

Logan County Commissioners Work Session

July 5, 2022

Present: Byron Pelton, Jane Bauder, Joe McBride, Alan Samber, Ashley Smith, Rhonda Chrisp, Debbie Unrein, Travis Sides, Jerry Sonnenberg, Don Masin, Robert Schell, Darlene Carpio, Kenneth Mooney, Rob Quint, Jeff Rice and Jennifer Crow.

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

APPROVAL OF MINUTES FROM PREVIOUS SESSION – Commissioner Bauder moved to approve the minutes from June 21, 2022 as written. Commissioner McBride seconded and the motion carried.

REVISIONS TO WORK SESSION AGENDA – None.

REVIEW AND APPROVE HUMAN SERVICES SCHEDULE OF BILLS – Ashley Smith met with the Board to review the Logan County Department of Human Services schedule of bills dated July 5, 2022. The Board approved all bills as presented.

REVIEW AND APPROVE SCHEDULE OF COUNTY BILLS – Rhonda Chrisp met with the Board to review the Logan County schedule of bills dated July 5, 2022. The Board approved all bills as presented.

REVIEW BUSINESS MEETING AGENDA – Lisa Vecchietti will join the meeting via telephone for discussion on Resolution 2022-25. No other changes or concerns were noted.

TRAVIS SIDES DISTRICT ATTORNEY - Travis Sides District Attorney for the 13th Judicial District met with the Board. He explained that new this year in the Criminal Justice System across Colorado as of March 1, the mandatory advisements began. Which means that a person arrested for the first time on a new offence, must go in front of a judge within 48 hours of being booked into jail for a bond hearing. That means that they have started doing advisement hearings on Sunday mornings. The Courts have hired Bond Hearing Officers or BHOs to cover many counties. For the 13th Judicial District which includes Morgan, Logan, Sedgwick, Phillips, Washington, Yuma and Kit Carson Counties, cases are heard between 7:00 a.m. – 9:30 a.m. on Sunday mornings. There is a rotating cast of three different judges consisting of Judge Landry, who is the County Court Judge in Sedgwick County as well as, Judge Moon out of the Denver area and Judge Causey out of the Vail area. This was a decision made by the Courts. The D.A.'s Office had no input and the State made the decision when the bill was passed requiring the 48-hour advisement hearing. There were very little to no additional funds allocated for the BHO's or the D.A.'s office. The Public Defender's Offices, none of their regular attorneys appear on these Sunday morning advisements. These are also contracted out to regular defense attorneys from the across the state. On those Sunday morning advisements, you may have a judge from the Denver area, and a defense attorney from the Denver area advising a defendant arrested in the 13th (Judicial District). Theoretically, Sides does not like the idea that Judges that do not stand for retention in the 13th – who are not accountable to voters in the area, get to set bonds on all of these

cases, misdemeanor to felony, whatever happens between 2 p.m. Friday – 2 p.m. Saturday. The three judges rotate in the district.

Judge Landry has particularly been a problem. She has continued to trend with a lot of the elected Judges across the 13th in the D.A.'s opinion where they have set lower bond amounts. Judges will never agree with the prosecution 100% of the time. But this is becoming a bigger issue so he wanted to bring it to the Board's attention.

Ironically, Judge Moon and Causey are setting good bond amounts from his point of view. Judge Moon has even set bond higher amounts than the D.A. has requested a couple of times. A debt of gratitude is owed to Judge Moon and Judge Causey, they are doing a better job of protecting the communities in Northeast Colorado than our own elected Judges are.

Judge Landry is brand new to the bench in Sedgwick County. She has been on the bench less than a year. She was hired to be the Bond Hearing Officer adviser to do the weekend advisements and then she was also hired to be the Bond Hearing Officer to do the weekday advisements. She does every third Sunday advisement but almost all advisements on new arrests that come before the courts.

Sides has met her once or twice and she seems very nice and she seems very smart. She's a very good attorney, but she does not set good bonds. She actually dismissed a case the other day, a defendant was arrested, in her view the affidavit she determined, there wasn't probable cause for the misdemeanor offense that the defendant was arrested for. That can happen from time to time, where maybe the facts don't establish probable cause or the officer didn't do the best job of relaying those facts in the affidavit. The remedy for that situation, under the law, is that the defendant gets a PR bond. They get released under personal recognizance. They don't have to post a bond, because the Judge didn't find probable cause for the arrest. But it doesn't terminate prosecution of the case. Under the rules of criminal procedure, if an officer files what is called a summons or complaint, that files or opens a case with the county court. She just dismissed one. It was illegal. He brought it to her attention the next day. She agreed that she had made a mistake the previous day. But it still happened. It will have to be reopened.

Just in the month of June these issues have happened. There was a defendant in Logan County. Julio Flores Gutenea. He was the guy that was here in the middle of Sterling firing off a gun several times. He fired about a dozen shots. Some were directly at law enforcement. Some were firing out of a house in Sterling in a residential neighborhood. At the advisement, the D.A.'s Office asked for a \$750,000 bond. That is a hefty, really high bond. They don't often ask for bonds that high. This individual was out on bond in three or so other cases and had mental health motions filed in the other cases as well and had clearly tried to kill other officers. He has numerous charges of attempted murder for shooting at police officers right now. Judge Landry set the bond at \$75,000. She knocked a whole zero off of the D.A.'s request. They moved to reconsider, the regular docket judge in Logan County did not increase the bond.

Judge Landry also advised on a Kit Carson County Case a week or two ago, a sexual assault case on a child the D. A. asked for a \$100,000 bond. Which carries with it indeterminant sentencing, which if convicted of the crime, life in prison with the possibility of parole after having served a minimum

amount of time. Sexual assault on a child, obviously very serious crimes, horrific crimes, she gave him a P.R. bond. He was able to sign his name and be released.

On June 15th in Logan County, Louis Sandoval was charged with assaulting a peace officer. He had five other open cases. Over the D.A.'s Office objections, she (Judge Landry) granted him a PR bond and he was released. This has become a pattern. No judge is perfect, judges can make mistakes just like a prosecutor or officer, anyone in the Criminal Justice System. Nobody is perfect. This isn't just one isolated case. There is a pattern of decisions here. This tells him that Judge Landry should not be setting bonds, especially in felony cases across the 13th. She is setting bonds in all weekday advisements. She is only responsible to the voters in Sedgwick County. She is setting bonds for every case in the 13th, not just in Sedgwick County. That has been concerning to put it mildly to his office.

On top of that, however, the other judges are not supplying a lot of confidence either. They had a case in Morgan County where the defendant was initially charged with driving under the influence. The case ended up getting set for trial. In reviewing the case, the county court prosecutor thought it looked like more than just a DUI case and brought it to the assistant DA. The basic facts were that the defendant was swerving his car at, around, or towards the victim's vehicle as they were driving down the interstate, basically a road rage situation. The D.A.'s County Court case was dismissed and a new arrest warrant was obtained for Felony Menacing. The defendant was using his vehicle as a deadly weapon to try to make the victim feel fear. This is a charge they have filed before under similar facts. Other D.A.'s Offices have. The charge itself is not anything remarkable or new. They got a new arrest warrant for that. The defendant filed a motion to quash or dismiss the arrest warrant. Judge James, District Court Judge in Morgan County granted that motion not citing any authority that would justify dismissing an arrest warrant when another judge has found probable cause that a crime has been committed. So the State Patrol went in front of a judge, Judge Galliano, she reviewed the affidavit, found that there was probable cause for that felony menacing offence, in addition to the other felony misdemeanors, the DUI, the other charges that had initially been there. That felony warrant was issued for the defendant's arrest, but before the defendant was arrested on it, Judge James dismissed it and did not cite to any rule, statute, or authority that would allow it. The D.A., of course, filed a motion to reconsider and to rescind the previous order, pointing out that it was illegal, and then Judge Hobbs denied the motion to reconsider or rescind, again, citing to no legal authority. One word, "Denied", was on his order, their motion.

D.A. Sides reached out the Boulder D.A.'s Office and to the Attorney General's Office and both of them agreed with D.A. Sides, that the Courts, Judge James and Judge Hobbs, in Morgan County dismissing that arrest warrant was illegal. In fact, the Deputy AG that he talked to said it was "Insane" that the Courts were doing that. And he went on to note that the Boulder D.A.'s Office and the AG's Office are not as, to put it diplomatically, as conservative as he is in his politics. The fact that they agreed with him spoke to him that he is not completely off-base they agreed with him. He sought to get assurances from the court that something like that would not happen again. He has heard "radio silence" so far. They are pursuing appellant remedies, but the defendant still has not been arrested for felony menacing, which is what they call a "Victim's Right's Act Crime." In other words, the Victim in that Crime has

certain rights, the victim in that crime, has a right to be heard, on bond that were not being honored. So that's troubling.

They have also seen sentencings, it is not uncommon for a judge and a prosecutor to disagree about bonds, and about sentencings. The D.A. represents the People of the State of Colorado. He has a specific interest and a specific view on cases, Judges try to be fair and impartial. It is not unusual for judges to disagree. These rulings that they are seeing are more than just disagreements on the margins. Sides had a sentencing in Phillips County in front of Judge Justin Haenlein, the newest District Court Judge. The defendant had an internet luring case. When Sides talked to the Board last year, he talked to them about the work that is being done not just by their investigators, but by investigators across the 13th, across all counties where they pose online as underage girls and then defendants come out of the woodwork trying to have sex with them, who these defendants think are underage girls. This guy was convicted and plead guilty to that in Phillips County a couple of years ago. He was initially placed on probation. Sides does not know why he got probation up front, in his opinion he should have gotten a couple of years in the penitentiary. Sides was there at the defendant's probation violation hearing. He had been abusing probation requirements with Social Media and he had struck up a relationship with a woman who had minor children in her home without his probation officer's approval. Obviously if someone is trying to have sex with underage children and is convicted of attempted sexual assault on a child, probation is allowed to restrict their social life, because there are some pretty serious community safety concerns. This defendant admitted to probation violation. He can be resentenced as if he had committed the crime for the first time. He was asking to be put back on probation and gave a very impassioned plea to the judge. Sides pointed out all of his violations, his history, and also pointed out to the judge if you look at nationwide data, whether it is the FBI or elsewhere, between 70-90% of these defendants who commit these internet luring crimes either have or will commit a contact offence. In other words, they will sexually assault a child some point in time if they haven't already. This guy was actively pursuing a relationship with a woman who had minor children in her home. The judge put him right back on probation.

Sides pointed this all out to the Board because some of this has been building. For years now, the legislature has been redrafting criminal statutes and pointing out that their theory of crime and punishment is one of rehabilitation and treatment. Judges have been reflecting that in their sentences now but it is becoming more flagrant. Especially as we have had some newer judges appointed to the bench. Prosecutors and Judges will disagree. He doesn't mean to act as if they are always wrong. The same Judge in the ruling he just mentioned, Judge Haenlein completely 150% another contested hearing in Logan a couple months ago. A tough hearing, he came to what Sides thought was a correct ruling. So most of the time, when left to legal issues, the judges do a pretty good job most of the time.

When it comes to setting bonds and sentencing hearings, they are not just strict legal analysis questions. It's more of what is your world view question. This person comes before the court to be sentenced on a crime. Do we punish him or do we rehabilitate him? You can, in theory, with a sentence accomplish multiple purposes but which is more important to you? What they are seeing with these judges are their beliefs about their world views and the criminal justice system, about sentencing people, about setting bonds, if defendants have a mental health issue, or need some kind of mental health treatment, or any of

the above, or all of the above, then they default towards treatment, even if they've had probation, treatment one, two, three, four times previously. Even if like this guy in Phillips, if they've been on probation, getting treatment, got kicked out of treatment, was violating treatment, was violating probation, they need treatment, they're going to put them in treatment. If a defendant comes in front of them and needs treatment, absent being a really super serious case, they tend to default towards treatment., and you see this in their bond amounts too. They get people that come before them and if these defendants talk about having drug or alcohol or substance abuse or mental health issues, our judges don't want to just put them in jail, they let them post bond get out while their case is pending. It is not as much a legal issue, as it's a world view issue. A lot of our judges view crime and punishment differently than he does. They disagree with (how) a lot of voters in Northeast Colorado would think.

We have some very good judges in this area. Judge Jones in Yuma County, Judge Hanson in Washington County, very good County Court Judges Brandenburg in Morgan County and Judge Killen in Phillips County very good County Court Judges and Chief Judge McGuire very good judge his legal opinion when they are left to just legal rulings. Even when he disagrees with their conclusion he can't always quibble with how they got there. That is why Judge James and Judge Hobbs just dismissing that arrest warrant in Morgan without citing to any legal authority without doing legal analysis, that bothered him more than the ruling, the lack of legal analysis bothered him. As a judge you have to show that your rulings and your orders are fair and impartial and based on the rule of law. Not arbitrary and capricious based on your own opinion They didn't do that in a really serious situation That bothered him more, obviously he disagreed with the outcome, he thought it was contrary to the law, but the lack of legal analysis really bothered him.

Judges are doing good work we have some really good judges. Judge Landry hasn't been good, even her legal analysis hasn't been good. Judge Brammer here in Logan County, not only has she set really bad bonds and sentencings, her legal analysis not been good. This has been years ago, Judge Brammer once told a sex offender that that had failed to register as a sex offender that it wasn't his fault that he had failed to register as a sex offender. She routinely sets ridiculously low bonds.

They had a DUI trial here in Sterling last week. Typically, at a DUI case, if someone is pulled over for a DUI, the officer asks if they are willing to perform a roadside maneuvers test, the whole walk and turn, etc. They are the standard road-side sobriety tests, roadside maneuvers test, same thing. That is the typical thing officers always ask in a DUI case. The D.A. always gets to ask about it at trial because if the defendant does the roadside maneuvers tests, they have a video of it or have the officer talk to the jury about how the person did because the roadside maneuvers tests, demonstrate the divided attention tasks, just like driving takes divided attention. If you can't perform these roadside maneuvers like a sober person would, you are not safe to drive. If the defendant refuses to do the roadside maneuvers, it's almost like a partial admission or confession, so the refusal to do roadside maneuvers is always admissible in a trial. Judge Brammer refused to admit it in this trial. Just flat out refused to admit it. Our prosecutor made a really good record, pointed out some really relevant evidence, there is no basis, no case law, no evidence, she kept it out anyway. The Board asked why wouldn't everyone do that. Ironically, another DUI trial last week in Morgan County same question, in front of Judge Brandenburg. Same question, the defense didn't even litigate it. The officer got to ask that question. They got to

discuss it at trial. The defense bar knows that Judge Brandenburg will uphold the law. Judge Brammer won't half the time. It has been mind numbing to him to watch Judge Brammer flaunt the law, to flaunt the rule of law, and to routinely do that.

Commissioner Pelton mentioned that Weld County Sheriff Reems is posting all of the public information bond amounts, who is releasing them on PR bonds, all that stuff. He is making that public and posting that on his website and posting it on Facebook. Everyone needs to know. He thinks it needs to happen in the 13th as well to show people what is going on. That way, if they are accountable only to Sedgwick County, maybe Sedgwick County would say maybe we don't need this judge.

Mr. Sides agreed that this is a good idea. Most people aren't in Courts, they don't know if Judges are doing good, bad or otherwise. Getting voters good information is all important. On a lot of other cases, judges are still making good rulings and making decent sentencings. He is highlighting statistics. They don't tell you what you don't know. He is talking about these troubling trends he is seeing. But in most cases in front of most judges here in the 13th justice is still being done. He does not have a lot of quibbles from a lot of the sentences being handed out. They have set really good bonds in some other cases. Especially the weekday advisements with Judge Landry, because the regular judges aren't setting those bonds any more. The defendants will end up on the regular docket for example if the defendant is arrested for a felony offence here in Logan County, he would see Judge Landry for his initial advisement, but then the case will be heard by either Judge McGuire or Judge Gagliano here in Logan if the case proceeds towards trial or towards plea agreement. Judge Landry is not making all decisions in all cases, just the initial bonds.

The Board asked what Sides would recommend. Commissioner Pelton asked about the legislature making this mandatory. Sides thought this would also be good. Judges are accountable to the voters. Judges are to be impartial and are supposed to make fair and impartial rulings. The blue book almost always recommends to retain judges. All these things happen in open court. The weekend and weekday advisements happen via Webex but anybody can come in to listen. Courts are always open, whether it is regular docket, trial, anything in between. Media, individuals, and the community, can come in and pay attention to the decisions the judges are making. They can pay attention to the decisions we (the D.A's Office) are making. They are making arguments for their position, they can see if they agree with them or not.

Commissioner Bauder commented that on a regular basis people throw the Sterling Police Department and the Sheriff's Department under the bus say and that they are not doing enough work.

Citizens can always come in and listen and Sterling Police Department and Logan County Sheriff's Department. Sides said that all the law enforcement agencies in the 13th are working very hard. It is no secret that most agencies could use more officers "yesterday". That is just the state of law enforcement these days. It is very challenging to find people that want to be law enforcement officers. Investigators are working overtime, investigators are having to work the street again, the number of cases isn't going down. When he met with the Board last year, he pointed out the number of cases between 2010 and 2020. The number of felony cases across the 13th increased 50% most of that increase is in Logan and Morgan. That has not reversed course yet.

Commissioner Pelton mentioned that there is frustration on the treatment side of things that there is no punishment for people who are on probation who are supposed to be doing treatment when they don't show up there is no punishment for that. It is pretty frustrating for the people that are trying to provide the treatment. Sides said that if a defendant is on probation, a probation officer won't file a motion to revoke probation after one missed UA. As a Probation Officer, you want to be able to prove to the Court that there has been a pattern of multiple violations or a criminal violation. Probation works with individuals. After a certain number of technical violations, they will file a motion to revoke probation. And then that comes back in front of the court to resentence that person. The judge can either put that person back on probation or if it is a misdemeanor offence, they can put him in jail, or if it is a felony offence, they can put it back on probation they can put him in community corrections like ATC across from the prison or they can put him in prison. Like the very serious case he had before Judge Haenlein where he thought he would put him in prison or at the very least community corrections. There are other cases where they will put them in community corrections, it's not like every probation case they rule on will go right back on probation.

The meeting recessed at 9:37 a.m. and reconvened at 10:00 a.m.

DARLENE CARPIO KEN BUCK AID UPDATE – Ms. Carpio shared a comment that the Congressman made about the Roe vs. Wade Supreme Court decision. “The Supreme Court made the right decision in overturning Roe vs. Wade. A tragic abortion mandate that has cost over 73 million babies their lives. The power to decide this profound moral question is officially returned to states where it will be debated and settled in the way that it should be for our democratic society, ‘By the People’”.

A week ago, Representative Mary Miller from Illinois and Congressman Buck led a House Resolution to overturn the Biden Administration's proposed rule to introduce radical sexual orientation and gender identity language into Title 9. The resolution builds on the safety and opportunity for Girls Act of 21. This Act clarifies that for the purposes of Title 9, sex needs to be defined as a person's sex as assigned at birth, and prohibits changes to Title 9 to that would require male and female students to share bathrooms, athletic facilities and other spaces. The answer to the question “what is a woman” has been clear has been for the entire history of our civilization. It has not changed since Genesis and should not be left up to this administration to redefine our genders.

Congressman Buck issued the following statement after voting against the final passage of HR 7910 which is the Protect our Kids Act. “The Democrats are pushing legislation that will dramatically change gun ownership in America. As a gun owner, I believe the right to enshrine and the Second Amendment in our Constitution is straight forward and unambiguous. The bill isn't about public safety it's about disarming the American People.”

Congressman had a weeklong session about two weeks ago he did a Veterans listening tour still concerned about potential clinic closures including Burlington. So, he will continue to stay engaged on those.

Ms. Carpio shared that she attended the Colorado Cattlemen's Association Conference in Colorado Springs a couple of weeks ago. Their Federal Lobbyist is Ethan Lane gave some updates on the farm

bill. Most of the Ag organizations support a flat farm bill which means no changes. They would prefer to reauthorize the existing farm bill that we've been working off of, because their fear is so great, they fear that climate change additional rulings will be in there, EPA rulings that will make it so much more difficult to continue doing farming as we know it. They would like so see that the present farm bill is reauthorized. He also shared that he would not be a bit surprised if that authorization was put off until that 2024 presidential election. He also predicted that the House and Senate will flip at the general election.

KENNETH MOONEY NECALG RE: NECTA PROPERTY - Ken Mooney explained that the Sterling hub that County Express and Prairie Express has operated out of is owned by the state. They are putting it up for sale. They had it appraised at \$155,000. NECALG has the funds to purchase the building and the property. But they are short on the time to do it. This is the reason for the request, to see if the county could assist with the purchase. They have to do price and equity analysis in order to be approved for Federal Funding. They would like to put up a new building as the current building is pretty worn out. NECALG is asking if the county could purchase the property and within the next six months, once NECALG has completed all of the preparations they need to do, they would purchase it back from the county. Alan Samber said that the State will send a letter to local government entities who have the first right of refusal which will be within the next thirty days. When the county receives that letter, the county could exercise that option and send a letter notifying the state and the other entities that it intends to purchase the property so that there won't be any competition between any of the other local government entities. The current building is in bad shape but they only pay \$1 per year for rent. NECALG has spent a lot of money in Ft. Morgan in the last year purchasing vacant land. The county could purchase and hold it for six months until NECALG could purchase it back.

The NECALG purchase will be a cash purchase and does have the money for the repairs to bring it up to code. However, they have to complete the steps in order to be eligible for Federal grants in the future. The repairs are not part of the sale. NECALG/NECTA pays the utilities, etc. The Board agreed to purchase the property and hold it for NECALG.

BUILDING PERMIT – USE TAX FEES WAIVER – ROB QUINT – Rob Quint met with the Board to discuss the proposed Any AG project building permit fees eliminated and any project \$250,000 or less would be eliminated. Commissioner Bauder asked “If there is there anything that is not being taken into consideration.?” Quint has had quite a few people ask if permit fees were going to be waived. Nothing has been made official. Commissioner McBride noted that he talked to Debbie Unrein, Finance Manager and once the wind tower building permit fees are removed, it would be approximately \$80,000 in building permits fees that would be eliminated. This could be a positive incentive to bring more building in Logan County.

Quint said to keep in mind the average house right now is \$400,000. Anything above \$250,000 would collect the use taxes. The amount collected on building permits is irrelevant compared to the amount collected on taxes forever.

Commissioner Bauder emphasized that the important thing is the focus right now is encouraging people to build and develop in Logan County and get rid of the up-front cost for building materials, waiving building permits, and giving temporary relief.

The building permit fee schedule is driven by the International Building Code. It will have to be amended by resolution. The fee schedule for AG building is \$50. It will have to be waived.

Solar and Wind projects will qualify only if each tower is treated separately. Exceptions can be made however, they also get breaks from federal government. Solar already receives huge breaks. They cap out we can't charge more than \$500 or \$1,000 on a building permit.

Manufactured home building permit fees, building permits fees are set by the state. Those fees will not be waived. They already get a break, this is for modulars only.

This will be for a period of two years going forward. It can be left open so the next Board can extend it. The \$50 AG permit fee is waived entirely. Commercial businesses first \$250k anything in excess is material fees AG waived entirely. On the Commercial AG, we might have to define agriculture pretty specifically. Should have something to do with producing or storing. Residential fees charged in excess of \$250k, except modular fees which are set by state.

CHS EMAIL - Byron talked to a CHS board member and told him what we were trying to do. Byron told the board member he felt burned a little bit by the e-mail from the employee. Then he got ahold of the director for this area. The director called to apologize. The employee was not supposed to send e-mails that represent the entire company. Anything that we could have done was just fine with them.

FEMA – Rob Quint will have an update at July 19 meeting.

TIENA PRICE PROPERTY CLEANUP – Rob Quint will give update in August.

SHERIFF'S OFFICE BURNED UP PICKUP FIRE PADRONI - Commissioner Pelton reported that the Sheriff's Office lost a pickup while evacuating houses in Padroni when the wind shifted during a grass fire. Jennifer will start an insurance claim.

PAVING NEAR STERLING LUMBER AND CENTRAL SERVICES BUILDING – Alan Samber discussed the paving that was requested recently near the Central Services Building. He was under the impression that it was in the county and not in the city limits. However, it is in the city limits. If it is in the city's limits an IGA is not needed. Funding will be done by a special assessment based on the frontage linear feet based on that road. The county's share is \$19,000. There is nothing requiring this to be paid up front. This is to be paid over time by special assessment.

There being no further business to come before the Board, the meeting adjourned at 10:39 a.m.