

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, October 17, 2017

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on October 17, 2017 in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico.

1. Call to Order

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

2. Roll Call

Roll Call.

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

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

3. Invocation

The invocation was presented by Commissioner 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 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) September 8, 2017 - Special Commission Meeting
- b) September 19, 2017 – Regular Commission Meeting

Motion: Approve the minutes of the September 8, 2017 Special Meeting with minor revisions presented by the Clerk and the September 19, 2017 Regular Meeting, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month ending September 30, 2017
- c. Memorandum of Agreement for Comprehensive Community DWI Prevention Program

- d. Resolution 2017-10 Disposition of Surplus Inventory
- e. Resolution 2017-11 Vote Centers/Polling Place
- f. 2018-2019 Capital Outlay Project Submission to County's New Mexico Legislative Delegation

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

Nita Taylor, Manager pointed out the Capital Outlay Submission identified three projects for consideration of funding. Ms. Taylor suggested identifying a single project to narrow the attention of legislators.

There was a general consensus to identify the Hondo Senior Center as the priority request from Lincoln County for Capital Outlay funding.

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 including Resolution 2017-10 and Resolution 2017-11 are attached hereto in reference thereto made a part hereof.

8. Lincoln County Solid Waste Update – Van Patton, Sierra Contracting

Ms. Taylor reminded of a prior discussion with Sierra Contract regarding the potential removal of certain dumpsters to reduce illegal dumping. Ms. Taylor provided a list of the locations of the dumpsters in question and the distance from the sites to the Eagle Creek compactor. Ms. Taylor provided a picture of signage developed and placed by Sierra Contracting at the dumpster sites providing notice to the public and location information for the Eagle Creek compactor.

Van Patton, Sierra Contracting informed the company's solid waste operations for Lincoln County were going smoothly. Mr. Patton discussed the placement of signage along Gavilan Canyon to inform the public of the planned removal of dumpsters and redirect them to the Eagle Creek compactor. Mr. Patton stated belief Lincoln County had received only one or two complaints about the removal of dumpsters.

Commissioner Willard questioned the location of the worst illegal dumping sites.

Mr. Patton stated the Loma Grande compactor site continued to accumulate the most illegal dumping. Mr. Patton stated the company would continue to run ads offering a reward and publish photos in the newspaper of individuals captured on camera illegally dumping at the site.

Commissioner Draper questioned if Mr. Patton had identified a compactor site in Alpine Village.

Mr. Patton stated plans to work with Samantha Mendez, Interim Planning Director to pursue the purchase or donation of land in the area of Alpine Village Cabins for a compactor site.

Commissioner Stewart suggested the placement of additional dumpsters on the Forest Service Road off of Ski Run Road noting these dumpsters were often over filled by weekend recreational visitors.

Mr. Patton stated belief additional pick-ups were typically more effective than adding dumpsters.

Chair Stone questioned if a spare compactor was available for placement at a new site.

Mr. Patton stated all current compactors were in service and the County would need to acquire another compactor.

Mr. Patton stated his priority request was for a new compactor for installation in Alpine Village. Mr. Patton also requested permission to remove the dumpsters located at Fawn Ridge and Upper Homestead.

Ms. Taylor suggested Mr. Patton provide recommendations for a timeline for removal of the dumpsters on Gavilan Canyon.

Mr. Patton also discussed the use of residential dumpsters by commercial businesses. Mr. Patton suggested Lincoln County define a mechanism to require commercial entities in the unincorporated areas of Lincoln County to contract for a commercial dumpster.

Attorney Morel suggested in the absence of a business license requirement, the Assessor provide a list of all commercial properties in the unincorporated areas of Lincoln County. Attorney Morel stated the County could then reach out to determine if these business had an existing contract with Greentree Solid Waste Authority and if not suggest they contract with Lincoln County to obtain one.

Walter Hill, Assessor stated he would provide a list of all commercial properties within Lincoln County.

Mr. Patton stated Sierra Contracting would contribute financially to facilitate notification to business owners.

There was a general consensus to provide a six months notification by letter to residents of Fawn Ridge and Homestead subdivision regarding the removal of dumpsters in those locations.

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

Mr. Annala presented the Safety Net Care Provider Pool claims for approval. Mr. Annala processed 33 claims with 28 recommended for approval and 5 recommended for disapproval for a monthly authorization of \$17,728. Mr. Annala stated approval of the claims would result in a total approval of Safety Net Care Pool claims for Fiscal Year 2017-2018 to date of \$54,534.

Mr. Annala presented the Indigent Health Care Payments request for the month. Mr. Annala processed 7 claims with 7 claims recommended for approval and none recommended for disapproval for a total payment this month of \$6,372. Mr. Annala stated approval of the claims would result in a total expenditure for Fiscal Year 2017-2018 to date of \$23,624 or a monthly average of \$5,906. Mr. Annala anticipated an annual expenditure of \$70,873 of Indigent Health Care funds for Fiscal Year 2017-2018 based on total expenditures to date.

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

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

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

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

10. Forest, Land and Natural Resources Matters:

a. Smokey Bear Ranger District

George Douds, Rangeland Management Specialist provided an update on recent activities in the Ranger District. Mr. Douds stated the District would begin a National Environmental Policy Act (NEPA) analysis to address vegetative management needs at the Ski Apache Ski Area. Mr. Douds reported crews were working to seal mine shafts previously identified as abandoned within the District. Mr. Douds discussed work at the Bonito Lake South Fork campground and reported the District hoped to reopen a portion of the campground by next summer. Mr. Douds stated plans to meet with forty eight ranchers to review grazing allotments in the next few months. Mr. Douds reported Ranger Jodi Canfield had tentative plans to hold three public meetings to discuss the District's program of work including travel management in the Hale Lake area. Mr. Douds stated the District would release the Forest Plan Revision Assessment draft in November with follow up public meetings scheduled for January.

b. Community Forester

Rick Merrick, Community Forest for South Central Mountain Resource and Conservation District stated he presented home ignition information to the Sun Valley Board of Directors and would follow up with individual landowners including providing information about the ongoing cost share program for thinning. Mr. Merrick anticipated completion of the 2017 North Gavilan Non-Forest Lands thinning program totaling seventy three acres within the next month. Mr. Merrick provided an update on the cost share program noting twenty acres were complete and costs reimbursed. Mr. Merrick reported Mike Caggiano Consultants would assist with the submission of a 2018

Collaborative Forest Recreation Program (CFRP) planning grant for the Jicarilla Mountains. Mr. Merrick informed the Village of Ruidoso Forestry Division planned to utilize the Air Curtain Incinerator on a small project in the Grindstone area.

c. Upper Hondo Soil and Water Conservation District

Laura Johnson, Program Director reported the Upper Hondo would host an herbicide and pesticide continuing education class on October 27, 2017. Ms. Johnson stated the District was completing planning work including an archeological survey of seventeen hundred acres at Fort Stanton to have the area "shovel ready" for fuel reduction projects. Ms. Johnson stated the Upper Hondo had signed a new Memorandum of Understanding with the New Mexico State Land Office to continue rehabilitation work on Moon Mountain. Ms. Johnson additionally stated the Upper Hondo was developing a weed treatment project with the Ranches of Sonterra Homeowners Association for thistle control.

Ms. Taylor noted the Upper Hondo provided an agenda from the New Mexico Department of Game and Fish Commission Meeting for review by Commissioners.

Commissioner Allen questioned the discussion of the Black Footed Ferret referenced on the Game and Fish Commission agenda.

Sargent Ben Bird, Department of Game Fish stated he would research the question which was likely related to activity in Northern New Mexico. Sargent Bird reported Game and Fish officers held meetings in Capitan, Corona, and Hondo to educate landowners about proper posting requirements for the prosecution of criminal trespass. Sargent Bird stated District Attorney John Sugg attended the meetings and provided information about the prosecution and conviction process.

Sargent Bird also reported the Department of Game and Fish was reviewing their antelope private land use system with a public meeting scheduled for November 9, 2017 in Roswell. Sargent Bird stated proposed changes would affect the issuance of permits to local ranchers and how licenses are issued to the public.

d. Use Attainability Analysis (UAA) and Proposed Amendments to the Surface Water Quality Standards for the Lower Rio Ruidoso and Upper Rio Hondo

Ms. Taylor informed the Village of Ruidoso and City of Ruidoso Downs Regional Wastewater Treatment Plant Joint Use Board had proposed water quality standard changes to lower current standards for the lower Rio Ruidoso and upper Rio Hondo in Lincoln County. Ms. Taylor provided a copy of the draft "Use Attainability Analysis and Proposed Amendments to the Surface Water Quality Standards for the Lower Rio Ruidoso and Upper Rio Hondo" as presented at a community meeting on October 11, 2017 for public comment.

Ms. Taylor reported there was strong, unified opposition to the lowering of water quality standards as well as objection to the short time line for public comment at the public meeting of October 11, 2017. Ms. Taylor stated she requested an additional sixty day comment period for public comment on the proposal on behalf of Lincoln County residents. Ms. Taylor stated Village of Ruidoso Mayor Tom Battin and members of the Plant Joint Use Board supported the request and the comment period was extended until December 19, 2017.

There was a general consensus to request a presentation regarding the proposed amendments during the November Regular Meeting.

e. Office of State Engineer-Water Issues

Ms. Taylor reported there were no new water right applications for Lincoln County posted on the State Engineer's website.

f. Land and Natural Resources Advisory Committee (LANRAC)

Robert Barber, Chair informed the Committee's review and revision of Lincoln County's current Land Use Plan was ninety percent complete. Mr. Barber stated the majority of changes were to sections containing economic and demographic information. Mr. Barber stated LANRAC would provide the draft for review by various County personnel for their input.

Chair Stone questioned if LANRAC received any information or participated in the Lincoln Forest Plan Revision process.

Mr. Barber stated LANRAC had not received any information from the US Forest Service Interim Planner. Mr. Barber stated he would reach out to the US Forest Service for additional information.

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

Commissioner Stewart complimented Punkin Schlarb and Systems MD on their technology support noting Lincoln County's wireless connection was "smoking hot".

Commissioner Stewart informed the Federal Energy Commission had negotiated a rate proposal with Sun Zia on September 20, 2017 which moved the project into the pre-construction phase.

Commissioner Stewart discussed the US Military's previous "offsets" reminding the current or "third offset" was work on high energy weapons systems and artificial intelligence. Commissioner Stewart informed White Sands Missile Range (WSMR) recently released an Environmental Assessment related to the firing of high velocity and electromagnet rounds into the Northern Extension Area off of Highway 380. Commissioner Stewart stated in discussion with WSMR about associated Highway 380 roadblocks he inquired about a flashing notification sign for Carrizozo. Commissioner Stewart stated he was informed the installation was designing a sign for placement next year. Commissioner Stewart also informed the German Air Force had closed their training center at Holloman. Commissioner Stewart stated Boeing indicated intention to launch ten satellites from WSMR in the near future.

Commissioner Allen reported she continued to attend the Greentree Solid Waste Authority meetings. Commissioner Allen stated she also continued to work on traffic concerns in Lincoln and met with the Secretary of Transportation on October 5, 2017. Commissioner Allen stated she also met with the Secretary of Cultural Affairs to request these departments work together to access prior assessment studies. Commissioner Allen stated Secretary Gonzales immediately provided all of the Department of Cultural Affairs' assessments to the Secretary of Transportation.

Commissioner Draper reported he attended the New Mexico Association of Counties Economic Development and Infrastructure Committee meeting on October 4, 2017 in Sandoval County. Commissioner Draper stated Excel Energy provided an interesting presentation on a wind development project in Roosevelt County which will utilize produced energy within the State to offset the declining production of energy with coal. Commissioner Draper stated additionally there were discussions about the lack of Community Development Block Grant (CDBG) funding for counties as well as upcoming legislative priorities. Commissioner Draper further reported he attended the Southeastern New Mexico Economic Development District meeting in Roswell during which there were additional discussions and concerns expressed about the CDBG process. Commissioner Draper further reported the federal government was attempting to regulate the use of in kind services for grant match by introducing federally defined pay scale and payroll reporting requirements. Commissioner Draper also informed five counties were planning to file a lawsuit against the NM Department of Taxation and Revenue to determine and define the reduction in gross receipts tax revenues returned to municipalities and counties.

Commissioner Willard stated he participated on a committee to select a new County Extension Agent. Commissioner Willard stated the committee selection was pending a review by the Human Resources Department at New Mexico State University prior to the selection announcement. Commissioner Willard stated he and Jeff Honeycutt attended the Southeastern Regional Transportation Planning Organization on October 5, 2017. Commissioner Willard stated Clovis Main Street provided a presentation informing there were thirty three million dollars of identified Main Street project needs in New Mexico for which the State provided only five hundred thousand in funding. Commissioner Willard reminded there were multiple deadlines approaching for submission of projects for funding under various State and Federal programs including requests for ADA improvements.

Walter Hill, Assessor informed the State of New Mexico mandated the mail out of new applications to all property owners to confirm the status of all agricultural and grazing properties. Mr. Hill stated the Assessor's Office mailed out seven hundred and seventy three applications which staff would review. Mr. Hill stated he generated a report for the Solid Waste Clerk after the earlier discussion which indicates there were 197 commercial properties within Lincoln County. Mr. Hill stated his staff had reviewed the outstanding permits and were reassessing values for those properties. Mr. Hill stated additionally the office received a new appraisal package which would improve reporting capabilities. Mr. Hill stated Rodney Zamora, GIS Mapper was working on a project to post the Assessor's maps online for public access.

Rhonda Burrows, Clerk discussed the evolution of recording land title records in the County Clerk's Office from handwritten documents to the current digital recording process. Ms. Burrows stated in all counties, County Clerks were working to incorporate the older non-digitized records

dating back to the 1800's into the current data base noting this was a "monumental" task involving hundreds of thousands of records. Ms. Burrows presented Certificates of Achievement Awards to Charlotte Emmons and Diane Shoemaker recognizing their years of work indexing and digitizing images of all the deeds recorded in Lincoln County dating back to the 1800's.

Dan Bryant, Twelfth Judicial District Judge discussed the challenges facing the court in coming into compliance with the new pre-trial release rules and dates. Judge Bryant discussed the current failures of the system to provide the review and assessment necessitated by the new rules within three days. Judge Bryant stated he and the Magistrate Judges were working with the County Sheriff and Detention Center Warden to resolve problems. Judge Bryant discussed a proposal to contract with the Second Judicial District Metropolitan Court to access their thirty staff members who provide assessments twenty four hours a day, seven days a week. Judge Bryant stated to provide this service in Lincoln County would require four full time employees at a cost of approximately \$60,000 per position. Judge Bryant expressed belief funding one half of the cost of a full time employee for the Second Judicial District Metropolitan Court would provide the Twelfth Judicial District full time access to their assessment staff. Judge Bryant stated plans to present a proposal to the Board of County Commissioners during the November Regular Meeting for consideration. Judge Bryant invited Commissioners to attend a monthly Lincoln County Criminal Justice Coordination meeting or a subcommittee meeting in November to participate in discussions. Judge Bryant discussed the reduction of pending jury trials over the past two years.

11. Lincoln County Medical Center / Hondo Clinic Update:

a. Hondo Clinic Assessment and Plan of Action – Todd Oberheu

Todd Oberheu, Administrator for Lincoln County Medical Center stated he was optimistic Presbyterian could acquire a medical provider for the Hondo Clinic. Mr. Oberheu stated based on information received from past clinic staff and Hondo School officials he anticipated a demand for services two to three days per week at the site.

Mr. Oberheu stated various contractors reviewed the site and determined the current building was "useable" although small and not currently up to medical standards. Mr. Oberheu stated the building needed a floor replacement and plumbing work in addition to work on the heating and air conditioning system. Mr. Oberheu stated additionally the site would require connectivity to accommodate Presbyterian's electronic medical records and other services.

Mr. Oberheu stated he was also researching the financial feasibility of utilizing one of the current Emergency Medical Services buildings for a Hondo Clinic. Mr. Oberheu reminded these buildings were scheduled for removal prior to construction of the new hospital.

There was a general discussion about the potential location of a Hondo Clinic on Lincoln County owned land near the Hondo Senior Center.

b. Emergency Medical Services Construction – Gordon Berch

Ms. Taylor provided a report on the current construction status of the Emergency Medical Services facility noting some recent delays due to rains. Ms. Taylor stated she and other County staff attended monthly meetings conducted by Jaynes to receive a comprehensive status report. Ms. Taylor discussed plans by Presbyterian and Lincoln County to host an Open House for the new facility on November 27, 2017.

c. Replacement Hospital Design and RFP Issuance

Ms. Taylor stated Bobby George of Dekker/Perich/Sabatini (DPS) informed the firm was working with their engineering team, Lincoln County, and Presbyterian to develop a series of bid alternates to bring the estimated construction costs for the new hospital into the allotted budget. Ms. Taylor stated as part of this process DPS was working with Presbyterian to determine if certain costs currently in the construction budget could shift to inclusion in the Furniture, Fixtures, and Equipment budget. Ms. Taylor stated DPS was also working on some fairly major design changes requested by Presbyterian to accommodate their work flow. Ms. Taylor further informed the development of bid alternatives and design changes would push the issuance date of the Request for Proposals to a later date. Ms. Taylor stated DPS would identify all options for cost savings and seek recommendations during the November Regular Meeting.

Ms. Taylor provided a quarterly construction cost report provided by Bobby George which indicated construction costs were increasing.

Commissioner Willard commented on the proposed design changes and the escalation of costs for other projects due to change orders executed after construction began.

Mr. Oberheau stated Presbyterian's review of the design and architectural plans were intended to reduce change orders. Mr. Oberheau stated secondly the review was to verify the substantial infrastructure requirements of medical facilities to meet certification requirements but also to identify opportunities for cost savings.

d. Foundation Philanthropy Status – Steve Duffy

Steve Duffy and Cynthia Culbertson working with the Lincoln County Medical Center Foundation provided an update on philanthropic fundraising efforts for the new hospital facility.

Mr. Duffy discussed the timeline of events including a nine month "hiatus" in 2016 during lease negotiations, issuance of the general obligation bonds, and planning changes. Mr. Duffy discussed additional factors affecting the campaign such as the change in hospital administration, economic factors, and the lack of Capital Outlay as requested from the NM Legislature in 2017.

Cynthia Culbertson discussed the "restart" of the campaign in 2017 including initiating a Facebook page and development of a website. Ms. Culbertson commented on the positive economic impact of the construction project in addition to the advantages associated with having a new hospital in the area.

Mr. Duffy provided copies of the "donor packet" which included revised "naming opportunities" based on design and planning changes. Mr. Duffy stated currently the campaign had \$848,400 in pledges to date. Mr. Duffy discussed the importance of multi-year Capital Outlay funding to meet fundraising goals.

Ms. Taylor reminded submission of Capital Outlay requests by non-profits affected the total Capital Outlay allocated to Lincoln County for all projects. Ms. Taylor discussed recommendations by the Southern New Mexico Economic Development District (SNMEDD) to limit the number of Capital Outlay requests.

There was a general discussion regarding the Foundation's request to seek Capital Outlay funding to supplement other fundraising efforts.

Commissioner Allen stated belief as a Non-profit 501-C3 organization the Foundation had the right to seek funding on their own behalf.

Commissioner Draper reminded the upcoming legislative session was a short session and suggested the State's economic conditions were prohibitive to multiple Capital Outlay requests.

Commissioner Stewart supported the Capital Outlay request for the Hondo Senior Center in 2018 and suggested prioritizing a Capital Outlay request for the new hospital during the 2019 legislative cycle.

Chair Stone reminded the Board of Commissioners previously identified the Hondo Senior Center as the top priority for Lincoln County and stated he did not support the Foundation seeking Capital Outlay.

15. Resolution 2017-12: Establishing a Military Joint Land Use Reporting Procedure - Presentation by Members of Joint Land Use Study Project Management Team

Ms. Taylor presented the Resolution and provide a history of the Joint Land Use Study (JLUS) Group which includes five counties in New Mexico, El Paso County, and multiple municipalities participating in conjunction with local military installations. Ms. Taylor reminded the goal of JLUS was to increase cooperation and coordination between all entities involved. Ms. Taylor informed one of the most significant tools identified to achieve this goal was the development of a website at <http://snmepointlanduse.org> to share information.

Commissioner Stewart introduced Adrian Johnson, Regional Compatibility Planner and Dona Ana County JLUS project officer; Darron Williams, Planner for the City of Alamogordo and JLUS Co-Chair Bryan Knight Chief of the Environmental Division for White Sands Missile Range.

Mr. Knight informed the project was two years into the implementation phase of the cooperative effort funded by the Department of Defense. Mr. Knight stated the purpose of the JLUS study was to provide resources to communities affected by military installations. Mr. Knight stated areas of study included compatibility issues, encroachment, and economic development impacts

on the surrounding communities and local jurisdictions. Mr. Knight discussed potential tools to minimize the impact of military operations on communities as well as to minimize the impact of local jurisdiction activities on military operations.

Ms. Johnson discussed the website development as a tool to promote more effective and cohesive communication between military installations and the surrounding communities. Ms. Johnson provided a demonstration of the site's various features which include a history of the JLUS project, a community alert bar, and land use planning tools.

Mr. Williams discussed the Land Use Planning Tool demonstrating the various mapping layers available including installation airspace and Bureau of Land Management layers as well as an interface with Google maps and ARC GIS.

Commissioner Stewart informed based on the development of this JLUS website the State of New Mexico had decided to develop a similar State wide website.

Chair Stone questioned if the study would result in additional governmental regulations.

Mr. Knight stated the study would absolutely not provide any additional authority or regulation but would hopefully reduce encroachment impact for both local governments and the military.

Commissioner Stewart read the Resolution with particular emphasis on the language related to proposed developments and the JLUS website tracking tool to minimize aviation risks and other planned or known risks which may affect military operations.

Motion: Adopt Resolution 2017-12, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Commissioner Willard questioned "the appropriate staff person" identified in the Resolution language.

Commissioner Stewart anticipated the County Manager would identify and assign appropriate staff to update the website with information for Lincoln County.

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

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

SEE EXHIBIT C: Copy of Resolution 2017-12 is attached hereto in reference thereto made a part hereof.

13. Review and Approval of Modifications to Appendices A and B of the Lincoln Historic Preservation Ordinance 2004-05

Ms. Taylor reminded of the prior approval to contract with Reginal Richey to review and revise Appendices A and B of the Lincoln Historic Preservation Ordinance 2004-05. Ms. Taylor stated during the September Regular Meeting, the Board of County Commissioners reviewed a draft of the Appendices which lacked some additional photos and comments. Ms. Taylor presented the final draft of the Appendices for consideration.

Motion: Approve the modifications to Appendices A and B including additional photos, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Willard.

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 Ordinance 2004-05 with revised Appendices A and B is attached hereto in reference thereto made a part hereof.

14. Manager's Report

Bonito Lake Restoration Project: As reported previously, the City of Alamogordo is beginning to move forward with the restoration of Bonito Lake. A pre-construction conference was scheduled for October 19, 2017 in Alamogordo. The Manager anticipated the City would issue a Notice to Proceed at the conference and noted the project agreement stipulated substantial completion of work within 730 calendar days. In addition to the contractor, Lincoln County and the NM Department of Transportation were invited

to participate. The Manager reported the City of Alamogordo would provide an update and overview of plans during the November Regular Meeting.

Lincoln Pines Youth Camp – The Manager reported the State Asset Management Bureau sought an update from Lincoln County regarding our interest in entering into a lease agreement with them for Lincoln Pines in September. The manager reminded the leadership team of LaSalle Corrections had expressed interest in utilizing the facility as a women's unit and began to consider the economic feasibility from an operational expense perspective. Mr. Kurpiewski, Chief Financial Officer for LaSalle notified Lincoln County on this date, although they believed the facility was a good match for the housing of additional detainees, LaSalle had determined it was not a good financial choice at this time. The Manager stated she would provide notice to the State of the decision and advise the County may have a future interest in the facility.

Commissioner Willard questioned the basis of LaSalle's decision.

Manager Taylor reminded LaSalle's current agreement with Lincoln County provided reimbursement based on a per inmate per day formula. The Manager noted transferring women detainees to a separate facility would not increase LaSalle's reimbursement but the company would incur additional expenses.

Commissioner Allen suggested discussion with LaSalle about improvements and solutions for housing female prisoners at the current facility.

Commissioner Willard reminded Lincoln County planned to expand the current facility for an estimated cost of \$800,000. Commissioner Willard suggested consideration of reallocating any funding received for a separate women's facility.

Commissioner Draper also suggested consideration of a separate contract for services should the County develop a second facility.

Attorney Morel noted the current facility had a medical facility, food preparation area, and video arraignment services. Attorney Morel also commented on the need for additional transports and staff if there were two facilities which would create additional financial challenges.

Commissioner Allen commented any improvements to the Lincoln Pines facility funded by Lincoln County would be for a State owned facility.

The Manager reminded Lincoln County had discussed plans to remodel the medical services area in the current facility for an estimated \$800,000. The Manager stated additional plans to extend the current facility to develop a properly sized women's facility were incorporated in those design plans by the architect.

State Review of the Lincoln County / LaSalle Corrections Operating Agreement: Pursuant to Section 33-3-27 NMSA 1978, the Local Government Division of the Department of Finance and Administration ("LGD"), the Office of the Attorney General ("OAG"), and the Risk Management Division of the General Services Department ("RMD") are required to review and approve all agreements between local governmental bodies and private independent contractor for the operation of jails or incarceration of prisoners. On August 18, 2017, the Management Agreement between LaSalle Corrections West, LLC and the County was provided to the three required state offices. The Manager stated Lincoln County recently received comments back from the Office of the Attorney General asking non-burdensome clarification questions. The Manager noted no comments were received from the other two agencies.

Attorney Morel stated based on the comments from the Office of the Attorney General the agreement was revised and then forwarded to LaSalle for concurrence. Attorney Morel stated he would present the revised agreement first to the State and then to the Board of County Commissioners for final approval.

FY18-19 Budget Conference – The Department of Finance and Administration - Local Government Division announced its annual budget conference. Attending at a minimum are Finance Director, Manager, Treasurer and Deputy Chief Treasurer.

Zia Natural Gas will host its Natural Gas safety meeting and lunch at Lincoln County's Office of Emergency Services at 111 Copper Ridge Road on November 15, 2017.

Building Maintenance, Repair, New Project Updates:

- Re-roof of Detention Center complete
- HVAC Units on Detention Center complete
- Clogged drainage pipes under kitchen floor in Detention Center complete
- Roof repair on Carrizozo Health Department scheduled
- Estimate to repair soffit on Commission / County buildings
- Design for front courtyard to eliminate flooding requested; Commission building flooded last week after heavy rains
- Design for employee parking lot requested – May apply for SERPTO if related to ADA

Calendar of Events: The Manager provided a list of upcoming meetings for information including notice by the Department of Transportation in Corona on November 2, 2017 to discuss street improvements.

20. Working Lunch

24. Executive Session Pursuant to the Open Meetings Act: Discussion of all Threatened and/or Pending Litigation Section 10-15-1, Sub-Paragraph H.(7).

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);

New or Updated Matters since last report *

1. **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.

2. ***County of Lincoln v. Zia Natural Gas Company: NMPRC No. 17-00041-UT** Formal Complaint re: Bogle Road Gas Line: Requesting that Zia be ordered to take whatever action is necessary to lower or move its pipeline to a depth or location that will allow the County to maintain its road and bar ditches. Notice of Formal Complaint and Order Requesting Answer was filed by the New Mexico Public Regulation Commission March 24, 2017. Zia Natural Gas filed their answer with the New Mexico Public Regulation Commission April 13, 2017. County's Response to Bench Request Order was filed June 6, 2017. Zia Natural Gas' Offer to Satisfy Formal Complaint was filed October 5, 2017 at the New Mexico Public Regulation Commission.

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

4. **Chad and Stacia Coleman v. The County of Lincoln, Sheriff Robert Shepperd, Brett (sic) Rains, Randal Wikoff, and John Does I-III: 2:17-cv-663** Complaint for Civil Rights Violation and Ancillary State Claim. Complaint was filed in US District Court June 21, 2017. County was made aware of Complaint on June 22, 2017. Complaint claims constitutional violation and statutory tort in connection with the Coleman's alleged false arrest and detention; warrantless search and seizure and malicious prosecution.

5. **Rancho Ruidoso Valley Estate Homeowners' Association v. Roy Padilla, et. al – D-1226-CV-2017-00195** Complaint filed by RRVEHA for foreclosure of the Homeowners' Association Assessment Lien. The County is a named Defendant due to the filing of a GSWA lien on March 22, 2006, and a L.C. Solid Waste Lien filed on December 16, 2016 for non-payment of solid waste services and potential ad valorem taxes due and owing. The County's Answer to Complaint for Foreclosure was filed September 1, 2017.

6. **Rancho Ruidoso Valley Estates Homeowner's Association v. Diane K. Medcalf, Pioneer Bank, FSB, and the County of Lincoln, NM D-1226-CV-201700242** Complaint filed by RRVEHA September 12, 2017 for Foreclosure of the Homeowner's Association Assessment Lien.
7. ***Valle del Sol Development, Inc. v. Thornton, et. al. D-1226 CV-2017-00252** Complaint filed by Valle del Sol September 18, 2017 to enforce and Collect Upon Promissory Note and to Foreclose Mortgage Upon Real Property.
8. ***Valle del Sol Development, Inc. v. Matthews et. al. D-1226-CV-2017-0253** Complaint filed by Valle del Sol September 20, 2017 to enforce and Collect Upon Promissory Note and to Foreclose Mortgage Upon Real Property.

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

9. **State of NM v. Romero, Roger M-30-MR-2016-00142** Violation of County Ordinance 2016-02 Accumulation of waste and litter on private property. A non-traffic citation was issued by Sheriff's Deputy Evans on December 9, 2016. The Defendant appeared before Judge Vega December 23, 2016 and entered a plea of "Not Guilty." Case was not resolved at a Pre-Trial Hearing on January 24, 2017. A Non-Jury Trial took place Tuesday, August 1, 2017 at 2 p.m. before Judge Vega, where a Judgment and Sentence was issued for a total of \$373 in fines and court costs, 30 days jail-confinement, 60 days supervised probation and ordering that the Defendant clean his property and stay in compliance with Ordinance 2016-02.
10. ***State of NM v. Kimberly Conner M-30-MR-2017-00072** Violation of County Ordinance 2008-08 Animal Control Ordinance. A non-traffic citation was issued by Lincoln County Sheriff's Office Animal Control Officer Russell Wehnau on June 20, 2017 for Neglect and Cruelty to Animals. The Arraignment Hearing scheduled for August 18, 2017 was continued and rescheduled to take place September 20, 2017 at 8:30 a.m. at which time the Defendant failed to appear. A Bench Warrant was issued and subsequently returned. The Arraignment was rescheduled to take place on Wednesday, October 11, 2017 at 8:30 a.m. before Judge Vega at which time the Defendant pled "Not Guilty." A Pre-Trial Hearing is scheduled for November 7, 2017 at 9:00 a.m. before Judge Vega.
11. ***State of NM v. Kimberly Conner M-30-MR-2017-00106** Violation of County Ordinance 2008-08 Animal Control Ordinance. A non-traffic citation was issued by Lincoln County Sheriff's Office Animal Control Officer Russell Wehnau on July 21, 2017 for violation of Section 8, Dogs Running at Large. The Arraignment Hearing scheduled for Friday, August 18, 2017 at 9:15 a.m. before Judge Vega was continued and rescheduled to take place September 20, 2017 at 8:30 a.m. at which time the Defendant failed to appear. A Bench Warrant was issued and subsequently returned. The Arraignment was rescheduled to take place Wednesday, October 11, 2017 at 8:30 a.m. before Judge Vega at which time the Defendant pled "Not Guilty." A Pre-Trial Hearing is scheduled for November 7, 2017 at 9:00 a.m. before Judge Vega.
12. ***State of NM v. Kimberly Conner M-30-MR-2017-00108** Violation of County Ordinance 2008-08 Animal Control Ordinance. An amended criminal complaint ("Amended" is a typo-the complaint is the only one on file) was filed by Lincoln County Sheriff's Deputy Ryon McInnes on July 26, 2017 for one count of Dogs and Cats Running at Large, one count of Vicious animals one count of Rabies Vaccination violation. An Arraignment Hearing scheduled for Friday, August 18, 2017 at 9:15 a.m. before Judge Vega was continued and rescheduled to take place September 20, 2017 at which time the Defendant failed to appear. A Bench Warrant was issued and subsequently returned. The Arraignment was rescheduled to take place Wednesday, October 11, 2017 at 8:30 a.m. before Judge Vega at which time the Defendant pled "Not Guilty." A Pre-Trial Hearing is scheduled for November 7, 2017 at 9:00 a.m. before Judge Vega.
13. ***State of NM v. James Keck M-30-MR-2017-00097** Violation of County Flood Damage Prevention Ordinance 2014-05. A non-traffic citation was issued by Lincoln County Sheriff's Office Deputy Charlie Evans June 11, 2017 for violation of Section 6- Establishment of Development Permit, and Section 12, Application for a Floodplain Use Permit. The Defendant appeared before Judge Vega at an Arraignment Hearing on August 16, 2017 at which time the Defendant entered a plea of "Not Guilty." A Pre-Trial Hearing took place Tuesday, October 10, 2017 at 1:30 p.m. on a Trailing Docket before Judge Vega and was continued until Tuesday, December 12, 2017 in order to allow the Defendant time to comply with the Flood Plain Ordinance.
14. ***State of NM v. Christine A. Polaco M-30-MR-2017-00084** Violation of County Ordinance 2008-08 Animal Control Ordinance. Two non-traffic citations were issued by Lincoln County Sheriff's Office Animal Control Officer Russell Wehnau (1 issued on June 26th and 1 issued on June 27th 2017) for violation of Section 11, Dogs and Cats Running at Large. A First Appearance/Arraignment Hearing took place before Judge Vega August 9, 2017 at which time the Defendant entered a plea of "Not Guilty." Pre-Trial Hearing took place Tuesday, October 10, 2017 at 1:30 p.m. at which time the Defendant advised the Court that she has "applied" for legal counsel. The Pre-Trial was continued and is scheduled for Tuesday, November 7, 2017.

15. ***State of NM v. Sylvia D. Barela M-30-MR-2017-00056** Violation of Animal Control Ordinance 2008-08. A non-traffic citation was issued by Lincoln County Sheriff's Office Animal Control Officer Russell Wehnau on May 8, 2017 for violation of Section 11, Dogs and Cats Running at Large. A First Appearance / Hearing took place July 17, 2017 at which time the Defendant entered a plea of "Not Guilty." The Defendant failed to appear at a Pre-Trial Hearing scheduled for August 29, 2017 at 9 a.m. before Judge Vega. A Bench Warrant was issued and subsequently returned. The Pre-Trial Hearing took place Tuesday, October 10, 2017 at 1:30 p.m. on a Trailing Docket before Judge Vega at which time the Defendant changed her plea to "No Contest." The Defendant was sentenced to 90 days unsupervised probation, and assessed a total of \$173.00 to be paid within 30 days.

16. ***State of NM v. Kimberly Conner M-30-MR-2017-00128** Violation of County Ordinance 2008-08 Animal Control Ordinance. A Criminal Complaint was filed by Lincoln County Sheriff's Office Animal Control Officer Russell Wehnau on September 6, 2017 for violation of Section 4 (Dogs Running at Large), and Section 11 (Rabies Vaccination violation). An Arraignment Hearing was scheduled for Wednesday, October 11, 2017 at 8:30 a.m. before Judge Vega at which time the Defendant pled "Not Guilty." A Pre-Trial Hearing is scheduled for November 7, 2017 at 9:00 a.m. before Judge Vega.

17. ***State of NM v. Kimberly Ivan McClure M-30-MR-2017-00144** Violation of County Ordinance 2008-08 Animal Control Ordinance. A Criminal Complaint was filed September 8, 2017 by Lincoln County Sheriff's Office Animal Control Officer Russell Wehnau for violations of Sections 4, 7, and 11 (Dogs Running at Large, Vicious Animals, and Rabies Vaccination violation). An Arraignment Hearing is scheduled for October 18, 2017.

Tort Claims Notices Received or Threatened

2017

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

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

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

Lacy, Jim and Judy – Tort Claim Notice received May 8, 2017 from Attorney W. Chris Nedbalek alleging "...property damage and an "...unconstitutional seizure under the 4th amendment of the US Constitution and an unconstitutional 'taking' under the 5th amendment to the US Constitution and a violation of other federal and state constitutional provisions, and statutes, regulations, rules, and common practices" during a fugitive search conducted by the New Mexico State Police.

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

Solarczyk, Frank – Tort Claim Notice received August 21, 2017 alleging unlawful arrest, unlawful detention, negligence, false imprisonment, abuse of process, battery, cruel and unusual punishment, negligent and intentional infliction of emotional distress, violation of civil rights, violation of due process rights under the U.S. and New Mexico Constitutions, and other related torts and actions during Claimant's incarceration at Dona Ana and Lincoln County Detention Centers.

Montoya, Joseph – Tort Claim Notice received August 25, 2017 alleging great bodily harm during Claimant's incarceration at Lincoln County Detention Center.

***Martin, Stephen Wayne** – Tort Claim Notice received August 25, 2017 naming Clerk Rhonda Burrows. Additional document received September 15, 2017 from Mr. Martin referencing same cause.

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

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

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

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

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

2015

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

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

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

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

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

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

Chair Stone recessed the Regular Meeting and convened the Closed Session at 12:02 PM.

Chair Stone adjourned the Closed Session and reconvened the Regular Meeting at 1:02 PM.

Commissioner Draper 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 and no action was taken.

Chair Stone recessed the Regular Meeting and convened the Public Hearing at 1:03 PM.

21. **1:00 PM: CONTINUANCE: Public Hearing to amend Ordinance 2011-3 an ordinance providing for the placement, construction or modification of Wind Energy Conversion Systems consistent with Lincoln County's Land Use Policies; minimizing negative impacts of Wind Energy Conversion Systems; establishing a fair and efficient process for review and approval of applications and assure an**

integrated, comprehensive review of environmental impacts of such facilities; providing for penalties for violation of this ordinance; providing for the severability of parts hereof; repealing any ordinances in conflict herewith; and providing an effective date by Ordinance 2017-04.

Attorney Morel reminded this Public Hearing was a continuation of a previously published Public Hearing. Attorney Morel introduced Lynn Mostoller, attorney with Sutin, Thayer and Browne who was engaged to assist Lincoln County with drafting Ordinance amendments. Ms. Mostoller participated in the discussion telephonically.

Attorney Morel stated he, Manager Taylor, and Ms. Mostoller worked with industry representatives, particularly Pattern Energy over the last two months to provide recommendations for revisions. Attorney Morel requested Ms. Mostoller provide a review of the major revisions.

Ms. Mostoller stated when she was advised the 2011 Ordinance needed revision she also understood Lincoln County desired a balanced approach to these types of projects. Ms. Mostoller stated the "overarching" goal was to develop an amended Ordinance which allowed for rational and thoughtful development of wind energy conversions systems while also addressing the health and safety concerns of Lincoln County residents.

Ms. Mostoller called attention to Section 4 No State or Federal Pre-emption where revisions were made to delete statutory references not applicable to wind energy projects and to add statutory references for the environment compliance associated with these types of projects.

Ms. Mostoller stated in Section 5 language was added to clarify when an application for permit was required. Ms. Mostoller stated the intent was to distinguish between major and minor construction activities. Ms. Mostoller stated a developer would need to complete the full permit application process outlined later in the Ordinance and obtain a permit from the County before engaging in major construction activities.

Ms. Mostoller stated there was some expansion of defined terms and revisions to use the defined terms consistently throughout the Ordinance to reduce ambiguities. Ms. Mostoller discussed the efforts to distinguish between major and minor construction activities. Ms. Mostoller stated specifically the activities a developer might engage in to preserve federal tax credit requirements were defined as minor construction activities which would require notice to the County but not the completion of the full permit process.

Ms. Mostoller stated language in Section 7 included revisions to address the use of public roads for minor construction activities. Ms. Mostoller stated the language would inform developers they were responsible for repairs to roads damaged from any activity. Ms. Mostoller stated there was some revision to the "set-back" clause to increase set-backs adjacent to public rights of way. Ms. Mostoller stated other revisions addressed the "decommissioning" of sites to secure sufficient bonding should a project cease operations. Ms. Mostoller stated the revised language included a new Section 15 to define a process whereby a developer could transfer a permitted operation to another operator provided the acquiring entity had the financial and technical expertise to manage the facility. Ms. Mostoller stated any such permit transfer would require approval from Lincoln County. Ms. Mostoller stated language in Section 18 Permit Application Procedures was clarified and additional language was added to require reimbursement to Lincoln County for any expenses incurred to review materials associated with the permit. Ms. Mostoller stated language was included to require notice to the County in the event a developer changed the location of towers from the original site plan. Ms. Mostoller noted additional Sections 21 and 22 were added to define "Notice and Opportunity to Cure" and "Notice" provisions.

Commissioner Draper questioned if references to specific kilowatt hours would require ongoing revision to the Ordinance or if these references were stable.

Ms. Mostoller stated the references were either industry standards or listed in statutes such as the Utility Act.

Attorney Morel pointed out an "Agreement for Repair of Lincoln County Roads" was attached as sample agreement for future use. Attorney Morel stated representatives from Pattern Development were present and were in agreement with the revisions as presented.

Chair Stone requested public comment and receiving none recessed the Public Hearing and reconvened the Regular Meeting at 1:18 PM.

Motion: Adopt Lincoln County Ordinance 2017-04 as presented, Action: Approve, Moved by Commissioner Willard, Seconded by Commissioner Draper.

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

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

SEE EXHIBIT E: Copy of Ordinance 2017-04 is attached hereto in reference thereto made a part hereof.

Loralee Hunt representing Pattern Development expressed appreciation for the revised Ordinance and stated she would work with Road Superintendent Jeff Honeycutt to resolve the issue of prior road damage. Ms. Hunt stated Pattern was considering some additional pre-construction work this year in Lincoln County and would obtain a Road Agreement for activities at that time.

Chair Stone recessed the Regular Meeting and convened the second Public Hearing at 1:23 PM.

22. Immediately following 1:00 PM Public Hearing: Public Hearing to Amend Lincoln County Lodger's Tax Ordinance 2015-02 by Ordinance 2017-05

Attorney Morel informed the Lodger's Tax Committee had proposed revisions to accommodate prior requests for a variance due to the Ordinance requirement for the receipt of all requests for Lodger's Tax funding no less than four months prior to the event date. Attorney Morel stated the proposed revisions would provide some latitude regarding the timing of the submission of requests by reducing the requirement for prior submission from four months to three months. Attorney Morel noted additional flexibility was provided by changing wording from "shall" to "may" in this section.

Commissioner Draper suggested changing particular wording from "received" to "considered" to assist with timing issues.

Commissioner Stewart suggested revising a reference in Section 14 of the Ordinance from "shall" to "may" for consistency.

Attorney Morel suggested "should" in the alternative.

Commissioner Willard questioned language stating "the County Manager shall not be designated to take minutes".

There was a general consensus to remove the language in question.

Chair Stone requested public comment and receiving none adjourned the Public Hearing and reconvened the Regular Meeting at 1:28 PM.

Motion: Approve the Ordinance 2017-05 as amended, **Action:** Approve, **Moved by** Commissioner Willard, **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.

SEE EXHIBIT F: Copy of Ordinance 2017-05 is attached hereto in reference thereto made a part hereof.

14. Manager's Report continued:

Punkin Schlarb, Finance Director reported auditors were scheduled in Lincoln County beginning October 23, 2017. Ms. Schlarb also provided a graph recapping expenses associated with the construction of the new Emergency Medical Services facility and the new hospital.

Samantha Mendez, Interim Planning Director reported she would close out the grant received for revision of the Lincoln Historic District. Ms. Mendez stated recent grant submissions to Homeland Security for Emergency Services equipment were ranked first and third by the agency. Ms. Mendez informed Rainmakers Development had a new buyer who planned to move forward with development of Units 7 and 8 which were currently bonded as required by the County.

Ms. Mendez elaborated on the Homeland Security Grants stating the total amount for both projects was \$237,000. Ms. Mendez stated grant specifications required upfront payment by Lincoln County with the first grant being utilized to purchase a mobile repeater unit and

the second for tower replacement on the Capitan Mountains. Ms. Mendez stated after the purchases were made the County could submit invoices for a 100% reimbursement from Homeland Security.

The Manager on behalf of Joe Kenmore, Director Office of Emergency Services: The ISO rating review for the Glencoe and White Oaks Fire Stations was completed. Spencer Baldwin inspected the County Senior Centers at the request of Renee Montes, Senior Services Director. Fire Chiefs from all over the State, both paid and volunteer, attended the recent Fire Conference. Mr. Kenmore and Mr. Baldwin were currently attending a Homeland Security Class and Evaluation.

16. Lincoln County Juvenile Justice Board FY18-19 Grant Application to CYFD by November 2, 2017

Ms. Taylor reminded Lincoln County had acted as the fiscal agent for many years for a Children Youth and Families Department (CYFD) Grant which supported operation of the Lincoln County Juvenile Justice Board (LCJJB).

Ms. Taylor discussed the State Procurement Code requirement to advertise the award of the contract to the LCJJB as a "sole source provider" for thirty days. Ms. Taylor stated due to this requirement the award of the current fiscal year contract was delayed resulting in the LCJJB providing services for three months without an approved contract. Ms. Taylor requested approval to budget a reimbursement of \$6,000 per month for three months of services from the General Fund.

Motion: Authorize submission of the Fiscal Year 2018-2019 grant to CYFD, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Draper.

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

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

17. Resolution 2017-13: Budget Adjustment

Punkin Schlarb, Finance Director presented the Resolution to authorize and approve requested budget adjustments. Ms. Schlarb informed the adjustments were necessary to accommodate administration of a Homeland Security Grant and to engage professional engineering services.

Ms. Taylor discussed the need to budget additional funding for repairs to the Annex building boiler which was failing due to age.

Motion: Adopt Resolution 2017-13 with amendment of an adjustment for a \$100,000 expenditure for boiler repair, **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Allen.

Commissioner Stewart requested clarification of the process to track the impact of budget adjustments on the required budget reserves.

Ms. Schlarb informed the NM Department of Finance and Administration had developed a tracking form for this purpose.

Commissioner Willard questioned the budget adjustment for Professional Engineering Services.

Ms. Schlarb stated Pettigrew and Associates were an "on contract" engineering firm and the intent was to utilize services to develop plans and track work on various County projects.

Ms. Taylor reminded the State of New Mexico instituted a requirement for engineered design and approval of State funded road construction projects. Ms. Taylor stated belief it was beneficial for the County to utilize this engineered design process for other projects

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

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

SEE EXHIBIT G: Copy of Resolution 2017-13 is attached hereto in reference thereto made a part hereof.

18. Discussion of the Brownfield Grant Draft Proposal - Consider Public Comment

Samantha Mendez, Interim Planning Director informed Brownfield Grants were offered by the Environmental Protection Agency to assist with abatement costs for any environmental contamination such as asbestos or lead. Ms. Mendez stated the intent was to seek the grant funding to assist in remediation of any hazardous materials found during the destruction of the old hospital. Ms. Mendez noted the required match amount was twenty percent of the total cost for abatement which was as yet unknown. Ms. Mendez stated tests to identify any potential hazardous materials at the old hospital were pending and she would initiate the grant application based on those findings.

Motion: If environmental conditions are found, submit the grant application, **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.

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

a. Lincoln Historic Preservation Board

Motion: Reappoint L.M. Smith to the Historic Preservation Board, **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.

b. Road Review Advisory Committee

Motion: Reappoint James Russ to the Road Review Advisory Committee, **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.

c. Senior Olympic Committee

Motion: Appoint Marilyn Miller to the Senior Olympic Committee, **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. Labor Management Relations Board (3 members) (Ord. 2005-7)

Attorney Morel stated Lincoln County had not constituted the Labor Management Relations Board in approximately ten years. Attorney Morel anticipated Lincoln County would have a need for this Board for collective bargaining negotiations next year. Attorney Morel stated appointments could occur at a future meeting.

Commissioner Stewart stated understanding the Labor Organization was required to appoint one member, the County Manager would appoint one member, and the third member was appointed by the other two appointed members.

Attorney Morel read the specific language noting the requirements for recommendations and the County Manager agreed to provide recommendations for future approval.

Commissioner Willard requested the County Manager provide updated membership information for the Carrizozo Health Center Advisory Board and the Property Tax Protest Board.

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

a. Alarm Ordinance 2011-04

b. Solid Waste Ordinance 2016-01

Motion: Schedule Public Hearings to consider the Alarm Ordinance and they Solid Waste Ordinance for the November Regular Meeting, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Willard.

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

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

No: Chair Stone.

25. Renewal of County Manager Contract – Terminates November 7, 2017

Attorney Morel informed the County's current contract with County Manager Nita Taylor would expire on November 7, 2017.

Motion: Renew the County Manager's contract, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Draper.

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

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

Chair Stone suggested consideration of a 3% or 4% salary increase.

Motion: Increase the County Manager's salary by 4%, **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Chair Stone.

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

Yes: Chair Stone, Commissioner Draper.

No: Commissioner Stewart, Commissioner Allen, Commissioner Willard.

26. Signing of Official Documents

27. Next meetings:

- a. November 21, 2017 - Regular Commission Meeting

28. Adjourn

There being no further business to come before the Board of County Commissioners, Chair Stone adjourned the meeting at 2:17 PM.

County of Lincoln
Board of Commissioners


Preston Stone, Chair


Dallas Draper, Vice Chair


Elaine Allen, Member


Thomas F Stewart, Member


F Lynn Willard, Member

ATTEST:


Rhonda Burrows, County Clerk

November 21, 2017
Date Approved

