

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, February 19, 2019

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on February 19, 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

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 – 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.

Chair Stone requested agenda item 9 be placed after public comment.

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. January 22, 2019 Regular Commission Meeting Draper

Motion: Approve the minutes of the January 22, 2019 Regular Meeting, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Motion: Approve the minutes of the, **Action:** Approve,

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 January 31, 2019

c. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims

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

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

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

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

8. Forest, Land & Natural Resources Matters:

a. Smokey Bear Ranger District

Jodi Canfield, District Ranger reported the Homestead fire burned 7 acres of private land and 39 acres of forest. Ranger Canfield stated Smokey Bear Ranger District was the first agency to respond to the fire. Ranger Canfield stated the District is hiring permanent fire positions and getting vehicles ready for the upcoming fire season. Ranger Canfield stated the BACA fuel reduction project was completed. Ranger Canfield reported the district was awarded funds for riparian restoration in the South Fork Bonito in correlation with Upper Hondo. Ranger Canfield stated they will begin to work this spring on getting the agreement signed and apply for the fiscal year 2019. Ranger Canfield informed the work will include treatment of invasive plants, planting appropriate trees and shrubs, and seeding native forbs and grasses.

Ranger Canfield stated the district received a grant to employ Ecoservants to design and implement a signed plan for Cedar Creek and Perk Canyon trail system. Ranger Canfield stated the Smokey Bear Collaborative Group is making progress with travel and recreation planning in the Hale Lake area. Ranger Canfield stated a meeting is scheduled for February 27, 2019 at the County Department of Emergency Services office.

b. Lincoln County/NMSU Cooperative Extension Services

Ms. Taylor informed Melanie Gutierrez was unable to attend.

c. South Central Mountain Resource and Conservation District Council

Ms. Taylor informed Rick Merrick was unable to attend.

d. Upper Hondo Soil & Water Conservation District

Laura Johnson, Program Director discussed the Acequias Governance and Water Rights Workshop to be held on Monday February 25, 2019. Ms. Johnson stated the workshop is to empower acequia leader in their roles as local institutions. Ms. Johnson reported the Upper Hondo continued to work with the Smokey Bear Ranger District for species treatment in the South Fork Campground. Ms. Johnson stated the district will continue work on treatment in the Bonito area.

Ms. Johnson discussed various other cost share programs overseen by the Upper Hondo including vinegar treatment and other associated programs which benefit land, wildlife and livestock.

e. LANRAC

Ms. Taylor informed Robert Barber was unable to attend.

11. Consideration of Entering Into Continuing Disclosure Dissemination Agent Agreement – Accu-Disclosure, LLC: Mutual Securities Disclosure Services

Nita Taylor, manager stated each year in February and March the Treasurer has a responsibility to file audited financial information, normally obtained from the County formal Audit on the EMMA website. This year because the County's audit was not yet complete, Treasurer filed unaudited financials, which is an acceptable mythology, to be updated once the Audit was approved. Ms. Taylor the EMMA website is funded and operated by the Municipal Securities Rulemaking Board (MSRB). The EMMA website is funded and operated by the Municipal Securities Rulemaking Board (MSRB), the self-regulatory organization charged by Congress with promoting a fair and efficient municipal securities market. EMMA is designated by the U.S Securities and Exchange Commission as the official source for municipal securities data and disclosure documents. The

Tolls for investors, municipal entities and others. EMMA supports municipal market transparency, but is not a platform for buying or selling bonds.

While assisting the County with updating these files, a recommendation from Erik Harrigan of RBC Capital Markets, verified the information that had to be updated and filed and assisted the County in developing that for filing. He strongly the County enter into a consulting agreement with a dissemination agent to assist the County with its continuing disclosure obligations tied to its bond issues.

Loretta Garcia, president of Accu-Disclosure, LLC informed Lincoln County was out of compliance as of March 31, 2018 due to disclosure reports not properly filed the on the 2012 Gross Receipts Tax Refunding Revenue Bonds. Ms. Garcia stated the company is pleased to provide dissemination agent services in connection with the continuing disclosure obligations. Ms. Garcia stated in connection with securities that the issuer has issued, the Issuer has agreed to file certain annual financial information and provide notice of certain events as more fully described in a continuing disclosure undertaking. Ms. Garcia stated the filing is done pursuant to SEC Rule 15c2-12 as amended and requires the annual financial information and event notices to be filed with the Electronic Municipal Markets Access system (EMMA) maintained by the Municipal Securities Rulemaking Board. Ms. Garcia informed event notices are required to be filed on EMMA in a ten day period. Ms. Garcia stated the company is willing to come in at any time to help the County.

Motion: Approve the Continuing Disclosure Dissemination Agent Agreement between the Lincoln County and Accu-Disclose LLC 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.

13. Update of Required CDBG Activities Associated with Construction of Hondo Senior Center:

- a. Submittal of Depository/Authorization Signatories Designation Form;**
- b. Submittal of Request for Proposals for Design Professional Services to Local Government Division for Approval; followed by Subsequent newspaper advertisement and posting of the RFP**

Ms. Taylor reminded during its January 22nd meeting the commission approved the acceptance of the community development block grant in the amount of \$513,747.00 to plan design and construct a new Hondo center and authorized the official Grantee Representative to be changed from Commission Chair to County Manager.

Ms. Taylor stated since CDBG is federally funded the grant recipients are required to use an RFP format prepared by the Local Government Division that has been endorsed by the Professional Technical Advisory Board. Ms. Taylor stated the County specific RFP No 18-19-007 for Design Professional Services has been submitted to LGD for its review and concurrence.

Ms. Taylor stated also to be submitted immediately is the Depository Authorized Signatories Designation form. Ms. Taylor stated this form has been populated with the identified County employees designated as authorize signatories for requesting payment to be deposited into the about the County's appropriate checking account.

Motion: Authorize Manager to advertise and issue RFP No 18-19-007 as soon as reviewed and received from Local Government Division , **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. Award RFP 18-19-005 for the Construction of a New Bonito Volunteer Fire Station in Sun Valley

Ms. Taylor stated RFP 18-19-005 to build a new Bonito Fire Station was published in the Lincoln County News Thursday January 31, 2019 and also posted on the County's website. Ms. Taylor stated responses were due and received on Thursday February 14, 2019.

	Points
Roper Construction, Inc.	318
Westcon Commercial	305

Motion: Award the RFP to the highest rated Offeror Roper Construction, Inc, **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. Approval to Enter Into CES Contract for Design of Lincoln County Detention Center Expansion

Ms. Taylor reminded in March 2018 she provided an overview regarding expansion needs for the Lincoln County Detention Center. Ms. Taylor stated this project did not materialize in 2018 due to the numerous other ongoing projects in progress in Lincoln County. Ms. Taylor confirmed with the President of DSV Construction a CES company that his quote for these design services is still valid.

Ms. Taylor stated Lincoln County has had experience with SDV Construction through its provisioning of the White Oaks Fire Station Design, as well as construction services to include dirt work and slab placement for the White Oaks Project. Ms. Taylor stated SDV also provided design services to the Bonito Fire Department for its new Fire Station at Sun Valley.

Motion: Approve agreement with SDV construction, **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 to Enter Into CES Contract for the Purchase of a Metal Building for White Oaks Fire Station

Ms. Taylor informed the County has recently closed the two Capital Appropriation Grants, totaling \$45,000 it received during the past several years to prepare for the purchase and construction of a metal building that would expand the capability of White Oaks Fire Department to house its apparatus. Ms. Taylor stated the existing Station barely houses three of the six apparatus utilized by the fire team to respond to emergencies; and the expansion is necessary to house existing apparatus and meet the needs of the residents and property owners. Ms. Taylor informed the expansion would consist of purchasing and erecting a 40' by 60' three bay metal building.

Ms. Taylor stated the White Oaks Fire Department has received a Fire Marshal's Grant in the amount of \$100,000 that must be encumbered by May 15, 2019. Ms. Taylor stated this grant will cover the cost of the metal building quoted by Hobbs Iron & Metal, Inc, a CES Company. Ms. Taylor stated the Fire Marshal will also cover a portion of the construction.

Motion: Approve CES contract with Hobbs Iron and Metal, Inc, **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. Lincoln County Medical Center Update

a. Replacement Hospital Construction Update – Mike McDonald, Project Manager

Ms. Taylor informed LCMC Replacement Hospital Project Manager Mike McDonald was unable to attend due to weather.

Ms. Taylor stated the top-out ceremony was held on January 24, 2019. Ms. Taylor stated this event captured a pivotal date in this phase of the replacement hospital.

b. Request to Issue RFP for Abatement Services

Ms. Taylor stated Owner's Representative Jim Klein has been working with County Purchasing Agent Samora to develop an RFP for Abatement Services. Ms. Taylor informed the RFP will be finalized and will be provided to Attorney Morel for final review.

Motion: Approve the issuance of a Request for Proposal for Abatement Services, **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.

c. General LCMC Update – Todd Oberheu

Todd Oberhue, Chief Executive Officer for Lincoln County Medical Center provided an update on the Hondo Clinic. Mr. Oberhue stated the clinic was up and running one day a week, and in April it will go up to two days a week. Mr. Oberhue stated the Capitan Clinic will move back to being open five days a week come April.

d. Approval of Third Amendment to Medical Director Agreement

Ms. Taylor stated this agreement is for the services to be provided to the Volunteer Fire Departments and Emergency Medical Dispatch.

Mr. Oberhue stated Dr. Otero has held that position since 2014.

Motion: Approve the Third Amendment to Medical Director 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.

17. Manager's Report

1. **HAT'S OFF:** Emergency Services Director Joe Kenmore and Sheriff Shepperd each received a **SALUTE** from the Republican Party of Lincoln County during the Village of Ruidoso's February 12th Council Meeting. This **SALUTE** was to the entire Lincoln County Fire Services family and Sheriff's Department "**FOR SERVICE TO OUR COMMUNITY**".
2. **Joint Investigators Training Texas – New Mexico.** New Mexico State University's Southwest Border Food Protection and Emergency Preparedness Center provided Joint Investigators Training for the NM Department of Agriculture on behalf of the New Mexico Livestock Board. It was attended by approximately 38 investigators from Texas, Arizona and New Mexico; including Undersheriff Wood, one of our Investigator's and OES Director Joe Kenmore. Topics covered included livestock theft, property thefts, Texas and New Mexico brand and inspection laws, as well as the development of case reports, intelligence sharing and joint investigations.
3. **The Carrizozo Baseball Field.** During the planning phases of the new expanded Courthouse, the County requested, and the Town of Carrizozo granted the vacation of a portion of Brick Street to accommodate the construction of the facility. In exchange, the Town of Carrizozo requested the County to grant to it the Carrizozo Baseball Field, which is located on property owned by the County. As this exchange has not been formalized, the Town of Carrizozo is requesting the County to formalize the attached Warranty Deed. I recommend this exchange be formalized by executing the Warranty Deed.
4. **New Mexico Energy, Minerals and Natural Resources Department** has distributed a Grant Award Agreement between the ENMERD and Lincoln County for the Nogal Volunteer Fire Department to purchase Personal Protection Equipment ("PPE") or Fire Fighting Equipment ("FFE"). The Grant is in the amount of \$13,410.63 and requires a Local Match of \$1,490.07. To get the process started, Finance Director signed on behalf of Manager earlier this month, and ENMRD has since returned the fully executed Agreement and Notice to Proceed at We are requesting Commission approval of accepting these grant funds with the approval of Agenda Item No. 23, Resolution 2018-31, Adjustments to the Budget; specifically to increase the Nogal Volunteer Fire Departments budget by \$13,410.63.
5. **Status of Kubiak Melton & Associates' Agreed upon Procedures' Review** of the Office of the State Auditor's ("OSA") work papers related to its fact-finding initiative generated by an anonymous complaint. KMA has completed its extensive review of not only the OSA's paper work, but also of the County's. They have scheduled a meeting with OSA this week, and intend to have their final report to the County in the near term.
6. **Coalition of Arizona / New Mexico Counties.** Howard Hutchison, Executive Director, has announced the annual meeting to be held in Glenwood, NM at the Community Center on Saturday, March 23rd at 11:00 a.m.; and has requested a response regarding availability.
7. **New Mexico Counties' new website** is going LIVE, enabling its visitors to access an interactive map of all the counties. It will link to each county's website for easy access to the user. The **Annual Conference** will be held in Curry County (Clovis), beginning on Tuesday June 18th. I request the Commission to consider moving the June Commission meeting either

to June 11th or to June 25th, enabling elected officials and some employees to attend the Conference. With either date, there will be three full weeks between the two Commission meetings.

8. **Visit from Local Government Division.** We had a very good meeting with Scott Wright, Community Development Bureau Chief and David Buchen, the County's assigned Community Development Project Manager when they traveled through Lincoln County after visiting neighboring counties. We discussed and clarified key processes to be developed and followed as we begin to work on the CDBG grant and wrap up several Capital Outlay appropriations from the state. They were pleased with our quick start on the CDBG required activities and encouraged early and often communications. There has been no appointment yet of LGD's Division Director or Deputy Director.

10. 9:30 A.M.: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS (Items are for discussion only – no action will be taken.

Ms. Taylor introduced Karen De La Roche the new Chief at the Lincoln County Detention Center

Karen De La Roche, Chief Lincoln County Detention Center stated she had been in Corrections for over twenty years. Chief. De La Roche informed she worked with a private company and with Federal inmates. Chief. De La Roche stated she would like to change how we do business in the Lincoln County Detention Center by introducing classes, loading up the library services, and job fair. Chief. De La Roche stated most of the inmates are between the ages of 19-40 years of age. Chief De La Roche stated they will fulfill days with positive activities and give the inmates tools to help them learn to be a successful.

Commissioner Stewart informed he attended a Meeting January 31, 2019 with Dona Ana Staff to discuss the continued efforts with the community develop director. Commissioner Stewart stated he might be required to participate in a presentation for the Dona Ana Commission.

Commissioner Draper stated he attended Lincoln County Day in Santa Fe. Commissioner Draper informed he attended a private meeting with Alicia Keys from NM counties. Commissioner Draper stated NM Counties would like to make arrangements and have a tour of Lincoln County. Commissioner Draper informed Mike Wood Undersheriff and himself attended a School Awareness Active Shooter Training class.

Beverly Calaway, Treasurer stated the Lincoln County Treasurer's office has collected 68% of property taxes and the office will be sending out reminder letters in March for the second half of the taxes.

LeeRoy Zamora, Chief Deputy Assessor informed the annual assessor evaluation will be in March or April and once completed a full report will be given to the Commissioners. Mr. Zamora also welcomed Raymond Monreal to the Assessor's office as the new Deeds/Title Clerk.

Robert Shepperd, Sheriff thanked Undersheriff Mike Wood for taking care of the office and daily duties while he was in Santa Fe for the Legislative session.

Sheriff Shepperd, speaking as Lincoln County's NMC Board Member. Sheriff Shepperd stated there were many bills on the NMC radar and he would keep the Commission informed on any major actions which would directly affect the County

Chair Stone stated he fully supported our Constitution of the United States.

Karyl Williams, May Ann Russ, Ron Andrews, Residents of Lincoln County stood in support of Lincoln County Resolutions 2018-35 and 2018-36 and the 2nd Amendment.

Charmaine O'Rourke, resident stated she was not in support of the highway 380 project and opposed the bill.

Cathleen Phillips, resident stated she support our 2nd amendment and read an Oath of Office all elected officials take before entering office.

Rick Simpson, Dana Terlecky, Johnny Parker supported the 2nd amendment.

Lisa Dolle, resident is concerned with domestic violence. Ms. Dolle stated she had no objection to using firearms, but concerned with domestic violence and having a firearm in the home. Ms. Dolle stated this state needs more support for mental health.

Richard Ford, Clark Taylor, Ronald Rader stood in support of our Constitution of the United States and the 2nd amendment.

Roe Olson, retired Police Officer from California stated gun laws do not work.

Charmaine O'Rourke, resident stated she was a gun owner, hunter, and sports shooter but believed that any state law should followed.

Jerry Tulley, Joe Islas, E.W. Gunkel stated they appreciate the county sheriff's office and support our right to bear arms.

Jackie Powell, former County Commissioner of Lincoln County stated the Commission has obligations to defend our residents. Ms. Powell stated we are on the verge of a border invasion and we need to keep all the rights we were granted. Ms. Powell stood in support of Resolutions.

Joe Dearing, Jeff Blue stood in support to County Resolution and Constitution of the United States.

Guy Hence resident of Alto for twenty years stated he hoped we do not follow a model of the State of California. Mr. Hence stands in support all the people here who have stood up for 2nd amendment and County Resolution. Mr. Hence stated this County does not have enough law enforcement officers to enforce the bill and this directly violates rights of citizen.

Jim McGee thanked the Sheriff's Office for their public service. Mr. McGee stated he supports the Resolution. Mr. McGee expressed his belief that domestic violence is usually done with the swing of the fist.

Art Gonzales, Kayla Clifton, Nathan Fox, Daniel Chavez, Floyd Goodloe, Rick Evans, Jim Grider, and Ray Seidel all stood in support for Lincoln County Resolutions.

Kathleen Philips Hellman opposed to the HB 55 Electoral College.

April Simpson, resident stated she was a victim and supports the right to bear arms. Ms. Simpson stated with that right she will not be a victim again.

Beverly Calaway, resident respectfully requested the County of Lincoln to pass Resolutions 2018-35 and 2018-36.

John Sugg, 12 Judicial District Attorney stated he believed in our Constitution and is willing to challenge these gun laws in the courts. District Attorney Sugg stated he will work with Sheriff Shepperd to help protect the freedoms of the citizens.

Robert Shepperd, Sheriff thanked everybody for attending the meeting. Sheriff Shepperd stated there are laws currently in place for domestic abuse and other offenses.

9. Legislative Update – Consideration of Support / Opposition of Introduced Legislation

a. HB 223 – Make an Appropriation to Plan, Design, Reconstruct A Portion of US380

Commissioner Willard was concerned with the bill and would like to revoke his vote on the Resolution 2018-

Commissioner Allen stated she was in opposition to the Highway 380 bill.

b. HJM3 – Request Department of Transportation to Redesign US 380 and Appropriate Sufficient Funds

c. Numerous Proposed Gun Control Bills Imposing Rules, Regulations and Restrictions Exceeding Federal Law on All Private Firearms:

i. Consider Adopting Resolution No. 2018-35 Declaring Lincoln County to be a Second Amendment Sanctuary County

- ii. **Consider Adopting Resolution 2018-36 That Would Impose Rules, Regulations and Restrictions Exceeding Federal Law on All Private Firearm Transfers Between Individuals**

d. SB121 – Reinstating the Department of Transportation's Duty to Maintain Fencing, Cattle Guards and Livestock Warning Signs on Public Highways

Commissioner Stewart suggested we consider adding to the Resolution, New Mexico State Legislators are remiss in not listening to the Counties concerns and Lincoln County intends to introduce litigation protecting the right to bear arms.

Motion: Adopt Resolution 2018-35 with amendments, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

Mike Wood, Undersheriff strongly supports our 2nd amendment.

Commissioner Allen stated she supports the Constitution but is strongly against the word "sanctuary" status referenced in the Resolution.

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

Yes: Chair Stone, Commissioner Stewart, Commissioner Draper, Commissioner Willard.
No: Commissioner Allen.

Motion: Adopt Resolution 2018-36, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

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

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

EXHIBIT B: Copies of Resolution 2018-35 and 2018-36 are attached hereto in reference thereto made a part hereof.

Chair Stone recessed the regular meeting at 11:26 AM and reconvened at 11:43 AM.

17. Managers' report.

Departmental Heads

Renee Montes, Senior Services Director gave a status update on the Non Metro Area Agency on Aging funding. Ms. Montes stated the Director from Non Metro was replaced and they are still working on distributions around the state. Ms. Montes stated Non Metro is aware of Lincoln County's concerns.

Commissioner Willard requested a report on attendance at all the senior centers.

Billie Jo Guevara, Administrative Assistant and Human Resources Director stated the Sheriff's office had one Deputy Sheriff's position open and the Road Department had an Operator position open.

Joe Kenmore, Office of Emergency Services Director informed Lincoln County will be back on schedule with the monthly safety meetings. Mr. Kenmore stated Arabela received the loan and are anticipating the trucks to be delivered by the end of February or early March. Mr. Kenmore stated a refresher Emergency Medical Dispatch Class will be here Thursday at Capitan Schools.

Samantha Mendez, Director Planning and Project Management informed she will be working on redoing the Addressing Tech position and possible other departments job descriptions changes. Ms. Mendez stated the department will waive the alarm permit penalty for this year.

Commissioner Draper informed HB 216 was chaptered and suggest the County open up the subdivision ordinance.

Jeff Honeycutt, Road Superintendent reported on the CAP/Coop projects in the spring, including a chip seal on Alpine Village and work on Arrowhead road. Mr. Honeycutt stated the department would also start work on Paso Monte at the same time. Mr. Honeycutt stated Gavilan Canyon Rd was not on the recommendation list for proposed projects. Mr. Honeycutt informed the department will need more time to evaluate the intersection, property lines and right away with the state.

Chair Stone questioned when Zia Gas would be done with their maintenance on Bogle road.

18. 2019/2020 Local Government Road Fund Projects/CAP/COOP/School Bus Programs

Motion: Approve the projects for Local Government Road Funding, **Action:** Approve, **Moved** by Commissioner Stewart, **Seconded** by Commissioner Draper.

Commission Willard question if the Road Department had a five year plan is writing.

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 12:03 PM and reconvened at 1:00 PM.
Chair Stone recessed the Regular Meeting and convened the Public Hearing at 1:00 PM.

19. 1:00 P.M.: Public Hearing to consider an applicant seeking a beer and spirits wholesaler liquor license for Liquor License NO. 1114261. (The proposed license will be located at the same premise as Craft Distiller License No 63012); from Glencoe Distillery, 27489 US Highway 70, Glencoe, New Mexico 88324.

Attorney Morel informed the purpose of the hearing was to consider Liquor License Application 1114261. Attorney Morel stated the license was properly filed and published. Attorney Morel expressed no significant findings to report any disapproval.

Chair Stone recessed the Public Hearing at 1:00 PM and convened the Regular meeting at 1:01 PM.

Motion: Approve Liquor License Application 1114261, **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. Update on the Restoration of American LaFrance Fire-truck Housed in Lincoln County

Ms. Taylor reminded during its January meeting the commission considered a request to amend the reimbursement process for the restoration of the American La France Firetruck housed in Lincoln County. Ms. Taylor informed the contractor donating the time and labor to restore the Firetruck requested reimbursement of the personal funds spend as soon as receipts were provided to the County rather than receive reimbursement of all expenses at the completion of the project. Ms. Taylor stated the Commission approved the issuance of periodic reimbursement of expenses, after submission of receipts and inspection of work done.

Ms. Taylor stated staff from the County of Lincoln met with the Contractor to conduct a regular inspection. Ms. Taylor stated when the County Staff presented the Agreement and W-9, the contractor declined on the basis that he would not sign a W-9.

Ms. Taylor proposed a plan to issue the purchase orders directly to the supply vendors for materials and not directly pay the contractor.

Motion: Approve the purchasing of the supplies from appropriate vendors for the reconstruction of the fire truck and not pay the contractor directly, **Action:** Approve, **Moved** by Commissioner Willard, **Seconded** by Commissioner Draper.

General discussion on equipment and funding.

Vote: Motion passed (summary: Yes = 3, No = 2, Abstain = 0).

Yes: Commissioner Allen, Commissioner Draper, Commissioner Willard.

No: Chair Stone, Commissioner Stewart.

21. Consideration of Joining Valencia County in Litigation Against State Tax and Revenue Department for Unpaid Gross Receipts Tax

Attorney Morel reminded during the January meeting the commission was informed that the Valencia County Board of County Commissioners was seeking sealed proposals from qualified law firms for legal services that will be limited to commencing an action against the Taxation and Revenue Department to recover amounts representing unauthorized reductions in appropriate revenue-levelling protections under Section 7-1-6.15. Attorney Morel stated the County of Valencia has also developed a Cooperative Purchasing Agreement that would enable other Counties to join them in this litigation against the State Tax and Revenue Department for unpaid Gross Receipts Tax. Attorney Morel provided a Memorandum summarizing current status and stated potential recovery of unpaid gross recovery of Unpaid Gross Receipts Tax Lincoln County might receive approximately \$75,000. Attorney Morel stated there are nineteen participating Petitioners, synopsis of the lawsuit, Legal Services agreement between Gallagher and Kennedy, and Cooperative Purchasing Agreement.

Motion: Approve the Cooperative Purchasing Agreement, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

Commissioner Stewart questioned the potential recovery of \$75,000 and how we arrived at the overall amount.

Commissioner Stewart questioned the vendor's reimbursement and asked if that could lead to a shortfall in funds once the vendors are paid out.

Commissioner Willard questioned the Contingent fee structure and cost.

General discussion on contingent fee and associated costs.

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

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

No: Chair Stone.

22. Purchase & Sale & Joint Escrow between County of Lincoln and Deanna M. Morgan & David G. Morgan, Trustees of the Deanna M. Morgan Revocable Living Trust dated March 19, 2014 by Resolution 2018-30

Ms. Taylor stated the County of Lincoln has identified vacant property adjacent to the Nogal Fire Department for sale by Deanna M. Morgan and David G. Morgan, Trustees of the Deanna M. Morgan Revocable Living Trust dated March 19, 2014.

Ms. Taylor stated the Agreement of Purchase and Sale and Joint Escrow instructions defined "purchase price" to be a maximum sum of Twenty five thousand dollars, or appraised value of the property, whichever is of the lesser.

Motion: Approve purchase agreement and adopt Resolution 2018-30, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Commissioner Stewart questioned the funds how the County plans on paying for the property

Ms. Taylor stated once the Market Appraisal is done and line item assigned she will bring back to the commission for consideration and approval.

General consensus pertaining the use of the property, sewer lines and the funds used pay for purchase.

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

Yes: Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard. **No:** Chair Stone

EXHIBIT C: Copies of Resolution 2018-30 are attached hereto in reference thereto made a part hereof.

23. Budget Adjustment FY 18-19 by Resolution 2018-31

Ms. Taylor stated per statute, counties may request adjustments to its budgets 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.

Motion: Adopt Resolution 2018-31, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

General discussion on budget and line fund transfers.

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

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

EXHIBIT D: Copies of Resolution 2018- 31 are attached hereto in reference thereto made a part hereof.

24. Creation of a Census 2020 Complete Count Committee: To Plan and Conduct Local Educational Initiatives, Publicity and Promotional Activities to Increase Community Awareness and Participation in Census 2020 by Resolution 2018-32

Ms. Taylor reminded during the January Regular Meeting the Commission considered information provided by the Census partner Specialist for Southern New Mexico regarding Local Government Responsibility to establish a "Complete Count Committee". Ms. Taylor reminded the County has been requested to consider and approve a Resolution supporting the United States Census Bureau by creating a Census 2020 committee.

Motion: Adopt Resolution 2018-32, **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 E: Copies of Resolution 2018- 31 are attached hereto in reference thereto made a part hereof.

25. Approval of Per Diem and Mileage Policy by Resolution 2018-33 (Rescind Resolution 2017-14)

Attorney Morel stated current language in Section 3.D (4) of the Lincoln County Per Diem and Mileage Policy addressing the circumstance under which public officers or employees are paid per diem or reimbursed for mileage or expenses is not consistent with State Law. Attorney Morel existing language in Section 3.D (5), requires prior authorization for a public officer or employee from their department head, elected official or Board of County Commissioners if their aggregate reimbursement have exceeded \$1,500. Attorney Morel stated with travel obligations increasing the manager is recommending the existing aggregate of expenses reimbursed of more than \$1,500 be modified to reflect \$2,500.

Attorney Morel further informed the federal mileage rate will go from .535 cents per mile to .58.

Motion: Adopt Resolution 2018-33 amending the per Diem and Mileage Policy, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

Commissioner Stewart questioned how the County of Lincoln planned to monitor the expenses.

Ms. Taylor stated the Finance Director will monitor and notify when funds are closed to exceeding the recommended \$2,500.

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

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

EXHIBIT F: Copies of Resolution 2018- 33 are attached hereto in reference thereto made a part hereof.

26. Approval of Disposition of Surplus of County Assets by Resolution 2018-34

Motion: Adopt Resolution 2018-34, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Commissioner Stewart questioned the reason to why the 2013 Dodge Charger was listed.

Robert Shepperd, Sheriff stated the car was wrecked and would cost more to repair

Commissioner Stewart questioned the stolen items from the Hondo Fire Station and if more security measures were needed.

General discussion on the security on Hondo Fire Department

Commissioner Draper questioned the value and determination of capital assets vs non capital assets among the surplus list.

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

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

EXHIBIT G: Copies of Resolution 2018- 34 are attached hereto in reference thereto made a part hereof.

27. Approval of Payment for Prior Year Invoices:

- a. FY15-16 PO 901628 to DC Auto Repair
- b. FY 17/18 Invoice No. 1447L to Kaufman's West, LLC

Ms. Taylor presented a copy of Kaufman's West, LLC invoice #1147L received in the Finance office for services rendered in June 2018. Ms. Taylor informed the Finance Officer researched the payment and found the invoice was never received nor paid.

Ms. Taylor stated the Finance Director received a telephone call from DC Auto repair to see if the County would reissue the check for repair services for the Hondo Volunteer Fire Department unit.

Motion: Approve the payment for Invoice #1147L and reissue of check to DC Auto Repair,
Action: Approve, **Moved** by Commissioner Stewart, **Seconded** by Commissioner Allen.

Vote: Motion passed (summary: Yes = 3, No = 2, Abstain = 0).

Yes: Chair Stone, Commissioner Allen, Commissioner Draper.

No: Commissioner Stewart, Commissioner Willard.

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

a. Board of Registration

Motion: Appoint Jack Nesbitt and Cynthia Black with alternate Rick Preston from Republican Party and Steve Duffy with alternate Connie Carichner from Democratic Party, **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.

b. Coalition of Counties

Motion: Appoint Preston Stone to Coalition of Counties, **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.

c. Chaves County Community Action Program

Motion: Appoint Preston Stone to Chaves County Community Action Program, **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.

e. Interstate Stream Commission (Sub-Committee on the Pecos)

Motion: Appoint Preston Stone to Interstate Stream Commission, **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.

f. Land & Natural Resources Advisory Committee

Motion: Appoint Robert Barber and Pete Gnatkowski to the Land and Natural Resources Advisory 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.

g. New Mexico Insurance Authority – Workers' Compensation

h. New Mexico Insurance Authority – Multi-Line Pool

Motion: Appoint Tom Stewart to the New Mexico Insurance Authority Workers' Compensation and Multi-Line Pool with Dallas Draper at alternate, **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.

i. Planning Commission

Motion: Appoint Karyl Williams to the Planning Commission, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Chair Stone.

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

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

Motion: Appoint AnnElla Hatter to the Planning Commission, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

j. Road Review Advisory Committee

Motion: Appoint Brian White to the Road Review Advisory Committee, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Chair Stone.

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

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

Motion: Resend motion to appoint Brian White to the Road Review Advisory Committee, **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.

Motion: Appoint Earl Johnson to the Road Review Advisory Committee, **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.

k. Southeastern New Mexico Economic Development District

Motion: Appoint Dallas Draper to Southeastern New Mexico Economic Development District with Dr. Lynn Willard as alternate, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Chair Stone.

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

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

l. Senior Citizens Olympic Committee

Motion: Approve request to terminate the Senior Citizens Olympic Committee, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Willard.

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

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

m. Southeastern Regional Transportation Planning Organization

Motion: Appoint Dr. Lynn Willard to with Samantha Mendez and Jeff Honeycutt as alternates,

Action: Approve, Moved by Chair Stone, Seconded by Commissioner Draper.

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

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

29. Approval of Lodger's Tax Application with backup material:

a. Purpose: Carrizozo Music Concert Series & Events

Request: \$5,000

Date(s) of Event: February 14, 2019-Dec.31, 2019

Presenter: Elaine Brannen/Carrizozo Music, Inc.

Application No. 0043

Approved Amount: \$5,000

b. Purpose: Lincoln County Art Loop Tour

Request: \$3,500

Date(s) of Event: July 5-7, 2019

Presenter: Lynn Eckman/Lincoln County Art Loop

Application No.: 0044

Approved Amount: \$3,000

c. Purpose: Aim High

Request: \$10,500

Date(s) of Event: June 29-30, 2019

Presenter: Rhonda Vincent/ENMU-Ruidoso Foundation

Application No.: 0045

Approved Amount: \$6,000

Motion: Approve the Lodger's Tax Committee amounts presented, **Action:** Approve, Moved by Commissioner Stewart, Seconded by Commissioner Allen.

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

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

Abstain: Commissioner Willard

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

No action taken

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

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

New or Updated Matters since last report *

1. Rancho Ruidoso Valley Estate Homeowners' Association v. Roy Padilla, et al – D-1226-CV-2017-00195 Complaint filed by RRVEHA for foreclosure of the Homeowners' Association Assessment Lien. The County is a named Defendant due to the filing of a GSWA lien on March 22, 2006, and a L.C. Solid Waste Lien filed on December 16, 2016 for non-payment of solid waste services and potential ad valorem taxes due and owing. The County's Answer to Complaint for Foreclosure was filed September 1, 2017. The U.S. Dept. of Agriculture filed its Answer to Complaint February 2, 2018 requesting the Court's findings that its Claim of Lien is a first and priority lien. Certificate as to the State of the Record and Nonappearance entered by the court on March 28, 2018 noting the nonappearance of Defendants Roy Padilla and Rita Padilla. June 4, 2018 - Judgment by Default for Foreclosure entered by Judge Blankinship which provides that L.C.'s liens are priority liens and entitled to payment from the proceeds of the foreclosure sale. June 4, 2018 - Order Appointing Peter Baca as Special Master also entered June 4, 2018. Order for Judicial Sale was filed August 1, 2018. Notice of Sale on Foreclosure was filed October

5, 2018. 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. 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. On December 12, 2018, a Notice of Intent to Dismiss was entered by Judge Blankinship. On December 26, 2018, Plaintiff filed its Response to the Notice of Intent to Dismiss and the Court additionally entered a Certificate as to the State of the Record and Non-Appearance as to Defendants, Diane Medcalf, and Pioneer Bank. 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. Defendant George Romero filed an Answer to the Complaint on April 30, 2018 asserting a Counterclaim to be filed in the U.S. District Court. Judge Counts is the presiding Judge. May 15, 2018 – Lincoln County filed its Answer to Announcement of Counterclaims by Defendants Roger Romero and George Romero. Plaintiff's Request for Judicial Inquiry was filed June 22, 2018 and a Judicial Inquiry Hearing took place September 4, 2018.

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. A Procedural Order on the Petition for Writ of Habeas Corpus was entered September 6, 2018. County filed its Motion to Dismiss the Petition on October 9, 2018. On October 19, 2018, Petitioner filed his Response to the Motion to Dismiss, and on November 5, 2018, Lincoln County filed its Reply to the Response to the Motion to Dismiss and requested a hearing on the Motion to Dismiss. On January 3, 2019, Lincoln County filed its Response to Petition for Writ of Habeas Corpus. On January 8, 2019 at 2:00 p.m. a Hearing on the County's Motion to Dismiss took place at which time, Judge Counts took the matter under advisement and will render his decision by January 22, 2019.

5. ***Roger Romero, et al vs. Lincoln County, et al – U.S. Dist. Court Cause No. 2:18-cv-01137-GBW-GJF**

A Complaint for Violation of Civil, Constitutional and Statutory Rights was filed on December 5, 2018. On December 27, 2018, Lincoln County was served with the complaint and, on January 17, 2019, filed its answer to the Complaint.

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. Stipulated Motion for Withdrawal and Substitution of Plaintiff's Counsel was filed May 15, 2018.

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.

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

8. ***State of NM v. Matthew N. Corp M-30-MR-2018-00048** Violation of County Ordinance 2014-04 Contraband Ordinance. May 23, 2018 – The Defendant was charged with 1 count of possession of contraband. The Arraignment hearing scheduled to take place on June 6, 2018 was continued until July 11, 2018, at which time a Pre-Trial Hearing was scheduled for August 14, 2018, and was subsequently rescheduled to October 23, 2018. On October 23, 2018, the Pre-Trial Hearing was rescheduled for November 20, 2018. The November 20, 2018 Pre-Trial Hearing was rescheduled for December 4, 2018 and the 6 month rule was extended. The December 4, 2018 Pre-Trial Hearing was rescheduled for January 29, 2019 and the 6 month rule was extended once again for an additional 30 days and now runs on March 10, 2019. On December 10, 2018, Defendant filed a Motion for Dismissal and, on December 14, 2018, the County filed its Response to the Motion for Dismissal. A Hearing on the Motion for Dismissal is scheduled to take place on January 29, 2019 immediately prior to the Pre-Trial Hearing. On

January 29, 2019, Defendant's Motion for Dismissal was denied. The Pre-Trial Hearing took place thereafter, at which time, the case was resolved.

9. **State of NM v. Kimberly Conner M-30-MR-2018-00043** Violation of County Ordinance 2008-08 Animal Control Ordinance. A Citation was filed May 14, 2018 charging the Defendant with 1 count of Dog Running at Large. An Arraignment took place June 6, 2018 at which time the Defendant pled "Not Guilty." A Pre Trial Hearing was scheduled for July 3, 2018 before Judge Vega, however a Stipulated Motion to Continue Defendant's Pre-Trial Hearing and Order to Continue Pre-Trial Hearing was filed June 29, 2018. Pre-Trial Hearing took place July 31, 2018 before Judge Vega at which time a Final Pre-Trial Hearing was scheduled for October 23, 2018 with a Jury Trial scheduled for October 24, 2018. On October 23, 2018, Judge Vega heard Defendant's Motion for a Continuance of the Final Pre-Trial Hearing and the October 24, 2018 Jury Trial. The Motion was granted and the Final Pre-Trial was rescheduled for December 11, 2018 with the Jury Trial to take place on January 7, 2019. On January 4, 2019 a Hearing before Judge Vega at which time the Jury Trial was vacated and a Bench Trial was scheduled for January 7, 2019. The Defendant failed to timely appear at the January 7, 2019 Bench Trial and a Bench Warrant was issued and subsequently served. A Pre-Trial Hearing is scheduled to take place on February 26, 2019 at 9:00 a.m.

10. ***State of NM v. Robert Salas M-30-MR-2018-00126** Violation of County Ordinance 2014-04 Contraband Ordinance. Complaint was filed August 20, 2018 by Lincoln County Sheriff's Deputy Samuel Hanna. Defendant is charged with 1 count of possession of contraband-Marijuana. The Defendant pled "Not Guilty" on August 23, 2018 to the charge. A Pre-Trial Hearing took place September 25, 2018 at which time a Final Pre-Trial Hearing was scheduled for December 11, 2018, with a Jury Trial scheduled for January 7, 2019 which Jury Trial has since been vacated. On December 12, 2018, Defendant filed a Motion for Dismissal and, on December 14, 2018, the County filed its Response to the Motion for Dismissal. A Hearing on the Motion for Dismissal is scheduled to take place on January 29, 2019 immediately prior to a Pre-Trial Hearing. On January 29, 2019, Defendant's Motion for Dismissal was denied. The Pre-Trial Hearing took place thereafter, at which time, no resolution was reached. The Final Pre-Trial is scheduled to take place on March 12, 2019, and a Jury Trial is scheduled to take place on March 27, 2019.

Tort Claims Notices Received or Threatened

2019

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.

***Lueras, Ramon** – Tort Claim Notice received January 31, 2019 from Pizzonia Law referencing a date of injury of on or about august 2015 and requesting employment records including, but not limited to, personnel, payroll, medical, accident reports, applications, incident/disciplinary reports and exit survey/interview documents.

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

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

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

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

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.

2015

Davis, Jack and Rena – 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 2:10 PM.

Chair Stone adjourned the Closed Session and reconvened the Regular Meeting at 2:50 PM.

Commissioner Stewart 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.

32. Signing of Official Documents

33. Next meetings:


a. March 19, 2019

34. Adjourn

Chair Stone recessed the Regular Meeting at 2:51 PM and reconvened at 2:54 PM.

There being no further business to come before the Board of County Commissioners, Chair Stone adjourned the meeting at 2:55 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:


Whitney Whittaker, County Clerk

March 19, 2019
Date Approved