

# COUNTY OF LINCOLN

## New Mexico Regular Meeting Board of County Commissioners

Preston Stone, Chair  
Dallas Draper, Vice Chair

Thomas F. Stewart, Member  
Elaine Allen, Member  
Lynn Willard, Member

### Minutes Tuesday, October 16, 2018

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on October 16, 2018 in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico.

#### 1. Call to Order

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

#### 2. Roll Call

##### Roll Call.

**Present:** Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

**Absent:** Chair Stone.

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

#### 3. Invocation

The invocation was presented by Chair 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 = 4).

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

#### 6. Approval of Minutes:

September 18, 2018 – Regular Commission Meeting

September 24, 2018 – Special Commission Meeting

**Motion:** Approve the minutes of the September 18, 2018 Regular Meeting and the September 24, 2018 Special Meeting, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

**Vote:** Motion carried by unanimous vote (**summary:** Yes = 4).

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

#### 7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month ending August 31, 2018
- c. Approval or Disapproval of Safety Net Care Pool and Indigent Health Care Claims
- d. Community Development Block Grant (CDBG) Annual Requirements:
  - i. Approve Resolution 2018-13 Purchasing Policy Repealing Resolution 2017-20

- ii. Approve Resolution 2018-14 CDBG Policies and Certifications Repealing 2017-21
- e. Partnership Agreement between the Public Regulation Commission, State Fire Marshall Division and Local Government Operating New Mexico Certified Fire Departments

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

**Vote:** Motion carried by unanimous vote (summary: Yes = 4).

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

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

## **8. Forest, Land and Natural Resources Matters:**

- a. Fort Stanton and Lincoln Historic Site

Nita Taylor, Manager informed Tim Roberts was unable to attend the meeting.

- b. Smokey Bear Ranger District

Ms. Taylor stated Ranger Canfield was unable to attend but had provided a written update on current Smokey Bear Ranger District activities.

- c. Cibola National Forest

Ms. Taylor provided copies of comments on the Cibola National Forest Preliminary Draft Plan submitted by the Mountainair Ranger District permittees and the Claunch-Pinto Soil and Water Conservation District.

- d. South Central Mountain RC and D

Rick Merrick, Community Forester discussed the upcoming New Mexico Wood Industry Summit noting speakers were scheduled from across the timber industry. Mr. Merrick stated there were events scheduled for local students and admission was free.

Mr. Merrick commented on the grant awarded by the New Mexico Counties to South Central RC and D to update the Community Wildfire Protection Plan. Mr. Merrick stated an initial meeting of stakeholders was held and public meetings were scheduled to seek public input.

Mr. Merrick stated the 2019 Lincoln County cost share program was near completion for the current funding cycle. Mr. Merrick stated South Central RC and D in conjunction with the Upper Hondo Soil and Water Conservation District received additional funding to assist with thinning projects on private land.

- e. Upper Hondo Soil and Water Conservation District

Ms. Taylor stated Laura Johnson, Program Director was unable to attend but had provided a copy of the minutes of the District's October Board Meeting.

- f. LANRAC – Comments to Forest Plans

- i. Cibola National Forest Draft Revised Management Plan and Draft Environmental Impact Statement
- ii. Lincoln National Forest Draft Assessment Plan

Ms. Taylor informed Robert Barber, Chair was unable to attend today's meeting. Ms. Taylor stated Mr. Barber had provided comments on the Lincoln National Forest Draft Assessment Plan which were developed by the Land and Natural Resources Advisory Committee. Ms. Taylor supported the comments and stated she would submit them to the US Forest Service on behalf of LANRAC and Lincoln County.

## **12. Replacement Hospital Update**

Todd Oberheau, CEO for Lincoln County Medical Center stated construction on the new hospital was progressing but there were some delays due to rain. Mr. Oberheau also stated parking for employees and patients during construction continued to be a challenge.

Commissioner Stewart questioned if employees were able to utilize parking space at the Horton Complex.

Mr. Oberheau stated the Village of Ruidoso offered parking at the Horton Complex at no charge but this site presented challenges as people had to cross Sudderth Drive.

Commissioner Stewart suggested approaching the State of NM Department of Transportation (DOT) with a request to establish a permanent "hospital zone" in this area of Sudderth Drive to reduce speed.

Mr. Oberheau informed the DOT was currently conducting a traffic study from the intersection of Highway 70 and Highway 48 up through the hospital area. Mr. Oberheau recommended Lincoln County and the Village of Ruidoso meet with the DOT after completion of the traffic study to consider options to address traffic safety.

Commissioner Willard questioned if there was parking available at Nob Hill School site.

Mr. Oberheau stated hospital employees have partial access to the parking at Nob Hill School under a past agreement but the use of any additional parking would carry a cost.

There was general consensus to have the Manager draft a letter to the Ruidoso Municipal School District requesting the use of additional space at the Nob Hill School without cost.

Mr. Oberheau informed on a fundraising event featuring Hall of Fame Quarterback Jim Kelly as speaker. Mr. Oberheau stated the event was well attended and he anticipated providing a check towards the cost of the new hospital construction. Mr. Oberheau thanked James and Nita Taylor for providing two elk permits in exchange for Mr. Kelly's attendance at the event.

**13. Award of RFP 18-19-004 Building Commissioning Services for the Lincoln County Medical Center Replacement Hospital Project**

Ms. Taylor reported five contractors responded to the RFP as follows:

MEP Commissioning	\$ 64,819
Engineering Economics, Inc.	\$ 65,020
Bath Commissioning	\$ 82,200
Bernhard TME	\$103,078.13
Vibrantcy	\$121.038

Ms. Taylor stated Jim Klein, Owner's Representative for Lincoln County for the project was familiar with MEP Commissioning and expressed a high level of confidence in their performance.

**Motion:** Award RFP 18-19-004 to MEP Commissioning, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

**Vote:** Motion carried by unanimous vote (summary: Yes = 4).

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

**14. Presentation / Discussion of Drainage Problems Caused by Adjacent Landowner on Carrizo Canyon Road - Mr. Hoyt Graham**

Ms. Taylor stated Mr. Graham was present to discuss a drainage problem initiated by an adjacent landowner in the Carrizo Canyon area. Ms. Taylor noted Mr. Graham's property was within the Village of Ruidoso but the adjacent property was located in Lincoln County.

Mr. Hoyt Graham resident of Carrizo Canyon for twenty five years, discussed ongoing drainage problems created by an adjacent landowner's dirt excavating and road work. Mr. Graham stated over the past fifteen years he had utilized his own equipment to remove mud from his and his neighbors' property as well as to build retaining walls. Mr. Graham stated during the past summer mud flowed downward from the property in question causing one neighbor to leave their home.

Mr. Graham stated he had requested assistance from the Village of Ruidoso but they had referred him to Lincoln County due to the location of the problem. Mr. Graham questioned if the land owner in question had obtained proper permits to install a dam, retain water in a pond and remove vegetation. Mr. Graham expressed concern about potential damage if the dam were to fail. Mr. Graham stated these drainage problems had effected a lot of people in Carrizo Canyon and had led to some owners selling and leaving the area.

Attorney Morel informed of a potential conflict interest stating he had represented Mr. Bunsen the owner of the property in question in a boundary dispute years ago.

Attorney Morel stated Mr. Bunsen had acquired the property and subsequently created several splits through family claims of exemption. Attorney Morel expressed belief a local contractor had recently purchased one or more of the parcels. Attorney Morel noted it was illegal to create a drainage through someone else's property but suggested the issue could require a civil court complaint. Mr. Morel offered to discuss the situation with Mr. Bunsen and Mr. Marquez.

Chair Draper questioned if the group of people affected had considered legal action.

Mr. Graham stated understanding past lawsuits had resulted in favorable decisions but no actual resolution of the problem.

Jeff Honeycutt, Road Superintendent stated the Village of Ruidoso maintained certain portions and Lincoln County maintained other portions of roads in the area.

There was a general consensus to request the County Attorney write a letter to the Village of Ruidoso regarding options available to address this issue.

Commissioner Willard suggested contacting the State Engineer to request a review of the property owner's dam and retained water.

Commissioner Stewart suggested Lincoln County research the history of road ownership in the area.

Mr. Graham stated any assistance would help not only him but all of the area residents who incur damage when it rains.

#### **9. Recognition and Memorialization of Hondo Fire Chief Andy Coleman – Fallen Firefighter**

Nita Taylor, County Manager reminded Andy Coleman, long time Lincoln County resident, firefighter, and emergency medical first responder passed away on September 13, 2018. Ms. Taylor stated Lincoln County wished to recognize and memorialize Andy Coleman for his dedication and passion for the County of Lincoln and for all whose lives he impacted.

Joe Kenmore read the formal Recognition and Memorialization of Andrew "Andy" Franklin Coleman, Fallen Firefighter for consideration and presentation to Mr. Coleman's family.

**Motion:** Approve the Proclamation recognizing and memorializing Hondo Fire Chief Andy Coleman, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

**Vote:** Motion carried by unanimous vote (summary: Yes = 4).

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

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

Commissioner Stewart reported he would attend one final Joint Land Use Study meeting on November 14, 2018 to conclude the grant funded study.

Commissioner Allen reported she attended the fund raising event for Lincoln County Medical Center. Commissioner Allen complimented Todd Oberheau, CEO of LCMC and his staff for coordinating the well-attended event.

Rhonda Burrows, Clerk informed her office began mailing out Absentee Ballots on October 9, 2018. Ms. Burrows stated the Early Vote site in Ruidoso would open on October 20, 2018 and in Carrizozo on October 22, 2018. Ms. Burrows encouraged residents to vote and discussed the importance of a high turnout within the County.

Beverly Calaway, Treasurer informed her office mailed out the 2018 Property Tax Bills on October 15, 2018. Ms. Calaway reported bills were sent for 30,568 parcels with a total billing of \$31,887,929.34 in property taxes. Ms. Calaway provided her annual charts and graphs reflecting debt service obligation by district, total property tax billing by district; and tax data for municipalities. Ms. Calaway also provided demographic information reflecting the number of parcels associated with individual areas within Lincoln County.

Walter Hill, Assessor stated the Assessor's office was working on spatial data adjustments utilizing aerial imaging to more accurately map property descriptions and boundaries for the Assessor's parcel map.

Mr. Hill recognized employees George Vega, Jessie Samora, and Phil Hill who recently received full certification as State of New Mexico Appraisers. Mr. Hill commented on the numerous classes and testing required to obtain this important certification.

Robert Shepperd, Sheriff stated at the recent New Mexico Counties (NMC) Board of Directors meeting the Board voted to increase dues and conference fees. Sheriff Shepperd stated the Board also voted to renew the contract of Steve Kopelman, Executive Director with a raise. Sheriff Shepperd stated he voted to oppose both motions due to financial conditions in some counties.

Sheriff Shepperd stated he was currently serving on a NMC committee to consider the effects of the potential legalization of marijuana. Sheriff Sheppard discussed the challenges associated with the widespread use of marijuana including the need to certify officers for driving under the influence. Sheriff Shepperd supported the use of any potential revenues realized for treatment of associated health care and substance abuse issues.

Chair Draper stated he, Director of Emergency Services Joe Kenmore, and Undersheriff Mike Wood recently attended a school safety preparedness meeting at the Corona Schools. Chair Draper stated the meeting was well attended and during discussions he committed the County of Lincoln to consideration of placement of a full time deputy in the area.

Chair Draper stated he attended the Southeastern New Mexico Economic Development District meeting for the announcement of Community Development Block Grant (CDBG) funding including the award of CDBG grant funding for the Hondo Senior Center. Chair Draper also stated the CHANGE committee was sponsoring an upcoming Drug Take Back Day.

#### **15. Update on Discussions with Pattern Energy - Mesa Canyons Wind Farm**

Ms. Taylor stated recent discussions with Pattern Energy regarding the development of the Mesa Canyons Wind Farm had revealed the process utilized by Pattern Energy for installation and operation of the wind turbines differed from the process utilized by Clean Line Energy Partners. Ms. Taylor provided a detailed timeline of events beginning with the approval of Clean Line Energy's Wind Energy Conversion System (WECS) Application during the August 2017 Regular Commission Meeting.

Ms. Taylor stated during the Regular Meeting of May 15, 2018 the Board of County Commissioners approved a split for the Payment in Lieu of Taxes (PILOT) with the Corona School District based on an equal percentage of potential revenue. Ms. Taylor stated during the August 2018 Regular Meeting the Board of County Commissioners adopted Resolution 2018-9 which modified the initial inducement Resolution to include PILOT payments to both the Corona and Carrizozo School Districts and to express intent to issue bonds for the financing of the project with Pattern Energy as the designated developer. Ms. Taylor stated Resolution 2018-9 had defined the payment distribution as a percentage split.

Ms. Taylor stated Pattern Energy subsequently proposed a different approach for PILOT payments based on a constant payment from commencement throughout the projects thirty year life span. Ms. Taylor suggested the reconsideration of the initial PILOT disbursement decision to allow Pattern to present a revised proposal during the November Regular Meeting. Ms. Taylor also provided an email from Pattern Energy supporting the reconsideration of the initial decision for PILOT disbursements.

**Motion:** Reconsider the PILOT terms during the November 21, 2018 Regular Meeting, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Commissioner Stewart supported the reconsideration of terms based on the need to include the Carrizozo School District. Commissioner Stewart stated Lincoln County should emphasize any negotiations were between Lincoln County and Pattern Energy and recommended advising Pattern not to contact or enter into negotiations with the School Districts.

**Vote:** Motion carried by unanimous vote (summary: Yes = 4).

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

Attorney Morel stated he and the County Manager would provide a presentation on the topic during the November Regular Meeting.

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

- a. Resolution 2018-15 Amending 2016-49 CAP Local Government Road Program
- b. Resolution 2018-16 Amending 2016-50 Cooperative Agreement
- c. Resolution 2018-17 Amending 2016-48 School Bus Route Project

Ms. Taylor informed the Resolutions as presented would amend prior Resolutions adopted to define the expenditure of State funding. Ms. Taylor stated the Local Government Road Fund Program allowed for the amended scope of work to utilize unexpended funds from the initial projects.

Jeff Honeycutt, Road Superintendent stated the original allocation of funding was dedicated to paving portions of Gavilan Canyon Road. Mr. Honeycutt stated after completion of the project \$23,000 in funding remained for utilization on other projects. Mr. Honeycutt recommended utilizing the funding to finish work on Arrowhead Road which was previously partially paved.

**Motion:** Adopt Resolution 2018-15, Resolution 2018-16, and Resolution 2018-17; **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Commissioner Stewart discussed the need for an additional lane for traffic merging from Gavilan Canyon Road onto Highway 48. Commissioner Stewart questioned if this was an appropriate request for funding from the Local Government Road Program.

Mr. Honeycutt stated the intersection in question was within the State of New Mexico's right of way and offered to speak with the Department of Transportation District II Engineer about the suggestion.

Commissioner Draper questioned Lincoln County's responsibility for Arrowhead Road noting property in this area was previously annexed by the City of Ruidoso Downs.

Mr. Honeycutt stated he would research the question but reminded Lincoln County had paved the roads in this area before.

Robert Shepperd, Sheriff stated although the City of Ruidoso Downs had annexed a narrow strip of property along Highway 70, he believed the area in question was still within Lincoln County.

**Vote:** Motion carried by unanimous vote (summary: Yes = 4).

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

**EXHIBIT B:** Copies of Resolution 2018-15; Resolution 2018-16, and Resolution 2018-17 are attached hereto in reference thereto made a part hereof.

## **12. Replacement Hospital Update**

Mike McDonald, Project Manager and Ernesto Rodriguez, Senior Project Superintendent discussed current construction including the erection of the retaining wall and installation of footings. Mr. McDonald discussed recent rains and weather delays which are documented as part of the Jaynes reporting process. Mr. McDonald stated the project was currently seventeen days behind schedule but reminded project supervisors try to adjust scheduled events to accommodate weather and other events.

Ms. Taylor provided a Jaynes "six week look ahead" schedule of events for continued site development including the installation of the main gas service and water lines. Ms. Taylor also provided monthly finance reports of expenditures, pending payments, and current construction funding balances.

Ms. Taylor informed on Change Order No. 001 which included the cost of the ATS manual bypass switches and the underground sewer solutions. Ms. Taylor stated the total cost of the change order was \$91,241.08 expended from the Owner's Contingency of \$850,000.

## **11. Consideration and Approval of Z-Trans Agreement for Provisioning of Public Transportation in Lincoln County**

Ms. Taylor reminded of prior discussions and presentations from Z-Trans regarding proposals to provide public transportation services in the unincorporated areas of Lincoln County. Ms. Taylor further reminded the Board of County Commissioners approved the expenditure of \$40,000 for a one year trial of services for Fiscal Year 2018-2019. Ms. Taylor stated Z-Trans was working to establish routes for service and planned to begin operations no later than November 5, 2018.



Ms. Taylor provided a copy of a draft contract with Z-Trans and a memorandum from Alan Morel, County Attorney proposing modifications to the contract.

Joe Hardin, representing Z-Tans stated the organization was in agreement with all recommended changes to the memorandum with Lincoln County. Mr. Hardin stated next steps included meeting with the Department of Transportation (DOT) to review the proposed stops for DOT approval prior to initiating service. Mr. Hardin stated the current route proposal included weekly routes to Capitan, Hondo and other areas of Lincoln County. Mr. Hardin stated additionally Z-Trans needed to obtain title to the vehicles from the prior operator and publicize routes.

Attorney Morel detailed recommended changes to the agreement including the addition of the final route plans as exhibits; modifying language from "up to three routes daily" to a definitive number such as a minimum of two routes; adjustments to language related to the payment process; a requirement for monthly reports versus quarterly reports; and a inclusion of a thirty day termination clause. Attorney Morel also questioned Mr. Hardin as to the appropriate start date for the agreement.

Mr. Hardin stated belief operations would begin on November 5, 2018. Mr. Hardin stated he was working to comply with DOT regulations and seeking permissions from local business entities for pickup and return sites. Mr. Hardin stated established routes were run minimally twice daily for the pickup and return of passengers. Mr. Hardin reminded Z-Trans does not bill for routes not run due to weather or other circumstances.

Commissioner Allen questioned the end date of the contract given as September 30, 2018.

Mr. Hardin stated the agreement was set to expire at the end of the Federal Fiscal Year due to the federal funding involved.

**Motion:** Approve the contract incorporating changes recommended by the Manager and Attorney, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

**Vote:** Motion passed (summary: Yes = 3, No = 1).

**Yes:** Chair Draper, Commissioner Allen, Commissioner Willard.

**No:** Commissioner Stewart.

Chair Draper recessed the Regular Meeting at 10:27 AM and reconvened at 10:42 AM.

**17. Consideration and Approval of Lincoln County Road Review Committee Recommendation to Abandon a Portion of County Road E034 aka Mutt Shanks Road**

Attorney Morel reminded the Board of County Commissioners assigned the Road Review Committee the task of reviewing a request for Lincoln County to abandon a portion of County Road E034 also known as Mutt Shanks Road.

Attorney Morel noted copies of the Letter of Intent, utility company approvals, deed to adjacent property, a map of the road segment in question and the legal notice of proposed action were provided to the Commissioners. Attorney Morel stated the Road Review Committee conducted an onsite review on October 11, 2018 and submitted a recommendation for approval of the request.

Attorney Morel stated belief the road segment in question was approximately 1.1 miles into the interior of private land. Attorney Morel stated the Board of County Commissioners could abandon and vacate the road segment relinquishing any and all right to any future access as requested or close the road and allow the placement of a gate to restrict access with the option to reopen in the future. Attorney Morel noted the road did not provide direct access to any federal or state land. Attorney Morel stated although there was Bureau of Land Management (BLM) land nearby there was no legal access from the end of the road through private property to the BLM parcel.

Ms. Taylor stated the recommendation to abandon and vacate this road segment also included a recommendation to issue a quitclaim deed to the land owner after payment of the assessed value. Ms. Taylor stated the road segment was 1.1 miles in length and 18 feet wide amounting to approximately 2.4 acres. Ms. Taylor stated the Assessor's office had established a valuation of \$268 per acre.

Attorney Morel stated should Lincoln County wish to transfer the property by quitclaim deed, it would require a waiver of the survey normally required.

Commissioner Stewart stated belief in the absence of knowledge of any future development, the option to close would allow Lincoln County future access if necessary and negate the need for a survey and quitclaim deed.

Chuck Schmidt, Field Manager for the BLM Roswell Field Office informed there was large track of BLM land which was relatively inaccessible about one fourth of a mile north of the current end of Mutt Shanks Road. Mr. Schmidt recommended Lincoln County retain the right to utilize the road easement in the future and expressed belief this would assist the BLM in negotiating a further easement through private land. Mr. Schmidt reiterated the road did not currently provide maintained access to BLM land.

Tate Pruitt, General Manager for Westall Ranches LLC stated the private land owner had torn down houses previously located on the road due to vandalism. Mr. Pruitt stated the land owner was requesting abandonment rather than closure to ensure the public did not have access to reduce damage and vandalism on private property. Mr. Pruitt stated abandonment would reduce the number of calls to Game and Fish and local law enforcement to deal with "road hunters".

Attorney Morel questioned if it was uncommon for BLM land to be land locked.

Mr. Schmidt stated it was not uncommon but the Department of Interior continued to seek ways to provide public access.

**Motion:** Abandon and vacate the described segment of County Road E034, waive the requirement for survey, and execute a quit claim deed for the land after payment of assessed fees, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

**Vote:** Motion passed (summary: Yes = 3, No = 1).

**Yes:** Chair Draper, Commissioner Allen, Commissioner Willard.

**No:** Commissioner Stewart.

**16. Consideration of Intergovernmental Agreement between the Administrative Office of the Courts and the County of Lincoln for Allocation of Space in District Courthouse for Magistrate Court**

Attorney Morel reminded of the prior approval of a draft agreement with the Administrative Office of the Courts (AOC) to consolidate the Carrizozo Magistrate Court into the current District Court space in the Lincoln County Courthouse in exchange for District Court facilities in Ruidoso. Ms. Taylor stated Attorney Morel was working with the Administrative Office of the Courts to fine tune the agreement.

Attorney Morel stated there was one major issue not addressed during prior discussions and approval of the agreement which was the timing of the beginning of the agreement. Attorney Morel stated belief the court facilities in Ruidoso would not be habitable for several years. Attorney Morel stated as this agreement was for an exchange of space for co-locating the Magistrate Court in the Lincoln County Courthouse the timing of these two events might not coincide for an even exchange of contractual benefits.

Attorney Morel pointed out the Administrative Office of the Courts deleted language in the third draft which acknowledged Lincoln County's lack of obligation to provide space or services for the Magistrate Courts.

There was a general consensus to reinsert this language.

Attorney Morel directed attention to the beginning date of 2018 proposed in the third draft which could bind Lincoln County to providing space for the Magistrate Court prior to any occupancy of space by the District Court in Ruidoso. Attorney Morel also noted the agreement did not define specific space requirements for the facilities in Ruidoso.

There was general consensus to establish an agreement start date tied to the actual availability and occupancy of the two facilities.

Commissioner Willard requested clarification of the language referencing "shared space".

Attorney Morel discussed language in the draft related to the provision of security for District Court facilities located in Ruidoso.

Sheriff Robert Shepperd discussed the current staffing requirements for court security by the Sheriff's Department. Sheriff Shepperd stated it was difficult to meet current security needs with the current number of deputies on staff. Sheriff Shepperd stated the relocation of some District



Court services to Ruidoso would increase demands on his department and he anticipated a need to budget for additional deputies.

Attorney Morel stated Lincoln County was required to provide security for District Court Judges regardless of location. Attorney Morel noted the option for the AOC to provide funding for additional security was not contemplated in the current drafts.

Attorney Morel stated he could draft a letter to outline all of the concerns expressed in today's discussion.

Commissioner Alan reminded the AOC had expressed a willingness to address all of Lincoln County's concerns during the initial discussion and approval of the agreement.

Attorney Morel stated belief the agreement as written would allow the Magistrate Court to locate within the District Court facilities unless or until the District Court requested additional space for District Court operations. Attorney Morel detailed other recommendations for language revisions relating to "mutual setoffs" and indemnification.

Chair Draper questioned if the agreement could address the provision of space for the District Attorney in Ruidoso and the issue of lack of public restroom access in the current District Court facility. Chair Draper reminded Chief Justice Nakamura agreed to assist with those requests.

Ms. Taylor stated after a review of the current public restroom facilities in the main Courthouse, she was concerned about the feasibility of remodeling to expand access.

Attorney Morel stated he would prepare a letter to the AOC detailing today's recommendations and requests.

**19. Request for County to take over Maintenance of Road that Provides Access to Cell Phone Tower in Hondo Valley from Norman L. Stevens Revocable Trust**

Ms. Taylor reminded Lincoln County entered into an easement and maintenance agreement for the tower located on Norman Stevens's property. Ms. Taylor stated the estate of Norman Stevens had given notice of intent to sell the property and requested Lincoln County assume maintenance for the road. Ms. Taylor stated in addition to Lincoln County Emergency Services equipment, ATT and Verizon had equipment co-located on the tower. Ms. Taylor informed Jeff Honeycutt, Road Superintendent had expressed belief his department could maintain the access road if the Board of County Commissioners wished for them to do so.

Attorney Morel stated Lincoln County had entered into a three way agreement in 2007 to collocate emergency services equipment on the 180 foot tower which was purchased by Lincoln County. Attorney Morel stated the tower was erected and utilities to the site were provide by Southwest Communications. Attorney Morel stated Mr. Stevens paid for the initial road development but Lincoln County's agreement included an annual payment to Mr. Stevens of \$2500 plus a 3% annual increase for maintenance. Attorney Morel stated Lincoln County recently issued payment to Mr. Stevens's estate to cover the maintenance fee which was in arrears due to the lack of invoicing.

Attorney Morel expressed concern about Lincoln County assuming maintenance of the road due to the potential liability presented by the terrain.

Commissioner Willard questioned why ATT and Verizon did not pay for maintenance.

Attorney Morel stated if Lincoln County intended to renegotiate the agreement it was appropriate to address the responsibilities of ATT and Verizon to co-locate equipment. Attorney Morel reiterated his opinion that Lincoln County should not pay for annual maintenance and also provide the maintenance.

Joe Kenmore, Director of the Office of Emergency Services discussed the importance of this communications tower for emergency services and law enforcement capabilities. Mr. Kenmore acknowledged the situation was problematic due to the involvement of the private land owner and private telecom firms co-locating equipment on the tower.

Commissioner Stewart stated belief Lincoln County should negotiate with ATT and Verizon to assist with maintenance in exchange for locating equipment on the County owned tower.

Ms. Taylor stated she would reach out to the owner's estate and conduct further research the issues.

**20. Prioritization of County Projects to Submit to Legislators for Capital Outlay Consideration / Approval of Capital Appropriation Project 18-C4068 for Lincoln County Detention Center**

**Motion:** Approve the ICIP changes as presented with removal of the Hondo Senior Center request, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Ms. Taylor stated after adoption of Lincoln County's Infrastructure Capital Improvement Plan (ICIP) by Resolution 2018-7 she received instructions requesting the limitation of submissions for Capital Outlay to projects which were shovel ready for the next fiscal year.

Ms. Taylor recommended the removal of the Hondo Senior Center from the ICIP as the top priority based on the CDBG award. Ms. Taylor suggested consideration of reinstating the new hospital construction project as a Capital Outlay request.

**Commissioner Stewart withdrew the motion; Commissioner Allen withdrew the second.**

There was a general discussion regarding the appropriate amount to request for the hospital project with a consensus to list the request as \$3.8 million.

Ms. Taylor suggested revisiting the prioritization of projects on the ICIP.

**Motion:** Prioritize the ICIP listing with the Expansion of the White Oaks Fire Department as the number one priority, followed by the Expansion of the Detention Center, and including the addition of the New Hospital Construction for \$3.8 million; **Action:** Approve, **Moved by** Chair Draper, **Seconded by** Commissioner Allen.

**Vote:** Motion carried by unanimous vote (summary: Yes = 4).

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

Ms. Taylor presented the Reauthorized Capital Appropriation Project 18-C4068 Agreement for approval. Ms. Taylor stated the appropriation was for \$160,000 with the current reversion date of June 30, 2018.

**Motion:** Approve the modified agreement with the Department of Finance and Administration for the Detention Center Capital Appropriation, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

**Vote:** Motion carried by unanimous vote (summary: Yes = 4).

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

**23. Budget Adjustment FY 2018-19 by Resolution 2018-18**

Ms. Taylor reminded as per New Mexico State Statute counties may request approval of adjustments to their approved budget for the fiscal year. Ms. Taylor reminded any approved adjustments were also submitted to the Department of Finance and Administration for approval.

**Motion:** Adopt Resolution 2018-18, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

**Vote:** Motion carried by unanimous vote (summary: Yes = 4).

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

**EXHIBIT C:** Copy of Resolution 2018-18 is attached hereto in reference thereto made a part hereof.

**24. Request to Issue RFPs**

- a. Plumbing Maintenance Services
- b. Heating and Air Conditioning and Preventive Maintenance Services

Ms. Taylor informed she was in discussion with Lincoln County's current provider for plumbing maintenance as well as heating and air conditioning maintenance services. Ms. Taylor stated current issues included responsiveness, reliability, and workmanship. Ms. Taylor stated the current contract was awarded in July of 2016 and under terms extended to July 2019. Ms. Taylor stated in the event she could not reach an agreement with the current provider to correct deficiencies, she was requesting authority to issue two Request for Proposals (RFPs).

**Motion:** Authorize the Manager to issue RFPs if circumstances warrant, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

**Vote:** Motion carried by unanimous vote (summary: Yes = 4).

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

Chair Draper recessed the Regular Meeting at 11:58 and reconvened at 1:00 PM.

**Commissioner Stone joined the meeting at 1:00 PM.**

Chair Draper recessed the Regular Meeting and convened the Public Hearing at 1:01 PM.

**21. 1:00 PM: Public Hearings to consider:**

**a. Public Hearing to consider an ordinance authorizing the operation of Off Highway Vehicles on paved streets or highways owned and controlled by Lincoln County by Ordinance 2018-02**

Attorney Alan Morel presented two drafts for consideration. Attorney Morel stated draft one encompassed the operation of both all-terrain vehicles (ATV) and off highway vehicles (OHV) while draft two addressed only the use of off highway vehicles.

Tim Hoyt, resident questioned the limitation on gross vehicle weight to 1750 pounds commenting four seaters were currently pushing that weight limitation. Mr. Hoyt also additionally questioned the restriction of engine displacement to one thousand cubic centimeters. Mr. Hoyt also questioned a reference to other vehicles identified by "rule of the Department of Game of Fish".

Attorney Morel stated the limitations on gross vehicle weight and engine displacement were taken directly from State Statute and as such were not subject to change. Attorney Morel stated belief the reference to Game and Fish was also included in NM State Statute.

Mr. Hoyt also questioned language restricting the riding of OHV's within two hundred yards of a residence for any riders other than the owner of the residence. Mr. Hoyt additionally questioned a restriction for utilizing OHV's only from 8:00 AM to 8:00 PM. Mr. Hoyt requested removal of these restrictions.

Attorney Morel reported the Village of Ruidoso planned to delete the restriction related hours of operation from their revised Ordinance currently under consideration and advised the Board of County Commissioners could remove this language.

Mr. Hoyt objected to the age restrictions included in the Ordinance.

Attorney Morel stated the age restrictions were also defined in NM State Statute.

James "Bubba" Brown commented on a reference to eye protection as required by the Off Highway Motor Vehicle Act. Mr. Brown stated OHV's with windshield protection should be exempt from this restriction. Mr. Brown discussed the different uses of ATV's and OHV's noting ATV's had straddle seats and OHV's had bench seating.

Chair Draper recessed the Public Hearing and reconvened the Regular Meeting at 1:13 PM.

Attorney Morel recommended deletion of language in Section 5 subsection 14 restricting operation of OHV's within two hundred feet of a residence. Attorney Morel stated additionally the Board of County Commissioners could consider deleting all of subsection 14 and thereby remove the restriction on hours of operation. Attorney Morel stated restrictions on age and eyewear protection were addressed within State Statute.

Commissioner Draper questioned if it was currently lawful to operate an ATV on county roads.

Attorney Morel stated belief there was no requirement for the adoption of an Ordinance to utilize ATV's on a dirt road.

**Motion:** Adopt Ordinance 2018-02 – Draft 2 after removal of Subsection 14 of Section 5, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Stewart.

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

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

**No:** Chair Stone.

Attorney Morel stated he would inform the Village of Ruidoso of Lincoln County's decision to restrict the type of vehicle addressed by the Lincoln County Ordinance.

**EXHIBIT D:** Copy of Ordinance 2018-02 is attached hereto in reference thereto made a part hereof.

Chair Draper recessed the Regular Meeting and convened the second Public Hearing at 1:16 PM.

**b. Public Hearing to consider Rancho Arabela Subdivision Vacation Request**

Attorney Morel stated the notice to consider vacation of the Rancho Arabela Subdivision was properly published and surrounding landowners received proper notification.

Samantha Mendez, Director of Planning and Project Management, appearing telephonically, informed the request to vacate was submitted by Charles Collins. Ms. Mendez stated Mr. Collins was the owner of Tract 1A and it was his desire to sell 25 acres of the 121.765 acre tract. Ms. Mendez stated current owners of the subdivision were Charles Collins and the Westall Ranches, LLC. Ms. Mendez stated Westall Ranches submitted a letter in support of vacating the subdivision. Ms. Mendez reported no objections to the proposed vacation were received from adjacent landowners or utility companies.

Chair Draper adjourned the Public Hearing and reconvened the Regular Meeting at 1:20 PM.

**Motion:** Vacate the Rancho Arabela Subdivision, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

**22. Manager's Report**

1. **2018 CDBG Allocation** meeting was held in Albuquerque on September 20, 2018 with Lincoln County and a number of other local government entities receiving the full funding requested. Dora Batista, SNMEDD and Manager Taylor accepted the award on behalf of Lincoln County in the amount of \$513,747.00 from Local Government Division Director Rick Lopez and Deputy Director Jolene Slown. Thanks again to the team presenting our request to the CDB Council: Commissioner Dallas Draper; Senior Center Director Renee Montes; Director of Planning and Project Management Samantha Mendez and Dora Batista, SNMEDD.
2. **2018 CDBG Implementation Workshop** is scheduled for October 16, 2018 in Albuquerque. This all-day mandatory workshop for this year's CDBG recipients will be attended by Dora Batista (SNMEDD) and Renee Montes, who will bring back information and requirements regarding the compliance steps to be taken. This will be a topic of discussion during the November Commission Meeting.
3. **CYFD:** The County timely submitted its CYFD FY20 Juvenile Continuum Grant Application on October 3, 2018. This is the first major submission since the project changed from LCJJB Board Project Coordinator to Region IX Project Coordinator, and it was a learning experience for all. We applied for exactly the same programs as the last few years, and the exact same amount of funding, \$65,471.00 although the number of participants in each program changed. The forty percent funding match is provided by the Board and includes items such as travel expense. On December 11, 2018 the Juvenile Justice Advisory Board will make a formal recommendation for grant recipients to the CYFD Secretary.
4. **Better Informed Public Official (BIPO) Conference** is scheduled to be held in Albuquerque December 4 – 6, 2018. This is an excellent conference for all public officials, as well as the Manager, as it provides a refresher on roles and responsibilities, how to deal with the media, general changes in the law, etc.
5. **Nogal Volunteer Fire Department** has expressed interest in purchasing a piece of land adjacent to its existing Main Station. The Manager provided a parcel map indicating the lots for sale and the lots the lots where the existing station is housed.

Attorney Morel informed the State Fire Marshal would not approve the use of State Fire Funds to purchase property and therefore the Nogal Fire Department had requested Lincoln County purchase the land.

Ms. Taylor informed the current property owner was seeking \$25,000 for the purchase which would include some water rights.

Mr. Kenmore suggested the best scenario was for the Nogal Fire Department to seek completion of their second station and purchase additional apparatus prior to considering the purchase of this piece of property.

6. **Hondo Volunteer Fire Department** is making progress on the construction project with the concrete pad poured this week. Contractor Roper Construction and Lincoln County also continue to identify cost savings which will not violate any code requirements or safety standards.

Manager Taylor presented a change order from Roper Construction reducing the number of HVAC units and reducing the number of lights while remaining in compliance with code requirements.

**Motion:** Approve the Change Order from Roper Construction, **Action:** Approve, **Moved by** Commissioner Stone, **Seconded by** Commissioner Allen.

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

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

#### 7. Department Head Updates:

**Billie Jo Guevara, Administrative Assistant and Human Resources Director** reported on open positions in the Senior Services Department in Corona and Carrizozo, three operator positions in the Road Department, and one Deputy Sheriff position in the Sheriff's Department. Ms. Guevara reminded of the annual open enrollment period and encouraged all employees to review their current insurance and benefit coverage. Ms. Guevara stated she attended an NMC Human Resources Affiliate meeting last week.

**Punkin Schlarb, Finance Director** stated her department was in the process of completing the second half of the annual audit. Ms. Schlarb stated the auditor recently conducted an entrance interview for the process. Ms. Schlarb reported audits of the Public Employees Retirement Association and Retiree Health Care payroll deductions were recently completed. Ms. Schlarb stated plans to attend a Department of Finance and Administration (DFA) Budget Workshop in November for a second training on the new DFA reporting process.

**Joe Kenmore, Director Office of Emergency Services** informed on his attendance at the Title V Emergency Medical Services Structure and Wildfire protection services program for Eastern New Mexico University. Mr. Kenmore stated he also served as a Communications Director during the Balloon Fiesta in Albuquerque coordinating with thirty other agencies present for the event.

Mr. Kenmore stated on October 10, 2018 his department participated in a table-top exercise with Zia Natural Gas and the Lincoln County Sheriff's Department to review a gas line breach response scenario.

Mr. Kenmore stated he was notified by the New Mexico Department of Homeland Security the cost of the tower previously approved for purchase had increased. Mr. Kenmore stated there were sufficient funds remaining from the purchase of the tower trailer to cover the increase. Mr. Kenmore stated he had recently received approval from the US Forest Service for placement of the tower.

**Jeff Honeycutt, Road Superintendent** reported on ongoing maintenance efforts stating the striping of Gavilan Canyon Road as postponed due to rain. Mr. Honeycutt stated the department was doing prep work on Musketball in Alpine Village but due to weather they would not apply the chip seal until spring.

#### 25. Authorization to File Solid Waste Liens and other Collection matters:

a. Keith Alan and Keri Sue McDaniel	\$736.94
b. Gary L. and Carole A. Caughron	\$562.32
c. James Andrew and Anita Smith	\$806.56
d. Pete M. Salas Jr. and Nancy Sanchez	\$913.10

Ms. Taylor detailed the authority to impose liens as defined by Lincoln County Solid Waste Ordinance 2017-07. Ms. Taylor noted outstanding amounts reflected billing for up to fourteen quarters of service. Ms. Taylor informed the outstanding account of Gary and Carole Caughron was paid current prior to the today's meeting.

Ms. Taylor also presented a request from the estate of a deceased property owner for a waiver of outstanding fees.



Attorney Morel reminded Lincoln County, as per the adopted Ordinance, was required to bill any habitable dwelling for solid waste fees unless defined as an exemption. Attorney Morel stated although the circumstances mentioned in the request for a waiver were unfortunate, there was no provision to grant such a request.

**Motion:** Approve the filing of liens as listed except for Gary and Carole Caughron and direct Chair Stone to sign the liens, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

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

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

## **26. Approval of Prior Year FY 17-18 Invoice – IT –Resolvers**

Ms. Taylor requested approval to process an invoice submitted by IT Resolvers for services provided to the Detention Center in the prior fiscal year. Ms. Taylor stated IT Resolvers was made aware of Lincoln County's timing requirement for year-end invoice submittal.

**Motion:** Approve the payment of the invoice, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

## **27. Consideration of Appointments and Removals from Boards/ Commissioner's Committees:**

- a. Land and Natural Resources Advisory Committee (LANRAC)
- b. Road Review Advisory Committee

**Motion:** Reappoint Mary Ann Siegel-Russ to LANRAC and reappoint Robert Barber to the Road Review Advisory Committee, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Stone.

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

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

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

No action was taken.

## **29. Renewal of County Manager Contract – Terminates November 7, 2018**

Attorney Morel informed the County Manager's current contract would expire on November 7, 2018 and it was appropriate to consider renewal. Attorney Morel reminded this was the seventh year of employment for Ms. Taylor and recommended renewal of the contract with an appropriate increase.

**Motion:** Approve the renewal of the County Manager's contract with a 2% increase, **Action:** Approve, **Moved by** Commissioner Stone, **Seconded by** Chair Draper.

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

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

**No:** Commissioner Allen.

## **30. 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.
2. **Rancho Ruidoso Valley Estates Homeowner's Association v. Diane K. Medcalf, Pioneer Bank, FSB, and the County of Lincoln, NM D-1226-CV-2017-00242** Complaint filed by RRVEHA September 12, 2017 for Foreclosure of the Homeowner's Association Assessment Lien. The County's Answer to Plaintiff's Complaint for Foreclosure was filed October 12, 2017. Plaintiff's Complaint was served upon Defendant Diane Medcalf on September 14, 2017 and upon Defendant Pioneer Bank on September 16, 2017.
3. **\*Floyd Kenneth Ryen v. Board of County Commissioners of the County of Lincoln D-1226-CV-2017-00281** Civil Complaint filed October 16, 2017 alleging violation of Article II, Section 10 of the New Mexico Constitution: Plaintiff was allegedly held in custody at LCDC for 15 days, November 10-25, 2015, also alleging paperwork to hold Plaintiff did not contain a cause number. Judge Bryant is the presiding Judge. Dismissal With Prejudice was filed September 20, 2018.
4. **\*Benny Ray Runnels v. Lincoln County D-1226-CV-2017-00328** Civil Complaint filed December 6, 2017. Plaintiff is pro se, claiming from County the amount of \$308,000.00. Summons was hand delivered by Plaintiff to County December 6, 2017. A Hearing took place February 1, 2018 on the County's Motion to Dismiss and the merits of the Defendant's Complaint at which time the Judge ruled in favor of the County and the case was Dismissed Without Prejudice. The Defendant filed an Amended Civil Complaint in the same case on February 6, 2018. A Motion to Dismiss in Lieu of Answer was filed on February 20, 2018. A Hearing was set on the Motion to Dismiss to take place on June 13, 2018 which was vacated and reset for August 29, 2018. Judge Blankinship is the presiding Judge. Order of Dismissal without Prejudice was filed August 1, 2018. The August 29, 2018 Hearing was dismissed. Plaintiff filed a new Summons-Complaint in the 12<sup>th</sup> Judicial District Court naming the County of Lincoln on September 10, 2018. The County's Motion to Dismiss was filed September 18, 2018.
5. **\*Board of County Commissioners of Lincoln County v. Roger Romero D-1226-CV-2018-00055** Complaint for Foreclosure. Complaint was filed February 20, 2018. Defendant Roger Romero filed an Answer to the Complaint asserting a Counterclaim to be filed in the U.S. District Court on April 2, 2018. Defendant George Romero filed an Answer to the Complaint on April 30, 2018 asserting a Counterclaim to be filed in the U.S. District Court. Judge Counts is the presiding Judge. May 15, 2018 – Lincoln County filed its Answer to Announcement of Counterclaims by Defendants Roger Romero and George Romero. Plaintiff's Request for Judicial Inquiry was filed June 22, 2018 and a Judicial Inquiry Hearing took place September 4, 2018.
6. **\*Roger Romero v. State of New Mexico – D-1226-CV-2018-00113 (Underlying Cases are: Board of County Commissioners of Lincoln County v. Roger Romero, D-1226-CV-2018-00055, and State of N.M. v. Roger Romero M-30-MR-2016-00142)**  
A Petition for Writ of Habeas Corpus was filed requesting that the Judgment & Sentence entered by Judge Vega in Cause No. M-30-MR-2016-00142 be vacated and set aside. George Romero's Answer to Complaint and Counterclaim was filed April 30, 2018 in Cause No. D-1226-CV-2018-00055. Judge Counts is the presiding Judge. 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.
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: 12<sup>th</sup> 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.
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.
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.
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 and 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.
13. **\*State of NM v. Faustino Salcido M-30-MR-2018-00129** 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-tobacco. The Defendant pled "Not Guilty" on August 23, 2018 to the charge. A Nolle Prosequi was filed by Attorney Morel September 25, 2018.

**Tort Claims Notices Received or Threatened**

**2018**

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

**\*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.

**Duke, Arnold** – Harrisburg Document recovery

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

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

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

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

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

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

**2017**

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

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

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

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

**Lacy, Jim and Judy** – Tort Claim Notice received May 8, 2017 from Attorney W. Chris Nedbalek alleging "...property damage and an "...unconstitutional seizure under the 4<sup>th</sup> amendment of the US Constitution and an unconstitutional 'taking' under the 5<sup>th</sup> 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**

**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.

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

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

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

Chair Draper recessed the Regular Meeting and convened the Closed Session at 1:54 PM.

Chair Draper adjourned the Closed Session and reconvened the Regular Meeting at 2:43 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.

Commissioner Stewart stated in the matter of Floyd Kenneth Ryen v. Board of County Commissioners of the County of Lincoln D-1226-CV-2017-00281 a full and final settlement was reached in the amount of \$5000 paid by Lincoln County to resolve any and all claims.

## **31. Signing of Official Documents**

## **32. Next meetings:**


- a. November 9, 2018 Special Commission Meeting – Canvass General Election
- b. November 20, 2018 Regular Commission Meeting

## **33. Adjourn**

There being no further business to come before the Board of County Commissioners, Chair Draper adjourned the meeting at 2:43 PM.

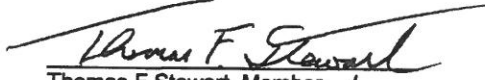
County of Lincoln  
Board of County Commissioners

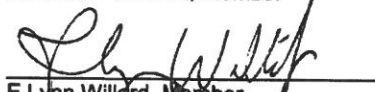
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Preston Stone, Chair

  
Dallas Draper, Vice Chair

Elaine Allen, Member

  
Thomas F Stewart, Member

  
F Lynn Willard, Member

ATTEST:

  
Rhonda Burrows, County Clerk

November 20, 2018  
Date Approved

