

# Board of County Commissioners of Lincoln County

Agenda for September 28, 2012

9:00 Call to order and Pledge of Allegiance

10:00 The Board will continue their hearing on the proposed 1041 regulations

1:15 Sheriff Tom Nestor and Corporal Zane Nestor will meet with the Board to discuss the purchase of equipment awarded through an EMTS grant

1. Approve the minutes from the September 27, 2012 meeting
2. Discuss the town of Limon's request for a waiver of the Annexation Impact Report for the Limon Airport Annexation and adopt a resolution if approved
3. Review and act on the paperwork submitted by Tri-County Fire Protection District to license their ambulance service and ambulance as basic life support
4. Review the 2012 Lincoln County Property Assessment Study compiled by Wildrose Appraisal, Inc.
5. Review the costs of prosecuting crimes alleged to have been committed by persons in the custody of the Department of Corrections as prepared by the 18<sup>th</sup> Judicial District and adopt a resolution certifying the costs and requesting payment
6. County Commissioners' reports
7. County Administrator's report
8. County Attorney's report
9. Old business
10. New business
11. Approve additional expense vouchers if necessary

The Board of Lincoln County Commissioners met at 9:00 a.m. on September 28, 2012. The following attended: Chairman Steve Burgess, Commissioners Gary Beedy and Ted Lyons, County Administrator Roxie Devers, and Clerk to the Board Corinne M. Lengel. County Attorney Stan Kimble arrived at 9:30 a.m. and stayed until noon. Will Bublitz with The Limon Leader and the Eastern Colorado Plainsman attended the meeting in the afternoon.

Chairman Burgess called the meeting to order and led the Pledge of Allegiance, after which Mr. Beedy made a motion to approve the minutes from the meeting held on September 27, 2012, as submitted. Mr. Lyons seconded the motion, which carried unanimously.

Mr. Beedy also made a motion to adopt a resolution approving a waiver of the Annexation Impact Report for the Limon Airport Annexation. Mr. Lyons 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 September 28, 2012, there were present:

Steve Burgess, Chairman	Present
Gary A. Beedy, Vice Chairman	Present
Ted Lyons, Commissioner	Present
Stan Kimble, County Attorney	Absent & Excused
Corinne Lengel, Clerk of the Board	Present
Roxie Devers, County Administrator	Present

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

It was moved by Commissioner Beedy and seconded by Commissioner Lyons to adopt the following resolution:

**RESOLUTION NO. 831**

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

**A RESOLUTION TO WAIVE ANNEXATION IMPACT REPORT CONCERNING TOWN OF LIMON PROPOSED ANNEXATION OF LIMON MUNICIPAL AIRPORT.**

**Whereas**, the Town of Limon Municipal Airport is presently located outside of the boundaries of the Town of Limon; and

**Whereas**, the Town of Limon, through its Mayor and Board of Trustees, wishes to annex the Limon Municipal Airport into the Town of Limon so as to allow the property to be eligible to receive grants, loans, and similar improvement funds; and

**Whereas**, the Town of Limon wishes to have the property subject to Town zoning, subdivision, development, and other municipal land use regulations; and

**Whereas**, Lincoln County has in place a policy which favors agricultural uses and which encourages that residential or commercial development of property take place within municipalities wherein municipal and utility services are available for such development; and

**Whereas**, the Limon Municipal Airport consists of approximately 243.44 acres of real property, making the proposed annexation subject to the annexation impact report required by C.R.S. 31-12-108.5, unless waived by the Lincoln County Board of Commissioners; and

**Whereas**, the present use of the property as a municipal airport would have the same probable impact on the surrounding property whether the property was located within the Town of Limon, or not, making an annexation impact report unnecessary;

**NOW, THEREFORE BE IT RESOLVED:**

1. Efforts by the Town of Limon to annex the Limon Municipal Airport shall not include the requirement of an annexation impact report, such report being waived by the Lincoln County Board of Commissioners.

Upon roll call the vote was:

Commissioner Lyons, Yes; Commissioner Beedy, Yes; Commissioner Burgess, Yes.

PASSED AND ADOPTED this 28<sup>th</sup> day of September, 2012, in Lincoln County, Colorado.

THE BOARD OF COUNTY COMMISSIONERS,  
LINCOLN COUNTY, COLORADO.

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ATTEST:

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Clerk of the Board

Mr. Beedy also made a motion to adopt a resolution approving the Tri-County Fire Protection District's application to renew their ambulance service and ambulance licenses as basic life support. Mr. Lyons 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 September 28, 2012 there were present:

Steve Burgess, Chairman	Present
Gary Beedy, Vice Chairman	Present
Ted Lyons, Commissioner	Present
Stan Kimble, County Attorney	Absent & Excused
Corinne Lengel, Clerk of the Board	Present
Roxie Devers, County Administrator	Present

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

**RESOLUTION #832** It was moved by Commissioner Beedy and seconded by Commissioner Lyons to adopt the following resolution:

**WHEREAS**, pursuant to the Colorado Emergency Medical Services Act, Section 25-315.101, et seq., C.R.S., the Board of County Commissioners has the authority to establish requirements for the inspection, licensure, and operation of ambulance services, ambulance personnel, and ambulance vehicles operating in the county; and

**WHEREAS**, the Lincoln County Commissioners adopted Resolution #651 and thereby established rules and regulations governing the licensure of ambulance services operating within Lincoln County; and

**WHEREAS**, the Tri-County Fire Protection District has presented the Board of County Commissioners with an application to license the ambulance service and to permit their ambulance as a basic life support vehicle; and

**WHEREAS**, upon review the Board of County Commissioners determined that the documentation presented met the rules and regulations established under Resolution #651;

**NOW, THEREFORE BE IT RESOLVED** by the Board of County Commissioners of Lincoln County that the Tri-County Fire Protection District is hereby authorized to provide ambulance service in Lincoln County with a basic life support ambulance.

Upon roll call the vote was:

Commissioner Lyons, Yes; Commissioner Beedy, 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

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Mr. Beedy made a motion to adopt a resolution certifying the costs of prosecuting crimes alleged to have been committed by persons in the custody of the Department of Corrections as prepared by the 18<sup>th</sup> Judicial District, and requesting payment. Mr. Lyons 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 September 28, 2012, there were present:

Steve Burgess, Chairman	Present
Gary A. Beedy, Vice Chairman	Present
Ted Lyons, Commissioner	Present
Stan Kimble, County Attorney	Absent & Excused
Corinne Lengel, Clerk of the Board	Present
Roxie Devers, County Administrator	Present

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

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

**RESOLUTION #833** It was moved by Commissioner Beedy and seconded by Commissioner Lyons to adopt the following resolution:

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

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

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

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

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

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

1. The costs in Exhibit A are certified to the department of corrections.
2. The costs in Exhibit A have not otherwise been paid by the state.

Upon roll call the vote was:

Commissioner Lyons, Yes; Commissioner Beedy, 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. Beedy reported attending the County Health Pool meeting on September 20, and the meeting on September 25 with Economic Development and the group working on saving the Lincoln Theatre in Limon. Last evening, he attended the Eastern Colorado Services for the Developmentally Disabled meeting in Sterling. He also reported that the electrical inspection has been done for the Karval shop, and they should be getting sheetrock in next week.

Mr. Lyons reported receiving a call from Dale with Stand-By Power, but after some discussion, the commissioners agreed that they may know more after the department head meeting next Tuesday. On the Twenty-sixth, Mr. Lyons went by the oil fields and reported seismograph activity on County Roads 2P and 35. He attended the hospital board meeting last evening.

Mr. Burgess reported that Roy Brossman had done an excellent job on the new bridge replacement, and on September 20 he helped Bud Andrews move some old feeders. On September 25, he took the bookmobile to DJ Bodyworks in Limon, as they are having problems with the paint job. On the Twenty-sixth, he attended the Forfeiture Board meeting, and earlier this morning he received a call from Jack Pfost, who is concerned with the 1041 regulations. He also spoke to Chris Monks, who told him he opened up County Road 3T this morning.

Ms. Devers said she'd received an email from the State Sales Tax Division requesting an additional MOU for lodging tax and wanted to know if the Board wanted to designate her as the one to receive the information. The commissioners agreed. Ms. Devers also handed out information from Public Health Nurse Sue Kelly about state funding of the EPR position.

At 10:00 a.m., the Board continued the hearing on the proposed 1041 regulations. Land Use Administrator John DeWitt, Chris Paulson with HCB Ventures, Mike Barningham with Tri-State, Scot Oliver, and Carl and Cherry Stogsdill all attended the hearing. The hearing was tape-recorded.

County Attorney Stan Kimble began by stating that he had made a few additional changes based on the previous hearing, and provided the documentation to the audience members, adding that he hoped that it addressed the concerns of the electric companies. However, Rick Thompson with Tri-State had sent further questions, as he felt there were portions that were still unclear as to public utilities. Mr. Kimble said that Section 5 seems to be giving them the most problems, as those regulations were based on Alamosa County's, and they have much more water than Lincoln County, meaning Lincoln County's regulations would not need to be quite as stringent. Mr. Kimble went on to say that he had added 5.1.3 (4), which everyone seemed to be in agreement with.

Mr. Barningham said that there are situations in their service area where "speculators" would go out and acquire easements, hoping that they would then tie into future wind farms. He added that if all the definitions in the 1041s are pieced together they tend to have everything covered, but he felt it could be more clearly stated, and remarked that rate of voltage doesn't differentiate between public and private. He added that Tri-State meets with the commissioners of a county prior to obtaining easements because if the county disapproves of the route, then they are out time and money. However, most counties also want some assurance that landowners have agreed to the easements or have at least been approached about them. Mr. Kimble felt some different verbiage might help and Mr. Barningham offered to make recommendations.

Chris Paulson with HCB Ventures then spoke up regarding 5.1.5 and the definitions in 3.1.4, stating that they interpreted 5.1.5 (ii) and (iii) to mean that any sale or transfer of land or water rights would trigger a review. He suggested that land use changes, not water rights, are what should be reviewed. Mr. Kimble asked if removing those two sections from the regulations would help, and Mr. Paulson said he felt that it would, as much of it is covered in 3.1.4 under industrial and municipal water.

Mr. Kimble explained that the concern is with pipelines going across the county and Mr. Beedy put in that if there is a long-term or permanent export of groundwater that could potentially lower water tables and dry up domestic and livestock wells, that would be an issue that they would hope the regulations would help to avoid. He added that they wouldn't want to hinder temporary use in any way, for example for drilling, but it would be best not to rely entirely on state regulations either; the county should also have some involvement.

Mr. Lyons said he would hate to sit there as a commissioner and dictate what he knew relatively nothing about, but Mr. Beedy said it would merely be a means of making everyone more aware of it, rather than knowing nothing about what was happening.

Further discussion regarding burden of proof, managing natural resources, and having a stricter standard led to Mr. Kimble asking Mr. Paulson to propose language for 3.3.4.

Mr. Beedy said that he definitely wants to preserve the owners' rights, yet doesn't want to lose the opportunity to mitigate since the county gets no notice of any water use changes at the county level. Mr. Paulson felt it would be easy to put the county on the notice at the state water board, and Mr. Beedy went on to say that the county does the same thing with all development permits; they make sure there are no detrimental aspects when any new development enters the county. He added that he is not saying they stop it, just that they maintain the right to review it.

Carl Stogsdill stated that there are several pipelines around the county now that cross several different landowners and roadways, and wanted to know if the regulations were requiring that whoever puts in the pipeline applies for the permit, or how the permit process would actually work. Mr. Kimble responded that they hoped to address it in the regulations through the size of the pipe and area traveled. A project would need to be reviewed according to the 1041s only if the pipe diameter was larger than four inches or the water was traveling more than five miles. Cherry Stogsdill spoke up to say that it seemed that the fees for the landowner would be quite high.

Mr. Kimble said the final point concerned habitats and wildlife species, which were not included in the original regulations, and Mr. DeWitt said that it would be next to impossible to name all the species, but that adding the habitats didn't prove as difficult.

Mr. Kimble gave a recap of what had been discussed and Mr. Beedy said that he felt they have been getting excellent input from people. Mr. Lyons still felt uncomfortable with adopting the regulations, feeling they needed to go through each section of the regulations one at a time, and Mr. Burgess suggested a work day to do so. The commissioners decided to do that on October 16, the day before the mid-October meeting, with a final adoption hearing on November 19, 2012, at 1:30 p.m. The hearing on the 1041 regulations was continued until that time.

Once everyone else had gone, Mr. DeWitt discussed the revised mineral lease, with Mr. Burgess clarifying that if a landowner does not take over a pit once the county is finished with it, the county has to go in and reclaim it. However, if the landowner chooses not to allow the county access, the landowner is then required by law to reclaim the pit themselves. The question came up of what would happen if the landowner refused the county access to the road on their property, and Mr. Beedy said that they would probably have to obtain a new permit, as the access route is designated in the original permit. He added that if the county had to use the section line, they would not have to necessarily build a new road or fence, but could stay on the landowner's side of the property.

Mr. Burgess said they were only concerned with the lease for the O'Dwyer pit at this time, but Mr. DeWitt said there were actually four or five leases that have expired, not just O'Dwyer's and Ravenkamp's.

Mr. Beedy made a motion to approve the new Mineral Lease & Right to Enter and the Sand and Gravel Pay Schedule, effective October 1, 2012. Mr. Lyons seconded the motion, and it carried unanimously.

Ms. Devers said that Ben with Total Exploration had sent her a notice that they will be resuming their activities the first of next year.

At 1:15 p.m., Sheriff Tom Nestor and Corporal Zane Nestor met with the Board to discuss the purchase of equipment awarded through an EMTS grant. Travis Nall also attended the discussion. Mr. Burgess asked if any or all of the repeaters and radios could be reprogrammed instead of purchasing new ones, but Zane told him that most of them are not reprogrammable. He said that Andy Bellender with Wireless Advanced/CCNC (Consolidated Communications Network of Colorado, Inc.) told him that the MSR2000 and MSF5000 repeaters they have would need to be replaced.

Sheriff Nestor put in that there are state licensing requirements and he felt the commissioners should contact someone at the state first for clarification, as they would not want to do something illegal. He added that they are Road & Bridge radios, not theirs, so they don't really care one way or another, and Zane said that according to the FCC, the repeaters have a typing code that will be prohibited from operation after the first of January.

A call was placed to Len Stone to see if he could give them any additional information. Len told them that he did not have a book with him, so he would check on it and let them know; however, he did not believe that they were reprogrammable.

The Board then called Andy with Wireless Advanced who told them that the MSR2000 and MSF5000 repeaters will be illegal as of January 1, 2013. Mr. Burgess asked if the manufacturers had enough available to meet the demand as of the first of the year, and was told that they do.

Mr. Lyons brought up the recent electricity brown-out and the fact that he had spoken with Dale at Stand-By Power and asked about getting a generator big enough for the whole courthouse. He said that Dale will come down and the sheriff said that they are already working on resolving the issues in the jail. Travis Nall said they would need to figure out what kind of load there is, adding that the power outage caused problems with the air conditioning units, but that he didn't know yet about the heat. Zane said that the sheriff's office has their own generator circuit for the phones so that they will not go out.

Mr. Burgess mentioned that Sue Kelly had asked about a panic button or alarm at the nurse's office since they are now handling vital records, and Sheriff Nestor said he has always felt that they should have something. Unfortunately, they are too far away for panic buttons to work.

Zane said that they would need a dedicated phone line from the annex to the sheriff's office, and that there is an available port or two out back in their phone closet that run directly to dispatch. They would then need to contact an alarm company to set something up.

Mr. Lyons made a motion to take whatever means necessary in contacting Eastern Slope Rural Telephone Association and an alarm company to hook up an alarm between the annex and the sheriff's office. Mr. Beedy seconded the motion, which carried unanimously.

Sheriff Nestor said that it had cost just under \$2,000 to replace the twenty-two locks in the jail, which have been ordered. The locksmith will be out the end of October to replace them.

Mr. Burgess informed the others that the sheriff had put in for \$35,000 in this year's security grant, and Sheriff Nestor also said that he'd taken the 2009 Dodge Charger to Anderson Motors and told them to get what they could out of it.

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

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Corinne M. Lengel, Clerk to the Board

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Steve Burgess, Chairman