COUNTY OF LINCOLN

New Mexico
Regular Meeting
Board of County Commissioners

Dallas Draper, Chair
Lynn Willard, Vice Chair

Thomas F. Stewart, Member
Elaine Allen, Member
Preston Stone, Member

Minutes
Tuesday April 21, 2020

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on April 21, 2020 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: Chair Draper (Via Zoom), Commissioner Stewart (Via Zoom), Commissioner Allen, Commissioner Willard (Via Zoom), Commissioner Stone (Via Zoom).

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 – USA 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 roll call vote **(summary**: Yes = 5**).**
Yes: Chair Draper, Commissioner Stewart, Commissioner Allen, Commissioner Willard, Commissioner Stone.

6. Approval of Minutes:

a. March 11, 2020 Special Commission Meeting
b. March 17, 2020 Regular Commission Meeting
c. March 23, 2020 Emergency Commission Meeting

Motion: Approve the minutes of the March 11, 2020 Special Commission Meeting, March 17, 2020 Regular Commission Meeting, and March 23, 2020 Emergency Commission Meeting,
Action: Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.
Vote: Motion carried by unanimous roll call vote **(summary:** Yes = 5**).**
Yes: Chair Draper, Commissioner Stewart, Commissioner Allen, Commissioner Willard, Commissioner Stone.

7. Approval of Consent Agenda

a. Payroll/Accounts Payable/Budget/ Expenditures
b. Treasurer's Financial Report for the Month ending March 31, 2020
c. Annual Certified Road Mileage
d. Budget Adjustment FY 19/20-Resolution No. 2019-35

e. Approval of Carrizozo Soil & Water Conservation District Mill Levy Rate
f. Approval of Renewal of Agreement for Professional Services between Holcomb Law Office and the County of Lincoln for Employment and Labor Issues
g. Approval of CodeRED NEXT Agreement and Addendum
h. Approval of the Sub-award Recipient Agreement between the County of Lincoln and the County of Lea for the High Intensity Drug Trafficking Area Program
i. Approval of Proclamation Recognizing April 10, 2020 as Fair Housing Day in Lincoln County
j. FY 19-2020 County Fire Protection Fund Distribution
k. Resolution Recognizing 911 Dispatchers of the Lincoln County Sheriff's Office as First Responders and an Important Component of the Critical Infrastructure of the Public Safety Framework as First Responders and Critical Infrastructure of the Public Safety Framework
l. Restricted Housing Report Quarter Ending March 2020
m. The Village of Corona's Donation of a 2000 Chevrolet Silverado 2500 HD to the County of Lincoln
n. Approval to Issue RFP for Buck Tower Replacement
p. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims
q. Granting an Easement to Public Service Company of New Mexico for Electrical Easement at Ruidoso Sub-station
r. Approval of Resolution 2019-39 Acknowledging and Accepting the FY 2019 Audit

Motion: Approve the Consent Agenda minus 7.k; Resolution Recognizing 911 Dispatchers of the Lincoln County Sheriff's Office as First Responders and an Important Component of the Critical Infrastructure of the Public Safety Framework as First Responders and Critical Infrastructure of the Public Safety Framework, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

There was a lengthy discussion regarding budget expenditures.

Vote: Motion carried by unanimous roll call vote **(summary:** Yes = 5**).**
Yes: Chair Draper, Commissioner Stewart, Commissioner Allen, Commissioner Willard, Commissioner Stone.

7. k. Resolution Recognizing 911 Dispatchers of the Lincoln County Sheriff's Office as First Responders and an Important Component of the Critical Infrastructure of the Public Safety Framework as First Responders and Critical Infrastructure of the Public Safety Framework.

Commissioner Stewart questioned the last whereas in the Resolution regarding fiscal implications.

Sheriff Shepperd stated he only wanted a recognition of the dispatchers and will bring it back to the next meeting.

EXHIBIT A: Copies of the Consent Items including Resolution 2019-39 is attached hereto in reference thereto made a part hereof.

8. Forest, Land & Natural Resources Matters:
a. Smokey Bear Ranger District
b. South Central Mountain RC & D
c. Upper Hondo Soil & Water Conservation District

Ms. Taylor informed due to the Governor of New Mexico's Stay at Home Order the Forest, Land and Natural Resources provided a written briefing from each of the departments listed.

d. LANRAC

Robert Barber, Chair of LANRAC reported on the public comments submitted regarding the Lincoln National Forest Wilderness Inventory Evaluation Step. Mr. Barber requested the County Commission's approval to add all the characteristics from the surrounding areas that affect the wilderness of the proposed area and adjust the rating as appropriate into the public comment.

Motion: Support LANRAC moving forward, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Willard.
Vote: Motion carried by unanimous roll call vote **(summary:** Yes = 5**).**
Yes: Chair Draper, Commissioner Stewart, Commissioner Allen, Commissioner Willard, Commissioner Stone.

9. Approval of Resolution 2019-40 Addressing Vote Center/Polling Place Reduction Due to COVID-19

Whitney Whittaker, Clerk presented a summary of circumstances that led to the development of Resolution 2019-40; a Resolution amending the 2019 Polling Place Resolution for the 2020 Primary Election.

Ms. Whittaker stated Resolution 2019-40 will give the County Commission the option to reduce the number of Election Day Polling Places from the normal six voting centers down to three. Ms. Whittaker stated in person voting will still be available and normal hours will remain for early voting. Ms. Whittaker stated early vote is set to start May 16, 2020 in Ruidoso and May 18, 2020 in Carrizozo.

There was a general discussion regarding the rural communities, voting, and the health pandemic.

Motion: Approve Resolution 2019-40, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Stone.
Vote: Motion failed (**summary**: Yes = 2, No = 3, Abstain = 0).
Yes: Commissioner Stewart, Commissioner Stone.
No: Chair Draper, Commissioner Allen, Commissioner Willard.

10. 9:30 A.M.: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS (Items are for discussion only – no action will be taken)

Commissioner Allen expressed concern in the crash in oil prices from the coronavirus lockdown, with the oil prices dropping below $40.00 a barrel. Commissioner Allen stated she was concerned with the County finances and current budget. Commissioner Allen commented that Lincoln County is a tourism County and a lot is factored into the economy and financial future.

Commissioner Allen stated she continued to attend Greentree meetings.

Beverly Calaway, Treasurer stated the office had collected 77.12% of the 2019 property taxes.

14. Discussion - Noisy Water Winery LEDA Loan-Project Participation Agreement and Intergovernmental Agreement

Susie Russell, Region 6 representative of the New Mexico Economic Development Department (NMEDD) serving the counties in Southeastern New Mexico has been assisting Noisy Water Winery in preparing its Local Economic Development Project Participation Loan Agreement.

Ms. Taylor reminded the Commission of Ordinance No. 2009-2 approved on July 21, 2009. Ms. Taylor stated the Ordinance allows public support of economic projects to foster, promote and enhance local economic development efforts while continuing to protect against the unauthorized use of public money and other public resources.

Ms. Taylor stated a Local Economic Development Project Participation Loan Agreement is entered into between the County of Lincoln and Noisy Water Winery as well as an Intergovernmental Agreement is entered into between NMEDD and the County of Lincoln to approve the economic development loan project to assist Noisy Water Winery with costs associated with land, building, and infrastructure.

Ms. Taylor stated the Intergovernmental Agreement must be approved by Ordinance.
There was a lengthy discussion about the County of Lincoln being the fiscal agent for this agreement.

Chair Draper recessed the meeting at 10:20 AM and reconvened the meeting at 10:32 AM.

12. Manager's Report

1. Local Government Division - Budget & Finance Bureau has provided updated FY 2021 Budget Preparation & Submission Guidelines to accommodate those local governments' abilities to meet the previous issued guidance of maintaining the state required reserve. For those entities that may not have the resources to maintain the state required reserve, Local Government Division will temporarily modify the Local Government Budget Management System ("LGBMS") to allow for the waiver of this requirement.

2. Ranches of Sonterra Property Owners Association, after conferring with several County departments, is of the understanding that no documentation exists to confirm that an area at the west end of Corvo Crista designated as "Future Road Extension" was ever officially re-platted as Lincoln County property. As such, they believe the area once intended for a future road extension remains a portion of the property owned by the property owners of Lot 178 and 179. Ranches of Sonterra intends to install a secured gate to prevent entrance into the subdivision along the proposed road extension, and requests the County to confirm or deny their understanding of the status of the re-platting of this area within 45 days of the date of the letter. See Exhibit 2. The County confirms that the easement in question is a private easement that the County has no interest in or right to control. County Manager, Attorney and Road Superintendent advise no permission from the County is required for Sonterra to erect the gate.

3. Lincoln County Report Recap for Fiscal Year 2019-2020, 3rd Quarterly Report. At. Please acknowledge receipt and review. This will be provided by Resolution during the May 19th meeting for your formal approval.

Motion: Acknowledge receipt and review of the 3rd Quarterly Report, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.
Vote: Motion carried by unanimous roll call vote (**summary**: Yes = 5).
Yes: Chair Draper, Commissioner Stewart, Commissioner Allen, Commissioner Willard, Commissioner Stone.

4. U.S. Fish and Wildlife Service intends to prepare a supplemental Environmental Impact Statement to the 2014 Environmental Impact Statement for the Proposed Revision to the Regulations for the Nonessential Experimental Population of the Mexican wolf. Lincoln County has been invited to participate in the NEPA process as a Cooperating Agency. . If the County is interested in participating in this Supplemental EIS process, we must provide notification by May 18, 2020. Robert Barber, LANRAC Chair, has agreed that the LANRAC is willing to participate in this process.

6. Pattern Energy. Pattern has notified the County that they are finalizing PILT negotiations with Torrance and Guadalupe Counties, also participating in the Corona Winds Project (Tecolote, Red Cloud and Duran Mesa). While specifics are not releasable at this time, the higher level of PILT negotiated with the other two counties will be honored in Lincoln County.

7. Capital Outlay Projects – HB349. The State Board of Finance is preparing to issue severance tax bonds and notes to fund projects that have been previously authorized by the New Mexico Legislature. The bonds/notes are expected to be issued on or around June 26, 2020. Questionnaires were timely submitted, and additional information, such as Agreements or Contracts (Presbyterian and Lincoln County Fairboard), must be provided early this week.

a.	Hospital Replacement	$460,340
b.	Fairgrounds & Arena Improvements	$245,250
c.	Courthouse Courtyard Improve (drainage)	$100,000
d.	Courthouse Accessibility Improvements	$ 90,000

Senior Center Director Renee Montes also submitted similar questionnaires for sale of General Obligation Bond SB 207 – General Obligation Bond Projects – Senior Centers

a.	Vehicles for Carrizozo, Hondo & Ruidoso Downs	$90,166
b.	Hondo Equipment	$42,240

8. President Trump's Guidelines for Opening Up America Again. See Exhibit 7. President Trump has unveiled guidelines for Opening Up America Again, that consists of a three-phase project to getting people back to0 work and continuing to protect lives. It is designed to be implementable on either a statewide or county-by-county basis, at the Governor's discretion. This plan is:

a. Based on up-to-date data and readiness;
b. Mitigates risk or resurgence
c. Protects the most vulnerable.

The Plan sets a series of proposed benchmarks, or "gating criteria" that states and regions i.e., counties, would have to satisfy before they could start to relax social distancing restrictions and business closures. They include:

a. A downward trajectory or reported flu-like illnesses and cases with COVID-like symptoms;
b. A downward trajectory of documented COVID-19 cases, or positive COVID-19 tests;
c. Hospitals must be able to treat all patients without crisis care, and have a robust testing program for at-risk health care workers.

Once an entity could satisfy all of these criteria within a 14-day period, it could move to Phase One, which allows for certain large venues (movie theaters, sporting venues, sit-down restaurants) to reopen, under "strict physical distancing protocols". In this Phase, non-essential travel should be minimized and gathering in groups larger than 10 should be avoided.

In Phase Two, once an entity reaches the gating criteria a second time without a rebound of COVID-19 cases, large venues could allow patrons under "moderate physical distancing protocols", and individuals are discouraged from gatherings of 50 or more people without appropriate social distancing.

Phase Three, occurs when an entity reaches the gating criteria a third time without a rebound of COVID-19 cases. This has been termed our "new normal" before a working COVID-19 vaccine is established. Restrictions would be further relaxed.

It defines guidelines for all phases to both employers and individuals:

9. Departmental Updates. Department Heads will join the meeting if possible, and provide a brief update of activities.

Jeff Honeycutt stated the Nogal draining project was coming along as planned. Mr. Honeycutt stated he will have to get Ground Penetrating radar (GPR) for the Juniper Springs project.

Brianna Herrera, Human Resources Director/Administrative Assistant reported multiple County openings in the Assessor's office, Road Department and Clerk's office.

Glenda Allen, Director of Planning and Project Management stated the office was closed to the public and they had a limit of two employees in the office to continue to serve the public.

Joe Kenmore, Office of Emergency Services Director informed his office will continue to monitor the pandemic. Mr. Kenmore stated there was still only one reported case in Lincoln County. Mr. Kenmore stated he was in charge of ordering PPE for all departments.
Commissioner Stewart questioned if the state of New Mexico would reimburse Lincoln County for the testing tent.

Mr. Kenmore stated the State would only reimburse 75% back to the County and he would have more information that evening in regards to what would be reimbursed.

Billie Jo Guevara, finance officer stated the employees would have a 3% increase on medical premiums after July 1, 2020.

13. Lincoln County Executive Session Pursuant To The Open Meetings Act: Discussion Of All Threatened And/Or Pending Litigation, Section 10-15-1,

Subparagraph (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).

Lincoln County Executive Session Pursuant To The Open Meetings Act: Discussion Of All Threatened And/Or Pending Litigation, Section 10-15-1, Subparagraph (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. On March 10, 2020, Plaintiff's counsel advised that the Foreclosure Sale scheduled to take place on November 15, 2018 did not occur. Plaintiff will not be seeking any further action in this.
2. **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. The case is still pending
3. **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. On March 25, 2019, a Notice of Appeal was filed with the N.M. Supreme Court, Case No. S-1-SC-37602 which is still pending)
4. **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. On September 16, 2019, the case was dismissed and, on October 7, 2019, Plaintiffs filed their Notice of Appeal to the United States Court of Appeals for the Tenth Circuit. The case is still pending.
5. ***Romero, et al. v. Stone, et al, Cause No. D-1226-CV-2019-00271** Request for Appointment of Guardian Ad Litem for Plaintiffs and Complaint for Violation of Civil and Constitutional Rights, Negligence, Prima Facie Tort and Wrongful Taking was filed on October 9, 2019 along with a Jury Demand. Lisa B. Riley is the presiding Judge. Lincoln County has yet to be served with the Complaint.
6. ***Brack Rains v. Lincoln County Cause No. 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 Counts is the presiding Judge. County's Answer to the Complaint and Jury Demand (12 person) was filed August 9, 2018. On September 23, 2019, Plaintiff filed his Amended Complaint and, on September 24, 2019, the case was removed to the U.S. District Court for the District of N.M., Cause No. S-1-2:19-cv-0087-GJF/GBW On April 3, 2020, a Final Judgment was entered dismissing the case with Prejudice.
7. **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. On October 16, 2019, Lincoln County received notice that it would be receiving $46,011.00 from the Judgment Fund.
8. **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.
9. **City of Albuquerque, et al vs. John Monoforte & N.M. Taxation & Revenue Department, Cause No. D-202-CV-2018-08036 Judge** Biedscheid is the presiding judge.

Lincoln County has entered into an Agreement for joining in the litigation to recover amounts representing unauthorized reductions in violation of New Mexico Statutes. On November 14, 2019, Lincoln County joined in the litigation.

10. Greentree Solid Waste Authority v. Lincoln County, Cause No. D-1226-CV-2014-00095 – Compromise and Settlement Agreement and Release executed on December 17, 2015.

11. Raymond Magana, et al v. Walter Hill, L.C. Assessor, Cause No. D-1226-CV-2019-00335 Complaint for Refund of Property Taxes was filed on December 19, 2019. Judge Daniel A. Bryant is the presiding Judge. On January 29, 2020, Lincoln County filed a Motion to Dismiss in Lieu of an Answer to the Complaint and a hearing on the Motion has been requested.

12. *Beauvais, P.A. vs. County of Lincoln, Cause No. D-1226-CV-2020-00085 Complaint for alleged violation of the Inspection of Public Records Act was filed on April 4, 2020 and served upon Lincoln County on April 6, 2020. Plaintiff recused Judge Daniel Bryant and a new Judge has yet to be assigned.

Tort Claims Notices Received or Threatened

2020

Scott, Jacob – Tort Claim Notice received January 16, 2020 alleging negligent, malicious and/or tortious actions and/or omissions by former employees of the Lincoln County Sheriff's Office, including, but not limited to, infliction of pain and suffering/

Eagle Creek West Condominiums Owners Association, Inc. – Tort Claim Notice received January 20, 2020 alleging that if Lincoln County continues to assess a solid waste collection fee to the Members of Eagle Creek West Condominiums Owners Association, Inc. it will be necessary for them to take legal action against the County.

Hamilton, Erika – Tort Claim Notice received January 21, 2020 alleging damages for bodily injury due to negligent operation of a motor vehicle while being transported by a detention officer to and from court.

Heidbreder, Amanda – Tort Claim Notice received January 31, 2020 alleging, among other issues, no access to a phone, and unsanitary and overcrowding conditions at the Lincoln County Detention Center.

Stubblefield, Rory – Tort Claim Notice received February 20, 20 alleging that members of the Lincoln County Sheriff's Office did commit multiple torts against Claimant by failing to perform their duties.

***Siegel, Erik** – Tort Claim Notice received April 14, 2020 alleging negligent, malicious and/or tortious actions and/or omissions by the Lincoln County Detention Center including, but not limited to, infliction of pain and suffering.

2019

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

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

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.

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.

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.

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

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

Wilcox, Debra – Tort Claim Notice received September 11, 2019 alleging personal injury and property damage resulting from false arrest, malicious prosecution, abuse of process, libel, slander, defamation of character, violation of property rights and/or deprivation of any rights, by LCSO Deputy Hanna on or about September 7, 2019.

Green, Judy – Tort Claim Notice received November 21, 2019 alleging that Ms. Green died as a result of the negligence, gross negligence, inattentive care, omissions and actions of the Lincoln County Medical Center.

Bottlehouse Cabins, L.L.C. – potential illegal subdivision.

Ramos, Aaron – Tort Claim Notice received December 13, 2019 charging the legality of the Lincoln County Sheriff's Office's Invoice for records responsive to an IPRA Request.

Arenas, Jaime – Tort Claim Notice received December 25, 2019 alleging that Deputy Finley with the Lincoln County Sheriff's Office cursed at him, brandished his weapons, and used excessive non-contact deadly force.

2018

Duke, Arnold – Harrisburg Document recovery

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.

15. Replacement Hospital Update

Mike McDonald, Project Manager presented a summary of the current status of the Replacement Hospital. Mr. McDonald stated the Hospital Buildings Temporary Certificate of Occupancy has moved up three days from April 24, 2020. Mr. McDonald stated the work has commenced on the provisioning of emergency power to the imaging equipment and progress has been made on the placement of the sewer lines.

Mr. McDonald stated the office of the Fire Marshal conducted its inspection on April 14, 2020. Mr. McDonald stated all contractors and sub-contractors who may have been asked to provide information were on-site.

Ms. Taylor stated the most recent pay application submitted by Jaynes was dated April 14, 2020 in the amount of $555,136.00 bringing the total invoiced amount to date to $26,335,211.88.

Todd Oberheu, Chief Executive for the Lincoln County Medical Center informed they would be ready for the first patient on May 20, 2020.

Dr. Stephen Otero, Chief of LCMC staff gave an update on COVID-19 and its effect on Lincoln County.

11. Consideration of Resolution 2019-38 Requesting the Governor to Reopen Businesses, Including Non-Profits Closed by Executive and Public Health Orders

Ms. Taylor stated in response to an outbreak of a novel coronavirus identified as COVID-19 Governor Michelle Lujan Grisham issued Executive Order 2020-04 declaring a state of public health emergency under the Public Health Emergency Response Act.

Ms. Taylor stated the Secretary of New Mexico Department of Health had issued several Public Health Emergency orders, including one that defined "essential" businesses. Ms. Taylor stated all businesses not included in the "essential" business category were considered "non- essential" and were required to reduce their in-person work force by 100% and close office spaces, retail spaces or other public spaces in their buildings.

Ms. Taylor stated there was an initiative led by President Trump to "Open up America Again" which consisted of three phases that would give governors the authority to make decisions about their state.

Ms. Taylor stated Resolution 2019-38 requested the Governor and Department of Health Secretary relook at the definition of essential businesses.

Motion: Adopt Resolution 2019-38, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

There was a general discussion regarding COVID-19 and opening up businesses in Lincoln County.

Chair Draper offered a suggestion to form a committee with various participants that could provide input on safely reopening businesses in Lincoln County.

Commissioner Allen supported Resolution 2019-38 and stated we need to support these businesses to help them keep earning a living.

Vote: Motion failed **(summary**: Yes = 1, No = 4, Abstain = 0**).**
Yes: Commissioner Allen.
No: Chair Draper, Commissioner Stewart, Commissioner Willard, Commissioner Stone.

16. Authorization to schedule Public Hearing to Consider Other Outdated or New Lincoln County Ordinances

a. Noisy Water Winery LEDA Loan-Project Participation Agreement and Intergovernmental Agreement
b. Notice of Special Meeting & Public Hearing for May 5, 2020
c. Adoption of the 2020-2021 Preliminary Budget May 19, 2020

Motion: Schedule a Public Hearing to consider Noisy Water Winery LEADA Loan- Project Agreement, Notice of Special Meeting May 4, 2020, Adoption of the 2020-2021 Preliminary Budget, and Solid Waste Ordinance, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.
Vote: Motion carried by unanimous roll call vote **(summary**: Yes = 5**).**
Yes: Chair Draper, Commissioner Stewart, Commissioner Allen, Commissioner Willard, Commissioner Stone.

17. Lincoln County Detention Center Update

a. Correctional Solutions Group – Warden Carlos Morales

Carlos Morales, Warden stated the Detention Center had tested a total of 6 detainees for COVID-19. Warden Morales stated all had come back negative. Warden Morales stated they closed the facility to the public and would continue to video conference.

b. LaSalle Corrections Final Accounting for True-up of Expenses

Ms. Taylor stated this item was discussed in the Special Meeting on April 3, 2020.

18. Approval of Lodger's Tax Application with Backup Material

- Ruidoso Grindstone Trail Runs
  Amount Requested: $5,300.00
  Date of Event: July 25, 2020
  Presenter: Ski Run Road Challenge

Ms. Taylor stated due to COVID-19 precautions all committees and boards appointed by the Board of County Commissioners are unable to gather for their monthly scheduled meeting. Ms. Taylor stated the Lodger's Tax Committee was presented with one request that was scheduled to be heard in March's meeting. Ms. Taylor stated with the committee unable to meet in March, and now in April, they brought this request directly to the Board of County Commissioners for consideration.

Motion: Approve $2500, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Stewart.
Vote: Motion passed (summary: Yes = 4, No = 1, Abstain = 0).
Yes: Chair Draper, Commissioner Stewart, Commissioner Allen, Commissioner Willard.
No: Commissioner Stone.

9. Approval of Resolution 2019-40 Addressing Vote Center/Polling Place Reduction Due to COVID-19

Motion: Reconsider agenda item 9. Approval of Resolution 2019-40 Addressing Vote Center/Polling Place Reduction Due to COVID-19, **Action:** Approve, **Moved by** Chair Draper, **Second by** Commissioner Stone.
Vote: Motion passed (summary: Yes = 3, No = 2, Abstain = 0).
Yes: Chair Draper, Commissioner Stewart, Commissioner Stone.
No: Commissioner Allen, Commissioner Willard.

Motion: Approve Resolution 2019-40, **Action:** Approve, **Moved by** Chair Draper, **Seconded by** Commissioner Stewart.
Vote: Motion passed (**summary:** Yes = 3, No = 2, Abstain = 0).
Yes: Chair Draper, Commissioner Stewart, Commissioner Stone.
No: Commissioner Allen, Commissioner Willard.

EXHIBIT B: Copy of Resolution 2020-40 is attached hereto in reference thereto made a part hereof.

19. Signing of Official Documents

20. Next meetings:

a. May 4, 2020 Special Commission Meeting for Budget Discussion and Special Program Request

b. May 19, 2020 Regular Commission Meeting

21. Adjourn

There being no further business to come before the Board of County Commissioners, Chair Draper adjourned the meeting at 2:10 PM.

County of Lincoln

Board of County Commissioners

Approved Telephonically
Dallas Draper, Chair

Approved Telephonically
F Lynn Willard, Vice Chair

Approved Telephonically
Preston Stone, Member

Approved Telephonically
Thomas Stewart, Member

Elaine Allen, Member

ATTEST:

Whitney Whittaker, County Clerk

May 28, 2020
Date Approved

LINCOLN COUNTY COMMISSIONERS SEAL NM