

COUNTY OF LINCOLN

New Mexico Emergency Meeting Board of County Commissioners

Preston Stone, Chair
Dallas Draper, Vice Chair

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

Minutes Thursday, February 23, 2017

Minutes of the Emergency Meeting of the Lincoln County Commission held at 8:30 AM on February 23, 2017 in at the Ruidoso Substation, 109 Kansas City Road, Ruidoso, New Mexico.

1. Call to Order

Chair Stone called the Emergency Meeting of the Board of County Commissioners to order at 8:29 AM.

2. Roll Call

Roll Call.

Present: Chair Stone, Commissioner Stewart, Commissioner Allen (telephonically), Commissioner Draper, Commissioner Willard.

Others present included Nita Taylor, County Manager; Alan Morel, County Attorney; and Whitney Whittaker, Chief Deputy Clerk.

3. Invocation

The invocation was presented by Chair 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 Draper, **Seconded** by Commissioner Stewart.

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

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

Alan Morel, County Attorney informed he obtained approval from Chair Stone to declare today's meeting as an Emergency Meeting rather than a Special Meeting of the Board of County Commissioners.

Attorney Morel stated as advertised the Special Meeting of February 23, 2017 did not meet the seventy two hour compliance rule of the Open Meetings Act. The Final Agenda for the Special Meeting was noticed via electronic mail and posted on February 21, 2017 at 1:14 PM which was fewer than seventy two hours prior to the date and time of this meeting.

Attorney Morel stated the Public Hearing to consider adoption of Ordinance 2017-01 authorizing the issuance and sale of Lincoln County, New Mexico General Obligation Bonds, Series 2017, in the amount of twenty-five million (\$25,000,000) was legally and properly published in the Lincoln County News on February 2, 2017.

Attorney Morel further informed the Lincoln County Open Meetings Act Resolution 2016-16 provides for a three hour notice to the public for the purpose of conducting an emergency meeting. Attorney Morel stated the Resolution provides for convening an Emergency Meeting when "unforeseen circumstances that, if not addressed immediately by the public body, will likely result in injury or damage to persons or property or substantial financial loss to the public body".

Attorney Morel stated both he and Chris Muirhead, Bound Counsel for Lincoln County were of the opinion the potential loss to Lincoln County should the Ordinance not be adopted today would in fact cause a "substantial financial loss" to the County, thereby meeting the criteria for an Emergency Meeting. Attorney Morel detailed the following points:

\$25 million dollars in bonds were sold by the New Mexico Finance Authority on behalf of the County of Lincoln on February 22, 2107. If the County did not adopt an Ordinance within twenty four (24) hours of the sale of the bonds, the County's \$25 million dollars in bond sales would not close on March 29, 2017. Once again, Lincoln County was legally required to adopt its Bond Ordinance, accepting the terms and conditions of the sale within 24 hours or its \$25 million dollars in bonds would not have closed and would be lost.

The bonds that were sold on behalf of Lincoln County were sold at a very favorable rate to the County and the County would lose the direct benefit of those rates if the Bond Ordinance was not adopted at a meeting on February 23, 2017. Clearly, Lincoln County did not have the option of republishing and holding a corrective Special Meeting after a new two week notice period.

The New Mexico Finance Authority only sells bonds twice a year, and as such, it would be a minimum of six months before Lincoln County could obtain new financing through the New Mexico Finance Authority. Although the County could not project the interest rates in six months, interest rates have been ticking up. It is likely the interest rates in six months would be higher than today, which could cost the County tens if not hundreds of thousands of dollars over the life of the General Obligation Bond debt repayment period of twenty (20) years.

The County of Lincoln has entered into a new, long-term lease with Presbyterian Healthcare Services which has a multitude of legal obligations which Lincoln County may not be able to comply with if the County was unable to proceed with borrowing funds to construct the new hospital within the original timeline.

The federal government has stated plans to spend up to a trillion dollars in infrastructure improvements throughout the United States. The County of Lincoln believes, should this come to fruition, the cost of materials to construct the hospital would undoubtedly increase over time, thereby costing the County more to construct the new hospital, and additionally may limit the availability of quality contractors to construct the new hospital if required to do so at a later date.

If the County did not proceed with the Public Hearing and the adoption of the Bond Ordinance on February 23, 2017, the costs associated with constructing a new hospital if extended out six months or longer would undoubtedly increase the cost of construction of the new hospital, causing substantial financial loss to the County.

Motion: Declare the February 23, 2017 Lincoln County Board of Commissioners Meeting as an Emergency Meeting for the purpose of adoption of Ordinance 2017-01, **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 Willard, Commissioner Draper.

Chair Stone recessed the Emergency Meeting and convened the Public Hearing at 8:44 AM.

6. **Public Hearing to consider adoption of Ordinance 2017-01 Authorizing Issuance and sale of the Lincoln County, New Mexico General Obligation Bonds, Series 2017, in the principal amount of twenty-five million and no/100 dollars (\$25,000,000), dated as of the date of delivery, payable from ad valorem taxes levied on all taxable property within the County without limit as to rate or amount, providing for the form, terms and conditions of bonds, the manner of their execution, and the method of, and security for, pledge and payment; providing for the award and sale of the Bonds to the New Mexico Finance Authority pursuant to a Bond Purchase Agreement; and providing for other details concerning the Bonds.**

Erik Harrigan, Financial Advisor of RBC Capital Markets presented a financial package with an overview of the bond pricing. Mr. Harrigan discussed the lower yield associated with the sale of bonds this year. Mr. Harrigan explained the value of the bonds sold was \$23,110,000 yielding a net premium of \$2,104,771 and total bond proceeds of \$25,214,771.

Commissioner Draper questioned the amount due for this fiscal year.

Mr. Harrigan confirmed Lincoln County would owe \$331,565 for this fiscal year. Mr. Harrigan also informed Lincoln County's next deposit of \$1,098,388 was due on June 30, 2017.

There was a general discussion of Municipal Market Fund Flows.

Chris Muirhead, Bond Counsel with the firm of Modrall, Sperling, Roehl, Harris and Sisk highlighted sections in the proposed Ordinance which provides for the amount of taxes necessary to be levied for the purposes certified. Mr. Muirhead reminded additional clarifying language provided for the use of the Presbyterian Lease Payment to satisfy the bond debt service and noted the imposition of the voter approved tax would occur only if the lease payment was insufficient to meet the debt service. Mr. Muirhead stated the bonds would mature "on and after August 1, 2027 and were callable on and after March 29, 2027".

Mr. Muirhead discussed the additional requirement to conduct a public Tax Equity and Fiscal Responsibility Act (TEFRA) hearing as required by Section 147(f) of the Internal Revenue Code of 1986 to address the use of the lease payment from Presbyterian.

Chair Stone requested public comment and receiving none recessed the Public Hearing and reconvened the Emergency Meeting at 9:00 AM.

Motion: Adopt Ordinance 2017-01, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

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 Emergency Meeting and convened the TEFRA Hearing at 9:02 AM.

Chair Stone requested public comment and receiving none adjourned the TEFRA Hearing and reconvened the Emergency Meeting at 9:03 AM.

SEE EXHIBIT A: Copy of Ordinance 2017-01 is attached hereto in reference thereto made a part hereof.

7. Signing of Official Documents

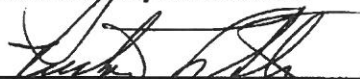
8. Next Meeting

a) March 21, 2017, Regular Commission Meeting

9. Adjourn

There being no further business to come before the Board of County Commissioners, Chair Stone adjourned the meeting at 9:04 AM.

County of Lincoln
Board of County Commissioners


Preston Stone, Chair

Dallas Draper, Vice Chair


Elaine Allen, Member


Thomas F Stewart, Member


F Lynn Willard, Member

4071

ATTEST:


Rhonda Burrows, County Clerk

March 21, 2017
Date Approved

