

Board of County Commissioners of Lincoln County

Agenda for April 18, 2013

9:00 Call to order and Pledge of Allegiance

10:00 Human Services Director Colette Barksdale to discuss contract negotiations with the child welfare attorney and to conduct further training on the financing of human services, including budgets and allocations

2:00 Jeff Kwolkoski with Wave Engineering to discuss his report concerning sound levels from a wind turbine of Next Era's and to answer questions

1. Approve the minutes from the April 8, 2013 meeting
2. Review the March reports from the Assessor and the Clerk
3. Review the March reports of revenues and expenditures for County General and Public Health
4. Review a letter from Superior Title Services, Inc., agent for Unit Petroleum Company, concerning a proposed oil and gas lease on county property
5. County Commissioners' reports
6. County Administrator's report
7. County Attorney's report
8. Old business
9. New business

The Board of Lincoln County Commissioners met at 9:00 a.m. on April 18, 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.

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 April 8, 2013, as submitted. Mr. Stone seconded the motion, which carried unanimously.

The Board reviewed the March reports from the Assessor and the Clerk, as well as the March reports of revenues and expenditures for the County General and Public Health funds.

A letter concerning a proposed oil and gas lease on county property from Superior Title Services, Inc., an agent for Unit Petroleum Company, was reviewed; Ms. Devers stating that the request is for a 3.61 net mineral interest in Section 17, Township 16 South, Range 54 West. Mr. Lyons suggested sending a letter to see if they would pay \$150 per acre at twenty percent.

Ms. Devers said that she had received a request from Tesla Exploration to do some seismographic work in the county on a total of 75.921 acres in Section 28, Township 9 South, Range 55 West and Section 36, Township 8 South, Range 56 West, at a rate of \$10 per acre. Mr. Stone made a motion to sign the Permit to Conduct Geophysical Operations from Tesla Exploration, Inc. for a total of \$759.21. Mr. King seconded the motion, which carried unanimously.

Mr. Stone reported checking roads damaged by winds in District Three on April 10, 11, and 15, once with David Seymour and once with County Assessor Jeremiah Higgins. On April 16, Mr. Stone met with David Seymour at the county shop in Karval.

Mr. King reported attending the bookmobile board meeting on April 12, stating he learned that they have 400 patrons. He added that they do quite a bit of work with daycares, and have officially been designated as a public library so will now have the ability to apply for grant funding. They are currently working on some of those programs, as well as the summer reading program. He also learned that Katie Zipperer has been teaching basic computer classes in Arriba and does submit her hours to the county to do so. Mr. Lyons asked if it is in her job description, to which Ms. Devers replied it is not. However, Mr. King said that the bookmobile board has no problems with it; in fact, they seem to think it is great. Mr. Lyons asked if she is certified to teach, but Mr. King said he did not know. The Board decided it may be a good idea to meet with Ms. Zipperer to discuss it.

Mr. King went on to report that he attended the Economic Development Corporation meeting on April 15. They have sent a contract to Vickie Maxon and also discussed the Foreign Trade Zone. He added that Your Community Foundation is sending a grant request to El Pomar for the digital conversion of the Lincoln Theatre.

Mr. Lyons reported speaking with Kerry Halde about oil drilling in the county on April 10. He attended the Lincoln Day Dinner on Saturday, April 13, as did the other two commissioners. On April 16, he attended the Southeast Recycling meeting in Las Animas, reporting that they actually lost about \$8,000 the first quarter of the year due to equipment problems. He had spoken with a gentleman who told him that they have eWaste containers at their landfill for the disposal of electronics, which are picked up approximately three times a month. Since the county will either have to request an exemption from CDPHE or determine some way to comply with new legislation to collect and ultimately dispose of electronic equipment in the county, Mr. Lyons said that it may be an option to put something like the eWaste containers out at the landfill.

Ms. Devers said she had made several attempts to contact several different recyclers about it, but had had no luck and finally resorted to email. When she actually had a response from Blue Star Recyclers wanted the county to set up a program where Special Ed departments in the schools would put together a group of people who could take apart and sort the electronics, but Ms. Devers said that not only do Lincoln County schools not have such programs, it would most likely be expensive to start them. She added that they might be willing to provide tubs of some sort to collect the electronics in, but getting someone to come this far to pick them up is the problem, and then the county would be charged for it. Also, she added that the county may initially have quite a few things for disposal, but wasn't sure how much would be collected on a continual basis after that first time.

Mr. Lyons suggested contacting Ephron Brent who does some recycling, and then stated that it may be best to just request the exemption. James Martin happened to call Mr. Lyons at that time, so Mr. Lyons asked him if he only offers electronics recycling at fair time. James told him he does it all year long and he was asked to come and meet with the Board at 9:00 a.m. on April 29 to discuss it.

Ms. Devers reported that the county has received two railroad cars—one flatbed and one refrigerator car—for the roundhouse, but they are having a problem finding a way to get them here. Someone had contacted U.P. to see if they could haul them out here, but they didn't seem to be interested. Ms. Devers added that Balyn Brent is working with U.P. to try and get some track to set the cars on, and wanted to know if the commissioners had any objections to the process since it is county property that the cars would be placed on. The commissioners had no problems with obtaining the railroad cars.

At 10:00 a.m., Human Services Director Colette Barksdale met with the Board to discuss contract negotiations with the child welfare attorney and to conduct further training on the financing of human services, including budgets and allocations.

Ms. Barksdale explained that the current contract with Darla Scranton Specht runs approximately \$5,100 per month for both child welfare and child support enforcement, but does not include any additional charges for trials or court appeals, or other fees. Therefore, she would like to propose a flat rate contract with Ms. Specht in the amount of \$5,500 per month,

for a total of five years, understanding that the contract must comply with TABOR. The county will still be required to pay any additional fees for expert witnesses, but the savings will come in not having to pay Ms. Specht extra for the court appearances. Ms. Barksdale explained that they currently pay over \$100,000 per year and this contract would be \$66,000 annually. She added that if the commissioners agree to enter into the contract with Ms. Specht, she will have County Attorney Stan Kimble review it to make sure all is acceptable. The Board gave Ms. Barksdale permission to proceed with the contract with Darla Scranton Specht.

Ms. Lengel then left the meeting while Ms. Barksdale conducted further financial training.

When the meeting reconvened after lunch, County Attorney Stan Kimble reported that he'd accompanied County Assessor Jeremiah Higgins to Kiowa County District Court the previous day where Mr. Higgins testified in the mineral rights case that Mr. Kimble had discussed in a previous board meeting. An error was made in 1973 wherein an individual should have acquired a 1/6 mineral interest, but documentation did not accurately reflect that. Mr. Kimble had advised Mr. Higgins that the error should be corrected, which his office did, but it later caused a problem in Kiowa County so Mr. Kimble said that because he had advised Mr. Higgins to make the correction, he felt he should go with him to court. He added that Mr. Higgins had done an excellent job with his testimony.

Mr. Kimble commented that Tony Ryan, attorney for the Limon Wind project, would be attending the 2:00 p.m. appointment, and Mr. King asked how things were going with Prairie Minerals. Mr. Ryan had told Mr. Kimble that they are very close to an agreement, but do not have one yet.

At 1:50 p.m., Will Bublitz with The Limon Leader and Eastern Colorado Plainsman arrived, as well as Jeff Kwolkoski with Wave Engineering, Land Use Administrator John DeWitt, Tony Ryan, attorney for NextEra, Steve Beedy, and Jodi Withington. Mr. Kwolkoski explained the project and the means he took to reach his results, stating that he had taken measurements for seven days due to the fact that there were many different variables in regard to the towers and the wind conditions. He added that he'd actually ended up taking readings for a total of ten days, as there were a couple of days when the wind turbine wasn't actually running. Mr. Kwolkoski also stated that since the zoning regulations state that noise levels cannot be over 60 decibels at the property boundary line, the readings came in slightly lower than they would have, as the property boundary line was actually the middle of the county road and he certainly couldn't set up his equipment there. However, it was less than half a decibel lower.

Mr. Kwolkoski explained the way his equipment works and the printout he provided, as well as some of the language on the report. He said he'd spoken with Gary Withington and told him that he would take some measurements closer to the house, and affirmed it was true when Mr. Kimble asked him if the readings were typically 40-45 when he was sure it was the wind turbine that he was hearing on the recording.

Mr. King asked if the equipment could differentiate between the various sounds, and Mr. Kwolkoski said that just looking at the numbers wouldn't show it, but the sound meter actually measures all frequencies and he *can* tell the difference when listening to the audio recording. He went on to say that he has modern, high quality equipment that meets all the state requirements, and he himself is a trained, licensed mechanical engineer with the State of Colorado, specific to acoustics and noise control. All of his equipment was certified by an accredited lab within the past year.

Mr. Kwolkoski added that the measurements he took nearer to the house were lower because the turbine was further away, yet the lowest the readings ever got were around 20 or 25, which was in the middle of the night when there were hardly any noises at all. He also said he'd tried to get some information regarding the readings that Limon Wind took, but their information wasn't as detailed in ten minute intervals like he had done, so it really didn't help.

Mr. Kimble said that some of the pictures in his presentation showed snowy ground and wanted to know if fresh snow would change the readings. Mr. Kwolkoski responded if it were a harder snow it would possibly increase the sound level slightly, as wet grass or a wetter, softer snow does absorb some of the sound. Mr. King asked about the pitch of the noise, and Mr. Kwolkoski said that his equipment does measure all frequencies simultaneously.

Ms. Withington wanted to clarify that the noise they hear is twice as loud as what they are used to if the lowest reading he took was 20-25, and Mr. Kwolkoski replied that is true, but she must remember that that reading was taken in the middle of the night when there was no other noise present. A normal conversation just three feet away can reach levels of up to 60 decibels.

Mr. Lyons wanted to know if trees would absorb the sounds, perhaps if a row of pine trees would be planted, but Mr. Kwolkoski said that it would take at least two hundred feet of a thick growth of trees to even alleviate a portion of the sound.

Mr. Lyons asked what would help, but Mr. Kwolkoski said that he really couldn't see anything that could be done with the outside of the property. He suggested that sometimes getting better windows helps with the noise from inside the home, but of course if windows are open, that doesn't help either.

Mr. Kimble asked Mr. Ryan if he had any comments, but he did not, and Ms. Withington then asked how far away a person would have to be from the wind turbines to get back to a 20 or 25 decibel reading. Mr. Kwolkoski said it would be quite a ways, as each time the distance is doubled, the noise level only decreases by six decibels.

Before Ms. Withington left, she issued a plea to the commissioners to seriously consider changing the county's regulations to help future landowners before they have the same type of noise issue.

Tony Ryan was asked if there is an agreement yet between NextEra and Prairie Minerals, and he stated although they do not have an agreement yet, they are very close.

Mr. DeWitt stated that the Limon Wind III project has been through the permit process, but wanted to know if the commissioners intended to wait until the Prairie Minerals matter is resolved before issuing building permits for the next phase.

Mr. Kimble wanted to know if new development permits also need to be issued because he felt that if the language were to be updated, it would most likely need to be in that stage of the process so they could ensure that agreements are entered into with *all* mineral owners prior to the permits being issued.

Mr. DeWitt added that the Board can change the setback requirements but didn't really feel that in light of what Mr. Kwolkoski had just reported 400 feet instead of 200 feet would really make that much of a difference. He added that they certainly hadn't foreseen these types of problems since there has never been any prior experience with wind farms in the county. Mr. Lyons stated that they could only learn from their mistakes, and Mr. Kimble put in that it seemed to him the two major concerns in the future would be mineral owner notification and noise complaint disputes. Mr. Lyons felt it should be discussed at a Land Use Board meeting, and Mr. DeWitt said he would add it to their next agenda.

With no further business to come before the Board, the meeting was adjourned until 9:00 a.m. on April 29, 2013.

Corinne M. Lengel, Clerk to the Board

Ted Lyons, Chairman