

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, September 17, 2019

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on September 17, 2019 in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico.

1. Call to Order

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

2. Roll Call

Roll Call.

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

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

3. Invocation

The invocation was presented by Chair 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 = 4).
Yes: Chair Draper, Commissioner Stewart, Commissioner Allen, Commissioner Willard.

6. Approval of Minutes:

- a. August 12, 2019 Special Commission Meeting
- b. August 20, 2019 Regular Commission Meeting

Motion: Approve the minutes of the August 12, 2019 Special Commission Meeting and the August 20, 2019 Regular Meeting,
Action: Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.
Vote: Motion carried by unanimous vote (**summary:** Yes = 4).
Yes: Commissioner Stewart, Commissioner Allen, Chair Draper, Commissioner Willard.

7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month ending August 31, 2019
- c. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims

- d. Acknowledge Department of Finance Administration - Local Government Division's Certification of the Lincoln County FY 2019-2020 Final Budget

Motion: Acceptance of the Agenda and authorize 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 = 4).

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

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

8. Approval of Order Setting Property Tax Rates - 2019 Property Tax Year

Nita Taylor, County Manager stated each year in September the Board of County Commissioners was required to review and issue an order imposing new tax rates for the fiscal year. Ms. Taylor stated New Mexico State Statute 7-38-34 requires the Board of the County Commissioners to order imposition of the tax.

Beverly Calaway, Treasurer explained rates were received September 16, 2019 from the Department of Finance and Administration (DFA) and subsequently the Treasurer's office conducted a review for accuracy. Ms. Calaway informed Lincoln County served as the fiscal agent collecting for the State of New Mexico. Lincoln County, five municipalities, five school districts, six special soil and water districts, predator control, New Mexico livestock boards, Lincoln County Medical Center, the rural clinics and Eastern New Mexico University-Ruidoso. Ms. Calaway stated all rates were verified by the County Treasurer and by the County Assessor.

Motion: Approve the property tax rates as presented, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

9. Approval of Resolution 2019-13 – Pay Down Principal Payments for Deer Park Valley Debt Service

Ms. Taylor stated the Deer Park Valley Special Assessment District (SAD) Revenues had accumulated from payments made by property owners within the SAD to the extent the Treasurer's Office was recommending the County pay down the principal for the debt service account with the New Mexico Finance Authority. Ms. Taylor stated at the beginning of FY 2019-2020, the SAD special fund held a carryover of \$948,105.55.

Beverly Calaway, Treasurer stated she requested New Mexico Finance Authority (NMFA) approval for an additional payment of \$500,000 over and above the regular bond payment due on November 1, 2019.

Motion: Adopt Resolution 2019-13, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

SEE EXHIBIT B: Copy of Resolution 2019-13 is attached hereto in reference thereto made a part hereof.

10. Approval of Resolution No. 2019-14 – Budget Adjustment FY 2019 – 2020

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

Motion: Adopt Resolution 2019-14, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

SEE EXHIBIT C: Copy of Resolution 2019-14 is attached hereto in reference thereto made a part hereof.

11. Forest, Land & Natural Resources Matters:

a. Smokey Bear Ranger District

Andrew Ellis, Environmental Planner for the Smokey Bear Ranger District reported low fire danger with only a few lightening caused smokes from the thunderstorms. Mr. Ellis stated there was currently no word on the fuel reduction and watershed improvement projects funded under the new Forest and Watershed Restoration Act. Mr. Ellis stated the Smokey Bear North Restoration Project proposed action which includes mechanical thinning, prescribed fire, and road and trail improvements went out for public comment with comments due by August 16, 2019. Mr. Ellis stated the District received three comment letters from the Hopi Tribe, Center of Biological Diversity, and Western Watersheds. Mr. Ellis stated they may develop alternatives to analyze in the Environmental Assessment based on the comments.

Mr. Ellis informed the South Forth Campground was still set to open mid-May 2020. Mr. Ellis stated the comment period for the Hale Lake Travel and Recreation Plan ended September 10, 2019. Mr. Ellis informed at first glance, there was a diversity of comments both positive and negative about the proposed action. Mr. Ellis stated their content analysis would indicate if there was a need to analyze additional alternatives in the Environmental Assessment.

b. Extension Services

Ms. Taylor informed Melanie Gutierrez was unable to attend.

c. South Central Mountain RC & D

Ms. Taylor informed Rick Merrick was unable to attend.

d. Upper Hondo Soil & Water Conservation District

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

e. ENMRD – Forestry Division

Nick Smokovich, District Forester introduced Matthew Clemmons as the new Fire Management Officer.

Mr. Clemmons stated he had 16 years of wildland fire experience and was a resident of Ruidoso for 20 years.

f. LANRAC

Robert Barber, Chair of LANRAC stated the committee was heavily involved in upcoming events dealing with the Mountainair Cibola Forest Plan. Mr. Barber stated plans to attend a meeting concerning the Forest Plan on September 23, 2 Draper questioned the Hale Lake comments.

Mr. Barber stated he would review all the comments given and report back to the commission.

12. Request for Support of Suicide Prevention Efforts in Lincoln County – Presentation by Sergio Castro, CYFD, Juvenile Probation Officer, 12th Judicial District.

Laura Wilson provided a PowerPoint presentation detailing suicide statistics from the present back to 2017.

Sergio Castro, Juvenile Probation Supervisor asked for Commission support for planned legislation.

Motion: Create a resolution in support of House Bill 4194 for the next legislative session, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen. Commissioner Stewart stated at the very minimum Lincoln County should support HB 4194.

Chair Draper questioned if the data from 2018 was available.

Robert Shepperd, Sheriff stated he had seen a high volume of people in distress but not necessarily a rise in suicide. Sheriff Shepperd stated more mental health facilities were needed in New Mexico to help address mental health issues including suicide.

There was a general discussion regarding suicide prevention and the association with mental health and mental health facilities in and around Lincoln County.

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

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

14. 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 would continue to attend the Joint Land Use Study Group meetings.

Chair Draper stated he attended the first annual Housing Fair on September 7, 2019 in Ruidoso.

Walter Hill, Assessor reported forty individuals scheduled protest hearings but protests were resolved and no hearings were conducted. Mr. Hill thanked his staff for all their hard work.

Mr. Hill stated he was excited to co-host the Assessor's Affiliate Meeting in October. Mr. Hill stated the meeting would be at the Ruidoso Convention Center beginning October 7, 2019 to October 9, 2019.

Whitney Whittaker, Clerk informed on the dates of the very first 2019 Local Election. Ms. Whittaker stated absentee voting would start October 8, 2019.

Ms. Whittaker also informed her office recently remodeled the archive room and invited the Commissioners to view the expansion.

Jeff Blue, resident of Ranches of Sonterra in Alto expressed his concern with the County roads in the area. Mr. Blue stated over the years the roads had started to deteriorate.

The Honorable Daniel Bryant, District Judge reported on the current status of the new court facility at the Horton Complex in Ruidoso. Judge Bryant informed they planned to have the site operational towards the end of next year. Judge Bryant stated the court had requested funding in this year's budget for a full time security Bailiff.

Terri Knight and Jeremy Knight, residents, expressed their concerns regarding the condition of Forest Road. Ms. Knight requested information as to whether the road was maintained by the US Forest Service or Lincoln County.

Jeff Honeycutt, Road Superintendent stated the USFS terminated their maintained contract with Lincoln County. Mr. Honeycutt stated under the old contract the forest service would provide materials and the County would do maintenance work. Mr. Honeycutt stated this road was not included in the County's budget for maintenance.

Andrew Ellis stated he would report the issues on Forest Road to the District Ranger.

Beverly Calaway, Treasurer stated although an extension was given to DFA this would not delay production of property tax bills for Lincoln County. Ms. Calaway stated the Treasurer's office would mail out bills by October 1, 2019 and unpaid property taxes would be delinquent on November 10, 2019.

13. Update of Z-Trans Services Provided to Lincoln County and Request for Renewal of Contract – Presentation by Peggy O'Neill, Zia Therapy Center CEO

Ms. Taylor reminded in August 2018 the Commission approved a one-year trial of Z-Trans transit services for the County and committed \$40,000. At the time, the routes being developed would geographically include the City of Ruidoso Downs, the Village of Ruidoso, Mescalero, the Town of Carrizozo, the Village of Capitan, the Village of Corona (on an appointment basis) and the unincorporated townships in the County such as Nogal, Lincoln and Hondo.

Ms. Taylor reminded during its August 2019 meeting the Commission considered a request by Z-Trans to submit an annual Letter of Financial Commitment to the Federal Transit Administrator. Ms. Taylor stated the Commission's direction was to withhold sending the Letter of Commitment to the Federal Transit Administrator until action was taken to continue or discontinue the program. Additionally Ms. Taylor stated direction was given to notify Z-Trans of the possibility the County may opt not to continue funding the program.

Joe Hardin, Z-Trans Director informed the ridership was not high during this trial run for Lincoln County. Mr. Hardin discussed the obstacles with public transportation in a rural area, obtaining drivers, and changing the public's perception of public transportation. Mr. Hardin stated anything new needs time to develop.

Commissioner Stewart informed the current cost of approximately \$146 for each rider was not beneficial to Lincoln County. Commissioner Stewart stated he did not feel comfortable utilizing tax dollars to continue to support the program.

— Margaret Peggy O'Neill, CEO for Z-Trans stated belief ridership numbers would grow if the County would continue the program.

There was a lengthy discussion on the transportation costs and effects for the County.

15. Resolution 2019-12 Disposition of Surplus County Assets

Ms. Taylor requested approval of the Resolution to dispose of surplus, obsolete or damaged County assets by any acceptable means including sale on public auction; transfer; destruction; or e-cycle.

Toni Foligno, Inventory Assets Clerk stated most of the hospital surplus items listed would not be removed from the building until the new hospital was complete.

Motion: Adopt Resolution 2019-12, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

There was a discussion about using certain equipment and having it transferred to another department or entity within the County.

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

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

— **SEE EXHIBIT D:** Copy of Resolution 2019-12 is attached hereto in reference thereto made a part hereof.

19. Overview of Process to Transition Operation and Management of Lincoln County Detention Center from LaSalle Corrections West, LLC to Correctional Solutions Group, LLC

Ms. Taylor reminded during the September 6th Special Meeting Resolution 2019-11 was adopted approving the form of Agreement between CSG and Lincoln County for the Operation and Management of the Lincoln County Detention Center, as required by the State of New Mexico.

David Stanfield, Chief Operations Officer for Correctional Solutions Group LLC, stated transition had been going on for a few weeks. Mr. Stanfield stated they identified the need for staffing and immediately developed posters and a narrative radio spot advertising for various positions at LCDC.

Mr. Stanfield informed of his operational plans and stated he would address certain issues with a proactive approach. Mr. Stanfield stated the little things matter and many solutions were easy adjustments. Mr. Stanfield stated Warden Anderson had done a good job and expressed appreciation for his leadership role. Mr. Stanfield stated he foresees some challenges ahead and staff was needed but once they had a solid team endless things could be accomplished.

— John Forren, President of CSG reported on a good working relationship with the County Manager and County Attorney. Mr. Forren stated they recently met to review budget and expenditures.

Commissioner Willard questioned where CSG's main facility was located and how often administrative staff would travel to Carrizozo.

Mr. Stanfield stated their headquarters were in Tyler, Texas and they planned to make multiple trips to Carrizozo to check on the facility in addition to maintaining communication through a weekly teleconference.

There was a lengthy discussion about contracting with the private sector for operation of a detention center.

Attorney Morel informed he reviewed the current contract and anticipated it would be available for approval during the next Regular Commission meeting.

16. Approval of Prior Year Invoices FY 18-19

- a. Lincoln County Fair Association
- b. Samba Safety
- c. Hometown Tire Pros
- d. Walker Air Conditioning & Refrigeration, Inc.

Ms. Taylor stated Samba Safety contacted the County regarding their account by email on August 1, 2019. Ms. Taylor stated the vendor emailed invoices for services rendered for April and July of 2019. Ms. Taylor stated a review of the account by the Finance Department revealed April's invoice was unpaid.

Ms. Taylor informed the invoice from the Lincoln County Fair Association was turned in timely, but was audited with the finding the 4th quarter invoice had not been paid.

Ms. Taylor informed the invoice from Hometown Tire Pros came into the Finance Office and requested approval for payment for services in the prior year as it was not paid in fiscal year 18/19.

Ms. Taylor stated the Walker AC and Refrigeration invoice was turned in September 9, 2019 for services back in May. Ms. Taylor stated the vendor had experienced problems emailing the invoice.

Motion: Approve payment of all invoices, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

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

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

17. Update on Mesa Canyon Winds LLC Project

Ms. Taylor reminded during the July 16, 2019 Commission Meeting a Public Hearing was conducted to consider the Revenue Bond Ordinance for Wind Farm (Mesa Canyons IRB Project) Ordinance 2019-01. Ms. Taylor stated the hearing was continued until the August 19, 2019 Regular Meeting at Attorney Morel's request for additional time to review and revise the Bond Ordinance. Accordingly the Public Hearing was held during the August 2019 Regular Meeting and was continued again until an indefinite time.

There was a discussion and direction given for the Manager to work with Pattern Energy to develop the Revenue Bond Ordinance in a manner acceptable to all parties.

18. Manager's Report

1. Hats Off to County Clerk Whitney Whittaker for working with the School Districts to resolve a tricky issue caused by new legislation. HB407 provided the option of holding a special tax election in 2021, or placing the question on the ballot for the 2021 regular election. Both Corona and Capitan Schools mill levy would not expire until the end of 2020, which, under the new law the schools could take advantage of having their election on the ballot for the 2021 regular local election, even though the tax roll deadlines for the Assessor and Treasurer would be prior to the election. The resulting requirement would be for two tax rolls to be created (one, should the bond pass; and another, should the bond not pass), until November election results were announced. Because of Clerk Whittaker's proactive role of providing information and guidance to the school districts that were impacted by the effects of this new law, Lincoln County was saved the cost of duplicate tax billings and delay of property tax collections to our county entities (municipalities, schools, special districts).
Thank you Whitney!!

Hats Off Again to Road Superintendent Jeff Honeycutt and Blademan Ken Vega (serving double duty in his own district and in the Ruidoso district). Disgruntled property owner in Villa Madonna relayed for himself and his neighbors the poor shape of the road since the Little Bear Fire. Road Department responded immediately, with Ken Vega taking care of some of the problem area. Satisfied customer was very impressed with the can-do attitude of the County Road Department, the blade work, but especially with the overall County responsiveness to county residents' needs. He offered "A tip of my hat, Sir". Thank you Jeff and Ken!!

2. County Staff Changes. We have interviewed for the Position of Director of Planning & Project Management, and offered the position to a very experienced and qualified individual currently working for the City of Roswell. She has accepted, and the County has met her requested start date of October 21st. Acting in that Interim Director role is Alex Fuller, County Planning department employee, who also interviewed for the job, and is holding down the fort in the interim.

The Finance Director position has been advertised twice, interviews have been scheduled for Wednesday, September 18th. We've experienced real teamwork in covering that vacancy, with Rhonda Edwards and Billie-Jo Guevara picking up some of the extra work. A special thanks to Sherry Huddleston and Beverly Calaway for lending more than a hand. The new Finance Director will have immediate training available, as both DFA and Triadic, have offered on or off-site training.

3. NM Counties Facility Inspection was conducted by James Chavez, NMAC Loss Prevention, on August 1st. Joe Kenmore and members of the Safety Committee toured County property with him and participated in the inspection. The Safety Committee has cleared nearly all identified obstacles causing potential risk; and for those not completely clear, a plan has been developed. We are in the process of finalizing the report to NMC, and will provide it for your review.

4. Annual Budget Conference. The Local Government Division Annual Budget Conference is scheduled for November 13 – 15. This is a critical conference and training that the County's key budget personnel attend every year. It will be especially critical this year, with a new Finance Director on board.

5. FY 2021-02025 Infrastructure Capital Improvement Plan. The Infrastructure Capital Improvement Plan was submitted and accepted on a timely basis. Manager provided a Summary Sheet for FY2021 – 2025. Projects commencing in future years of that five-year span will be added, with email notification and acknowledgement from ISIP Coordinator.

6. NM Counties' sponsored Grant Pilot Project. NM Counties partnered with Grow New Mexico to provide a specialized 3-part program to help Counties with the identification of, application for and obtaining of Grants. The program cost per county is \$12,654, with NMC picking up half that cost. The program was offered to a limited number of counties on a first come-first served basis. We were quick to recognize the value, expressed an interest and have a seat at the table. Founder and Chief Program Officer for Grow New Mexico, Mr. Brunner visited the County this week; captured information about our wants, needs and funding sources, and was very interested in all we are doing in the County. The single attendee from the County will likely be the new Director of Planning and Project Management.

7. Ag Assembly Speakers Announcement. We have been invited to the Ag Assembly's discussion with New Mexico's most influential and forward thinking minds in food and agriculture, on September 26th at the Farm & Ranch Heritage Museum at NMSU in Las Cruces.

8. Manager's Affiliate Meeting is tentatively scheduled for November 17th and 18th, with the location not yet determined. The timing of the meeting will likely enable me to attend. We have an exceptional affiliate, with a great exchange of ideas, solutions, etc.

9. Progress Report on the American La France. Toni Foligno and Joe Kenmore inspect the American La France monthly. The Manager provided the most recent Progress Report and some photographs.

10. Department Head Updates

Joe Kenmore, Director Office of Emergency Services reported on the La France Truck. Mr. Kenmore stated production was coming along, just not in a timely matter.

Mr. Kenmore reported on the Capitan tower site and stated plans to move the tower sometime between October 2, 2019 and October 4, 2019. Mr. Kenmore stated access to Hale Lake is a concern during fire season.

Renee Montes, Senior Services Director stated their ICIP was complete and they received the grant for the Corona Senior Center for a new stove installment.

Jeff Honeycutt, Road Superintendent spoke about priorities for the upcoming winter season. Mr. Honeycutt stated there were many roads in need of repair and the department would need to prioritize them.

Billie Jo Guevara, Human Resources reported on current employment openings in the County.

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

- a. Lincoln Historic Preservation Board
- b. Property Tax Protest Board
- c. Lodger's Tax Committee

Motion: Appoint Jack Faulk to the Lincoln Historic Preservation Board; Appoint James Russ, Dan Knorr, and James M Russ III to the Property Tax Protest Board, and Appoint Sue Hutchison to the Lodger's Tax Committee, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

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

- a. Ordinance No. 2019-01 Authorizing the Issuance and Sale of Lincoln County, New Mexico Taxable Industrial Revenue Bonds (Mesa Canyons Wind LLC Project) and Lincoln County, New Mexico Taxable Industrial Revenue Bonds on Behalf of One or More Affiliated Entities of Mesa Canons Winds LLC, in One or More Series, in the Maximum Aggregate Principal Amount of \$1,400,000.

Motion: Schedule Public Hearing for next Regular Meeting, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Willard.

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

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

27. Update on the case of the State of New Mexico Association of Counties, et.al. vs. The Honorable Maggie Toulouse Oliver, Secretary of State of New Mexico

Mr. Morel informed the Supreme Court ruled the new law providing an extension of certain elected officials term limits was unconstitutional.

Chair Draper Recessed the Regular Meeting at 11:56 AM and reconvened at 1:00 PM Chair Draper Recessed the Regular Meeting and convened the Public Hearing at 1:01 PM

20. 1:00 P.M. : Public hearing to consider Ordinance No. 2019-03 Repealing Ordinances in Conflict: 2016-02 and 2017-07; and Enacting An Ordinance Which Regulates Acceptable And Unacceptable Waste In Lincoln County and Providing For Efficient And Sanitary Collection Of Waste, Providing For Mandatory Disposal and Assessment Of Fees, and Providing A Penalty For Violation of This Ordinance

Attorney Morel stated they were not prepared to consider this item until proper County staff were present to comment.

Chair Draper requested public comment and having none adjourned the Public Hearing and reconvened the Regular Meeting at 1:01 PM.

21. Replacement Hospital Update

Expenditures Summary

Ms. Taylor reviewed the Replacement Hospital Expenditure Report to date, illustrating expenditures of \$16,666,655 leaving a balance of \$3,914,822. Ms. Taylor stated under review was the Jaynes' August Pay Application No. 16 in the amount of \$1,789,772 which would reduce the balance to \$2,125,150.

Contingency

Ms. Taylor stated the County was paying close attention to the Owner's Contingency fund of \$1,700,000 and considering where those funds could cover remaining costs on the hospital construction.

Jaynes Schedule Narrative Summary of Status

Mike McDonald reported on the status of the hospital construction. Mr. McDonald reported they had poured the concrete pad for the propane tanks, completed the electrical for permanent power, and closed up the majority of wall on the first level. Mr. McDonald stated due to FRI 204, they were unable to proceed with the rough in of the drywall that is supporting the medical gas due to resources on the site. Mr. McDonald stated this delay was causing drywall to dry out since they were unable to close the wall up.

Chair Draper questioned the placement of the sewer line and if it was completed.

Mr. McDonald stated they still need an accurate drawing from the design team.

There was a general discussion on the bond expenditures.

22. Consideration of Naming Opportunities for Lincoln County Medical Center – Presentation by Todd Oberheu, Hospital Chief Executive

Todd Oberheu, Chief Executive stated during early stages of design and construction of the Replacement EMS Building and Replacement Hospital discussions were led by PHS Foundation regarding naming rights tied to specific levels of monetary donations for the project. Mr. Oberheu informed while the Commission was presented with options, no formal action was ever taken other than approval for the Imaging Center to be named after Dr. Donald Wolfel.

Motion: Approve of the use of naming opportunities for the Lincoln County Medical Center, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Stewart.

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

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

23. Request for Repair of Chaves Street Crossing in Nogal, New Mexico by Robert and Sue Stearns and Archie & Gloria Witham

Ms. Taylor informed the County received a formal request from Robert and Sue Ann Stearns and Archie A. Witham and Gloria F. Witham to repair the crossing on Chaves Street in Nogal.

Alan Morel, County Attorney reported on the history of the road and stated there was prior action by the County Commission to vacate the road but the action was subsequently overturned.

Jeff Honeycutt, Road Superintendent stated the crossing was located in a flood plain therefore the County would need an engineer to evaluate the area in order to proceed. Mr. Honeycutt stated there were currently looking at potential funding and construction time.

Sue Stearns, resident stated they had original letters from 1994 stating the residents never wanted Chaves Street closed just an area outside their residence. Ms. Stearns stated they were looking for a long term plan for the street and the residents involved.

There was a lengthy discussion on a design to "fix" or "repair" the crossing on Chaves Street in Nogal.

Motion: Approve a box culvert replacement for the crossing, not to exceed a maximum expenditure of \$400,000, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Stewart.

Commissioner Allen requested more information on all the possibilities to resolve the issue.

Commissioner Willard withdrew his original motion and Commissioner Stewart withdrew his second.

Motion: Table the agenda item until the October Regular meeting with options for the Commission to consider, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Willard.

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

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

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

New or Updated Matters since last report *

1. **Rancho Ruidoso Valley Estate Homeowners' Association v. Roy Padilla, et. al. – D-1226-CV-2017-00195** Complaint filed by RRVEHA for foreclosure of the Homeowners' Association Assessment Lien. The County is a named Defendant due to the filing of a GSWA lien on March 22, 2006, and a L.C. Solid Waste Lien filed on December 16, 2016 for non-payment of solid waste services and potential ad valorem taxes due and owing. The Foreclosure Sale took place on November 15, 2018 @ 10:00 a.m. at the front steps of the 12th Judicial District Courthouse in Carrizozo.
2. **Rancho Ruidoso Valley Estates Homeowner's Association v. Diane K. Medcalf, Pioneer Bank, FSB, and the County of Lincoln, NM D-1226-CV-2017-00242** Complaint filed by RRVEHA September 12, 2017 for Foreclosure of the Homeowner's Association Assessment Lien. On January 25, 2019, Judge Blankinship entered a Judgment by Default for Foreclosure.
3. **Board of County Commissioners of Lincoln County v. Roger Romero D-1226-CV-2018-00055 Complaint for Foreclosure.** Complaint was filed February 20, 2018. Defendant Roger Romero filed an Answer to the Complaint asserting a Counterclaim to be filed in the U.S. District Court on April 2, 2018. A Judicial Inquiry Hearing took place September 4, 2018.
4. **Roger Romero v. State of New Mexico – D-1226-CV-2018-00113 (Underlying Cases are: Board of County Commissioners of Lincoln County v. Roger Romero, D-1226-CV-2018-00055, and State of N.M. v. Roger Romero M-30-MR-2016-00142)** A Petition for Writ of Habeas Corpus was filed requesting that the Judgment & Sentence entered by Judge Vega in Cause No. M-30-MR-2016-00142 be vacated and set aside. George Romero's Answer to Complaint and Counterclaim was filed April 30, 2018 in Cause No. D-1226-CV-2018-00055. Judge Counts is the presiding Judge. On February 26, 2019, an Order Setting Aside Conviction was entered by Judge Counts and, on March 25, 2019, a Notice of Appeal was filed with the N.M. Supreme Court. (NM Supreme Ct. Case No. S-1-SC-37602)
5. **Roger Romero, et al vs. Lincoln County, et al – U.S. Dist. Court Cause No. 2:18-cv-01137-JAP-GJF** A Complaint for Violation of Civil, Constitutional and Statutory Rights was filed on December 5, 2018. On December 27, 2018. A Guardian Ad Litem has been appointed to represent the Plaintiffs. There is presently pending a Motion for Dismissal of all individual Defendants.
6. **Pioneer Bank v. Jessica Quintana, and Lincoln County D-1226-CV-2018-00058** Complaint to Foreclose and Collection of Note was filed on March 22, 2018. Lincoln County filed its Answer to the Complaint on April 20, 2018 asserting that any County liens are first and priority liens which should be ordered paid from the proceeds of the foreclosure sale. Judge Bryant is the presiding Judge. On May 2, 2019, the Court entered its Certificate as to the State of the Record and Non-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. On September 4, 2019, Plaintiff filed a Stipulated Motion to Amend Complaint to add additional claims.
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. All Judges in the 12th Judicial District have recused themselves. Waiting on a new Judge Assignment by the N.M. Supreme Court. There is presently pending a Motion to Dismiss the Complaint.
12. **Valerie Herrera v. Anthony Manfredi, Cause No. D-1226-CV-2019-00164** Complaint for Negligence and Negligence Per Se (Battery), and Excessive Force as Brought Under 42 U.S.C. § 1983 was filed on June 16, 2019 by W. Chris Nedbalek. Judge Bryant is the presiding Judge. As of June 24, 2019, the Complaint has not been served upon former LCSO employee, Anthony Manfredi.

13. **City of Albuquerque, et al vs. John Monoforte & N.M. Taxation & Revenue Department, Cause No. D-202-CV-2018-08036** Lincoln County has entered into an Agreement for joining in the litigation to recover amounts representing unauthorized reductions in violation of New Mexico Statutes.

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

14. **State of NM v. Kimberly Conner M-30-MR-2018-00043** Violation of County Ordinance 2008-08 Animal Control Ordinance. A Citation was filed May 14, 2018 charging the Defendant with 1 count of Dog Running at Large. On May 14, 2019, a Bench Trial was held at which time the Defendant was found Guilty of 1 Count of Dogs Running at Large. The Defendant was sentenced to 90 days jail time with 90 days suspended based upon the condition that the Defendant received no further Citations for Violation of Lincoln County's Animal Control Ordinance within the next 90 days, 90 days unsupervised probation, assessed \$73.00 court costs, \$300.00 fine and \$100.00 bench warrant fee for a total of \$473.00. On August 5, 2019, the Defendant entered a plea of guilty for probation violation.

Tort Claims Notices Received or Threatened

2019

***Arroyos, Joshua** – Tort Claim Notice received August 30, 2019 alleging assault while detained at the Lincoln County Detention Center

Samaniego, Barbara – Tort Claim Notice received June 26, 2019 alleging injuries sustained while undergoing a MRI at the Lincoln County Medical Center.

Divelbliss, Kim – Tort Claim Notice received June 17, 2019 [dated 6-11-19] alleging that the Claimant was taunted, harassed and her rights were violated resulting in her ultimate termination from employment by the Lincoln County Detention Center.

Divelbliss, Ty – Tort Claim Notice received June 17, 2019 [dated 6-11-19] alleging that the Claimant was terminated from employment by the Lincoln County Detention Center out of retribution.

Yokley, Scott – Tort Claim Notice received June 17, 2019 [dated 6-12-19] alleging that the Claimant was sprayed directly in the eye with pepper spray during his employment with the Lincoln County Detention Center.

Udall, Steve – Tort Claim Notice received May 22, 2019 [dated 12-14-19] alleging a Lincoln County Sheriff's Deputy's vehicle hit the air conditioning condensing unit located at the Magistrate Court in Ruidoso damaging the unit beyond repair.

Youtz, Shane – Correspondence received May 7, 2019 threatening litigation if Lincoln County's Right to Work Ordinance (Ordinance No. 2018-01) is not repealed due to the passing of HB85.

Balderas, Hector – Tort Claim Notice received April 9, 2019 regarding threat of litigation and liability for failure to enforce the law.

HES, LLC and, Kenneth and Irene Livingston – Tort Claim Notice received January 3, 2019 alleging The N.M. Dept. of Health seized and destroyed cannabis plants belong to HES, LLC and Kenneth and Irene Livingston. On January 24, 2019, NMAC denied the claim.

Lueras, Ramon – Tort Claim Notice received January 31, 2019 from Pizzonia Law Firm was received which referenced "Lueras v. Lincoln County Road Dept., et al" requesting copies of Mr. Lueras' employment records. While the correspondence appeared to be more like an IPRA, NMAC was notified out of an abundance of caution. On February 8, 2019, NMAC confirmed that Mr. Lueras has a work comp claim and that the January 31, 2019 correspondence from Pizzonia Law Firm relates to that claim. NMAC did open a claim as "record only".

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

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

2018

Duke, Arnold – Harrisburg Document recovery

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

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

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

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

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

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

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

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

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

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

2017

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

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

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

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

Chair Draper recessed the Regular Meeting and convened the Closed Session at 2:10 PM.

Chair Draper adjourned the Closed Session and reconvened the Regular Meeting at 2:56 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. Signing of Official Documents

29. Next meetings:


a. October 15, 2019 Regular Commission Meeting

30. Adjourn

There being no further business to come before the Board of County Commissioners, Chair Draper adjourned the meeting at 2:57 PM.

County of Lincoln
Board of County Commissioners


Preston Stone, Chair


Dallas Draper, Acting Chair


F. Lynn Willard, Member


Thomas Stewart, Member


Elaine Allen, Member

ATTEST:


Whitney Whitaker, County Clerk

October 15, 2019
Date Approved

