

Board of County Commissioners of Lincoln County
Agenda for November 20, 2024

- 9:00 Call to order and Pledge of Allegiance
- 9:00 Public hearing on a request from the Eastern Plains Cowbellees for a Malt, Vinous, and Spirituous Liquor Special Events Permit for the November 23, 2024, Belles Ball at the Lincoln County Fairgrounds
- 9:30 Public hearing to review and act upon proposed development permit #24-04 (Proposed Resolution #1140) and Battery Energy Storage permit BS #24-04 (Proposed Resolution #1141) regarding the Ebba Solar Energy Project
- 1:30 Mark McMullen and Bill Cincilla with American Environmental Consulting, LLC to discuss landfill matters

-To be completed as time permits-

1. Approve the minutes from the November 12, 2024, meeting
2. Review October 2024 reports from the County Assessor, County Clerk & Recorder, County Sheriff, County Treasurer and Public Trustee
3. Review October 2024 Statement of Revenues and Expenditures for County General, Public Health, Capital Projects, Conservation Trust, E911, Landfill, Library, Lodging/Tourism, Human Services, Road & Bridge and Individual Road Districts
4. Review the preliminary 2025 Lincoln County budget
5. Review board appointments for 2025
6. County Commissioner reports
7. County Attorney's report
8. County Administrator's report
9. Old Business
10. New Business

The Board of Lincoln County Commissioners met at 9:00 a.m. on November 20, 2024. Chairman Steve Burgess, Commissioners Wayne Ewing and Doug Stone, County Administrator Jacob Piper, County Attorney Stan Kimble, commissioner-elect Robert Safranek, and Clerk of the Board Corinne M. Lengel attended. Kelly Lowery attended until 1:00 p.m., and Commissioner-elect Terry Jaques attended until 2:00 p.m. Hugo Town Clerk Administrator Sara Lancaster was there when the meeting started, as were Gilbert Caley and Steven Gossett. Mr. Jaques introduced Mr. Caley as his replacement at the Limon Correctional Facility and Mr. Gossett as the new associate warden.

Chairman Burgess called the meeting to order and led the Pledge of Allegiance. He asked Mr. Ewing to say a short prayer.

Mr. Burgess opened the public hearing on a request from the Eastern Plains Cowbelles for a Malt, Vinous, and Spirituous Liquor Special Events Permit for the November 23, 2024, Belles Ball at the Lincoln County Fairgrounds. Mrs. Lengel had heard no objections and said the organization posted the sign ten days as required. Mr. Stone moved to approve the Special Events Permit for the November 23 event at the fairgrounds. Mr. Ewing seconded the motion, which carried unanimously.

Mr. Ewing moved to approve the meeting minutes for November 12, 2024. Mr. Stone seconded the motion, which carried unanimously.

The Board reviewed the October 2024 reports from the Assessor, Clerk & Recorder, Sheriff, Treasurer, and Public Trustee.

The group moved to the jury assembly room, and at 9:30 a.m., Mr. Burgess opened the public hearing to review and act on proposed development permit #24-04 (Proposed Resolution #1140) and Battery Energy Storage permit #BS24-04 (Proposed Resolution #1141), regarding the Ebba Solar Energy Project. The hearing recording will remain in the County Clerk's vault for the statutory period.

Mr. Burgess had his fellow board members and the rest of the group at the table introduce themselves, and Mr. Kimble introduced Kelly Lowery as his replacement, effective January 1, 2025.

Mr. Burgess explained the hearing rules and asked Land Use Administrator Ty Stogsdill to present data from the November 12 Land Use Board meeting. Mr. Stogsdill had presented Development Permit #24-04 and Battery Energy Storage Permit #BS24-04, which the Land Use Board approved with the following conditions: 1,500' setbacks from residences, 1,250' setbacks from State Highway 71, 900' setbacks from county roads, written agreements with severed mineral rights owners, and a power purchase agreement.

Mr. Burgess asked if Mr. Kimble had anything to add; Mr. Kimble said that when Balanced Rock Power informed Land Use Board members that it planned to purchase gray water from Limon

for dust suppression during the construction phase, a board member asked if that violated the county's new septage regulations. Staff later determined that while the wastewater plant discharge wasn't potable, it wasn't septage.

As for severed mineral rights, Mr. Kimble said Colorado statute dictates a developer must give mineral owners notice and time to object to the project. If they received no objection, there was no requirement for an agreement between the developer and the severed mineral owner. He felt Balanced Rock Power had sufficiently noticed the mineral owners and asked Miss Lowery's opinion. She agreed, stating that the developer's obligation was to give notice, which was the mineral owners' opportunity to object.

Mr. Kimble stated that Balanced Rock Power (BRP) would address the setback questions during its presentation, but additional setbacks not outlined in the county's regulations concerned him. The three public hearings the commissioners held before adopting the regs would have been an opportune time for residents to voice their concerns, yet no one had, which seemed to indicate they accepted them. Mr. Kimble noted that while the commissioners could alter the regulations, there was a process they would have to follow. They shouldn't make changes while developers were in the various stages of applying for permits, assuming they followed standardized guidelines.

Mr. Burgess asked Balanced Rock Power Manager of Development Erica Goad to give her presentation.

Ms. Goad stated that she was the lead developer on the Ebba Solar Energy Project with a proposed location four miles south of Limon on State Highway 71. The project complies fully with Lincoln County Land Use Code and design standards for Development Permits by Special Review for Large Scale Solar Facilities and Battery Energy Storage Systems (BESS). While the final design would depend on the energy purchase, they currently planned to locate the BESS and substation on the north end of the solar farm, away from residences but adjacent to the Tri-State Power Plant and transmission lines, meeting the required 1,000' setbacks. Ms. Goad noted that the average setbacks were 1,470', and the BESS location was 4,190' from the nearest residence. The project would conform to the site's topography, except for the BESS and substation, and controlling growth was critical to the facility's infrastructure. The project's timeline spanned from obtaining permits in 2024 to the final construction phase in 2028, ensuring a quality project that exceeded standards and expectations. Economic benefits include \$92.4 million in direct and indirect profits over the project's forty-year life. Ms. Goad noted that the county would see \$42.3 million in property tax payments, \$15 million to the school district, \$1.8 million to the fire protection district, \$6.3 million to the county's General Fund, and \$4.2 million to the hospital. They have supported and will continue to support community agencies and initiatives such as the 4-H program, Morgan Community College, and Lincoln Health.

Ms. Goad addressed noise, fencing, and glare; the inverters and transformers were nearly inaudible from residences, the eight-foot-high wildlife-friendly fence around the solar array's boundary followed CPW fencing recommendations, and they would install a security fence

around the BESS and substation. Although glare was a reasonable concern, Ms. Goad explained that they were in the business of collecting solar energy, not reflecting it. The panels contain a reflective coating that emits less light than house and car windows; however, BRP conducted an independent glare analysis that resulted in no evidence of hazardous issues to ease apprehension. The only lighting required was in the BESS yard, but Ms. Goad assured the group that the project was “dark sky” compliant. She added that they could mitigate any visible impacts with screening at property owners’ requests.

As for fire hazards and emergency response, Ms. Goad said BRP submitted an Emergency Management Plan and would develop an extensive pre-construction EMP. They would also negotiate a Memorandum of Understanding with Limon Fire Protection District personnel, creating the framework for emergency response.

Federal and state laws require decommissioning, one of which is posting a bond in advance. Decommissioning includes disconnecting from the power grid, removing and recycling facility components, and restoring the property to its original state; solar farms do not create a permanent land conversion.

Ms. Goad said a common question was where the power would go; the Tri-State Lincoln substation would serve Tri-State and its customers, providing power to approximately 87,000 Colorado homes. While the collected power far exceeds county resident consumption, Ms. Goad said it is a commodity; they hope to use Lincoln County’s abundant resources to serve a broader market.

BRP consulted Colorado Parks and Wildlife (CPW) and discussed wildlife corridors. CPW asked them to widen some gaps between solar arrays to better accommodate wildlife movement, which BRP did before submitting the permit application. Based on studies regarding pronghorn and mule deer habitat use, the standard CPW recommendation for wildlife corridor width is 250’ minimum. The Ebba project’s current design exceeds the CPW recommendations; the closest project fence lines along the SH71 corridor are over 940’ apart from side to side, and the closest project fence line along county roads are 500’ apart.

Ms. Goad noted that there had been questions about property values decreasing, but licensed Colorado appraiser Rich Kirkland reported that solar farms did not negatively impact neighboring properties. Noise, traffic, dust, and odors were minimal during the construction phase, and once built, the solar farm had very little strain on county resources.

As for water, Ms. Goad said the construction phase required 120-150 acre-feet per year for dust control, which they would get from the town of Limon and truck to the site. During operation, the facility would require up to five acre-feet in rare circumstances. She noted that solar was extremely efficient for water usage: one or two gallons per megawatt hour.

In conclusion, Ms. Goad said Balanced Rock Power submitted an application for a large project appropriately sited and located on under-utilized land in an existing energy corridor. Its impacts

were manageable and mostly limited to the construction phase; BRP voluntarily went above and beyond the county's code to present a responsibly developed project meeting all requirements.

Mr. Kimble asked Ms. Goad to address the Land Use Board's setback recommendations; she stated the project already conformed to and exceeded the county's Land Use Code. The BESS yard location was over three-quarters of a mile from any residences, more than four times the 1,000' requirement. She presented two maps showing the impacts of increased setbacks, stating that changing them would reduce the usable land acreage by over two-thirds. It would render the project uneconomic due to reduced capacity, long connections between isolated parcels, and inefficient construction. It would also cause problems for participating landowners, requiring them to use awkwardly-sized land strips since the project wouldn't lease land not used for solar. Operating farming equipment in many areas would be challenging, and landowners wouldn't be able to exercise their private property rights to the highest and best use. Increasing the setbacks would also significantly reduce the landowner payments and decrease the property tax revenue.

Mr. Burgess thanked Ms. Goad for her presentation and stated he would take questions from the audience; each person would get four minutes. When everyone had asked their questions, Mr. Piper would repeat them, and Ms. Goad would answer each one at that time.

Tim Andersen stated he was a proponent of private property rights and felt landowners should be able to do whatever they wanted with their property. He appreciated BRP's professionalism and willingness to work with neighboring landowners. Noting that there were now 475 wind turbines in Lincoln County, and while he wanted an economically strong county, he asked future county commissioners to remain mindful of renewable energy in the changing political landscapes. Mr. Andersen voiced concerns about who would monitor decommissioning procedures when the various companies or developers were no longer in the picture. He also asked who mowed the weeds in and around the solar farm. Lastly, Mr. Andersen was worried about fires since all local agencies had volunteers.

Sara Lancaster asked if BRP planned to negotiate an agreement with the Limon Fire Protection District or if they would include all local mutual aid agencies and provide training for everyone.

Mr. Kimble said the county regulations called for an irrevocable letter of credit or bond and a third-party decommissioning evaluation every five years throughout the project's life, paid by the company. Ms. Goad quickly stated it was the industry standard.

Economic Development Executive Director Troy McCue stated he understood and appreciated the challenges the commissioners and Land Use Board faced and had three supporting letters he would like to read. Mr. Burgess said they could not enter them into the record as exhibits but allowed Mr. McCue to read them. The first was from Kevin Stansbury, the second from Morgan Community College, and the third from Lincoln County Economic Development.

Landowner Tim Brown asked who was responsible for maintenance. He also confessed that he initially had several concerns with the development, but BRP worked closely with the landowners and covered everything in its permit application. He, too, noted that he was a proponent of private property rights.

James Emmerling asked for the life expectancy of the solar farm; Ms. Goad said it was forty years. Mr. Emmerling wanted to know if they would clear it out and haul it away at that time or upgrade the components and continue to operate.

James Rose said he might be able to alleviate some of the decommissioning concerns and noted it was a reasonably noninvasive process; the company would pull the poles out of the ground and take everything away.

There were no other questions or comments, so Mr. Piper repeated the questions. Mr. Andersen had expressed concerns about reliance on renewable energy and legislative changes that possibly left projects unfunded and wanted to know who was responsible for ground and weed control. Ms. Goad responded that the revegetation and dust mitigation plan covered those responsibilities but that the developer must maintain the ground within the project fence lines. Landowners were responsible for anything outside the fence lines—state and county regulations required noxious weed management.

To answer Sara Lancaster's question about training all local first responders in fire mitigation, Ms. Goad said they would talk with other agencies, and all first responders were welcome to take their training. As part of their MOU, they make goodwill contributions to the fire departments and pay \$5,000 per event that the department remains on site for more than twelve hours.

Liam Norris answered the decommissioning question, stating they would bury cables from eighteen inches to four feet, pending the final design. They would pull that cabling and poles when decommissioning the site. It was also standard practice to review the bond every five years.

Mr. Burgess wanted to know who took care of the property between the state highway and the property line. Ms. Goad said it would fall on CDOT in its right-of-way or the lessee; the non-leased area was not BRP's responsibility.

Mr. Norris addressed Mr. Emmerling's question regarding upgrading the equipment and continuing the solar farm after its end of life, stating the equipment was outdated by then, and the steel pipes would have corroded. They would have to determine if continuing the solar farm still had economic benefits at that time. Mr. Piper said they would have to reapply for all permits, starting the process over again.

Mr. Burgess asked if the other board members had any comments, and Mr. Ewing thanked everyone for coming and Balanced Rock Power for its presentation. He said he also believed

strongly in private property rights but didn't like change. He commended BRP for its exemplary contributions and said that what they'd done for the county was phenomenal. Mr. Ewing asked if they hoped to introduce bees. Ms. Goad said they were looking at the costs but that other solar farms had successfully planted pollinators around solar panels and built apiaries. They would complete an analysis after the construction phase.

Regarding noxious fumes or odors during a fire, Mr. Norris said they didn't have monitors but had no gas ventilation. Testing had compared the smoke to a standard house fire. He offered to incorporate air monitors around the BESS if it helped alleviate concerns.

Mr. Ewing asked where they would locate the water storage tank; Ms. Goad said it would be in the O&M area adjacent to the batteries. They would likely put it above ground but bury it if the county preferred. Mr. Kimble wanted to know if a 20,000-gallon tank was big enough; Ms. Goad said it should be since water would not extinguish the battery fire. Firefighters would use water to contain the area around the fire, which would have to burn out on its own. Ms. Goad added that the containers are hermetically sealed and monitored 24/7; they automatically shut down if they detect a problem. She also said they space the containers far enough apart that there is no propagation on non-combustible surfaces.

Mr. Norris said that NFPA codes require alarms, proper system designs, UL-certified equipment, and propagation tests; fire should not spread from one cell to the next.

Mr. Ewing asked about the phases Ms. Goad mentioned; she said they would only build the project in phases if the transmission capacity weren't there. They need 300 megawatts. Tri-State planned to upgrade the system and open additional capacity in 2028, but if the space weren't there in 2027, they would probably have to build in phases. They would likely start on the north end.

Mr. Burgess asked if their application covered all or only a portion of the project; Ms. Goad said their first permit would be for \$324 million, generating an estimated \$7.7 million in county use tax. They would not bid on a project without an offtake power agreement. Mr. Kimble clarified that they would obtain the offtake agreement before applying for a building permit and commencing construction. Ms. Goad said they must have the power purchased before starting construction.

Mr. Ewing wanted to ensure BRP would sign MOUs with all local fire departments; Ms. Goad assured him they would.

Mr. Kimble told Mr. Piper to add "commencement of construction" to the resolution.

Mr. Ewing asked for more information on the recycling facilities; Mr. Norris thought they were building one around Denver. When asked what percentage of the solar farm was recyclable, Mr. Norris said it was about ninety-nine percent; only the encapsulates, or reflective coating on the panels, was not.

Mr. Norris also explained that solar projects communicate closely with landowners, so if there were ever concerns about overgrowth or a landowner needing to care for their property, they would have people inside who could take care of it if necessary.

Mr. Stone thanked everyone, noting he had some of the same concerns as those attending. Although it was a difficult decision, he felt the project was good for Lincoln County.

Mr. Andersen asked what would ensure the commissioners' agreements remained intact if BRP sold the facility. Mr. Kimble said that obligations typically transfer with a title transfer. Ms. Goad added that they give each project a unique name and that the special project entity becomes a wholly owned subsidiary of Balanced Rock Power. Their name for the Ebba solar project is BRP Rhodochrosite 1, LLC, so all contracts would remain intact and transfer under that ownership. They would notify the county if a transfer occurred.

Mr. Burgess asked if the other commissioners wanted to require the setbacks the Land Use Board recommended. Mr. Ewing felt it would kill the project and that the county's regulations were sufficient; Mr. Stone agreed.

Mr. Burgess asked Ms. Goad if they would use sheep to keep the vegetation down, but she said that when they learned there was a bison ranch nearby, they agreed not to use sheep, which can transfer MCF to bison.

Miss Lowery wanted Ms. Goad to clarify the condition of the severed mineral owner that the Land Use Board requested. Ms. Goad said the recommendation was to ensure that BRP accommodated 100 percent of mineral owners before commencing construction. While making the best efforts to do so is a normal part of the development process and required by Colorado law, it is typically impossible to reach 100 percent of mineral owners due to fractions belonging to heirs of heirs with no contact information. She noted that if it were a condition of approval, they would ask the county to change the language to "a majority of mineral rights owners accommodated." Ms. Goad explained that they receive mineral ownership reports from qualified consultants in the early stages of development. Those reports provide all mineral records back to the patent. They use the information to start the notification process and negotiations. Just under half of the proposed project area has severed mineral ownership from surface ownership, which BRP addressed in the option to lease agreements with participating landowners. Ms. Goad said the Ebba project team was in active negotiations with most of the mineral owners and planned to accommodate over 90 percent of the interests. That was enough to obtain title insurance and was considered appropriate and adequate within the industry.

Mr. Burgess asked Mr. Piper to read all of the standard conditions in the proposed resolution, which he did. They included a road use agreement, watershed concerns, a fire mitigation plan, and a power purchase agreement, to which he added "commencement of construction." There was also the condition for a three-year extension, a written agreement, and a sales and use tax assessment prior to obtaining the building or construction permit.

The commissioners could think of no other conditions to add, and Mr. Jaques and Mr. Safranek did not have anything.

Mr. Stone moved to adopt a resolution approving Development Permit #24-04 for the Ebba Solar Energy Project. Mr. Ewing seconded the motion. Mr. Burgess called for a voice vote: Mr. Stone, yes; Mr. Ewing, yes; Mr. Burgess, yes. The motion carried.

At a regular meeting of the Board of County Commissioners of Lincoln County, Colorado held in Hugo, Colorado on November 20, 2024, there were present:

| | |
|------------------------------------|---------|
| 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 #1140 It was moved by Commissioner Stone and seconded by Commissioner Ewing to adopt the following resolution:

A RESOLUTION GRANTING APPROVAL OF THE USE BY SPECIAL REVIEW AND DEVELOPMENT PERMIT NO. #24-04 FOR THE BRP RHODOCHROSITE 1, LLC, BALANCED ROCK POWER, LLC, EBBA SOLAR ENERGY PROJECT IN LINCOLN COUNTY, COLORADO.

WHEREAS, BRP Rhodochrosite 1, LLC (“The Company”) 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 to consist of a 300-megawatt (MW) solar facility to include 3,110 – acre photovoltaic (PV) solar array area, a project substation, and an operations maintenance (O&M) building in accordance with the Lincoln County Application for Use By Special Review Permit submitted by The Company, dated August 19, 2024 (the “Application”). The property subject to the Project Approvals is described in 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, The Company 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 The Company to construct the Solar Energy Generation Facility 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 September 4, 2024, at which the Land Use Board recommended denying 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, at a meeting of the Lincoln County Board of County Commissioners held on November 20, 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:

I. APPROVAL:

The application of The Company for 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 to exclude energy storage batteries, shall remain valid for a period of 50 years, or until such time as The Company, 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.

II. FINDINGS OF FACT:

1. That proper notice has been provided as required by law for the public hearing before the Board.
2. That the information contained in the record of proceedings and presented to the Board at the public hearing is extensive and complete, and all pertinent facts, matters, and issues were submitted and considered by the Board.
3. That the Solar Energy Generation Facility as described in the Application, are consistent with the minimum zoning requirements set forth in the Lincoln County Zoning Resolution.

4. That the Solar Energy Generation Facility is consistent with the goals and strategies set forth in Lincoln County's Comprehensive Plan.
5. That the Solar Energy Generation Facility will be compatible with the character of the surrounding neighborhood and will not have negative impacts on adjacent properties. The Solar Energy Generation Facility has been designed to mitigate any potential noise, odor, vibration, glare, and similar impacts associated with the project.
6. That the Solar Energy Generation Facility 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.
7. That the Solar Energy Generation Facility 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 the Solar Energy Generation Facility will comply with County standards.
8. The operating characteristics of the Solar Energy Generation Facility 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.
9. That an adequate water supply is available to provide water to the Solar Energy Generation Facility 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.
10. That the Solar Energy Generation Facility will not cause significant deterioration of surface or groundwater resources. The Solar Energy Generation Facility has been designed and will be constructed to:
 - a. 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
 - b. Comply with applicable water quality standards
 - c. Control levels of point and nonpoint source pollution

- d. Prevent any changes in seasonal flow rates and temperature for affected streams
 - e. Prevent changes in aquifer recharge rates, groundwater levels, and aquifer capacity, including seepage losses through aquifer boundaries and at aquifer-stream interfaces
 - f. Prevent changes in circulation patterns, seasonal water levels, and temperature of lakes or reservoirs
11. That the Solar Energy Generation Facility will not significantly degrade wetlands, other aquatic habitats, and riparian areas. The Solar Energy Generation Facility is designed to avoid such areas or to minimize disturbance in these areas. Specifically, the Solar Energy Generation Facility will not:
- a. Cause any significant changes to the structure and function of wetlands and unique, rare, delicate, or irreplaceable riparian areas, vegetation, forest, or woodlands
 - b. Cause any significant changes to the filtering and nutrient uptake capacities of wetlands and riparian areas
 - c. Cause any significant changes to the aerial extent of wetlands and evolution of wetland species to upland species
12. That the Solar Energy Generation Facility 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 designed for a 100-year flood.
13. To the extent necessary, the Solar Energy Generation Facility will be served by an adequate wastewater treatment system that meets all applicable County, state, and federal standards.

III. CONDITIONS:

- 1. Prior to obtaining any building permits, there shall be in place a fully executed roadway agreement between Lincoln County and The Company.
- 2. All watershed concerns must be addressed in detail.
- 3. A fire mitigation plan must be established prior to construction, which 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.

4. The Company shall have a definite connection agreement with a power company prior to being granted a building permit and commencement of construction.
5. The Company shall have a period of three (3) years after the date of issuance of the Lincoln County Development Permit #24-04 for implementation of the applicant's use of the Property for a Solar Energy Generation Facility. In the event the applicant requests an extension of the three-year period for the commencement of construction of the applicant's use of the Property for a Solar Energy Generation Facility, as set forth in Section 1-210 of the Lincoln County Zoning Resolution, no such extension shall extend longer than three (3) years after the date of issuance of Lincoln County Development Permit #24-01.
6. 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 that 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 The Company to construct a Solar Energy Generation Facility Line known as the Ebba Solar Project to exclude a battery energy storage system until a separate resolution has been acted upon regarding 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 the forgoing conditions and all other county zoning or land use regulations. Noncompliance with any of the conditions may cause 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 OF SECTION 19, TOWNSHIP 10S, RANGE 56W; AND PARTS OF SECTION 7, 17, 20, 29, 30, 31, 32, TOWNSHIP 10S, RANGE 56W

Mr. Piper provided the standard conditions for the proposed resolution regarding the Battery Energy Storage System (BESS) for the Ebba Solar Energy Project, adding “commencement of construction” to condition #3. He noted that an air monitoring system built into the BESS site was already one of the standard conditions listed. The last condition was to require a six-foot chain link fence around the BESS area; everyone agreed it was sufficient since BRP intended to put up an eight-foot fence.

Mr. Ewing asked again about the water cistern; Ms. Goad assured him it would be at least as good as the county’s conditions.

Mr. Stone moved to adopt a resolution approving Battery Energy System Storage permit #BS24-04 for the Ebba Solar Energy Project, including the agreed-upon conditions. Mr. Ewing seconded the motion. Mr. Burgess called for a voice vote: Mr. Stone, yes; Mr. Ewing, yes; Mr. Burgess, yes. The motion carried.

At a regular meeting of the Board of County Commissioners of Lincoln County, Colorado held in Hugo, Colorado on November 20, 2024, there were present:

| | |
|------------------------------------|---------|
| 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 #1141 It was moved by Commissioner Stone and seconded by Commissioner Ewing to adopt the following resolution:

A RESOLUTION GRANTING APPROVAL OF THE USE BY SPECIAL REVIEW AND BATTERY ENERGY STORAGE SYSTEM (BESS) PERMIT NO. BS #24-04 FOR THE BRP RHODOCHROSITE 1, LLC, THE BALANCED ROCK POWER, LLC, EBBA SOLAR ENERGY PROJECT SOLAR ENERGY GENERATION PROJECT IN LINCOLN COUNTY, COLORADO.

WHEREAS, BRP Rhodochrosite 1, LLC (“The Company”) has applied for the approval of a Use By Special Review and Development Permit (“Project Approvals”) for the construction and installation of a Battery Energy Storage System (BESS) in accordance with the Lincoln County

Application for Use By Special Review Permit submitted by The Company, dated August 19, 2024 (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 3-220 of the Lincoln County Zoning Resolution allows for the approval of a Use By Special Review for BESS in accordance with the provisions of Article 3 of the Lincoln County Zoning Resolution; and

WHEREAS, The Company 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 The Company to construct a BESS 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 November 12, 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, at a meeting of the Lincoln County Board of County Commissioners held on November 20, 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:

I. APPROVAL:

The application of The Company for 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 BESS shall remain valid for a period of 50 years, or until such time as The Company , 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.

II. FINDINGS OF FACT:

1. That proper notice has been provided as required by law for the public hearing before the Board.
2. 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.
3. That the BESS as described in the Application, is consistent with the minimum zoning requirements set forth in the Lincoln County Zoning Resolution.
4. That the BESS is consistent with the goals and strategies set forth in Lincoln County's Comprehensive Plan.
5. That the BESS will be compatible with the character of the surrounding neighborhood and will not have negative impacts on adjacent properties. The BESS has been designed to mitigate any potential noise, odor, vibration, glare and similar impacts associated with the proposed land use.
6. That the BESS 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.
7. That the BESS 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 BESS will comply with County standards.
8. The operating characteristics of the BESS 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.
9. That an adequate water supply is available to provide water to BESS 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.

10. That the BESS will not cause significant deterioration of surface or groundwater resources. The BESS has been designed and will be constructed to:
 - a. 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
 - b. Comply with applicable water quality standards
 - c. Control levels of point and nonpoint source pollution
 - d. Prevent any changes in seasonal flow rates and temperature for affected streams
 - e. Prevent changes in aquifer recharge rates, groundwater levels and aquifer capacity including seepage losses through aquifer boundaries and at aquifer-stream interfaces
 - f. Prevent changes in circulation patterns, seasonal water levels and temperature of lakes or reservoirs
11. That the BESS will not significantly degrade wetlands or other aquatic habitat and riparian areas. The BESS is designed to avoid such areas or to minimize disturbance in these areas. Specifically, the BESS will not:
 - a. Cause any significant changes to the structure and function of wetlands and to unique, rare, delicate or irreplaceable riparian areas, vegetation, forest or woodlands
 - b. Cause any significant changes to the filtering and nutrient uptake capacities of wetlands and riparian areas
 - c. Cause any significant changes to aerial extent of wetlands and evolution of wetland species to upland species
12. That the BESS 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.
13. That to the extent necessary, the BESS will be served by an adequate wastewater treatment system that meets all applicable County, state and federal standards.

III. CONDITIONS:

1. Prior to obtaining any building permits there shall be in place a fully executed roadway agreement between Lincoln County and Balanced Rock.
2. 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 BESS. The fire mitigation plan shall identify all chemicals that could be emitted in the event of a fire to the BESS.
3. The Company shall have a definite connection agreement with a power company prior to being granted a building permit and commencement of construction.
4. The Company shall have a period of three (3) years after the date of issuance of the Lincoln County Development Permit BS #24-04 for implementation of the applicant's use of the Property for a BESS. In the event the applicant requests any extension of the three-year period for commencement of construction of the applicant's use of the Property for a BESS, as set forth in Section 1-210 of the Lincoln County Zoning Resolution and shall be at the sole discretion of the County and only for good cause shown.
5. 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.
6. Air monitoring systems shall be built into the BESS site.

BE IT THEREFORE RESOLVED that a Use by Special Review and Development Permit is granted to The Company to construct a BESS for the project known as the Ebba Solar Project, 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 forgoing 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

NE ¼ OF SECTION 7, TOWNSHIP 10S, RANGE 56W

Mr. Burgess concluded the hearing, and the group returned to the commissioners’ meeting room. Rob Rains took a few minutes to caution the Board about the recently adopted septage regulations. He said that while the EPA had always encouraged biosolids applications for farming, testing of farm ground and water treatment plants discovered permanent, immovable materials. Mr. Rains said a landowner in Minnesota polluted the water table and ultimately had to clean it up. When Mr. Rains was on the soil conservation board, Metrogro tested for aluminum toxicity, which builds up and doesn’t move in the soil. It eventually kills the ground and pollutes water tables. Mr. Rains said the commissioners must ensure that landowners test the products they inject; Mr. Ewing said he thought they had covered everything in the septage regulations, but they would check to be sure.

Mr. Rains left as Land Use Administrator Ty Stogsdill stopped to ask about purchasing a Meeting Owl video conferencing camera for Land Use and commissioner meetings. The price was approximately \$2,000. Mr. Kimble commented that public hearings and meetings required an excellent record, and Miss Lowery said she was familiar with the product. Mr. Jaques said he had also used them. Mr. Stone felt that if they spent the money, the Owl should be available for everyone’s use; Mr. Burgess said Mr. Piper should keep it in his office. Mr. Ewing said it was a good idea and told Mr. Stogsdill to get James Martin’s opinion.

Mr. Stogsdill left, and Mr. Burgess thanked Mr. Kimble for his help during the hearing, particularly with the setback issue. He noted that he was discouraged by the Land Use Board’s recommendations; Mr. Jaques commented that varying from the county regulations opened the county up to litigation. Miss Lowery said that land use was contentious, and Mr. Kimble mentioned a state statute pertaining to vested property rights.

The group took a lunch break, so Miss Lowery could meet other department heads and elected officials. She did not return to the meeting at 1:00 p.m.

When the meeting reconvened, the group set tentative meeting dates through March 2025.

The commissioners also reviewed the October 2024 statements of revenues and expenditures for the General, Public Health, Capital Projects, Conservation Trust, E911, Landfill, Library, Lodging/Tourism, Human Services, and Road & Bridge funds, and the individual road districts.

The group reviewed the preliminary 2025 budget; Mr. Piper provided a letter from Sheriff Tom Nestor reducing the request for the Vehicle Maintenance line item in the Sheriff's budget from \$75,000 to \$50,000. He also clarified the 911 Dispatch Supervisor position; instead of losing a dispatcher position in the jail, he proposed reducing the Capital Projects request from \$245,000 to \$85,000 (the estimated cost of two new patrol vehicles).

Mr. Piper spoke with IT director James Martin about the remote monitoring line item, who told him he could reduce the cost but would like to keep the Genoa and Karval Road & Bridge shops on. Reducing the IT budget, incorporating the sheriff's cuts, moving mills from other funds to the General Fund, and removing six mills of the twelve-mill tax credit would take the fund balance to about \$4.1 million from the original preliminary balance of \$1.6 million. These changes still decreased the general fund balance by approximately \$600,000, as the 2025 beginning fund balance's projection was \$4.7 million.

Mr. Burgess said he'd experienced years when they didn't buy vehicles, and the county couldn't afford to get behind with those purchases. He recommended allowing the sheriff to buy two cars instead of one. Mr. Jaques and Mr. Safranek agreed, and Mr. Piper said it would still leave the fund balance over \$4 million. He referred to the Capital Projects budget and asked what the commissioners wanted to change to cover the additional \$85,000. They could reduce the \$490,000 transfer to the General Fund to \$400,000 or short the \$4.1 million fund balance. Since they could make the transfer anytime, the Board agreed to leave the \$490,000 in the Capital Projects Fund.

The other funds didn't have significant changes, but Mr. Piper said he'd reduced the Road & Bridge mill levy from 12.50 to 10 mills. He also wanted to meet with Public Health Director Kelly Meier because he felt there was an error or missing grant funds in her proposal; the fund balance dropped from \$117,000 to \$30,000.

At 1:30 p.m., Mark McMullen and Bill Cincilla with American Environmental Consulting, LLC, met with the Board to discuss the landfill. Landfill Manager Allen Chubbuck also attended.

Mr. McMullen reported receiving a technical review, including comments, from Sarah Foreman, P.E., Hazardous Materials and Waste Management Division (the Division) of the Colorado Department of Public Health and Environment, in response to his submittal of the landfill's Engineering Design and Operations Plan (EDOP) and Groundwater Characterization Report on July 15. Mr. McMullen had drafted a response to Ms. Foreman's letter, which he shared with the group. He noted that he would send a revised EDOP incorporating the applicable responses.

To review, in October 1991, the Division approved Lincoln County to operate a Municipal Solid Waste Landfill (MSWLF), designating a 320-acre site with specific approval of a 40-acre portion. Mr. McMullen's response letter noted that "To date, all disposal activities and operations have been restricted to the initial 40-acre parcel of the permit boundary, and all approved disposal cells have been constructed, requiring Lincoln County to develop additional disposal airspace to allow continued waste management options...", "Lincoln County is not proposing any expansion of the 320-acre permit boundary...", "...the facility is only proposing a lateral expansion to the landfill footprint..." The Division required additional groundwater characterization of the proposed expansion area and allowed it on a cell-by-cell basis, followed by Characterization Reports.

Mr. McMullen said that Ms. Foreman's comments only covered cell 4, which should last 140-150 years. She had asked for a phasing plan on the fill order, starting with the valley between cells 3 and 4. The first comment regarding scope, purpose, and general provisions was easy to address, although Mr. McMullen said the state couldn't unilaterally change the county's EDOP without valid reasons. Concerning the second comment, Mr. McMullen admitted the crushed steel pipe created leachate issues that the county needed to fix. Mr. Cincilla contacted a boring company that recommended installing vertical pipe and a new sump pump. Mr. Burgess asked if they should do it now or when they finished cell 3; Mr. Chubbuck said it should probably be next year.

The fourth comment pertained to annual updates; Mr. McMullen said that by April 30 each year, the county must have the financial assurance to close the facility in a worst-case scenario. While they could commit to submitting the annual inflation update costs by then, the Division would have to wait for proof until the county finalized its yearly audit.

Comment five referred to compaction methods and waste placement, and comment six covered leachate management. When asked if they had to line the area, Mr. McMullen initially said it would require a vinyl lining. According to Ms. Foreman, the county must sample the leachate annually and test for hazardous materials. Mr. McMullen said there was no precedent for it and planned to "push back hard" on the requirement. Comment seven was about dust control, and comment eight referenced animal carcasses and highly odorous wastes; Mr. McMullen wondered if the county wanted to create a dedicated dead animal pit. The commissioners said they did not, and Mr. Chubbuck said they didn't allow large animal carcasses in the landfill.

Ms. Foreman's comment nine requested a subsection discussing educating haulers, but Mr. McMullen said it was virtually impossible to educate large groups and would include that in his response. He asked how the county communicated the facility's waste screening program and prohibited waste; Mr. Chubbuck said they posted it on the gate, and Mr. Piper said there is information on Facebook. Mr. McMullen recommended adding a link to the county website.

Comment ten addressed an environmental monitoring plan; Ms. Foreman suggested a groundwater waiver, including plans for annually gauging existing onsite wells and piezometers. Mr. McMullen felt potential downsides were more field work, drilling, and expense. A CDPHE

Air Pollution Control Facility Operating Permit might become necessary, requiring even more annual reporting and a possible gas collection and control system. Previously, Ms. Foreman had allowed the county to backfill the boreholes instead of drilling a monitoring well, so Mr. McMullen felt abandoning the boreholes was sufficient.

Mr. McMullen moved to comment twenty-two concerning a waste characterization and acceptance plan. Many items on the prohibited wastes list didn't apply, but they could add a few, such as off-spec chemical products, explosives, and incinerator ash. The county's resume would improve if it trained employees on asbestos detection. Mr. McMullen offered to obtain a cost estimate, and the Board agreed.

Mr. McMullen said they would have to revise the EDOP because of the numerous changes involving extensive time; he would provide a cost estimate for it. He also noted that lining the valley with plastic fabric would cost approximately \$40,000 per acre. Mr. Burgess didn't want to spend \$40,000 to \$50,000 to fill the valley between cells 3 and 4 if they needed the money for cell 4; he asked how much time it would buy. Mr. McMullen said they would likely get 3 to 4 years from it; however, they would have to redesign the EDOP to close the two areas simultaneously. Mr. Burgess said he had no idea a liner would cost so much, and Mr. Cincilla said they typically figure about \$150,000, including the excavation. Mr. McMullen felt it made sense to use the air space, and Mr. Ewing asked why they needed a liner; Mr. Burgess said it was so that water didn't sit at the bottom of the trash. Mr. McMullen checked the EDOP and said he was mistaken; he had included a one-inch clay liner in the valley, not vinyl, which made it much cheaper.

Mr. McMullen had no other questions and had answered Ms. Foreman's remaining comments without issue. He asked the Board to review the draft and would send the promised cost estimates. He, Mr. Cincilla, and Mr. Chubbuck left.

The commissioners reviewed the 2025 board appointments; Mr. Stone said the fair board planned to accept letters from interested parties and review them on December 17. They would make their recommendations to the commissioners at the December 18 meeting. Mr. Kimble also noted that Colorado statutes did not require a land use board. Mr. Burgess called for commissioners' reports; Mr. Ewing said he'd talked to Chris Monks about the roads almost daily since the snowstorm. On November 19, he received a call from a resident who expressed concerns over the commissioners' appointment to the Republican River Water Conservation District board; they felt he was too young. Mr. Ewing also received a complaint about a closed road. He attended the Genoa town board meeting that night; they had several applicants for the town clerk position.

Mr. Stone reported attending the fair board meeting on November 12. They discussed replacement board members, the 2025 fair parade theme, and the grand marshal. They would meet next on January 14. Mr. Stone reported that although they offered the extension agent position to someone, he hadn't heard if they'd accepted it. District 3 continued working to open and repair county roads for the remainder of that week; Mr. Stone had daily check-ins

with Judd Kravig. On November 18, Mr. Stone told a crew member about soft spots needing attention. He stopped at the county shop, checked roads, and he and Mr. Kravig discussed the need to buy pickup and truck tires before the end of the year. Earlier this morning, Mr. Stone spoke with Mr. Kravig about several soft spots on District 3 roads.

Mr. Burgess reported attending the Centennial Mental Health meeting on November 14. The District 2 road crew continued to work on the snowy roads; the railroad worked on its crossings. Bruce Walters called Mr. Burgess on November 15, inviting him to check some road damage caused by wind farm crews plowing snow. They also set up a meeting to discuss the County Road 33 bridge with Ken Stroud. They put two new tires on the 950 CAT loader. Mr. Burgess brought the mobile message board back to Hugo on November 18. He and Mr. Stroud met Mr. Walters in Genoa to discuss the bridge; the School of Mines team had questions that needed answering. Chris Monks called to inform him about a sinkhole on the County Highway 109 bridge project; he told Mr. Monks to have them fix it with concrete. Mr. Burgess received Mr. Kimble's letter and report on the Ebba Solar Project. The District 2 road crew worked on the area damaged by other individuals trying to help remove snow. Allen Chubbuck called to say the landfill compactor's hydraulic light kept coming on; he wondered if it was a sensor problem. They thought the heater core could be leaking and contacted Power Equipment Company. Mr. Burgess reported that the crew continued widening roads with loaders on November 19. He received a call from a resident about the Republican River Water Conservation District appointment. Mr. Burgess and Chris Monks discussed who was responsible for putting up signs on the bridge project. He felt they needed to designate one person to authorize changes; they couldn't wait to make decisions until the commissioners met because it would delay the project. Mr. Burgess attended the Economic Development meeting at Mountain View Electric earlier this morning. He also noted that Sara McCullough expressed interest in Land Use Board membership.

Mr. Kimble reported that he'd sent a letter to the Colorado Springs developer who surveyed eighteen parcels in the southern end of the county, planning to sell them. The parcels are over thirty-five acres and are not subject to the county's subdivision regulations. Mr. Kimble noted they are still subject to the county's zoning regs, which allow for a single-family residence. If the area requires roads, they must follow the county's policy, but Mr. Kimble said that only five of the eighteen parcels do not have access to existing county roads. Each buyer must comply with the regulations to build on their parcel. They would also need water, septic, and electricity.

Mr. Kimble asked the Board's opinion on recording the Road Use Policy, and he said he didn't think it was a bad idea.

Mrs. Lengel asked what would happen if people pulled their RVs onto the parcels and lived in them, which happened several years ago. Mr. Burgess said they could as long as they were building a home, but the new commissioners might need to monitor the situation closely.

Regarding the resident who damaged the District 2 right-of-way, his attorney wanted her client to pay the county's \$2,691.88 invoice and waive the attorney fees. Mr. Kimble advised the

Board to accept the deal; even though he felt they could win the court case, it would occur sometime next year, and Miss Lowery would have to do it.

Mr. Kimble had received a USB drive that he'd given to Mr. Piper; someone intended to sue the county for damages. The county's insurance carrier would likely respond that the county had governmental immunity.

Mr. Kimble still hadn't heard anything further about Rule 106 that Xcel Energy's attorneys filed. He informed Miss Lowery of the situation and said they would respond if the attorneys filed anything else.

Mr. Piper asked when the commissioners wanted to complete Mr. Stogsdill's performance evaluation; they agreed to do it at the December 6 meeting. Mr. Piper had received an email from Roxie Devers regarding the roundhouse. He asked if the Board wanted to put the floor project out for bid again. Mr. Burgess thought they had to remove the concrete slabs first, and Mr. Ewing wanted to know if the grant funds included that cost. Mr. Safranek mentioned a product that might work to break down the concrete, and Mr. Piper asked if he should schedule Mrs. Devers to meet with the new commissioners after they took over. Mr. Ewing said it was a good idea to have her present the project to the Board on January 30.

Mr. Piper said that he and Kim Graham gave their presentation for the engineering and planning grant to upgrade the jury assembly restrooms for ADA accessibility. He felt it went well.

Mr. Ewing presented a quote for a new loader for District 1 of \$271,000. They planned to trade the one that lightning hit, leaving \$120,000 due. Mr. Ewing said they had almost \$37,000 left in the 2024 budget to put toward the cost; they would pay the rest from the 2025 budget next April or May.

Mr. Stone said District 3 got a new road grader; they would take \$30,000 from the 2025 budget to pay for it.

Mr. Piper received an email from CDOT regarding the maintenance of State Road 71 and County Road T. Mr. Burgess wanted to know if the county received state funding. Mr. Kimble said they would need an MOU or deed to establish the county as the recorded owner. He offered to contact CDOT.

Mr. Burgess asked for other business; Mrs. Lengel said they've recently had trouble opening their vault door. After contacting a Diebold representative in August, who didn't fix the problem, they contacted them again last week. Mrs. Lengel was surprised to learn that the door wasn't fireproof or even a vault door, as she'd assumed it was for over thirty years. Since the vault is a tornado shelter for half of the courthouse, Mrs. Lengel voiced concerns about employee and customer safety should something happen, and they needed the vault for protection. She contacted Terry Graham about a fireproof door, but he hadn't come to look at it

yet. The commissioners ultimately decided Mrs. Lengel should find out what a vault door would cost rather than a fireproof door.

With no further business to discuss, Mr. Burgess adjourned the meeting at 4:30 p.m. The next meeting will be at 9:00 a.m. on November 26, 2024.

Corinne M. Lengel, Clerk of the Board

Steve Burgess, Chairman