

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, January 22, 2019

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on January 22, 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 8:29 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. Selection of Selection of Chair and Vice Chair

Motion: Nomination of Commissioner Stone for Chairman, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

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

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

No: Commissioner Allen.

Motion: Nomination of Commissioner Draper for Vice Chairman, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

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

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

No: Commissioner Allen.

6. Approval of Agenda

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

Commissioner Stewart questioned why Agenda Item 14 Co-location of District and Magistrate Courts was back on the agenda.

Attorney Morel stated this was a new action item with the addition of the Memorandum of Understanding Between the County of Lincoln and the Village of Ruidoso.

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

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

7. Approval of Minutes:

a) December 18, 2019 - Regular Commission Meeting

Motion: Approve the minutes of the December 18, 2019 Regular Meeting, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

8. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month ending December 31, 2018
- 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.

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

Motion: Recess the Regular Meeting and convene the Board of Finance, **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. Board of Finance

Beverly Calaway, Treasurer presented the Treasurer's Financial Report for the month ending December 31, 2018. Ms. Calaway informed the beginning cash balance for fiscal Year 2018-2019 was \$9,687,855.43. Ms. Calaway reported budgeted transfers made to the Road Fund, Special Programs, Corrections and other funds in the amount of \$2,837,117.30 resulting in the ending balance of \$11,861,259.43.

Ms. Calaway reported the Lincoln County Medical Center Construction Fund reflected the balance for December with an interest earned of \$31,420.79 less December's expenditures of \$673,432.22. Ms. Calaway stated this resulted in a balance of \$16,660,082.07.

Ms. Calaway noted the Detail of Receipts for the General Fund Account reflected the anticipated general fund revenues of \$13,255,338.20 for Fiscal Year 2018-2019. Ms. Calaway noted 64 % of the projected revenues or \$8,491,407.29 were received.

Ms. Calaway stated the December property tax collections and deposits to our Operational Account exceeded the amount the bank could pledge towards the County's requirement of 102% collateral. Ms. Calaway stated a move of \$4,000,000.00 into the Local Government Investment Pool (LGIP) account was made. Ms. Calaway stated once the distributions to all entities for the December collections are finalized then the money will be moved back into the operational account. Ms. Calaway noted as of December 31st the State's Local Government Investment pool earned an interest rate of 2.31%.

Ms. Calaway further reported the Treasurer's had collected 65% of the 2018 taxes billed and collected a historical high of \$7.5 million dollars for the month of December.

Motion: Adjourn the Board of Finance and reconvene the Regular Meeting, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

10. Historic Sites, Forest, Land & Natural Resources Matters:

a. Smokey Bear Ranger District

Ms. Taylor informed Ranger Canfield was unable to attend this meeting due to the Federal Government shutdown.

b. Lincoln county /NMSU Cooperative Extension Services

Melanie Gutierrez provided an update on annual activities including a senior leadership retreat, county council officer training, and other educational opportunities. Ms. Gutierrez stated the Ruidoso club was up and running. Ms. Gutierrez explained plans for the youth to travel to Washington, D.C. next year. Ms. Gutierrez stated the office was working on the after school program with Capitan Schools being the pilot school. Ms. Gutierrez stated staff was working on the shooting sport participation, public speaking workshops, and fishing workshops.

c. South Central Mountain RC & D

Rick Merrick, Community Forester stated the US Forest Service used the North Sacramento Mountain Watershed and Forest Restoration Strategy plan as supporting documentation to continue work in the Jicarilla Mountains. Mr. Merrick stated the 2019 Lincoln Cost share program was near completion but the funds were almost spent. Mr. Merrick stated South Central Mountain RC and D will continue to work with Upper Hondo Soil and Water Conservation District in the thinning projects. Mr. Merrick stated the Smokey Bear Collaboration meeting was cancelled and all workshops postponed due to the Federal Government shutdown. Mr. Merrick stated the fire season had already started and his department would continue to strategize for the remaining season.

d. Upper Hondo Soil & Water Conservation District

Laura Johnson, Program Director thanked everyone who attended the Annual Dinner. Ms. Johnson stated they have been cleaning out old cabinets and folder files in which they have found old maps and historical photos. Ms. Johnson stated they have organized the photos into years and projects. Ms. Johnson stated they will try to apply for a grant in order to scan and indexed the records so that they can be available on the website.

Ms. Johnson reported continued maintenance on the Salado Dam. Ms. Johnson stated the district removed salt wash and is currently working on rodent control.

Ms. Johnson stated the district is keeping a close eye on current legislation. Ms. Johnson stated there were many bills which could effect the soil and water conservation districts.

Chair Stone questioned the status of the Water Trust Board Grant and if the District would use the funds to remove the settlement from the dam.

Ms. Johnson stated the grant was in the amount of \$260,000 and it only covered the engineering aspect of the project.

e. LANRAC

Robert Barber, Chair of Land and Natural Resources Advisory Committee (LANRAC) stated due to the Federal Government shutdown, the committee was not very active in the last 30 days. Mr. Barber stated the Smokey Bear Collaborative plan was proceeding as scheduled and a meeting was scheduled for tomorrow to discuss the possible recreational activities held at Hale Lake.

11. Approval of CDBG Hondo Senior Center Grant Agreement 18-C-RS-I-01-G-13

Ms. Taylor reminded as per Commission direction the County applied for a Community Development Block Grant in the amount of \$513,747.00 to plan, design and construct a new Hondo Senior Citizen Facility. Ms. Taylor stated during the Community Development Block Grant Council Allocation Meeting held on September 19, 2018, Lincoln County was notified its grant request was awarded in full.

Motion: Approve Grant Agreement for Project 18-C-RS-I-01-G-13 to plan, design and construct the Hondo Senior Center changing the official "Grantee Representative" to Manager Taylor,
Action: Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

12. Approval of Memorandum of Understanding Between the County of Otero, City of Alamogordo, Village of Ruidoso, City of Ruidoso Downs, 12th Judicial District Attorney and the County of Lincoln for the Development, Implementation and Operation of a Drug Enforcement Task Force to be Named the White Mountain Drug Task Force

Ms. Taylor stated this agreement was to state the general understanding among the involved parties with regards to the development, implantation and operation of a drug enforcement task force to be named the White Mountain Drug Task Force. Ms. Taylor stated Lincoln County would act as the fiscal agent for the Task Force.

Commissioner Willard questioned why Mescalero was not a part of the Memorandum.

Sheriff Shepherd stated they planned to participate at a later date but their process was more complex because they are a Federal agency.

Motion: Approve MOU among all parties involved, **Action: Approve, Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

19. Request to Amend Reimbursement Process for Restoration of American LaFrance Fire-truck Housed in Lincoln County

Ms. Taylor reminded during its December 18, 2019 Regular Meeting, the Commission heard a plan developed between County Staff and the contractor currently housing the American La France Fire Truck. Ms. Taylor stated staff met with the contractor who agreed to donate his time to complete the restoration during a six month time frame with a completion date of July 1, 2019. Ms. Taylor informed per direction, Attorney Morel had drafted an agreement between Lincoln County and the contractor which specifies the scope of work, the timeline, and the cost. Ms. Taylor stated the contractor requested approval to request reimbursement periodically. Ms. Taylor informed such payments would allow the contractor to purchase materials for next step of the restoration project.

Motion: Approve the periodic reimbursement of expenses after submission of receipts and inspection of work done. **Action: Approve, Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Commissioner Allen raised concerns about the completion of the project if the payments were periodically submitted.

Chair Stone questioned the use of tax payer money to contract with a private citizen for the work rather than using a body shop.

Commissioner Stewart expressed concern about the status of the truck and if it could be transferred.

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

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

No: Chair Stone.

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

Commissioner Stewart stated he will attend a meeting with Dona Ana officials on January 31, 2019 to discuss the ongoing maintenance of the Joint Land Use Study website. Commissioner Stewart stated he attended the Multiline and Workmen Compensation Pool meeting in Santa Fe during the New Mexico Counties (NMC) winter conference. Commissioner Stewart stated he is currently reviewing proposed legislation and the possibility of tax increases.

Commissioner Allen stated she attended the open house for the Carrizozo Community Public Library and Bookstore.

Commissioner Draper thanked the Village of Ruidoso employees for the donation of their cake sales from the Ruidoso Employee Extravaganza held in December 2018 to the Ruidoso Chamber of Commerce. Commissioner Draper stated another school safety meeting will be held February 11, 2019 at White Mountain Elementary. Commissioner Draper stated he also attended the NMC winter conference in Santa Fe and is concerned with the bills being introduced especially the on jails and behavior health. Commissioner Draper questioned bail reform and asked how it worked.

Robert Shepperd Sheriff stated bail reform states everybody that is booked on a charge, has no bail set until a bond hearing is made. Sheriff Shepperd stated there are several requirements that have to be made prior to holding a bond hearing.

John Sugg, District Attorney stated there were certain rules in the law which allow a release on own recognizance innocence. District Attorney Sugg stated the jail could assign a person to take on the responsibility to view the criminal complaint and decide probable cause. District Attorney Sugg stated as of February 1, 2019 Magistrate Courts are required within 24-48 hours to decide probable cause for the criminal complaint. District Attorney Sugg stated this process was allowing a faster time of release for the minor offenses. District Attorney Sugg stated the jail population should decrease but the court civil liability still presents an issue.

Artie Peppin, Director of Administrative Office of the Courts (AOC) stated the concern about the jails releasing a person was the liability involved. Mr. Peppin stated the five counties of Valencia, Eddy, Grant, San Miguel and Mora were currently a part of a PILOT fully funded program which allows for a speedy release. Mr. Peppin stated the detention center views the person of interest through a video conference and the individual may be released prior to screening and entry into the jail. Mr. Peppin stated they had seen a huge success rate with the program and depending on funding will be looking at county by county participation.

Commissioner Willard recently attended a SERPTO meeting on January 3, 2018. Commissioner Willard informed the discussion was on Highway 380 and stated representation from Representative Candy Spence Ezzell and Representative Greg Nibert were in attendance. Commissioner Willard stated he also attended the New Mexico Counties (NMC) Winter Conference.

Whitney Whittaker, Clerk provided some statistics for the Ruidoso Schools Special All-Mail Ballot Election currently going on.

Beverly Calaway, Treasurer stated she was also keeping an eye on the Legislation. Ms. Calaway invited the Commissioners to view her new filing system funded by their approval.

Walter Hill, Assessor stated he also attended the NMC winter conference. Mr. Hill stated his office will be sending out the Notices of Value in April.

Robert Shepperd, Sheriff stated the Sheriffs Affiliate made the news by wearing their firearms into the Capitol. 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.

Martha Proctor, Retired Magistrate Judge spoke in opposition to the proposed consolidation of courts. Ms. Proctor agreed with the need for a new Ruidoso Magistrate facility but was still concerned with the cost to the tax payers for the construction costs of a new facility in Ruidoso. Ms. Proctor further stated the move of the Magistrate Court in Carrizozo into District Court was a financial burden to the County and the tax payers of Lincoln County.

14. Co-location of District and Magistrate Courts

- a. Intergovernmental Agreement Between the Administrative Office of the Courts and the County of Lincoln;**
- b. Memorandum of Understanding Between the County of Lincoln and the Village of Ruidoso**

Ms. Taylor discussed the timeline of events occurring between the Administrative Office of the Courts (AOC) and Lincoln County since July 2018. Ms. Taylor reminded during the December 18, 2018 meeting the Board of County Commissioners was again presented with the proposed Intergovernmental Agreement between the AOC and Lincoln County. Ms. Taylor stated Mr. Morel informed that prior to the reconsideration, a motion to reconsider was required from a

Commissioner on the prevailing side of the prior voted motion or from Commissioner Allen who was absent for that vote.

Ms. Taylor reminded a Point of Order was raised as to the definition of the prevailing side, with some disagreement as to whether Commissioner Allen could properly move to reconsider, since she was not in attendance. Ms. Taylor stated once the County and the AOC had a fully executed Intergovernmental Agreement for Co-location of the District and Magistrate Courts, Lincoln County could consider entering into a Memorandum of Understanding with the Village of Ruidoso for the use of a satellite District Court Space within the Judicial Center at the Horton Complex.

Chair Stone raised a point of order, questioning the reappearance of the agenda item.

Attorney Morel stated he contacted the Village of Ruidoso regarding the need for an MOU. Attorney Morel explained the MOU between the Village of Ruidoso and Lincoln County was a separate agreement which the Board of County Commissioners could choose to take action on. Attorney Morel stated a motion to reconsider was deemed inappropriate but there were other motions which could be made to bring this item back for consideration. Attorney Morel stated a motion would need to be made in order for him to give proper direction.

Chair Stone also questioned if a MOU existed between the Village of Ruidoso and Administrative Office of the Courts. Chair Stone stated the Commission should have given direction to develop an MOU prior to consideration.

Attorney Morel stated belief any agreement with the AOC would necessitate an MOU with the Village of Ruidoso.

Motion: Approve the revised AOC agreement and the MOU with Village of Ruidoso., **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Draper.

Chair Stone raised a point of order, and questioned if Commissioner Allen could make the motion based on Roberts Rules of Order.

Attorney Morel stated the motion was original and not a reconsideration that would require a motion from a prevailing side.

Commissioner Allen stated the item needed to be readdressed and explained to the public.

Commission Draper stated he considered this to be a new motion with the addition of the MOU and the revisions in the AOC agreement.

Chair Stone opened the floor to public comment.

Rhonda Burrows, Chief Deputy Clerk raised a concern regarding the safety of the county employees with the combining of courts into one building. Ms. Burrows stated it would increase the foot traffic in the hallways and restrooms.

Debbie Lee, Manager of Ruidoso stated this was a regional issue. Ms. Lee stated the AOC approached the Village first as a concept for further discussion.

Karen Parsons-Williams, Retired 12th Judicial District Judge spoke against the agreement and the consolidation of Magistrate Court. Judge Parsons-Williams stated she approached the Commission as District Judge years ago on a promise district court would ask nothing more after the granted four million renovation. Ms. Parsons-Williams stated Carrizozo was centrally located and relocating court services would decrease revenue for the smaller communities and businesses.

Sheriff Shepperd stated he agreed the Magistrate Courts would benefit from District Court Security but stated he currently had insufficient staff to cover multiple sites. Sheriff Shepperd also discussed the potential financial impact for transportation, employment, travel and security.

John Sugg, District Attorney reminded New Mexico State Statutes require counties to house the District Attorney's office. District Attorney Sugg stated it was his job to secure adequate staff and housing.

Steven Ochoa, Attorney with the Public Defender's office, spoke for the need of improved court security in the Magistrate Courts.

Martha Proctor, Retired Magistrate Judge stated moving the Magistrate court into District Court rent free would create an additional financial impact in the county.

Lynn Crawford, Mayor of Ruidoso stated Ruidoso was the most highly populated area of the County and he believed the agreement was best for the community.

Judge Bryant, 12th Judicial District Judge stated he had no control over the Magistrate Courts. Judge Bryant stated all the courts would work together on scheduling and services. Judge Bryant stated in order to maintain an ethical position he could not add language to the Agreement about the function and load amount on the courts.

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

Yes: Commissioner Allen, Commissioner Draper, Commissioner Willard.

No: Chair Stone, Commissioner Stewart.

Chair Stone Recessed the Regular Meeting at 11:55 AM and reconvened at 1:00 PM.

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

18. 1:00 P.M.: Public Hearing to Consider the Adoption of an Ordinance Providing a Low Income Tax Rebate Pursuant to NMSA 7-2-14.3G on a County by County Option Basis.

Ms. Taylor informed the Public Hearing was to consider adoption of an ordinance providing a low income tax rebate.

Chair Stone requested public comment and receiving none adjourned the Public Hearing and reconvened the Regular Meeting at 1:05 PM

No action taken.

15. Village of Ruidoso Development of a Comprehensive Master Plan: Village Manager – Debi Lee

Ms. Taylor stated Village Manager Debi Lee could not be in attendance for this agenda item.

Ms. Taylor informed the Village of Ruidoso was kicking off its comprehensive master planning process and had invited Lincoln County to participate in this process as a stakeholder. Ms. Taylor stated other invitees included the Smokey Bear Ranger District, Mescalero Apache Tribe, Ruidoso Schools, Ruidoso Downs and PNM. Ms. Taylor stated the event would begin on January 16, 2019 with the community meeting for the public to learn about the comprehensive plan and to share ideas about Ruidoso's future.

16. Replacement Hospital Update

a. Construction Update – Mike McDonald, Project Manager

Ms. Taylor stated Mike McDonald, Hospital Project Manager and Ernesto Rodriguez Senior Project Superintendent could not be in attendance today. Ms. Taylor stated she will continue to attend the scheduled meeting every Thursday in concern to the Construction Update.

Ms. Taylor reported a summary of finance through the end of December, 2018 with year to date expenditures totaling \$4,425,929.50. Ms. Taylor stated Jaynes Pending Pay Application in the amount of \$434,879 brings the total to \$4,860,808.50. Ms. Taylor presented a spreadsheet with a six week "look ahead". Ms. Taylor stated the spreadsheet illustrates a number of tasks scheduled for completion by the end of January.

Ms. Taylor stated the top-out ceremony was scheduled for Thursday, January 24, 2019 at 1:30 PM. Ms. Taylor stated the steel beam was on site and awaiting signatures. Ms. Taylor stated commissioners, elected officials, employees of the County and PHS, and members of the public are invited to attend.

b. Professional Services Agreement for Abatement Oversight Consultant

Ms. Taylor stated Jim Klein, Owner's Representative for Lincoln County strongly recommends hiring an Abatement Oversight Consultant. Ms. Taylor informed the scope of work is to provide oversight, monitoring and final clearance of the project to assure compliant activities and final product. Ms. Taylor informed the asbestos risk is owned by the County regardless of how this is contracted. Ms. Taylor stated this contractor will also participate as a Subject Matter Expert on

the "Asbestos Abatement Services" RFP Evaluation Team to provide expert analysis giving the County better insights and recommendations regarding abatement contractor selection. Ms. Taylor stated the estimated cost was totaled \$58,261.14.

Motion: Enter into a Professional Service Agreement for under \$60,000, **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.

c. Change Order Request for Lightning Protection System

Ms. Taylor stated the Owner's Representative, Jaynes and DPS Architects all recommend the consideration and approval of a Change Order Request for a Lightning Protection System estimated at \$96,162.

Motion: Approve Change Order Request, **Action: Approve**, **Moved by** Commissioner Willard, **Seconded by** Commissioner Stewart.

General discussion on the original requests

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

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

d. General LCMC

Todd Oberheu Chief Executive Officer for Lincoln County Medical Center extended his invitation to the top off ceremony on Thursday. Mr. Oberheu provided an update on the Hondo Clinic and expressed his excitement about the clinic opening last Tuesday. Mr. Oberheu stated the clinic is currently open one day a week. Mr. Oberheu stated they lost some applicants due to the timing it took to open but are currently looking at hiring a Nurse Practitioner.

17. Manager's Report

1. **Hondo Clinic.** The Hondo Clinic is open for business as of Wednesday, January 16th!! Special recognition is given to our County "Clinic Prep Team", which included Samantha Mendez, Amanda Garcia, Jeff Honeycutt, Josh Hammons, Raymond Monreal, Raymond Lueras and Gabe Samora for their contributions to preparing the building for clinic occupancy. Their efforts included widening of the handicap ramp to ensure ADA compliance (welding skills of Josh Hammons), painting and sealing of cabinets; painting of walls, replacing ceiling tiles; removing parking lot curbing for ambulance access, and much more. Samantha project-managed the effort from start to finish, including working closely with the PHS team to identify additional needs, including replacement and relocation of the water heater and identification / procurement of mini split to meet requirements for medication storage room. Hospital Chief Executive will report as to the status of medical services provided.
2. **Legislative Events.** A reminder that *Lincoln County Day in Santa Fe is scheduled for February 6th*. See *Exhibit 1*. This event is attended by many of the Legislators, and provides key opportunities to discuss County matters with them, such as requests for Capital Outlay allocations: 1. White Oaks Fire Station (\$150,000 initial costs identified need to be reduced by \$100,000 due to receipt of Fire Marshal's Grant); 2. Detention Center (\$500,000 for addition of women's pod, munitions room and storage space); 3. Lincoln County Replacement Hospital (\$3.689 million – philanthropy shortfall). The updated full 2019 Legislative Social Calendar.
3. **Fire Marshals Distribution.** The State Fire Marshal ("SMO") has notified the County that it will timely make its February 1st total 3rd Quarter Fiscal Year 2019 Fire Protection Fund allotment/distribution to our County Fire Departments in the amount of \$177,153.60. The SMO continues to support legislation that would move the State Fire Marshals' Office ("SMOF") from the PRC to the Office of the Superintendent of Insurance ("OSI").
4. **US 380.** The Deputy General Counsel for the NMDOT has responded to the inquiry posed by the Office of the Attorney General's regarding the process used and authority the NMDOT had to place the signage years ago. The County has

not since received communication from the OAG regarding the status of their inquiry.

5. **Office of the State Auditor ("OSA") Review of Anonymous Complaint of Procurement Processes Tied to Solid Waste Collection.** As directed by the Commission during its November 20th meeting, the County has entered into a Contract for *Agreed Upon Procedures* with the KMA audit firm to review the work papers of the Office of the State Auditor to understand its findings; and to review the County documents. The resulting report is due to the County no later than March 1, 2019.
6. **2020 Census.** Manager, Chief Deputy Clerk Rhonda Burrows and Samantha Mendez met with Elaine Avila, Census Partner Specialist for Southern NM, to provide general information and to make us aware of Local Government responsibilities. We will be working together to identify processes, timelines, etc. The County has been asked to consider and approve a Resolution supporting the United States Census Bureau by Creating a Census 2020 "Complete Count Committee upon direction, this will be brought back to the Commission at its February meeting for consideration.

Motion: Direct the Manager to bring back to present a Resolution in support of the 2020 census in February, **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. **Potential Effort of New Mexico Counties ("NMC") to Combine Insurance Pools.** The NMC is discussing a possibility of combining its three insurance pools: 1) Workers Compensation; 2) Law Enforcement (which for Lincoln County includes only the Sheriff's Office and not the Detention Center); and Multi-line. Attached is a chart illustrating the Combined Unrestricted Fund Balance History. Commissioner Stewart attended the annual board meetings held during the Legislative Conference, and will summarize the potential changes for the pools and the counties.
8. **Lincoln County Mid-Size County Audit Achievement. HATS OFF!!** To every County Department and employee for achieving audit results that enabled the County to earn joint recognition and selection by the Office of the State Auditor ("OSA") and the New Mexico Counties ("NMC") to receive the Audit & Accountability Award for Fiscal Year 2017. We are one of three mid-size counties to receive this well-earned award. Without proper processes being built, monitored and followed, the County's audit results would not warrant such recognition.

General discussion on the filing of the audit and exit interview placement.

Motion: Direct County manager to submit placement of the exit interview ASAP and send letter to auditor, **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.

9. **Lincoln County Road Department. HATS OFF!!** Commissioner Stewart passed along praises from a constituent for the handling of snow clearance in Enchanted Forest Loop, which allowed safe travel. The road crew worked tirelessly at keeping the roads passable throughout. Thank you!!

Departmental Updates:

Renee Montes, Senior Services Director stated she attended a meeting Thursday in Santa Fe with Non Metro Area Agency on Aging. Ms. Montes stated we should have some answers after the first week in February on the federal funding of the senior centers. Ms. Montes informed they had some Capital Outlay request through Non Metro for projects for the Ruidoso Downs senior center.

Joe Kenmore, Office of Emergency Services Director

Ms. Taylor recognized Joe for a certificate of achievement he received from the Emergency Management Institute presented to Joe Kenmore.

Mr. Kenmore stated the state of New Mexico started off the New Year with a severe snow storm. Mr. Kenmore stated shelters were in place in Carrizozo, Corona and Ruidoso. Mr. Kenmore stated in correlation with the Lincoln County Sheriff's office, they helped slow down travel on the unsafe roads going towards Roswell and Santa Rosa.

Mr. Kenmore stated he attend the quarterly meeting with the fire chiefs on January 10, 2019 Mr. Kenmore stated 6 out of the 7 chiefs were in attendance along with manager Nita Taylor and County Attorney Alan Morel. Mr. Kenmore reported a person hit a power pole on the 20th cutting the electricity in an area in Ruidoso. Mr. Kenmore reported a couple of fires over the last week on Homestead loop and Pikes Peak. Mr. Kenmore reported both fires had winds reaching a record high.

Billie Jo Guevara, Administrative Assistant and Human Resources Director
Billie Joe Guevara, HR director Multi lines 6 workman comp claims. Ms. Guevara stated the Sheriff's Office had one Deputy Sheriff's position open and the Road Department had two operator positions open

Punkin Schlarb, Finance Director informed the finance office is currently working on tax documents to be distributed to employees and anticipates the documents to be released next week. Ms. Schlarb stated she attended a class in concern to solid waste while at winter conference in Santa Fe.

20. Resolution 2018-28: Budget Adjustment FY 18-19

Ms. Taylor stated per statue, counties may request adjustment 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 (DFA) for approval. Ms. Taylor stated Resolution 2018-24 approves adjustments to the Fiscal Year 2018-2019 budget.

Motion: Approve Resolution 2018-28, **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 B: Copy of Resolution 2018-29 is attached hereto in reference thereto made a part hereof.

21. Resolution 2018-29: Authorizing and Approving Submission by Arabela Fire Department of a Completed Application for Financial Assistance and Project Approval to the New Mexico Finance Authority for the Purchase of Pumper/Tender

Ms. Taylor stated the Arabela Fire Department were requesting the approval of Resolution 2018-29 which authorizes and approves submission of a loan application. Ms. Taylor stated the quote and specifications for the Rosenbauer SD, Maverick Pumper/Tanker in the amount of \$340,905. Ms. Taylor stated Arabela Fire Department completed the New Mexico Finance Authority (NMFA) application which shows sources of funds to purchase the equipment.

2019 Fire Protection Grant	\$ 100,000
Arabela Capout Vehicle Fund	\$ 206,024
Grant Matching Funds	\$ 10,000
NMFA Funds Requested	\$ 30,000
Total	<u>\$ 346,251</u>

Ms. Taylor stated Arabela's existing Loan Agreement with NMFA will be paid off in May, 2019 prior to the new loan effective date. Ms. Taylor stated NMFA is prepared to assess this Application of Financial Assistance at its January 28, 2019 meeting.

Motion: Adopt Resolution 2018-29, **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 2018-29 is attached hereto in reference thereto made a part hereof.

22. Consideration of Modifying the Funds Approved Previously for Lincoln Fire Department to Purchase Pumper/Tender for its Fort Stanton Fire Station

Ms. Taylor reminded during its August 2018 meeting, the Commission unanimously approved Lincoln Fire Department's request to purchase a 2000 gallon water tender. Ms. Taylor stated the Lincoln Fire Department had saved funds to purchase the water tender for its Fort. Stanton Station. Ms. Taylor stated the Lincoln Fire Department had \$397,529 in its Capital Outlay.

Motion: Approve the purchase of the pumper/tanker by the Lincoln Fire Department, **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 (continued)

Samantha Mendez, Director Planning and Project management informed of the opening of the Hondo Clinic. Ms. Mendez stated one final renovation on the HVAC mini split will go in on Wednesday to finish up that project. Ms. Mendez stated she is also the Public Information Officer, and was delayed today because she was interviewed by the media on the Homestead Loop fire.

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

Attorney Morel stated the County of Valencia was seeking sealed proposals from qualified law firms for legal services limited to commencing an action against the Department of Taxation and Revenue for unpaid gross receipts taxes.

There was a general consensus to take no action and to direct the Manager to place the item on the agenda for the next meeting.

24. Filling of Job Opening for Appraiser in County Assessor's Office: Assessor's Request for Waiver of County's Nepotism Policy

Ms. Taylor informed on November 15, 2018 Lincoln County published an employment notice for the position of Appraiser at the request of County Assessor Walter Hill. Ms. Taylor stated six applications were received by the deadline of November 26th. Ms. Taylor stated Assessor Hill's selection team interviewed all six applicants. Ms. Taylor stated Assessor Hill provided a narrative of their selection process which resulted in this request for a waiver to the County's Nepotism Policy as the applicant ranked as the top contender by the selection team is a sibling of the Assessor. Ms. Taylor informed state law does provide exceptions to the nepotism law, enabling a Commission to approve such employment under certain conditions, but currently Lincoln County did not opt to include a waiver process in the Personnel Ordinance. Ms. Taylor stated Attorney Morel confirmed local law must at least meet the level of the state law, but can be more stringent. Ms. Taylor informed Lincoln County Ordinance 2017-02 does not contain a waiver option for the Commission to exercise.

Walter Hill, Assessor presented a handout and stated the applicant Phil Hill was the best person for the job based on qualifications. Mr. Hill stated Phil Hill was already a certified Appraiser and the transfer would place him in a different operational field under the Chief Appraisers supervision rather than directly under him.

Motion: Approve request to transfer existing employee from the position of Title Examiner to Appraiser, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

Yes: Commissioner Stewart, Commissioner Allen, Commissioner Willard.

No: Chair Stone, Commissioner Draper.

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

a. Public Hearing to consider an applicant seeking a beer & spirits wholesaler liquor license for Liquor License No. 1114261 Glencoe Distillery, LLC.

Motion: Schedule a Public Hearing to consider Liquor License Application No. 1114261 for the next Regular Meeting, **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.

26. 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 will take 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.

3. ***Benny Ray Runnels v. Lincoln County D-1226-CV-2017-00328** Civil Complaint filed December 6, 2017. Plaintiff is pro se, claiming from County the amount of \$308,000.00. Summons was hand delivered by Plaintiff to County December 6, 2017. A Hearing took place February 1, 2018 on the County's Motion to Dismiss and the merits of the Defendant's Complaint at which time the Judge ruled in favor of the County and the case was Dismissed Without Prejudice. The Defendant filed an Amended Civil Complaint in the same case on February 6, 2018. A Motion to Dismiss in Lieu of Answer was filed on February 20, 2018. A Hearing was set on the Motion to Dismiss to take place on June 13, 2018 which was vacated and reset for August 29, 2018. Judge Blankinship is the presiding Judge. Order of Dismissal without Prejudice was filed August 1, 2018. The August 29, 2018 Hearing was dismissed. Plaintiff filed a new Summons-Complaint in the 12th Judicial District Court naming the County of Lincoln on September 10, 2018. The County's Motion to Dismiss was filed September 18, 2018. On November 5, 2018, County filed its Request for a Hearing on its Motion to Dismiss. A Hearing was held on November 27, 2018, at which time the case was dismissed. On January 7, 2019, Judge Blankinship entered an Order Dismissing the Complaint with Prejudice.

4. **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.

5. ***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.

6. ***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 has until January 18, 2019 in which to file a Response to the Complaint.

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

8. **Brack Rains v. Lincoln County D-1226-CV-2018-00179** Complaint for Violation of New Mexico Whistleblower Protection Act filed June 6, 2018. The County was served July 10, 2018. Judge Bryant was recused from presiding over the case by Plaintiff and Judge Counts was assigned to preside over the case. County's Answer to the Complaint and Jury Demand (12 person) was filed August 9, 2018.

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

9. ***State of NM v. Matthew N. Corp M-30-MR-2018-00048** Violation of County Ordinance 2014-04 Contraband Ordinance. May 23, 2018 – The Defendant was charged with 1 count of possession of contraband. The Arraignment hearing scheduled to take place on June 6, 2018 was continued until July 11, 2018, at which time a Pre-Trial Hearing was scheduled for August 14, 2018, and was subsequently rescheduled to October 23, 2018. 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.

10. ***State of NM v. Kimberly Conner M-30-MR-2018-00043** Violation of County Ordinance 2008-08 Animal Control Ordinance. A Citation was filed May 14, 2018 charging the Defendant with 1 count of Dog Running at Large. An Arraignment took place June 6, 2018 at which time the Defendant pled "Not Guilty." A Pre Trial Hearing was scheduled for July 3, 2018 before Judge Vega, however a Stipulated Motion to Continue Defendant's Pre-Trial Hearing and Order to Continue Pre-Trial Hearing was filed June 29, 2018. Pre-Trial Hearing took place July 31, 2018 before Judge Vega at which time a Final Pre-Trial Hearing was scheduled for October 23, 2018 with a Jury Trial scheduled for October 24, 2018. 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.

11. ***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.

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.

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 die not receive proper medical care while incarcerated at Lincoln County Detention Center.

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

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

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

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

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

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

Lacy, Jim and Judy – Tort Claim Notice received May 8, 2017 from Attorney W. Chris Nedbalek alleging "...property damage and an "...unconstitutional seizure under the 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 Rema – Verbal Threat against the County issued July 21, 2015 due to ongoing flooding at their private property.

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

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

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

No: Chair Stone.

Chair Stone recessed the Regular Meeting and convened the Closed Session at 3:18 PM.

Chair Stone adjourned the Closed Session and reconvened the Regular Meeting at 3:46 PM.

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

27. Signing of Official Documents

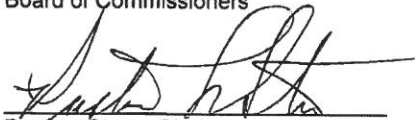
28. Next meetings:

a. February 19, 2019

29. Adjourn

There being no further business to come before the Board of County Commissioners, Chair Stone adjourned the meeting at 3:47 PM.

County of Lincoln
Board of Commissioners


Preston Stone, Chair


Dallas Draper, Vice Chair


Elaine Allen, Member


Thomas F Stewart, Member

4543


Lynn Willard, Member

ATTEST:


Whitney Whittaker, County Clerk

February 19, 2019
Date Approved

