

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 August 18, 2020

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on August 18, 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 8:34 AM.

2. Roll Call

Roll Call.

Present: Chair Draper (Via Zoom), Commissioner Stewart (Via Zoom), Commissioner Allen, Commissioner Willard, 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 Commissioner Stone.

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. July 16, 2020 Special Commission Meeting
- b. July 21, 2020 Regular Commission Meeting
- c. July 24, 2020 Special Commission Meeting
- d. July 30, 2020 Special Commission Meeting

Motion: Approve the minutes of July 16, 2020 Special Commission Meeting, July 21, 2020 Regular Commission Meeting, July 24, 2020 Special Commission Meeting, and July 30, 2020 Special Commission Meeting, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Stone.

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 July 31, 2020

- c. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims
- d. Community Development Block Grant (CDBG) Annual Requirements:
 - i. Approve Resolution 2020-08 CDBG Policies & Certifications Repealing 2019-9
 - ii. Approve Resolution 2020-09 Purchasing Policy Repealing Resolution 2019-8

Motion: Approval of the Consent Agenda, **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.

EXHIBIT A: Copies of the Consent Items including Resolution 2020-08, and Resolution 2020-09 are attached hereto in reference thereto made a part hereof.

8. Lincoln County Detention Center Update

Nita Taylor, Manager informed Senior Vice President Martin Rickler, Warden Scott Colvin and Regional Director Mike Curley maintained the task of working closely with the County to develop the County Reach, Intervene, Support and Engage (RISE) application. Manager Taylor stated the application was approved with the projected budget of \$35,711.00. Manager Taylor stated work will be ongoing to identify individuals to fill key roles for the program. Manager Taylor stated Alex Fuller from the Planning Department is assisting in finalizing the Vendor Registration process with Falling Colors, the Administrative Service Organization engaged by the state to administer the program. Manager Taylor stated vendor registration is necessary to reimburse CSG for expenses.

Scott Colvin, Warden stated he identified necessary modifications and improvements to the physical building, sally port and grounds. Warden Colvin stated the sally port included the addition of a second gate to allow drive through delivery of detainees to the facility along with adequate cameras and communication equipment.

Manager Taylor stated the new entry to the sally port would require a new access from the southwest vacant lots and Jeff Honeycutt, road superintendent had already met with Warden Colvin to identify construction efforts.

Warden Colvin stated a transfer from El Paso tested positive for COVID-19. Warden Colvin stated all necessary precautions were taken by staff and the detainee was in isolation.

There was a general discussion regarding facility improvements.

9. Forest, Land & Natural Resources Matters:

- a. Smokey Bear Ranger District

Manager Taylor stated Ranger Jodie Canfield was unable to be in attendance but provided an update on the Dark Canyon Fire and the designated Opportunity to Comment on the Hale Lake Area Management Project Draft Environmental Assessment.

- b. Upper Hondo Soil & Water Conservation District

Manager Taylor stated Upper Hondo held its August Meeting on the 11th via teleconference.

- c. South Central Mountain RC & D

Manager Taylor stated Rick Merritt from South Central Mountain RC and D is unable to be in attendance but stated he is handling the Smokey Bear Collaborative Group Meetings on the Hale Lake Area Management Project.

- d. LANRAC

Robert Barber chair of the LANRAC committee informed the comments to the Hale Lake Area Management Project were submitted to the Board of County Commissioners. Chairman Barber stated the document was well written and addressed the needs of Lincoln County. Chairman Barber stated he believed one negative comment was submitted by one of the allotment owners and will have to await the decision to see if the EA will be filing a protest. Chairman Barber

recommended the County establish a Cooperating Agency agreement with the U.S. Fish and Wildlife Services through a Memorandum of Understanding.

Commissioner Stone informed as of 2:30 PM August 18, 2020 the Dark Canyon fire had grown to 2500 acres. Commissioner Stone expressed his concern in establishing a MOU with Fish and Wildlife. Commissioner Stone stated the safety of the population is being overlooked and the Agency does not consider valuable input.

Commissioner Stone expressed concern with the current ATV and UTV standards. Commissioner Stone stated people have no respect for authority and are driving on unauthorized roads.

10. Approval of Memorandum of Understanding Between the U.S. Fish and Wildlife and Lincoln County (as a New Mexico County Signatory)

Manager Taylor informed LANRAC was participating in the U.S. Fish and Wildlife Services process regarding the Mexican Wolf Rule Revision. Manager Taylor stated LANRAC Chair Robert Barber recommended the County establish a Cooperating Agency relationship with U.S. Fish and Wildlife Services through a Memorandum of Understanding.

Commissioner Stone expressed a concern with entering into a MOU with U.S. Fish and Wildlife Services stating it would be unbeneficial to the County.

Robert Barber, Chair of LANRAC recommended the County keep engaged with the U.S. Fish and Wildlife Services to at least be present to provide input, even if the input is not taken into consideration.

Commissioner Stone stated he appreciated the work and opinion of LANRAC. Commissioner Stone stated U.S. Fish and Wildlife Services will do what they want regardless of any opinion given. Commissioner Stone reminded when Fish and Wildlife disregarded their own biologist study on the food chain insufficiency for the reintroduction of the wolf and continued on regardless of the issue.

There was a general discussion on entering into a MOU with U.S. Fish and Wildlife Service.

Motion: Enter into a MOU and Direct the County Manager to send the concurrence letter to U.S. Fish and Wildlife Services, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Willard.

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

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

No: Commissioner Stone.

11. 9:30 A.M.: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS (Items are for discussion only – no action will be taken)

Chair Draper opened public comment at 9:23 AM and stated he would keep public comment open until after the allotted time of 9:30 AM.

Commissioner Stewart stated he would continue to attend the Joint Land Use Study Group meetings and would attend a telephonic meeting on September 1, 2020.

Commissioner Willard commended Dick Cooke, Ruidoso Forestry Director for clearing 5 acres of down timber in the North West corner of Moon Mountain.

Beverly Calaway, Treasurer stated once their office received the tax rates from DFA she would notify the County Manager to schedule a special meeting for the County Commission to approve the tax rates for Lincoln County.

Ryan Trosper, President of ENMU-Ruidoso introduced himself and stated he was excited to announce the college expansion was going well and the college would continue to work with the public on integrating new programs in the college. President Trosper stated they were working with ENMU-Roswell to establish an RN program.

Nick Smokovich, New Mexico State Forestry informed the district hired Walter Wilson as the new Fire Management Officer and stated he would be a great addition. Mr. Smokovich stated Bennie Long retired July 21, 2020 and she would be missed.

Chair Draper reminded under the New Mexico Governor's Order public schools would resume as a hybrid model utilizing both in-person and distance learning. Chair Draper commended the school districts in the hard work applied in providing a quality education for our children.

12. Pattern Energy Update – Western Spirit Wind & Western Spirit Transmission

Crystal Coffman, Director, Pattern Business Development provided an update on Western Spirit Wind and Transmission. Director Coffman stated the Western Spirit Transmission line was wholly owned by the New Mexico Renewable Energy Transmission Authority (RETA). Director Coffman informed the project was being co-developed with RETA and constructed by Pattern. Director Coffman stated Western Spirit transmission line would span approximately 155 miles from the Clines Corners Substation to the soon to be built Pajarito substation outside of Albuquerque. Director Coffman informed once operational the Western Spirit Transmission would be acquired by PNM and added to their existing transmission system.

Jeremy Turner, Director New Mexico Project Development for Pattern stated Western Spirit Wind is expected to be comprised of four projects: Clines Corners wind at 324.22MW, Duran Mesa Wind at 105.08 MW, Red Cloud Wind at 349.69 M, and Tecolote Wind at 271.68 MW.

Commissioner Willard questioned the Road Agreement in Lincoln County.

Jeff Honeycutt, Superintendent stated a version of the agreement is under review.

Chair Draper questioned the status of SunZia.

Director Turner stated SunZia had re-opened their environmental impact statement and was working on the NEPA process.

13. Lincoln County Medical Center Update:

Todd Oberheu, Chief Executive for LCMC informed the tent was delivered and they were currently working on a best location for the structure. Chief Executive Oberheu stated they hope to have the tent operational by October 1, 2020.

a. Status of Abatement Stage;

Manager Taylor reminded the Commission approved a change order in its July 21st meeting in the amount of \$286,070 to abate material that had not been identified by Keer Environmental in its Pre-Demolition survey. Manager Taylor stated Grancor had moved to different parts of the building and had found an additional scope of work for material that had been identified but was underestimated. Manager Taylor stated Grancor was proposing to issue a change order to compensate for the Drywall removal, which was estimated at 40,100 square feet, but actually turned out to be 57,600 square feet. Manager Taylor stated Grancor's change order presented was in the amount of \$65,625 for the removal of the additional drywall.

Motion: Approve Change Oder for \$65,625 and direct the Manager and Attorney to investigate potential liability to Keers Environmental for grossly underestimating quantity, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

There was a lengthy discussion regarding compensation and accountability of the underestimated amount of drywall removal.

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

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

b. Direction for Parking Lot Construction and Final Demolition following Abatement Completion

Manager Taylor reminded at the July 21, 2020 Commission Meeting Jaynes presented the Commission with three different options for final completion of construction phase. Manager Taylor stated because this final stage of the construction was starting later than anticipated due to the delay in the abatement process, Jaynes estimated delays due to winter weather.

Teryn Lamoreux presented the three options:

Option A: would conduct as much work as possible through winter months, saving only the paving until mid-March.

Completion Date: March 26, 2021
Cost: \$250,658

Option B: would begin demolition immediately after abatement and once the building was demolished would complete the rough grading of the pad and would then de-mobilize for the winter and return in Spring.

Completion Date: May 17, 2021
Cost: \$143,528

Option C: would begin demolition on March 1, 2021
Completion Date: June 14, 2021
Cost: \$135,386

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

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

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

23. **Executive Session Pursuant to the Open Meetings Act: Discussion of all Threatened and/or Pending Litigation Section 10-15-1, Sub-Paragraph (H) (7); Discussion of Limited Personnel Matters, Section 10-15-1, Subparagraph (H) (2); 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).**

Motion: To Close The Meeting for the purposes of an executive session pursuant to the open meetings act: discussion of all threatened and/or pending litigation, section 10-15-1, subparagraph (h)(7); discussion of limited personnel matters, section 10-15-1, subparagraph (h)(2); 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. **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.

2. **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

3. **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, Docket No. 19-2165. The case is still pending

4. **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.

5. **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.

6. **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. The case is still pending.

7. **City of Albuquerque, et al vs. John Monoforte & N.M. Taxation & Revenue Department, Cause No. D-202-CV-2018-08036** Judge Franchini 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. The case is still pending.

8. **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.

9. **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.

10. **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. On May 6, 2020, Defendant filed its Motion to Dismiss in Lieu of an Answer. Settlement was reached and the case will be dismissed.

11. **Richard Ford v. Terry A. Colwell, II, et al, Cause No. D-1226-CV-2020-00104** Complaint for criminal trespass, theft, misappropriation of monies and violations of civil rights was filed by Gary C. Mitchell on May 11, 2020. Lincoln County was served on May 29, 2020. On June 26, 2020, the case was removed to the U.S. District Court and, on July 3, 2020, County Defendants filed their Motion to Dismiss which is still pending.

12. **Lincoln County Lodgers' Tax Collection**

13. ***Aaron Ramos v. Sam Chavez, et al, Cause No. D-1226-CV-2020-00155** A Verified Petition for Alternative Writ of Mandamus alleging IPRA violations was filed by Plaintiff Ramos on July 15, 2020. The case is still pending.

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.

Heldbreder, 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, 2020 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.

Skeen, Clint – Tort Claim Notice received April 17, 2020 alleging false arrest, denial of 5th Amendment rights, as well as violations of Article II, Sections 10 and 18 of the NM Constitution by the Lincoln County Sheriff's Office.

Olsen, John – Tort Claim Notice received July 8, 2020 alleging negligent, malicious and/or tortious actions and/or omissions by the Lincoln County Detention Center and the Lincoln County Sheriff's Office including, but not limited to, infliction of pain and suffering as a result of their acts/omissions.

***Vega, Gary** - Tort Claim Notice received July 20, 2020 alleging tire damage due to claimant having driven in the bar ditch on Jicarilla Rd. due to County road graders.

***Nosker, Brian** - Tort Claim Notice received August 10, 2020 alleging improper maintenance of U.S. Forest Bridge at Glencoe

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.

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

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.

Vote: Motion passed (summary: Yes = 5).

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

Chair Draper recessed the Regular Meeting and convened the Closed Session at 10:18 AM.

Chair Draper recessed the Closed Session and reconvened the Regular Meeting at 11:42 AM.

14. Approval of Budget Adjustment for FY 20-21 by Resolution 2020-07

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

There was a general discussion regarding the budget recapitulation spreadsheet.

Motion: Adopt Resolution 2020-07 with corrected values, **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.

EXHIBIT B: Resolution 2020-07 is attached hereto in reference thereto made a part hereof.

15. Manager's Report

1. **COVID-19.** On August 6th, the Governor issued Executive Order 2020-056 requiring persons arriving in New Mexico from out of state to self-isolate for a period of time sufficient to ensure that the public health and safety is not jeopardized. Specifically,
 - a. Persons who have arrived in New Mexico from a location outside of the State must self-isolate or self-quarantine for a period of at least 14 days from the date of their entry into the State or for the duration of their presence in the State, whichever is shorter;
 - b. This self-quarantine order has exclusions:
 - Persons employed by airlines;
 - Those performing public safety or public health functions;
 - Military personnel and their dependents;
 - Federal employees; those employed by a federal agency or national defense contractor;
 - Emergency first responders and health care workers;
 - New Mexico residents who left the state to obtain medical care;
 - New Mexico residents who have left the State for less than 24 hours for matters attendant to parenting responsibilities;
 - Those arriving in the State pursuant to a Court order;
 - Persons who are employed or contracted by an "essential business", as defined by the operative public health order addressing mass gathering restrictions and business closures and who are traveling into New Mexico to conduct business activities.
 - c. Any New Mexico resident leaving the State for vacation or other leisure activities must quarantine upon returning to the State. New Mexico residents quarantining pursuant to this provision will not be eligible for paid sick leave pursuant the Families First Coronavirus Response Act;

The level of compliance with this Executive Order has not been uniform among County Employees, as no formal directive has been issued by the Manager's Office. To ensure all Departments and employees follow the same guidelines, I request Commission concurrence that:

- Any employee traveling out of state for reasons that do not meet the self-quarantine exclusions listed above must self-quarantine and use personal sick leave or vacation to cover the time away from the office;
- Employees who have been in contact with an individual who has tested positive must self-isolate until they can be tested, after the proper amount of time; and return to work upon receipt of a negative test. If job duties allow, this employee will be able to work from home and covered under the COVID-19 work-from-home coding. If the employee does not have a job that can be worked from home, the employee will be placed on COVID-19 administrative leave until they have been tested and can return to work.

2. **Census 2020 Update. Complete Count Committee.** Lincoln County Complete Count Committee Chairman Craig Westbrook has developed a 2020 Census Challenge to benefit Lincoln County schools. As explained, the school with the largest percentage of families responding will earn an additional bonus of \$500.
3. **Lodger's Tax Revenue Amount Collected.** Revenues grew by 17.9% from FY18 (\$65,102) to FY19 (\$76,949); and by 25.9% from FY19 (\$76,949) to FY20 (\$96,647). We expect these revenues to continue to grow, especially once the County identifies those revenues currently being paid to the Village of Ruidoso that should be receipted by the County of Lincoln. Alex Fuller can provide a summary of activities that have led to this growth in revenues; and respond to questions.
4. **Offer to Purchase County Property.** The County has received an offer for purchase of land east of the Capitan Clinic and Lincoln County Fairgrounds. The offer for the 2.17 acres of land is \$5,000. As plans to upgrade the fairgrounds is clearly on the Commission's Infrastructure Capital Improve Plan, Manager recommends rejection of this offer of purchase.

Motion: Decline offer for purchase of land east of Capitan Clinic, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Stone.

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

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

Chair Draper recessed the Regular Meeting 12:01 PM and reconvened at 1:00 pm.

15. Manager's Report – continued

Glenda Allen, Planning Department and project management stated the department submitted two grant applications to the Hubbard organization.

Joe Kenmore Office of Emergency Services Director informed Dark Canyon fire had reached 2,500 acres. Mr. Kenmore stated there had been some flash flooding in the Bonito Lake area. Mr. Kenmore stated the county would be reimbursed at 75% for the tent/shelter for LCMC. Mr. Kenmore stated the County could utilize the code Red to send out a message to Lincoln County residents concerning the 2020 census.

Renee Montes, Senior Services Director stated one employee tested positive for COVID-19 at the Ruidoso Downs site. Ms. Montes stated the site closed for 3 days to sanitize. Ms. Montes stated meals were still delivered during that time. Ms. Montes informed 5,900 meals were prepared and picked up in the Hondo and Capitan areas.

Brianna Ventura Human Resources Director/Administrative Assistant provided an update on current openings within the County. Ms. Ventura stated the State decided to not implement the 3% premiums. Ms. Ventura stated the County switched eye insurance providers to Eye Med.

Ms. Ventura reported Lincoln County Solid Waste is up in funds compared to last year with the addition of billing per premise per landowner. Ms. Ventura stated the compactor sites were operational in Arabella and Alpine Village.

16. Discussion and Direction for Projects to Include on FY 2022-2026 Infrastructure Capital Improvement Plan

Manager Taylor stated the Lincoln County Infrastructure Capital Improvement Plan (ICIP) is due to Local Government Division on Friday, September 18, 2020. Manager Taylor stated additional ICIP projects to be considered include:

Lincoln county Fairgrounds	\$750,000
Lincoln County Detention Center	\$140,000
Lincoln County Detention Center	\$175,000
30 New Radios with Man-Down Capabilities	\$ 30,000
Bridge repair	\$150,000
Dump Trucks (2)	\$320,000
Pavement of Roads	\$300,000

Jeff Honeycutt, Road Superintendent stated during budget he removed items on his list and requested they be included on the 2022-2026 Infrastructure Capital Improvement Plan consideration.

Beverly Calaway, Treasurer stated there is only one set of bathrooms located in the main courthouse complex for the use of the twelve (12) Assessor Staff, six (6) Treasurer Staff, and seven (7) Clerk Staff. Ms. Calaway informed the same set of two stall bathrooms would now accommodate the jurors who are called for jury selection by District/Magistrate Court. Ms. Calaway stated there is a great need to find a location to place new bathrooms in the courthouse for County employees.

Manager Taylor stated the County received \$90,000 to place ADA compliant single stall bathrooms in the existing hallway where the current public restrooms are. Manager Taylor stated the restrooms Treasurer Calaway is referring to would only serve County employees.

Glenda Allen, Planning director and project Management stated she would like to sit down with all departments hopefully by next commission meeting and compile a need list for the County.

17. Approval for Continuation of Lincoln County Livestock Head Tax

Nita Taylor, Manager informed the Lincoln County Predator Control Committee issued a petition to determine whether to continue the current Head Tax, which was currently set at \$0.75 per head for all livestock in Lincoln County. Manager Taylor stated if Lincoln County livestock owners representing fifty-one percent of the animals reported on the Lincoln County tax rolls approve the tax, then all livestock in the County are taxed.

Manager Taylor stated the returned petitions for Lincoln County resulted in a count of 15,975 head of livestock, of which 14,880 (93%) approved the continuation of the \$0.75 per head tax.

Motion: Approve the continuation of the Lincoln County Head Tax, **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.

18. Authorization to Submit Local Government Planning Fund Application

Manager Taylor stated the Road Department was requesting to submit an application for the local Government Planning Fund (LGPF) to the New Mexico Finance Authority's online application and account system. Manager Taylor stated the grant would be for the road work planned for Rancho Ruidoso Valley Estates.

Manager Taylor stated the \$50,000 planning grant would be submitted by Wilson @ Co. on behalf of the County of Lincoln.

Motion: Approve LGPF Grant, **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.

19. Authorization to Approve and Accept Capital Outlay Grants

Manager Taylor informed the Department of Finance Capital Outlay Bureau had notified the County their four projects were sold in June and anticipated the County would receive the grant agreements soon.

E2602: \$245,250 for fairground improvements

E2604: \$90,000 for courthouse improvements

E2605: \$100,000 for courthouse improvements
 E2608: \$460,340 for hospital improvements

Manager Taylor stated without Commission Authorization for the County Manager to accept the grants upon receipt on behalf of the County of Lincoln, acceptance would be delayed until the next Commission meeting, and therefore the commencement of the spending of grant funds would also be delayed.

Motion: Approval of the County Manager to accept the four grants and begin to process and apply project funds, **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.

20. Approval of Prior Year Invoices FY 19-20:

- a. PVT
- b. Total Destruction
- c. Office Depot

Manager Taylor stated Lincoln County's finance director received a bill with a past due balance from PVT. Manager Taylor stated it was found that the vendor had the incorrect billing address and it was corrected for future invoices.

Manager Taylor stated Total Destruction had unpaid invoices by Lincoln County and there was a miscommunication between the County and Office Depot Inc. Manager Taylor stated the County thought they were receiving a credit for items when it was a balance owed.

Motion: Approval to allow finance to process payment for all invoices, **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.

21. Compensation Advisory Board Recommendations for Job Reclassifications

Manager Taylor stated the Compensation Advisory Board met on Wednesday August 12, 2020 to consider proposed reclassification of the Records Coordinator in the Sheriff's Department, and Deputy Clerks in the Clerk and Treasurer's office. Manager Taylor stated the revised job description of the Records Coordinator showed additional duties tied to receiving and preparing all Inspections of Public Record Act requests and ensuring statutory obligation compliance; and filling in for the Sheriff's Office Administrative Assistant. Manager Taylor stated the request to increase the Grade from 14 to 17 was unanimously approved by the Compensation Advisory Board.

Manager Taylor stated the County Treasurer presented changing the Deputy Clerks to three different levels grades. Manager Taylor also stated the County Clerk presented a change in two of the Deputy positions to higher classifications.

Manager Taylor stated all recommendations passed the Compensation Advisory Board unanimously. Manager Taylor stated neither Treasurer Calaway nor Clerk Whittaker would request a formal change until mid-year when budget could be better analyzed.

Motion: Approve Grade Change for Records Coordinator, **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.

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

-Lincoln Historic Preservation Board

Motion: Appoint Jon Amaste to the Lincoln Historic Preservation Board, **Action:** Approve, **Moved by** Commissioner Allen, **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.

- 23. Executive Session Pursuant to the Open Meetings Act: Discussion of all Threatened and/or Pending Litigation Section 10-15-1, Sub-Paragraph (H) (7); Discussion of Limited Personnel Matters, Section 10-15-1, Subparagraph (H) (2); 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). – continued**

Motion: To Close The Meeting for the purposes of an executive session pursuant to the open meetings act: discussion of all threatened and/or pending litigation, section 10-15-1, subparagraph (h)(7); discussion of limited personnel matters, section 10-15-1, subparagraph (h)(2); 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)

Vote: Motion passed (summary: Yes = 5).

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

Chair Draper recessed the Regular Meeting and convened the Closed Session at 1:49 PM.

Chair Draper adjourned the Closed Session and reconvened the Regular Meeting at 2:00 PM.

Commissioner Willard attested that matters discussed in the closed meeting were limited to those specified in the motion for closure or in the notice of separate closed meeting.

- 24. Authorization to Schedule Public Hearing to Consider Other Outdated or New Lincoln County Ordinances**

There are no public hearings at this time.

- 25. Signing of Official Documents**

- 26. Next meeting:**

a. September 4, 2020 Special Commission Meeting (Impose Property Tax Rates) (Date is Subject to Change Depending on When Tax Rates Are Received)

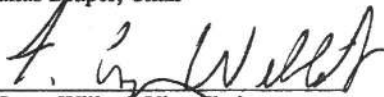
b. September 15, 2020 Regular Commission Meeting

- 27. Adjourn**

There being no further business to come before the Board of County Commissioners, Chair Draper adjourned the meeting at 2:02 PM.

County of Lincoln
Board of County Commissioners

Dallas Draper, Chair


F Lynn Willard, Vice Chair

Approved Telephonically
Preston Stone, Member

Thomas F. Stewart
Thomas Stewart, Member

Elaine Allen
Elaine Allen, Member

ATTEST:

Whitney Whittaker
Whitney Whittaker, County Clerk

September 15, 2020
Date Approved

