

# Board of County Commissioners of Lincoln County

Agenda for August 20, 2012

9:00 Call to order and Pledge of Allegiance

9:00 County Sheriff Tom Nestor to discuss the purchase of police vehicles

9:30 County Treasurer Jim Covington to discuss hours that one of his employees works

10:00 The Board will discuss whether or not to pursue replacement of the courthouse roof damaged as a result of the June hail storm

1:15 The Board will conduct a hearing on adoption of the proposed 1041 regulations

1. Approve the minutes from the August 7, 2012 meeting
2. Review the final determination from the Division of Property Taxation continuing the property tax exemption for the Peoples Regional Clinic property located at 134 6<sup>th</sup>, Hugo
3. Review the July reports from the Assessor and the County Clerk
4. Review the July reports of revenues and expenditures for County General, Public Health, Library, Landfill, Conservation Trust, E911, Lodging/Tourism, Capital Projects, Road & Bridge and the individual road districts
5. County Commissioners' reports
6. County Attorney's reports
7. Old business
  - a. Review the county's Economic Development Incentive Policy and discuss if revisions should be made to it
  - b. Appoint a Lincoln County representative from the W-Y Ground Water Management District to the Board of Directors of the Republican River Water Conservation District
8. New business

The Board of Lincoln County Commissioners met at 9:00 a.m. on August 20, 2012. The following attended: Chairman Steve Burgess, Commissioners Gary Beedy and Ted Lyons, and Clerk to the Board Corinne M. Lengel. County Administrator Roxie Devers was absent and excused, County Attorney Stan Kimble attended in the afternoon, and Will Bublitz with The Limon Leader and Eastern Colorado Plainsman attended in the morning.

Chairman Burgess called the meeting to order and led the Pledge of Allegiance. Sheriff Tom Nestor then met with the Board to discuss the purchase of vehicles for the sheriff's department. The sheriff was working on his budget for 2013 and said he intended to put in for the purchase of two vehicles, as they have been doing. A 2013 Dodge Charger will run \$24,467; however, he recently found a 2012 at Colorado Springs Dodge that they will sell now for \$22,988. It will cost approximately \$1,000 to transfer equipment from the current vehicle to a new one and the sheriff said he would pull the captain's car off-line and try to sell it. When asked how many miles per month Captain Tweden puts on the vehicle, the sheriff said it averages about 3,000, since the captain does most of the transports. He added that state bid is not usually interested in trading, which is why he felt they should try to sell it outright.

Mr. Lyons made a motion to allow the sheriff to purchase a 2012 Dodge Charger from Colorado Springs Dodge at a cost of \$22,988, and to sell the 2009 Dodge through Anderson Motors. Mr. Beedy seconded the motion, which carried unanimously.

Mr. Lyons then made a motion to approve the minutes from the meeting held on August 7, 2012, as submitted. Mr. Beedy seconded the motion, which carried unanimously.

The Board reviewed the Final Determination from the Division of Property Taxation continuing the property tax exemption for the Peoples Regional Clinic property located at 134 6<sup>th</sup> Street, Hugo. Also reviewed were the July reports from the Assessor and County Clerk, and the July reports of revenues and expenditures for the County General, Public Health, Library, Landfill, Conservation Trust, E911, Lodging/Tourism, Capital Projects, and Road & Bridge funds, as well as the individual road districts.

County Treasurer Jim Covington and County Assessor Jeremiah Higgins arrived at that time; Mr. Covington stating that one of his employee's has resigned and he is in the process of hiring someone to replace her. He requested that he be allowed to place his remaining employee on a 40-hour work week, since she will most likely be working extra hours. Mr. Covington added that he would actually like to see if the Board would agree to allow both of his employees to move to a 40-hour week. The commissioners wanted to know what the cost would be and Mr. Covington said he had not yet calculated it. Mr. Burgess asked if the other county offices would then want to change their hours of operation, and Mr. Higgins said his employees had originally voiced that they would not like to work longer hours, but he would not object completely to the change. Mr. Burgess said it would significantly increase the overall budget if all of the employees from both offices were to go to forty hour weeks, and that there must be enough workload to justify the change, but added that he personally didn't have a problem with it for the one employee in Mr. Covington's office at this time.

Mr. Beedy said they could address the other idea at budget time when they see how everything else goes, and made a motion to allow County Treasurer Jim Covington to move LaRay Becker-Patton to a 40-hour work week, beginning September 1, 2012. Mr. Lyons seconded the motion, which carried unanimously. The commissioners will consider moving other Assessor and Treasurer employees to a 40-hour work week as of January 1, 2013, once they receive budget figures.

Mr. Beedy reported attending the fair the week of August 6, and the Colorado East Community Action Agency work session and the department head meeting on August 14. He checked out the new shop in Karval on the Fifteenth, and attended the CCI Eastern District meeting on the Sixteenth and the grand opening of the hospital clinic on August 18.

Mr. Lyons reported looking at the oil field on August 8, as well as speaking to Chris with Wagner Equipment at the landfill, who was working on trying to fix the air conditioner in the compactor. He wasn't sure if it was fixed, so Mr. Lyons asked Chris Monks to find out. On August 9, Mr. Lyons met with Kerry Halde about the washboard problem on County Road 26, and on the Thirteenth, he checked on County Roads 2G and 35. On August 14, Mr. Lyons attended the department head meeting, and on the Sixteenth he received a phone call from John Forristall about County Road 2J being beaten up by the seismograph crew. Mr. Lyons contacted Chris Monks to have it fixed. On August 17, he drove the rest of the roads around the area affected by the seismograph crew, commenting that there is bound to be more damage as they will be around for approximately two more months.

At 10:00 a.m., Jim Covington returned for the discussion about the roof. Jeremiah Higgins had stayed, and Travis Nall attended, as well. Mr. Burgess said he'd heard from several people who believe the roof should be replaced, while Mr. Beedy explained to those in attendance that the way the insurance pool works, the county will see large rate increases starting in three years if the claim is taken and the roof is replaced. He added that what he saw, and what the insurance adjuster reported, was that the damage is mostly cosmetic, and he believes there would be no leakage.

Travis Nall said he had walked the roof again and some of the roof jacks need to be replaced, as well as the caulking in the seams, but he, too, felt the dents from the hail were mostly cosmetic problems and he did not believe that the seams would leak. He added that the roof definitely does need some maintenance.

Mr. Beedy said the maintenance could be dealt with, but to take over \$700,000 in insurance money for a roof that isn't even a third of the way through its projected life of seventy-five years, when the damage is mainly cosmetic, seems extreme. Mr. Higgins asked what would happen if the roof wasn't replaced and there were other problems in the future, and Mr. Beedy told him that the roof is still fully insured.

Travis Nall added that as long as he has worked for the county there has been some leakage during a heavy rain, but his opinion was that if new roof jacks were put on and the caulking was

done, the roof should last another thirty-to-forty years. He also said that Plains Heating came out and checked the furnace and air conditioning units to see if they would need to be replaced, and Mr. Beedy said that the commissioners should rely on their experience. The county could turn in at least that portion of the insurance claim if those from Plains Heating felt it should be done.

Mr. Lyons said that his biggest issue was the fact that they had been told by the pool representatives that the county would see a “substantial increase,” yet no one could tell them what that increase would be. His main concern was what could happen if the county has a hard winter, as replacing the roof, or even damaged items in the offices could become quite a problem once that happened.

Mr. Covington and Mr. Higgins wondered if an independent adjuster could be asked to look at it, but Mr. Burgess said that was what had been done, and he was not in favor of spending more money to have another person look at it. Mr. Burgess also commented that the county does not have to stay with the insurance pool, and Mr. Lyons put in that they also have no idea what structural damage was done prior to the wind bars being put on the roof.

Mr. Beedy said that he does not feel there is a need to replace the roof, as it does not make financial sense to him, and Mr. Burgess disagreed, stating that it is the Board’s responsibility to take care of the county assets for the residents who elected them.

Mr. Lyons made a motion to proceed with obtaining bids for the replacement of the courthouse roof this fall. Mr. Burgess seconded the motion. The motion passed with Mr. Burgess and Mr. Lyons voting for it and Mr. Beedy voting against it.

Mr. Beedy suggested having someone else with proper knowledge write up the bid specifications and Mr. Lyons agreed, as he felt that the insurance carrier would be interested in that information. Mr. Burgess said he didn’t think they needed to pay someone else to do it.

Mr. Burgess then reported on various comments or complaints he had received during the fair. He attended the town board meeting in Arriba on August 13 to request the repeater be placed on the water tower there, and was told that they have electrodes on the tank to keep algae from growing in the water. They will need to make sure adding the repeater does not void their warranty. On August 14, Mr. Burgess attended the department head meeting. He picked up parts in Burlington on August 15, and attended the CCI Eastern District meeting on August 16. He also spoke with Greg Etl, who felt the county should apply for a DOLA grant this year. On August 18, Mr. Burgess attended the ribbon-cutting ceremony at the new medical clinic in Limon.

Mr. Lyons said he’d spoken with Mike Vaughn, who wanted to know if anyone knew where he could borrow some extra grandstands for the south side of the arena to keep people back off the fence during the demolition derby in future years. Mr. Beedy thought they may have gotten some from the school, so Mr. Lyons said he would contact Lloyd Grauberger.

Mr. Burgess told the others that he did not think District Two would be able to take any more gravel from the O'Dwyer pit until the issue of increasing the price was resolved.

Mr. Burgess also said that Chris Monks had given him some information on the purchase of another loader to replace the one that has so many hours on it, and it would cost around \$135,000. He added that he would not want to pay for it this year if they went ahead and traded the old one off, but would make payment with the 2013 budget. Mr. Burgess made a motion to allow District Two to purchase a 2009 loader for approximately \$135,000 with payment due in 2013. Mr. Lyons seconded the motion, which carried unanimously.

A call was placed to Raymond Enderson to see if he had spoken with Terry Saffer about being a representative from the W-Y Ground Water Management District to the Board of Directors of the Republican River Water Conservation District, but Mr. Enderson had not spoken with Mr. Saffer again. Mr. Burgess called Mr. Saffer, who was not interested at this time. Mr. Beedy suggested Rob Boyd, but could not get in touch with him.

At 1:15, the commissioners conducted a hearing on adoption of the proposed 1041 Regulations. Those in attendance were Land Use Administrators Ken Morrison and John DeWitt, Dave Stone and Joe Kiely with the town of Limon, Dave and Toni Crismon, Tami Kanthack, Tim Power and Jeff Cure with K.C. Electric Association, Chris Paulson with HCB Ventures, Jack Wolfe and Jim Herron with Mountain View Electric Association, Randy Duncan and Michael Rutherford with Front Range Pipeline, Rick Thompson with Tri-State Energy, and James Emmerling. The hearing was recorded and the tape will remain on file in the County Clerk's office.

Mr. Kimble stated that both the town of Limon and Mountain View Electric had sent written concerns regarding the adoption of the regulations, adding that the Board may wish to continue the discussion after hearing what everyone had to say. Explaining that Dave Taussig had originally convinced the commissioners to adopt a set of regulations that would not necessarily stop development in the county but would instead bring all parties to a discussion point, thereby protecting county landowners, Mr. Kimble stated that the Board began putting together something that could fit Lincoln County. He added that they welcomed suggestions and ideas that would hopefully suit everyone.

The timing was the main concern from all who chose to speak, everyone pointing out that areas in Chapter 2 of the regulations conflict with Colorado Revised Statutes. MVEA suggested adding a clause to the end of the first sentence in Chapter 2, Article 3.3.5, that would be more in agreement with statute. MVEA spokesman Jack Wolfe stated that it was their understanding that the proposed Guidelines and Regulations are a supplement and amendment to the regulations adopted in 1976, and that, so far as major facilities of a public utility are concerned, the proposed Guidelines and Regulations constitute the final determination of regulations as required by Chapter 1, Article 3.9, as proposed. He asked for clarification, as otherwise there could remain an open question as to whether a moratorium against submittal of applications

for approval of such major facilities might be in place. Mr. Kimble assured everyone that once the regulations meet all expectations they will be approved and put into effect as is.

Mr. Wolfe then addressed transmission lines, stating that MVEA believes the county should establish a threshold voltage below which an electric line would not come within the definition of a transmission line in the regulations. Since they still operate older transmission lines in Lincoln County at a nominal voltage of 69,000 volts, it is their desire that the threshold needs to be set higher than any distribution voltage used by a public utility, and should be set no lower than a nominal voltage of 69,000 volts. As the standard voltage of new transmission line construction in the state of Colorado is 115,000 volts or higher, Mr. Morrison said he would recommend that number be put in the 1041 Regulations, and Mr. Wolfe said MVEA would be happy with that.

Another concern of MVEA was with Chapter 6, Article 6.3.1 (1), which prohibits construction of a major facility of an electric utility, including a substation, without obtaining a permit pursuant to the proposed Guidelines and Regulations. However, Chapter 1, Article 1.5, sets for exemptions to the requirement, allowing for “grandfathering” of certain projects. Mr. Wolfe explained that MVEA is in the process of rebuilding the current Limon substation, which will include expansion of capacity and will be conducted on land that was purchased by Mountain View for just such a purpose in 1950. Since substations are not constructed under a county building permit, Mr. Wolfe asked for clarification that the proposed regulations would not apply to rebuilding or expansion of electrical substations on land owned for that purpose by the public utility.

Chapter 2, Article 4, of the 1041 Regulations has to do with appeal of decisions under the Guidelines and Regulations to the courts; however, Mr. Wolfe stated that 29-20-108 (5) C.R.S. provides that appeal of a denial of an application by a public utility is appealable to the Colorado Public Utilities Commission under certain conditions. MVEA would like for Article 1.4 to be revised to add that any appeal of a final decision of the Permit Authority to the Colorado Public Utilities Commission shall be initiated within thirty (30) days after the decision is made, pursuant to 29-20-108 C.R.S.

Lastly, Mr. Wolfe asked that Chapter 2, Article 4.2 (13), which has to do with posting of financial security to assure the county that the permit terms will be complied with, be amended to include that a waiver of financial security be expanded to include electric and gas companies.

Jeff Cure voiced his agreement with Mountain View Electric on behalf of K.C. Electric Association, and Rick Thompson with Tri-State added that he also concurred. He said that he had not had time to prepare written comments, but asked if it would still be possible to do so, to which the Board agreed. He added that his concern was also with the voltage numbers, and Mr. Kimble stated that it had actually been the decision of the Land Use Board to remove the higher number from the 1041 Regulations, but said that he felt those present had explained it much more clearly.

Mr. Thompson also said that in any other 1041 Regulations he'd dealt with, he had never seen where the proponent paid for legal fees, and they would like for that portion to be removed. He added that they have no problem with paying fees related to consultants and staff, within reason, but requested that the word "reasonable" be added. He also informed the group that as a utility regulated by the PUC, Tri-State does have the right of eminent domain, and asked that they be looked at as a public entity, not a private entity.

Mike Rutherford with Front Range Pipeline was interested in learning the process and finding out when the regulations would be implemented, as they, too, have a project going in which they would like to begin construction in the spring of 2013.

Mr. Beedy said their intent was to combine Special Use Review regulations with the 1041 Regulations to cut down on guidelines.

Chris Paulson with HCB Resources had questions about the definition of municipal and industrial water projects, as well as the quantity and length of pipelines.

Joe Kiely then spoke for the town of Limon, voicing numerous concerns. Mr. Kimble explained that it was not the intent of the Board that the county's 1041 Regulations would affect anything within the boundaries of a municipality, and stated that language may need to be added to the regulations exempting municipalities.

Toni Crismon was concerned with the amount of water used in hydraulic fracking for oil development purposes, stating that she thinks that water on an aquifer should belong to everyone, not just the landowner. She was informed that the State of Colorado would disagree, as state water laws dictate that water rights belong to the landowner, unless those rights are sold.

Before the meeting broke up, the group was asked to submit further comments in writing, and then Mr. Beedy made a motion to continue the hearing on the 1041 Regulations to September 28, 2012, at 10:00 a.m. Mr. Lyons seconded the motion, which carried unanimously.

Mr. Burgess asked that review of the county's Economic Development Incentive Policy be put on the August 31 agenda under "old business".

Mr. Kimble said he was still looking into the CORA policy and Mr. Beedy said he would try to contact Rob Boyd about serving on the Republican River Water Conservation District board.

With no further business to come before the Board, the meeting was adjourned until 9:00 a.m. on August 30, 2012.

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Corinne M. Lengel, Clerk to the Board

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Steve Burgess, Chairman