

## COUNTY OF LINCOLN

### New Mexico Regular Meeting Board of County Commissioners

Preston Stone, Chair  
Dallas Draper, Vice Chair

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

#### Minutes Tuesday, August 20, 2019

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on August 20, 2019 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

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

Others present included Nita Taylor, County Manager; Alan Morel, County Attorney; and Whitney Whittaker, County Clerk.

#### 3. Invocation

The invocation was presented by Chair Stone.

#### 4. Pledge of Allegiance

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

#### 5. Approval of Agenda

**Motion:** Acceptance of the Agenda and authorized the Chair to move items as necessary,  
**Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

#### 6. Approval of Minutes:

- a. July 16, 2019 - Regular Commission Meeting

**Motion:** Approve the minutes of the July 16, 2019 Regular Meeting, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

#### 7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month ending July 31, 2019
- c. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims
- d. Sun Valley Water & Sanitation District Mill Levy Tax Rate
- e. Approval of updated Professional Services Contract – Joining in Litigation against State Tax and Revenue Department for Unpaid Gross Receipts Tax

- f. Community Development Block Grant (CDBG) Annual Requirements:
  - i. Approve Resolution 2019-8 Purchasing Policy Repealing Resolution 2018-13
  - ii. Approve Resolution 2019-9 CDBG Policies & Certifications Repealing 2018-14

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

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

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

**SEE EXHIBIT A:** Copies of the Consent Items including Resolution 2019-8 and Resolution 2019-9 are attached hereto in reference thereto made a part hereof.

### **23. Approval of Budget Adjustment for FY 19-20 by Resolution 2019-5**

Ms. Taylor reminded per state statute counties may request adjustments to the budgets to accommodate changes in financial operations during the fiscal year. Commission approved adjustments must also be submitted to the Department of Finance and Administration for approval.

There was a general discussion on transfer of expenditures.

**Motion:** Adopt Resolution 2019-5, **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Stewart.

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

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

**EXHIBIT B:** Copy of Resolution 2019-5 is attached hereto in reference thereto made a part hereof.

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

#### **a. Smokey Bear Ranger District Cibola National Forest**

Jodie Canfield, District Ranger reported low fire danger and no fire restrictions. Ranger Canfield reported a few lightening caused smokes occurred in the Capitans. Ranger Canfield stated there was currently no movement on the fuel reduction and watershed improvement projects funded under new Forest and Watershed Restoration Act. Ranger Canfield stated she attended a presentation by New Mexico State University on one-seed junipers and research on how they spread.

Ranger Canfield stated they celebrated Smokey's 75<sup>th</sup> Birthday on August 10, 2019. Ranger Canfield stated the District would start their biological assessment for Mexican Spotted Owls with tentative plans to open South Forth Campground in May 2020. Ranger Canfield reported the Eco Servants were installing new trail signs on Cedar Creek and Perk Trails. Ranger Canfield stated plans to conduct an engineering analysis for stream crossing on Cedar Creek

#### **b. Cibola National Forest**

Dierdre Tarr, District Manager of the NRCS Mountainair District reported on the Cibola Draft Plan noting the 90 day comment period was set for August 9, 2019 to November 7, 2019. Ms. Tarr stated a meeting was held? with a committee to set up a 501 C-3 for the Counties of Lincoln, Guadalupe, and Torrance in conjunction with the Corona Wind and Western Spirit Projects. Ms. Tarr stated their office was working with the New Mexico State Land Office, New Mexico State Forestry and Pattern Energy to agree upon Best Management Practices for construction areas. Ms. Tarr stated the Claunch-Pinto Soil and Water Conservation District was awarded \$550,000 in funding from NM State Forestry and approximately \$200,000 was contracted for a NM state land project.

#### **c. Extension Services**

Melanie Gutierrez, Program Director reported the office hired Melody Gaines full time. Ms. Gutierrez informed the State Fair was a success with the highest number of local animals, a total of 62, eligible for the sale.

Ms. Gutierrez informed of plans next week to partner with the Otero Extension Office to conduct a large animal training. Ms. Gutierrez stated the office would have a booth at the State Fair this year with the theme of "Harvest the Memories".

**d. South Central Mountain RC & D**

Rick Merrick, Community Forester reported the 2019 Cost Share Program had paid out \$115,219 with a starting balance of \$225,000. Mr. Merrick informed the Fire Wise program was looking at a five mile draft plan assessment around the Nogal Canyon area.

**e. Upper Hondo Soil & Water Conservation District**

Ms. Taylor informed a representative from the District was unable to attend.

**13. 9:30 A.M.: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS (Items are for discussion only – no action will be taken)**

Robert Shepperd, Sheriff recognized Russ Wehnau for responding while off-duty to a call for a man who was injured and bleeding profusely from the leg. Sheriff Shepperd stated Mr. Wehnau responded within minutes to the scene in Carrizozo and applied a fast clotting bandage and tourniquet, actions later credited with saving the life of Neil McCombs. Sheriff Shepperd presented Mr. Wehnau with a lifesaving award.

Neil McCombs stated when lightening started his horse went back and punched a two inch hole into his inner thigh. Mr. McCombs stated he was very grateful to the first responders.

Commissioner Stewart reported he attended a routine teleconference on August 6, 2019 for the Joint Land Use Study Group and the next meeting was scheduled for October, 2019

Commissioner Willard informed he met with some of the Fair Board members to discuss improvements on the fairgrounds.

Commissioner Draper attended the New Mexico Counties Economic Development Committee meeting. Commissioner Draper reported there were interesting presentations concerning workforce, broadband, and tourism. Commissioner Draper stated he had been speaking to Dr. Carsten from ENMU-Ruidoso about the importance of trade schooling.

Commissioner Draper stated he also attended a meeting at the racetrack on preventative measures concerning illegal medical enhancement drugs found at the racetrack this year.

Commissioner Draper stated today he was honored to give the welcoming address for the Treasurer's Affiliate hosted by the Lincoln and Torrance County Treasurers.

Commissioner Draper informed the 2019 Regional Housing Fair was scheduled for September 7, 2019 at the Ruidoso Convention Center.

Whitney Whittaker, Clerk informed Candidate filing day for the 2019 Local Election was August 27, 2019 during the hours of 9:00 AM to 5:00 PM.

Walter Hill, Assessor reported his office would schedule protest hearings from September 10, 2019 to September 12, 2019. Mr. Hill reported his office currently has twelve petitions submitted. Mr. Hill stated he was looking at hosting an Assessor's Affiliate meeting in Lincoln County to discuss the hot topic of nightly rentals.

Mr. Hill recognized his Chief Deputy Lee Roy Zamora, and Raymond Monrreal for completing mandatory classwork. Mr. Hill recognized Bonifacio Zamora for attending and passing his final course to become a certified appraiser.

Chair Stone reported he attended the 2019 Lincoln County Fair. Chair Stone stated the number of in-house exhibits were down, and expressed hopes the participation factor becomes better in the upcoming years. Chair Stone further stated the Fairgrounds makes for a good investment with proper improvements implemented.

Chair Stone informed since Suzanne Dennehy, CNP took over practice in Capitan, and the clinic was now open five days a week and there has been a budget improvement.

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

f. **Land and Natural resource Advisory Committee**

Robert Barber, Chair of LANRAC informed the final draft of the Cibola National Forest Draft Land Management Plan was online and the 90 day comment period started August 9, 2019.

Mr. Barber stated the committee submitted comments towards the Community Wildfire Protection Plan concerning the analysis of inventory.

13. **9:30 A.M.: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS (Items are for discussion only – no action will be taken)**

Chair Stone informed Dr. Dale Goad, DDS was retiring after 41 years with the Carrizozo Health Center. Chair Stone stated the Carrizozo Health Center planned to celebrate his retirement and had invited all his patients and friends to a celebration on August 14, 2019 at the Carrizozo Women's Club.

9. **Approval of 2019 Lincoln County CWPP Agreement**

Ms. Taylor informed the 2019 Lincoln County Community Wildfire Protection Plan, provided to Commissioners under separate cover, was prepared by the South Central Mountain Resource, Conservation and Development Council in cooperation with Lincoln County, The Greater Ruidoso Wildland Urban Interface Working Group; ENMRD-NM; State Forestry Division; Smokey Bear Ranger District; the Village of Ruidoso; Village of Capitan; Little Bear Forest Reform Coalition; New Mexico State Land Office; Bureau of Land Management; and the Bureau of Indian Affairs.

Chair Stone questioned if a particular escape route mentioned in the CWP Plan was actually a County maintained road.

There was a general discussion about the limited slash pick up service in the area and its correlation with the protection plan.

**Motion:** Approve the Lincoln County Community Wildfire Protection Plan with a note the reference to an escape route near Arabela is not an actual County maintained road: Approve, **Moved by Commissioner Stewart, Seconded by Commissioner Draper.**

There was a lengthy discussion about an alternative escape route through private land.

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

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

10. **Approval of Assessor Request to Purchase Vehicles**

Ms. Taylor reminded during the budget process for Fiscal Year 19/20, the Assessor's request for the purchase of new vehicles was not captured. Ms. Taylor stated the final budget approved by the Commission in July did, for the first time, include the Assessors' request to purchase vehicles for \$60,000 budgeted from the Reappraisal Value Property Fund. Ms. Taylor stated however it was not on the Optional County Request Form, so it was not brought to the Commission's attention for specific approval.

**Motion:** Approve Assessor Hill's request to purchase three vehicles from the Reappraisal Property Valuation Fund and to transfer the replaced vehicles to the Senior Center Operations, **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.

11. **Approval of FY 19/20 Collective Bargaining Agreement Between the County of Lincoln and the Lincoln County Deputy Sheriffs' Association**

Ms. Taylor stated the President of the Deputy Sheriff's Collective Bargaining Unit, Kirk Wilson and Lincoln County agreed to one change in the Section 15 of the Agreement regarding hours of work and overtime. Ms. Taylor stated the agreement had no other changes except the dates of approval and termination date.

Commissioner Stewart informed this agreement contained what was known as an "Evergreen Clause" which allows for the agreement to continue for a defined period if the existing agreement is not renegotiated or properly cancelled within a specified time

**Motion:** Approve the Collective Bargaining Unit Agreement including the stipulations of the Evergreen Clause should the County approve a raise for all employees, **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.

## 12. Approval of Municipal Advisory Agreement with RBC Capital Markets

Ms. Taylor stated the Commission entered into an agreement with Erik Harrigan of RBC Capital Markets in May of 2015 during the early stages of considering financing options for renovating the old hospital or building a replacement. Ms. Taylor stated Mr. Harrigan with RBC Capital Markets has been a critical resource to the County through not only the General Obligation Bond process; but also providing guidance on the Industrial Revenue Bond process for Lincoln County to enter into agreements with wind energy companies.

**Motion:** Approve RBC Capital Market's agreement to continue to serve as the County's Municipal Advisor, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Commissioner Willard questioned the fee schedule proposed in the RCB Capital Market's Agreement as opposed to the agreement with Pattern Energy.

Alan Morel, County Attorney stated the fee schedule listed in the RBC agreement lists fees which RBC could charge but reminded a separate agreement with Pattern Energy would cover the costs.

General Discussion on the terms of the separate agreements with Pattern Energy and RBC Capital Market Agreement.

Commissioner Stewart withdrew his original motion and Commission Allen withdrew her second.

**Motion:** Table the agreement with RBC Capital Market, **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.

Chair Stone recessed the Regular meeting at 10:30 AM and reconvened at 10:39 AM.

## 14. Approval of Lease and Management Agreement with the Lincoln County Fair Association for the Lincoln County Fairgrounds

Ms. Taylor stated the County and the Lincoln County Fair Association have been parties to a Lease and Management Agreement for the Lincoln County Fairgrounds located in Capitan since 1997.

Ms. Taylor stated routinely Section 13 of the Lease and Management Agreement was subject to change if the County Commission determines to modify the sum of the annual payment to the Fair Association for maintaining and operating the Fairgrounds.

**Motion:** Approve the Lease and Management Agreement between the Lincoln County Fair Association and the County of Lincoln for the Lincoln County Fairgrounds, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

## 15. Manager's Report

1. Hats Off to Road Superintendent Jeff Honeycutt and Director of Planning & Project Management Samantha Mendez for responding for a "Call for Road Projects" by the NMDOT, as part of an overall proposal to address economic development needs related to roads. The Manager provided a list of roads submitted for consideration and a chart of awarded projects. The County was granted \$1,791,225 by the New Mexico Transportation STC, with a match requirement of \$94,275, resulting in the total project cost of \$1,885,500. Total STC funds awarded were \$49,320,405. Thanks also to Wilson & Co, Inc., Engineers & Architects, for assisting the County with this effort.

2. **County Staff Changes.** We are limping along with the recent loss of two key members of the Manager's team. Finance Director Punkin Schlarb retired on August 1st, and Director of Planning & Project Management Samantha Mendez has accepted the position of Community Development Director for the Village of Ruidoso, effective immediately. Both will be sorely missed. The positions will be filled as soon as possible, with the position vacancies already being advertised.

3. **NM Counties Facility Inspection** was conducted by James Chavez of the NMAC Loss Prevention Department on August 1, 2019. The Manager provided a copy of Mr. Chavez's findings. In addition to providing photographs of identified safety hazards Mr. Chavez also noted : (1) The County's Safety Policy was last revised in 2003 and should be reviewed and revised to meet the needs of the County, and to comply with any standards changes; and (2) County employees should be trained on the newly approved Emergency Action Plan. The County is charged with notifying Loss Prevention staff within 30 days of all corrective actions taken on the matter. Joe Kenmore, Emergency Services Director, will take the lead on this process.

4. **Annual Budget Conference.** The Local Government Division Annual Budget Conference is scheduled for November 13 – 15. This is a critical conference and training which the County's key budget personnel attend every year. It will be especially critical this year, with a new Finance Director on board.

5. **Department of Human Services 2018 Safety Net Care Pool Annual Report.** The Manager provided a copy of the 2018 Safety Net Care Pool (SNCP) Annual Report, providing information on a total state basis, as well as showing LCMC's receipt of \$1,811,488 for calendar year 2018.

6. **Schedule of FY 2020 Fire Protection Fund Distribution to Lincoln County Fire Departments.** The Manager provided a copy of the Public Regulation Commission and State Fire Marshal Division's determined levels of the quarterly distribution dates for the Fire Protection Fund FY 2020. The August 1st total funds allotted to all County fire departments was \$382,153.60 or 40% of the total. Three equal payments in the amount of \$191,076.80 are to be made in November, February and May.

7. **Z-Trans** is required to submit annual Letters of Financial Commitment to the Federal Transit Administrator no later than August 23rd. The Manager provided copy of the informational letter from Zia Therapy Center, Operator of Z-Trans, and the template letter for them to send to the Federal Transit Administration. The County's agreement for this service terminates September 30th, and the renewal of the contract will be brought to the Commission for consideration in the September Commission meeting. If the Commission opted to terminate participation in the program, the attached letter sent to the Federal Transit Administration would become null and void.

8. **Department of Air Force Request for Comments.** The Manager provided copy of a letter describing the US Air Force and Headquarters Air Combat Command's proposal to provide Combat Air Forces contract adversary air (ADAIR) support at Holloman Air Force Base, to address shortfalls in combat readiness. The plan is to locate an estimated 12 contractor aircraft at HAFB to perform an estimated 3,200 ADAIR flights. No airspace modifications would be required. Written comments are requested, and are required by September 12th.

9. **New Mexico Youth Conservation Corps Work Plan.** Under the guidance of Stephen Carter, the NM Youth Conservation Corps will: 1) remove noxious weeds along county owned roadways as part of a plan to control noxious weeds in Lincoln County; 2) build sandbags for flooding resulting from wildfires; and 3) assist in emergency services in natural disasters.

10. **Hope Harbor Transitional Home Arts and Crafts Show** is scheduled for September 28 and 29 at Wingfield Park in Ruidoso. They are working hard to gain community support for this and other future fund raising events which are targeted to assist with the construction and operation of Hope Harbor Transitional Home. Organizers have requested permission from the County to place signage for this event in the County rights-of-way of its roads.

11. **Local Property Schedule Survey – 2019 Multi-Line Values Collection.** County Assets and Information Clerk, Toni Foligno, conducted the survey and input required annually. This tool is to identify vehicles and buildings, with contents, that the County requires to be insured by NMC Multiline Insurance. This year, it mostly consisted of additions due to the new EMC building, fire stations, communications towers, etc. Next year will add the new hospital. Insurance costs may be increasing.

12. **Department Head Updates:**

**Jeff Honeycutt, Road Superintendent** informed he was working with the Smokey Bear Ranger District about a possible land swap for a road yard. Mr. Honeycutt stated they will do a traffic analysis on Musketball and Alpine Village roads. Mr. Honeycutt stated his department just hired two new employees.

**Samantha Mendez, Planning and Project Management** stated she officially started with the Village of Ruidoso yesterday and she had enjoyed working for the County.

**Joe Kenmore, Office of Emergency Services Director** reported a small fire and a plane crash in Ruidoso, with no fatalities reported. Mr. Kenmore stated they are going to evaluate ISO ratings for fire stations in Arabella, Hondo, and Glencoe.

**Renee Montes, Senior Services Director** reported the Senior Centers ICIP was due September 20, 2019.

**Billie Jo Guevara, Human Resources Director** stated the Road Department had two positions available, Sheriff has one dispatcher position available, and Senior Services had one position open for Driver/cook Aide. Ms. Guevara reported the Finance Director position was open until August 26, 2019 and the Planning Director position had a total of 3 applicants.

**17. Preliminary Approval of FY 2021-2025 Infrastructure Capital Improvement Plan (ICIP) for Lincoln County Zia Senior Centers**

Ms. Taylor informed the Senior Center Infrastructure Capital Improvement Plan (ICIP) is due to Local government Division on September 20, 2019. Ms. Taylor stated the Senior Center Director Renee Montes was required to enter each of the five centers separately with each carrying its own prioritization.

Renee Montes, Senior Center Director presented the capital outlay requests for the senior centers for years 2021 to 2025.

**Motion:** Approve the preliminary Infrastructure Capital Improvement Plan for Lincoln County Zia Senior Centers, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

Chair Stone Recessed the Regular Meeting at 12:02 PM and reconvened at 1:00 PM.

**19. 1:00 P.M.: Continuance of Public Hearing to consider the Revenue Bond Ordinance for Wind Farm (Mesa Canyons IRB Project) (Motion to continue Public Hearing required)**

**Motion:** Continue the public hearing to consider the Revenue Bond Ordinance indefinitely, **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.

**20. Replacement Hospital Update**

Mike McDonald, Project Manager for Jaynes Corporation stated they are at the peak of construction with 120-130 workers on site. Mr. McDonald stated the exterior wall is progressing nicely and should be sealed up before winter. Mr. McDonald stated the roof was already sealed up.

Mr. McDonald reported on some milestones upcoming next month; completion of the drywall on the first floor; room pressure testing in operating rooms and pharmacy compounding areas; permanent power to the hospital; and install ceiling in the administration area.

Mr. McDonald stated they have worked with the Village of Ruidoso and New Mexico Department of Transportation to incorporate the man hole needed to finish up the sewer lines.

**Expenditure Summary**

Ms. Taylor stated the Replacement Hospital Expenditure Report, to date, illustrated \$12,360,950 has been spent leaving a line item balance of \$8,220,527. Ms. Taylor stated currently under review was Jaynes' July Pay Application No. 15 in the amount of \$1,592,374, which would reduce the remaining balance to \$6,628,153.

#### **Contingency**

Ms. Taylor stated the County Attorney and the Owner's Representative met with Jaynes and Dekker/Perich/Sabatini in Albuquerque on August 6, 2019 to discuss the status of the current change orders; the potential of additional, sizable change orders; and the need for proper review and signatures.

#### **16. Approval of the Infrastructure Capital Improvement Plan (ICIP) by Resolution 2019-6**

Ms. Taylor stated the Lincoln County Infrastructure Capital Improvement Plan is due to Local Government Division on September 6, 2019.

There was a lengthy discussion on projects on the current ICIP and needed additions. Ranking of projects was requested as follows:

1. New Hospital construction
2. Fairground improvements
3. Courthouse flood control
4. ADA restrooms in the Lincoln County Courthouse

**Motion:** Approve preliminary ICIP, **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Stewart.

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

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

#### **18. Approval of Lincoln County 150th Birthday Proclamation**

Ms. Taylor presented the Proclamation recognizing and honoring the 150<sup>th</sup> Birth year of Lincoln County, New Mexico. Ms. Taylor stated this proclamation portrays the rich history built over the past 150 years and prior; which includes both the municipalities and unincorporated areas.

Commissioner Allen and Commission Willard read the Proclamation into the record.

**Motion:** Adopt the Lincoln County 150<sup>th</sup> Birthday Proclamation, **Action:** Approve, **Moved by** Chair Stone, **Seconded by** Commissioner Allen.

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

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

**EXHIBIT C:** Copy of the Lincoln County 150<sup>th</sup> Proclamation is attached hereto in reference thereto made a part hereof.

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

##### **a. Southeastern New Mexico Economic Development District (SNMEDD)**

**Motion:** Appoint Coda Omness to the Southeastern New Mexico Economic Development District Committee, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

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

##### **Funding Requests:**

- a. Christmas Jubilee 2019  
Request: \$3,000  
Date(s) of Event: November 8-10, 2019

Presenter: Priscilla Terry/ Ruidoso Valley Greeters  
 Application No. 0062  
 Approved Amount \$3,000.00

- b. Lincoln County Cowboy Symposium  
 Request: \$5,000  
 Date(s) of Event: October 10-13, 2019  
 Presenter: Sunny Hirschfield All American Ruidoso Downs Foundation  
 Application No. 0061  
 Approved Amount \$5,000.00

**Motion:** Approve the requests as recommended by the Lodger's Tax Committee, **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.

25. **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), and Discussion concerning purchases in an amount exceeding two thousand five hundred dollars (\$2,500) that can be made only from one source is discussed and that portion of meetings at which the contents of competitive sealed proposals solicited pursuant to the Procurement Code are discussed during the contract negotiation process pursuant to Section 10-15-1, Subparagraph (H)(6).**

**Motion:** to close the meeting for the purposes of an executive session to discuss all threatened and/or pending litigation pursuant to Section 10-15-1 (H)(7); discussion of the purchase, acquisition or disposal of real property or water rights by the public body pursuant to Section 10-15-1, (H)(8) and discussion concerning purchases in an amount exceeding \$2,500 that can be made only from one source is discussed and that portion of meetings at which the contents of competitive sealed proposals solicited pursuant to the Procurement Code are discussed during the contract negotiation process pursuant to Section 10-15-1, (H)(6).

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 Foreclosure Sale took place on November 15, 2018 @ 10:00 a.m. at the front steps of the 12th Judicial District Courthouse in Carrizozo.
2. **Rancho Ruidoso Valley Estates Homeowner's Association v. Diane K. Medcalf, Pioneer Bank, FSB, and the County of Lincoln, NM D-1226-CV-2017-00242** Complaint filed by RRVEHA September 12, 2017 for Foreclosure of the Homeowner's Association Assessment Lien. On January 25, 2019, Judge Blankinship entered a Judgment by Default for Foreclosure.
3. **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. A Judicial Inquiry Hearing took place September 4, 2018.
4. **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. On February 26, 2019, an Order Setting Aside Conviction was entered by Judge Counts and, on March 25, 2019, a Notice of Appeal was filed with the N.M. Supreme Court. (NM Supreme Crt. Case No. S-1-SC-37602)
5. **Roger Romero, et al vs. Lincoln County, et al – U.S. Dist. Court Cause No. 2:18-cv-01137-JAP-GJF** A Complaint for Violation of Civil, Constitutional and Statutory Rights was filed on December 5, 2018. On December 27, 2018. A Guardian Ad Litem has been appointed to represent the Plaintiffs. There is presently pending a Motion for Dismissal of all individual Defendants.

6. **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. On May 2, 2019, the Court entered its Certificate as to the State of the Record and Non-Appearance noting L.C.'s Answer to Complaint having been filed and no other answers or responsive pleadings have been filed.
7. **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.
8. **Kane County, Utah, et al v. The United States, 17-739C and 17-1991C (Consolidated)** Class Action Lawsuit to recover PILT underpayments for fiscal years 2015-2017. On August 14, 2018, Lincoln County submitted its Opt-In Notice to participate in the lawsuit.
9. **Lorraine Michelle LaMay – Notice of Chapter 13 Bankruptcy Case Number 19-10279-J13** On March 11, 2019, Lincoln County received notice of the Chapter 13 Bankruptcy Case.
10. **Brd. of County Commissioners of Lincoln County v. Amerisourcebergen Drug Corp., et. al – U.S. Dist. Court Case No. 2:19-cv-00462 –** Complaint for Public Nuisance, Violations of Racketeer Influenced and Corrupt Organizations Act (RICO)... filed on May 20, 2019 by Attorneys Robles, Rail & Anaya, P.C., et. al. After receiving no oppositions to the transfer of the case, on June 17, 2019, the case was transferred to the Northern District of Ohio noting that as of December 5, 2017, 1,534 cases have been transferred to Ohio for further proceedings.
11. **Baltazar Romo v. Rex Beard, Cause No. D-1226-CV-2019-00144** Complaint for Negligence and Negligence Per Se was filed on May 26, 2019 and served upon Sgt. Rex Beard of the Lincoln County Sheriff's office on June 18, 2019. Judge Bryant is the presiding Judge. There is presently pending a Motion to Dismiss the Complaint.
12. **Valerie Herrera v. Anthony Manfredi, Cause No. D-1226-CV-2019-00164** Complaint for Negligence and Negligence Per Se (Battery), and Excessive Force as Brought Under 42 U.S.C. § 1983 was filed on June 16, 2019 by W. Chris Nedbalek. Judge Bryant is the presiding Judge. As of June 24, 2019, the Complaint has not been served upon former LCSO employee, Anthony Manfredi.
13. **Greentree Solid Waste Authority v. Lincoln County D-1226-CV-2014-00095 –** Compromise and Settlement Agreement and Release executed on December 17, 2015.

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

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. On May 14, 2019, a Bench Trial was held at which time the Defendant was found Guilty of 1 Count of Dogs Running at Large. The Defendant was sentenced to 90 days jail time with 90 days suspended based upon the condition that the Defendant received no further Citations for Violation of Lincoln County's Animal Control Ordinance within the next 90 days, 90 days unsupervised probation, assessed \$73.00 court costs, \$300.00 fine and \$100.00 bench warrant fee for a total of \$473.00. On August 5, 2019, the Defendant entered a plea of guilty for probation violation.

**Tort Claims Notices Received or Threatened**

**2019**

**Samaniego, Barbara** – Tort Claim Notice received June 26, 2019 alleging injuries sustained while undergoing a MRI at the Lincoln County Medical Center.

**Divelbliss, Kim** – Tort Claim Notice received June 17, 2019 [dated 6-11-19] alleging that the Claimant was taunted, harassed and her rights were violated resulting in her ultimate termination from employment by the Lincoln County Detention Center.

**Divelbliss, Ty** – Tort Claim Notice received June 17, 2019 [dated 6-11-19] alleging that the Claimant was terminated from employment by the Lincoln County Detention Center out of retribution.

**Yokley, Scott** – Tort Claim Notice received June 17, 2019 [dated 6-12-19] alleging that the Claimant was sprayed directly in the eye with pepper spray during his employment with the Lincoln County Detention Center.

**Udall, Steve** – Tort Claim Notice received May 22, 2019 [dated 12-14-19] alleging a Lincoln County Sheriff's Deputy's vehicle hit the air conditioning condensing unit located at the Magistrate Court in Ruidoso damaging the unit beyond repair.

**Youtz, Shane** – Correspondence received May 7, 2019 threatening litigation if Lincoln County's Right to Work Ordinance (Ordinance No. 2018-01) is not repealed due to the passing of HB85.

**Balderas, Hector** – Tort Claim Notice received April 9, 2019 regarding threat of litigation and liability for failure to enforce the law.

**HES, LLC and, Kenneth and Irene Livingston** – Tort Claim Notice received January 3, 2019 alleging The N.M. Dept. of Health seized and destroyed cannabis plants belong to HES, LLC and Kenneth and Irene Livingston. On January 24, 2019, NMAC denied the claim.

**Lueras, Ramon** – Tort Claim Notice received January 31, 2019 from Pizzonia Law Firm was received which referenced "Lueras v. Lincoln County Road Dept., et al" requesting copies of Mr. Lueras' employment records. While the correspondence appeared to be more like an IPRA, NMAC was notified out of an abundance of caution. On February 8, 2019, NMAC confirmed that Mr. Lueras has a work comp claim and that the January 31, 2019 correspondence from Pizzonia Law Firm relates to that claim. NMAC did open a claim as "record only".

**Estrada, Ricardo** – Tort Claim Notice received February 14, 2019 alleging that, while incarcerated at LCDC, the Claimant was physically attacked by a former employee of LCDC out of retaliation causing injuries to his small finger on his left hand and possibly a left foot fracture. TCN emailed to R. Martinez on February 15, 2019 and that same day, NMAC advised that there is no coverage for this matter as NMAC does not provide coverage on behalf of counties or their detention centers which are operated or administered by a private contractor.

**Lopez, Iris; May, Andrew; Bustamante, Joseph; Flanagan, Wayne Otero; Hernandez, Gabriel** – Tort Claim Notice received March 18, 2019 from Chris Nedbalek, Nedbalek Law Office, LLC alleging deprivation of Claimants' rights, including the Eighth Amendment prohibiting cruel and unusual punishment (i.e. unsanitary conditions, drug use by inmates, and mold problems.)

## **2018**

**Duke, Arnold** – Harrisburg Document recovery

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

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

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

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

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

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

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

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

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

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

## **2017**

**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.

**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 2:12 PM.

Chair Stone adjourned the Closed Session and reconvened the Regular Meeting at 3:07 PM.

Commissioner Draper attested matters discussed in the closed meeting were limited to those specified in the motion for closure or in the notice of separate closed meeting and no action was taken.

**26. Consideration of Amendment to Operations & Management Agreement-Lincoln County Detention Center with LaSalle Corrections**

**Motion:** Approve Amendment to Operations and Management Agreement with LaSalle Corrections for the months of September and October, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

Commissioner Stewart commented that on third of our county tax dollars were dedicated to the operation of the detention center.

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

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

**27. Approval of the Lincoln County Detention Center Operations and Management Agreement Between Correctional Solutions Group, LLC, and the County of Lincoln**

**Motion:** Approve Operations and Management Agreement between Correctional Solutions Group, LLC and the County of Lincoln, **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Willard.

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

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

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

- a. Ordinance No. 2019-03 Repealing Ordinances in Conflict: 2016-02 and 2017-07; and Enacting An Ordinance Which Regulates Acceptable And Unacceptable Waste In Lincoln County and Providing For Efficient And Sanitary Collection Of Waste, Providing For Mandatory Disposal and Assessment Of Fees, and Providing A Penalty For Violation of This Ordinance.

No action taken

**28. Signing of Official Documents**

**29. Next meeting:**

- a. September 17, 2019 Regular Commission Meeting

**30. Adjourn**

There being no further business to come before the Board of County Commissioners, Chair Stone adjourned the meeting at 3:10 PM.

County of Lincoln  
Board of County Commissioners

\_\_\_\_\_  
Preston Stone, Chair

\_\_\_\_\_  
Dallas Draper, Vice Chair

\_\_\_\_\_  
F Lynn Willard, Member

\_\_\_\_\_  
Thomas Stewart, Member

\_\_\_\_\_  
Elaine Allen, Member

ATTEST:

\_\_\_\_\_  
Whitney Whittaker, County Clerk

September 17, 2019  
Date Approved

