

Board of County Commissioners of Lincoln County
Agenda for May 31, 2024

THIS MEETING WILL TAKE PLACE AT THE ELLIS ALLEN BUILDING AT THE LINCOLN COUNTY FAIRGROUNDS

- 9:00 Call to order and Pledge of Allegiance
- 9:15 Andrew Lorensen, Human Services Director, to present the Department of Human Services monthly report
- 9:30 Public Hearing to review and act upon a proposed development permit for Scout Energy Partners regarding the Dunaway Solar Project
- 10:45 Review quotes for riprap and pipe for multiple FEMA funded projects
- 11:00 Kevin Stansbury, Lincoln Community Hospital CEO, to provide an LCH report

-To be completed as time permits-

1. Approve the minutes from the May 16, 2024, meeting
2. Review and act upon a credit limit change for John Mohan
3. Review and act upon the Computerized System Maintenance Agreement with Saul's Creek Engineering, Inc. for a 3-year system maintenance, support, and upgrade warranty beginning on September 1, 2024, for the CountyRecorder™ recording system
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 the fairgrounds at 9:00 a.m. on May 31, 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 Stephanie Zwick attended. Sheriff Tom Nestor, Jail Captain Michael Yowell, Land Use Administrator Ty Stogsdill, Emergency Manager Ken Stroud, and a few people waiting for the public hearing were there when the chairman called the meeting to order.

Mr. Burgess asked Sheriff Nestor to lead the Pledge of Allegiance.

Mr. Ewing moved to approve the meeting minutes for May 16, 2024. Mr. Stone seconded the motion, which carried unanimously.

The sheriff informed the group that it took six years, but the state court security grant finally approved a full-time law enforcement position for the courthouse starting in July. The grant pays 100% of the employee's salary and benefits and will come in quarterly payments, meaning the county would cover the cost for the first couple of months. The commissioners congratulated the sheriff, and he and Captain Yowell left the visitor seating but remained in the building until the hearing concluded.

Mr. Stone moved to increase the credit limit on John Mohan's county credit card to \$1,000. Mr. Ewing seconded the motion, which carried unanimously.

Mr. Burgess asked Mrs. Lengel the location of Saul's Creek Engineering, and she said the business originated in Bayfield, Colorado, but moved to Colorado Springs. Mr. Ewing asked what the agreement was for, and Mrs. Lengel responded that it was the county's real estate recording system. She changed vendors from Eagle/Tyler in 2006, and even with the \$100 per month increase for the next three years, Saul's Creek was still less than one month's cost of the old recording system.

Mr. Ewing moved to approve the Computerized System Maintenance Agreement with Saul's Creek Engineering, Inc. for a three-year system maintenance, support, and upgrade warranty starting September 1, 2024, for the County Recorder recording system. Mr. Stone seconded the motion, which carried unanimously.

At 9:10 a.m., the chairman recessed the Board of County Commissioner meeting and opened the Lincoln County Board of Human Services meeting. DHS Director Andrew Lorensen provided the financial statements, employee timesheets, and the director's, Income Maintenance, and Child Welfare & Adult Protection reports. He noted they had everything installed at the family services center in Limon. Mr. Lorensen also informed the Board he would be at the annual coroner's conference the following week and that he'd been selected to chair the 23rd Judicial District Juvenile Services Planning Committee.

Mr. Lorensen left, and Mr. Burgess adjourned the Board of Human Services meeting and reconvened the Board of County Commissioner meeting.

With a few minutes left before the hearing, Mr. Piper said that Emergency Manager Ken Stroud gave him the Onsolve-CodeRed Annual Agreement and asked for commissioner approval. Mr. Stroud explained that the three counties covered in the contract, Kit Carson, Lincoln, and Cheyenne, each contributed a portion of the total cost of \$13,332.74 based on population, with Lincoln County's share amounting to \$5,172.38, or 38.79%.

Mr. Stone moved to sign the annual Onsolve-CodeRed Agreement and to pay the requested fee. Mr. Ewing seconded the motion, which carried unanimously.

The group took a short break, and then Mr. Burgess opened a public hearing to review and act on a proposed development permit application from Scout Clean Energy, LLC, regarding the Dunaway Solar Project. Mrs. Lengel recorded the hearing, which will remain on file in the County Clerk's vault for the statutory ninety days.

Mr. Burgess explained that Scout Energy representatives would give their presentation, and then he would take questions from the audience, allowing each speaker three minutes. He would then have the representatives answer all questions after anyone wishing to speak had the opportunity, followed by questions from the Board and Mr. Kimble. He added that Development Permit Application #24-01 did not include batteries, only solar panels. Land Use Administrator Ty Stogsdill corrected him by saying the permit *did* include the battery energy storage system or BESS. Mr. Burgess said the commissioners had discussed that batteries would require separate permits and applications.

Project Manager Bob Karsted and Vice President of Development Casey Willis, with Scout Clean Energy, introduced themselves and connected Bryce Ternet, who couldn't attend the meeting, via phone. While Mr. Karsted set up his PowerPoint presentation, Mr. Burgess handed out copies of information from Colorado Counties, Inc. regarding renewable energy in Colorado.

Mr. Karsted gave a brief overview of the company, noting that they split evenly between wind and solar projects. The Dunaway Solar Project is a hybrid solar/battery project; it would be a 300MW solar energy producer with a 200MW battery energy storage system (BESS), utilizing approximately 1,570 acres. Of that, 1,480 acres would house the solar array, leaving two acres for the BESS and thirty-two acres for the project substation. Access will be from County Road 45. Mr. Karsted said the project adheres to county regulations with 100-foot setbacks from county roads and property lines and 1,000-foot setbacks from structures. The closest neighbor is two miles away. Besides generating 300MW of clean energy, benefits include minimal water consumption, annual tax revenue, landowner payments, an approximate four hundred-employee temporary construction workforce, and use of local services. They started the project in 2022 with due diligence, moved on to the Special Use Development Permit application and potential approval in 2023 and 2024, and hoped to start construction in 2025. If all goes well, they should be in service sometime in the fourth quarter of 2026. Mr. Karsted noted that they could discover limitations through environmental studies and plans and would perform surveys and studies on motion control, transportation, and revitalization. They wanted to follow all county requirements and appended their application based on the conditions imposed by the

Land Use Board at the May 7 meeting. They intend to improve and restore County Roads 2W and 45 and will address this in the Road Use Agreement and transportation assessment. The Land Use Board asked that the company provide erosion control, stormwater pollution prevention, and emergency response plans, which they addressed in the application appendices. The Land Use Board had asked that the emergency response plan include training for local volunteer firefighters, but it wasn't necessary for the solar panels, only the battery portion of the permit. Still, Mr. Karsted said they added it to the permit application. Lastly, the Land Use Board required a signed power purchase agreement. Mr. Stogsdill said they had discussed watershed concerns in great detail.

Mr. Burgess asked if audience members had questions, and Tony Vick voiced concerns about hailstorms, broken solar panels, waste, fire, potential toxins, and smoke. He stated he was the landowner two miles from the site and noted his property was "downriver." Mr. Vick asked what material the solar panels were made of and where Scout would dispose of any waste or broken panels.

Land Use Board member Curtis Dutro addressed the group, stating he had made the motion to approve Scout Clean Energy's development application with conditions. He noted that Land Use only had three options: to approve a permit, to approve it with conditions, or to deny it. If another option existed to instill a moratorium until the county adopted regulations, Mr. Dutro would have chosen it. Mr. Dutro also asked for groundwater testing annually and after each storm, which he noticed didn't appear in the May 7 Land Use meeting minutes as one of the conditions placed on the application. Mr. Stogsdill said he would add it.

Dean Saffer expressed frustration with not receiving notification of the May 7 Land Use Board meeting when he'd gotten certified letters regarding previous meetings. He had a lease on the state land and didn't understand why Scout needed it when they already had 4,800 acres.

Terri Spencer voiced concerns about the overall health risks of living near a solar farm. Health experts have reported symptoms can include headaches, nausea, and sleep deprivation. They have also mentioned possible risks relating to cancer; however, there haven't been enough studies done to determine that fact or overall effects. Ms. Spencer noted that 100-foot setbacks were not far enough and should be at least 1,650 feet for smaller farms and 2,500 feet for larger ones. She felt the commissioners needed to require adequate setbacks and put strict regulations and guidelines in place. Ms. Spencer didn't understand how the commissioners could approve the permit when the Scout Energy project depended on battery power. Mr. Burgess repeated that the batteries would require a separate permit, and when Ms. Spencer inferred that meant the project would not move forward, he said if Scout wanted to build it without batteries, that was their choice.

Land Use Board member Rick Ashcraft voted against the development permit on May 7 because the company plans to put the solar panels on 640 acres of state ground they don't own. Noting that Scout Energy had a three-year lease with the state, he asked what would happen when it expired and how they would reconfigure the panels if using the state land was no longer an

option. He admitted not knowing much about solar farms but felt too many companies were taking state land that county residents such as Mr. Saffer would never get back. Mr. Ashcraft didn't oppose solar energy and thought it was okay, provided the companies used their property, not state land. His questions were what Scout Energy would do if the state didn't renew the lease and how much money Lincoln County would get from those 640 acres.

Linda Orrell said it was more than landowners being able to do what they wanted with their property. In her opinion, the U.S. had enough coal and natural gas for thousands of years and didn't need another form of clean energy. She also commented that it was tax money and that the company didn't generate enough energy to even pay for the project, which meant taxpayers subsidized it. Mrs. Orrell said the law requires that 20% of consumer energy comes from renewable energy projects, which only means higher bills. She didn't believe the project was a good idea because it would be a big deal if the company had to dispose of the panels. She hoped the county wouldn't allow them in the county landfill. Mr. Burgess let Mrs. Orrell know that her three minutes were up. Still, she added that solar energy is the most inefficient of all renewable energy sources and takes many acres out of agriculture.

Mr. Burgess asked if there were any other audience questions, and, hearing none, he directed Mr. Karsted and Mr. Willis back to the podium to answer the questions presented. First, Mr. Burgess addressed the purchase agreement and asked how soon Scout Energy hoped to have one. Mr. Karsted responded that they were constantly pursuing it but didn't have a purchase agreement yet. However, it was a prerequisite of the project that they obtain one. Mr. Willis said it wasn't unique to this project; a power purchase agreement provides the revenue stream. He noted the project was a significant capital investment, and with a \$350 million installation, it had to include a known, quantifiable revenue stream. Without it, they couldn't finance and operate it. Regardless of whether it was a county-required condition, a power purchase agreement was a fundamental part of their business.

The next question was what material was in a solar panel and what would happen if a significant hailstorm hit the solar farm. Mr. Willis said they are crystalline silicon, a hard material similar to glass. Since it isn't a liquid, there is no leakage if damaged by hail. Mr. Willis said people often raise the question, but it would take decades of something sitting there to leak anything into the ground. Because they have the power purchase agreement, it's always in their best interest to repair any damage as quickly as possible to generate the power and uphold the agreement obligations. In addition, manufacturers design solar panels to minimize the impacts of hail damage. Scout Energy operates and monitors 100% of its panels 365 days a year, including weather conditions, and when forecasted hail becomes a threat, they can tilt the panels vertically to minimize damage. They are also insured, but if the panels break, the company removes and recycles them. Mr. Willis said that recycling programs are becoming more common in the industry because of waste issues, and they expect that practice to improve over time. Mr. Burgess asked if anything in the panels would contaminate the soil, and Mr. Willis said there wasn't; they would immediately remove any damaged panels. Mr. Ewing asked if they used cadmium or encapsulated it, and Mr. Willis repeated that the panels are crystalline silicon, a standard, non-toxic material.

Mr. Burgess said Mr. Willis mentioned that they recycled the panels. He asked where they would take them since Lincoln County didn't allow them or wind turbine blades in the landfill and if they were considered hazardous materials. Mr. Willis responded that they were not and couldn't give an exact destination. He said it depended on what landfill accepted them, but they would consider the options regarding legal disposal.

Mr. Burgess said the county adopted regulations, and Mr. Stogsdill stated it implemented them in 2017. Mr. Burgess noted that Alamosa County helped write them because it was one of the first counties to allow solar farms, and he felt they were pretty good regulations. However, there were no regulations for the batteries yet, which was why the commissioners wouldn't act on the battery storage today.

Ms. Spencer wanted to know where to obtain the regs, and Mr. Stogsdill let her know how to find them on the county website. Mr. Piper stated the commissioners would post a public notice to adopt the battery storage regulations once written. He would keep a draft copy and the potential resolution in his office for public inspection for two or three weeks. The Land Use Board would consider the regulations and propose any changes, and then the commissioners would conduct the hearing to adopt them based on the Land Use Board's recommendation. Mr. Kimble noted that batteries weren't significantly important when the county adopted the regulations in 2017, so the Board didn't include specific guidelines.

Brenda Toft said there have been numerous changes in the past ten years and wanted the commissioners to consider updating the regulations to make them more current to fit the times.

Regarding the lack of notification to Dean Saffer, Mr. Kimble asked the Scout Energy representatives if they knew whether the State of Colorado terminated Mr. Saffer's lease. Mr. Karsted explained that Scout Energy had a three-year planning lease, which gave them the right to conduct studies and perform due diligence. Mr. Stogsdill had provided the assessor's landowner records that they used to send meeting notices, and the company sent the May 7 notice to the State of Colorado. Mr. Karsted apologized to Mr. Saffer, saying he didn't know someone notified him of the other meetings. Mr. Stogsdill noted that the county regulations require the county to inform the landowner and adjacent landowner, not lessees. Mr. Kimble said it seemed the fight was between Mr. Saffer and the State of Colorado. Mr. Willis explained it wasn't intentional; they had no reason not to notify landowners. In fact, they canceled the two meetings earlier in the year because they didn't have the notifications correct, which they recognized and corrected for the May 7 meeting.

Mr. Ewing said he understood that the company could raise the solar panels to allow grazing below them, but Mr. Willis said doing so substantially increased the cost. Looking at Colorado as a market, he noted they wanted to create an economically efficient project to be as competitive as possible and secure the power purchase agreement. Adding components made a project less efficient and less competitive. Mr. Ewing said that would be an agreement between Scout Energy and the state, and Mr. Willis responded that the state looks at the highest and best use. That was why they had the opportunity to apply for a lease.

Mr. Burgess said someone questioned setbacks, which the county could adjust. Mr. Stogsdill said they were 1,000 feet from residential property and 100 feet from roads.

Mr. Burgess asked Mr. Stogsdill if the Alamosa County solar regs were online, and he said they were. Mr. Burgess told the crowd that if they wanted to compare Lincoln County's regulations with others, Weld, Morgan, and Pueblo counties also had them. He added that the commissioners tried to stay abreast of the situation and keep up with any changes. Mr. Kimble commented that it was all part of the county's zoning resolution, and the document needed periodic review and updates.

Mr. Stone stated several counties have had solar farms for years, and their regulations gave the commissioners a basis for Lincoln County's. Mr. Burgess said different projects would have different requirements.

Mr. Ewing and Mr. Stone wanted to address Rick Ashcraft's question regarding why Scout Energy preferred using state land instead of private land. Mr. Willis said it was about creating an optimal and efficient layout, which didn't always mean the best solar intensity. If transmission lines exist, they try to build close enough to them to generate the lowest energy costs. Solar energy doesn't have the economic means to support long transmission lines.

Mr. Burgess asked if they could estimate the total project cost, and Mr. Willis said the total capital cost was around \$340-\$350 million, including the batteries. As a standalone system, solar energy alone would cost between \$250 and \$275 million.

Mr. Kimble said that in a previous conversation with Mr. Karsted, they established the company would have sold the energy by the time they started construction, which Mr. Karsted affirmed. They had also discussed valuing the equipment in terms of the county's use tax. Mr. Karsted said they hadn't discussed it in detail, but it seemed fair. Mr. Willis stated that it was consistent with other counties. Mr. Kimble felt determining the cost of one panel and multiplying it by the number of panels would give a rough estimate of the overall cost, similar to how they calculated for wind farms per turbine. Mr. Willis said the building permit value was more straightforward because the county issued them regularly; Mr. Kimble said the county included the use tax in building permit fees when issued for the wind farms.

Mr. Burgess asked how the company would handle dust abatement and erosion during construction with heavy equipment traveling the county roads, assuming they would use water trucks. Mr. Willis said that would be their first option; however, they would use aggregate on some roads. Mr. Karsted said they could use a chemical sealant, but Mr. Willis said it was typically water, which they addressed in their dust suppression plan.

Mr. Kimble said they'd mentioned improving County Road 2W before starting construction. Mr. Karsted said their preliminary assessment found some low-lying areas where drainage or culverts would need improvements. Mr. Willis added that the company wouldn't commit the seven figures if they didn't believe they could proceed with the project and would work with

the county, addressing all issues as they came. They would understand the baseline of county roads, identify where to make improvements, obtain permission from the county, and ensure roads were in the same or better condition when they finished.

Ms. Spencer said trucks went extremely fast and created dangerous conditions when the wind farms went in; she wanted to know if the Scout Energy truck drivers would follow any rules to ensure it wouldn't happen again. Mr. Burgess said the sheriff would address that issue, and Mr. Willis said he wanted the group to understand that the weights and loads fundamentally differed between wind and solar projects. Although some components were heavier, the panels were street-legal and relatively streamlined. Scout Energy must comply with state highway and law enforcement regulations as well as company protocol regarding speed and safety.

Mr. Burgess said the building permit would be valid for a year if the Board adopted a resolution to approve it, and the company must extend it if they didn't have the power purchased by then. Mr. Willis said they understood, even though it seemed like a short period. However, if they weren't ready in a year, they'd return and request an extension. Mr. Kimble said the commissioners could extend the permit for good cause without another hearing if necessary.

Rob Raines asked what the company's water plan was, and Mr. Willis told him they'd contacted Larry Monks, who could supply enough water needed for the power construction. However, water usage was minimal after the construction phase.

Rick Ashcraft said he hadn't heard the answer to his question regarding the company's plan if the state didn't renew the lease after three years. Mr. Karsted explained that it was a two-step process. The three-year production lease allowed them to conduct studies and perform due diligence. Afterward, they entered a production lease applicable through the construction and maintenance periods. If the state didn't grant the production lease for some reason, it would trigger a redesign of the array, but the state land is crucial to the project layout. He noted the project probably wouldn't go away, but it would be a bump in the road.

Mr. Ashcraft asked if that meant it would change the permit process or if they would have to return to the commissioners for another hearing. If the state didn't want to renew it, they would, but the same would apply if they had a lease with a private landowner.

Ms. Spencer asked why they would put a solar farm on a property with only a three-year lease. Mr. Willis said it wasn't a three-year lease; it was a three-year evaluation period before it kicked into a production lease, similar to an operating term.

Mr. Ewing wanted to know how much of the proposed site was state land and how much Scout Energy owned. Mr. Willis told him the state land was a section: 640 acres and that the overall project was slightly less than 1,600 acres, roughly 1,000 acres of private land they either owned or leased from a third party.

Mr. Ewing said they'd mentioned training for fire departments and wondered if it was more for the batteries than the solar panels. Mr. Willis responded training wouldn't be as necessary without the battery storage. He noted training would be annual, or at least consistent, and not a single department; they knew fire personnel changed frequently. He added that they wanted to be part of the community, continually coordinate, and directly communicate with local entities, including updating contacts; it was a fundamental part of their operation.

Mr. Ewing asked what kind of fence they would construct, and Mr. Willis said it was a chain link fence. He commented that no one wanted one, but it was a critical security measure to help prevent theft.

Mr. Burgess said they'd mentioned revegetation and asked if they would mow between the panels. Mr. Willis said they could; they spaced the panels in a manner that allowed them to clear vegetation and suppress fire risk. He added that they have a treatment plan, including cleaning up tumbleweeds. Mr. Karsted said they hired site managers when asked how they managed that. Performing site inspections was one of their job duties, along with monitoring and clearing tumbleweeds. If they couldn't keep up, they would hire local contractors after identifying seasonal problems.

Mr. Kimble asked if they knew how many trucks they'd need, commenting that County Road 2W got pretty beat up with the wind tower construction. Mr. Willis told him they didn't have detailed plans yet but would address all concerns appropriately, providing those plans to the commissioners. When asked if they started construction during a particular time of year, such as the summer, Mr. Willis said it depended on the location. Mr. Kimble said summertime might be a problem in Lincoln County because the harvest starts at the end of June or the beginning of July, and using county roads becomes an issue.

Mr. Ewing asked what the solar panels were made of: the outside that hail would affect and the inside. Mr. Willis explained that the panels are crystalline silicon, an extremely tough surface. The cell is encapsulated with hard, transparent plastic, layered with protective, tempered glass, and then encapsulated again with more plastic, forming multiple layers. They are framed in aluminum.

Mr. Vick asked if whatever material was inside the panels was toxic. Mr. Willis said nothing was harmful in any component, nothing would leak, and nothing was hazardous. Mr. Burgess said the commissioners heard the same information at their CCI conference.

Mr. Burgess asked the other board members what stipulations they wanted to consider if they approved the development permit. Mr. Stone mentioned the setbacks, but the commissioners agreed that the current setbacks would work for the Dunaway Solar Project, although they might have to revisit them for future projects. Mr. Stone thought the Land Use Board had covered the necessary conditions and felt the commissioners should include them in the resolution.

Mr. Burgess read the conditions from the May 7 Land Use Meeting minutes: a signed road use agreement and bond; watershed concerns addressed, including groundwater testing annually and after each storm; fire mitigation in place, including training; and a signed power purchase agreement. He added that Scout Energy would have to pay all use taxes and fees, but Mr. Piper said those were part of the permit application.

Mr. Burgess asked Mr. Karsted and Mr. Willis if they could compensate Mr. Saffer by giving him some of their property so he didn't lose grazing for his cattle. Mr. Willis asked if he meant entering into a private lease agreement with Mr. Saffer to offset the leased land he'd lost and said they'd entertained the thought.

Mr. Burgess asked his fellow board members if they wanted to add conditions not addressed by the Land Use Board.

Mr. Karsted felt testing the groundwater after every storm was extreme and wanted to know why it was a concern. Mr. Willis repeated the solar panels would add no contaminants to the ground or create anything hazardous or toxic. Mr. Vick said their concerns were more with the battery storage unless Mr. Dutro had been thinking about silt runoff. Mr. Burgess said it didn't apply to this particular permit.

Mr. Burgess asked if the electricity was DC converted to AC. Mr. Willis explained that the panels collect the energy as DC, or direct current, after which inverters transform it to AC, or alternating current, using the transmission lines directed to the substation.

Although battery storage didn't pertain to this permit, Mr. Ewing wanted to know why companies needed them in rural Colorado instead of keeping them solely on the Front Range. Mr. Willis said batteries moderate and collect power where it's generated, and an excessive amount of wind and sunlight in eastern Colorado make it a prime location. Utility companies continuously collect power; renewable energy isn't consistent (it's not always sunny or windy), so the benefit of the batteries is to collect and store the power. He noted that storing batteries in the load centers makes sense; having them outside is beneficial when production drops and the loads increase.

Mr. Ewing moved to adopt a resolution approving the Scout Energy development permit, including the Land Use Board's conditions.

Mr. Kimble asked if the motion included the specific conditions imposed by the Land Use Board and noted the motion and resolution should list them for the record.

Mr. Burgess had another question and asked if the solar farm's lifespan was thirty-five years and the procedure for decommissioning it. Mr. Willis explained that, depending on new technology, they would either request that the county re-permit new components or decommission the farm if it were no longer viable. They would remove the racks, pull out the poles, and revegetate the ground. He noted that solar energy is relatively cheap compared to ten years

ago, and since the overall driver was to reduce costs, there would definitely be technological changes.

Mr. Piper commented that if technology advances, the company will have to follow the same process of applying for permits and public hearings. They would also have to pay the use tax on any new components.

Mr. Ewing moved to adopt a resolution approving Development Permit #24-01 with the following conditions: signed power purchase agreement, signed Road Use Agreement, watershed concerns addressed in detail, and fire mitigation, including training. Mr. Stone 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 May 31, 2024, there were present:

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| Steve Burgess, Chairman | Present |
| Wayne Ewing, Vice Chairman | Present |
| Douglas D. Stone, Commissioner | Present |
| Stan Kimble, County Attorney | Present |
| Corinne Lengel, Clerk of the Board | Present |
| Jacob Piper, County Administrator | Present |

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

RESOLUTION #1124 It was moved by Commissioner Ewing and seconded by Commissioner Stone to adopt the following resolution:

A RESOLUTION GRANTING APPROVAL OF THE USE BY SPECIAL REVIEW AND DEVELOPMENT PERMIT NO. #24-01 FOR THE SCOUT ENERGY PARTNERS’ DUNAWAY SOLAR ENERGY GENERATION FACILITY AND ASSOCIATED TRANSMISSION LINE PROJECT IN LINCOLN COUNTY, COLORADO.

WHEREAS, Scout Energy Partners (“Scout”) has applied for the approval of a Use By Special Review and Development Permit (“Project Approvals”) for the construction and installation of a Solar Energy Generation Facility and associated Transmission Line, to consist of a 300-megawatt (MW) solar facility to include 1,486 – acre photovoltaic (PV) solar array area, a project substation, generation-tie transmission line (gen-tie line), and an operations maintenance (O&M) building in accordance with the Lincoln County Application for Use By Special Review Permit submitted by Scout Energy Partners, dated December 18, 2023 (the “Application”). The property subject to the Project Approvals is described in the attached Exhibit A (the “Property”).

WHEREAS, the Property is currently zoned Agricultural under the Lincoln County Zoning Resolution; and

WHEREAS, Section 2-220 of the Lincoln County Zoning Resolution allows for the approval of a Use By Special Review and Development Permit within the Agricultural Zoning District in accordance with the provisions of Article 3 of the Lincoln County Zoning Resolution; and

WHEREAS, Scout Energy Partners has obtained the consent of the owners of the Property to the Application and the Project Approvals in the form of leases and/or easement agreements which authorize Scout Energy Partners to construct the Solar Energy Generation Facility and associated Transmission Line and to obtain the Project Approvals; and

WHEREAS, following public notice as required by Section 3-110 of the Lincoln County Zoning Resolution, the Lincoln County Land Use Board held a public hearing on May 7, 2024 at which hearing the Land Use Board approved the Use by Special review and Development Permit following the Land Use Board's review of the Application, a presentation by Staff, a presentation by Applicant, testimony from the public, including the testimony of interested public agencies, and such other information as was brought before the Land Use Board at such hearing; and

WHEREAS, pursuant to Section 3-110 of the Lincoln County Zoning Resolution the Lincoln County Board of County Commissioners chose not to review the Application; and

WHEREAS, at a meeting of the Lincoln County Board of County Commissioners held on May 31, 2024 the Lincoln County Board of County Commissioners considered the application, the staff report prepared with regard to the Application, the decision of the Land Use Board, the record of proceedings presented to the County staff and the Land Use Board, and such other information that was brought before the Board of County Commissioners at such meeting.

NOW THEREFORE, BE IT RESOLVED BY THE LINCOLN COUNTY BOARD OF COUNTY COMMISSIONERS:

APPROVAL:

The application of Scout Energy Partners for a Use by Special Review and Development Permit is GRANTED, subject to the conditions set forth below. The Use By Special Review and Development Permit, including the applicant's right to construct, repair, maintain, and operate the Solar Energy Generation Facility and associated Transmission Line to exclude energy storage batteries, shall remain valid for a period of 50 years, or until such time as Scout Energy Partners , its transferees, successors and assigns no longer own, lease, or otherwise occupy an interest in the Property described in Exhibit A, whether by lease, easement, or otherwise, whichever occurs last.

FINDINGS OF FACT:

That proper notice has been provided as required by law for the public hearing before the Board.

That the information contained in the record of proceedings and presented to the Board at the public hearing is extensive and complete, and that all pertinent facts, matters and issues were submitted and considered by the Board.

That the Solar Energy Generation Facility and associated Transmission Line as described in the Application, is consistent with the minimum zoning requirements set forth in the Lincoln County Zoning Resolution.

That the Solar Energy Generation Facility and associated Transmission Line is consistent with the goals and strategies set forth in Lincoln County's Comprehensive Plan.

That the Solar Energy Generation Facility and associated Transmission Line will be compatible with the character of the surrounding neighborhood and will not have negative impacts on adjacent properties. The Solar Energy Generation Facility and associated Transmission Line has been designed to mitigate any potential noise, odor, vibration, glare and similar impacts associated with the proposed land use.

That the Solar Energy Generation Facility and associated Transmission Line will not cause undue traffic, congestion, dangerous traffic conditions, or other vehicle-related impacts due to the implementation of project-wide Best Management Practices and effective traffic control measures during construction.

That the Solar Energy Generation Facility and associated Transmission Line will not require a level of community services or facilities that is not available, and the Applicant will provide the necessary improvements to address any deficiencies to facilities and services that the use would cause. All public roads, utilities, bridges and septic systems to be developed in connection with Solar Energy Generation Facility and associated Transmission Line will comply with County standards.

The operating characteristics of the Solar Energy Generation Facility and associated Transmission Line shall not create a nuisance and the project has been designed to minimize impacts on neighboring properties with respect to noise, odor, vibrations, glare, and similar conditions.

That an adequate water supply is available to provide water to Solar Energy Generation Facility and associated Transmission Line either through a public water supply system or wells adequate in quality and quantity to serve the development and approved by the State Engineer. The water supply will comply with all applicable requirements of the Colorado Water Quality Control Division and the State Engineer.

That the Solar Energy Generation Facility and associated Transmission Line will not cause significant deterioration of surface or groundwater resources. The Solar Energy Generation Facility and associated Transmission Line has been designed and will be constructed to:

Prevent any changes to patterns of water circulation, conditions of the substrate, extent and persistence of suspended particulates, and the clarity, odor, color or taste of water

Comply with applicable water quality standards

Control levels of point and nonpoint source pollution

Prevent any changes in seasonal flow rates and temperature for affected streams

Prevent changes in aquifer recharge rates, groundwater levels and aquifer capacity including seepage losses through aquifer boundaries and at aquifer-stream interfaces

Prevent changes in circulation patterns, seasonal water levels and temperature of lakes or reservoirs

That the Solar Energy Generation Facility and associated Transmission Line will not significantly degrade wetlands or other aquatic habitat and riparian areas. Solar Energy Generation Facility and associated Transmission Line is designed to avoid such areas or to minimize disturbance in these areas. Specifically, the Solar Energy Generation Facility and associated Transmission Line will not:

Cause any significant changes to the structure and function of wetlands and to unique, rare, delicate or irreplaceable riparian areas, vegetation, forest or woodlands

Cause any significant changes to the filtering and nutrient uptake capacities of wetlands and riparian areas

Cause any significant changes to aerial extent of wetlands and evolution of wetland species to upland species

That the Solar Energy Generation Facility and associated Transmission Line will preserve the integrity of existing and natural drainage patterns. Where required by County standards, a stormwater retention system shall be provided to retain stormwater runoff in excess of historic flows and shall be designed for a 100-year flood.

That to the extent necessary, the Solar Energy Generation Facility and associated Transmission Line will be served by an adequate wastewater treatment system that meets all applicable County, state and federal standards.

CONDITIONS:

Prior to obtaining any building permits there shall be in place a fully executed roadway agreement between Lincoln County and Scout

All water shed concerns must be addressed in detail

A fire mitigation plan must be established prior to construction, that includes the initial and continued training of all local emergency agencies, and respective agencies associated with the local agencies through MOUs, that could respond to emergencies at the location of the solar farm

Scout shall have a definite connection agreement with a power company prior to being granted a building permit

Scout shall have a period of one (1) year after the date of issuance of the Lincoln County Development Permit #24-01 for implementation of the applicant's use of the Property for a Solar Energy Generation Facility and associated Transmission Line. In the event the applicant requests any extension of the one-year period for commencement of construction of the applicant's use of the Property for a Solar Energy Generation Facility and associated Transmission Line, as set forth in Section 1-210 of the Lincoln County Zoning Resolution, no such extension shall extend longer than two (2) years after the date of issuance of Lincoln County Development Permit #24-01.

Prior to the issuance of any building or construction permits, the Applicant and the Board of Lincoln County Commissioners shall enter into a written agreement which includes resolution of the fees to be paid by the Applicant relative to a combined permitting and sales and use tax assessment.

BE IT THEREFORE RESOLVED that a Use by Special Review and Development Permit is granted to Scout Energy Partners to construct a Solar Energy Generation Facility and associated Transmission Line known as the Dunaway Solar Project, to exclude a battery energy storage system until a separate hearing and resolution has been acted upon in regards to a battery energy storage system, in accordance with the terms of the Application, subject to the conditions set forth above. The Lincoln County Board of County Commissioners retains continuing jurisdiction over the Permit to address future issues concerning the site and to ensure compliance with the conditions of the Permit. The applicant is responsible for complying with all of the foregoing conditions and all other county zoning or other land use regulations. Noncompliance with any of the conditions may be cause for revocation of the permit.

Upon roll call the vote was:

Commissioner Stone, Yes; Commissioner Ewing, Yes; Commissioner Burgess, Yes.

The Chairman declared the motion carried and so ordered.

Board of County Commissioners
of Lincoln County

ATTEST:

Clerk of the Board

Exhibit A

Legal Description of Property Described in Application

All or portions of:

- S16 T11S R52W
- S1/2N1/2 S15 T11 R52W
- S1/2N1/2N1/2 S15 T11 R52W
- N1/2 S21 T11 R52W
- S22 T11 R52W
- W1/2 S5 T11 R52W
- S6, S8, S17, 18, S19, S30 T11 R52W
- W1/2 S7 T11 R52W
- N1/2 S20 T11 R52W

Mr. Burgess reminded the group that the permit would be valid for one year, and Scout Energy would have to request an extension or reapply if it didn't start construction.

Mr. Ewing moved to end the public hearing, and Mr. Stone seconded the motion, which carried unanimously.

After the audience left, Lincoln Health CEO Kevin Stansbury met with the Board at 11:21 a.m. to give his monthly report. Mr. Stroud stayed for the discussion.

Mr. Stansbury reviewed the April financial report and then drew the group's attention to the draft resolution in the packet. He asked the commissioners to consider it seriously and noted that the hospital would do all it could to preserve the viability of the service. Mr. Stroud stated that although the county would no longer license its ambulances as of July 1, the commissioners could permit certain ambulance services to operate within the county. The Board could opt out, but if opting in, they could make the requirements as simple or complex as they wanted.

Mr. Stansbury left, and Mr. Piper said he hadn't received additional quotes for riprap, but Ace Irrigation revised its pipe bid.

The Skyline Steel bid on galvanized, annular pipe for District 1 was \$33,170.51. In District 2: the bid for County Road 38 north of County Road 4C was \$83,976.75; the bid for County Road 38 south of County Road 4C was \$72,231.75; and the bid for County Road 3V east of County Road 31 was \$48,154.50. The bid for District 3 was \$85,424.40.

Ace Irrigation's revised bids, including the freight and bands, were as follows: District 1: \$30,562; District 2: (County Road 38 north of County Road 4C) \$81,224.97; (County Road 38 south of County Road 4C) \$70,526.34; and (County Road 3V east of County Road 31) \$47,741.16; and District 3, \$84,665.04.

The only riprap bid was 2024 pricing per unit (or ton) from Martin Marietta. District 1 was \$61.75 per unit, and the District 2 bid was \$63.40 per unit. Mr. Piper didn't have a figure for District 3. He noted the price per unit without the haul rate was \$36.50.

Mr. Stroud said they tried to obtain more quotes and had postponed the bid opening twice, hoping to receive more. Mr. Kimble felt they had done all they could.

Mr. Stone moved to accept Ace Irrigation's bids for the galvanized, annular pipe. Mr. Ewing seconded the motion, which carried unanimously.

Mr. Stone moved to accept Martin Marietta's bid for riprap. Mr. Ewing seconded the motion, which carried unanimously.

Mr. Burgess said they needed to order it as soon as possible. Mr. Stroud stated he would contact the FEMA reps and find out how soon they could. Mr. Burgess noted they should prioritize the projects and said the roads in his district were open, so his weren't critical. District 3 opened a detour, so the commissioners decided Mr. Stone's project should be first.

Mr. Stroud informed the Board that the Colorado School of Mines' engineering program was doing a capstone project, and the engineering students would design options for the bridge on County Road 33 (what Mr. Burgess called the Ewing Bridge). Mr. Stroud said a dual project that included hydrology, historical and environmental studies, scoping, and design work was \$7,500. One team would complete a bridge design, and a second team would design an alternative crossing as long as the hydrologist didn't determine it must be a bridge. Mr. Stroud noted the project type wouldn't affect the timeline; it would be at least a year before they could start, but the students had to complete the capstone project by May 2025. Still, that meant the county couldn't apply for grant funding until 2026, and construction wouldn't likely begin until 2027.

Mr. Ewing moved to pay the Colorado School of Mines \$7,500 to complete a capstone project for the bridge on County Road 33. Mr. Stone seconded the motion, which carried unanimously.

Mr. Stroud also let the commissioners know they could apply for administrative costs related to the FEMA funding, which was five percent of \$1.2 million. They would have to provide documentation of hours spent gathering data, taking pictures, and attending meetings for the road supervisors, commissioners, administrator, and attorney, but it could be close to a \$90,000 reimbursement.

Mr. Stroud left, and Mr. Stone reported attending the 23rd Judicial District Attorney candidate meeting on May 17. He sat in on the May 21 Zoom meeting regarding the County Hwy 109 bridge, checked roads on May 22, and stopped at the Karval shop to talk to Judd Kravig on May 23. Mr. Stone attended the CCI summer conference in Vail from May 28 through May 30.

Mr. Burgess asked if they wanted to discuss solar farm battery storage or wait for another meeting; Mr. Stone needed to leave early, so they agreed to wait. Mr. Burgess asked Mr. Kimble to give his report before Mr. Stone had to go.

Mr. Kimble had sent the contract for attorney services to Kelly Lowery for her review, but he hadn't heard back from her. He planned to speak with her at the following week's attorney conference. He commented that Ms. Lowery was part of a firm but that the county likely didn't want to hire the firm, just Ms. Lowery. Besides that, Mr. Kimble said he'd been working on a rough draft for battery storage.

Mr. Stone left, and Mr. Ewing reported attending a state consulting meeting at the hospital on May 16 concerning county ambulances. On May 17, he attended a meeting at Lincoln Health regarding rural health and the county hospital. Senator Bennet, his team, and local government officials also participated. Mr. Ewing attended the 23rd Judicial District Attorney Republican candidate meet and greet later that evening. The District 1 road crew hauled several loads on County Road 2S east of County Hwy 109 on May 20. Mr. Ewing noted they still have a blade "throwing codes." He and the other commissioners, Mr. Piper, Chris Monks, Ken Stroud, and Travis Miller with RockSol, attended a CDOT Zoom meeting on May 21 regarding the bridge south of the courthouse. That night, Mr. Ewing attended the Genoa town board meeting; they discussed the Westfall water agreement, maintenance, and code issues. He attended the CCI summer conference in Vail from May 28 through May 30. Mr. Ewing attended the hospital board meeting on the evening of May 30, where he heard reports on ambulances, cyber security, financials, and new regulations passed down from the legislative session.

Mr. Burgess reported attending the same DA candidate meet and greet on May 17. He and Bruce Walters met with a potential employee on May 18, but the party said they currently made more money than the county could offer. On May 20, Mr. Burgess talked to Limon Town Administrator Greg Tacha about the truck they had for sale. He offered \$6,000 for it and asked that they put in a new battery. He hadn't heard back from Mr. Tacha yet. Mr. Burgess spoke with Roy Brossman about doing work in the roundhouse; Mr. Brossman agreed to look at it. They needed to determine how to protect the windows.

On May 21, Mr. Burgess, Bruce Walters, and Land Use Administrator Ty Stogsdill met about fiber optics at County Road 3P and State Highway 71. He and the others previously mentioned participated in a Zoom meeting to discuss the Big Sandy bridge project. They hoped to have it ready to advertise by August. The District 2 road crew hauled gravel on roads north of Arriba. Mr. Burgess picked up items on May 22 to give away at the summer conference. The road crew checked the roads after the rain. Travis Miller called him about milling asphalt on the bridge project, and they decided it would be best if they didn't have to do it; it would require another line item and more asphalt. On May 23, Mr. Burgess went to Genoa and talked to Mr. Walters. The crew hauled gravel and graded roads; they planned to patch asphalt the following week. Mr. Burgess contacted a Denver company about bat removal and planned to send them information on the roundhouse. Mr. Piper called Mr. Burgess on May 24, requesting feedback on the newspaper ad regarding hiring a consultant to manage the bridge project. He found it adequate and contained all pertinent information. Mr. Burgess reviewed the battery storage resolution. On May 27, Mr. Burgess toured roads. Mr. Stroud called him about the School of Mines capstone project and explained everything he'd told the Board earlier. Lastly, he reported that the landfill 938 loader needed a new turbo.

Mr. Piper reported receiving a letter from a resident who wanted to give the county his mineral rights in Section 19, Township 17, Range 56. After a brief discussion, the commissioners decided to accept the mineral rights and deed them to the landowner.

Mr. Piper provided information regarding the county's high deductible health insurance plan, stating the county currently saved approximately \$250,000 annually.

Mr. Ewing moved to approve the Joe Will Post N. 6612 application for a Special Events Permit, Fermented Malt Beverage, for the July 4, 2024, celebration at the Lincoln County Fairgrounds. Mr. Burgess seconded the motion which carried.

With no old or new business to discuss, the commissioners approved the May 2024 payroll, and Mr. Burgess adjourned the meeting at 12:25 p.m. The next meeting will be at 9:00 a.m. on June 7, 2024.

Corinne M. Lengel, Clerk of the Board

Steve Burgess, Chairman