

Board of County Commissioners of Lincoln County  
Agenda for June 30, 2014

9:00 Call to order and Pledge of Allegiance

9:00 Conduct a conference call with Greg Etl with the Department of Local Affairs concerning an Energy Impact Assistance grant for road upgrades

9:30 Lisa Nolder, Executive Director of the Lincoln County Economic Development Corporation, to give an update on activities, prospects and projects

10:30 Public Health Director Sue Kelly to give her monthly report

11:15 Conduct a conference call with Kelly Alvarez with Kit Carson County Health and Human Services concerning the proposed On-Site Wastewater Treatment Systems Regulations

1:00 Continuation of the work session on the Lincoln County Road Policy

6:00 Barbara Green with Sullivan Green Seavy LLC will conduct a work session with the County Commissioners and the Land Use Board members concerning her review of the county's Zoning Regulations

1. Approve the minutes from the June 27, 2014 meeting
2. Review the amended Community Development Block Grant Quarterly Financial Status Report for the period ending January 31, 2014 to reflect the correct de-obligated amount of the contract
3. Review the updated 457 Deferred Compensation Plan Document and Participated Agreement with the Colorado County Officials and Employment Retirement Association (CCOERA)
4. County Commissioner reports
5. County Administrator's report
6. County Attorney's report
7. Old business
8. New business
9. Approve additional expense vouchers if necessary

The Board of Lincoln County Commissioners met at 9:00 a.m. on June 30, 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-elect Ed Schiffers. Will Bublitz with the Limon Leader and Eastern Colorado Plainsman attended until approximately 11:00 a.m., and County Attorney Stan Kimble attended in the afternoon.

Chairman Lyons called the meeting to order and led the Pledge of Allegiance, after which a call was placed to Greg Etl with the Department of Local Affairs concerning an Energy Impact Assistance grant for road upgrades. Mr. Etl said that DOLA now requires that specific plans be in place in order to help entities become self-sustaining when it comes to planning for projects, and the county would need to have a Pavement Management Plan. For example, if DOLA would pay for pavement for a certain road in the county, they would want the county to be able to put money away for the replacement of that particular road in the future. He added that the plan is simply a guideline and not a hard and fast rule that absolutely must be followed, but if there is a mechanism in place on paper that looks at the county's road conditions, the chances for an energy impact grant being approved are far better. When Ms. Devers asked if grant funds could be used for maintenance, Mr. Etl said that unless the deterioration was caused or augmented directly by the oil and gas activity, grant funds cannot be used specifically for maintenance. Mr. King said he wants to replace about two miles of pavement on County Road 109 north of I-70 because the road is filled with potholes and the pavement has been torn up in places. Mr. Etl asked when it was last surfaced, but Mr. King said he had no idea. Mr. Etl asked if there was quite a bit of traffic on it, adding that Mr. King should have his district take traffic counts now and again at harvest time to see what the difference is, as separating the industry traffic from regular traffic helps even more. Mr. Lyons said they do have traffic counters out currently and the counts are quite high due to oil and gas truck traffic.

According to Mr. Etl, the biggest factors for the county to qualify for a grant are match, the county's fund balance, and competition in the cycle. Ms. Devers asked if just the Road & Bridge fund balance could be used on the application or if it had to be the overall fund balance, but Mr. Etl told her to use just the Road & Bridge fund balance. He added that matching dollar for dollar would definitely increase the chances of the county receiving grant funding. Reporting specific details of the project on the application is also a necessity. Since DOLA cannot pay for anything that is already encumbered, the county will have to obtain estimates and then use the highest one they get on the application.

When Mr. Lyons asked if there is a limited amount of funding in each grant cycle, Mr. Etl said that there is \$25 million available per cycle; roughly 10% of which is used for Tier 1—projects that do not have to be taken before the committee. He went on to say that the application needs to be very detailed, as they are all submitted to the Denver office and then on to him. Once he reviews the application he will do a site visit, condense the multiple-page application into one or two pages of pros and cons, and submit it to the committee. Life safety issues and water/wastewater projects are huge, so if applications are made for several of those types of projects within a cycle, the \$25 million can go quickly.

Mr. Lyons said he hated to make Ms. Devers go through all the work of putting together the application if Mr. Etl feels they don't have a chance, but his response was that he doesn't know how many projects may be able to receive funding until the applications are submitted. He did add that he would be able to tell right away what the county's chances are once he identifies the competition.

Mr. King asked if the same application could be re-submitted if the first one is denied and Mr. Etl said that they may be able to re-use portions of it, but since DOLA is always updating the application on the website, the current one would have to be used.

Mr. Lyons asked if an engineer would need to look at the road in question once the road maintenance policy is in place. Mr. Etl said that if potholes are an issue they should determine what is causing them, as it may be the road base and they need to know that the road was built properly in the first place. The potholes must be repaired as regular road maintenance in order to provide residents with a safe road but the work to make those repairs can be used as part of the match for the grant. The county can benefit from the maintenance if it isn't exactly a part of the project, so if \$20,000 is spent to make the repairs, that amount would equate into the match. Mr. Etl said that he is the only one who knows that an application is submitted, so if the county has to withdraw the application and submit it again at a later time, the committee is not aware of that so it would not hurt the chances of having it approved.

Mr. Etl explained that the committee uses a point system based on three, fifteen-point categories. The first is match and the second "readiness to go," but he couldn't remember the third. The second category is based on timing, so if a project is approved in November from the August application, but the project isn't going to be started until June of the following year, chances are the county would only score seven out of the fifteen points on "readiness to go." On the other hand, December is generally ideal for all construction projects, so the county may have better odds, even with a lower score on the second category, if the application is submitted in August.

The group thanked Mr. Etl for his time and information and then met with Lincoln County Economic Development Corporation Executive Director Lisa Nolder who gave an update on her activities, prospects and projects since April 1. She attended the Blattner Energy Job Fair, an Economic Development Caucus where she met with legislators, and completed the four modules required through the Small Business Development Center in order to be certified. She will dedicate sixteen hours per month to SBDC work which will help some of that money flow into Lincoln County economic development. Ms. Nolder has been working on private investment, attended the Karval Community Alliance meeting and the Limon and Hugo town board meetings, and will attend the Genoa and Arriba town board meetings in July. She also attended the Lodging and Tourism board meeting and met with Hugo Improvement Partnership and the Hugo Economic Development Group. She briefly discussed the issue with Bella's Market in Limon and the results of the community meeting held last Wednesday, adding that there is still a possibility that someone else may put in a grocery store. Ms. Nolder added that

although there is quite a workforce in the area due to the wind farm and oil and gas development, there is not adequate housing available.

Mr. Schifferns said there is a trailer park in Arriba that has twenty-five to thirty-five spaces, but he believes it is in litigation. If someone could contact the owners, perhaps they would consider taking action of some kind.

Mr. Lyons told Ms. Nolder he appreciated her coming to the meeting and keeping the commissioners informed, and she said she will continue to do so.

At 10:30 a.m., Public Health Director Sue Kelly met with the Board to give her monthly report. Heike Adams and Christine Fisher accompanied her. Ms. Kelly introduced Ms. Fisher, the student working with them through the month of July, and then gave her report of activities for the month. When she finished, she added that she would like the Board's signatures on the EPR Memorandum of Understanding between Lincoln, Cheyenne, and Kit Carson counties. Due to the fact that they already adopted their budget, the split is still 40%, 40%, 20%, but Ms. Kelly said that they will get it changed next year so that it is more evenly split and Lincoln County will get a higher percentage. Mr. King made a motion to sign the MOU, Mr. Stone seconded the motion, and it carried unanimously.

Ms. Adams gave an update on mental health teleconferencing, stating that Peak Vista, fka Plains Medical Center, offers it but not on a doctor/patient basis. She added that therapists are beginning to Skype via the internet, but since most are licensed only for their state, it brings up a question of how it will work since it is internet-based. Ms. Adams said it is definitely not for severely mentally ill patients, but more for people having some minor difficulties in their lives who just need someone to talk to. She went on to say that Peak Vista outsources to Aspen Pointe, which will not work for local communities and is basically taking away another service from local residents, so their department has offered to take their Power Point presentation to the management at Peak Vista.

Addressing veterans' services, Ms. Adams said that she visited the CDPHE state website and discovered that a search of mental health providers in our region diverted people to the metro area. She called and explained that there are actually four resources in Lincoln County for veteran mental health and asked that they update their website. Ms. Adams said she checks certain sites to make sure they are legitimate and then adds their links to the Lincoln County Public Health website when she decides they are acceptable as good resources.

Ms. Kelly said that today is the last day of the STEPP grant, so they would like to purchase the tablet they recently discussed before the grant cycle runs out. They have plenty of money for it and they spoke with James Martin to see what he would recommend. He came up with three options: a Microsoft Surface Pro with a one-year warranty for \$719, plus shipping, adapter and case; a Dell Venue 11 Pro with a one-year warranty for \$998.68 with an adapter and case included; and a Dell Venue 11 Pro with a three-year warranty, adapter and case for \$1,083.83.

After a brief discussion, Mr. King made a motion to allow Public Health to purchase one of the three tablets they indicated that best fits the needs of the department. Mr. Stone seconded the motion, which carried unanimously.

Lastly, Ms. Kelly said the office will be closed on July 24 for the mental health first aid training in Limon.

At 11:15 a.m., the Board conducted a conference call with Kit Carson County Health and Human Services Public Health Specialist Kelly Alvarez regarding the proposed On-Site Wastewater Treatment Systems Regulations. Ms. Alvarez assured the commissioners that it is simply a safeguard that the state has put in place for areas that have particular issues, but she sees nothing changing as far as the relationship she has with Lincoln County.

Mr. Lyons asked about the fairgrounds and Ms. Alvarez responded that regulations dictate that any project that is not residential must be engineered. Mr. Lyons said he would let the fair board know what she had said.

Once they had finished speaking with Ms. Alvarez, Ms. Devers informed the Board that she would advertise that the hearing to adopt the regulations will be held on July 31, at 1:30 p.m.

Mr. Stone made a motion to adopt the minutes from the meeting held on June 27, 2014, as submitted. Mr. King seconded the motion, which carried unanimously.

The Board reviewed the amended Community Development Block Grant Quarterly Financial Status Report for the period ending January 31, 2014, to reflect the correct de-obligated amount of the contract.

Also reviewed were the updated 457 Deferred Compensation Plan Document and Participation Agreement with the Colorado County Officials and Employment Retirement Association (CCOERA). Ms. Devers said that in the past the county has not contributed funds, nor have employees been allowed to make loans or Roth contributions from their retirement plans. If the commissioners wish to change something, a new Participation Agreement will need to be filed.

Mr. King made a motion to make no changes to the 457 Deferred Compensation Plan Document and Participation Agreement. Mr. Stone seconded the motion, which carried unanimously.

Mr. King reported attending the Economic Development Corporation meeting on June 23, stating that everything he would have reported on was covered by Ms. Nolder earlier this morning. After the Resources Unlimited meeting, Linda Olson approached him with a complaint about Centennial Mental Health and the fact that Elbert County receives many benefits from CMH, but does not pay their share. Ms. Olson felt that withholding funding during the next budget year may be the answer to receiving better staffing in Lincoln County.

Lincoln and Elbert counties share the mental health clinicians, but they spend most of their time in Elizabeth rather than Limon. Mr. Schifferns asked who is in charge at CMH and Ms. Devers said that Dr. Liz Hickman, who recently met with the commissioners, is the head of Centennial Mental Health, but Mr. King said he felt the issue would require action by the Centennial Mental Health board.

Mr. Stone reported checking roads west of Karval on June 19, helping with the chip-sealing project on the Twenty-third and Twenty-fourth, and receiving a call from Kenny Yoder on June 25. Mr. Yoder spoke to Mr. Stone a bit about dirt in his fence line and then asked if everything had been satisfactory at this year's Rodeo Bible Camp since there had been some issues last year. Mr. Stone told him that Ms. Joffe was very pleased with the event and group this year. On June 26, Mr. Stone rode with Weed Coordinator Wayne Shade and when the wind came up, they went from east to west spot-spraying bindweed. He attended the Ranch Rodeo over the weekend, as well as the ham radio event in Limon on June 28.

Mr. Lyons reported speaking with Chris Monks about picking up the pipe to build the rest of the trash windbreak screens and told him to order whatever materials are necessary to get them finished. On June 28, he stopped by the landfill and spoke to Mick Jaques about them and Mick felt they are working very well. Since Mr. Schifferns was at the meeting, Mr. Lyons told him he had checked on the road by the Arriba cemetery and did not see where either the west or east side needed gravel.

Ms. Devers reported that she had received a letter from CDOT giving permission to send the notice of award on the doors and windows project at the Hugo Union Pacific Railroad roundhouse. It is substantially enclosed except for a few doors and installing the windows above the doors.

Ms. Devers asked if the Board would like for her to proceed with the Energy Impact Assistance grant application due on August 1, and it was agreed that they would like to continue pursuing it now.

When the meeting reconvened at 1:25 p.m., others in attendance were Road & Bridge foremen Chris Monks, Mark McHone and Monty Mattson, Deputy Assessor Renita Thelen and Assessor's office employee Amy Vice, and Land Use Administrator John DeWitt.

Before discussing the road policy, Mr. DeWitt said the Governor's Office of Information Technology is involved in a dedicated data channel for law enforcement, fire and EMS and public works. A meeting will be held with FirstNet on July 9 at 6:30 p.m. in the jury assembly room.

Mr. DeWitt also spoke to Harold Mayland with Nighthawk Productions who asked about two unimproved roads on the Lincoln/Washington county line; County Roads 32 and 36. Although they are both on the map as unimproved county roads, Mr. DeWitt said they really do not amount to anything; however, Nighthawk wants to know if the commissioners would like the

roads upgraded to county standards if they decide to make them into access routes to their oil wells.

Mr. Kimble said that Washington County has road standards that are different from Lincoln County, so they would need to talk to the Washington County commissioners, adding that there would need to be an agreement between the two counties to improve the roads.

The group discussed the maintenance of the roads once the oil activity has ended and it was determined that Nighthawk should contact the Washington County commissioners to discuss it with them. Mr. Kimble said that state law dictates there must be affirmation by both boards of commissioners if the road is on a county line.

Discussion ensued on the road policy and a decision was made to add more specific details regarding road maintenance based on information from Kit Carson and Washington county policies. Mr. Kimble said that before they set it for hearing, he would like to look at all the comments that were received and compare them to the policy, as any policy gets fine-tuned once facts are put to it. He will address each comment/complaint in relation to the policy and they can discuss it again at the meeting on July 8.

Ms. Devers asked Mr. Monks and Mr. McHone to remain for a moment and then told them what will be needed for the DOLA grant applications, such as the length and width of the road to be fixed, specific details of what will be done, and what it will cost. She told them to get three different quotes and submit the highest one.

Mr. Kimble reported speaking with Justin Heinlein about the case regarding the resident that plowed up the county road last year and they are setting depositions on Thursday.

With no further business to come before the Board, the meeting was adjourned until 6:00 p.m. when the commissioners will meet with Barbara Green with Sullivan Green Seavy, LLC, to conduct a work session with Land Use Board members concerning Ms. Green's review of the county's zoning regulations.

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Corinne M. Lengel, Clerk to the Board

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Ted Lyons, Chairman

The Board of Lincoln County Commissioners met at 6:00 p.m. on June 30, 2014 for a work session on the county's zoning regulations. The following attended: Chairman Ted Lyons, Commissioners Greg King and Doug Stone, County Administrator Roxie Devers, County Attorney Stan Kimble, Land Use Administrator John DeWitt, Land Use Board members Chris Monks, Shawn Smith, John Reid, John Thompson and Paul Martin, and Barbara Green with Sullivan Green Seavy, LLC.

After a light meal, Ms. Green began the discussion by explaining that the zoning regulations were originally written to preserve and protect agriculture and to allow people to use their land as they wanted to as long as no harm was done to others. The Commissioners and Land Use Board need to decide first if that public policy is working today.

Ms. Green noted that oil and gas is currently allowed as a use by right in an ag zone, with no regulation of the industry. Mr. DeWitt explained his process, which includes giving a copy of either the county or the COGCC permit to the pertinent Road & Bridge foreman to review the road access route and one to the Assessor's Office. The Commissioners agreed they are in favor of the industry in the county, but Ms. Green explained there is exposure to a lawsuit without more regulations. With the Development Permit process, minimum standards could be chosen to apply to the oil and gas industry while protecting the county. Mr. Kimble noted that the county has taken the position of having the Oil and Gas Commission rules apply. Ms. Green responded that they have a different perspective and don't look at local impacts such as roads, traffic or setback regulations for other than populated areas. She added that Gunnison County uses performance standards to regulate this industry.

Ms. Green suggested that oil and gas be removed as a use by right. Several ideas to consider for the approval process are reserving the right to a hearing, but not necessarily having one if certain conditions are met, or keeping the administrative review level with staff and taking applications to the Commissioners. The county could decide to implement a road impact fee or bond, or create an oil and gas overlay zone and use COGCC maps to see density of wells. Noise, glare and other nuisance factors could also be considered. Further, a decision needs to be made if both exploration and production will be regulated.

Legislatively, Ms. Green explained that the Governor's current proposal states that authority is given to locals, but it doesn't take any away from the COGCC. Some people want to ban fracking, but this will lead to takings claims, with just compensation paid by local governments. New legislation is an attempt to prevent this from happening.

Mr. Kimble asked Ms. Green if a well application could be fast tracked if conditions are met, which it can, and what regulations she advised. She suggested the performance standards, but the Land Use Board wouldn't be required to have a hearing on each application if the county could make what Mr. DeWitt is doing lawful and not subject to a lawsuit. He could notify the Land Use Board when an application comes in and they have a specified time frame to respond, with density and/or location being considerations. The county could also require a road use agreement such as the wind farms sign. Mr. Lyons commented that the county gets more dollars from oil and gas than the wind farms and questioned if there would need to be proof of a road's condition prior to oil and gas activity. Mr. Smith commented that the road use to construct a wind farm is short term, but oil and gas traffic does not slow down. He suggested that maybe production triggers a review.

Mr. Thompson asked if there is some way to protect the surface owner from the oil and gas companies. Ms. Green responded that a review process would change the dynamics, with

maybe a surface use agreement being required. Mr. Kimble added that a company can go on one's property, but can't damage it or unreasonably interfere. The landowner can request money for damages.

As for wind farms, Mr. Kimble explained that the county has been using the Special Use Review process and applying the Industrial Standards, but should there be separate standards for wind development? Ms. Green said yes and suggested they look at Yuma County's wind regulations. Mr. Smith pointed out the issue the county had with noise from a turbine, with Mr. Kimble adding that the statutes don't give a lot of authority to government as far as noise.

Mr. Smith questioned using performance standards because of the difficulty for the Land Use Board in not having specific standards to base a decision on. He didn't want it to be perceived that decisions were based on their opinions. Ms. Green stated that the decision would be based on evidence at the hearing, which is a quasi-judicial setting. The county could even have its own experts give testimony.

With no further comments or questions, Ms. Green said she would provide a memo for everyone's review by September 15<sup>th</sup> and then schedule another meeting.

With no further business to come before the Board, the meeting was adjourned until 9:00 a.m. on July 8, 2014.

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Roxie Devers, Acting Clerk to the Board

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Ted Lyons, Chairman