

Board of County Commissioners of Lincoln County
Agenda for May 31, 2019

- 9:00 Call to order and Pledge of Allegiance
- 9:30 Public Hearing to act upon Colorado Prairie Arts & Music Council's special event permit for the concert taking place after the Ranch Rodeo
- 10:00 Patricia Phillips, Human Services Director, to present the Department of Human Services monthly report
- 10:30 Kevin Stansbury, Lincoln Community Hospital CEO, to provide a LCH monthly report
- 11:00 Jim Covington, Lincoln County Treasurer, to discuss the tax lien sale
1. Approve the minutes from the May 30, 2019 meeting
 2. Review and act upon a Memorandum of Understanding between Lincoln County and Xcel Energy Services Inc. concerning the Rush Creek II Wind Project
 3. Review and act upon a Road Use Agreement between Lincoln County and Trade Wind Energy
 4. County Commissioner reports
 5. County Attorney's report
 6. County Administrator's report
 7. Old business
 8. New business
 9. Approve additional payroll and expense vouchers if necessary

The Board of Lincoln County Commissioners met at 9:00 a.m. on May 31, 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 11:00 a.m., and Haileigh Shull with Tradewind Energy, Inc. attended until 9:30 a.m.

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

The commissioners asked Chief Deputy Assessor Renita Thelen to come and talk to them about tax valuations as they've fielded several questions regarding why property taxes went up so much. Mrs. Thelen explained that she has to be accountable to the state auditor, and if the valuations don't go up but stay stagnant, the state will eventually come out and redo the assessment. She added that, currently, the base price is \$90 per square foot on residential structures, when it could be as high as \$130. They had over one hundred sales in the area that they study, and some were as much as \$200 per square foot. Mrs. Thelen went on to say that it drives land sales, even though many people don't believe that their house is worth that much. However, if they were to sell, they might be surprised. Mr. Burgess said he'd like to see an article in the newspaper so that the public would have more information regarding their property taxes. Mrs. Thelen responded that the assessor did some posts on Facebook, but Mr. Burgess said that not all people use social media. She stated she'd let Mr. Higgins know when he was back in the office, adding that this is the last day of the protest period. They are required to perform re-assessments every two years, and overall, residential values went down in 2013. Mr. Schifferns asked what percentage rate taxes went up by in 2018, and Mrs. Thelen said they increased anywhere from 25%-to-45% depending on the location of the house. Before leaving, Mrs. Thelen encouraged the commissioners to tell people to call the assessor's office if they had questions concerning their taxes.

Mr. Burgess made a motion to approve the minutes from the meeting held on May 30, 2019, as submitted. Mr. Stone seconded the motion, which carried unanimously.

The Board reviewed a Memorandum of Understanding between Lincoln County and Xcel Energy Services, Inc. concerning the Rush Creek II Wind Project. Mr. Kimble shared the maps with the commissioners and said that Chris Monks approved them.

At 9:15 a.m., Land Use Administrator Fred Lundy stopped in with a development agreement for Mr. Kimble to review.

Mr. Burgess made a motion to approve the MOU between Lincoln County and Xcel Energy Services, Inc. concerning the Rush Creek II Wind Project. Mr. Stone seconded the motion, which carried unanimously.

Ms. Shull came to the table for the discussion regarding a Road Use Agreement between Lincoln County and Tradewind Energy, Inc. Mr. Kimble explained that the company approved a

Master Road Use Agreement, but when he and Chris Monks received the route map, it was different than what they'd discussed. Someone named Benjamin Branch had signed the agreement, so Mr. Kimble sent him an email asking if he had authority to do so. Mr. Branch confirmed he did, and Mr. Kimble said he'd kept the email.

Haileigh Shull stated that there was a miscommunication, and County Road 63 was not supposed to be highlighted on the map when they sent in the original. Mr. Kimble said that safety was the primary concern since many farmers use the road, and the project's scheduled start date put them right in the middle of harvest.

Mr. Stone made a motion to approve the Master Road Use Agreement between Lincoln County and Cheyenne Ridge Wind Project, LLC. Mr. Burgess seconded the motion, which carried unanimously.

Since Mr. Lundy returned at that time, Mr. Kimble asked him if he were satisfied with the agreement. Mr. Lundy asked if they had fulfilled all the requirements of the Land Use Board, and Mr. Kimble told him they had. Ms. Shull wondered whether the company needed to do anything further with the Special Use Permit, and Mr. Lundy said that the Development Agreement he'd handed to Mr. Kimble for him to review was theirs. Since the Land Use Board approved the permit with conditions, which they met, he saw no reason for the commissioners not to accept it once Mr. Kimble had a chance to look it over.

Mr. Burgess made a motion to approve the Development Permit agreement between Lincoln County and Tradewind Energy, Inc. upon approval by the County Attorney. Mr. Stone seconded the motion, which carried unanimously. Mr. Schifferns said he could sign the document on Monday unless Mr. Kimble found a problem with it.

At 9:30 a.m., the commissioners held a public hearing regarding the Special Events Permit application submitted by the Colorado Prairie Arts and Music Council. Amy Vice was the only member of the public to attend the hearing. Mr. Kimble asked if there were any problems or complaints voiced by anyone, but no one had heard anything. Mr. Stone made a motion to approve the Special Events Permit application submitted by the Colorado Prairie Arts and Music Council for a beer garden at the Ranch Rodeo. Mr. Burgess seconded the motion, which carried unanimously.

Mr. Schifferns called for commissioner reports, and Mr. Stone said he'd stopped by the Karval shop after the meeting on May 20. He checked roads north and northeast of Karval on May 24, and also looked at roads out west with Rick Ashcraft on May 28 after they got some rain. District 3 ordered a new mower, and it came in that same day. Mr. Stone attended the Economic Development meeting on the morning of May 29. They will start having quarterly meetings. He also went to Denver with Rick to look at a lowboy trailer. They traded a truck and another trailer for it and made \$400 on the trade.

Mr. Schifferns reported checking roads on May 22. The road crew got off early from the I-70 project on May 23 due to the holiday. On May 27, he took a complaint about County Road 2W and the lack of maintenance on it. Mr. Schifferns had a call on May 28 about a salesman who might be running a scam concerning politicians and government policies. He didn't notify the sheriff but commented that he should. Mr. Schifferns also attended the Economic Development meeting on May 29. He also talked to the sheriff about the issues he'd had with his patrol vehicles.

At 10:00 a.m., Robert Kraxberger met with the Board to give the monthly Department of Human Services report. The commissioners reviewed financial statements and employee timesheets, and the monthly Income Maintenance, Child Welfare, and director's reports. Mr. Kraxberger said that Mrs. Phillips turned in mitigation to the state for the over-expenditures in Child Welfare, but she hadn't heard anything back yet. The department would also overspend its Administration line item, but there are TANF reserves to help cover the overage. Mr. Schifferns asked Mr. Kraxberger for a list of commonly used DHS acronyms.

At 10:30 a.m., Lincoln Community Hospital CEO Kevin Stansbury met with the Board to give a monthly report. Their audit is almost complete and appears to be clean, cash significantly improved, and AP is less than half of what it was at the end of 2018. Receivables are up slightly, they collected approximately \$1.8 million in May, and Mr. Stansbury said he's feeling good about where they are. The bank offered to release the security on their loan; they will pay off the principal and waive any payments for the last four months of the year, which is when the hospital struggles the most with cash flow. CFO David Usher resigned, so the hospital will cover his position with interim CFOs from Lutz until they hire someone to replace him. Mr. Stansbury reported that they might decide to pull the mobile clinic from Bennett but added that they'd been invited to return to Karval with the understanding that residents must guarantee a certain number of patients each time the mobile clinic visited. Mr. Stansbury said he met with Senator Cory Gardner in April who asked them to prepare a white paper, which they did. They are also trying to stay visible to Congressman Buck who doesn't seem to like many of their ideas because it would take federal money to implement them. Mr. Stansbury said he wants the congressman to understand that investing now in the preservation of rural healthcare would save money in the future. Mr. Stansbury thanked Mr. Burgess for sending Steve Hodges with Titan LED Lighting Solutions to assess the hospital's lighting, and Mr. Burgess told him that George Ehlers said the county's electric bill decreased about two-and-a-half percent since Titan installed the new lights.

Mr. Stansbury discussed issues with billing between Medicare and Blue Cross/Blue Shield, stating that Medicare automatically moved people over to Medicare Advantage, which they then have to opt out of, unfortunately.

At 11:00 a.m., County Treasurer Jim Covington and Deputy LaRay Patton met with the Board to discuss the tax lien sale. Mr. Covington explained a situation that occurred several years ago regarding the issuance of a Treasurer's Deed in 2011. The owner then didn't pay the 2011 taxes, so the property went to tax sale again in 2012 to a different buyer. In 2016, the tenant of

the property asked to redeem the certificate, and after speaking with the county attorney, Mr. Covington allowed it since that person was the original owner of the property. Mrs. Patton put in that the situation occurred again, and now the original owner's son wants to redeem the tax lien sale certificate. Mr. Covington wanted to know if he set precedence by allowing a tenant to redeem the first time.

Mr. Kimble told him that state statute dictates that a person with a legal or equitable claim to the property can redeem, which Mr. Covington thought at the time he had. Mr. Kimble also studied case law as well as how other states handle the situation. Several states agree that tenants are individuals who have an equitable interest. He commented that Colorado isn't among those states, but he felt confident that there was enough justification for it to stand up in court. Mrs. Patton didn't believe the son had the right to redeem because he didn't live on the property. Mr. Kimble said an agent of the actual tenant could do it with a POA or something in writing.

Mr. Covington felt the cycle would continue unless they let the court decide the outcome.

Mrs. Patton said that the party they gave the Treasurer's Deed to in 2011 never claimed the document, although the clerk's office recorded it in the real estate records and the property now lists them as the owner. Mr. Schiffers asked how much the taxes were, and Mrs. Patton told him they are around \$600 a year.

Mr. Burgess agreed with Mr. Covington that they should let a judge determine the matter, and Mr. Kimble asked if the original owner/tenant had a signed agreement with the landowner allowing him to live there. If so, they would have to provide supporting documentation as well as prove they have a right to the property after this many years. Another question would be if the county would bring Quiet Title or a Declaratory Judgment, or if the tenant wanted to file an action that they adversely possessed the property, they could do that as well. They would have to prove they possessed the property for eighteen years. Mr. Kimble decided there was time to do a thorough investigation and stated he would look into the best way to handle it.

Mr. Covington stated that a resident asked him if the county would ever sell county-owned mineral rights back to the property owner. At one time, he said, the commissioners stated they would never let go of mineral rights owned by the county. Mr. Schiffers agreed, and Mr. Burgess asked Mr. Covington to find out how many acres it would be.

Discussion ensued regarding the magnetic door lock recently installed in the clerk's office, and Mr. Covington said he was under the impression that all departments were going to do it at once. Mrs. Lengel explained that she had permission from the Board to go ahead with one door to see if it was something everyone wanted to do before they spent a lot of money on it. Mr. Covington said he has always believed in an open-door policy, but for the safety of his staff, he conceded to getting one of the locks. He added that he would like to have an automatic door opener for disabled patrons if he closed his door. Mrs. Lengel said she had to have one put in because her office is a polling location and the Help America Vote Act required ADA

compliance. At the time, the device and installation were around \$2,500, which they paid for with federal funds.

Mr. Burgess gave his commissioner report, stating he dropped the John Deere Gator off at Parmer's for some repair work after the meeting on May 20. He went to Denver for parts on May 21 and looked at pipes on County Road 29 north of County Road 3T on May 22. The state inspected them and gave the county ninety days to repair them. The culverts suffered damage to the ends from trees, brush, and debris that piled up and plugged the openings. Mr. Burgess contacted McCormick Excavation about getting a piece of his equipment to remove the debris, which they will try to do the first part of June. He had Chris Monks order four eight foot pipes and bands to fix the problem. Mr. Burgess also operated the loader so that Bruce Walters could check roads that day. On May 23, Mr. Burgess got a bid for a "handy hitch," which was \$18,898. They are still working on possibly trading in a snowplow. He also ran the loader in Genoa that Thursday and had a meeting with Cathy Shull on Building a Better Colorado. They want people to get involved with putting items such as the Gallagher Amendment, taxes, and road issues on the ballot. Mr. Burgess reported checking roads north of Genoa and Arriba on May 24. They had over three inches of rain in some areas that caused minor road damage. He looked at the milling piles in Flagler, Arriba, and Genoa and determined they would have a lot of loads to haul to various yards and other locations. On May 28, the road crew patched County Road 4C east of County Road 109. He also purchased the landfill stoplight that day. On May 29, Mr. Burgess met with Mark McMullen with American Environmental Consulting, LLC and Jennifer Reynolds at the landfill. Ms. Reynolds was impressed with how clean and neat the area is and had some financial questions about closing costs. Mr. Burgess had her call Mr. Piper, and they discussed various reports that she needed. Mr. McMullen will try and get a variance so that the county can use shingles for daily cover instead of dirt, and he will also set up onsite training for the employees since it is a requirement. Mr. Burgess also had a call about a muddy driveway, so he and Mr. Walters looked at it and decided they would put some material on it when it dried up. He attended the Economic Development meeting in Hugo with James Ditmore and others to see how to promote the communities and attract development. On May 30, Mr. Burgess talked with a resident about accessing his property to remove the trees, brush, and debris, and the party had no problem with the county being on his land. Mr. Burgess picked up the John Deere Gator and took it to the landfill so they could test it. Mick Jaques and Allen Chubbuck installed the catwalk on the scale. Lastly, Mr. Burgess said he spoke with Tom Lee and Travis Taylor earlier this morning.

Mr. Piper stated that if the closing cost are more than 43% of total revenue then the county would have to put up bonds or obtain insurance, but Mr. Farmer didn't believe they would be that high. There is a requirement to complete a financial assurance assessment every five years with a yearly update for inflation. The last time the county completed one was in 2012. Mr. Piper said that Roxie Devers was working on one when she retired but never got it finished, and after that, it simply fell through the cracks. Mark McMullen will work on it and let him know what the county's next step should be, but they should finish the report and submit it as soon as possible.

Mr. Kimble reported that he spoke with the bond attorney, Lisa Mayers, about Karval Water Users being a component unit of the county instead of a fund so that they could keep their independence as a non-profit organization and limit the county's liability in their water project. Ms. Mayers's fee is \$425 per hour and she said she would send Mr. Kimble an opinion. He asked that she not charge more than two hours if possible. He also left a message for Beth Fox but hadn't heard back from her yet.

Mr. Stone said that Patrick Leonard felt there was no hurry since they had the media replacement project approved, but he still didn't understand why they would need to dig a second well if it weren't required.

Mr. Kimble also reported that there was no settlement at the mediation meeting regarding the land dispute between two parties on the northern end of the county. One party filed a motion to have the court determine what the 1885 Order actually means; whether or not every section line has to be a public highway. Mr. Kimble said the order was merely a guide to help counties establish their road system by determining where to locate them. The law was repealed in 1953. He added that he needed to respond by mid-June and could probably get a continuance.

Mr. Piper gave an update on the radioactive material discovered in a few pieces of pipe at the landfill, and once they approve the application, they will send their recommendation of who is qualified to remove the material and when and where to take it.

Mr. Burgess made a motion to terminate Katie Zipperer's county credit card due to multiple occurrences of late fees, interest charges, and overdraft fees, effective June 16, 2019. Mr. Stone seconded the motion, which carried unanimously. Mr. Piper will send Mrs. Zipperer a letter with instructions.

Mr. Burgess said he hadn't had a chance to talk to Travis Miller yet about putting some posts at the front of the courthouse to protect the building and personnel from intentional or accidental injury by a vehicle.

There was no business, so the Board approved a few additional expense vouchers, and then Mr. Schiffers adjourned the meeting at 1:15 p.m.

Corinne M. Lengel, Clerk to the Board

Ed E. Schiffers, Chairman