

Board of County Commissioners of Lincoln County  
Agenda for August 31, 2017

9:00 Call to order and Pledge of Allegiance

9:00 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

10:00 Patricia Phillips, Human Services Director, to present the Department of Human Services monthly report

10:30 Dusty Johnson, Northeast Area Representative for Congressman Ken Buck (CO-04), to present an update from the Office of Congressman Buck

11:00 Heike Petersen, RN, BSN, Lincoln County Public Health, to present the August, 2017, Public Health Agency's monthly report and to present a renewal WIC Contract

1. Approve the minutes from the August 30, 2017, meeting
2. Appoint one Commissioner to the Colorado Counties, Incorporated, Legislative Committee
3. Review and act upon proposed Resolution Number 955, A Resolution Certifying Costs Of Prosecuting Crimes Alleged To Have Been Committed By Persons In The Custody Of The Department Of Corrections
4. Review and act upon an application from the Flagler Coop Association to establish a charge account at the Lincoln County Landfill
5. Review and act upon an offer from W-F Production, LLC, to lease certain Lincoln County Minerals in Section 22 and Section 35, Township 07 South, Range 55 West of the 6<sup>th</sup>. P.M., Lincoln County, Colorado
6. County Commissioners' reports
7. County Attorney's report
8. County Administrator's report
9. Old business
10. New business
11. Approve additional expense vouchers as necessary

The Board of Lincoln County Commissioners met at 9:00 a.m. on August 31, 2017. The following attended: Chairman Doug Stone, Commissioners Ed Schifferns and Steve Burgess, County Administrator Gary Ensign, County Attorney Stan Kimble, Clerk to the Board Corinne M. Lengel, and Will Bublitz with the Limon Leader and Eastern Colorado Plainsman.

Chairman Stone called the meeting to order and asked Mr. Schifferns to lead the Pledge of Allegiance.

Chairman Stone then opened the public hearing, pursuant to public notice and in reference to proposed Resolution No. 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. Land Use Administrator Trey James and Land Use Board Chairman Chris Monks attended the discussion, as well as members of the public: Dan Merewether, Tim Brown, Kenneth Geoffroy, Gary Lewman, and Dave Iadarola with Tradewind Energy.

Mr. Stone asked for any comments from the audience, and Mr. Brown said he would like to clarify the setbacks. Mr. James stated they are 100 feet from public roads and property lines and 1,000 feet from non-participatory residences. Participatory residents can establish different setbacks through their lease process, if they choose to do so.

Mr. Stone stated that the two factors the Board was taking into consideration were the recommendation from the land use board for 1,000 foot setbacks, and the fact that Mr. Geoffroy had already entered into a lease agreement, so it would be difficult to impose setbacks greater than 1,000 feet for other county residents.

Gary Lewman spoke up to say that he appreciated Mr. James incorporating his prior comments into the amended resolution and stated he had one more observation. The word "may" is permissible, the words "shall" and "will" are mandatory. He felt that one "may" on Page 11 in the Road Use Agreement section was inconsistent with the rest of the resolution and should be "shall" instead. Mr. James said he wasn't sure the resolution should dictate what is necessary in the road agreement, which was why he used the word "may" instead. He asked if the county always requires a bond, for instance. Mr. Kimble responded that bonding is not always necessary and that he understood what Mr. James was saying, although he would be fine with changing the word to "shall."

Mr. Brown stated that the commissioners had done a good job with the regulations and appreciated being allowed to comment. Mr. Lewman added that he had no concerns with solar energy, adding that things are changing so quickly in that industry that rules probably can't be written fast enough to accommodate the changes.

Mr. Kimble asked Mr. Iadarola if the resolution were acceptable to him and was told that the company will work with whatever restrictions the county imposes.

Mr. Burgess made a motion to adopt 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, once a correction is made to Page 11, Road Agreement Section A, where the word “may” will be changed to “shall.” Mr. Schiffers seconded the motion, which carried unanimously.

At a regular meeting of the Board of County Commissioners of Lincoln County, Colorado, held in Hugo, Colorado, on August 31, 2017, there were present:

Douglas D. Stone, Chairman	Present
Ed E. Schiffers, Vice Chairman	Present
Steve Burgess, Commissioner	Present
Stan Kimble, County Attorney	Present
Corrine Lengel, Clerk of the Board	Present
Gary Ensign, County Administrator	Present

When the following proceedings, among others, were had and done, to-wit:

**RESOLUTION #947** It was moved by Commissioner Burgess and seconded by Commissioner Schiffers to adopt the following resolution:

**RESOLUTION NUMBER 947**

**THE BOARD OF COUNTY COMMISSIONERS  
OF LINCOLN COUNTY, COLORADO**

**A RESOLUTION TO AMEND THE LINCOLN COUNTY ZONING RESOLUTION BY CREATING ARTICLE 3, USE BY SPECIAL REVIEW PROCEDURES, DIVISION 2, APPROVAL STANDARDS AND CRITERIA FOR USES BY SPECIAL REVIEW, SECTION 3-220, ADDITIONAL STANDARDS, G. STANDARDS FOR REGULATION OF THE CONSTRUCTION AND OPERATION OF SOLAR POWER PLANTS, AND ADDING “SOLAR ENERGY FACILITY, SMALL” TO PERMITTED USES UNDER ARTICLE 2, SECTION 2-200.B.**

Whereas, Lincoln County has experienced and continues to experience substantial growth of the renewable energy industry in the unincorporated portions of the County; and

Whereas, the Board of County Commissioners, hereinafter referred to as the “Board”, has determined that regulations for solar power plants and solar power energy construction and operation, including the construction of service roads, and the construction and operation of solar power plants, and accessory facilities, should be set in place for the benefit of the citizens of the County;

IT IS, THEREFORE, RESOLVED:

1. Upon adoption of this Resolution, Article 2, Division 2, Section 2-200.B. shall be amended to add as a permitted use, Accessory Solar Energy Systems, under Section 2-200B.11.

2. Further, upon adoption of this Resolution, a new section shall be added under Article 3, Use by Special Review Procedures, Division 2, Approval Standards and Criteria for uses by Special Review, Section 3-220, Additional Standards, G, Standards for Regulation of the Construction and Operation of Solar Power Plants and Facilities, as follows:

G. Standards for Regulation of the Construction and Operation of Solar Power Plants and Facilities. The purpose of this section is to provide for the regulation of the construction and operation of Solar Power Plants and Facilities in Lincoln County, subject to reasonable conditions that will protect the environment, and the public health, safety, and welfare of county residents and other interested parties.

1. Definitions Applicable to Solar Power Plant Facilities.

- A. "Applicant" refers to the applicant of the Use by Special Review, and shall be interchangeable with this section, paragraph N.
- B. "Community Solar Garden" is a solar electric generation facility with a nameplate rating of two megawatts (2 MW<sub>DC</sub>) or less that is located in or near a community served by a qualifying retail utility where the beneficial use of the electricity generated by the facility belongs to the subscribers to the community solar garden. There shall be at least ten subscribers. The owner of the community solar garden may be the qualifying retail utility or any other for-profit or nonprofit entity or organization, including a subscriber organization that contracts to sell the output from the community solar garden to the qualifying retail utility. A community solar garden shall be deemed to be "located on the site of customer facilities."
- C. "Concentrating Solar Thermal Devices," also known as "Concentrated Solar Thermal Power (CST), are systems that use lenses or mirrors, and often tracking systems, to focus or reflect a large area of sunlight into a small area. The concentrated energy is absorbed by a transfer fluid or gas and used as a heat source for either a conventional power plant, such as a steam power plant, or a power conversion unit, such as a sterling engine. Although several concentrating solar thermal technologies exist, the most developed types are the solar trough, parabolic dish and solar power tower.
- D. "Facility Operator" is the entity responsible for the day-to-day operation and maintenance of the Solar Power Plant or Facility.
- E. "Facility Owner" is the entity or entities having controlling or majority equity interest in the Solar Power Plant or Facility, including their respective successors and assignees.

- F. "Large Scale Solar Facility" is a system with a nameplate rating of greater than two megawatts, Direct Current (2 MW<sub>DC</sub>) generation capacity providing power to one or more users, which may include components for the transmission and distribution of energy.
- G. "Medium Scale Solar Development" Systems with a 50-2,000 kilowatt (50-2,000 kW<sub>DC</sub>) generation capacity serving a single user. This shall include community solar gardens with up to a 2 MW<sub>DC</sub> nameplate rating.
- H. "Non-Participating Landowner" is any landowner not under an agreement with the Facility Owner or Operator.
- I. "Occupied Building" is a residence, school, hospital, church, public library, or other buildings used for public gathering, that is occupied or in use when the permit application is submitted.
- J. "Participating Landowner" is a landowner under lease or other property agreements with the Facility Owner or Operator pertaining to the Solar Power Plant or Facility.
- K. "Photovoltaic (PV)" is a technology that converts light directly into electricity. PV solar panels have been around for several years, although concentrated photovoltaic (CPV) technologies are now being developed. Both PV systems and CPV systems are included within this definition.
- L. "Public Road," "road right-of-way," or "roadway," or any combination thereof, is a full passage right-of-way.
- M. "Sensitive View Shed" shall be an area that can be seen from any tourist attractions or may disrupt views from residences to mountains, valleys, or other significant views.
- N. "Solar Energy Developer," "solar developer," "solar power plant developer," "solar developer," and "developer" shall all be interchangeable and refer to the applicant of the Lincoln County development permit.
- O. "Small Scale Solar Development" systems with a 50 kW<sub>DC</sub> generation capacity or less serving a single user.
- P. "Use by Special Review," "Special Use Review," "Special Use Permit" "Development Permit Process," "Permitting Process," and "Review Process" all refer to the Lincoln County Zoning Resolution, Article 3, Use by Special Review Procedures, Division 2, Approval Standards and Criteria for Uses by Special Review.

## 2. Regulations and Design Standards for Solar Power Facilities

## A. SMALL AND MEDIUM SCALE SOLAR DEVELOPMENT

1. Small Scale Solar Development
  - a) The construction of small scale solar development for residences and businesses shall be considered a use by right and will not require permitting.
2. Medium Scale Solar Development
  - a) Medium Scale solar development will require a county building permit and must meet manufacturers' standards for installation. This includes Community Solar Gardens with up to a 2 MW nameplate rating. Further, should the panels be mounted on the ground, a 15 foot fire separation must be maintained around the perimeter of the facility.

## B. DESIGN STANDARDS FOR LARGE SCALE SOLAR FACILITIES

1. Scope
  - a) All large scale solar facilities shall comply with the following minimum regulations and design standards.
  - b) All large scale solar facilities will be subject to Lincoln County's Use by Special Review development process.
  - c) No concentrated solar thermal power will be permitted in Lincoln County.
2. Setbacks.
  - a) Large solar facilities shall be set back from all property lines and public road rights-of-way at least one hundred feet.
  - b) Setbacks from an occupied structure of a non-participating landowner shall be negotiable through public hearings and the permitting process but may not be within one thousand feet (1,000 feet) of an occupied structure unless written consent is given by the non-participating landowner and any other affected parties.
  - c) Setbacks within a participating landowner's rights shall be negotiated between the participating landowner and the developer.
  - d) Screening of the solar facility may be required through the review process between public roadways and residences with appropriate landscaping or screening materials.

### 3. Safety/Access.

- a) An appropriate security/livestock fence (height and material to be established through the use by special review process) shall be placed around the perimeter of the solar power plant and maintained by the facility operator.
- b) Rapid entry systems and keys shall be provided by the facility operator at locked entrances for emergency personnel access and appropriate warning signage shall be placed at the entrance and perimeter of the solar power plant project.

### 4. Noise.

- a) No operating solar power plant shall produce noise that exceeds any of the following limitations. Adequate setbacks shall be provided to comply with these limitations:
  - I. Fifty A-weighted decibels (dBA), as measured at the property line of any neighboring residentially-zoned lot;
  - II. Forty-five dBA, as measured at any existing neighboring residence between the hours of nine p.m. and seven a.m.
  - III. Sixty dBA, as measured at the property lines of the project boundary, unless the owner of the affected property and the planning commission agree to a higher noise level, as follows:

The owner of a neighboring property (non-participating landowner) that would otherwise be protected by the sixty dBA noise limitation may voluntarily agree, in writing, to a higher noise level. Any such agreement must specifically state the noise standard being modified, the extent of the modification, and be in the form of a legally binding contract or easement between the non-participating landowner (including assignees in interest) and the solar power plant developer and participating landowner, effective for the life of the project. Notwithstanding any such voluntary noise agreement between the non-participating landowner and the solar power plant developer and participating landowner, the agreement shall only be effective and reflected in the County's authorization of the project when it has been reviewed and determined acceptable to the County. The County shall consider the likely impacts and consequences of the modified noise limit requested, based on the specific circumstances of the situation, in determining whether to grant the request. Any such noise agreement must be submitted with the

conditional use permit application and if authorized by the County, must be filed with the County Recorder upon issuance of the use by special review permit.

5. Visual Appearance.

- a) Solar power plant buildings and accessory structures shall, to the extent reasonably possible, use materials, colors, and textures that will blend the facility into the existing environment.
- b) No solar power plant tower or other tall structure associated with a solar power plant shall be lighted unless required by the Federal Aviation Administration (FAA). When lighting is required by FAA, it shall be the red, intermittent, glowing-style, rather than the white, strobe-style, unless disclosed and justified through the application review process.
- c) Lighting of the solar power plant and accessory structures shall be limited to the minimum necessary and full cut-off lighting (e.g. dark sky compliant) may be required when determined necessary to mitigate visual impacts.
- d) No solar power plant shall produce glare that would constitute a nuisance to occupants of neighboring properties or persons traveling neighboring public roads.

6. Electrical Interconnections.

- a) All electrical interconnection and distribution lines within the project boundary shall be underground, unless determined otherwise by the County because of severe environmental constraints (e.g. wetlands, cliffs, hard bedrock), and except for power lines that leave the project or are within the substation. All electrical interconnections and distribution components must comply with all applicable codes and public utility requirements.

7. Fire Protection.

- a) All solar power plants shall have a defensible space for fire protection in accordance with any applicable fire protection district or Lincoln County Sheriff directives.

C. AGREEMENTS/EASEMENTS.

- 1. If the land on which the proposed project is to be located is leased, rather than owned by the solar energy developer, all property within the project boundary must be included in a recorded easement(s), lease(s), or consent agreement(s) specifying

the applicable uses for the duration of the project. All necessary leases, easements, or other agreements between the solar developer and the affected parties, including any applicable condemnation decree, must be in place prior to commencing construction of the project unless specified otherwise by the Use by Special Review permit.

### 3. Information Required On Permit Applications

- A. An application for a special use permit to establish a solar power plant shall include a complete description of the project, and documentation to sufficiently demonstrate the requirements set forth in this Section G will be met by the applicant. Supporting documentation for addressing the review criteria of the Zoning Ordinance concerning special use (Article 3) is also to be provided. The County may require any information reasonably necessary to determine compliance with the Zoning Ordinance.
- B. It is preferred that any related special use permit applications for substations or transmission lines be considered in conjunction with the special use permit application for the solar power plant. However, if the details of those improvements are not available at the time of application for the solar power plant, they may be considered later through subsequent special use permit review. At a minimum, the intended route for connecting to the power grid and the alternative locations of any substation shall be disclosed with the application for the solar power plant.

### 4. Provisions for Special Use Permit (In Addition to Section 3-210)

- A. Project rationale, including estimated construction schedule, project life, phasing, and likely buyers or markets for the generated energy.
- B. Siting considerations, such as avoiding areas/locations with a high potential for biological conflict such as wilderness study areas, areas of environmental concern, county and state parks, historic trails, special management areas or important wildlife habitat or corridors; avoiding visual areas of erodible slopes and soils, where concerns for water quality, landslide, severe erosion, or high storm runoff potential have been identified; and avoiding known sensitive historical, cultural, or archeological resources.
- C. Site and development plans, which identify and/or locate all existing and proposed structures; setbacks; access routes; proposed road improvements; any existing inhabitable structures and residentially zoned lots within one-quarter mile of a photovoltaic solar project; existing utilities, pipelines, and transmission lines; proposed utility lines; utility and maintenance structures; existing topographic contours; existing and proposed drainage ways; proposed grading; areas of natural vegetation removal; revegetation areas and methods; dust and erosion control; any flood plains or wetlands; and other relevant items identified by the county staff or Land Board. All maps and visual representations need to be drawn at an appropriate scale.

- D. Analysis of local economic benefits, describing estimated project cost, generated taxes, percent of construction dollars to be spent locally, and the number of local construction and permanent jobs.
- E. Visual Impacts, Appearance, and Scenic Viewsheds. Potential visual impacts may be caused by components of the project such as solar towers, above ground electrical lines, accessory structures, access roads, utility trenches and installations, and alteration of vegetation. Those projects that are within a sensitive view shed, or that propose structures taller than thirty feet, must provide a view shed analysis of the project, including visual simulations of the planned structures and analysis of potential glare impacts. The number of visual simulations shall be sufficient to provide adequate analysis of the visual impacts of the proposal, which shall be from no less than four vantage points that together provide a view from all sides of the project. More visually sensitive proposals (e.g. solar power towers in sensitive view sheds) may require analysis from significantly more vantage points, such as different distances and sensitive locations. The Land Board / Commissioners may also require a Zone of Theoretical Visibility/Zone of Visual impact (ZVI) Analysis, which is a three hundred sixty degree computer analysis to map the lands within a defined radius of a location that would likely be able to see an object. When a dispute arises on whether or not a location is in a "sensitive view shed," the Board shall have the final determination. Significant visual impacts that cannot be adequately mitigated are grounds for denial.
- F. Wildlife Habitat Areas and Migration Patterns specifically include information on any use of the site by endangered or threatened species and whether the project is in biologically significant areas. If threatened or endangered species exist in the area, consultation with United States Fish and Wildlife Service will be necessary.
- G. Environmental Analysis. In the absence of a required state or federal agency environmental review for the project (e.g., NEPA), the Land Use Board/Commissioners may require an analysis of impacts to historic, cultural and archaeological resources, soil erosion (water and wind), flora, and water quality and water supply in the area, when there is reason to believe that adverse impacts to such may occur.
- H. Solid Waste or Hazardous Waste. As applicable, the application must include plans for the spill prevention, clean-up, and disposal of fuels, oils, and hazardous wastes, as well as collection methods for solid waste generated by the project.
- I. Height Restrictions and FAA Hazard Review. Compliance with any applicable airport overlay zoning requirements and the ability to comply with FAA regulations pertaining to hazards to air navigation must be demonstrated.
- J. Transportation Plan for Construction and Operation Phases. Indicate by description and map which roads the project will utilize during the construction and operation/maintenance phases of the project, along with their existing surfacing and

condition. Specify any new roads and proposed upgrades or improvements needed to the existing road system to serve the project (both the construction and O&M periods) – remember to identify needed bridges, culverts, livestock fence crossings (gates and cattle guards), etc. Also identify all areas where modification of the topography is anticipated (cutting/filling) to construct or improve the roadways. Address road improvement, restoration, or maintenance needs associated with the construction, ongoing maintenance/repair, and potential dismantling of the project. The County will require a separate Road Agreement and may require financial guarantees to ensure proper repair/restoration of roadways or other infrastructure damaged or degraded during construction or dismantling of the project. In such case, the “before” conditions of the roadways and other infrastructure must be documented through appropriate methods such as videos, photos, and written records, to provide a proper reference for restoration to pre-existing conditions. The applicant will be expected to work with the County Road Supervisor/Foreman during the construction phase. If on the basis of the information submitted by the applicant pursuant to this paragraph, the parties shall enter into a Road Agreement as set forth in Section 6 below.

- K. Public Safety. Identify and address any known or suspected potential hazards to adjacent properties, public roadways, communities, aviation, and topography, which may be created by the project.
- L. Noise limitations. Submit sufficient information regarding potential or anticipated noise, so as to demonstrate compliance with this Section G and other applicable portions of the Special Use review procedures.
- M. Decommissioning Plan. Describe the decommissioning and final land reclamation plan to be followed after the anticipated useful life, or abandonment, or termination of the project, including evidence of proposed commitments with affected parties (county, any lessor, or participating and nonparticipating owners) that ensure proper final reclamation of the solar energy project. Among other things, revegetation and road repair activities should be addressed in the plan, as well as the applicant’s ability to honor this provision in the event of insolvency. A bond, an irrevocable letter of credit, or cash shall be required for the decommissioning of any solar energy facilities. The amount shall be determined from a third party decommissioning evaluation made prior to construction and every five years throughout the project life at the expense of the applicant.
- N. Other probable and significant impacts, as identified through the review process.
- O. Surface and Mineral Owners. A list of all landowners, adjacent landowners, and mineral rights owners in the affected area of the project shall be submitted. Proof of notification in the form of certified mail receipts shall be submitted before approval of the Use by Special Review permit can be granted. These notices must be postmarked no less than

thirty (30) days prior to the Land Use Board Public Hearing date that is designated for review of the proposed solar energy project.

- P. Disposal of any used, damaged, or destroyed material from a solar power facility must be recycled, stored, or otherwise properly disposed of by the owner of the facility. This may include but not be limited to: solar panels, batteries, electronics, electrical material, or any structural material.
- Q. Other relevant information as may be reasonably requested by Lincoln County to ensure compliance with the requirements of this Resolution.

5. Notice of Change

- A. Throughout the permit process, the Applicant shall promptly notify the Lincoln County Land Use Office of any proposed changes to the information contained in the permit application that would alter the impact of the project.
- B. Changes that materially alter the initial site plan will be subject to an additional Use By Special Review application and process.
- C. Changes to the approved application that do not materially alter the initial site plan may be adopted by the Land Use Administrator.

6. Road Use Agreement.

- A. Before construction begins, the solar power developer must enter into a Road Use Agreement with Lincoln County. This agreement will be a collaborative document drafted by the Board of County Commissioners, the Road and Bridge Supervisor(s) of the District(s), and the solar power developer. This document shall include, but not be limited to:
  - 1. Designated truck routes.
  - 2. Dust abatement.
  - 3. Reclamations requirements.
  - 4. Bonding requirements.
- B. If a bond is required for a solar power project, the bond will be released when reclamation of the roads have been achieved to the satisfaction of the Road and Bridge Supervisor in which the project is being built and the Board of County Commissioners.

7. Building Permit Required

- A. A building permit will be required for solar power facilities. The building permit application shall be submitted to the Land Use Administrator following the approval of the Use by Special Review by the Lincoln County Board of County Commissioners. The permit will designate:
  - 1. The landowner's name(s) and address(es).
  - 2. The number of solar panels on each specific landowner.
  - 3. The specifications and accessories as to each solar panel.

8. Building Permit Fee (Sales and/or Use Tax)

- A. A building permit fee (Use Tax) will be assessed and will be due at the time of submission of the building permit application.
- B. The fee will be based on two percent (2%) of the material cost of the solar panels and other equipment used in the construction of the solar power plant.
- C. This fee may be negotiated by the Applicant with the Lincoln County Board of Commissioners prior to submitting the building permit application.

9. Mineral Owner Interests

- A. The Developer shall, to the extent required by applicable Colorado law, reasonably provide notice and accommodate access to and development of subsurface mineral interests with respect to their proposed use of the property for the solar power plant or facility. In this regard, the applicant shall, as a condition of approval prior to the final sitting of any solar power plant panels and equipment, and installation or construction of any such facilities, provide evidence that it has entered into, or made good faith and commercially reasonable efforts to enter into, surface use agreements or other compatible development agreements with surface owners and any mineral estate owners which have filed timely objections to the land use applications pursuant to Colorado statutes.
- B. Any objections from mineral interest owners shall be filed with the Land Use Administrator prior to the Land Use Board public meeting held in review of the proposed Solar Power Plant or Facility. No objections will be accepted by the Land Use Administrator after this date. The Developer may accept objections filed after the hearing date at their discretion.

10. Board of County Commissioners Approval to Grant Building Permit.

- A. If mineral owner objections are filed with the Land Use Administrator, The Board of County Commissioners may elect to suspend issuance of building permits for the Solar Power Plant or Facility until the Board is assured compliance with item 9. A written affidavit from the Developer attesting compliance will be required.
- B. Should a dispute arise between the mineral owner and the Developer as to whether the Developer had complied with item 9, the issue will be taken before the Lincoln County Board of Commissioners, acting in a quasi-judicial capacity to resolve the dispute.

11. Property Damage

- A. The Developer will bear sole responsibility for any unnecessary damages done to federal, state, county, municipal, and private property during the pre-construction, construction, operations, and decommissioning phases of the Solar Power Plant or Facility.

Upon roll call the vote was:

Commissioner Schifferns, Yes; Commissioner Burgess, Yes; Commissioner Stone, Yes.

The Chairman declared the motion passed.

Board of County Commissioners  
of Lincoln County

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Attest:

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Clerk of the Board

After “plans” was changed to “Disaster Recovery Plan” in the August 30, 2017, minutes, Mr. Schifferns made a motion to approve the minutes as corrected. Mr. Burgess seconded the motion, which carried unanimously.

The Board reviewed the minutes from the July 20, 2017, Tourism Board meeting, and since Dan Merewether was still there, the commissioners asked him to answer some questions for them. Mr. Stone asked how the figure of \$300,000 in generated revenue was derived, and Mr. Merewether said it was actually just an estimate, as they had tried to factor in lodging, meals, and gas that people spent while in Lincoln County for the concert. Mr. Burgess said that would

mean each of the 1,000 people they had reported attending the events had spent \$300. Mr. Ensign asked if all the revenue had been turned over to the county treasurer. Apryl Huelskamp had emailed him a report late the previous evening, and he couldn't seem to match the reported profits with what was receipted in by the treasurer's office; \$19,370. Mr. Merewether said that Tim Andersen had done the calculations, so they would need to check with him.

Mr. Ensign also commented that the email from Ms. Huelskamp addressed the fact that "with scheduled expenses and budgeted future expenses, it looks like we will go over the set \$140,000." Mr. Merewether responded that it was his understanding that there were other funds available to them. Mr. Ensign told him it is not a simple process for the commissioners to grant a supplemental appropriation to a budget, as there has to be public notice given, a public hearing conducted, and a resolution adopted. He asked if it were possible to just stop granting requests for tourism dollars, but Mr. Merewether said they have a contract "employee" that they are obligated to pay through the end of the year. He added that they have money set aside from past budgets that haven't been spent, and Mr. Ensign told him that multi-year fiscal obligations are not allowed.

Mr. Stone stated the commissioners need to set up a time to meet with the Tourism Board and go over several different topics. Mr. Ensign will contact Ms. Huelskamp to set something up.

The Board decided to appoint Mr. Burgess to the Colorado Counties, Incorporated Legislative Committee.

The Board reviewed an annual resolution certifying costs of prosecuting crimes alleged to have been committed by persons in the custody of the Department of Corrections. Mr. Schifferns made a motion to adopt the resolution, Mr. Burgess seconded the motion, and it carried unanimously.

At a regular meeting of the Board of County Commissioners of Lincoln County, Colorado, held in Hugo, Colorado, on August 31, 2017, there were present:

Douglas D. Stone, Chairman	Present
Ed E. Schifferns, Vice Chairman	Present
Steve Burgess, Commissioner	Present
Stan Kimble, County Attorney	Present
Corinne Lengel, Clerk of the Board	Present
Gary Ensign, County Administrator	Present

when the following proceedings, among others, were had and done, to-wit:

**A RESOLUTION CERTIFYING COSTS OF PROSECUTING CRIMES  
ALLEGED TO HAVE BEEN COMMITTED BY PERSONS IN THE CUSTODY  
OF THE DEPARTMENT OF CORRECTIONS**

**RESOLUTION #955** It was moved by Commissioner Schifferns and seconded by Commissioner Burgess to adopt the following resolution:

**WHEREAS**, C.R.S. § 16-18-101(3) provides that the Colorado Department of Corrections (CDOC), from annual appropriations made by the general assembly, shall reimburse the county or counties in a judicial district for the costs of prosecuting any crime alleged to have been committed by a person in the CDOC; and

**WHEREAS**, C.R.S. § 16-18-101(3) provides that the county or counties shall certify these costs to the CDOC; and

**WHEREAS**, C.R.S. § 16-18-101(3) provides that the provisions of C.R.S. § 16-18-101(3) shall apply to costs that are not otherwise paid by the State; and

**WHEREAS**, Exhibit A to this resolution summarizes the costs of prosecuting crimes alleged to have been committed by persons in the custody of the CDOC, in matters prosecuted by the Office of the District Attorney for the Eighteenth Judicial District, which serves Arapahoe, Douglas, Elbert and Lincoln Counties; and

**WHEREAS**, the Office of the District Attorney for the Eighteenth Judicial District has confirmed the accuracy of these costs to Arapahoe, Douglas, Elbert and Lincoln Counties, and the Counties are now forwarding and certifying such costs to the CDOC relying on such District Attorney confirmation.

**NOW, THEREFORE BE IT RESOLVED** by the Board of County Commissioners of the County of Lincoln, State of Colorado, as follows:

1. The costs in Exhibit "A" are certified to the CDOC.
2. The costs in Exhibit "A" have not otherwise been paid by the state.

Upon roll call the vote was:

Commissioner Schifferns, Yes; Commissioner Burgess, Yes; Commissioner Stone, Yes.

The Chairman declared the motion carried and so ordered.

Board of County Commissioners  
of Lincoln County

ATTEST:

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Clerk of the Board

Mr. Burgess made a motion to allow Flagler Coop to charge at the Lincoln County Landfill. Mr. Schifferns seconded the motion, which carried unanimously.

The group briefly discussed the Public Health situation again, and then at 10:00 a.m., Human Services Director Patricia Phillips met with the Board to present the monthly report. Mr. Burgess asked why DHS has a storage unit in Limon, as they had noticed the rental fee was vouchered the previous day when they were approving bills. Ms. Phillips said that they use the unit for foster parents, as people will donate strollers, cribs, clothes, and other items for kids, which is what is stored there. Foster parents can then come and choose things that they may need.

Ms. Phillips provided financial reports, employee timesheets, and the Income Maintenance, Child Welfare, and director's monthly reports, and then gave an update on the fiscal year close-out. The state is overspent in county administration but all of their accounts are okay. She informed the Board she would most likely ask for two replacement vehicles during the 2018 budget process, as the blue and silver vans have had several problems.

At 10:30 a.m., Dusty Johnson, Northeast Area Representative for Congressman Ken Buck (CO-04), arrived for her appointment with the Board. At that time, Cory Shull called at the request of the commissioners to discuss public health. Mr. Shull was asked if he could come out and meet with the Board again to discuss things in person, and an appointment was scheduled.

Ms. Phillips went on to say that she would like to keep one of the interns on until the end of the year, as they have been doing transports for the caseworkers, which is a tremendous time saver. She added that they do have money in the budget to pay her throughout the year. The Board agreed to allow one DHS intern to continue working through the end of the year.

Dusty Johnson provided updates from the office of Congressman Buck, including the news that legislation passed to provide a pay raise for American troops within the National Defense Authorization Act. Mr. Schifferns asked if she knew how much of an increase it was, but she wasn't sure. Mr. Stone wanted to know if she had learned anything regarding the landfill regulations they had discussed the last time she had come out. Ms. Johnson said that seven out of the nine counties she covers had mentioned it being a problem. She added that it is definitely on their radar and they are waiting to get some clarification.

Mr. Schifferns asked what the Congressman's position was on the government holding back funds for safe havens/sanctuary cities, and Ms. Johnson stated she wasn't sure, but she would get back to him. He also asked how Congressman Buck feels about the removal of historical monuments. Ms. Johnson said she knows he is not in favor of it. Mr. Kimble commented that American history is being rewritten because of political correctness, adding that the fact remains that it is history and we are supposed to learn from it.

At 11:00 a.m., Heike Petersen with Public Health met with the Board to give the monthly report for the department and to request signatures on the WIC contract, which was up for renewal. She stated that Dee Kaster with Kit Carson County is the contract representative and had looked over the deliverables. The funds are based on number of WIC clients, so the amount of federal funding received varies, based on those figures. Mr. Burgess made a motion to approve the Task Order Contract for the annual Public Health WIC contract. Mr. Schifferns seconded the motion, which carried unanimously.

The group discussed flu shots, and Mr. Schifferns asked if a nurse has to give them. Mr. Burgess said he has gotten them at the pharmacy, and people can even get them at King Soopers. Ms. Petersen said that a pharmacist can dispense the flu vaccine; as a matter of fact, a doctor can teach anyone to give a shot if they want that person to then do it under their medical license. She added that the guidelines for flu shots and shingles vaccines are fairly straightforward, but she herself would never allow someone to give a shot under her license. Mr. Schifferns asked if Public Health gives shingles shots. Ms. Peterson responded that they do under the 317 program, which allows adults with no insurance, or who are underinsured (meaning the insurance they have doesn't cover shots), to receive the vaccine. She added that because the vaccine is so expensive (\$200 per dose), it is the one private vaccine they don't carry until it's available through another program. She went on to say that as an RN, she can delegate a task to someone if it's in their Scope of Practice, but certain things cannot be delegated if it's not in the other party's SOP.

Ms. Petersen then gave the monthly report, stating the CHAPS activities remain on hold, due to the lack of a director or interim director. CDPHE OPPI is offering grant funding in the amount of \$10,000 to support the effort, and they need to decide by mid-September if they are going to accept or reject the money. She added that it wouldn't prevent them from getting funding next year if they reject it. Ms. Petersen also reported on vital records, communicable disease, and immunizations, stating that the vaccine inventory and reconciliation were completed, and private and VFC vaccines were ordered to remain compliant with the program. A partial order of private flu vaccine was received, and staff has met to discuss school flu vaccination clinics. Supplies for flu season were ordered and received, and Ms. Petersen said she found more reasonable costs on supplies through Ben's Family Pharmacy. She added that as the county's consulting pharmacist, he can order anything at half the cost. Ms. Petersen also reported on environmental health, the STEPP program, WIC, and adult health, stating she will remain on the ECS DD board as long as she can. Cindy Tacha has offered to replace her when the time comes. Ms. Petersen is currently working in the Public Health office on Tuesdays and Fridays and works the other three days of the week from home. Pat McHone works in Limon on Tuesdays, so she chose that day in order to provide coverage in the office. She also offered to work Fridays in case someone wants to take a long weekend.

Mr. Burgess asked how many contracts the department does in a year's time. Ms. Petersen responded that he could come up to the office any time and look at the contract book, as Sue Kelly had organized them all into one location. She added that Ms. Kelly had stated at one time

that the department gets back about 75% of their budget through contracts. Mr. Burgess said he would come up the following Tuesday and look at it.

Ms. Petersen stated they would continue on in the office as they were until the commissioners made a decision on what they were going to do with the department. She went on to say that the request the previous day for an interim director and timeline were reasonable requests, adding that she cannot fill that position. She felt that Richard Johnson is the only other qualified person in the office who could fill the position, with her assistance. The commissioners all agreed that a decision would be made within the next couple of weeks, and Ms. Petersen asked that as a courtesy, the commissioners keep the employees informed of what that decision may be.

The Board reviewed an offer from W-F Production, LLC, to lease certain Lincoln County minerals in Sections 22 and 35, Township 7 South, Range 55 West. There are five acres in the northeast quarter of Section 22, and ten acres in Section 35. The standard rate is \$20 per net mineral acre on a five-year lease. The commissioners had a question about the 1/8 royalty, so a call was placed to Tim Herian with W-F Production, but he was unavailable.

Mr. Burgess reported picking up the “green machine” on August 17 and taking it to the landfill. District Two also worked on the bridge on north 109 that day. On August 3, he helped the road crew with the dirt work for the bridge, and he checked roads on August 23. On August 24, he attended the interviews for the administrator’s assistant, and on the Twenty-fifth, he and Wayne Shade looked at roads. They are having trouble with kochia weed in some areas. On August 28, he spoke with Chris Monks about the Honnen bill, and on the Twenty-ninth, he checked roads with Bruce Walters. He went by the landfill and also talked with Chris Monks about the truck. After the meeting on August 30, he spoke with Chris Monks about the drainage at the fairgrounds.

Tim Herian called back at that time, and Mr. Kimble asked him if the 12.5% royalty was figured from the mouth of the well or after the county pays its share of the production cost. Mr. Herian stated the county doesn’t pay for any production costs and that the price is at the well head.

Mr. Burgess made a motion to lease Lincoln County minerals on the NE4; 22 and All; 35-7-55 to W-F Production, LLC, for a five-year term in the amount of \$20 per net mineral acre with a 1/8 royalty. Mr. Schifferns seconded the motion, which carried unanimously.

Mr. Schifferns reported speaking with Chris Monks on August 17 about putting in a six foot culvert on Hwy 63, three-and-a-half miles south of the correction line. The landowner will pay for half of the culvert. On August 18, he received a complaint from a county resident who was concerned with a group in Hugo wanting to put in new building codes. He also checked roads that day. Mr. Schifferns reported that the road crew graveled the bus route by Wilma Mosher’s on August 23. They also put in a driveway for a resident. He attended the interviews on August 24, and spoke with Chris Monks on August 28, who was logging transmission lines. Mr.

Schiffers said the company now wants to add Hwy 63. That evening, he attended the Arriba town board meeting.

Mr. Stone reported receiving a call from Clarene Durham on August 17. She was concerned with noxious weeds, so Mr. Stone suggested she contact the FSA office. On his way home from the commissioner meeting, he stopped in Limon and talked to Becky Carter. They looked at the building that Colorado East Community Action Agency hopes to lease. He checked roads southeast of Karval on August 22, and took a call from Heike Petersen and Richard Johnson on August 23 concerning the CHAPS grant. He also had a call from Anne-Marie Braga with CDPHE. She offered her services to the commissioners to discuss the future of Public Health. He also stopped at the Assessor's office to sign some papers. He checked roads northwest of Karval on August 26, stopped by the Patel place on August 29, and received the call from Shelby Britten on August 30.

Mr. Kimble reported that Mrs. Patel contacted him on the last day that their response was due and told him the rubbish had been removed and the mobile home was demolished. He asked Trey James to go down and take some pictures, which he had done. Mr. Kimble provided the pictures to the Board, stating it was quite obvious that the rubbish hadn't been removed, and although the mobile home seemed to have been demolished, it was still on the premises. Mr. Kimble will file a Motion for Summary Judgment, which will hopefully help to avoid any pre-trial matters. Patels would like an additional thirty days, so Mr. Kimble said he will ask the judge to stay the abatement order until October 1, which will give them the thirty days they requested.

Mr. Kimble also reported that he took the proposed contract on the Gaede pit property to Mr. Safranek, but he hasn't received it back yet.

Mr. Ensign provided a Notice of Filing Application for Colorado Mined Land Reclamation Permit for the expansion of the Gaede pit, which needed to be put on the record. Mr. Burgess made a motion to sign the Notice, Mr. Schiffers seconded the motion, and it carried unanimously.

There was no old business to discuss, and as for new business, the group agreed to see if Anne-Marie Braga with CDPHE could come and discuss the Public Health department.

With no further business to come before the Board, the meeting was adjourned until 9:00 a.m. on September 6, 2017.

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Corinne M. Lengel, Clerk to the Board

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Doug Stone, Chairman