

Board of County Commissioners of Lincoln County
Agenda for June 30, 2015

9:00 Call to order and Pledge of Allegiance

9:00 Joe Kiely, Limon Assistant Town Manager, to discuss the Foreign Trade Zone

10:00 Robert Kraxberger, Income Maintenance Supervisor, to present the Department of Human Services monthly report

1:00 Carl and Faith Hansen to discuss designating County Road 17.3 as a private road

1. Review and sign a Memorandum of Understanding between the Department of the Interior, Bureau of Land Management and Lincoln County
2. County Commissioner reports
3. County Administrator's report
4. County Attorney's report
5. Old business
6. New business
7. Approve additional expense vouchers if necessary

The Board of Lincoln County Commissioners met at 9:00 a.m. on June 30, 2015. The following attended: Chairman Greg King, Commissioners Doug Stone and Ed Schifferns, County Administrator Roxie Devers, Gary Ensign (at 9:30 a.m.), and Clerk to the Board Corinne M. Lengel.

Chairman King called the meeting to order and asked Limon Assistant Town Manager Joe Kiely to lead the Pledge of Allegiance. Lincoln County Economic Development Executive Director Troy McCue and his son, Austen, were also in attendance. Stacey Phythian arrived later.

The Foreign Trade Zone was finally approved and Ordinance No. 583 will be presented to the Limon town board on Thursday, July 2, 2015, for their consideration. If approved, the ordinance will establish a Foreign Trade Zone board made up of three members; one member of the Limon Board of Trustees, one representative from Lincoln County, and one representative from the Lincoln County Economic Development Corporation. Two ex-officio members consisting of the Limon Town Manager and the FTZ Director will be appointed by the Limon Board of Trustees. Members will not be compensated and must be residents of Lincoln County. Mr. Kiely asked for suggestions of whom to appoint as the county representative, and whether or not the commissioners felt the overall language of the ordinance was acceptable to them. The Board did approve of the ordinance language and Mr. King offered to be the county representative as long as he is a commissioner.

Stacey Phythian had some questions for Mr. Kiely regarding the FTZ, stating that she had heard it would bring over two thousand people to the county. Mr. Kiely responded that two thousand new residents was way beyond what would likely develop in the next ten years, as the county only has so much room to grow, with limited housing opportunities. He added that the FTZ board's marketing will be geared more toward smaller companies with a lower number of employees, and the FTZ is a tool previously unavailable that will help bring good jobs to the communities. Companies will still be required to follow all Land Use regulations in the county no matter where they choose to locate and it does not change the current development process. Also, it will be a great opportunity for companies to ship their products internationally without having to pay a duty tax, which may possibly be their incentive. The FTZ will not affect property unless the landowner wants it to.

Ms. Phythian said that since it is foreign trade, other issues or problems may arise and asked what some of them may be. Mr. Kiely told her he wasn't aware of *any* other issues or problems, stating they are not bringing in foreign workers but foreign components and sited Vestas as a perfect example.

Mr. McCue spoke up to say that with the excellent highway infrastructure the county may eventually capitalize on growth, but taking smaller steps at a slower pace will be much more beneficial. Ms. Phythian said she moved to Lincoln County to avoid the city, and Mr. McCue said that the county's water supply will keep communities from becoming the next Windsor or Castle Rock. He added that it is good for families and businesses in the county to be more economically diverse and he felt the FTZ may help municipalities bring in more people. Mr.

Schiffers said he could see it helping Arriba, Genoa, and Karval but Ms. Phythian didn't see it that way, stating that Limon may grow but not the other areas. She added that she hadn't seen much in regard to the Foreign Trade Zone and wanted information to be publicized better. Mr. Kiely said that every step of the application process was published both in papers and on line, as well as public meetings held. Also, several surveys were completed and the town of Limon, in particular, responded that they would like to see more growth. Mr. Kiely added that the town of Limon's water supply is adequate enough that the town could double in size.

Mr. McCue asked if there will be public hearings when the business sites are established and Mr. Kiely said the Land Use Board will hold hearings. If the business plans to locate in the county and not inside city limits, the county commissioners will certainly have the opportunity to determine whether or not it is the type of business they would approve in the county. Mr. King put in that residents will always have the chance to express their concerns and opinions, good or bad.

Mr. Stone asked if the zone includes Genoa, as he could not tell from the map. Mr. Kiely stated that it does, as well as the town of Arriba, even though it barely made it due to the sixty mile or ninety minute rule. He also thanked the commissioners for the county's financial contribution.

Once everyone had gone, Mr. King commented that he had spoken with prior county commissioners Gene Vick, Pete Kjosness, and Ted Lyons concerning Human Services Director Colette Barksdale's comment that a previous board of commissioners had allowed her to drive county vehicles for personal reasons. All said they would sign a statement that no such permission was ever given.

Ms. Devers stated that Cody Jolly had expressed concerns with the Memorandum of Understanding between the Department of the Interior, Bureau of Land Management and Lincoln County, and he and other members of the CARR board would like to meet with the commissioners later in the day to discuss it.

Mr. Schiffers made a motion to approve the minutes from the meeting held on June 29, 2015, as submitted. Mr. Stone seconded the motion, which carried unanimously.

Mr. King said that Weed Coordinator Wayne Shade caught the commissioners the day before to let them know the motor had gone out in the unit's trailer pump. They told him to go ahead and replace it since it is a necessity.

Mr. Stone reported stopping by the county shop to make sure that the gravel has all been paid for and it has.

Mr. King said he'd spoken with his road foreman, Mark McHone, and they will gravel roads for the next couple of weeks so that they are not doing so during harvest.

Ms. Devers had received an email from Chris Cella with Spectrum and a crew will try and come out in the next week or two to cover the roundhouse windows with plywood. They had not put money in their budget to do so but agreed to be “team players” and absorb the cost. They will also order the lumber for the windows, which Ms. Devers said thought had already been done. The restoration of the old windows is coming along quite well, according to Merrill Wilson. Ms. Devers did say she was curious how Spectrum would put up plywood without damaging the brick, and Ms. Wilson said they would have to repair the brick if it were damaged in any way.

Ms. Devers had emailed Dave Frisch with GMS, and the deadline for the DOLA grant for the lift station at the fairgrounds is August 1. They will send a contract to the county for the project design. Mr. Ensign said he’d received an email stating the site application has already been approved by the department of health.

Ms. Devers also said that Mr. Kimble will report further on the agreement with Gravity Play for added attractions at the county fair, as Mr. Ensign had suggested they have Mr. Kimble draw up one of his own with the wording he would prefer.

Mr. Stone stated Nikki Reid told him they had applied for the grant from Cooper-Clark to purchase playground equipment for the Karval pre-school but she had not received a response yet. She also said they may be applying for another grant. Mr. King suggested they might find it worthwhile to send someone to the western slope for the Rural Philanthropy Days.

At 10:00 a.m., Department of Human Services Income Maintenance Supervisor Robert Kraxberger and Patricia Phillips met with the Board to give the monthly report for the department. Time sheets and financial reports were reviewed, and then Mr. Kraxberger stated that three candidates were interviewed for the open caseworker position and they have hired Amy Seymour. Mr. Schiffers wanted to know if Ms. Seymour would be able to continue her duties as Victim’s Advocate but Mr. Kraxberger said she would not. He shared an award that Tricia Borns received at the Child Support conference for meeting four of four goals, and informed the commissioners that they were also given a C-Stat award at the CCI conference for meeting nine goals, which is up from the seven goals they met last year.

Mr. Kraxberger explained that the Northeast Colorado Child Care Resource and Referral MOU, which is the same as the past five years, needs to be approved by the Board. The money goes to help the department attract more child care providers, among other things. Mr. King asked if they had seen any progress over the last five years and was told that there have been results but there is a decline right now. Mr. Schiffers made a motion to approve the Northeast Colorado Child Care Resource and Referral MOU in the amount of \$18,000. Mr. Stone seconded the motion, which carried unanimously.

Patricia Phillips presented the Memorandum of Understanding for IV-E Waiver, stating that it is used for children in placement. Intervention of Family Engagement, Family Engagement, and Kinship Supports are some of the current programs and they have applied to begin Trauma Informed Care. Funding has decreased due to the fact that they are funded based on number

of Kinship Support families they serve; \$1,000 per year per family. Currently, Lincoln County only has three Kinship Support families. Mr. Schifferns asked what would happen if the county suddenly had more families than there was funding to support and Ms. Phillips said that they would use Child Support collections.

Mr. Stone wanted to know how health insurance coverage works for kin families and was told that Kinship Support is not based on income, so the child would generally be eligible for Medicaid benefits; approximately \$90 per month, as long as the kin has custody of the child. Mr. Kraxberger added that child support funds come directly to DHS when a child is in placement.

Mr. Stone made a motion to approve the IV-E Waiver MOU for the period of July 1, 2015, through June 30, 2016. Mr. Schifferns seconded the motion, which carried unanimously.

Mr. Kraxberger asked if the commissioners planned to close the courthouse at noon on August 7 for employees to attend the county fair, as they will need to figure out their Y-Time accountability if so. Mr. King said that since county employees are generally allowed to attend the fair that afternoon he saw no reason to change things, and the other commissioners agreed to close the county offices at noon on August 7 for the county fair.

Ms. Devers verified with Ms. Phillips that Ms. Barksdale had taken Y-Time editing capabilities away from Human Services employees other than supervisors, adding that it was not a decision of the commissioners, as they had been led to believe. She asked if the Board should override Ms. Barksdale's decision. Ms. Phillips stated that she feels there could be significant issues since workers are now required to have a supervisor change their information if they should forget to log in or out. It is relatively impossible to clock in and out when meeting with a family, and Mr. Kraxberger added that sometimes cell service isn't available, which could also create a problem for accurate accounting of time since they all use their cell phones to log into Y-Time. Ms. Phillips said it will be cumbersome and frustrating and assumes the time will just be less accurate because she doesn't believe workers will ask a supervisor to make the changes. Ms. Devers asked if there were problems with workers being allowed to have editing capabilities in the past and Ms. Phillips said there had never been an issue, adding that she would prefer it the way it was before.

Mr. Stone made a motion to allow all Department of Human Services employees to resume editing capabilities in the Y-Time system, effective July 1, 2015. Mr. Schifferns seconded the motion, which carried unanimously. Ms. Devers will email Chad Fittro with Y-Time, giving him the Board's decision, and will copy Colette Barksdale in the email.

Even though DHS no longer receives funding to implement Project School Supply as has been done in the past, Mr. Kraxberger said the department would like to use some of their TANF money to supply Kleenex and Clorox wipes to the schools. They would also offer some mini grants for purchasing Crayons or other items for an entire classroom, rather than for each individual student. The commissioners agreed that it was in excellent idea.

At 10:15 a.m., Jay and Cody Jolly, Travis Taylor, and Scott Ravenkamp stopped in to discuss the memorandum of understanding with the BLM. While waiting for Ms. Devers to make some copies, the Board approved a few more expense vouchers for the month of June.

Cody Jolly voiced his concerns as a member of the Citizens Advocating Rural Rights (CARR) group, stating that the term “cooperating,” which appears several places in the MOU, had raised a red flag with the members when they read it. They cautioned that the county should also be a “coordinating agency” rather than a “cooperating agency,” based on their experience with the railroad relocation project in 2012. Mr. King explained that the emphasis of the proposal was for mountain counties and that his understanding was that the intention of the BLM is to dispose of their holdings on the eastern plains by selling off their surface interests.

Scott Ravenkamp spoke up to say that the commissioners should never give up too much of their power, as the county may want to have a say in what parties the surface rights are sold to. He added that the county will have a stronger voice as a coordinating agency rather than a cooperating agency and if the commissioners are being offered a seat at the table, they should take it.

The county is already set up as a coordinating agency and Cody Jolly commented that the commissioners could simply send a letter to the BLM invoking coordination rights. Mr. Ravenkamp added that once they invoked with CDOT the county had a much better platform from which to voice their concerns. Any negotiations would also have to happen in Lincoln County if the commissioners were to invoke their coordination rights.

Ms. Devers said she could send an email to the gentleman who sent the letter and MOU requesting a change in the wording.

Travis Taylor spoke up to say that Section H on page five of the MOU makes him nervous, as “all review drafts of documents are confidential and not intended for release to the public.” He wondered why such terminology would be included in the MOU if the true intent was to make things better for the public, adding that changing the wording from cooperating to coordinating may be a small issue, but they know from experience that it makes a huge difference legally. They also got a lot more information once the meetings had to be held at the county level. Cody added that everything is public record if the county were to coordinate.

Mr. Stone made a motion to table signing the MOU between the Department of the Interior, Bureau of Land Management and Lincoln County until further information can be obtained regarding the coordination process. Mr. Schiffers seconded the motion, which carried unanimously.

At 1:00 p.m., Faith Carlson met with the Board to discuss designating County Road 17.3 as a private road. Carl Hansen was not present, but County Sheriff Tom Nestor and Jail Captain Michael Yowell attended the discussion. Mr. King asked why she wanted to make it a private

road and was told that the road doesn't go anywhere but to her house, and she doesn't feel safe when she isn't able to lock the gate off of Highway 94. Since she is disabled, Ms. Carlson said she has a mobile alert box on both gates. If her personal alarm goes off, emergency personnel will be given the code for the lock box so that they can obtain the key to the gates and enter her property.

Sheriff Nestor stated that he may need to gain access to her residence for many reasons and she told him he could call her ahead of time. The sheriff stated he may not want her to know he is coming and he wanted to know how he was going to gain access to her property if the road is no longer a county road.

Mr. Kimble asked if the road is a county road on the designated county road map and was told that it runs about half a mile from Highway 94 to the Hansen residence. When he asked Ms. Carlson if they own the property on both sides of the road, she responded that they do. Mr. Kimble explained to Ms. Carlson the process she would need to go through to request that the county vacate the road; that she would be required to file a petition which would then be reviewed. A public hearing would then be held at which time the commissioners would decide if vacating the county road would be in the best interest of the public. Mr. King suggested Ms. Carlson follow the correct procedures.

Mr. Stone stated that the road has been there for years and has always been a county road. In fact, the county used to grade the road and plow snow from it. He stated that if it is a private road, the county will be unable to do those things. Ms. Carlson said they don't grade it now, nor has the county ever plowed snow that she can recall. Mr. Stone said it was because there is a locked gate on the road but Ms. Carlson argued that it isn't locked, it is just chained with a hook.

Sheriff Nestor told her that everyone understands how she feels and residents should feel safe in their own homes, but she has to realize that there are also valid reasons why people should be able to get to her on occasion.

Mr. Kimble told Ms. Carlson the burden is on her to prove that the road has no public or future public use, and Ms. Carlson and Captain Yowell left the meeting.

Sheriff Nestor told the commissioners that emergency personnel will access the property however they deem necessary, adding that it really makes no difference to him if the county continues to call it a county road or not. He suggested contacting Carl Hansen to find out who actually holds title to the property and Ms. Devers went to the assessor's office to see if she could find out.

Gene Vick stopped in at that time to drop off a letter he had written regarding the statement Human Services Director Colette Barksdale made that past commissioners had given her permission to use a county vehicle for personal business. He suggested the commissioners

compare her 1994 budget to her current budget and then compare those with other county departments to see how much the DHS budget has increased over the years.

After Mr. Vick left, Mr. Ensign returned to the previous discussion, asking if utility companies should be contacted in regard to County Road 17.3 if the petition is filed and a hearing held. Mr. Kimble stated that it would be good to know if there are underground or aboveground utilities to consider. The sheriff said that if the commissioners do agree that the road should remain a county road, they should probably survey it to determine exactly where it ends.

Ms. Devers returned with a copy of the deed for the property, which was signed over to Hansen Ranch Company in 1962 by Mary, Norton and Wilbur Hansen.

Discussion turned to the issue with the coroner being allowed to use emergency lights and siren when responding to death calls, and Ms. Devers provided several state statutes that were sent to her by George Tinker with CTSI. Mr. Tinker's email stated, "...increased liability is directly linked to potential liability arising out of a crash and/or injury if an emergency vehicle is not driven with 'due regard for the safety of others,' a standard of care for emergency vehicle operation and their operators. Specific to the 'due regard' standard of care, law enforcement and emergency vehicle operators must have specific training relating to procedures and the liability of operating 'hot' or with red lights and sirens." 42-1-102 C.R.S. "does not specifically name the coroner under the definition of Authorized Emergency Vehicles", so "unless the coroner might somehow be considered a special-purpose vehicle whose primary purpose is 'to protect and preserve life and property,' operating 'hot' with red lights and sirens would be illegal and creates a huge liability for the county and personally for the coroner." He felt the coroner could, however, be allowed to use warning lights at an accident scene if authorized by the sheriff, according to 42-4-239 C.R.S., but that they should not be red and blue.

Sheriff Nestor had checked with local law enforcement agencies, and the CSP, Limon PD, and Hugo Marshal could not think of any time the coroner would need to run with lights and siren to a scene. However, they would all support some type of lighting for safety reasons on a scene. All agencies also had concerns with the lack of response training that the coroner would have, as well as the purpose and design of the vehicle. Surrounding county sheriffs that were contacted all stated their current coroner vehicles are equipped with lighting only for the purposes of scene safety, but none run emergent to any scene. The sheriff said he would support either amber and white or red and white lights, but would prefer the amber and white.

Mr. Schifferns wanted to know if he had any extra lights available that could be used so they didn't have to purchase some. Sheriff Nestor said he could check to see if he has extra lights but someone would have to install them, as he no longer has a deputy who can do that. He added that one of the previous coroner deputies had installed the lights in the current coroner vehicle, so those would have to be replaced. Mr. Schifferns asked if they could possibly switch out the lenses so they didn't have to have the whole thing rewired.

Mr. Ensign asked the sheriff if he had deputized Andy Lorensen or any of the coroner deputies, but Sheriff Nestor said he had not. One of the coroner deputies is a jail deputy and another is a reserve deputy, but they are not authorized to run emergent on the roads.

Mr. Kimble commented that he simply believes the liability is too great to allow Mr. Lorensen to use lights and siren to travel to a scene, and Mr. Ensign went to ask Mr. Lorensen to come and speak with the commissioners.

Mr. King told Mr. Lorensen that the commissioners had received a complaint that he was using red and blue lights and excessive speeds to death scenes so had checked with the county's insurance carrier to see if it would be a liability, which they agreed it is. He went on to explain that it would be acceptable to use amber and white or red and white lights for safety reasons while on a scene, but that "running hot" will not be allowed because of the liability. Mr. Lorensen said he understood but that the lights are already on the coroner vehicle and he doesn't know how to remove them. Mr. King told him to see if there is a way to change the lamps and Mr. Lorensen agreed to do so.

As for the request for a new cell phone, Mr. King asked what issues Mr. Lorensen is having with his current phone. Mr. Lorensen said he is dropping calls and does not believe it is the service or carrier since he is not having the same problems with his personal cell phone. He asked that the county purchase a basic flip phone and Ms. Devers said that on the government plan, a smart phone can be purchased for around \$50. Mr. Ensign said he had seen an advertisement that Verizon Wireless is restructuring their pricing the first of July, so felt it may be a good idea to wait. The Board will discuss it again at their next meeting on July 7.

Ms. Devers informed Mr. Lorensen that his using the commissioner's phone line for his fax machine is not working and felt he should get his own fax line. Mr. Lorensen will contact Eastern Slope to request a new line. Ms. Devers said he would also have to have a new fax number and the Board allowed Mr. Lorensen to purchase new business cards since the cards he just ordered have the old fax number on them. He also requested that he be allowed to buy business cards for his deputies and the commissioners agreed as long as he has the money in his budget.

Mr. Lorensen said he wanted to be clear that the commissioners do not want him to use his emergency lights when going to a scene and Mr. King stated that was correct. Mr. Kimble added that the sheriff can authorize him to use lights when at the scene, but that he would like them to be amber and white.

Mr. Lorensen informed the Board that he will need to attend another mandatory conference in October that he was unaware of when he turned in his 2015 budget request and wanted them to know that he may be over his budget in that line item.

Mr. Kimble reported that the county's insurance carrier did not like the agreement with GPA & GPE, Inc., d.b.a. Gravity Play Events, for a Kid's Bounce House and Adrenaline Rush Obstacle

Course for the county fair so he created one and removed the indemnification clause. Mr. King suggested they send Mr. Kimble's rewritten agreement to the company to see what they say, and Mr. Kimble suggested including a letter explaining that county government cannot indemnify anyone.

Mr. Stone made a motion to sign the agreement with GPA & GPE, Inc., d.b.a. Gravity Play Events, rewritten by Mr. Kimble, for a Kid's Bounce House and Adrenaline Rush Obstacle Course at the county fair. Mr. Schiffers seconded the motion, which carried unanimously.

Mr. Kimble reported receiving an email from Land Use Administrator John DeWitt concerning the Michael Kotrba property and the issues that had arisen there. CDPHE has decided they will not pursue the complaint so it will be up to the county to determine how to proceed with the various violations. Mr. Kimble said he would file a Notice and Order that will notice all items in violation and then order that those issues be corrected in a certain amount of time. If Mr. Kotrba does not comply, they may need to take it to court.

County Assessor Jeremiah Higgins stopped in with the projected assessed valuation numbers for the year and then, with no further business to come before the Board, the meeting was adjourned until 9:00 a.m. on July 7, 2015.

Corinne M. Lengel, Clerk to the Board

Greg King, Chairman