

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, April 17, 2018

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on April 17, 2018 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 – U.S. A. Flag – 4H Members: John Wyatt Hemphill, Zach Rich, James Hemphill, and Riley Gallacher
- b. Salute – N.M. 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. March 13, 2018 - Special Commission Meeting
- b. March 20, 2018 - Regular Commission Meeting

Motion: Approve the Minutes of the March 13, 2018 Special Meeting and the March 20, 2018 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 March 31, 2018
- c. Approval or Disapproval of Safety Net Care Pool and Indigent Health Care Claims

- d. Upper Hondo Soil and Water Conservation District Mill Levy Rate #06-2017-2018
- e. Fair Housing Month Proclamation
- f. Motorcycle Awareness Month Proclamation
- g. Compensation Approved Title Change from "Ordinance Administrator" to "Planning Technician"
- h. FY 18 County Administrative Fire Protection Fund Distribution due April 30, 2018
- i. Carrizozo Soil and Water Conservation District Mill Levy Rate
- j. 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.

Commissioner Stewart noted Fire Department Funds indicated expenditures over budgeted funds and questioned the process for payment of Volunteer Fire Department personnel when they respond to a fire.

Punkin Schlarb reported after a fire call out the Office of Emergency Services (OES) submitted a report to the State of New Mexico and the County would issue payments to fire personnel based on hours worked.

Joe Kenmore, Director of OES clarified the State of New Mexico provided a payment to the County for the use of apparatus on a fire. Mr. Kenmore stated in turn the County utilized the apparatus reimbursement funds to pay personnel by the hour based on each individual's W-4.

Commissioner Stewart questioned if the propose mill levy rates for the various conservation districts were unchanged from prior years.

Nita Taylor, County Manager confirmed the rates were unchanged from prior years.

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. Lincoln County Extension Service – Update by County Program Director/
Extension Associate I, Melanie Gutierrez**

Melanie Gutierrez, Lincoln County Extension Agent provided an update on recent 4-H activities including the selection of local 4-H member Lea Eiseay as a NM 4-H State Diplomat; several local members attending a home economics school; and twenty seven 4-H members traveling to Glorieta Camp for a youth getaway. Ms. Gutierrez also discussed the 4-H Sport Shooting Program commenting on the excellent equipment available and noted there were approximately forty participants in the program.

Ms. Gutierrez stated additionally the Extension Office had conducted community outreach to address wildfire preparedness and other topics of interest. Ms. Gutierrez reported office staff had in the last year assisted approximately one thousand individuals with various questions in addition to twelve hundred and thirty contacts through social media. Ms. Baca stated the office had recently hired a Family and Consumer Science staff member who would begin working in June.

Commissioner Draper commented on the shooting program and suggested Ms. Gutierrez consider having a booth at the upcoming gun show.

Commissioner Willard stated Eastern New Mexico University – Ruidoso planned a trap shooting fund raiser at the Inn of the Mountain Gods in June. Commissioner Willard stated there was a discount for student entrants and encouraged Lincoln County 4-H members to participate.

Ms. Gutierrez reported there were currently one hundred and sixty individuals enrolled in 4-H with approximately sixty volunteer leaders and five separate clubs.

9. Historical Sites, Forest, Land and Natural Resources Matters:

Fort Stanton and Lincoln Historic Sites

Ms. Taylor informed Tim Roberts, Regional Director was unable to attend today's meeting.

Smokey Bear Ranger District

Ranger Jodi Canfield provided a status update on recent fires including the 246 Fire which burned over three thousand acres and several structures near Capitan.

Ranger Canfield reported Vickie Christiansen was recently named as the Interim US Forest Service Chief and it was her intent to focus on harassment and bullying within the Forest Service. Ranger Canfield also discussed the recent appointment of Don Hubbard as Assistant Secretary of Agriculture and the recent passage of the Farm Bill which contains funding for some National Forest projects.

Ranger Canfield stated the process to revise the Lincoln National Forest Plan was again delayed due to personnel turnover and a lack of continuous leadership for the process. Ranger Canfield stated the agency hoped to release the initial Plan Assessment in late May of this year. Ranger Canfield reported the Environmental Analysis for the Ski Apache restoration project was currently posted for public comment. Ranger Canfield stated a U.S. Forest Service Engineer was assisting with the development of project specifications and commented on the collaborative effort with the Mescalero Apache Tribe to move the project forward prior to next fall.

Ranger Canfield reported all seasonal Recreational Staff were hired and working to open campgrounds including ongoing work at the South Fork Campground. Ranger Canfield stated the District was seeking funding to install a walking bridge at the Cedar Creek trailhead and questioned if this project would qualify for Lodger's Tax funding.

Ranger Canfield reported there was no current activity at the El Capitan Mine site but the company had reposted a bond related to clean up work on adjacent Forest Service land.

Ranger Canfield discussed the large number of campers on Forest Lands and the associated noise, trash, and abandoned campfires. Ranger Canfield stated the District hoped to partner with the Sheriff's office to step up enforcement of quiet hours.

Ranger Canfield reported the NM Department of Fish and Game planned to check the status of the Bonito Watershed and review the opportunity to reestablish native fish species which were lost due to the Little Bear Fire.

There was general discussion of legal options to address abandoned campfires as well as the process to impose fire restrictions on federal lands.

Cibola National Forest

Dierdre Tarr District Manager for the Claunsh-Pinto Soil and Water Conservation District (SWCD) reminded the Conservation District's main office was in Mountainair. Ms. Tarr stated the District encompassed 1.2 million acres of land in four counties including Lincoln County.

Ms. Tarr commented on the Cibola Forest Plan Revision which began in 2015. Ms. Tarr discussed the collaborative role the Claunsh-Pinto SWCD had played in the plan revision process and expressed belief the participation of local entities was key to develop a plan for future work on forest land. Ms. Tarr expressed appreciation for Lincoln County's representation on various collaborate groups and noted Robert Barber, Chair of the Lincoln County Land and Natural Resources Advisory Committee (LANRAC) had volunteered to continue that representation.

Ms. Tarr provided a short report on projects recently completed in Lincoln and Torrance Counties around Corona which included hazardous fuel reduction projects to protect the Village of Corona water wells and reduce hazardous fuels on private property.

South Central Mountain Resource Conservation and Development District

Ms. Taylor informed the South Central Mountain Resource and Conservation Development District (SCMRCD) submitted an application to the New Mexico Association of Counties (NMAC) for funding to support their Outreach and Education Project under the 2018-2019 Wildfire Risk Reduction Program. Ms. Taylor reported additionally SCMRCD submitted an application to NMAC for funding to update the Lincoln County Community Wildfire Protection Plan. Ms. Taylor stated SCMRCD developed the plan in 2014 in coordination with Lincoln County, the Village of Ruidoso, and the Village of Capitan. Ms. Taylor stated the Wildfire Protection Plan required an update every five years.

Upper Hondo Soil and Water Conservation District

Ms. Taylor stated Laura Johnson, Program Director was unable to attend but had provided the minutes from the Conservation District's February meeting and an Agenda for their March meeting.

State Forestry - Energy, Minerals and Natural Resources Department (EMNRD)

Ms. Taylor informed Nick Smokovich was recently appointed to serve as the District Ranger for the State Forestry Capitan District in addition to Scott Salway who assumed the Fire Management Officer position. Ms. Taylor stated the Capitan State Forestry District had applied for three 2018 Hazardous Fuel Treatment Grants on behalf of Lincoln County. Ms. Taylor stated the Non Federal Land (NFL) grants of \$300,000 each were targeted for projects in Alto, Little Creak and the Nogal area.

Smokey Bear Ranger District (continued)

Ranger Jodi Canfield informed the Lincoln National Forest would move into Stage I Fire Restrictions on April 20, 2018 due to high fire danger conditions. Ms. Canfield stated Stage I restricted all fires on National Forest Land to metal grate grills in established campgrounds only.

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

Sue Hutchinson, local resident and employee of County Attorney Alan Morel expressed appreciation for the support she received from the County Attorney and County staff after her recent auto accident.

Commissioner Stewart informed the JLUS committee received a two month extension to complete a web based energy tool. Commissioner Stewart stated the JLUS group was working on a Memorandum of Understanding involving the five participating New Mexico Counties, El Paso County and the various military installations in the area to continue coordinating efforts.

Commissioner Allen expressed appreciation for those citizens attending to comment on the potential enactment of a Right to Work Ordinance. Commissioner Allen noted in addition to legislators present Lincoln County received letters of support from Congressman Pearce, Representative Nibert, Representative Scott, Representative Townsend; Representative Ezzell, and Representative Wooley. Commissioner Allen stated John Sugg, District Attorney and Hubert Quintana of the Southeastern New Mexico Economic Development District also expressed provided comments in support of a Right to Work Ordinance. Commissioner Allen thanked Christina Arnold, American's for Prosperity and the Rio Grande Foundation for their support.

Commissioner Allen expressed her personal support for a Right to Work Ordinance acknowledging adoption would only affect the private sector. Commissioner Allen discussed Lincoln County's historic support for individual rights including the right to work, free speech and freedom to association and stressed these rights were as important as private property rights. Commissioner Allen stated a Right to Work Ordinance would give individual employees the freedom to decide whether or not a labor union deserves their support. Commissioner Allen stated Right to Work legislation encourages job creation, increases personal income, and encourages economic development. Commissioner Allen read the letters in support of a Right to Work Ordinance received from Congressman Pearce and District Attorney John Sugg. Commissioner Draper, serving as Lincoln County's member for the Community Healing Addictions through Network Guidance and Education program (CHANGE), reported the group was sponsoring a "Drug Take Back Day" in Ruidoso. Commissioner Draper stated residents could safely dispose of unused prescription drugs by taking them to the Ruidoso Police Department on April 28, 2018.

Commissioner Draper reported he and Commissioner Allen met with the Glencoe Fire Department in conjunction with Joe Kenmore, Director of Office of Emergency Services to discuss departmental concerns.

Commissioner Draper reported he attended the Southeastern New Mexico Economic Development District (SNMEDD) meeting in Roswell during which several legislators discussed and expressed support for a Right to Work Ordinance. Commissioner Draper stated he also raised the issue of the lack of Community Block Development Grant funding for counties this fiscal year with legislators attending the meeting.

Commissioner Willard stated he attended the quarterly meeting of the Southeastern Regional Transportation Planning Organization (SERPTO) on March 29, 2018 in Roswell as Lincoln County's representative.

Rhonda Burrows, County Clerk reminded the public of the upcoming Primary Election on June 5, 2018. Ms. Burrows stated individuals could contact the County Clerk's Office to request an Absentee Ballot Application or Early Vote beginning May 19, 2018 in Ruidoso and May 21, 2018 in Carrizozo. Ms. Burrows thanked the Village of Ruidoso for continuing to provide accommodations for Early Voting at the Horton Complex after acquiring the property from the Ruidoso School District.

Beverly Calaway, Treasurer reported as of March 31, 2018 her office had collected 72% of outstanding 2017 property taxes due. Ms. Calaway reminded the second half of property taxes were due April 10th and were considered delinquent if unpaid by May 10, 2018.

Ms. Calaway spoke in support of adopting a Right to Work Ordinance commenting on the State of New Mexico's failure to pass a Right to Work law. Ms. Calaway stated belief the issue was important for Lincoln County's local economy and employment.

Sheriff Robert Shepperd reported on plans to attend the next Board of Directors meeting for the New Mexico Association of Counties (NMAC) in Clayton. Sheriff Shepperd reminded Socorro County was hosting the NMAC Summer Conference.

Sheriff Shepperd stated the annual execution of a contract between the Lincoln County Sheriff's Department and the US Forest Service for the provision of law enforcement services was delayed this year. Sheriff Shepperd stated once the contract was complete deputies would increase patrols on US Forest Service lands. Sheriff Shepperd stated he would research options in the Federal Code for officers to cite individuals for abandoning campfires.

Sheriff Shepperd stated his support for the adoption of a Right to Work Ordinance in Lincoln County. Sheriff Shepperd stated he had lobbied for several years in Santa Fe for the passage of Right to Work legislation but he doubted the State of New Mexico would ever pass a bill in support. Sheriff Shepperd also discussed the importance of a "Return to Work" bill to provide an option for law enforcement officials to return to work after retirement.

LeeRoy Zamora, Chief Deputy Assessor provided an update on Assessor's Walter Hill's medical condition. Mr. Zamora stated Mr. Hill was recovering after a fall requiring two hospitalizations but was continuing to improve and hoped for a medical release to return to work soon.

Mr. Zamora reported the New Mexico State Property Tax Division performed their annual assessment of the Assessor's office. Mr. Zamora informed his office would provide a full report next month. Mr. Zamora stated Lincoln County's assessed valuations had increased by approximately \$51 million this fiscal year. Mr. Zamora attributed the increase to a fully staffed office, working the backlog of permitted property changes, ongoing sales and the three percent increase applied to residential properties.

John Billingsley, resident of Lincoln County stated belief "Right to Work" referred to the constitutional right of all workers decided if they wish to participate in a union or not and also to freely associate in the workplace. Mr. Billingsley stated the biggest myth surrounding Right to Work laws was the belief the law dealt with an individual's right to get or keep work. Mr. Billingsley stated the focus was on the individual's personal freedoms and the right to be free of compulsory aspects in the workplace.

Robert Barber, Community Volunteer American Red Cross Leader for Lincoln County reported an increased number of requests for response and assistance. Mr. Barber reported assistance was given to eight households who had lost their homes in the last sixty days. Mr. Barber stated the Red Cross was planning a meeting in conjunction with the Creative Aging Group to inform seniors and other community members about preparedness and response procedures for both house fires and wildland fires. Mr. Barber stated the meeting was set for April 27, 2018 at Eastern New Mexico University - Ruidoso and invited the Commissioners and general public to attend.

Burly Cain, representing Americans for Prosperity expressed support for Lincoln County's adoption of a Right to Work Ordinance. Mr. Cain discussed the prior adoption of similar ordinances by counties in Kentucky which led to the eventual passage of state legislation. Mr. Cain stated subsequently in 2017 Kentucky's corporate investments were at an all-time high. Mr. Cain noted all existing union contracts were exempted and any legal changes would apply only to new or renegotiated contracts.

Christina Arnold, resident of New Mexico spoke in support of a Right to Work Ordinance and discussed the potential economic benefits.

Yvette Herrell, State Representative District 51 and candidate for US Representative District 2 thanked the Lincoln County Board of County Commissioners for considering passage of a Right to Work Ordinance and discussed the difficulty of passing similar legislation at the State level. Representative Herrell expressed belief Right to Work laws were necessary for New Mexico to remain economically competitive with other states.

Dr. Gavin Clarkson, Professor of Business at New Mexico State University and candidate for US Representative District 2 discussed the importance of Right to Work laws when recruiting companies to move operations to the State of New Mexico. Dr. Clarkson stated it was also critically important to understand Right to Work did not impose restrictions on the formation or action of unions.

Paul Gessing, of the Rio Grande Foundation stated the statewide nonprofit foundation had long supported the passage of a Right to Work Law in the State of New Mexico. Mr. Gessing stated El Paso, Texas where Right to Work laws were in effect had a fifty percent lower unemployment rate than the city of Las Cruces which did not have Right to Work protections.

Bill Burt, State Senator District 33 also speaking as a business owner stated his support of Right to Work laws as an affirmation of an individual's right to join a union or to act as an individual without penalty. Senator Burt expressed belief Right to Work laws affirmed a citizen's essential right to freedom of choice.

Chair Stone noted there were approximately fifty individuals present in support of passage of Right to Work Ordinance and stated his personal support for the proposal.

Chair Stone also spoke about the current high fire danger and complimented all of the responders for their quick and efficient response to recent structure and wildland fires. Chair Stone urged the public to be aware of fire conditions and take precautions.

11. Authorization to Schedule Public Hearing to Consider and Adopt Outdated or New Lincoln County Ordinances

a. Right to Work Ordinance

Motion: Schedule a Public Hearing to consider adoption of a Right to Work Ordinance for the next Regular Meeting, **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.

b. IRB Ordinance

Ms. Taylor stated the County was not quite ready to set a public hearing for adoption of an Industrial Revenue Bond Ordinance as there were details which needed to be finalized with the Corona School District. Ms. Taylor suggested the Commissioners consider a Special Meeting in Corona or placing the discussion on the agenda for the next Regular Commission Meeting.

Motion: Schedule a joint meeting with the Corona Schools to discuss Payment In Lieu of Taxes during the May 15, 2018 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.

Chair Stone recessed the Regular Meeting at 10:20 AM and reconvened at 10:31 AM.

12. Status Report of Lincoln County Juvenile Justice Board – Honorable Daniel A. Bryant

The Honorable Dan Bryant, District Judge 12th Judicial District discussed his past history of working with the Lincoln County Juvenile Justice Board (LCJJB) first as a children's attorney and then as a defense attorney in Juvenile Court. Judge Bryant stated the LCJJB was currently in a funding "flux" due to the implementation of rule changes by the State of New Mexico Department of Finance and Administration. Judge Bryant expressed belief these changes would result in

better provision of current services and possibly provision of some new services. Judge Bryant stated he attended a regional meeting which highlighted the impact of the current opioid epidemic.

Judge Bryant introduced Sergio Castro, the Juvenile Probation Office Supervisor for the 12th Judicial District which encompasses Lincoln and Otero County. Judge Bryant stated Mr. Castro had served on the LCJJB since 2002.

Mr. Castro discussed the history of the LCJJB which began in 2002 when the group received funding to visit Fort Worth, Texas to observe new processes for dealing with juvenile offenders. Mr. Castro stated this visit resulted in a coalition to develop alternative programs to detention. Mr. Castro stated these programs had resulted in a significant reduction in the number of juveniles incarcerated and therefore a significant cost savings to Lincoln County. Mr. Castro stated prior to the LCJJB program Lincoln County was on track to expend approximately \$300,000 per year for juvenile incarceration and expressed belief the cost was now closer to \$100,000 per year.

There was a general discussion regarding the State of New Mexico's change to funding based on a "fee for service" mode rather than lump sum funding.

Commissioner Stewart questioned if the new reimbursement process would work.

Mr. Castro stated although the State was properly reimbursing for services, the overall reduction in the number of individuals in the programs had led to a decline in overall funding. Mr. Castro stated the new State formula also required a 40% match from the community and this increased the Board's financial burden.

Judge Bryant commented in 2002 there were only six continuums of this type in the State of New Mexico with \$6 million budgeted for services. Judge Bryant stated this funding was now split between twenty eight continuums and dispersed on the fee for service model.

Judge Bryant reminded every successful juvenile intervention by LCJJB affected not only the children but the families of these children. Judge Bryant expressed belief the budget numbers were important as were transparency and accountability but stressed a good outcome for the juveniles and their families was the priority.

21. Approval of Memorandum of Understanding between the Village of Ruidoso and the County of Lincoln: For the Provision of Regulation Services of Residential and Commercial Construction within Certain Specified Areas of the County

Attorney Morel presented the revised Memorandum of Understanding (MOU) for consideration and noted Village of Ruidoso Mayor Lynn Crawford, Manager Debi Lee, and Community Development Director Bradford Dyjak were present to address any questions or concerns.

Attorney Morel stated revisions were based on recommendations from the NM State Construction Industries Division. Attorney Morel stated the changes addressed the process of enforcement of any building permit violations issued within the area described by the MOU. Attorney Morel noted changes in Section 1 of the MOU now specifically required the Village of Ruidoso to enforce building permit violations. Attorney Morel also discussed changes to Section 2B which clearly delineated the Village of Ruidoso's responsibilities for this permitting process.

Bradford Dyjak, Community Development Director for the Village of Ruidoso expressed appreciation for the collaborative work with Lincoln County to develop this MOU for the provision of inspection services in certain unincorporated areas of Lincoln County.

Motion: Approve the revised Memorandum of Understanding between Lincoln County and the Village of Ruidoso, **Action:** Approve, Moved by Commissioner Stewart, Seconded by Commissioner Allen.

Commissioner Willard questioned the Village of Ruidoso's ability to currently hire and retain inspectors.

Mr. Dyjak stated the Village of Ruidoso currently had two inspectors on staff and had added a third position. Mr. Dyjak stated the Village was planning to conduct cross training to accommodate any future staff changes.

Commissioner Draper questioned if the Construction Industries Division (CID) treated the permitting process any different than defined in this MOU.

Mr. Dyjak stated the principal reason for the revision was to standardize language and eliminate discrepancies in terms of enforcement in accordance with CID guidance.

Attorney Morel informed CID had approved this iteration of the agreement.

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

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

16. Formal Presentation of FY17 Audit – Daniel Trujillo, Kubiak Melton and Associates, LLC.

Daniel Trujillo, CPA, CFE commented on the presence of Commissioner Allen and Chair Stone during the previously conducted audit exit interview. Mr. Trujillo stated The State of New Mexico Audit Rule required presentation of the final audit report by the accounting firm to a quorum of the governing authority at an open meeting. Mr. Trujillo commented on this being the first audit conducted by his firm for Lincoln County. Mr. Trujillo stated the audit was submitted in a timely manner to the NM State Auditor's Office and was officially released for public review on February 5, 2018.

Mr. Trujillo informed Lincoln County's receipt of Federal Funding for services did not rise to the level which would require a separate audit for those programs this past fiscal year.

Mr. Trujillo stated Lincoln County received an "unmodified" opinion which affirms the financial statements as presented by the County.

Mr. Trujillo stated there was one repeat finding from the prior year related to the per diem mileage reimbursement rate. Mr. Trujillo discussed the option for the County to annually adopt the current federal per diem rate or formally take action to adopt a static reimbursement rate. Mr. Trujillo stated Lincoln County had taken action to correct the finding.

Commissioner Willard questioned which method for reimbursement Lincoln County utilized.

Ms. Taylor stated Lincoln County corrected the finding by modifying the relevant County Ordinance to reflect a static reimbursement rate.

15. Lincoln County Medical Center – Replacement Hospital Construction Project

Project Update – Bobby George – Dekker Perich Sabatini

Bobby George of Dekker Perich Sabatini provided a status update including issuance of the Request for Proposals on January 14, 2018; receipt of bids on March 7, 2018; convening the Evaluation Committee on March 8, 2018 to review and score bids on price and qualifications components; and notified the Board of County Commissioners of the selection of an apparent low bidder on March 13, 2018. Ms. Taylor stated additionally the County had received the approval to proceed from the Construction Industries Division after their review of the design plans.

Mr. George stated ongoing considerations included continued cost escalations for subcontractor work and materials. Mr. George noted there were only two bids received for the project and expressed belief this was due to the cost escalation factors. Mr. George stated belief these escalations would continue over time in the current construction environment. Mr. George stated the apparent low bid was 9.9% over the architect's estimate which he termed as a "conservative estimate". Mr. George stated the firm had included a 10% escalation factor in their estimate of costs but the escalation factor currently amounted to approximately 20%.

Mr. George discussed the overall project budget which included the Emergency Medical Services building noting the total cost estimate was now \$35.3 million. Mr. George stated estimated project costs less the cost of the EMS building and the static funding for furniture, fixtures and equipment resulted in current budget funds available for project completion of \$24.3 million. Mr. George stated this funding was dedicated to cover the low bid cost plus any approved alternatives; the design fees for consulting engineers; and fees, permits and other costs applicable to Lincoln County. Mr. George discussed the specific costs applicable to Lincoln County including asbestos abatement costs for which Lincoln County did not receive the grant funding. Mr. George discussed various other factors influencing the budget including the inclusion of fifteen "alternates" in the Request for Proposals. Mr. George stated of those fifteen, three were considered critical but not included in the low price bid.

Award RFP 17-18-002 – LCMC Replacement Hospital Project to Lowest Apparent Bidder

Ms. Taylor reminded after an apparent low bid was identified but not awarded, the Board of County Commissioners directed her and Mr. George to conduct a "value engineering" process to identify any cost savings opportunities.

Ms. Taylor stated the two responsive offers of a lump sum base bid were received as follows:

Jaynes Corporation - Albuquerque	\$25,391,399
Flintco, LLC – Albuquerque	\$26,260,331

Ms. Taylor stated the offers were based both on a technical review and the price proposal. Ms. Taylor stated Jaynes Corporation was ranked first in both the technical review and the price proposal.

Motion: Award RFP 17-18-002 to Jaynes Corporation for the base lump sum bid amount plus Alternate Option Number 1, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

Commissioner Willard questioned the costs associated with the proposed infusion center and nuclear medicine center.

Mr. George stated the base bid incorporated the cost to build the outer shell for these services within the main building but the separate costs identified for these "alternatives" included the costs of internal walls, electrical outlets, and other internal construction.

Commissioner Willard expressed belief the Lincoln County Auxiliary's Gift was specifically directed towards construction of the infusion center.

There was a lengthy discussion regarding the intent of the gift from the Lincoln County Medical Center Auxiliary and the costs associated with the complete buildout of the infusion center and the nuclear medicine center.

Commissioner Allen questioned the total costs to "build out" these alternatives.

Ms. Taylor clarified the costs associated with Alternate Option Number 2 - Infusion Area buildout were \$191,789 and Alternate Option Number 3 Nuclear Medicine buildout were \$121,699.

There was a general discussion regarding Presbyterians recent recruitment of a cardiologist and the related need for a nuclear medicine facility.

Mr. Stewart commented the budget shortfall, depending on alternatives approved, was between \$5.6 and \$5.9 million.

Mr. George reminded there was \$750,000 of owner contingency funding built into the project to address unforeseen project development problems. Mr. George stated if there were no problems identified during the main construction phase Lincoln County could consider utilization of the contingency towards completion of the infusion and nuclear medicine areas.

Chair Stone clarified if the alternatives were not included these would simply be empty areas in the new building.

Mr. George concurred and also commented on the likelihood of the build out costs increasing over time if the County waited till a later date to complete the infusion and nuclear medicine areas.

Commissioner Willard withdrew his motion; Commissioner Allen concurred.

Gary Jackson, D.O., LCMC Board Member stated he had reviewed facility requirements for recruitment and retention of a cardiologist and expressed belief the nuclear medicine capability was integral to that service. Dr. Jackson discussed the potential for increased revenues associated with having a cardiologist on staff. Dr. Jackson expressed belief the Lincoln County Auxiliary's request for an infusion center was based on their member's direct knowledge of the community's needs.

Motion: Award the bid to Jaynes Corporation including the addition of Alternatives 1, 2 and 3 to the scope of the project, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

Status of Philanthropy Efforts – Gary Mitchell, Chairman LCMC Board

Gary Mitchell, Chair LCMC Board discussed the philanthropic efforts and reminded the LCMC Foundation was a separate entity from the Lincoln County Medical Center Board of Directors. Mr. Mitchell stated members of the Foundation were originally optimistic about a commitment to raise \$5 million but found large donors were reluctant to donate until the financial contributions of Lincoln County, Presbyterian, and other entities were finalized. Mr. Mitchell stated currently the Foundation had approximately \$2.2 million in pledges including \$1.2 from Presbyterian. Mr. Mitchell admitted he underestimated the challenge and discussed new efforts to raise money through contact with individuals within the family who control medical decisions. Mr. Mitchell stated belief the public would prefer Lincoln County build the hospital including the alternates of infusion and nuclear medicine.

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 at 12:13 PM and reconvened at 1:02 PM.

18. Inspection of Detention Center

Inspection postponed to a later date due to time constraints.

Chair Stone recessed the Regular Meeting and convened the Public Hearing at 1:04 PM.

- 19. 1:00 PM: Public Hearing to consider an applicant seeking a transfer of ownership for Liquor License No. 0727. The Application currently owns the license at the location but has had a change to the stockholder's (Ownership) of the company. Eagle Creek Shell, 101 Ski Run Road, Alto, New Mexico 88312. License No. 0727/Application No. 1052220.**

Ms. Taylor informed the purpose of the hearing was to consider Application Number 1052220 for a change of stockholders for the company owning Eagle Creek Shell on Ski Run Road.

Chair Stone requested public comment and receiving none adjourned the Public Hearing and reconvened the Regular Meeting at 1:05 PM.

Motion: Approve Application Number 1052220 for Eagle Creek Shell, **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. Alto Alps' Complaint of a Developing "Automobile Junk Yard"

Ms. Taylor reported a complaint was received from the President of the Alto Mountain Village Homeowners Association and commented the subdivision was previously known as Enchanted Mesa Subdivision.

Donald Spafford presented his concerns about the recent appearance of an "automobile junk yard" on Mesa Heights Boulevard directly across from the entrance to the Alto Alps Condominium entrance. Mr. Spafford stated although the site was surrounded by subdivision developments the parcel in question was private land outside of any subdivision and therefore not subject to those restrictive covenants.

Mr. Spafford stated belief the establishment of a junkyard in this residential area was detrimental to property values and would eventually affect county assessment values. Mr. Spafford also discussed associated environment concerns and the detrimental effect on tourism. Mr. Spafford requested Lincoln County intervene and review the operator's business license.

Commissioner Draper informed Mr. Spafford Lincoln County does not issue business licenses.

Samantha Mendez, Director of Planning and Project Management stated her research indicated the property owner did not appear to have NM State Business License to operate a salvage yard. Ms. Mendez stated without access to the property she could not determine if the autos were operable or inoperable and therefore subject to County Ordinance. Ms. Mendez stated she had identified no obvious violations of Lincoln County Ordinances.

Attorney Morel stated as the property was not within a subdivision, and as Lincoln County did not have a Zoning Ordinance, it appeared the business was subject only to State jurisdiction.

Commissioner Stewart suggested Lincoln County staff research the question of business licensure, review the solid waste ordinance restrictions for waste accumulation on private property, and consider adoption of an ordinance regulating similar businesses within the County.

Sheriff Shepperd stated belief the site was owned by Arrow Towing Service and was purchased specifically in the unincorporated area of the County for the storage of vehicles. Sheriff Shepperd stated to his knowledge there were no County violations and the towing industry was regulated by the State of New Mexico.

Paul Heath, General Manager of Alto Alps Condominiums informed the owners purchased the property about six months ago. Mr. Heath stated he was approached about purchasing a portion of the property which residents currently utilized as a prescribed easement to Alto Alps.

Chair Stone suggested the owners pursue a case based on the accumulation of autos impeding the travel pattern of wild horses.

Commissioner Allen stated failing any Ordinance restricting the activity, it would seem prudent to contact the owner about building a fence.

Mr. Heath suggested Lincoln County consider additional regulation of this type of activity similar to San Juan County.

Attorney Morel stated he would review current County Ordinances and provide additional information for future consideration.

13. Approval of Resolution No. 2017-34 Authorizing and Approving Submission of a Completed Application by Hondo Fire Department for Financial Assistance and Project Approval to the New Mexico Finance Authority

Ms. Taylor reminded RFP 17-18-001 for construction of the new Hondo Fire Station was awarded to Roper Construction during the December 2017 Regular Meeting. Ms. Taylor stated subsequently she and Office of Emergency Services staff worked with Roper Construction to identify construction cost reductions and to seek waivers on certain expensive construction code requirements.

Ms. Taylor reported Roper's initial bid of \$1,096,000 after deduction of approved alternatives was reduced to \$973,000. Ms. Taylor reported value engineering efforts were successful and the total cost of the construction project would fall within the available funding sources.

Ms. Taylor provided revised totals for project revenue funding as follows:

State Capital Appropriation 15-0800	\$205,012
Hondo Fire State Allotment Fire Funds	\$141,549
NMFA Pre Approved Loan	\$458,439
Total	\$805,000

Motion: Adopt Resolution 2017-34 and approve the application from the Hondo Fire Department for the NMFA loan, **Action:** Approve, Moved by Commissioner Allen, **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 A: Copies of Resolution 2017-34 Items are attached hereto in reference thereto made a part hereof.

14. Authorization to Negotiate and Enter Into a Contract with Roper Construction for the Erection of the Hondo Fire Station

Ms. Taylor stated in addition to the adoption of Resolution 2017-34 and approval of the application for the New Mexico Finance Authority Loan she was seeking approval of the formal agreement reflecting the agreed upon value engineering options with Roper Construction for the erection of the Hondo Fire Station. Ms. Taylor stated the total project cost reflected in this agreement would fall within budgeted revenues as discussed.

Motion: Approve the agreement with Roper Construction, LLC; **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Stewart.

There was a general discussion regarding the capacity of the building for the storage of apparatus.

Ms. Taylor reminded the agreement did not included the build out of all of the designed staff offices and other internal facilities but would cover the basic construction of the facility.

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

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

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

- a. Purpose: Carrizozo Festival and Artists' Tour
Request: \$1,500
Date(s) of Event: August 18-19, 2018
Presenter: Mary Pieters/Carrizozo Works, Inc.
Lodgers Approved: \$ 1,500.00
Application No.: 0063

Motion: Approve Application Number 63 for \$1500, **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.

20. Manager's Report

HAT'S OFF to Billie Jo Guevara for recognition of her excellent, professional, courteous and prompt service from three different government agents:

NM Regulation & Licensing Department: "your quick response is appreciated and a breath of fresh air to have people care about their work!"
City of Ruidoso Downs: "You're the best"
U S Department of Labor – Occupational Employment Statistics

Emergency Services Communications Matters: On April 1, 2018 smoke was detected on the east end of El Valle Loop in the Hondo Valley. The Glencoe Fire Department was initially paged followed by the Hondo Fire Department, who was first on scene to an approximate 1/2 acre fire. Hondo Fire called for assistance from the Lincoln Fire Department. Members of some the volunteer fire departments expressed concerns about inadequate radio coverage in the Hondo Valley which made communication among fire departments and fire personnel difficult. Joe Kenmore, Emergency Services Director, acknowledged several factors were impacting the quality of communication in the Hondo Valley as well as identified and initiated potential fixes:

1. Impacting factors:
 - a. In 2013 UHF and VHF commercial public safety frequencies were switched to narrowband, reducing the quality of transmission. Use of hand-held radios very spotty;
 - b. Some of terrain in the Hondo Valley, and East and North of Arabela, contain deep canyons that make it difficult to communicate to the repeater site (UHF and VHF are line of sight communications);
2. Steps to correct;
 - a. Hondo repeater was placed in 2004 and has good audio quality, but the narrowband update eliminated the path to Dispatch in Carrizozo; Steps to correct include linking the Hondo repeater to the Capitan site, which has a direct site to Carrizozo;
 - b. Quote for two links for Capitan and Hondo Radio Repeater Sites (Sheriff and Fire) have been obtained and will be included in budget;
 - c. Volunteers on hand-held radio will have to find a good spot to respond;
 - d. Once on the scene, communications are switched to Tac channels for communications at the site; with the person with the radio communicating with Dispatch;
 - e. Once command is established on-scene communications is switched to OES Buck or Capitan to talk to Dispatch; freeing up LCEMS/FIRE for paging;
 - f. Identify equipment and training needs to maximize communications ability.

Joe Kenmore, Director Office of Emergency Services provided a map of the locations of the five county repeater's within Lincoln County. Mr. Kenmore noted many responders believed they should have hand-held coverage similar to that utilized by the Sheriff's Department. Mr. Kenmore state this would require the installation of multiple new receivers.

Mr. Kenmore stated he reached out to an expert in repeaters who advised linking the Hondo repeater to the Capitan Site. Mr. Kenmore discussed the previous change after 2004 from wide band transmission to narrow band in 2012 to 2013. Mr. Kenmore stated the principal problem was a lack of direct communication from Hondo to the Sheriff's Office.

There was a lengthy discussion regarding the current location of repeater's on towers, possible new locations to enhance service, and the costs associated with acquiring multiple new repeaters for installation in fire department vehicles.

Additional Wildfires:

On April 5, 2018 the Arabela Rock Gate Fire covered 11.26 acres and was contained by the Arabela and Hondo Fire Departments along with State Forestry and the US Forest Service;

On April 12 - 14, 2018 the 246 Fire had consumed approximately 3,316 acres. Manager Taylor provided a map of the burn area and reported there was no containment percentage available at this time. Several primary residences were lost, but no one was injured. The Lincoln County Fair Board quickly opened the fairground buildings and set up panels for livestock. An Emergency Shelter was established under the leadership of Red Cross Community Leader Robert Barber.

NM Attorney General Approval of the Operation and Management Agreement: Manager Taylor reported she received notice Lincoln County's Agreement with LaSalle Corrections was approved by the required NM State Departments including the Office of the Attorney General; the Department of Finance and Administration – Local Government Division; and the Risk Management Division of the General Services Division. Manager Taylor provided copies of the fully executed signature pages

New Mexico Environment Department – Bonito Lake Project: Manager Taylor reported Michelle Hunter, Bureau Chief for the NM Environmental Department's Ground Water Quality Bureau had informed it still was premature for the Department to provide a presentation on this project to the Lincoln County Commission. Ms. Hunter had stated the Department had requested and received some data from The City of Alamogordo but had not yet determined next steps. Ms. Hunter hoped to provide information to the Commission in May.

New Horizons: Work started on paving the New Horizon's parking lot last week with completion anticipated within the next week. Manager Taylor reported appraisal and market rent studies were scheduled to commence the week of April 16, 2018.

Schedule of Events: Manager Taylor provided a list of upcoming events for late April and early May.

Department Head Updates:

Billie Jo Guevara, Administrative Assistant and Human Resources Director discussed current open job positions including: Planning Technician, Road Department Operator IV positions; and a Sheriff's Officer Dispatcher. Ms. Guevara also informed she received notification from the State of New Mexico of a 4% health premium increase for the next fiscal year.

Joe Kenmore, Director Office of Emergency Services commended Spencer Baldwin as the initial Incident Commander for the 246 Fire and Robbie Hall of the Bonito Fire Department for their quick and organized response. Mr. Kenmore complimented all of the Lincoln County Volunteer Fire Departments who responded to the fire. Mr. Kenmore also commended the County Manager and the Road Superintendent for their timely mobilization of a Lincoln County blade and operator in response to the 246 Fire.

Samantha Mendez, Director of Planning and Project Management reported on her move from Ordinance Administrator to Interim Planning Director to the newly titled position of Director of Planning and Project Management. Ms. Mendez stated the department would seek a replacement for her original position now retitled as Planning Technician. Ms. Mendez stated she would research currently licensed salvage yards within Lincoln County and compliance requirements.

Jeff Honeycutt, Road Superintendent provided an update on the pavement of parking lots at New Horizons and the Courthouse and anticipated completion of these projects within the next two weeks. Mr. Honeycutt informed Zia Natural Gas had lowered their natural gas line on Bogle Road at identified points up to the Hubbard Pit with one other location left to complete. Mr. Honeycutt stated the Road Department would begin adding additional material to the road in May.

23. GSWA Matters

Consider GSWA Quote to Provide Recycling Services to the County

Ms. Taylor presented a quote received from Greentree Solid Waste Authority (GSWA) for the placement of dumpsters to collect recyclables in Lincoln County. Ms. Taylor stated the quote for the proposed service was \$4384.80 per month. Ms. Taylor stated GSWA currently had a contract with the Village of Ruidoso to provide recycling services. Ms. Taylor expressed belief the County should consider further studies to assist in determining the County's needs and terms of any proposed agreement.

Commissioner Allen stated she discussed the option to provide these services with GSWA after she was appointed as Lincoln County's representative on the GSWA Board. Commissioner Allen noted County residents currently had no access to recycling receptacles.

Commissioner Willard questioned if the recycling program was a revenue generator for GSWA.

Ray Dean, Carrizozo resident and representative on the GSWA Board, stated recycling was a profit generating operation for GSWA. Mr. Dean also discussed environmental benefits of recycling.

Commissioner Willard asked for clarification as to whether GSWA objected to County residents utilizing recycling containers currently in place within the municipalities. Commissioner Willard suggested GSWA would benefit from the additional recyclables from County residents if recycling was a profitable operation for GSWA.

Mr. Dean discussed the current recycling industry challenges and the increased costs due to residents contaminating recycling dumpsters with oil and other non-recyclable products. Mr. Dean explained GSWA was required to haul the materials from any contaminated dumpsters to the dump site.

Commissioner Allen stated she would seek additional information about recycling options with GSWA during their next board meeting.

Commissioner Draper commented Lincoln County's representative served on the Board of GSWA as a voting member for landfill issues only.

Attorney Morel concurred and reminded as a condition of the settlement agreement with Lincoln County, GSWA was to prepare a new joint powers agreement for the entities involved but Lincoln County had not yet received one.

NMFA Refinance Schedule

Ms. Taylor provided a copy of the tentative schedule for the multiple entities involved to take action to facilitate GSWA's loan refinancing through the New Mexico Finance Authority. Ms. Taylor noted the schedule would require Lincoln County adopt a Resolution of Intent in May and followed by adoption of an Ordinance in June.

Commissioner Stewart noted a deadline for submission of comments to NMFA by tomorrow and suggested the Manager pursue copies of the documents referenced to assure they were in compliance with the Board of County Commissioners approval of the refinancing application subject to the direction of any overage in the Environmental Gross Receipts Tax payment towards debt service.

24. Authorization to File Solid Waste Liens:

a. Casa Del Cocinero, LLC	\$462.32
b. Sarah F. Reidhead	\$631.94
c. Pat Preheim	\$631.94
d. Cynthia Lanmon	\$745.02

e. Ima Florence Powell	\$745.02
f. Leroy Sanchez	\$745.02
g. P2 Measurements and Logistics, LLC	\$688.48
h. Dave and Alison Stepp	\$745.02
i. Tito and Edelmira Reyes	\$745.02
j. Freddie R. Shows	\$720.36
k. Lynette Rene Hall & William Davidson	\$688.48
l. William and Valerie Hummer	\$688.48
m. Bruce and Jeane Duncan	\$688.48
n. Ruben Chavez	\$575.40
o. Ruben Chavez	\$745.02
p. Jayson Long	\$688.48

Commissioner Stewart questioned the timeframe for accumulation of charges and filing of liens.

Ms. Taylor stated the Solid Waste Department was trying to get caught up on these accounts. Ms. Taylor stated she would provide the timeline for the filing of liens at the next regular meeting.

Motion: Approve the filling of liens as presented, **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.

25. Discussion and Consideration of Joining Multistate Litigation Related to Opioid Crisis

Attorney Morel discussed current litigation initiated by hundreds of states, counties and cities against the manufacturers and distributors of opioid pain medications. Attorney Morel stated it was estimated in 2007 prescription opioid abuse and misuse cost the State of New Mexico \$890 million dollars. Attorney Morel noted in December of 2017 a court order was issued which consolidated all federal cases to the North District Federal Court of Ohio.

Attorney Morel stated several New Mexico counties had issued Requests for Proposals to obtain outside legal representation in this litigation. Attorney Morel stated these RFP's contained "piggy back" clauses which would allow Lincoln County to enter into a contingency fee agreement without incurring costs other than staff time to determine costs associated with opioid abuse in Lincoln County. Attorney Morel reminded prior awards to states for similar damages in the tobacco industry settlements had not trickled down to the county level and expressed belief this had prompted counties to take action on their own behalf in this matter.

Motion: Examine the option to piggy back on another County's RFP and ask the Attorney to provide a recommendation during the next Regular Meeting, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

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

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

26. 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. Memorandum Opinion and Order, and Final Judgment were filed February 28, 2018 by Judge Browning ordering that all claims in this action are Dismissed, the Complaint for Civil Rights Violations filed May 26, 2016 are Dismissed With Prejudice, and the State Tort Claims are Dismissed Without Prejudice.

2. **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. The U.S. Dept. of Agriculture filed its Answer to Complaint February 2, 2018 requesting the Court's findings that its Claim of Lien is a first and priority lien.
3. **Rancho Ruidoso Valley Estates Homeowner's Association v. Diane K. Medcalf, Pioneer Bank, FSB, and the County of Lincoln, NM D-1226-CV-2017-00242** Complaint filed by RRVEHA September 12, 2017 for Foreclosure of the Homeowner's Association Assessment Lien. The County's Answer to Plaintiff's Complaint for Foreclosure was filed October 12, 2017.
4. **Seidel v. Manfredi, et. al. D-1226-CV-2017-00184** Civil Complaint for Damages Direct and Punitive was improperly filed with the 12th Judicial Court by Mr. Seidel July 18, 2017 utilizing the Court's receipt number to identify the filing. Defendants filed a Motion to Dismiss on March 20, 2018; a hearing has not been set. Judge Counts is the presiding Judge.
5. **Floyd Kenneth Ryen v. Board of County Commissioners of the County of Lincoln D-1226-CV-2017-00281** Civil Complaint filed October 16, 2017 alleging violation of Article II, Section 10 of the New Mexico Constitution: Plaintiff was allegedly held in custody at LCDC for 15 days, November 10-25, 2015, also alleging paperwork to hold Plaintiff did not contain a cause number.
6. ***Benny Ray Runnels v. Lincoln County D-1226-CV-2017-00328** Civil Complaint filed December 6, 2017. Plaintiff is pro se, claiming from County the amount of \$308,000.00. Summons was hand delivered by Plaintiff to County December 6, 2017. A Hearing took place February 1, 2018 on the County's Motion to Dismiss and the merits of the Defendant's Complaint at which time the Judge ruled in favor of the County and the case was Dismissed Without Prejudice. The Defendant filed an Amended Civil Complaint in the same case on February 6, 2018. A Motion to Dismiss the Action was filed on February 20, 2018; a hearing has not been set. Judge Blankinship is the presiding Judge.
7. ***Board of County Commissioners of Lincoln County v. Roger Romero D-1226-CV-2018-00055** Complaint for Foreclosure. Complaint was filed February 20, 2018. Defendant Roger Romero filed an Answer to the Complaint on 4/2/18. Judge Counts is the presiding Judge.
8. ***Roger Romero v. State of New Mexico – D-1226-CV-2018-00113 (Underlying Cases are: Board of County Commissioners of Lincoln County v. Roger Romero, D-1226-CV-2018-00055, and State of N.M. v. Roger Romero M-30-MR-2016-00142)**
A Petition for Writ of Habeas Corpus was filed requesting that the Judgment & Sentence entered by Judge Vega in Cause No. M-30-MR-2016-00142 be vacated and set aside.
9. ***Pioneer Bank v. Jessica Quintana, and Lincoln County D-1226-CV-2108-00058**
Complaint to Foreclose and Collection of Note was filed on March 22, 2018. The County's Answer to the Complaint is due by May 2, 2018. Judge Bryant is the presiding Judge.

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

10. **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 Final Pre-Trial Hearing is scheduled to take place on July 10, 2018, and a Jury Trial is scheduled for July 16, 2018 before Judge Vega.
11. ***State of NM v. Roy Payton M-30-MR-2018-00004** Violation of County Ordinance 2008-08 Animal Control Ordinance. A Criminal Complaint was filed January 4, 2018 by Lincoln County Sheriff's Deputy Ryon McInnes for violations of 1 count of Section 7 (Vicious Animals) Pre-Trial Hearing took place on March 27, 2018 before Judge Vega, at which time the Defendant was found Guilty of Dog Running at Large, fine and fees in the amount of \$123.00 were assessed and the Defendant was placed on 90 days unsupervised probation.
12. ***State of NM v. Roy Payton M-30-MR-2018-00005** Violation of County Ordinance 2008-08 Animal Control Ordinance. A Criminal Complaint was filed January 5, 2018 by Lincoln County Sheriff's Office Animal Control Officer Russell Wehnau for violations of 2 counts of Section 11 (Dogs Running at Large) and 2 counts of Section 4 (Rabies Vaccination violations). A Pre-Trial Hearing took place on March 27, 2018 before Judge Vega, at which time the Defendant provided proof of rabies vaccinations and, pursuant to a Plea & Disposition Agreement, the charges were dismissed.
13. **State of NM v. Hortencia Armendariz M-30-MR-2018-00014** Violation of County Ordinance 2008-08 Animal Control Ordinance. A Criminal Complaint was filed by Lincoln County

Sheriff's Office Animal Control Officer Russel Wehnau February 9, 2018 for violation of 1 count of Section 19 (Animal Nuisances Prohibited) due to barking dogs. A First Appearance/Arraignment Hearing took place March 2, 2018 before Judge Vega at which time the Defendant failed to appear. A Bench Warrant has been issued.

14. ***State of NM v. Sandra K. Jourden M-30-MR-2018-00015** 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 February 16, 2018 for violations of 1 count of Section 11 (Dogs Running at Large), and 1 count of Section 4 (Rabies vaccination violation). A First Appearance/Arraignment Hearing took place March 23, 2018 before Judge Vega at which time the Defendant pled "No Contest" and was found "Guilty." She received a Deferred Sentence, was sentenced to 90 days' jail time, suspended, 90 days unsupervised probation, suspended, conditional upon proof of rabies vaccination being provided to the Court within 30 days, and fines/fees totaling \$126.

Tort Claims Notices Received or Threatened

2018

Manfredi, Anthony – Threat of litigation involving employment matters.

Warren, Judy Yates – Tort Claim Notice received January 8, 2018 from Attorney Gary Mitchell alleging Lincoln County Sheriff's Department and Lincoln County Detention Center's failure to provide immediate necessary medical care.

Corpening, Melissa – Tort Claim Notice received January 30, 2018 alleging road management failure by Lincoln County Road Department.

Brownell, Johnathon L. – Tort Claim Notice received February 1, 2018 alleging Claimant die not receive proper medical care while incarcerated at Lincoln County Detention Center.

Estate of Mariysa Sanchez – Tort Claim Notice received February 2, 2018 from Attorney Andrew P. Ortiz alleging Lincoln County Emergency Medical Services' providing service below the "standard of care."

***Anonymous Group of Capitan residents** – Tort Claim Notice received February 21, 2018 alleging violations of County Ordinance 2016-02: accumulation of unacceptable solid waste.

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.

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.

Ryen, Kenneth Lloyd – Tort Claim Notice received October 18, 2017 alleging violation of Article II, Section 10 of the New Mexico Constitution: Plaintiff was allegedly held in custody at LCDC for 15 days, November 10-25, 2015, and alleging paperwork to hold Plaintiff did not contain a cause number.

2016

Sonora Corporation (John Russell-CEO)-Tort Claim Notice received April 6, 2016 via correspondence from Mr. Russell in response to a Notice of Investigation from NM Construction

Industries Division due to an alleged lack of final inspection and deviation from approved plans of construction in 2012 at 119 Bald Eagle Court, Alto, NM.

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

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

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

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

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

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

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

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

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

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

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

2015

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

Action: Approve, **Moved by** Commission 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 2:56 PM.

Chair Stone adjourned the Closed Session and reconvened the Regular Meeting at 3:34 PM.

Commissioner Stewart attested that matters discussed in the closed meeting were limited to those specified in the motion for closure or in the notice of separate closed meeting and no action was taken

27. Signing of Official Documents

28. Next meetings:

- a. April 26, 2018 - Special Commission Meeting – Preliminary Budget FY18-19
- b. May 15, 2018 - Regular Commission Meeting

29. Adjourn

There being no further business to come before the Board of County Commissioners, Chair Stone adjourned the meeting at 3:35 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

May 15, 2018
Date Approved

