

Board of County Commissioners of Lincoln County
Agenda for March 28, 2024

- 9:00 Call to order and Pledge of Allegiance
- 9:30 Andrew Lorensen, Human Services Director, to present the Department of Human Services monthly report
- 10:00 Sheila Nessler with Columbia Sanitary to discuss land use matters
- 11:00 Kevin Stansbury, Lincoln Community Hospital CEO, to provide an LCH report
- 11:30 Ken Stroud, Emergency Management Director, to discuss a FEMA funded project

-To be completed as time permits-

1. Approve the minutes from the March 18, 2024, meeting
2. Review and act upon a credit card limit change request for Jeremiah Higgins
3. Review and act upon a lease agreement with Robert Safranek
4. County Commissioner reports
5. County Attorney's report
6. County Administrator's report
7. Old Business
8. New Business
9. Approve Payroll

The Board of Lincoln County Commissioners met at 9:00 a.m. on March 28, 2024. Chairman Steve Burgess, Commissioners Wayne Ewing and Doug Stone, County Administrator Jacob Piper, County Attorney Stan Kimble, Clerk of the Board Corinne M. Lengel, and Limon Leader reporter Stephanie Zwick attended.

Chairman Burgess called the meeting to order and asked Land Use Administrator Ty Stogsdill to lead the Pledge of Allegiance. Mr. Burgess had requested Mr. Stogsdill's presence to discuss the logistics of the 10:00 a.m. appointment with Columbia Sanitary.

Brenda Toft with Farm Service Agency arrived at 9:10 a.m., and commissioner candidate Gary Beedy arrived shortly afterward.

Mr. Ewing moved to approve the meeting minutes for March 18, 2024. Mr. Stone seconded the motion, which carried unanimously.

County Assessor Jeremiah Higgins had requested a credit limit increase on his county credit card from \$2,000 to \$4,000. Mr. Ewing moved to authorize the increase, and Mr. Stone seconded the motion, which carried unanimously.

Mr. Piper provided the lease agreement for the landfill ground between Lincoln County and Robert Safranek. Since the county took roughly ten acres to start the new cell, Mr. Burgess said they might need to reduce the acreage in the lease. It was for \$1,200: 240 acres at \$5.00 per acre. Mr. Piper said the lease agreement he gave them to sign was identical to the old one, but he could change it if they wanted. Mr. Stone moved to accept the lease agreement, and Mr. Ewing seconded the motion, which carried unanimously.

Mr. Ewing reported talking to Chris Monks on March 18 about an oil project for County Highway 109; it will be about a mile and a half on the curves at the south end of District 1. Mr. Ewing spoke with Mr. Monks about trimming trees at County Highway 109 and County Road 3G the following day. Later, he talked to Representative Richard Holtorf and Senator Rod Pelton about sludge, liquid sanitation, and biosolids. That night, Mr. Ewing attended the Genoa town board meeting and suggested the town pass a non-sanctuary city resolution similar to the county's. They also discussed trees at the town park and a water agreement with Westfall. Mr. Ewing talked to the other commissioners about biosolids vs. sludge on March 20. He received a call from Representative Holtorf and a state Public Health rep concerning solid waste applied in Lincoln County and provided them with the land description for their investigation. On March 21, Mr. Ewing talked to Chris Monks about attending the CDOT 40/287/109 exchange meeting. He and Mr. Monks discussed the oil project on March 22 and decided to start it around April 17, after District 3 completed theirs. They also discussed a possible guardrail repair in exchange for material on the 40/287/109 project. Mr. Ewing reported attending the Lincoln County Cowbells Meat-In on March 23. He also spoke with Senator Pelton about the liquid sanitation waste issue; the senator offered his help if needed. They discussed other land use problems and the gun bill. Mr. Ewing then checked several District 1 roads. Early on March 25, Mr. Ewing and Mr. Monks discussed road conditions; it was bitterly cold and windy, but there wasn't

much snow. Mr. Monks planned to pick up the new maintainer in Burlington on March 28. He and Mr. Ewing discussed the County Highway 109 oil project site, other areas of concern, and the graveled roads at Jollys' and County Highway 63. Mr. Burgess stopped to see Mr. Ewing on March 27, and they discussed the following day's agenda. He later called Mr. Ewing to inform him about the weed truck's turbo.

Mr. Stone reported attending the Colorado East Community Action Agency meeting on March 19; they completed a record number of tax returns for the elderly. He stopped at the county shop on March 20, and he and Judd Kravig discussed oil projects. Starting April 15, District 3 will oil 1.3 miles of County Highway 109 northeast of Karval. They will use A & S Construction for that project and McCormick for another half mile later. On March 23, Mr. Stone received a call from a resident wanting to discuss solar and wind farms in Lincoln County; he was neither for nor against them but was concerned with someone contacting him about state lands. Mr. Stone checked District 3 roads when the wind died on March 25. He and Mr. Burgess discussed biosolids on March 27. Judd Kravig told him about a truck they took to Byers for a new clutch.

Mr. Burgess reported going to the landfill on March 18. They got \$30/ton for the 112 tons of scrap metal. He talked to Bruce Walters about asphalt; it will be \$200,000 per mile. Mr. Burgess attended the Prairie Development Corporation meeting in Stratton on March 19. Economic Development wanted PDC to help administer money for loans, but the general feeling was that it was focused only on Lincoln County. They also had concerns about how PDC would receive compensation for their work. Mr. Burgess attended the Economic Development meeting at Mountain View Electric on March 20. They reviewed Troy McCue's annual evaluation and discussed the new tire store coming to Limon. Mr. Burgess drove north of Limon and Genoa, looking at District 2 roads and, while doing so, followed two tanker trucks hauling waste to a farm east of County Highway 109. He asked the truck drivers for the company's name applying the waste and then contacted Mr. Ewing, Mr. Stone, and Ty Stogsdill. Mr. Stogsdill called the company for more information, which prompted an afternoon discussion regarding waste material. The state's and county's regulations say that the state regulates solid waste, and the county regulates liquid waste. Mr. Burgess noted they found the regulations but not the permit. Columbia Sanitary, the company hauling the materials, said they'd tried contacting the county via emails and phone calls to Public Health. Mr. Burgess and Mr. Stogsdill spoke with Public Health Director Kelly Meier, who received no inquiries. The company later said they'd looked at Lincoln County guidelines but found no regulations against waste spreading and assumed the county allowed it. Mr. Burgess said the county contacted state public health officials, who planned to inform Columbia Sanitary to cease operations. Mr. Burgess went to the courthouse and learned of a mistake regarding paying for the landfill mower. They will take care of it on April 8 when the finance department pays bills again. Mr. Burgess contacted Mike Vaughn with the information. Mr. Burgess attended the Resources Unlimited meeting at Morgan Community College on March 21. CSU Extension Agent Emily Baylie hosted it, and Public Health Director Kelly Meier gave an excellent presentation that Mr. Burgess said they should have her give to the Board. He spoke with Ty Stogsdill about the company spreading waste north of Genoa; Mr. Stogsdill had also talked to Bob Harlowe about it. Mr. Burgess told Mr. Stogsdill to schedule a discussion at the next commissioner meeting; he

also spoke with Mr. Ewing. Tim from the state public health office called to let Mr. Burgess know he would help if they had questions. Lawn Thompson called Mr. Burgess regarding someone applying waste on the property adjacent to his. On March 22, Mr. Burgess attended a CCI Zoom meeting on HB24-1366: Sustainable Local Government Community Planning. They took no position on the bill. Ty Stogsdill called to say he'd delivered the Cease & Desist order to the operators north of Genoa. He then let Mr. Stone and Mr. Ewing know that Columbia Sanitary wanted to meet with the commissioners. Emergency Manager Ken Stroud called to say he had more information regarding the FEMA funding and wanted to schedule a meeting with the Board. Mr. Burgess said it was cold and snowy on March 25. In discussions regarding the FEMA projects, Mr. Burgess learned District 2 received approval for the pipes on County Road 38 north and south of County Road 4C. Total projected job costs are \$445,312.65. The federal government's 70% portion is \$333,984.49, and the state and county's 12.5% are \$55,664.08 each. The county must track all labor, equipment, and materials for reimbursement and complete the projects by February 25, 2025. Mr. Burgess said they also discussed the County Road 33 bridge and would have to apply by June 12. Allen Chubbuck called him about high winds and electricity outages at the landfill. The District 2 road crew hauled gravel on County Highway 109 north of Genoa on March 26. They took a trailer to Brent Welding in Arriba for repairs. Chris Monks called with a question about the bridge on County Road 32. Ty Stogsdill called about another complaint concerning the issue north of Genoa. Mr. Burgess felt they should channel future correspondence through Stan Kimble. Patrick Leonard called to say the turbo quit in the Ford 550 weed truck again and that he would get a quote from Interstate Diesel. On March 27, Mr. Burgess arranged the meeting with Columbia Sanitary. He called Robert Safranek about the annual lease agreement regarding the landfill pasture ground. Patrick Leonard told him Interstate Diesel's estimate to fix the weed truck was \$4,000; Mr. Burgess contacted Mr. Ewing and Mr. Stone, and they agreed to fix it. Lastly, Mr. Burgess received word that residents south of Limon were putting in a retaining wall, so he informed Mr. Ewing and Chris Monks.

Mr. Kimble reported he was still receiving emails regarding the Karval Water Authority loan, but everything seemed to be moving along. He received a call from Mr. Stogsdill regarding a possible violation of county regulations concerning septage. Mr. Kimble drafted a Cease & Desist Order and had Mr. Stogsdill hand deliver it.

At 9:30 a.m., Human Services Director Andrew Lorensen met with the Board to give his monthly report. The commissioners reviewed the financial statements, employee timesheets, and the director's, Income Maintenance, and Child Welfare & Adult Protection reports. Mr. Lorensen said they'd started purchasing items for the family center in Limon that the Family Voice grant money covers. April is Child Abuse Awareness Month, and Mr. Lorensen said they planned to use some of their funds for awareness and prevention.

When Mr. Lorensen left, Mr. Burgess suggested a short break as everyone moved to the jury assembly room for the 10:00 a.m. discussion.

At 10:00 a.m., the commissioners met with Sheila Nessler with Columbia Sanitary to discuss land use matters. Jason Culp, Dennis Nessler, Public Health Director Kelly Meier, four commissioner candidates, and several concerned landowners attended the discussion.

Mr. Stogsdill explained that he'd served the Cease & Desist Order recommended by Mr. Kimble, based on Subpart 360-4, Land Application Facilities, in the Land Use regulations. Mr. Kimble said the county adopted biosolids regulations in 1996, and even though they don't prohibit septage on land, there are strict requirements for what the waste contains. The state isn't involved with septage, so he had Mr. Stogsdill deliver the Order to stop the process until the Board had more information.

Mr. Culp apologized, stating they didn't intend to hide or obscure anything. They did their research nine months ago and didn't find regulations against it, so they proceeded. He noted it was the first time they'd owned the property; they typically apply the waste for ranchers and farmers for reclamation purposes.

Biosolids consist of organic matter recycled from sewage, especially for use in agriculture. Mrs. Nessler noted that once recycled, they apply the material to pastures and crops, such as wheat or other crops harvested above ground. It adds fiber and nitrates to the soil and is a direct injection into the ground, leaving nothing on the surface. Mr. Stone asked if it disturbed the topsoil; Mrs. Nessler said it did, approximately two-to-six inches.

Mr. Culp said he wanted to help people do the right thing with their septic systems and noted that what he puts in the ground is almost cleaner than what comes from a septic tank. They don't do biosolids anymore because it costs too much; most of their services are pumping septic tanks. Mr. Culp noted they apply nothing to a field directly from a septic; they screen everything in the Golden yard and drain and clean the tanks every six months. The state determines how many feet per acre they can inject and requires them to provide analysis twice yearly. They pull maps to ensure they inject above the groundwater tables, allow nothing in flood plains, and follow all setbacks. Mr. Culp took complete responsibility, saying he wasn't used to dealing with Land Use; they usually follow guidelines set by public health. He added they wanted to be respectful and would do whatever the commissioners asked of them.

When Mr. Kimble asked about Port-O-Pots, Mr. Culp told him they do some, but all chemicals are biodegradable and don't use formaldehyde. Their ratio of gallons pumped from septic tanks versus portable toilets is twenty-five to one.

Mr. Burgess asked if they always empty the tanks in Golden completely before refilling them. Mr. Culp said they keep their valves above the sludge and only pump liquid. They must drain and inspect the truck tanks before letting the waste into the system. If they discover any foreign material, such as oil or hazardous chemicals, they stop immediately and have to shut the tanks down if the substance makes it that far.

Mr. Kimble noted Mr. Culp had said the county regulations were the same as the state's and asked if they'd changed much in thirty-six years. Mr. Culp told him they hadn't. He added that several counties have similar level regulations. Mr. Kimble asked how close they deposited each sample to the one before and how often they tested them. The state requires one yearly test, but Mr. Culp said they do one or two tests annually in Elbert County. The state doesn't require monthly analysis, but Mr. Culp thinks it's necessary, and if the commissioners wanted monthly analyses, he'd be happy to provide them. Mrs. Nessler added that they'd had several of the same customers for over twenty-five years.

Mr. Burgess asked for audience comments. Robert Safranek asked about salt mixed into the portable toilets in the wintertime to keep them liquid. Mrs. Nessler said they test for sodium, but if they freeze, they generally thaw to liquid again within three days.

Mr. Beedy warned that they must be careful when applying waste to pastureland because grass doesn't recover well on the eastern plains, and multiple applications concerned him.

Lawn Thompson noted he owned property adjacent to them and was worried about the grass and creek. If their applications killed the grass, erosion would wash the waste onto his property, and he didn't want that. Mr. Culp said regulations didn't allow them to apply waste on slopes and to be a certain distance from water. Mr. Thompson said he'd seen how near the creek they were and wanted to know how they could place their frac tanks so close to a water source. Dennis Nessler said he hadn't realized he was close to the creek when he applied the waste, and Mrs. Nessler commented they couldn't put the tanks on CRP ground. Brenda Toft stated they couldn't do *anything* with their CRP ground without first speaking with NRCS. The program provisions state farmers cannot store anything on state land. Mrs. Nessler said that, in that case, they would have to move the tanks higher.

Rob Boyd said there were pathogens and microorganisms in human waste and wanted to know that the company treated and tested it properly and had the proper permits. He commented that erosion affected all property owners downstream, and they wanted to make sure Columbia Sanitary followed all the rules and their applications were safe. Mr. Boyd felt the commissioners should be aware of everything the company did to ensure it didn't contaminate the soil. He also mentioned that the waste affected wildlife, birds, and cattle, another concern.

Shawn Boyd asked how many acres they'd applied waste on so far, and Mr. Nessler said about a hundred and fifty-nine, but it wasn't all grass. When asked how many gallons they planned to pump into the ground, M. Culp said they were waiting for the analytics from the state but were applying the minimum for now. Mr. Stogsdill asked how many gallons they'd applied to date, and Mr. Culp said it was roughly forty thousand.

Wendy Pottorff asked if they had an agronomist on staff; Mr. Culp said they did not.

Terry Jaques wanted to know if the state required them to provide annual reports, but Mr. Culp said it didn't. He suggested they might want to hold a public meeting and allow residents to comment.

Mr. Ewing asked if anyone completed studies on the leachate effect; Mr. Culp said it was similar to leach field requirements and certain soils wouldn't accept the waste. He also said there were state regulations against overloading and polluting the soil. Mr. Ewing was aware of at least eight loads they had applied and asked when they had last tested; Mr. Culp told him it was before they moved the frac tanks. Mr. Burgess asked to see the results. Mr. Culp noted that while waste treatment plants and municipalities must test for PFAS (Per- and Polyfluoroalkyl Substances), the EPA did not require the same from septage.

Mr. Kimble asked if it was a burden to test every large tank; Mr. Culp said it wasn't necessarily a burden but costly. Mr. Kimble said county residents and the commissioners might feel better knowing what every 20,000 gallons the company applied contained. Mrs. Nessler asked if they could take several sample tests of the 20,000 gallons and, if similar, cut it down.

Mr. Burgess told them the application process spelled out the requirements, and once they had completed it satisfactorily, the commissioners would review the Cease & Desist Order. He asked what application they had made in Elbert County, and Mr. Culp said the health director had asked them for the same things; they don't have Land Use regulations or an application process like Lincoln County's.

Public Health Director Kelly Meier wanted it on record that they had received no emails or phone calls from the company, even though they claimed they had tried to contact them for the last seven months. She stated they track all referrals, and no one had contacted them.

Mr. Burgess asked Mr. Stogsdill and Mr. Kimble if the commissioners should allow Columbia Sanitary to apply. Mr. Stogsdill and Mr. Kimble needed to examine the regulations to determine if the county allowed human waste disposal. While one section stated waste could contain no domestic sewage, sludge, or septic, another provided an application. Mr. Kimble said they should follow the county's application process and have the analyses done for the Board's review.

Mr. Piper asked if it would require a public hearing or if the commissioners could review the application as a regular agenda item. Mr. Kimble felt the topic was best as an annual agenda item unless the Board received complaints, which would require a public hearing. Mr. Stogsdill asked for two weeks to review the regulations again.

Mr. Beedy wanted to know how much available land the Nessler had after removing the CRP ground and the acres where they planned to build their home and outbuildings. Mr. Culp said they would report the application rate after receiving their analytics. If they had to move to another location, they would.

Mr. Kimble asked if they could apply the waste to the same ground in the same year, and Mr. Culp said it depended on the active growing cycles.

Mrs. Toft asked how close to a creek they could apply the waste, and Mr. Culp said one hundred feet. Mr. Thompson asked if the company would apply waste in the same places if allowed; Mr. Culp said they would try to follow the same paths if they did. Mr. Burgess commented they would end up with a plowed field if they didn't and repeated how fragile some ground is on the eastern plains.

The group had no other comments or questions, so Mr. Burgess concluded the meeting, and the Board returned to the commissioner meeting room at 11:20 a.m. to meet with Lincoln Health CEO Kevin Stansbury. Rachel Smith accompanied Mr. Stansbury. Emergency Manager Ken Stroud was also there for his 11:30 a.m. appointment.

Mr. Stansbury provided financial and strategic planning reports and said they had some problems recently; their chiller went down, and a sewer line broke in the Gorden Clinic. It was just further proof of the buildings' age and deterioration.

Mr. Stansbury provided information regarding Ground Ambulance Cost-Based Reimbursement. They must be the sole ambulance service provider within thirty-five miles of the hospital or the only legally authorized service approved to transport patients to or from the hospital. It would not prohibit other ambulance services from bringing patients to Lincoln Health or from transporting patients in the event of a mutual aid agreement. The county must have the authority to regulate ambulances, and the commissioners would have to establish a legal restriction on ambulance services from transporting patients from the hospital, making Lincoln Health eligible for cost-based reimbursement. Lastly, the current practice had to be that Lincoln Health was the only agency transporting patients from the hospital. Mr. Stansbury noted it would have a positive effect of approximately \$200,000 to Lincoln Health. However, they needed to understand the impact of the July 1, 2024, statute giving counties the option of transferring ambulance regulation to the state. If moving in that direction, they would have to do it as soon as possible.

Mr. Burgess asked what he needed from the commissioners, and Mr. Stansbury said he would have the hospital attorneys draft a resolution and send it to Mr. Kimble for review. Mr. Beedy told him to make sure it detailed the mutual aid agreement.

Commissioner candidate Terry Jaques joined the meeting at 11:30 a.m.

Mr. Piper said the state would handle ambulance licensing as of July 1, and the licenses would be good for two years.

Mr. Stansbury and Ms. Smith left, and Mr. Burgess said Travis Miller sent a request to pay RockSol Consulting Group, Inc. \$8,254.09 for fifty-five hours of performing the redesign work on the County Highway 109 bridge because of right-of-way issues.

Mr. Stone moved to pay RockSol Consulting Group, Inc. \$8,254.09 for the additional hours worked. Mr. Ewing seconded the motion, which carried unanimously.

Mr. Piper had received information from Candace Payne with the Council of Governments regarding a replacement Outback bus. He said there was a grant opportunity if the commissioners wanted to pursue it, although he wasn't sure how complicated it was. They had considered replacing the bus with a large van instead. Mr. Stone asked Mr. Beedy if he knew of any funding for it, and Mr. Beedy suggested federal transit funding but didn't know what specifically covered buses.

Mr. Piper said the Country Living Learning Center requested a letter of support from the commissioners. The group planned to apply for the Congressionally Directed funds, the same as the county applied for on the roundhouse. Mr. Kimble asked if applying for two projects at once hurt the county's chances of receiving the money, but Mr. Piper didn't know.

Mr. Stone moved to sign the letter of support for the Country Living Learning Center. Mr. Ewing seconded the motion, which carried unanimously.

Mr. Piper reported that a county road grader ran over a resident's mailbox on County Road 22. The owner wasn't upset but wanted to move the box; however, the USPS was allegedly having an issue with it. He asked what road district it was, and Mr. Ewing said he thought Chris Monks had taken care of it.

At 11:45 a.m., Emergency Manager Ken Stroud informed the Board he'd met with FEMA representative Anson Olmos the previous day. He said they hoped to obligate all funds for District 2's County Roads 38 and 4C. They might need another site inspection for County Road 3C in District 1. They should decide on District 3's County Road T project next week, but Mr. Olmos thought everything looked good in the peer review. Mr. Stroud said they could get roughly \$37,000 for the low-water crossings and recommended leaving the project in the queue. Ted Lucero agreed and said to let it run its course. FEMA plans to close the funding in August, and the state would get an unknown portion of the pot. Mr. Lucero felt the county might be able to apply for some of that money. Mr. Stroud said he still needed to meet with Bruce Walters as he still had questions for District 2, but overall, it was good news.

Mr. Burgess and Mr. Stroud explained the FEMA projects to Mr. Beedy and Mr. Jaques, and then Mr. Stroud said he had bad news regarding the Ewing bridge. They had put everything on hold until they figured out the best direction.

Mr. Stroud said when the county received the commitment of funds, it was typically about thirty days before the money arrived. He asked if he should remain the signer since Mr. Piper wasn't a point of contact. Mr. Ewing felt the less confusion, the better, and Mr. Piper said they should meet with Deputy Treasurer LaRay Patton to discuss possibly creating separate account numbers for the revenue.

Mr. Burgess called for other business, and Mr. Ewing said Burlington Ford wanted an opportunity to bid on county pickups.

Mr. Burgess said that it appeared that the property owners of the place on County Road 3E that flooded last year were putting up a retaining wall. However, he was concerned that it might be in the county's right-of-way.

The Board approved the March payroll, and Mr. Burgess adjourned the meeting at 12:01 p.m. The next meeting will be at 9:00 a.m. on April 8, 2024.

Corinne M. Lengel, Clerk of the Board

Steve Burgess, Chairman