

Logan County Commissioners Work Session

August 15, 2023

Present: Jerry Sonnenberg, Joe McBride, Mike Brownell, Alan Samber, Kristan Lange, Debbie Unrein, Jerry Casebolt, Tom Kiel, Rob Quint, Rick Cullip, Marty Gaines, Lisa Montgomery, Dana Foley, via Zoom, Jeff Rice, and Jennifer Crow.

Chairman Sonnenberg called the meeting to order at 9:00 a.m.

APPROVAL OF MINUTES FROM PREVIOUS SESSION – Commissioner Brownell moved to approve the minutes of August 1, 2023 as written. Commissioner McBride seconded, and the motion carried, 3-0.

REVISIONS TO WORK SESSION AGENDA – Add MOU for flood mapping after the updates from Dana Foley of CTSI. Jerry Casebolt will also discuss flood mapping and Courthouse telephone system updates.

REVIEW AND APPROVE SCHEDULE OF COUNTY BILLS – Kristan Lange met with the Board to review the Logan County schedule of bills dated August 15, 2023. The Board approved all bills as presented.

REVIEW BUSINESS MEETING AGENDA – There were no additions or changes.

TOWN OF ATWOOD FLOODING – Lisa Montgomery met with the Board concerning flooding in the Town of Atwood. Ms. Montgomery commented that on her way to town this morning that she noticed that the state is starting to clean up the ditches along the highway. Ms. Montgomery showed the Board pictures of flooding near her home that describes what she would be talking about. It is not the first time that flooding occurred, it was just bigger. The flooding also happened in July of 2020. They woke up to the flooding in the middle of the night and were not prepared for it. She asked what the county's plans are to fix it. The ditch that the water is coming from is massive and there is nowhere for the water to go. The water that is coming, is coming out into smaller ditches and there's nowhere for it to go.

They thought the year 2020 was a freak thing and that was just due to the rainfall. Their property is on the corner of County Road 16.5 and Highway 6, it is a low-lying property and Highway 6 has been built up because it was just resurfaced. The water doesn't have anywhere to go. They clean the ditch out on the north side of County Road 16.5 all the way down. With her house being a low spot, the water goes to her house and there is two to three feet of water all the way around her house. The irrigation ditch is along CR 16.5

Commissioner Sonnenberg noted that the problem is that the landowner went to Water Court to be able to divert water with that ditch and use that ditch to irrigate. What happens when water is coming down the Pawnee, that ditch does not allow it to go to the river, it is diverted. The water should actually be flowing north of Atwood.

Commissioner Sonnenberg said the problem is that there is nothing the Commissioners can do because that ditch has gone through Water Court for the purpose of utilizing someone's water rights. He noted that the best way to attack the problem would be for the residents of Atwood to

get together and file a civil suit, because that was some of the advice that was given to him. He asked County Attorney Alan Samber if there were any other options. If the county does something with the irrigation ditch, then it would be considered a “takings” on the county’s part.

Alan Samber explained that the Board does have statutory authority to get involved in logjams causing flooding in the South Platte River and things like that, but this is not a logjam, it is a person or group exercising their water rights. The ditch bank is what is causing the damming effect. Ms. Montgomery agreed and stated when the ditch fills up, it has overflow tube that sends water straight down into Atwood. She asked if the overflow tube could be located somewhere else and not divert the water into Atwood.

Commissioner Sonnenberg said that is a good question. When water of that volume comes down that overflow tube, where he put the ditch in, instead of allowing the water to cross the road and go straight to the river, it now flows to the south and goes past the end of that ditch and runs through Atwood. The volume of water, the overflow, is the issue. Even the water in the ditch isn’t the issue, it’s the water that comes from the Pawnee that hits that ditch, some of it still goes to the river. But when it gets to that level, that ditch actually diverts it just like a berm and then dumps it in Atwood.

Alan Samber further stated that the ditch is owned by a private landowner that uses it to run an irrigation sprinkler that crosses the road. The natural drainage is going downhill that essentially predates history. There’s an easement created for drainage downhill across other people’s property. When a berm or something disrupts that natural drainage easement and causes damage to other people, if that causation can be proven, then there’s a liability for it. That’s why the county has put in culverts when it installs a road in a natural drainage area. We put culverts in to let that water get through and continue its downward path.

Commissioner Sonnenberg stated it sounds like the potential for a class action lawsuit and that the people in Atwood may need to consult with an attorney about whether that is legally actionable or going to be worth it. If you can prove causation that the more recent creation of this ditch to funnel water to this irrigation sprinkler has caused damage to the residents of Atwood, that may be more feasible economically for residents to explore.

Right now, there is nothing that the county can do other than maybe put a ditch along the highway and run the water back to the northeast to the original channel underneath the bridge. Ms. Montgomery stated that there are two culverts that flow under the highway and then the train tracks, and possibly a ditch that is probably just overgrown and filled in where the water was to flow. This is dumping so much water and with the blockage that water has nowhere to go, it backs up. The culverts are probably plugged and need to be cleaned out. For substantial water like that, they are not able to handle the water.

Jerry Casebolt added that it looks like there are two culverts that cross Highway 6. He has not checked them out because the weeds are so high right now. They haven’t been maintained. He can’t tell if they go all the way under the railroad tracks and dump back into the inlet for the Number One Ditch. It would have to dump back into the inlet before it even would get to the river. Commissioner McBride noted that there used to be an old fishing pond down there, but it is not accessible anymore. On the north, there was a big tube coming from a feed so maybe

that's where it was coming over. The river would have been high at that point. As far as the volume, he does not know how fast it would have drained out. He will check it out.

Commissioner Sonnenberg stated that the Commissioners will investigate the problem to see if there is something the county can do to at least drain the water out of Atwood. The county cannot do anything about the ditch, but possibly there is an option to go down parallel to the highway.

Jerry Casebolt did not think that would be possible because the residence east of town had two feet of water all the way around their house because it is the lowest spot in Atwood. The key will be finding where the culverts come out on the other side of the highway. However, the culverts won't handle floodwater.

Commissioner Sonnenberg said that the Board will commit to look at the problem to see if there are any options to help at least drain water from Atwood when there is a flooding event to see if there's a place that we can help get that water gone. But when it comes to the damage and the problem itself, that's probably going to take a civil action. Ms. Montgomery stated that her husband would be willing to show the commissioners where the water flows if he is available. He was not able to come to the meeting today. She gave her phone number to the Board.

The meeting recessed at 9:27 a.m. and reconvened at 9:54 a.m.

CTSI POOL UPDATES – Dana Foley of CTSI met with the Board via Zoom to give the Board two reports on Logan County's participation in the Colorado Counties Casualty and Property Pool and County Worker's Compensation Pool. The CAPP Board and the CWCP Board are made up of County Commissioners and they determine surplus. Any additional beyond the surplus goes back to the counties of Colorado. The CWCP pool has a healthy surplus of \$26 million and they gave back over \$3 million to counties in Colorado. The CAPP pool has a surplus of \$15 million and gave back over \$1.5 million to counties in Colorado.

County contributions go into an interest-bearing account. Last year CTSI pools gave back \$1.1 million to the counties of Colorado. Out of the \$3 million given back to counties from CWCP, Logan County got back \$100,920, out of the \$1.5 million from CAPP, Logan County received \$31,030. From the \$1.1 million interest Logan County got \$40,304 for a total of \$172,274. Logan County got back about 13% of their annual contribution for 2023.

The CAPP report showed a total of 12 claims for 2022 in the amount of \$160,879, about 50% of them are auto related. The whole pool finished out with 623 claims for a total of \$9,379,657. The average cost of the claims on the CAPP side was about \$1,056 per claim. This does not include some of the big catastrophic claims that occurred in 2022 through the counties which one of them was the Sheriff's liability claim that came out of Clear Creek County and another one out of Yuma County.

CTSI offers free Defensive Driving Classes once every two years. It is one of CTSI Loss Control's main focuses this year. Two classes are offered, one in the morning and one in the afternoon to help facilitate county operations.

Moving on to the CWCP report, last year Logan County finished with 14 claims for \$208,207. Some of the driving factors in that amount are the indemnity claims, where the claimants have

lost work time. That drives up the work comp claims costs. It's important to look at return to work programs and making sure that people are getting back to work instead of sitting at home waiting to get better. It's statistically shown that people will heal faster when they stay involved and stay working, even if not at their main job duties. Those claims are also detrimental to the overall financial impact to the county as well, because there's a lot of indirect costs that are associated with them, not just the fact that we have an employee that's injured and hurt. Other people need to take up the injured employee's workload and things don't get done properly or as well.

Foley reviewed the five-year loss analysis from 2018 – 2022 and the top five claims in frequency. Law Enforcement is generally one of the top five in frequency and claim severity, followed by the Road and Bridge Department, Public Transportation and Administration. Wind and hail claims are categorized under administration.

Foley said that CTSI recommends counties institute a “No Backing Policy”, where drivers back into parking spots instead of backing out of parking spots or park in pull-through parking spots. Logan County's five-year claim history is 64 claims for a total amount of \$1,976,311. The average claim cost is \$30,880. Some of the severe incidences that were driving that average claim cost up were the wind and hail claims. The five-year history for the pool was 3,476 claims for \$66,303,789 with the average claim cost at \$19,075.

Foley noted that the reinsurance carrier is starting to ask if counties have dash cams in the patrol cars. CTSI is not going to require dash cams but when they start to see that the reinsurance carriers are asking those types of questions, there could be some pricing associated with that as well. CTSI recommends, if it is affordable, and, in the budget, to move towards outfitting patrol cars with dash cams. Foley has had conversations with other counties who have considered putting cameras in their Road and Bridge vehicles because of some of the severity that has occurred around their Road and Bridge trucks. It would also be a good idea to place dash cams in Road and Bridge trucks as well. Video footage could help decide what really occurred in an accident if there is a questionable claim.

Commissioner Sonnenberg noted that the cameras are fairly inexpensive, unless you go to a cloud-based camera that uploads automatically and then they start getting more expensive. The Logan County Sheriff's Department does not have dash cameras. The City of Sterling Police Department actually took their dash cams out, as they were having problems with them. He asked if CTSI had a program to pay for dash cams to partner and help reduce insurance rates. Commissioner McBride noted that another cost is servers for storage for the video footage.

Foley stated that because of Senate Bill 217 which requires law enforcement officers to have body cameras, a lot of counties took their dash cam budgets to purchase body cameras. There are very few Sheriff's Departments that are fully staffed and there is a big concern with jails as well. A number of jails shut down last year because they could not staff them correctly. It puts them in a much greater liability risk, so they're leveraging and utilizing the counties with bigger facilities.

On the CWCP Five-year Loss Analysis there was a slight uptick every year since 2018. The top five in frequency and severity in terms of departments are Road and Bridge and law

enforcement. Law enforcement injury rates are relatively low compared to what is being seen in terms of severity. There's been a lot of frequency but not a lot of severity with it, mostly just a lot of minor injuries. Road and Bridge employees are definitely getting hurt more, a lot of the claims were the slips and falls. There were 21 claims in Logan County amounting to \$228,775. Overall, for Logan County in the CWCP over five years, there were 61 claims filed amounting to \$495,537. The average cost per claim was \$8,124 per claim. Compared to the pool, their average cost per claim was \$7,747. The indemnity claims, or lost work claims are the factor in those higher costs. The number one incident for the pool, over 1,000 claims for almost \$10 million of loss was slips and falls but the average price for those claims was \$9,951 which is a lot higher than Logan County's \$8,124 per claim. They really want to work on reducing the lost work claims and figuring out a way to keep people working to reduce the indemnity side of things.

Foley will be working with the Sheriff's Department on their cadet training. They're sending people to the training academies and the academies are actually hurting people. When they have a training related incident, he would like to see where the training was occurring, whether it was in-house, or whether it was at an academy. If it's an in-house, they can work with them. But if it's an academy thing, Foley wants to be able to advise the Sheriff that their cadets are going through training for the same certification, that this academy hurts more people than this one. Because you're investing a lot of time and money into developing a cadet from going through the academy through the FTO and the outfitting and additional training that they have.

Foley offered his loss control resources and any help he can provide to Logan County. Commissioner Sonnenberg will be anxious to see claims for the first six month claims for 2023, given the weather and things that have happened in Logan County. Foley was able to provide some preliminary information on CAPP claim reporting for the first six months of 2023. He will send the reports as soon as they are available. The Board thanked Mr. Foley for his presentation.

COMMISSIONERS PROCEEDINGS JULY 2023 – Commissioner McBride moved to approve the Commissioners Proceedings for the month of July, 2023. Commissioner Brownell seconded the and the motion carried 3-0.

MOU FLOOD MEETINGS – Jerry Casebolt explained that the MOU basically wants to know if someone from the county will participate in their meetings. In the past, Commissioner McBride had asked him to participate in the FEMA meetings. Casebolt signed the MOU in the past. Casebolt has now brought the MOU to the Board for signature. He has agreed to attend all their meetings and will continue to attend the meetings whether the MOU is signed or not as he believes there is good mapping from their meetings and good information that can assist the county if needed. Alan Samber will review the MOU and determine what the commitment from the county will be. This will be scheduled for the August 29 work session.

CENTURYLINK/LUMEN- Jerry Casebolt reported that the CenturyLink/Lumen Tech, Darwin Thursday replaced a module that gives them remote access into the Mitel telephone system. The Lumen engineers noticed that the courthouse phone system is 10 software updates behind. Some are security patches, some of them are not critical. We have a maintenance contract with them and would have thought that the maintenance contract would cover updates. Jennifer has opened a ticket with Lumen but has not heard anything back yet. Usually they charge for the updates,

but we are reaching out to Lumen for this. Since we are so many updates behind, it will be a full day process. We are trying to clarify whether the updates are part of the maintenance contract. The caveat of that is that it will probably put our phone system out of use for the entire time while updates are being performed. The updates could possibly be done at night, but it would probably cost a lot more than doing it during the daytime. Casebolt wanted the Board to be aware of the downtime issue and to make the decision whether the system will need to be taken down and if additional costs will be paid. The Board will wait to review the maintenance agreement.

PURCHASE OF DRONE FOR DAMAGE ASSESSMENT – Jerry Casebolt discussed the purchase of a drone to be used for damage assessment and to assist with law enforcement and fire incidents. The Sheriff's Office has a large drone with infrared. He is not looking at getting a drone that large, just a regular one, but a good one. He would like to be able to fly it himself if the Sheriff's Office drone operator was off duty. Right now, he has to wait until the Sheriff's Deputy is on duty for him to be able to fly the drone or the Deputy has to be called in from off duty and paid overtime. Casebolt does have a budget line that the state pays for damage assessment program items. Casebolt would go to pilot training which would cost approximately \$750 for the week. The Board asked Casebolt to get the cost for the drone without the infrared piece with the cost of training. He is waiting on the quote without the infrared.

FEMA - Jerry Casebolt reported that the governor filed a declaration at the same time he filed a Stafford Act declaration. They are going after a presidential declaration for the floods. We still have not heard anything back on that. It's taken this long and so they're trying to get a presidential declaration to potentially get some extra funding capability that we don't currently have with just the state declaration. They are working with the State Department of Homeland Security and Emergency Management. Commissioner Sonnenberg mentioned that we should turn the lobbyists loose to work on getting additional funding.

There being no further business, the meeting was adjourned at 10:52 a.m.