

COUNTY OF LINCOLN

New Mexico Regular Meeting Board of County Commissioners

Preston Stone, Chair
Dallas Draper, Vice Chair

Thomas F. Stewart, Member
Elaine Allen, Member
Lynn Willard, Member

Minutes Tuesday, August 15, 2017

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on August 15, 2017 in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico.

1. Call to Order

Chair Stone called the Regular Meeting of the Board of County Commissioners to order at 8:30 AM.

2. Roll Call

Roll Call.

Present: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

Others present included Nita Taylor, County Manager; Alan Morel, County Attorney; and Rhonda Burrows, County Clerk.

3. Invocation

The invocation was presented by Commissioner Stone.

4. Pledge of Allegiance

- a. Pledge – US Flag
- b. Salute – NM Flag

5. Approval of Agenda

Motion: Acceptance of the Agenda and authorized the Chair to move items as necessary.

Action: Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

6. Approval of Minutes:

- a) July 18, 2017 - Regular Commission Meeting

Motion: Approve the minutes of the July 18, 2017 Regular Meeting with minor corrections presented by Clerk Burrows and Commissioner Allen;

Action: Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Willard.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Corrected Treasurer's Financial Report for the Month ending June 30, 2017
- c. Treasurer's Financial Report for the Month ending July 31, 2017

Motion: Approval of the Consent Agenda, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

SEE EXHIBIT A: Copies of the Consent Items are attached hereto in reference thereto made a part hereof.

Motion: Recess the Regular Meeting and convene the Board of Finance, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

8. Treasurer's Board of Finance – Beverly Calaway Treasurer

Beverly Calaway, County Treasurer directed the Board of Finance's attention to the Treasurer's Financial Report for the month ending July 31, 2017. Ms. Calaway stated the beginning cash balance for Fiscal Year 2017-2018 was \$10,851,309.72. Ms. Calaway reminded of prior discussions during budget hearings about the beginning cash balance for this fiscal year as compared with prior years. Ms. Calaway stated based on these discussions the Treasurer's office created a spreadsheet which reflects the General Fund revenues and expenditures for the prior ten years.

Ms. Calaway stated the beginning cash balance for Fiscal Year 2017-2018 reflected a 24% increase over the beginning cash balance of \$8,760,038.95 for Fiscal Year 2016-2017. Ms. Calaway also provided a summary list of funds with actual revenue increases over budgeted revenue projections totaling \$1,237,095.28 for Fiscal Year 2016-2017. Ms. Calaway noted the most substantial revenue increase over projected revenues was in Property Tax Collections. Ms. Calaway reminded the Treasurer's Office was always conservative in estimating property tax revenues utilizing a 93% collection rate. Ms. Calaway stated other factors contributing to increased property tax revenues were settlements from Central Assessment Tax protest proceedings and from the recent delinquent property tax sale.

Ms. Calaway noted the interest earned on investments reflected the increased rates nationwide. Ms. Calaway stated she continued to work with local banks to seek the best return possible subject to the requirement of 102% collateralization.

Ms. Calaway stated the annual Payment in Lieu of Taxes (PILT) exceeded the projected revenue for Fiscal Year 2016-2017 by \$169,351. Ms. Calaway stated the Treasurer's Office was also conservative in estimating annual PILT revenues due to uncertainties associated with the federally funded payment.

Ms. Calaway noted the Detail of Receipts for the General Fund Account reflected the anticipated general fund revenues of \$13,001,182 for Fiscal Year 2017-2018. Ms. Calaway noted \$3,137,247 was currently invested in Certificates of Deposit, Debt Reserve Requirements and the Local Government Investment Pool. Ms. Calaway stated \$8,900,000 was invested in money market accounts with local banks and \$11,300,000 was held in operational accounts.

Ms. Calaway further reported the Lincoln County Medical Center General Obligation Bond held with the New Mexico Finance Authority had \$24,663,708.90 in the program fund and \$1,430,516.65 in the debt service fund. Ms. Calaway informed the total cash held by the Lincoln County Treasurer as of July 31, 2017 was \$49,341,824.55. Ms. Calaway further stated the Tax Schedule Maintenance Report as of July 31, 2017 reflected a collection rate of 96% of the 2016 property taxes billed.

Ms. Calaway reminded the State of New Mexico would issue the 2017 Tax Rate Certificate by September 1, 2017 and New Mexico State Statute required the Board of County Commissioners to meet and impose the rates within five days. Ms. Calaway stated subsequently the Treasurer and Assessor would begin the process of calculating and producing the 2017 Property Tax bills. Ms. Calaway stated NM State Statute required a mail out of property tax bills no later than November 1st of each year.

Commissioner Draper questioned the small beginning cash balance in the Emergency Medical Services fund.

Punkin Schlarb, Finance Director stated the beginning cash balance was correct, Ms. Schlarb reminded the State of New Mexico significantly reduced funding for all state funded programs due to recent State Budget problems and therefore revenues were difficult to project.

Commissioner Stewart reminded the identified fund reflected projected State revenues for Emergency Medical Services but Lincoln County provides significant subsidies for the ambulance services.

Commissioner Draper questioned the relatively high cash balance contained in the Indigent Health Fund.

Ms. Calaway confirmed the carryover balance for the Indigent Fund was \$628,380.52.

Ms. Schlarb stated Lincoln County had budgeted expenditures from this fund which would offset the carryover.

Motion: Adjourn the Board of Finance and reconvene the Regular Meeting, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

Motion: Approve the Treasurer's Report, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

a. Treasurer's Historical Records Moved to the Clerk's Historical Records Site

Beverly Calaway, Treasurer discussed a collaborative process between the Treasurer's Office and the Clerk's Office to preserve historic records. Ms. Calaway stated the Treasurer's Office had worked over the years to remove historic records from poor conditions in the basement to a renovated prisoner trustee building and to implement archival procedures.

Ms. Calaway stated records dating from 1882 to 1912 created prior to statehood were identified for transfer to the Lincoln County Clerk for safekeeping, preservation and storage in the Clerk's Archival Room. Ms. Calaway presented several ledgers for review including the 1884 Tax Schedule. Ms. Calaway stated she planned to apply for a restoration grant to restore and preserve this important record.

Rhonda Burrows, Clerk expressed appreciation for Ms. Calaway's efforts to maintain these important historical records and reminded the records were also identified as permanent records of Lincoln County. Ms. Burrows stated today's presentation would also serve as a permanent record of the transfer of these records.

SEE EXHIBIT B: Copy of the Inventory of Treasurer's Records 1882 to 1912 transferred to the Clerk is attached hereto in reference thereto made a part hereof.

9. Lincoln County Detention Center

a. Approval of Amended Operations and Management Agreement between LaSalle Corrections West, LLC, and the County of Lincoln

Nita Taylor, Manager reminded LaSalle Corrections West, LLC was awarded RFP 16-17-008 for the operation of the Lincoln County Detention Center. Ms. Taylor further reminded LaSalle Corrections had operated the Detention Center on interim basis beginning in April of 2017. Ms. Taylor stated LaSalle was compensated during this time through a management fee plus reimbursement for actual expenses. Ms. Taylor stated the draft contract presented returned the payment structure to the prior daily bed rate per detainee. Ms. Taylor discussed the necessary review and approval process of multiple NM State agencies required for agreements between local governmental bodies and private independent contractors for the operation of detention centers.

Alan Morel, County Attorney presented the proposed contract negotiated with LaSalle after several months of operation under an interim agreement which stipulated the reimbursement of actual expenses plus a \$15,000 per month management fee. Attorney Morel stated the contract

presented today was developed with basic terms previously approved by New Mexico State Agencies and conforms to a State "requirements" checklist.

Attorney Morel informed the terms of this long term contract detailed a reimbursement rate of sixty dollars per inmate per day. Attorney Morel stated the reimbursement rate would increase by two percent annually for the first five years with a review of costs after that period. Attorney Morel stated the State would approve a contract for up to fifteen years but this contract provides for services up to thirteen years. Attorney Morel informed while this was a long term agreement there was provision for termination after a ninety day notice.

Attorney Morel stated the contract was not legally enforceable until approved by the State and therefore the parties had the option to continue operations under the current interim agreement or adopt the new terms for reimbursement. Attorney Morel discussed the advantages of entering into and operating under the new contract pending approval by the State of New Mexico.

b. Update on Transition – Tim Kurpiewski

Tim Kurpiewski, Chief Financial Officer for LaSalle Corrections discussed the firm's assumption of services under a ninety day interim contract and subsequent development of a permanent agreement. Mr. Kurpiewski stated LaSalle felt very confident the agreement was a "good fit" for his company. Mr. Kurpiewski reminded LaSalle retained the majority of employees from the previous contractor including the Warden and Captain.

Motion: Approve the agreement between LaSalle Corrections West, LLC and the County of Lincoln effective September 1, 2017. **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Commissioner Draper questioned whether the reimbursement rates from housing Bureau of Indian Affairs (BIA) and US Marshal detainees would also reflect a rate increase over time as defined in the agreement.

Attorney Morel stated reimbursement for housing BIA and US Marshal detainees would flow through Lincoln County and were negotiated separately by Lincoln County.

Ms. Taylor stated last year Lincoln County negotiated with BIA for a daily rate of approximately fifty eight dollars and the contract would require renegotiation to meet the sixty dollars per day rate defined in the LaSalle agreement.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

Attorney Morel provided an update on Lincoln County's standing as to the Interpleader of Funds for the final payment of \$250,000 to Emerald Corrections. Attorney Morel stated on July 17, 2017 the District Court issued a Stipulated Order allowing the payment of those funds to Lincoln County. Attorney Morel stated he was working with the Finance Department and Treasurer's Office to identify and pay Emerald's Corrections outstanding accounts payable of approximately \$200,000 to \$225,000. Attorney Morel stated he and staff had negotiated settlements amounting to \$132,427 to date. Attorney Morel anticipated any money left after settlement and payment of the outstanding accounts payables would revert to the County after ninety days to reimburse costs including attorney's fees.

10. Overview of Service provided (preventive, predictive, scheduled) to County – Sal Tortorici, Yearout Service, LLC

Ms. Taylor reminded Yearout Services, LLC was awarded RFP 15-16-012 for Heating and Air Conditioning (HVAC) and Preventive Maintenance Services and RFP 15-16-014 for Plumbing Maintenance Services. Ms. Taylor stated in addition to Lincoln County's specific on call contract Yearout had a NM State Pricing Agreement which allowed them to complete large task orders such as the repair of the HVAC system for the Ruidoso Health Department and the installation of seven new HVAC replacement units at the Detention Center.

Sal Tortorici, General Manager for Yearout discussed recent services for repair and maintenance of Lincoln County owned HVAC units and plumbing. Mr. Tortorici stated Yearout was working to develop a preventative maintenance program to reduce the number of Emergency Response calls for services. Mr. Tortorici stated efforts by Yearout were resulting in more energy efficient and reliable systems for Lincoln County.

11. Lincoln County Medical Center Complex:

a. Design Update- Bobby George, Dekker/ Perich/Sabatini

Bobby George, Principal for Dekker/Perich/Sabatini (DPS) provided a review of the site for construction of the new hospital. Mr. George discussed site access for traffic, the current flow of water across the site, and other environmental factors considered during planning. Mr. George reviewed the project phases including construction of the new Emergency Medical Services facility, destruction of the old EMS facility, construction of the new hospital complex and the destruction of the old hospital facility. Mr. George provided a detailed review of the proposed plans for the new hospital complex discussing traffic access to various departments including the Main Hospital, Emergency Department, and the Surgical Suite.

Mr. George reminded of the decision to issue a publicly bid request for proposals (RFP) rather than proceed under a Cooperative Education Services (CES) contract. Mr. George anticipated completion of the construction documents approximately September 18, 2017 and issuance of the RFP shortly thereafter.

Mr. George reviewed the budget and anticipated costs for construction of the new hospital. Mr. George stated DPS hired an independent third party cost estimator to provide anticipated construction costs. Mr. George stated the conservative cost estimate for the project provided by independent review was approximately \$25 million which was \$2 million over the original estimate. Mr. George stated the increase represented both the conservative nature of the estimate and an increase in construction costs over time. Mr. George stated with a total project cost exceeding the original estimate by \$3 million DPS would review the project for various "cost savings" and "budget management" opportunities. Mr. George reminded the project budget included a "contingency" of about \$1 million or approximately three percent. Mr. George reminded these contingency funds were set aside to deal with asbestos abatement and other challenges which could arise.

Commissioner Draper questioned if the estimated \$3 million overage included the \$1 million in contingency funds.

Mr. George stated the contingency funds were included in the \$3 million and remarked the estimate of costs typically contains a four to five percent buffer which would lower the final budget overage to approximately \$500,000.

Chair Stone questioned if Mr. George believed his firm could manage the overage during the construction process.

Mr. George expressed belief DPS could manage the overage but reminded of the uncertainty of the bid process for construction materials over time.

12. 9:30 AM: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS

Commissioner Stewart attended the FEMA Base Flood Elevation Meeting on July 27, 2017. Commissioner Stewart stated the presentation was about improving flooding predictability provided by the current Flood Insurance Rate Maps (FIRM) for the Hondo River Basin. Commissioner Stewart stated currently Lincoln County by Ordinance utilizes the FIRM maps to identify flood zones but FEMA indicates the use of "most current data" as acceptable. Commissioner Stewart stated there was now an online tool which incorporated new baseline elevation data for site reviews. Commissioner Stewart suggested, once the County acquired a new Floodplain Administrator, the Board of County Commissioners may wish to consider adoption of the new Baseline Elevation Data.

Commissioner Stewart provided an update on his continued involvement with the Joint Land Use Study Group and discussed the new website developed by the group to facilitate communication between members and the public.

Commissioner Allen stated she continued to attend Greentree Solid Waste Authority Board Meetings.

Commissioner Allen stated there was a great turnout for the 76th year of Old Lincoln Days. Commissioner Allen thanked Department of Cultural Affairs Secretary Veronica Gonzales for her support of the historic sites through the recent hiring of Patrick Moore and Tim Roberts.

Commissioner Draper stated he attended an Interim Legislative Economic Development Committee Meeting in Ruidoso during which previously failed or vetoed legislation was discussed.

Commissioner Draper stated during the meeting he discussed the importance of water, broadband services, and the implementation of wind development to economic development. Commissioner Draper stated he would also attend a meeting of the New Mexico Association of Counties Economic Development Committee in early October.

Commissioner Draper reminded school was back in session and urged the public to be aware of students particularly around schools.

Commissioner Willard reported he and Jeff Honeycutt, Road Superintendent attended a recent Southeastern Regional Transportation Planning Organization (SERTPO) meeting in Roswell. Commissioner Willard stated there were presentations about various "main street" projects and an additional presentation regarding rebar codes which identify United States versus China produced steel.

Walter Hill, Assessor reported the Assessor's office was now fully staffed and introduced Sally Paul as the new Chief Appraiser. Mr. Hill stated Ms. Paul relocated from California where she served as a Certified Appraiser with thirty years of experience in assessment and a long list of credentials.

Sally Paul, Chief Appraiser expressed her appreciation for the opportunity to work for Lincoln County. Ms. Paul stated in addition to her years of assessment experience she was a FEMA certified Floodplain manager. Ms. Paul stated she was looking forward to working with the Assessor's staff with the goal of presenting a transparent, legal, moral and ethical office to serve the tax payers of Lincoln County.

Mr. Hill reported six members of the Assessors staff attended classes and training which applies towards the appraiser's certification requirements. Mr. Hill additionally presented two reports required by the State of New Mexico as part of the Assessors Annual Evaluation. Mr. Hill stated the first report was the 2017 Lincoln County Outstanding Commercial Building Permits and Transfers and the second report was the 2016 Lincoln County Property Tax Protests. Mr. Hill stated the Assessor's office was facing a serious task in dealing with a total of 207 permits issued for construction which were as yet un-reviewed for reassessment. Mr. Hill stated his office would work diligently to review these permits and provide an update to the Board of County Commissioners as well as the State of New Mexico. Mr. Hill discussed the second report which detailed the status of ninety five property tax protests filed in 2016. Mr. Hill stated of those protests sixty six or 69% were reviewed and valuation was reduced resulting in a total reduction of \$4,289,612 in assessments. Assessor Hill stated belief the percentage of valuations reduced was higher than appropriate and therefore staff would review these properties as well.

Beverly Calaway, Treasurer expressed appreciation to the County Manager and Board of County Commissioners for the recent tinting of windows in the Treasurer's Office.

Rick Richardson introduced himself and informed he would serve as the Interim County Extension Agent until the hiring and placement of a full time agent.

Darian Ross with Pinnacle Real Estate was present to represent her client Michael Brandis who purchased property in the Carrizozo area recently. Ms. Ross objected to the denial of Mr. Brandis' application for an exemption to separate ten acres from a seventeen acre parcel. Ms. Ross stated she reviewed the current Lincoln County Planning website, the Land Use Plan and the Subdivision Ordinance and commented on various elements of those documents. Ms. Ross stated Mr. Brandis had contacted the Planning Director prior to taking any action and was led to believe the split would meet the criteria for an exemption. Ms. Ross stated subsequently Mr. Brandis hired a surveyor and submitted an application for exemption which was then denied. Ms. Ross expressed belief all surveyors should have received notice of any change in policy regarding the acceptance or denial of exemptions. Ms. Ross stated based on the information reviewed and the prior policy of approving this type of application Lincoln County should approve Mr. Brandis' application.

11. Lincoln County Medical Center Complex: (continued)

b. Construction Update – Gordon Berch

Steve McWhorter, Superintendent for Jaynes Corporation provided a review of current construction activities for the Emergency Services Facility informing the crew was beginning to pour concrete for the slab with plans to complete the final concrete pour next week. Mr. McWhorter stated other activities for the next month included the erection of structural steel, the installation of block and beginning exterior metal framing.

Ms. Taylor reminded Mr. McWhorter holds a weekly meeting to update all project participants.

c. County Financial Update of LCMC Hospital / EMS

Ms. Taylor presented copies of a spreadsheet developed by Punkin Schlarb, Finance Director to track all revenues and expenses for the Emergency Medical Services facility project and the new hospital construction project. Ms. Taylor noted budgeted expenses were tracked separately for architectural services, project construction, contractor services, and equipment. Ms. Taylor reminded the total budget for both projects was \$25 million with current expenditures of \$1.2 million.

13. Forest, Land & Natural Resources Matters:

a. Lincoln and Fort Stanton Historic Sites

Tim Roberts, Regional Director Historic Sites in Lincoln County provided visitation statistics to date for Fiscal Year 2017-2018. Mr. Roberts stated during the fiscal year about 62,000 people purchased tickets or signed in at the Visitors Center in Lincoln and Fort Stanton. Mr. Roberts estimated the sites were visited by an additional twenty percent who did not purchase a ticket or sign in which would increase the total number of visitors to over 80,000. Mr. Roberts stated the two sites hosted eight special events which attracted 8,000 attendees. Mr. Roberts stated additionally the Historic Sites reached out to more than 2,000 students through on site visits or offsite instruction from Historic Site educators. Mr. Roberts stated approximately 1,700 people attended the Fort Stanton Live event on one Saturday in July. Mr. Roberts stated during Old Lincoln Days about 2,500 people visited the Lincoln Historic Site Visitors Center. Mr. Roberts estimated there were from 5,000 to 6,000 visitors to the Town of Lincoln during Old Lincoln Days.

Mr. Roberts discussed ongoing preservation projects including the restoration and reopening of the old Torreon roof after almost thirty five years. Mr. Roberts stated the first phase of restoration of doors and windows for the old Lincoln Courthouse was complete and work was progressing on the Fort Stanton Quarter Masters exhibit. Mr. Roberts stated additional exhibits were planned related to the USS Columbus and the internment camp located at Fort Stanton.

Mr. Roberts reminded Secretary Gonzales committed to supporting the Lincoln and Fort Stanton Historic Sites last year. Mr. Roberts stated this commitment led to the hiring of five new staff positions including his own. Mr. Roberts stated the additional staffing contributed to the development of current and planned new exhibits.

b. Community Forester

Rick Merrick with South Central Mountain Resource Conservation and Development Council (SCMRCD) stated the Air Curtain Incinerator recently utilized by the Village of Capitan was returned to Robert Barber's property for temporary storage. Mr. Merrick stated he was working with the Village of Ruidoso to identify potential use in the Ruidoso area. Mr. Merrick stated residents of Lincoln had expressed an interest in using the Air Curtain Incinerator for slash disposal.

Mr. Merrick reported the Rainmaker thinning project was complete and pending reimbursement. Mr. Merrick stated the Ruidoso Collaborative Forest Restoration Project was also very near completion. Mr. Merrick stated his term as Chair for the ENUM-R Speaker Series would end with the last meeting during which NM Department of Game and Fish would address the public on the "do's and don'ts" of interacting with wildlife.

c. Fish and Wildlife Services - Mexican Wolf Draft Recovery Plan: Revision 1

Ms. Taylor informed the Department of the Interior Fish and Wildlife Service issued notice and request for comment on the Mexican Wolf Draft Recovery Plan. Ms. Taylor noted the department issued three previous plans in 1982, 2000, and 2009. Ms. Taylor stated the proposed plan would supersede those plans. Ms. Taylor reminded the Lincoln County Board of County Commissioners adopted Resolution 2015-22 in November of 2015 opposing a newly released Record of Decision and Final Rule related to the Wolf Recovery Program. Ms. Taylor stated comments on the current proposed Mexican Wolf Recovery Plan Revision were due by August 29, 2017. Ms. Taylor stated both the Upper Hondo Soil and Water Conservation District and the Lincoln County Land and Natural Resources Committee had reviewed the plan and developed comments.

d. Upper Hondo Soil and Water Conservation District

Laura Johnson, Program Director stated historically the Board of Supervisors for the Upper Hondo had also taken an opposing position to past Mexican Wolf Recovery Plans. Ms. Johnson stated the Upper Hondo had strived to attain the status of a contributing governmental agency to comment on these plans but had not yet received this recognition. Ms. Johnson stated at their recent meeting the Board of Supervisors approved several comments on the recently issued Recovery Plan. Ms. Johnson stated the comments did not cite specific research or incidents but were general comments related to the potential loss of ranch livestock and local wildlife which would have a negative economic impact on the area. Ms. Johnson stated there was a requirement to include local government entities in the development of a recovery plan for which there was no record. Ms. Johnson stated while the plan referenced the need for large numbers of deer and elk as a food source there was notably no mention of the impact to ranch livestock. Ms. Johnson also discussed the cumbersome loss reimbursement plan for ranchers which is inadequate to offset costs based on current market values.

e. Land and Natural Resource Advisory Committee (LANRAC)

Robert Barber, Chair of LANRAC stated the committee received a copy of the proposed Wolf Recovery Plan for review last week. Mr. Barber stated members of the committee concurred with the Upper Hondo comments. Mr. Barber stated additionally it was LANRAC's opinion the plan was incomplete as it did not contain specifics as required by law and the agency's own guidelines.

Mr. Barber stated the plan indicated the intent to ultimately release 320 to 380 animals in the experimental population area which ranges from the United States and Mexico border north to Interstate 40. Mr. Barber stated it was important to note the area identified is not the historic area set in 1992 but in 1996 the US Fish and Wildlife Service expanded the area to the current configuration. Mr. Barber stated this expansion was not based on historical range but based on available wildlife for consumption. Mr. Barber discussed the redefinition of the release area in 2015 to encompass three zones. Mr. Barber mentioned the Lincoln National Forest was considered a "high quality" wolf management area but the plan provided no specifics as to timing or area specific requirements. Mr. Barber additionally commented on the impact to Wildlife Urban Interface areas where the introduction of wolves would impact people and pets in urban areas. Mr. Barber also discussed the "passive" control measures defined in the plan as inadequate and lacking in detail as to responsibility and cost.

Mr. Barber provided copy of the LANRAC comments and recommended the Board of County Commissioners continue to oppose the Wolf Recovery Plan.

Motion: Direct the Manager to submit a letter incorporation comments developed by LANRAC and the Upper Hondo and including a copy of Lincoln County Resolution 2015-22 highlighting language noting the New Mexico Game Commission's unanimous vote to uphold the NM Game and Fish Department Director's denial of the US Fish and Wildlife's request to release additional wolves in New Mexico and directing attention to the "now, therefore, be it resolved" language related to the blatant violation of NEPA requirements; unconstitutional action by US Fish and Wildlife Services; and calling for an investigation by federal legislators to determine why local government positions were disregarded during planning. **Action:** Approve, Moved by Commissioner Stewart, **Seconded** by Commissioner Allen.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

Chair Stone commented there was no compensation provided in the past year for loss of livestock. Chair Stone stated the US Fish and Wildlife Service was not adhering to their own guidelines and had lied to the public.

Mr. Barber reminded Lincoln County Ordinance 2006-9 prohibits the release of predator animals in Lincoln County which supports Lincoln County's position on this issue.

Commissioner Stewart questioned if there was a provision in State Statute which obligated citizens to destroy animals preying on livestock.

Laura Johnson, Upper Hondo stated belief there was such a State Statute but informed the Wolf Recovery Plan exempts itself from statutes "contrary" to the Endangered Species Act.

14. Approval of Entering Into Agreement with State Forestry to Project Manage Hazardous Fuels Reduction Project – North Gavilan Non-Federal Lands

Ms. Taylor stated Lincoln County had partnered with the New Mexico State Forestry District V to implement forest health projects for a number of years. Ms. Taylor stated the project addressed by this agreement was for hazardous fuel reduction in the North Gavilan area. Ms. Taylor stated this area consisting of 81.1 acres was adjacent to and surrounded by populated areas and was densely covered with pinon and juniper. Ms. Taylor stated the project grant amount was \$156,165 with an administrative fee not to exceed 15%. Ms. Taylor stated Lincoln County traditionally acted as the fiscal agent for these projects receiving 2% of the administrative fee and contracting with South Central Mountain Resource and Development District to manage the actual project for the remainder of the administrative fee. Ms. Taylor stated the project was scheduled for completion by December 31, 2018.

Commissioner Willard questioned if the participating land owners were required to provide a cost share match.

Frank Silva, New Mexico State Forestry stated the program was not a "cost share" program but required a 50% match. Mr. Silva stated the 50% match requirement was met by the contractor through removal of the slash material.

Motion: Approve the Agreement with NM State Forestry, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Willard.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

15. Contract between the Lincoln County Fair Association and the County of Lincoln: Request for Modification

Ms. Taylor reminded Lincoln County and the Lincoln County Fair Association had entered into an annual Lease and Management Agreement for the Lincoln County Fairgrounds since 1997. Ms. Taylor stated Section 13 of the agreement was modified each year to reflect the annual payment to the Fair Association for maintenance and operation which was \$37,500 for Fiscal Year 2017-2018. Ms. Taylor stated this year the Fair Association additionally requested deletion of Section 7 of the agreement which addresses compliance with the Americans with Disabilities Act (ADA). Ms. Taylor stated based on the current language of Section 7 the Fair Association bears the full obligation for compliance with ADA requirements.

Billy Bob Shafer, President of the Lincoln County Fair Board discussed several ADA compliance issues including access to the main bleacher area. Mr. Shafer stated the Fair Association would not have adequate funding to address the ADA issues.

Attorney Morel informed deletion of the language in question would not negate the requirement for compliance but would move the responsibility for compliance from the Fair Association to Lincoln County.

Commissioner Willard commented the current agreement contained language which required Lincoln County to assume the cost of any repairs exceeding \$1000.

Attorney Morel expressed belief that particular language related to repairs and questioned if the ADA compliance issues were considered as repairs or new construction.

Motion: Remove the ADA clause from the Agreement and have the County assume responsibility, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

Chair Stone requested clarification as to what responsibility the County would assume.

Commissioner Willard stated belief compliance with ADA was the County's responsibility.

Chair Stone stated compliance with ADA requirements would require addressing the current water flow problems at the fairgrounds.

Ms. Taylor stated she had contacted Lincoln County's "on call" engineer to review the site and present a proposal to resolve the water problem.

Commissioner Stewart suggested modifying the language relating to ADA compliance to state the Fair Association would assist Lincoln County with the responsibility of compliance with ADA. Commissioner Stewart acknowledged the Fair Association did not have adequate funding to bring

the site into full compliance but suggested as the primary users of the facility they would have some responsibility for notifying the County of issues.

Mr. Shafer stated a preference to remove the language.

Mr. Morel noted there were potentially multiple ADA issues at the Fairgrounds and suggested Lincoln County obtain an independent analysis of the issues.

Commissioner Stewart acknowledged the ADA issues but noted the site was "grandfathered" in as prior construction under the terms of the ADA.

Ms. Taylor suggested refining the current language to reflect the Fair Association was responsible for working with Lincoln County to identify ADA compliance issues but removal of the language which provides the Fair Association "shall bear all costs in connection with bringing the fairgrounds in compliance..."

Vote: Motion failed by roll call vote (summary: Yes = 2, No = 3, Abstain = 0).

Yes: Commissioner Allen, Commissioner Willard.

No: Chair Stone, Commissioner Stewart, Commissioner Draper.

Motion: Amend Section 7 language to reflect Fair Association will assist Lincoln County with identification of ADA issues and remove language stating the Fair Association shall bear all costs for ADA compliance, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Commissioner Willard questioned the financial responsibility of the Fair Association should an ADA lawsuit occur if the language was modified as defined in the motion.

Attorney Morel stated very clear language would define responsibility in the case of certain legal actions but responsibility would vary depending on the type of lawsuit.

Vote: Motion passed (summary: Yes = 4, No = 1, Abstain = 0).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper.

No: Commissioner Willard.

17. Approval or Disapproval of Safety Net Care Pool and Indigent Health Care Claims

Mr. Annala presented the Safety Net Care Provider Pool claims for approval. Mr. Annala processed 21 claims with 20 recommended for approval and 1 recommended for disapproval for a monthly authorization of \$16,396.36. Mr. Annala stated approval of the claims would result in a total approval of Safety Net Care Pool claims for Fiscal Year 2017-2018 to date of \$ 23,060.53 or a monthly average of \$11,530.

Mr. Annala presented the Indigent Health Care Payments request for the month. Mr. Annala processed 11 claims with 9 claims recommended for approval and 2 recommended for disapproval for a total payment this month of \$3,980.90. Mr. Annala stated approval of the claims would result in a total expenditure for Fiscal Year 2017-2018 to date of \$5,597 or a monthly average of \$2,799. Mr. Annala anticipated an annual expenditure of \$33,583 of Indigent Health Care funds for Fiscal Year 2017-2018 based on total expenditures to date.

Motion: Approval and denial of the claims as indicated for Indigent Health Care as recommended, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

SEE EXHIBIT C: Copies of the Indigent Health Care Payments are attached hereto in reference thereto made a part hereof.

18. Manager's Report

Hat's Off: Debi Lee, Ruidoso Village Manager was named City Manager of the Year by the New Mexico City Management Association. The Village of Ruidoso belongs to the New Mexico Municipal League along with 105 other cities in the state. Its largest member has 10,000 times the population of its smallest. Clearly, the selection of Ms. Lee for this prominent recognition is supported by her long list of accomplishments, achievements and awards. Congratulations to Ruidoso Village Manager Debi Lee!

Alpine Village Sanitation District: Authorization for Off-Highway Motor vehicles for operation on the streets in Alpine Village Subdivision. The Board of Directors for Alpine Village Sanitation District ("AVSD") passed, resolved and adopted AVSD Resolution 2017-1 regarding authorization for off-highway motor vehicles to be operated on the streets in Alpine Village Subdivision. AVSD requests the County accept its Resolution, in order that some regulation of the off-highway vehicles can be made effective and lawful. Manager Taylor provided copy of the Resolution for review.

Sheriff Robert Shepperd stated the majority of the Resolution language reflected current State Statute and the only additional language included a restriction of operational hours from 7:00 AM to 7:00 PM and some passenger restrictions. Sheriff Shepperd stated approval of the Resolution would not create a significant increase in Sheriff Departmental duties.

Motion: Acknowledge Alpine Village Sanitation District Resolution 2017-2, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Attorney Morel stated he did not agree with the Resolution's citation of New Mexico State Statute and the associated interpretation of a Water and Sanitation District as a "municipality". Attorney Morel stated he was uncertain a water and sanitation district had any authority to govern the use of county roads.

Vote: Motion passed (summary: Yes = 4, No = 1, Abstain = 0).

Yes: Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.
No: Chair Stone.

Southeastern NM Economic Development District (SNMEDD): SNMEDD is partnering with the U.S. Census Bureau – Denver Region to present the "Road to 2020 Census – How Communities Can Prepare", on August 15, 2017. This meeting will provide an early overview of 2020 Census innovations, timelines, critical geographic program deadlines and the Community Partnership and Engagement program outreach plans. Acting Planning Director Samantha Mendez will attend this meeting for the County.

The Manager stated she received notice from SNMEDD Lincoln County's CDBG grant application for a new Hondo Senior Center was selected for review and possible selection on August 30, 2017. The Manager requested Commissioners attend the presentation in addition to staff.

Rhonda Burrows, County Clerk requested the Clerk's Office be notified and included in Census presentations and discussion to assist with redistricting.

Claunch-Pinto Soil & Water Conservation District: The District invited Lincoln County to attend a Local Work Group meeting on August 29, 2017 to consider factors that relate to funding of the Environmental Quality Incentives Program (EQIP) through the Farm Bill. The EQIP is a voluntary program which provides financial and technical assistance to agricultural producers to plan and implement conservation practice that improve soil, water, plant, animal, air and related natural resources on agricultural land and non-industrial private forestland.

Programs for Senior Citizens:

1. Senator Liz Stefanics is guest speaker addressing "Empowerment" at the Creative Aging Incorporated meeting on August 25, 2017.
2. Lifetime National Park Senior Pass may be obtained for \$10 at the Cedar Creek Ranger Station in Ruidoso until August 28th. The cost of the pass after that date increases to \$80.
3. Per New Mexico Association of Counties Newsletter, the aging of our population, or "Silver Tsunami", is happening. New Mexico is moving from being 39th in 2010 in the proportion of older adults to the overall population to being 4th in the country by 2030. This will have a huge impact on our state and an especially significant impact on our counties and county governments.

NMAC Legislative Priorities for 2018 Legislative Session: Sheriff Robert Shepperd serves as Lincoln County's NMAC Board Member.

Sheriff Shepperd presented the NMAC five priorities for the upcoming legislative session:

1. **Forfeiture Act Reform (Criminal Justice Policy Committee)**

Sheriff Shepperd stated the intent was not to repeal the Forfeiture Act but to "turn on" the asset forfeiture sharing with Federal authorities eliminated by passage of this bill. Sheriff Shepperd stated the language on "abandoned" property also needed to revision to facilitate disposal of this type of property.

2. **Protecting County Funding of Healthcare (Healthcare Policy Committee)**
3. **Tax Reform (Tax Policy committee)**
4. **Local Election Act (Clerks Affiliate)**
5. **Extend 2014 HB 16 Liquor Tax Distribution Sunset (DWI Coordinators Affiliate)**

Department Head Updates:

Joe Kenmore, Director Office of Emergency Services spoke to a question previously raised about the New Mexico Public Regulation Commission's requirements to drive an ambulance. Mr. Kenmore informed PRC regulations require both attendants to be certified Emergency Medical Technicians (EMTs). Mr. Kenmore stated he attended a statewide Air Operable Working Group communications meeting at the OES facility to discuss radio communications around New Mexico. Mr. Kenmore discussed efforts by Roswell and Chaves County to convert to a digital communication system and commented on problems encountered. Mr. Kenmore informed all Lincoln County Fire Departments had complete the State required hose testing.

Mr. Kenmore informed Samantha Mendez wrote a grant for OES to obtain equipment from a state task force which disbanded. Mr. Kenmore stated Ms. Mendez was able to complete the grant and OES received a "shoring kit" which was an excellent asset to the department.

Mr. Kenmore stated the Lincoln County Hazard Mitigation plan was submitted to FEMA Region VI for review. Mr. Kenmore stated ISO reviews for Glencoe and White Oaks Fire Departments were planned for early October.

Chair Stone stated he had received numerous calls from Capitan and Carrizozo expressing concerns about the lack of EMT's and the long response time to calls in those communities.

Mr. Kenmore stated belief Presbyterian was aware of the concerns and had moved an ambulance to Sonterra for quicker response to these communities. Mr. Kenmore stated he was considering working as an EMT on as needed basis for Presbyterian to assist with responses.

Chair Stone requested Mr. Kenmore and Manager Taylor meet with Presbyterian representatives to consider EMT recruitment options or other solutions.

Renee Montes, Senior Services Director informed attendance was up at all sites and the department was meeting projected numbers of congregate and home delivery meals but running slightly below transportation projections. Ms. Montes stated an assessment of the program was set by the State for the upcoming month. Ms. Montes stated additionally the department's annual training plan would include Lincoln County's Risk Awareness Program, bi-monthly nutrition trainings for staff in Roswell, and in house training for food safety, menu planning, inventory, and transportation. Ms. Montes stated she was coordinating with OES to acquire fire inspections for all Senior Services buildings.

Punkin Schlarb, Finance Director stated the Finance Department was working on the submission of audit documents to the auditors. Ms. Schlarb anticipated an onsite visit from the auditors in September or October.

Billie Jo Guevara, Human Resources reported a "fillable" application for employment was now available on line through Lincoln County's website. Ms. Guevara stated there were currently a number of open positions in the Road Department and Sheriff's Department. Ms. Guevara anticipated posting and advertising the Planning Director vacancy in the next week.

Jeff Honeycutt, Road Superintendent stated the Road Department recently hired one Operator II with openings continuing for Operators I, II, and III. Mr. Honeycutt stated he was submitting the first quarterly reimbursement request for road maintenance on US Forest Service (USFS) roads. Mr. Honeycutt stated the department was also working with the USFS on thinning trees along US Forest Road 72 in the Jicarilla. Mr. Honeycutt stated

additionally the USFS would purchase and deliver base course for the Lincoln County Road Department to apply to Ranchmans Camp Road. Mr. Honeycutt also reported the department had cleaned more than sixty culverts in Loma Grande, Magado Creek, Ranches of Sonterra, Alpine Village and Ranches of Ruidoso.

21. Approval to Accept Donated Wildland Firefighting Truck to Arabella Volunteer Fire Department

Ms. Taylor stated the Arabella Volunteer Fire Department requested permission to accept the donation of a 2002 Waterous #501-A Wildland Firefighting Truck from Cliff Crouch.

Motion: Accept the donation of the 2002 Firefighting Truck, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

Cliff Crouch from Arabella stated it was his wish to donate the truck to the Arabella Fire Department.

Joe Kenmore, Director Office of Emergency Services thanked Mr. Crouch for the donation and informed the vehicle had only 1491 miles on the 2002 F-450 Ford 4 wheel drive. Mr. Kenmore stated the vehicle was in immaculate shape needing only some paint work. Mr. Kenmore stated Mr. Crouch had also received a donation of the needed paint. Mr. Kenmore stated this was an excellent addition to the Arabella Fire Department.

19. Update on NM-DOT Plans to Repair Damaged Alamo Canyon Truss Bridge

Ms. Taylor stated she, Attorney Morel, Jeff Honeycutt, Road Superintendent and the New Mexico Association of Counties claim adjustor were working closely with the bridge experts at the NM Department of Transportation (DOT) on plans for the repair of the Alamo Canyon Truss Bridge. Ms. Taylor stated bids for the work were re-solicited after the first contractor withdrew from the process. Ms. Taylor stated work was anticipated to start in September with plans for bridge closure in four hour increments between the hours of 8 AM to 5 PM for a ten day to two week time span. Ms. Taylor stated modification of planned closure hours was made by the Department of Transportation after Lincoln County identified potential inconvenience and safety issues created by all day closures. Ms. Taylor discussed other efforts by DOT to coordinate repairs with affected School Districts.

Ms. Taylor stated there were also ongoing discussions about continuing to pursue an additional crossing for emergency purposes at this site. Ms. Taylor noted due to the depth of water, a low water crossing was not practical, but stated there were possible options for an "over water" crossing.

Jeff Honeycutt, Road Superintendent discussed conversations with adjacent land owners and the Army Corp of Engineers for installation of a temporary bridge during the repair of the main bridge. Mr. Honeycutt stated belief his department could build a temporary structure for this purpose.

Chair Stone questioned if some military surplus structure was available.

Mr. Honeycutt stated he had not researched that option but the State of New Mexico had offered to "loan" Lincoln County a temporary bridge at a cost of \$400,000. Mr. Honeycutt stated belief the County could build something adequate to carry one car at a time.

Commissioner Allen clarified the installation of a bridge was a temporary option for access and egress during the repair period.

Chair Stone recessed the Regular Meeting at 12:02 PM and reconvened at 12:59 PM.

Chair Stone recessed the Regular Meeting and convened the Public Hearing at 1:00 PM

22. 1:00 PM: Public Hearing to amend Ordinance 2011-3 an ordinance providing for the placement, construction or modification of Wind Energy Conversion Systems consistent with Lincoln County's Land Use Policies; minimizing negative impacts of Wind Energy Conversion Systems; establishing a fair and efficient process for review and approval of applications and assure an integrated, comprehensive review of environmental impacts of such facilities; providing for penalties for violation of this ordinance; providing for the severability of parts hereof; repealing

any ordinances in conflict herewith; and providing an effective date by Ordinance 2017-04.

Alan Morel, County Attorney reminded of discussion during the July Regular Meeting regarding the need for revisions or modifications to Lincoln County's current Wind Energy Ordinance. Attorney Morel stated Lincoln County engaged the law firm of Sutin, Thayer & Brown to provide recommendations and assistance with potential revisions. Attorney Morel presented a draft revision of the current Ordinance noting some revisions were substantive and some were less so.

Attorney Morel stated the draft revised Ordinance was forwarded to the two wind farm entities engaged in operations in Lincoln County just last week. Attorney Morel stated no comments were received from Clean Line Energy who had previously submitted an application for permit under the terms of the current Ordinance. Attorney Morel stated Pattern Development provided two pages of comments on the proposed revisions. Attorney Morel stated a preliminary review and discussion of Patterns comments was conducted but there was not sufficient time for substantial analysis.

Attorney Morel stated Pattern Energy agreed to withhold submission of an application for ninety days to facilitate a further review of the proposed revisions and comments received. Attorney Morel stated to the best of his knowledge there were no other applications pending submission. Attorney Morel also reminded after adoption by the Board of County Commissioners a revised Ordinance would not take effect for thirty days.

Lynn Mostoller, partner Sutin, Thayer & Brown appeared telephonically for the discussion. Ms. Mostoller stated she had received the comments submitted by Pattern Energy but did not have an opportunity to review them comprehensively.

Attorney Morel stated procedurally the Board of County Commissioners had two options. Attorney Morel stated the Chair could take public comment, review the draft Ordinance developed by Ms. Mostoller and take action today or in the alternative continue the public hearing to a later date to allow time to consider the comments provided by Pattern.

Chair Stone expressed belief it was in the best interest of all parties involved to allow additional time to consider the comments submitted by Pattern.

Commissioner Stewart and Commissioner Allen concurred.

Chair Stone clarified the intent of the Ordinance review was not to impeded or jeopardize any action but to consider including additional language for the protection of County residents.

Commissioner Allen concurred the goal was to resolve any conflicts for the long term which might arise from implementation of the Wind Ordinance.

Commissioner Draper also concurred the intent was to revise the Ordinance for long term implementation process and noted Lincoln County could set a precedent as having one of the few adopted Wind Energy Ordinances in the State of New Mexico.

Chair Stone requested Public Comment and receiving none recessed the Public Hearing at 1:13 PM.

Motion: Continue the Public Hearing to consider Lincoln County Ordinance 2011-03 to September 19, 2017 at 1:00 PM, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

Attorney Morel informed any member of the public or interested party could request a copy of the draft Ordinance and a copy of comments submitted by Pattern Development. Attorney Morel additionally encouraged Clean Line Energy to provide any relevant comments for consideration.

20. Consideration of Entering Into Lease Agreement with Cat Financial for 7 New Motor Graders

Ms. Taylor detailed the terms of the current forty eight month lease agreement and recent conversations held with Cat Financial regarding the expiration of the lease, lifetime hour limit of

the graders, and monthly lease payment amounts. Ms. Taylor discussed the proposal for replacement of six motor graders with newer models.

Ms. Taylor stated the proposal to terminate the current lease and enter into a purchase agreement with Wagner Caterpillar and a long term lease with option to purchase agreement with Caterpillar Financial Services would result in an annual increase over existing lease payments of \$41,916.

Motion: Grant the Manager, Road Superintendent, and Attorney authority to terminate existing lease and enter into a purchase agreement with Wagner and long term lease with option to purchase with Caterpillar Financial Services, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

There was a general discussion regarding the restructuring of the lease agreement, the total number of motor graders needed for the six districts and the associated cost differential for new equipment.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

23. Pattern Development Update – Lorelee Hunt

Lorelee Hunt, Pattern Development expressed appreciation for the Board of County Commissioners' decision to continue the Public Hearing to review the current Wind Energy Ordinance until next month. Ms. Hunt stated as enactment of an Ordinance has the full effect of law all parties affected should review and comment on the potential revisions in a cooperative manner.

Ms. Hunt stated she wished to address three topics related to Pattern Development's past and future work in Lincoln County. Ms. Hunt acknowledged there was some miscommunication regarding the scope of work initially conducted by Pattern and in particular concerns were raised about the movement of heavy equipment on County Roads. Ms. Hunt provide a copy of a Road Agreement which Pattern had entered into with Curry County. Ms. Hunt stated this type of agreement could address issues such as indemnification; insurance; requirements for notice of use; and road and route analysis. Ms. Hunt also discussed Pattern's need to have roads maintained to specific standards to meet turbine delivery requirements and maintain warranties.

Ms. Hunt stated currently Pattern was only beginning to research the permit process and would not likely file a request for permit until 2019. Ms. Hunt stated in the interim Pattern would conduct required land use studies and develop additional land owner agreements.

Commissioner Stewart questioned Pattern's plan to locate approximately 600 towers within a fairly small area and requested a map detailing the proposed sites.

Ms. Hunt reminded Pattern's leasing of properties extended into three counties including Lincoln, Torrance and Guadalupe County.

Chair Stone discussed the prior damage to Bogle Road and commented on the need for better communication.

Ms. Hunt stated Pattern was willing to discuss any damages incurred on Bogle Road as they were an "unintended consequence" of the preliminary work.

Chair Stone suggested Ms. Hunt speak with the County Manager and the County Attorney about the previous damage to Bogle Road.

24. County Review of Mesa Canyons Wind LLC's Site Permit Application for its Lincoln County Wind Energy Conversion System

Ms. Taylor informed Mesa Canyon Wind, LLC submitted an application for a Wind Energy Conversion System (WECS) permit on June 29, 2017 as required by Lincoln County Ordinance 2011-03. Ms. Taylor informed Curt Temple, Planning Director at that time requested additional information from Keith Sparks for Mesa Canyon Wind to address some deficiencies in the application.

Ms. Taylor reminded Section 15 of the current Ordinance requires Lincoln County to act upon an application for WECS permit within 45 days of submission. Ms. Taylor stated based on the date

of response for additional information which was July 14, 2017 the deadline for permit review and action was August 28, 2017.

Ms. Taylor stated the WECS permit application was thoroughly reviewed based on current Ordinance requirements. Ms. Taylor stated Section 17 of the current Ordinance provides a list of required information for submission of an application. Ms. Taylor provided a copy of the list and noted the WECS application under consideration had met requirements identified in Section 17 subparagraphs A through H. Ms. Taylor noted Section 17 subparagraph I required a copy of signed engineer plans for the foundations and wind towers. Ms. Taylor stated this was not provided with the original application which contained notes informing the design was still preliminary and the final design was not complete. Ms. Taylor stated after discussion with Mesa Canyons Wind there was agreement the firm could submit a copy of the site specific engineer signed tower foundation drawings and engineer signed wind turbine design drawings prior to the applicable phase of construction as a condition of approval of the permit. Ms. Taylor noted Section 17 subparagraph J required submission of copies of building permits which also were not provided with the initial application. Ms. Taylor stated during discussion it was additionally agreed the firm could provide copies of permits submitted to NM Construction Industries prior to commencement of the construction as a condition of approval of the permit. Ms. Taylor stated the Mesa Canyon Wind application indicated an expectation the project would be implemented in five phases which was typical of large wind farm projects. Ms. Taylor stated currently Ordinance 2011-03 was silent on the issue of planned phasing construction. Ms. Taylor noted the application also provided a timeline for the various construction phases beginning in 2018 and concluding in 2020.

Motion: Approve the Mesa Canyon Winds, LLC Wind Energy Conversion System permit conditioned on the actions detailed in the Mesa Canyons Wind, LLC Summary of Findings, Conditions and Approval request, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Commissioner Draper questioned how the County would deal with a phased project if the current Ordinance was silent on the question.

Manager Taylor stated there was a question as to whether to consider this as a single application or request multiple applications for different phases if phasing spans a certain number of years.

Commissioner Draper questioned if the current Planning Department was adequately trained to evaluate these applications and monitor activities over time.

Ms. Taylor stated belief Lincoln County should secure expertise to assist with compliance with Ordinance requirements.

Attorney Morel reminded Lincoln County sought outside expertise to assist with this review but had encountered a conflict of interest problem with the expert initially identified. Attorney Morel stated there were some concerns about "phased projects" which would have implications on the bonding process for this type of project.

Chair Stone clarified the application was reviewed by the Manager, Planning Department, and the County Attorney.

Attorney Morel expressed belief all information submitted was in compliance except for those items from Section 17 previously discussed.

Ms. Taylor reminded the checklist provided indicated compliance except for the submission of signed engineered plans and copies of the building permits. Ms. Taylor stated she was confident the application was complete conditioned upon receipt of these items.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

25. Resolution 2017-3: Lincoln County Petitions the NM Department of Transportation to Engineer and Construct Speed Control Devices on US 380 through the State Historic Site of Lincoln, NM; Ensuring the Safety of Travelers and Pedestrians

Ms. Taylor read the proposed Resolution of Support of New Mexico Department of Transportation to select, design, and implement speed control devices on US Highway 380 through the State Historic Site of Lincoln New Mexico ensuring the safety of travelers and pedestrians.

Motion: Adopt Resolution 2017-03, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Commissioner Allen expressed belief the NM Department of Transportation had worked diligently to address concerns expressed by the residents of Lincoln. Commissioner Allen commented on the negative impact a few disgruntled citizens could have even to the point of disrupting improvement projects. Commissioner Allen stated the intent of the Resolution was to offer support to the Department of Transportation in their efforts to move forward with projects planned for the community of Lincoln.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

SEE EXHIBIT D: Copy of Resolution 2017-03 is attached hereto in reference thereto made a part hereof.

26. Resolution 2017-07 Lincoln County Infrastructure Capital Improvement Plan (ICIP) FY 2019-23 Discussion and Final Update for Submission to DFA on September 2, 2017

Ms. Taylor reminded Lincoln County's Fiscal Year 2019-2013 Infrastructure Capital Improvement Plan (ICIP) was modified during the July Regular Meeting to reflect the addition of the Hondo Senior Center – New Replacement Building Project. Ms. Taylor informed the deadline to submit the entire ICIP to the Department of Finance and Administration was September 1, 2017 and requested additional direction or final approval of the ICIP as presented.

Commissioner Stewart suggested modification of the requested amount for Lincoln County Medical Center on the formal ICIP list.

Ms. Taylor stated she had intended to remove the item from the ICIP as the County would complete construction of the new medical center by the end of 2018.

Motion: Adopt Resolution 2017-07, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Commissioner Draper suggested amending the ICIP project referencing ADA Upgrades to Senior Centers to include ADA upgrades to the Lincoln County Fairgrounds.

Ms. Taylor reminded the Senior Center funding process was distinct from other projects and suggested adding a separate item to the plan for Fairground ADA upgrades.

Commissioner Stewart suggested amending the current ICIP project titled "Improve Fairgrounds" to include ADA upgrades.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

SEE EXHIBIT E: Copy of Resolution 2017-07 of is attached hereto in reference thereto made a part hereof.

27. Discussion of Preparation, Signing, and Filing of County Liens

Attorney Morel informed the County Clerk had questioned the process by which the County Clerk was designated to sign Liens and Release of Liens in certain County Ordinances. Attorney Morel stated any change to the current process would require a revision of the current Solid Waste Ordinance and the Alarm Ordinance which would necessitate a public hearing to consider revisions. Attorney Morel discussed the Municipal Code which references the signing of liens by the Municipal Clerk but acknowledged the County Clerk as an Elected Official could decline to sign these documents.

Rhonda Burrows, Clerk stated concern about signing Liens and Release of Liens for the County as outside the scope of a County Clerk's duties. Ms. Burrows stated belief it was more appropriate for the Chair of the Board of County Commissioners or the County Manager to sign these documents. Ms. Burrows reminded the County Clerk had no role or authority in the enactment or enforcement of the Ordinances in question and further had no role in researching the supporting documentation for the filing of Liens and Release of Liens. Ms. Burrows stated

she would continue to sign these documents pending revision of the relevant Ordinances.

There was a general consensus to consider revision of the Ordinances to accommodate the County Clerk's request.

Attorney Morel stated during the next Regular Meeting he would recommend the Board of Commissioners take action to schedule a public hearing.

28. Consideration and Approval of a Road Review Request to abandon and vacate a Tract of land being a part of the Fort Stanton Right-of-way located in Section 25, Township 10 South, Range 13 East, N.M.P.M, Lincoln County, NM (Old Fort Stanton Road Tract A) by Jasper Riddle

Ms. Taylor stated Lincoln County received a request to abandon and vacate a tract of land along Old Fort Stanton Road. Ms. Taylor provided copies of the application, the Public Notice to convene Road Review Committee, and the Road Review Committee recommendation.

Robert Barber, Chair of the Road Review Committee reported the committee met on the site of the proposed vacation which was approximately .258 acres in size. Mr. Barber stated the committee identified no issues with the proposed vacation as to impacting surrounding properties; access to adjacent roads; or impact to existing easements. Mr. Barber stated the Road Review Committee therefore recommended approval of the application.

Attorney Morel stated Lincoln County previously obtained a survey of the site in 2011 as part of a of three year lease agreement with Greentree Solid Waste for potential location of a compactor site. Attorney Morel stated the lease agreement had since expired and no compactor was ever located on the site. Attorney Morel noted the site was identified as a potential compactor site in Lincoln County's Solid Waste Operations application with the State of New Mexico. Attorney Morel stated the identified parcel was a portion of an old road which was no longer in use. Attorney Morel reminded if the application was approved the Assessor's Office was required to provide an appraised value for the parcel and the applicant was required to pay the associated cost to Lincoln County.

Walter Hill, Assessor stated the Assessor's office would provide an appraised value for the parcel but he was not aware of the process to calculate cost.

Attorney Morel suggested continuing consideration until the next meeting to allow time to determine the associated cost and to provide time to prepare a Statement of Abandonment and Vacation as well as a Quit Claim Deed for potential signature.

Motion: Continue the consideration of the Application to the next Regular Commission Meeting after determination of the associated cost to acquire the parcel, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

Jasper Riddle, the applicant requesting the vacation, informed he had received a valuation on June 19, 2017 from Curt Temple, Lincoln County Planning Director at the time, which was also provided to the surveyor D.T. Collins and Associates. Mr. Riddle stated the valuation of \$2,814 was based on comparable sales in the area. Mr. Riddle stated he had anticipated approval of his application today and was prepared to pay the associated costs.

Motion: Reconsider action to continue the discussion until next month, **Action:** Approve, **Moved by** Commissioner Allen, Commissioner Willard.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

Motion: Approve the abandonment and vacation of a tract of land being a part of the Fort Stanton Right-of-way located in Section 25, Township 10 South, Range 13 East based on the valuation of \$2,814; direct the County Attorney to prepare a statement of Abandonment and Vacation and a Quit Claim Deed to convey the property to Jasper Riddle; and authorize the Chair to sign the documents, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

29. Consideration of Appointments and Removals from Boards/ Commissioner's Committees:

a. Property Tax Protest Board

Walter Hill, Assessor discussed the requirement for the Board of County Commissioners to appoint members to the Property Tax Protest Board. Mr. Hill stated the Assessor could not contact potential members or make a recommendation for appointment as it would create a conflict of interest. Mr. Hill stated there was some urgency to the matter as Protest Hearings were scheduled for mid-September.

Motion: Appoint Robert Barber to serve until November 1, 2017; **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

b. Lodger's Tax Committee

Motion: Reappoint Sue Hutchinson to the Lodger's Tax Committee, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

30. Authorization to Schedule Public Hearing to Consider Other Outdated or New Lincoln County Ordinance

Attorney Morel stated as per action approved during Agenda Item 22 the Public Hearing to Amend Lincoln County Ordinance 2011-3 related to Windy Energy was continued to September 19, 2017 at 1:00 PM.

31. Executive Session Pursuant to the Open Meetings Act: Discussion of all Threatened and/or Pending Litigation Section 10-15-1, Sub-Paragraph H.(7); and Discussion of the purchase, acquisition or disposal of real property or water rights by the public body, Section 10-15-1, Sub-Paragraph H.(8)

Motion: To close the meeting for the purposes of an Executive Session to discuss all Threatened and/or Pending Litigation Section 10-15-1(H)(7); Limited Personnel Matters Section 10-15-1(H)(2); Administrative Adjudicatory Proceedings: Hoyt Appeal, Section 10-15-1(H)(3); and Discussion of the Purchase, Acquisition or Disposal of Real Property or Water Rights by the public body, Section 10-15-1(H)(8).

New or Updated Matters since last report *

1. **"Water Rights Protests: New Mexico State Engineer Hearing Unit Numbers: 14-039 and 14-041.** Protests of Applications 01300-1, 01300-2, 01300-3, 0826-2 into 0275 *et. al.* and H-272 *et al* (T) and H-50-1 into H-272 *et. al.* (T) filed July 15, 2013 pertaining to movement / transfer of water rights from the Hondo Valley to the Village of Ruidoso and the City of Ruidoso Downs. Docketing Order filed Sept. 18, 2014. Kelly Cassels/Sanders, Bruin, Coll & Worley, P.A. has been retained by the County, entered his appearance Sept. 22, 2014 and has responded in behalf of the County. On July 31, 2017, Kelly Cassels/Sanders, Bruin, Coll & Worley, P.A., submitted for filing on behalf of Protestants Rio Hondo Land & Cattle Co., Alto Lakes Water and Sanitation District, Kenneth V. Huseman, and Lincoln County a Withdrawal of Protests.

2. **Sean McGarry v. Board of County Commissioners, Lincoln County Sheriff's Department, Deputy Mike Wood, Deputy Jason Green, Deputy David Hightower in their individual capacities and as employees of the Lincoln County Sheriff's Department in the United States District Court for the District of New Mexico 2:16-cv-00483 GBW GJF** Complaint for damages resulting from the excessive use of force, false arrest, assault and battery, malicious prosecution and false imprisonment of Plaintiff by Defendants. Complaint filed May 26, 2016. Defendants Board of County Commissioners for Lincoln County and Lincoln County Sheriff's Department's Answer to Complaint for Civil Rights Violations filed August 11, 2016. Stipulated Order Extending Pre-Trial Deadlines and Briefing Schedule filed February 22, 2017 setting Motions Hearing for December 7, 2017, Pre Trial Conference January 5, 2018 and Jury Selection / Trial January 16, 2018.

3. **"USA v. Dickerson, David, Lincoln County, et. al. 1:16-cv-00206-BL** Complaint to Reduce to Judgment the Outstanding Joint Federal Income Tax Liabilities filed Nov. 23, 2016 and

was received Dec. 1, 2016 at the Lincoln County Treasurer's office. The County Commission approved a Stipulation and Request for Order Regarding Lien Priority of Lincoln County at their regularly scheduled meeting January 10, 2017. United States' Unopposed Motion to Amend its Complaint was filed January 26, 2017. A Joint Motion for Entry of Final Judgment was filed July 19, 2017 and, on July 27, 2017, the "United States' Motion to Dismiss Lincoln County, New Mexico From This Lawsuit" was filed.

4. ***County of Lincoln v. Zia Natural Gas Company: NMPRC No. 17-00041-UT** Formal Complaint re: Bogle Road Gas Line: Requesting that Zia be ordered to take whatever action is necessary to lower or move its pipeline to a depth or location that will allow the County to maintain its road and bar ditches. Notice of Formal Complaint and Order Requesting Answer was filed by the New Mexico Public Regulation Commission March 24, 2017. Zia Natural Gas filed their answer with the New Mexico Public Regulation Commission April 13, 2017. County's Response to Bench Request Order was filed June 6, 2017. A Settlement Conference took place July 11, 2017.

5. ***Board of County Commissioners of the County of Lincoln v. Emerald Correctional Management, LLC D-1226-CV-2017-00108** Complaint for Interpleader of Funds was filed April 26, 2017 for Emerald's final payment. The Order to Interplead Funds was entered by Judge Bryant May 8, 2017. Summons, Complaint and Order to Interplead Funds was served upon Emerald's Registered Agent via certified mail May 12, 2017. Entry of Default was entered against Emerald Correctional Management on June 23, 2017, and Lincoln County's Answer/Response to Intervenor's Answer to Complaint was filed June 26, 2017. Stipulated Order for Disbursement of Interplead Funds and Dismissal of the Case With Prejudice was entered by Judge Bryant on July 25, 2017.

6. **Chad and Stacia Coleman v. The County of Lincoln, Sheriff Robert Sheppard, Brett (sic) Rains, Randal Wikoff, and John Does I-III: 1:17-cv-863** Complaint for Civil Rights Violation and Ancillary State Claim. Complaint was filed in US District Court June 21, 2017 by Attorney J. Robert Beauvais. County was made aware of Complaint on June 22, 2017. Complaint claims constitutional violation and statutory tort in connection with the Coleman's alleged false arrest and detention; warrantless search and seizure and malicious prosecution.

7. **Greentree Solid Waste Authority v. Lincoln County D-1226-CV-2014-00095**. Suit filed May 1, 2014. Verified Petition for Declaratory and Supplemental Relief: Injunction. County was served May 14, 2014. Settlement Agreement signed by County of Lincoln December 15, 2015 and GSWA December 17, 2015. Stipulated Order of Dismissal Part With Prejudice and Part Without Prejudice was entered January 19, 2016 by Judge Ritter.

8. ***Rancho Ruidoso Valley Estate Homeowners' Association v. Roy Padilla, et. al - D-1226-CV-2017-00195** Complaint filed by RRVEHA represented by Attorney William Griffin for foreclosure of the Homeowners' Association Assessment Lien. The County is a named Defendant due to the filing of a GSWA lien on 3/22/06, and a L.C. Solid Waste Lien filed on 12/16/16 for non-payment of solid waste services and potential ad valorem taxes due and owing.

Lincoln County Ordinance Violations:
Alan P. Morel: 12th Judicial District Attorney's Office
Special Prosecutor

9. ***State of NM v. Romero, Roger M-30-MR-2016-00142** Violation of County Ordinance 2016-02 Accumulation of waste and litter on private property. A non-traffic citation was issued by Sheriff's Deputy Evans on December 9, 2016. The Defendant appeared before Judge Vega December 23, 2016 and entered a plea of "Not Guilty." Case was not resolved at a Pre-Trial Hearing on January 24, 2017. A Non-Jury Trial took place Tuesday, August 1, 2017 at 2 p.m. before Judge Vega, where a Judgment and Sentence was issued for a total of \$373 in fines and court costs, 30 days jail-confinement, 60 days supervised probation and ordering that the Defendant clean his property and stay in compliance with Ordinance 2016-02.

10. ***State of NM v. Anita Moisa M-30-MR-2017-00069** Violation of County Ordinance 2008-08 Animal Control Ordinance. A non-traffic Citation was issued by Lincoln County Sheriff's Office Animal Control Officer Russell Wehnau on or about June 16, 2017 for Four counts of Neglect and Cruelty to Animals, Six counts of Rabies Vaccination violations, and Two counts of Vicious Animals. A First Appearance / Arraignment Hearing was scheduled for July 14, 2017 at 10:45 a.m. before Judge Vega at which time the Defendant entered a plea of "Not Guilty." A Pre-Trial Hearing is scheduled to take place Tuesday, August 29, 2017 at 9 a.m. on a trailing docket before Judge Vega.

11. ***State of NM v. Kimberly Connor M-30-MR-2017-00072** Violation of County Ordinance 2008-08 Animal Control Ordinance. A non-traffic citation was issued by Lincoln County Sheriff's Office Animal Control Officer Russell Wehnau on June 20, 2017 for Neglect and Cruelty to Animals. A first Appearance / Arraignment Hearing that was scheduled for July 28, 2017 at 8:30

a.m. was continued and rescheduled to take place on Friday, August 18, 2017 at 9:15 a.m. before Judge Vega.

12. ***State of NM v. Kimberly Connor M-30-MR-2017-00106** Violation of County Ordinance 2008-08 Animal Control Ordinance. A non-traffic citation was issued by Lincoln County Sheriff's Office Animal Control Officer Russell Wehnau on July 21, 2017 for violation of Section 8, Dogs Running at Large. An Arraignment Hearing is scheduled to take place on Friday, August 18, 2017 at 9:15 a.m. before Judge Vega.

13. ***State of NM v. Kimberly Connor M-30-MR-2017-00108** Violation of County Ordinance 2008-08 Animal Control Ordinance. An amended criminal complaint ("Amended" is a typo-the complaint is the only one on file) was filed by Lincoln County Sheriff's Deputy Ryon McInnes on July 26, 2017 for one count of Dogs and Cats Running at Large, one count of Vicious animals one count of Rabies Vaccination violation. An Arraignment Hearing is scheduled to take place on Friday, August 18, 2017 at 9:15 a.m. before Judge Vega.

14. ***State of NM v. James Keck M-30-MR-2017-00097** Violation of County Flood Damage Prevention Ordinance 2014-05. A non-traffic citation was issued by Lincoln County Sheriff's Office Deputy Charlie Evans June 11, 2017 for violation of Section 6- Establishment of Development Permit, and Section 12, Application for a Floodplain Use Permit. The Defendant is to appear before Judge Vega to enter a plea to the charges on Wednesday, August 16, 2017 at 1:15 p.m.

15. ***State of NM v. Ginger K. Tate M-30-MR-2017-00066** Violation of County Ordinance 2008-08 Animal Control Ordinance. Two non-traffic citations were issued by Lincoln County Sheriff's Office Animal Control Officer Russell Wehnau on May 29, 2017 for violation of Section 11, Dogs and Cats Running at Large, and violation of Section 4, Rabies vaccination violation. A first Appearance /Arraignment Hearing was held on August 4, 2017 at which time the Defendant entered a plea of "Not Guilty." A Pre-Trial Hearing is scheduled for August 29, 2017 at 9:00 a.m. on a trailing docket before Judge Vega.

16. ***State of NM v. Christine A. Polaco M-30-MR-2017-00084** Violation of County Ordinance 2008-08 Animal Control Ordinance. Two non-traffic citations were issued by Lincoln County Sheriff's Office Animal Control Officer Russell Wehnau (1 issued on June 26th and 1 issued on June 27th 2017) for violation of Section 11, Dogs and Cats Running at Large. The Defendant was to appear before Judge Vega on or before August 9, 2017 at 8:30 a.m. to enter a plea to the charges.

17. ***State of NM v. Nenada Maslovaric M-30-MR-2017-00085** Violation of Animal Control Ordinance 2008-08. Two non-traffic citations were issued by Lincoln County Sheriff's Office Animal Control Officer Russell Wehnau on July 5, 2017 for violation of Section 11, Dogs and Cats Running at Large. The Defendant was to appear before Judge Vega on or before August 9, 2017 at 8:30 a.m. to enter a plea to the charges.

18. ***State of NM v. Sandra K. Jourden M-30-MR-2017-00086** Violation of Animal Control Ordinance 2008-08. Three non-traffic citations were issued by Lincoln County Sheriff's Office Animal Control Officer Russell Wehnau on July 5, 2017 for violation of Section 11, Dogs and Cats Running at Large. The Defendant was to appear before Judge Vega on or before August 9, 2017 at 8:30 a.m. to enter a plea to the charges.

19. ***State of NM v. Sylvia D. Barela M-30-MR-2017-00056** Violation of Animal Control Ordinance 2008-08. A non-traffic citation was issued by Lincoln County Sheriff's Office Animal Control Officer Russell Wehnau on May 8, 2017 for violation of Section 11, Dogs and Cats Running at Large. A first Appearance / Hearing took place July 17, 2017 at which time the Defendant entered a plea of "Not Guilty." A Pre-Trial Hearing is scheduled for August 29, 2017 at 9 a.m. on a trailing docket before Judge Vega.

20. ***State of NM v. Josiah Chavez M-30-MR-2017-00105** Violation of County Ordinance 2008-08 Animal Control Ordinance. A non-traffic citation was issued by Lincoln County Sheriff's Office Animal Control Officer Russell Wehnau on July 19, 2017 for Neglect and Cruelty to Animals. The Defendant is to appear before Judge Vega on or before August 23, 2017 to enter a plea as to the charge.

Tort Claims Notices Received or Threatened

2017

Powell, Majel F. – Tort Claim Notice received January 6, 2017 alleging adverse road management by a Lincoln County Road Department employee.

Emerald Correctional Management, LLC – Notice of Default filed April 7, 2017 due to Emerald Correctional Management, LLC's Default of Agreement between Emerald and the County of Lincoln for Emerald's operation of Lincoln County Detention Center.

McKenzie, Brian – Tort Claim Notice received May 1, 2017 from Attorney W. Chris Nedbalek alleging deprivation of Claimant's constitutional rights "and possibly other substantive and procedural rights under the US Constitution and the New Mexico Constitution..." while incarcerated at Lincoln County Detention Center.

Lacy, Jim and Judy – Tort Claim Notice received May 8, 2017 from Attorney W. Chris Nedbalek alleging "...property damage and an "...unconstitutional seizure under the 4th amendment of the US Constitution and an unconstitutional 'taking' under the 5th amendment to the US Constitution and a violation of other federal and state constitutional provisions, and

statutes, regulations, rules, and common practices" during a fugitive search conducted by the New Mexico State Police.

Coulter, Matt and Ashleigh – Tort Claim Notice received June 22, 2017 from Attorney Timothy White naming Sheriff Robert Shepperd.

2016

Rains, Bonnie – Tort Claim Notice received January 18, 2016 alleging failure of the County of Lincoln to maintain road surfaces during snow or ice conditions.

Brazel, Stephanie – Tort Claim Notice received January 20, 2016 alleging injuries incurred due to Claimant stepping in an alleged uncovered water meter hole at 2801 Sudderth Drive, Ruidoso, NM.

William Gayford – Roger Linfoot – Tort Claim Notice received February 17, 2016 from Attorney W. Chris Nedbalek alleging 4th and 14th Amendments violations and "possibly other constitutional, statutory, regulatory, legal or equitable rights not specifically named."

Hill, Walter – Tort Claim Notice received March 8, 2016 via emailed correspondence from Mr. Hill alleging the unlawful disclosure of confidential information from Mr. Hill's Lincoln County personnel file.

Sonora Corporation (John Russell-CEO) – Tort Claim Notice received April 6, 2016 via correspondence from Mr. Russell in response to a Notice of Investigation from NM Construction Industries Division due to an alleged lack of final inspection and deviation from approved plans of construction in 2012 at 119 Bald Eagle Court, Alto, NM.

Jaramillo, Monica – Tort Claim Notice received April 8, 2016 alleging Lincoln County road department employee in the performance of his road grading duties damaged Ms. Jaramillo's vehicle.

Wagoner, John – Tort Claim Notice received April 12, 2016 via telephone call to Mr. Morel's office when Mr. Wagoner threatened suit against Lincoln County with respect to alleged accumulation of garbage at property on Highway 70.

Steward, Tynell – Tort Claim Notice received April 18, 2016 alleging abuse while incarcerated in Lincoln County Detention Center.

Coleman, Chad – Tort Claim Notice received April 25, 2016 alleging warrantless search and seizure and malicious prosecution.

Parsons-Williams, Karen – Tort Claim Notice received June 2, 2016 alleging negligent or malicious medical procedure performed at Lincoln County Medical Center on March 9, 2016.

Ceja, Dana – Tort Claim Notice received September 22, 2016 alleging violations of the US and New Mexico Constitution and various charges while Mr. Joey Ceja was incarcerated at Lincoln County Detention Center.

Vigil, Elisa – Tort Claim Notice received October 3, 2016 alleging automobile damage due to Lincoln County road conditions.

Rue, Barney – Tort Claim Notice received October 4, 2016 via telephone to County Ordinance Administrator's office alleging Lincoln County's non-enforcement of its Solid Waste Ordinance regarding the alleged allowance of accumulation of waste.

Town of Carrizozo – Tort Claim Notice received November 14, 2016 from Attorney William N. Griffin alleging County of Lincoln's violation of the Town of Carrizozo's Ordinance 8-3-1, *et. seq.* regarding the County of Lincoln's effort to collect its own solid waste within municipal limits.

New Mexico Department of Transportation – Tort Claim Notice received December 9, 2016 involving property damage sustained to NMDOT property during a Lincoln County employee's transport of County equipment.

Estate of Hector Acosta-Jimenez – Tort Claim Notice received December 27, 2016 alleging negligence and/or failure to provide immediate necessary medical care, and/or allowing the death of Mr. Acosta-Jimenez while incarcerated at the Central New Mexico Correctional Facility and/or Lincoln County Detention Center.

2015

Davis, Jack and Rema – Verbal Threat against the County issued July 21, 2015 due to ongoing flooding at their private property.

Captain Iron Mine – Tort Claim Notice received Sept. 24, 2015 via email from A. Blair Dunn, alleging County trespass on private property.

L. Phillip Onsrud – Tort Claim Notice received Nov. 3, 2015 via email alleging lack of medical care while incarcerated in Lincoln County Detention Center.

Brown, Shelly – Tort Claim Notice received December 31, 2015 alleged failure of the County of Lincoln to maintain road surfaces during snow or ice conditions.

Action: Approve, Moved by Commissioner Draper, Seconded by Commissioner Willard.

Vote: Motion carried by unanimous roll call vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

Chair Stone recessed the Regular Meeting and convened the Closed Session at 2:43 PM.

Chair Stone adjourned the Closed Session and reconvened the Regular Meeting at 4:36 PM.

Commissioner Willard attested that matters discussed in the closed meeting were limited to those specified in the motion for closure or in the notice of separate closed meeting.

16. Agreement between the Lincoln County Deputy Sheriffs' Association and the County of Lincoln: Update / Status

Ms. Taylor informed the Lincoln County Deputy Sheriffs Association was the exclusive collective bargaining representative for the Deputy Sheriffs and provided a copy of the current agreement. Ms. Taylor stated the agreement was subject to review annually and any requested modifications were subject to approval by the Board of County Commissioners.

Ms. Taylor noted section 40(B) of the agreement requires the Deputy Sheriffs Association to provide written notification of intent to either accept the general wage and benefit increase provided to non-bargaining unit employees or to open negotiations for the following year between April 30, 2017 and May 31, 2017. Ms. Taylor stated should the Association chose not to open negotiations the agreement expiration date shall be extended for an additional twelve months.

Ms. Taylor further informed the Deputy Sheriffs Association through President Anthony Manfredi provided written notification on May 29, 2017 the Association was formally requesting two changes to the current contract. Ms. Taylor stated the request formally opened the negotiation process. Ms. Taylor stated the Association requested a 5% increase in the County's contribution to the Public Employee Retirement Association (PERA) fund and the removal of language from the current agreement which defines a "normal work week" as forty hours and a "normal workday" as eight hours for five days.

Ms. Taylor stated discussions began for consideration of the requests. Ms. Taylor stated subsequently on July 26, 2017 Association President Manfredi provided notice the Association did not wish to open negotiations and they were prepared to sign an updated contract.

Motion: Direct the County Manager and County Attorney to update the current Deputy Sheriffs Association agreement for Fiscal Year 2017- 2018 to reflect a 3% "Evergreen clause" wage and benefit increase; grant the Manager authority to sign the contract on behalf of Lincoln County; and direct the Manager to send an accompanying letter stipulating the requirement to provide documentation of legal standing for the Deputy Sheriffs Association ninety days prior to expiration of the agreement, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Vote: Motion passed (summary: Yes = 4, No = 1, Abstain = 0).

Yes: Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.
No: Chair Stone.

32. Discussion-potential action: State of NM. V. Roger Romero: M-30-MR-2017-00142 Violation of County Ordinance 2016-02: Accumulation of waste and litter on private property. Discussion-potential action for County to order the correction of and/or approve funding to contract for the correction of unlawful accumulation of waste at the Romero property as set forth in Section 2 (G) (2) of Ordinance 2016-02.

Attorney Morel informed the Board of County Commissioners would consider this agenda item during the Special Meeting of September 8, 2017.

33. Signing of Official Documents

34. Next meetings:

- a. September 8, 2017 - Special Commission Meeting (Property Tax Rates)
- b. September 19, 2017 - Regular Commission Meeting

32. Adjourn

There being no further business to come before the Board of County Commissioners, Chair Stone adjourned the meeting at 4:43 PM.

County of Lincoln
Board of Commissioners


Preston Stone, Chair


Dallas Draper, Vice Chair


Elaine Allen, Member


Thomas F Stewart, Member


F. Lynn Willard, Member

ATTEST:


Rhonda Burrows, County Clerk

September 19, 2017
Date Approved

