

# Board of County Commissioners of Lincoln County

Agenda for October 17, 2012

9:00 Call to order and Pledge of Allegiance

9:00 Greg Nahm with Mason Dixon Energy LLC to present an oil and gas lease for signature

9:30 The Commissioners will have further discussion on the proposed 1041 regulations

11:30 Sheriff Tom Nestor and Corporal Zane Nestor to discuss replacement and/or repair of repeaters in the county

1:15 Conduct a conference call with Janet Grossnickle and James Adams with County Technical Services and Dustin Smoot with Pie Consulting and Engineering concerning Mr. Smoot's report on replacement of the roof on the courthouse

1. Approve the minutes from the October 9, 2012 meeting
2. Review the September report from the County Clerk and the August and September reports from the Assessor
3. County Commissioner reports
4. County Administrator's report
5. County Attorney's report
6. Old business
7. New business

The Board of Lincoln County Commissioners met at 9:00 a.m. on October 17, 2012. The following attended: Chairman Steve Burgess, Commissioners Gary Beedy and Ted Lyons, County Administrator Roxie Devers, and County Attorney Stan Kimble who arrived at 9:30. Clerk to the Board Corinne M. Lengel was absent and excused.

Chairman Burgess called the meeting to order and led the Pledge of Allegiance. The Board then met with Greg Nahm with Mason Dixon Energy LLC who presented a proposal for an oil and gas lease on minerals owned by the county on 160 acres in the N½ of Section 28-T9S-R55W, which is the county landfill. The proposal was for 5 years, with an option to extend for 5 more. The signing bonus is \$75/acre and \$100 for the extension, with the royalty at 16.667%. The Board informed Mr. Nahm that they cannot sign a lease with an option to extend and they have been receiving \$150/acre with the same royalty on other 5 year leases. Mr. Nahm will speak with his boss about revising the proposal.

The Board reviewed the September report from the County Clerk and the August and September reports from the Assessor.

Mr. Beedy reported that he delivered paint to the Karval Shop on October 11<sup>th</sup>. The propane tank is ready to be set and they are waiting on the electrician to finish up. On the 12<sup>th</sup> he attended the STAC and TRAC meetings. Larry Wirth will be representing eastern Colorado on the Transit and Rail Committee, with the result being no government representation, only that from the transportation industry. On October 15<sup>th</sup> he attended the Economic Development Board meeting and the Eastern TPR meeting, at which time it was decided to add Highway 71 to the National Highway System, with the current listed highways remaining.

Mr. Lyons reported that on October 15<sup>th</sup> he called representatives from the oil and gas industry about the proposed 1041s. He stopped by the landfill and the air conditioning has been fixed on the compactor and the trash is being picked up along the roads. He checked on the oil and gas patch and, while there, Larry Don Meier talked about an issue with the entrance. However, Foreman Chris Monks had already fixed it. Mr. Lyons also reported that he asked Gene Amann if he would look at the fairgrounds grandstands and see how difficult it would be to paint the bleacher portion and what equipment would be needed.

Mr. Burgess reported attending the Centennial Mental Health meeting on October 11<sup>th</sup>. Construction of a \$4.5 million facility is still under consideration. On the 15<sup>th</sup> he checked the bridge on County Road 3T, which has been finished, and on a hole on Highway 63 that had been reported to him. Mr. Burgess added that on October 13<sup>th</sup> he attended the dinner/dance held by Roundhouse Preservation, Inc. to raise funds for repairs on the roundhouse. While they had paid rent to use the fairgrounds events building, he wondered if this is right since it's a county building they are working to restore. This will be discussed further under new business. Mr. Burgess also reported that McCormick Excavating was to mill the bridge over the Big Sandy today, then pave it next week.

At 9:30 the Board resumed their review of the proposed 1041 regulations. Present were Land Use Administrator John DeWitt, Land Use Board President Chris Monks, Mike Barningham with Tri-State and various representatives from the oil and gas industry. Jeff Wiepking with Wiepking-Fullerton expressed his concern that anything that isn't Ag will require a permit and a hearing, which will increase costs and the time frame. His company has started re-entering wells in Lincoln County, but would not have done so had these regulations been in place. The Colorado Oil and Gas Conservation Commission (COGCC) is doing a good job of regulating the industry and requires a \$25,000 bond per well unless a blanket bond for activities is purchased. Further, seismic activities are between the landowner and the company, so why should they need a permit. Mr. Wiepking stated that what the Commissioners are considering doing might be a detriment to the county and should at least exempt activities from the 1041s that have been approved by the COGCC. Plus, the county already approves the drilling permits and has the authority to stop drilling.

Chuck Wilson with Nighthawk Production, LLC stated that implementation of the proposed regulations would hinder small companies and the time needed to obtain a permit would reduce and possibly eliminate the time to drill. Todd Ritchie with Cascade Petroleum added that his company was attracted to Lincoln County because the local government and community seemed eager for them to come. He agreed with the others on the increased time and cost and noted that Arapahoe and Elbert Counties implemented similar regulations, which the COGCC is opposing. He added that drilling in the county is in its infancy and there will be more to come.

Brian Bugg, also with Cascade Petroleum, asked what the Board's thought process was as to why the 1041s are needed. Mr. Lyons responded that it was his suggestion to look at them, but he would vote no on approving them at this time. He is uncomfortable with the 1041s and does not understand the oil and gas industry. Mr. Burgess added that they want to protect the county and its residents. Mr. Beedy stated there was discussion about a railroad going through the county and the Board wanted the company to come talk to them. Transmission lines are also a possibility. He had no intention of regulating wells through the proposed 1041s.

Brett Forkner with LT Environmental agreed with the previous comments and felt that the increased cost and time will cause companies to stay away from Lincoln County. He added that the COGCC has the most in-depth regulations in the United States and the proposed 1041s will probably require the hiring of additional staff to review applications and consultants as well.

Mr. Monks commented that the Land Use Board is finding it difficult to understand the proposed 1041s and with the current zoning he asked the Board to not reinvent the wheel.

Mr. Kimble informed those present that the Commissioners looked at the oil and gas issue, but did not intend that the proposed regulations would affect that since the COGCC regulates. As for pipelines, the intention was not to regulate unless it was county-wide and was to address large pipelines. Also, the railroad issue came up, and while the coordination effort was to help with this, the hope was that the 1041s could also.

Bryan Bugg asked if the entire county would be considered as a mineral resource area and where do things go in the future? Mr. Beedy responded that what they look at with oil and gas development is road impacts, but everyone has had a good relationship with the companies working in the county. Merlin Stum added that everyone has worked together and whatever the Board decides to adopt will be a role model for other counties.

Mr. Kimble commented that there is current litigation with oil and gas issues, specifically fracking, but the Commissioners thought to use the proposed 1041s as a loose net to bring large companies to the table for discussion and to leave individual landowners alone. He agreed that we do not have the expertise to make decisions on all the issues that may arise.

With no further comments, Mr. Lyons made a motion to table further consideration of the proposed 1041 regulations indefinitely. He believes there are too many unresolved issues and if we don't understand them why should they be adopted. Mr. Kimble commented that while we have 1041s in place, they do not say anything. Morgan County's regulations have an administrative section and one specifically for transmission lines. Maybe the Commissioners could look at revising what is currently proposed and be sure they can amend to add areas of state interest. Mr. Beedy thought the regulations should continue to be reviewed since there are issues the public needs them to look at such as transmission lines, the railroad and pipelines that will cross the county. He still believes they should be allowed to regulate routes of large projects, but doesn't want to regulate individual oil and gas. When Mr. Burgess called for a second there was none and Mr. Lyons' motion died. Mr. Burgess was concerned about not stopping economic growth and the time it will take for new Commissioners to learn the ropes. Further, he had just attended a Mountain View meeting at which the comment was made that regulations add costs. The Commissioners agreed to not set a date for adoption of the proposed 1041s, but to continue their discussion and review. Mike Barningham did comment that major pipelines of 10" and greater are covered in Chapter 6.

After the oil and gas representatives left, Mr. Barningham informed the Board that Tri-State is happy with 1041s since they have specific time frames and conditional use permit applications do not. He cautioned them to make sure what they adopt fits the needs of the county and that they understand what and how they're regulating. He agreed that major linear facilities are a concern since they impact numerous landowners. Tri-State has worked with both 1041s and land use regulations and doesn't care which is used. The nature of the project and/or the amount of controversy affects which regulations are easiest. He did suggest that they look at Arapahoe County's since they did a reasonably good job at representing utility companies and addressed specific issues. The Board thanked Mr. Barningham for his comments and asked Mr. Kimble to get Arapahoe and Kit Carson Counties' regulations to see if they can be simplified or customized for Lincoln County. The Board will also look at the county's special use and zoning regulations to see if they can be amended to cover areas of state interest.

Sheriff Tom Nestor and Corporal Zane Nestor met with the Board to give an update on repeaters. Travis Nall, Chief of the Hugo Fire Department, was also present. Corporal Nestor reported that the Sheriff's Office pages on the MTR2000s, which can be reprogrammed.

Wireless Advanced will charge \$105/hour, or about \$1,000 total, for all four, which includes the one south of Limon and those at Genoa, Arriba and Karval. The MSF5000, the Sheriff's channel, is a backup that no paging is done on. To replace it would be around \$3,000, which would then provide communication capability if 800 MHz went down. Any MSR2000s that the county has will be taken offline come January 1, 2013 and trashed. The Board asked him to check with Len Stone about the reprogramming and the repeater. Corporal Nestor will check to see if the grant funds can be spent on items not specified in the grant application.

Corporal Nestor said he talked to Len Stone about the repeater at Arriba and he thought it would work if it was placed in a nice cabinet. Sheriff Nestor thought they all should be and told the Commissioners that the building south of Limon needs some repair work. He also said that the company who bought it from Lincoln County has removed all of their equipment. Ms. Devers will contact them to ask what they intend to do.

Sheriff Nestor mentioned to the Board that Rebeltec has their building south of Hugo for sale for \$40,000, which includes the 6 acre lot, the building and the tower. They asked him to check into it.

Mr. Burgess brought up a request from LeRoy Yowell that a post be placed in the middle of the walkway entrance into the courthouse so a vehicle could not be driven through. Corporal Nestor will talk to Access Control about magnetic locks, which would be about \$1,500/door. If a post is put in, wheelchair access cannot be blocked.

Since the Board was to have a conference call with CTSI to discuss replacement of the courthouse roof, Mr. Burgess asked the other Board members their thoughts about the engineer's report, specifically about the blocks mentioned on page 3, the coating of the seams not being done properly, and combing the ac units instead of replacing them. Another question was who would pay for a water test to find the leaks in the Sheriff's Office. After discussion, Mr. Beedy made a motion to proceed with replacement of the ac units, including the one on the roof, and the roof jacks and sewer vents. Mr. Lyons seconded and the motion carried unanimously.

Under New Business, the Board again discussed the payment of \$100 by Roundhouse Preservation, Inc. to rent the fairgrounds events building for a fundraiser for the roundhouse, which is a county building. Mr. Beedy made a motion to refund the \$100 fee. Mr. Lyons seconded and the motion carried unanimously.

Mr. Lyons added to his report that he toured the fairgrounds and noticed that a lot of the posts in the old barns are half way rotted off, as well as that on the fence east of the grandstands. The Board agreed that square tubing should be used to hold up the chain link fence.

The Board then placed a call to CTSI to discuss replacement of the courthouse roof and the inspection report from Dustin Smoot with Pie Consulting and Engineering. Those included in the call were Mr. Smoot, Allen Chapman, Executive Director of CTSI, James Adams, Senior

Claims Examiner and Janet Grossnickle, Property and Liability Manager. The consensus was that the damage to the roof isn't substantial, but other issues were brought to light in the report. Since there has been leakage in the Sheriff's Office since the building was constructed, Mr. Smoot explained that the water test mentioned on page 4 is done by starting on the lower portion of the roof and working up. Any roof contractor can do this. He added that the roof was either not designed correctly or it was improperly installed since none of the seams are bad. The Conklin product placed on the seams isn't helping and the root cause of the problem needs to be found. The roof system has not changed since the wind bars were installed and it may come to replacing a portion of the roof, which can be done. Mr. Chapman said we need to get an expert on working with metal roofs. Ms. Devers will contact Houston Construction to get the name and contact information for the sub-contractor who put the roof on.

Mr. Chapman asked about replacement of the ac units, with Mr. Burgess stating that combing will not return them to capacity or their pre-event condition and the Board has decided to replace them. Mr. Smoot responded that combing has been done extensively and will restore the fins to within 1% of efficiency. Further, there has to be 40% damage before efficiency is affected. Mr. Chapman said that CTSI will take the damaged units and sell them as salvage. Mr. Lyons asked Mr. Smoot about the thermal blocks in the roof. He explained that they fell out and can't be replaced since the insulation would have to be pulled out to do this. He said the wind bars are doing the same thing on the top of the roof as the blocks were doing underneath it.

With no further questions, the Board relayed to Mr. Adams which ac units will be replaced. He will submit the information back to the county and calculate the funds to return. Mr. Adams asked that Leon Kelly contact him and that the bid from Plains Heating be sent to him. Ms. Devers will take care of this. Mr. Chapman stated that CTSI will cover the costs of the leak in the Sheriff's Office since, if not addressed, it may cause damage in the future. He added that he will send a letter that coverage will not be diminished by future claims since the roof was not replaced at this time.

Land Use Administrator/Emergency Manager John DeWitt met with the Board to discuss several issues. He first handed out a revised list of gravel pit information and stated that Michael Cunningham with the State will be out tomorrow to inspect the Fisher, Rohrbaugh, Ainsley, Clark, Lofdahl and Brent pits.

Mr. DeWitt asked the Board if they would be available for a meeting on November 5<sup>th</sup> concerning Hazmat, which they were. He then explained that FEMA has a free reverse 911 alert program that can target geographic areas. However, it won't work without a 5G cell phone. Amatra can override that system and everyone in the area and coming to the area will get both a text and voice alert. The cost is \$3,495/year. The Board asked that he approach the E911 Board for funding. Mr. DeWitt asked Mr. Burgess to sign the annual grant application for emergency management funds, which he did, and informed the Board that he will need to retake the ICC test.

Mr. Beedy made a motion to approve the minutes from the meeting held on October 9, 2012, as submitted. Mr. Burgess seconded the motion, which carried unanimously.

Ms. Devers began her report by informing the Board that she was contacted by Mark and Cindy Lahmann, the Rawhide and Dusty Show, about performing at the fair next year. They asked her to find out the cost and to check with CTSI about insurance coverage.

Ms. Devers asked which Board members will be attending the October 29<sup>th</sup> ribbon cutting for the Limon Wind project. They all will and Mr. Beedy will speak, which she will relay to Kevin Gildea.

Ms. Devers reported that Kim Schallenberger informed her that the two Cardiac Science AED units at the courthouse and the fairgrounds will no longer be supported with batteries and/or pads. He has a vendor who will replace them with refurbished LifePak CR+ units for \$400 each. All of the public access AEDs in the county would then be the same. The Board agreed to pursue the purchase of the units.

Ms. Devers reported that Human Services Director Colette Barksdale requested a \$500 credit card for new employee Melissa Huff since she will be attending out of town meetings monthly. Mr. Beedy made a motion to approve a credit card with a \$500 limit for Ms. Huff. Mr. Lyons seconded and the motion carried unanimously.

Ms. Devers updated the Board on the issue reported by the Colorado Coroners Standards & Training Board that Coroner Jennifer Nestor had not submitted proof of the required sixteen hours of annual training for 2011. Janet Larson, Executive Assistant of the Coroner's Board, reported that the documentation has been received and that Ms. Nestor meets the statutory requirement for 16 hours of training for both 2011 and 2012. Per the Board's request from the previous meeting, Ms. Devers presented a letter to Ms. Nestor addressing her untimely submittal of bills for payment, as well as the need for additional information on vouchers made out for deputy coroner payment.

With no further business to come before the Board, the meeting was adjourned until 2:00 p.m. on October 25, 2012.

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Roxie Devers, Acting Clerk to the Board

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Steve Burgess, Chairman