

Board of County Commissioners of Lincoln County

Agenda for January 31, 2013

9:00 Call to order and Pledge of Allegiance

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

11:00 Land Use Administrator\OEM John DeWitt to discuss the Land Use Board's decision on the development permit for Front Range Pipeline, to present a report on the total oil well and building permits for 2012 and to discuss other land use issues the Commissioners may have

2:30 Representatives from CDOT Regions 1 and 4 to answer questions and introduce personnel since Lincoln County was moved into Region 4 and to discuss issues the county has

1. Approve the minutes from the January 30, 2013 meeting
2. Discuss Colorado Counties Inc. 2013 Federal issues survey
3. Complete the 2013 contact form for the County Workers Compensation Pool and the Colorado Counties Casualty and Property Pool
4. County Commissioners' reports
5. County Administrator's report
6. County Attorney's report
7. Old business
8. New business
9. Approve additional expense vouchers if necessary

The Board of Lincoln County Commissioners met at 9:00 a.m. on January 31, 2013. The following attended: Chairman Ted Lyons, Commissioners Greg King and Doug Stone, County Administrator Roxie Devers, and Clerk to the Board Corinne M. Lengel. County Attorney Stan Kimble attended in the afternoon, and Will Bublitz with The Limon Leader and Eastern Colorado Plainsman attended for a short time in the morning.

Chairman Lyons called the meeting to order and led the Pledge of Allegiance, and then Mr. King made a motion to approve the minutes from the meeting held on January 30, 2013, as submitted. Mr. Stone seconded the motion, which carried unanimously.

The Board discussed the Colorado Counties, Inc. 2013 Federal Issues Survey and filled it out according to their top six choices.

Mr. Stone agreed to be the 2013 commissioner contact for the County Workers Compensation Pool and Mr. King will be the contact for the Colorado Counties Casualty and Property Pool.

Mr. King reported attending an Economic Development meeting in Limon on January 16, where Dick Pickett, Executive Director for the Small Business Development Council, relieved Patricia Vice of her duties. At a Lincoln County Economic Development meeting on the Twenty-first, Ms. Vice was also relieved of her duties as director of the Lincoln County Economic Development Council, effective today. They hope to hire a full time person and may be asking the county for more money, according to Mr. King. In the interim, they will bring the director over from Elbert County. On January 18, Mr. King met with District Two employees, and then looked at roads around Arriba, as well as the Hoffman Pit. He also stopped by the landfill and spoke with Mick Jaques about grader blades. On January 28, he received a call from Rob Boyd regarding a rumor that the county intended to remove all of the oil on north County Road 109. Mr. King told him it was indeed a rumor.

Mr. Stone reported meeting with the road crew from District Three on January 16. He also checked with the Karval School about the welder, but decided it was not what they wanted. On the Twenty-second, he checked roads east of Karval and on the Twenty-fifth he, Chris Monks, David Seymour, and Mike Smithson looked at two trucks in Cheyenne County. They are going to try and work out a deal for them; each is \$62,500. On January 28, Mr. Stone said he checked roads southeast and southwest of Karval.

Mr. Lyons reported going by the landfill on January 18 and speaking with Mick about the welder. He told him to go ahead and order what he needs. On the Twenty-second, he and Chris Monks met with the new state oil and gas environmentalist, and then checked roads. He and Chris also checked the county road in south Limon where the feedlot used to be on January 24, and he attended the hospital board meeting that evening, as well. On January 25, he spoke with Dave Hubbard about the road right-of-way issue and said that an offer of two dollars per foot for the right-of-way was made to Scott Ravenkamp.

Ms. Devers informed the commissioners that Fairgrounds Manager Julie Joffe wanted them to know that the FFA is borrowing some panels to build a petting zoo at the Genoa-Hugo school, and also wanted to know if they intended to charge the Boy Scouts for use of the events building. The Board waived the fee for the Boy Scouts.

Sheriff Tom Nestor had requested a county credit card with a credit limit of \$500 for Jail Captain Clint Tweden. Mr. Stone made a motion to approve the credit card, Mr. King seconded the motion, and it carried unanimously.

At 10:00 a.m., Human Services Director Colette Barksdale met with the Board to give her monthly report. She went over the employee time sheets and the November and December financial reports with the new commissioners, and then explained that Mr. Burgess had requested a different expenditure report when he was in office, and they had finally created a spreadsheet they were happy with.

Ms. Barksdale also informed the new board of the food banks in Lincoln County and let them know that Human Services will be doing a fundraiser in March, similar to last year's. She added that they have been given a private grant in the amount of \$2,000, which will be divided equally among the two food banks.

Since it is time to renew the county attorney contract for Child Welfare, Ms. Barksdale said she would be interested in renegotiating the contract with Darla Scranton Specht, who would like to enter into a multi-year contract with the county. Ms. Barksdale said she felt she could begin negotiations at a reasonable rate if it were allowed, but that Ms. Specht wants a five year contract. She added that she knew the county could not legally enter into multi-year contracts without a clause stipulating that each year's renewal would be subject to available funding. Still, she felt she could most likely get a flat rate contract, although the county would pay the associated costs for expert witnesses or other court costs, which is the case now. Ms. Barksdale mentioned possibly retaining Ms. Specht for \$80,000 per year, which is considerably less than what she makes now. Ms. Devers asked if she would be locked into that rate, and Ms. Barksdale responded that she would. The Board gave Ms. Barksdale permission to begin negotiations with Darla Scranton Specht.

Ms. Barksdale asked the Board if they would like to continue the practice of having her employees come in each month with an informative discussion regarding their individual job duties in relation to certain programs, and the commissioners agreed.

At 11:00 a.m., newspaper reporter Will Bublitz and David and Toni Crismon arrived for the discussion concerning the Land Use Board's decision on the development permit for Front Range Pipeline. Land Use Administrator John DeWitt stated that the Land Use Board had voted unanimously to approve Development Permit #12-04 with no additional conditions or restrictions.

Mr. DeWitt also informed the Board that Rick Lockett, the gentleman in Limon who was breaking apart the large spools from the wind farm, had some problems with the hydraulics on his tractor and just got it fixed. Mr. DeWitt said Mr. Lockett was supposed to have the project completed by January 1, but had asked for a two-week extension. Since he has been working diligently to get it cleaned up, Mr. King made a motion to give Rick Lockett until February 15, 2013, to finish his project. Mr. Stone seconded the motion, which carried unanimously.

Mr. DeWitt mentioned that FEMA has come up with a geographically targeted reverse 911 system where cell phones will automatically receive notices and warnings if the phone happened to be located inside a targeted area. The prior board of commissioners had asked that he check with the E911 Authority Board for funding, and Gary Ensign had in turn told him to check with Sheriff Nestor to see if he felt it was worth pursuing. Mr. DeWitt said he never heard back from anyone and had then learned that Mr. Ensign was resigning from the E911 board and had no idea when that board would meet again.

Mr. Lyons said he could see advantages and disadvantages to such a system and asked where it was being utilized now. Mr. DeWitt said there had been some use of it during Hurricane Sandy. The commissioners knew nothing of Mr. Ensign's possible resignation from the E911 board, and nothing further was decided on the matter.

When the meeting re-convened at 1:00 p.m., Chris Monks and John DeWitt were in attendance. Ms. Devers had received a resignation letter from Gary Ensign to Jack Cross, Chairman of the Lincoln County E911 Authority Board, which the commissioners reviewed.

Mr. Lyons called for the County Attorney's report and Mr. Kimble asked the commissioners if they had changes to the amended ordinance regarding the retail sale of marijuana facilities in Lincoln County, or if they wanted to proceed with adopting the ordinance. Mr. King made a motion to approve the ordinance prohibiting marijuana facilities in Lincoln County, Mr. Stone seconded the motion, and it carried unanimously.

At a regular meeting of the Board of County Commissioners of Lincoln County, Colorado held in Hugo, Colorado on January 31, 2013, there were present:

Ted Lyons, Chairman	Present
Greg King, Vice Chairman	Present
Douglas D. Stone, Commissioner	Present
Stan Kimble, County Attorney	Present
Corinne Lengel, Clerk of the Board	Present
Roxie Devers, County Administrator	Present

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

ORDINANCE NO. 2013 – 01 It was moved by Commissioner King and seconded by Commissioner Stone to adopt the following ordinance:

ORDINANCE NO. 2013-01

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

AN ORDINANCE PROHIBITING THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES WITHIN THE UNINCORPORATED BOUNDARIES OF LINCOLN COUNTY, STATE OF COLORADO.

WHEREAS, the Board of County Commissioners, hereinafter referred to as the “Board”, has the authority to exercise all County powers for the Unincorporated Areas of Lincoln County pursuant to C.R.S. 30-11-103; and

WHEREAS, on November 6, 2012, the voters of Colorado approved the adoption of Amendment 64, Personal Use and Regulation of Marijuana; and

WHEREAS, said Amendment 64 has become effective upon official declaration of the vote by proclamation of the Governor of the State of Colorado, pursuant to Section 1(4) of Article V, of the Colorado Constitution; and

WHEREAS, Amendment 64 has added a new Section 16 to Article XVIII of the Colorado Constitution; and

WHEREAS, Amendment 64 defines a “Locality” in part in section 2(e) of Section 16 to include a “County”; and

WHEREAS, part 5(f) of Section 16 states as follows:

(f) A LOCALITY MAY ENACT ORDINANCES OR REGULATIONS, NOT IN CONFLICT WITH THIS SECTION OR WITH REGULATIONS OR LEGISLATION ENACTED PURSUANT TO THIS SECTION, GOVERNING THE TIME, PLACE, MANNER, AND NUMBER OF MARIJUANA ESTABLISHMENT OPERATIONS; ESTABLISHING PROCEDURES FOR THE ISSUANCE, SUSPENSION, AND REVOCATION OF A LICENSE ISSUED BY THE LOCALITY IN ACCORDANCE WITH PARAGRAPH (h) OR (i), SUCH PROCEDURES TO BE SUBJECT TO ALL REQUIREMENTS OF ARTICLE 4 OF TITLE 24 OF THE COLORADO ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION; ESTABLISHING A SCHEDULE OF ANNUAL OPERATING, LICENSING, AND APPLICATION FEES FOR MARIJUANA ESTABLISHMENTS, PROVIDED, THE APPLICATION FEE SHALL ONLY BE DUE IF AN APPLICATION IS SUBMITTED TO A LOCALITY IN ACCORDANCE WITH PARAGRAPH (i) AND A LICENSING FEE SHALL ONLY BE DUE IF A LICENSE IS ISSUED BY A LOCALITY IN ACCORDANCE WITH PARAGRAPH (h) OR (i); AND ESTABLISHING CIVIL PENALTIES FOR VIOLATION OF AN ORDINANCE OR REGULATION GOVERNING THE TIME, PLACE, AND MANNER OF A MARIJUANA ESTABLISHMENT THAT MAY OPERATE IN SUCH LOCALITY. A LOCALITY MAY PROHIBIT THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES THROUGH THE ENACTMENT OF AN ORDINANCE OR THROUGH AN INITIATED OR REFERRED MEASURE; PROVIDED, ANY INITIATED OR REFERRED MEASURE TO PROHIBIT THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES MUST APPEAR ON A GENERAL ELECTION BALLOT DURING AN EVEN NUMBERED YEAR (underline added), and

WHEREAS, at the November 6, 2012, election five hundred seventy five (575) Lincoln County residents voted for Amendment 64, and Nine Hundred eighty (980) Lincoln County residents voted against the adoption of Amendment 64; and

WHEREAS, consistent with the authority granted to the Board in Amendment 64 and the will of Lincoln County voters, the Board desires to adopt this ordinance prohibiting the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores within the unincorporated areas of Lincoln County, Colorado now therefore,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF LINCOLN:

1. Purpose. The purpose of this ordinance is to promote the general public welfare and safety throughout Lincoln County, Colorado, by prohibiting the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores. All relevant and applicable County Codes, including zoning and subdivision regulations, shall be amended accordingly.

2. Definitions. Unless otherwise specified or the contest otherwise requires, any terms used herein shall have the same meanings as provided in Article XVIII, Section 16 of the Colorado Constitution. These definitions include, but are not limited to the following:

(1) "MARIJUANA" OR "MARIHUANA" MEANS ALL PARTS OF THE PLANT OF THE GENUS CANNABIS WHETHER GROWING OR NOT, THE SEEDS THEREOF, THE RESIN EXTRACTED FROM ANY PART OF THE PLANT, AND EVERY COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE, OR PREPARATION OF THE PLANT, ITS SEEDS, OR ITS RESIN, INCLUDING MARIHUANA CONCENTRATE. "MARIJUANA" OR "MARIHUANA" DOES NOT INCLUDE INDUSTRIAL HEMP, NOR DOES IT INCLUDE FIBER PRODUCED FROM THE STALKS, OIL, OR CAKE MADE FROM THE SEEDS OF THE PLANT, STERILIZED SEED OF THE PLANT WHICH IS INCAPABLE OF GERMINATION, OR THE WEIGHT OF AN OTHER INGREDIENT COMBINED WITH MARIJUANA TO PREPARE TOPICAL OR ORAL ADMINISTRATIONS, FOOD, DRINK, OR OTHER PRODUCT.

(2) "MARIJUANA ACCESSORIES" MEANS ANY EQUIPMENT, PRODUCTS, OR MATERIALS OF ANY KIND WHICH ARE USED, INTENDED FOR USE, OR DESIGNED FOR USE IN PLANTING, PROPAGATING, CULTIVATING, GROWING, HARVESTING, COMPOSTING, MANUFACTURING, COMPOUNDING, CONVERTING, PRODUCING, PROCESSING, PREPARING, TESTING, ANALYZING, PACKAGING, REPACKAGING, STORING, VAPORIZING, OR CONTAINING MARIJUANA, OR FOR INGESTING, INHALING, OR OTHERWISE INTRODUCING MARIJUANA INTO THE HUMAN BODY.

(3) "MARIJUANA CULTIVATION FACILITY" MEANS AN ENTITY LICENSED TO CULTIVATE, PREPARE, AND PACKAGE MARIJUANA AND SELL MARIJUANA TO RETAIL MARIJUANA STORES, TO MARIJUANA PRODUCT MANUFACTURING FACILITIES, AND TO OTHER MARIJUANA CULTIVATION FACILITIES, BUT NOT TO CONSUMERS.

(4) "MARIJUANA ESTABLISHMENT" MEANS A MARIJUANA CULTIVATION FACILITY, A MARIJUANA TESTING FACILITY, A MARIJUANA PRODUCT MANUFACTURING FACILITY, OR A RETAIL MARIJUANA STORE.

(5) "MARIJUANA PRODUCT MANUFACTURING FACILITY" MEANS AN ENTITY LICENSED TO PURCHASE MARIJUANA; MANUFACTURE, PREPARE, AND PACKAGE MARIJUANA PRODUCTS; AND SELL

MARIJUANA AND MARIJUANA PRODUCTS TO OTHER MARIJUANA PRODUCT MANUFACTURING FACILITIES AND TO RETAIL MARIJUANA STORES, BUT NOT TO CONSUMERS.

(6) "MARIJUANA PRODUCTS" MEANS CONCENTRATED MARIJUANA PRODUCTS AND MARIJUANA PRODUCTS THAT ARE COMPRISED OF MARIJUANA AND OTHER INGREDIENTS AND ARE INTENDED FOR USE OR CONSUMPTION, SUCH AS, BUT NOT LIMITED TO, EDIBLE PRODUCTS, OINTMENTS, AND TINCTURES.

(7) "MARIJUANA TESTING FACILITY" MEANS AN ENTITY LICENSED TO ANALYZE AND CERTIFY THE SAFETY AND POTENCY OF MARIJUANA.

(8) "MEDICAL MARIJUANA CENTER" MEANS AN ENTITY LICENSED BY A STATE AGENCY TO SELL MARIJUANA AND MARIJUANA PRODUCTS PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE.

(9) "RETAIL MARIJUANA STORE" MEANS AN ENTITY LICENSED TO PURCHASE MARIJUANA FROM MARIJUANA CULTIVATION FACILITIES AND MARIJUANA AND MARIJUANA PRODUCTS FROM MARIJUANA PRODUCT MANUFACTURING FACILITIES AND TO SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS.

3. Enforcement. This ordinance shall be enforced by the Lincoln County Sheriff.

4. Violation, Fines, and Forfeitures. It shall be unlawful for any person to violate any provision of this Ordinance. Unless otherwise provided by law, all fines and penalties, for the violation of this ordinance shall be paid into the treasury of Lincoln County, The fine for a first offense and for any subsequent offense shall be one thousand dollars (\$1,000.00) per violation and each day shall be deemed a separate violation.

5. Scope. This ordinance shall apply within the unincorporated territory of Lincoln County. This ordinance shall in no way limit application and enforcement of any statutes of the State of Colorado but shall be in addition thereto.

6. Severability. If any part or parts of this ordinance are for any reason held to be invalid, such provision shall not affect the validity of the remaining portions of this ordinance. The Board of County Commissioners hereby declares that it would have passed this ordinance and each part or parts thereof, irrespective of the fact that any one part or parts be declared invalid.

7. Repeal. All ordinances and / or resolutions or parts of ordinances and / or resolutions inconsistent with provisions of this ordinance are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this ordinance.

8. Effective Date. In order to preserve the immediate health and safety of Lincoln County and its residents, this ordinance shall take effect immediately.

Upon roll call the vote was:

Commissioner King, Yes; Commissioner Stone, Yes; Commissioner Lyons, Yes.

The Chairman declared the motion carried and so ordered.

PASSED AND ADOPTED this 31st day of January 2013, Lincoln County, Colorado.

THE BOARD OF COUNTY COMMISSIONERS, LINCOLN COUNTY, COLORADO.

Ted Lyons, Chairman

Greg King, Vice Chairman

Douglas D. Stone, Commissioner

ATTEST: _____
Clerk of the Board

Mr. Kimble submitted a proposal from Wave Engineering in the amount of \$2,790, plus approximately \$350 for additional expenses, to measure the noise decibel level of the Limon Wind Tower 206 turbine, and discussion ensued on whether or not to move forward. Ms. Devers asked if the county would pursue action if the level came back higher than what is allowed in the zoning regulations, but Mr. Kimble said he wasn't sure if those regulations are clear enough to surpass state statute when it comes to commercial limits. He added that it was his hope that Limon Wind would work on it to get it fixed. Ms. Devers also asked if it would set a precedent for other towers and landowners in the county if the level comes back too high, and Mr. Kimble admitted that it definitely could. Mr. DeWitt said that there had been some discussion when Mr. Beedy was still a commissioner of moving the setbacks for future wind tower development, and Mr. Lyons said that may involve completely re-doing some of the zoning regulations.

Mr. King made a motion to hire Wave Engineering to conduct a noise measurement study near wind turbine Tower 206 of Limon Wind, LLC. Mr. Stone seconded the motion, which carried unanimously.

As for the private road to a county gravel pit question, Mr. Kimble had drafted a letter to the Board explaining some of the issues relating to section lines being used as county roads. He said that it had always been his understanding that the county could open roads on section lines, but according to federal statute RS 2477 passed in 1885, that is not the case. The county is allowed to open a road anywhere as long as the county pays for it and it is used to serve the general public. Mr. Lyons said he felt an agreement had been made in this particular issue, at least for the time being.

Finally, Mr. Kimble said he had received a request from Ms. Lengel to look into changing over the 3.2 % Beer Off Premises License currently held by PJ's General Store to an On/Off Premise

License, considering the violations that occurred last October. Ms. Lengel had explained earlier that Paul Wayne Johnson, owner of the establishment, had been fined for infractions occurring last October, which he had yet to pay, but that he had asked her what to do to change over the class of license. According to Kelly Halvorson, Criminal Investigator with Liquor Enforcement, the liquor board could deny the change based on the fact that violations occurred and that law enforcement is so far away. She added that the liquor board could also deny for the present time and review the request again the following year, which Mr. Kimble felt would be a possible resolution. Since the current license has been amended to show the correct address of the establishment rather than the owner's residence, and does not expire until May 26, 2013, Mr. Kimble said he would do further research.

At 2:30 p.m., representatives from CDOT Regions 1 and 4 met with the Board to answer questions and introduce personnel since Lincoln County was moved to Region 4, as well as to discuss any issues the county has. Region 4 Transportation Director Johnny Olson assured the commissioners that the main reason for the transition is customer service, and the county should see absolutely no changes in personnel or services whatsoever. He asked that the county keep CDOT informed if there are certain projects that are being planned, as they can always develop a plan as well and they hope to remain proactive.

Mr. Lyons mentioned the grain elevators that went in at County Road 2W and Highway 71 South last year, stating that it may become an access problem for truck traffic. Mr. Olson said that it would have been good to let CDOT know prior to the project's completion, as he wasn't sure there would be much they could do at this point. He added that in future instances, working with CDOT would help identify potential plans and solutions.

Mr. King asked about the Ports-to-Plains corridor on north Highway 71, but Resident Engineer Travis Miller spoke up to say that there are many roads in poor shape, and CDOT does not have the funding to complete shoulder projects when they have so many other maintenance issues to face. He added that it would have to be a pretty large safety concern for them to widen shoulders at this point.

Mr. Olson put in that TABOR, Gallagher, and Amendment 23 made it very difficult to obtain funding for any projects and their hope is to educate the general public more on how the funding actually works and where tax dollars go.

CDOT Local Government Liaison Aaron Greco spoke up to say that there is an extremely low chance that the gas tax will be raised this year, but that they are still looking at ways to improve funding. Gary Beedy said that it would be beneficial to get some of the design money as far as federal funding for the interstate. Regional Transportation Planner Karen Schneiders suggested that the commissioners continue to be involved with the Eastern TPR, because there are always "little pots of money that pop up" and sometimes that can make a big difference on the size of the project.

The last comment before the group finished up was from Mr. Beedy, who suggested that the commissioners try to carry legislation through CCI next year to increase the amount of funding from \$150,000 that a project can receive when CDOT uses their own employees for completion. He felt that it was most likely too late for this year's session, but advised working on it in the future.

With no further business to come before the Board, the meeting was adjourned until 9:00 a.m. on February 7, 2013.

Corinne M. Lengel, Clerk to the Board

Ted Lyons, Chairman