

## 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 December 15, 2020

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on December 15, 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 Ira Pearson, 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, **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. November 10, 2020 Special Commission Meeting
- b. November 17, 2020 Regular Commission Meeting

**Motion:** Approve the minutes of the November 10, 2020 Special Commission Meeting, and November 17, 2020 Regular Commission Meeting, **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. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims

c. Approval of Resolution 2020-22 Budget Adjustment FY 20-21

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

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

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

**EXHIBIT A:** Copies of the Consent Items including Resolution 2020-22 is attached hereto in reference thereto made a part hereof.

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

a. Smokey Bear Ranger District- Karl Honkonen (Interim Smokey Bear District Ranger)

Ranger Honkonen provided an update on forest activities. Ranger Honkonen informed Ski Apache will be opening Thursday December 17, 2020 at a 25% occupancy. Ranger Honkonen stated a temperature will be taken upon entry into the facility.

Ranger Honkonen informed the fire and fuel wood sales will be happening soon and the times and locations will be advertise throughout the county.

Commissioner Stone questions where the fuel wood allotments where located in Cora Dutton area.

Ranger Honkonen stated it is located on lots 15 and 16.

Robert Barber, Chair of LANRAC informed the Cora Dutton Allotments 15 and 16 are located on his land and there was another allotment located on land owned by David Cox called the Sinner Allotment.

b. Extension Services- Melanie Gutierrez

Melody Gains, Lincoln County Extension Services, stated she has been attending and hosting zoom meetings with surrounding counties to create a diabetic cooking creations cookbook.

Melanie Gutierrez, Lincoln County Extension Services provided an update on current 4-H workshops activities. Ms. Gutierrez stated in person meeting are slowly taking place. Ms. Gutierrez informed she held a braiding meeting in person following COVID safe guidelines. Ms. Gutierrez expressed the need to start holding more in person meeting with the kids and stated how beneficial it is for the kids to have in person training.

Ms. Gutierrez informed a steer jackpot will take place in Portales over the weekend and she will be attending with 3 members of the 4-H club.

c. South Central Mountain RC & D- Laura Doth

Mr. Pearson stated Laura Doth could not attend but will provide an update when available.

d. Upper Hondo Soil & Water Conservation District

Mr. Pearson stated Upper Hondo provided the agenda from their December 8<sup>th</sup> meeting.

e. LANRAC- Chairman Robert Barber

Robert Barber, Chair of LANRAC stated the committee had been working on two projects. Mr. Barber stated they continue to work with US Fish and Wildlife on the 2014 EIS and the 2015 Rules.

Mr. Barber stated the second project is in relation to BLM grazing regulations. Mr. Barber stated they will start looking at an administrative EIS.

Commissioner Stone expressed his concern about the state land lease on the definition of client. Commissioner Stone stated the definition could be interpreted in many ways and posed a concern, the concern being if a hunter that purchased a permit can then under that definition then become a client. Commissioner Stone stated the Cattle Growers of America are in discussion of the possibility of producing a Resolution to further define the issue. Commissioner Stone also informed that it would not be a bad idea for the commission to consider a Resolution as well.

**9. Memorandum of Understanding Between United States Department of the Interior (Bureau of Land Management - New Mexico State Office) and the County of Lincoln SunZia Proposed Project**

Ira Pearson, Manager stated the County of Lincoln has been invited to participate as a cooperating agency in the SunZia Project. Manager Pearson stated the Galileo Project, LLC has been retained by BLM for administrative support on the SunZia Project. Manager Pearson stated Grace Ellis is coordinating the MOUs between BLM and the cooperating agencies.

**Motion:** Approve the Memorandum of Understanding with the Bureau of Land Management, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

Commissioner Stewart informed White Sands Missile Range will also sign up as a cooperating agent.

Commissioner Stewart stated the segment in correlation with Lincoln County is minor but a good decision to participate as a cooperating agency.

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

**10. Renewal of Hazard Mitigation Plan for the County of Lincoln and Ruidoso**

Manager Pearson stated the final Hazard Mitigation Plan is not due until 2022, however, approval of a participation letter is needed for the process.

**Motion:** Approve Hazard Mitigation Letter and approve participation in the Lincoln County Multi-Jurisdictional Hazard Mitigation Plan, **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.

**11. Consideration to Approve Asset Transfer/Sale Between the Offices of Emergency Services of the Counties of Otero and Lincoln**

Manager Pearson informed Otero County currently had a 2000 Crew Cab Chevrolet service unit with only 15,647 miles and is requesting to transfer the vehicle to Lincoln County for the sum of \$500. Manager Pearson stated Lincoln County currently had a 2014 Dodge 4500 cab and chassis with 230,000+ miles and is requesting to transfer the vehicle to Otero County for the sum of \$500. Manager Pearson stated Lincoln County had obtained approval from the State Fire Marshal's office to utilize the current fire funds for this transaction.

**Motion:** Approve the transfer and sale of the vehicles, **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.

**13. Manager's Report**

**1. Spraying the Courthouse Complex**

BELFOR had 6 employees complete the project in five (5) hours – 50,000 sqft

## 2. Working During COVID:

The Lincoln County Courthouse Complex was closed during the week of Thanksgiving. This was a stressful week for employees, the public and the families of everyone involved. On December 4, 2020, the following email was sent to County employees: Starting Monday, December 7, 2020: Bring back staff to the Carrizozo Courthouse Complex with the following Guidelines: Make sure that staff work areas are at least 6 feet from one another We can work on rearranging on a case-by-case basis – if needed We can utilize "other" office space when needed Facemasks are to be worn when not at work area Conversations between individuals need to be at least 6 feet apart Minimize entering offices other than your work area Utilize in-boxes for transferring documents, mail or other material Wipe, clean and sanitize all work areas throughout the day Please help clean and sanitize common areas (door handles / bathrooms / trash bins.,etc.)

The Clerk's office has a walk-up window on the north side of the building for the public. The Assessor's office will be utilizing a walk-up window on the south side of the building. The Treasurer's office is not allowing the general public to enter at this time. The Sheriff's office is taking appointments only, and the Manager's office is limited to employees only

## 3. Electrostatic Spraying:

Joe Kenmore has secured a regular supply of Oxivir in both liquid form and Tb Wipes. This solution can be sprayed (or wiped) onto smooth and porous surfaces for disinfecting and odor neutralizing. Lincoln County has purchased four (4) electrostatic sprayers to be used in Lincoln County buildings. Joe and Arron are developing a training program for County Employees to use the sprayers and application of Oxivir. Buildings, vehicles and common areas will be sprayed and cleaned on a regular basis.

## 4. Town of Carrizozo Request:

On Monday December 7, I received an email from Mayor Ray Dean. Mayor Dean is being proactive in being prepared for inclement weather. If a "warming center" is needed for stranded motorists, concern regarding electrical outages arise. Carrizozo is looking to partner in finding a generator for emergency power. As this topic is in preliminary discussions, the Commission will be updated as we start to find possible solutions.

## 5. Annual Inspection of the Lincoln County Detention Center:

State law requires that the Board of County Commissioners inspect the local jail/detention center at least one time per calendar year. Due to the COVID-19 pandemic, it is not recommended that an in-person visit occur this year. On behalf of the Board of Commissioners, Manager Pearson will be performing the annual inspection. Working with Warden Colvin, Manager Pearson will inspect and document, by photos and/or videos, the on-sight visit to the Lincoln County Detention Center. The full report of this inspection will be presented for approval in the Regular Commission Meeting scheduled for Tuesday, January 19, 2021.

There was a general discussion regarding the use of video to inspect the jail during the pandemic.

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

Commissioner Stewart expressed his concern with the current county eye insurance. Commissioner Stewart stated disappointed with the available participating agencies that will accept this particular insurance.

Commissioner Allen informed the closure of the Zia track for the winter and that fact that Sunland Park is not allowing to take the horses started a petition calling an emergency to the wellbeing of the horses.

Commissioner Allen requested the possibility of creating work session to discuss solid waste matters so that the two new incoming commissioner could be brought up to speed with the matter prior to scheduling a public hearing to change an Ordinance.

Commissioner Willard reported the feral horses have moved from Alto now into the Village of Ruidoso. Commissioner Willard expressed with concern with the traffic flow and the amount of horses in the herd in a more populated area.

Robert Shepperd, Sheriff reported illegal dumping on the outside of Carrizozo on Snell Dr off of Highway 380. Sheriff Shepperd reported on legislative priorities for the upcoming legislative session.

Whitney Whittaker, Clerk informed an election for the NMC board member will be on January 12, 2021.

Beverly Calaway, Treasurer stated her office have collected 32.3 % property tax in the amount that was billed out for year 2021.

Walter Hill, Assessor honored Rodney Zamora, County GIS technician. Assessor Hill informed Mr. Zamora lost his life to COVID in November.

Wendy Ansel, Lincoln County resident expressed her concern with current solid waste billing on additional dwellings. Ms. Ansel informed she has a small casita that does not produce enough trash to be considered as an additional pickup. Ms. Ansel would like for that extra bill to be removed.

Commissioner Stone, stated his term as commissioner will end in 2020. Commissioner Stone stated was humble and extremely honored to be able to serve Lincoln County.

Chair Draper, thanked the commission and stated it was also a great honor to serve Lincoln County.

Vice chair Willard presented plaques to the two outgoing commissioners.

### **13. Manager's Report- continued**

Brianna Ventura, Human Resources director and administrative assistant reported on the county vacancies. Ms. Ventura stated she would reach out to eye med and look at the coverages.

Chair Draper recessed the regular meeting at 10:16 AM and reconvened the meeting at 10:30 AM.

### **14. Approval to Issue RFP for a Wireless Communication Facilities Consultant That Will Also Aide in the Revisions to the Current Ordinance**

Manager Pearson stated the County of Lincoln needed a third party to provide oversight of Ordinance No. 2012-03; an Ordinance Regulating Wireless Communications Facilities. Manager Pearson stated the current agreement between The Center for Municipal Solutions (CMS) and the County of Lincoln was signed in February of 2010. Manager Pearson informed a RFP was needed.

**Motion:** Approve RFP for Regulation of Wireless Communication Facilities. **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

### **15. Lincoln County Detention Center Update- Warden Scott Colvin**

Scott Colvin, Warden stated six (6) staff members and fifteen (15) detainees have contacted COVID. Warden Colvin stated the population for the month of December was sixty-eight (68) detainees and the average length of stay was forty-nine (49) days. Warden Colvin stated they hired a case worker for the facility and she is set to start soon.

Attorney Morel informed there was a court hearing about releasing detainees due to the COVID outbreak.

Commissioner Willard questioned if any of the detainees required hospitalization due to COVID exposure.

Warden Colvin stated no detainee requirement hospitalization, rather they just needed to quarantine for the appropriated amount of time.

### **16. Lincoln County Detention Center True-Up**

Manager Pearson stated the Correctional Solutions Group, LLC (CSG) has provided the true-up credit for November 2019- October 2020 General Liability Insurance and Performance Bond in the amount of \$5,506.89.

**Motion:** Approve transfer the True Up credit amount to the Lincoln County Detention Center Maintenance, **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 Medical Center Update-Todd Oberheu

Todd Oberheu, Hospital Chief Executive administrator reported Construction has stopped until the spring. Mr. Oberheu stated the completion of the demolition and work on the base course for the parking lot was completed prior to discontinuation. Mr. Oberheu reported the hospital had administered 500 free flu vaccines to both Lincoln County and Mescalero residents.

Mr. Oberhue stated Dr. Otero and Christel Dalton-Griego led a team charged with implementing an outpatient infusion clinic for COVID+ patients. Mr. Oberhue stated this clinic will be held in the tent and will administer Remdesivir, Bamlanivimab and other medications.

Mr. Oberhue stated he was pleased to announce that LCMC and Socorro have cooperatively hired Annabell Ocanas as our Finance Manager. Mr. Oberhue stated Ms. Ocanas will start January 4th.

Mr. Oberhue announced Dr. Carlos Revelo, internal medicine, and Dr. Sabrina Roche, family medicine, have accepted our offer. Mr. Oberhue stated Dr. Revelo is expected to start his practice in late December and Dr. Roche is expected to start in March.

Mr. Oberhue stated a significant surge in both inpatient and outpatient COVID cases. Mr. Oberhue stated a peak of 15 COVID inpatients during this time, in addition exceeding licensed capacity, as high as 124%, on multiple occasions throughout the pandemic.

#### 18. Consideration to Place a Service Window for County Assessor's Office

Manager Pearson reported due to the current pandemic, County Assessor Hill has requested for the County to design and execute a service window in the public hallway and/or in the current Assessor service entrance. Manager Pearson stated having this project completed before the return of the public inside the building, would be optimal. Manager Pearson stated this is to ensure the safety and wellness of our County employees as well as the public.

**Motion:** Authorize window for assessor office. **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. Approval to Extend Vacation Leave Usage for County Employees

Manager Pearson reported due to the COVID-19 pandemic, employees of Lincoln County have been unable to utilize their vacation leave. Manager Pearson stated in the personnel policy section 501.A.4 "No more than twenty (20) working days, or one hundred-sixty (160) hours of annual leave, may be carried forward from one payroll-end calendar year to the next. Manager Pearson state all excess annual leave shall be forfeited, if not used by the 15th of December of said calendar year, unless extenuating circumstances warrant approval of an extension to be forwarded to the County Manager for submission to the Board of County Commissioners of Lincoln County for approval."

**Motion:** Waive the requirement, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.



There was discussion if this would have an effect on the county audit and consensus was that the rollover would cause no disruption.

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

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

## 20. Mid-Year Salary Reviews

Manager Pearson stated elected officials are requesting a mid-year salary review of their current positions. Manager Pearson stated County Treasurer Beverly Calaway, County Clerk Whitney Whittaker and County Sheriff Robert Shepperd will present their requests to the Board of County Commissioners.

- a. Presentation by Sheriff Robert Shepperd for Increase in Step Pay for Transport Officers

**Motion:** Approve increase for transport officers effected the following pay starting work on Dec 26, 2020, **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.

- b. Presentation by Treasurer Beverly Calaway For Reclassification of a Deputy Treasurer Position

**Motion:** Approve increase for reclassification of Deputy Treasurer Position effected the following pay starting work on Dec 26, 2020, **Moved by** Commissioner Stewart, **Seconded by** Chair Draper.

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

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

- c. Presentation by Clerk Whitney Whittaker For Grade Equity Adjustments for two Deputy Clerks

**Motion:** Approve increase for two deputy county clerks effected the following pay starting work on Dec 26, 2020, **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.

## 21. CARES Act- Small Business Applications

Manager Pearson reminded in the Regular Meeting on November 17, 2020 the Board of County Commissioners directed Manager Pearson to solicit applications for the \$18,638 of CARES Act funding awarded to Lincoln County to small business. Manager Pearson stated the Commission decided to distribute the funds based on number of applications, amount requested and size of business. Manager Pearson stated two applications for the CARES Business Act reimbursements were received from Bonito Brewery and Pinon Pottery.

Commissioner Stewart provided an analysis on distributions for the two applications received; Bonito Brewery for \$13,046.00 and Pinon Pottery for \$5,400.00 for a total of \$18,446.00.

There was a lengthy discussion regarding if Pinon Pottery was inside the County of Lincoln and not a part of the municipality of City of Ruidoso Downs.

Attorney Morel informed the criteria for applications to be approved; they must not be a part of a municipality.

## 22. 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); Discussion of the Purchase, Acquisition or Disposal of Real Property or Water

**Rights by the Public Body, Section 10-15-1, Subparagraph (H)(8); and Limited Personnel Matters: County Attorney Request for Proposals Review, Section 10-15-1, Subparagraph H (2)**

**Motion:** To close the meeting for the purposes of an Executive Session to discuss Threatened and/or Pending Litigation Section 10-15-1, Subparagraph H. (7); Discussion of Limited Personnel Matters, Section 10-15-1 Subparagraph H. (2) Evaluation County Manager, Ira Pearson; and Discussion of the purchase, acquisition or disposal of real property or water rights by the public body, Section 10-15-1, Sub-Paragraph 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. A Disposition Order for Lack of Prosecution was entered on August 25, 2020. An Order Reinstating Case was entered on October 19, 2020.
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. **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.



10. **Phillip Vice v. L.C. Assessor, Cause No. D-1226-CV-2020-00192** A Petition appealing the decision of the Lincoln County Valuation Protest Board was filed by Plaintiff Vice on September 11, 2020. On October 23, 2020, Lincoln County, through its counsel Daniel Macke, withdrew its Motion to Dismiss. The case is still pending.
11. **Alto Lakes Golf & Country Club v. Smile 4 U, et al, Cause No. D-1226-CV-2020-00184** Complaint to Foreclose Lien was filed on September 1, 2020 and an Amended Complaint to Foreclose Lien was filed to add the County of Lincoln as a Defendant. The County filed its Answer to the Complaint on October 23, 2020. The case is still pending.
12. **\*Alto Lakes Golf & Country Club v. Jack H. McCloud, et al, Cause No. D-1226-CV-2020-00235** Complaint to Foreclose Lien was filed on October 19, 2020. The County filed its Answer to the Complaint on December 3, 2020. The case is still pending.
13. **\*Alto Lakes Golf & Country Club v. J. Lynn Starr, et al, Cause No. D-1226-CV-2020-00236** Complaint to Foreclose Lien was filed on October 19, 2020. The County filed its Answer to the Complaint on December 3, 2020. The case is still pending.
14. **\*Alto Lakes Golf & Country Club v. Moises De La Torre, et al, Cause No. D-1226-CV-2020-00237** Complaint to Foreclose Lien was filed on October 19, 2020. The County filed its Answer to the Complaint is on December 3, 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.

**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, 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.

#### **Deer Park Paving Lien Assessments/Foreclosures**

**Village of Ruidoso** – The Village of Ruidoso, at its September 8, 2020 Regular Monthly Meeting, moved "to direct legal to take any and all action including litigation in District Court regarding the threats by Lincoln County Commission to increase property taxes on short term rental properties located in the Village of Ruidoso."

**Stark, Cary** – Tort Claim Notice received October 9, 2020, in which Claimant alleges that, after making a 911 call concerning the driver of a vehicle he was a passenger in, the responding officers allowed him to leave with the same driver which ultimately resulted in a crash causing Claimant to sustain injuries.

**Touche, Claudia and Trespacios, Antonio** – Tort Claim Notice received November 5, 2020 alleging false arrest, excessive force, intentional infliction and emotional distress, and harassment by the Lincoln County Sheriff's Deputies, and claims against the County of Lincoln

based on retaliation, negligent training and supervision, and for inadequate policies and procedures.

**\*Goodman, John and Lovone** – Tort Claim Notice received November 24, 2020 alleging substantial damage as a result of Lincoln County Sheriff Deputy Joshua William Snodgrass' failure to yield right of way.

## 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.

**Divebliss, 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.

**Divebliss, 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

**Action:** Approve and allow the two newly elected commissioners to attend executive session, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

Chair Draper recessed the Regular Meeting and convened the Closed Session at 11:36 AM.

Chair Draper adjourned the Closed Session and reconvened the Regular Meeting at 12:21 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.

## **21. CARES Act- Small Business Applications- Continued.**

Manager Pearson confirmed pinon pottery is in the county and not a part of the City of Ruidoso Downs.

**Motion:** un-table item, **Moved by** Commissioner Stewart, **Seconded by** Chair Draper.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 4, no=1).

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

**No:** Commissioner Stone.

**Motion:** Approve applications for CARES Act, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 4, no=1).

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

**No:** Commissioner Stone

## **23. Legal Services for the County of Lincoln**

Manager Pearson reminded Attorney Alan Morel's current contract would expire at the end of this year.

### **a. Award of RFP 20-21-006: Legal Services for the County of Lincoln**

Manager Pearson stated there were 3 respondents to the RFP

**Motion:** award RFP to Attorney Alan Morel for legal services, **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

### **b. Approval of County Attorney Contract**

**Motion:** Approve the renewal of Contract proposal number two (2) to Attorney Morel, **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

## **24. Signing of Official Documents**

Chair Draper, Commissioner Stewart, Commissioner Willard, and Commissioner Stone authorized the Clerk to use electronic signatures.

## **25. Next meeting:**

### **a. January 19, 2021 Regular Commission Meeting**

## **26. Adjourn.**

There being no further business to come before the Board of County Commissioners, Chair Draper adjourned the meeting at 12:28 PM.

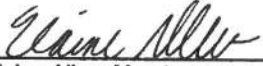
County of Lincoln  
Board of Commissioners

Approved Telephonically

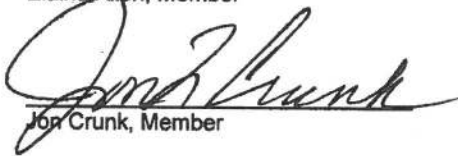
Thomas F. Stewart, Chair

Approved Telephonically

F Lynn Willard, Vice Chair



Elaine Allen, Member



Jon Crunk, Member

Approved Telephonically

Todd Proctor, Member

ATTEST:



Whitney Whitaker, County Clerk

January 19, 2021

Date Approved

