

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, December 18, 2018

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on December 18, 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 – 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:

November 20, 2018 – Regular Commission Meeting

Motion: Approve the minutes of the November 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 November 30, 2018
- c. Approval or Disapproval of Safety Net Care Pool and Indigent Health Care Claims
- d. Approval of a New Medical Provider #56 – Sierra Blanca Counseling, LLC

- e. Resolution 2018-23 Authorizing The Village Of Ruidoso to submit an Application To The Department Of Finance And Administration, Local Government Division To Participate In The Local DWI Grant And Distribution Program And Delegating Authority

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

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

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

EXHIBIT A: Copies of the Consent Items including Resolution 2018-23 are attached hereto in reference thereto made a part hereof.

8. Forest, Land and Natural Resources Matters:

a. Lincoln National Forest - Smokey Bear Ranger District

Andrew Ellis, Environmental Planner for the Smokey Bear District provided an update on activities informing the steep slope thinning project at Ski Apache was complete and the ski area was open for business. Ms. Ellis stated the District was seeking solutions to a Spruce Bark Beetle problem identified at the ski area.

Mr. Ellis discussed efforts to reopen South Fork Campground including cleaning material accumulated under the bridge accessing the campground. Mr. Ellis stated the District would continue to work with the Upper Hondo Soil and Water Conservation District on the treatment of noxious weeds within the burn scar in the Bonito area. Mr. Ellis stated the City of Alamogordo and the US Forest Service Regional office were discussing a potential land swap in the Bonito area to facilitate better management of recreation areas.

Commissioner Draper questioned if the proposed discussions with the City of Alamogordo and US Forest Services included identification of entity responsibility for road maintenance in the Bonito Area. Commissioner Draper requested Mr. Ellis relay Lincoln County's concerns about the road maintenance in the Bonito area to Ranger Canfield.

Commissioner Willard questioned if the Village of Ruidoso planned to assume management of the City of Alamogordo camping areas in the Bonito area.

Mr. Ellis confirmed the Village of Ruidoso recognized the value of improved recreational and camping facilities in the Bonito area and offered to assist the City of Alamogordo with management. Mr. Ellis reminded the City of Alamogordo owned the recreation areas which had remained closed since the Little Bear Fire. Mr. Ellis state the Argentina Canyon Trailhead Livestock Well was now in operation providing non potable water for livestock and wildlife.

Mr. Ellis stated the District planned to partner with EcoServants to improve trail marking in the Perk Canyon area. Mr. Ellis reported on several fuel projects and informed a map was posted on the Smokey Bear Ranger District's website to direct the general public to fuelwood sites. Mr. Ellis stated currently the Forest Service managed gravel pits were under environmental review prior to renewing pit permits for road maintenance use by Lincoln County.

Chair Stone questioned whether the USFS had funding available for maintenance of Forest Roads and commented on the erosion problems and lack of current maintenance for certain roads.

Mr. Ellis discussed the different levels of road maintenance for different access roads and offered to research the status of particular roads. Mr. Ellis noted some roads only receive maintenance when impassable to high clearance vehicles.

Chair Stone questioned whether the Lincoln National Forest planned to begin thinning or other projects to address the accumulation of fuelwood in the forest in view of ongoing catastrophic wildfires.

Mr. Ellis stated fuelwood thinning was a national, regional, and district level priority with several projects "in the que".

c. Lincoln County/NMSU Cooperative Extension Services

Sierra Baca provided an update on annual activities including livestock produce wildfire training, tree and pest workshop, private applicator continuing education and other land owner educational opportunities. Ms. Baca stated there were plans to expand the leadership training programs and discussed participation in the various 4-H activities. Ms. Baca stated the office was working to expand shooting sport participation in addition to other 4-H activities such as Youth Getaway, District Judging contests, and multiple youth workshops.

Ms. Baca stated staff would meet with various advisory boards to conduct program assessments and planning for next year's activities. Ms. Baca informed a group of 4-H students would travel to Washington, D.C. in the upcoming year. Ms. Baca stated staff was working to host a 4-H rodeo in the upcoming year and they were currently meeting with schools to discuss various 4-H activities.

d. South Central Mountain RC and D

Nita Taylor, Manager stated Rick Merrick was unable to attend due to weather but would provide a report next month.

e. Upper Hondo Soil and Water Conservation District

Ms. Taylor stated Laura Johnson, Program Director was unable to attend this meeting.

f. Claunch-Pinto Soil and Water Conservation District

Ms. Taylor stated Dee Tarr was also unable to attend due to weather.

g. Land and Natural Resources Advisory Committee (LANRAC)

Robert Barber, Chair of LANRAC informed he attended two collaborative meetings including one related to the Cibola Forest Plan Revision. Mr. Barber reported a review of the Cibola Draft Plan generated over one thousand comments from the Regional Forest Service Office. Mr. Barber stated the Cibola District would revise the plan based on comments and then submit for approval to the National Forest Service Office. Mr. Barber stated ultimately the Cibola would release the draft for a final ninety day public comment period.

Mr. Barber stated the second collaborative meeting concerned the Smokey Bear Ranger District's review of the Hale Lake area for transportation and recreation planning. Mr. Barber stated the Smokey Bear District was currently reviewing over fifty miles of unauthorized user created roads in the area. Mr. Barber stated if additional recreational areas were established a recommendation was made for user groups to assume responsibility for road maintenance due to limited Forest service funding. Mr. Barber also stated recommendations were made for buffer zones around archeological sites and private property. Mr. Barber stated the group also recommend seeking input from any permittees potentially impacted by expanded recreational activities.

Chair Stone questioned what method of enforcement the Ranger District would use to restrict the creation of unauthorized roads on US Forest Service property.

e. State Forestry

Nick Smokavich, State Forester for the Capitan District discussed reimbursement rates for Lincoln County Fire Departments responding to fires on State owned land. Mr. Smokavich reviewed the process for reimbursement which requires notification of response and submission of the request for reimbursement to the State Forestry within 45 days.

b. Fort Stanton and Lincoln Historic Sites

Tim Roberts, Director of Lincoln and Fort Stanton Historic Sites provided an overview of projects and accomplishments for the past calendar year. Mr. Roberts informed the sites had 60,000 visitors during the past year including visitors from all fifty states and twenty foreign countries.

Mr. Roberts discussed special programs and tours which accounted for more than 3,000 visitors including the first ever equestrian tours at Fort Stanton as well as Fort Stanton After Dark Tours. Mr. Roberts stated additionally the Fort Stanton site hosted a cross country track meet with more than 250 participants enjoying the site. Mr. Roberts reported the Lincoln Visitors Center was revamped with a more comprehensive exhibit and discussed the opening of the new Fort Stanton Hospital exhibit. Mr. Roberts informed two AmeriCorps crews had assisted with restoration projects at both sites during the past year.

Mr. Roberts discussed upcoming preservation projects which include repair of the roof over the Nurses Quarters at Fort Stanton. Mr. Roberts stated additionally projects were scheduled in Lincoln to repair the foundation of the Tunstall Store and some interior aesthetic restoration of the old Lincoln Courthouse.

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

Commissioner Stewart stated the Joint Land Use Study group met and voted to request an extension of the agreement between entities for a fiscal commitment to maintain the JLUS website. Commissioner Stewart stated he attended the recent Better Informed Public Officials training along with the Lincoln County Assessor and Chief Deputy Assessor.

Commissioner Draper stated members of the New Mexico Counties Economic Development committee discussed the potential introduction of a bill to increase taxes to support economic development. Commissioner Draper expressed belief government could create an environment for economic growth without imposition of a tax which might not benefit all localities equally.

Commissioner Draper expressed belief Lincoln County would need to address the nightly rental issue in the near future. Commissioner Draper stated the Village of Ruidoso had acquired software to track nightly rentals and accumulate information for tax reporting purposes.

Commissioner Willard wished everyone a Merry Christmas and Happy New Year.

Rhonda Burrows, County Clerk presented Certificates of Election to County Officials elected or re-elected in the 2018 General Election including Commissioner Stewart, Commissioner Allen, Commissioner Willard, Treasurer Beverly Calaway and newly elected County Clerk, Whitney Whittaker. Ms. Burrows stated these individuals would take office in January and begin serving their four year term.

Beverly Calaway expressed appreciation for the excellent performance of her staff in the collection of property taxes including Sherri Huddleston, Chief Deputy Treasurer; Terri Knight, Financial Accounting Officer; Rose Ann Romero; Troy Niederstadt; and Faith Samora. Ms. Calaway stated the first disbursement of collected property taxes was \$7.3 million dollars reflecting the high collection rate.

Walter Hill, Assessor discussed his and Chief Deputy LeeRoy Zamora's attendance at the Better Informed Public Officials conference held in December. Mr. Hill stated the conference was both informative and a helpful forum to network with other counties.

Robert Shepperd, Sheriff stated a symposium held in Albuquerque to discuss the presence of horses on public lands. Sheriff Shepperd stated an additional symposium was set for January 7, 2019 in Albuquerque and he was asked to attend as this was an issue in Lincoln County. Sheriff Shepperd stated understanding there was a group of individuals who were supporting a celebration of "private land as public land for grazing horses". Sheriff Shepperd objected to any proposal to consider private land as public lands and suggested Commissioners and other public officials become involved in this discussion and support private property rights.

Chair Stone thanked Clerk Burrows for her past representation of Lincoln County on the Board of New Mexico Counties and for her assistance to the Board of County Commissioners.

Whitney Whittaker, Chief Deputy Clerk and the staff of the County Clerk's office presented an engraved vase to Rhonda Burrows commemorating her years of service as County Clerk.

Nita Taylor, Manager also thanked Ms. Burrows for her service with Lincoln County beginning as an employee of the Clerk's Office in 2002 and serving as County Clerk since 2010.

9. Consideration and Approval of Precinct Splits – Clerk Rhonda Burrows

Rhonda Burrows, Clerk informed she was working with Michael Sharp of Research and Polling to identify potential precinct splits for approval in 2019 in conjunction with the beginning of the redistricting process. Ms. Burrows stated the purpose of this agenda item was to secure approval to create and additional five precincts by splits.

Ms. Burrows stated there was no apparent downside to the creation of new precincts as Lincoln County had moved to Voting Convenience Centers in 2012 thus eliminating the need for a separate precinct board for each precinct within the County. Ms. Burrows stated four of the five precinct splits proposed were over or near the threshold for a mandatory split as defined in New Mexico State Statute. Ms. Burrows expressed belief there were substantial advantages to the

creation of new precincts including greater flexibility for redistricting County Commission Districts. Ms. Burrows also discussed the potential advantage of additional precinct splits in the State Redistricting process pointing out the current problems with the configuration of Senate District 39 which incorporates six counties.

Ms. Burrows provided maps of options to split precincts 3,5,7,9, and 11. Ms. Burrows stated if the splits were approved she would work with Mr. Sharp to locate the best lines for the splits. Ms. Burrows stated the Board of County Commissioners would consider and formally adopt the splits by Resolution in early 2019.

There was a general discussion regarding the census, potential populations shifts, second home ownership, and redistricting requirements.

Motion: Authorize the County Clerk to identify and present for adoption by resolution a minimum of five precinct splits, **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. Replacement Hospital Update

Mike McDonald, Project Manager provided a drone flyover video of onsite construction progress. Mr. McDonald stated steel erection was near completion and plans were to begin exterior framing and concrete pours in January, weather permitting. Mr. McDonald stated at this time the company was working with all utility providers to bring connectivity to the site.

Todd Oberheau, CEO of Lincoln County Medical Center provided an update on the status of the Hondo Clinic and expressed belief the clinic would open on January 8, 2019. Mr. Oberheau stated the current challenge was a lack of adequate internet speed to access Presbyterian's automated medical records system. Mr. Oberheau stated Presbyterian was working on a solution to this problem.

12. Request to Amend Road Easement between the Stevens Revocable Trust and the County of Lincoln

Ms. Taylor reminded of a request received from the Norman L. Stevens Revocable Trust for Lincoln County to assume maintenance of the access road for the County owned communications tower located on the Stevens property. Ms. Taylor provided background information stating Lincoln County pays an annual fee to the trust for maintenance of this access road and the proposal was for the County to assume maintenance responsibilities in lieu of the annual payment. Ms. Taylor reminded both AT&T and Verizon had co-located equipment on the tower. Ms. Taylor also mentioned prior concerns raised about the liability to maintain this access road due to terrain.

Larry Stevens, Trustee for the Norman L. Stevens Jr. Trust discussed the easement agreement entered into by Mr. Stevens with Lincoln County for maintenance of a cell tower road on the Stevens property. Mr. Stevens stated his father had an agreement with a cell tower company for usage and tower space. Mr. Stevens stated when his father entered into the agreement in 2002 to provide maintenance during a time when he had access to an operator and equipment for maintenance. Mr. Stevens stated the agreement included a reimbursement from Lincoln County for the provision of maintenance in the amount of \$2500 per year with an annual escalation percentage of three percent per year. Mr. Stevens opined the road was well built and required little maintenance. Mr. Stevens stated the Trust wished to amend the easement for Lincoln County to assume the maintenance of the road and the Trust would then forego the annual payments from Lincoln County for maintenance. Mr. Stevens informed the family also had an easement agreement with various cell phone companies.

Commissioner Stewart reminded Lincoln County had expended \$58,000 for purchase of the tower and suggested the maintenance responsibilities transfer to the entities. Commissioner Stewart expressed concern about Lincoln County assuming maintenance due to the steepness of the road.

Alan Morel, County Attorney recommended amending the current easement agreement eliminating the Trust's requirement to maintain the road and Lincoln County's payment for maintenance to the Trust. Attorney Morel stated Lincoln County could access the site utilizing Off Highway Equipment and the other entities with equipment located on the tower could provide maintenance as needed for their access.

Joe Kenmore, Director Office of Emergency Services confirmed both County fire and law enforcement had equipment located on the tower to facilitate communication in the Hondo Valley. Mr. Kenmore stated Lincoln County accessed and maintained equipment on various cell towers and expressed confidence his department could access this site for maintenance

Mr. Stevens stated he was amenable to Attorney Morel's proposal to modify the agreement.

Motion: Amend the easement agreement with the Norman Stevens Jr. Trust removing the Trust's obligation to maintain the road and removing Lincoln County's annual payment for maintenance, **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.

10. Plan and Timeline to Restore American La France Fire-Truck-Housed in Lincoln County

Ms. Taylor reminded during the November Regular Meeting the Board of County Commissioners discussed the La France Fire Truck housed in Lincoln County since 2001. Ms. Taylor stated directions were to develop a plan to restore the fire truck within thirty days including issuance of an RFP if needed. Ms. Taylor stated additionally if no plan to restore the vehicle was identified, Lincoln County could return the La France Fire Truck to Santa Fe.

Ms. Taylor stated the Pine Top Care Club and Fort Stanton, Inc. were no longer actively involved in the restoration project so she and staff met with the individual currently housing the fire truck. Ms. Taylor stated steps for restoration were identified and the individual providing the time and expertise agreed to a completion date of July 1, 2019. Ms. Taylor presented a tentative estimate of costs for materials, supplies, final reupholster, paint and trim totalling approximately \$5000.

Commissioner Stewart questioned whether the individual currently housing the fire truck had demonstrated the ability to restore the truck and complete the project

Joe Kenmore, Director of OES stated the truck was disassembled in an orderly fashion and some restoration was occurring. Mr. Kenmore stated the truck was currently stored indoors.

Commissioner Stewart questioned how Lincoln County would monitor the progress.

Mr. Kenmore stated staff could review progress monthly or as requested.

Commissioner Stewart and Attorney Morel concurred a written agreement was appropriate for the expenditure of public funds. Commissioner Stewart stated Tim Roberts, Director of the Historic Sites had identified an appropriate site for storage which would also allow for public viewing once the restoration was complete.

Chair Stone questioned the significance of the vehicle to Lincoln County.

Mr. Kenmore stated this was likely the first fire truck utilized in Lincoln County and at Fort Stanton.

Motion: Proceed with the restoration of the La France Fire Truck, authorize the expenditure of approximately \$5000, and develop a written agreement, **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.

Punkin Schlarb, Finance Director questioned if the distribution of funds would come from the General Fund or Fire Funds. Ms. Schlarb noted the Lincoln Fire Department had a trust account.

Ms. Taylor suggested the expenditure be made from the General Fund.

Ms. Schlarb and Commissioner Stewart recommended initial expenditure from the General Fund with reimbursement from Lincoln Fire Department Trust funds.

Toni Foligno, Inventory Assets Clerk stated she or Joe Kenmore would monitor progress on a monthly basis. Ms. Foligno stated the goal was to have the restoration completed by Fort Stanton Days if possible

There was a consensus to incorporate terms of reimbursement within the agreement.

14. Resolutions Amending FY 17/18 Local Government Road Fund Programs

- a. Resolution 2018-25 Amending 2018-16 Cooperative Agreement
- b. Resolution 2018-26 Amending 2018-17 School Bus Route Project
- c. Resolution 2018-27 Amending 2018-15 CAP Local Government Road Program

Ms. Taylor stated during the October Regular Meeting the County had identified additional work on Arrowhead Road to utilize unspent CAP, Coop, and School Bus Route Project funding. Ms. Taylor stated due to weather the Arrowhead Road project was delayed and therefore Jeff Honeycutt, Road Superintendent had requested an extension for completion from the New Mexico Department of Transportation (DOT). Ms. Taylor stated the Resolutions presented reflected these changes.

Motion: Adopt Resolution 2018-25, 2018-26 and 2018-27, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Commissioner Stewart questioned if the rehab work and improvements on Gavilan Canyon provided an opportunity to create a turn lane from Gavilan Canyon on to Highway 48.

Mr. Honeycutt stated as there was additional work needed on the Gavilan Canyon project, he would discuss the option of creating a turn lane with DOT.

Commissioner Willard questioned if the requested extension of time to complete the projects would impact Lincoln County's funding for road projects for the next year.

Mr. Honeycutt stated this extension would not affect the Paso Monte and Alpine Village projects which were already approved for funding.

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

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

EXHIBIT B: Copies of Resolution 2018-25; 2018-26; and 2018-27 are attached hereto in reference thereto made a part hereof.

15. Request for County Acquisition of Land for Nogal Fire Department

Ms. Taylor stated Chris Rowe, Chief of the Nogal Fire Department had requested Lincoln County consider purchasing lots adjacent to the Nogal Fire Station. Ms. Taylor stated belief the department could not utilize fire funds for this purchase.

Chris Row, Chief of the Nogal Fire Department confirmed the Nogal Fire Department could not purchase the lots with fire funds as the department had other obligations which were considered a priority by the State Fire Marshall over the purchase of property.

Doug Siddens, member of the fire department and also a local realtor stated he was contacted by the current owners regarding their intent to sell properties in the area including these lots. Mr. Siddens stated recently the department discovered the station's current leach line was located on the lots in question. Mr. Siddens stated if Lincoln County did not purchase the lots, any new owners would likely require the line be moved.

Spencer Baldwin, Office of Emergency Services Coordinator stated he attended a grant workshop during which there was discussion of land acquisition by fire departments. Mr. Baldwin stated the State Fire Marshal's Office had expressed reluctance about becoming property owners. Mr. Baldwin stated the State Fire Marshall would in this instance prioritize the completion of the new Nogal Fire Station and therefore it was unlikely they would approve any funding for a land purchase.

Mr. Siddens expressed concern about a sale to new owners who could locate other facilities on the site which would impact the department's access or other activities.

Commissioner Draper suggested Lincoln County obtain an appraisal and consider the purchase to accommodate fire department operations in the future.

Chief Rowe stated the current owners were very supportive of the Nogal Fire Department and felt they would be receptive to any reasonable offer.

Motion: Move forward on an appraisal to determine value and consider a contract to purchase,
Action: Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Willard.
Vote: Motion passed (summary: Yes = 4, No = 1, Abstain = 0).
Yes: Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.
No: Chair Stone.

Chair Stone recessed the Regular Meeting at 11:19 AM and reconvened at 11:28 AM.

16. Request to Issue RFP for Construction of New Bonito Fire Station

Ms. Taylor reported the Bonito Fire Station requested the Board of County Commissioner's approve the issuance of a Request for Proposal for the construction of a new Bonito Fire Station. Ms. Taylor stated the estimated cost of construction was \$1.3 million. Ms. Taylor provided an overview of the Bonito Fire Department's current funding for the project including the recent award of \$100,000 by the State Fire Marshall. Ms. Taylor stated the department had worked with the New Mexico Finance Authority to review outstanding debt, anticipated annual payments, and annual revenues.

Riker Davis, Secretary for the Bonito Fire Department discussed the history of the project and the long term benefits for the community.

Commissioner Stewart questioned if plans for the new station included a bay to house ambulance services.

Mr. Davis described the Bonito Fire Department's current arrangement with Emergency Medical Services to utilize a bay at the Sonterra Fire Station and stated a similar arrangement was amenable to the department.

Motion: Authorize issuance of a RFP for the construction of a new Bonito Fire Department Station, **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.

17. Consideration and Approval of the Lease Agreement between the County of Lincoln and New Horizons Developmental Center, Inc.

Ms. Taylor reminded Lincoln County was unable to approve the inclusion of a Capital Outlay Appropriation for New Horizons in the recent New Mexico Department of Finance bond sale due to a lack of a current agreement between Lincoln County and New Horizons. Ms. Taylor stated subsequently Attorney Morel drafted a "Use Agreement" which was approved and signed by the New Horizons Board President. Ms. Taylor acknowledged the agreement would not meet the State Board of Finance requirements for payment for use of facilities based on appraised value but reminded of the prior discussion of a possible exemption identified in the New Mexico Constitution related to the "care and maintenance of sick and indigent persons". Ms. Taylor stated she and Attorney Morel had submitted the Use Agreement to Attorney General Counsel Malave who agreed the language identified in the NM Constitution warranted consideration. Ms. Taylor stated Counsel Malave had recommended modification of the Use Agreement to a Lease Agreement.

Motion: Approve the amended Lease Agreement between the County of Lincoln and New Horizons, **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.

Patsy Sanchez, New Horizons Board Member provided a financial overview of revenues and expenses for the facility. Ms. Sanchez stated belief this financial statement would support the agreement's spirit of non-payment for the use of the facility. Ms. Sanchez also suggested Lincoln County officials stress the lack of services provided by the State of New Mexico for the mentally disabled.

Sarah Gnatkowski, Board Member stated the attorney for New Horizons recommended provision of budgets from 2013 forward to the State Board of Finance in support of the agreement. Ms. Gnatkowski stated their attorney also provided a memorandum in support of the agreement.

18. Manager's Report

1. **HAT'S OFF TO LINCOLN COUNTY CLERK RHONDA BURROWS** for her many contributions to Lincoln County. Thank you to Rhonda Burrows for her leadership and for all the gifts she has given to County Elected Officials, the leadership team and of course to the public.
2. **First Savings Lease:** Manager contacted a First Savings Bank New Mexico board member and received information that the bank will not be in a position to locate in the Extension Service' building in the near future.
3. **Multi-Line and Law Enforcement Pools:** New Mexico Counties (NMC) has notified the County that our contribution to the 2019 Law Enforcement Pool will increase by 2% to \$136,917 annually; and our contribution to the Multi-line Pool will increase by 5% to \$353,972 annually. Each year, the County has the opportunity to modify its deductibles, which I recommend leaving at the current levels. This year we are also offered an optional insurance for "Land Use Coverage/Endorsement 3-Limited Coverage for Land Use Matters". I recommend declining this optional insurance.

Motion: Approve County Manager recommendations related to the insurance pools, **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.

4. **Legislative Events:** Lincoln County Day in Santa Fe is scheduled for February 6, 2019. This event is attended by many of the Legislators and provides key opportunities to discuss County matters with them including requests for Capital Outlay allocations including 1) White Oaks Fire Station with \$150,000 initial costs identified be reduced by \$100,000 reflecting receipt of Fire Marshal's Grant; 2) Detention Center \$500,000 for addition of women's pod, munitions room and storage space; 3) Lincoln County Replacement Hospital at \$3.689 million for philanthropy shortfall. The Manager provided a copy of the full 2019 Legislative Social Calendar.
5. **Copper Ridge Cell Tower:** Formal activity on Verizon's proposed Copper Ridge cell tower commenced with the filing through Black & Veatch Site Acquisition Specialist Breanne Mocaby of the required Special Use Application for its proposed 195 foot Self Support Tower Wireless Facility at 111 Copper Ridge Road. The Application was reviewed by Lincoln County consultant Robert Naumann with Center for Municipal Solutions and comments were returned to the Applicant. Attorney Morel and Manager will work with the consultant on contractual matters and present the application to the Commission for discussion and approval in the near future.
6. **Status of Kane County, Utah v. United States Class Action Lawsuit for Underpayment of PILT:** Manager provided a review of the general status of the Class action Lawsuit as of December 5, 2018. Manager noted the Amended Judgment finding that plaintiffs "shall recover of and from the United states the total amount of \$16,322,574 for 2015 and 2016 underpayments of PILT; and a total of \$899,247 for 2017. Manager provided a list illustrating the 2015 - 2016 underpayments for New Mexico's counties indicating Lincoln County's underpayment of \$65,702. Manager also provided a list of the 2017 underpayments by county.
7. **Z*Trans Public Transportation - Statistics - Lincoln County:** The Manager presented statistics provided by Joe Hardin, Transportation Director. The October report discloses the ridership in the Ruidoso area only, as the service commenced in Lincoln County on November 5, 2018. The November report disclosed County-wide transportation was provided for a total of 18 days, with 13 total riders. They are currently operating the County route with one driver for two routes per day. Mr. Hardin will provide monthly tracking data to the County advising ridership would increase over time.
8. **Appointment to Chair the Statewide Interoperability Communications Working Group (SICWIG):** Emergency Services Director Joe Kenmore has been asked by Department of Homeland Security and Emergency Management (NMDHSEM) Cabinet Secretary Jay Mitchell to accept the appointment as the Chair of the SICSIW. Mr. Kenmore has been an active member of this critical team for a number of years currently serving as co-chair and is encouraged to accept this appointment.

Commissioner Stewart questioned if the residents of Copper Ridge had expressed any opinions regarding the placement of a new cell tower in the area.

Manager Taylor stated Lincoln County would notify local residents when the approval of the application for placement of the cell tower would come before the Board of County Commissioners.

9. Departmental Updates:

Renee Montes, Senior Services Director informed she received notification the program would receive some additional funding from the Nutritional Services Incentive Program with the November payment and waiting on notification regarding the restoration of Title C3 funding from the prior year. Ms. Montes anticipated additional funding for 2019 informing the Older Americans Act signed into law included a \$10 million increase including \$5 million for congregate meals and \$5 million for home delivery. Ms. Montes stated the various State agencies administering senior programs had undergone leadership changes which she believe would benefit services in the upcoming year.

Ms. Montes stated her department continued to prioritize services and informed the increase in the donation fee for meals was beneficial. Ms. Montes stated currently the department was over 50% in estimated congregate meals as well as 50% in home delivered meals. Ms. Montes stated her department was working with Creative Aging to deliver Christmas boxes for homebound seniors this week.

Chair Stone recessed the Regular Meeting for Christmas Lunch at 11:59 and reconvened at 1:22 PM.

18. Manager's Report (continued)

Joe Kenmore, Office of Emergency Services Director stated the department hosted the recent public meeting to review Hale Lake travel and access plans. Mr. Kenmore stated the group utilized Lincoln County's SIMS table to analyze options. Mr. Kenmore reported the Arabela, Bonito, Hondo and White Oaks Fire Departments each received \$100,000 grants. Mr. Kenmore stated the Bonito, Hondo, and White Oaks Fire Departments would utilize their grants for infrastructure improvements and the Arabela Fire Department planned to purchase equipment. Mr. Kenmore stated OES hosted an information booth at the recent Upper Hondo Meeting. Mr. Kenmore also informed OES was awarded a \$4900 Hubbard Grant for the improvement of fire department communication equipment.

Billie Jo Guevara, Administrative Assistant and Human Resources Director reported the Sheriff's Office was currently interviewing for the open Records Coordinator position and the Assessor's Office was interviewing for the open Appraiser position. Ms. Guevara stated the Sheriff's Office had one Deputy Sheriff's position open and the Road Department had two operator positions open.

Punkin Schlarb, Finance Director informed Orlando Samora, Purchasing was out of the office due for an extended period of time due to illness. Ms. Schlarb stated she contacted the State Purchasing Office to obtain a waiver so Lincoln County's back-up Purchasing Agent could assume those duties pending Mr. Samora's return. Ms. Schlarb stated her department was closing out payroll for the calendar year and anticipated issuance of W-2's, 1095's, and 1099's in January.

Samantha Mendez, Director Planning and Project Management informed on repairs by Lincoln County to plumbing, paint, sheetrock, and cabinets for the Hondo Clinic were completed in conjunction with plans to open on January 8, 2019. Ms. Mendez stated repairs other than plumbing were accomplished utilizing County staff including assistance from the Road Department for creating an ADA compliant ramp.

Ms. Mendez stated additionally her department was working with Region IX as the new subcontractor for the Juvenile Justice Grant to submit the annual grant request for funding of the Juvenile Justice Board.

Jeff Honeycutt, Road Superintendent reported the department's new transport truck and trailer was seventy one feet long from "bumper to bumper". Mr. Honeycutt discussed the need to push back a couple of CAP/Coop projects until the spring including a chip seal on Alpine Village and work on Arrowhead Rd. Mr. Honeycutt stated the department would also start working on a new CAP/Coop project on Paso Monte at the same time. Mr. Honeycutt stated the department expended approximately \$20,000 on road striping this fall with plans to do additional striping in the spring. Mr. Honeycutt stated the Road Department had incurred additional work due to two storms since last month.

Chair Stone questioned if the Lincoln County National Forest was providing funding to maintain Forest Service roads connecting with County roads.

Mr. Honeycutt stated the Lincoln National Forest was no longer providing funding for maintenance but the Cibola National Forest continued to contract to pay \$250 per mile. Mr. Honeycutt stated the lack of funding from the Lincoln prompted him to request establishment of pits and reclamation of materials for maintenance in exchange for payment for maintenance.

19. Consideration of Approval of Intergovernmental Agreement between the Administrative Office of the Courts and the County of Lincoln

Attorney Alan Morel recognized District Judge Dan Bryant, retired District Judge Karen Parsons, and Artie Peppin, Director of Administrative Office of the Courts (AOC) present for this discussion. Attorney Morel reminded the Intergovernmental Agreement was presented for consideration during the Regular Meeting of November 20, 2019 but the motion to approve the agreement failed on a 2-2 tie vote with four commissioners in attendance. Attorney Morel stated prior to reconsideration a motion to reconsider was required from a Commissioner on the prevailing side of the prior vote.

Attorney Morel stated Chair Stone, Commissioner Stewart or Commissioner Allen, who was absent for the November meeting, could make the motion to reconsider.

Commissioner Draper raised a point of order, questioning the definition of a "prevailing side" with a tie vote.

Attorney Morel opined as the motion had failed those Commissioners who voted against the motion were on the prevailing side. Attorney Morel stated belief since Commissioner Allen was not in attendance she had the right to address the issue and make the motion to reconsider.

Commissioner Draper stated traditionally any motion to reconsider was initiated by a member voting on the prevailing side of the question and questioned if this was in accordance with Robert's Rules of Order.

Attorney Morel pointed out Commissioner Allen voted on the prevailing side of the original vote to enter into an agreement with the AOC although approval of the agreement itself failed last month.

Motion: Reconsider approval of Intergovernmental Agreement between the Administrative Office of the Courts and the County of Lincoln, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Willard.

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

Yes: Commissioner Allen, Commissioner Willard.

No: Chair Stone, Commissioner Stewart, Commissioner Draper.

Commissioner Allen questioned the status of the AOC's proposal reminding an initial motion to move forward with the agreement passed. Commissioner Allen stated based on that approval a written agreement was prepared but then failed to obtain a majority vote for approval.

Attorney Morel stated this was a critical decision and discussed the reliance of the other entities involved on the actions of the Board of County Commissioners.

Commissioner Allen stated belief the Village of Ruidoso could move forward with plans for a new building but the failure to adopt an agreement would nullify the Carrizozo Magistrate Court move into the Lincoln County Courthouse.

21. Consideration and Approval of Off-Highway Vehicle Resolution

Attorney Alan Morel presented a copy of a Resolution proposed by the Village of Ruidoso to request the State of New Mexico expand access to Off Highway Vehicles to Mechem and Sudderth within the Village of Ruidoso municipal limits. Attorney Morel noted Lincoln County had numerous county roads which connect to various State Highways and other roads. Attorney Morel reminded the Off Highway Vehicle Ordinance adopted by Lincoln County only allowed for OHV on County roads within Lincoln County. Attorney Morel stated the Village of Ruidoso had reached out to Lincoln County to determine if the County wished to expand access throughout the County.

Commissioner Draper stated belief if Lincoln County adopted a Resolution it should specify particular roads rather than authorizing all OHV traffic.

Sheriff Robert Shepperd stated if Lincoln County adopted such as Resolution it would permit OHV traffic on all highways within the County. Sheriff Shepperd stated currently the State of New Mexico had not approved statewide OHV travel on State Highways. Sherriff Shepperd stated concerns about full OHV access to all highways

Commissioner Draper stated belief it was more practical to identify specific State Highway segments rather than to authorize access to all State Highways in Lincoln County.

Attorney Morel commented on the number of State Highway's within Lincoln County and suggested if there were particular access points the OHV supports were seeking they could present a specific request.

Commissioner Stewart noted NM State Statute currently permits crossing at a 90 degree angle and expressed concerns about requesting the opening of State Highways within Lincoln County.

Ms. Taylor stated the item was placed on the agenda at the request of the Village of Ruidoso. Ms. Taylor stated the Village felt if Lincoln County was interested in adopting a similar resolution it would support their request. Ms. Taylor stated prior to adopting such a Resolution she would recommend Lincoln County conduct a study to identify roads for consideration.

There was a general consensus to take no action.

20. Update on Discussions with Pattern Energy and School Districts – Consideration and Potential Action on PILT Proposals

Ms. Taylor reminded during the May Regular Meeting an analysis of the potential Payment In Lieu of Taxes (PILT) method of imposition and subsequent allocation to Lincoln County and the Corona School District was presented by Clean Line Energy. Ms. Taylor stated a motion was adopted to cease negotiations between the County and the Corona School District and to adopt a 72% - 28% distribution split. Ms. Taylor stated since that time circumstances had changed including identification of the Carrizozo School District within the project footprint and the acquisition of the Clean Line Mesa Canyons Wind Project by Pattern Energy. Ms. Taylor stated Pattern Energy had requested an opportunity to present a different approach for determining PILT payments and distributions.

Motion: Reconsider prior approval of PILT payments and distribution split, **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.

Crystal Coffman, Senior Manager for Pattern Energy presented proposed changes to the previously adopted agreement with Clean Line as follows: 1) Set the dollar per megawatt payment at \$2,800 for all megawatts installed; 2) utilize a catch up mechanism to place all PILT payments on the same schedule; 3) utilize a tax rate averaging method rather than using the 2017 tax rates to establish PILT distribution shares ; and 4) include the Carrizozo School District and divide the school portion of PILT based on installed megawatts. Ms. Coffman stated the previously adopted method of applying only the 2017 tax rates resulted in a 72% PILT share for Lincoln County and 28% share for the Corona School District. Ms. Coffman stated the utilization of average tax rates over the last twenty years resulted in a 67% PILT share for Lincoln County with a 33% share for the Corona and Carrizozo School Districts.

There was a general discussion regarding the fluctuation in school tax rates which reflect bonding and other tax impositions over time.

Eric Harrigan, RBC Capital Markets acting as Lincoln County's municipal advisor stated his firm reviewed the new analysis presented by Pattern Energy and confirmed the percentages and projections were correct. Mr. Harrigan stated the principal decision was whether to use the current year's tax rate or to use the twenty year average.

Motion: Utilize Lincoln County 2017 Tax Rates to set the PILT distribution, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

Commissioner Stewart noted the PILT payment determination presented by Pattern reflected a significant increase in the school district percentage.

Commissioner Willard suggested the alternate plan utilizing a twenty year average and thirty year payout would result in increased revenues to the schools and the county.

Commissioner Allen agreed with Commissioner Willard noting the twenty year average seemed fair and balanced for the schools.

Vote: Motion failed on roll call vote (summary: Yes = 1, No = 4).

Yes: Commissioner Stewart.

No: Chair Stone, Commissioner Allen, Commissioner Draper, Commissioner Willard.

Motion: Adopt the twenty year tax rate average for PILT payment determination, **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Allen.
Vote: Motion passed on roll call vote (**summary:** Yes = 4, No = 1, Abstain = 0).
Yes: Chair Stone, Commissioner Allen, Commissioner Draper, Commissioner Willard.
No: Commissioner Stewart.

22. Budget Adjustment FY 18-19 by Resolution 2018-24

Ms. Taylor presented the budget adjustments for consideration informing they were primarily related to grant expenses and transfers between vehicle maintenance and vehicle fuel.

Motion: Adopt Resolution 2018-24, **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.

EXHIBIT C: Copy of Resolution 2018-24 is attached hereto in reference thereto made a part hereof.

23. Authorization to File Solid Waste Liens:

W. Ray Parrish	\$562.32
Tabita Chavez	\$562.32
Jack G. and Kathleen A. Orio Jr.	\$906.56

Motion: Approve the filing of Solid Waste 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.

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

a. Labor Management Relations Board

Motion: Reappoint Rex Wilson to the Labor Management Relations Board, **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.

b. Solid Waste Authority

Motion: Reappoint to the Solid Waste Authority, **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.

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

a. Consideration of the Adoption of an Ordinance Providing a Low Income Tax Rebate Pursuant to NMSA 7-2-14.3G on a County by County Option Basis.

Ms. Taylor reminded Lincoln County was required by New Mexico State Statute to consider a low income tax rebate annually.

Motion: Schedule a Public Hearing to consider imposition of a low income tax rebate for the January 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.

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); and Discussion of the Purchase, Acquisition or Disposal of Real Property or Water Rights by the Public Body, Section 10-15-1, Subparagraph 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. Notice of Sale on Foreclosure was filed October 5, 2018. The Foreclosure Sale will take place on November 15, 2018 @ 10:00 a.m. at the front steps of the 12th Judicial District Courthouse in Carrizozo.

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. ***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 without Prejudice was filed August 1, 2018. The August 29, 2018 Hearing was dismissed. Plaintiff filed a new Summons-Complaint in the 12th Judicial District Court naming the County of Lincoln on September 10, 2018. The County's Motion to Dismiss was filed September 18, 2018. On November 5, 2018, County filed its Request for a Hearing on its Motion to Dismiss. A Hearing was held on November 27, 2018, at which time the case was dismissed. As of 12/7/18, an Order from the November 27th Hearing has not been entered.

4. **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 and a Judicial Inquiry Hearing took place September 4, 2018.

5. ***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. A Procedural Order on the Petition for Writ of Habeas Corpus was entered September 6, 2018. County filed its Motion to Dismiss the Petition on October 9, 2018. On October 19, 2018, Petitioner filed his Response to the Motion to Dismiss, and on November 5, 2018, Lincoln County filed its Reply to the Response to the Motion to Dismiss and requested a hearing on the Motion to Dismiss. A Hearing on the County's Motion to dismiss is scheduled for January 8, 2019 at 2:00 p.m. at the Otero County Courthouse in Alamogordo.

6. ***Roger Romero, et al vs. Lincoln County, et al – U.S. Dist. Court Cause No. 2:18-cv-01137-GBW-GJF** A Complaint for Violation of Civil, Constitutional and Statutory Rights was filed on December 5, 2018. County Defendants have not been served.

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. Stipulated Motion for Withdrawal and Substitution of Plaintiff's Counsel was filed May 15, 2018.

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 was served July 10, 2018. Judge Bryant was recused from presiding over the case by Plaintiff and Judge Counts was assigned to preside over the case. County's Answer to the Complaint and Jury Demand (12 person) was filed August 9, 2018.

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

9. ***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, and was subsequently rescheduled to October 23, 2018. On October 23, 2018, the Pre-Trial Hearing was rescheduled for November 20, 2018. The November 20, 2018 Pre-Trial Hearing was rescheduled for December 4, 2018 and the 6 month rule was extended. The December 4, 2018 Pre-Trial Hearing was rescheduled for January 29, 2019 and the 6 month rule was extended once again for an additional 30 days and now runs on March 10, 2019.

10. **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. On October 23, 2018, Judge Vega heard Defendant's Motion for a Continuance of the Final Pre-Trial Hearing and the October 24, 2018 Jury Trial. The Motion was granted and the Final Pre-Trial was rescheduled for December 11, 2018 with the Jury Trial to take place on January 7, 2019.

11. ***State of NM v. Anthony D. Vega M-30-2018-00106** Violation of County Ordinance 2014-04 Contraband Ordinance. Complaint was filed July 13, 2018. Defendant is charged with 1 count of possession of contraband due to Defendant arriving back after furlough in possession of tobacco. A Pre-Trial Hearing was scheduled before Judge Vega August 28, 2018 at which time the Defendant appeared via telephone. A Pre-Trial Hearing took place September 25, 2018 which was continued and a new Pre-Trial Hearing is scheduled for October 23, 2018. On October 23, 2018 the Pre-Trial Hearing was re-scheduled for November 20, 2018. On November 20, 2018 a Judgment & Sentence was entered finding the Defendant Guilty resulting in a \$300.00 fine with \$200.00 suspended, an assessment of \$73.00 court costs, 3 days jail time and 87 days of unsupervised probation. In lieu of payment of the fine and courts costs, the Defendant agreed to serve an additional 3 days jail time.

12. **State of NM v. Robert Salas M-30-MR-2018-00126** Violation of County Ordinance 2014-04 Contraband Ordinance. Complaint was filed August 20, 2018 by Lincoln County Sheriff's Deputy Samuel Hanna. Defendant is charged with 1 count of possession of contraband-Marijuana. The Defendant pled "Not Guilty" on August 23, 2018 to the charge. A Pre-Trial Hearing took place September 25, 2018 at which time a Final Pre-Trial Hearing was scheduled for December 11, 2018, with a Jury Trial scheduled for January 7, 2019.

Tort Claims Notices Received or Threatened

2018

Duke, Arnold – Harrisburg Document recovery

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.

Ford, Richard E. – Tort Claim Notice received September 26, 2018 from Attorney Gary Mitchell alleging damages due to the Lincoln County Sheriff's Department's alleged unlawful entry, wrongful taking of monies, and civil rights violations that took place on or about June 25, 2018

Russell, Eric – Tort Claim Notice received September 28, 2018 alleging damages related to an incident involving the Lincoln County Sheriff's Department and Claimant's dog.

Steward, Tynel – Tort Claim Notice received November 1, 2018 alleging that while incarcerated at Lincoln County Detention Center, the Claimant (i.) was attacked due to the negligence, reckless, and/or intentional actions of jailers and other county employees, (ii.) has not received adequate medical care, and (iii.) is being held in inhumane conditions of confinement, including, but not limited to, sewage gas, overcrowding, and sleeping conditions.

Windstream – Tort Claim Notice received November 13, 2018 alleging that Windstream Facilities at 147 Pfingsten Rd., Nogal, N.M. sustained damage as a result of the negligent acts or omissions by employees or agents of Lincoln County. Alleges that on or about September 22, 2018, Lincoln County was installing a culvert and damaged a Windstream Cable.

Windstream – Tort Claim Notice received November 13, 2018 alleging that Windstream Facilities at 148 Nogal Canyon Rd., Nogal, N.M. sustained damage as a result of the negligent acts or omissions by employees or agents of Lincoln County. Alleges that on or about September 27, 2018, Lincoln County was installing a culvert and damaged a Windstream Cable

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

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 Allen, **Seconded by** Commissioner Draper.

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

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

Chair Stone recessed the Regular Meeting and convened the Closed Session at 2:30 PM.

Chair Stone adjourned the Closed Session and reconvened the Regular Meeting at 3:21 PM.

Commissioner Allen attested 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. Renewal of County Attorney Contract – Effective January 1, 2019

Ms. Taylor reminded Attorney Alan Morel's current 2018 contract would expire at the end of this year and recommend the Board of County Commissioners renew the contract for 2019. Ms. Taylor stated Attorney Morel had not requested an increase in reimbursement but suggested consideration of an increase similar to the increase awarded to her as County Manager. Ms. Taylor also stated belief certain legal matters pending be exempted from the contractual rate due to their complexity for separate billing.

Motion: Approval the renewal of contract with Attorney Morel with a 2% increase and exempting particular legal matters from the contract, **Action:** Approve, **Moved by** Chair Stone, **Seconded by** Commissioner Draper.

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

Yes: Chair Stone, Commissioner Stewart, Commissioner Draper.

No: Commissioner Allen, Commissioner Willard.

28. Signing of Official Documents

29. Next meetings:

January 22, 2019 – Regular Commission Meeting

30. Adjourn

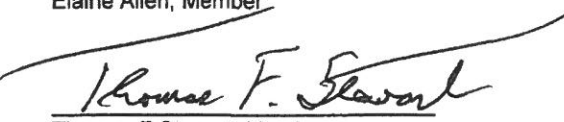
There being no further business to come before the Board of County Commissioners, Chair Stone adjourned the meeting at 3:24 PM.

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:


Whitaker Whitaker, County Clerk

January 22, 2019
Date Approved

