

# 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, July 16, 2019

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on July 16, 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 8:28 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 Chair Stone.

#### 4. Pledge of Allegiance

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

#### 5. Approval of Agenda

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

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

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

#### 6. Approval of Minutes:

- a. June 11, 2019 Special Commission Meeting
- b. June 25, 2019 Regular Commission Meeting

**Motion:** Approve the minutes of June 11, 2019 Special Meeting and June 25, 2019 Regular Commission Meeting, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

#### 7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month ending June 30, 2019
- c. Treasurer's 4th Quarterly Report by Resolution 2019-1
- d. SE New Mexico Economic Development District (SNMEDD) Agreement and Resolution 2019-3

- e. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims
- f. Approval of Resolution 2019-4: Disposition of County Inventory and Capital Assets
- g. Upper Hondo Soil & Water Conservation District Mill Levy Rate

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

Commissioner Stewart questioned quarterly report review why the difference compared to monthly report.

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

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

**SEE EXHIBIT A:** Copies of the Consent Items including Resolution 2019-1, Resolution 2019-3, and Resolution 2019-4 are attached hereto in reference thereto made a part hereof.

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

##### **a. Smokey Bear Ranger District**

Jodie Canfield, District Ranger reported moderate fire danger in the district with no fire restrictions. Ranger Canfield reported current wild fires were in an observation status. Ranger Canfield reported the Lone Mountain Fire burned a total of 4,000 acres and the Pine Lodge Fire burned approximately 15,000 acres. Ranger Canfield stated three summer cabins were lost in the Pine Lodge Fire but there were no injuries reported.

Chair Stone questioned the status of the fire investigation for the Pine Lodge Fire.

Ranger Canfield stated it could be months before the report was released.

Ranger Canfield reported South Fork Campground improvements had progressed nicely due to having a hotshot crew working on site for a few days. Ranger Canfield stated the Forest Plan Revision was progressing nicely with a public meeting set for July 16, 2019 at Hotel Ruidoso. Ranger Canfield informed the Needs for Change Document, Preliminary Draft Plan, and Assessment Report were available for review on the Lincoln National Forest website.

##### **b. Lincoln County / NMSU Extension Services**

Melanie Gutierrez, Program Director stated the 2019 Lincoln County Fair was quickly approaching. Ms. Gutierrez stated they have about 87 kids participating in the event this year. Ms. Gutierrez stated she has tagged 45 lambs, 65 goats, 21 dairy heifers, 20 pigs, 19 steers and a good amount of rabbits and chickens so far.

Ms. Gutierrez reported the Cloverbud Day Camp and Quilt Camp were a huge success this year and these activities were a great way to connect with the community.

##### **c. South Central Mountain Research, Conservation & Development Council**

Rick Merrick, Community Forester reported on the County Community Wildfire Protection Plan grant (CWPP). Mr. Merrick stated the deadline to submit any comments to the New Mexico State Forestry Department was in September. Mr. Merrick stated the 2019 Cost Share Program funds were already allocated from previous applications. Mr. Merrick stated the group would retain the current waiting list for future funding.

Commissioner Stewart questioned if the Lincoln County Community Wildfire Protection Plan addressed the question of whether county residents were responsible for maintaining fire line breaks and any associated costs.

Mr. Merrick stated their office would evaluate and assess proposals for funding, provide an emergency escape route, and look into possible funding for the residents to conduct maintenance.

##### **d. Upper Hondo Soil & Water Conservation District**

Ms. Taylor informed a representative from the District was unable to attend but stated the District hired Judy Bock as the new District Manager.

**e. Ft. Stanton & Lincoln Historic Sites**

Ms. Taylor stated Tim Roberts was unable to attend.

**f. Land And Natural Resources Advisory Committee**

Robert Barber, Chair of LANDRAC informed the final draft of the Cibola National Forest Draft Land Management Plan was available for review. Mr. Barber stated the draft was online and the 90 day comment period would start August 9, 2019.

Mr. Barber stated the Claunich Pinto Soil and Water District recently completed a treatment around Corona to help protect the community's water source as part as their fire protection zone.

Mr. Barber stated the CWPP is a good plan and LANRAC was currently working with South Central Mountain RC&D to make sure the entire county is covered.

**g. Lincoln County Community Wildfire Protection Plan**

Ms. Taylor provided a full copy of the Lincoln County Community Wildfire Protection plan for review. Ms. Taylor stated the 90 day public comment period for this plan was open and comments were due by the end of this month.

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

Commissioner Stewart reported he attended a routine teleconference on July 2, 2019 for the Joint Land Use Study Group and the next meeting is scheduled for August 6, 2019. Commissioner Stewart stated the military base planning director, Greg Myers, was very interested in the County's Wind Ordinance and asked to review an application.

Commissioner Allen reported she continues to attend the Greentree Solid Waste meetings. Commissioner Allen stated she had the opportunity to attend Fort Stanton Live this year. Commissioner Allen estimated around 3000 adults were in attendance. Commissioner Allen stated she heard multiple comments from the public on how organized the event was this year.

Commissioner Draper stated he participated on a community board for ENMU providing input from the community regarding ways to utilize the building which was formally the furniture store next door. Commissioner Draper stated he would present to the ENMU board on the community recommendations on July 18, 2019. Commissioner Draper stated he plans to discuss trade opportunities for the community.

Commissioner Draper stated the New Mexico Tourism Department would meet in Santa Fe on July 19, 2019. Commissioner Draper stated he planned to attend the meeting alongside Deputy Cabinet Secretary Antoinette Vigil.

Chair Stone welcomed Judy Bock the new District Manager for Upper Hondo Soil and Water District.

Whitney Whittaker, Clerk informed the Local Election was set for November 5, 2019. Ms. Whittaker informed the New Mexico Secretary of State will issue and file a proclamation calling for the 2019 Regular Local Election on August 7, 2019. Ms. Whittaker stated candidate filing day was August 27, 2019 in the County Clerk's office for any interested party who wished to be a candidate for the any of the districts involved.

Beverly Calaway, Treasurer reported her office has been busy with the fiscal year changeover, budget finalization and submitting the budget in a timely matter to DFA and TRD. Ms. Calaway stated the Delinquent Tax Sale was set for July 18, 2019 in the County Commission Chambers. Ms. Calaway informed 42 of the originally identified 259 properties would go to auction.

Ms. Calaway stated the Lincoln and Torrance County Treasurers were going to host an Affiliate meeting August 20<sup>th</sup> through the 23<sup>rd</sup> in Ruidoso. Ms. Calaway was excited to announce DFA will attend to assist and answer any questions regarding the new implications of n House Bill 407.

Cassie Sponagel, Chief Deputy Appraiser stated Walter Hill, Assessor and LeeRoy Zamora Chief Deputy Assessor were not in attendance for this meeting as they were attending a class in Socorro. Ms. Sponagel stated their office was looking forward to issuing a purchase order for the new Pictometry software.

Ms. Taylor stated the State Procurement Agency was building a Statewide Price Agreement using Pictometry/Eagleview's federal GSA. Ms. Taylor stated the State was awaiting a completed NM State W-9.

Robert Shepperd, Sheriff stated a hearing was set before the Supreme Court on September 13, 2019 regarding the realignment of elections. Sheriff Shepperd stated a group of district court judges and NMAC had also filed petitions with the Supreme Court regarding HB 407. Sheriff Shepperd stated all cases were set for oral argument on September 13, 2019 at 9:30 AM and 10:00 AM.

Frank Chavez, resident of Capitan voiced concerns about the amount of traffic on Hailstorm Road and Cholla Drive. Mr. Chavez asked the County to consider paving the road.

Todd Oberheu, Lincoln County Medical Center Executive Director presented a check for \$1.2 million for the new hospital construction. Mr. Oberhue stated this was Presbyterian's commitment to help with the cost of construction associated with the donation efforts.

#### **10. Short Term Rental Presentations:**

Ms. Taylor stated in order to implement a Short Term Rental Program in the County, an ordinance would have to be adopted that addresses the enforcement of permitting and tracking of short term rentals. Ms. Taylor stated 442 short term rentals were identified throughout the unincorporated portions of the County. Ms. Taylor stated permit fees would help offset the cost to contract with a business to assist in identifying all short term rental properties.

- a. Short Term Rental 101 – Presented by Timothy P. Dodge, Community Development Director, Village of Ruidoso;

Timothy Dodge, Community Development Director for the Village of Ruidoso gave a presentation on short term rentals. Mr. Dodge stated a short term rental or vacation rental is defined as any dwelling unit rented for less than 29 days.

There was a general discussion regarding the gross receipts impact to the general fund budget.

- b. Short Term Rental Host Compliance – Presented by Samantha Mendez, Project Management & Planning Director

Samantha Mendez, Director of Planning provided statistics and introduced a platform "Host Compliance" for handling all short term related challenges including implementation, compliance monitoring, and enforcement of related programs.

There was lengthy discussion on host compliance and how short term rentals effect Lodger's tax.

Commissioner Draper stated the County needed to be fair to both hotels and short term rental operators. Commissioner Draper stated belief if the County charged the hotel lodger's tax the policy should be the same for the rentals.

Ms. Mendez stated the County had sufficient staff to track the short term rentals and the Host Compliance software would do the majority of the work.

Chair Stone Recessed the Regular Meeting at 11:04 AM and reconvened at 11:10 AM.

#### **11. Approval of Memorandum of Understanding with the Village of Ruidoso – Construction Permitting**

Ms. Taylor reminded in June of 2018 the Village of Ruidoso requested the County Commission approve the revised Memorandum of Understanding (MOU) between the Village of Ruidoso and Lincoln County for the provision of regulation services for residential and commercial construction within certain areas of the County. Ms. Taylor stated the Commission was in favor of the agreement but the New Mexico Construction Industries Division (CID) would not approve it as written and proposed language requiring inspection services revert back to CID if the Village of Ruidoso had a vacancy in any inspector positions.

Attorney Morel stated the Village of Ruidoso had made slight modifications to the MOU, specifying the circumstances under which inspection services would revert from the Village of Ruidoso back to CID. Attorney Morel stated the County residents were being charged the same fees as the Village of Ruidoso residents.

**Motion:** Approve the Memorandum of Understanding with the Village of Ruidoso, **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.

**13. Approval of Agreement with Pettigrew Associates PA for Design of Hondo Sr. Center**

Ms. Taylor reminded during the January 22, 2019 Commission Meeting the Board of County Commissioners approved the acceptance of 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 in March of 2019 the County issued RFP No. 18-19-007 for Design Professional Services and in April the Commission awarded the RFP to the highest scoring offeror which was Pettigrew & Associates.

Ms. Taylor stated Lincoln County received a Capital Appropriation, C-2008-Hondo Building Construct, in the amount of \$75,000 which would cover the engineering costs and a portion of the County match.

**Motion:** Approve the agreement with Pettigrew & Associates, PA for the design of the new Hondo Senior. Center, **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. Adoption of the Lincoln County Emergency Operations Plan**

Ms. Taylor stated the publication and adoption of the County of Lincoln Emergency Operations Plan represents a concerted effort on the part of county government to provide a mechanism for effectively responding to and recovering from the impact of a major emergency or disaster. Ms. Taylor stated this document highlights planning assumptions, establishes policies, presents guidelines and provides information deemed essential to the successful management of emergency operations within the County of Lincoln.

Ms. Taylor stated the primary purpose of the plan was to facilitate the delivery of local government, community and mutual aid resources as well as to provide needed assistance and relief to disaster victims and the community at large. Ms. Taylor stated the plan must be renewed every five years and the prior plan was approved by the Commission in June of 2014. Ms. Taylor stated the sole change to the prior plan was the effective date now June of 2019.

**Motion:** Adopt the 2019 Lincoln County Emergency Operations Plan, **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. Manager's Report**

1. 2019 Energy Summit: Building New Mexico's Clean Energy Future. Hosted by Senator Martin Heinrich. August 5th and 6th at the Albuquerque Convention Center. This summit will focus on four actionable areas where local governments and governmental entities can reduce carbon emissions: 1. Solar; 2. Buildings; 3. Transportation; and 4. rural electrification.

2. Fireworks Ban: Last month the Commission discussed its inability to approve and implement a fireworks ban due to the requirements of the law. Manager provide a copy of a narrative submitted to the Ruidoso News which was as of this date published.

3. Fort Stanton – Snowy River Cave National Conservation Area: On June 26th Commissioner Allen and Manager attended a presentation made by the Bureau of Land Management regarding the Fort Stanton Snowy River Cave, located between Capitan and Lincoln and extending both North and South of Hwy 380. The presentation was excellent and very informative. BLM is pleased to bring that presentation to the Commission meeting at any time. We also met the State Director Tim Spisak.

4. Pictometry: State Procurement was progressing on building a Statewide Price Agreement from Pictometry/Eagleview's Federal GSA. They are awaiting a completed State W-9 before they



can proceed. Once received, Pictometry will be entered into the State's Accounting/Financial system and local government could order services through the Statewide Price Agreement.

5. Correctional Solutions Group's (CSG) is in the process of obtaining insurance coverage for their company to operate the Lincoln County Detention Center. They anticipate that happening in the very near future, enabling them to sit at the table with Lincoln County to start negotiating an Operating Agreement. In the meanwhile, LaSalle continues to operate LCDC and is closely cooperating with CSG to ensure a smooth transition.

6. House Bill 512, signed by the governor, will allow Volunteer Fire Department members to adjust one or more years of unreported service credit earned during the period of January, 1984 to December, 2018. A corrected Qualification Record for Volunteer Firefighter Service Credit Form must be filled out and returned to the State Fire Marshal's Office. The County's Office of Emergency Services is working with the various Fire Departments to ensure they have the paperwork needed. The adjustment period will begin on June 14, 2019 and members will have until March 31, 2020 to adjust their service credit.

7. ENMR Board of Regents Approved Ruidoso Campus 5 Year Plan: Manager and Commissioner Stewart were notified by ENMU Regent, Lance Pyle of the approval of the Ruidoso Campus 5 year plan. That is great news for our College, for the Village of Ruidoso and for the County. Congratulations!!

8. Active Threat on Campuses: Protective Measures and Response: The County has been notified of a one-day course to strengthen the response capabilities of those working in a campus environment in preparation for a potential active threat incident. Campuses in this context include: K-12 school, colleges and universities, hospitals, houses of worship and government/office buildings. The training will be held on September 11th in Hobbs and on September 20th in Rio Rancho.

9. Lincoln County Yard on Hwy 220: Sheriff Shepperd and some of the Deputies have expressed an interest in setting up a shooting range at the County Yard on Highway 220. Road Superintendent Honeycutt has also been involved in the concept. We think it is workable. Sheriff Shepperd will lead the discussion.

10. Road Yard Relocation: Manager and Road Superintendent have been in very general discussion with Smokey Bear District Ranger Canfield regarding the possibility of conveying some USFS land. The Manager provided a proposal that outlines the area on a map; the number of acres; what it will be used for; and why we need it. We request approval to put that information together and provide it to Ranger Canfield.

#### **15. Stop the Bleed – Presentation by Dr. Stephen Rath**

##### **a. Certification Training for Life-Saving Skill (during lunch hour)**

Dr. Stephen Rath stated the number one cause of preventable death after injury is bleeding. Dr. Rath informed that you must first recognize a life-threatening bleed then take steps to stop the bleed by pressure, packing or the use of a tourniquet.

Commissioner Draper questioned if the training was given to the local school districts.

Dr. Rath offered a certification class during the lunch hour.

Chair Stone recessed the Regular Meeting at 11:58 AM and reconvened at 1:00 PM.

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

#### **16. 1:00 P.M.: Public Hearing to consider an applicant seeking a Winegrowers 3rd Offsite Liquor License for Liquor License NO. 1124661 from Enchanted Vine, LLC., Doing Business as Sentinel Ranch Winery/Hurd Gallery, 105 La Rinconada, San Patricio, New Mexico 88348.**

Ms. Taylor informed the purpose of the hearing was to consider Liquor License Application 1124661. Ms. Taylor stated this license was properly filed and published.

Michael Hurd, representing Enchanted Vine stated this is an exciting attraction for Lincoln County. Mr. Hurd informed not only is it a wine business but it will also a way to display art. Mr. Hurd stated he has designed a variety of wine labels that are available for purchase. Mr. Hurd stated this business will benefit the economy with the creation of new jobs and an increase in tax revenue.

Commissioner Draper questioned this license being the "3<sup>rd</sup> offsite license."

Mary Jo Piedmont, representing Enchanted Vine stated each winery can have up to four licenses.

Chair Stone adjourned the Public Hearing at 1:11 PM and reconvened the Regular Meeting at 1:12 PM

**Motion:** Approve Liquor License Application 1124661, **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. Managers' Report (continued)**

### **Department Head Updates:**

**Joe Kenmore, Office of Emergency Services Director** stated he attended the celebration of life for Kelly Jo Lovelace.

Robert Shepperd, Sheriff stated Kelly Jo Lovelace had been with Sheriff's Department since 1995. Sheriff Shepperd stated she started in Records and then eventually ended up in dispatch where she worked the majority of the time. Sheriff Shepperd stated her passing was a great loss to Lincoln County.

Mr. Kenmore stated there was a small lightening fire in Arabella that burned 1/10<sup>th</sup> of an acre. Mr. Kenmore informed they will begin hose testing for all the fire departments this month as part as the safely protection protocol.

Chair Stone recessed the Regular Meeting at 1:16 PM and convened the Public Hearing at 1:17 PM.

## **17. 1:15 P.M.: Public Hearing to consider the Revenue Bond Ordinance for Wind Farm (Mesa Canyons IRB Project)**

Attorney Morel requested additional time to review the revised Bond Ordinance for various change orders received late in the week. Attorney Morel suggested continuing the matter until August 19, 2019 at 1:00 PM.

Chair Stone recessed the Public Hearing and convened the Regular Meeting at 1:19 PM

**Motion:** Table item to next Regular Meeting on August 20, 2019 at 1:00 PM, **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. Manager's Report (continued)**

**Joe Kenmore, Office of Emergency Services Director** reported the fire departments received their funding allotments from the State Fire Marshalls office. Mr. Kenmore expressed gratitude to the County Road Department for helping place the tower on the Capitan Mountains. Mr. Kenmore stated they were delayed due to the spotting owl survey and the fire.

**Renee Montes, Senior Services Director** reported the stove in the Corona Senior Center needs to be replaced and she has requested emergency funding from the State. Ms. Montes reported the 2005 Jeep stolen from Ruidoso Downs Senior Center was never recovered but the department planned to replace it using Capital Outlay funding.

**Jeff Honeycutt, Road Superintendent** stated the Lincoln County Road Department will evaluate Alpine and Musketball Roads next week, Mr. Honeycutt stated some areas of Paso Monte needed to be touched up. Mr. Honeycutt informed Cholla Drive will be used as a test road for a new base course application.

Chair Stone recessed the Regular Meeting at 1:29 PM and convened the Public Hearing at 1:30 PM.

**18. 1:30 P.M.: Public Hearing to consider the Final Budget for FY19-20 by Resolution 2019-02**

Ms. Taylor reminded at the Regular Commission meeting of May 21, 2019 the County of Lincoln approved the preliminary budget with modifications and forwarded it to DFA for subsequent approval. Ms. Taylor stated the Treasurers' beginning cash balance of \$8,552,233 has been modified from the preliminary conservative budget of \$7,150,000. Ms. Taylor stated this reflects a true-up of \$1,402,233 or +19.6%. Ms. Taylor stated the final adjusted budgeted fund expenditures of \$8,602,539 have increased slightly from the preliminary budget amount of \$8,599,289. Ms. Taylor informed both set of adjustments are required to accommodate bills received and paid since May as well as to account for expenses budgeted for the prior year which were underspent, to realize individual fund revenues exceeded conservative estimates, and recognize other factors occurring since the approval of the preliminary budget. Ms. Taylor stated the Adjusted Ending Cash Balance was \$8,861,905 adjusted from the preliminary balance of \$7,062,148.

Ms. Taylor stated by law, funds must be reserved in the amount of 3/12 of General Fund expenditures. Ms. Taylor informed the required reserve is \$2,150,635 and this budget reflects \$6,711,271 over the requirement. Ms. Taylor stated with a cash balance of \$8,861,905 the commission may want to consider the approval of additional funding requests.

Ms. Taylor reported two unfunded requests during the preliminary budget hearing were for an additional trash compactor and a generator for the New Horizons building.

Ms. Taylor reminded Lincoln County voters previously approved the imposition of a Hospital Mill Levy for up to 3.0 Mills. Ms. Taylor stated traditionally Lincoln County had budgeted revenues from the mill levy at the current levels of 2.0 mills for the hospital and .6 mills for the rural clinics and reminded those rates were established in the Final Budget process.

Ms. Taylor stated the Elected Officials and Departments heads are to be commended for diligently participating in the budget process.

Beverly Calaway, Treasurer stated the final budget met the requirement for reserve funds and the beginning cash balance was strong.

Commissioner Stewart discussed the fire departments' reserves and expenses and the carryover of funding for Solid Waste.

Chair Stone adjourned the Public Hearing at 1:44 and Reconvened the Regular Meeting at 1:45 PM.

**Motion:** Adopt Resolution 2019-02 adding \$55,200 for three (3) compactors and \$14,000 for a generator for New Horizons.

**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. Consideration of Requested Billing Adjustment for Solid Waste Customer**

Ms. Taylor reminded during the June 25, 2019 Regular Meeting a Lincoln County Solid Waste customer requested an adjustment to their solid waste bill. Ms. Taylor stated the discussion included not only a summary of the circumstances leading up to the request but also under whose authority an adjustment, waiver, or forgiveness of fees could be granted. Ms. Taylor reminded each request for an adjustment, waiver or forgiveness of fees billed for services rendered must be brought to the Commission for action.

Commissioner Allen stated the residents were paying a solid waste bill but to the wrong company. Commissioner Allen believes they were in good standing but confusion arose with the transfer of collections from one entity to another. Commissioner Allen expressed belief due to the confusion the resident/business should not be subject to a lien on their property.

**Motion:** Waive the \$448.47 solid waste fee, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Draper.

General discussion regarding Lincoln County Solid Waste billing and Greentree billings.

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



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

#### 19. Replacement Hospital Update

##### Jaynes Schedule Narrative- Summary of Status

Mike McDonald, Project Manager presented a summary of current status. Mr. McDonald reported the hospital building substantial completion date was set for December 26, 2019. Mr. McDonald stated the Phase II completion date was set for August 18, 2020. Mr. McDonald stated confirming these dates was a work in process due to the number of contractors working on the project. Mr. McDonald informed major mile stones reached this month included completion of the vibration analysis for MRI slab. Mr. McDonald stated currently they are ready for drywall in specific areas of the hospital.

##### Expenditure Summary.

Ms. Taylor stated during last month's update with Pay Application #13 in the amount of \$2,061,493.85 the County had spent a total of \$12,302,023. Ms. Taylor anticipated submission of the next Pay Application #14 for approximately \$3 million next week. Ms. Taylor stated in addition to the increased level of construction activity, additional costs were tied to paying for equipment storage.

##### Various Change Order Consideration

Ms. Taylor stated during last month's meeting the Commission reviewed the six change orders to date. Ms. Taylor stated she had approved an additional three changes orders totaling approximately \$89,000.

Ms. Taylor stated the contract was fully executed between the County and GranCor Environmental for the Abatement process.

#### 21. Approval to Enter into CES Agreement with SDV Construction for the Completion of the White Oaks Fire Station

Ms. Taylor stated the White Oaks Fire Station expansion project, which encompasses the construction of an additional building to store its apparatus for a number of years.

Ms. Taylor stated based on ICIP prioritization at the time, on September 14, 2014, the County received the Agreement from DFA for Capital Outlay Grant 14-L-1943 in the amount of \$20,000 to design, construct and furnish an expansion of the White Oaks fire station. These funds covered the first steps of the project, including costs for soil testing, surveying and earthwork. The work was completed by SDV construction, and the grant is closed.

Based on ICIP prioritization at the time, on January 13, 2016, the County received the Agreement from DFA for Capital Outlay Grant 15-L-0797 in the amount of \$25,000 to plan, design, construct, furnish and expand the fire station in White Oaks. These funds covered the next step of the project, including the laying of a heavyweight concrete slab. The work was completed by SDV construction, and the grant is closed.

Ms. Taylor stated the County received a third Capital Outlay grant in the amount of \$91,000, and the White Oaks Fire Station received a Fire Marshal's Grant in the amount of \$100,000. As SDV Construction is very familiar with this project, from the design of the building to the construction activities to date, and has done an excellent job, our preference is to have them complete the work. Ms. Taylor requested approval to enter into a CES Agreement with SDV Construction to complete this construction project of the White Oak Fire Station expansion.

**Motion:** Grant the County Manager the authority to enter into a CES agreement with SDV construction to complete the White Oaks Fire Department expansion project, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

#### 22. Approval of Preliminary ICIP (Infrastructure Capital Improvement Plan) FY 2021-2025

Ms. Taylor stated the Infrastructure Capital Improvement Plan (ICIP) was due on September 6, 2019. Ms. Taylor stated during the process for identifying priorities for Legislative funding, the Commission directed the construction of the replacement hospital be included as the third priority. Ms. Taylor informed the 2019 Legislature awarded \$300,000 for hospital construction but the

award was vetoed by the Governor. Ms. Taylor stated the remaining projects on the ICIP were unfunded and requested input on priorities from Commission, Elected Officials, and staff Ms. Taylor presented the following list for consideration:

- Purchase of the Wells Fargo Building
- Construction for Wells Fargo Building
- ADA Improvements- Courthouse
- Fairground Improvements
- Road projects
- Additional expansion of the Lincoln County Detention Center

Lengthy discussion on the proposed projects and prioritization for the ICIP.

### **23. Approval of Certification of Capital Assets for FY 17/18**

Ms. Taylor informed the Fiscal Year 2017-2018 annual inventory of chattels and equipment valued at \$5,000 or above was complete. Ms. Taylor stated in accordance with generally accepted auditing procedures and in order to meet the annual requirements for certification as specified in State Statute 12-6-19 she was requesting the Board of Commissioner certify the list.

**Motion:** Approve the Certification of Capital Assets for FY 17/18, **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.

### **24. Consideration of Alpine Village Sanitation District Resolution 2019-1 Requesting the County to Post Speed Limit Signs**

Ms. Taylor informed the Alpine Village Subdivision provided Lincoln County with its Board of Directors approved Resolution 2019-1 requesting permanent speed limit signs on Alpine Village Road and Musketball Drive.

Sheriff Robert Shepperd stated the law could be enforced without posting a speed limit sign.

**Motion:** Approve two "30 mph" signs for placement in the Alpine Village Subdivision, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Draper.

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

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

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

- a. Solid Waste Ordinance 2017-07
- b. Lodgers tax

General discussion on the Solid Waste Ordinance and the Lodgers Tax Ordinance.

No action taken.

### **26. Approval of Collective Bargaining Agreement**

Ms. Taylor informed Lincoln County and the Sheriff's Deputy Association were in discussions regarding potential changes to the Collective Bargaining Agreement. Ms. Taylor stated a modification was provided to the Manager on July 12, 2019 for consideration of changes. Ms. Taylor stated this did not allow sufficient time for consideration and negotiation. Ms. Taylor stated she would bring the Agreement back to the Commission for consideration during the August Regular Meeting.

### **27. Approval of the Contract for Services between the County of Lincoln and the Lincoln Community Church, Inc.**

Ms. Taylor stated Shirley Dimas with the Lincoln Community Church contacted Planning Director, Samantha Mendez by way of email to provide changes to the Contract for Services with the County for the use of the Lincoln Community Church. Ms. Taylor stated given the constant

increases in insurance, utilities, and other expenses and the fact that the present contract has never been modified, the Church proposed an annual fee increase to \$600.00 to reserve meeting space for the 3<sup>rd</sup> Wednesday of each month and an additional fee of \$50.00 per month to convene the meeting of the Lincoln Historical Board.

Ms. Taylor stated the Lincoln Community Church Board of Trustees has met since their initial proposal for a rate increase and added additional changes to their proposal. Ms. Taylor stated they are changing their request to scale the rate increase over two years.

**Proposed rate increase:**

July 1, 2019 through June 30, 2020	
Annual Rate (third Wednesday of each month)	\$400.00
Convened Meeting Fee (additional /meeting)	\$ 35.00
July 1, 2020 through June 30, 2021	
Annual Rate (third Wednesday of each month)	\$600.00
Convened Meeting fee (additional/meeting)	\$ 50.00

**Motion:** Approve the agreement with the incorporated changes requested by the Lincoln Community Church Board of Trustees, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

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

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

28. **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).**

**New or Updated Matters since last report \***

1. **Rancho Ruidoso Valley Estate Homeowners' Association v. Roy Padilla, et. al – D-1226-CV-2017-00195** Complaint filed by RRVEHA for foreclosure of the Homeowners' Association Assessment Lien. The County is a named Defendant due to the filing of a GSWA lien on March 22, 2006, and a L.C. Solid Waste Lien filed on December 16, 2016 for non-payment of solid waste services and potential ad valorem taxes due and owing. The Foreclosure Sale took place on November 15, 2018 @ 10:00 a.m. at the front steps of the 12th Judicial District Courthouse in Carrizozo.

2. **Rancho Ruidoso Valley Estates Homeowner's Association v. Diane K. Medcalf, Pioneer Bank, FSB, and the County of Lincoln, NM D-1226-CV-2017-00242** Complaint filed by RRVEHA September 12, 2017 for Foreclosure of the Homeowner's Association Assessment Lien. On January 25, 2019, Judge Blankinship entered a Judgment by Default for Foreclosure.

3. **Board of County Commissioners of Lincoln County v. Roger Romero D-1226-CV-2018-00055 Complaint for Foreclosure.** Complaint was filed February 20, 2018. Defendant Roger Romero filed an Answer to the Complaint asserting a Counterclaim to be filed in the U.S. District Court on April 2, 2018. A Judicial Inquiry Hearing took place September 4, 2018.

4. **Roger Romero v. State of New Mexico – D-1226-CV-2018-00113 (Underlying Cases are: Board of County Commissioners of Lincoln County v. Roger Romero, D-1226-CV-2018-00055, and State of N.M. v. Roger Romero M-30-MR-2016-00142)**

A Petition for Writ of Habeas Corpus was filed requesting that the Judgment & Sentence entered by Judge Vega in Cause No. M-30-MR-2016-00142 be vacated and set aside. George Romero's Answer to Complaint and Counterclaim was filed April 30, 2018 in Cause No. D-1226-CV-2018-00055. Judge Counts is the presiding Judge. On February 26, 2019, an Order Setting Aside Conviction was entered by Judge Counts and, on March 25, 2019, a Notice of Appeal was filed with the N.M. Supreme Court. (NM Supreme Crt. Case No. S-1-SC-37602)

5. **\*Roger Romero, et al vs. Lincoln County, et al – U.S. Dist. Court Cause No. 2:18-cv-01137-JAP-GJF** A Complaint for Violation of Civil, Constitutional and Statutory Rights was filed on December 5, 2018. On December 27, 2018. There is presently pending a Motion for Appointment of Guardian Ad Litem for both Plaintiffs and, a Motion for Dismissal of all individual Defendants.

6. **Pioneer Bank v. Jessica Quintana, and Lincoln County D-1226-CV-2018-00058** Complaint to Foreclose and Collection of Note was filed on March 22, 2018. Lincoln County filed its Answer to the Complaint on April 20, 2018 asserting that any County liens are first and priority liens which should be ordered paid from the proceeds of the foreclosure sale. Judge Bryant is the presiding Judge. On May 2, 2019, the Court entered its Certificate as to the State of the Record and Non-Appearance noting L.C.'s Answer to Complaint having been filed and no other answers or responsive pleadings have been filed.

7. **Brack Rains v. Lincoln County D-1226-CV-2018-00179** Complaint for Violation of New Mexico Whistleblower Protection Act filed June 6, 2018. The County was served July 10, 2018. Judge Bryant was recused from presiding over the case by Plaintiff and Judge Counts was assigned to preside over the case. County's Answer to the Complaint and Jury Demand (12 person) was filed August 9, 2018.
8. **Kane County, Utah, et al v. The United States, 17-739C and 17-1991C (Consolidated)** Class Action Lawsuit to recover PILT underpayments for fiscal years 2015-2017. On August 14, 2018, Lincoln County submitted its Opt-In Notice to participate in the lawsuit.
9. **Lorraine Michelle LaMay** – Notice of Chapter 13 Bankruptcy Case Number 19-10279-j13 On March 11, 2019, Lincoln County received notice of the Chapter 13 Bankruptcy Case.
10. **Brd. of County Commissioners of Lincoln County v. Amerisourcebergen Drug Corp., et al – U.S. Dist. Court Case No. 2:19-cv-00462** – Complaint for Public Nuisance, Violations of Racketeer Influenced and Corrupt Organizations Act (RICO)... filed on May 20, 2019 by Attorneys Robles, Rail & Anaya, P.C., et. al. After receiving no oppositions to the transfer of the case, on June 17, 2019, the case was transferred to the Northern District of Ohio noting that as of December 5, 2017, 1,534 cases have been transferred to Ohio for further proceedings.
11. **Baltazar Romo v. Rex Beard, Cause No. D-1226-CV-2019-00144** Complaint for Negligence and Negligence Per Se was filed on May 26, 2019 and served upon Sgt. Rex Beard of the Lincoln County Sheriff's office on June 18, 2019. Judge Bryant is the presiding Judge. An Answer to the Complaint is due on or before July 18, 2019.
12. **\*Valerie Herrera v. Anthony Manfredi, Cause No. D-1226-CV-2019-00164** Complaint for Negligence and Negligence Per Se (Battery), and Excessive Force as Brought under 42 U.S.C. § 1983 was filed on June 16, 2019 by W. Chris Nedbalek. Judge Bryant is the presiding Judge. As of June 24, 2019, the Complaint has not been served upon former LCSO employee, Anthony Manfredi.
13. **\*Greentree Solid Waste Authority v. Lincoln County D-1226-CV-2014-00095** – Compromise and Settlement Agreement and Release executed on December 17, 2015.

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

14. **State of NM v. Kimberly Conner M-30-MR-2018-00043** Violation of County Ordinance 2008-08 Animal Control Ordinance. A Citation was filed May 14, 2018 charging the Defendant with 1 count of Dog Running at Large. On May 14, 2019, a Bench Trial was held at which time the Defendant was found Guilty of 1 Count of Dogs running at Large. The Defendant was sentenced to 90 days jail time with 90 days suspended based upon the condition that the Defendant received no further Citations for Violation of Lincoln County's Animal Control Ordinance within the next 90 days, 90 days unsupervised probation, assessed \$73.00 court costs, \$300.00 fine and \$100.00 bench warrant fee for a total of \$473.00.

**Tort Claims Notices Received or Threatened**

**2019**

- \*Samaniego, Barbara** – Tort Claim Notice received June 26, 2019 alleging injuries sustained while undergoing a MRI at the Lincoln County Medical Center.
- Divelbliss, Kim** – Tort Claim Notice received June 17, 2019 [dated 6-11-19] alleging that the Claimant was taunted, harassed and her rights were violated resulting in her ultimate termination from employment by the Lincoln County Detention Center.
- Divelbliss, Ty** – Tort Claim Notice received June 17, 2019 [dated 6-11-19] alleging that the Claimant was terminated from employment by the Lincoln County Detention Center out of retribution.
- Yokley, Scott** – Tort Claim Notice received June 17, 2019 [dated 6-12-19] alleging that the Claimant was sprayed directly in the eye with pepper spray during his employment with the Lincoln County Detention Center.
- Udall, Steve** – Tort Claim Notice received May 22, 2019 [dated 12-14-19] alleging a Lincoln County Sheriff's Deputy's vehicle hit the air conditioning condensing unit located at the Magistrate Court in Ruidoso damaging the unit beyond repair.
- Youtz, Shane** – Correspondence received May 7, 2019 threatening litigation if Lincoln County's Right to Work Ordinance (Ordinance No. 2018-01) is not repealed due to the passing of HB85.
- Balderas, Hector** – Tort Claim Notice received April 9, 2019 regarding threat of litigation and liability for failure to enforce the law.
- HES, LLC and, Kenneth and Irene Livingston** – Tort Claim Notice received January 3, 2019 alleging The N.M. Dept. of Health seized and destroyed cannabis plants belong to HES, LLC and Kenneth and Irene Livingston. On January 24, 2019, NMAC denied the claim.
- Lueras, Ramon** – Tort Claim Notice received January 31, 2019 from Pizzonia Law Firm was received which referenced "Lueras v. Lincoln County Road Dept., et al" requesting copies of



Mr. Lueras' employment records. While the correspondence appeared to be more like an IPRA, NMAC was notified out of an abundance of caution. On February 8, 2019, NMAC confirmed that Mr. Lueras has a work comp claim and that the January 31, 2019 correspondence from Pizzonia Law Firm relates to that claim. NMAC did open a claim as "record only".

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

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

## **2018**

**Duke, Arnold** – Harrisburg Document recovery

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

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

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

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

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

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

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

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

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

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

## **2017**

**Solarczyk, Frank** – Tort Claim Notice received August 21, 2017 alleging unlawful arrest, unlawful detention, negligence, false imprisonment, abuse of process, battery, cruel and unusual punishment, negligent and intentional infliction of emotional distress, violation of civil rights, violation of due process rights under the U.S. and New Mexico Constitutions, and other related torts and actions during Claimant's incarceration at Dona Ana and Lincoln County Detention Centers.

**Montoya, Joseph** – Tort Claim Notice received August 25, 2017 alleging great bodily harm during Claimant's incarceration at Lincoln County Detention Center.

**Martin, Stephen Wayne** – Tort Claim Notice received August 25, 2017 naming Clerk Rhonda Burrows. Additional document received September 15, 2017 from Mr. Martin referencing same cause.

**Ryen, Kenneth Lloyd** – Tort Claim Notice received October 18, 2017 alleging violation of Article II, Section 10 of the New Mexico Constitution: Plaintiff was allegedly held in custody at LCDC for 15 days, November 10-25, 2015, and alleging paperwork to hold Plaintiff did not contain a cause number.

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

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



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

Chair Stone recessed the Regular Meeting and convened the Closed Session at 3:23 PM.

Chair Stone adjourned the Closed Session and reconvened the Regular Meeting at 4:18 PM.

Commissioner Allen 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.

**29. Solid Waste Update**

General Discussion on Ordinance and placing item on next month's agenda.

Commissioner Willard requested an investigation as to whether the County should consider placement of a compactor near Monjeau Lookout Road.

**30. Signing of Official Documents**

**31. Next meetings:**

- a. August 20, 2019 Regular Commission Meeting

**32. Adjourn**

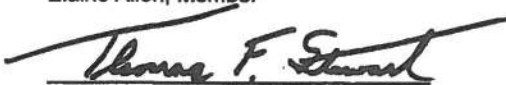
There being no further business to come before the Board of County Commissioners, Chair Stone adjourned the meeting at 4:18 PM.

County of Lincoln  
Board of Commissioners

  
Preston Stone, Chair


  
Dallas Draper, Vice Chair

  
Elaine Allen, Member

  
Thomas F. Stewart, Member

  
Lynn Willard, Member

ATTEST:

  
Whitney Whittaker, County Clerk

August 20, 2019  
Date Approved

