

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, March 21, 2017

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on March 21, 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 8:29 AM.

2. Roll Call

Roll Call.

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

Absent: Commissioner Draper.

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

3. Invocation

The invocation was presented by Commissioner Stewart.

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 = 4).

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

6. Approval of Minutes

- a. February 21, 2017 – Regular Commission Meeting
- b. February 23, 2017 – Special Commission Meeting

Motion: Approve the minutes of the February 21, 2017 Regular Meeting and the February 23, 2017 Special Meeting; **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Willard.

Vote: Motion carried by unanimous vote (summary: Yes = 4).

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

7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month ending February 28, 2017
- c. Volunteer Firefighters Annual Reporting Form
 - i. White Oaks Fire
 - ii. Bonito Fire
 - iii. Glencoe Fire

- iv. Nogal Fire
- v. Arabela Fire
- d. Resolution 2016-41 – Disposal/Destruction of County Surplus Inventory
- e. 2017 Application for Law Enforcement Protection Funds

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

Vote: Motion carried by unanimous vote (**summary:** Yes = 4).

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

SEE EXHIBIT A: Copies of the Consent Items including Resolution 2016-41 as approved are attached hereto in reference thereto made a part hereof.

8. Board of Registration Report by Rhonda Burrows, County Clerk

Whitney Whittaker, Chief Deputy Clerk provided a review of the purge process and copy of the minutes for the Board of Registration Meeting held on March 9, 2017.

Ms. Whittaker reminded the Board of County Commissioners appointed members and alternates to serve on the Board of Registration during the February Regular Meeting. Ms. Whittaker stated the Board of Registration consisting of Cynthia Black, Cristina Arnold, and Nina Grunseth convened on March 9, 2017 to review the voter purge list of 829 registered voters in Lincoln County.

Ms. Whittaker explained voters eligible for the purge list were mailed a confirmation mailing in August of 2014, had not updated their registration, and had not voted in any election since the mail out. Ms. Whittaker stated the process was consistent with Federal and State Statutes.

Ms. Whittaker stated after a review of the list and supporting documentation, the Board of Registration found no discrepancies and reported no objections to the list as presented. Ms. Whittaker stated the Board of Registration certified the list of 829 voters for removal from the voter registration rolls of Lincoln County. Ms. Whittaker stated after removal of the purged voters there were 13,191 registered voters in Lincoln County.

9. Historic Sites, Forest, Land and Natural Resources Matters

a. Lincoln and Fort Stanton Historic Sites

Tim Roberts, Regional Historic Sites Manager reported a 20% increase in visitation to both sites for the current year including approximately 33,000 paid visitors. Mr. Roberts discussed the recent Community Organization Grant (COG) award facilitated by Lincoln County for Fort Stanton and stated a qualified preservation architect was identified during the contract phase of the project. Mr. Roberts anticipated work to begin in April and stated he was working with the University of New Mexico Historic Preservation program to acquire an intern to assist with the grant project. Mr. Roberts stated belief there was additional COG money available and he planned to research options for additional projects.

Mr. Roberts stated staff was working on a photographic exhibit of the period when Fort Stanton served as an internment camp. Mr. Roberts reported the "Fort Stanton Live" event was scheduled for July 8, 2017. Mr. Roberts stated on June 24, 2017 the Lincoln Site would host a San Juan Cultural Festival with Old Lincoln Days scheduled for the first weekend in August.

b. Smokey Bear Ranger District

Ms. Taylor informed Ranger Canfield was unable to attend today's meeting but recently attended an allotment owners meeting in Capitan to discuss the Forest Plan Revision.

Chair Stone stated he expressed his concerns to the US Forest Service Interim Plan Revision Coordinator about the potential effect of recent personnel turnover on the Forest Plan Revision process. Chair Stone stated he was assured the revision would move forward as per the proposed timeline.

e. Land and Natural Resources Advisory Committee (LANRAC)

Robert Barber, Chair of the Land and Natural Resources Advisory Committee discussed the current analysis phase of the Forest Plan Revision. Mr. Barber stated once the draft analysis was posted LANRAC would review and provide recommendations for comments from Lincoln

County. Mr. Barber stated both the allotment owners and LANRAC members offered their assistance to Ranger Canfield with the Forest Plan Revision.

Mr. Barber reported LANRAC was meeting monthly to review the current language of the Lincoln County Comprehensive Land Use Plan Resolution and collecting demographics to support revisions.

c. South Central Mountain Resource and Conservation District

Nita Taylor, Manager stated Rick Merrick, Community Forester was unable to attend but provided a report for review. Ms. Taylor noted Mr. Merrick's report included notice of a June Speaker Series Meeting, updates on various projects and program, and included information regarding a training set for April 6, 2017 for operation of the Air Curtain Incinerator.

d. Upper Hondo Soil and Water Conservation District

Ms. Taylor informed Laura Johnson, Program Coordinator was unable to attend but would provide a report next month.

f. Office of State Engineer-Water Issues

Ms. Taylor reported there were no new applications or publications for water rights transfers on the State Engineer's website this month for Lincoln County.

13. Lincoln County Medical Center:

a. Authority for the Signing of NMFA Bond Issue Closing Documents

Ms. Taylor provided information received from Erik Harrigan, of RBC Capital Markets regarding closing procedures for the issuance of \$23,110,000 in General Obligation Bonds set for March 29, 2017.

Ms. Taylor stated the settlement amount and net purchase price of Lincoln County's General Obligation Bonds was \$25,103,885.50. Ms. Taylor detailed the process for receipt and distribution of the funds and noted the cost of issuance was \$100,000.

Ms. Taylor provided copy of the Transcript of Proceedings and other documents related to the closing procedures. Ms. Taylor informed Chris Muirhead, of the Modrall Sperling Law Firm would present all documents for review and signature on March 22, 2017.

b. Design and Construction of EMS facility and hospital

Ms. Taylor reported Lincoln County, Presbyterian Health Services (PHS), and architect Dekker/Perich/Sabatini had completed preliminary design drafts for the construction of the new Emergency Medical Services (EMS) facility. Ms. Taylor noted Curt Temple, Planning Director was working with the Village of Ruidoso to assure all municipal code requirements were met.

Todd Oberheau, Administrator Lincoln County Medical Center anticipated finalization of the construction documents fairly soon. Mr. Oberheau anticipated a "kick off" meeting with the contractor and architect to begin staging the construction project in approximately two weeks.

Commissioner Stewart discussed the utilization of funds from the Lincoln County Medical Center Reserve Fund for the initial debt service payments. Commissioner Stewart commented on the need to monitor the fund balance during the budget process to provide for the debt service payments in addition to funding the construction of the new EMS facility.

Alan Morel, County Attorney reported the County completed the purchase of the property for the new EMS facility at 129 El Paso Road for a purchase price of \$98,237.00 after an appraisal of \$120,000 during the last week.

Motion: Approve the execution of closing documents with appropriate notification of all transactions to the County Treasurer, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Stewart.

Vote: Motion carried by unanimous vote (summary: Yes = 4).

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

12. Community Health Council Presentation – Shannon Dictson

Shannon Dictson, Chair of the Lincoln County Community Health Council presented a copy of the Council's 2016 activities report. Ms. Dictson reported the organization was a 501-C4 nonprofit which received grant funding from various sources. Ms. Dictson stated the Council recently received a grant from Presbyterian Health Services renewable for three years in the amount of \$20,000. Ms. Dictson expressed gratitude for the grant and anticipated utilizing the funding to address the Council's current priorities of healthy living, healthy eating, and avoiding unhealthy substances.

Ms. Dictson discussed several of the Council's projects including sponsorship of a mobile food bank, hosting the largest health fair in the area with 700 participants in 2016, and production of a health and wellness guide directory of resources. Ms. Dictson stated the Council also incorporated several subcommittees including Youth Engagement, the newly formed Community Healing Additions through Networking, Guidance, and Education (CHANGE) committee, and Stronger Economies Together (SET). Ms. Dictson discussed the advantage of having these committees under the Health Council umbrella.

Commissioner Willard noted the absence of representation from the La Casa Health Center in Hondo and suggested soliciting involvement from that organization and the Hondo area.

Ms. Dictson agreed to extend a membership invitation to the organization.

10. Pattern Development Update - Lauralee Hunt

Agenda item rescheduled for next Regular Meeting.

14. Approval of New Medical Provider #55 CSI Aviation Application

Scott Annala, Indigent Health Care Administrator presented Agreement #55 between the County of Lincoln and CSI Aviation Air Ambulance for the reimbursement of services provided to individuals qualified for Indigent Health Care Assistance. Mr. Annala stated CSI submitted all required information as required by the Lincoln County Indigent Health Care Ordinance 2008-03.

Motion: Approve Indigent Health Care Provider Agreement #55 with CSI Aviation, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous vote (summary: Yes = 4).

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

15. Approval and 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 30 claims with 27 recommended for approval and 3 recommended for disapproval for a monthly authorization of \$26,069. Mr. Annala stated approval of the claims would result in a total approval of Safety Net Care Pool claims for Fiscal Year 2016-2017 to date of \$162,914 or a monthly average of \$18,102.

Mr. Annala presented the Indigent Health Care Payments request for the month. Mr. Annala processed 21 claims with 20 claims recommended for approval and 1 claim recommended for disapproval for a total payment this month of \$9,291.55. Mr. Annala stated approval of the claims would result in a total expenditure for Fiscal Year 2016-2017 to date of \$48,383 or a monthly average of \$5,154. Mr. Annala stated based on the current average he estimated expenditure of approximately \$61,844 of the \$100,000 budget.

Motion: Approval and denial of the claims as indicated for Indigent Health Care as recommended,

Action: Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Stewart

Vote: Motion carried by unanimous roll call vote (summary: Yes = 4).

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

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

25. Approval of Lodger's Tax Applications with backup material:

- a. Purpose: Alto Artist Studio Tour
- Request: \$3,500
- Date(s) of Event: August 3-6-2017
- Presenter: Stephen Sabo/Alto Artist Studio Tour

Lodgers Approved: \$3,000
Application No. : 0021

- b. Purpose: Aim High
Request: \$6,300.00
Date(s) of Event: June 24, 25, 2017
Presenter: Rhonda Vincent/ENMU-Ruidoso Foundation
Lodgers Approved: \$6,300
Application No. : 0022
- c. Purpose: Lincoln County Art Loop Tour
Request: \$4,000
Date(s) of Event: July 7-9, 2017
Presenter: Lynn Eckman /Art Loop
Lodgers Approved: \$3,500
Application No. : 0023
- d. Purpose: Smokey Bear's Hometown Association
Request: \$10,000
Date(s) of Event: Permanent Memorial
Presenter: Bennie Long/ Smokey Bear Hometown Association
Lodgers Approved: \$5,000
Application No. : 0024
- e. Purpose: Ruidoso Christmas Jubilee
Request: \$2,000
Date(s) of Event: Nov. 11-13, 2017
Presenter: Paula Bates, Ruidoso Valley Greeters
Lodgers Approved: \$2,000
Application No. : 0026
- f. Purpose: Golden Aspen Rally Association
Request: \$5,000
Date(s) of Event: May 18-21, 2017
Presenter: Ron Andrews/ Golden Aspen Rally Association
Lodgers Approved: \$4,000
Application No. : 0027
- g. Purpose: Golden Aspen Motorcycle Rally
Request: \$5,000
Date(s) of Event: Sept. 13-17, 2017
Presenter: Ron Andrews/Golden Aspen Rally Association
Lodgers Approved: \$4,000
Application No. : 0028
- h. Purpose: Smokey Bear Days
Request: \$7,244
Date(s) of Event: May 5-6, 2017
Presenter: Bennie Long/Smokey Bear Hometown Association
Lodgers Approved: \$7,244
Application No. : 0025
- i. Purpose: Carrizozo Music
Request: \$4,000
Date(s) of Event: April-December 2017
Presenter: Elaine Brannen/Carrizozo Music, Inc.
Lodgers Approved: \$3,000
Application No. : 0029

Motion: Approve Application No. 21 for \$3,000; Application No. 23 for \$3,500; Application No. 24 for \$5,000; Application No. 26 for \$2,000; Application No. 27 for \$4,000; Application No. 28 for \$4,000; Application No. 25 for \$7,244; and Application No. 29 for \$3,000; **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous vote (**summary:** Yes = 4).

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

Commissioner Willard recused himself from the vote for Application No. 22 submitted by Eastern New Mexico University – Ruidoso informing he currently served as a member of the ENMU-R College Board.

Motion: Approve Application No. 22 for \$6,300, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Stewart.

Commissioner Stewart objected to the lack of lodger's tax contributed by the Village of Ruidoso for this particular event.

Vote: Motion passed (summary: Yes = 2, No = 1, Abstain = 1).

Yes: Chair Stone, Commissioner Allen.

No: Commissioner Stewart.

Abstain: Commissioner Willard.

11. 9:30 AM: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS

Commissioner Stewart stated he was currently serving on the Project Management team for development of the new Joint Land Use Study website. Commissioner Stewart stated the website would assist with coordinating information and activities for the five New Mexico County members; El Paso County, Texas; and the adjacent military installations.

Beverly Calaway, Treasurer reported the Treasurer's Office mailed 10,356 courtesy reminder Notices of Second Half Property Tax payments due on April 10, 2017 for 2016 Property Taxes.

LeeRoy Zamora, Chief Deputy Assessor reported the Assessor's office would mail the annual Notice of Property Valuation to all property owners in Lincoln County on March 31, 2017. Mr. Zamora reminded the Notice of Valuation provides property owners the opportunity to protest the valuation of property prior to final assessment of the 2017 Property Taxes. Mr. Zamora commented on options to request a change in special methods of valuation such as agriculture or irrigation status and to apply for other specific property tax exemptions. Mr. Zamora stated Jesse Samora and George Vega were selected to fill two vacant appraiser positions and would begin employment next week.

Scott Annala, Indigent Health Care Administrator stated he and Commissioner Draper attended a meeting of the newly formed Community Healing Additions through Networking, Guidance, and Education (CHANGE) Committee. Mr. Annala reported the committee was seeking appointment of a committee member from the Village of Ruidoso and researching fundraising opportunities.

Ron Andrews, resident of Lincoln County stated he and his wife, Jill resumed promotional responsibility for the two annual area motorcycle rallies this year. Mr. Andrews discussed plans to promote Lincoln County utilizing tours of historical sites and providing information on their website and social media sites. Mr. Andrews expressed appreciation for the Lodger's Tax support for advertisement of the event and also for support provided by local businesses.

Judy Petersen Ellis with the Ruidoso Valley Greeters expressed appreciation for the Lodger's Tax financial support of the Ruidoso Christmas Jubilee event. Ms. Petersen Ellis the organization distributes proceeds from the event to local organizations such as the Lincoln County Humane Society.

Chair Stone challenged law enforcement and local residents to help oppose the sale and distribution of drugs to preserve and protect the youth in our community.

16. Lincoln County Federal Emergency Management Agency (FEMA) Projects Discussion

- a. FEMA 4197-DR-NM: Damaged Roads: Rain Event July 27 – August 5, 2014
- b. FEMA 4199-DR-NM: Damaged Roads: Rain Event September 15 – 16, 2015

Ms. Taylor provided a history and timeline of events associated with the FEMA Damaged Road Grants associated with roads damaged from heavy rain events in 2014 and 2015. Ms. Taylor stated for each of the identified road projects FEMA provided 75% of funding with the State of New Mexico and the County of Lincoln each contributing 12.5%.

Ms. Taylor further reminded during in March of 2016 the Board of County Commissioners approved the expenditure of \$147,311 for the County match for roads damaged in 2014 with the

work scheduled for completion in Fiscal Year 2016-2017. Ms. Taylor stated due to the absence of a permanent Road Superintendent the work this was not completed.

Ms. Taylor also discussed the initial obligation of funding for the 2015 rain event stating for these grant projects Lincoln County's 12.5% obligation amounted to \$711,967. Ms. Taylor stated the projects identified for this FEMA grant funding had a rapidly approaching completion date of April 2017. Ms. Taylor stated Lincoln County could seek an extension to complete the projects and with permission could also modify the scope of work.

Jeff Honeycutt, Road Superintendent stated he reviewed the proposed FEMA project grants which identified approximately twenty five roads as damaged. Mr. Honeycutt requested the opportunity to evaluate each project on a case by case basis in order to provide a recommendation as to the current status and priority of each road.

Chair Stone questioned if interim maintenance may have mediated some of the damage to these roads.

Mr. Honeycutt expressed belief some of the road projects had in the interim received some maintenance. Mr. Honeycutt requested additional time to review the projects and provide guidance as to the best use of funding for the appropriate roads.

Commissioner Stewart expressed concern about the timeline to complete projects, agreed with the Road Superintendent's suggestion to reevaluate current conditions, and suggested the County consider returning the FEMA funding if it was no longer needed.

Motion: Authorize the Manager to submit requests for extensions for the two FEMA Damaged Road Grants; direct the Road Superintendent to reevaluate the projects and provide a recommendation for further action, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Commissioner Stewart stated belief the projects should only proceed if the repairs were still needed.

Chair Stone concurred and noted the County could incur liability if funds were expended for roads which were already repaired.

Vote: Motion passed (summary: Yes = 3, No = 1, Abstain = 0).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen.

No: Commissioner Willard.

Commissioner Willard objected to asking for an extension and expressed belief if Lincoln County could not finish the projects according to the original timeline the County should return the funding.

c. FEMA 4047-DR-NM: Hazardous Fuel Reduction - Wildfire Thinning

d. FEMA 4079-DR-NM: Hazardous Fuel Reduction - Education & Outreach

Ms. Taylor provided a timeline of events and actions related to the FEMA Hazardous Fuel Reduction Grants. Ms. Taylor reminded in October of 2012 the Board of County Commissioners authorized a contract with King Industries to assist with FEMA related projects.

Ms. Taylor reported on the multiple reiterations of the initial grant proposal and the efforts to coordinate appropriate actions with both FEMA and the State of New Mexico Department of Homeland Security and Emergency Management (DHSEM). Ms. Taylor discussed the provision of documentation related to the grant proposals including pre-award and post-award contracts to the DHSEM and the responses provided to that agency related to the FEMA grants. Ms. Taylor stated on March 8, 2017 Lincoln County received two denial letters from DHSEM stating the task orders did not meet DHSEM eligibility requirements and therefore associated costs were ineligible for reimbursement. Ms. Taylor stated the two denials were requests for reimbursement for charges from King Industries for approximately \$90,000.

Ms. Taylor stated she met with the DHSEM Cabinet Secretary, several other State officials, and King Industries on March 20, 2017 to discuss the disapproval of task orders which resulted in the denial of reimbursement. Ms. Taylor reminded all task orders were previously approved by FEMA. Ms. Taylor stated during the meeting DHSEM agreed to review the denials.

Ms. Taylor stated she also requested SZ Enterprises halt the environmental assessment work required by FEMA prior to the commencement of actual thinning.

Commissioner Stewart questioned if the denial for reimbursement of \$90,000 was for work on both the damaged roads and the thinning project grants.

Ms. Taylor stated the unreimbursed amount related only to work on the thinning grants.

Commissioner Stewart stated belief if the reimbursement appeal was denied, Lincoln County should consider abandoning the thinning projects.

Commissioner Allen expressed concern about continuing any of the projects due to the initial denial of reimbursement.

Chair Stone questioned the land owner's contribution for the identified thinning projects on private land.

Ms. Taylor stated there was no contribution required from the landowner.

Chair Stone clarified there were thirty three private landowners involved in the thinning project grant. Chair Stone expressed belief landowner's should have "ownership" in any action on their land.

Commissioner Stewart suggested the County Manager inform the DHSEM a denial of the appeal for reimbursement of expenditures would result in abandonment of the FEMA thinning projects.

Motion: Should Lincoln County's request for reconsideration for reimbursement fail, authorize the County Manager and Attorney to identify the formal appeal process; begin the appeal process; halt all activity until the appeal process is finalized; and research the process for project termination; **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous vote (summary: Yes = 4).

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

Chair Stone recessed the Regular Meeting at 10:39 AM and reconvened at 10:50 AM.

17. Authorization to Enter Into Lease Agreement for Replacement Loader

Jeff Honeycutt, Road Superintendent discussed the accident on Alamo Canyon Road which damaged a Road Department loader. Mr. Honeycutt stated the Road Department entered into a short term rental agreement with Sierra Machinery for use of a replacement loader for a cost of \$1,002.55 per week. Mr. Honeycutt stated the Road Department also had a current lease agreement with Wagner Equipment for the damaged loader for \$2,844.50 per month.

Mr. Honeycutt stated Sierra Machinery quoted a higher rate of \$1,625.00 per week to renew the short term rental agreement. Mr. Honeycutt discussed his negotiations with Wagner to replace the damaged loader with a new loader for a cost of \$2,799.99 monthly under a new 72 month lease agreement. Mr. Honeycutt requested permission to enter into the new lease agreement with Wagner for a replacement loader to avoid renewing the short term rental agreement with Sierra Machinery.

Mr. Honeycutt stated Lincoln County's insurance carrier would repair the damaged loader to operational status once parts were received and prior to returning it to Wagner.

Motion: Approve a lease agreement with Wagner Equipment for replacement of damaged loader, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Willard.

Vote: Motion carried by unanimous vote (summary: Yes = 4).

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

18. Manager's Report

- The District Attorney's security doors for the second floor of the annex are near completion. The doors will divide County personnel from the public entrance to the District Attorney's area. In case of a fire emergency, the triggering of the fire alarm will release the locked doors, enabling a second exit for all. Because members of the public often go upstairs to County offices when they are seeking employees of the District Attorney's office, options such as additional signage or constructing a separate door for County business are under consideration.

- As reported last month, the new windows for the Clerk, Treasurer and Assessor are installed. However, while both the Treasurer and the Assessor have opted for tinting,

we are conducting additional research regarding the potential damage to the window due to extreme heat. The County is seeking assurance from the provider of the tinting that potential damage to windows (cracking, shattering) due to heat would be warranted. If such warranty cannot be obtained, the County will consider and select another option.

- The Detention Center has a number of building repairs needing to be addressed: the HVAC units are in need of replacement; these are the original units placed in the building at the time of construction; the emergency replacement of a boiler in the kitchen was in process; and an analysis of roof repair and/or replacement was in process.

- The Lincoln County Medical Center administrator reported the Carrizozo Health Clinic roof needs replacement. A contractor was contacted to inspect and provide an initial cost estimate.

- The Hondo Fire Station design is near complete; however contractor has provided notification that because building was classified as a parking structure, the newly adopted International Building Code required installation of a sprinkler system. As this adds considerable expense to the cost, the contractor will seek an exemption.

Joe Kenmore, Director Office of Emergency Services discussed his recent conversation with the Fire Marshall in Hobbs. Mr. Kenmore stated the contractor was utilizing the 2015 International Building Code which the State of New Mexico had not currently adopted. Mr. Kenmore stated the State of New Mexico currently follows the 2006 International Fire Code and 2007 International Building Code which does not classify the structure as a "parking garage" as the facility would have no public parking.

Drug Abuse in Lincoln County: During the April Commission meeting, information was presented by Community Healing Addictions through Networking, Guidance, and Education (CHANGE). Since that comprehensive presentation and discussion additional overdose deaths have occurred in the County. Several Commissioners inquired about precise efforts being conducted by law enforcement in the County to address drug abuse.

Robert Shepperd, Sheriff discussed the failure of the New Mexico Legislature to adopt revisions to the Forfeiture Act which would limit liability of agencies and restore the partnership with the Federal Asset Sharing program for the disposition of seized property. Sheriff Shepperd stated this was a critical funding source for law enforcement response to drug trafficking. Sheriff Shepperd reminded during his first term he re-established the regional drug task force to obtain High Intensity Drug Trafficking Area program (HIDTA) funding. Sheriff Shepperd stated the task force currently consisted of two Lincoln County Sheriff Deputies, one Village of Ruidoso Police officer, a part time officer from the Ruidoso Downs Police, and a full time Board Patrol Agent. Sheriff Shepperd expressed belief the other entities needed to contribute additional personnel to the task force to increase drug enforcement activities. Sheriff Shepperd also commented on the leniency of the courts which creates a "revolving door" for those involved in illegal activities.

Chair Stone suggested the County Manager facilitate a meeting with the local Mayors and heads of law enforcement to request additional personnel or funding for the drug task force.

Undersheriff Rains stated he was working on a program to educate youth about drug use in the local schools in Lincoln County and anticipated they would begin during the next school year.

Meeting with NM Department of Transportation (DOT): The Manager and Road Superintendent met with District II DOT representatives Alan Briley, Assistant District Engineer – Construction Office and Sigrid Webb, LGRF/Outreach Coordinator to discuss the process for submitting Commission approved CAP, Coop, and School Bus Route road projects to the NM-DOT; for completing the project(s) and submitting for reimbursement; for amending information and submitting requests to change the scope of work if there was an overage or shortfall in the funds provided; when was it appropriate to request advance funding; and what steps are required if the advance funding was greater than or less than the actual cost of project work. The Manager stated the meeting was very worthwhile, resulting in both parties having a greater understanding and agreement regarding processes for existing and future projects.

Also discussed was the NM DOT's proposed scope of work to repair the damage to the historic steel truss bridge located on Alamo Canyon Road. The Manager stated due to the historic nature of the bridge NMDOT consulted the State Historic Preservation Officer to assist in determining the scope of work. The Manager provided a copy of DOT's plans for the project. The Manager stated the Road Superintendent would provide traffic control and other assistance to minimize Lincoln County's cost for repair. The New Mexico Association of Counties Multi-line Insurance Agent was working with the County and DOT regarding cost coverage.

Department Head Updates

a) **Jeff Honeycutt, Road Superintendent** reported the department was conducting trainings with four employees participating in grader training this week. Mr. Honeycutt informed flagger and loader trainings were scheduled for upcoming weeks. Mr. Honeycutt stated the trainings were conducted through the Local Technical Assistance Program (LTAP) in the County on local roads and at no cost to the County.

Meeting with Corona Property Owners and Principals of "Clean Line Energy Partners LLC": At the request of South Corona Land Owners Association and Clean Line Energy Partners the Manager and Road Superintendent met with two members of the Association and principals from Clean Line Energy on March 7, 2017. The purpose of the meeting was to discuss the development of the Mesa Canyons Wind Farm under development over the past nine years. The Manager noted lease agreements for the project were executed for approximately 125,000 acres of private land in Lincoln County. The Manager stated Clean Line Energy requested an opportunity to address the Commission's April agenda to present the project to the Commission.

Chair Stone questioned if wind energy companies were required to enter into a road maintenance agreement with Lincoln County.

Attorney Morel stated Lincoln County's Wind Energy Ordinance required companies to enter into a road agreement with the County when they commence construction.

Commissioner Willard expressed belief Pattern Energy had begun work prior to the year's end.

Commissioner Stewart suggested considering a review of the current Wind Energy Ordinance.

Curt Temple, Planning Director informed the Ordinance requirements became effective only when a company began the construction of the wind towers. Mr. Temple noted actions to date had not required any permitting from the State and had not met the threshold of the "construction of wind towers" in the County Ordinance requiring a road agreement.

Chair Stone reminded of the recent heavy use of County roads by Pattern Energy and expressed belief the County should address the commercial use of a County road which results in damage.

Attorney Morel reminded of prior discussions related to this question and noted the Commission had declined to extend authority to activities on private property.

There was a general discussion regarding the use of County roads for commercial activity related to the installation of wind farms.

Chair Stone recessed the Regular Meeting at 12:05 PM and reconvened at 1:00 PM.

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

20. 1:00 PM: Public Hearings to consider the following:

a. Ordinance 2017-02; Amending the Lincoln County Personnel Policies and Procedures Ordinance 2015-04

Attorney Morel presented proposed revisions for the Ordinance noting these changes were primarily to ensure consistency and clarification. Attorney Morel noted changes included the deletion of language related to compensatory time; the deletion of references to evaluations as Lincoln County does not conduct employee evaluations; clarification of certain decision making authority for Elected Officials, Directors, and the Road Superintendent; references to authorized leave and catastrophic illness; and the addition of "cousins" to the listed relationships in the definition of nepotism. Attorney Morel stated after discussion with Elected Officials language was inserted to clarify the Elected Official, Director, or Road Superintendent shall make the final selection of job applicants subject to review by the County Manager. Attorney Morel noted this change would provide authority for the Elected Officials to make final decisions.

Ms. Taylor noted while the language provides the County Manager the authority to review selected applicants but did not appear to provide a remedy.

Rhonda Burrows, Clerk explained the intent was to allow, as was current process, the Elected Official to make the final decision on applications for employment in their office. Ms. Burrows

suggested as Section 107 defines specific reasons for ineligibility the County Manager could object to a particular applicant based on those definitions or Federal and State law.

Commissioner Stewart concurred the Elected Official's should have final decision making authority but also acknowledged once hired all employees are County employees under the authority of the County Manager.

Ms. Taylor stated one of her primary concerns was to maintain a preference for equally qualified County Employees in the hiring process as defined in the current draft.

Attorney Morel suggested including this language in the section titled Basis for Final Selection.

Commissioner Stewart questioned if there was language which clearly states any final applicant selected was subject to review for eligibility by the County Manager prior to employment.

Attorney Morel stated there was language which addressed this question.

Ms. Burrows and Ms. Taylor both suggested the use of "standard language" form letters to assure proper notice that final selections were subject to review for eligibility and for notice to applicants not selected for a position.

Motion: Recess to the Public Hearing to consider Amending the Lincoln County Personnel Policies and Procedures and convene the Public Hearing to consider Liquor License Application No. 1030787, **Action:** Approve, **Moved by** Chair Stone, **Seconded by** Commissioner Stewart.

Vote: Motion carried by unanimous vote (summary: Yes = 4).

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

21. 1:30 PM: Public Hearing to consider an application seeking a winegrower license with on premise consumption and package sales for Liquor License No./Appl. No. 1030787; from Enchanted Vine, 270 Highway 220, Alto, New Mexico.

Jasper Riddle, owner of Noisy Water Winery in Ruidoso explained he was seeking licensure by this application to develop a second production facility on Highway 220 also known as Airport Road in Alto. Mr. Riddle stated he obtained federal licensure for the production facility on July 1, 2016. Mr. Riddle discussed business plans to include bottling wine at the facility, providing a venue for events, and hosting onsite consumption of New Mexico beer or wine. Mr. Riddle stated the facility would reside on a five acre parcel and in conjunction with the business in Ruidoso would employ approximately forty people.

Chair Stone requested public comment and receiving none adjourned the Public Hearing to Consider Liquor License Application No. 103787 at 1:37 PM.

Motion: Approve Liquor License Application No. 1030787 from Enchanted Vine, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous vote (summary: Yes = 4).

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

Motion: Reconvene the Public Hearing to consider Amending the Lincoln County Personnel Policies and Procedures, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Vote: Motion passed (summary: Yes = 3, No = 1, Abstain = 0).

Yes: Commissioner Stewart, Commissioner Allen, Commissioner Willard.

No: Chair Stone.

20. 1:00 PM: Public Hearings to consider the following (continued):

a. Ordinance 2017-02; Amending the Lincoln County Personnel Policies and Procedures Ordinance 2015-04

Attorney Morel detailed additional recommended language changes which were primarily for clarification and consistency of policies.

Commissioner Stewart questioned if the new language "while on leave, an employee will not accrue any leave" would create administrative problems.

Attorney Morel stated there was lengthy discussion about the leave process and a general consensus the policy was appropriate and manageable.

Attorney Morel pointed out specific language in Section 517 Uniform and Clothing which accommodates recent approval of Lincoln County Sheriff's policy to provide service weapons and related leather gear to all Sheriff's Deputies.

Attorney Morel reviewed additional clarifications to the Ordinance language.

Chair Stone requested public comment and hearing none recessed the Public Hearing to Consider Amending the Lincoln County Personnel Policies and Procedures at 1:45 PM.

Motion: Adopt Ordinance 2017-02 with changes to Section 107 as discussed, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).

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

SEE EXHIBIT C: Copy of Ordinance 2017-02 Lincoln County Personnel Policies and Procedures is attached hereto in reference thereto made a part hereof.

Chair Stone reconvened the Public Hearing to Consider Amending the Ordinance to Regulate Improper Handling of Fire at 1:46 PM.

- b. Ordinance 2017-03; Amending an ordinance regulating improper handling of fire and open burning; establishing powers of County Manager, Emergency Services Director/Coordinator and Peace Officers; establishing provisions for declaring severe fire hazard restrictions and fire danger emergencies and authority to mitigate; establishing penalties; providing for the severability of parts hereof repealing Ordinance 2011-02.**

Attorney Morel stated he did not anticipate final approval today for revisions to the current Lincoln County Ordinance but had provided a draft with some revisions and similar Ordinances from Otero and Luna County for comparative review. Attorney Morel stated some changes were incorporated based on recommendations from the Sheriff's Department and the Office of Emergency Services. Attorney Morel requested guidance as to the degree of authority and enforcement Lincoln County was seeking.

Joe Kenmore, Director Office of Emergency Services stated the proposed changes were to address both small individual requests to conduct a burn as well as to monitor the weather for larger controlled burns. Mr. Kenmore stated belief many individuals do not monitor their burn until it is completely out. Mr. Kenmore supported language similar to Luna County's Ordinance which provides for a penalty when a control burn is not properly monitored and for which an agency response becomes necessary. Mr. Kenmore also advocated for either a limit on the time to conduct a burn or a requirement for someone to remain onsite.

Commissioner Willard questioned the definition of "unrestricted or recreational open burning".

Attorney Morel expressed belief this language related to campfires.

Commissioner Stewart questioned the definition of "fire abatement blazes".

Mr. Kenmore expressed belief this was a reference to prep work to create a "burn line" around large burn piles.

Chair Stone recommended increasing the time for hot ashes to "cool in place" from forty eight hours to seventy two hours. Chair Stone opposed limiting burn times from dawn to dusk noting ranchers typically burn at night to avoid wind and high temperatures.

Mr. Kenmore pointed out Luna County's Burn Ordinance provided a different scenario for designated "Agricultural Burns".

Sheriff Shepperd expressed concerns regarding private property rights and actions conducted on private property. Sheriff Shepperd also objected to a reference to issuance of a "mandatory citation" as contradictory to a Deputy's discretion. Sheriff Shepperd also commented on the potential for a responder to violate State trespass laws in pursuit of County Ordinance violations. Sheriff Shepperd agreed there was a need to address the refusal of a private property owner to allow fire personnel to respond to a fire on their property but cautioned the wording was critical to enforcement.

There was general discussion regarding the difference between small property owners burning and large agricultural burning.

Commissioner Stewart expressed belief there was a need for the capability to address unreported or unmonitored fires on private land during critical fire weather conditions while at the same time protecting private property rights.

Attorney Morel suggested developing an exemption for an Agriculture Burn possibly based on the Assessor's designation of agricultural parcels and with some requirement for notification and monitoring.

Attorney Morel stated he would provide a revised draft for further discussion.

Motion: Recess the Public Hearing to Consider Amending the Ordinance to Regulate Improper Handling of Fire and reconvene the Public Hearing on April 18, 2017 at 1:00 PM, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous vote (summary: Yes = 4).

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

Chair Stone reconvened the Regular Meeting at 2:25 PM.

18 Manager's Report Continued

Meeting with Corona School Administration to Discuss School Bus Routes: On March 7, 2016 the Manager and Road Superintendent met with the Corona School District's representative regarding their school bus routes. It was clear the school district reviews every road with existing marked-up road maps to include the physical location of students' homes. We will meet with all the other school districts to acquire similar information. The Manager stated staff would also review the existing County School Bus policy and present proposed modifications if needed in the near future.

Solid Waste Matters: The Commission recently considered the circumstance of residents initially and incorrectly included on the list of Sun Valley Water and Sanitation accounts which is provided service by the Greentree Solid Waste Authority (GSWA). The incorrectly identified residents live in the Fox Run Subdivision which is outside the Sun Valley District. Although these residents incorrectly received and paid for service from GSWA, Lincoln County was also billing the residents. The Commission granted the Manager's request to credit those unpaid customer accounts for previous billings but to continue to properly provide the service and issue billing on an ongoing basis. The Manager stated the Solid Waste Department and Finance Department initiated the second phase of the corrective action by starting the process to issue refund checks to those few customers who paid Lincoln County, did not pay GSWA, and are now threatened legal action by GSWA. The Manager requested authority to issue refunds for payments for the period during which Lincoln County billed and received payment but GSWA provided services for three accounts. Ms. Taylor stated these refunds would resolve the past conflict of payments and services for Fox Run residents.

Motion: Authorize the reimbursement of payments to Fox Run residents who paid Lincoln County but received services from GSWA, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Stewart.

Commissioner Stewart requested notification to the customers the refund was for services rendered and provided by GSWA.

Ms. Taylor stated there were a few other circumstances where a different entity such as the Village of Capitan had billed for and provided services to County residents.

Vote: Motion carried by unanimous vote (summary: Yes = 4).

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

Department Head Updates

- a) **Punkin Schlarb, Finance Director** reported she received approval from the Department of Finance and Administration to issue a Request for Proposals for audit services. Ms. Schlarb stated staff would attend a mandatory audit rule training on March 28, 2017 in Ruidoso. Ms. Schlarb stated staff would also attend a New Mexico Public Procurement Association Conference in Ruidoso this week. Ms. Schlarb reported staff also attended a Community Development Block Grant (CDBG) meeting this month and received an Assets Management Resource sheet to assist with management of County capital outlay needs, requests, and risk analysis.

The Manager reminded since Lincoln County completed the CDBG project for the Carrizozo Senior Center, the County was now eligible to apply for an additional CDBG project. Ms. Taylor noted any proposed project must address the needs of low income residents such as senior centers or meet a different standard.

- b) **Curt Temple, Planning Director** stated work on the compactor site for Lower Eagle Creek was in process. Mr. Temple stated he received approval for placement of signage from the NM Department of Transportation and once the materials were received staff would construct and place the signage welcoming travelers to Historic Lincoln County. Mr. Temple stated he was working with Presbyterian and the contractor on plans for the new Emergency Medical Services building and anticipated a ground breaking ceremony in the near future.

Mr. Temple stated he attended the CDBG training and it was his understanding any proposed project must meet a threshold of fifty one percent or higher benefit to lower or moderate income households. Mr. Temple stated depending on the project, the income analysis could include either the County wide income average income or the average income of a smaller localized group who would benefit from the project.

Commissioner Willard questioned if the County could narrow the income demographic for a project to a particular geographical area.

Mr. Temple affirmed Lincoln County could submit a proposal for a project such as construction of fire station in a certain area of the County where a predominance of residents of low to moderate income benefit. Mr. Temple stated such a project might require a survey to support assertions of a lower income benefit. Mr. Temple reminded any CDBG funding request required a public hearing to identify project proposals in addition to the requirement for inclusion of any proposed project on Lincoln County's Infrastructure Capital Improvement Plan (ICIP).

Commissioner Willard expressed interest in applying for a CDBG grant for a new fire station in Hondo.

Commissioner Stewart commented on the difficulty of utilizing surveys for justification. Commissioner Stewart stated Senior Centers were the most readily identifiable projects targeting low to moderate income residents. Commissioner Stewart reminded Lincoln County received a CDBG grant for construction of the Public Health Office in Ruidoso despite the average income of residents in the area but because of the population targeted for services.

Commissioner Allen remarked on the need for a new clinic facility in Hondo.

Chair Stone questioned the source of funding to purchase the metal building for the Hondo Fire Station.

Joe Kenmore, Director of OES stated the building was purchased with a Fire Marshal's grant but no such grants were available in the upcoming year due to the State budget crisis.

The Manager stated Dora Bautista, Executive Director of the Southeastern New Mexico Economic Development District (SNMEDD) recommended proceeding with public hearings to determine the public's interest in potential project. The Manager noted the Hondo Senior Center was in need of extensive repair.

There was a general consensus to have SNMEDD begin conducting public hearings to consider potential CDBG projects.

- c) **Billie Jo Guevara, Human Resource Director** stated the Assessor recently filled two open positions, the Planning Department had an opening for an Addressing Technician, and the Road Superintendent was currently conducting interviews for open Operator II positions. Ms. Guevara stated she scheduled trainings in April for work place ergonomic training and sexual harassment training. Ms. Guevara stated she attended the CDBG training and learned the advantage of starting the process early and being organized.
- d) **Joe Kenmore, Director of the Office of Emergency Services** reported Spencer Baldwin and David Cunningham from the NM State Forestry conducted a basic wildfire training class in March in preparation for the upcoming fire season.

Chair Stone questioned if Lincoln County Voluntary Fire Departments were adequately trained to respond to large grass fires.

Mr. Kenmore expressed belief the departments were adequately trained but discussed the effect of high, gusting winds on fires and reminded there were some fire conditions which could hinder response. Mr. Kenmore stated the Office of Emergency Services conducts a four hour refresher every year to discuss conditions and potential scenarios.

Mr. Kenmore reported on his attendance and participation in the annual Bataan Memorial Death March near White Sands. Mr. Kenmore stated there were approximately 7200 participants.

The Manager thanked Attorney Morel for conducting a training for Lincoln County employees on compliance with the Open Meetings Act and the Inspection of Public Records Act. Ms. Taylor recommended an annual training.

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

a. Lodger's Tax Committee

Motion: Appoint Kathleen McDonald to the Lodger's Tax Committee, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous vote (summary: Yes = 4).

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

b. Land and Natural Resources Advisory Committee

Motion: Reappoint Duane Frost to the Land and Natural Resources Advisory Committee, **Action:** Approve, **Moved by** Chair Stone, **Seconded by** Commissioner Stewart.

Vote: Motion carried by unanimous vote (summary: Yes = 4).

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

22. Discussion of Energy/Solar Solution for Lincoln County Detention Center

Ms. Taylor stated as per direction after a prior discussion of a possible solar installation at the Lincoln County Detention Center, she contacted Otero County Electric Coop General Manager Mario Romero. Ms. Taylor stated she and Mr. Romero agreed on the benefits of a public workshop to discuss the advantages and disadvantages of solar solutions. Ms. Taylor suggested the workshop include Commissioners, local solar experts, solar solution providers, and public entities who had opted to utilize a solar solution.

There was a general consensus to hold a workshop. Ms. Taylor stated she would provide potential workshop dates for consideration.

23. Approval of 2017 National Service Recognition Day Proclamation

Ms. Taylor received a request from Judy G. Sarabia, Community Center RSVP Coordinator for the Ruidoso Community Center requesting Lincoln County adopt a Proclamation acknowledging this year's Day of Recognition for National Service on April, 4, 2017.

Motion: Approve the 2017 National Service Recognition Day Proclamation, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous vote (summary: Yes = 4).

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

24. Budget Preparation: Procedures & Timeline - FY 2017-2018

Ms. Taylor presented a timeline of the proposed budget preparation process, a list of external agencies who routinely requested financial assistance, and a letter from Rick Lopez, Director of the Local Government Division of the NM Department of Finance and Administration (DFA).

Ms. Taylor noted DFA required submission of the Preliminary Budget by June 1, 2017 and submission of the Final Budget no later than July 31, 2017.

Motion: Approve the timeline and budget procedures for Fiscal Year 2017-2018 as presented, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous vote (summary: Yes = 4).

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

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

- a. Appeal of Lincoln Historic Preservation Board's Decision
- b. Appeal of Denial of the Re-plat by Family Exemption of Tract 2B-1 of the Nocollette Miner Tracts within Lincoln County, New Mexico

Motion: Schedule Public Hearings to consider the Appeal of Lincoln Historic Preservation Board Decision, Appeal of Denial of the Re-plat by Family Exemption of Tract 2B-1 of the Nocollette Miner Tracts in addition to continuance of the Public Hearing to Consider Amending Ordinance 2011-02 Regulating the Improper Handling of Fire and Open Burning for the April Regular Meeting, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous vote (summary: Yes = 4).

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

27. Executive Session Pursuant to the Open Meetings Act: Discussion of Limited Personnel Matters, Section 10-15-1, Sub paragraph H.(2) Evaluation, County Manager, Nita Taylor; 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 Threatened and/or Pending Litigation Section 10-15-1, Subparagraph H. (7); Discussion of Limited Personnel Matters, Section 10-15-1 Subparagraph H. (2) Evaluation County Manager, Nita Taylor; 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),

New or Updated Matters since last report *

1. **Water Rights Protests: New Mexico State Engineer Hearing 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.

2. **A. Preston, DeAnna v. County of Lincoln, Sheriff Robert Shepperd, Et. Seq. D-1226-CV-2015-00112** Notice of Appeal of Post Disciplinary Hearing filed June 10, 2015. Amended Complaint alleging Civil Rights Violation and Gender Based Discrimination filed on Oct. 13, 2015. Removed to Federal Court Nov. 12, 2015. Amended Complaint Appealing the Adverse Administrative Decision filed May 9, 2016 by Mr. Beauvais. Defendant's Notice of Filing Petition for Removal to Federal Court was filed May 19, 2016.

B. *Preston, DeAnna v. County of Lincoln, Sheriff Robert Shepperd, Et Seq In the United States District Court For The District of New Mexico 2:15-cv-01029 / 2:16-cv-00459 Defendants County of Lincoln and Sheriff Robert Shepperd's Motion to Dismiss entered November 19, 2015. Order Dismissing Without Prejudice entered by Judge Stephan Vidmar April 19, 2016. Amended Complaint Civil Rights Violation filed May 6, 2016 by Mr. Beauvais. Defendant's Motion for Summary Judgment and Qualified Immunity filed November 17, 2016. Plaintiff's Response to Defendant's Motion for Summary Judgment and Qualified Immunity was filed December 12, 2016. Defendant's Reply in Support of their Motion for Summary Judgment and Qualified Immunity in 2:15-cv-01029 was filed January 6, 2017. Motion for Summary Judgment in 2:16-cv-00459 was filed February 13, 2017. Settlement Conference for both cases is scheduled for March 17, 2017.

3. **Orlando Montes v. Pinnacle Propane, LLC, Allen Sultemeier, County of Lincoln, Lincoln County Fair Association, John Does; D-1226-CV-2016-00006 United States District Court for the District of New Mexico 2:16-cv-126.** Complaint for Wrongful Death, Statutory Tort, Violation of Constitutional Rights (Due Process), Negligence Per Se: Loss of Consortium, Negligent Infliction of Emotional Distress filed with the 12th Judicial District Court Jan. 19, 2016. Incident occurred at Lincoln County Fairgrounds July 2, 2015. County was served with Complaint on January 25, 2016. The case was removed to Federal Court Feb. 22, 2016. County of Lincoln's Answer to Complaint filed February 29, 2016. County's Response to Plaintiff's Motion for Partial Summary Judgment filed July 28, 2016. Estate of Montes and Orlando Montes' Response to

County of Lincoln's Motion to Stay Discovery filed August 8, 2016. Settlement Conference took place September 6, 2016. The case did not Settle. Motion to Dismiss was denied November 22, 2016. Memorandum and Opinion was filed February 3, 2017 in which Judge Herrera granted the Motion to Dismiss in part, while declining to rule on State issues.

4. ***Brian Ray Seidel, Brenda Le Seidel, Walter Ray Seidel, Jr. v. Anthony Manfredi, Lincoln County Sheriff's Department, 5 John and Jane Does D-1226-CV-2017-00025** Civil Complaint for Damages filed January 30, 2017. A Request for Hearing on Motion to Dismiss and Memorandum in Support of Motion to Dismiss was filed March 6, 2017.

5. ***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.

6. **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.

7. ***Cooper, Gale and DeBaca County News v. County of Lincoln, Sheriff of Lincoln County, et al. D-1329-CV-2007-01364** Suit filed October 15, 2007-Verified Complaint for Declaratory Judgment Ordering Production of Certain Records and Information. Plaintiff filed Motion for Reconsideration and Rehearing July 8, 2016. Order Denying Motion for Reconsideration and Hearing was filed July 20, 2016. Plaintiff's Motion to Enforce Judgment on Awards filed Nov. 2, 2016. Motion Hearing is scheduled for February 2, 2017. Plaintiff filed Addendum to Motion to Enforce Judgment on Awards December 7, 2016. Defendant's Motion to Vacate Hearing and Dismiss Plaintiff's Addendum to Motion to Enforce Judgment on Award filed December 23, 2016. At the Hearing February 2, 2017, the Court denied the Motion to Enforce Judgment. Plaintiff has filed an Amended Request for Hearing, Correcting the Record and Presentment of Final Judgment February 13, 2017, and Defendant's attorney has emailed the Court a Proposed Order on the Motion to Enforce Judgment on February 13, 2017. Plaintiff Cooper filed an Amended Request for Hearing, Correcting the Record and Presentation of Final Judgment on February 13, 2017 due to her statement of lack of notice of Hearing which took place on February 2, 2017. Hearing took place March 8, 2017 and Order on Motion to Enforce Judgment was filed March 8, 2017 by Judge Eichwald in which "...Plaintiff's Motion is hereby denied, and this matter is now concluded."

8. ***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.

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 Final Pre-Trial Hearing is scheduled for May 9, 2017, 9 a.m. and a Jury Trial is scheduled for May 24, 2017, 8:30 a.m.

10. ***State of NM v. Romero, Roger M-30-MR-2017-00007** 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 January 12, 2017. The Defendant appeared before Judge Mickie Vega January 24, 2017 and entered a plea of "Not Guilty." Case was not resolved at a Pre-Trial Hearing on February 28, 2017. A Final Pre-Trial Hearing is scheduled for June 6, 2017, 9 a.m. and a Jury Trial is scheduled for June 12, 2017, 8:30 a.m. before Judge Vega.

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.

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 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

Capitan Iron Mine through A. Blair Dunn – Threatened Litigation on April 1, 2015 against the County of Lincoln should Lincoln County require Capitan Iron Mine comply with Lincoln County Mine Ordinance 2009-01.

Chavez, Billy – Ordinance Violation: 2009-03 Regulating Refuse, Solid Waste and Litter in the County. March 10, 2015 certified letter mailed to Mr. Chavez giving him 30 days to dispose of debris on his property at 142 White Cat Road, San Patricio (Section 26, Township-10S, Range 16E, tract of land lying in the NE 4SE4). April 10, 2015 the property was inspected and noted no progress had been made.

Culp, Susan v. LCMC/Lincoln County: Tort Claim Notice received May 4, 2015 from Attorney Katherine Channing Roehl/Roehl Law Firm alleging medical malpractice, negligent supervision, negligent credentialing by staff, administrators and doctors at LCMC on or about March 3, 2015 during Ms. Culp's gall bladder removal surgery.

Reyes, Roberto – Tort Claim Notice received May 15, 2015 from Attorney Timothy White/Valdez White Law Firm alleging illegal seizure, illegal search, illegal imprisonment and wrongful conduct of the Lincoln County Sheriff's Department.

Torres, Leopoldo: Tort Claim Notice received June 4, 2015 from inmate Torres alleging inmate-initiated attack on inmate Torres at Lincoln County Detention Center.

Wallace, Stephen: Tort Claim Notice received June 11, 2015 from Attorney Gary Mitchell alleging deprivation of Constitutional rights due to false incarceration at Lincoln County Detention Center without proceeding with a timely extradition.

Rodriguez, Victor – Tort Claim Notice received July 13, 2015 from Attorney W. Chris Nedbalek alleging hostile treatment from fellow employees while employed at Lincoln County Detention Center.

Prudencio, Fabian and Corinne – Tort Claim Notice received July 24, 2015 from Attorney Daniel P. Ulibarri alleging negligence, personal injury, spoliation, indemnification and property damage against the County of Lincoln.

Yates, Barbara – Verbal Threat against the County issued July 21, 2015 due to ongoing flooding at her private property.

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

Capitan 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 Stewart, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).

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

Chair Stone recessed the Regular Meeting and convened the Closed Session at 3:11 PM.

Chair Stone adjourned the Closed Session and reconvened the Regular Meeting at 4:49 PM.

Commissioner Stewart 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.

28. Bogle Road Update

Attorney Morel stated a formal complaint against Zia Natural Gas was filed with the New Mexico Public Regulation Commission as directed during last meeting. Attorney Morel stated he had received no response as of this date.

29. Signing of Official Documents


30. Next meetings:

- a. April 18, 2017 - Regular Commission Meeting
- b. May 2, 2017 - Special Commission Meeting – Preliminary Hearing

31. Adjourn

There being no further business to come before the Board of County Commissioners, Chair Stone adjourned the meeting at 4:50 PM.

County of Lincoln
Board of County Commissioners

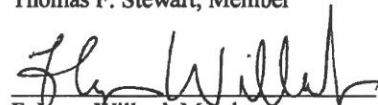

Preston Stone, Chair


Dallas Draper, Vice Chair


Elaine Allen, Member

4091


Thomas F. Stewart, Member


F. Lynn Willard, Member

ATTEST:


Rhonda Burrows, County Clerk

April 18, 2017
Date Approved

