

THE MINUTES OF THE REGULAR MEETING
OF THE BOARD OF COUNTY COMMISSIONERS
ON June 20, 2016

The Board of Kingman County Commissioners met in regular session, in the Commissioners' Meeting Room, Kingman County Courthouse, Kingman, Kansas, on June 20, 2016. Those present:

Fred Foley, Chairperson
John Steffen, Commissioner
Carol Voran, Commissioner
Carol Noblit, Master County Clerk

John Caton, County Counselor was present.

Visitors: Larry Landwehr; Jason Jump, Leader-Courier; Donna Hardesty; Gayle Dye; Jack Thimesch; Jerry Henning; Janice Neville, 4-H Board; Andrea Wood, Extension Agent; Dennis Barnes, 4-H Board; Alan Albers; David Gil, NextEra Energy; Steve Gough, NextEra Attorney; Mark Widman, Blattner Construction and John Holderness, NextEra.

Staff: Nancy Borst, Communications Coordinator; Jeff Cox, Recycle Center; Steve Ramsey, Community Corrections; Stan Goetz, HR/Planning/Zoning Director and Charles Arensdorf, Public Works Director.

Chairperson Foley called the meeting to order at 8:00 a.m.

Chairman Foley asked if there were any additions to the agenda. No additions were made.

MOTION: Commissioner Steffen moved to approve the agenda as presented. Commissioner Voran seconded the motion. The motion was approved upon the unanimous vote of the County Commissioners.

Chairman Foley asked if there was any public Comment.

The Public in attendance said Good Morning.

The County Commissioners signed County vouchers.

MOTION: Commissioner Voran moved to approve the transfers for April, 2016. Commissioner Steffen seconded the motion. The motion was approved upon the unanimous vote of the County Commissioners.

The County Clerk submitted the minutes for June 13th, 2016 regular commission meeting and June 16th, 2016 special meeting.

MOTION: Commissioner Voran moved to approve the minutes of June 13th, 2016 regular commission meeting. Commissioner Steffen seconded. The motion was approved upon the unanimous vote of the County Commissioners.

MOTION: Commissioner Voran moved to approve the minutes of June 16th, 2016 special commission meeting. Commissioner Steffen seconded. The motion was approved upon the unanimous vote of the County Commissioners.

The County Clerk requested to have clarification that the June 6th minutes stated that Judy Albright had increased the budget for Council on Aging by \$8,000.00 to help fund important programs but it was also increased to help fund payroll and benefits.

9:00 a.m. Tim Bergkamp, Fair Board President and Cheryl Howlett, Fair Board were in with the 2017 budget request. Mr. Bergkamp discussed that they receive donations and currently it is around \$24,000.00. The Fair Board is going to have to get insurance and it will be a cost of \$1,500.00.

Commissioners had a few questions about the budget submitted and talked about their concern about the bleachers safety.

Mr. Bergkamp and Ms. Howlett left the meeting at 9:24 a.m.

9:26 a.m. Andrea Wood, Kingman Extension Agent was in with the 2017 County Extension Council Budget. Ms. Wood discussed the budget cuts from the State and the effect it will have on them and that the office is down a full time office staff member.

Ms. Wood, Ms. Neville and Mr. Barnes left the meeting at 9:48 a.m.

9:49 a.m. Justin Mitchell and Bryson Wiens with Adams, Brown, Beran & Ball were in with the 2015 audit report.

Mr. Mitchell reviewed the audit report with the County Commissioners. In the opinion of Adams, Brown, Beran & Ball, the financial statement presents fairly, in all material respects, the aggregate cash and unencumbered cash balance of Kingman County, Kansas as of December 31, 2015, and the aggregate receipts and expenditures for the year then ended in accordance with the financial reporting provisions of the Kansas Municipal Audit and Accounting Guide. Mr. Mitchell complimented the County on their strong financial position.

He also discussed the new tax lid and what that will do to the budgets going forward.

Mr. Wiens reviewed the Auditor's Governance Letter and Management Letter with the County Commissioners.

MOTION: Commissioner Voran moved to approve the 2015 Audit Report presented by Adams, Brown, Beran & Ball. Commissioner Steffen seconded. The motion was approved upon the unanimous vote of the County Commissioners.

Mr. Mitchell and Mr. Wiens left the meeting at 10:50 a.m.

MOTION: Commissioner Steffen moved to approve a quote from Eck Electric in the amount of \$1,385.65 for repairs to the South Roof of the Courthouse, new rope of the flag pole, repair west gutter and gutter above Solomon's window. Commissioner Voran seconded the motion. The motion was approved upon the unanimous vote of the County Commissioners.

11 a.m. David Gil, NextEra Energy; Steven Gough, NextEra Attorney; Mark Widman, Blattner Construction; John Holderness, NextEra and Stan Goetz were in to discuss the wind farm agreements.

Mr. Gil discussed the terms of the parent guaranty with the County Commissioners.

John Caton, County Counselor said the guaranty is a prototype used by Nextera; we don't have defined payments – what do we need to do to reduce the obligation we will seek payment for a liquidated amount.

Mr. Gil let them know that the amount starts at \$12 m., subject to change every five years. At the end of project life he can get a “final evaluation” and could reset the amount covered by the guaranty then.

Mr. Caton let the Commissioners and Mr. Gil know that his concern is the concept of “payment due and owed.” There isn’t one. “Due and owing” is legal term that definite amount due on definite date. In road agree, county is permitted to submit a demand for payment but nothing obligates company to pay.

Mr. Gil discussed that we had submitted escalation language to decommissioning agreement. If NextEra doesn’t complete decommission in 18 months after the wind farm ceases producing energy then amount becomes due and owed.

Mr. Caton discussed that the county would seek an estimate from a reputable contractor and submit to Nextera; nothing says that the estimate is the one that would be paid. The guaranty present a risk of potential litigation 20 years out. Mr. Caton’s draft eliminates a whole series of potential defenses to payment. Why not eliminate them?

Mr. Gil let them know that the parent guaranty form is specific and defined and helps our credit rating.

Mr. Caton’s revised version was not substantially different than one received last week but the Commissioners need to address the business points in all agreements.

Mr. Gil discussed the Decommissioning & PILOT Agreements – If NextEra sells more than 200 megawatts of power, county would get higher PILOT payments. The Permit Fee payment is due within 30 days of when we sign (the \$2.2 m. “permit payment”). The first Annual PILOT is payable at the end of the year (Dec. 31, 2017 would be first). Nextera is parent company, divided into two separate corporations.

- 1) Florida Power & Light – all energy projects in Florida
- 2) Nextera Energy Capital Holdings – includes all wind/solar/oil/gas/transmission outside FL.

Nextera Energy Resources is responsible for all wind/solar in N. America and is Mr. Gil’s employer.

Mr. Gil responded that each subsidiary run as an individual company. Kingman Wind Energy is obligated to decommission; if unable to do so, the parent company guaranty will pay. That’s the way our corporation is structured.

Mr. Caton isn’t concerned about the financial position with NextEra Capital Holdings. His concern is with the county’s ability to enforce the guaranty agreement – looking 20 or 30 years from now and assurance that the money claimed will actually be paid. There are multiple defenses to payment that would make it difficult for county to collect.

Road agreement

Mr. Gil discussed that the paved roads is the main outstanding issue and trying to figure out what it will cost to maintain roads during construction and after.

Mr. Gil offered \$170,000/mile and reported that it’s expected(looking at about 10 miles) – payment to the County; will take some of this from PILOT. (\$85,000 per inch, so offering 2 inch overlay). If ends up being more miles, more money. But we don’t anticipate needing more than 10 miles.

Also presented to the County Commissioners from Mr. Gil was an offer for \$1.7 m. for roads; PILOT total goes to \$24 m. (before the total was \$25.2 m.; new total would be \$25.7 m.) The total PILOT payments will be \$500,000 more than discussed previously.

Initial payment would be: \$2 m.

Nextera still will be responsible to maintain roads during construction. We need to have some gravel trucks to start on roads – before finish action plan. The Action Construction Plan done before heavy equipment and materials handling begins.

This is intended to address road south out of Cunningham, 90th & 70th.

MOTION: Commissioner Steffen moved to go into executive session for a discussion subject to attorney-client privilege for 15 minutes from noon to 12:15 p.m. and to include Stan Goetz and Charles Arensdorf. Commissioner Voran seconded the motion. The motion was passed by a unanimous vote of the County Commissioners.

MOTION: Commissioner Steffen moved to return to executive session for a discussion subject to attorney-client privilege to discuss a legal contract for 5 minutes from 12:15 to 12:20 p.m. and to include Stan Goetz and Charles Arensdorf. Commissioner Voran seconded the motion. The motion was passed by a unanimous vote of the County Commissioners.

Commissioners returned to open session with no action taken during the executive session.

MOTION: Commissioner Voran moved that the County Commission hold a special meeting at 8 a.m. June 22 for the purpose of discussing wind farm agreements with NextEra Energy. Commissioner Steffen seconded the motion. The motion was passed by a unanimous vote of the County Commissioners.

Mr. Gil, Mr. Gough, Mr. Widman, Mr. Holderness and Mr. Goetz left the meeting at 12:35 p.m.

MOTION: Commissioner Steffen to approve a resolution to participate in the Chief Elected Officials Board with Workforce Alliance. Commissioner Foley seconded the motion. The motion was approved upon unanimous vote of the County Commissioners.

MOTION: Commissioner Voran moved to adjourn the meeting at 12:38 p.m. Commissioner Steffen seconded the motion. The motion was approved upon unanimous vote of the County Commissioners.