

Board of County Commissioners of Lincoln County
Agenda for May 31, 2018

9:00 Call to order and Pledge of Allegiance

9:00 Patrick Leonard representing the Karval Water Users, to discuss upgrades to the Karval water system

9:30 Tom Nestor to discuss the Victim Assistance and Law Enforcement Program Grant

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

11:00 Public Hearing regarding the Lincoln County On-Site Wastewater Treatment Systems Regulations

1:00 Public Hearing on a proposed Hugo Fire Protection District, which will be held in the Jury Assembly Room at the Lincoln County Courthouse

1. Approve the minutes from the May 30, 2018 meeting
2. Discuss a request from Dave Stone, Manager for the Town of Limon, concerning an impact report for a potential annexation in Limon
3. County Commissioner reports
4. County Attorney's report
5. County Administrator's report
6. Old business
7. New business
8. Approve additional payroll and expense vouchers if necessary

The Board of Lincoln County Commissioners met at 9:00 a.m. on May 31, 2018. The following attended: Chairman Doug Stone, Commissioners Ed Schiffers and Steve Burgess, County Administrator Jacob Piper, County Attorney Stan Kimble, and Clerk to the Board Corinne M. Lengel. Juliet Lundy with the Eastern Colorado Plainsman/Limon Leader attended as well.

Chairman Stone called the meeting to order and led the Pledge of Allegiance. Patrick Leonard, representing Karval Water Users, Inc. met with the Board to discuss upgrades to the Karval water system. Emergency Manager Ken Stroud also attended the discussion.

Mr. Leonard gave Mr. Piper the number for Nick Marcotte with Element Engineering who joined the meeting via conference call. Mr. Leonard also provided two handouts depicting preliminary cost estimates for the project they intended to discuss. He began by saying that according to a sanitary survey done by the Colorado Department of Health the previous year, the current system has a high nitrate rating. There were eleven violations in all, including not having a backup well. Mr. Leonard said it was actually much better than their previous report, which included twenty-nine violations, and that they were taking care of the problem areas. For instance, they put in a backflow preventer at the park and school, but the state continues to monitor the system, which is in reasonably good shape for its age. Mr. Leonard added that the biggest issue is the high nitrate content. They are not requesting a commitment of funds at this time, but they would like for Lincoln County to support the project, possibly through a letter, because it helps them obtain grant funding.

Mr. Marcotte stated it would take a year, possibly two, to complete the project, and that the first step is to fill out the pre-qualification form and send it to the state health grants and loans division. The state schedules a pre-application meeting where they discuss a planning grant, estimation of project costs, and the engineering planning and public design documents. The state also provides all engineering through the Design and Engineering grant, which is an eight-month process where they reimburse eighty percent of the costs each month. They hold the other twenty percent until a loan is executed for construction and then release that money as well. Mr. Marcotte added that KWU could apply for the maximum DOLA grant of \$1 million and said the permitting process could be quite lengthy.

Mr. Kimble wanted to know if the county would be a pass-through for funding. Mr. Marcotte responded that Karval Water Users, Inc. would submit the pre-qualification form, the state would schedule the pre-application meeting, and then they could talk through it with state officials to see how best to handle it before any grant funds were awarded.

Mr. Leonard said that planning for the Karval water system started in 2001, and the system was in place by 2004. They used the county to apply for a \$26,170 twenty-year loan with a five percent interest rate, and the overall project cost was \$216,170, according to the DOLA contract.

Mr. Marcotte also said that another benefit of having the county involved would be the possible use of the county attorney. Karval could retain an attorney, but if the county could

help it might be less costly. Mr. Kimble said that with water issues, the lender insists that the rate the consumer pays is high enough to guarantee re-payment. They would also want Karval Water Users to own the water rights so that residents didn't dig private wells. Mr. Marcotte said they would do a rate study and look at current operating costs. A public meeting is required before they could take out a loan. He went on to say that higher nitrate content is a concern mainly for children and the elderly, and since Karval does have a school, the system is certain to be scrutinized by the state. The maximum nitrate content per liter is ten milligrams; Karval's averages 8.8 or 8.9.

Mr. Burgess asked if, based on the number of water taps indicated on the handout Mr. Leonard provided, the town's usage is too low. Mr. Schiffers wondered whether the number is accurate, and Mr. Leonard felt it was close. Mr. Marcotte said that the current well Karval is using is bad because the groundwater is contaminated from years of agricultural usage in the area. If they could drill a new well in a location with proper clean water, it would help. They would then be able to use the current well as a backup.

Mr. Leonard asked Mr. Marcotte if they should submit the pre-qualification form as Karval Water Users, Inc. or as Lincoln County. Mr. Marcotte told him that the form doesn't commit anyone, so he could do it as Karval Water Users. The state will run a financial capacity analysis for Karval.

Mr. Burgess felt that it was imperative for the county to help, and Mr. Schiffers asked if they couldn't just dig a new well. Mr. Leonard answered that if they were only replacing the media, they could ask for a loan, but that wasn't the biggest problem. The most significant cost would be the new waterline. Total estimated cost of the project, on the lower end, would be \$405,900. After projected loan and grant funding, the total monthly cost would average \$594, which would cause a rate increase per Karval water user of \$16.51 per month.

Mr. Burgess made a motion to provide a letter of support for upgrades to the Karval water system. Mr. Schiffers seconded the motion, which carried unanimously. Mr. Leonard said he would send the Board a copy of the report from CDPHE.

At 9:30 a.m., Sheriff Tom Nestor, Undersheriff Gordon Nall, and Victim's Advocate Katie Preston met with the Board to discuss the Victim Assistance and Law Enforcement Program grant. The sheriff said it wasn't any different than the current grant, except for an additional \$10,000 stipend to pay two volunteer workers. The total award was \$45,000 and will take effect on July 1, 2018. Mr. Kimble wanted to know if the county's insurance covers volunteers, which it does. Since Miss Preston will use two current county employees who do quite a bit of volunteer work for her now, they would have coverage anyway. Mrs. Lengel suggested that they pay the two volunteers through payroll rather than as Support Staff. There is currently a line item set up in the Victim's Assistance budget for part-time, although the 2018 budget didn't allow for expenditures from it, which could be easily remedied.

Mr. Burgess made a motion to approve the 2018-2019 VALE grant. Mr. Schifferns seconded the motion, which carried unanimously.

Sheriff Nestor informed the commissioners that one of his deputy's vehicles got damaged by hail during a recent call to a motor vehicle accident. Due to high mileage on the car, the sheriff didn't believe it was worth fixing but stated it was the commissioners' call. The Board agreed not to repair the vehicle.

As for the weekend's concerts, the sheriff said that he might decrease the number of deputies working one of the nights depending on ticket sales.

At 10:00 a.m., Human Services Director Patricia Phillips met with the Board to give her monthly report. The commissioners reviewed employee timesheets, and the financial, Income Maintenance, Child Welfare, and director's reports for the month while Mrs. Phillips discussed the transfer of \$45,000 of CCCAP funds to El Paso County. She said that El Paso County would assume the responsibility for the corresponding Maintenance of Effort, and transferring funds cuts the MOE costs for Lincoln County. Since the county will only be over about \$1,000 in Child Welfare funds at the end of the fiscal year, Mrs. Phillips will not request mitigation. Several counties in the northeast region won't have enough to cover their expenses, so Lincoln County is very lucky in that respect. She added that most counties are over-budget in their Administrative costs and the state is trying to determine how best to correct that. There should be enough in TANF resources to cover Lincoln County at the end of the year.

After Mrs. Phillips left, Mr. Burgess made a motion to approve the minutes of the meeting held on May 30, 2018, as submitted. Mr. Schifferns seconded the motion, which carried unanimously.

The Board discussed a request from Town of Limon Manager Dave Stone concerning an impact report for potential annexation of CDOT right-of-way in Limon. Mr. Kimble explained that the law dictates that a municipality has to file an impact report with the county commissioners if a proposed annexation is ten or more acres. The commissioners can agree to waive the impact report if willing. An email from Dave Stone stated that since there is no private property associated with the annexation, and thus no effect on the tax base, and no impact on the school or county services, he would appreciate the Board considering waiving the requirement. Mr. Schifferns made a motion to waive the required submittal of an impact report from the town of Limon for a CDOT right-of-way annexation. Mr. Burgess seconded the motion, which carried unanimously.

The commissioners had a few additional things to report. Mr. Burgess went to Flagler after the meeting the previous day to ask that the newspaper change the format of the bid request advertisement the county submitted. He requested that it be a block ad rather than columnar. He checked on the chip-seal project on his way home. Earlier this morning, Mr. Burgess talked to Landfill Manager Mick Jaques who told him that they are out of dirt to use for cover. Mr. Burgess felt that the county might end up digging another pit just for dirt. He also had a call

from a resident about cattle from a neighboring property getting out onto hers. Mr. Burgess talked to Land Use Administrator Trey James who said that zoning regulations allow for one mother and one calf per acre.

Mr. Schifferns reported that he spoke with Roxie Devers about the roundhouse after their discussion with Dave Smith. She didn't believe the county could transfer ownership and expressed concerns about electricity and landscaping if anyone tried to use the facility before its completion.

Mr. Stone called Rick Ashcraft after the previous day's meeting to discuss trucks. He told him to decide in the next couple of days what he wants to do about the MACK since the price won't be available for much longer. Mr. Burgess said he'd talked to Rick about District Four taking over all the tandem trucks, and Rick suggested that leasing might be another option when the districts need to chip-seal. He felt the trucks are too expensive to maintain to only have limited usage. Mr. Stone also called Sean Keller with Buildings by Design to let him know about the proposed fairgrounds building.

Before Mr. Kimble started his report, Mr. Burgess said he'd gone by the Howard trailer in south Limon, and Brad Gilchrist is still working on it. Mr. Kimble said he told Mr. Gilchrist that the court order gave him through the end of May.

Mr. Kimble reported checking on drainage issues as far as someone being held liable for damages to a neighboring facility caused by water running off of a roof, such as a county building. The burden is on the person bringing the negligence action, but Mr. Kimble said it is a possibility, albeit a slim one, that the county could be held liable.

Mr. Kimble spoke with the attorney for the proposed Genoa Fire Protection District. They would still like to get something on the November ballot, but he wanted to know when the last day to withdraw was. Mr. Kimble contacted Mrs. Lengel to find out.

At 11:00 a.m., Mr. Burgess made a motion to adjourn as the board of county commissioners. Mr. Schifferns seconded the motion, which carried unanimously. Mr. Schifferns made a motion to reconvene as the Lincoln County Board of Health. Mr. Burgess seconded the motion, which carried unanimously.

Public Health Specialist Kelly Alvarez then met with the Board for a public hearing regarding The Lincoln County On-Site Wastewater Treatment Systems Regulations. Emergency Manager Ken Stroud and Land Use Administrator Trey James also attended the discussion. Mr. Stone opened the hearing, but no other members of the public attended. Ms. Alvarez said there were not many changes to the regulations and went over the updates and incorporation of Regulation 43. Mr. Kimble asked if she ever granted variances, and Ms. Alvarez said she had never done one for a septic system. Mr. Schifferns made a motion to approve the new On-Site Wastewater Treatment System (OWTS) Regulations. Mr. Burgess seconded the motion, which carried unanimously.

Mr. Burgess made a motion to adjourn the Board of Public Health meeting at 11:20 a.m. Mr. Schifferns seconded the motion, which carried unanimously. Mr. Schifferns made a motion to return to the regular board of county commissioner meeting. Mr. Burgess seconded the motion, which carried unanimously.

Mr. Piper reported receiving an email from Janet Kravig regarding the historical designation for the Karval school buildings. He told her the commissioners adopted a resolution to establish a registry. Since he will be on vacation until June 9, Mr. Piper said Gary Ensign would fill in for him a few days.

Mr. Stone called for old business, and Mr. Burgess said they'd never decided whether or not to buy another air compressor. Ritchie Bros. has a sale coming up in August if they are interested.

The only new business was a change to the start time of the June 7 commissioner meeting. Since Mr. Schifferns will not attend, and they will hold a work session walkthrough of the fairgrounds at 1:00 p.m., Mr. Stone asked if they could start at 11:00 a.m. to approve vouchers.

The Board approved additional expense vouchers for May and then broke for lunch.

When the meeting reconvened at 1:00 p.m., the commissioners held a public hearing in the jury assembly room on a proposed Hugo Fire Protection District. Several members of the public attended, including Assistant Hugo Fire Chief Jess Solze and John Justice, attorney for the proposed district. Mr. Solze said their department had seen a dramatic increase in expenses over the past few years; last year they were over \$60,000, with a loss of approximately \$10,000. Forming a fire protection district would give them a more sustainable income and the opportunity to plan for upgrades to their vehicles and equipment. The state views a department more legitimately, more grant opportunities are available, and grant match funds would be more accessible if they formed a district. Mr. Solze stated that the department lowered its ISO rating last year, but now they have to maintain that rating. The Hugo fire department is a volunteer organization, and there is no intention of it becoming a paid department. All tax money would go back into protecting residents' lives and property.

Margie LaFleur wondered how often they have an ISO inspection, and Mr. Solze said they do it every two years. Chris Solze asked his son to explain just what the ISO did for residents regarding their insurance costs. Mr. Solze responded that on average they saw a nine percent savings, as they lowered the rating by three points, which was about three percent per point. Mrs. LaFleur stated it reduced her homeowner's insurance by about \$200.

Mr. Kimble asked if they were seeking indebtedness to build new facilities, but Mr. Solze responded that their current fire station is all they need since it is heated and covered. They also don't want to buy new trucks, just reliable ones.

Mr. Burgess asked how many calls the department averages in a year's time. Mr. Solze told him that approximately 80% are ambulatory, or EMS calls, but they average three calls per week.

They respond to around five-to-seven structure fires per year; otherwise, 85% of their fire calls are for grass fires or motor vehicle accidents.

Mr. Kimble wanted to know if they would be able to cover the area in the proposed district with the staff they have currently, and Mr. Solze told him they already are. They do not plan to extend their boundaries. Mr. Kimble also asked if they planned to house firetrucks in other areas of their district besides just in Hugo. Mr. Solze said that it isn't the current plan, but perhaps in the future they would consider it. They have discussed identifying places where they could install cisterns, but that would be up to the elected FPD board and the residents.

Mr. Burgess asked about training and equipment, and Mr. Solze informed the group that training is expensive for a twenty-three member department. There is an NFPA standard for gear, which is only good for ten-to-fifteen years depending on its wear, but unfortunately, they can't abide by it due to cost. They do the best they can with hand-me-downs.

Dave Hubbard asked what the requested three and a half mills could generate. Mr. Solze responded that they expect approximately \$110,000 initially from the tax revenue, although state-assessed properties are hard to determine. They want to de-Bruce as well so that additional funds can go back into the budget. They hope to be able to reduce the mill levy later on if they can save enough to maintain the sustainable income they need to operate. If there is a need to increase the mill levy again, they could never go over the 3.5 mills without a vote of the people. The wind farms and any oil and gas would fall into the state assessed category, but the numbers on those haven't come in yet. The Gallagher Amendment affects it somewhat as well.

Raymond Enderson with the Northeast Lincoln Fire Protection District commented that they used the school district boundaries when they formed their district, but someone opted out at the time. They noted that the person could come back into the Northeast Lincoln FPD if another entity formed a district in the future. Mr. Solze said he'd spoken with that landowner and told him that it was his decision as to what he wanted to do. County Assessor Jeremiah Higgins stated that on the surface it looks like it follows the school district boundaries, which isn't true. It actually follows a metes and bounds description, so they can't really use the school district lines as the boundary. The Northeast Lincoln FPD is one of the lowest taxing entities in the county, but they still manage to be a district according to Mr. Enderson. He said they were supposed to get tax money from the wind towers but so far haven't seen any of it. They cope on a \$13,000 annual budget, but without the designation of a district, they would be unable to qualify for grant funds.

Juliet Lundy with the Eastern Colorado Plainsman/Limon Leader asked what would happen if a landowner requested to opt out of the district. Mr. Solze told her that the request would have to go through the county commissioners and the courts for final determination.

Attorney John Justice took over the discussion, outlining the events of the past several months regarding the submittal of the proposed service plan, notices to over one thousand taxpayers,

and advertising for the hearing. He apologized to Mrs. Lengel that the hearing notice wasn't submitted to the newspaper before the last hearing, as it was, in fact, the law firm's responsibility to do that. He addressed the Board and stated that the commissioners need to determine if the Service Plan submitted for the formation of the fire district meets statutory requirements. If so, the case will go to the district court next week and then on to the November ballot if the judge approves the request.

If the proposal doesn't satisfy the statutory requirements, the formation of the district cannot move forward. According to 32-1-203, C.R.S., the following must apply: there must be sufficient need for the district based on population growth, traffic increase, etc.; the existing service must be inadequate for future needs; the proposed district must be capable of providing economical services; and if any service debt is anticipated, they must be able to pay off the debt. Mr. Justice added that the Board could also look at whether the service standards are compatible with other countywide standards and if the service could be made available by an alternate source.

Mr. Kimble told the Board that in his opinion, the Service Plan addressed the criteria in state statute and the petitioners have met the requirements.

Mr. Justice said that they had received a few exclusion requests, but the proponents of the district agreed that there should be no exclusions regarding mineral interests, nor should any of the landowners be granted exclusions based on where their properties lie within the proposed district. They received three requests in April and five more in May. Phillip Camenisch requested exclusion of approximately fifteen thousand acres in the southeast quarter of the proposed district but gave no reason for his request. Nor did Wayne Banks provide a basis for exclusion of property in the northeast quarter of 13-12-55 or severed mineral interest in the southeast quarter of 13-12-55. They are all isolated parcels surrounded by protected locations. David and Florence Burton also requested exclusion.

Mr. Higgins asked if a person excluded from the district could be liable for property damage to other landowners if a fire started on their property. Mr. Kimble felt it might be a negligence issue. County Treasurer Jim Covington put in that if the district were to bill a property owner, the chance that the bill would be much more than the property taxes was pretty high. Mr. Solze commented that they've sent bills to people in the past but never received a response.

Mr. Justice added that there were four other requests for exclusion received as well; one from Barbara Dahlhauser for severed mineral interest in the south half of section 2. The letter stated there were no structures or buildings on the property that could catch fire, which was also the claim of a request from Janet and Richard Sunde for "bare land" in the east half of Section 6. Other requests for exclusion were from Sam Massey and Neil Goepfinger for the same reasons.

Mr. Kimble informed the Board that if they do approve the Service Plan as is, they are also allowed to grant exclusions. The same thing can happen in district court, so landowners can appear before the judge with their requests as well, although Mr. Kimble added that judges are

often reluctant to leave “islands” within a fire district. Denying exclusions has to be in the best interest of the proposed district.

Tyler Anderson commented that the cost per acre is minimal when it comes to the property taxes. Mr. Higgins agreed, stating that taxes on almost fifteen thousand acres might run a landowner around \$346.

Mr. Schifferns made a motion to close the hearing of the proposed Hugo Fire Protection District. Mr. Burgess seconded the motion, which carried unanimously.

Mr. Burgess made a motion to adopt a resolution approving the Service Plan for the proposed Hugo Fire Protection District and to allow no exclusions. Mr. Schifferns 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 May 31, 2018, 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
Jacob Piper, County Administrator	Present

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

RESOLUTION #966 It was moved by Commissioner Burgess and seconded by Commissioner Schifferns to adopt the following resolution:

WHEREAS, the Board of County Commissioners of the County of Lincoln, State of Colorado, is vested with administering the affairs of Lincoln County, Colorado, pursuant to state statutes; and

WHEREAS, pursuant to the provisions of the “Special District Control Act”, Part 2 of Article 1, Title 32, C.R.S., the Petitioners for the proposed Hugo Fire Protection District (“District”) filed a Service Plan for the proposed District in Lincoln County, Colorado on the 20th day of February, 2018; and

WHEREAS, pursuant to the provisions of sections 32-1-202(1) and 32-1-2014(1), C.R.S., the service plan was submitted to the Lincoln County Planning Commission and a public hearing was held before the Lincoln County Planning Commission on March 13, 2018 where the Lincoln County Planning Commission recommended approval as presented; the Board of County Commissioners of Lincoln County, Colorado, scheduled a public hearing on the Service Plan to be held at 1:00 p.m. on the 31st day of May, 2018; and

WHEREAS, notice of the date, time, location and purpose of the hearing was published in the Eastern Colorado Plainsman, a newspaper of general circulation, on May 10, 2018 and May 17, 2018; notice was provided to the Division of Local Government stating the name and type of the proposed

District; notice of the date, time and location of the hearing was provided to the Petitioners and to each property owner within the proposed Service Area as listed on the records of the Lincoln county Assessor; mailed to the governing body of each municipality and each special district which had levied an ad valorem tax within the next preceding tax year and which had boundaries within a radius of three (3) miles of the District; and mailed to said Division as required by subsections 32-1-202(1) and 32-1-204(I), C.R.S. (2001);and

WHEREAS, this Board of County Commissioners did on May 31, 2018, conduct a full public hearing on this matter, taking evidence establishing the jurisdiction of the Board to hear this matter, and further taking evidence establishing the jurisdiction of the Board to hear this matter, and further taking evidence regarding the substantive issues set forth in Section 32-1-203, C.R.S. (2001), at which hearing all interested parties were afforded an opportunity to be heard; and

WHEREAS, this Board of County Commissioners has fully considered the Service Plan and all testimony and other evidence presented to it in this matter relating to the Service Plan.

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

Section 1. The Board of County Commissioners hereby determines that all of the jurisdictional and other requirements of sections 32-1-202 and 32-1-204, C.R.S. have been fulfilled, including those relating to the filing and form of the Service Plan, the form and publication of the public notice of the hearing on the Service Plan and the type of public hearing held herein.

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Resolution #966

May 31, 2018

Section 2. Based upon the information contained within the Service Plan and evidence presented to the Board at the hearing, the Board finds and determines as follows:

- A. There is sufficient existing and projected need for organized services of the nature proposed in the Service Plan in the area to be serviced by the proposed District;
- B. The existing services in the area to be serviced by the proposed District;
- C. The proposed District is capable of providing economical and sufficient service to the area within its proposed boundaries;
- D. The area to be included within the proposed District will have the financial ability to discharge the operational costs of the District on a reasonable basis;
- E. Adequate service is not and will not be available to the area through Lincoln County, or other governmental organizations, including municipalities and special districts, within a reasonable time and on a comparable basis;
- F. The facility and service standards of the proposed District are or will be compatible with the facility and service standards of Lincoln County and the Town of Hugo;
- G. The Service Plan is in substantial compliance with a master plan adopted pursuant to Section 30-28-106, C.R.S.;
- H. The proposal is in compliance with any adopted county or regional or state long-range water quality management plan for the area; and
- I. The creation of the proposed District will be in the best interest of the area proposed to be served.

Section 3. The Service Plan of the District is hereby approved upon the conditions outlined on Exhibit A attached hereto and incorporated herein by this reference

Section 4. The Clerk to the Board is hereby directed to advise the Petitioners in writing of this action and to provide the Petitioners with a certified copy of this Resolution for the purpose of filing the same with the District Court of Lincoln County.

Section 5. All Resolutions in conflict with the provisions hereof are hereby repealed only to the extent of such conflict.

Section 6. This Resolution shall be authenticated by the signature of the Chair of the Board of County Commissioners and the County Clerk and Recorder.

Section 7. This Resolution is necessary for the public health, safety and welfare of the citizenry of Lincoln County, State of Colorado

Upon roll call the vote was:

Commissioner Burgess, Yes; Commissioner Schiffers, Yes; Commissioner Stone, Yes.

The Chairman declared the motion carried and so ordered.

Board of County Commissioners
of Lincoln County

ATTEST:

Clerk of the Board

With no further business to come before the Board, Mr. Stone adjourned the meeting until 11:00 a.m. on June 7, 2018, at which time the commissioners will meet to approve the remaining May expense vouchers.

Corinne M. Lengel, Clerk to the Board

Doug Stone, Chairman