

Board of County Commissioners of Lincoln County  
Agenda for May 29, 2015

9:00 Call to order and Pledge of Allegiance

9:00 Jodi Withington to request an exemption from subdivision regulations

9:30 Fair Board President LaRay Patton to discuss additional amenities for the county fair and discuss the possibility of wild horse races at the county fair

10:00 Human Services Supervisor Robert Kraxberger to give the office monthly report

1:30 Public hearing on proposed Ordinance Number 2015-01, "An Ordinance Adopting Regulations To Abate, Control, And Require Removal Of Nuisance Activities"

1. Approve the minutes from the May 28, 2015 meeting
2. Review report from the county landfill regarding the free landfill day
3. Review final determination from the Division of Property Taxation concerning the Zion Lutheran Church located 1170 4<sup>th</sup>. Street, Limon, Colorado
4. Review and approve the paperwork for the renewal of licenses of the Community Ambulance Services, Inc. located in Arriba, Flagler and Seibert, Colorado
5. Review and sign lease purchase agreements with Caterpillar Financial Services Corporation for motor graders for Road Districts #1 and #3
6. County Commissioner reports
7. County Administrator's report
8. County Attorney's report
9. Old business
10. New business
11. Approve additional expense vouchers if necessary

The Board of Lincoln County Commissioners met at 9:00 a.m. on May 29, 2015. The following attended: Chairman Greg King, Commissioners Doug Stone and Ed Schiffers, County Administrator Roxie Devers, Clerk to the Board Corinne M. Lengel, and Gary Ensign. Will Bublitz with the Limon Leader and Eastern Colorado Plainsman attended until noon, and County Attorney Stan Kimble attended in the afternoon.

Chairman King called the meeting to order and led the Pledge of Allegiance.

Jodi Withington met with the Board to request an exemption from subdivision regulations on a 15.34 acre parcel of land in the SW4 of the SW4 of Section 18, Township 8 South, Range 54 West, which they have sold to Inna Mizrahi. The parcel includes the house, well and septic, and a bit of pasture ground. Ms. Withington stated that she and her husband do wish to reserve a strip that they will farm and that will keep the wind towers from coming closer to their property.

Ms. Devers stated that the subdivision exemption would actually be made in Ms. Mizrahi's name since the property would be deeded to her. Mr. Schiffers made a motion to adopt a resolution granting an exemption from subdivision regulations to Inna Mizrahi on a 15.34 acre parcel in the SW4 of the SW4 of Section 18, Township 8 South, Range 54 West. 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 May 29, 2015 there were present:

Greg King, Chairman	Present
Douglas D. Stone, Vice Chairman	Present
Ed E. Schiffers, Commissioner	Present
Stan Kimble, County Attorney	Absent & Excused
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 #904** It was moved by Commissioner Schiffers and seconded by Commissioner Stone to adopt the following resolution:

**WHEREAS**, application has been made by Inna Mizrahi for exemption from the Lincoln County Subdivision Regulations on a parcel of land in Lincoln County described as follows:

A parcel of land situated in the southwest  $\frac{1}{4}$  of the southwest  $\frac{1}{4}$  of Section 18, Township 8 South, Range 54 West of the 6<sup>th</sup> Principal Meridian, Lincoln County, Colorado, more particularly described as follows:

Beginning at the southwest corner of Section 18, Township 8 South, Range 54 West of the 6<sup>th</sup> Principal Meridian, and considering the west line of said Section 18 to bear north

90°00'00" east; thence north 90°00'00" east along said west section line, a distance of 1320.67 feet; thence north 89°18'24" east, a distance of 454.52 feet; thence south 02°15'46" east, a distance of 1104.22 feet; thence north 89°51'37" east, a distance of 150.87 feet; thence south 00°00'00" west, a distance of 221.60 feet to a point on the south section line of said Section 18; thence south 89°51'37" west along said south section line, a distance of 648.95 feet to the point of beginning, said parcel containing 15.34 acres, more or less.

Said tract of land is subject to any rights-of-way or other easements as granted or reserved by instruments of record or as now existing on said tract of land; and

**WHEREAS**, the request for this exemption did not include a request for a change of use of the property; and

**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 parcel as described in the application be excluded from the provisions of the Lincoln County Subdivision Regulations so long as there is not a change in the present use of the property;

**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 Schifferns, Yes; Commissioner Stone, Yes; Commissioner King , 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

Mr. Schifferns made a motion to approve the minutes from the meeting held on May 28, 2015, as submitted. Mr. Stone seconded the motion, which carried unanimously.

The Board reviewed the report from the county landfill regarding the free landfill day, and then Weed Coordinator Wayne Shade stopped in to discuss the weed sprayer and the potential trip to Washington for its three-year maintenance check. He stated that the sprayer is fifteen years old and he is starting to have some electrical problems with it, but a new one will cost between \$37,000 and \$40,000 and will include all new computers. If he goes to Washington again this year to have the maintenance done, the trip normally costs around \$3,000. Mr. Shade did say that the pumps are approximately \$3,000 if they should go out, but added that he was told they were obsolete and could no longer be replaced, so he wasn't sure what would happen if he lost functionality in one of the three pumps. He was told that if the county chooses to replace the sprayer there would be some value in the old one as a trade-in, since it can be used for parts. However, he was not told how much the trade-in amount would be. Mr. Stone asked if he felt it could last another year or two and Mr. Shade responded that the electrical malfunctions concern him. Mr. King felt since it is fifteen years old it's probably time to consider buying a new one, and all commissioners agreed that he should plan the trip to Washington no matter what they decide, as he will have to go there anyway if they agree to purchase a new one. Mr. Shade will find out how much the company would give for the old sprayer and how much restoration of the electrical system would cost.

At 9:30 a.m., Fair Board President LaRay Patton met with the Board to discuss additional amenities, and the possibility of a wild horse race, at the county fair. Ms. Patton had contacted Gravity Play, an organization that supplies several entertainment options for kids and teenagers, including a bouncy house, bucking bull, and an Adrenalin Rush Obstacle Course. The bucking bull was not available for the August fair, but the other two options were. For \$2,300, they will deliver the equipment, set it up, and supply an attendant from noon until 10:00 p.m. on Friday and from 11:00 a.m. until 5:00 p.m. on Saturday. Ms. Devers said they would show the contract to the county attorney. She will also contact the county's insurance company to see about liability since the contract did not mention Gravity Play carrying insurance.

Ms. Patton was also contacted by a gentleman named Tyler Lewis who would like to hold a wild horse race during the rodeo. He suggested having the race at the beginning so that he could pack up once it was over. Ms. Patton asked if the rodeo insurance would cover the race if Alan McCloy's horses were used, since the race would then be part of the rodeo and the county carries insurance for the rodeo. Ms. Devers said the county has insurance but Mr. McCloy is required to have it as well showing the county as additional insured. Since Mr. Lewis's horserace would be considered an added attraction outside of what the county sponsors, the county insurance would not cover the event. Using the stock contractor's animals would be entirely up to Mr. McCloy.

The question was asked if the added attractions for the children and young adults would be free to them and Ms. Patton said she had assumed so. Ms. Patton also stated that they may need to pay for the driver's motel room for one night.

The Board reviewed the Final Determination from the Division of Property Taxation concerning the Zion Lutheran Church located at 1170 4<sup>th</sup> Street in Limon.

After reviewing the paperwork for the renewal of licenses of the Community Ambulance Services, Inc. located in Arriba, Flagler, and Seibert, Mr. Stone made a motion to adopt a resolution to approve the licenses. Mr. Schifferns 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 May 29, 2015 there were present:

Greg King, Chairman	Present
Douglas D. Stone, Vice Chairman	Present
Ed E. Schifferns, Commissioner	Present
Stan Kimble, County Attorney	Absent & Excused
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 #905** It was moved by Commissioner Stone and seconded by Commissioner Schifferns to adopt the following resolution:

**WHEREAS**, pursuant to the Colorado Emergency Medical Services Act, Section 25-315.101, et seq., C.R.S., the Board of County Commissioners has the authority to establish requirements for the inspection, licensure, and operation of ambulance services, ambulance personnel, and ambulance vehicles operating in the county; and

**WHEREAS**, the Lincoln County Commissioners adopted Resolution #651 and thereby established rules and regulations governing the licensure of ambulance services operating within Lincoln County; and

**WHEREAS**, Community Ambulance Service, with ambulances based in Flagler and Seibert in Kit Carson County and Arriba in Lincoln County, has presented the Board of County Commissioners with an application to license the ambulance service and to permit their ambulances as basic life support vehicles; and

**WHEREAS**, upon review, the Board of County Commissioners determined that the documentation presented met the rules and regulations established under Resolution #651;

**NOW, THEREFORE BE IT RESOLVED** by the Board of County Commissioners of Lincoln County that Community Ambulance Service is hereby authorized to provide ambulance service in Lincoln County with basic life support ambulances.

Upon roll call the vote was:

Commissioner King, Yes; Commissioner Stone, Yes; Commissioner Schifferns, 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

Upon reviewing the paperwork from Caterpillar Financial Services, Mr. Schifferns made a motion to adopt a resolution to enter into a lease purchase agreement with Caterpillar Financial Services Corporation for a motor grader for District One. 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 May 29, 2015, there were present:

Greg King, Chairman	Present
Douglas D. Stone, Vice Chairman	Present
Ed Schifferns, Commissioner	Present
Stan Kimble, County Attorney	Absent & Excused
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 #906** It was moved by Commissioner Schifferns and seconded by Commissioner Stone to adopt the following resolution:

**WHEREAS**, the laws of the State of Colorado (the "State"), authorize the County of Lincoln, Colorado, a duly organized political subdivision, municipal corporation or similar public entity of the State, to purchase, acquire and lease personal property for the benefit of Lincoln County and its inhabitants and to enter into any necessary contracts; and

**WHEREAS**, Lincoln County wants to lease, purchase and/or finance equipment ("Equipment") from Caterpillar Financial Services Corporation and/or an authorized Caterpillar dealer ("Caterpillar") by entering into that certain Governmental Equipment Lease-Purchase Agreement (the "Agreement") with Caterpillar; and

**WHEREAS**, the form of the Agreement has been presented to the governing body of Lincoln County at this meeting;

**NOW, THEREFORE BE IT RESOLVED** by the Board of County Commissioners of Lincoln County that:

1. The Agreement, including all schedules and exhibits attached to the Agreement, is approved in substantially the form presented at this meeting, with any Approved Changes (as defined below); and
2. Lincoln County enters into the Agreement with Caterpillar; and
3. The Agreement is adopted as a binding obligation of Lincoln County; and
4. Changes may later be made to the Agreement if the changes are approved by Lincoln County's counsel or members of the governing body of Lincoln County signing the Agreement (the "Approved Changes"), and that the signing of the Agreement and any related documents is conclusive evidence of the approval of the changes; and
5. The persons listed below, are the incumbent officers of Lincoln County (the "Authorized Persons"):

Name	Title	Signature
Greg King	Chairman	_____
Ed Schifferns	Commissioner	_____
Douglas D. Stone	Commissioner	_____

Each is, authorized, directed and empowered, on behalf of Lincoln County to (i) sign and deliver to Caterpillar and its successors and assigns the Agreement and any related documents, and (ii) take or cause to be taken all actions deemed necessary or advisable to acquire the Equipment, including the signing and delivery of the Agreement and related documents; and

The Clerk of the Board of Lincoln County is authorized to attest to this resolution and affix the seal of the County; and

Nothing in this resolution, the Agreement or any other documents imposes a pecuniary liability or charge upon the general credit of Lincoln County or against its taxing power, except to the extent that the payments payable under the Agreement are special limited obligations of Lincoln County as provided in the Agreement; and

A breach of this Resolution, the Agreement, or any related document will not impose any pecuniary liability upon Lincoln County or any charge upon its general credit or against its taxing power, except to the extent that the payments payable under the Agreement are special limited obligations of Lincoln County as provided in the Agreement; and

The authority granted by this resolution will apply equally and with the same effect to the successors in office of the Authorized Persons.

Upon roll call the vote was:

Commissioner Schifferns, Yes; Commissioner Stone, Yes; Commissioner King, Yes.

The Chairman declared the motion carried and so ordered.  
Board of County Commissioners  
of Lincoln County

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I, Corinne M. Lengel, Clerk of the Board of the County of Lincoln, Colorado, certify that the resolution above is a full, true and correct copy of the resolution of the governing body of Lincoln County. I also certify that 1) the resolution was duly and regularly passed and adopted at a meeting of the governing body of Lincoln County; 2) such meeting was duly and regularly called and held in all respects as required by law at the office of the Lincoln County Commissioners; 3) at such meeting, a majority of the governing body of Lincoln County was present and voted in favor of this resolution.

I also certify that this resolution is still in full force and effect and has not been amended or revoked. Finally, I also certify that the signatures above are those of the officers authorized to sign for Lincoln County as a result of this resolution.

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Corinne M. Lengel  
Clerk of the Board

After reviewing paperwork from Caterpillar Financial Services on a second road grader, Mr. Stone made a motion to adopt a resolution to enter into a lease purchase agreement with Caterpillar Financial Services Corporation for a motor grader for District Three. Mr. Schifferns 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 May 29, 2015, there were present:

Greg King, Chairman	Present
Douglas D. Stone, Vice Chairman	Present
Ed Schifferns, Commissioner	Present
Stan Kimble, County Attorney	Absent & Excused
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 #907** It was moved by Commissioner Stone and seconded by Commissioner Schifferns to adopt the following resolution:

**WHEREAS**, the laws of the State of Colorado (the "State"), authorize the County of Lincoln, Colorado, a duly organized political subdivision, municipal corporation or similar public entity of the State, to purchase, acquire and lease personal property for the benefit of Lincoln County and its inhabitants and to enter into any necessary contracts; and

**WHEREAS**, Lincoln County wants to lease, purchase and/or finance equipment ("Equipment") from Caterpillar Financial Services Corporation and/or an authorized Caterpillar dealer ("Caterpillar") by entering into that certain Governmental Equipment Lease-Purchase Agreement (the "Agreement") with Caterpillar; and

**WHEREAS**, the form of the Agreement has been presented to the governing body of Lincoln County at this meeting;

**NOW, THEREFORE BE IT RESOLVED** by the Board of County Commissioners of Lincoln County that:

6. The Agreement, including all schedules and exhibits attached to the Agreement, is approved in substantially the form presented at this meeting, with any Approved Changes (as defined below); and
7. Lincoln County enters into the Agreement with Caterpillar; and
8. The Agreement is adopted as a binding obligation of Lincoln County; and
9. Changes may later be made to the Agreement if the changes are approved by Lincoln County's counsel or members of the governing body of Lincoln County signing the Agreement (the "Approved Changes"), and that the signing of the Agreement and any related documents is conclusive evidence of the approval of the changes; and
10. The persons listed below, are the incumbent officers of Lincoln County (the "Authorized Persons"):

Name	Title	Signature
Greg King	Chairman	_____
Ed Schifferns	Commissioner	_____
Douglas D. Stone	Commissioner	_____

Each is, authorized, directed and empowered, on behalf of Lincoln County to (i) sign and deliver to Caterpillar and its successors and assigns the Agreement and any related documents, and (ii) take or cause to be taken all actions deemed necessary or advisable to acquire the Equipment, including the signing and delivery of the Agreement and related documents; and

The Clerk of the Board of Lincoln County is authorized to attest to this resolution and affix the seal of the County; and

Nothing in this resolution, the Agreement or any other documents imposes a pecuniary liability or charge upon the general credit of Lincoln County or against its taxing power, except to the extent that

the payments payable under the Agreement are special limited obligations of Lincoln County as provided in the Agreement; and

A breach of this Resolution, the Agreement, or any related document will not impose any pecuniary liability upon Lincoln County or any charge upon its general credit or against its taxing power, except to the extent that the payments payable under the Agreement are special limited obligations of Lincoln County as provided in the Agreement; and

The authority granted by this resolution will apply equally and with the same effect to the successors in office of the Authorized Persons.

Upon roll call the vote was:

Commissioner Schifferns, Yes; Commissioner Stone, Yes; Commissioner King, Yes.

The Chairman declared the motion carried and so ordered.

Board of County Commissioners  
of Lincoln County

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I, Corinne M. Lengel, Clerk of the Board of the County of Lincoln, Colorado, certify that the resolution above is a full, true and correct copy of the resolution of the governing body of Lincoln County. I also certify that 1) the resolution was duly and regularly passed and adopted at a meeting of the governing body of Lincoln County; 2) such meeting was duly and regularly called and held in all respects as required by law at the office of the Lincoln County Commissioners; 3) at such meeting, a majority of the governing body of Lincoln County was present and voted in favor of this resolution.

I also certify that this resolution is still in full force and effect and has not been amended or revoked. Finally, I also certify that the signatures above are those of the officers authorized to sign for Lincoln County as a result of this resolution.

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Corinne M. Lengel  
Clerk of the Board

At 10:00 a.m., Human Services Supervisor Robert Kraxberger met with the commissioners to give the monthly report for the office. The Board reviewed the April financial reports and the

May time sheets, and Mr. Kraxberger said he really had nothing else to report concerning Human Services.

Rob and Jennifer Fager arrived at 10:25 a.m. to discuss landfill fees with the Board. Mr. Fager said he is currently charged four times the in-county amount when he hauls trash to the landfill from his 20-yard roll-off dumpsters, which he has in Matheson, Simla, Agate and Flagler. He didn't mind as much when he paid double, or \$144 per load, but his complaint was that he cannot be competitive in his prices if he is paying \$288 per load to dispose of the trash.

Mr. King told him the main concern is the amount of space that out-of-county trash is taking up in the current cell at the landfill. Since most people who do not live in Lincoln County don't pay taxes in Lincoln County, the commissioners felt that they needed to do something to recover the cost that will be required to build a new cell.

Mr. Fager said he has a 20-yard roll-off and a 30-yard roll-off and felt he may only haul four or five loads a year. Mr. King asked how much trash he brings from those other areas but Mr. Fager wasn't sure. He said he doesn't have a regular trash route; he merely helps when people clear things out or clean up special projects.

Mr. Schifferns wanted to know how Lincoln County's landfill rates compare with other landfills, and Mr. Fager felt they are comparable. Kit Carson County charges more for out-of-county trash and Elbert County has to haul theirs to Waste Management either on Highway 94 or somewhere in Denver.

Mr. Stone felt an exception needed to be made for Mr. Fager since he does have a business in Lincoln County, and he asked if Mr. Fager would be amenable to paying double the regular fee. Mr. Fager did not have a problem with paying \$144 per load for the 20-yard roll-off.

Mr. Schifferns said his only concern would be in making an exception for one resident/business owner, as others would be expecting the same treatment. Mr. King stated that Mr. Fager's is a Lincoln County-based business, which may make a difference. Mr. Schifferns explained to Mr. Fager that the commissioners merely want to discourage other counties from bringing their trash to Lincoln County when there is no recompense.

Mr. Fager said he felt that the county may also want to increase the fee they charge for tandem axle trailers, as many people are bringing in loads on trailers with sidewalls, which means they can pack a lot more trash on the trailer for the same price that other people are paying for a flat load. He added that some loads are holding almost as much as he can hold on his roll-off so it isn't fair that he pays \$72 but they are only paying \$16.

Mr. King asked if Mr. Fager would be willing to put a limit on his loads in exchange for the reduced rate; such as, a maximum of twelve loads per year for \$144 per load, but Mr. Fager did not want to make that commitment.

Mr. King asked for a motion but Ms. Devers suggested waiting until they revised the rate schedule and then they could approve it all at once.

Mr. Fager brought up the wind tower blades, stating that Mick Jaques suggested cutting them into three foot squares, which he didn't feel was possible for him to accomplish. He said that they already remove all the metal and haul it separately, and if he has to spend the time cutting them into such small pieces, he will not be able to take the job because it will be cost prohibitive. Mr. King and Mr. Schifferns both agreed with Mick Jaques and did not want to make other concessions for taking the blades, but Mr. Stone disagreed, making the claim that the towers are in Lincoln County and should be disposed of here. He added that he felt Mick should be able to crush or destroy them somehow, even though it may take more time.

Ms. Devers said they would contact Mick Jaques and discuss it with him and then let Mr. Fager know what was decided.

Heike Adams with Lincoln County Public Health stopped in to inform the Board that Judy Fehringer with Eastern Colorado Services for the Developmentally Disabled is retiring. The ECSDDD board agreed to make a donation on her behalf to suicide prevention, which was Ms. Fehringer's request. Sue Kelly had asked that she come down and see if the commissioners would like to donate county funds in Ms. Fehringer's name. The commissioners said they are not in the practice of making such donations.

Mr. Stone reported stopping by the county shop and speaking with Monty Mattson on May 20. They discussed and checked muddy roads. On May 21, he checked more roads and on the Twenty-sixth, Monty called to let him know that the rains were eroding the ditch along County Road 109 north of Curt Dutro's. On May 27, Shelby Britten called about the roads and oil traffic and suggested the county gravel the roads, but it was simply too wet and muddy to do so. Mr. Stone called Monty to let him know of Mr. Britten's phone call, and Carson Kravig went out and checked the area. The new road grader came in on May 28, and Troy McCue called him last evening to ask if he'd heard from NextEra about the building at the fairgrounds. Mr. Stone said he gave Mr. McCue permission to try and contact them to see if he had any better luck.

Mr. Schifferns reported being contacted about bed bugs at Leisure Pines in Arriba since he was a town board member. Mr. Schifferns is not a town board member but let the gentleman know that he would contact Sue Kelly to see if she could do something. He did get in touch with Heike Adams who said she would check into it. On May 26, Mr. Schifferns checked roads out east and commented that County Road 3E is a mess. They are working on getting gravel on it. He also received the phone call from Ralph Kluth that day, which he reported at the previous day's meeting. He did call Mr. Kluth after the meeting to let him know that the commissioners will not allow him to take the coal from the landfill. Mr. Schifferns attended the hospital board meeting last evening and reported that a resident called him earlier in the evening to ask how long the hospital could operate without income. He asked that question at the board meeting and was told they could operate for 108 days. The hospital has decided to keep their current health insurance plan rather than look into using the one the county uses. Linda Orrell wanted

to address the accountability of the Economic Development Corporation and told Mr. Schifferns that she would like to see equal distribution of town membership on the LCEDC board. Even though he told her she may need to give it some time since there is now a new director, she told him the organization has shown no progress in ten years. Mr. King put in that each town does currently have one representative except for the town of Hugo, and Ms. Devers wondered if she was upset because so many businesses in Limon have places on the board. Mr. Schifferns said she doesn't like the fact that businesses have to buy in and Mr. Ensign stated that it is common that other non-profit organizations require purchased positions on their boards. Lastly, Ms. Orrell is concerned that the audit that is performed is done by two bankers that are also board members. She believes the audit should be done by someone not affiliated with the organization.

Mr. King stated that a question was raised to him about the communication between Peak Vista and Lincoln Community Hospital in regard to the accessibility of patient records. Mr. Schifferns said he would make a note for the next hospital board meeting.

Mr. King reported checking roads north of Arriba and Genoa on May 26. Most of them are in relatively good condition other than a few potholes, and County Road 37 north of County Road M; approximately three-quarters of a mile which is in pretty bad shape. They are in the process of grinding the asphalt on three miles of County Road 109 north of Genoa. He added that he had lunch with Hugo town mayor Patsie Smith on May 18. She seems to be very impressed with Troy McCue and believes the town of Hugo may buy back into LCEDC next year. Lastly, Mr. King reported that all three commissioners received a phone call from Veteran's Service Officer Parker Newbanks, Jr. to let them know that the rumors were true that he and his wife are selling their business in Hugo. However, he will *not* be moving or giving up his position as Veteran's Service Officer.

Ms. Devers reported that Bobbi Jaques, who works for COG and picks up meals twice each week in Hugo and drives them to Arriba, needs new tires on the van she is driving. There are 203,787 miles on the vehicle and she drives ninety-two miles each week. The county does maintain the van and the Board agreed to replace all four tires on it. Ms. Devers said they would need to keep in mind that the van may need replaced in the near future.

Human Services employee Kelly Johnson ran into a hail storm recently on her way back to Hugo and noticed that there were several dimples on the county van she was driving. Although Ms. Devers and Mr. Ensign looked at it, they are not real visible and no glass was broken. With a \$500 deductible, Ms. Devers was not sure if the commissioners wanted to turn it in to insurance or have it fixed. The Board agreed to let it go.

Ms. Devers had further information on the cowboy-mounted shooting event requested to be held at the fairgrounds on September 12 and 13. The public can go and watch and there is no fee to do so, and some of the entrants are charged a fee, but only because there is a prize that can be won. Ms. Devers will contact HIP and other possible concession vendors that work at

the Ranch Rodeo, and will also contact the 4-H Clubs or Travis Taylor as the group will need someone to replace balloons once the sportsman have shot them off the boards.

Wayne Nestor is willing to allow his name to remain on the site application as a certified operator for the fairgrounds lift station in order for the project to move forward, but Ms. Devers said she assured him the county would make sure someone else is certified before the project is complete so that he is not held responsible.

Ms. Devers had contacted Ryan Britten to request a contact person for Pioneer Natural Resources and she called and left a message with Chris Martinez. Chris Holman called her back and wants to discuss locations, damages and other issues, so the Board can call him later in the day if they want to.

There was no old business or new business, so a call was placed to Landfill Manager Mick Jaques to discuss the meeting with Rob Fager. Mr. Schifferns asked about the tandem axle trailers with sideboards costing less than a 20-yard roll-off but having basically the same volume. Mick said he does get more trailers with sideboards than without so he was not opposed to increasing the price on them. When asked about Mr. Fager bringing in out-of-county trash from Simla, Agate, Matheson and Flagler, Mick said that Mr. Fager is not separating his loads at all. Mr. Fager's driver comes and dumps the load and then Mick and Allen discover that there are things like mattresses, appliances, and other items in the load that have to be moved to other piles. He added that someone from Simla told him that rather than pay the higher fees because he is out-of-county, he will simply start putting his trash in Mr. Fager's dumpster in Simla so it won't cost him anything.

Mr. Schifferns asked about the windmill blades and Mr. Stone added that Mr. Fager doesn't want to cut them into such small squares as he believes it will be cost prohibitive. Mick explained that he cannot break the blades up by running over them because they are made of fiberglass, so all he and Alan Chubbuck can do is bury them, which is why he wants them in three foot squares. He added that Mr. Fager doesn't understand how much work it takes when he brings in his loads, for various reasons. Mick's biggest complaint was that he doesn't separate his loads. Mr. Stone said the commissioners had discussed charging Mr. Fager double instead of four times the rate since he does have a business in Lincoln County and pays Lincoln County taxes. Mr. King asked if it would help if the commissioners told Mr. Fager he has to separate the loads and Mick said that would be fine but he doesn't believe it will happen. He said to let him know what is decided and he will charge accordingly.

Mr. Ensign commented that while he appreciates that Mr. Fager has a business within the county, the commissioners still have an obligation to protect their facilities, and there are other businesses in the county that generate waste not allowed at the landfill, such as medical hazardous waste, for example. Mr. Schifferns agreed, stating that he feels it will cause more problems than it's worth to accept the windmill blades.

Mr. Stone made a motion to approve the following new rates at the county landfill: tandem axle trailer - \$20 per load; 20-yard roll-off dumpster - \$72.00 per load; and 30-yard roll-off dumpsters - \$100 per load. Mr. Schifferns seconded the motion, which carried unanimously.

Mr. Stone made a motion that Lincoln County-based businesses hauling trash generated in another county will pay twice the county landfill rates. Mr. Schifferns seconded the motion, which carried unanimously.

Discussion turned to loads not separated and what to charge for them, and Mr. Ensign suggested that the Board allow Ms. Devers and him to work on wording for the items discussed and bring the information to the next meeting where the commissioners can take formal action. He added they would get recommendations from Mick as well and the commissioners agreed to wait until June 5 to take action.

A letter from Centennial Mental Health concerning an Open House Art Gala in Limon on August 21, and in Elizabeth on August 28, was reviewed prior to the Board breaking for lunch. CMH requested that the county donate a work of art for the auction or sale, donate an item for the auction, or become an event sponsor.

At 1:30 p.m., the commissioners conducted a public hearing on proposed Ordinance Number 2015-01: An Ordinance Adopting Regulations to Abate, Control, and Require Removal of Nuisance Activities. The only members of the public who were present for the hearing were Kimel and Wanda Brent. Mr. Kimble stated that proper publication was made within the designated time period for the adoption of the ordinance, and explained that agricultural lands are exempt when it comes to farming/ranching practices in most instances. For the benefit of the Brents, he added that Land Use Administrator John DeWitt had issues arise that the Board felt would require county action; hence the introduction of the nuisance ordinance. The ordinance will give the county a tool to use in those cases when regular county guidelines do not apply, and Mr. DeWitt will be the enforcer. The Brents asked about iron and vehicles, as well as tires, but Mr. Kimble assured them those items would be exempt if they are used for farming/ranching purposes. Before leaving, Mr. Brent informed the Board that he wanted it to be known that they are not in favor of the county adding more regulations to the residents.

Mr. King had received a text message from Caleb Brent which stated that he did not support the nuisance ordinance under any circumstances. Mr. Schifferns had received the same message.

Mr. Stone made a motion to adopt Ordinance Number 2015-01: An Ordinance Adopting Regulations to Abate, Control, and Require Removal of Nuisance Activities. Mr. Schifferns seconded the motion, which carried unanimously.

#### **ORDINANCE NO. 2015-01**

**AN ORDINANCE ADOPTING REGULATIONS TO ABATE, CONTROL, AND REQUIRE REMOVAL OF NUISANCE ACTIVITIES.**

**WHEREAS**, Lincoln County, hereinafter referred to as the “County” occasionally receives complaints regarding trash, abandoned vehicles, and other sources of threats to the public health, safety, and general welfare commonly known as “nuisances”; and

**WHEREAS**, The State of Colorado grants statutory counties authority to regulate and provide for the removal of rubbish, including trash, junk, and garbage, from lots and tracts of land within the County pursuant to C.R.S. 30-15-401; and

**WHEREAS**, pursuant to C.R.S. 30-15-401, the Board of County Commissioners of Lincoln County, Colorado, hereinafter referred to as the “Board”, has the general enabling power to adopt ordinances for the control and licensing of those matters of purely local concern, and to do all acts and make all regulations which may be necessary to expedite for the promotion of health or the suppression of diseases; and

**WHEREAS**, the Board has determined that a comprehensive nuisance ordinance is in the best interests of the health, safety, and general welfare, of the residents of Lincoln County, Colorado.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMISSIONERS OF LINCOLN COUNTY, COLORADO, AS FOLLOWS:**

That the Board of County Commissioners by this Resolution does hereby adopt an Ordinance for the regulation and abatement of nuisances, and the following rules and procedures for the administration of said Ordinance, set forth as follows:

**SECTION A. NAME**

This ordinance shall be titled the “Lincoln County Nuisance Ordinance.”

**SECTION B. PURPOSE AND APPLICATION**

The intent of this Ordinance is to provide a comprehensive mechanism for the identification, abatement, and to compel the removal of rubbish; including trash, junk, and garbage under authority of State law, and specifically, C.R.S. 30-15-401, et. seq. Collectively, it is the intent of the County to define these prohibited activities as “nuisances”. This Ordinance shall apply to any establishment, as defined hereinafter, through the Court as authorized pursuant to C.R.S. 30-15-401 wherein any of the conditions hereinafter specified are found to exist; provided, however, that any condition which would constitute a violation, but is duly authorized under any other County, State, or federal law, is and shall be an affirmative defense to prosecution. This Ordinance shall apply to all zones and classifications of property within the unincorporated limits of Lincoln County,

**SECTION C. NUISANCES.**

It shall be unlawful to cause or maintain a “nuisance”.

“Nuisance” shall mean any activity constituting an act and / or violation identified within this Ordinance which is engaged in, or a continuing violation of three (3) days or more. The

following acts or conditions are hereby declared by ordinance to be “nuisances” within the unincorporated limits of Lincoln County, Colorado:

1. Garbage and Rubbish. The keeping, storage, depositing or accumulation of garbage, trash, litter, rubbish or similar materials detrimental to the public health, safety, and general welfare, either from a fire hazard or safety concern.
2. Building Materials. Unusable construction materials or debris not disposed of expeditiously. Building materials being used or to be used for a project of repair or renovation for which a valid building permit has been obtained and is active may be stored for such period of time as is necessary to expeditiously complete the project shall not be considered a nuisance.

#### **SECTION D. RESPONSIBILITY FOR MAINTENANCE**

Every owner, occupant, lessee or holder of any possessory interest in an establishment within the County’s jurisdiction is required to maintain all structures and premises so as not to create or maintain a nuisance, as defined herein. Enforcement action may be brought against both or either the occupant or owner of any property found to be in violation of this Ordinance. However, the owner shall remain liable for violation hereof regardless of any contract or agreement with any third party regarding such property or the occupation of the property by a third party. Enforcement of this Ordinance may consist of both abatement and the imposition of fines and costs as set forth herein. The County has, by the adoption of this Ordinance, the authority to seek the recovery and collect all fines and costs associated with enforcing these regulations, through abatement and otherwise, and to carry out any and all acts as required in securing compliance and abatement as specified herein. Should the County be required to abate the nuisance because it was not abated after due notice, then this shall be treated as a violation of law and prosecuted and adjudicated according to those procedures and penalties identified herein and as well as all applicable penalties generally such as may be deemed appropriate by the court of jurisdiction to compel compliance and restitution.

#### **SECTION E. COMPLAINTS**

1. Complaints from the Public. Any person may file a complaint alleging a violation of these regulations. Such complaint shall be in writing, signed by the complainant, and state the alleged facts constituting a public safety and health violation. The County shall not be obligated to investigate anonymous complaints or complaints not filed in writing.
2. Investigative Officer. The Board may designate an Investigative Officer under this Ordinance who shall act, when so requested by the Board, to investigate any complaint received from the public, or when provided with information by law enforcement, health services, or other governmental and quasi-public entities, and where there is reasonable information to believe that a violation affecting public health, safety, or welfare exists, or where in the normal conduct of duty, the Investigative Officer becomes aware of a potential violation.
3. All complaints shall be logged and recorded on written forms. Those complaints deemed to be incomplete, erroneous, or to not constitute a violation or result in

prosecution shall not be required to be maintained or available for public inspection.

## **SECTION F. INSPECTION**

1. Procedures. Upon receipt of a complaint and confirmation by the Board the delegated Investigative Officer for the County shall perform a site inspection of the identified property to determine the validity of the complaint.
2. Timing. The inspection shall take place within ten (10) working days of the complaint, unless such evidence exists to believe that an immediate health or safety risk exists; where such evidence does exist of an immediate health or safety risk, an inspection shall be performed as soon as possible, but not more than twenty four (24) hours from verification of the complaint.
3. Investigation. As part of the inspection, the Investigative Officer shall attempt to speak to both the complainant and occupant and or owner of the property of the alleged violation, as well as such persons and / or agencies as may have direct knowledge pertinent to the complaint. The Investigative Officer shall attempt to resolve the nuisance issue, if any, in an informal manner if at all possible.
4. Documentation. The Investigative Officer shall maintain a detailed record of all findings, including time, date, persons spoken to and titles or agency (if applicable), photographs and copies of any maps, ordinances, or other materials relevant to the inspection.

## **SECTION G. NOTIFICATION PROCESS**

4. Nuisance Declared. Upon investigation of a nuisance complaint, or should the Investigative Officer, in the normal conduct of duty, determine that a nuisance exists, as defined by this Ordinance, the Investigative Officer shall attempt a voluntary abatement of the nuisance, by the property owner, within a reasonable time, such time not to exceed thirty (30) days. If the Investigative Officer is unsuccessful in obtaining a voluntary abatement of the nuisance, the following abatement procedures shall be followed:
  - A. Notice. A written notice that a documented nuisance exists shall be prepared by the designated Investigative Officer and the Notice shall be posted on the property, sent to the owner by certified mail and served on any person in possession of the property at the time of notice. Failure or refusal of the occupant or owner to receive the notice does not affect the right of summary abatement. A Notice shall be deemed to have been served to the owner if it is mailed by U.S. Postal Service certified mail, return receipt requested, to the last known address of the property owner as such appears in the County's property assessment record.
  - B. Information Required. A Notice of Violation (NOV) shall, at a minimum, contain the following: (1) A description of the alleged nuisance, (2) the location of the alleged nuisance or where the nuisance occurred, (3) the date the nuisance was declared, (4) a statement setting forth the requirements to

abate the violation and the date by which abatement must occur, which shall not be less than thirty (30) days from issuance of the notice, (5) the penalties for failure to abate the alleged nuisance, and (6) the contact person for the County and the contact information for appealing the Notice, or obtaining additional information.

#### **SECTION H. APPEAL**

1. The Notice of Violation shall contain the contact person and method for filing a written appeal by the cited landowner. The landowner may either contest the findings of the Investigative Officer that a nuisance exists, or admit the presence of the nuisance and propose a reasonable timetable for its removal explaining why thirty days is not enough time for the abatement of the nuisance. The written appeal shall be delivered, personally, or mailed by certified mail, return receipt requested, to the Board of County Commissioners, Lincoln County, in care of the County Administrator. The appeal must be made within ten (10) days of the landowner's receipt of the Notice set forth above, or the landowner shall be deemed to have waived his right to appeal.
2. The Board shall hear the appeal no later than twenty (20) days after the filing of the appeal and shall issue its decision within five (5) days of the appeal hearing.

#### **SECTION I. ABATEMENT**

1. Remedies of Law. Consistent with this Ordinance, failure to respond or comply with a Notice of Violation shall result in the seeking by the County or its designated agents, of any and all permissible remedies under the law to abate the conditions which constitute the nuisance, as identified in the Notice of Violation, and may include (1) seeking a complaint by the Sheriff's Office to be served upon the owner and / or parties identified in the NOV, (2) requesting the Court to award an administrative entry and seizure warrant for the County to execute or to contract to execute abatement of the violations, (3) any and all other remedies applicable to the conditions to be abated / remediated and consistent with and permissible under the laws of Lincoln County, the State of Colorado, and the United States Government.
2. Responsible Parties. The Owner of Record of the property, premises, location, or structure at the time of a NOV shall be responsible for complying with that Notice, and will be liable for any costs incurred by the County therewith, notwithstanding the fact that an interest in said property is transferred to any other party or parties after such Notice is issued. In addition, it shall not be a defense to the determination that a nuisance exists that the property is vacant, abandoned, foreclosed, under contract, boarded up or otherwise enclosed, unoccupied or encumbered.
3. Abatement by Private Contract. If the violator fails to respond to the request for abatement and it is necessary for the County to correct the violations, the County may opt to do the work by private contract rather than by County staff.
4. Sale of Salvaged Materials. The County may, in conformance with state standards and procedures for the sale of unclaimed property, sell any materials salvaged from an abatement action by the County. Although the County is under

no obligation to salvage materials from an abatement, as practicable, the County may do so and sell the same at private or public sale at the best price obtainable and shall keep an accounting of the proceeds thereof.

5. Statement of Costs. In the necessity of the County being required to correct the violations, a statement of all fees, fines, and other expenses, including legal and staff expenses, less any net proceeds of the sale of salvageable goods received by the County, shall be submitted to the violator for payment. If not paid; within ten (10) days, then a general lien shall be placed in the County's records and the County may pursue collection remedies, which may be available, including assessing the cost, including attorney fees, upon the violating landowner's real property tax through the Lincoln County Treasurer.

## **SECTION J. PENALTIES.**

1. Administrative Entry and Seizure Warrant. No entry upon private property shall be made for the purpose of rubbish removal or the removal of any materials in connection with an abatement process by the County and / or its legally designated contractors and agents without either the consent of the owner or person in possession, or until an administrative entry and seizure warrant, or such other appropriate Court Order has been obtained from the Lincoln County Court, or other court of competent jurisdiction, in accordance with C.R.S.30-15-410(l)(a)(l)(B), as amended.

2. Affidavit for warrant. A sworn or affirmed affidavit shall be prepared and submitted, along with supporting documents and / or photographs. The affidavit shall establish the factual basis for the issuance of a warrant, including evidence that the property owner received notice of the violation and has failed or refused to abate the violation within a reasonable time. The affidavit shall further give a description and location of the violation, a general list or site plan describing what must be removed to abate the violation, and the method of disposal or temporary impoundment, whichever the court deems appropriate.
3. Service of warrant. Within ten days following the issuance of an administrative entry and seizure warrant, the warrant shall be fully executed in accordance with the directions of the issuing court. Further, a copy of the issued warrant shall be provided, personally to the landowner, or mailed, first class prepaid, to the owner and posted on the subject property. Proof of execution of the warrant, including a written inventory of any property impounded, shall be submitted to the issuing court.
4. Criminal Prosecution; Upon discretion of the County, a criminal prosecution may be brought against the owner and / or the person in possession of the offending property in accordance with C.R.S. 30-15-402 and 410. Each day a nuisance exists after a complaint is issued shall constitute a separate violation. A summons and complaint may be issued by the County Sheriff or his deputies upon receipt of a sworn statement. Violation of the provisions of these regulations shall be punishable by a fine of not more than one thousand dollars (\$1,000.00) for each violation. In addition to this penalty, persons convicted of a violation of these regulations are subject, pursuant to C.R.S. 30-15-402, to a surcharge of ten dollars (\$10.00) to be paid to the Clerk of the Court for credit to the Victims and Witnesses Assistance and Law Enforcement Fund established in the judicial district. All fines, inspection fees, costs, and forfeitures (except

surcharges) for the violation of these regulations shall be paid to the Treasurer of Lincoln County not later than thirty (30) days after imposition. Violators of the regulations may also be imprisonment of up to six (6) months in jail for each violation.

#### **SECTION K. ADDITIONAL REMEDIES.**

The remedies provided for in this Ordinance are supplemental and complementary to all of the provisions of County, State, and Federal law, and nothing herein shall be read, interpreted, or construed in any manner to limit any existing right or authority of the County to abate and compel removal of any and all nuisances. Further, the remedies provided in these regulations shall be cumulative and in addition to any other remedies which may be available to the County, including, but not limited to, injunctive relief. Nothing contained herein shall be construed to preclude the Board from seeking such other remedies in addition to, or in lieu of, the remedies herein in addition to, or in lieu of, the remedies herein specified.

#### **SECTION L. EXEMPTIONS.**

These regulations shall not apply to property or uses of property otherwise exempt by law, including those uses set forth in C.R.S. 30-15-401, et. seq.

#### **SECTION M. MISCELLANEOUS PROVISIONS.**

1. Safety clause. The Board hereby finds, determines, and declares that these regulations are necessary for the health, safety, and welfare of the citizens of Lincoln County, Colorado.
2. Severability. If any section, subsection, clause or phrase is, for any reason, held to be invalid, such holding shall not affect the validity of the remaining portions of these regulations.
3. Conflicting provisions. Where any provision of these regulations conflict with any other provision of these regulations, or any other law, the more stringent requirement, regulation, restriction, or limitation shall apply.

#### **SECTION N. DEFINITIONS.**

1. "Abatement" shall mean the removal, stoppage, prostration, or destruction of that which causes or constitutes a nuisance under the definition of the Ordinance, whether by removal and proper, legal disposal, or other plan of mitigation acceptable to the County and in conformance with this Ordinance.
2. "Garbage" shall mean disposable waste generated as a by-product of individual human activity, having no intrinsic economic value and which presents either a health concern or litter problem if improperly disposed of.
3. "Owner" shall mean the owner of record of the property in question, or any person with legal, financial, or equitable interest in real property subject to these regulations and on which the alleged nuisance activity exists at the time of the violation.

4. "Rubbish" shall mean and include the following:

a. Used tires. Outside storage of used tires (except as otherwise regulated pursuant to the Solid Waste Disposal Sites and Facilities Act, Part I of Article 20 of Title 30, C.R.S. and any rules and regulations promulgated thereunder) shall be prohibited.

Storage prohibited by this Ordinance shall not extend to used tires incorporated into construction approved by the County or an approved landscaping plan, including but not limited to retaining walls and culverts.

b. Junk recreation vehicles, campers, trailers, and mobile or manufactured homes. A recreation vehicle, camper, trailer, mobile home, or manufactured home in a condition which presents a substantial danger or hazard to the public health, safety, or welfare because it is unused by the owner, is uninhabited or uninhabitable because of deterioration, or decay, is declared to be a nuisance. Further, such structures are declared a nuisance and prohibited if the structure, or structures, subject adjoining property to danger or damage by vermin, fire, storm, soil, erosion, or persons seeking temporary hideout or shelter (attractive nuisance).

c. Certain discarded articles or materials are declared to be a nuisance. Discarded articles or materials, which include, but are not limited to personal property that present health and safety concerns, or fire hazard concerns, such as disposable packages, fuel drums and barrels, pallets, or other containers; paper, cardboard, furniture, carpet, construction debris, appliances and any combination thereof, disposed of on the ground and not stored within a completely enclosed building or screened, or any other materials which utility is not readily apparent but which reflect a clear health and safety concern, are hereby declared to be nuisances. Such articles and materials are not permitted to be stored in an abandoned or junk mobile home, recreation vehicle, trailer, camper, truck trailer, or vehicle. An accumulation of used tires that number over fifty (50) shall be a nuisance unless the landowner has obtained a permit from the County Administrator for use of a greater number of tires for landscaping, tree protection, soil erosion, wind break, or other beneficial use.

APPROVED AND ADOPTED BY THE LINCOLN COUNTY BOARD OF COMMISSIONERS  
THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2015.

BOARD OF COUNTY COMMISSIONERS;

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Mr. Kimble had nothing further to report, but Mr. Stone asked if they could call Pioneer Drilling again to discuss the roads in District Three. Ms. Devers made the call but had to leave a message.

With no further business to come before the Board, the meeting was adjourned until 9:00 a.m. on June 5, 2015.

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Corinne M. Lengel, Clerk to the Board

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Greg King, Chairman