

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, August 21, 2018

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on September 21, 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 8:35 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:

July 17, 2018 - Regular Commission Meeting

Motion: Approve the minutes of the July 17, 2018 Regular Meeting with clerical corrections.

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. Corrected Treasurer's Financial Report for the Month ending June 30, 2018
- c. Treasurer's Financial Report for the Month ending July 31, 2018
- d. Approval or Disapproval of Safety Net Care Pool and Indigent Health Care Claims
- e. The Alpine Village Sanitation District Mill Levy Tax Rate

- f. Sun Valley Water and Sanitation District Mill Levy Tax Rate
- g. Approval of Payment for Prior FY 17-18 Invoices from Ruidoso Valley Greeters, Stryker, Lincoln Community Church, and Office Depot
- h. Release of Bond for Whirlwind Properties, LLC., Subdivision of Deer Park Woods Subdivision, Unit 8
- i. Resolution 2018-8 Disposal/Destruction of County Surplus Inventory

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

Commissioner Allen responded to concerns expressed by Commission Stewart regarding per diem reimbursement received for her travel to a Public Regulatory Commission meeting during a discussion of the Consent Agenda presented at the July Regular Meeting.

Commissioner Allen informed she obtained a sworn affidavit from the Sun Zia Project Manager attesting to the fact she received no "form of remuneration" from Sun Zia related to her recent testimony before the Public Regulatory Commission meeting. Commissioner Allen stated she spoke on behalf of Corona residents who had requested support for the transmission line and on behalf of all Lincoln County residents who stand to benefit from revenues generated by the SunZia project.

Alan Morel, County Attorney informed he discussed this situation with Commissioner Allen and had informed she as a County Commissioner had a right to voice her opinion even if the Board of County Commissioners had taken an alternate position.

Attorney Morel also noted Lincoln County had not adopted a set policy regarding the authorization of per diem for County Commissioners.

Commissioner Stewart stated his prior comments would stand regarding Commissioner Allen's claim for reimbursement and the implications of her testimony.

Commissioner Willard questioned the addition of approval for the payment of prior year invoices for payment under the Consent Agenda.

Nita Taylor, Manager stated Lincoln County occasionally received invoices for payment for services rendered in the prior fiscal year and discussed the particular circumstances of those presented today.

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

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

SEE EXHIBIT A: Copies of the Consent Items are attached hereto in reference thereto made a part hereof.

8. Forest, Land & Natural Resources Matters:

Fort Stanton and Lincoln Historic Sites

Ms. Taylor informed Tim Roberts, Site Supervisor was unable to attend this month's meeting.

Smokey Bear Ranger District

Jodi Canfield, District Ranger reported the Smokey Bear Ranger District had transitioned out of fire season and all fire personnel were reassigned to assist with other fires in the western United States. Ranger Canfield stated the District continued to work with the Mescalero Apache Tribe and had received a bid for logging on steep slopes in the Ski Apache ski area.

Ranger Canfield reported the restoration of South Fork Campground was delayed until next spring to address some water pipe issues and accommodating the heavy truck traffic set to begin around Bonito Lake. Ranger Canfield additionally discussed ongoing partnership with the Upper Hondo Soil and Water Conservation District to treat invasive plant species in the Bonito Area. Ranger Canfield stated a contractor was working to clear dead trees along South Fork Trail.

Ranger Canfield stated the District continued to work with Joe Kenmore, Director of Emergency Services to identify a site location for a repeater on Buck Mountain. Ranger Canfield also reported on a water development project for livestock and wildlife in Copeland Canyon as well as the ongoing surveys for Sacramento Salamanders and the Penasco Least Chipmunk. Ranger

Canfield stated the District was partnering with New Mexico Game and Fish to place signage advising the public it was illegal to feed wildlife.

Ranger Canfield stated the District had posted the Forest Plan Assessment to their website for public comment and anticipated hosting meeting to gather public input on October 1, 2018 and October 4, 2018.

Chair Stone stated he had spoken with George Dowd from the District about the presence of an unidentified weed within the Peppin Fire reseed area. Chair Stone expressed concern about the size and spread of this particular species.

Ranger Canfield informed the District was conducting some species inventories and she would research the question.

Cibola National Forest

Ms. Taylor provided copies of agendas and meetings for the collaborative groups involved in the Cibola Forest Plan revision. Ms. Taylor stated Robert Barber, Chair of the Land and Natural Resources Advisory Committee had attended on behalf of Lincoln County.

Mr. Barber reported the Landscape Team determined all activities would roll into the Collaborative Meeting Group which would be the liaison group of the future. All comments through the Collaborative Group and the USFS will honor the collaborative status of entities who applied to participate within the Landscape Collaborative. Mr. Barber gave a timeline of upcoming events including public meetings and the release of the final Forest Plan during the fall of 2019.

South Central Mountain RC & D

Rick Merrick, Rural Forester discussed the impact of national suppression costs for wildland fires and anticipated a reduction in funding for fuel reduction projects. Mr. Merrick reported on the rising level of interest in the 2018 Wood Industry Summit and the growth of the wood industry in the State of New Mexico.

Upper Hondo Soil & Water Conservation District

Laura Johnson, Program Director discussed ongoing treatments of invasive species. Ms. Johnson stated the Upper Hondo received a grant through the State Forestry for a thistle treatment cost share program in conjunction with the Ranches of Sonterra Homeowners Association. Ms. Johnson reported the Upper Hondo was working with the Smokey Bear Ranger District for invasive species treatment in the South Fork campground area. Ms. Johnson discussed the benefits of treating invasive species at the head of the watershed.

Ms. Johnson reported the Upper Hondo completed an archeological survey of approximately seven thousand six hundred acres in the Fort Stanton area as a part of the Environmental Analysis process required prior to beginning fuel reduction projects in the area.

Ms. Johnson discussed various other cost share programs administered by the Upper Hondo including water accumulation projects which benefit gardens, livestock and wildlife.

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

Commissioner Stewart stated he continued to attend the Joint Land Use Study Committee meetings. Commissioner Stewart welcomed the Public Employee Retirement Association (PERA) Board of Directors to their recent meeting in Ruidoso. Commissioner Stewart commented on a presentation by Erick Harrigan representing RBC Capital Markets. Commissioner Stewart stated Mr. Harrigan discussed the recent downgrade of New Mexico Bond Rating by Moody's. Mr. Harrigan attributed the downgrade in part to large pension liabilities and an over estimation of return rates of investment. Commissioner Stewart reported the PERA board was considering adjustment options for fund management to address the pension liabilities.

Commissioner Allen stated Old Lincoln Days event was held on August 4 and 5, 2018 with excellent attendance and good merchant involvement. Commissioner Allen commented on the generational participation of local families in this annual production. Commissioner Allen also thanked the Sheriff's Department for their ongoing law enforcement efforts in the Hondo Valley.

Commissioner Draper reminded the public to drive safely in and near school zones. Commissioner Draper stated he, Chair Stone, Manager Taylor, and Sheriff Shepperd attended a School Safety Preparedness Meeting in Capitan. Commissioner Draper stated he had discussed

the potential for establishing vocational training in rural areas with Congressman Pearce. Commissioner Draper stated he planned to attend the September 5, 2018 Community Development Block Grant Hearing to support Lincoln County's application for a new Hondo Senior Citizen center.

Beverly Calaway, Treasurer reminded Lincoln County would around September 1, 2018 receive the 2018 State Property Tax Certificate from the Department of Finance and Administration. Ms. Calaway stated the process requires County Commission approval of the Tax Certificate prior to the County Treasurer's office issuing the 2018 Property Tax Bills.

Ms. Calaway also informed the NM Property Tax Division set a Delinquent Property Tax Sale in Lincoln County for September 13, 2018. Ms. Calaway stated there were approximately sixty properties listed for sale currently but anticipated the number would decline as the State and her office continued to reach out to owners for payment or payment agreements.

Walter Hill, Assessor reported the Assessor's Department was working on approximately sixty protests of property tax valuations. Mr. Hill stated the Property Tax Protest Board would conduct hearings on September 5 and 6, 2018.

Sheriff Shepperd stated the Sheriff's Association recently held a conference in Ruidoso with twenty seven of thirty three Sheriff's in attendance in addition to staff and families.

Sheriff Shepperd discussed the "rebranding" of the New Mexico Association of Counties (NMAC) to New Mexico Counties (NMC) 33 Counties Strong. Sheriff Shepperd stated NMC had identified legislative priorities for the upcoming legislative session. Sheriff Shepperd stated the priorities included revision of the Forfeiture Act and reminded all agencies including the state of New Mexico were currently in violation of the statutes regarding custody of abandoned property. Sheriff Shepperd stated other priorities included restoration of funding to the State Fire Fund; providing adequate funding for Emergency Medical Services; and enforcing statute which required the NM Department of Corrections reimburse Sheriff Departments for the transport of prisoners after sentencing.

Chair Stone expressed appreciation for the entries and participation of 4-H students, parents and other residents in activities during the Lincoln County Fair. Chair Stone also commended the Extension Office staff for their time and effort which contributed to the success of the County Fair.

Gwendolyn Rodgers, President of the Carrizozo Chamber of Commerce stated she was pleased to learn the Board of County Commissioners intended to reconsider funding for Z-Trans stating support for public transportation.

Ms. Rodgers expressed concerns about the proposed relocation of certain court services to Ruidoso. Ms. Rodgers stated a number of residents contacted her with objections to the proposal. Ms. Rodgers stated belief Carrizozo was centrally located within Lincoln County and discussed the economic impact of moving services from Carrizozo.

Ronnie Harral, Corona resident stated he currently ranched in Lincoln, Socorro, and Chaves counties. Mr. Harral explained he often moved cattle by truck between Chaves County and Lincoln County. Mr. Harral stated recently one of his trucks exceed the current limit of 65 feet for truck travel on US Highway 380 and was directed not to use this route. Mr. Harral expressed support for lifting the restrictions on truck travel due to the impact on local ranchers and businesses.

Oscar Selene, Carrizozo resident expressed belief the proposal to move certain court services to Ruidoso was a "wasteful" use of money.

Doris Cherry, Capitan resident and member of the Governor's Commission on Disability discussed accessibility issues at the current Magistrate Court in Ruidoso and also expressed belief the building had inadequate space to house jury trials. Ms. Cherry supported the proposed court reorganization plan as a "common sense" solution to these problems. Ms. Cherry stated belief the proposed plan would not result in a relocation of the County Courthouse from Carrizozo to Ruidoso.

Candy Ezzell, speaking as both a property owner in Lincoln and Chaves Counties and also as State Representative for District 58, stated she had spoken with a former Cabinet Secretary for the Department of Transportation regarding the truck travel restrictions on US Highway 380. Representative Ezzell. Representative Ezzell stated her inquiries indicated the restrictions were enacted to address the concerns of certain local residents. Representative Ezzell stated there

was no formal approval process on record supporting the installation of the signage restricting travel. Representative Ezzell restated her objections to the restrictions.

Chris Linton, Carrizozo resident expressed concern about the potential loss of court services in Carrizozo. Ms. Linton also expressed appreciation for recent actions by Carrizozo Police Department and Lincoln County Sheriff's Department to reduce drug traffic in Carrizozo.

Barbara Culler, Carrizozo resident commented on the proposal to relocate certain court services to Ruidoso and suggested the movement of certain services could lead to a greater erosion of additional services from the Lincoln County Courthouse in Carrizozo.

Bob Wooley, State Representative District 66 although he was involved in discussions about the restriction of truck traffic on US Highway 380 for a number of years, the recent stoppage of certain trucks on Highway 380 had made the issue a personal one. Representative Wooley stated NM Department of Transportation Secretary Tom Church had found no record of a formal approval process for placement of signage restricting travel. Representative Wooley expressed belief the recent actions of a State Police Officer who stopped a cattle truck carrying livestock on this stretch of highway were inappropriate and excessive. Representative Wooley stated his intent to discover the process utilized to impose the restrictions and to removing them.

Robin Dunn, owner of the Gran Quivira Ranch located in Lincoln, Socorro and Torrance counties reminded of her prior comments before the Lincoln County Board of Commissioners opposing the adoption of a Resolution in support for the SunZia project. Ms. Dunn noted the Commissioners did not adopt the Resolution and therefore took no official position. Ms. Dunn objected to Commissioner Allen's comments before the Public Regulatory Commission (PRC) in support of the SunZia project during recent hearings. Ms. Dunn expressed belief Commissioner Allen and Commissioner Willard's testimony did not represent the view point of all residents and noted the project was located within Chair Stone's commission district.

Marjorie Brush relinquished her allotted time during Public Comment to Ms. Dunn.

Ms. Dunn requested Commissioner Willard and Commissioner Allen provide a letter of clarification to the PRC informing their testimony was not on behalf of all of the residents in Lincoln County. Ms. Dunn noted the PRC Hearing Officer had issued a recommendation for the PRC to dismiss the SunZia application without prejudice at this time.

Lance Roe, representing Back Country Attitudes requested the Board of County Commissioners consider adoption of a process to allow the access to county roads for "off highway vehicles". Mr. Roe stated his company had submitted a plan and request to the NM Department of Transportation for access across State Highways to US Forest Service Roads. Mr. Roe informed the company had sought and received access to municipal roads from the Village of Ruidoso.

8. Forest, Land & Natural Resources Matters (continued):

LANRAC

Robert Barber, Chair stated currently members of the committee were reviewing the Lincoln National Forest Assessment Plan and would develop comments for presentation to the Board of County Commissioners. Mr. Barber stated he would attend a Wildland Urban Interface (WUI) meeting in the next week to discuss renewal of the Lincoln County Wildlife protection plan. Mr. Barber also discuss the Claunch Pinto Soil and Water Conservation District's projects in the Corona area and noted the District had additional funding to expend in that area.

9. Lincoln County Medical Center Update

a. Jaynes Presentation BIM Modeling-Allan Gabaldon

Allan Gabaldon, Engineer provided a demonstration of Jaynes' drone aerial photography process for site inspection. Mr. Gabaldon stated the site photographs were then incorporated into their Building Information Modeling (BIM) process in addition to the various electrical, plumbing and other building plans to identify and remediate problems prior to construction.

b. General Construction Update – Project Manager Michael McDonald and Superintendent Ernesto Rodriguez

Michael McDonald, Project Manager informed the construction project was currently on track and on schedule and had completed the initial site excavation. Mr. McDonald commented on the

advantages of utilizing the BMI process and noted Jaynes includes sub-contractors in the process.

Ernesto Rodriguez, Superintendent informed they were on schedule to complete the installation of 360 ram piers the end of the week after some delay due to rain.

Commissioner Willard questioned the status of the sewage line changes mentioned in the minutes of one of the project meetings titled Meeting Number 11.

Mr. McDonald informed uncharted utilities not previously identified in design documents were discovered two weeks during site excavation work. Mr. McDonald stated Jaynes was pricing the cost to reroute those utilities. Mr. McDonald also discussed the revised site grading change to accommodate the connection to the Village of Ruidoso sewage system.

Commissioner Willard also questioned a reference in the meeting minutes for some additional shielding for the planned nuclear medicine section.

Todd Oberhue, Chief Executive Officer for Lincoln County Medical Center reported the request for additional shielding was initiated by Presbyterian after learning of the possibility of expanding nuclear services with the installation of an additional camera. Mr. Oberhue stated they requested Jaynes seek pricing on the additional shielding as part of Presbyterian's consideration to acquire the additional camera for an estimated cost of \$200,000 to \$300,000.

Mr. McDonald reported they were able to remove an unexpected steel line which was unearthed during excavation after determining it was an abandoned propane gas line.

There was some discussion of other changes to the interior design and associated cost changes.

Chair Stone questioned if the price of construction materials was continuing to escalate and if was there an impact to the final cost of construction.

Mr. McDonald recognized local subcontractor Roper Construction, Inc. for their excellent work on the hospital construction project.

c. Status of Hondo Clinic – Todd Oberheu, LCMC Administrator

Todd Oberheu, CEO reported on a site review with Manager Taylor and reported there were only a few minor improvements requested from Lincoln County.

Mr. Oberhue expressed support for approval of the lease agreement presented on today's agenda for approval. Mr. Oberhue stated approval of the lease would accommodate the installation of the electronic medical records system and the hiring of staff. Mr. Oberhue reported two nurse practitioners committed to staffing the Hondo Clinic. Mr. Oberhue commented on the credentialing process required prior to opening the clinic and expressed belief the clinic would open in November.

Mr. Oberhue provided an update on staff including the recruitment of a general surgeon well known by Mr. Oberhue. Mr. Oberhue discussed a Lincoln County Medical Center Foundation fund raising event scheduled for October 13, 2018 with Hall of Fame Quarterback Jim Kelly as the event speaker.

10. Approval of Temporary Operating Agreement and Premises License between the County of Lincoln and Presbyterian Healthcare Services – Hondo Health Clinics

Attorney Morel presented the Operating Agreement and Premises License for the Hondo Health Clinic. Attorney Morel noted the term of the agreement was two years commencing September 1, 2018 through August 31, 2020. Attorney Morel reminded Lincoln County held a lease agreement for the property with the Hondo Public Schools. Attorney Morel stated as customary with the other clinics, any operational funds would come from Mill Levy revenues.

Motion: Approve the Temporary Operating Agreement and Premises License between the County of Lincoln and Presbyterian Healthcare Services, **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 10:53 AM and reconvened at 11:06 AM.

11. Request to Issue RFPs for Abatement of Lincoln County Medical Center and Mechanical and Electrical Commissioning for Construction of Replacement Hospital (RFP)

Ms. Taylor reminded during the July Regular Meeting, Request for Proposal (RFP) Bids were awarded for Electrical Acceptance Testing and Arc Flash Testing to Electrical Reliability, Inc. and the Special Testing and Inspections bid was awarded to Terracon.

Ms. Taylor identified two additional RFP's related to the new hospital construction activities and requested permission to issue RFP's for the Abatement of Lincoln County Medical Center and Mechanical and Electrical Commissioning.

Ms. Taylor stated the Electrical Commissioning component of the RFP awarded in July was not recommended for approval due to the bid being higher than Jim Klein, acting as the Lincoln County's representative thought was reasonable. Ms. Taylor stated Mr. Klein was working with Orlando Samora, Purchasing Agent to refine the RFP's.

Motion: Approve the issuance of the RFP's, **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.

13. Resolution 2018-6 – Support Legislation to be Introduced during the 2019 New Mexico Legislative Session that Would Correct Safety Issues along U.S. 380 between Carrizozo and the Intersection of U.W. Route 70 and U.S. 380; and Allow for the Removal of any Restrictions Prohibiting Truck Traffic along that Route

Ms. Taylor reminded of recent discussions regarding the NM Department of Transportation restrictions which currently prohibit certain trucks from traveling US Highway 380 between Carrizozo and the intersection of US Highway 70 near Hondo. Ms. Taylor stated after the receipt of the Department of Transportation's safety analysis and additional discussion during the July Regular Meeting she amended the original Resolution as directed.

Motion: Adopt the amended Resolution 2018-6, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Representative Wooley stated the Department of Transportation's Cabinet Secretary Tom Church had found no records documenting the authorization for placement of the signage restricting truck travel on US Highway 380. Representative Wooley opined if the signage and restrictions were authorized without proper approval all related ticketing and court actions were illegal. Representative Wooley stated he was considering a request to the NM State Attorney General for an investigation of the matter.

Representative Wooley stated his research indicated there were only two truck accidents on this highway segment during the last forty years. Representative Wooley acknowledged the need to address Highway 380 issues identified in the DOT's safety analysis.

Commissioner Stewart questioned Representative Wooley as to whether the amended Resolution language which included language recommending the removal of the signage but also included a request to address safety concerns addressed his concerns.

Representative Wooley stated concurrence with the Resolution as written but noted there was also a need to address the current ticketing of trucks by New Mexico State Police.

Greg Nibert, Representative District 59 stated the road segment in question was within his legislative district and stated appreciation for the Resolution as providing direction. Representative Nibert stated he discussed the issue with the owner of Roswell Livestock Supply which transports materials to a second site in Roswell. Representative Nibert discussed the problematic nature of addressing safety issues while working to remove restrictions.

Candy Ezzell, Representative District 58 discussed her background in the farm and ranch industry noting the importance of safety compliance. Representative Ezzell expressed concern about the level of harassment truck drivers were receiving related to this particular restriction. Representative Ezzell also stated there were studies indicating trucks which maintain proper speed through the Lincoln Historic District create no vibration problems. Representative Ezzell stated in fact longer trucks distributed weight more evenly and therefore were less problematic.

Representative Ezzell commented on the additional costs associated with rerouting trucks around this segment. Representative Ezzell stated plans to carry legislation to address the issue. Representative Ezzell expressed support for adoption of the Resolution.

Commissioner Allen stated she had no personal knowledge of the original actions taken to have the signage placed initially. Commissioner Allen questioned if it was the intent of the legislators present to open this segment to cross country truckers in addition to trucks conducting local deliveries or pickups.

Representative Ezzell acknowledged if the restrictions were removed, cross country truckers might utilize the route as a "short cut". Representative Ezzell reminded this was a US Highway and questioned the State's authority to exclude any particular type of travel.

Commissioner Allen questioned if the problem was related to one specific State Police officer's actions.

Representative Nibert stated when the issue first arose last year he spoke with representatives from the Department of Public Safety who agreed to not pursue action against drivers making local deliveries to Roswell Livestock or the Farmer's Market in Capitan. Representative Nibert expressed concern about "selective enforcement" of the law. Representative Nibert discussed the implications the continued operation of trucks over this segment after the safety analysis had identified issues.

Commissioner Allen reminded the Lincoln Historic Site has the highest tourist attendance rate of historic sites in the State of New Mexico and therefore the preservation of the site was an important economic benefit to Lincoln County.

Chair Stone expressed belief improper actions by particular State Police officers had escalated the controversy. Chair Stone stated belief the placement of the restrictive signage was not supported by any State Statute.

Commissioner Willard stated belief the presentation of the problem as a safety issue during the last meeting had inhibited the adoption of a Resolution. Commissioner Willard stated it would not speak well for the State Department of Transportation if the signage was not placed with proper authority. Commissioner Willard requested the Legislators address the issues including appropriating funding to address safety issues and traffic control through Lincoln.

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

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

SEE EXHIBIT B: Copy of Resolution 2018-6 is attached hereto in reference thereto made a part hereof.

14. Approval of Entering into an Agreement with First Savings Bank to Lease Portion of Extension Building for Bank Depository

Ms. Taylor reminded as per prior direction Lincoln County sought and received a Market Rent Study for the potential lease of office space to First Savings Bank in the Lincoln County owned Extension Building. Ms. Taylor stated she and Attorney Morel developed a lease agreement incorporating a monthly lease payment of \$3,556 in addition to the reimbursement of \$2,674.99 for conducting the Market Rent Study.

Motion: Approve the Lease Agreement with First Savings Bank as amended by discussion,
Action: Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Commissioner Willard questioned whether a reference to the "shared use" of restrooms and other facilities would include public access for banking customers.

Attorney Morel stated belief the reference was for employees of the two specific entities and as the bank services were drive through only it did not imply public access.

Chair Stone reminded Extension Office personnel were instructed to notify the Board of County Commissioners should any problems arise as a result of the colocation of the two entities.

Commissioner Willard also questioned language within the agreement related to the placement of signage after termination of the lease.

Attorney Morel suggested removal of this specific language for clarity.

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

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

15. Award of Bid No. 18-19-003 – Annual Base Course

Ms. Taylor stated the issuance RFP 2018-19-003 resulted in the following bids:

- a. Aggregate Technologies pick-up cost of \$9.30 per ton from the La Luz Pit and \$23.20 per ton delivered to Capitan Road Yard;
- b. Aggregate Technologies pick-up cost at \$19.30 per ton from the Ruidoso Pit and \$23.20 per ton delivered to the Capitan Road Yard;
- c. Roper Construction, Inc. pick-up cost at \$12.50 per ton and \$18.50 per ton delivered to the Capitan Road Yard.

Motion: Award Bid Number 2018-19-003 to Roper Construction, Inc., **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.

16. Approval to Enter Into Lease Agreement for Replacement Loader and Roller

Jeff Honeycutt, Road Superintendent presented the request to extend the current lease agreement on a month to month basis.

Motion: Approve month to month lease pending additional arrangements, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Commissioner Willard questioned if there was a cost increase for the month to month lease.

Mr. Honeycutt stated the pricing was the same as the current contract. Mr. Honeycutt recommended the month to month continuation to provide time to research other options or to negotiate a lower lease rate than those proposed by the vendor for new lease agreements.

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

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

17. Approval for Lincoln Fire Department to Purchase a Water Tender for the Fort Stanton Station

Ms. Taylor reported the Lincoln Fire Department was requesting approval to acquire a 2000 gallon water tender for the Fort Stanton Station. Ms. Taylor stated the estimated cost of the water tender was \$235,000 and noted the department had a balance of \$397,529 in budgeted Capital Outlay.

Motion: Approve the Lincoln Fire Departments purchase of the 2000 gallon water tender, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Commissioner Willard questioned the departments plan for use of the full \$397,529 in Capital Outlay funding.

Joe Kenmore, Director Office of Emergency Services informed the Lincoln Fire Department had accumulated the funds to purchase this water tender and potentially an additional Class A engine. Mr. Kenmore discussed the current uncertainty of fire funding and stated departments were advised by the State of New Mexico to spend down their Capital Outlay funds rather than to roll them over for several years' accumulation prior to purchase.

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 12:01 PM and reconvened at 1:00 PM.

21. 1:00 PM: Public Hearing to consider Senior Citizens Donation Contribution Change

Attorney Morel informed research indicated no public hearing was necessary to consider the proposed contribution change. Attorney Morel stated as Lincoln County had advertised a public hearing he would suggest the public be provided an opportunity to speak on the matter.

Chair Stone questioned if there were members of the public requesting time to comment, hearing none, declined to convene the Public Hearing.

Manager Taylor stated she would provide additional information in the Manager's Report.

18. Resolution 2018-7 Lincoln County Infrastructure Capital Improvement Plan (ICIP) FY 2020-24 Discussion and Final Update for Submission to DFA of September 2, 2018

Ms. Taylor reminded action was taken during the July Regular Meeting to reset the priorities listed on Lincoln County's Infrastructure Capital Improvement Plan. Ms. Taylor stated the Resolution as presented reflected those changes.

Motion: Adopt Resolution 2018-17 to include changes identified, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Commissioner Stewart suggested adding clarification to the request for "Land Acquisition" defining the acquisition as the location for a new Road Department facility.

Commissioner Draper questioned if the amount listed for the Hondo Senior Center should reflect the Community Development Block Grant request.

There was general consensus to revise the amount requested for the Hondo Senior Center as \$750,000.

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 the Resolution 2018-7 is attached hereto in reference thereto made a part hereof.

19. Manager's Report

- 1. White House Conference with New Mexico County Leaders and White House Residence Tour:** A delegation of 78 New Mexico Commissioners, Sheriffs, Managers and guests accepted this unique invitation to participate in the New Mexico County Officials visit to Washington DC, which was held on July 27th. Twenty-one counties were represented, with 41 Commissioners in attendance, 13 Managers, 3 Sheriffs and 19 guests. The National Association of Counties hosted a dinner and pre-White House Briefing the evening before. A tour of the White House in the morning was followed by a Conference with key members of the President's Cabinet in the afternoon, including, Deputy Assistant to the President; Secretary Ben Carson of HUD, Assistant to the President, Kellyanne Conway, along with leadership from the U.S. Departments of Commerce, Interior, Homeland Security and Energy. The Manager provided copies of the related Press Release, Itinerary, Departmental Contact list and snapshots of participants. An unscheduled visit from Vice-President Pence, who offered a clear, strong message describing this initiative to involve, listen and understand the needs of County Governments across the land, was very well received. County Governments from every state are being invited to participate in this initiative.
- 2. Increase in Donation for Senior Center Meals:** During the July Commission meeting Senior Center Director Renee Montes proposed a change in the suggested donation for meals from participants (must be 60 years of age or older), or a participant's spouse from \$2.00 to \$3.00. Resolution 2014-06 the County's Senior Center Policy and Procedure Manual does not specify the amount of the donation. The Resolution in Section 10.4.9 requires the posting of notice as to the "Suggested contribution for participants and how contribution is utilized". The Senior Center Director and Manager request concurrence to modify the posted notice by changing the amount of the requested contribution for meals from \$2.00 to \$3.00.

Motion: Increase the suggested contribution rate for Senior Center Meals from \$2.00 to \$3.00, **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.

Renee Montes, Director Senior Services invited the Board of County Commissioners to a retirement party for Linda Archuleta who was retiring after 25 years of service as the Carrizozo Site Manager.

Ms. Archuleta expressed her appreciation for her years of employment at the Carrizozo site. Ms. Archuleta encouraged County Commissioners to visit senior centers and to visit with the colorful local residents.

3. **Lincoln County Opt-In to the Kane County v. United States in the PILT Payments Class Action:** As directed by the Commission during its July Regular Meeting, Manager submitted electronically the claims form advising Lincoln County wished to opt into the Class Action lawsuit: Kane County, Utah v. United States, Case Nos. 17739C and 171991C (Consolidated). The Manager provided copies of the submitted forms.
4. **CDBG Grant Application** was submitted as approved by the Commission. The Notice of the Public Meeting of the New Mexico Community Development Council has been distributed, with the public meeting was scheduled for September 5, 2018. The application was submitted timely and we are preparing a PowerPoint illustrative document for presentation to the Council. Commissioner Draper, Senior Center Director Renee Montes and Director of Planning and Project Management Samantha Mendez will present the information and address the Council.
5. **Children Youth and Families Department (CYFD) / Lincoln County Juvenile Justice Board:** The Fiscal Year 2020 Juvenile Justice Advisory Committee (JJAC) mandatory Grant Application Workshop was held in Santa Fe on August 8, 2018. The Manager and Director of Planning and Project Management Samantha Mendez attended. Applications are due on October 3, 2018. CYFD will conduct a mandatory review from September 10th through 26th, 2018. Lincoln County is the Fiscal Agent and provides the main contact person to coordinate with CYFD. As in the past, the County will work closely with the subcontracted / dedicated Continuum Coordinator. Currently Region IX is the sub-contractor who appointed April Blackman to serve as the Continuum Coordinator. Ted Allen will work closely with us to ensure the transition is smooth. The Manager provided copies of the LCJJB Final Report for FY17-18 as prepared by Ted Allen.
6. **Regional Coordination for Preparedness:** This coordination effort was very well attended by State, County, Municipal and Tribal Law Enforcement Agencies; Community / County officials; School Administrators and other participants. The purpose of the meeting was to identify and implement Preparedness Coordination strategies for emergencies particularly in the schools. A strategy document has been developed and the Preparedness Team is seeking approval / support from each entity participating in the effort. The Manager provided copies of the Strategy Document; a press release targeted for the beginning of School; and copy of the August 6, 2018 agenda for the meeting held at Capitan Schools. The Commission is requested to support and approve of the principles and strategies identified in the Strategy Document.

Motion: Approve the principles and strategies identified in the Strategy Document, **Action:** Approve, **Moved by** Chair Stone, **Seconded by** Commissioner Draper.

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

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

7. **Criminal Justice Coordinating Council:** As discussed last month, this Council was created pursuant to Supreme Court Order 16-8500 to provide a working forum to support communication and collaboration between and among key criminal justice system officials, advisory bodies, agencies, etc., to promote an effective and efficient criminal justice system and improve public safety. Warden Anderson, Attorney Morel and Manager Taylor sit on this Council. The Manager provided copies of the Council's July 3, 2018 minutes and the proposed Bylaws. The Manager stated the group requested formal approval of the Bylaws.

Motion: Approve the Criminal Justice Coordinating Council Bylaws, **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Stewart.

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

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

- 8. NM Supreme Court and NM Administrative Office of the Courts (AOC) Proposal to Co-Locate Magistrate Court with District Court in Carrizozo and in Ruidoso:** Katina Watson, CEO for the Twelfth Judicial District Court requested the matter of the proposed co-location of the Magistrate Court with District Court in Carrizozo and in Ruidoso be placed on the September County Commission agenda to enable Chief Justice Nakamura to be present. Attorney Morel received a draft Intergovernmental Agreement from the Administrative Office of the Courts and is reviewing the document. Manager Taylor joined Katina Watson on a walk-through of the area the AOC proposed for use by the Magistrate Court.

Rhonda Burrows, County Clerk reminded after the recent remodeling of the District Court facilities within the Lincoln County Courthouse the District Court had promised to relinquish storage space back to the County. Ms. Burrows stated belief the District Court should honor this commitment and also affirm Lincoln County would retain primary use of the Conference Room in view of their request to co-locate additional services and staff into the County Courthouse.

- 9. Bonito Lake Update:** Road Superintendent Jeff Honeycutt attended the August 15, 2018 Bonito Lake Restoration Project Meeting. Smithco was scheduled to begin hauling on August 20, 2018 beginning with 80 trucks per day and building up to 150 trucks per day. Rob Richardson agreed to provide a status update to the Commission, as requested.

Chair Stone questioned whether the trucks hauling material from Bonito Lake would create a traffic safety issue.

Sheriff Shepperd informed the State Highway Department had plans to reduce the speed limit along the route but acknowledged the turning of trucks from Highway 37 uphill onto Highway 48 could create a safety issue. Sheriff Shepperd stated his department would increase patrols in the area.

- 10. County Residents Financial Donation for Specific Road Improvement:** Manager and Road Superintendent have met with two individuals who have proposed donating material and contract road construction to improve the County road(s) on which they live. Jeff Honeycutt will summarize the requests, along with his analysis of the benefits to the County of such an arrangement; and the potential cons, should there be any.

Jeff Honeycutt, Road Superintendent commented on two recent meetings with residents willing to donate material and work to Lincoln County for local road improvements. Mr. Honeycutt referenced two locations identified by potential donors one of which was paved. Mr. Honeycutt stated he received an additional request this past week and therefore was requesting direction from the Board of County Commissioner.

Attorney Morel stated knowledge of at least one past agreement with residents for such improvements but cautioned a change from a dirt road to pavement would increase the maintenance requirements.

Chair Stone questioned the effect of setting a precedent with this type of agreement.

Mr. Honeycutt expressed concerns about the perception of the Road Department becoming a private contractor for hire.

Commissioner Stewart expressed belief Lincoln County should not accept materials to pave gravel roads due to the increased cost of long term maintenance.

There was additional discussion including the effect of this type of individual project on Lincoln County's previously set priorities and the potential for increased maintenance costs.

Commissioner Willard questioned at what point did the requests rise to the level of a "paving assessment".

Attorney Morel discussed the legal process to enact a paving assessment.

There was a general consensus to suggest residents presenting these requests consider enacting a paving assessment to provide for particular road improvements.

- 11. US Marshals Modification of Intergovernmental Agreement:** At the request of Manager the U.S. Marshals Service (USMS) increased their current per diem of \$53.94

to \$57.87 and the guard/transportation from \$14.00 to \$25.90. The current daily "per bed" contract rate Lincoln County pays LaSalle Corrections based is \$60.00. The LaSalle CEO committed to honoring the \$57.87 U.S. Marshals rate for any USMS inmate and seek payment from Lincoln County to offset the difference.

12. **NM Highway 48 Bridge Works Begins in Lincoln County:** Per the NM Department of Transportation (DOT) the State will invest \$2 million to replace the bridge on Highway 48 at mile marker 17 near Capitan.
13. **USDA Opioid Roundtable Invitation:** USDA Rural Development extended an invitation to attend an Opioid Roundtable on August 23, 2018 at the UNM Continuing Education Conference Center auditorium in Albuquerque. The Manager informed the event was all accessible through a webcast.

Departmental updates:

Jeff Honeycutt, Road Superintendent stated requested road maintenance in the TransWestern area was complete and the maintenance request for Seven Rivers was on the department's schedule.

Samantha Mendez, Director of Planning and Project Management reported the department was working on a Power Point presentation to support Lincoln County's CDBG grant application for the Hondo Senior Center. Ms. Mendez stated she was also working with Region IX and Ted Allen the current Juvenile Justice Council Coordinator to develop the Juvenile Justice Grant for submission to the Children, Youth and Families Department. Ms. Mendez stated work to develop a compactor site for Alpine Village continued and she would provide an update on the project next month.

Joe Kenmore, Director Office of Emergency Services reported hose testing for the county fire departments was completed as pre-requirement for submission of a Fire Marshall Grant. Mr. Kenmore stated his office and Bonito Fire Department assisted the Ruidoso Fire Department recently and commented on the current excellent working relationship with the Ruidoso Fire Department. Mr. Kenmore reported a repeater system was recently established to assist with communications in the Hondo and Capitan areas which included installation of an Emergency Medical Services link in Lincoln at no extra cost.

Mr. Kenmore reported he was asked to serve as the Safety Officer for a State Department of Agriculture exercise titled "When Cows Fly". Mr. Kenmore stated it was a very interesting exercise attended by multiple Federal, State, and local agencies. Mr. Kenmore stated he also participated in a preparedness exercise with Lincoln County Emergency Medical Services and Lincoln County Medical Center to test capabilities for a potential bus accident.

Mr. Kenmore expressed appreciation for recent assistance provided by Road Department employees Sam Roper and Rick Emmons. Mr. Kenmore informed Sam Roper utilized a blade to create a fire line after a lightning strike started a fire in his district. Mr. Kenmore stated Rick Emmons utilized a blade to assist with the rescue of a recreational vehicle from Cook Canyon.

20. Local Election Act and Its Implications for Counties - Presentation by Chief Deputy Clerk, Whitney Whittaker

Whitney Whittaker, Chief Deputy Clerk provide an overview of the implementation and implications of HB 98 The Local Election Act adopted during the 2018 Legislative Session and signed into law by the Governor with an effective date of July 1, 2018.

Ms. Whittaker stated the intent of the legislation was to consolidate all nonpartisan local government elections onto a single election date in November of the odd years to ensure a uniform process in the conduct of elections.

Ms. Whittaker informed the County Clerk's office held a stakeholders meeting on July 24, 2018 to discuss implementation of the Local Election Act. Ms. Whittaker stated the meeting was well attended by twenty six representatives from various entities. Ms. Whittaker further informed she and County Clerk Burrows attended a council meetings in each of the municipalities to discuss the Local Election Act options and to encourage municipalities to opt into this process.

Ms. Whittaker stated participating entities would include municipalities who choose to opt in, school districts, community college districts, special zoning districts, soil and water conservation districts and water and sanitation districts. Ms. Whittaker stated regardless of whether a

municipality opted in or out, the old municipal election statutes were repealed in addition to the school district election statutes and all elections were subject to the current general election statutes. Ms. Whittaker discussed the requirement for participating entities to provide annual contributions to the Secretary of State to offset costs of the Local Election Act election. Ms. Whittaker stated additionally the Local Election Act requires all Special Elections to be conducted by mailing a ballot to every eligible voter in the district. Ms. Whittaker stated any entity conducting a special election was responsible for the costs including postage to mail the ballot and postage to return the ballot.

Ms. Whittaker presented a timeline of events for the first Local Election Act to be held on November 5, 2019. Ms. Whittaker stated the Local Election Act also expanded duties for the Board of County Commissioners as the Board was now designated by statute to serve as the canvas board for Local Election Act elections.

22. Redistricting Update - County Clerk, Rhonda Burrows

Rhonda Burrows, Clerk provided a presentation and timeline for the upcoming redistricting process. Ms. Burrows stated prior to conducting the census in 2020 states and counties were required to adopt any precinct boundary changes in 2019. Ms. Burrows stated NMSA 1-3-12C detailed this requirement as "The board of county commissioners and the county clerks, upon receipt of the standard base maps from the secretary of state, shall adjust all precinct boundaries....." Ms. Burrows provided a copy of the letter issued by the NM State Legislative Council services in March of 2018 directing Research and Polling, an Albuquerque demographics firm, to assist county election officials with the review of precinct boundaries.

Ms. Burrows provided copies of ongoing correspondence with Research and Polling which defined recommendations for minor precinct boundary adjustments to conform census and county maps. Ms. Burrows stated she was also in discussion with Research and Polling regarding the potential split of current precincts to assist with the redistricting process. Ms. Burrows stated in prior redistricting years county clerks were reluctant to split precincts due to the associated need for an increase number of precinct officials and equipment for each precinct during elections. Ms. Burrows stated as Lincoln County had moved to the vote center model of voting in 2012 rather than precinct voting there was no obstacle to the creation of additional precincts. Ms. Burrows discussed how precincts are used as building blocks for creating election districts and expressed belief it would benefit Lincoln County to consider adoption of additional precincts.

Ms. Burrows stated she would present final recommendations for precinct boundary adjustments and splits for approval in early 2019.

23. Z-Trans Proposal of County-wide Transit System – Reconsideration of Prior Action

Motion: Reconsider the request for funding from Z-Trans, **Action:** Approve, **Moved by** Chair Stone, **Seconded by** Commissioner Draper.

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

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

No: Commissioner Willard.

Ms. Taylor reminded of the prior denial for funding during the July Regular Commission Meeting. Ms. Taylor stated Chair Stone, who had voted to deny the request, had asked for a reconsideration of the matter.

Joe Hardin, Transportation Director for Z-Trans informed the Mescalero Tribe had signed a letter of intent to join the project since his last appearance. Mr. Hardin discussed the importance of obtaining funding from various local entities to secure the additional federal funding to expand services. Mr. Hardin discussed the various options to scale operation within Lincoln County to meet demand and provided an example of potential service routes for County residents.

Commissioner Allen noted several entities referenced within the geographic description of the proposed services and questioned if Z-Trans had contacted the municipalities such as Carrizozo and Capitan with a request for funding.

Mr. Hardin commented on the short timeline to proceed this fiscal year and the need to secure funding from the principal entities including Lincoln County prior to receiving funding from the Department of Transportation. Mr. Hardin noted the Village of Ruidoso and the City of Ruidoso Downs had committed funding annually. Mr. Hardin stated if the Department of Transportation approved Z-Trans' initial plan to expand services into Lincoln County, they would seek support from the other Lincoln County municipalities.

Commissioner Allen stated she had spoken with residents in Hondo and they were not particularly interested in this form of transportation. Commissioner Allen also suggested Z-Trans work with Clara Farah and the Creative Aging Program to conduct an informal survey of the senior sites to identify potential ridership numbers.

Chair Stone stated he had requested a reconsideration of the topic after additional. Chair Stone acknowledged the potential benefits of public transportation but restated his primary concern about funding a transit program which did not benefit the entire county.

Mr. Hardin stated prior public meetings had identified a need for transportation to Carrizozo to access court services. Mr. Hardin reminded Z-Trans was seeking a letter of financial commitment but would not necessarily utilize the full amount dependent upon routes and ridership within Lincoln County.

Manager Taylor stated historically Lincoln County had not supported public transportation but the introduction of a plan to move court services to Ruidoso had created a desire to revisit the question.

Commissioner Willard commented on the need for Carrizozo and Capitan residents to access jobs, college classes and other services in Ruidoso. Commissioner Willard stated belief the Lincoln County could contribute this year on a trial basis and withdraw funding if the need was not confirmed.

Commissioner Draper discussed the relationship between transportation and other economic issues. Commissioner Draper objected to the process which required a financial contribution prior to identification of actual services provided.

Motion: Approve the expenditure of up to \$40,000 for one year for Z-Trans, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Draper.

Commissioner Allen expressed concern about beginning a service which a number of individuals might rely on but for which there were insufficient numbers to support continuing the service.

Commissioner Stewart expressed concern about the lack of detailed planning and the potential lack of participation.

Mr. Hardin stated the provision of \$40,000 in funding from Lincoln County would translate into approximately 306,000 miles of service and the flexibility to set routes within the budget.

Vote: Motion passed by roll call vote (summary: Yes = 3, No = 2, Abstain = 0).

Yes: Chair Stone, Commissioner Draper, Commissioner Willard.

No: Commissioner Stewart, Commissioner Allen.

24. Approval to Write-Off Solid Waste Account Balance Billed in Error

Ms. Taylor presented the request from Lincoln County Solid Waste Customer Number 390835 for reconsideration and classification of his property as uninhabitable. Ms. Taylor stated additionally the customer requested a write off of the solid waste fees accrued for this property during the past three years. Ms. Taylor stated research indicated the mobile home in question was uninhabitable and was not connected to any utilities.

Motion: Approve the write off of \$750.02, **Action:** Approve, **Moved by** Commissioner Willard, **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. Authorization to file Solid Waste Liens:

a. Hector De La Rosa	\$636.94
b. Alejandro C. Granados	\$545.91
c. Lyle Steven & Angela Kay Guillory	\$636.94
d. Random Properties Acquisition Corp. III	\$562.32

Motion: Approve the filing of liens as listed, **Action:** Approve, **Moved by** Chair Stone, **Seconded by** Commissioner Allen.

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

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

26. Approval of Lodger's Tax Application with backup material: Application No. 0048

- a. Purpose: Lincoln County Cowboy Symposium
Request: \$5,000
Date(s) of Event: October 12, 13 & 14, 2018
Presenter: Sunny Hirschfeld / All American Ruidoso Downs Foundation
Lodger's Tax Approved: \$5,000

Motion: Approve Application Number 0048 for \$5000, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

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

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

27. Approval of Resolution 2018-9 Amending Resolution 2017-26, A Resolution Relating To The Proposed Industrial Revenue Bonds Entitled Lincoln County, New Mexico Taxable Industrial Revenue Bonds (Mesa Canyons Wind LLC Project), Series 2018; Declaring The Intent Of Lincoln County To Issue Such Industrial Revenue Bonds In An Aggregate Principal Amount Up To \$1,400,000,000 In Connection With A Proposed Project Located Within The Boundaries Of Lincoln County For The Purpose Of Inducing Mesa Canyons Wind LLC And/or Its Assignees To Develop The Site And To Construct And Install The Project.

Attorney Morel presented the request to amend the previously adopted Resolution to reflect the acquisition of the Mesa Canyons Project by Pattern and to include the Carrizozo School District as a participating school district within the project boundaries.

Motion: Adopt Resolution 2018-9 amending Resolution 2017-26, **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 D: Copy of the Resolution 2018-9 is attached hereto in reference thereto made a part hereof.

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

Attorney Morel reminded of the prior public comment requesting consideration of action to allow off road vehicles to operate on county roads. Attorney Morel stated any such approval would require scheduling a Public Hearing to consider formal adoption of a County Ordinance.

Commissioner Stewart stated in an earlier conversation Sheriff Shepperd had indicated he was opposed to the adoption of such an ordinance. Commissioner Stewart discussed the enactment of state legislation which provided the authority for local jurisdictions to permit the authorization of off road vehicles on roads under their governance.

Joe Kenmore, Director Office of Emergency Services reminded he taught a course regarding the operation of off road vehicles for the local fire departments. Mr. Kenmore stated fire department personnel never operate the vehicles on paved roads and discussed his concerns about the adoption of an Ordinance to provide access for off road vehicles on county roads.

Mike Wood, Lincoln County Undersheriff echoed concerns expressed by Sheriff Shepperd to Commissioner Stewart. Undersheriff Wood stated additional concerns about the operation of this type of vehicle on dirt roads where conditions were variable and patrols are limited.

Commissioner Willard questioned if the Village of Ruidoso had adopted such an Ordinance.

Undersheriff Wood confirmed the Village had adopted an Ordinance allowing for the operation on Village roads but pointed out there appeared to be compliance issues. Undersheriff Wood suggested Sargent Ben Byrd of the Game and Fish Department would be a good resource for information regarding the use of off road vehicles on public roads.

Commissioner Draper stated belief there was excitement generated by this new form of recreation but also expressed concern about the use of this type of vehicle by children and other safety issues.

There was a general consensus to gather additional information including reaching out to Game and Fish and to place the topic on the agenda for future discussion.

29. Executive Session Pursuant to the Open Meetings Act: Discussion of all Threatened and/or Pending Litigation Section 10-15-1, Sub-Paragraph H.(7); and Discussion of the purchase, acquisition or disposal of real property or water rights by the public body, Section 10-15-1, Sub-Paragraph H.(8).

Motion: To close the meeting for the purposes of an Executive Session to discuss all Threatened and/or Pending Litigation Section 10-15-1 H (7); and Discussion of the purchase, acquisition or disposal of real property or water rights by the public body, Section 10-15-1, Sub-Paragraph H.(8).

New or Updated Matters since last report *

1. ***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. Certificate as to the State of the Record and Nonappearance entered by the court on March 28, 2018 noting the nonappearance of Defendants Roy Padilla and Rita Padilla. June 4, 2018 - Judgment by Default for Foreclosure entered by Judge Blankinship which provides that L.C.'s liens are priority liens and entitled to payment from the proceeds of the foreclosure sale. June 4, 2018 - Order Appointing Peter Baca as Special Master also entered June 4, 2018. Order for Judicial Sale was filed August 1, 2018.

2. **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. Plaintiff's Complaint was served upon Defendant Diane Medcalf on September 14, 2017 and upon Defendant Pioneer Bank on September 16, 2017.

3. **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. Judge Bryant is the presiding Judge.

4. ***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 in Lieu of Answer was filed on February 20, 2018. A Hearing was set on the Motion to Dismiss to take place on June 13, 2018 which was vacated and reset for August 29, 2018. Judge Blankinship is the presiding Judge. Order of Dismissal was filed August 1, 2018. The August 29, 2018 Hearing is dismissed.

5. ***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 asserting a Counterclaim to be filed in the U.S. District Court on April 2, 2018. Defendant George Romero filed an Answer to the Complaint on April 30, 2018 asserting a Counterclaim to be filed in the U.S. District Court. Judge Counts is the presiding Judge. May 15, 2018 – Lincoln County filed its Answer to Announcement of Counterclaims by Defendants Roger Romero and George Romero. Plaintiff's Request for Judicial Inquiry was filed June 22, 2018.

6. **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. George Romero's Answer to Complaint and Counterclaim was filed April 30, 2018 in Cause No. D-1226-CV-2018-00055. Judge Counts is the presiding Judge.

7. **Pioneer Bank v. Jessica Quintana, and Lincoln County D-1226-CV-2018-00058** Complaint to Foreclose and Collection of Note was filed on March 22, 2018. Lincoln County filed its Answer to the Complaint on April 20, 2018 asserting that any County liens are first and priority liens which should be ordered paid from the proceeds of the foreclosure sale. Judge Bryant is the presiding Judge. May 15, 2018 - Stipulated Motion for Withdrawal and Substitution of Plaintiff's Counsel was filed.

8. **Brack Rains v. Lincoln County D-1226-CV-2018-00179** Complaint for Violation of New Mexico Whistleblower Protection Act filed June 6, 2018. The County has not been officially served as of the date of this report. June 7, 2018 - Judge Bryant was recused from presiding over the case by Plaintiff and Judge Counts was assigned to preside over the case.

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

9. ***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 Russell 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 was issued. The Defendant appeared before Judge Vega on April 11, 2018 and entered a plea of "Not Guilty." The Pre-Trial Hearing scheduled for May 8, 2018 before Judge Vega was continued until July 31, 2018, however, a Nolle Prosequi was filed by Attorney Morel July 30, 2018. The Defendant was ordered to pay Bench Warrant fees of \$100.

10. ***State of NM v. Matthew N. Corp M-30-MR-2018-00048** Violation of County Ordinance 2014-04 Contraband Ordinance. May 23, 2018 – The Defendant was charged with 1 count of possession of contraband. The Arraignment hearing scheduled to take place on June 6, 2018 was continued until July 11, 2018, at which time a Pre-Trial Hearing was scheduled for August 14, 2018 at which time the Pre-Trial Hearing was rescheduled to October 23, 2018.

11. ***State of NM v. Kimberly Conner M-30-MR-2018-00043** Violation of County Ordinance 2008-08 Animal Control Ordinance. A Citation was filed May 14, 2018 charging the Defendant with 1 count of Dog Running at Large. An Arraignment took place June 6, 2018 at which time the Defendant pled "Not Guilty." A Pre Trial Hearing was scheduled for July 3, 2018 before Judge Vega, however a Stipulated Motion to Continue Defendant's Pre-Trial Hearing and Order to Continue Pre-Trial Hearing was filed June 29, 2018. Pre-Trial Hearing took place July 31, 2018 before Judge Vega at which time a Final Pre-Trial Hearing was scheduled for October 23, 2018 with a Jury Trial scheduled for October 24, 2018.

Tort Claims Notices Received or Threatened

2018

Duke, Arnold – Harrisburg Document recovery

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 Marlysa 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

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, Ellsa – 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** Commissioner Draper, **Seconded by** Commissioner Allen.

Vote: Motion passed by roll call vote (**summary:** Yes = 4, No = 1, Abstain = 0).

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

No: Chair Stone.

Chair Stone recessed the Regular Meeting and convened the Closed Session at 3:37 PM.

Chair Stone adjourned the Closed Session and reconvened the Regular Meeting at 4:07 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.

30. Signing of Official Documents

31. Next meetings:

- a. September 7, 2018 - Special Commission Meeting (Impose Property Tax Rates)

b. September 18, 2018 - Regular Commission Meeting


32. Adjourn

There being no further business to come before the Board of County Commissioners, Chair Stone adjourned the meeting at 4:08 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

September 18, 2018
Date Approved

