

Board of County Commissioners of Lincoln County
Agenda for September 19, 2016

9:00 Call to order and Pledge of Allegiance

9:00 Kevin Kuretich, State of Colorado, Department of Local Affairs, Division of Emergency Management, to discuss the Office of the Lincoln County Emergency Manager

1. Approve the minutes from the September 7, 2016, meeting
2. Review and act upon a proposed independent contractor agreement with Mr. Margarito Garcia to dispose of discarded electronic items from the Lincoln County Landfill
3. Review the August, 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
4. Review the August, 2016, reports from the County Assessor, County Clerk & Recorder, County Sheriff and County Treasurer
5. Review the August, 2016, reports from the Colorado Counties Casualty and Property Pool and the County Workers' Compensation Pool
6. Review employee timesheets for Lincoln County Weed Coordinator Wayne Shade
7. Review the 2016 Lincoln County Property Assessment Study prepared by the Audit Division of Wildrose Appraisal, Incorporated
8. Appoint Mr. Mark James to the Lincoln County Land Use Board to fill the vacancy created by the resignation of Mr. Scott Ravenkamp
9. Review a letter from the Colorado Department of Public Health & Environment regarding a draft compliance order on consent for the Lincoln County Landfill
10. Review and act upon employer options for the 2017 plan year for medical, dental, vision and life insurance through County Technical Services, Incorporated
11. Review and act upon an amended scope of work for the Emergency Preparedness and Response Public Health Emergency Plan
12. Review and act upon a Memorandum of Understanding for Control of Confidential Data for the Lincoln County Sales and Use Tax and the Lincoln County Lodging Tax
13. Review and act upon amended full time employees' pay schedules
14. County Commissioner reports
15. County Attorney's report
16. County Administrator's report
17. Old business
18. New business

The Board of Lincoln County Commissioners met at 9:00 a.m. on September 19, 2016. The following attended: Chairman Greg King, Commissioners Doug Stone and Ed Schiffers, County Administrator Gary Ensign, County Attorney Stan Kimble, and Clerk to the Board Corinne M. Lengel.

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

Kevin Kuretich, Regional Field Manager for the Northeast Region of the State of Colorado Department of Local Affairs, Division of Emergency Management, met with the Board to discuss the office of the Lincoln County Emergency Manager. Others attending the discussion were Land Use Administrator/OEM John DeWitt, Sheriff Tom Nestor, Jail Captain Michael Yowell, Public Health Director Sue Kelly, and EPR Coordinator Richard Johnson. Margarito Garcia was also in attendance at 9:00 a.m.

Mr. Kuretich gave the group some history regarding his position with the state, as well as what the Emergency Management Program grant is all about. Grant monies are received by the state from FEMA through the Department of Homeland Security on an annual basis. The state then distributes 80% of those funds to local governments with emergency management programs. The grant funds may be used to establish an OEM or to extend offices that already exist. Colorado Revised Statute dictates OEM requirements, and Mr. Kuretich said the program has been a part of Lincoln County for many years. He explained that the emergency manager proposes an annual budget and the state then attempts to match up to 40% of that budget with federal funds. He added that there are minimal qualifications that must be met to receive the funding and most of what is granted generally goes for the emergency manager's salary. According to statute, specifically 24-33.5-706 through 708 C.R. S., every county shall have a designated person to take on the responsibilities of emergency management. Mr. Kuretich said it is generally a smooth process and all the state really needs is a point of contact. Sometimes it is a county commissioner or other elected official who is designated as such; it simply depends on the jurisdiction. Mr. Kuretich added that Mr. DeWitt is required to complete quite a bit of paperwork and provides quarterly updates, commenting that he is up to speed and the state is very happy with his achievements. Mr. Kuretich went on to say that the OEM in Lincoln County has been a part-time position for approximately fifteen years but it has been an excellent program, and he hopes that practice continues.

Mr. King asked if the state would keep the grant match if the county chose not to fill the position, and Mr. Kuretich responded that the state would pull the funding back and pass it on to other programs or jurisdictions. Mr. Schiffers wanted to know how the commissioners would go about designating a point of contact and was told that there is a form that Mr. DeWitt could complete to designate the change. Mr. Kuretich added that if the county then decided to hire someone, they would simply fill out another form.

Mr. Stone asked what the chain of command is when an incident occurs and was told that some counties refer to the sheriff, while others notify the county commissioners or health

department. If the position is vacant, the Board can designate whoever they want or assign to whichever agency they prefer, as long as they provide the point of contact to the state.

Mr. King asked Mr. DeWitt how much time he spends on emergency manager duties and was told that it simply depends on the week. Mr. DeWitt said he can spend anywhere from ten to fifty hours, depending on what may be happening. He added that there can be no potential to grow the program, however, if the position is attached to another and not made into full time.

Mr. Kuretich put in that hazards seem to have a high occurrence in this region, as he knows of thirteen presidential disaster declarations in the years since he has been in his position. The emergency manager meets with external agencies, completes paperwork, attends and provides training events, and provides multi-agency coordination. He added that a “good week” might take twenty hours of an emergency manager’s time, while the following week could take up to eighty hours.

Mr. King asked what training is required to become an emergency manager and was told that all ICS classes (100 through 400) must be completed, as well as several independent courses related to evacuation and re-entry, as well as public information classes. Mr. Kuretich felt the proper training could be completed within two years, adding that there is an annual emergency manager academy at the state that is extremely beneficial as well. The emergency manager would receive a professional development series national certification from FEMA once the academy is complete. The state does pay for the academy, as well as lodging and the certification.

Mr. Schifferns asked how much longer Mr. DeWitt plans to stay with the county and was told that he will make sure the newest wind farm permits are complete if it comes to that.

Mr. King asked Mr. Ensign how the county could avoid paying benefits should they choose to hire someone part time and was told that he or she could work no more than thirty hours per week before accruing benefits.

Mr. Stone and Mr. Schifferns both felt the Board needed to discuss the subject in greater detail before making a decision. Mr. Ensign clarified with Mr. Kuretich that the state would backfill emergency managerial services if there is an emergency-related incident in the interim, and Mr. Kuretich promised that he, or someone, would come to assist.

Mr. King asked if anyone else had anything to add and Sheriff Nestor said that he and Mr. Kuretich have worked together in the past. Richard Johnson said that he wants the position and stated that he does have all of his ICS training, adding that he feels he has improved the EPR program since taking it over a year ago. Mr. King asked him how he proposes to serve two different bosses, as the EPR Coordinator falls under Public Health but it seems that the OEM would have to answer to the county commissioners. Sue Kelly spoke up to say that if they made the position to fall under Public Health, then it would be a full time position rather than two part-time positions.

When Mr. Kimble asked if the emergency manager oversees all aspects of an emergency incident, Mr. Kuretich responded that while it is true that the emergency manager is the coordinator, he must work closely with other experts in the field of the type of disaster that is occurring.

Ms. Kelly asked if the commissioners would have to have the training if they were to not designate an emergency manager. Mr. Kuretich said the state does not currently have a county where the commissioners are the OEM. Mr. King put in that commissioners, like all elected officials, are required to have at least the ICS100 and ICS200 classes, which is a basic understanding of the process.

Mr. DeWitt commented that his view of how an emergency manager should operate is to be strictly support for the professionals who normally deal with those types of incidents; not to be running everything or "in charge." He added that he offers help wherever it is needed and in whatever manner possible any time he has had an emergency.

Mr. Kuretich stated the county may want to look at a declaration to obtain other resources, adding that he knows of very few emergency managers who are incident commanders. That designation normally falls to the sheriff or health department. Mr. Kimble said that, according to state statute, a disaster can only be declared by the principal executive officer of a political subdivision. Mr. Kuretich responded that it is generally the county that declares the disaster; the coordinator would contact the county commissioner and request that declaration.

Mr. Kuretich said he also has a four-hour module course that he would be happy to come back and teach if the commissioners were interested. Since the 2016 OEM budget was a little over \$20,000, Mr. King asked if the state would only reimburse the county \$10,000 if the county agreed to fund a full time position. The answer was that funding is available and if the county truly wants a full time emergency manager, the state most definitely would try to provide more matching funds for that position.

When Sheriff Nestor asked how many emergency managers are supervised by the sheriff's office, Mr. Kuretich answered that there are none in the northeast region and only seven or eight statewide.

Most of the group left but the sheriff and captain remained behind to discuss other issues. Mr. King asked the sheriff for the camera bid but Sheriff Nestor said they were still trying to decide if they could afford it, as they are roughly \$4,500. He is concerned with the cameras being damaged, although he did say that they could be used for various things as they are portable.

As for the marijuana ordinance, Sheriff Nestor said he'd spoken with Chief Yowell with the Limon Police Department and Marshal Shier with the Hugo Marshal's office regarding the ordinance. Both are in agreement that they want to watch the situation. He added that El Paso County adopted the ordinance but has not yet seen any lawsuits associated with it. Neither has Douglas County, according to Mr. Kimble. The sheriff went on to say that legislation passed and

new law will go into effect in January that prohibits more than 98 plants on any given property. He added that the ordinance and law together may provide more ground for them to stand on.

Sheriff Nestor said he is not opposed to having the OEM under his department but he has no one available at this time that could perform those duties. He added that it is his hope to hire a communications supervisor at some point, and perhaps adding the OEM duties to that person's job duties would be a good way to turn it into a full time position.

Captain Yowell informed the Board of a possible lawsuit being filed by an inmate; however, the county has not been served a summons yet. Mr. Kimble added that a complaint was filed but those named in the complaint have yet to be served summons'. The captain stated that it has been going on since February and Mr. Ensign put in that CTSI did not get involved back in April because no one had been served, adding that CTSI will need to be notified immediately if the summons' do get served.

Margarito Garcia had come to meet with the Board regarding a possible independent contractor agreement to take electronic recycling from the landfill. Mr. Garcia stated that he doesn't really have a business; therefore no means of accepting payment from the county, nor does he carry any type of insurance, such as Workers' Compensation or liability insurance. Mr. Kimble stated that it is a requirement of the county's insurance that any contract employee carry such insurance and felt they would not be able to make an agreement with Mr. Garcia after all.

Mr. Ensign commented that he'd gone up to the landfill on Saturday and looked at the Conex container that currently stores the electronics that the county has collected. It is about half full. When asked how long they had been collecting the items, Mick Jaques said he really couldn't say. He asked if the county could accept the items and collect the money and then haul them to Mr. Garcia for disposal. Mr. Garcia stated that if he would not make any money off of the items, he didn't see how it would be to his benefit. Mr. Kimble said that he was under the impression that Mr. Garcia would take the items for what he could get out of them but Mr. Garcia said there is no money in that. The group determined that the best solution would be to put up a sign somewhere near the landfill, or to at least allow Mr. Garcia to leave business cards or flyers at the landfill so that patrons had an option other than paying the county's new fees for accepting electronic items. Mr. Kimble said that the county would have to allow any other person with a comparable business the same opportunity and the commissioners agreed.

Mr. King wanted to know if they could simply stop accepting electronics at the landfill. Mr. Kimble said that Kennard Holley had wanted basically the same thing so it wouldn't be right to allow it for one and not another. He added that people may want to voluntarily use Mr. Garcia if he charges less than the county does, and Mr. Garcia said he would advertise something to let people know he is in the business.

When Mr. Garcia had gone, Mr. Stone made a motion to approve the minutes from the meeting held on September 7, 2016, as submitted. Mr. Schifferns seconded the motion, which carried unanimously.

The Board reviewed the August 2016 Statement of Revenues and Expenditures for the General, Public Health, Capital Projects, Conservation Trust, E911, Landfill, Library, Lodging/Tourism, and Road & Bridge funds, as well as the individual road districts. Also reviewed were the August 2016 reports from the Assessor, Clerk, Sheriff and Treasurer, and the Colorado Counties Casualty and Property Pool and County Workers' Compensation Pool reports for August.

Timesheets for County Weed Coordinator Wayne Shade were reviewed, as well as the 2016 Lincoln County Property Assessment Study prepared by the Audit Division of Wildrose Appraisal, Incorporated.

Mr. Stone made a motion to appoint Mark James to fill the vacancy on the Land Use Board and Land Use Board of Adjustment left by Scott Ravenkamp, effective immediately. Mr. Schifferns seconded the motion, which carried unanimously.

The Board reviewed a letter from the Colorado Department of Public Health & Environment regarding a Draft Compliance Order on Consent for the Lincoln County Landfill. Mr. Ensign stated that the next step is for the county to hold a meeting with the state to discuss their findings. He hopes they will allow a conference call again and informed the Board that he will need to enlist the help of Mark McMullen as he did during the last conference call. Hopefully they will be able to negotiate some of the fines. Since he does not fully understand the landfill regulations, Mr. Ensign said he will simply have to rely on Mr. McMullen's expertise. As a result of some of the findings, Mr. Ensign also stated that the county may need to consider changing the hours of operation at the landfill in order to allow staff sufficient time to complete the necessary tasks. Another consideration would be for the commissioners to think about adding another employee.

Mr. Ensign went on to say that while he was at the landfill he looked at the equipment they have, stating that the old white dump truck hasn't been moved in seven or eight years. The other truck is what was used to pull the old cover machine but it, too, doesn't appear to have been used in several years.

The Board reviewed the employer options for the 2017 plan year for medical, dental, vision, and life insurance through the County Health Pool. Mr. Ensign stated that there is an increase of a little over three percent in the medical insurance and three percent in the vision insurance, which equates to roughly a \$51,000 overall increase. The commissioners agreed that they like the health pool and the current plan and saw no reason to change anything at this time. Mr. Schifferns made a motion to approve the County Health Pool Plan A for employee health, vision, dental, and life insurance for 2017. Mr. Stone seconded the motion, which carried unanimously.

After reviewing the amended scope of work for the Emergency Preparedness and Response Public Health Emergency Plan, Mr. Schifferns made a motion to approve the amendment. Mr. Stone seconded the motion, which carried unanimously.

The Board reviewed Memorandums of Understanding for Control of Confidential Data for the Lincoln County Sales and Use Tax and the Lincoln County Lodging Tax. Mr. Stone made a motion to appoint County Administrator Gary Ensign as the designated official in control of confidential data for the Lincoln County Sales and Use Tax. Mr. Schifferns seconded the motion, which carried unanimously. Mr. Schifferns made a motion to appoint County Administrator Gary Ensign as the designated official in control of confidential data for the Lincoln County Lodging Tax. Mr. Stone seconded the motion, which carried unanimously.

Mr. Ensign produced the county employee pay scale recommendations made by county department heads. Some employees have reached the top of the scale with their length of employment and department heads had concluded that it was time to add steps to the current levels in order to allow employees with longevity an opportunity for a step raise. Each step has a designated period in which an employee must remain on that step, and Mr. Ensign said he had given Step 10 a three-year period since it did not have the designation. He also added steps eleven through fourteen; each at a two-year period as well. An employee who has been on Step 10 for three years would be eligible for advancement to Step 11 on his or her anniversary date in 2017, even though the addition of the steps to the pay schedules will go into effect on January 1, 2017. An employee would not be credited for more than three years on Step 10 in any given pay scale. There were several requests made by Public Health Director Sue Kelly to add Step 4.5 to the 35-hour week pay scale in order to accommodate the possibility of the Emergency Manager in the Public Health Department, but Mr. Ensign said he had heard from several other department heads who felt that was not a good idea. Therefore, he had ultimately ended up adding Level 7 after changing the current Level 5 to Level 6. Mr. Ensign added that the Public Health Director has been a contract employee for quite some time and stated that the Board had indicated they would prefer to change it back to a full time county employee once Ms. Kelly retires, similar to what they did with Patricia Phillips in Human Services. Mr. Ensign said that Sheriff Nestor had also requested the addition of Sheriff's Captain to the current Level 4 on the 40-hour week pay scale and Ms. Lengel had asked to add Driver Examiner to Level 2. Ms. Lengel stated that after further consideration, it made no difference to her if the Driver Examiner was considered a Clerk II, which is what the position currently is named.

After some discussion about the requested adjustments to job titles, the Board agreed that they would prefer to wait on those changes until more discussion could be held. Mr. Stone made a motion to adopt the following changes to each of the county's three pay scales: adding a three-year period to Step 10; and adding Steps 11 through 14 to each level at two-year periods. Mr. Schifferns seconded the motion, which carried unanimously. No further decisions were made or discussion held on other adjustments requested.

Mr. King called for commissioner reports and Mr. Stone reported checking roads on September 7. He was also stopped by a resident who wanted him to know that he felt the county's 911 phone system seems to be an issue. Apparently the party had attempted to dial 911 from a cell phone and got no response. On September 9, Mr. Stone met with Rick Ashcraft and they postponed their chipping project until Thursday. He also checked roads and reported they are mowing in District Three. Mr. Stone attended the fair board meeting on September 13, reporting that John Palmer stated he'd gone over budget on the sewer pumping. He felt all had gone fairly well but they definitely need more dumpsters and help, particularly on the last day of fair. John also reported that he was not very impressed with the carnival and that he didn't feel it was very well attended but thought adding more of the bouncy house activities would be a better idea. John did have a list of items he would like to change for next year's fair. Mr. Stone reported he had also spoken with Rick Ashcraft earlier in the day regarding the overlaying project and having things ready for Karval's homecoming this weekend. Mr. Stone attended the health pool meeting on September 15, and the eastern region commissioner meeting in Akron on September 16. They went over legislative priorities for next year and listened to a representative from Anadarko. They were also encouraged to vote yes on Amendment 71. There was also discussion about updating the 911 system statewide with a VIPER system, which is a costly call handling system of which there would only be three or four statewide. Mr. Schifferns added that the systems would be paid for through a quite expensive surcharge on a person's phone line. Mr. Stone finished his report by stating that he'd stopped on his way home from Akron as their chipper had broken down. He stated they had to haul some rock but everything worked out in the end.

Mr. Schifferns reported checking roads on September 8. They've also been mowing in District One but were having problems as the gear box went out of their 2014 rotary mower. He also attended the fair board meeting on September 13. The district is still working on putting in a water gap at Saffer's, they helped District Three chip on Thursday, and they also had a blade go down as it was burning too much oil. He added that District One is losing yet another employee at the end of the month. He attended the health pool meeting on September 15 and the eastern region meeting in Akron on September 16. They plan to haul mix to County Road 2W this week to do some patching.

Mr. King reported attending the Council of Governments meeting on September 7, stating that the broadband is making slow progress. He attended the fair board meeting on September 13, and talked with Mark McHone on September 14. District Two is mowing and graveled County Road 34. On September 15, Mr. King received a call from a resident asking what to do if she was unable to attend the Land Use hearing on September 29. Mr. King told her to send a letter to the Land Use Board and submit her concerns. Mr. King also attended the eastern region commissioner meeting in Akron on September 16.

Mr. Kimble reported that he still hasn't received the signed paper agreement from Nighthawk, even though he has sent several emails to Ryan Sullivan. He has had two meetings; one with John Lupo with Xcel, a phone conference regarding the Rush Creek II wind farm in Lincoln County. Mr. Lupo had some procedural questions for the hearings and Mr. Kimble said that it

appears the group is running across landowners who are saying the permit will not be given if there is eminent domain, which Xcel feels may be ruining their negotiations. Mr. Schiffers commented that he'd made the statement that he is not in favor of eminent domain but didn't specifically mention it in relation to wind towers. Mr. Kimble said he didn't know if the land use board had said anything but did tell Mr. Lupo that it wouldn't affect the permit process. He also met Krista Mann and Erin Degutis with Invenergy in Limon and they discussed the hearing process as well. They would like to meet with the Board to discuss sales and use tax negotiations, but Mr. Kimble said they certainly can't do so until the permit application has been approved. Both groups are concerned with the amount of the tax and the commissioners discussed how the sales/use tax was originally negotiated when RES built the first wind farm in Lincoln County. Mr. Kimble recalled that the tax was calculated on how much it would cost to build one turbine and then multiplied by the number of turbines in the wind farm. Mr. Ensign asked if the transmission line is taxed and Mr. Kimble responded that John DeWitt says it is not. Mr. King reminded the other commissioners to make sure that the road agreement includes provisions for screening material before it is put on the county roads.

Mr. Kimble also reported that he still had not determined the origins of the Land Use Board and that he had even asked Bob Safranek if he knew how it came about, but Mr. Safranek said it had been there as long as he could remember. According to statute, Mr. Kimble said a lot of what the land board does is similar to the actions of a planning commission. He felt it would be a good idea to reassess the issue once the hearings are complete, adding that he would put something together regarding what a planning commission's statutory duties are.

Mr. Kimble said he'd intended to discuss the lawsuit the sheriff's department appears to be involved in but since the sheriff and captain had already covered that, he saw no need. He also wanted the Board to be aware that he had gone over his contractual allotment of eighteen hours in the month of August, and most likely would do so again in September. He stated they may want to address the issue when his contract is up for renewal.

Lastly, he reported that John DeWitt did ask the sheriff to provide security for the Land Use Board hearing on September 29, simply as a precaution.

Mr. Ensign had nothing to report, and Mr. King called for old business but there was none.

Mr. King stated that the fair board had been given the choice of building a new show barn or a new extension building at the fairgrounds and had voted unanimously to approve the extension building. He added that Travis Taylor had done an excellent job of providing the pros and cons for both options and asked Mr. Ensign to see about obtaining a design engineer. Mr. Ensign stated he had spoken with GMS about it previously and they were supposed to be working on it, adding that he isn't completely convinced that the extension office needs to move from its current location. He cautioned the commissioners that the fund balance was depleted over \$800,000 last year and the county valuations are going down as well. He added that GMS was also supposed to be working on a bid for the courthouse parking lot, which is also due to be replaced.

Mr. Stone commented that Cheyenne County put in a new fair building that cost over \$500,000, but with the GOCO grant they received, they only ended up paying around \$90,000 for it.

With no further business to come before the Board, the meeting was adjourned until 9:00 a.m. on September 29, 2016.

Corinne M. Lengel, Clerk to the Board

Greg King, Chairman