

## 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, June 25, 2019

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on June 25, 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 Willard.

**Absent:** Commissioner Draper.

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.

Chair Stone requested agenda item 29 be considered immediately after agenda item 19.

**Vote:** Motion carried by unanimous vote (**summary:** Yes = 4).

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

#### 6. Approval of Minutes:

- a. May 1, 2019 - Special Commission Meeting
- b. May 21, 2019 - Regular Commission Meeting

**Motion:** Approve the minutes of the May 1, 2019 Special Meeting and the May 21, 2019 Regular Meeting, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

**Vote:** Motion carried by unanimous vote (**summary:** Yes = 4).

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

#### 7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month ending May 31, 2019
- c. The Alpine Village Sanitation District Mil Levy Tax Rate

d. 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 = 4).

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

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

8. **Bonito Lake Restoration Project Update – Rob Richardson, Bohannon Huston**

Rob Richardson, the City of Alamogordo's consultant reported on the current condition of the Bonito Lake Restoration Project. Mr. Richardson stated at this point any rain would cause additional delays due to the need to drain any runoff and then reset to avoid flood damage during the project. Mr. Richardson invited the County staff to attend Bohannon Huston meetings for any updates. Mr. Richardson also provided pictures illustrating progress on the project.

9. **Forest, Land & Natural Resources Matters:**

e. **Smokey Bear Ranger District**

Jodie Canfield, District Ranger stated the Bonito Campground set up operation was suspend due to spotted owl nesting in the area. Ranger Canfield stated plans to resume the project after July 1<sup>st</sup> utilizing heavy equipment to drain the lake.

Ranger Canfield stated 100 trees were found down due to high winds. Ranger Canfield stated the District was slowly working to clean up downed tree areas.

Ranger Canfield reported Lincoln County was currently in moderate fire danger, based on specific modeling efforts. Ranger Canfield reported on the status the Lone Mountain Fire near White Oaks. Ranger Canfield stated the fire was in a remote area and the local land owner had agreed to support management of the fire. Ranger Canfield stated a ten person fire crew from Colorado was heading the operation and recently did a drone fly over.

Ranger Canfield provided a presentation on the use of drone fly overs and informed utilizing drones rather than manned aircraft would reduce costs.

Aaron Baldridge from the Type 5 Management Team provided information on the Pine Lodge Fire. Mr. Baldridge stated Highway 246 had a soft closure allowing only local resident's access. Mr. Baldridge expressed his appreciation for all the support from the Lincoln County Emergency Management Team.

There was a general discussion regarding the Pine Lodge Fire and the directional pattern the fire was displaying.

Nick Smokovich, NM State Forester stated Lincoln County has had a significant number of fire starts but fire crews were able to contain prior to becoming extreme situations. Mr. Smokovich discussed prevention actions home owners could take around homes to reduce fire danger. Mr. Smokovich stated picking up pine needles, pinecones and mowing the lawn were good housekeeping preventative measures.

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

Rick Merrick, Community Forester reported on the Cost Share and Firewise programs. Mr. Merrick stated the Firewise program provides home inspections for fire risk assessment. Mr. Merrick stated the Air Curtain Incinerator was still with the Village of Capitan. Mr. Merrick stated he recently held a Firewise Community assessment meeting in Lincoln and thanked Commissioner Allen for setting it up and attending the meeting.

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

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

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

Robert Barber, Chair of LANRAC informed the committee continued to work with the Smokey Bear Collaborative Group on the draft of proposed action for the Hale Lake area. Mr. Barber stated the next Collaborative meeting was set for June 26, 2019.

#### **11. 9:30 AM: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS**

Commissioner Stewart stated he attended the summer conference for the New Mexico Counties in Clovis last week. Commissioner Stewart informed he attend the Workers' Comp Board meeting in addition to other workshops provided. Commissioner Stewart stated a program called Oragami was coming online which would allow the county to log in and monitor claims.

Commissioner Stewart informed House Bill 324 which was signed into law recognizes Post Traumatic Stress Disorder as a condition of employment of paid full time firefighters.

Commissioner Stewart reported on the joint Workers' Comp and Multi-line Board meeting held in Clovis. Commissioner Stewart stated given the healthy nature of New Mexico Counties (NMC) workers comp balances and performance, the Boards of Directors proposed combining the two boards. Commissioner Stewart stated he made the motion to combine the two boards through the Joint Powers Agreement (JPA) and Bylaws. Commissioner Stewart stated the motion passed unanimously and he signed the agreements on behalf of Lincoln County. Commissioner Stewart stated the JPA now goes to the NM Department of Finance and Administration for approval and NMC staff were working on the transition to the combined board under the new bylaws.

Commissioner Stewart also attended a transportation and roads workshop. Commissioner Stewart stated NMC's Brian Moore moderated a discussion on future transportation issues and how counties can work to improve their roads.

Commissioner Stewart stated he also attended through teleconference a meeting of the Joint Land Use Study Group with Fort Bliss, White Sands, and Holloman. Commissioner Stewart stated the implementation committee was reenergized after the loss of the original administrator and the designation of a new administrator by Dona Ana County. Commissioner Stewart stated he briefed the group on wind energy developments in Lincoln County and the Holloman representative thanked Lincoln County for including requirements for military coordination in our ordinance.

Commissioner Stewart reported White Sands Missile Range was coordinating a large ceremonial event for the Mescalero Apache on the Missile Range in the vicinity of Oscuro Peak during the end of July and the first part of August.

Commissioner Allen reported she heard Representative Jim Townsend on the radio discussing the Legislative budget. Commissioner Allen expressed concerns about the use of the budget and asked Manager Taylor to investigate further.

Commissioner Willard attended the recent SERPTO representing Lincoln County. Commissioner Willard also informed he would attend the 4-H Horse Camp in Las Cruces for four days.

Beverly Calaway, Treasurer stated 99 properties were scheduled for the 2019 Property Tax Sale set for July 18, 2019 at 10:00 AM in the County Commission Chambers.

Ms. Calaway presented a PILT payment chart showing a 12 year of history of payments and total acreage for Lincoln County.

Walter Hill, Assessor stated his state evaluation deadline was approaching fast.

Robert Shepperd, Sheriff discussed the implications of HB 407 regarding term limits for elected officials.

#### **10. Lincoln County Health Profile – Presentation by SE Region Epidemiologist Francisco Porras**

Francisco Porras from the NM Department of Health presented findings from the Lincoln County Health Profile. Mr. Porras discussed the percentage prevalence of various health issues in Lincoln County including obesity, diabetes, suicide and alcohol-related deaths. The majority of the study reflects an increase in rates from 2011 and 2012.

Laura Wilson, State Nurse with the New Mexico Department of Health stated two issues reflected in the study were an increase in alcohol and drug abuse and also an increase in mental health issues. Ms. Wilson discussed some resources for mental health issues and provide information on how to

refer individuals for mental health assistance. Ms. Wilson stated there were not currently a lot of resources to help assist in educating the children at an early age.

There was a general discussion regarding domestic violence and how to expand resources to help with the adverse health indicators.

Ms. Wilson stated Lincoln County was actively involved in the drug take back days, educating the public on opioid addiction and finding alternatives to pain management.

Todd Oberheu, Lincoln County Medical Center Executive Director stated alcohol abuse was one of the biggest and most difficult health indicators to treat as compared to other drugs.

Mr. Oberheu stated New Mexico has a lack of mental health services, although Lincoln County has the LCAP program which provides assistance to address some of the issues. Mr. Oberheu stated they receive about seventy requests per month through the LCAP program.

Chair Stone recessed the Regular Meeting at 10:53 AM and reconvened at 11:05 AM.

**12. The Role of Local Elected Officials in Economic Development – Presentation by Susie Russell – Region 6 Representative for Community, Business & Rural Development Team, New Mexico Economic Development Department**

Susie Russell, NM Economic Development Department Region 6 Representative presented information regarding the role of local elected officials in economic development. Ms. Russell stated there were ten things you should know as the result of a partnership between the National League of Cities Center for Research and Innovation and the International Economic Development Council (IEDC). Ms. Russell spoke about the local economic strengths and weaknesses, regional economic vision and goals, strategies to attain goals, connections between economic development and other city policies, regulatory environment, stakeholders and partners, the needs of your local business community, development message and staff.

Commissioner Stewart expressed frustration with the content of the information packet and stated the words "county" and "state" were never mentioned. Commissioner Stewart stated Lincoln County was unique in having a Solid Waste Authority; economic development through construction of a new hospital; and adoption of bond revenues for wind turbines.

Commissioner Willard questioned Lincoln County's economic development status as compared to other counties.

Chair Stone informed geographically Lincoln County was very rural. Chair Stone stated having economic development was important and noted at one time the Carrizozo School District was one of the largest school districts but due to the decline of development it is now one of the smallest.

**14. Replacement Hospital Update**

Nita Taylor, Manager informed Mike McDonald, Project Manager for the hospital construction project was not in attendance today but Thomas Garcia was present from Jaynes was here to answer any questions.

Thomas Garcia, Jaynes Corporation stated current hospital construction activities included erection of the exterior storefront curtain, HVAC ductwork and equipment, electrical gear/electoral wire pulls, mechanical and plumbing rough in, as well as drywall finishing.

Mr. Garcia informed major mile stones were reached with the installation of the underground fuel tank, the water tie in from the main, and the installation of the elevator.

Beverly Calaway, Treasurer reminded the loan documents indicated funding must be expended by March 2020.

Todd Oberheu, Chief Executive Officer for Lincoln County Medical Center stated they were working towards the budgeted donation of \$500,000, but cannot provide a hard number as of today.

**15. Resolution 2018-57 Rights in Private Property Preservation – Stirling Spencer**

Ms. Taylor stated a former County Commissioner and private land owner in Lincoln County requested the Commission consider and approve the subject resolution regarding private property

preservation, including a request for the Legislature of the State of New Mexico to "reject and nullify" the enforcement of any acts in violation of the United States Constitution's Bill of Rights and the New Mexico Constitution Articles.

Kendal Wilson, local resident spoke about the need for the preservation of the rights of private property.

**Motion:** Adopt Resolution 2018-57, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Commissioner Allen questioned if other counties were interested in discussing common subjects of interest. Commissioner Allen would like to form a group to discuss relevant information on the subjects the commission considers and associated resolutions.

General discussion on resolutions and the effects directly to counties.

**Vote:** Motion carried by unanimous vote (summary: Yes = 4).

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

**EXHIBIT B:** Copy of Resolution 2018-57 is attached hereto in reference thereto made a part hereof.

**13. Discussion and Consideration of Extending an Invitation to the President of the United States to Visit New Mexico to Witness the Mexico / New Mexico Border Crisis**

Ms. Taylor stated the Otero County Commission issued a letter to the President of the United States inviting him to visit New Mexico to view the border crisis. Ms. Taylor stated Otero County informed they had seen an increase in narcotics smuggling since the Border Patrol closed its checkpoints in Otero County after reassignment of staff to process migrants at the border. Ms. Taylor stated Otero County requested other New Mexico Counties join their effort in inviting the President to come to New Mexico to see firsthand the issues New Mexico counties and cities were struggling with.

**Motion:** Approve sending a letter of invitation to the President of the United States, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Chair Stone.

**Vote:** Motion passed (summary: Yes = 3, No = 1, Abstain = 0).

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

**No:** Commissioner Willard.

Chair Stone Recessed the Regular Meeting 11:57 AM and reconvened at 12:59 PM

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

**19. 1:00 PM: Public Hearing to consider Right to Work Ordinance 2018-01 Relating to Promotion of Economic Development and Commerce by Regulation of Certain Involuntary Payments Required by Employees in Lincoln County**

Attorney Morel reminded Lincoln County adopted an Ordinance along with seven other counties related to Right to Work. Attorney Morel informed during the last legislative session new law was passed which placed the Lincoln County Right to Work Ordinance in violation of New Mexico State Law. Attorney Morel recommended rescinding the Ordinance to avoid law suits and noted if NM State Law changed the County could adopt another Ordinance.

Chair Stone requested public comment and receiving none adjourned the Public Hearing and reconvened the Regular Meeting at 1:04 PM.

**Motion:** Rescind the Right to Work Lincoln County Ordinance 2018-01, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Willard.

**Vote:** Motion passed (summary: Yes = 3, No = 1, Abstain = 0).

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

**No:** Chair Stone.

**13. Discussion and Consideration of Extending an Invitation to the President of the United States to Visit New Mexico to Witness the Mexico / New Mexico Border Crisis (continued).**

Chair Stone questioned the proposed content of the letter of invitation to the President.



There was general discussion and consensus the draft letter should reflect input from the Lincoln County Commission.

**16. Resolution 2018-60 Support of the Ratification of the United States Mexico-Canada Agreement (USMCA) and Letter of Support**

Ms. Taylor reminded during the May 21, 2019 Regular Meeting the commission considered a request by the White House to participate in a conference call regarding the pending United States, Mexico and Canada Agreement (USMCA). Ms. Taylor stated the purpose of the call was to review additional information regarding the USMCA and to formally request Congress ratify the USMCA as soon as possible.

**Motion:** Adopt Resolution 2018- 60, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

**17. Approval of Compensation Advisory Board's Recommendation to Change Pay Grade of Custodian**

Ms. Taylor reminded during the May, 1, 2019 Budget Hearing the commission approved Manager's request to replace the cleaning contractor with a permanent, full time employee holding the title of Custodian. Ms. Taylor stated the Custodian position was currently a Grade 12. Ms. Taylor stated she had requested and received approval for a change to Grade 13 from the Compensation Advisory Board.

**Motion:** Approve reclassification of the Custodian position from a Grade 12 to a Grade 13, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

**Vote:** Motion carried by unanimous vote (summary: Yes = 4).

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

**18. Solid Waste Update**

Ms. Taylor stated the Solid Waste Department was extremely busy with day to day activities tied to the billing and collection for solid waste services in the county.

Ms. Taylor stated the Solid Waste Billing Clerk works closely with the Assessor's office to determine habitability. Once a premises was determined "uninhabitable" an exemption was approved and the property was no longer billed.

Brianna Herrera, Lincoln County Solid Waste Clerk explained the process involved to determine whether a property was uninhabitable.

Ms. Taylor stated the 300 Contiguous Acre exemption requires certification and attestation by the landowner that all solid waste on their property was disposed of by the landowner on the property. Ms. Taylor stated the County of Lincoln had received a number of complaints from residents regarding this exemption. Ms. Taylor stated understanding a number of the exemption holders also leased commercial dumpsters from Green Tree Solid Waste Authority and also disposed of some waste in County dumpsters and compactors.

Ms. Taylor stated the Solid Waste Department also still received periodic complaints from County residents about receiving bills from Lincoln County while also receiving and paying bills to Greentree Solid Waste Authority even after the County assumed solid waste collection services in January of 2016. Ms. Taylor stated in those circumstances the county bills continue to grow and eventually reach the unpaid level requiring filing of a property lien.

Commissioner Allen stated confusion arose among an elderly couple in Lincoln that owned or ran a Bed and Breakfast. Commissioner Allen stated the couple was double billed by both solid waste entities. Commissioner Allen stated the couple stopped paying the County due to a miscommunication. Commissioner Allen stated the couple believes they were paying a bill for solid waste but to the wrong entity and should not be billed for the past due amounts.

There was a general discussion regarding the billing process and the 300 acre exemption.

**29. Manager's Report**

1. **Payment in Lieu of Taxes:** Great news that Thursday the County received the annual PILT payment in the amount of \$1,811,096.00, exceeding the budgeted level of \$1,726,851. In addition, in July of last year, the County determined to Opt-In to the Kane County v. United States class action lawsuit to recover PILT underpayments for fiscal years 2015 -2017. Earlier this week, all impacted counties were notified that the Court of Federal Claims Judgements officially became final on May 16 and process of getting claims paid from the Judgment Fund on May 29th. All counties were to reply with requested information; which Lincoln County did. The amounts of underpayment by County, with an explanation that the Class Counsel would ask for one-third of the amounts recovered. Based on those guidelines, the County may receive approximately \$46,000.
2. **Fireworks Ban.** Often this time of year, the County is in a state of high fire danger, coupled with drought conditions, and the Commission considers approving a resolution declaring a fire danger emergency. Without the factors of exceedingly high fire danger coupled with extreme drought, the conditions set for the in Ordinances 2003-06 and 2011-2 to declare a Fire Danger Emergency are not met.
3. **American La France.** The restoration of the American La France is progressing. Asset Inventory Clerk Toni Foligno and Joe Kenmore visit the restorer monthly to gauge progress. See Exhibit 6 for the current progress report. As the report states, the project has taken longer than expected to complete, and the Restorer estimates it will take until the latter part of August to complete the project. The Commission approved the project to be completed by June 30, 2019. I recommend we allow Restorer to complete the project. Joe Kenmore and Toni Foligno will be in attendance to respond to questions.
4. **Pictometry.** The Commission approved the Assessor to enter into an agreement with Pictometry for its Eagleview software. In verifying with State Procurement that the County could enter into the GSA Federal Contract for those services based on State Procurement Policy, we learned that it must first be converted into a Statewide Price Agreement. State Procurement is working on that, and anticipates completion of that task by mid-July.
5. **Correctional Solutions Group's (CSG) proposal in response to RFP 18-19-008 – Operations of the Lincoln County Detention Center –** the sole response received, was accepted by the Commission at its June 11th Special Meeting. Management. Members of CSG's leadership team, John Forren (CEO) and David Stanfield (COO) visited the County to meet with the Manager on June 17th and with LCDC employees on Wednesday, June 19th. Also accompanying them on this visit was Carlos Morales, who will be on-site to facilitate the transition.
6. **Pine Lodge Fire.** The Southwest Area Incident Management Team held an update meeting on June 24 at the Capitan Schools. They reported the location of the fire is 5 miles NW of Arabela and currently have 328 resources aiding in the efforts to contain it. The current size was reported to be 7,898 acres, and the total cost to date is approximately \$2.1 million. NM State Road 246 remains closed from Capitan to Roswell to public travelers; with only local residents allowed access to their homes or property.
7. **Agreement between the County of Lincoln and the Lincoln County Deputy Sheriffs' Association.** Manager and Sheriff have been in discussion with the Lincoln County Deputy Sheriffs' Association regarding the renewal / amending of the current agreement. The goal is to bring that to the Commission for approval at the July 16 meeting.

#### **Departmental Head Updates**

**Joe Kenmore, Office of Emergency Services Director** gave a brief update on the fires. Mr. Kenmore reported the spotted owl survey was complete

Chair Stone questioned the vehicle that was burned in the Lone Mountain Fire and if the Forest Service was conducting an investigation on the cause of fire.

Mr. Kenmore stated the cause of the fire was still under investigation.

**Renee Montes, Senior Center Director** stated she submitted the department's budget to the Non-Metro AAA and was waiting for contracts to come back for signatures. Ms. Montes reported they were wrapping up the 2018-2019 fiscal year end report.

**Jeff Honeycutt, Road Superintendent** stated the Lincoln County Road Department finished construction on a section of road from the intersection of Sequoia Road and Alpine Village Road to Musketball Drive and Cedar Creek Drive.

**Billie Jo Guevara, Human Resources Director** stated the County still needs to fill the Road Department Operator II position and a cook position for the Ruidoso Downs Senior Center.

Ms. Guevara stated NM Finance Authority hires an outside agency to conduct an audit for payroll and reported no audit findings for Lincoln County. Ms. Guevara reminded insurance premiums will go up 5% to all employees.

**Samantha Mendez, Director of Planning and Project Management** stated a new subdivision was being created off Alpine Village Road. Ms. Mendez stated Jeff Honeycutt, Road Superintendent will oversee specifications of road construction to ensure they meet the subdivision ordinance standards.

**20. Resolution 2018-55 Budget Adjustment FY 18-19**

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

**Motion:** Adopt Resolution 2018-55, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

**Vote:** Motion carried by unanimous vote (summary: Yes = 4).

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

**EXHIBIT C:** Copy of Resolution 2018-55 is attached hereto in reference thereto made a part hereof.

**21. Approval of Resolution 2018-56 Fee Schedule Amending Resolution 2017-31**

Whitney Whittaker, Clerk informed the County Clerk, Treasurer, and the Sheriff's department are requesting approval of changes to the current Lincoln County Fee Schedule. Ms. Whittaker stated House Bill 293 effective July 1, 2019 removes the \$10.00 fee for in person non-commercial recordings. Ms. Whittaker stated the Clerks office would like to create a \$15.00 fee for electronic copies of probate files.

Beverly Calaway, Treasurer submitted a change to the \$100 fee for an Assessment and/or Property Tax List form an annual fee to a semi-annual fee.

Mike Wood, Undersheriff stated the Sheriff's office would like to add a statute mandated fee \$42.00 for Civil Service.

**Motion:** Adopt Resolution 2018-56, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

**Vote:** Motion carried by unanimous vote (summary: Yes = 4).

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

**EXHIBIT D:** Copy of Resolution 2018-56 is attached hereto in reference thereto made a part hereof.

**22. Resolution 2018-58 and Agreement to Participate in Local Government Road Fund Program, County Arterial Project, Administered by New Mexico Department of Transportation**

Ms. Taylor stated during its February 19, 2019 Regular Meeting the Commission approved letters of intent to be submitted to the NM Department of Transportation for the 2019-2020 CAP, COOP, and School Bus Road Programs. Ms. Taylor stated all three programs included contract pavement rehabilitation/ improvements; blading and shaping, and drainage improvements on Juniper Spring Road, Loma Grande Road and Fort Lone Tree Road.

Ms. Taylor stated on February 19, 2019 the County Road Department received a letter from the NM Department of Transportation dated April 8, 2019. Ms. Taylor stated the DOT informed they were cutting funding for both the COOP and School Bus Road Programs. Ms. Taylor stated additional funding was allocated to US 285, NM 128 and an interchange at US 285 and NM 31 which are located in Eddy and Lea County.

**Motion:** Adopt Resolution 2018-58, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

**Vote:** Motion carried by unanimous vote (summary: Yes = 3).

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



**Absent:** Commissioner Stewart.

**EXHIBIT E:** Copy of Resolution 2018-58 is attached hereto in reference thereto made a part hereof.

**23. Approval of Resolution 2018-59 Vote Center/Polling Place Amending Resolution 2017-11**

Whitney Whittaker, Clerk stated New Mexico statutes section 1-3-2 requires that in June or July of 2019 the Board of County Commissioners by resolution shall designate polling places in the county for the conduct of any statewide election conducted in calendar years 2020 and 2021. Ms. Whittaker informed the polling sites listed in the Resolution proposed are the same as these used in the 2018 Primacy and General Elections.

**Motion:** Adopt Resolution 2018-59, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

**Vote:** Motion carried by unanimous vote (**summary:** Yes = 4).

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

**EXHIBIT F:** Copy of Resolution 2018-59 is attached hereto in reference thereto made a part hereof.

**24. Authorization to File Liens for Lincoln County Alarm System Ordinance 2017-06 Permit Violations:**

- i. Charles Welch
- j. Angel & Mary Salazar

Ms. Taylor stated Lincoln County Alarm System Ordinance 2017-06 requires individuals who possess a burglar alarm to have a permit for the alarm, and to register or renew it annually with the County of Lincoln. Ms. Taylor stated non-payment and non-renewal of active house alarms would necessitate placement of a lien on the property.

Samantha Mendez, Planning Director informed Angel and Mary Salazar had paid their permit fees.

**Motion:** Direct County personnel to place a lien on Charles Welch's property, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

General Discussion of the Ordinance and the amount of the lien.

**Vote:** Motion carried by unanimous vote (**summary:** Yes = 4).

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

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

**a. Association of Counties, NM**

**Motion:** Appoint Robert Shepperd as the New Mexico Counties Board Member, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Willard.

**Vote:** Motion carried by unanimous vote (**summary:** Yes = 4).

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

**b. Board of Registration**

**Motion:** Appoint Charles Nesbitt III, Cynthia Black, and Richard Cintron to the 2021 Board of Registration, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

**Vote:** Motion carried by unanimous vote (**summary:** Yes = 4).

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

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

- c. Applicant Seeking a Winegrowers 3<sup>rd</sup> Offsite Liquor License, Enchanted Vine, LLC, (DBA) Sentinel Ranch Winery/Hurd Gallery
- d. Revenue Bond Ordinance for Wind Farm (Mesa Canyons IRB Project)

## e. Public Hearing to Consider Approval of the Final Budget Fiscal Year 19-20

**Motion:** Schedule a Public Hearing for the July 16, 2019 Regular Meeting to consider Applicant Seeking a Winegrowers 3<sup>rd</sup> offsite liquor license, Revenue Bond Ordinance for Wind Farm, and Approval of Final Budget Fiscal Year 19-20 **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

**Vote:** Motion carried by unanimous vote (summary: Yes = 4).

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

## 28. Assessor's Compensation Pay

Ms. Taylor reminded during the July 13, 2018 Regular Meeting the Commission held a discussion regarding the Assessor's salary. Ms. Taylor stated the Assessor's salary, as with all elected officials is set by New Mexico State Statute. Ms. Taylor stated the Chief Deputy salary was set by the Lincoln County Personnel Policies and Procedures Ordinance at "a minimum of ninety-five percent of the Elected Official's salary".

Ms. Taylor stated in response to the discussion last year, Assessor Walter Hill relayed to the Commission, the matter in which the Assessor's affiliate discussed, the Assessors affiliate would be seeking legislation in the 2019 session to resolve the matter. Ms. Taylor stated no legislation was introduced during the 2019 NM Legislation Session to modify the Assessor's level of certificate pay. Ms. Taylor stated the County's Audit firm agrees that an elected official's salary, which in itself is mandated by law, cannot exceed that level.

General discussion on 2019 legislation regarding Assessors level of pay and current statute.

LeeRoy Zamora, Chief Deputy Assessor stated a discussion took place on the subject of Assessor's Incentive pay just prior to the Assessor's affiliate meeting in Clovis on Friday, June 21, 2019. This discussion was held between Affiliate Chairwoman, Linda Gallegos, Affiliate Vice-Chairman, and Jesse Lucero.

Mr. Zamora stated during the initial discussion and as Assessor Hill mentioned earlier, Chairwoman Gallegos informed that her incentive pay of \$7,500 was also an agenda item that was brought before the Sandoval County Board of Commissioners. Mr. Zamora stated the board voted in favor of leaving her incentive pay at \$7,500.

Mr. Zamora stated during the 2019 summer affiliate meeting, this subject was discussed further. Mr. Zamora informed in the 2019 summer NMC Conference during the affiliate meeting it was stated by Chairwoman Gallegos that correcting the statute verbiage for Assessor's Incentive Pay from \$3,500 to \$7,500 remains a top legislative priority for the affiliate.

**Motion:** Continue with current pay on the condition that it will be addressed by legislation for clarification, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Willard.

**Vote:** Motion passed (summary: Yes = 3, No = 1, Abstain = 0).

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

**No:** Commissioner Allen.

27. 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 County's Answer to Complaint for Foreclosure was filed September 1, 2017. The U.S. Dept. of Agriculture filed its Answer to Complaint February 2, 2018 requesting the Court's findings that its Claim of Lien is a first and priority lien. Certificate as to the State of the Record and Nonappearance entered by the court on March 28, 2018 noting the nonappearance of Defendants Roy Padilla and Rita Padilla. June 4, 2018 - Judgment by Default for Foreclosure entered by Judge Blankinship which provides that L.C.'s liens are priority liens and entitled to payment from the proceeds of the foreclosure sale. June 4, 2018 - Order Appointing Peter Baca as Special Master also entered June 4, 2018. Order for Judicial Sale was filed August 1, 2018. Notice of Sale on Foreclosure was filed October

5, 2018. The Foreclosure Sale took place on November 15, 2018 @ 10:00 a.m. at the front steps of the 12th Judicial District Courthouse in Carrizozo.

2. **Rancho Ruidoso Valley Estates Homeowner's Association v. Diane K. Medcalf, Pioneer Bank, FSB, and the County of Lincoln, NM D-1226-CV-2017-00242** Complaint filed by RRVEHA September 12, 2017 for Foreclosure of the Homeowner's Association Assessment Lien. The County's Answer to Plaintiff's Complaint for Foreclosure was filed October 12, 2017. Plaintiff's Complaint was served upon Defendant Diane Medcalf on September 14, 2017 and upon Defendant Pioneer Bank on September 16, 2017. On December 12, 2018, a Notice of Intent to Dismiss was entered by Judge Blankinship. On December 26, 2018, Plaintiff filed its Response to the Notice of Intent to Dismiss and the Court additionally entered a Certificate as to the State of the Record and Non-Appearance as to Defendants, Diane Medcalf, and Pioneer Bank. On January 25, 2019, Judge Blankinship entered a Judgment by Default for Foreclosure.

3. **Board of County Commissioners of Lincoln County v. Roger Romero D-1226-CV-2018-00055** Complaint for Foreclosure. Complaint was filed February 20, 2018. Defendant Roger Romero filed an Answer to the Complaint asserting a Counterclaim to be filed in the U.S. District Court on April 2, 2018. Defendant George Romero filed an Answer to the Complaint on April 30, 2018 asserting a Counterclaim to be filed in the U.S. District Court. Judge Counts is the presiding Judge. May 15, 2018 – Lincoln County filed its Answer to Announcement of Counterclaims by Defendants Roger Romero and George Romero. Plaintiff's Request for Judicial Inquiry was filed June 22, 2018 and a Judicial Inquiry Hearing took place September 4, 2018.

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

A Petition for Writ of Habeas Corpus was filed requesting that the Judgment & Sentence entered by Judge Vega in Cause No. M-30-MR-2016-00142 be vacated and set aside. George Romero's Answer to Complaint and Counterclaim was filed April 30, 2018 in Cause No. D-1226-CV-2018-00055. Judge Counts is the presiding Judge. A Procedural Order on the Petition for Writ of Habeas Corpus was entered September 6, 2018. County filed its Motion to Dismiss the Petition on October 9, 2018. On October 19, 2018, Petitioner filed his Response to the Motion to Dismiss, and on November 5, 2018, Lincoln County filed its Reply to the Response to the Motion to Dismiss and requested a hearing on the Motion to Dismiss. On January 3, 2019, Lincoln County filed its Response to Petition for Writ of Habeas Corpus. On January 8, 2019 at 2:00 p.m. a Hearing on the County's Motion to Dismiss took place at which time, Judge Counts took the matter under advisement. 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) On May 15, 2019, the Case was assigned to the General Calendar.

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, Lincoln County was served with the complaint and, on January 17, 2019, filed its answer to the Complaint. On April 25, 2019, Plaintiffs filed their Corrected First Amended Complaint and Defendants' Answer is due July 1, 2019. On May 9, 2019, Defendant, Lincoln County Board of County Commissioners, filed a Motion to Dismiss Plaintiffs' First Corrected Amended Complaint. On May 23, 2019, Plaintiffs filed their Response to the Motion to Dismiss and, on June 6, 2019, Lincoln County's Reply to the Response to the Motion to Dismiss was filed.

6. **Pioneer Bank v. Jessica Quintana, and Lincoln County D-1226-CV-2018-00058** Complaint to Foreclose and Collection of Note was filed on March 22, 2018. Lincoln County filed its Answer to the Complaint on April 20, 2018 asserting that any County liens are first and priority liens which should be ordered paid from the proceeds of the foreclosure sale. Judge Bryant is the presiding Judge. Stipulated Motion for Withdrawal and Substitution of Plaintiff's Counsel was filed May 15, 2018 and a Stipulated Order for Withdrawal and Substitution of Plaintiff's Counsel was filed June 21, 2018. 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.

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

12. **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**

**\*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 Willard, Seconded by Commissioner Allen.

**Vote:** Motion carried by unanimous vote (summary: Yes = 4).

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

Chair Stone recessed the Regular Meeting and convened the Closed Session at 3:41 PM.

Chair Stone adjourned the Closed Session and reconvened the Regular Meeting at 4:14 PM.

Commissioner Willard 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.

## **30. Signing of Official Documents**

## **31. Next meetings:**

### **a. July 16, 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 4:15 PM.




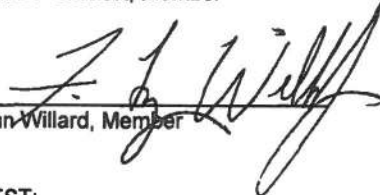
County of Lincoln  
Board of Commissioners

  
Preston Stone, Chair

  
Dallas Draper, Vice Chair

  
Elaine Allen, Member

  
Thomas F Stewart, Member

  
F Lynn Willard, Member

ATTEST:

  
Whitney Whittaker, County Clerk

July 16, 2019  
Date Approved

