

Board of County Commissioners of Lincoln County  
Agenda for August 18, 2016

9:00 Call to order and Pledge of Allegiance

9:00 James Martin, Evergreen Systems & Technology, L.L.C., to discuss fees for recycling at the Lincoln County Landfill

10:00 Ron Christensen, Project Manager Fiber Optic Deployment, Monica Houston, Associate Counsel, and Jon Becker, VP Government & Business, representing Viaero Wireless, to discuss revising the Lincoln County Utility, Pipeline and Miscellaneous Road Way Crossings or Easements Use Requirements

1. Approve the minutes from the August 5, 2016, meeting
2. Review the July, 2016, Statement of Revenues and Expenditures for County General, Public Health, Capital Projects, Conservation Trust, E911, Landfill, Library, Lodging/Tourism, Road and Bridge and Individual Road Districts
3. Review the July, 2016, reports from the County Assessor, County Clerk & Recorder, County Sheriff and County Treasurer
4. Review the July, 2016, reports from the Colorado Counties Casualty and Property Pool and the County Workers' Compensation Pool
5. Review the January 1, 2016, to June 30, 2016, Schedule for Receipts and Disbursements as prepared by the County Treasurer
6. Discuss the pending vacancy in the Land Use Administrator/O.E.M. position
7. Review and act upon a Master Services Agreement with American Environmental Consulting, L.L.C. for services at the Lincoln County Landfill
8. Review the 2016 Final County Notice of Valuation for State Assessed Properties
9. Review and act upon proposed changes to a Revocable Nonexclusive License Agreement for Placement and Maintenance of Energy Pipelines within Lincoln County Right Of Way submitted by Nighthawk Production, L.L.C.
10. Discuss and act upon change order requests from EMR Enterprises, L.L.C., with respect to the Lincoln County Fairgrounds Wastewater System Improvement Project
11. Discuss and act upon landfill use rates for Lincoln County municipalities for 2017
12. Review and approve the Lincoln County, Colorado, Consolidated Cost Allocation Plan and Indirect Cost Rate for the Year Ended December 31, 2015
13. County Commissioner reports
14. County Administrator's report
15. County Attorney's report
16. Old business
17. New business

The Board of Lincoln County Commissioners met at 9:00 a.m. on August 18, 2016. The following attended: Chairman Greg King, Commissioners Doug Stone and Ed Schifferns, County Administrator Gary Ensign, County Attorney Stan Kimble, and acting Clerk to the Board Mindy Dutro. Clerk to the Board Corinne M. Lengel was absent and excused.

Chairman King called the meeting to order and asked James Martin to lead the Pledge of Allegiance.

Mr. Martin met with the commissioners regarding the charges for electronic recycling at the landfill; about how it has gotten to the point that it isn't financially feasible for his company, Evergreen Systems & Technology, L.L.C., to continue to charge only \$10.00 per television when the companies he takes them to in the city charge by the pound or approximately \$25.00 per television. Mr. Martin stated that he has been just storing all the recycled electronics for the county because of the time and money it costs him to take them to the city. He proposed that the county put in a digital, battery operated, 500 pound capacity scale and weigh and charge electronics by the pound. He stated that currently computer monitors and sound systems are the heavy items that his company recycles for the county and they don't charge anything for them. Mr. Martin gave the commissioners a couple of quotes from recycling companies in Denver, including Electronic Recyclers International, Inc., for 35 cents a pound, which is one of the cheaper options he had found. However, they have really bad hours that don't work for Mr. Martin and his business. Electronic Recyclers International gives the county the option to come and pick up the electronics, but the county would be responsible for sorting all the different electronic types, putting them on pallets, and shrink-wrapping them, which would be cheaper the more pallets they fill. Genesis Electronics Recycling was another company that Mr. Martin received a quote from. He has never used them because they are very expensive, even though they also have the option of coming to pick up the recycled electronics. Mr. Schifferns asked if the scale would be able to weigh the really big television sets and Mr. Martin told him that it could. The whole unit does not have to completely touch the scale as long as it isn't touching the ground at all.

Mr. Martin's recommendation for the county was to go with Electronic Recyclers International because they would be able to eliminate his being the middle man between the recycling and the county, since he is currently losing money doing it. Mr. King asked if the landfill had a skid steer that the landfill could move the pallets around with. Mr. Martin told the Board that the landfill didn't as far as he knew. Mr. Ensign wanted to know who would be responsible for the sorting of the electronics and Mr. Martin stated that it would be part of the landfill employees' job. Mr. King stated that there was a lot of logistics to look at.

Mr. Martin said that the county can opt out and say they don't want to collect electronics for recycling anymore, it is not required. Mr. Schifferns stated that if they decided to quit people would probably get mad but they could also get mad if the prices increased. Mr. Martin suggested that the county start with four pallets and sort electronics as they come into the landfill. He added that he would find out if Electronic Recyclers International would provide the pallets and see what the mileage costs would be for them to come and pick up the pallets, as

well as ask what neighboring counties do for electronic recycling. He agreed to bring his findings back to the board at the August 30, 2016, meeting at 9:00 a.m.

After Mr. Martin left the meeting Mr. Stone made a motion to approve the minutes from the meeting held on August 5, 2016, as submitted. Mr. Schifferns seconded the motion, which carried unanimously.

July 2016 statements of revenues and expenditures were reviewed for the various funds: Public Health, Capital Projects, Conservation Trust, E911, Landfill, Library, Lodging/Tourism, and Road & Bridge; as well as the individual road districts. The Board also reviewed the July 2016 reports from the County Assessor, Clerk, and Treasurer as well as the Colorado Counties Casualty and Property Pool and the County Workers' Compensation Pool reports. The Board also reviewed January 1, 2016, to June 30, 2016, Schedule for Receipts and Disbursements as prepared by the County Treasurer.

At 10:00 a.m., Ron Christensen, Project Manager Fiber Optic Deployment, and Monica Houston, Associate Counsel, representing Viaero Wireless, met with the Board to discuss revising the Lincoln County Utility, Pipeline and Miscellaneous Road Way Crossings or Easements Use Requirements, along with Land Use Administrator/O.E.M. John Dewitt, Tony Lyons with Eastern Slope Technologies, and landowners Kyle and Steve Newsom, Gary Beedy, Lawn Thompson, and Ed Rohrbaugh.

Ms. Houston stated that the issue they have with the permit the county currently requires is that Viaero would have to obtain easements from every landowner whose property their fiber optic line goes through, and according to Colorado Revised Statute 38-5-5.5-103 that is not required. She asked that the county amend their current permit application to delete the first paragraph on page two that states the easements are required. Ms. Houston told the Board that it can stall their production if only one landowner objects.

Mr. Kimble stated that he understands the landowners' concerns because they technically own to the middle of the county road, but the county has the rights-of-way of all county roads. He didn't think the Board can require Viaero, as a utility company, to obtain easements because of how statute reads.

Ms. Houston said that Viaero wants to be on good terms and work with the landowners so that they can be aware of any water lines or other lines that they may come in contact with. She stated that if the commissioners would agree to take out the paragraph in the application requiring the easements, Viaero would turn in a new permit.

Mr. Kimble told the Board that the county could get into trouble if they contradict statute, if it wasn't a utility easement then they could tell Viaero that they had to obtain the easements. Mr. Christensen told the Board that it was his fault that they overlooked the easement paragraph on the permit application and stated that in Logan County they are required to notify the landowner before they put in their fiber optic line. Mr. Thompson told the Board that is the

reason they were there as landowners because Viaero just started tunneling without any notice to the landowners. He wanted to know what they were going to do about marking the boxes they install and what would happen when one of those utility boxes are run over because they are in the way of farming practices. Mr. Beedy stated that it would be nice for some sort of agreement to be recorded for the future so that they always know what is in the land.

Steve Newsom stated that he didn't have a problem with Viaero but that they just had no idea what was going on when they started trenching, and they would have liked to have some say in where the boxes go. He told the commissioners that the reason they farm as far to the road as possible is because it helps them control the weeds that grow in the ditches.

Mr. King asked Mr. Lyons if Eastern Slope has ever had a problem with the landowners when they trench new lines. Mr. Lyons stated that they have never had a problem as long as they communicate with the landowners.

Ms. Houston brought it to the Board's attention that statute dictates that counties cannot have unreasonable requirements that cannot be met by the utility companies. Mr. Kimble suggested that the Board remove the paragraph from the permit application pertaining to the requirements of easements and replace it with a notice to the landowners including some sort of recording of where the lines are going.

Mr. Rohrbaugh agreed that it would have been nice to be notified that they would be trenching. Mr. King asked the landowners if they would be happy with a notice requirement. Mr. Thompson stated it would be nice because Viaero could have damaged two water lines as well as a sewer line and power line in about 100 yards on County Road 3R. Kyle Newsom stated that a reasonable heads up and working with the landowners as to where the boxes go would have been nice. He said they learned about the trenching when they found locator flags in the wheat they were about to cut.

Mr. Kimble stated he would get Logan County's requirements so that Lincoln County has a sample to revise their permit application from. Mr. Christensen stated he is very easy to work with but they need to address this issue and come to a conclusion so that Viaero can continue their project. He said they abandoned the original route and are now going down Highway 71 since it is a state highway and the easements are not required. As soon as they get to Lincoln County road 3P they will have to go back west into Elbert County, which should be around the end of September. He would like to have the permit requirement changed by then so that he doesn't have to get easements but can simply notify the landowners.

All of the commissioners agreed that the key is communication between Viaero and the landowners. Mr. Christensen stated that Logan County is the only county where notifications are required. Every other county he has worked in does not require anything but the notification process is a good practice to have. Mr. DeWitt stated that in the three and a half years that he was worked for Lincoln County, this is the first time they have ever had a problem with the permit process. Mr. King told Mr. Christensen that working with the landowners

would go a long way and the landowners present agreed that a notification would be acceptable instead of the easement. Mr. Christensen, Ms. Houston, Mr. Lyons and the landowners left the meeting at 10:55 a.m.

At 11:00 a.m. John DeWitt met with the Board to discuss the pending vacancy in the Land Use Administrator position. Mr. DeWitt stated that they received five applications and he reviewed all of them. There was only one person who has a construction background, which he thinks is necessary because of the inspection tests that the job requires. The tests are very difficult without the background. After the commissioners reviewed all five of the applications, they agreed to interview two of the applicants on Tuesday, August 23, 2016, at 9:00 a.m. and 9:30 a.m.

The Board reviewed the Master Services Agreement with American Environmental Consulting, L.L.C., for services at the Lincoln County Landfill. Mr. Stone made a motion to approve the agreement as submitted. Mr. Schiffers seconded the motion, which carried unanimously.

Next, the Board reviewed the 2016 Final County Notice of Valuation for State Assessed Properties. Mr. Ensign stated that for the second year in a row no complaints would have to come before the Board.

Mr. Kimble had the commissioners review the proposed changes to a Revocable Nonexclusive License Agreement for Placement and Maintenance of Energy Pipelines within Lincoln County Right-of-Way submitted by Nighthawk Production, L.L.C. He spoke with Ryan Sullivan with Nighthawk about if they are required to notify the landowners and Mr. Kimble asked the Board what type of compensation they wanted required. Mr. Ensign stated that he would like to see a one-time payment and not have to send a bill every year. Mr. Kimble asked if a one-time payment of \$1,000.00 would be sufficient, as well as other costs if they violate the provisions set forth in the agreement. Mr. Schiffers made a motion to set the Revocable Nonexclusive License Agreement for Placement and Maintenance of Energy Pipelines within Lincoln County Right-of-Way payment as a one-time payment of \$1,000.00, as well as additional costs if they violate the provisions. Mr. Stone seconded the motion, which carried unanimously.

Mr. Ensign told the Board that a change order request from EMR Enterprises, L.L.C., with respect to the Lincoln County Fairgrounds Wastewater System Improvement Project, came to him. Since the groundwater at the fairgrounds is not at a constant depth, EMR had to change the classification of bedding the pipe had to be laid in. They had to haul in rock to bed the pipe, which resulted in \$5,112.90 additional cost in supplies, \$3,105.00 for use of a backhoe, and approximately \$7,000.00 in labor. EMR had a final request of \$15,587.10, to which Mr. Ensign stated he made the counter offer of \$8,217.90. EMR agreed to absorb the additional cost of the labor. Mr. Ensign proposed that the Board approve the change order of the settled-upon amount because of the good quality of work that EMR did on the job, including having to work around events planned at the fairgrounds. Mr. Schiffers made a motion to approve the settled-upon change order amount of \$8,217.90 to EMR. Mr. Stone seconded the motion and it carried unanimously.

Mr. Kimble told the Board that Channel 7's CORA request of the Department of Human Service's client drug tests could not be fulfilled according to statutes. Mr. Kimble also informed the Board that the Department of Human Services had received a complaint regarding how a client and his children were treated. DHS Director Patricia Phillips found the department's grievance policy regarding complaints and forwarded it to Mr. Kimble. According to the policy, the complaint has to be filed in written form and the commissioners then decide if they want to investigate or have an outside county agency investigate, such as the State Department of Human Services. Mr. King stated that if the policy says the Board has to handle the complaint then they have to. Mr. Schifferns stated that it would be best to send it on to the State Human Services office because they would be the most non-biased.

Mr. Kimble informed the commissioners that he had received a letter in support of Invenergy's proposed additional renewable energy generation in Eastern Colorado but suggested they wait to review it because the project is already in the hearing phase.

Mr. King wanted the Board to be aware of the fact that Douglas County recently passed the ordinance of allowing 12 marijuana plants (including 6 medical and 6 recreational) per facility, no matter how many licenses were held. Mr. Kimble mentioned that a few towns in the surrounding counties were looking into this as well.

Mr. Ensign asked the commissioners to review the landfill use rate of \$6.50 per cubic yard for Lincoln County municipalities for 2017, stating that the last time there was an increase in rates was in 2014. Mr. Stone made a motion to leave the landfill use rate for Lincoln County municipalities at \$6.50 per cubic yard for 2017. Mr. Schifferns seconded the motion which carried unanimously.

The Board reviewed the Lincoln County, Colorado, Consolidated Cost Allocation Plan and Indirect Cost Rate for the Year ended December 31, 2015, as submitted by county auditor Ronny Farmer. Mr. Schifferns made a motion to approve the plan as submitted, Mr. Stone seconded the motion and it carried unanimously.

Mr. King called for commissioner reports and Mr. Stone reported that on August 8 he went to the county shop in District 3 where they were mowing and blading the roads. On August 9, Rick Ashcraft had to have the Mac truck fixed. He also reported that the fair was well attended. Mr. Stone stated that at the rodeo on Friday, August 12, the breaker kept getting thrown. Mr. King said that Shideler Electric fixed it first thing the following Saturday. Mr. Stone checked roads on August 15, stating that County Road 27 has been really sandy so they are hauling in some clay sand to try and fix it. On August 16, he checked roads in the south and southwest part of the county and a tube they put in on County Road P is settling so they will have to get some oil on it.

Mr. Schifferns reported that on August 5 he went to the fairgrounds to make sure it was ready for fair. He also attended the Town of Arriba meeting that evening, stating that one of the board members quit so they will be replacing them soon. On August 9, he met with the sheriff

regarding the cattle being shot in the area and said the reward had grown to \$12,500.00. Mr. Schifferns stated that he met with Senator Cory Gardner at the fair and he agreed that the fair was well attended. On August 16, his road district hauled more dirt to the road by Tom Rhule's.

Mr. King reported that he received lots of good compliments on how the fair looked. On August 14, he received an email from a landowner north of Arriba that the roads around their house had not been mowed, to which Mr. King stated they had two tractors down in need of repairs. As soon as they got them fixed, they mowed the area. He also reported that a turbo had been blown on a CAT but they got it fixed. Mr. King reported that the hospital parking lot looked good after the recent painting.

Mr. King called for the County Administrator's report and Mr. Ensign told the Board that the Northeast Colorado Counties budget meeting is coming up on September 16 and that the Board has attended in the past. Mr. Stone mentioned that they usually go to the district portion of the meeting at 10:00 a.m. held at the Akron events center. The Board agreed to attend the meeting together. Mr. Ensign reported that Centennial Mental Health is not asking for any budget money for 2017. The commissioners also agreed to attend the County Health Pool meeting in Denver on September 15, 2016.

Mr. King called for new business and Mr. Schifferns mentioned that he had a local resident speak to him about communication in the event of a natural disaster. The resident felt the only way to communicate throughout the county would be through ham operator radio and that there is a local club and to keep it in mind.

Mr. Ensign asked the Board to clarify that the costs associated with the Hugo water situation regarding the alleged THC in the water were to be covered by the county, and the commissioners agreed. He also stated that GMS is going to put together numbers on the new fair building as well as concrete to fix the annex. Mr. Ensign told the commissioners that the rain gutters on the annex need to be fixed so that it drains to the side of the building instead of the middle on the concrete. He reported that John Mohan has been periodically checking under the annex building to make sure it is staying dry, which it is, so the sump pump must be working.

The Board discussed ideas for fair in future years, including better advertising posters, a tractor pull, and also fireworks.

With no further business to come before the Board, the meeting was adjourned until 9:00 a.m. on August 23, 2016.

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Mindy Dutro, acting Clerk to the Board

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Greg King, Chairman