

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, January 9, 2018

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on January 9, 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 8:29 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 Whitney Whittaker, Chief Deputy County Clerk.

3. Invocation

The invocation was presented by Commissioner Draper

4. Pledge of Allegiance

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

5. Selection of Selection of Chair and Vice Chair

Motion: Nomination of Commissioner Stone for Chairman, **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.

Motion: Nomination of Commissioner Draper for Vice Chairman, **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 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.

7. Approval of Minutes:

- a) December 18, 2017 - Regular Commission Meeting

Motion: Approve the minutes of the December 18, 2017 Regular Meeting, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

8. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month ending December 31, 2017 is not yet available and will be presented at February 13, 2018 Commission Meeting
- c. Approval or Disapproval of Safety Net Care Pool and Indigent Health Care Claims
- d. Approval to Authorize the Village of Ruidoso to Submit Application to DFA to Participate in the Local DWI Grant and Distribution Program

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

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

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

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

9. Forest, Land & Natural Resources Matters:

- a. Fort Stanton and Lincoln Historic Sites

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

- b. Smokey Bear Ranger District

Jodie Canfield, District Ranger informed the District would conduct a controlled burn in Grindstone today, if all testing goes well.

Ranger Canfield reported on ongoing projects including Jicarilla area brush project, fuel reduction project, pot hole enchantment, a wildlife habitat improvement project sponsored by the Department of Game and Fish, and the Ski Apache restoration project.

Ranger Canfield informed Ski Apache is currently open but with the limited moisture only a few runs were operational.

Ranger Canfield stated efforts to close abandon mines on the District were ongoing and anticipated completion by the end of February. Ranger Canfield stated the South Fork Campground restoration project was still underway and they were working on the drainage improvements. Ranger Canfield stated the district was waiting to hear whether they would receive grant funding for the South Fork Trail restoration project.

Ranger Canfield stated staff continued to meet with the Gun Club to discuss the cleanup of abundant amount of lead found at the gun range.

- c. Cibola National Forest

Ms. Taylor informed the Collaborative Forest Restoration Program workshop was scheduled for January 10 and 11, 2018 at the Santa Fe Community College.

- d. Community Forester

Rick Merrick, South Central Mountain Resource and Conservation District reported on the Non-Forest Land (NFL) thinning projects and other cost share programs.

Mr. Merrick stated at the New Mexico State Forestry Office in Capitan had hired a new Fire Management Officer (FMO).

Ms. Taylor stated the new FMO was Scott Salway.

- e. Upper Hondo Soil and Water Conservation District

Ms. Taylor informed Laura Johnson, Program Director was unable to attend today's meeting

f. Land and Natural Resources Advisory Committee (LANRAC)

Robert Barber, Chair stated there were no updates and status changes.

10. Statement of Abandonment and Vacation of Easement / Quitclaim Deed to a portion of Lot 11B-1: Cedar Creek Ranchettes.

Alan Morel, County Attorney presented the request for the Abandonment and Vacation of and issuance of a Quitclaim Deed for a tract of land located within Tract 11B-1 in Cedar Creek Ranchettes. Attorney Morel stated the County Assessor had valued the parcel at \$346.

Motion: Approve Abandonment and Vacation of the indicated portion of Chance Loop and a portion of Reagan Road in the Cedar Creek Ranchettes Subdivision and approve the issuance of a Quitclaim Deed, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

There was general discussion of easement access within the subdivision.

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

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

11. Lincoln County Public Records Policy Fee Schedule by Resolution 2017-22 Repealing 2012-40

Rhonda Burrows, Clerk requested amendment of the current Lincoln County Fee Schedule Resolution 2012-40 to reflect a change in pricing for the sale of land title images. Ms. Burrows stated currently the cost for providing images of the land title records was based on a set fee per week or per month. Ms. Burrows explained the change would eliminate the set fee and initiate a per image cost of .10 cents per image. Ms. Burrows stated the County Clerk's office conducted a review and comparison which indicated a minimal financial impact.

Motion: Adopt Resolution 2017-22, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

SEE EXHIBIT B: Copy of Resolution 2017-22 is attached hereto in reference thereto made a part hereof.

12. Renewal of Voting Equipment Technician Contract

- a. Paul Baca
- b. Mario LeeRoy Zamora Jr.
- c. Rodney Zamora

Rhonda Burrows, Clerk stated per New Mexico statute 1-9-13 "The Secretary of State shall train and recertify voting system technicians prior to each primary election." Ms. Burrows indicated the technicians provided critical assistance to the County Clerk's office in the conduct of Elections. Ms. Burrows stated these contracts were updated every two years prior to the bipartisan elections.

Motion: Approve the renewal of Voting Equipment Technician Contracts for Paul Baca, Mario LeeRoy Zamora Jr. and Rodney Zamora, **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 2017-23: Budget Adjustment FY 17-18

Ms. Taylor stated per New Mexico State Statute, counties may request adjustments to the budget to accommodate changes in financial operations during a fiscal year. Ms. Taylor stated approved adjustments were required to be submitted to the Department of Finance and Administration for approval.

Motion: Adopt Resolution 2017-23 with budget adjustments as presented, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

SEE EXHIBIT C: Copy of Resolution 2017-23 is attached hereto in reference thereto made a part hereof.

14. Authorization to File Solid Waste Liens

a.	David and Sharon Monk	\$644.54
b.	Rolf and Stephanie Kist	\$631.94
c.	Coy B. Knoll & Ellen M. Knoll	\$631.94
d.	Douglas E. Larue	\$631.94
e.	Secretary of Housing and Urban Development	\$462.32
f.	Thomas and Debrah Stephens	\$431.94
g.	Lara L. Annabel & Daryl Linley	\$631.94
h.	Kathleen D. Luevano	\$631.94
i.	Anthony and Renee Casarez	\$531.94
j.	Christopher Cervenka	\$575.40
k.	Frances Chavez	\$431.94
l.	Steve Chapman	\$405.78

Ms. Taylor informed Lincoln County Solid Waste Ordinance 2017-07 provides for the efficient and sanitary collection of solid waste for mandatory disposal and assessment of fees. Ms. Taylor stated each payment of the solid waste collection fee was the obligation of the responsible party for each residence and business located in the unincorporated areas of Lincoln County. Ms. Taylor reminded the Ordinance also entitles the County of Lincoln to file a lien against the property for unpaid charges and fees for solid waste collection services.

Motion: Direct the County Attorney to file Solid Waste Liens against the properties in violation of County Ordinance 2017-07, **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.

15. Annual Inventory Certification for Fiscal Year 2016-2017

Ms. Taylor presented the annual inventory of chattels and equipment for Fiscal Year 2016-2017 valued at \$5,000 and above also known as capital assets. Ms. Taylor stated the inventory was identified in accordance with generally accepted auditing procedures and meets the annual requirement for certification as specified in New Mexico State Statute 12-6-19.

Ms. Taylor stated total capital assets not being depreciated which includes land, intangible assets and construction in progress was of \$2,429,818. Ms. Taylor stated total capital assets being depreciated which includes completed buildings, equipment, infrastructure and other additions was \$83,388,479.

Motion: Approve the Annual Inventory Certification and authorize the Chair and Manager to sign the certification, **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.

17. Authorization to file a lien on the Romero Property to recover the cost expended by the County of Lincoln to clean Romero Property

- a. Authorization to file a suit to foreclose on the Lien on the Romero Property to recover the amount expended by the County of Lincoln to clean Romero Property

Attorney Morel reminded of the timeline of events to clean up the Romero property in the Hondo Valley. Attorney Morel requested approval to file a lien and initiate a foreclosure suit against Roger Romero to recover costs expended by the County of Lincoln. Attorney Morel stated the

cleanup work was now complete and the total cost expenditure by Lincoln County was \$17,454.70 including costs related to the preparation and filing of the lien. Attorney Morel informed Mr. Romero was properly notified of the intent to file a property lien.

Motion: Authorize the filing of a lien and filing of suit to foreclose on the Roger Romero property,
Action: Approve, Moved by Commissioner Stewart, Seconded by Commissioner Allen.

Commissioner Draper questioned why the name Lupe V. Chavez was referenced on the lien.

Attorney Morel informed Ms. Chavez was listed as a joint tenant owner on the deed but had since passed away. Attorney Morel stated the property lien would extend to Ms. Chavez's heirs or successors.

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

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

18. Manager's Report

White Oaks Fire Department – Fire Protection Classification: The County received notification from ISO it had completed its analysis of the structural fire suppression delivery system provided in the White Oaks community. The ISO classification improved from a "9" to a "7". The classification "7" was awarded because of the level of the department's fire suppression delivery system; with "7" applying to residences / structures within 1,000' of the fire station and a "7X" applying to residences / structures located between 1,000' and five miles. Those structures outside of the 5-mile radius have an ISO rating of "10". Thanks to Chief Dose, the White Oaks Fire Department and the County's Office of Emergency Services for their united efforts in achieving this classification.

Hondo Fire Department – Value Engineering Efforts: During the December Regular Meeting, the Commission considered the two responses to RFP 17-18-001 to erect the Fire Department owned 7200 square foot building. Roper Construction submitted the low bid, both from a total project perspective, and from a deductive options perspective. County representatives met with Mr. Roper and Architect Susan Johnson to identify potential cost-savings modifications that would not violate any building code requirements. We are researching the following, and will continue with value engineering to reduce the cost level to available funding levels.

1. Omit the sprinkler system;
2. Reduce the 20' concrete apron surrounding the building, and omit sidewalks;
3. Use alternative products;
4. Delete heat pump for this phase
5. Delete steel in mezzanine for this phase

Lincoln County Medical Center / Clinic Update:

1. **New Hospital Bid:** The replacement hospital was slated to go out to bid on January 8, 2017 however, Architect Bobby George identified several areas in the contract and bidding requirements which require clarification to enable contractors to properly bid the project. Mr. George advised and Consultant Jim Klein agreed, the easier it was for the contractors to find the correct information to formulate their bids, the better the pricing for the County. The bid was slated to go out on January 22, 2017.
2. **Hondo Clinic:** The County Purchasing Agent was working to obtain additional quotes to move an existing EMS building in Ruidoso to the Hondo Valley to serve as a Rural Medical Clinic. Minimal costs, as presented by Todd Oberheu last month, include: moving the building, pouring new footing, obtaining utilities and repairing any damage to building. His cost estimate ranged from \$42,000 - \$49,000. Additional considerations include: 1] size of the parcel of land available and location of various buildings being considered for the location (existing senior center; new senior center; new fire station); 2] location and size of new septic system to serve more than one building; 3] adequacy of existing well to meet water needs of multiple buildings.

NM Aging and Long-Term Services (ALTSD) Termination of Contract with Non-Metro Area Agency on Aging (NMAAA): ALTSD has contracted with NMAAA for years to assist non-metro senior provider programs across the state, including our Lincoln County Zia Program. Upon receipt of a number of complaints from senior provider programs that they were not receiving reimbursement for services provided in a timely manner, ALTSD conducted

its annual program assessment, which resulted in serious concerns regarding fiscal management and accountability. ALTSD opted to terminate its contract with NMAAA as assume the contractual relationship with senior providers currently maintained by NMAAA. The Notice of Termination has resulted in substantial correspondence on both sides of the issue. Ms. Taylor provided copies of correspondence related to this action.

Status/schedule of Clean Line Energy IRB Activity: County Financial Advisor Erik Harrigan is working on a Payment In Lieu of Tax (PILT) Analysis for County consideration. A Conference call was scheduled January, 2018 to review analysis and determine next steps. Clean Line Energy recommends Lincoln County meet with the Corona Schools at its earliest convenience to discuss the PILT process. The Manager anticipated presentation of an Inducement Resolution for Commission review and approval in near future. The Manager stated Clean Line Energy may request a Special Meeting to consider the Resolution.

16. 9:30 AM: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS

Commissioner Stewart attended a recent Joint Land Use Study meeting. Commissioner Stewart stated the bill to convert the White Sands Monument to a National Park was moving forward. Commissioner Stewart stated sponsors of the bill would brief the Otero County Commission this month.

Commissioner Draper thanked Chair Stone for his continued leadership as Chair of the County Commission.

Commissioner Draper requested a "hats off" to Presbyterian for receiving five star rating by Medicare.

Commissioner Draper stated that he met with Robert Barber, Community Volunteer Leader for the Red Cross about utilizing the Ruidoso Convention Center as a possible Red Cross shelter.

Commissioner Draper reminded Lincoln County Days was scheduled for February 7, 2018 in Santa Fe.

Commissioner Willard announced plans to attend the Southeastern Regional Transportation Planning Organization (SERPTO) meeting in Roswell on January 10, 2018 with Samantha Mendez, Interim Planning Director.

Rhonda Burrows, Clerk reminded today January 9, 2018 was filing day for candidates for the 2018 Municipal Elections. Ms. Burrows stated open positions included mayoral positions in Ruidoso, Capitan, Carrizozo, and Corona municipalities.

Ms. Burrows stated filing day for the 2018 Primary was March 13, 2018 from the hours of 9:00 AM to 5:00 PM.

Walter Hill, Assessor stated the mapping system "Sidwell Portico" was currently online and accessible through the county website.

Mr. Hill stated his office was mandated by the State of New Mexico to reassess all commercial properties. Mr., Hill stated the last time they were assessed was in 2009.

Chair Stone stated he and Commissioner Allen were approached by people from the Hondo Valley requesting a time to meet formally.

Chair Stone stated he spoke with Representative Greg Nibert about additional funding and capital outlay money for projects including the Hondo Senior Center.

18. Manager's report (Continued)

Department Head Updates:

Renee Montes, Director of Senior Services discussed New Mexico Aging and Long-Term Services Department's (ALTSD) decision to terminate its contract with the North Central New Mexico Economic Development District (NCNMEDD) who operates the Non-Metro Area Agency on Aging (NMAAA). Ms. Montes stated Representative Debbie Armstrong, Chair of the New Mexico House of Representatives Health and Human Services Committee believes ALTSD was in violation of federal law. Ms. Montes informed she had noticed some discrepancies in some of the reimbursements. Ms. Montes stated the daily operations of the

senior centers were functional. Ms. Montes stated her only concern was the required data entry which was normally handled through the Non-Metro Agency. Ms. Montes stated that each entity would now be responsible for their own data entry directly to the State of New Mexico. Ms. Montes was informed the State would offer extra training and software licenses until the situation was resolved.

Chair Stone questioned if this issue was affecting the Senior Center's operating budget.

Ms. Montes stated they had not noticed any impact due to the previously approved funding by Lincoln County. Ms. Montes stated she would need time to determine if any budget changes were needed for the next fiscal year.

Beverly Calaway, Treasurer stated the Treasurer's office would move up the scheduling of transfers for Senior Center operations and the only thing which may affect the budget was if the department funding goes to a negative balance. Ms. Calaway stated her office would closely monitor the department's budget.

Jeff Honeycutt, Road Superintendent informed the temporary bridge in Alamo Canyon was removed. Mr. Honeycutt stated cleanup work was scheduled on Gavilan Canyon to reshape the drainage areas as a part of the in-kind work associated with the school bus funding. Mr. Honeycutt stated work has begun on Bogle Road with Zia Natural Gas Company lowering gas lines in one location. Mr. Honeycutt informed the department had started moving road material as per their agreement with Pattern Energy.

Billie Jo Guevara, Human Resources reported on open and filled County employee positions. Ms. Guevara stated she posted in house the open position for the Finance Officer and received two applications. Ms. Guevara informed the Sheriff hired a new Administrative Secretary.

Joe Kenmore, Director Office of Emergency Services stated he was pleased with the ISO rating of a 7 awarded to the White Oaks Fire Station. Mr. Kenmore reported the fire danger was increasing due to the dry weather and the minimal moisture. Mr. Kenmore also raised concerns about public understanding of carbon monoxide poisoning.

Commission Willard questioned the status of the proposed new Bonito Fire Station.

Mr. Kenmore stated Fire Protection Funds were still unavailable and therefore additional action was pending until the funding issue was resolved.

Punkin Schlarb, Finance Director informed the proper paperwork was submitted for retrieval of employee W2s and 1099s. Ms. Schlarb reported Lincoln County would start their physical inventory soon. Ms. Schlarb stated when an employee was hired for the finance officer training would begin immediately.

Samantha Mendez, Interim Planning Director reported she was currently working on developing the Title 6 Plan requirement to receive federal grant funds. Ms. Mendez received notice that Rainmakers closed as of December 29, 2018. Ms. Mendez stated she was working on getting compactor in place in Alpine Village. Ms. Mendez stated she would attend the Southeastern Regional Transportation Planning Organization tomorrow with Commissioner Willard.

The Manager additionally provided an update to building projects including the placement of a new HVAC unit in Assessor's Office and the replacement of boiler in the County Annex building.

The Manager provided a calendar of upcoming events for the next month.

21. Consideration of Appointments and Removals from Boards/ Commissioner's Committee.

Motion: Reappoint Mary Ann Siegel-Russ to the Planning Commission, **Action:** Approve, Moved by Commissioner Stewart, **Seconded** by Commissioner Allen.

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

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

22. County Ordinance

- a. **An Applicant seeking a restaurant beer/wine license with on premises consumption only and patio service at Tinnie Silver Dollar, LLC.**
Application No. 1063525

Ms. Taylor presented a request to schedule a public hearing to consider an application seeking a restaurant beer and wine license with on premises consumption only and patio service at Tinnie Silver Dollar.

Motion: Schedule a public hearing to consider Application No. 1063525, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.
Vote: Motion carried by unanimous vote (summary: Yes = 5).
Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

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

Motion: To close the meeting for the purposes of an Executive Session to discuss all Threatened and/or Pending Litigation Section 10-15-1 H (7);

New or Updated Matters since last report *

1. **Sean McGarry v. Board of County Commissioners, Lincoln County Sheriff's Department, Deputy Mike Wood, Deputy Jason Green, Deputy David Hightower in their individual capacities and as employees of the Lincoln County Sheriff's Department in the United States District Court for the District of New Mexico 2:16-cv-00483 GBW GJF** Complaint for damages resulting from the excessive use of force, false arrest, assault and battery, malicious prosecution and false imprisonment of Plaintiff by Defendants. Complaint filed May 26, 2016. Defendants Board of County Commissioners for Lincoln County and Lincoln County Sheriff's Department's Answer to Complaint for Civil Rights Violations filed August 11, 2016. Stipulated Order Extending Pre-Trial Deadlines and Briefing Schedule filed February 22, 2017 setting Motions Hearing for December 7, 2017, Pre Trial Conference January 5, 2018 and Jury Selection / Trial January 16, 2018.

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

3. **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.

4. **Rancho Ruidoso Valley Estates Homeowner's Association v. Diane K. Medcalf, Pioneer Bank, FSB, and the County of Lincoln, NM D-1226-CV-201700242** Complaint filed by RRVEHA September 12, 2017 for Foreclosure of the Homeowner's Association Assessment Lien. The County's Answer to Plaintiff's Complaint for Foreclosure was filed October 12, 2017.

5. ***Valle del Sol Development, Inc. v. Matthews et. al. D-1226-CV-2017-0253** Complaint filed by Valle del Sol September 20, 2017 to enforce and Collect Upon Promissory Note and to Foreclose Mortgage Upon Real Property. The County's Answer to the Complaint for Foreclosure was filed October 19, 2017. Default Judgment Against Defendant James P. Matthews on Real Estate Loan Note and for Foreclosure of Mortgage was filed December 14, 2017.

6. **Seidel v. Manfredi, et. al. D-1226-CV-2017-00184** Civil Complaint for Damages Direct and Punitive was improperly filed with the 12th Judicial Court by Mr. Seidel July 18, 2017 utilizing the Court's receipt number to identify the filing. The County has not been properly served.

7. **Matthew Coulter v. Lincoln County / Robert Shepperd: Charge of Discrimination: EEOC Charge No. 39B-2017-02285** filed October 11, 2017. County received notification dated October 11, 2017 from the State Department of Workforce Solutions, Labor Relations Division, Human Rights Bureau of a Charge of Discrimination filed by Matthew Coulter against Lincoln County and Sheriff Shepperd.

8. **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.

9. **Valle del Sol Development, Inc. v. Hodge, et. al. D-1226-CV-2017-00289** Complaint filed October 24, 2017 to Enforce and Collect upon Promissory Note and Foreclose Mortgage Upon Real Property. The County's Answer to Complaint for Foreclosure was filed November 27, 2017.

10. **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 Request for Hearing was also filed by Plaintiff December 6, 2017.

11. **Greentree Solid Waste Authority v. Lincoln County D-1226-CV-2014-00095.** Suit filed May 1, 2014. Verified Petition for Declaratory and Supplemental Relief: Injunction. County was served May 14, 2014. Settlement Agreement signed by County of Lincoln December 15, 2015 and GSWA December 17, 2015. Stipulated Order of Dismissal Part With Prejudice and Part Without Prejudice was entered January 19, 2016 by Judge Ritter.

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

12. **State of NM v. Romero, Roger M-30-MR-2016-00142** Violation of County Ordinance 2016-02 Accumulation of waste and litter on private property. A non-traffic citation was issued by Sheriff's Deputy Evans on December 9, 2016. The Defendant appeared before Judge Vega December 23, 2016 and entered a plea of "Not Guilty." Case was not resolved at a Pre-Trial Hearing on January 24, 2017. A Non-Jury Trial took place Tuesday, August 1, 2017 at 2 p.m. before Judge Vega, where a Judgment and Sentence was issued for a total of \$373 in fines and court costs, 30 days jail-confinement, 60 days supervised probation and ordering that the Defendant clean his property and stay in compliance with Ordinance 2016-02. The deadline for the Defendant to clean his property was October 23, 2017 at which time, the matter was turned over to the County to contract for the clean-up of said property pursuant to Ordinance 2016-02, Section 2, subparagraphs (G) and (I). Clean up was initiated December 8, 2017 by County-Contracted providers.

13. ***State of NM v. James Keck M-30-MR-2017-00097** Violation of County Flood Damage Prevention Ordinance 2014-05. A non-traffic citation was issued by Lincoln County Sheriff's Office Deputy Charlie Evans June 11, 2017 for violation of Section 6- Establishment of Development Permit, and Section 12, Application for a Floodplain Use Permit. The Defendant appeared before Judge Vega at an Arraignment Hearing on August 16, 2017 at which time the Defendant entered a plea of "Not Guilty." A Pre-Trial Hearing took place Tuesday, October 10, 2017 at 1:30 p.m. on a Trailing Docket before Judge Vega and was continued until Tuesday, December 12, 2017 in order to allow the Defendant time to comply with the Flood Plain Ordinance. A Motion and Order for Continuance of the December 12, 2017 Pre-Trial Hearing was approved by Judge Vega on November 27, 2017. Pre-Trial Hearing is now scheduled for January 23, 2018 before Judge Vega.

14. ***State of NM v. Kerry P. Carver M-30-MR-2017-00158** Violation of County Ordinance 2008-08 Animal Control Ordinance. A Criminal Complaint was prepared by Lincoln County Sheriff's Office Animal Control Officer Russell Wehnau for violations of 2 counts of Section 11 (Dogs Running at Large) and 2 counts of Section 4 (Rabies Vaccination violations). A First Appearance / Arraignment Hearing was scheduled for December 1, 2017 before Judge Vega at 8:30 a.m. at which time the Defendant failed to appear. A Bench Warrant was issued. The Defendant appeared before Judge Vega on December 12, 2017 and entered a plea of "Not Guilty" and a Pre-Trial Hearing was scheduled for January 9, 2018. A Motion for Continuance and an Order of Continuance were filed December 18, 2017. Pre-Trial Hearing is now scheduled for January 23, 2018.

Tort Claims Notices Received or Threatened

2018

***Manfredi, Anthony** – Threat of litigation involving employment matters.

2017

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

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

McKenzie, Brian – Tort Claim Notice received May 1, 2017 from Attorney W. Chris Nedbalek alleging deprivation of Claimant's constitutional rights "and possibly other substantive

and procedural rights under the US Constitution and the New Mexico Constitution..." while incarcerated at Lincoln County Detention Center.

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

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

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

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

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

***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

Rains, Bonnie – Tort Claim Notice received January 18, 2016 alleging failure of the County of Lincoln to maintain road surfaces during snow or ice conditions.

Brazel, Stephanie – Tort Claim Notice received January 20, 2016 alleging injuries incurred due to Claimant stepping in an alleged uncovered water meter hole at 2801 Sudderth Drive, Ruidoso, NM.

William Gayford – Roger Linfoot – Tort Claim Notice received February 17, 2016 from Attorney W. Chris Nedbalek alleging 4th and 14th Amendments violations and "possibly other constitutional, statutory, regulatory, legal or equitable rights not specifically named."

Hill, Walter – Tort Claim Notice received March 8, 2016 via emailed correspondence from Mr. Hill alleging the unlawful disclosure of confidential information from Mr. Hill's Lincoln County personnel file.

Sonora Corporation (John Russell-CEO) – Tort Claim Notice received April 6, 2016 via correspondence from Mr. Russell in response to a Notice of Investigation from NM Construction Industries Division due to an alleged lack of final inspection and deviation from approved plans of construction in 2012 at 119 Bald Eagle Court, Alto, NM.

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

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

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

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

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

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

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

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

Town of Carrizozo – Tort Claim Notice received November 14, 2016 from Attorney William N. Griffin alleging County of Lincoln's violation of the Town of Carrizozo's Ordinance 8-3-

1, et. seq. regarding the County of Lincoln's effort to collect its own solid waste within municipal limits.

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

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

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

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

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

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

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

Chair Stone recessed the Regular Meeting and convened the Closed Session at 11:20 AM.

Chair Stone adjourned the Closed Session and reconvened the Regular Meeting at 12:59 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.

20. 1:00 PM: Public Hearing to consider the Vacation of all lots in Copper Mountain Subdivision.

Attorney Morel informed the purpose of the Public Hearing was to consider the vacation of the previously approved plat for the Copper Mountain Subdivision.

Eric Collins, D.T. Collins & Associates presented owner Leonard Stokes' request to vacate the Copper Mountain Subdivision Plat. Mr. Collins stated after vacation the owner intended to seek exemptions for certain existing lots and retain the remaining property as one parcel.

Attorney Morel stated the notice of a Public Hearing to consider the vacation of all lots in the Copper Mountain Subdivision was properly published in the Lincoln County News on December 28, 2018. Attorney Morel informed taxes owed on the property were fully paid as required for any request to vacate.

Chair Stone requested public comment:

Kevin Fleharty, nearby property owner discussed concerns about the transition of the land use in the Copper Mountain Subdivision. Mr. Fleharty stated he had recently learned the property would become the location for materials dredged from Bonito Lake which included heavy metals. Mr. Fleharty discussed the possibility of toxic materials leaching into the watershed.

Charles Nesbitt, also a nearby property owner, informed he had a background in toxic waste management and expressed his concerns about the potential toxicity of the dredged materials. Mr. Nesbitt questioned if the City of Alamogordo had conducted tests on the materials. Mr. Nesbitt stated Lincoln County should request certain tests for toxic materials for the protection of residents over future years.

Commissioner Draper questioned if Lincoln County had the authority to intervene in the Bonito Lake matter. Commissioner Draper suggested the City of Alamogordo as the owner of Bonito Lake should provide more information to the public.

Commissioner Stewart stated he also had concerns about the possible toxicity of the dredged material and suggested interested parties contact the Water Quality Bureau.

Attorney Morel stated as per Section 8.3.4 of the Lincoln County Subdivision Ordinance: "In approving the vacation of all or a part of a final plat, the Board of County Commissioners shall determine whether or not the vacation will adversely affect the interest of person on contiguous

land or persons within the subdivision being vacated. In approving the vacation of all or a portion of the plat, the Board of County Commissioners may require that streets dedicated to the County in the original plat continue to be dedicated to the County."

Attorney Morel stated the Subdivision Ordinance language relates to roads and utilities only and does not address the transfer of water or the possible use of the land for the storage of the dredged materials. Attorney Morel stated belief these were two separate issues and Lincoln County had only the authority to consider granting the vacation of the plat at Copper Mountain.

Commissioner Stewart clarified the two issues being discussed were the request for vacation of a subdivision plat and the future of Bonito Lake and the dredged waste.

John Underwood, Attorney for the owner Lynn Stokes concurred the discussion was of two separate issues and concurred Lincoln County was obligated to consider the vacation under the requirements of the Subdivision Ordinance. Mr. Underwood informed his client Mr. Stokes had received all necessary environmental permits and followed all applicable regulations when he contracted with the City of Alamogordo to accept the dredged material on the property.

Chair Stone stated appreciation for the public comments and informed the Board of County Commissioners did "have eyes on" the issue of the dredged material disposal.

Chair Stone recessed the Public Hearing and reconvened the Regular Meeting at 1:33 PM.

Motion: Approve the vacation of the Copper Mountain Subdivision Plat, **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.

23. Signing of Official Documents

24. Next meetings:

- a. February 13, 2018 Regular Commission Meeting

25. Adjourn

There being no further business to come before the Board of County Commissioners, Chair Stone adjourned the meeting at 1:34 PM

County of Lincoln
Board of County Commissioners


Preston Stone, Chair


Dallas Draper, Vice Chair


Elaine Allen, Member


Thomas F Stewart, Member


F Lynn Willard, Member

ATTEST:


Rhonda Burrows, County Clerk

February 13, 2018
Date Approved

