

## 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, May 16, 2017

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on May 16, 2017 in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico.

#### 1. Call to Order

At the request of Chair Stone, Vice Chair Draper 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 Draper.

#### 4. Pledge of Allegiance

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

#### 5. Approval of Agenda

**Motion:** Acceptance of the Agenda and authorized the Vice 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) April 18, 2017 - Regular Commission Meeting
- b) April 26, 2017 - Special Commission Meeting

**Motion:** Approve the minutes of the April 18, 2017 Regular Meeting and the April 26, 2017 Special Meeting; **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.

#### 7. Approval of Consent Agenda

- a) Payroll/Accounts Payable/Budget/ Expenditures
- b) Treasurer's Financial Report for the Month ending April 30, 2017
- c) Carrizozo Soil and Water Conservation District Mill Levy Rate
- d) Chaves Soil and Water Conservation District Mill Levy Rate

**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.

**8. Forest, Land and Natural Resources Matters:**

**a) Lincoln and Fort Stanton Historic Sites**

Tim Roberts, Central Mountain Regional Manager reported over 1000 students had either visited the historic sites or participated in outreach curriculum programs. Mr. Roberts informed a Preservation Architect was hired through the Local Government Grant facilitated by Lincoln County to develop a preservation plan. Mr. Roberts provided updates on current renovations including work on the Torreon in Lincoln.

Mr. Roberts discussed the recent "Lincoln After Dark" tour and thanked the Sheriff's Department for assistance with traffic control. Mr. Roberts reminded of upcoming events including the first annual San Juan Cultural Festival set for June 24, 2017.

Mr. Roberts informed the Bureau of Land Management planned to hold a public meeting to receive comments on a project to develop trout fishery areas in the river area behind Lincoln.

**b) Smokey Bear Ranger District**

Anthony Sanchez of the Smokey Bear Ranger District reported on current thinning vegetation projects including a project to thin vegetation on County Roads 72 and 72A in conjunction with the Lincoln County Road Department. Mr. Sanchez also discussed thinning projects near Grindstone Lake and Mescalero Lake to improve the Rio Ruidoso watershed. Mr. Sanchez stated the District had issued a scoping document for thinning of 100 acres in Baca Canyon. Mr. Sanchez anticipated final decisions on the closure of approximately 23 abandoned mines in the Smokey Bear Ranger District; on the installation of a non-potable water well at the Argentina Trail Head; and the request from Otero County Electric to install a power line in the Baca Canyon Area. Mr. Sanchez stated the District anticipated restoration work on the Southfork Campground would proceed in cooperation with the City of Alamogordo. Mr. Sanchez also discussed numerous youth engagement activities planned for the summer.

**c) Cibola National Forest**

Ms. Taylor reported the Mountainair Ranger District Collaborative Team would meet May 23, 2017 at the Edgewood Soil and Water Conservation District Office.

**d) Community Forester**

Rick Merrick, Community Forester stated he attended the second annual Fire Wise Meeting held by the Ranches of Sonterra homeowners. Mr. Merrick reported the Eastern New Mexico University – Ruidoso sponsored speaker series would focus next on the Lincoln National Forest Plan Revision. Mr. Merrick stated he was still working with the manufacturer of the Air Curtain Burner to conduct the required operational training.

**e) Upper Hondo Soil and Water Conservation District**

Laura Johnson, Program Director reminded the Upper Hondo had a scholarship program available for graduating seniors from Hondo, Ruidoso, and Capitan High Schools for students planning to pursue agricultural studies.

Ms. Johnson informed the Upper Hondo currently had vinegar available for the public to utilize in management of noxious weeds. Ms. Johnson stated the Upper Hondo was seeking cost share partners for the management of noxious weeds. Ms. Johnson stated the District had increased the annual budget for cost share programs including the new water harvest cost share program.

**f) Land and Natural Resources Advisory Committee (LANRAC)**

Ms. Taylor reported LANRAC met on May 9, 2016 to consider revisions to Sections I through IV of Lincoln County's Land Use Plan Resolution 1997-33.

g) Office of State Engineer-Water Issues

Ms. Taylor stated there were currently two water right applications posted on the State Engineer's website:

On March 17, 2017 Sally Canning filed Application No. H-4328-POD1 for permit to use an existing well to supplement the diversion of 47.075 acre feet per annum of surface waters from the Providencia Ditch for irrigation of 14.35 acres. Ms. Taylor stated the final date for protest was May 15, 2017.

On March 6, 2017 Paul A. Bonnell, Inc. filed Application No. SD-0683-1A for permit to change place and or purpose of use of surface and supplemental ground water in the Hondo Underground Water Basin. Applicant proposes to change the purpose of use by discontinuing the diversion of 4.752 acre feet per annum of surface waters of Rio Ruidoso.

**9. Design and Construction of Lincoln County Medical Center – EMS Building: Consideration of Alternative Design/Construction Options and Related Costs**

Bobby George, Lead Architect for Dekker/Perich/Sabatini provided an update on the design and development of the Emergency Medical Services (EMS) building. Mr. George stated the construction documents were completed and submitted to Jaynes Corporation for construction pricing and to the NM Construction Industries Division (CID) for permanent review. Mr. George stated the firm received final approval from CID with no comments on the drawings and had also received approval of the site plan from the Village of Ruidoso Planning Department. Mr. George informed the bids received by Jaynes Corporation were substantially higher than anticipated and exceed the projected budget for the project. Mr. George discussed current construction industry conditions and the process to solicit both local and out of area bids.

Mr. George reminded the initial budget for the EMS building was estimated in 2016 as \$2.5 million of the total \$25 million dollar bond issuance for the construction of the new hospital. Mr. George stated the cost of construction of the EMS facility was estimated as \$2 million but bids received totaled \$2.63 million creating a project deficit of approximately \$600,000 overage in costs.

Mr. George noted the original cost estimate included a substantial budget for property acquisition. Mr. George stated the actual cost of the property purchase provided a potential \$375,000 savings for the project which was incorporated into a new budget to offset the rising construction costs. Mr. George stated subsequently in cooperation with Jaynes and Presbyterian the plans were reviewed to identify additional costs savings options.

Mr. George discussed the various options to reduce costs noting those identified were not substantial as the building was fairly simplistic in design. Mr. George stated there were options to delete a separate wash bay, a car port for outdoor storage of various trailers, a lightening protection system, heavy duty asphalt paving, and various other smaller cost items. Mr. George stated as a result of these "value engineered savings" the budget for the EMS facility was reduced to \$2.3 million. Mr. George noted the increase in the EMS project budget would result in an overage of \$370,000 of the initial total estimated project cost for construction of the new hospital facility of \$25 million.

Mr. George discussed the option to rebid the project to seek cost savings but expressed concerns about a rebid process resulting in the return of higher bids than initially received. Mr. George also discussed the option to combine the EMS facility project with the larger new hospital construction project under one contractor. Mr. George suggested the use of a larger contractor on the smaller project could result in an increased cost for the EMS facility due to economies of scale.

**10. 9:30 AM: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS**

Commissioner Stewart reported he would attend the next Joint Land Use Study (JLUS) meeting on May 23, 2016 in Las Cruces.

Commissioner Allan stated she was attending Greentree Solid Waste Authority meetings. Commissioner Allen reported GSWA was providing slash removal to residents upon request for a fee. Commissioner Allen stated she had asked GSWA to consider potential pricing options to provide recycling services for County residents.

Vice Chair Draper stated he continued to participate as a member of the New Mexico Association of Counties Economic Development Committee. Vice Chair Draper stated as a result of support received from Presbyterian the recently organized CHANGE group would award to scholarships to local students.

**9. Design and Construction of Lincoln County Medical Center – EMS Building: Consideration of Alternative Design/Construction Options and Related Costs (continued)**

Mr. George recommended proceeding with the EMS project removing those value engineered items identified which would result in a final EMS construction budget cost of \$2.3 million and a total project cost of \$2.8 million including fees, taxes and other "soft" costs. Mr. George expressed belief there was opportunity to manage the project costs for the construction of the new hospital, identify additional costs savings, and reduce the combined overall costs of construction.

There was a general discussion regarding the higher bids received from local subcontractors.

Commissioner Stewart clarified the current bid cost was \$2.6 million and stated objections to "cutting corners". Commissioner Stewart suggested working within the general budget process to offset the overage.

Commissioner Allen clarified value engineered cost savings were estimated to reduce the project cost from \$2.6 million to \$2.3 million.

There was further discussion regarding the advantage of rebidding the project versus the potential for additional cost increases over time.

Todd Oberheau, LCMC Administrator expressed belief Presbyterian, Mr. George, and Jaynes Corporation could work together to identify savings opportunities on the larger hospital construction project.

Ms. Taylor stated the value engineered options presented were reviewed with all of the project stakeholders with an emphasis on retaining the quality of the project.

Commissioner Stewart clarified his recommendation was not to utilize General Fund revenues at this time but rather to monitor the project expenditures and through conservative management of the General Fund prepare to supplement the bond and charity revenues to finish out the project in 2019.

Vice Chair Draper recessed the Regular Meeting at 10:00 AM and reconvened at 10:12 AM.

**Motion:** Move forward with the current project bid incorporating the value engineered savings proposed by Lincoln County staff and Presbyterian staff, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Ms. Taylor and Beverly Calaway, Treasurer both stated after a review of the current budget they were in support of the motion.

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

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

**11. Status of Legislature - Senator Liz Stefanics**

Attorney Morel informed the speaker would attend the June Regular Commission Meeting.

**23. Consideration of Request for Type 3 Summary Subdivision for Deer Park Woods Subdivision, Unit 8**

Attorney Morel presented the request for approval of a Type 3 Summary Subdivision containing 2.431 acres now known as Lot 2 Unit 8 of Deer Park Woods Subdivision. Attorney Morel stated the parcel was originally approved in 1982 as eight separate lots and then combined in 1992 into one parcel. Attorney Morel stated the proposed summary subdivision titled Deer Park Woods Subdivision Unit 8 would contain five separate lots accessible by private roads previously constructed. Attorney Morel noted water, gas, electricity and cable were currently available and the subdivision only lacked construction of a sewer line to connect with the community sewer

system. Attorney Morel stated the application was initiated by Whirlwind Properties, LLC with surveying services provided by Eric Collins of D.T. Collins and Associates, PC.

Chair Stone was excused from the meeting at 10:18 AM.

Curt Temple, Planning Director stated after a review of the Type 3 Summary Subdivision requirements it was his opinion the proposed subdivision met the principal requirements of the Lincoln County Subdivision Ordinance. Mr. Temple stated as the sewer line was not currently constructed, if the applicant wished to file the plat and begin sales, the applicant was required to enter into an improvement agreement with Lincoln County and post a cash bond. Mr. Temple stated in the alternative the developer could complete construction of the sewer line and obtain approval and then file the plat.

Vice Chair Draper questioned if this development would conflict with the other subdivisions in the area.

Mr. Temple informed the proposed subdivision had agreements in place and permission for use of the Alto Lakes Country Club community water and waste system as well as associated golf memberships.

Commissioner Stewart stated he reviewed the site and expressed concern about the minimal space for construction.

Eric Collins, Surveyor Agent for the project reported only four of the proposed five were "buildable" lots and planned for single family dwellings. Mr. Collins stated the fifth lot was identified for transfer to Deer Park Woods as a road easement.

**Motion:** Approve the Deer Park Woods Unit 8 Summary Subdivision Plat; **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

**Yes:** Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

**Absent:** Chair Stone.

Chair Stone returned to the meeting at 10:27 AM.

#### **17. Children and Youth Summit – Presentation by Pauline Staski**

Pauline Staski, Vice Chair of the Lincoln County Juvenile Justice Board informed the intent of the planned summit was to address the high rate of truancy in local schools. Ms. Staski stated conversations with local juvenile probation officers identified truancy as a significant problem. Ms. Staski stated local probation officers received over one hundred referrals for truancy during the last year.

Ms. Staski stated the summit was scheduled for July 31, 2017 at the Inn of the Mountain Gods. Ms. Staski stated there was no cost to attend the day long summit with meals and rooms provided at a discount to participants. Ms. Staski stated the vision of the group was to develop cooperative networks to promote quality of education of children and youth in the area. Ms. Staski acknowledged there were a number of agencies which provide excellent support service but these efforts were not always coordinated. Ms. Staski discussed the goals of the summit which included bringing youth and families into the discussions. Ms. Staski stated belief the summit would create a continuing working group, publication of findings, and promote a second summit in 2018.

Ms. Staski stated in Lincoln and Otero Counties approximately 30% of children live in families where no person has employment, over 30% of children are in families where housing costs exceed 30% of the families' income, 30% to 40% live in single parent homes, and close to 30% of children live in poverty. Ms. Staski stated truancy has a direct impact on drop out and graduation rates. Ms. Staski noted school policies also affect truancy rates depending on their definition of an "unexcused absence". Ms. Staski informed New Mexico Truancy Law defined a "habitual truant" as any student exceeding ten unexcused absences in one year and requires schools to report these students to the juvenile justice system. Ms. Staski provided additional relevant statistics including adverse conditions contributing to student absences.

Ms. Staski invited Commissioners and interested members of the public to attend the summit.

#### **12. Approval of Agreement with South Central Mountain Resource Conservation District (SCMRCD) for to project manage ENMRD Project Number 17-05-1400, the Rainmaker Non Federal Lands (NFL) Project**



Attorney Morel reminded Lincoln County approved an agreement with the New Mexico State Forestry for a non-federal lands (NFL) thinning project of 155 acres referred to as the Rainmakers NFL Project. Attorney Morel stated historically Lincoln County partnered with the South Central Mountain Resource and Conservation District (SCMRCD) for project management. Attorney Morel stated of the 15% administrative fee received for project management, Lincoln County would retain 2% for fiscal agent responsibilities and SCMRCD would receive 13% for overall project management.

**Motion:** Approve the Agreement with SCMRCD to project manage the Rainmaker NFL Project,  
**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.

**13. Approval of Resolution 2016-45 Authorizing the Submission of a New Mexico Community Block Grant Program Application to Repair / Remodel the Hondo Senior Center**

Attorney Morel stated Dora Batista, Executive Director for the Southeastern New Mexico Economic Development District (SNMEDD) held three public hearings to identify projects most needed in Lincoln County. Attorney Morel stated the proposed resolution identified improvements to the Hondo Senior Center as the top priority for submission of a 2017 Lincoln County Community Development Block Grant (CDBG) application.

**Motion:** Adopt Resolution 2016-45, **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 B:** Copy of Resolution 2016-45 is attached hereto in reference thereto made a part hereof.

**14. Manager's Report**

Attorney Morel provided the Manager's Report as follows:

**Solid Waste Matters**

1. **Alternative Rate:** As discussed during the April Regular Commission Meeting, Sierra Contracting reminded Lincoln County their contract allowed for 1,000 cubic yards of non-household waste disposal at the Sierra site for Lincoln County residents. Sierra Contracting informed as of March 31, 2017 the contractor had received 225 cubic yards or nearly 25% of the annual allowance. Sierra Contracting forecasted this type of disposal would significantly exceed the current allowance. Under current contractual terms Sierra would bill Lincoln County for receipt of excess material over the annual allowance at Sierra's standard rate of \$22.00 per cubic yard. Upon request, Sierra Contracting provided an alternative pricing plan which varied the per-cubic-yard charge for non-household waste over 1,000 cubic yards as follows:
  - a. 1,001 to 1,500: the normal rate of \$22.00 per cubic yard less 10%, or \$19.80 per cubic yard;
  - b. 1,501 to 2,000: the normal rate of \$22.00 per cubic yard less 15%, or \$18.70 per cubic yard.
  - c. Over 2,000: the normal rate of \$22.00 per cubic year less 20%, or \$17.60 per cubic yard.

Attorney Morel stated the County Manager recommended adoption of the rates as provided. Attorney Morel commented on the reduction in illegal dumping at sites where signage reminded the public Sierra Contracting would accept slash and non-household waste from the residents at no cost.

**Motion:** Approve the modifications to Sierra Contracting contract as stipulated, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Commissioner Willard questioned if Sierra verified waste delivered to their site was from Lincoln County residents.

Attorney Morel stated belief Sierra does verify those who drop off waste are County residents.

Vice Chair Draper expressed a desire to have a single rate rather than a graduated scale.

Commissioner Stewart concurred and withdrew his motion. Commissioner Allen concurred.

**Motion:** Direct the County Attorney to negotiate with Sierra Contracting to accept \$17.60 per cubic yard for non-household waste over 1000 cubic yards, **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.

2. **Rainmaker Dumpsters:** Beginning June 1, 2016 Lincoln County will place three dumpsters at Rainmakers Community for the use of the subdivision residents. Previously Greentree Solid Waste Authority provided dumpsters to the Rainmakers Homeowners Association but the residents were billed for County provided services.
3. **Compactor Site at Lower Eagle Creek:** The site is near completion and the concrete pad was recently poured. The compactor will replace existing dumpsters and better serve residents living and traveling on Gavilan Canyon and Lower Eagle Creek Roads.

**Solar Energy Workshop:** The Solar Energy workshop held on May 5, 2016 included information and a panel discussion with attendees including: Dr. James Miller, Placer Mountain Services; Mario Romero, Otero County Electric General Manager/CEO; Stirling Spencer, Bartz-Spencer Solar Services; Wayne Stansfield, Affordable Solar; and Scott Griffith, Yearout Energy Services Company. Copies of the attendee presentations were provided. The panelists agreed prior to undertaking a solar solution to address energy savings, it was necessary to ensure all buildings were energy efficient to avoid the risk of installing an oversized solar solution.

Mr. Griffith of Yearout Energy Services was tasked with analyzing two years' of County electric bills for more than thirty five separate locations. The Manager plans to present Mr. Griffith's analysis for consideration of next steps.

**NM Sate Firefighters Association – 93<sup>rd</sup> Annual Conference:** The conference was scheduled for June 8, 2017 through June 10, 2017 in Lincoln County. Lincoln County Fire and Emergency Services will assist in hosting the event.

**Lincoln County Detention Center Transition from Emerald Correctional Management, LLC to LaSalle Corrections:** Attorney Morel stated the transition was progressing smoothly. LaSalle's management team was working closely with the Manager and County Attorney in addition to existing staff at the Detention Center. LaSalle assumed operation of the facility at 5:00 PM on April 28, 2017 as per County Commission approval. All existing employees were hired, benefits provided, liability insurance acquired, vendors notified, uniforms ordered and email addresses changed. LaSalle was also the sole respondent to Lincoln County's Request for Proposals for the ongoing Operation and Management of the Lincoln County Detention facility.

Attorney Morel informed at the direction of the Board of County Commissioners he filed a Complaint for Interpleader of Funds for the final payment to Emerald in the amount of \$225,000. Attorney Morel stated he received notice Emerald was disclaiming any interest in the funds and therefore the funds were available to pay Emerald's outstanding accounts payable for the Detention Center. Attorney Morel stated Lincoln County was working with LaSalle to determine which vendors required payment.

**Torrance County Wind Energy Initiatives:** The Manager and Planning Director are working with their Torrance County peers to learn from their past experiences with wind energy companies. During the Torrance County Commission Meeting of May 10, 2016 a Public Hearing was held to consider an Application from Pacific Wind, LLC for a Special Use Zoning Change to permit development of a wind and solar energy generating facility.

Curt Temple, Planning Director reported on his attendance at the Torrance County Commission Meeting. Mr. Temple stated Torrance County currently had a wind farm project in place and discussed the different ways wind projects are developed and assessed for value. Mr. Temple discussed the potential for issuance of Industrial Revenue Bonds (IRB) and the distribution of the associated negotiated payment in lieu of taxes. Mr. Temple noted the local School Districts could receive a portion of any IRB revenues and also benefit from the process. Mr. Temple stated in the alternative, a county could assess the wind turbines as improvements to the land owner's property.

Commissioner Willard questioned Mr. Temple as to which process seemed the most beneficial.

Mr. Temple discussed the implementation of Industrial Revenue Bonds and suggested a presentation from a bond counsel on the process. Mr. Temple stated the size of the proposed wind farms represented a significant financial investment. Mr. Temple stated the developers could request Lincoln County consider issuance of IRB's for financing. Mr. Temple stated additional Sun Zia provided an update during the Torrance County Commission meeting and indicated construction was beginning on the transmission line.

Commissioner Allen questioned if the Lincoln County Assessor had any comments or recommendations on this process.

Walter Hill, Assessor stated in discussions with the Torrance County Assessor and other County Assessors he received recommendations to proceed with caution to assure proper valuation and a fair tax revenue for the County.

Commissioner Allen discussed the change in valuation for property taxed as agricultural land versus industrial use.

Mr. Hill confirmed a change in status from agriculture to industrial would increase at least a portion of any property owner's tax valuation. Mr. Hill stated the challenge was to learn the actual market value of improvements on each site.

Commissioner Allen commented on the need to accommodate the potential increase in costs to the County for things such as road maintenance and fire protection.

Commissioner Stewart stated understanding the Governor had written the Department of Defense asking them to reconsider the Sun Zia Transmission Line route. Commissioner Stewart also stated the County of Socorro recently passed a Resolution requesting reconsideration of approval due to some eminent domain issues which had arisen due to private landowners who did not want the line buried on their land. Commissioner Stewart stated this was an ongoing topic of discussion for the Joint Land Use Study group.

**Event Calendar:** The Manager provided a list of relevant meetings and events for the end of May and month of June. The New Mexico Association of Counties 81<sup>st</sup> Annual Conference and associated NM Edge County College Classes were scheduled for June 19, 2016 through June 23, 2016 in Taos, New Mexico.

#### **Department Head Updates:**

**Jeff Honeycutt, Road Superintendent** reported the proposed start date for Constructors, Inc. to begin Gavilan Canyon Road repairs was currently June 5, 2016; Mesa Verde planned to begin paving the New Horizon's parking lot on June 12, 2016; and the bridge repairs on Alamo Canyon Road were pushed back to September due to contractor conflicts. Mr. Honeycutt stated the department had filled three open positions including two new operators and one temporary position but one current operator was leaving. Mr. Honeycutt stated improvements were in progress to address increased summer traffic on Fort Lone Tree Road.

**Curt Temple, Planning Director** reported on his attendance at a meeting to discuss the 2020 US Census. Mr. Temple stated the goal was to visit every household which does not respond to census questionnaire on-line. Mr. Temple reminded census officials Lincoln County's population consists of a large number of part time residents and vacation rentals.

Rhonda Burrows, Clerk commented on the need for Lincoln County to actively participate in the State redistricting process triggered by the census. Ms. Burrows reminded during the last redistricting in 2010 Lincoln County lost a Representative seat in the House and was redistricted into a Senate seat containing five other counties from Santa Fe south to Lincoln County.

**Joe Kenmore, Office of Emergency Services Director** stated the first draft of the revised Hazard Mitigation Plan originally created in 2012 was posted to the website for public review. Mr. Kenmore reminded the revised plan was created in coordination with the local municipalities to promote consistency and reduce planning redundancy. Mr. Kenmore stated staff participated in Smokey Bear Days. Mr. Kenmore stated staff also



attended an airport and aircraft familiarization course at the Ruidoso Airport. Mr. Kenmore informed attendance for the annual Emergency Medical Services training was consistent with prior years. Mr. Kenmore stated the National Weather Service was planning one of two trainings in New Mexico in Ruidoso to discuss red flag days and fire weather conditions.

Renee Montes, Senior Center Director informed a public meeting was set for May 25, 2017 at the Carrizozo Senior Center in compliance with Lincoln County's contract with the Non-Metro Area on Aging to provide information about current services and identify additional needs. Ms. Montes informed she had received the required three bids for the proposed Hondo Senior Center renovation.

**16. Approval of RFP/IFB's:**

**a) RFP 16-17-008 Operation of the Lincoln County Detention Center**

Attorney Morel informed the sole response to the bid was received from LaSalle Corrections and opened on May 9, 2017. Attorney Morel stated the response proposed a continuation of the current payment schedule of \$15,000 per month plus actual expenses pending development of a comprehensive cost structure.

**Motion:** Award RFP 16-17-008 to LaSalle Corrections and direct the County Manager and County Attorney to initiate contract negotiations, **Action:** Approve, **Moved by** Chair Stone, **Seconded by** Commissioner Allen.

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

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

Jay Eason with LaSalle Corrections expressed gratitude for the opportunity to work with Lincoln County. Mr. Eason discussed LaSalle's years of experience and oversight of correctional facilities. Mr. Eason also commented on the company's experience working with the US Marshalls, Immigration and Customs Enforcement (ICE) and other relevant agencies to house prisoners in LaSalle facilities.

Vice Chair Draper questioned if Mr. Eason had the opportunity to tour the Lincoln Pines facility at Fort Stanton.

Mr. Eason stated he had toured the facility which he found in good physical condition. Mr. LaSalle stated understanding adequate staffing could present a challenge but stated LaSalle would certainly entertain an option to run the facility to house female inmates in Lincoln County.

**b) RFP 16-17-007 Contracting for Audit Services**

Attorney Morel detailed the seven bids received and scored by the Evaluation Committee consisting of Manager Taylor, Treasurer Beverly Calaway, and Chief Deputy Treasurer Sherrie Huddleston as follows:

Kubiak, Melton and Associates	250
Kriegle/Gray/Shaw and Company, PC	247
Hinkle and Landers, PC	241
Harshwal and Company, LLP	234
Beasley, Mitchell and Company, LLP	217
Accounting and Financial Solutions, LLC	205
R. Kelly McFarland, CPA, PC	175

Attorney Morel stated the Evaluation Committee recommended acceptance of the offer of Kubiak, Melton and Associates with a commitment for five hundred hours of work for an annual fee of \$57,500.

**Motion:** Award RFP 16-17-007 to Kubiak, Melton and Associates and direct the Manager and County Attorney to initiate contract negotiations, **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.

**c) IFB 16-17-009 Annual Base Course Supply**

Attorney Morel informed the sole response was received from Aggregate Technologies, LLC a company based in Alamogordo, New Mexico. Attorney Morel detailed the response as follows:

Stockpile Location	Picked up at site by County Personnel	Delivered to Road Department in Capitan
La Luz, NM	\$ 7.00 per ton	\$21.03 per ton
Ruidoso, NM	\$15.65 per ton	\$21.03 per ton

**Motion:** Award IFB 16-17-009 to Aggregate Technologies, **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.

**d) IFB 16-17-010 Inmate Medications**

Attorney Morel detailed the two responses received and discounts offered as follows:

	Brand Name/Single Source	Generic/OTC
Clinical Solutions, LLC	24%	80%
Diamond Pharmacy Services	22%	40%

**Motion:** Award IFB 16-17-010 to Clinical Solutions, LLC direct the Manager and County Attorney to negotiation the contract between LaSalle and Clinical Solutions, LLC, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Commissioner Stewart noted the current vendor provided a refund for unused medications and requested inclusion of this option in the new contract.

Attorney Morel stated belief the final contract should exist between LaSalle and Clinical Solutions but he would negotiate the contract contingent upon the award of the bid to Clinical Solutions.

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

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

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

Scott Annala, Indigent Health Care Administrator informed funding from the Indigent Health Care budget was utilized to acquire Naloxone for distribution to Sheriff's Department personnel.

Mr. Annala presented the Safety Net Care Provider Pool claims for approval. Mr. Annala processed 32 claims with 29 recommended for approval and 3 recommended for disapproval for a monthly authorization of \$13,461. 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 \$197,139 or a monthly average of \$17,922.

Mr. Annala presented the Indigent Health Care Payments request for the month. Mr. Annala processed 4 claims with 4 claims recommended for approval and none recommended for disapproval for a total payment this month of \$3,825.41. Mr. Annala stated approval of the claims would result in a total expenditure for Fiscal Year 2016-2017 to date of \$56,042 or a monthly average of \$5,095. Mr. Annala stated based on the current average he estimated expenditure of approximately \$61.137 of the \$100,000 budget.

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

**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.

**20. Approval of Lodger's Tax Application with backup material:**

- a) Purpose: Carrizozo Festival & Artists Tour  
Request: \$2,000  
Date(s) of Event: 8/12-13/ 2017  
Presenter: Sen Talley, Carrizozo Works, Inc.  
Approved: \$1,200 Application No. 31
- b) Purpose: Old Lincoln Days  
Request: \$20,000  
Date(s) of Event: 8/4-6/17  
Presenter: Kristi Morrow, Lincoln Pageant & Festivals  
Approved: \$3,500 Application 32

**Motion:** Approve Application No. 31 for \$1,200 and Application No. 32 for \$3,500; **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.

## 21. Memorial Day Proclamation

Commissioner Stewart presented and read for the record a proclamation designating May 29, 2017 as Memorial Day in Lincoln County.

Commissioner Stewart stated the purpose of the proclamation was to reinforce our nation's resolve to never forget those who have previously and more recently given their lives in the defense of our country.

**Motion:** Approve the Memorial Day Proclamation, **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.

## 22. Liquor License Fee by Resolution 2016-44

Attorney Morel reminded as per New Mexico State Statute 7-24-2 the Board of County Commissioners "...are empowered, by resolution duly adopted, on or before the first day of June of each year to impose an annual, non-prohibitive license tax upon the privileges of persons holding state licenses under the provisions of the Liquor Control Act ... to operate within such counties".

**Motion:** Adopt Resolution 2016-44, **Action:** Approve, **Moved by** Chair Stone, **Seconded by** Commissioner Stewart.

**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 2016-44 is attached hereto in reference thereto made a part hereof.

Vice Chair Draper recessed the Regular Meeting at 11:59 AM and reconvened at 1:00 PM.

Vice Chair Draper recessed the Regular Meeting at and convened the Public Hearing at 1:01 PM.

## 19. 1:00 PM: Public Hearing to consider the Adoption of the Preliminary Budget, Fiscal Year 2017-2018 by Resolution 2016-43

Curt Temple, Planning Director presented the modified preliminary budget on behalf of the County Manager. Mr. Temple noted the revised budget was based on direction received after the Public Hearing on May 2, 2017. Mr. Temple stated after incorporating the actions and directions received from the Board of County Commissioners, the projected ending budget balance over required reserves was \$1,923,487.

Mr. Temple reported further analysis of the budget prior to this meeting revealed the "General Fund Transfer Out" total was grossly understated by \$1.066 million. Mr. Temple informed transfers into the General Fund were identified to offset the shortage as follows:

\$ 300,000	Fund 681	Disaster Relief Fund
\$ 600,000	Fund 414	Cap out Construction
\$ 60,000	Fund 608	CDBG matching funds
\$ 82,843	Fund 530	Senior Center Fund

Mr. Temple stated the recommended adjustments would result in a Balanced Budget Determination Ratio of 4.09%.

Vice Chair Draper requested additional information regarding the understated amount for General Fund transfers.

Beverly Calaway, Treasurer reminded the budget was a "living document" requiring constant revision necessitating ongoing reviews for accuracy. Ms. Calaway stated after inclusion of actions taken during the May Budget Hearing and during one of the multiple reviews the budget team discovered a formula to calculate transfers between the Lincoln County Medical Center lease payment to the debt service was incorrect in the spreadsheet. Ms. Calaway stated the error was immediately brought to the attention of the County Manager and steps were taken to identify additional transfers to the General Fund. Ms. Calaway stated appreciation for staff and noted the importance of identifying this error prior to submission of the Preliminary Budget.

Commissioner Stewart expressed concern about the transfers related to the hospital lease payments and the timing of obligations due for the debt service of the General Obligation Bonds issued to build the new hospital facility.

Sherrie Huddleston, Chief Deputy Treasurer clarified the budgeted lease payment revenue Commissioner Stewart referenced was properly budgeted for the upcoming fiscal year. Ms. Huddleston reminded the lease payment scheduled for receipt in June 2017 was contained in the current fiscal year's budget.

Commissioner Stewart noted the proposed 3% Cost of Living Increase was previously estimated to cost approximately \$101,000 but the budget for personnel costs in the proposed budget reflected an increase of \$113,000.

Ms. Huddleston stated the Payroll Department informed her the increased amount reflected an increase in insurance costs.

Vice Chair Draper questioned a negative balance in the Gross Receipts Tax revenues.

Ms. Huddleston stated gross receipts tax revenues are received two months in arrears and the carry forward of revenues received this fiscal year would adjust the negative balance for the upcoming budget year.

Vice Chair Draper adjourned the Public Hearing and reconvened the Regular Meeting 1:26 PM.

**Motion:** Adopt Resolution 2016-43, **Action:** Approve, **Moved by** Chair Stone, **Seconded by** Commissioner Draper.

**Vote:** Motion passed (summary: Yes = 3, No = 2, Abstain = 0).

**Yes:** Chair Stone, Commissioner Draper, Commissioner Willard.

**No:** Commissioner Stewart, Commissioner Allen.

**SEE EXHIBIT E:** Copy of Resolution 2016-43 is attached hereto in reference thereto made a part hereof.

#### 15. Wind Energy Development – Identification and Scheduling of Critical Tasks

- a) Review and Provide Guidance Regarding Modification of Ordinance No. 2011-03
- b) Research other Contractual Agreements: IRB and PILT

Attorney Morel reminded Pattern Development and Clean Line Energy Partners, LLC were currently working with Lincoln County property owners to implement wind farms. Attorney Morel stated the current Lincoln County Ordinance 2011-03 addresses placement, construction, use and modification of Wind Energy Conversion Systems. Attorney Morel stated the intent of the Ordinance was to minimize potential negative impacts and provided a process for review and approval of applications. Attorney Morel stated the current Ordinance did not address the process by which Lincoln County might obtain economic benefits from the new facilities.

Attorney Morel provide copies of multiple Wind Energy Ordinances adopted by various entities which address many issues depending on the financing mechanism selected. Attorney Morel

provided a summary of his current research. Attorney Morel stated the question of how a county benefits economically from these projects depended in large part on how the developer financed the project. Attorney Morel discussed the Industrial Revenue Bond process as one option which benefits both the county and local school districts. Attorney Morel stated the information was presented as a preliminary process prior to scheduling a public hearing for revision of the current Ordinance.

Commissioner Allen expressed belief the current Lincoln County Ordinance was adequate but there were associated issues related to financing of the projects.

Attorney Morel informed there were multiple financing and assessment processes utilized depending on how the projects were financed or how the installations affected property tax valuations of private property owners

Commissioner Stewart suggested a review of fees associated with wind projects similar to those defined by San Miguel County's Ordinance. Commissioner Stewart commented on potential revisions to clarify what constitutes "construction" and what triggers the permitting process.

There was discussion regarding the recent actions of Pattern Development including the placement of pads and the hauling of concrete by trucks over Lincoln County roads prior to application for permit.

Chair Stone concurred the actions on private property created a stress on county roads and expressed belief the Ordinance needed revision to capture those actions.

Attorney Morel suggested Lincoln County request a map of those sites where work had occurred to assist the County Assessor with determining associated valuation changes.

Commissioner Willard supported elimination of the "fee cap" defined in Section 16 of the current Ordinance. Commissioner Willard also suggested retaining a consultant to assist Lincoln County in negotiations with the wind farm development companies.

Attorney Morel questioned if the County needed expertise to revise the Ordinance or if the request for expertise was for negotiating terms for Industrial Revenue Bonds.

Curt Temple, Planning Director supported seeking additional expertise in negotiating any terms for Industrial Revenue Bonds.

Attorney Morel suggested the revisions to the Ordinance were a priority to complete prior to receipt of applications for permits to develop. Attorney Morel stated belief the fee portion of Lincoln County's Ordinance would need revision.

Commissioner Willard commented on the particular liability associated with abandoned turbines.

Curt Temple, Planning Director stated the current Ordinance contains a bonding requirement for each tower constructed. Mr. Temple stated the Four Corners Wind Resource group who partners with Northern Arizona University to provide up to date wind energy information reviewed Lincoln County's current Ordinance two years ago at his request. Mr. Temple stated the group had recommended changes to the Ordinance regarding sound levels and other rapidly changing technological components. Mr. Temple also suggested revision to include language related to fire protection issues associated with the braking system of turbines.

#### **24. Consideration of Waiver Request for Modrall Sperling Law Firm to Represent Clean Line Energy in an IRB Wind Energy Project**

Attorney Morel presented a request received from Chris Muirhead of the Modrall Sperling Law Firm for the Board of County Commissioners to grant a waiver for the Modrall Firm to represent Clean Line Energy, a wind energy provider conducting business in Lincoln County.

Attorney Morel reminded Mr. Muirhead served as Bond Counsel for Lincoln County's issuance of General Obligation bonds related to the construction of the new hospital facility. Attorney Morel noted Modrall's representation of Clean Line Energy would preclude Lincoln County from retaining the firm for assistance with the Industrial Revenue Bonds (IRB) or other legal issues related to Clean Line Energy. Attorney Morel stated Mr. Muirhead does not provide representation for the issuance of IRB's and recommended approval of the request.

**Motion:** Approve the request for waiver from the Modrall Sperling Law Firm, **Action:** Approve, **Moved by** Commissioner Willard, **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.

**25. Authorization to Schedule Public Hearing to Consider Other Outdated or New Lincoln County Ordinance:**

a) Lincoln County Wind Ordinance 2011-03 – Discussion of Potential Modifications

No action taken.

**26. Approval to Re-allocate \$5,533.03 of the Approved FY16-17 Mill Levy Hospital Capital funding from the \$12,000 authorized for LCMC Sewer Line repairs to the Capitan Clinic entry door project**

**Motion:** Approve the request to re-allocate Mill Levy Hospital Capital funding to the Capitan Clinic,  
**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.

**27. Executive Session Pursuant to the Open Meetings Act: Discussion of 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).**

**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.

**\*15-014 and 15-018:** Protest of application of the Village of Ruidoso and George P. and Margaret Tune to change point of diversion of the Rio Ruidoso filed November 17, 2014 by Jackie Powell. Notice of Withdrawal of Protest (withdrawing the County of Lincoln) was filed with the Office of the State Engineer on April 20, 2017.

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.

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 12<sup>th</sup> 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. Second Amended Complaint for Wrongful Death; Statutory Tort; Negligence; Negligence Per Se; Loss of Consortium; Negligent Infliction of Emotional Distress was filed April 19, 2017 by Mr. Beauvais.

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. Judge Bryant, Judge Schneider and Judge Ritter have been excused.

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. \*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.

8. \*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.

**Lincoln County Ordinance Violations:**  
**Alan P. Morel: 12<sup>th</sup> 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 was held May 9, 2017, 9 a.m. at which time the Jury Trial scheduled for Wednesday, May 24, 2017 at 8:30 a.m. was vacated.

**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 4<sup>th</sup> amendment of the US Constitution and an unconstitutional 'taking' under the 5<sup>th</sup> 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.

## **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 4<sup>th</sup> and 14<sup>th</sup> 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**

**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.

**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.

**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.

**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 = 5).

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

Vice Chair Draper recessed the Regular Meeting and convened the Closed Session at 1:58 PM.

Vice Chair Draper adjourned the Closed Session and reconvened the Regular Meeting at 3:16 PM.

Chair Stone 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. Consideration and approval of Findings of Fact and Conclusions of Law pertaining to the denial of the Tim and Kathy Hoyt Family Exemption of Tract 2B-1 of the Nicolette Miner Tracts within Lincoln County, New Mexico.**

**Motion:** Approve the Findings of Fact and Conclusions of Law, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

**Vote:** Motion passed by roll call vote (summary: Yes = 3, No = 2.).

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

**No:** Commissioner Draper, Commissioner Willard.

**29. Signing of Official Documents**

**30. Next meetings:**

- a) June 27, 2017 - Regular Commission Meeting

**31. Adjourn**

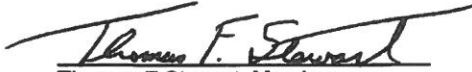
There being no further business to come before the Board of County Commissioners, Chair Stone adjourned the meeting at 3:18 PM.

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

ATTEST:



Rhonda Burrows, County Clerk

June 27, 2017

Date Approved

