

# Board of County Commissioners of Lincoln County

Agenda for December 18, 2012

9:00 Call to order and Pledge of Allegiance

9:05 Fairgrounds Vision Committee to request that the Professional Services Agreement between the Colorado Center for Community Development and Lincoln County be signed to develop a master plan for the fairgrounds

10:00 Human Services Director Colette Barksdale to present her monthly report

1. Approve the minutes from the December 7, 2012 meeting
2. Review the November report from the Assessor's Office
3. Review a Notice of Forfeiture Rescinded received from the Division of Property Taxation for a 1.16 acre tract in the southeast corner of Section 22-16-55 owned by the Blue Cliff Community Club
4. Sign a contract with Lincoln Community Hospital and Nursing Home for use of the mini-bus with a wheelchair lift in 2013
5. Sign two leases with Ed and Tracy Grimes for use of the property located at 455 First Avenue, Limon, CO as office space for Human Services and Public Health
6. Review and sign a required amendment to the Lincoln County, Colorado Employees Pension Plan and Trust to reflect the provisions of the Heroes Earnings Assistance and Relief Tax Act
7. County Commissioner reports
8. County Administrator's report
9. County Attorney's report
10. Old business
11. New business

The Board of Lincoln County Commissioners met at 9:00 a.m. on December 18, 2012. The following attended: Chairman Steve Burgess, Commissioners Gary Beedy and Ted Lyons, County Administrator Roxie Devers, Clerk to the Board Corinne M. Lengel, and commissioners-elect Doug Stone and Greg King. County Attorney Stan Kimble attended in the afternoon, and Will Bublitz with The Limon Leader and Eastern Colorado Plainsman attended until 10:00 a.m.

Chairman Burgess called the meeting to order and asked Ms. Devers to lead the Pledge of Allegiance, after which Patsy Smith with the Fairgrounds Vision Committee met with the Board to request that they sign a Professional Services Agreement between the Colorado Center for Community Development and Lincoln County to develop a master plan for the fairgrounds. Fair Board member LaRay Becker-Patton also attended the discussion. Mr. Burgess said he'd received a call from Travis Taylor regarding who would be responsible for signing the agreement since the committee could not, and Mr. Burgess had told him that it would have to be signed by the commissioners.

Ms. Becker-Patton stated that, to her knowledge, the fair board members had not yet agreed to anything and wanted Vicki Berkeley to attend the fair board meeting on January 8 to present her ideas. The agreement at the fair board meeting was that no money would be appropriated until the two committees and the commissioners agreed. She added that it is her belief that there may be a loss of fair board members if they are not included in more decisions regarding the fair and fairgrounds. Several of the members feel there is no harm in listening to Ms. Berkeley's presentation, while there are others who do not even want her to come out.

A call was placed to Travis Taylor for clarification. Travis said that Ms. Berkeley had needed to get the public service agreement out to meet her deadlines, and it was his understanding that the fair board wanted the committee to go ahead and pursue it, which is why he had told Ms. Berkeley to go ahead and send the agreement. He felt that the fair board would give their input on how things are designed.

Mr. Lyons felt that signing the agreement before the January 8 meeting would be a mistake, as he understood from the last fair board meeting that the group wants to hear what Ms. Berkeley has to say first. Mr. Beedy said that most likely what she would say would be exactly what is in the agreement, and he was concerned with the fact that the project may need to be started with the beginning of the spring semester. He added that he was worried that other students may be awarded projects if it is not initiated prior to January.

Travis asked if Ms. Berkeley needed to be asked if signing the agreement can be postponed until January 8. He also wanted to know what would happen to the project if the fair board wants nothing to do with it. Mr. Lyons responded that his personal opinion is that the master plan needs to be done, adding that he simply feels the fair board needs to be involved. However, if they reject the idea completely, he felt the commissioners still may choose to go ahead at least with a master plan.

When Mr. Beedy asked Travis if he felt other student projects will be given precedence if the agreement isn't signed, Travis said it would be something they should ask Ms. Berkeley. A call was placed to Ms. Berkeley who explained that she already had students lined up to begin work, but she felt they could delay until after the holidays. When asked if she would be available to meet with the fair board on January 8, she said that she would be and asked if the commissioners had seen the samples of some of their work that she had sent to Mr. Taylor, but they hadn't yet.

Further discussion was tabled until changes can be made to the agreement concerning the new chairman of the board and Ms. Berkeley's presentation to the fair board on January 8, 2013. Mr. Burgess recommended that all the commissioners attend the fair board meeting and presentation that evening. He also suggested that the commissioners make a motion at their January 8 re-organization meeting to allow the new chairman to sign the agreement at the fair board meeting if it meets their approval.

Greg King asked if the meeting agenda would have to be posted for the action to be legal and Ms. Devers explained that if they do not change the agreement after they have moved to approve it, it will be acceptable, as action will already have been taken during a public meeting.

Ms. Devers had received the contract with CPRA for the rodeo at the 2013 fair and asked Ms. Becker-Patton if she thought the fair board members would like to review it, which Ms. Becker-Patton thought would be a nice gesture. She also commented that the fair board would like to see the demolition derby contracts before they are signed and be involved in that process.

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

The Board reviewed the November reports from the Assessor, Clerk, and Sheriff, and then at 10:00 a.m., Human Services Director Colette Barksdale met with the commissioners to give her monthly report. Robert Kraxberger accompanied her. She said that she did not have reports or time sheets available yet, but asked Mr. Kraxberger to give an update on the Holiday Basket Program, which he did, stating that 117 families received food and gifts this year, and there is still food left over. They intend to give the remainder of what is not distributed to the food banks. He added that they were short on sponsors this year, so the employees of the department delivered food to those without sponsors, or sponsored families themselves.

Ms. Barksdale submitted a letter from the Colorado Department of Human Services regarding Foster Care Parental fees retained in fiscal year 2012, stating that beginning in 1991, any increased amount of parental fees over and above the base amount is retained by the county that collected them. The money may be used for child welfare services directed toward early intervention, placement prevention, and family preservation. Lincoln County fees for FY-2012 are \$13,754.21, and are held in a deferred revenue account, according to Ms. Barksdale. She explained that there is approximately \$80,000 in that account at this time and that she

generally budgets about \$25,000 of that for those items listed above, as well as for items such as letter jackets or other things for the kids, and training for the foster parents.

Ms. Barksdale then presented her employment contract for 2013, and the only comment Mr. Burgess had was that she had not yet submitted her budget in the format that Mr. Beedy had requested; broken down by line item as other departments do. Ms. Barksdale said that she is working on it with her new department accountant, adding that the way their accounting system works does not allow for the type of breakdown that is being requested. She explained that when they get a phone bill, for instance, the full amount is not paid for out of one account; it is distributed among the various programs and vendors. Although it is a rather time-consuming process, she assured the Board that they are working on it and she hopes to have something completed by July of 2013, for the new budget cycle.

After reviewing it, Mr. Beedy made a motion to approve the employment contract with Human Services Director Colette Barksdale in the amount of \$5,375 per month for the period of January 1, 2013, through December 31, 2013. Mr. Lyons seconded the motion, which carried unanimously.

Mr. Burgess asked her to continue to monitor the salary and money spent on the department attorney, as he still feels it is quite exorbitant, and Ms. Barksdale responded that she had actually spoken with Ms. Scranton-Specht to see if she would give the county a flat rate. She added that if the county would enter into a three-to-five year contract with her, as long as the wording regarding appropriation of funding is included, they should be able to get a much better deal. They will have to discuss it with the new board as to whether or not they should put the position out to bid or how it will be handled when Ms. Specht's contract is up.

The Board reviewed a Notice of Forfeiture Rescinded received from the Division of Property Taxation for a 1.16 acre tract in the southeast corner of Section 22, Township 16 South, Range 55 West, owned by the Blue Cliff Community Club.

Mr. Beedy made a motion to sign the contract with Lincoln Community Hospital and Nursing Home for use of the mini-bus with a wheelchair lift for 2013. Mr. Lyons seconded the motion, which carried unanimously.

Mr. Beedy also made a motion to sign two leases with Ed and Tracy Grimes for use of the property located at 455 First Avenue in Limon as office space for Human Services and Public Health, in the amount of \$875 per month; \$500 for DHS, and \$375 for PH, for the period of January 1, 2013, through January 1, 2014. Mr. Lyons seconded the motion, which carried unanimously.

The Board reviewed a required amendment to the Lincoln County, Colorado Employees' Pension Plan and Trust to reflect the provisions of the Heroes Earnings Assistance and Relief Tax Act. Mr. Beedy made a motion to sign the amendment, Mr. Lyons seconded the motion, and it carried unanimously.

Mr. Beedy reported attending the STAC meeting on December 14, informing the others that it now appears that they may not change the CDOT regions as previously planned. Mr. Beedy thought they may still do it, but concentrating 51% of the population into one district is a major concern. He also attended the employee Christmas party on December 14.

Mr. Lyons reported checking roads and oil wells on December 13, attending the employee Christmas party on December 14, and checking roads again on December 15.

Mr. Burgess reported receiving a call from Blattner Energy on December 10 about releasing the roads for the Limon Wind farm, so on December 11 he checked on the roads and found several things that need to be fixed. On December 17, he received a call from Terry Malcom who felt that Blattner didn't do enough work on a particular road in his area, so Mr. Burgess checked it out and felt it needed more gravel. The county will furnish the trucks and Blattner will supply the material to have it repaired. Mr. Burgess submitted a signed release stating that the county has inspected the roads and all gravel and repair of the county roads as specified in the Master Road Use Agreements with Limon Wind, LLC and Limon Wind II, LLC for restoration of haul roads has been completed. He had also asked Stan Kimble to draw up a resolution releasing the bonds.

Mr. Beedy made a motion to adopt a resolution releasing security pursuant to road use agreements entered into with Limon Wind, LLC and Limon Wind II, LLC. 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 December 18, 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 Lyons and seconded by Commissioner Beedy to adopt the following resolution:

**RESOLUTION NO. 841**

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

**A RESOLUTION TO RELEASE SECURITY PURSUANT TO ROAD USE AGREEMENTS ENTERED INTO WITH LIMON WIND, LLC, AND LIMON WIND II, LLC**

**Whereas**, in 2012, the County of Lincoln, State of Colorado, hereinafter referred to as the “County”, did enter into two separate Master Road Use Agreements, one with Limon Wind, LLC, and one with Limon Wind II, LLC; and

**Whereas**, Article 6 of the agreements provided that Limon Wind, LLC, and Limon Wind II, LLC, would both provide and post security for repairs and dust control for the creation, maintenance, and operation of certain County roads required during the term of the agreement; and

**Whereas**, both Limon Wind, LLC, and Limon Wind II, LLC, did post surety bonds in the amount of One Million Dollars (\$1,000,000.00) as security for the work to be done; and

**Whereas**, the work has been completed and the County has performed post inspection of the subject roads as required by Article 7, and the County has found the roads to be in compliance with the Road Use Agreements and the security is no longer required;

**NOW, THEREFORE BE IT RESOLVED:**

1. The County, having approved the subject and applicable County roads, as required by Article 7(a)(ii), herein releases the surety bonds posted by Limon Wind, LLC, and Limon Wind II, LLC.

Upon roll call the vote was:

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

PASSED AND ADOPTED this 18<sup>th</sup> day of December, 2012, 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. Burgess also reported that he had spoken with Tom Anderson about the 2010 Dodge Charger that the sheriff had taken to Anderson Motors to sell, and was told they had an offer of \$10,000. Mr. Burgess told him he should accept the offer.

Ms. Devers reported speaking with Merrill Wilson, the architect on the roundhouse project, and Anne McCleave with the State Historical Fund about the doors on the roundhouse. Ms. McCleave did not like having an additional two doors in the rear of the building for exits, as there is already one there, but when Ms. Devers asked if she would agree to one additional door, which does comply with fire code, Ms. McCleave felt better about that. She asked the Board if it was acceptable to only install one exit in the back, and Mr. Burgess said that as long as it meets code, that will be fine.

Ms. Devers had also been contacted by Jason Lacik, who is working with NextEra on a water cistern project at their O&M building for use by the fire departments in the event of a fire. They would like the county to fill the 30,000 gallon tank. Mr. Beedy asked why they couldn't hook into the water supply for the O&M building, because even though he didn't mind the county filling the tank the first time, it would not be cost-effective to continue the practice. Mr. Burgess agreed, stating that he would not want to be hauling water that far every time they used some out of the tank and needed to have it refilled. Ms. Devers said she would call Mr. Lacik and ask him a few more questions.

At Ms. Lengel's request, Mr. Lyons made a motion to approve a county credit card with a \$500 limit for deputy clerk Mindy Schiffers. Mr. Beedy seconded the motion, which carried unanimously.

Mr. Burgess called for old business, stating that he had received another call from Gary Withington regarding the noise on the wind tower again. He said he had contacted the PUC, who told him to contact the Public Health Department, which he did. Public Health told him that it is up to the county to enforce it if there is in fact a noise ordinance in place. Mr. Burgess said he stopped in to speak with Stan Kimble about it again.

Mr. Beedy commented that the county has a zoning requirement, but not an actual noise ordinance, and Ms. Devers said she thought it would be difficult to get an accurate reading of the noise level without an expert opinion.

Mr. Lyons made a motion to cancel County General check number 21513 in the amount of \$58.91, written to Witt Boys in Flagler on October 31, 2012, as the check was never received. Mr. Beedy seconded the motion, which carried unanimously.

At 11:30 a.m., Road Foreman Chris Monks came to visit with the Board about several things. First, Chris gave prices from Flagler Co-op on fuel for 2013, asking if the commissioners intended to contract with the company again now or if they wanted to wait until January when the new board takes over. Currently, the price is \$3.34 per gallon. Mr. Burgess explained to the new commissioners that DJ Petroleum in Limon won't contract for fuel, nor did Stones

when they were in the fuel business, so they contract with Flagler. Since they pay taxes in Lincoln County, Mr. Burgess feels the decision has been justified. Mr. Beedy suggested they wait for a while and see if the price drops any further, such as to \$3.30, so Chris said he would keep an eye on it and let them know. Mr. Lyons said he would like to continue to contract with the co-op, but that was strictly speaking for District One. If the other two new commissioners wish to spend their fuel budgets differently, that is entirely up to them. Mr. Stone and Mr. King both agreed that they would like to continue the practice for Districts Two and Three, and the decision was made to purchase two tanker loads for each district if the price drops more.

Chris also said he had checked on prices of grader blades with J & S Contractors and CAT, and the blades were actually \$2.70 cheaper from CAT. Since they had so much trouble with J & S blades last year, he felt it would be good to get them from CAT so he ordered 270 of them. They will be paid for at the end of January.

Lastly, Chris said that Sheriff Nestor had gotten the bid on a pickup from his contact in Utah, but Dellenbach Chevrolet got the state bid this year, and theirs is actually \$30 cheaper. Mr. Lyons made a motion to purchase a 2013 Chevrolet pickup from Dellenbach Chevrolet in the amount of \$21,823 for District One. Mr. Beedy seconded the motion, which carried unanimously. Payment and delivery will be made in March of 2013.

When the meeting re-convened at 1:00 p.m., County Attorney Stan Kimble was asked about the wind tower noise complaint. He stated that his opinion had been to wait and see if the parties could work it out, but added that he will check into the zoning regulations and see exactly how the code reads and if there are any enforcement options with it. Mr. Kimble would prefer that an expert with a decent meter take an accurate measurement, as they would have the proper training for it. Mr. Burgess said that he is sure NextEra has been working on it as he has seen trucks out there, and Mr. Kimble put in that the county cannot ignore its own code, so the first step would be to find out exactly how loud the tower is and whether or not that is normal. He felt that a comparison reading from several different towers would be helpful and added that if they discover that this particular turbine is louder than others, NextEra will need to be contacted to fix it. Mr. Burgess said the expert/meter would have to be available for several days, as there are so many variables to measurement; such as the weather, time of day, wind speed, etc.

County Treasurer Jim Covington met with the Board to let them know that the property donated to the county by Carla's Cluster Care for the purpose of building the medical clinic in Limon has a special assessment placed against it in the amount of \$22,257.65 for curb and gutter. Mr. Beedy made a motion to pay the special assessment fee in the amount of \$22,257.65. Mr. Lyons seconded the motion, which carried unanimously.

Mr. Kimble had drafted an ordinance on prohibiting the operation of marijuana cultivation, product manufacturing, testing facilities or retail stores within the unincorporated boundaries of the county, which he shared with the Board. Douglas County had included the 2012 election

results as a part of their moratorium, so Mr. Kimble said he would include the Lincoln County results as well when he receives them from the clerk.

As for the bond release on the Master Road Agreement with Blattner Energy, Mr. Kimble said that he found the contract it was referring to. Also, he reviewed the Professional Services Agreement produced earlier in the day by the Fairgrounds Vision Committee and felt it appeared to be legal with no worrisome indemnification clauses.

Ms. Devers had received a notice pursuant to C.R.S. 24-10-109 from Bell & Pollack, P.C. naming Mr. Burgess and other county officials in a case resulting from injuries sustained at the Hugo Municipal Swimming Pool, which she shared with the commissioners.

With no further business to come before the Board, the meeting was adjourned until 9:00 a.m. on December 31, 2012.

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Corinne M. Lengel, Clerk to the Board

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Steve Burgess, Chairman