

Board of County Commissioners of Lincoln County
Agenda for July 18, 2017

9:00 Call to order and Pledge of Allegiance

9:30 Public Hearing pursuant to public notice and in reference to proposed Resolution Number 947; A Resolution to amend the Lincoln County Zoning Resolution to include standards for regulation of the construction and operation of solar power plants and facilities

11:00 Public Hearing pursuant to public notice and in reference to proposed Resolution Number 948; A Resolution to amend the Lincoln County Zoning Resolution to include standards for the regulation of the construction and operation of electrical transmission lines

1. Approve the minutes from the July 10, 2017, meeting
2. Review the June, 2017, reports from the County Assessor, County Clerk & Recorder, County Sheriff and County Treasurer
3. Review the June, 2017, reports from the Colorado Counties Casualty and Property Pool and the County Workers' Compensation Pool
4. Review the Geotechnical Site Plan Exhibit Map prepared by GMS, Inc., Consulting Engineers, regarding the Lincoln County Service Complex Drainage Improvement Project
5. Review and act upon a request to participate as a Networking Break Sponsor for the 20th. Annual Ports-to-Plains Alliance Conference and Reunion
6. Review applications submitted for current and/or pending vacant staff positions
7. Further discussion concerning compliance matters at the Lincoln County Landfill
8. County Commissioners' reports
9. County Attorney's report
10. County Administrator's report
11. Old business
12. New business

The Board of Lincoln County Commissioners met at 9:00 a.m. on July 18, 2017. The following attended: Chairman Doug Stone, Commissioners Ed Schifferns and Steve Burgess, County Administrator Gary Ensign, County Attorney Stan Kimble, and Clerk to the Board Corinne M. Lengel. Will Bublitz with the Limon Leader and Eastern Colorado Plainsman attended from 9:25 a.m. until approximately 11:30 a.m.

Chairman Stone called the meeting to order and led the Pledge of Allegiance. Land Use Administrator Trey James and a few members of the public were also present for the beginning of the meeting.

Mr. Burgess made a motion to approve the minutes from the meeting held on July 10, 2017, as submitted. Mr. Schifferns seconded the motion, which carried unanimously.

The Board reviewed the June 2017 reports from the County Assessor, Clerk & Recorder, Sheriff, and Treasurer, as well as the June 2017 reports from the Colorado Counties Casualty and Property Pool and County Workers' Compensation Pool.

Mr. Kimble informed the Board that he'd received a note from the Court Clerk, and they are going to destroy the Barriner case files from 2001 if they are not picked up. Mr. Kimble thought he should go ahead and pick up the files.

The Board reviewed the Geotechnical Site Plan Exhibit Map prepared by GMS, Inc., Consulting Engineers, regarding the courthouse complex draining improvement project. Mr. Ensign said the proposals are to be to GMS by August 31, and they will forward the information to the commissioners by September 8.

Also reviewed was a request to participate as a Networking Break Sponsor for the 20th Annual Port-to-Plains Alliance Conference and Reunion. Mr. Ensign explained that the county traditionally splits the cost of the \$500 break with the town of Limon, so the investment would be \$250. Mr. Burgess made a motion to approve spending \$250 to participate as a break sponsor for the Ports-to-Plains conference. Mr. Schifferns seconded the motion, which carried unanimously.

Mr. Stone said they would skip the next two agenda items until they had more time and called for commissioner reports.

Mr. Burgess reported picking up a tank at the landfill on July 12. He took it to Seibert on July 13 to see if it could be fixed, but they decided it would be best to build a new tank. He also attended the Centennial Mental Health meeting in Burlington on July 13. There were several washouts reported on County Road 48 on July 17, so the district hauled four loads of material from Genoa to fix them. Mr. Burgess had spoken with Bart O'Dwyer about the cost of a steel building for the fairgrounds and was given a rough estimate of \$22-\$25 per square foot, which would amount to anywhere from \$170,000 to \$200,000. He also spoke with Bob Safranek

about a gravel pit but said he would discuss it in further detail later on in the meeting, when there was more time.

Mr. Schifferns reported attending the Arriba town board meeting on July 10. He and Mr. Stone both attended the fair board meeting on July 11 and discussed the fact that there would not be a carnival at the fair this year. They will subsidize with more bounce house equipment. Mr. Schifferns checked roads on July 13.

Mr. Stone reported attending the fair board meeting on July 11, going to Denver on July 12 to look at belly dump trailers, and checking roads on July 13. District Three has received quite a bit of rain in the past couple of weeks, so they had a few washouts that needed fixing. Mr. Stone went by the shop on July 17 and reviewed the bids that were received for the trailers they had looked at. He stated they will most likely purchase a CPS trailer.

At 9:30 a.m., a public hearing was held pursuant to public notice and in reference to proposed Resolution #947; a resolution to amend the Lincoln County Zoning Resolution to include standards for regulation of the construction and operation of solar power plants and facilities. Members of the public attending the discussion were: Jim Herron with Mountain View Electric Association, Gary Lewman, Steve Gray with Tri-State Generation and Transmission, Kenneth Geoffroy, attorney Steve Monks, Dave Iadarola with Tradewind Energy, and Lincoln County Land Use board members Mark James, John Higgins, and Paul Martin.

Gary Lewman spoke first and provided a copy of the items he referenced regarding the draft resolution. He explained that many of his comments concerned inconsistency throughout the balance of the resolution, as well as quite a few missing definitions and punctuation errors. When he finished, he requested the commissioners address the inconsistencies and other items he had addressed. He concluded by stating that he does support solar energy, he just wants the documents to be clear.

Land Use Board Member John Higgins stated that he would like the commissioners to table further discussion and extend the moratorium that expires at the end of July until the land use board can meet again. He felt that since they only met one time to discuss the proposed solar regulations, they needed more time. He added that spending the money to hire an attorney who specializes in the industry and could help write the regulations would be money well spent. According to Mr. Higgins, the land use board unanimously agreed at that one meeting that the setbacks should be 1,500 feet. He added that he'd talked to at least six members who felt that if the commissioners are making the decisions there is really no reason to even have a land board. Mr. Higgins' last comment was that there is no rush because the solar energy companies are going to come to Lincoln County anyway.

Mr. Stone asked Mr. Higgins why the land use board hasn't had more meetings if they felt they needed to get together more often. He added that in regard to how other land use board members feel about the setbacks, Mr. Higgins is the only one he has heard from. Mr. Burgess agreed, stating that he had not heard from any other land use board members, either. Mr.

Higgins stated they did unanimously agree on the 1,500 foot setbacks at the one meeting and that they do need to meet more often, but everyone is busy now with harvest. Mr. Stone told him that all of the members were given the proposed resolution, but he was the only one who had made any comments about it. Mr. Schifferns told Mr. Higgins that the commissioners always appreciate it when the land use board gives their input, and Mr. Burgess added that there needs to be good communication between the entities.

Steve Monks spoke up to say that he felt 1,500 feet is excessive for a setback, and it may make it impractical for solar energy farms to locate in Lincoln County. He added that it might be difficult to quantify or determine potential glare impacts on page 5 of the resolution, as it would be more of an opinion than anything else.

Mr. Kimble addressed Mr. Higgins' comments, stating that he felt personally attacked by them. He explained that although he works only part time as the county attorney, he does have the knowledge of sixty other county attorneys at his disposal. He added that when the land use board suggested the commissioners speak with someone in Alamosa County, they did so. No one has agreed that a setback of 1,500 feet is reasonable.

Mr. Higgins apologized, stating that he did not mean for his comments as a personal attack on Mr. Kimble. He said he merely felt that an expert in the field might offer more insight.

Mr. Monks commented that it is not the job of the commissioners to correct mistakes made by county residents, and that those residents should contact their attorneys before the mistake is made.

Dave Iadarola with Tradewind Energy stated that they follow county regulations and also work with the landowners as well, but 1,000 feet from a residence is the standard setback in their contracts.

Kenneth Geoffroy stated that they are drilling a well on a section of property near him that is owned by the railroad, which can possibly affect his groundwater. He added that solar farms don't pollute groundwater.

Land Use Administrator Trey James stated that some of the issues brought up have already been corrected in the latest version of the resolution, which some of those present may not have.

Land Use Board Member Mark James commented that the land use board started at the higher setbacks, knowing they may possibly have to come down. Mr. Schifferns asked Mr. Higgins if he would be comfortable with 1,000 foot setbacks, instead of 1,500, and Mr. Higgins said it would be better than 500 feet.

When Mr. Higgins said they had also discussed disposal of the solar panels, Mr. Iadarola explained that if the panels are broken on site, the company collects them on site. If it reaches

a certain threshold, they send the panels back to the manufacturer. He added that the panels can be ground up, and a lot of the material is recyclable. Mr. Schifferns asked what percentage of panels have to be recycled and was told it is very minimal, probably less than ten percent.

Mr. Stone asked Mr. Iadarola if it is true that they are in no hurry for the regulations to be adopted. Mr. Iadarola responded that obtaining a power purchase agreement triggers a timeline for the remainder of the project. Tax credits decrease after the year 2021, and even though they are still viable, the power purchase decreases and are not as attractive to utilities. Mr. Higgins stated that another ninety days shouldn't hurt, but Mr. Iadarola disagreed.

Mr. Monks asked that the regulations not be too restrictive, as the county needs development, and the commissioners should be encouraging the solar companies to locate in Lincoln County.

Mr. Burgess made a motion to extend the moratorium on solar energy in Lincoln County for an additional thirty days, and to adopt the resolution as presented on August 17, if there is agreement to move forward with it. Mr. Schifferns seconded the motion, which carried unanimously.

Once most of the attendees had left the room, Jim Herron with Mountain View Electric Association told the Board that they should reconsider the regulations concerning small, medium, and large scale solar development, as some people with 5kW or 10kW units may actually fall under the medium scale regulations. The Board asked him to attend the next land use board meeting to provide his input on the regulations.

Mr. Burgess wanted to explain his discussion with Bob Safranek in greater detail, stating that the county owns 9.9 acres where the Gaede Pit is located, and Mr. Safranek owns the surrounding property. Mr. Safranek would like the county to sell him the 9.9 acres since District 2 is no longer mining gravel there. Mr. Burgess said he would like to close that pit and open another pit to the south, but that property is owned by Mr. Safranek as well. He asked if there was some way the county could work with Mr. Safranek to open the new pit. Mr. Ensign said that in order to sell county assets, they would need to go through the bidding process. Mr. Kimble put in that the commissioners are the stewards of all county property for the benefit of the public, so if a public benefit can be determined, then selling the property to Mr. Safranek may be acceptable, but they would have to justify it. Mr. Burgess said the advantage would be getting the twenty acres for a gravel pit, which would benefit the county for many years. Mr. Ensign asked if they could enter into a contractual agreement with exclusive rights to the sand and gravel, or something along those lines.

Mr. Kimble reported receiving another CDOT contract for the roundhouse project, but he felt he should wait for Roxie Devers before proceeding further. He stated that the contract does look similar to the others.

Mr. Burgess asked if the attorneys had discussed county landfill concerns at the attorney conference. Mr. Kimble said they did, and there is one attorney representing three counties

who is hoping to get the counties together in order to put more pressure on the state. He added that they want to try and pass legislation that would give the counties control again, rather than CDPHE. He assumed nothing further would happen in 2017 if they are waiting for the new legislative session in January.

Mr. Burgess commented that Mick Jaques informed him that DOC is bringing foodstuffs to the landfill, he thought once a month. Since it is a dry landfill, Mick wanted to know what he should do. A call was placed to Mick Jaques, who said that DOC is actually bringing the foodstuffs every ten days. He called Mark McMullen to see what they could do, and Mr. McMullen was supposed to contact Mr. Ensign.

Mr. Ensign reported that Cascade Petroleum, LLC, leased a portion of county-owned property in 2014. A portion of that lease has since been acquired by W-F Production, LLC, who would like to extend the lease on the E2SW4 of Section 20-T7S-R55W and the SW4 of Section 30-T7S-R55W. W-F Production did not elect to extend the lease on the acreage in Section 9-T9S-R54W, and remitted \$281.72 for the portion they did wish to extend.

Dave Iadarola spoke up again, stating he had misspoken earlier regarding Tradewind Energy requiring 1,000 foot setbacks for solar farms, as those are their standard setbacks for wind farms. He added that the company would adhere to whatever setbacks the county requires.

At 11:00 a.m., the Board conducted a public hearing on proposed resolution #948; a resolution to amend the Lincoln County Zoning Resolution to include standards for the regulation of the construction and operation of electrical transmission lines. Those attending the hearing were: David Churchwell with K.C. Electric Association, Steve Gray with Tri-State Generation and Transmission, Jim Herron with Mountain View Election Association, Dave Iadarola with Tradewind Energy, Land Use Administrator Trey James, and Land Use Board members Paul Martin and Mark James.

Mr. Gray stated that they welcome the opportunity to participate in the discussion and requested that the commissioners table further discussion to give those present more time to review and process the regulations, since they are complicated.

Mr. Kimble said that there is no moratorium on transmission regulations, and that he had received a phone call from John Lupo with Xcel Energy requesting an extension as well.

Mr. Burgess asked Mr. Gray if he would be available to attend a land use board meeting and was told that he would. Mr. Gray added that he could speak with staff and go over the regulations, commenting that they would like to discuss all the different cases/scenarios they might come across.

Jim Herron spoke up and said that Mountain View Electric is not opposed to the regulations but feel they need to be clarified, as they seem to be very vague. He felt all utilities working together with the land use board would be favorable.

Mr. Burgess made a motion to table the adoption of resolution #948 and to review it again in ninety days. Mr. Schiffers seconded the motion, which carried unanimously.

When everyone had gone, the Board reviewed employment applications for current and/or pending vacant staff positions. Mr. Schiffers and Mr. Stone both felt they should run the ad for the landfill position another two weeks, and Mr. Burgess said he knew someone he could talk to about it as well.

As for the Public Health Director position, the Board agreed to wait until they heard from Lincoln Community Hospital CEO Kevin Stansbury, who had stated he would put together a proposal by the end of the month.

Lastly, the group agreed to interview three of the four applicants for the County Administrator position on Monday, July 24, if the applicants are available to do so.

With no further business to come before the Board, the meeting was adjourned until 9:00 a.m. on July 24, 2017.

Corinne M. Lengel, Clerk to the Board

Doug Stone, Chairman