

## 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, June 19, 2018

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on June 19, 2018 in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico.

#### 1. Call to Order

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

#### 2. Roll Call

Roll Call.

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

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

#### 3. Invocation

The invocation was presented by Commissioner Stone.

#### 4. Pledge of Allegiance

- a. Pledge – U.S. A. Flag
- b. Salute – N.M. Flag

#### 5. Approval of Agenda

**Motion:** Acceptance of the Agenda and authorized the Chair to move items as necessary,

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

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

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

#### 6. Approval of Minutes:

- a. May 15, 2018 - Regular Commission Meeting
- b. June 8, 2018 - Special Commission Meeting

**Motion:** Approve the Minutes of the May 15, 2018 Regular Meeting and the June 8, 2018 Special Meeting, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

#### 7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/Expenditures
- b. Treasurer's Financial Report for the Month ending May 31, 2018
- c. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims

- d. Resolution 2017-45 Declaration of Fire Danger Emergency Repealing Resolution 2017-36
- e. Resolution 2017-46 Budget Adjustment FY 2017-2018
- f. Resolution 2017-49 to dispose of: Inventory Item #8706770, .8 Ton Rooftop AC Unit, by means of a Government to Government transfer to the Carrizozo Volunteer Fire Department
- g. Resolution 2017-50 Repealing 2009-01 A Resolution Allowing Temporary Vendors and Structures at Special Events in Lincoln, New Mexico
- h. Memorandum of Understanding between the Village of Ruidoso and the County of Lincoln as the Administrative Authority for Lincoln County Sheriff's Office for Driving While Intoxicated Prevention Enforcement Activities and Reimbursement of Costs

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

Commissioner Draper commented on the large balance remaining in the Deer Park Valley Paving Assessment debt service fund.

Beverly Calaway, Treasurer stated Lincoln County makes semi-annual payments on the debt service and confirmed a substantial reserve had accumulated in the fund. Ms. Calaway stated the reserve was held to ensure future payments in the event property owner's default. Ms. Calaway stated the debt service payments extended until 2025.

Commissioner Stewart suggested exploring the option for an early payment on the debt to the New Mexico Finance Authority.

Ms. Calaway informed Lincoln County previously made an early payment on this debt several years ago and stated the County could seek authorization for an additional early payment from NMFA.

**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 including Resolution 2017-45; Resolution 2017-46; Resolution 2017-49; and Resolution 2017-50 are attached hereto in reference thereto made a part hereof.

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

##### **Fort Stanton and Lincoln Historic Sites**

Tim Roberts, Site Supervisor stated the Department of Cultural Affairs approved a budget disbursement of approximately \$350,000 primarily earmarked for preservation work in Lincoln. Mr. Roberts stated architectural and engineering studies were previously completed enabling the preservation projects to move forward quickly.

Mr. Roberts reported on the opening of three new exhibits at Fort Stanton including one permanent exhibit to expand the narrative of the facilities role as a Public Health Hospital over a span of fifty four years. Mr. Roberts stated one traveling exhibit was titled "Becoming Billy" and a second traveling exhibit provided by the Japanese Citizens League of New Mexico would address Japanese internment camps within New Mexico. Mr. Roberts invited the public to attend the "San Juan Cultural Day" event at Lincoln on June 23, 2017.

##### **Smokey Bear Ranger District**

Jodi Canfield, Ranger informed the US Forest would decrease Stage II fire restrictions to Stage I based on recent moisture. Ranger Canfield stated Stage I restrictions allowed camp fires in metal grates only.

Ranger Canfield reported the District was developing contract specifications for the Ski Apache restoration project having received no objections after posting the Environmental Analysis. Ranger Canfield commented on the need for specialized equipment for logging on steep slopes.

Ranger Canfield discussed ongoing repairs and improvements to South Fork Campground. Ranger Canfield stated the District planned to clear the South Fork Trail up to the wilderness boundary with the assistance of volunteer trail crews, EcoServants, and staff. Ranger Canfield

stated the District was working with New Mexico Game and Fish to post signage in Ruidoso advising people not to feed wildlife. Ranger Canfield stated the District was also working with Laura Doth of South Central Mountain Resource Conservation and Development District to develop a collaborative working group of stakeholders to provide input on recreation and travel management planning.

Commissioner Draper questioned how Lincoln County might influence the USFS decision to decrease fire restrictions.

Ranger Canfield suggested contacting the Lincoln National Forest Supervisor.

Chair Stone questioned why the Smokey Bear Ranger District no longer had land personnel on staff locally and why this function was moved to the Regional Level.

Ranger Canfield stated the decision was likely partially based on budgetary factors. Ranger Canfield stated additionally it was difficult to maintain staff with the level of expertise needed for these particular determinations. Ranger Canfield stated the staffing change does not affect the local range program but was more relative to land exchanges and other land matters.

**South Central Mountain Resource Conservation and Development District  
(SCMRCD)**

Rick Merrick stated SCMRCD had again received a New Mexico Association of Counties grant to continue public outreach and Fire Wise Education outreach. Mr. Merrick stated he would attend the July 7, 2018 Ranches of Sonterra Homeowners Association Annual Meeting to support their efforts as a Fire Wise Community.

**State Forestry – Energy, Minerals, and Natural Resources Department**

Nick Smokovich, New Mexico State Forestry Capitan District Forester reported currently the State Forestry, Lincoln County Office of Emergency Services, and County Fire Departments had responded to thirty one fires encompassing 3,948 acres since the beginning of the calendar year. Forester Smokovich stated the associated costs were estimated as \$981,003. Forester Smokovich also reported 6 residences and 13 outbuildings were destroyed.

Forester Smokovich reported the District held \$88,964 in unexpended 2017 Wildland Urban Interface (WUI) grant funding. Forester Smokovich stated they were continuing to identify properties to utilize the funding dedicated to creating defensible space on private property within Lincoln County. Forester Smokovich stated Lincoln County was in the forefront for distributions in the next round of WUI funding. Forester Smokovich expressed a desire to work with Lincoln County's GIS department to identify the various Lincoln County Fire Districts and their response area. Forester Smokovich stated identification of the response areas would provide information regarding reimbursement when departments respond outside of their designated response area.

**Land and Natural Resources Advisory Committee (LANRAC)**

Robert Barber, Chair of LANRAC reported on his attendance at two meetings in Moriarty. Mr. Barber stated the first meeting was the Estancia Basin Watershed Health Restoration and Monitoring Project. Mr. Barber stated the topic of interest for this meeting was a Collaborative Forest Restoration Project (CFRP) grant to treat approximately 4500 acres around Corona for protection of the community's water source. Mr. Barber stated he also attended the Mountainair Collaborative Meeting for an update on the Cibola National Forest Plan Revision. Mr. Barber stated the group anticipated releasing the Draft Plan and Environmental Impact Statement for a ninety day public comment period with subsequent revisions and publication of a final draft plan. Mr. Barber stated the group anticipated implementation of the final plan in 2020.

**9. Lincoln County Medical Center**

**a. Replacement Hospital Construction Update**

Ms. Taylor reported Jaynes Corporation was holding weekly status meetings to track construction progress for the new hospital. Ms. Taylor reminded the formal start date for the project was May 17, 2018 with an anticipated completion date of January 7, 2020.

Ms. Taylor introduced Mike McDonald, Project Manager and Ernesto Rodriguez, Superintendent for Jaynes Corporation. Ms. Taylor informed Jim Klein acting as the Owner's Representative for Lincoln County was also present for the discussion.

Mike McDonald, Project Manager stated currently the project was in the demolition phase with auxiliary buildings down and crews working to remove asphalt from the construction area. Mr. McDonald stated they had encountered some unforeseen but not unexpected challenges due to the age of the site.

Commissioner Stewart questioned if Jaynes had encountered any asbestos requiring abatement and the associated costs.

Jim Klein, with DC Environmental and serving as the Owners Representative for Lincoln County, informed the removal of two buildings had necessitated asbestos abatement costing approximately \$18,000. Mr. Klein clarified the final demolition of the current hospital facility would incur the greatest cost offset for abatement.

Commissioner Willard questioned a report reflecting a ceiling height discrepancy between the model and the architectural drawings.

Mr. McDonald discussed the process of preconstruction three dimensional modeling to overlay various design drawings and identify issues prior to construction. Mr. McDonald stated subcontractors participate to ensure their designs are accurate and allow them to "prefab" some construction activities.

Commissioner Willard commented on the budgeted amount for offsite sewage allowance of \$100,000 and asked whether Jaynes anticipated utilizing all of the funding.

Mr. McDonald stated the original design indicated a sewage tie-in approximately 700 feet from the site location. Mr. McDonald stated Jaynes identified a closer tie-in location but the use of that particular "invert" would require a redesign to raise the building foundation several inches to provide a proper slope. Mr. McDonald stated the redesign would likely utilize the allocated funding but the estimated cost for the change was pending redesigned plans.

Mr. McDonald stated the project began with mobilization on May 21, 2018, demolition was currently in process, and the next step was to complete the earth work and drill for pier installation. Mr. McDonald stated Jaynes identified the need to install a retaining wall quickly and planned to complete this in advance of any heavy rains.

#### b. Lincoln County Medical Center Update

Todd Oberheau, Administrator expressed appreciation for the collaborative effort on the new construction between Jaynes, Presbyterian, and Lincoln County.

Mr. Oberheau discussed the parking problems associated with construction activities and stated Presbyterian purchased a lot on El Paso Road for additional parking. Mr. Oberheau stated they were also working with the Ruidoso School District to contract for parking space at the Nob Hill Elementary site after the school was vacated.

Mr. Oberheau discussed ongoing physician recruitment efforts and stated the community was experiencing some stress due to the retirement or relocation of independent primary care physicians. Mr. Oberheau stated one problem contributing to recruitment challenges is the Professional Office Building was completely full and so Presbyterian was working to locate some additional office space for new physicians. Mr. Oberheau discussed the potential recruitment of a general surgeon and potentially an orthopedic surgeon.

Mr. Oberheau stated Presbyterian's attorneys were reviewing the Lease Agreement for the Hondo Clinic and expressed optimism about reopening the clinic in the near future. Mr. Oberheau reported the Carrizozo Health Clinic underwent a New Mexico State Survey last month with very good results and only one small finding.

Mr. Oberheau informed the Ruidoso Altrusa Club donated over \$15,000 for the new hospital construction including some memorial donations.

Mr. Oberheau discussed Dr. Donald Wolfel's retirement after serving as staff radiologist at Lincoln County Medical Center for twenty six years. Mr. Oberheau reminded of Dr. Wolfel's extensive involvement with free or reduced cost mammogram programs during his tenure and of his generous contributions to the Lincoln County Medical Center Foundation.

Commissioner Allen recommended Lincoln County name the new Imaging Center in honor of Donald Wolfel, M.D. by formal ceremony during the July Regular Meeting. There was a general consensus of agreement.



### 13. 9:30 AM: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS

Commissioner Stewart stated he continued to attend weekly Joint Land Use Study (JLUS) Group teleconferences working on a Project Continuity Plan. Commissioner Stewart stated the JLUS website was active and he requested the County Manager post the link on Lincoln County's website. Commissioner Stewart stated the website provides a direct link for the public to share comments with military basis about noise complaints, a tool to convert mapping coordinates to pinpoint activities; and a land use and energy planning tool.

Commissioner Stewart reported he was invited in his capacity of Honorary Commander to attend a Change of Command Ceremony at Holloman Air Force Base on July 6, 2018.

Commissioner Allen informed artist Peter Rodgers, resident of San Patricio, recently passed away. Commissioner Allen stated Mr. Rodgers was born in London in 1933 and was married to Carol Hurd Rodgers the daughter of famous local artist Peter Hurd.

Commissioner Draper stated he attended another school preparedness meeting along with the Lincoln County Sheriff and Undersheriff. Commissioner Draper stated there were multiple law enforcement agencies presentation as well as representation from the Mescalero Tribe. Commissioner Draper stated an additional meeting was set for early July to conduct training and planning exercises to address schools safety.

Commissioner Willard informed he recently attended a 4-H Horse School in Albuquerque which was a four day event. Commissioner Willard expressed appreciation for the quality of the 4-H program and for the performance of Lincoln County 4-H members.

Commissioner Willard also reported on a joint transportation meeting in Ruidoso with Ztrans. Commissioner Willard stated Ztrans discussed plans to acquire scheduled transportation stops in Lincoln County outside of Ruidoso and Ruidoso Downs.

Rhonda Burrows, Lincoln County Clerk stated her office was waiting for the State Canvassing Board to convene and order the recount of the Public Regulatory Commission District 5 Primary Election race. Ms. Burrows stated the recount was tentatively scheduled for June 28, 2018. Ms. Burrows informed the Board of County Commissioners was not required to convene and canvass the recount results as the Precinct Board would certify the results of their recount prior to reporting results to the Secretary of State's Office.

Beverly Calaway, Treasurer reported the New Mexico Property Tax Division Title Examiners had researched a list of 150 property tax accounts delinquent three years or more. Ms. Calaway stated PTD resolved all but 50 of these outstanding accounts and anticipated PTD would conduct a Delinquent Property Tax Sale in August of this year.

Ms. Calaway stated Lincoln County had not yet received the Payment in Lieu of Taxes from the Federal Government but the Treasurer's Office would continue to monitor the Department's website for distributions.

Ms. Calaway responding to a prior question, informed the Deer Park Paving Assessment District originally consisted of 238 properties. Ms. Calaway stated 34 owners paid the assessment in full Utilizing the "cash pay without interest" option. Ms. Calaway stated as of June 5, 2018 there were 71 properties with outstanding assessment fees due of which 21 were delinquent. Ms. Calaway stated 3 properties were currently on the 2018 Delinquent Tax Sale list and 3 more were on the 2019 sale list.

Walter Hill, Assessor recognized Marilyn Chewing who was retiring on July 1, 2018 after thirteen years with the Assessor's Office. Mr. Hill presented Ms. Chewing with a plaque acknowledging her hard work and dedication during her employment with Lincoln County and thanked her for her service.

Commissioner Stewart commented on Lincoln County's current consideration of joining litigation to address the opioid crisis and reported the National Association of Counties was hosting a teleconference regarding potential litigation addressing Payment in Lieu of Taxes (PILT) payment shortfalls.

### 8. Historical Sites, Forest, Land and Natural Resources Matters (continued)

Upper Hondo Soil and Water Conservation District

Laura Johnson, Program Director informed treatments conducted through the Cooperative Weed Management Program utilizing Lincoln County funding covered more than 1,363 acres and 337 miles of right of ways. Ms. Johnson stated additionally the Upper Hondo in cooperation with the Bureau of Land Management (BLM) treated four separate BLM tracts for invasive species. Ms. Johnson stated the Upper Hondo District recently received an additional \$13,000 from the Department of Agriculture to fund treatment of twelve acres on the river.

Ms. Johnson stated the District also utilized Water Trust Board funding for significant treatments of poison hemlock on the Rio Bonito and additional cooperative projects with the US Forest Service and New Mexico State Forestry. Ms. Johnson stated the Upper Hondo District also had vinegar available for thistle treatment in Ruidoso and Ruidoso Downs. Ms. Johnson reminded all treatment areas were mapped and available for review through interactive map programs on the Upper Hondo Soil and Water Conservation District website.

#### **9. Lincoln County Medical Center**

Ms. Taylor stated Lincoln County received two bids for the RFP 17-18-006 for Materials Testing and Inspections. Ms. Taylor stated after reviewing the bids with the assistance of Mr. Klein, it was determined both bids were non-responsive. Ms. Taylor stated subsequently the terms of the Request for Proposal were clarified and Lincoln County would post and publish the RFP on June 21, 2018. Ms. Taylor stated the timeline associated with the second issuance would allow for an award to the low bidder on July 2, 2017 necessitating either a delegation of authority to grant the award to the Manager or setting a Special Meeting. Ms. Taylor stated the architect estimated the cost for this task was \$125,000.

**Motion:** Grant authority for the Manager to award the bid for RFP 17-18-006 for costs not to exceed \$125,000; **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

#### **10. Approval of Resolution No. 2017-47 Authorizing the Execution and Delivery of a Loan Agreement and Intercept Agreement By and Between Lincoln County, New Mexico and the New Mexico Finance Authority Evidencing a Special, Limited Obligation of Lincoln County to Pay a Principal Amount Not to Exceed \$461,904 for the Purpose of Financing the Costs of Erection and Interior Buildout of a Prefabricated Building. NMFA Fire Protection Fund Loan – PPRF No. 4741 – Hondo Valley Volunteer Fire Department.**

Ms. Taylor reminded during the Regular Meeting of April 2018 Resolution 2017-34 was adopted authorizing and approving the submission of an application for financial assistance to the New Mexico Finance Authority for the construction of the Hondo Volunteer Fire Station. Ms. Taylor presented Resolution 2017-47 for authorization and execution of the loan agreement and intercept agreement.

Ms. Taylor stated Roper Construction began work on May 29, 2018. Ms. Taylor stated in addition to the loan presented today other funding for the project included a \$205,012 Capital Appropriation Grant and \$141,439 in Hondo Fire State Allotment Fire Funds.

**Motion:** Adopt Resolution 2017-47, **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 2017-47 is attached hereto in reference thereto made a part hereof.

#### **11. Approval of Resolution 2017-48 2018 Multi-Jurisdictional Hazard Mitigation Plan**

Ms. Taylor stated the first Lincoln County All Hazard Mitigation Plan was prepared and approved by the Federal Emergency Management Agency (FEMA) in April of 2012. Ms. Taylor stated congressional regulations required a full plan update and re-approval by FEMA every five years. Ms. Taylor stated partners for this updated Multi-Jurisdictional Hazard Mitigation Plan included the Village of Ruidoso, City of Ruidoso Downs, Town of Carrizozo, Village of Capitan and the Village of Corona. Ms. Taylor expressed appreciation for the Village of Ruidoso serving as the lead agency for this planning effort.

**Motion:** Adopt Resolution 2017-48 with revisions to reflect personnel changes, **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 2017-48 is attached hereto in reference thereto made a part hereof.

**12. Approval of Subcontractor Agreement between the County of Lincoln and Region IX Education Cooperative JJAC Continuum and Compliance Monitoring Agreement**

Ms. Taylor reminded Lincoln County had served as the fiscal agent in past years for the New Mexico Children, Youth and Families (CYFD) grant funds to improve the juvenile justice system within Lincoln County. Ms. Taylor stated traditionally Lincoln County entered into a sub-contract agreement for the provision of services based on the Scope of Work provided by CYFD. Ms. Taylor informed Region IX Education Cooperative was identified as a single source provider for these services.

**Motion:** Approve the Subcontractor Agreement between the County of Lincoln and Region IX, **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.

**14. SunZia Transmission LLC Project Update: Including Application to the Public Regulation Commission Location Control Permit**

John Ryan with the SunZia Transmission Project provided a brief summary of the SunZia Project. Mr. Ryan discussed the ten year plan for the five hundred and twenty mile independent transmission project to move power from New Mexico to Arizona. Mr. Ryan stated the project was undertaken to enable renewable wind energy development in the central counties of New Mexico. Mr. Ryan stated prices for wind energy were competitive with other energy resources and there was a significant market in California where utility companies had high renewable energy quotas.

Mr. Ryan stated SunZia had obtained a Declaratory Order from Federal Energy Rate Commission (FERC) in to enter into a negotiated rate authority with Pattern Energy. Mr. Ryan stated the Western Energy Coordinating Council (WECC) was the organization tasked with monitoring the energy grid for reliability. Mr. Ryan stated WECC reconfirmed their prior ruling to grant SunZia an "Accepted Rating" of 3,000 Megawatts in January of 2015.

Mr. Ryan stated the company was working on a Plan of Development with the Bureau of Land Management. Mr. Ryan stated the Plan of Development would detail Sun Zia's construction plans, operations and maintenance plans, and mitigation plans and confirm environmental concerns were addressed prior to construction in 2019. Mr. Ryan stated the project goal was to begin commercial operations by 2020.

Mr. Ryan stated SunZia spent approximately \$85 million to date to complete federal requirements including the NEPA process; the Arizona Siting Permit; the WECC permitting process; and the selection of Pattern Energy as the anchor tenant. Mr. Ryan stated SunZia anticipated expenditure of \$850 million to complete construction of the first transmission line. Mr. Ryan provided a map illustrating land ownership along the route as federal, state, or private property.

Commissioner Stewart questioned if there was any current consideration of an alternate route to address the impact of the transmission line on the White Sands Missile Range.

Mr. Ryan stated SunZia was focused on continuing the project as designed and approved by the Federal Government in the interest of moving the project forward as efficiently as possible.

Commissioner Stewart questioned if there were plans to exercise eminent domain authority to obtain rights of way. Commissioner Stewart reminded Lincoln County had previously adopted a Resolution opposing the use of eminent domain.

Mr. Ryan stated SunZia preferred to obtain rights of way without the use of eminent domain authority and stated currently the company had executed agreements with 80% of the affected land owners.

Chair stone stated personal knowledge of a landowner's receipt of notice to either execute a contract for a right of way or face acquisition through the eminent domain process.

Mr. Ryan commented on specific agreements being individual to each owner and stated SunZia was working to secure rights of way without exercising eminent domain authority. Mr. Ryan stated he personally believed in the sanctity of private property rights.

There was a general discussion of the eminent domain process and the authority of the Renewable Transmission Authority to obtain rights of way for utilities.

Mike Holguin with SunZia spoke about the Public Regulation Commission (PRC) permitting process. Mr. Holguin stated SunZia submitted an application to the PRC in March of this year initiating a timeline of events during which parties who wished to intervene were able to file testimony with the PRC. Mr. Holguin stated the PRC Hearing to consider the application began on June 13, 2018 and concluded today. Mr. Holguin stated the PRC Hearing Officer would compile all testimony provided and the PRC would issue a ruling in September of this year.

Chair Stone questioned if any intervenors filed during the hearing and if so how many.

Mr. Holguin confirmed there were five or six intervenors in the case.

#### 15. Pattern Energy Group Update:

##### a. Pattern's Acquisition of Mesa Canyons Wind Farm and Western Spirit Transmission Line from Clean Line Energy Partners;

Crystal Coffman, Manager of Project Development provided an update on Pattern's recent acquisition of the Clean Line Energy Projects. Ms. Coffman provided a map of private land parcels targeted for wind energy development within Torrance, Guadalupe, and Lincoln County for wind energy farms. Ms. Coffman clarified Pattern held options to lease the designated parcels.

Ms. Coffman also discussed the acquisition of the Western Spirit Transmission Line noting the line had a smaller transmission capability than the planned SunZia Transmission Line. Ms. Coffman stated the Western Spirit Transmission Line provided delivery access to additional utility purchasers. Ms. Coffman stated the combination of these various projects would create a cumulative effect combining Clean Line's projects and permits with Pattern's plan of development for SunZia.

Commissioner Stewart commented the issue of concern to him was not one of capacity but one of right of way. Commissioner Stewart expressed belief it was a practical solution to utilize the Clean Line Western Spirit Transmission Line to transmit energy from the planned wind farms and thereby avoid impacting the military operations in the area.

Ms. Coffman pointed out the Western Spirit Transmission Line does not have the capacity to transmit the estimated capacity of all of the planned wind farm developments in the area. Ms. Coffman stated the anticipated output would maximize the Western Spirit Transmission Line and the SunZia Transmission Line capacity perhaps necessitating a third line. Ms. Coffman also noted the size of the rights of way were affected by the transmission capacity of each line.

##### b. General status and permitting update for the Corona Wind Companies and Mesa Canyons

Ms. Coffman reported on the projects initiated by Pattern Energy providing a map of the SunZia route and associated wind farm parcels. Ms. Coffman stated Pattern was in the process of completing of the Wind Energy Conversion Systems (WECs) Application for submission to Lincoln County and an additional application for Torrance County. Ms. Coffman stated additionally Pattern had a hearing set with the NM Public Regulation Committee in July. Ms. Coffman stated Pattern had met with the Department of Defense (DOD) to share project imprint information and discuss the flight path and radar interference issues. Ms. Coffman stated currently the DOD was analyzing the technical information provided. Ms. Coffman stated Pattern's goal was to collaborate with the DOD towards the submission of a Federal Aviation Administration permit. Ms. Coffman stated plans were to begin project construction in 2019 and begin providing service in 2020.

Ms. Coffman commented on Pattern's development of wind projects in Broadview and Grady, New Mexico and the associated thirty five mile transmission line also constructed by Pattern.

**16. Restricted Right of Way – NM DOT Prohibition of Truck Traffic on US 380 between Carrizozo and Hondo**

Ms. Taylor discussed the NM Department of Transportation's (DOT) imposed prohibition on the travel of trucks over 65 feet on US 380 between Carrizozo and Hondo. Ms. Taylor reported truck drivers were stopped and ticketed for violation of the prohibition and required to take a longer, more costly route.

Ms. Taylor stated Chair Stone had received complaints regarding this prohibition as had State Representative Greg Nibert and Representative Candy Ezell. Ms. Taylor stated Representative's Nibert and Ezell were working with the DOT to determine the initial reason for imposition of the prohibition and to request the removal of signage.

Chair Stone stated, as an example of the impact, drivers transporting cattle from or through Lincoln County utilized vehicles over 65 feet in length. Chair Stone stated the prohibition on US 380 required alternate routes and resulted in an increase in trucking costs and transportation fees. Chair Stone provided other examples of the impact of the prohibition on business activities including the termination of a lumber delivery contract due to the increased cost of shipping over the alternate route.

Tim Parker, DOT District 2 Engineer stated Representative Ezzell brought this issue to his attention and he subsequently directed staff to research the reason the prohibition was placed on US 380 some years ago. Mr. Parker stated Gary Schubert was the District II Engineer and Johnnie Cope was the State Transportation Chair in 2009 or 2010 when direction was provided to post the signage. Mr. Parker noted there were federal agencies as well as state agencies involved and questioned if the Lincoln County Board of County Commissioners might have requested the prohibition on behalf of the residents of Lincoln.

Mr. Parker also discussed the possible engineering concerns related to longer trucks and trailers crossing the white line on this stretch of road due to topography. Mr. Parker stated traffic safety data was also a component of any decision to impose or lift a prohibition. Mr. Parker stated while he could address engineering issues but he could not address the legal, enforcement or political issues.

Candy Spence Ezzell, State Representative for District 58 in Chaves County stated she received a call from Dale Rodgers, owner of Roswell Livestock last year regarding the impact of the prohibition on his business. Representative Ezzell stated Mr. Rodgers was forced to reroute feed delivery trucks from his Roswell Livestock facility to the Capitan facility through Ruidoso.

Representative Ezzell questioned the authority of the State of New Mexico to impose such a restriction on a federal highway. Representative Ezzell suggested the Lincoln County Board of County Commissioners adopt a Proclamation requesting a removal of the prohibition on this forty two mile stretch of US 380.

Commissioner Draper commented any reroute of truck traffic through the Village of Ruidoso was illogical due to the road conditions and traffic in the area.

Commissioner Allen stated belief trucks over 65 feet were allowed if making local deliveries.

Mr. Parker stated belief trucks who obtain a special permit from the DOT could make local deliveries but the definition of "local" was being revisited as part of the legal review.

Commissioner Allen stated trucks delivering to Capitan travel through Lincoln all the time. Commissioner Allen stated the current State Police presence in the Lincoln area was enhanced by the recent fatality in Lincoln. Commissioner Allen stated in recent months a long truck pushed another vehicle off the road with the end of his trailer. Commissioner Allen stated her research indicated the prohibition on this stretch of US 380 was initiated by the grade and turns on Indian Divide. Commissioner Allen noted the State of New Mexico continued to receive federal funding during the years following this prohibition. Commissioner Allen stated belief Lincoln County should research and understand the initial reasoning for the restriction and review the engineering study of safety issues prior to adoption of a Proclamation opposing the prohibition.

Commissioner Allen also suggested development of Pine Lodge Road for truck travel between Capitan and Roswell.

Representative Ezzell stated if the State of New Mexico was not in compliance on any US Highways in the State of New Mexico then all federal monies were in jeopardy. Representative Ezzell commented on the dire need to refurbish US 285 and stated she would not support any



expenditure on Pine Lodge Road. Representative Ezzell discussed the difficulty of applying for a permit through the Department of Transportation and reiterated the need to lift this prohibition to support economic activity in Lincoln County.

Mr. Parker stated the Department of Transportation was conducting a legal review of the restriction and engineers were modeling safety data prior to any decision on lifting the prohibition.

Chair Stone noted Indian Divide was one of the widest and newest stretches of US Highway 380 and expressed skepticism about engineered safety studies. Chair Stone questioned how long it would take to complete the safety study.

Mr. Parker stated he would acquire the accident data in approximately two weeks and engineers were modeling travel through the curves to determine a safe length. Mr. Parker commented on the projected increase in truck traffic over the next years and the need for safety considerations.

Johnnie Autrey, local resident and owner of AC Trucking commented on the impact of this prohibition on his business. Mr. Autrey informed he had a business site on US 380 just over the overpass from Carrizozo. Mr. Autrey stated one of his trucks was stopped and ticketed three times within three days while trying to access his own business location to service his truck. Mr. Autrey expressed belief the prohibition was illegal and a violation of the Interstate Commerce Clause but acknowledged it was unaffordable for him to contest the prohibition on his own.

Commissioner Allen requested Mr. Parker provide an update as soon as practical.

**25. Approval of Lodger's Tax Applications with backup material:**

Purpose: Fort Stanton Live  
Request: \$5,000  
Date(s) of Event: July 14, 2018  
Presenter: Steve Duffy, Fort Stanton, Inc.  
**Committee Approved: \$5,000**  
**Application No. 0064**

Purpose: Ruidoso Art Festival  
Request: \$3,000  
Date(s) of Event: July 26-28, 2018  
Presenter: Becky Brooks/Ruidoso Valley Chamber of Commerce  
**Committee Approved: \$2,000**  
**Application No. 0065**

Purpose: Grand Opening of Glencoe Distillery Featuring Asleep at the Wheel  
Request: \$4,893.62  
Date(s) of Event: July 29, 2018  
Presenter: Rebecca Ponder/Mountain Entertainment Group for the Arts  
**Committee Approved: \$2,500**  
**Application No. 0066**

**Motion:** Approve Application No. 64 for \$5000, Application No. 65 for \$2000, and Application No. 66 for \$2500; **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.

Rebecca Ponder, co-owner Glencoe Distillery stated the Lodger's Tax Committee had expressed some concern about the projected turnout for the Glencoe Distillery Event and the fact the event was a fund raiser for a 501-C3. Ms. Ponder stated the organizers planned to use proceeds to bring performing artists in from Texas. Ms. Ponder noted all current ticket sales were to individuals outside of Lincoln County which would bring lodger's to Lincoln County for the event.

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

Alan Morel, Attorney reminded Lincoln County approved a modified Memorandum of Understanding (MOU) with the Village of Ruidoso for inspections and permitting within certain areas of Lincoln County during the April Regular Meeting. Mr. Morel stated subsequently the Village of Ruidoso adopted an amended version of the MOU approved by Lincoln County.



Attorney Morel stated the amendments were adopted to address the Village of Ruidoso's concerns about filling vacancies in the permitting department within the sixty days required by the State of NM Construction Industries Division (CID).

Mayor Lynn Crawford discussed the difficulty of filling vacancies in the permitting department within the sixty day requirement defined by CID. Mayor Crawford stated if the Village agreed to this language in the MOU and the department lost one inspector for more than sixty days the Village would have to cease the issuance of permits within the County. Mayor Crawford stated while the Village could continue to issue permits within the Village, their permitting department operations were financially dependent on the issuance of permits within Lincoln County.

Debi Lee, Manager Village of Ruidoso stated she had researched all prior agreements with Lincoln County with the first agreement executed in 2009. Ms. Lee stated under the initial agreement any vacancy not filled in four months would trigger an option for Lincoln County to terminate the agreement. Ms. Lee stated these prior agreements did not require approval by CID but currently the agreement was subject to CID review. Ms. Lee stated upon review of the proposed revised MOU, CID had changed the terms requiring the filling of any vacancy within sixty days or the agreement would automatically terminate. Ms. Lee noted currently any inspector duties impacted by a vacancy were passed to CID until the vacancy was filled. Ms. Lee stated there were no current vacancies but future vacancies could require additional expenditures for increased salary offerings and recruitment. Ms. Lee stated the Village had chosen not to sign the agreement due to this change and were requesting assistance from Lincoln County to resolve the issue with CID.

Attorney Morel stated belief the agreement was effective only if all three entities approved the same language. Attorney Morel suggested the County and Village maintain the status quo and work with CID to resolve the issue.

Commissioner Draper suggested Lincoln County support the Village of Ruidoso's position in the negotiations with CID.

**Motion:** Direct the Manager to send a letter in support of the Village of Ruidoso's position, **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. Consideration of First Savings Bank Request to Lease Portion of Extension Building for Bank Depository**

Ms. Taylor informed Daryl Lindsay, New Mexico Divisional President for First Savings Bank had submitted a request to lease space in the Lincoln County owned Extension Service Building to open a site in Carrizozo for depository services. Ms. Taylor reminded Wells Fargo Bank was closing in July of 2018 resulting in the loss of any available banking services in Carrizozo. Ms. Taylor stated she discussed the potential lease of space with Melanie Gutierrez, Extension Services Program Director. Ms. Taylor stated Ms. Gutierrez had requested additional storage at another location if the County decided to lease space to First Savings.

Mr. Lindsay stated First Savings Bank was interested in providing services in Carrizozo but there was not sufficient banking activity to support a full time bank. Mr. Lindsay discussed First Savings' plan to establish a depository service and begin part time operations which would greatly benefit the community. Mr. Lindsey stated First Savings was interested in this particular site because there was a drive through window from a previous bank. Mr. Lindsey stated additionally they would need space for one office.

Chair Stone and Commissioner Willard expressed concern about the impact to Extension Service operations.

Ms. Taylor stated the Extension Service was agreeable to the arrangement as long as they had access to additional storage space for equipment.

Ms. Taylor reminded any lease agreement between Lincoln County and First Savings would require a market based appraisal to determine rental value.

**Motion:** Direct the Manager to obtain a fair market rental appraisal, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

Commissioner Willard acknowledged the provision of banking services would benefit the community but stated such a lease was not necessarily in Lincoln County's best interest.

Commissioner Allen expressed belief the provision of space for the Extension Service was the County's priority.

Mr. Lindsey stated the bank would work with the existing user to install any doors or other needed accommodations in the facility.

Beverly Calaway, Treasurer stated in addition to benefiting local residents the availability of banking services would benefit Lincoln County providing a local site for County Departments and the public conducting business at the Courthouse to obtain change for transactions.

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

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

Chair Stone recessed the Regular Meeting to conduct the Inspection of the Lincoln County Detention Center at 12:05 PM.

## **20. Inspection of the Lincoln County Detention Center**

Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard, and Manager Taylor conducted a review of the Lincoln County Detention Center finding the facility in good condition.

Chair Stone requested the installation of a hand sanitizer dispenser in the foyer of the Detention Center.

Chair Stone reconvened the Regular Meeting at 1:03 PM.

Chair Stone recessed the Regular Meeting and convened the Public Hearing at 1:05 PM.

## **21. 1:00 PM: Public Hearing To Consider An Ordinance Authorizing The Execution And Delivery Of A Loan Agreement By, Between And Among The Greentree Solid Waste Authority And Lincoln County, New Mexico, The Village Of Capitan, The Town Of Carrizozo, The Village Of Corona And The City Of Ruidoso Downs And The New Mexico Finance Authority In The Principal Amount Of Up To \$1,167,277 For The Purpose Of Refunding 2005 Public Project Revolving Fund Loan No. 1760-Pp Issued For The Purpose Of Constructing A Solid Waste Facility/Transfer Station For Greentree And The Participants.**

Attorney Morel reported the Town of Carrizozo did not approve the Ordinance; the Town of Corona voted to approve the Ordinance with amendments; while the Village of Ruidoso and the City of Ruidoso Downs had approved the Ordinance as presented.

Attorney Morel discussed the language changes requested by Lincoln County to address the dispersal of Environmental Gross Receipts Tax funds after the payment of the loan. Attorney Morel stated the language was included in the agreement presented for consideration today.

Commissioner Willard questioned if there was anything Lincoln County could do to move the refinancing process forward so the refinancing closing could occur on August 3, 2018.

Attorney Morel stated belief the lack of approval of the Ordinance by the Town of Carrizozo and the amendments approved by the Village of Corona would result in the extension of or disruption of the entire refinancing process.

Chair Stone requested additional Public Comment and receiving none adjourned the Public Hearing and reconvened the Regular Session at 1:09 PM.

**Motion:** Adopt the Ordinance containing the language "any moneys remaining in the Finance Authority Debt Service Account, the Loan Agreement Sinking Fund, and the Loan Agreement Reserve Account shall be transferred to the Participants in the following proportions: Lincoln County 66.00 percent; City of Ruidoso Downs 23.75 percent; Town of Carrizozo 3.31 percent; Village of Capitan 5.94 percent; and Village of Corona 1.00 percent and such monies shall be applied to any other lawful purpose, including but not limited to, the payment of bonds or obligations subordinate and junior to the Loan Agreement, or other purposes authorized by the Joint Powers Agreement and the Constitution and laws of the State, as the Participants and Greentree may from

Mr. Kenmore stated he too was concerned about current fire conditions and would speak with Smokey Bear Ranger District staff about the recent reduction from Stage II to Stage I Fire Restrictions.

**Punkin Schlarb, Finance Director** reported she and the Treasurer's Office had completed the required input of information into the new Department of Finance and Administration reporting system. Ms. Schlarb stated the department was responding to requests from the new auditors for pre-audit information. Ms. Schlarb stated she was working to fill the open position of Solid Waste Clerk.

**Samantha Mendez, Director of Planning** stated she attended the Ztrans Transportation Meeting and informed Judge Bryant had expressed support for the project as an option for people to access the courts. Ms. Mendez stated an additional meeting was set for July. Ms. Mendez stated the department was fully staffed after hiring Linda Phillips for the position of Planning Technician. Ms. Mendez stated the department was currently issuing Liquor Licenses; reviewing requests for the vacation of two subdivisions; and working on a new billboard application. Ms. Mendez reported the new owners of Rainmakers were working to restore bonds in order to obtain permission to move forward with development.

**Billie Jo Guevara, Administrative Assistant and Human Resources** reported all open positions in the Sheriff's Department were filled. Ms. Guevara stated currently there were two open positions in the Assessor's office and several open positions in the Road Department. Ms. Guevara stated an interview panel conducted ten interviews on June 18, 2018 for the open position of Solid Waste Billing Clerk.

**Jeff Honeycutt, Road Superintendent** reported he attended a meeting with SmithCo regarding road maintenance for Bonito Lake Road. Mr. Honeycutt stated the firm sought and received permission to maintain the road during dredging operations. Mr. Honeycutt stated one business owner and resident had expressed concern about adverse driving conditions.

Mr. Honeycutt stated plans to begin the Cap/Coop projects on Gavilan Canyon in the near future depending upon weather. Mr. Honeycutt stated Zia Natural gas completed their requirement to lower the gas line on Bogle Road. Mr. Honeycutt stated the Road Department would haul and lay caliche in the next few weeks to cap one area of the road as per the agreement.

Chair Stone questioned how the purchase of Clean Line by Pattern affected compliance with Lincoln County's WEC Ordinance particularly as it relates to maintenance of county roads.

Attorney Morel stated currently Pattern was conducting no activities but he had advised Pattern they would need to sign a Road Agreement with Lincoln County prior to the commencement of work.

## **22. Discussion and Consideration of Joining Multistate Litigation Related to Opioid Crisis**

Attorney Morel reminded of a prior discussion and presentation of information regarding litigation to address the impact of opioid abuse on the State of New Mexico and counties in New Mexico. Attorney Morel stated several counties had issued RFP's with nine contracts currently awarded to six different firms. Attorney Morel stated if counties did not involve themselves in litigation they would likely not benefit from any awards to states to cover county costs. Attorney Morel anticipated six additional counties would award contracts in July. Attorney Morel stated he had heard presentations from several of the firms some of whom were co-leads on the case's Executive Committee. Attorney Morel stated some firms were pursuing litigation at the state level and others were filing at the federal level.

Commissioner Stewart questioned what was involved in identifying costs associated with the opioid epidemic.

Commissioner Draper reported the New Mexico Department of Health and Human Services maintained some data by county regarding death rates and certain costs.

Attorney Morel stated belief Lincoln County could piggy back on a prior issued RFP and he would research the options available.

There was a general consensus to revisit the topic next month.

**23. Authorization to File Solid Waste Liens:**

Bob Shapland	\$693.48
Denise Ellard	\$706.56
John and Kelly Ragan	\$688.48
Luis Hernandez and Carlos Ontiveros	\$745.02
Cameron E. and Tawna Sidwell	\$575.40
Emmanuel Fernandez and Sandra Chacon	\$462.02
Jay B. Hill	\$523.86
James L. and Carolyn Deats	\$467.32
Velma Ward	\$506.56
Mary Ruth Martel	\$693.48
Deidre L. and Charles Shalley	\$639.63
Manda Tomison	\$766.56
Terry W. and Susan M. Gibbs	\$750.02
Israel and Melisa Rosales	\$715.53
Denise Ellard	\$706.56
Peter Joshua Payan	\$636.94
Nathaniel P. and Susan L. Dunn	\$523.86
Richard W. and Yvonne C. Saldin	\$460.94
Cheryl Huband	\$460.94
Harold Corn and Rhonda Weitner	\$722.07
Cameron Manuel R. Lopez	\$688.48
Mary R. Martel	\$688.48
Shirley Tucker	\$595.02
Jose Antonio Blanes Prieto and Rosa Rex Blanes	\$745.02
Jessica Quintana	\$710.53
James and Jackie Sohl	\$575.40
Jim E. and Gina McPherson	\$400.78

**Motion:** Approve the liens as presented excepting the duplicate for Ellard, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Stewart.

Chair Stone questioned the application of 12% interest to outstanding balances.

Attorney Morel stated the 12% interest rate was provided for in State Statute and was defined in Lincoln County's Solid Waste Ordinance.

Chair Stone expressed concern about the imposition of fees and interest and suggested reconsideration of the Ordinance language.

**Commissioner Stewart withdrew the motion, Commissioner Allen concurred.**

**Motion:** Table consideration of approval of solid waste liens until the next Regular Meeting, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Draper.

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

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

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

- a. Land and Natural Resources Advisory Committee (LANRAC)
- b. Property Tax Protest Board

**Motion:** Reappoint James Taylor to LANRAC and reappoint Derek Moorhead to the Property Tax Protest Board, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

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

- a. Final Budget FY 18-19

time to time determine"; **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Commissioner Stewart stated he included the specific language in the motion so it was clear what language Lincoln County was approving by adoption of the Ordinance. Commissioner Stewart stated belief if any of the entities adopted an Ordinance with different language it would require reconsideration by all of the other entities.

Commissioner Willard questioned if the language referenced in the motion was legal.

Attorney Morel stated the language was legal and informed both the New Mexico Finance Authority Attorney and the Bond Counsel approved the language. Attorney Morel stated the adoption of the Ordinance with amendments was considered a rejection of the agreement as presented. Attorney Morel stated similarly the failure of the Town of Carrizozo to adopt the Ordinance was a rejection of the agreement.

Beverly Calaway, Treasurer questioned if the agreement were approved what type of accounting and auditing liability Lincoln County would incur based on language in Section 7 of the Ordinance.

Attorney Morel stated this section of the Ordinance only referred to the "Pledged Revenues" which were Lincoln County's Environmental Gross Receipts Tax revenue and did not encumber Lincoln County's general taxing authority or any other revenues.

Commissioner Allen referenced the language in the motion and expressed belief the Greentree Solid Waste Authority would prefer to have the pledged revenues applied to their other outstanding loans after the loan was paid in full

Attorney Allen stated the final disposition of pledged revenues as it related to other loans was not clear and would need resolution once the referenced loan was paid.

Commissioner Stewart stated it was his desire to make it "abundantly clear" the repayment of the Loan Agreement would result in the return of Lincoln County's Environmental Gross Receipts Tax revenues to Lincoln County for solid waste operations

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

**Yes:** Commissioner Stewart, Commissioner Allen

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

#### 17. Manager's Report

**Bonito Lake Update:** The Deputy Secretary of the NM Environmental Department (NMED) issued a letter to the City of Alamogordo providing the results of their review of information related to the proposed excavation of sediment from Bonito Lake and disposition into the Copper Mountain Quarry. NMED also conducted an inspection of the lake and quarry sites. The Manager stated key determinations included the following:

- a. Lake sediments are considered "clean fill" therefore not requiring a Solid Waste Permit for placement of lake sediment into the quarry;
- b. Lake sediment must be tested using the paint filters prior to transporting to the quarry;
- c. Lake sediment is not a hazardous waste;
- d. Buried lake sediments are not expected to be discharged into surface water;
- e. City of Alamogordo must evaluate and control offsite storm water runoff at the quarry;
- f. Onsite monitoring well must be sampled annually for heavy metals, etc.;
- g. City of Alamogordo must take certain steps prior to releasing lake water into drinking water pipeline.

The Manager stated contractor SmithCo held the first Bonito Lake Restoration Task Meeting on June 13, 2018 and welcomed Lincoln County participation as well as other key partners. The Manager provided copies of the meeting agenda, participant list, the approved Traffic Control Plan, and the construction schedule. The Manager stated the Road Superintendent would review the Traffic Control Plan.

**New Mexico Cattle Growers Association** held its 2018 mid-year meeting on June 10 – 12, 2018 at the Ruidoso Convention Center. Of key importance was the participation of County Assessors. As per Tasia Young, NMAC Lobbyist: "Kudos this week to the NMAC Assessors Affiliate, which continues to strengthen their partnership with our agricultural



friends. Betty Cabber, Linda Gallegos, Christie Humphrey, Mark Willard, Ron Lethgo, and Steve Boyle were all in Ruidoso yesterday for the Annual Conference.

The Assessors were invited to respond to a presentation of the Western Land Alliance before the Soil and Water Conservation Commission on Monday regarding recent legislation (HB 163) opposed by the New Mexico Association of Counties and the Cattle Growers in the 2018 session. The Manager stated HB 163 addressed a special use method of valuing agricultural properties. These representative Assessors addressed a general session of the entire conference yesterday, at the end of which Cattle Growers Executive Director Caren Cowan announced "We are taking this show on the road." Ms. Cowan committed to presenting at the Assessors Affiliate June 21, 2018.

#### **Construction Projects**

- a. **Hondo Fire Station:** Roper Construction started construction on May 29, 2018. The project utilizes capital outlay grant funds, carried over Fire Marshal funds and a New Mexico Finance Authority loan approved earlier today. The grant funds will not expire until June 30, 2019.
- b. **Detention Center:** Expansion work will begin in the new fiscal year. As mentioned last month, capital appropriation was extended for one year; so the former grant expired and the replacement grant will be issued after July 1, 2018. The exterior of the building was repainted with insurance reimbursement for damages incurred during the Goliath Storm.
- c. **Lincoln County Medical Center:** Abatement work on structures was completed and demolition started. Local contractor Roper Construction received the subcontract for demolition and dirt work.
- d. **White Oaks Fire Station Expansion:** Lincoln County was working with SDV Construction to complete dirt work and install a reinforced concrete slab by June 30, 2018. Work was currently on schedule. The Manager stated both Capital Outlay Grants for the project were utilized prior to reversion on June 30, 2018 and on June 30, 2019.

**ZTRANS:** The Manager stated a public meeting was held at the Ruidoso Convention Center on June 13, 2018. Commissioner Willard, Planning Director Mendez and Manager were in attendance. Joe Hardin, Director of Transportation for ZTrans provided information illustrating the current transit program in place in Alamogordo and Otero County. Information was solicited from the public and local government entities. Advocates for the transit system in Lincoln County expressed a need for individuals to travel to school, college, the hospital and clinics; as well as District and Magistrate Courts. The Manager provided a copy of the agenda and brochure illustrating the various routes offered in the Alamogordo/Tularosa Basin Area in addition to fare structures and rules.

**Schedule of Events:** The Manager provided a list of upcoming events including dates for the New Mexico Association of Counties Annual Conference in Socorro.

#### **Department Head Updates:**

**Joe Kenmore, Director Office of Emergency Service** reported Lincoln County sent four engines to respond to the Soldier Fire in Mescalero which burned 1270 acres. Mr. Kenmore expressed appreciation for the approval of the Hazard Mitigation Plan and stated the plan lacked only approval by the City of Ruidoso Downs. Mr. Kenmore stated OES staff attended the Cattle Growers Association Meeting to discuss an animal producer's response to the threat of fire.

Mr. Kenmore reported OES received the grant funded tower trailer last week. Mr. Kenmore stated the department continued to work on the placement of a tower on the Capitan Summit and informed the US Forest Service had requested engineered plans for the installation. Mr. Kenmore stated the department would also meet with Forest Service officials to identify a tower location on Buck Mountain.

Commissioner Draper expressed belief Lincoln County should utilize any enforcement options available for violation of fire restrictions.

Chair Stone questioned if Lincoln County had any opportunity for input or influence in the determination of fire restrictions on US Forest Service land.



- b. Request to Vacate Rockin R. Subdivision
- c. Transfer of Ownership for Liquor License 0812/Allsup #130

Ms. Taylor requested a Public Hearing to consider revisions to Lincoln County's Outdoor Advertising Regulation Ordinance.

**Motion:** Schedule Public Hearings to consider the Final Budget for Fiscal Year 2018-2019; a Request to Vacate the Rockin R Subdivision; a Transfer of Ownership for Liquor License 0812; and the Lincoln County Outdoor Advertising Regulation Ordinance 2006-6 for the next Regular Meeting, **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Allen.

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

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

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

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

New or Updated Matters since last report \*

1. **\*Rancho Ruidoso Valley Estate Homeowners' Association v. Roy Padilla, et. al – D-1226-CV-2017-00195** Complaint filed by RRVEHA for foreclosure of the Homeowners' Association Assessment Lien. The County is a named Defendant due to the filing of a GSWA lien on March 22, 2006, and a L.C. Solid Waste Lien filed on December 16, 2016 for non-payment of solid waste services and potential ad valorem taxes due and owing. The County's Answer to Complaint for Foreclosure was filed September 1, 2017. The U.S. Dept. of Agriculture filed its Answer to Complaint February 2, 2018 requesting the Court's findings that its Claim of Lien is a first and priority lien. Certificate as to the State of the Record and Nonappearance entered by the court on March 28, 2018 noting the nonappearance of Defendants Roy Padilla and Rita Padilla. June 4, 2018 - Judgment by Default for Foreclosure entered by Judge Blankinship which provides that L.C.'s liens are priority liens and entitled to payment from the proceeds of the foreclosure sale. June 4, 2018 - Order Appointing Peter Baca as Special Master also entered.
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. **\*Seidel v. Manfredi, et. al. D-1226-CV-2017-00184** Civil Complaint for Damages Direct and Punitive was improperly filed with the 12<sup>th</sup> Judicial Court by Mr. Seidel July 18, 2017 utilizing the Court's receipt number to identify the filing. Defendants filed a Motion to Dismiss on March 20, 2018. May 11, 2018 – Stipulated Dismissal with Prejudice dismissing all claims was filed.
4. **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.
5. **\*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.
6. **\*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.

7. **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.

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

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

10. **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: 12<sup>th</sup> Judicial District Attorney's Office**  
**Special Prosecutor**

11. **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 Jury Trial was requested by Defense Counsel on September 11, 2017. A Final Pre-Trial Hearing is scheduled to take place on July 10, 2018, and a Jury Trial is scheduled for July 16, 2018 before Judge Vega.

12. **State of NM v. Hortencia Armendariz M-30-MR-2018-00014** Violation of County Ordinance 2008-08 Animal Control Ordinance. A Criminal Complaint was filed by Lincoln County Sheriff's Office Animal Control Officer Russell Wehnau February 9, 2018 for violation of 1 count of Section 19 (Animal Nuisances Prohibited) due to barking dogs. A First Appearance/Arraignment Hearing took place March 2, 2018 before Judge Vega at which time the Defendant failed to appear. A Bench Warrant was issued. The Defendant appeared before Judge Vega on April 11, 2018 and entered a plea of "Not Guilty." The Pre-Trial Hearing scheduled for May 8, 2018 before Judge Vega was continued until June 26, 2018.

13. **\*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.

14. **\*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 is scheduled for July 3, 2018 before Judge Vega.

**Tort Claims Notices Received or Threatened**

**2018**

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

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

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

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

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

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

## **2017**

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

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

**McKenzie, Brian** – Tort Claim Notice received May 1, 2017 from Attorney W. Chris Nedbalek alleging deprivation of Claimant's constitutional rights "and possibly other substantive and procedural rights under the US Constitution and the New Mexico Constitution..." while incarcerated at Lincoln County Detention Center.

**Lacy, Jim and Judy** – Tort Claim Notice received May 8, 2017 from Attorney W. Chris Nedbalek alleging "...property damage and an "...unconstitutional seizure under the 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**

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

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

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

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

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

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

## **2015**

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

**Action:** Approve, Moved by 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 2:11 PM.

Chair Stone adjourned the Closed Session and reconvened the Regular Meeting at 2:38 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

**28. Signing of Official Documents**

**29. Next meetings:**

- a. July 17, 2018 - Regular Commission Meeting
- b. August 21, 2018 - Regular Commission Meeting

**30. Adjourn**

There being no further business to come before the Board of County Commissioners, Chair Stone adjourned the meeting at 2:39 PM.

County of Lincoln  
Board of Commissioners

  
Preston Stone, Chair


  
Dallas Draper, Vice Chair

  
Elaine Allen, Member

  
Thomas F Stewart, Member

  
F. Lynn Willard, Member

ATTEST:

  
Rhonda Burrows, County Clerk  
Whitney Whitaker Chief Deputy Clerk

July 17, 2018  
Date Approved

