

Board of County Commissioners of Lincoln County  
Agenda for March 18, 2019

- 9:00 Call to order and Pledge of Allegiance
- 9:30 Lincoln County Tourism Board to discuss the Town of Limon's grand plan
- 10:00 Receive and review sealed bids for the electrical work for the new Lincoln County show barn
- 10:30 Review and act upon proposed Resolution #984, a resolution declaring Lincoln County a Second Amendment Sanctuary County
- 11:00 Kevin Stansbury, Lincoln Community Hospital CEO, to provide a LCH monthly report
- 1:00 Perform a final lighting inspection with Titan LED Lighting Solutions regarding the new led lights at the Lincoln County Courthouse
1. Approve the minutes from the March 6, 2019 meeting
  2. Review the February, 2019, Statement of Revenues and Expenditures for County General, Public Health, Capital Projects, Conservation Trust, E911, Landfill, Library, Lodging/Tourism, Road and Bridge and Individual Road Districts
  3. Review the February, 2019, reports from the County Assessor, County Clerk & Recorder, County Sheriff and County Treasurer
  4. Review the February, 2019, reports from the Colorado Counties Casualty and Property Pool and the County Workers' Compensation Pool
  5. Discuss a Pre-Qualification process for the CDPHE Drinking Water Revolving Fund regarding Karval Water Users Inc.
  6. County Commissioner reports
  7. County Attorney's report
  8. County Administrator's report
  9. Old Business
  10. New Business

The Board of Lincoln County Commissioners met at 9:00 a.m. on March 18, 2019. The following attended: Chairman Ed E. Schifferns, Commissioners Steve Burgess and Doug Stone, 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 until noon.

Chairman Schifferns called the meeting to order and asked Mrs. Lengel to lead the Pledge of Allegiance.

Mr. Stone made a motion to approve the minutes from the meeting held on March 6, 2019, as submitted. Mr. Burgess seconded the motion, which carried unanimously.

Mr. Burgess asked if they could jump ahead to commissioner reports while Mr. Piper went to check for additional electrical bids. Mr. Stone reported that he went by the shop on March 7, and they ordered a new John Deere mower. He checked roads on March 8 and also got a call that the cattle panels for the fairgrounds would be in on March 11. He got calls from the truck driver and Big R about the panels and also called Chris Monks and told him they'd be coming. Mr. Stone missed the Colorado East Community Action Agency meeting on March 12 as he was concerned about the weather. Travis Taylor called and said he'd cancelled the fair board meeting for the same reason. District 3 had rain and high winds on March 13, and Rick Ashcraft called Mr. Stone to discuss letting the road crew off early in case they needed to work extra hours if the storm hit as predicted. More rain and wind on March 14 resulted in the loss of power. Mr. Stone called Mr. Burgess to see if District 2 needed help with anything, and then checked roads late that afternoon to see what shape they were in. He said that the sand blew off of a lot of them, even with the moisture. John Reid called him on March 16 to discuss the Red Flag Bill, and he spoke with John Savage about it on March 17.

Mr. Burgess reported participating in a phone conference regarding Ports-to-Plains on March 6 after the commissioner meeting. He also stopped by the landfill to talk with Mick Jaques about the new rates. Mick added a couple of items that they would not accept. While there, Mr. Burgess learned that Ms. Howe keeps a spreadsheet of loads that come in, and some of the roll-off dumpsters don't have as much weight as some other trailers but get charged a higher rate. Mr. Burgess felt they should discuss it further. Steve from Daniel Electric called him on March 7, and he talked to Bruce Walters about the weather. On March 11, Mr. Burgess also got a call from John Reid about the Red Flag Bill. He mentioned that he had several other calls about it during the week as well. He listened in on the Baby Bear Hugs call and also met with John Palmer and Chris Monks at the fairgrounds to discuss the water lines. Bart O'Dwyer will get prices for the underground pipe. The Economic Development Corporation meeting on March 12 lasted all day, and he felt it was a good meeting. Mr. Burgess took a call that afternoon regarding the swing at the annex park and let John Mohan know it would need to be repaired or replaced before the summer. He attended a conference call with the National Weather Service and other department heads at the sheriff's office about 3:00 to discuss closing the courthouse on Wednesday because of the storm. Mr. Burgess let the road crew leave early on the Thirteenth, and Mr. Stone called him on the Fourteenth to see if they needed help. Chris Monks called him on the Fifteenth to ask the same. Mr. Burgess said they canceled the hospital

board meeting, but he met with Lincoln Community Hospital CEO Kevin Stansbury on Friday afternoon. He talked to John Palmer on March 17 and let him know that Titan would bring the lights to the fairgrounds on Monday. Earlier this morning, he took a complaint about a road and another call regarding the Red Flag bill. He noticed driving into the parking lot that a couple of wooden panels above the doors on the roundhouse blew off, so he contacted John Mohan and let him know. The sheriff informed him that an inmate broke one of the locks at the jail, and Mr. Burgess felt they should discuss it with him to see if they needed to look at replacing all the locks sooner rather than later. The noise in the landfill compactor possibly came from the front cylinders, so they were going to try shims to see if that would fix it. Mr. Piper commented that Mick Jaques reported 98 mph winds at the landfill during the storm. Lastly, Mr. Burgess said that the train carrying the chipping rock should be in Limon on Wednesday, so they might need to unload on Thursday and Friday.

Rob Raines arrived at 9:10 a.m. for the 10:30 a.m. discussion.

Mr. Schifferns reported stopping by the new show barn after the commissioner meeting on March 6. They'd rescheduled the fair board meeting for this week due to the weather, and he talked to Chris Monks on March 12 about the impending storm. He, too, had numerous calls regarding the Red Flag Bill as well as a call about a missing person. Mr. Schifferns referred the party to the sheriff.

The Board reviewed the February 2019 Statements of Revenues and Expenditures for the General, Public Health, Capital Projects, Conservation Trust, E911, Landfill, Library, Lodging/Tourism, and Road and Bridge funds, as well as for the individual road districts.

The Board also reviewed the February 2019 reports from the Clerk and Recorder, Sheriff, and Treasurer.

Town of Limon Manager Greg Tacha arrived at 9:25 a.m. for the Tourism Board discussion at 9:30, but Mr. Piper said he'd received an email first thing this morning saying they had to cancel. Mr. Tacha said he had no presentation for the commissioners; he only came because Tim Andersen told him the Tourism Board couldn't make an expenditure of any amount over \$10,000 without commissioner approval. The town requested \$45,000 from the Tourism Board for new monument signs; one on each end of town, and they said they'd give them \$20,000, but they'd need commissioner approval for the other \$10,000. Mr. Piper said they told him that they'd need to discuss the budget and Limon's Grand Plan, but otherwise, he had no specific information regarding what they wanted to discuss.

After Mr. Tacha left, the Board reviewed the February 2019 reports from the Colorado Counties Casualty and Property Pool and the County Workers' Compensation Pool. They also discussed a pre-qualification process for the CDPHE Drinking Water Revolving Fund regarding Karval Water Users, Inc. Mr. Piper said that he and Emergency Manager Ken Stroud participated in a conference call with Element Engineering, LLC the week before, and he'd just sent Mr. Stroud a text and asked him to come and join the meeting.

When Mr. Stroud arrived, Mr. Piper said Karval Water Users would run their loan through the county as they'd done in the past, but there would be a local match of \$2,500. Mr. Burgess asked if that would come from the county or Karval Water Users, and Mr. Piper said he understood that the county would be obligated. Mr. Stroud agreed, stating that since the county would be the applicant, it would also be responsible for the match.

Mr. Kimble asked if KWU is a 501c3 or non-profit organization, but no one remembered, so Mr. Stroud sent a text message to Patrick Leonard to ask. Mr. Kimble went on to say that the county would be a pass-through and that there would be a rate increase of \$16.51 per month for consumers in Karval to pay back the loan. Mr. Piper asked if there would be any cost to the county other than the \$2,500, but Mr. Kimble didn't think so.

Mr. Stroud said that Patrick Leonard told him KWU is not a non-profit organization or 501c3, and Mr. Stone commented that it seemed like a lot of money as the total cost of the project was \$405,900. Mr. Stroud said there was a discussion of drilling a new well because of the nitrate levels. In reading the application, Mr. Kimble noted it appeared they must be planning on that because it showed a new project location due to the failure of the existing well. It also required the addition of a hydrant and backflow preventer at the water treatment plant and a new isolation valve installed at the current water storage tank, which was most likely a good portion of the expense.

Element Engineering asked Mr. Piper if the county had a procurement process, but everyone felt that since Karval Water Users was paying for the project, it would be up to them if they wanted to request bids.

Mr. Stone made a motion to submit the Drinking Water Revolving Fund – Pre-Qualification Form on behalf of Karval Water Users as provided by CDPHE. Mr. Burgess seconded the motion, which carried unanimously.

At 10:00 a.m., the commissioners opened three sealed bids for the electrical work at the new Lincoln County Show Barn. Jim Shideler of Shideler Electric noted that he wasn't bidding due to health issues, so there were only two bids; one from Fox's Electric for \$48,190.65, and the other from Daniel Electric, Inc. for \$45,906.50. It appeared the lower bid included the required specifications as well as a check in lieu of a bond, but the commissioners agreed they would review the paperwork in greater detail later on.

Several members of the public arrived for the Red Flag Bill discussion at 10:30 a.m., so Mr. Piper opened the jury assembly room for them. Sheriff Tom Nestor also stopped in, so Mr. Burgess asked how serious the broken lock at the jail was. The sheriff said they'd gotten it fixed, but the building is getting old enough that they would need to begin addressing each pod as the budget allowed. There are five pods, and it would cost \$10,000 to retrofit each one. Some are more critical than others, so they should address those first in the upcoming years. The sheriff promised to notify the commissioners right away if the situation declined.

Mr. Schifferns asked Mr. Kimble if he had time for his report, which he did. He contacted Mauna Towers regarding the poor condition of the radio tower the county leases. The company finally recorded the deed in December and then sold the tower to Timeless Towers, LLC, through a Bargain and Sale Deed, which was not yet recorded. Tony Hagans from Karval is the owner of Timeless Towers. Mr. Kimble went on to say that in 2011, the county signed a Tower Site License Agreement in which the licensee (the county) agreed to maintain the equipment within the tower. However, weather and damage to the building affected that equipment, so the county offered to repurchase the tower from Mauna Towers. Mr. Hagans wants to make a workable communications site and would like to upgrade it or possibly rebuild. The Board agreed that they should meet with Mr. Hagans to discuss it further.

At 10:30 a.m., the group moved from the commissioner meeting room to the jury assembly room so the Board could review and act on a resolution declaring Lincoln County a Second Amendment Sanctuary County in regard to the Red Flag Bill. Sheriff Tom Nestor, Undersheriff Gordon Nall, Captain Michael Yowell, and Town of Hugo Marshall Jesse Schier, along with approximately eighty community members, attended the discussion. Mr. Kimble read the entire resolution, and then Mr. Schifferns asked the sheriff if he had anything to add.

Sheriff Nestor explained his position, stating that he fully supported the resolution, and although it may only be symbolic, he felt the residents needed to let the State of Colorado know how they felt in Lincoln County. He added that there is a mental health crisis that needs addressing, but it should be in a manner other than confiscation of weapons. Since there is no due process with it, the sheriff expressed his opposition to HB19-1177 and asked the commissioners to move forward with adopting the resolution.

Mr. Schifferns asked for public comment, and Mark Hayes requested that the commissioners send a letter to the state expressing their disagreement with the bill. Jonathan Hart asked what the commissioners planned to do to continue standing up for county residents in the future. Mr. Kimble said the Board was aware of what is happening in the current legislature and assured him they would continue to remain proactive.

Mr. Burgess made a motion to adopt a resolution declaring Lincoln County a Second Amendment "Sanctuary County." Mr. Stone 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 March 18, 2019, there were present:

Ed E. Schifferns, Chairman	Present
Steve Burgess, Vice Chairman	Present
Douglas D. Stone, 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 #984** It was moved by Commissioner Burgess and seconded by Commissioner Stone to adopt the following resolution:

**WHEREAS**, C.R.S. §30-11-101, provides that Counties have the authority to adopt and enforce ordinances and resolutions regarding health, safety, and welfare issues; and

**WHEREAS**, C.R.S. §30-11-101, provides that the powers of a county as a body politic and corporate shall be exercised by a board of county commissioners; and

**WHEREAS**, the Second Amendment to the United States Constitution, adopted in 1791 as part of the Bill of Rights, protects the inalienable and individual right of the people to keep and bear arms; and

**WHEREAS**, the Supreme Court in the *Districts of Columbia v. Heller*, 554 U.S. 570 (2008), decision affirmed an individual's right to possess firearms, unconnected with service in a militia, for traditionally lawful purposes, such as self-defense within the home; and,

**WHEREAS**, the Supreme Court in *McDonald v. Chicago*, 561 U.S. 742 (2010), affirmed the right of an individual to "keep and bear arms." As protected under the Second Amendment, is incorporated by the Due Process Clause of the Fourteenth Amendment against the states; and,

**WHEREAS**, the Supreme Court, in *United States v. Miller*, 307 U.S. 174 (1939), opined that firearms that are part of ordinary military equipment, or with use that could contribute to the common defense are protected by the Second Amendment; and,

**WHEREAS**, Article II, Section 3 of the Constitution of Colorado provides that all "persons have certain inalienable rights, among which may be reckoned the right of enjoying and defending their lives and liberties; of acquiring, possessing and protecting property; and of seeking and obtaining their safety and happiness"; and

**WHEREAS**, Article II, Section 13 of the Constitution of Colorado provides that the "right of no person to keep and bear arms in defense of his home, person and property, or in aid of the civil power when thereto legally summoned, shall be called in question"; and

**WHEREAS**, Article II, Section 11 of the Constitution of Colorado provides that no "ex post facto law, nor law impairing the obligation of contracts, or retrospective in its operation... shall be passed by the general assembly"; and

**WHEREAS**, Article II, Section 7 of the Constitution of Colorado provides that the "people shall be secure in their persons, papers, homes and effects. From unreasonable searches and seizures"; and

**WHEREAS**, Article II, Section 15 of the Constitution of Colorado provides that “[P]rivate property shall not be taken or damaged, for public or private use, without just compensation,” which the Colorado Supreme Court has indicated includes a legal interference with the physical use, possession, disposition, or enjoyment of the property, including temporarily; and

**WHEREAS**, it is the desire of the Board to declare its support of the Second Amendment to the United States Constitution and the Colorado Constitution protecting citizens’ inalienable and individual right to keep and bear arms; and

**WHEREAS**, the members of this Board took an oath to support and defend the United States Constitution, the Constitution of the State of Colorado and the laws of the State of Colorado, insofar as they are constitutional,

**NOW, THEREFORE BE IT RESOLVED** by the Board of County Commissioners of Lincoln County by the authority granted the Board by the laws of the State of Colorado and people of Lincoln County, Colorado to stand and defend their rights and liberties, which are guaranteed by the United States and Colorado Constitutions, we hereby declare this Resolution to be a Second Amendment “Sanctuary County.”

**BE IT FURTHER RESOLVED** that this Board affirms its support for the duly elected Sheriff of Lincoln County, Colorado in the exercise of his sound discretion and affirms its resolve to support decisions by our Sheriff to not enforce any unconstitutional firearms law against any citizen,

**BE IT FURTHER RESOLVED** that this Board will not authorize or appropriate government funds for capital construction of building space and purchase of storage systems to store weapons seized pursuant to the authority and requirements set forth in H.B. 19-1177, if such bill is enacted by the Colorado General Assembly, and/or for the purpose of enforcing any other law that unconstitutionally infringes upon the right of the People of Lincoln County to keep and bear arms.

**BE IT FURTHER RESOLVED** that the Board encourages all appropriate agencies to take reasonable steps to ensure that there is available to all persons, appropriate mental health and substance abuse services.

**BE IT FURTHER RESOLVED** that the Board encourages the Sheriff, as well as all other appropriate agencies to adopt the focus of identification and evaluation of persons in need of mental health or substance abuse services, along with locating said services, as the primary focus of any attempts at preventing the possible dangers of firearm possession by persons in need.

Upon roll call the vote was:

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

The Chairman declared the motion carried and so ordered.

Board of County Commissioners  
of Lincoln County

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ATTEST:

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Clerk of the Board

Mr. Burgess also informed the group that the current legislators are trying to pass regulations regarding oil and gas that will be detrimental to Lincoln County. He encouraged those present to contact their legislators as soon as possible.

Les Swanson also wanted to go on record to say that Lincoln County Farm Bureau supported the resolution adopted by the commissioners.

Rob Boyd spoke up to ask if anyone contacted the legislators about the meeting they were currently attending, and Mr. Burgess said he had.

The group dispersed, and the commissioners returned to their meeting room.

At 11:00 a.m., Lincoln Community Hospital CEO Kevin Stansbury met with the Board to give the monthly report for the hospital. Also attending were LCH CFO David Usher, hospital board members Colleen Luft, Keith James, Gary Ensign, Jack Cross, Lorie Coonts, and Linda Orrell, Hunter Hook with CoBank, Chris Pareso and Charles Blasi with Farm Credit of Southern Colorado, Judy Vick, and County Treasurer Jim Covington.

Mr. Stansbury deferred to Mr. Usher regarding the financial update who said that they are currently in the process of auditing 2018. They showed \$24.3 million in gross revenue and \$17.242 million in net revenue for the year.

Mr. Stansbury said they have budget controls in place and now have a tool that lays out every line item in the budget and gives them the ability to look at actual costs versus what they budgeted.

Mr. Burgess asked if everyone understood the cost report and what goes into it, and Mr. Stansbury stated that Medicare allows certain costs and then reimburses the hospital 99% of what their allowable costs were. Mr. Usher added that Medicare is supposed to reimburse

101% of the hospital's costs, but Medicare doesn't consider bad debt to be a legitimate cost. The cost report tells them whether they owe Medicare or Medicare owes them.

Mr. Piper asked how many days of cash-on-hand they operate with, and Mr. Usher said it's less than ten.

Mr. Stansbury went over the hospital's strategic goals for 2019, which included quality of service, reducing expenses, revenue enhancement, and transparency, and some long-term goals like organizational structure and financing. The hope is to set up a mechanism that allows small rural hospitals access to capital so that they don't have to ask for help from the commissioners like LCH did.

Mr. Kimble said it appeared that all parties; the county, the hospital, and the banks, never signed the final version of the Tri-Party Supplemental Agreement, so they would need to do that. He told the hospital's attorney, Brian Betner, that he didn't have a copy of the document and learned it was because the final version wasn't signed. The Agreement indicated that the four mills secured by the banks were protected and also that the county could deduct the 2.5 discretionary mills for repayment of the note.

Mr. Ensign clarified that the four mills given to the hospital by the county each year were safe since voters approved them and that the 2.5 mills were discretionary and could be given to the hospital or held by the county according to the Board's decision. Mr. Kimble said that was correct.

Mr. Burgess made a motion to sign the final version of the Tri-Party Supplemental Agreement between Lincoln County, Lincoln Community Hospital, and CoBank/Farm Credit of Southern Colorado. Mr. Stone seconded the motion, which carried unanimously.

Mr. Stansbury requested an executive session, so Mr. Burgess made a motion to go into executive session, per 24-6-402 (4) (e), C.R.S., to discuss negotiations with Lincoln Community Hospital. Mr. Stone seconded the motion, which carried unanimously. Those remaining for the session in addition to the commissioners were Mr. Piper, Mr. Kimble, Mrs. Lengel, Mr. Stansbury, Colleen Luft, Hunter Hook, Chris Pareso, and Charles Blasi. Mrs. Lengel recorded the executive session, and the recording will remain on file in the County Clerk's vault for the statutory ninety days.

After coming out of executive session, the others left, and Mr. Piper provided a report from Mark McMullen with American Environmental Consulting. Mr. McMullen usually sends the report with his bill, so Mr. Piper said he'd start bringing the reports to the commissioners when he got them. He also reminded the Board of the Census 2020 meeting in his office the following day at 1:00 p.m.

Mr. Schifferns called for old business, and Mr. Burgess said the sheriff is still looking for a place to store the command post vehicle. He asked Roxie Devers if it would be possible to keep it in

the roundhouse. Mrs. Devers said they could but would have to put in electricity first. Sheriff Nestor has a couple of other ideas as well and will let them know what he finds out.

Mr. Burgess said he would not be at the April 8 commissioner meeting and also asked Mr. Schifferns to attend the hospital board meeting that week in his place.

There was no new business to discuss, but Steve Hodges with Titan LED Lighting Solutions arrived at that time for the 1:00 p.m. final inspection of the new lights in the courthouse, and the Board asked him to look over the electrical bid from Daniel Electric to see if it were complete. Once he had done so, Mr. Stone made a motion to accept the \$45,906.50 bid from Daniel Electric, Inc. for electricity in the new show barn at the fairgrounds. Mr. Burgess seconded the motion, which carried unanimously.

Mr. Burgess made a motion to adjourn the meeting at 1:16 p.m. so that the commissioners could perform the final lighting inspection. Mr. Stone seconded the motion, which carried unanimously.

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Corinne M. Lengel, Clerk to the Board

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Ed E. Schifferns, Chairman