

## 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 February 18, 2020

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on February, 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 8:29 AM.

#### 2. Roll Call

##### Roll Call.

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

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 vote (**summary:** Yes = 5).

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

#### 6. Approval of Minutes:

- a. January 28, 2020 Regular Commission Meeting

**Motion:** Approve the minutes of the January 28, 2020 Regular Meeting, **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 Willard, Commissioner Stone.

#### 7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month ending January 31, 2020
- c. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims
- d. 2019 Volunteer Firefighters Annual Reporting Lincoln Volunteer Fire Department

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

Commissioner Stewart questioned the revenues received regarding the Road Department's budget and if the County would be able to cover the 1/8<sup>th</sup> requirement set by state statute.

Beverly Calaway, Treasurer stated their office will work with the county manager and come back next meeting with projections.

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

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

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

#### **8. Approval of Budget Adjustment FY 19/20 by Resolution 2019-29**

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

**Motion:** Approve Resolution 2019-29, **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 Willard, Commissioner Stone

**EXHIBIT B:** Copy of Resolution 2019-29 is attached hereto in reference thereto made a part hereof.

#### **9. Forest, Land & Natural Resources Matters:**

##### **a. Smokey Bear Ranger District – Acting Ranger Larry Cordova**

Larry Cordova, Acting Ranger for the Smokey Bear Ranger District reported low fire danger and no fire restrictions. Mr. Cordova stated they will begin to start burning piles in upper Cedar Creek and/or Gavilan once conditions allow. Acting Ranger Cordova stated they received 29 letters during public comment on the Smokey Bear North Restoration Project Draft. Mr. Cordova stated it was mostly endorsements for thinning but there was a strong opposition to the use of herbicides on native juniper.

Acting Ranger Cordova reported Tim Carroll, Roads Manager modified the County Road Use Agreement to include \$30,000 for milling in South Fork Campground and \$23,000 for road maintenance work.

Acting Ranger Cordova stated the forest service would work with Game and Fish and the Village of Ruidoso to develop conservation magnets containing information about short-term rentals and the negative consequences of feeding wildlife.

Commissioner Stone questioned if the forest service had a response or an action plan to the opposition of herbicide in the juniper.

Acting Ranger Cordova stated the draft was still under review and no decision was made at that time.

Acting Ranger Cordova stated the forest service had a proposal to purchase some land around Bonito Lake. Mr. Cordova stated the lake would still be owned by the City of Alamogordo.

##### **b. South Central Mountain RC & D**

Manager Taylor reported Rick Merrick, Community Forester was unable to attend but provided information about the draft Fire Adapted Community Ambassador program and the New Mexico Drought information.

**c. Upper Hondo Soil & Water Conservation District**

Judy Bock, Program Director reported continued efforts were being made to educate the public on the hazards of noxious and invasive species. Ms. Bock stated articles were published in the local newspaper, community meetings were attended, and information could be found on the website.

Ms. Bock stated she supported the Forest Service taking ownership of the land around Bonito Lake.

**d. Lincoln / Ft. Stanton Historic Sites**

Manager Taylor informed Tim Roberts, Chief Deputy was unable to attend this meeting.

**e. Bureau of Land Management**

Chuck Schmidt, Roswell Field Manager stated Bureau of Land Management (BLM) would work with Game and Fish about stocking the lake. Mr. Schmidt stated the conditions in the river would support cold water fish.

Mr. Schmidt stated BLM would like to upgrade the campground on State Highway 220 and bring more water sites to the area. Mr. Schmidt stated BLM engineer staff recommended Lincoln County retain the right to utilize the road easement. Mr. Schmidt reiterated the road did not currently provided maintained access to BLM land.

Ruben Sanchez, Acting Field Manager stated the Bureau of Land Management would like to acquire privately owned property adjoining the Fort Stanton- Snowy River Cave National Conservation area. Mr. Sanchez stated the property is two tracts of land containing 99.89 acres and is known as Ft. Stanton Falls.

Commissioner Stone expressed concern about the BLM purchasing the privately owned land.

Chair Draper questioned if the gate at Fort Stanton was unlocked and access was available to the public.

Mr. Sanchez stated the gate was currently locked and they were looking into adding some wire fence around the area.

**f. LANRAC**

Robert Barber, chair of LANRAC Committee reported the committee would review the comments from the Smokey Bear North project. Mr. Barber stated the use of the herbicide was well balanced and managed and only a targeted amount would be used, there would be no overspray.

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

Commissioner Stewart reported an increased launch at Fort Wingate. Commissioner Stewart stated on February 20, 2020 White Sande Missile Range would fire a black dagger 2 stage missile. Commissioner Stewart stated he predicts road closures that morning.

Commissioner Allen reported she will continue to attend the Greentree meetings and other Community meetings around the county.

Whitney Whittaker, County Clerk reminded Election Day for the Municipal Elections would be on March 3, 2020. Ms. Whittaker urged voters to contact their Municipal Clerk if they needed information or assistance.

Ms. Whittaker reminded the 2020 candidate filing day would be held on March 10, 2020 from the hours of 9:00 AM- 5:00 PM. Ms. Whittaker informed the Lincoln County Clerk would be the proper filing officer for county candidates as well as any State Representative, State Senate, and District Attorney who reside in Lincoln County.

Beverly Calaway, Treasurer stated the Lincoln County Treasurer's office had collected 68% of property taxes and the office would be sending out reminder letters in March for the second half of the taxes.

Robert Shepperd, Sheriff speaking as Lincoln County's NMC Board Member stated there were many bills on the NMC radar and he would keep the Commission informed on any major actions which would directly affect the County.

Chair Draper stated he attended the Southeastern New Mexico Economic Development District (SNMEDD) meeting. Chair Draper stated he also attended the Lincoln County Days in Santa Fe.

Jim Spiri, Resident of Lincoln County expressed concerns about dumpsters in his area. Mr. Spiri stated the dumpsters were overflowing and the land behind the dumpsters were beginning to look like a landfill pit.

Mr. Spiri stated a red dodge vehicle crashed into the Bonito River and has been there for a week.

Jeff Bleau, resident of Alto stated the Fort Stanton Falls property owner is a nonresident that resides out of state. Mr. Bleau stated the land was part of the Vista Rio Bonito Subdivision which had covenants and restrictions on the property. Mr. Bleau expressed his concern that if BLM took over ownership of the area and granted public access it could cause an increase in traffic flow. Mr. Bleau stated local residents should oppose.

**10. Approval of Lincoln County Commission Proclamation Recognizing March 2020 as Red Cross Recognition Month**

Ms. Taylor presented the proclamation recognizing and honoring the American Red Cross of Lincoln County, New Mexico. Ms. Taylor stated the proclamation outlined details of the services provided by the Red Cross to individuals and families in need and defined the fundamental principles of the Global Red Cross Network.

**Motion:** Approve Proclamation recognizing March 2020 as Red Cross Recognition Month,  
**Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Robert Barber, American Red Cross member stated the Red Cross takes great efforts to educate the citizens and community members. Mr. Barber stated the American Red Cross would check and replace in home smoke detectors.

Commissioner Willard read into record the final whereas in the proclamation which stated the Red Cross activities have been focused on making Lincoln County communities more resilient and better prepared to respond and recover from local disasters.

Joe Kenmore, Office of Emergency Services Director stated having the assistance of the American Red Cross was very beneficial to Lincoln County.

**12. Approval of FY 18-19 Audit Brief – Presented by Daniel Trujillo of Kubiak, Melton & Associates, LLC**

Manager Taylor stated the independent Public Account (IPA) Daniel Trujillo Director of Audit with Kubiak Melton & Associates LLC submitted the Lincoln County Audit to the Office of the State Auditor on December 3, 2020.

Daniel Trujillo, CPA, CFE stated The State of New Mexico Audit Rule required presentation of the final audit report by the accounting firm to a quorum of the governing authority at an open meeting. Mr. Trujillo stated the audit was submitted in a timely manner to the NM State Auditor's Office and was officially released for public review.

Mr. Trujillo stated Lincoln County received an "unmodified" opinion which affirms the financial statements as presented by the County.

Daniel Trujillo, reviewed the fiscal year 2018- 2019 audit findings for Lincoln County.

**Motion:** Approve the Fiscal year 2018-2019 Audit, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Willard.

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

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

### 13. Lodgers Tax Audit – FY19

#### a. Obtain Board of County Commissioners Random Selection of Lodgers for FY19 Annual Audit

Manager Taylor informed in Accordance with County Ordinance 2019-3 the County Commission shall select one or more vendors for annual random audit. Ms. Taylor stated the audit is to verify the amount of occupancy tax on the rent which is collected from each vendor audited. Ms. Taylor stated the Commission had the responsibility to determine the number to be audited and then to select the vendors for audit.

Ms. Taylor stated the audited vendors had been divided into two pools one of large businesses and the other of smaller businesses. Ms. Taylor stated the County of Lincoln currently had 19 active vendors during the fiscal year 2018-2019.

#### b. Approval for Kubiak, Melton @ Associates to Conduct Annual Lodgers Tax Audit

Ms. Taylor informed Kubiak, Melton & Associates (KMA) was to assist in evaluating the vendor compliance with the remittance of Lodgers' Tax to the County for the year.

**Motion:** Acknowledge receipt of the random audit of Lodger's Tax for Fiscal Year 2019-2020 and retain Kubiak, Melton & Associates to conduct Lodgers Tax Audit, **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 Willard, Commissioner Stone.

Chair Draper recessed the regular meeting at 10:29 AM and reconvened at 10:41 AM.

### 14. Lincoln County Detention Center Update

Manager Taylor reminded at its January 28, 2020 regular meeting the Commission heard a presentation on the SOTER body Scanner. Ms. Taylor stated John Shannon of OD Security North America Submitted a cost proposal with four options for the County of Lincoln to consider.

Ms. Taylor stated the Administrative Office of the Courts had developed a data-sharing network called the *dataXchange platform*. Ms. Taylor stated the goal from the network is to create a data warehouse that criminal justice and behavioral health agencies and courts could easily access to make informed decisions.

Ms. Taylor stated the County of Lincoln and CSG continued to work together to ensure a smooth transition. Ms. Taylor stated the physical building needs were being identified and resolved.

Carlos Morales, Warden informed the detention center had a preventative maintenance plan in place to continue with the upkeep of the facility. Warden Morales stated privacy doors were to be installed in the restrooms for detainees per the Prison Rape Elimination Act.

**Motion:** Direct the county manager to bring the purchase of the Body Scanner back to the Commission during budget, and enter into an MOU with the AOC, **Action:** Approve, **Moved by** Commissioner Stewart, **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.

#### 15. Resolution 2019-30 – School Bus Route Policy

Alan Morel, Attorney stated Resolution 2019-30 School Bus Route Policy would rescind Resolution 92-95 if approved by the Commission. Attorney Morel reviewed the changes. Attorney Morel stated the sections added were section 1.7 Roads Eligible for Blading, section 2.2 Annual Review, and section 4.0 Hold Harmless.

**Motion:** Approve Resolution 2019-30, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Commissioner Stone stated the Resolution did not address all issues on the table and was concerned as to why the term feeder route was removed.

Attorney Morel stated the word feeder route was deleted from state statute.

There was a general discussion on the definition of a private road.

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

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

**No:** Commissioner Stone.

**EXHIBIT C:** Copy of Resolution 2019-30 is attached hereto in reference thereto made a part hereof.

#### 16. 2020/2021 Local Government Road Fund Projects: CAP/COOP/School Bus Programs

Manager Taylor stated the Road Superintendent's proposed Projects for FY 2020-2021 State Highway Local Government Road Fund Program were to be submitted to the New Mexico Department of Transportation by March 13, 2020. Ms. Taylor stated New Mexico DOT, District Two Engineering Support Division is soliciting applications for the Local Road Fund Program.

Ms. Taylor stated per Statute Section 67-3-28 NMSA 1987 these funds are to assist local public agencies in "project development, construction, reconstruction, improvement maintenance or repair of public highways, streets and public school parking lots, or for the acquisition of rights of way therefore or for material for the construction of improvement thereof" Ms. Taylor stated the Local Road Fund Program funds 75% of the project, with the County funding 25%.

Proposed options		Total	Road Fund	County
CAP Program	Gavilan Canyon Road	\$168,820.06	\$126,615.05	\$42,205.01
COOP	Gavilan Canyon Road	\$ 85,145.46	\$ 63,859.10	\$21,286.36
School Bus Route	Gavilan Canyon Road	\$ 86,435.06	\$ 64,826.30	\$ 21,608.76

**Motion:** Approve the Road Superintendent's recommendation for Gavilan Canyon Road proposals, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Commissioner Stone questioned the road fund and how much is school bus funding.

David Roybal, Pettigrew and Associates stated \$86,435.07 is for school bus funding.

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

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

#### 17. Award of RFP 19-20-002 – Ruidoso Downs Senior Center Renovations

Ms. Taylor informed the RFP's for the Ruidoso Downs Senior Center Renovations in Lincoln County were due on February 11, 2020 at 2:00 PM. Ms. Taylor stated an addendum was issued extending the date to February 12, 2020 due to weather conditions.



**Motion:** Award RFP to Billy Roach Renovations, LLC subject to approval from the City of Ruidoso Downs, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Renee Montes, Senior Services program stated the cost for the renovation is approximately \$100,000 and the grant received was in the amount of \$125,000.

#### 18. Approval of Change Order No. 3 for Hondo Fire Station Construction

Manager Taylor stated the design and construction had been financed through a number of funding sources; NMFA Loan in the amount of \$461,904 and two Legislative Appropriation Grants one awarding \$25,000 and another at \$210,000. Ms. Taylor informed the funding sources were not sufficient to cover the original contract amount of \$747,784.00 including GRT. Ms. Taylor informed the Fire Station also subsequently applied for and was granted a Fire Marshal's Grant in the amount of \$110,000 to construct the mezzanine portion of the station. Ms. Taylor stated the Fire Department has been accruing Fire Funds and now has adequate funds to complete the first floor interior buildout. Ms. Taylor stated Change order 3 will complete this work with a total cost of \$247,925.

**Motion:** Approve change order No. 3 in the amount of \$247,925, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Commissioner Stone raised his concern that the building was costing them more than it would to construct a new Senior Center next door.

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

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

#### 19. Status of Potential Purchase of Properties:

- a. Review by NM Property Tax Division of Nogal Property Appraisal
- b. Fourth Agreement for Extension of Closing Date for Nogal Property

**Motion:** Approve the Fourth Agreement for Extension of Closing Date, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

**No:** Commissioner Willard.

- c. Review by NM Property Tax Division of Copper Ridge Property Appraisal

#### 22. Manager's Report

1. **Bureau of Land Management Overhaul of Grazing Regulations** on grazing on 155 million acres of public lands across the western United States. BLM noticed four locations for public meetings about the proposed revisions: 1. Miles City, Montana (February 6), Las Cruces, New Mexico (February 11); Elko, Nevada (February 18) and Casper, Wyoming, (February 20).

2. **NM Supreme Court Mental Health Summit; Lincoln County Team.** As discussed in the January Commission meeting, the New Mexico Supreme Court will host the first-ever state-wide Summit to address improving the court and community responses to those with mental and behavioral health illnesses. Each Judge is to appoint members to the District team. At Judge Bryant's invitation, I will attend and participate in this Summit.

3. **A Complete Juvenile Justice System Matters to New Mexico.** NMC's General Counsel, Grace Philips is a long-time advocate of the treatment of and proper housing for juveniles in county facilities. At **Exhibit 4** is an informative article regarding how the juvenile justice treatment and facilities have changed over the years:

- a. The number of youth detained have decrease by 39%: from 4,056 in 2020 to 1,597 in 2019;

- b. Today only six of the fourteen facilities that were open in 2010 remain; and two of those may close;
- c. Youth may be housed hours from their homes and support systems and often must be transported long distances;
- d. These concerns and others mentioned in the article have generated House Memorial 14 and Senate Memorial 15 to study and make recommendations for solutions.

4. **HAT'S OFF** to the Lincoln County Road Superintendent and crew members for their tireless efforts to keep our roads safe during the inclement weather the last couple of weeks. Road Superintendent Honeycutt reports that his team, between January 31<sup>st</sup> and February 12<sup>th</sup>, worked a total of 974 hours with 25% of those hours being overtime hours. Several days, County blademen and other operators were working at 12:30 a.m. in an attempt to keep our roads clear, and our residents and visitors safe. Thanks to this hard-working team who stepped up to the challenge.

5. **Cost of Care Agreement Between Bernalillo County and Lincoln County for Housing of Juveniles**. The County has received an updated agreement which is to go into effect on July 1, 2020. See **Exhibit 7**. As detailed in Paragraph 3, daily cost per detainee is \$225.00; and detainees that require enhanced supervision (one staff for one detainee) will be charged a daily rate of \$300.00 per day. Attorney and Manager will review Cost of Care Agreement closely and bring back to Commission for action in March.

6. **Update of Schedule Regarding the County's Intent to Issue Taxable Industrial Revenue Bonds**. During its November 19, 2019 meeting, the Commission Adopted Resolution No. 2019-20 ("Inducement Resolution") declaring its intent to issue Taxable Industrial Revenue Bonds. The current schedule is for the Commission to consider final action on the ordinance authorizing the issuance of the Bonds for these projects at its regular meeting on Tuesday, March 17, 2020. It is a requirement that the County Assessor and all Taxing Jurisdictions receive notification of such intended action thirty days in advance. See **Exhibit 8** for example of letter that was mailed to the Assessor and each Taxing Jurisdiction for the projects: 1) Duran Mesa LLC Project; 2) Red Cloud Wind LLC Project; and 3) Tecolote Wind LLC Project. Taxing Jurisdictions consist of school districts, Soil & Water Conservation Districts; municipalities; Water & Sanitation Districts.

Chair Draper recessed the regular meeting at 11:56 PM and reconvened at 1:00 PM

## 20. NOON – INSPECTION OF LINCOLN COUNTY DETENTION CENTER

### 21. Replacement Hospital Update

Mike McDonald, Project Manager with Jaynes Corporation reported the first floor subcontractors were working on a punch list and the final Mechanical, Electrical, and Plumbing inspections by Construction Industry Division. Mr. McDonald informed the second floor was wrapping up the casework with the installation of the ceilings, and equipment start-ups.

Mr. McDonald reported some of the major milestones reached in the last month included the 2<sup>nd</sup> floor finishes, relocation and MRI opening, ceiling grid installed in all areas, and the 2<sup>nd</sup> floor light fixtures were completed.

Mr. McDonald reported an update on the installation of the sewer tie in with the Village of Ruidoso. Mr. McDonald stated the Village of Ruidoso had to replace PVC pipe where the tie in was located for the hospital. Mr. McDonald stated they will need to complete the asphalt in order to have more parking available.

Ms. Taylor stated the sewer tie in project should start in 2 to 3 weeks.

Todd Oberheu, Chief Executive for the Lincoln County Medical Center stated the hospital received a second five star rating again for the year 2019. Mr. Oberhue stated this is the first hospital to receive it consecutively. Mr. Oberhue stated the government awards only the top facility with only 400 facilities are chosen.

Lisa Crenshaw, LCMC employee presented a check in the amount of \$56,526 from volunteer donations from the employees of the Lincoln County Medical Center.



22. **Manager's Report- continued.**

7. **Grant Project Status.** Several of our projects are steadily moving forward. The **White Oaks Fire Station Expansion** is in the final construction stage. The building construction is complete, and has been CID inspected. The final task to complete is the pouring of the concrete apron, which has been delayed because of weather. A final walk-through should be scheduled in the next week or two. This project adds a second building, required to store apparatus. The **Hondo Senior Center**, funded largely by a Community Development Block Grant ("CDBG"), is design complete, and will have an RFP for construction issued in the near time frame. As this is CDBG funded (federal), we must proceed by following the strictly defined, required processes. Per Commission action today, the RFP for **Ruidoso Downs Senior Center Renovations** will be award, with work commencing in the near term. This project is funded by a Capital Outlay grant. Preliminary architectural drawings are expected this week for the Lincoln County Detention Center Expansion (Sally Port), with construction closely following. This work is being funded by two separate Capital Outlay grants.

8. **HB 349 and SB 207 Allocations for Capital Outlay Grants.** HB 349, as it currently stands, approves funding for four of the County's top five ICIP projects:

a. Hospital Replacement	\$460,340
b. Fairgrounds & Arena Improvements	\$245,250
c. Courthouse Courtyard Improve (drainage)	\$100,000
d. Courthouse Accessibility Improvements	<u>\$ 90,000</u>
	<b>\$895,590</b>

**SB 207 – General Obligation Bond Projects – Senior Centers**

a. Vehicles for Carrizozo, Hondo & Ruidoso Downs	\$90,166
b. Hondo Equipment	<u>\$42,240</u>
	<b>\$132,406</b>

**Departmental Heads.**

**Brianna Herrera, Human Resources Director** informed on all open positions including an Operator II position and Deputy Sheriff position.

**Billie Jo Guevara, Finance Officer** informed Rose Ann Romero who was currently in the Treasurer's department moved to fill the Solid Waste position. Ms. Guevara stated the new television in the Commission room was operational, so now we will be able to view on two screens rather than the one we originally had.

**Renee Montes, Senior Service Director** she attended a meeting in Las Cruces to take courses towards her recertification in water operational management. Ms. Montes stated she will attend the meeting for capital outlay training for the upcoming year. Ms. Montes stated will be working with Craig Westbrook on the 2020 census and getting the seniors informed.

**Glenda Allen, Planning and Project Management** stated her office will conduct a search to review the 2020 maps reviewed by the Boundary Validation Program and signed by Chair Draper. Ms. Allen stated continued work on the flood plain determination. Ms. Allen stated she would like Host Compliance to give an informational presentation next Commission meeting. Ms. Allen reported the office is currently undergoing a review of lodger tax permits and well as alarm permits. Ms. Allen stated the sub office in Ruidoso is open and available for the public. Ms. Allen informed continue search for grant opportunities in the county.

**Joe Kenmore, Office of Emergency Services Director** reported his office received 18 calls since the last commission meeting. Mr. Kenmore informed a call concerning smoke and ending up being heavy fog in the area. Mr. Kenmore stated he will attend the Sierra Blanca Wildland Fire Academy meeting at the Convention center February 10, 2020- February 14, 2020. Mr. Kenmore stated continued efforts to inform the public about the national Ready, Set, Go. Mr. Kenmore address the appreciation of the Forest Service's placing signage on some of the trails.

24. **Authorization to File Solid Waste Liens**

a. Marcus Salcido	\$1,576.58
b. Fermin Salcido	\$1,160.80
c. Godfrey & Cynthia Gomez	\$ 703.48
d. Martin & Deborah Gomez	\$ 509.75
e. Kelly McCarty	\$ 647.72

f.	James Sainz & Kendra King	\$ 647.72
g.	Leonor Robles, Margarita Gardea, and Leonor Brennen	\$ 472.32
h.	Jonathan & Evelyn Blair	\$ 621.26

**Motion:** Approve the filing of Solid Waste Liens as listed, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

**No:** Commissioner Stone.

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

- a. **Rio Bonito Folk Festival**  
Request: \$2,000.00  
Date(s) of Event: May 15, 2020  
Presenter: Lisa Dolle/Fort Stanton, Inc.  
Amount Recommended: \$2,000.000
- b. **Carrizozo Music Concert Series & Events**  
Request: \$5,000.00  
Date(s) of Event: January – December 2020  
Presenter: Fran Altieri/Carrizozo Music Inc.  
Amount Recommended: \$5,000.00
- c. **Aim High**  
Request: \$8,500.00  
Date(s) of Event: June 27, 2020  
Presenter: Rhonda Vincent/ENMU-Ruidoso Foundation  
Amount Recommended: \$7,000.00
- d. **Alto Artist Tour 2020**  
Request: \$3,000.00  
Date(s) of Event: August 6-9, 2020  
Presenter: Lynn Eckman/Alto Artist Tour  
Amount Recommended: \$3,000.00
- e. **Lincoln County Art Loop Tour**  
Request: \$3,500.00  
Date(s) of Event: July 3-5, 2020  
Presenter: Lynn Eckman/Lincoln County Art Loop  
Amount Recommended: \$3,500.00

**Motion:** Approve the Lodger's Tax Committee amounts presented for a total amount of \$20,500.00, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

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

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

**23. Approval of Resolution 2019-31: Authorization for Submission of the 2-year Area Plan for Services provided to the Senior Citizens.**

**Motion:** Approve Resolution 2019-31, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Commissioner Willard questioned how many people responded to the RFP.

Renee Montes, Senior Center Program Director stated every four years the Non-Metro Area Agency on Aging issues its Request for Proposal and four-year plan. Ms. Montes stated the RFP would apply to services provided from July 1, 2020 through June 30, 2022. Ms. Montes informed the County's response to the RFP would be for the provisioning of services to the elderly to include congregate meals, home delivered meals, and transportation.

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

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

**EXHIBIT D:** Copy of Resolution 2019-31 is attached hereto in reference thereto made a part hereof.

**26. Consideration of Appointments and Removals from Boards/Commissioners' Committees:**

**c. Labor Management Relations Board**

**Motion:** Appoint Robert Barber upon agreement of the Labor Management Relations Board,

**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 Willard, Commissioner Stone.

**a. Chaves County Community Action Program (State Statute)**

**Motion:** Appoint Preston Stone to the Chaves County Community Action Program, **Action:** Approve, **Moved by** Chair Draper, **Seconded by** Commissioner Allen.

Commissioner Stone declined appointment.

**b. Interstate Stream Commission (Sub-committee on the Pecos)**

**Motion:** Appoint Dallas Draper to the Interstate Stream Commission, **Action:** Approve, **Moved by** Commissioner Stone, **Seconded by** Commissioner Allen.

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

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

**d. Lincoln County Historic Preservation Board**

**Motion:** Appoint Jacque Hair-Garner to the Lincoln County Historic Preservation Board, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Willard.

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

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

**e. New Mexico County Insurance Authority Voting Member and Alternate**

**Motion:** Appoint Tom Stewart to the New Mexico County Insurance Authority Voting Member and Dallas Draper as alternate, **Action:** Approve, **Moved by** Commissioner Allen, **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.

**f. Road Review Advisory Committee**

**Motion:** Appoint Lance Hale and Billy Seebach, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Stone.

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

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

**g. Southeastern New Mexico Economic Development District (SNMEDD)**

**Motion:** Appoint Dallas Draper to the Southeastern New Mexico Economic Development District and Lynn Willard as alternate, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Chair Draper.

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

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

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

Ms. Taylor stated there were no public hearings scheduled at this time.

**29. A Resolution Opposing "Red Flag" Gun Control Bill Pending in the New Mexico legislature**

Robert Shepperd, Sheriff stated the purpose of the Resolution was to protect the second Amendment of the United States Constitution for an individuals right to bear arms.

**Motion:** Approve Resolution 2019-32, **Action:** Approve, **Moved by** Commissioner Stone, **Seconded by** Commissioner Stewart.

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

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

**EXHIBIT E:** Copy of Resolution 2019-32 is attached hereto in reference thereto made a part hereof.

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

**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); And Discussion Of The Purchase, Acquisition Or Disposal Of Real Property Or Water Rights By The Public Body, Section 10-15-1, Subparagraph (H)(8).

**New or Updated Matters since last report \***

1. **Rancho Ruidoso Valley Estate Homeowners' Association v. Roy Padilla, et. al. – D-1226-CV-2017-00195** Complaint filed by RRVEHA for foreclosure of the Homeowners' Association Assessment Lien. The County is a named Defendant due to the filing of a GSWA lien on March 22, 2006, and a L.C. Solid Waste Lien filed on December 16, 2016 for non-payment of solid waste services and potential ad valorem taxes due and owing. The Foreclosure Sale took place on November 15, 2018 @ 10:00 a.m. at the front steps of the 12th Judicial District Courthouse in Carrizozo.

2. **Rancho Ruidoso Valley Estates Homeowner's Association v. Diane K. Medcalf, Pioneer Bank, FSB, and the County of Lincoln, NM D-1226-CV-2017-00242** Complaint filed by RRVEHA September 12, 2017 for Foreclosure of the Homeowner's Association Assessment Lien. On January 25, 2019, Judge Blankinship entered a Judgment by Default for Foreclosure.

3. **Board of County Commissioners of Lincoln County v. Roger Romero D-1226-CV-2018-00055** Complaint for Foreclosure. Complaint was filed February 20, 2018. Defendant Roger Romero filed an Answer to the Complaint asserting a Counterclaim to be filed in the U.S. District Court on April 2, 2018. A Judicial Inquiry Hearing took place September 4, 2018. The case is still pending.

4. **Roger Romero v. State of New Mexico – D-1226-CV-2018-00113 (Underlying Cases are: Board of County Commissioners of Lincoln County v. Roger Romero, D-1226-CV-2018-00055, and State of N.M. v. Roger Romero M-30-MR-2016-00142)** A Petition for Writ of Habeas Corpus was filed requesting that the Judgment & Sentence entered by Judge Vega in Cause No. M-30-MR-2016-00142 be vacated and set aside. George Romero's Answer to Complaint and Counterclaim was filed April 30, 2018 in Cause No. D-1226-CV-2018-00055. Judge Counts is the presiding Judge. On February 26, 2019, an Order Setting Aside Conviction was entered by Judge Counts.

On March 25, 2019, a Notice of Appeal was filed with the N.M. Supreme Court, Case No. S-1-SC-37602 is still pending)

5. **Roger Romero, et al vs. Lincoln County, et al – U.S. Dist. Court Cause No. 2:18-cv-01137-JAP-GJF** A Complaint for Violation of Civil, Constitutional and Statutory Rights was filed on December 5, 2018. On December 27, 2018, A Guardian Ad Litem has been appointed to represent the Plaintiffs. 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.
6. **Brack Rains v. Lincoln County D-1226-CV-2018-00179** Complaint for Violation of New Mexico Whistleblower Protection Act filed June 6, 2018. The County was served July 10, 2018. Judge 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
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. **\*Lorraine Michelle LaMay** – Notice of Chapter 13 Bankruptcy Case Number 19-10279-j13 On March 11, 2019, Lincoln County received notice of the Chapter 13 Bankruptcy Case. A Stipulated Order of Dismissal was entered on December 20, 2019.
9. **Brd. of County Commissioners of Lincoln County v. Amerisourcebergen Drug Corp., et. al – U.S. Dist. Court Cause 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.
10. **Baltazar Romo v. Rex Beard, Cause No. D-1226-CV-2019-00144** Complaint for Negligence and Negligence Per Se was filed on May 26, 2019 and served upon Sgt. Rex Beard of the Lincoln County Sheriff's office on June 18, 2019. All Judges in the 12th Judicial District have recused themselves. On September 16, 2019, Judge James M. Hudson was assigned to preside over the case. There is presently pending a Motion to Dismiss the Complaint scheduled to take place on March 18, 2020, at 1:30 p.m.
11. **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.
12. **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.
13. **\*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.

#### **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 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.

##### **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.

**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

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

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



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

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

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

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

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

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

**No:** Commissioner Stone.

Chair Draper recessed the Regular Meeting and convened the Closed Session at 2:21 PM.

Chair Draper adjourned the Closed Session and reconvened the Regular Meeting at 3:02 PM.

Commissioner Stewart 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.

**30. Signing of Official Documents**

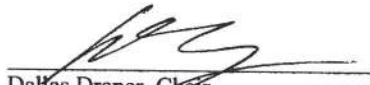
**31. Next meetings:**

- a. March 16, 2020 Regular Commission Meeting

**32. Adjourn**

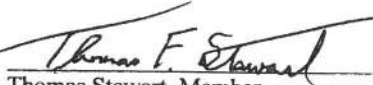
There being no further business to come before the Board of County Commissioners, Chair Draper adjourned the meeting at 3:03 PM.

County of Lincoln  
Board of County Commissioners

  
Dallas Draper, Chair

  
F. Lynn Willard, Vice Chair

  
Preston Stone, Member

  
Thomas Stewart, Member

  
Elaine Allen, Member

4767

ATTEST:

  
Whitney Whitaker, County Clerk

March 17, 2020

Date Approved

