

COUNTY OF LINCOLN

New Mexico Regular Meeting Board of County Commissioners

Preston Stone, Chair
Dallas Draper, Vice Chair

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

Minutes Tuesday December 17, 2019

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on December, 17, 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 8:26 AM.

2. Roll Call

Roll Call.

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

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

3. Invocation

The invocation was presented by Commissioner Draper.

4. Pledge of Allegiance

- a. Pledge – USA 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.

6. Approval of Minutes:

- a. November 13, 2019 Special Commission Meeting
- b. November 19, 2019 Regular Commission Meeting

Motion: Approve the minutes of the November 13, 2019 Special Commission Meeting, and the November 19, 2019 Regular Commission Meeting, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month ending November 30, 2019
- c. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims
- d. Approval of a Resolution 2019-27 Authorizing The Municipality/Village To Submit An Application To The Department Of Finance And Administration, Local Government Division To Participate In The Local DWI Grant And Distribution Program And Delegating Authority

e. Approval of Temporary Position for Assessor Department

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

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

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

EXHIBIT A: Copies of the Consent Items including Resolution 2019-27 is attached hereto in reference thereto made a part hereof.

8. Forest, Land & Natural Resources Matters:

a. Smokey Bear Ranger District

Jodie Canfield, District Ranger for the Smokey Bear Ranger District reported low fire danger and no fire restrictions; but reported the district have been burning piles on Gavilan Ridge this week. Ranger Canfield stated some forestry projects have been cleared to work including a commercial firewood project on Smokey Bear and powerline clearing on the Sacramento.

Ranger Canfield stated the District is looking for approval from the County Commission to enter into an agreement with the County Road Department to develop a contract for the paving work in South Fort Campground. Ranger Canfield stated the Forest Service has \$30,000 to put into the agreement and they are still looking at a mid-May 2020 for opening.

Ranger Canfield informed the work on the 107 re-route will be halted until the spring. Ranger Canfield stated Ski Apache is now open on weekends and will open full time on December 19, 2019.

Chair Stone questioned if the County had an updated MOU with Smokey Bear.

Jeff Honeycutt, Road Superintendent stated the County currently does not have an updated MOU and would need one in order to move forward with any partnership.

b. Extension Services

Melody Gaines, Family and Consumer Science/4H agent for the Extension Services informed they hosted two workshops; NM flavor and NM round up with around 32 kids participating.

Ms. Gaines stated the department is working on many projects that include getting ready for State 4H and a record book exchange.

Ms. Gaines stated the department will attend the upcoming conference in Santa Fe in January.

c. South Central Mountain RC & D

Ms. Taylor informed Rick Merrick, Community Forester was unavailable to attend this month.

d. Upper Hondo Soil & Water Conservation District

Ms. Taylor informed Judy Bock, Program Coordinator was unavailable to attend this month but asked if Lincoln County could write a letter of support for the Upper Hondo Application for a weed management grant from New Mexico Energy, Minerals and Natural Resources Department (EMNRD).

e. LANRAC

Robert Barber Chair discussed comments for the Mountainair Ranger Districts Proposed Action on the Corona Fuels Reduction and Forest Restoration plan. Mr. Barber stated the land is in much need of treatment to help support and defend the water supply the committee recommends the Commissions support on the proposed activities with the following two comments.

- With the new Cibola National Forest Management Plan in the final steps of being formalized and released, the desire conditions for the entire project are should promote the principals and strategies outlined in the new management plan; not the old 1996 version.

- The District should consider using some slash for erosion control/gully stop.

Motion: Approve the recommendation of Robert Barber, LANRAC Chair to support the proposed action including the two comments, **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.

9. Consideration and Approval to Enter Into CES Contract for Design of Ft. Stanton Road Project – Funded by Local Government Transportation Project Fund.

Ms. Taylor reminded on April 30, 2019 NMDOT Cabinet Secretary issued a Call for Projects to local and tribal governments who are eligible to apply for stated funded grants. Ms. Taylor stated eligible projects included planning, design construction for highways, streets, roadways, crossing, bridges, etc. Ms. Taylor informed for qualified projects, funding was to be available for 75%-95% of the project with the local or tribal government making up the match.

Ms. Taylor stated in May 2019 long term County partner Daniel Aguirre Senior vice President of Wilson and Company Architects made the County aware of the HB 694 initiative, which created the LCTPF. Ms. Taylor stated there was a very short timeframe in which to respond, Wilson and Company worked closely with Road Superintendent Honeycutt and Planning Director at the time Samantha Mendez to gather mapping data, determine the scope of work for each of the four proposed project and prioritize the need to the County.

Ms. Taylor informed on October, 2019 the County received notification that Fort Stanton Road Project had been approved for this funding, and the Commission approved the Grand Agreement and required Resolution.

Ms. Taylor stated the County has received a proposed Task Order for Engineering Design for Fort Stanton Road from Highway 48 to Highway 220. Ms. Taylor informed the funding source for these Engineering Design services in the amount of \$191,965 plus NMGR, is the LGTPF. Road Superintendent and manager recommend forgoing the RFP process for these Engineering Design Services and utilizing the CES process, which will add 1.25% to the cost of the job.

Commissioner Stewart questioned the total amount awarded.

Jeff Honeycutt, Road Superintendent stated the amount awarded was 1.885 million with the County match.

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

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

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

10. Resolution 2019-26 Budget Adjustment FY 19/20

Ms. Taylor stated per State Statute Counties may request adjustments to accommodate changes in its financial operations during the fiscal year. Ms. Taylor stated Commission approved adjustments must also be submitted to the Department of Finance and Administration for approval.

Commissioner Stewart raised the concern of the number of budget adjustments for this fiscal year. Commissioner Stewart requested with each adjustment, especially one this large, to have a printout with the highlighted amount within the first four pages of the annual budget recap and revenues report.

Motion: Adopt Resolution 2019-26, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

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

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

EXHIBIT B: Copy of Resolution 2019-26 is attached hereto in reference thereto made a part hereof.

12. Manager's Report

1. Introduction of Director of Planning & Project Management, Glenda Allen. Thank you and congratulations to Glenda Allen for applying, interviewing for and being offered the important, strategic position of Director of Planning and Project Management for Lincoln County. Ms. Allen brings with her a wealth of experience from analyzing and engineering road and other capital projects, to extensive grant management to many other activities for which she has developed a strong background. Welcome Glenda Allen!

2. 2020 Census Outreach. During its November 19th meeting, the Commission directed the development of a Third Party Contract for the County's Census Outreach activities that would be acceptable to the State. Mr. Morel worked with the Census Outreach Bureau to modify its proposed form of contract in a manner satisfactory to both State and the County. See Exhibit 1 for fully executed Intergovernmental Grant Agreement; specifically Page 9, Paragraph Q that relieves the County of the obligation to perform the terms and conditions of the Intergovernmental Grant Agreement, should the County assign the responsibility to perform the terms and conditions identified in the Intergovernmental Grant Agreement to a third party.

Craig Westbrook was identified by both the County and the Census Bureau as a qualified third party contractor who would perform these required terms and conditions.

3. Exit Interview for FY 18-19 Audit. Kubiak, Melton & Associates ("KMA") conducted an Exit Interview on Tuesday, November 27th. Due to weather concerns, KMA conducted the interview via teleconference. The Audit was attended by Commissioner Stewart, Nita Taylor, Beverly Calaway, Sherri Huddleston, Billie Jo Guevara and Rhonda Edwards. The resulting Audit was timely filed with the Office of the State Auditor on Monday, December 2nd. The final Audit Report to the full Commission is anticipated to be scheduled for the February 18th Commission Meeting.

4. NACo Action Alert has been issued requesting Counties across the land to support two pieces of legislation related to two important programs that ensure public lands counties can meet their governing missions and provide essential services: Senate Bill 430 would extend the authorization of Secure Rural Schools (SRS) for an additional two years; and Senate Bill 2108, the Small County Payments In Lieu of Taxes (PILT) Parity Act, which would create new monetary and population caps under the PILT program for counties under 5,000 in population.

5. NM Counties - 33 Strong Annual Legislative Conference. NMC is hosting its Annual Legislative Conference from Monday, January 20th through Thursday, January 23rd. See Exhibit 4 for the calendar of events. A number of elected officials and employees also take advantage of key NM EDGE Courses offered at that time. NMC's County Lobbyist Meeting, which I will be attending, is scheduled for Friday morning, January 24th.

6. DFA Capital Outlay Dashboard is a new online tool that allows the public, local governments and state policymakers to track and analyze local infrastructure projects. Find detailed information on capital appropriations, track project expenditures and issued grant agreements, and download customized data that's important to your entity. The user controls the level of detail viewed in this interactive dashboard. Dashboard can be accessed at www.nmdfa.state.nm.us/dfa-dashboards.aspx. The information can be displayed by total state; individual County (which provides information for each local government or entity in the County receiving Capital Outlay Funding).

7. County Owned Property - Use of Multiple Owner Name / Entity. Assessor and Inventory Assets Clerk have found that County has taken title under 12 different owner names for County-owned property. See Exhibit 7 for a list of the owner names, followed by the total number of properties (in parentheses) for each name. Assessor Hill and Inventory Assets Clerk, Toni Foligno, are seeking information as to whether, for uniformity, all properties should be under one name.

Brief discussion on contacting Otero and getting joint letter started on the condition on Highway 54 south towards Alamogordo.

Department Head Updates

Joe Kenmore, Office of Emergency Services Director stated NM Highway 54 South and NM 380 are tough roads to travel especially with the big equipment used by the department. Mr. Kenmore stated he attend a communications meeting regarding the megawatts being brought into New Mexico.

Mr. Kenmore stated they received a Hubbard grant in the amount of \$4,000. Mr. Kenmore informed a 3-5 year plan is in place to report the amount of fatalities among firefighters and volunteers and responds to calls.

Renee Montes, Senior Center Program Director informed the department's target budget is right on track. Ms. Montes stated they received 200 boxes from Santa Helpers in which they dispersed to the seniors in the area.

Ms. Montes stated the Ruidoso Middle created Christmas card for the seniors.

11. 9:30 A.M.: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS (Items are for discussion only – no action will be taken)

Commissioner Stewart reported he continues to attend the Joint Land Use Study Group quarterly meetings and the current studies have found no impact to the County of Lincoln.

Commissioner Allen informed she continues to attend the Greentree meetings. Commissioner Allen stated as being a member of the Juvenile Justice board heard an informative presentation by the Juvenile Detention Alternatives. Commissioner Allen stated it was a great program with lots of information.

Commissioner Willard reported he attend The Southeast Regional Transportation Planning Organization (SERTPO) meeting in Roswell yesterday December 16, 2019.

Commissioner Draper stated he attend the Red Cross Training at the Convention Center on December 3, 2019. Commissioner Draper commended Robert Barber on his expertise on the subject.

Commissioner Draper stated he recently watch a video by Tim Parker, NM DOT District 2 on the subject of human trafficking and the amount of children involved.

Beverly Calaway, Treasurer expressed appreciation for the excellent performance of her staff in the collection of property taxes. Ms. Calaway reported a total collection \$ 20 million. Ms. Calaway stated a payment of \$500,000 was distributed to the debt service bond.

Ms. Calaway applauded Sherrie Huddleston, Chief Deputy Treasurer on working on received the \$116,285 from Homeland security for the Little Bear Fire.

Walter Hill, Assessor announced the Aerial Pictometry flyover was 70% complete. Mr. Hill stated they would have an in-office training on the program tomorrow December 18, 2019.

Under Sheriff Wood expressed his concern of the safety of Ski Run road and recommended the County get some engineering ideas. Under Sheriff Wood stated he attend the CYFD open house December 16, 2019.

Kathleen Phillips-Hellman expressed concern that no service was given at Fort Stanton this year.

Jeff Bleau, resident of Lincoln County wanted to applaud Clara Farah with Creative Aging and the Santa Helpers for their hard work with the Christmas boxes.

12. Managers' Report Continued.

Jeff Honeycutt, Road Superintendent informed the department is currently hauling and placing the millings acquired from the State. Mr. Honeycutt reported they have hauled 1500 cubic yards to mile marker 300. Mr. Honeycutt stated they have spent approximately \$80,000 on trucking for hauling these millings.

Billie-Jo Guevara, Human Resources/ Finance Director informed on open positions including an Operator 2 position; two Sheriff's Deputies; and one dispatch position.

Glenda Allen Director of Planning and Project Management stated her office is currently undergoing a review of current plats and surveys maintained by the planning office. Ms. Allen stated she has been working with the Village of Ruidoso regarding short term rentals.

Chair Stone recessed the regular meeting at 10:00 AM and convened the regular meeting at 10:15 AM.

13. Lincoln County Detention Center

a. Lincoln County Detention Center Restricted Housing Quarterly Report As Required by House Bill 364 and Section 33-16-1 through 33-16-7 NMSA 1978 cited as the "Restricted Housing Act"

Ms. Taylor informed New Mexico Counties Attorney Grace Phillips clarified the requirements of the Restrictive Confinement Act. Ms. Taylor stated it requires detention facilities to produce a quarterly report regarding every individual housed in restrictive confinement more than twenty-two (22) hours in a day per the prior three months. Ms. Taylor stated the report must be submitted to the County Commission and a copy emailed to the Legislative Council Service Library.

Ms. Taylor stated the previous Warden, Warden Anderson with LaSalle, was aware of this requirement and did provide a copy to the county and did email the report to the legislative library. Ms. Taylor stated Warden Morales with Correctional Solutions Group, LLC is aware of this requirement and will be compliant.

b. Consideration and Approval to Enter Into CES Contract for Design and Construction of Expansion of Lincoln County Detention Center – Funded by NM Capital Appropriation Awards

Ms. Taylor informed the County had been granted two New Mexico Capital Appropriations Grants to "plan, design, construct and furnish an expansion to the detention center in Carrizozo in Lincoln County." Ms. Taylor stated the initial grant for \$156,734 was issued in 2014 and reauthorized in 2018. Ms. Taylor informed the reversion date is June 30, 2020. Ms. Taylor stated the County received a second grant this year in the amount of \$50,000.

Ms. Taylor stated the County have been working with SDV Construction for several years in finalizing the design of an expanded Sally Port and separate expansion for armory and munitions.

Carlos Morales, Warden stated the current sally port does not fit daily operations with only one way in and out of the gate. Warden Morales stated the current armory room is housed in the electrical room which poses a safety concern.

Warden Morales stated operations of the Lincoln County Detention Center are going well and have worked hard to fully staff the facility; identify and repair building deficiencies; and to bring their own corporate processes, policies and guidelines to the facility.

There was a general discussion on various improvements needed in the Detention center.

Motion: Authorize the Manager to enter into the CES contract with SDV Construction by using the initial grant of \$156,734 and the grant received this year in the amount of \$50,000. , **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.

16. Approval of Resolution 2019-25 A Resolution Relating To The Proposed Industrial Revenue Bonds Titled Lincoln County, New Mexico Taxable Industrial Revenue Bonds (Duran Mesa, LLC Project), Series [2020]; Lincoln County, New Mexico Taxable Industrial Revenue Bonds (Tocolote Wind, LLC Project), Series [2020]; And Lincoln County, New Mexico Taxable Industrial Revenue Bonds (Red Cloud Wind, LLC Project), Series [2020] (Collectively, The "Bonds"); And Directing The County Clerk To Publish Notice Of Intent To Consider Ordinances Authorizing The Issuance And Sale Of The Bonds In A Newspaper Of General Circulation Within The County

Attorney Morel recommend approval of Resolution 2019-25; A Resolution relating to the proposed industrial revenue bonds titled Lincoln County. Attorney Morel stated Duran Mesa LLC Project through Pattern energy has made a proposal to the County for acquisition by the County from the Company of a lease-hold interest in land an equipment located in the County which will constitute an authorized project under the Act with up to 1,000 megawatts of generating capacity to be developed in one or more phases.

Attorney Morel stated as required by the Inducement Resolution, the Company must make payment in lieu of taxes (PILT) based on the megawatt nameplate of installed electricity generating capacity of the Project, to be allocated between and among the County, the Corona Public School District and the Carrizozo Municipal School District as agreed upon.

Motion: Adopt Resolution 2019-25, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

EXHIBIT C: Copy of Resolution 2019-25 is attached hereto in reference thereto made a part hereof.

17. Elected Officials' Request for Commission Consideration of Midyear COLA for Lincoln County Employees.

Beverly Calaway, Treasurer stated the Elected County Officials of Lincoln County are requesting a consideration of a midyear COLA for the Lincoln County Employees.

Walter Hill, Assessor recommend approval of the midyear COLA.

Whitney Whittaker, Clerk also recommend approval of the midyear COLA.

Mike Wood, Undersheriff recommended approval or midyear COLA for the Lincoln County employees.

There was a general discussion regarding the cost of living consideration.

Motion: Approve a 2% COLA for the Lincoln County employees, **Action:** Approve, **Moved by** Commissioner Draper, **None seconded.**

Motion died for a lack of second.

18. Consideration of Appointments and Removals from Boards/Commissioners' Committees

a. Labor Management Relations Board

Motion: Appoint Darren Hooker to the Labor Management Relations Board, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

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

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

19. Approval Authorization to Schedule Public Hearing to Consider Other Outdated or New Lincoln County Ordinances

No request at this time.

20. Executive Session Pursuant to the Open Meetings Act: Discussion of all Threatened and/or Pending Litigation Section 10-15-1, Sub-Paragraph H.(7); and Discussion of the Purchase, Acquisition or Disposal of Real Property or Water Rights by the Public Body, Section 10-15-1, Subparagraph H.(8).

Motion: Close the meeting for the purposes of an executive session Pursuant to the Open Meetings Act Lincoln County Executive Session Pursuant To The Open Meetings Act: Discussion Of All Threatened And/Or Pending Litigation, Section 10-15-1, Subparagraph (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).

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 Ct. 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. On September 16, 2019, the case was dismissed and, on October 7, 2019, Plaintiffs filed their Notice of Appeal to the United States Court of Appeals for the Tenth Circuit.
6. **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 Counts is the presiding Judge. County's Answer to the Complaint and Jury Demand (12 person) was filed August 9, 2018. On September 23, 2019, Plaintiff filed his Amended Complaint and, on September 24, 2019, the case was removed to the U.S. District Court for the District of N.M., Cause No. S-1-2:19-cv-0087-GJF/GBW
7. **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. On October 16, 2019, Lincoln County received notice that it would be receiving \$46,011.00 from the Judgment Fund.
8. **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.
9. **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.
10. **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. All Judges in the 12th Judicial District have recused themselves. On September 16, 2019, Judge James M. Hudson was assigned to preside over the case. There is presently pending a Motion to Dismiss the Complaint.
11. **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. On October 11, 2019, the case was removed to the U.S. District Court for the District of N.M. U.S. Dist. Court Case No. 2:19-cv-00961-KRS/GJF A Motion to Dismiss the Complaint in Lieu of an Answer is presently pending.
12. ***City of Albuquerque, et al vs. John Monoforte & N.M. Taxation & Revenue Department, Cause No. D-202-CV-2018-08036** Lincoln County has entered into an Agreement for joining in the litigation to recover amounts representing unauthorized reductions in violation of New Mexico Statutes. On November 14, 2019, Lincoln County joined in the litigation.
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

***Green, Judy** – Tort Claim Notice received November 21, 2019 alleging that Ms. Green died as a result of the negligence, gross negligence, inattentive care, omissions and actions of the Lincoln County Medical Center.

Bottlehouse Cabins, L.L.C. – potential illegal subdivision.

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.)

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

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.

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.

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.

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

Arroyos, Joshua – Tort Claim Notice received August 30, 2019 alleging assault while detained at the Lincoln County Detention Center.

Wilcox, Debra – Tort Claim Notice received September 11, 2019 alleging personal injury and property damage resulting from false arrest, malicious prosecution, abuse of process, libel, slander, defamation of character, violation of property rights and/or deprivation of any rights, by LCSO Deputy Hanna on or about September 7, 2019.

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.

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 and convened the Closed Session at 11:05 AM.

Chair Stone adjourned the Closed Session and reconvened the Regular Meeting at 11:34 AM.

Commissioner Stone 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.

21. Renewal of County Attorney Contract – Effective January 1, 2020

Motion: Renew the County Attorney Contract, **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.

CHRISTMAS POTLUCK LUNCHEON

Chair Stone recessed the regular meeting at 11:34 AM and reconvened at 12:57 PM.

14. **1:00 P.M.: Public Hearing To Consider An Ordinance Repealing Lincoln County Ordinance Nos. 2016-02 And 2017-07 And Enacting An Ordinance Which Regulates Acceptable And Unacceptable Waste in Lincoln County, Providing For Efficient And Sanitary Collection Of Waste, Providing For Mandatory Disposal And Assessment Of Fees, Proving A Penalty For Violation Of This Ordinance, Repealing Ordinances In Conflict; Proving For The Severability Of Parts Hereof; And Providing An Effective Date by Ordinance 2019-04**

Attorney Morel stated the proposed of the Public Hearing was to consider an Ordinance that would repeal two current Ordinances 2016-02 and 2017-07 and combined them into one Ordinance. Attorney Morel pointed out some of the major changes; fees would be separate per County Resolution, deleted reference to ground water or landfill, defined the word owner, and an added appeal process.

Jeff Bleau, resident of Lincoln County was concerned with the Lincoln County Solid Waste Disposal Ordinance. Mr. Bleau questioned why homes with secondary living quarters were now being charged an additional household charge. Mr. Bleau stated Ranches of Sonterra Covenants prohibits leasing or renting of guest quarters. Mr. Bleau stated the fee is unfair, paying an extra fee associated with a casita or guest house.

Commissioner Stewart questioned the environmental gross receipt tax and if it was tied to the loan.

Attorney Morel stated when the County was a part of Greentree, the gross receipt was attached, but was his belief once the loan is paid off the gross receipts would then come back to the County.

Mr. Hill expressed concern with appeal process and having language in the Ordinance that the Assessor regulating the property. Mr. Hill stated every property will be assessed whether a garage or guest home.

Commissioner Allen questioned the appeal process and thought it might read better if it was mentioned in a different section of the Ordinance.

Mr. Hill will work with Attorney Morel to identify properties with secondary living quarters.

Chair Stone adjourned the Public Hearing and reconvened the Regular Meeting at 2:04 PM

15. Replacement Hospital Update

Mike McDonald, Project Manager with Jaynes Corporation stated they finished the first floor, installed imaging equipment, drywall finishing, painting, and mechanical systems startups.

Mr. McDonald announced the site was scheduled for a February 20, 2020 Certificate of Occupancy. Mr. McDonald stated this is a moving document and the date could change. Mr. McDonald stated construction in the pharmacy was not compliant nor did it meet the intent of the Life Safety Code. Mr. McDonald stated they looked into the issue and as it stand right now will not change the date of occupancy.

Mr. McDonald reported some of the major milestones reached in the last month include the generator start up, sidewalk installation, curb and cutter work on the South side area, and finishing drywall. Mr. McDonald informed the second air handler would be started up soon to have sufficient temperature control to get through winter.

Commissioner Willard questioned the sewer issue.

Mr. McDonald stated waiting approval from traffic control as well as a report on the depth and slope of the tie with the Village. Mr. McDonald stated they would recommend starting the construction during phase 2 which is during occupancy. Mr. McDonald stated they can run off the existing sewer system until they can figure out a plan of action.

Owner's Representative Jim Klein, stated without the data from the potholing it's hard to determine a plan of action. Mr. Klein stated they are looking for the minimal slope requirement.

Todd Oberheu, Chief Executive stated the issue with the sewer is the line running down to the river is uphill.

Mr. Oberhue stated Candice Selgado will be taking over the Carrizozo clinic for Rebecca Meunier who is leaving at the beginning of January.

Ms. Taylor stated based on the Contingency Funds spend or committed to date, the remaining balance in the \$1.7 million Fund is \$98,484.06. Ms. Taylor stated Bobby George of Dekker/Perich/Sabatini is requested a change order of the contingency fund in the amount of \$30,000 for remaining projects.

Motion: Table, **Action:** Approve, **Moved by** Commissioner Willard, **None seconded.**

Motion died for lack of second

Motion: Approve change order contingency in the amount of \$30,000, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Draper.

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

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

No: Commissioner Willard.

22. Signing of Official Documents

23. Next meetings:

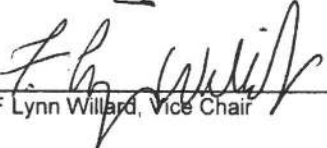
- a. January 28, 2020 Regular Commission Meeting

24. Adjourn

There being no further business to come before the Board of County Commissioners, Chair Draper adjourned the meeting at 2:52 PM.

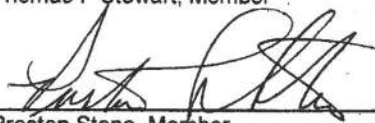
County of Lincoln
Board of Commissioners


Dallas Draper, Chair


F Lynn Willard, Vice Chair


Elaine Allen, Member


Thomas F Stewart, Member


Preston Stone, Member

ATTEST:


Whitney Whittaker, County Clerk

January 28, 2020
Date Approved

