss information he requested from Human Services

9:15 Bryson Herbert to present his Eagle Scout Service Project proposal, which is a welcome sign for the fairgrounds

10:00 Open bids for the replacement of the doors and windows in the Hugo Union Pacific Railroad roundhouse

10:30 Barbara Cole and Bob Haywood with Community Matters, Inc. to discuss updating the county's Comprehensive Plan

1:00 Jon Wagner, Loss Prevention Specialist, to present the county's loss analysis for the Casualty and Property Pool and the County Workers' Compensation Pool

1:30 Tony Wernsman and the Road & Bridge foremen to discuss replacement of a portion of the courthouse parking lot

1. Approve the minutes from the March 6, 2014 meeting
2. Review the February 2014 reports from the Assessor, County Clerk, Treasurer and Sheriff and the reports of revenues and expenditures for County General and Public Health
3. Review the Financial Status and Employment reports for the Community Development Block Grant for the period ending January 31, 2014, the date the contract ended
4. Review and sign a contract with McCloy Rodeo to provide the stock for the two rodeo performances at the 2014 Lincoln County Fair
5. Adopt a resolution amending the county's floodplain regulations by the addition of a definition for "new construction", as requested by FEMA
6. Discuss a request from NextEra revising the original number of acres of 11.45 to be exempt from the Subdivision Regulations to a new total of 5.179 and adopt a resolution so approving
7. County Commissioners' reports
8. County Administrator's report
9. County Attorney's report
10. Old business
11. New business

The Board of Lincoln County Commissioners met at 9:00 a.m. on March 18, 2014. The following attended: Chairman Ted Lyons, Commissioners Greg King and Doug Stone, County Administrator Roxie Devers, Clerk to the Board Corinne M. Lengel, and commissioner candidate Gene Vick. County Attorney Stan Kimble attended until 1:00 p.m.

Chairman Lyons called the meeting to order and asked Mr. Vick to lead the Pledge of Allegiance, and the group waited a few minutes for Gregg Leverett to arrive. Once he did, Mr. Lyons told him he had fifteen minutes to discuss information he requested from Human Services, but Mr. Leverett said that was the problem; he'd never gotten what he requested. Mr. Kimble said he was in possession of a letter from Human Services attorney Darla Scranton Specht and asked Ms. Devers to make Mr. Leverett a copy, adding that the records he seeks are protected and he will need to obtain them from the courts. Mr. Leverett took the copy of the letter and left.

At 9:15 a.m., Bryson Herbert met with the Board to present his Eagle Scout Service Project proposal; a welcome sign for the fairgrounds. He explained that he would like to place the sign at the back entrance on the left side of the gate, and Ms. Devers put in that she had spoken with Julie Joffe who said that it would not impede mowing there. The sign is metal, 4 feet by 4 feet in size, and will be set in concrete. Mr. King made a motion to approve the project, Mr. Stone seconded the motion, and it carried unanimously.

Mr. Stone made a motion to approve the minutes from the meeting held on March 6, 2014. Mr. King seconded the motion, which carried unanimously.

The Board reviewed the February 2014 reports from the Assessor, Clerk, Sheriff, and Treasurer, as well as the reports of revenues and expenditures for the County General and Public Health departments, and the Financial Status and Employment reports for the Community Development Block Grant for the period ending January 31, 2014, the date the contract ended.

Mr. King made a motion to sign the contract with McCloy Rodeo to provide the stock for the two rodeo performances at the 2014 Lincoln County Fair. Mr. Stone seconded the motion, which carried unanimously.

At that time, Jay Jolly stopped in to discuss blowing dirt, particularly across State Road 71 south of Limon, stating that it is becoming a hazard and he is afraid there will be traffic accidents. Mr. Stone asked how he proposed to stop it, and Mr. Jolly said that the farm ground needs to be chiseled, naming Fred Poss in particular as the largest landowner. He added that dirt is blowing from Mr. Poss's ground to his pasture, as well. Mr. Kimble told Mr. Jolly that blowing dirt complaints need to start in written form by a neighbor, and Mr. Jolly said that he'd spoken with Brian Johnson with NRCS who told him he needed to go to the commissioners. Mr. Kimble said state statute is complaint-driven so before the Board can begin the process, he must file the complaint in writing. Mr. King put in that he'd received a phone call from Ken Becker earlier that morning regarding the same issue up north, so he would let him know that he will also need to file a written complaint.

By that time, Tricia Hale with NextEra, who was there to discuss a revision to the subdivision exemption for Limon Wind III, had arrived, as well as Paul Martin and Shawn Smith.

Shawn Smith spoke up to say that Mr. Becker had contacted the farm manager about their blowing dirt problem and was told that he (the manager) didn't care and was not responsible for damages. Mr. Kimble asked Shawn what he would do if he were to fix the problem himself and was told that they would try and turn the soil to roughen the surface, i.e. bring up dirt clods. Mr. Stone said that the problem down south is that there hasn't been enough moisture to even produce dirt clods if they do turn it; it's just dust.

Mr. Kimble informed the Board that they may take action if it is determined that the dirt blew due to negligent conduct, so it would be a matter of bringing in experts to see if the problem could have been avoided. If the issue is not remedied within a specific timeframe, the commissioners do have the right to hire the work done and assess the landowner a penalty of not more than \$15 per acre by placing a lien on their property.

Mr. Lyons wanted to know what course of action the county has if the landowner won't allow someone on the property if it comes to the point where the county has to hire the work done, but Mr. Kimble said the county has the sheriff, who has those rights. He added that nothing in statute says the county would need a court order, but they could take it to court to enforce the statute if necessary, which would probably take quite some time, so it would be best just to send the sheriff. The first step would be to issue the citation with a three-day notice, unless otherwise specified. Mr. Kimble said that it would be good to try and have personal contact with the landowner first before sending certified mail, to let them know that it is the owner or occupant's obligation to prevent blowing dirt and soil erosion.

A call was placed to Brian Johnson with NRCS, who explained the process. First, a formal complaint would be filed under the dirt blowing act, after which the board of county commissioners would ask for a consultation, most likely from him and possibly members of the soil conservation districts. He added that in the situation down south, there may be nothing that can be done, as there has been no moisture received; however, it is the *attempt* to prevent blowing dirt or making the effort that is the key.

Mr. Kimble asked Mr. Johnson if he had seen a situation where the county would require a landowner to plant grass instead of crops to prevent blowing dirt, as the statute seems to indicate that as a possibility, but Mr. Johnson said he'd never had that happen before.

Mr. Vick asked Mr. Johnson if list ridges stop more blowing dirt and Mr. Johnson responded that blank listing may help, although it was attempted last year down south and did nothing.

Land Use Administrator John DeWitt arrived while the commissioners were discussing who would be responsible for dirt blowing across State Road 71. Mr. Jolly said he would contact the Colorado State Patrol, or possibly CDOT. Mr. Kimble asked who the owner of the property was

in the Ken Becker situation, and Shawn said that the landowner is actually Barry Vissers, but the manager's name is Jerry Norden.

Mr. Jolly left and Mr. Lyons asked Ms. Hale to come up and speak about amending the resolution adopted last November regarding Limon Wind III. Ms. Hale said that they will not be putting up a new O&M building as originally planned, so they no longer need the full acreage that they had requested in the beginning. Instead, they need 5.2 acres in the SW4; 11-8-54. Mr. King made a motion to adopt a resolution approving the change in the number of acres to be exempt from the subdivision regulations in regard to Limon Wind III. Mr. Stone seconded the motion, which carried unanimously.

At a regular meeting of the Board of County Commissioners of Lincoln County, Colorado held in Hugo, Colorado on March 18, 2014 there were present:

Ted Lyons, Chairman	Present
Greg King, Vice Chairman	Present
Douglas D. Stone, Commissioner	Present
Stan Kimble, County Attorney	Present
Corinne Lengel, Clerk of the Board	Present
Roxie Devers, County Administrator	Present

when the following proceedings, among others, were had and done, to-wit:

**RESOLUTION #876** It was moved by Commissioner King and seconded by Commissioner Stone to adopt the following resolution:

**WHEREAS**, application was made by NextEra Energy for exemption from the Lincoln County Subdivision Regulations on a 11.45 acre parcel of land in Lincoln County to be used as a site for an operations and maintenance building and a substation for Limon Wind III, LLC; and

**WHEREAS**, Resolution #865 was adopted on November 26, 2013 approving the exemption, which was contingent upon the transfer of ownership of the property from Robert E. Boyd to NextEra Energy; and

**WHEREAS**, NextEra Energy has since decided to use the existing operations and maintenance building and is now requesting an exemption from Subdivision Regulations for the site of the substation for Limon Wind III, LLC, with said parcel described as follows:

A parcel of property located in the Southwest Quarter of the Southwest Quarter of Section 11, Township 8 South, Range 54 West of the 6<sup>th</sup> Principal Meridian, Lincoln County, Colorado, being more particularly described as follows:

BEGINNING at a set #6 (3/4") rebar with 3 1/4" aluminum cap "PLS 38313" monumenting the Southwest corner of said Section 11;

Thence N01°07'57"W along the West line of said Section 11 for a distance of 475.00 feet to the Northwesterly corner of the subject property;

Thence leaving the West line of said Section 11, N87°59'39"E, passing a set #5 (5/8") rebar with 2" aluminum cap "PLS 38313" at 30.00 feet for a total distance of 475.00 feet to a set #5 (5/8") rebar with 2" aluminum cap "PLS 38313" the Northeasterly corner of the subject property;

Thence S01°07'57"E for a distance of 475.00 feet to a set #5 (5/8") rebar with 2" aluminum cap "PLS 38313" in the South line of said Section 11 and the southeasterly corner of the subject property;

Thence along the South line of said Section 11, also being the South line of the subject property, S87°59'39"W for a distance of 475.00 feet to the POINT OF BEGINNING.

Containing an area of 5.179 acres more or less.

Bearings and distances are grid (US Survey Feet) based on Colorado State Plane Coordinate System, Central Zone, North American Datum 1983, along the East line of Section 11, Township 8 South, Range 54 West of the 6<sup>th</sup> Principal Meridian, Lincoln County, Colorado between a found 1" Iron Pipe at the Southeast corner of said Section 11 (replaced with a set #6 (3/4") rebar 30" long with a 3 1/4" aluminum cap "PLS 38313) and a found 1/2" Iron T-Rod at the Northeast corner of said Section 11 (replaced with a set #6 (3/4") rebar 30" long with a 3 1/4" aluminum cap "PLS 38313). Bearing being N01°16'59"W.

Subject to any and all prior easements, rights of way, covenants, restrictions, and encumbrances of record or not of record, which may otherwise legally exist.

**WHEREAS**, under Section II-27-D-Subdivision, the Board of County Commissioners may exempt from this definition of the terms "subdivision" and "subdivided land" any division of land if the Board of County Commissioners determines such division is not within the purposes of this article;

**NOW, THEREFORE BE IT RESOLVED** by the Board of County Commissioners of Lincoln County that the tract as described in the application be excluded from the provisions of the Lincoln County Subdivision Regulations contingent upon transfer of ownership of the property from Robert E. Boyd to NextEra Energy;

**BE IT FURTHER RESOLVED** that this exemption from the provisions of the Lincoln County Subdivision Regulations excludes any future division of the property without subsequent approval by the Board of County Commissioners.

Upon roll call the vote was:

Commissioner King, Yes; Commissioner Stone, Yes; Commissioner Lyons, Yes.

The Chairman declared the motion carried and so ordered.

Board of County Commissioners

of Lincoln County

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ATTEST:

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Clerk of the Board

Ms. Hale added that she owed the commissioners an update on the mineral owner agreements, stating that all but three landowners have responded to their requests. Attempts to contact those three have been made in various ways, including certified mail, to no avail. Mr. Kimble said that as long as they can show a “good faith effort” that’s all they can really do. Ms. Hale said they are “very close” with the other agreements. Mr. Kimble also said that NextEra attorney Tony Ryan had sent proposed development agreements that he and Land Use Administrator John DeWitt are working on, and he hopes to have that information ready for the next commissioner meeting.

Mr. Stone asked Ms. Hale if NextEra was going to be able to fund the new fair building and she responded that they do not feel they can completely fund the building, so are reaching out to other entities that are benefitting from some of the contracts to see if they can help out. She wanted to know if they had a deadline and Mr. Stone said it would be nice, but most likely not feasible, for this year’s fair.

At 10:45 a.m., Ms. Devers placed a phone call to Byron McGough with Wattle & Daub, who wanted to listen while the bids for the replacement of the doors and windows in the Hugo Union Pacific Railroad roundhouse were opened. Ms. Devers said that they don’t yet have an IGA with CDOT, so the Board cannot actually accept a bid at this time, but they can reveal who the apparent low bidder is. Two bids were received; one from Wattle and Daub Contractors in the amount of \$728,576 and the other from Spectrum General Contractors in the amount of \$682,530. After Mr. McGough hung up, Ms. Devers said the bids were higher than she expected and they do not have that much money, so the Board could only accept the low bid, contingent upon funding. Currently, they have approximately \$580,000 for the project.

Mr. King made a motion to accept the bid from Spectrum General Contractors in the amount of \$682,530 for replacement of the doors and windows in the Hugo Union Pacific Railroad roundhouse, contingent upon funding. Mr. Stone seconded the motion, which carried unanimously.

Travis Nall was waiting to speak with the Board about the sewer line at the annex, stating that Shawn Smith had given him an estimate of \$3,000 to fix it. Shawn said that he didn’t want to

give an actual bid as he wouldn't know exactly what the problem is until he gets in there. He didn't feel that the whole line would need to be replaced and believes the main problem is at the tap in the alley. However, he said it is buried deep and there are many utility lines to watch out for. Mr. Lyons told Shawn to go ahead and fix it.

Ms. Devers said she'd spoken with Barbara Green about the county's zoning and subdivision regulations, and Ms. Green told her that she would like the Land Use Board members and the commissioners to write down their areas of concern or current problems they are experiencing with the regulations and then she would come out and discuss those issues in a two-hour presentation for \$1,500.

At 11:30 a.m., Ms. Devers placed a call to Barbara Cole with Community Matters, Inc. to discuss updating the county's Comprehensive Plan. Due to the inclement weather, Ms. Cole had decided to present her Power Point via conference call rather than in person. Others in attendance for the discussion were Land Use Board members Paul Martin, Shawn Smith, and Chris Monks, and Land Use Administrator John DeWitt.

After the Power Point presentation, in which Ms. Cole discussed reasons for updating the Plan now, municipal growth and development, evaluating and monitoring progress, economic development, transportation, public services, natural resources and growing a healthy economy, she stated that the first step would be to develop a vision, then update the Comprehensive Plan and follow up with amending the land use regulations to be consistent with the Plan changes. Ms. Cole stated that the cost for the entire project would run between \$80,000 and \$90,000. A lengthy discussion ensued after which Mr. Lyons decided that perhaps the county had not really given Ms. Cole the proper information as to what goals they actually hope to accomplish. He told her the commissioners would discuss it further with the land use board members and determine more specific issues that need to be worked on, and Mr. King added that he wasn't sure how much money actually needed to be spent. Ms. Cole said she would be happy to do a workshop if the group wanted to do that.

Once Ms. Cole was off the line, Mr. Kimble stated that the first thing that needed to be done was to find out if the public still wants the county to have an agricultural-based land use. If not, then many things would need to be changed and redone. Shawn Smith commented that the land use board's objective is to get ahead of development so that the county is being proactive rather than reactive in order to be ready for the development if it does come.

As it was almost 1:00 p.m., the Board took a quick break and then met with Jon Wagner, Loss Prevention Specialist with CTSI, who presented the county's annual loss analysis for the Casualty and Property Pool and the County Workers' Compensation Pool. When he finished, Mr. Wagner recommended offering defensive driving classes to employees again, as it should be done every three years or so.

Road & Bridge foremen Chris Monks, Mark McHone, and Monty Mattson were in attendance for the meeting with Tony Wernsman at 1:30 p.m. Again, due to the weather, Mr. Wernsman

said he was unable to bring his survey level, so he would need to return on a nicer day with it and take some measurements. He asked what the overall plan was, the group discussed drainage issues, and Mr. Wernsman said he would work up a proposal.

Mr. Stone made a motion to adopt a resolution amending the county's floodplain regulations to include a definition for "new construction," as requested by FEMA. Mr. King seconded the motion, which carried unanimously.

At a regular meeting of the Board of County Commissioners of Lincoln County, Colorado held in Hugo, Colorado on March 18, 2014, there were present:

Ted Lyons, Chairman	Present
Greg King, Vice Chairman	Present
Douglas D. Stone, Commissioner	Present
Stan Kimble, County Attorney	Absent & Excused
Corinne M. Lengel, Clerk of the Board	Present
Roxie Devers, County Administrator	Present

when the following proceedings, among others, were had and done, to-wit:

**RESOLUTION #877** It was moved by Commissioner Stone and seconded by Commissioner King to adopt the following resolution:

**WHEREAS**, on January 14, 2014, the Board of County Commissioners adopted Ordinance No. 2014 - 01, which created floodplain management regulations for Lincoln County and allowed the county to submit an application to the National Flood Insurance Program; and

**WHEREAS**, the Federal Emergency Management Agency has since requested a minor change to the county's floodplain regulations by the addition of a definition for "new construction"; and

**WHEREAS**, the Board of County Commissioners has not changed its position on the need for adoption of Ordinance No. 2014 - 01;

**NOW, THEREFORE BE IT RESOLVED** by the Board of County Commissioners of Lincoln County that the Floodplain Management Regulations shall be amended by the addition of the following definition: "New Construction – Structures for which the start of construction commenced on or after the effective date of the floodplain management regulations adopted by Lincoln County and includes any subsequent improvements to such new construction structures."

Upon roll call the vote was:

Commissioner King, Yes; Commissioner Stone, Yes; Commissioner Lyons, Yes.

The Chairman declared the motion carried and so ordered.

Board of County Commissioners  
of Lincoln County

ATTEST:

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Clerk of the Board

Mr. Lyons called for commissioner reports and Mr. Stone reported going by the shop on March 10 to speak with Monty Mattson and to also look at the new road grader. He commented that one of the road crew had quit. On March 11, he checked roads due to the high winds, and on the Thirteenth he stopped by the shop and signed papers on a Worker's Comp claim for Monty Mattson. That evening, he attended the Tourism Board event in Limon, commenting that organizations in receipt of lodging/tourism funds had spoken about how they've used the money. On March 15, Mr. Stone went by the county shop as they had to have a mechanic come out, and he stopped by again on the Seventeenth since the new culverts came in. He said that due to the angle of the culverts they replaced in relation to the FEMA project, they had to put extensions on them.

Mr. King reported inspecting roads on March 10 after receiving a complaint concerning roads on the county line east of Bill Head's and County Road 109. He stated that he is not sure what to do with 109 because truck traffic is destroying it. On March 14, Mr. King attended the Lincoln County Economic Development Corporation director interviews and reported that they did hire a director. However, he could not provide much information, as the other applicants had not yet been notified of the decision. On March 17, the LCEDC members met to discuss the salary package for the new director, as well as a possible project coming into Limon. The town will re-zone the feed lot and airport properties to make them commercial. Lastly, Mr. King stated that the final draft for the Foreign Trade Zone is being submitted, including a letter of support from the governor. Mr. King also reported receiving the phone call from Ken Becker earlier that morning.

Mr. Lyons reported attending the fair board meeting on March 11. He also stopped by the landfill one day, but wasn't sure of the date.

Ms. Devers asked the Board if they wanted her to contact Barbara Green to look at the zoning and subdivision regulations, since the land use board wants to update them as well as the Comprehensive Plan, particularly due to oil, gas, and wind development. She added that Barbara Green is an attorney and would be able to defend her work. Mr. King said he would

like to hear what Ms. Green has to say, but no decision was ever made to have Ms. Devers contact her.

There was no old business to discuss, but Mr. King said that he would like permission from the other board members to negotiate the \$15,000 penalty charged to the landowner for plowing up portions of the county roads in District Two last year before it goes to court in eight days, as he seems to be agreeable to settling it out of court. Mr. King added that he wants the message to come across that the landowner's actions won't be tolerated, but he also doesn't want the cost to be a financial burden to him. Mr. Lyons commented that he would need to be sure to figure in legal fees if he decides on a lesser amount, but both commissioners gave him permission to do what he felt was right.

Mr. Stone said he had hired two new people for the District Three road crew.

With no further business to come before the Board, the meeting was adjourned until 9:00 a.m. on March 28, 2014.

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Corinne M. Lengel, Clerk to the Board

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Ted Lyons, Chairman