

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, May 21, 2019

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on May 21, 2019 in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico.

1. Call to Order

Chair Stone called the Regular Meeting of the Board of County Commissioners to order at 8:30 AM

2. Roll Call

Roll Call.

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

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

3. Invocation

The invocation was presented by Commissioner Draper.

4. Pledge of Allegiance

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

5. Approval of Agenda

Motion: Acceptance of the Agenda and authorized the Chair to move items as necessary,

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

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. April 16, 2019 Regular Commission Meeting
- b. April 23, 2019 Special Commission Meeting

Motion: Approve the minutes of April 16, 2019 Regular Meeting and April 23, 2019 Special Commission Meeting. **Action:** Approve, Moved by Commissioner Stewart, **Seconded** by Commissioner Allen.

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

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

Abstain: Commissioner Stewart. (Absent for April 23, 2019 Special Meeting)

7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month ending April 30, 2019
- c. Memorial Day Proclamation

- d. Chaves Soil & Water Conservation District Mill Levy Rate
- e. Resolution 2018-49 Liquor License Fees
- f. MOU Between Village of Ruidoso & County as the Administrative Authority for Lincoln County Sheriff's Office for Driving While Intoxicated (DWI) Prevention Enforcement Activities & Reimbursement of Costs

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

General discussion of Treasurer's Financial Report regarding the new construction on hospital.

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

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

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

8. Forest, Land & Natural Resources Matters:

a. Smokey Bear Ranger District

Andrew Ellis, NEPA Planner for the Smokey Bear Ranger District reported no current fire restrictions on the District. Mr. Ellis stated district fire crews were prepping for possible pile burning and assisting the Sacramento District. Mr. Ellis stated the district conducted a field review for the Smokey Bear North Project Environmental Analysis. Mr. Ellis reported they submitted unfunded fuel reduction and watershed improvement projects to Nick Smokovich at the State's Forester's office for consideration for funding from a new state program developed under HB 266 Forest and Watershed Restoration Act.

Mr. Ellis stated the district completed work to clear sediment from under the bridge at Rio Bonito with permission from the City of Alamogordo and Army Corp permit. Mr. Ellis stated the district planned to hire two wilderness ranger interns for the summer. Mr. Ellis stated the Forest Plan Revision Assessment document was available on the Lincoln National Forest website. Mr. Ellis stated the Need for Change document, Final Assessment, and the Notice of Intent to begin the draft EIS are forthcoming this summer.

b. County Extension Services

Melanie Gutierrez, Lincoln County Program Director/Extension Associate reported all schools in the county attended the turf grass workshop at the Youth Getaway program. Ms. Gutierrez stated the Extension Services also attended Ag Day at the Carrizozo Schools. Ms. Gutierrez stated she would attend a two day Hemp Conference May 23 - 24, 2019 at the New Mexico Farm and Ranch Heritage Museum in Las Cruces.

Ms. Gutierrez stated they will begin tagging the fair animals for the 2019 Lincoln County Fair. Ms. Gutierrez stated she will go to the contestant's house and tag with the brand inspector rather than having the children haul the animals to a specific place.

c. South Central Mountain RC & D

Rick Merrick, Community Forester was unable to attend but provided copies of the April 25, 2019 Agenda and March 21, 2019 Minutes.

d. Upper Hondo Soil & Water Conservation District

Ms. Taylor stated no representative was able to attend this month but provided the Agenda for the April 25, 2019 Board Meeting.

e. LANRAC

Robert Barber, Chair of LANRAC stated the Smokey Bear Collaborative was still working with the Smokey Bear District on the Hale Lake area restoration project. Mr. Barber stated the Mountainair Collaborative learned the Cibola Forest Plan was scheduled for release around July 5, 2019 beginning a 90 day public comment period. Mr. Barber stated the planning for the Corona CFRP would be completed in June and the application initiated for the treatment areas sometime this summer.

9. EagleView/Pictometry Presentation Sponsored by Assessor Walter Hill – Brian Garcia

Walter Hill, Assessor stated he was seeking consideration and approval to proceed with the purchase of EagleView/Pictometry Flyover Software. Mr. Hill introduced Brian Garcia, Senior District Sales Manager for EagleView.

Brian Garcia, EagleView Senior District Sales Manager presented an overview of the software. Mr. Garcia informed Pictometry was a revolutionary digital imaging system and software program which maps each pixel of a digital image both oblique and nadir to actual geographic coordinates. Mr. Garcia stated the software allows all features in an image to be located and accurately measured. Mr. Garcia stated the software could measure distance, area, height, elevation, latitude, bearing and angle. Mr. Garcia stated the software was good for use in rural area where restricted access may present itself.

Commission Stewart questioned if this company had any correspondence with White Sands Missile Range in regard to airspace and restricted airspace.

12. 9:30 A.M.: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS (Items are for discussion only – no action will be taken)

Commissioner Stewart stated he continues to attend the Joint Land Use Study meetings. Commission Stewart stated he will attend his Induction ceremony in Holloman for his designation of Honorable Commander of 429th Tech Squadron. Commissioner Stewart stated the ceremony was set for May 31, 2019.

Commissioner Allen stated she continues to attend the Greentree Board meetings. Commissioner Allen stated Tim Roberts was promoted to the Director of Historic Sites for the State of New Mexico. Commissioner Allen also reported Mr. Roberts had informed of plans to film a movie in Fort Stanton.

Commissioner Allen stated she attended and was able to participate in a fundraiser for COPE that raised around \$34,000.

Commissioner Draper attended an event for the Juvenile Justice Board and stated it was well attended. Commissioner Draper reminded school was out and requested the public keep an eye out for children running around the area.

Beverly Calaway, Treasurer stated the tax property sale was set for July 19, 2019. Ms. Calaway stated red tagging of the properties and notice to the public were currently underway. Ms. Calaway reported her office had collected 81% of the property taxes as of April 30, 2019.

Walter Hill, Assessor stated he was happy with the outcome from the completion of the Assessor's Evaluation by the Property Tax Division. Mr. Hill expressed gratitude to Chief Deputy Lee Roy Zamora and GIS Mapper Rodney Zamora for all the help they provided with the evaluation. Mr. Hill stated he would like to push forward with the implementation of the Pictometry software and the funds would be expended from the Assessor's reappraisal budget.

Robert Shepperd, Sherriff stated the next NMC Board meeting will be in Clovis during the June annual meeting. Sherriff Shepperd stated discussion of House Bill 407 regarding the realignment of offices was on the agenda

Nita Taylor, Manager welcomed Hubert Quintana from the Southeastern New Mexico Economic Development District to the meeting.

Joe Kenmore, Office of Emergency Services Director attended a meeting with New Mexico Governor Michelle Lujan Grisham along with other local leaders in Las Cruces to discuss reimbursement for money expended to shelter and care for immigrants. Mr. Kenmore stated the meeting revolved around obtaining support for Dona Ana, Luna and Hidalgo Counties.

Karyl Williams, resident of Capitan supported Agenda Item Number 15, Resolution 2018-47 Opposing Importation of Illegal Immigrants and recommend adding the language "illegal aliens" in the Resolution.

Richard Ford, resident of Glencoe questioned if the illegals coming into the states were being vaccinated. Mr. Ford stated this County does not need the problem and supported adoption of Resolution 2018-47.

9. EagleView/Pictometry Presentation Sponsored by Assessor Walter Hill – Brian Garcia (continued).

Lengthy discussion on dimensions, technical support, training and the assessor's re-appraisal budget.

10. Consideration and Approval to Proceed with Purchase of EagleView/Pictometry Flyover Software- Assessor Walter Hill

Motion: Move forward with the implementation of the software, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

15. Resolution 2018-47: Resolution Opposing Importation of Illegal Immigrants to Lincoln County at County Taxpayers' Expense

Ms. Taylor reminded of prior consideration of Resolutions 2018-47 during the April 23, 2019 Special Meeting. Ms. Taylor stated the discussion resulted in a tie vote and then a motion to table. Ms. Taylor stated no action was taken and Chairman Stone had requested the Resolution be presented again to the Commission for consideration.

Motion: Adopt Resolution 2018-47 with amended language; insert "of" in the title and add "oppose any mandated expense at the tax payers expense", **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Stewart.

General discussion about the language in the Resolution

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

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

EXHIBIT B: Copy of Resolution 2018-47 is attached hereto in reference thereto made a part hereof.

Chair Stone recessed the Regular Meeting and reconvened at 10:41 AM.

11. Discussion of County Canvass Board-County Clerk

Whitney Whittaker, Clerk stated as per House Bill 407 which was effective upon signature of the Governor amending NMSA 1-13-1 states "the Board of County Commissioners may designate the Board of Registration to serve as the county canvassing board for the county." Ms. Whittaker stated the designation shall be made in the polling place resolution which was set for consideration next month.

Motion: Remain as the County Canvass Board for Lincoln County, **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.

General discussion on HB 407 relating to the term limits of elected officials.

13. New Mexico Counties Insurance Authority Joint Powers Agreement and Bylaws

Mr. Taylor reminded Commissioner Stewart serves as Lincoln County's representative to the NMC Worker's Compensation and Multi-line Pool Boards. Ms. Taylor stated Commissioner Stewart was seeking direction on signing the Joint Powers Agreement in June at the annual NMC conference in Clovis. Ms. Taylor stated if supported by the Pool Board members, NMC would submit the Joint Powers Agreement to DFA for approval.

Commissioner Stewart expressed concerns about language within the articles of the agreement which envisions the Authority admitting non-county political subdivisions and local public bodies to the pools. Commissioner Stewart also questioned the language "suspends" in Article XVIII A.

Patrick Trujillo, NMC Loss Prevention Attorney presented the amendments to the Joint Powers Agreement and Bylaws which govern the Workers' Compensation Fund and the Multiline Pool.

Motion: Authorize Commissioner Stewart signing the agreement, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

General discussion on policies and bylaws of the JPA.

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

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

14. Replacement Hospital Update

Ms. Taylor stated David Hughes, Assistant Superintendent, and Ernesto Rodriguez, Senior Project Superintendent were not available to present the summary of status.

Ms. Taylor stated the summary of expenses paid through April 16, 2019 with year to date expenditures was \$8,164,999.03. Ms. Taylor stated Jaynes' pending pay application for work completed in April in the amount of \$2,003,847.00 brings the total to \$10,168,846.

Attorney Morel informed he reviewed the AIA contractor contract for construction after discussion during the May Regular Meeting. Attorney Morel stated Section 15.1.5 states the Contractor may request additional time.

16. White House Office of Intergovernmental Affairs & Public Liaison Request for Statements of Support for the United States-Mexico-Canada Agreement Signed on November 30, 2018 from New Mexico Public Officials and Businesses

Ms. Taylor stated on May 14, 2019 the White House Office of Intergovernmental Affairs and the White House Office of Public Liaison sent a broadly distributed invitation to state-wide and local officials to participate in a conference call regarding the United States Mexico Canada Agreement (USMCA).

Ms. Taylor stated the invitation contained links to additional information such as statement of support from New Mexico businesses and elected officials.

Motion: Draft a letter of support for the USMCA, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen

Commissioner Stewart suggest drafting a Resolution for consideration during the June 25, 2019 Regular Commission Meeting for backup to the letter in support of the USMCA.

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 reconvened at 1:00 PM.

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

23. 1:00 PM: PUBLIC HEARING to consider the Adoption of the Preliminary Budget FY 19-20 by Resolution 2018-50

Ms. Taylor presented the revised Preliminary Fiscal Year 2019-2020 Budget based on the Commission's direction from the public hearing held on May 1, 2019.

Ms. Taylor stated after incorporating the Commission's actions during the preliminary budget hearing Lincoln County's projected ending balance over required reserve was \$4,912,326. Ms. Taylor stated during the public hearing the Board of County Commissioner's entertained requests from 17 external agencies totaling \$401,830. Ms. Taylor stated 16 requests were fully or partially approved totaling \$291,330 and full/partial funding was denied in the amount of \$110,500.

Motion: Recess the Public Hearing and reconvene the Regular Meeting, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

Motion: Adopt Resolution 2018-50, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

EXHIBIT C: Copy of Resolution 2018-50 is attached hereto in reference thereto made a part hereof

17. Approval of Lincoln Wind Projects' Site Permit Application for its Lincoln County Wind Energy Conversion System

Ms. Taylor stated the Lincoln Wind Projects WECS Site Permit Application was submitted to Lincoln County on April 16, 2019 to Planning Director Samantha Mendez as required by Ordinance 2017-04.

Samantha Mendez, Director of Planning stated she reviewed the WECS Application and found all requirements were met.

Motion: Approve the Lincoln Wind Projects WECS Site Permit Application, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

General Discussion regarding the total number of wind turbines situated in Lincoln County including the Mesa Canyon projects.

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

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

18. Presentation of Road Department 5-Year Plan – Jeff Honeycutt & David Roybal, Pettigrew & Associates

Jeff Honeycutt, Road Superintendent reported the Lincoln County Master Transportation Plan involved a study of existing road conditions in Lincoln County and identified six roads included in the study. Mr. Honeycutt stated field observations were made on May 13 and May 14, 2019. Mr. Honeycutt stated recommendations for roadway rehabilitation/maintenance shall be provided based on the calculated PCI and field observations. Mr. Honeycutt stated budgetary cost information was included for reference as well. Mr. Honeycutt stated the roads evaluated in this study were Santiago Circle Road, Sun Valley Road, Fort Stanton Road, Little Big Horn Road, Little Creek Road, and Gavilan Canyon Road.

David Roybal, Engineering Manager for Pettigrew and Associates reported the roads evaluated were two lane paved roads which mainly lie in residential areas minus Gavilan Canyon Road. Mr. Roybal stated 530 feet or approximately 1/10th of a mile was inspected for every one mile of road. Mr. Roybal stated field data was collected to record severity and extent of distress for flexible pavement. Mr. Roybal stated a total of eighteen locations were observed for a total of 18.84 miles cumulative length of roads. Mr. Roybal stated the locations for field evaluations were initially determined based on one mile intervals but later adjusted in the field due to safety concerns with existing sight distance.

19. Road Projects Submitted by Deadline Per HB 694: Creation of the Local Government Transportation Project Fund

Ms. Taylor stated long term Lincoln County partner Daniel Aguirre, Senior Vice President with Wilson and Co. Architects scheduled a "lunch and learn" with Lincoln County staff to discuss HB 694 which created the Local government Transportation Project Fund.

Ms. Taylor stated on April 30, 2019 the NM Department of Transportation Cabinet Secretary issued a "Call for Projects" to local and tribal governments who are eligible to apply for state funded grants. Ms. Taylor stated eligible projects include planning, design, and construction for highways, streets, roadways, crossings, bridges, etc. Ms. Taylor stated funding for qualified projects would cover 75%-95% of the project with the local or tribal government making up the match. Ms. Taylor informed the deadline to submit projects to SNMEDD was May 16, 2019.

Ms. Taylor informed Road Superintendent Jeff Honeycutt and Planning Director Samantha Mendez worked to identify the road/projects most suitable for these funds. Ms. Taylor stated they worked closely with Wilson and Co. to gather mapping data, determine the scope of work required for each project, and to prioritize the need for Lincoln County.

The Four Projects Identified are:

		Total	Match
Rancho Ruidoso Valley Estates	5.6 Miles	\$3.518 million	\$198K
Santiago Circle	3.0 Miles	\$2.553 million	\$155K
Fort Stanton Road	2.2 Miles	\$1.885 million	\$135.7K
Magado Creek Bridge	.2 Miles	\$.189 million	\$ 9 K

Ms. Taylor stated all submitted projects will be reviewed through a strict process listed in the Call for Projects. Ms. Taylor stated NMDOT's goal was to provide a list of potential projects to the State Transportation Commission (STC) by August 1, 2019.

General discussion on budget and the matching funds.

20. Approve Execution of Capital Appropriation Projects

a. 19-D3066 - \$50,000 for Expansion of Detention Center

b. 19-D3061 - \$91,000 for Completion of White Oaks Fire Station Expansion

Ms. Taylor stated Lincoln County received Agreements from DFA for two Capital Appropriation Grant Requests.

Ms. Taylor also stated the County received funds to renovate the Ruidoso Downs Senior Center in the amount of \$125,796. Ms. Taylor stated the funds are administered by Aging and Long Term Services with a contract expectation date in September 2019.

Motion: Authorize the Manager to execute both agreements and return to DFA for full execution,

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.

21. Resolution 2018-48 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. Commission approved adjustments must also be submitted to the Department of Finance and Administration for approval.

Motion: Adopt Resolution 2018-48, **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.

EXHIBIT D: Copy of Resolution 2018-48 is attached hereto in reference thereto made a part hereof.

22. Approval of a Temporary Lease Agreement between the County of Lincoln & the Town of Carrizozo (The Carrizozo Baseball Field)

Ms. Taylor reminded the Town of Carrizozo has expressed interest in Lincoln County transferring ownership of the baseball field to the Town by Quitclaim Deed. Ms. Taylor stated she is working with the Assistant Attorney General to prepare documents for submission to the State Board of Finance for the transfer.

Motion: Approve a Temporary Lease Agreement between Lincoln County and the Town of Carrizozo for Carrizozo's temporary use of the Carrizozo Baseball Field, **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.

24. Manager's Report

- 1. Welcome to New Employees.** Both the Emergency Services Department and the Road Department hired new members to their teams in the last couple of weeks. Joining Joe Kenmore at OES is Arron Griewahn, who has accepted the position of OES Coordinator; as well as Dalton Lenzo, who has filled the department's temporary position, not only

during fire season, but also to help the Volunteer Fire Departments with their ISO rating requirements.

Joining Jeff Honeycutt and his road crew is Timothy Pearson, who holds the skills to fill an Operator II position.

Planning Director Samantha Mendez has advertised, interviewed and selected an individual to fill the Rural Addressing position. The hired applicant is from out-of-state and will report in early June.

2. **Potential Property Purchases and Building Renovation Projects.** In recent months, the County has discussed several potential property purchases and building renovations:
 - a. Purchase Land for Road Department
 - b. Purchase Wells Fargo Bank Building in Carrizozo: Listed Sale Price:\$225,000; Required Renovation: \$45K - \$65K;
 - c. Renovate the mechanical room in the old Courthouse area that houses abandoned heating and cooling infrastructure to build ADA compliant restrooms: \$45K - \$65K;
 - d. Renovate Lincoln County Fairgrounds and Arena;
 - e. Appraise property Nogal Fire has expressed an interest in buying: waiting for survey;
 - f. Purchase generators for New Horizons: working on issuance of purchase order.
3. **The New Mexico Fallen Wildland Firefighter Memorial Ceremony.** Was held on April 25, 2019 at 1:00 p.m. at the Smokey Bear Historical Park in Capitan. Lincoln Volunteer Fire Department Chief Bennie Long and Smokey Bear's Hometown Association worked tirelessly to obtain the donations for this special memorial. The event was well attended.
4. **Bonito Lake Restoration Project.** Attached is the meeting Agenda for the Bonito Lake Restoration Project. These meetings are held on Thursday morning, conflicting with hospital meetings. Mr. Rob Richardson, with Bohannon Huston will join the Commission meeting in July to provide an update.
5. **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.
6. **FY 2019 Year-End Deadlines for Legislative Appropriations.** We have received information about Fiscal Year 2019 Year-End Deadlines for Legislative Appropriations; which will be strictly followed.
7. **NM Economic Development Department** recently announced the Governor's appointment of a former U.S. Air Force commander and cabinet secretary, Gregory A. Myers, to head the state's Office of Military Base Planning and Support.
8. **Update on Border Operations and the State's Emergency Operation Plan.** OES Director Joe Kenmore received an invitation to attend NMDHSEM's update on border operation.
9. **New Mexico Association of RC&D Councils** in collaboration with **The New Mexico Acequia Association**: The 2019 Summer Conference, celebrating the positive impact Agriculture has on our communities, is scheduled for June 5th.
10. **ICIP Workshops.** Training for the FY2021 – 2025 ICIP has been conducted throughout the Month of May. Planning Director attended the Roswell meeting on May 14th; Manager will be attending in Farmington the day after the May Commission meeting. This year's deadline for Local Governments to submit is September 6, 2019; and for Senior Citizen Facilities is September 20, 2019.
11. **Request for Assistance with Acequias.** New Mexico Acequia Association Executive Director, Paula Garcia, is requesting Counties to consider serving as fiscal agents for acequias located in their geographic area. The Acequia Association is meeting on June 7th, and would like to know options in working with the respective County Governments. Would Lincoln County be willing to serve as fiscal agent, and would the County require a fee.

Department Head updates

Renee Montes, Senior Center Director will attend an ICIP training. Ms. Montes stated she will have to do an ICIP for every senior center. Ms. Montes stated they are in need of a handicap van and upgraded kitchen equipment in the Ruidoso Downs site. Ms. Montes is researching the placement of backup generators at each site. Ms. Montes stated this request will be in the senior centers capital outlay request.

Joe Kenmore, Office of Emergency Services Director introduced Arron Greiwahn, who accepted the OES Coordinator position and Dalton Lenzo, who has filled the OES Temporary position.

Mr. Kenmore stated the EMS conference in April held in Ruidoso was a great place to see new equipment and get the latest training.

Mr. Kenmore gave an update on the Poncho fire burning in the southeast corner of Poncho Creek Ranch. Mr. Kenmore stated it burned about a day or day and half before any department responded. Mr. Kenmore stated the past weekend was the motorcycle rally, and things went very smoothly over weekend for the event.

Mr. Kenmore stated he will have to replace his work truck. Mr. Kenmore stated the funds will come out of the fire fund budget.

Punkin Schlarb, Finance Director informed her department is waiting for budget approval from the Office of the State Auditor. Ms. Schlarb stated she sent out a Memo to all employees reminding them Resolution 2017-20 Lincoln County Purchasing Policy was in effect and purchase orders should be limited during this timeframe of the end of the fiscal year.

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

Samantha Mendez, Director of Planning and Project Management stated she was working closely with Renee on the Hondo Center. Ms. Mendez stated they would move the building to a different, more convenient location on the property. Ms. Mendez stated the building location was where the trash compactor was currently located. Ms. Mendez stated she will be submitting an application for the Hubbard Grant. Ms. Mendez invited the Board of County Commissioners to the Lodger's Tax Meeting this Tuesday where a presentation on rentals will be given. Ms. Mendez stated the meeting will be held in the County Sub office in Ruidoso at 10:00 AM.

Jeff Honeycutt, Road Superintendent stated the Lincoln County Road Department started construction on a section of road from the intersection of Sequoia Road and Alpine Village Road to Musketball Drive and Cedar Creek Drive. Mr. Honeycutt stated the work should be done by June 4, 2019 weather permitting.

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

a. Purpose: Brewdoso
Request: \$5,000.00
Date(s) of Event: June 22-23, 2019
Presenter: Matt Ingram/Ruidoso Midtown Association
Amount Approved: \$ 300.00
Application No. 0060

Motion: Approve the requests as recommended by the Lodgers' Tax Committee, **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.

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

a. Lodger's Tax Committee

Motion: Appoint Wally Murillo to the Lodger's Tax Committee, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

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.

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-Appeal 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 19-10279-113** On March 11, 2019, Lincoln County received notice of the Chapter 13 Bankruptcy Case.

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

10. ***State of NM v. Kimberly Conner M-30-MR-2018-00043** Violation of County Ordinance 2008-08 Animal Control Ordinance. A Citation was filed May 14, 2018 charging the Defendant with 1 count of Dog Running at Large. An Arraignment took place June 6, 2018 at which time the Defendant pled "Not Guilty." A Pre Trial Hearing was scheduled for July 3, 2018 before Judge Vega, however a Stipulated Motion to Continue Defendant's Pre-Trial Hearing and Order to Continue Pre-Trial Hearing was filed June 29, 2018. Pre-Trial Hearing took place July 31, 2018 before Judge Vega at which time a Final Pre-Trial Hearing was scheduled for October 23, 2018 with a Jury Trial scheduled for October 24, 2018. On October 23, 2018, Judge Vega heard Defendant's Motion for a Continuance of the Final Pre-Trial Hearing and the October 24, 2018 Jury Trial. The Motion was granted and the Final Pre-Trial was rescheduled for December 11, 2018 with the Jury Trial to take place on January 7, 2019. On January 4, 2019 a Hearing took place before Judge Vega at which time the Jury Trial was vacated and a Bench Trial was scheduled for January 7, 2019. The Defendant failed to timely appear at the January 7, 2019 Bench Trial and a Bench Warrant was issued and subsequently served. A Pre-Trial Hearing was scheduled to take place on February 26, 2019 at 9:00 a.m., at which time no resolution was reached. The Non-Jury Trial scheduled to take place on April 2, 2019 was vacated and is now scheduled to take place on May 14, 2019. On May 14, 2019, a Bench Trial was held at which time the Defendant was found Guilty of 1 Count of Dog 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

***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 Mariysa 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 Draper, **Seconded by** Commissioner Allen.

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

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

Chair Stone recessed the Regular Meeting and convened the Closed Session at 2:59 PM.

Chair Stone adjourned the Closed Session and reconvened the Regular Meeting at 3:55 PM.

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

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

Motion: Schedule a Public Hearing for the June 25, 2019 Regular Meeting to consider rescinding Lincoln County's Right to Work Ordinance, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Willard.

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

Yes: Commissioner Stewart, Commissioner Allen, Commissioner Willard.

No: Chair Stone, Commissioner Draper.

29. Signing of Official Documents

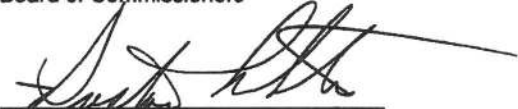
30. Next meetings:

a. June 25, 2019 Regular Commission Meeting

31. Adjourn

There being no further business to come before the Board of County Commissioners, Chair Stone adjourned the meeting at 3:57 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 Whitaker, County Clerk

June 25, 2019
Date Approved

