

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 July 21, 2020

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on July 21, 2020 in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico.

1. Call to Order

Chair Draper called the Regular Meeting of the Board of County Commissioners to order at 8:34 AM.

2. Roll Call

Roll Call.

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

Absent: 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 Chair Draper.

4. Pledge of Allegiance

- a. Pledge – USA Flag
- b. Salute – NM Flag

5. Approval of Agenda

Motion: Acceptance of the Agenda and authorized the Chair to move items as necessary, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

6. Approval of Minutes:

- a. June 9, 2020 Special Commission Meeting
- b. June 16, 2020 Regular Commission Meeting
- c. June 30, 2020 Special Commission Meeting

Motion: Approve the minutes of June 9, 2020 Special Meeting, June 16, 2020 Regular Commission Meeting and June 30, 2020 Special Commission Meeting, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Approval for Budget Adjustment FY 19/20 by Resolution 2020-01

- c. Treasurer's Financial Report for the Month ending June 30, 2020
- d. Treasurer's 4th Quarterly Report by Resolution 2020-05
- e. SE New Mexico Economic Development District (SNMEDD) Agreement and Resolution 2020-02
- f. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims
- g. Approval of Resolution 2020-03: Disposition of County Inventory and Capital Assets
- h. Upper Hondo Soil & Water Conservation District Mill Levy Rate
- i. Alpine Village Sanitation District Mill Levy
- j. Approval of MOU Between the Village of Ruidoso and the County of Lincoln for the Provision of Regulation Services of Residential and Commercial Construction
- k. Approval of Agreement Between Capitan Municipal Schools and the County of Lincoln for the East Capitan Mountain Tower
- l. Approval of Resolution 2020-06 - Declaration of Fire Danger Emergency
- m. Amended Management Agreement – Lincoln County Fairgrounds
- n. Lincoln County Detention Center 3rd Quarter Restricted Housing Report

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

Commissioner Stone attended the meeting via Zoom at 8:45 AM.

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

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

SEE EXHIBIT A: Copies of the Consent Items including Resolution 2020-01, 2020-02, 2020-03, 2020-05, and 2020-06 is attached hereto in reference thereto made a part hereof.

8. Approval of Award for RFP 20-21-001- Banking Services for the County of Lincoln

Manager Taylor stated the county submitted sealed proposals were open on July 1, 2020. Manager Taylor informed an evaluation committee consisting of Treasurer Beverly Calaway, Chief Deputy Treasurer Sherrie Huddleston, Finance Officer Terry Knight and County Manager Nita Taylor reviewed and ranked the evaluation criteria.

1 st National Bank	88.25
Washington Federal	70.0
BBVA Compass	58.5

Motion: Award RFP to 1st National Bank, **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.

9. Approval of Certification of Capital Assets for FY 18/19

Manager Taylor stated per the New Mexico Audit Act 12-6-10, the governing authority of each agency shall at the end of each fiscal year conduct a physical inventory of movable chattels and equipment costing more than five thousand (\$5,000) and under the control of the governing body.

Motion: Approve Annual Inventory Certification for Fiscal Year 2028-2019, **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.

10. Forest, Land & Natural Resources Matters:

- a. **Smokey Bear Ranger District**

Manager Taylor stated Ranger Jodie Canfield was unable to be in attendance to provide an update but provided the month of July's briefing.

b. Upper Hondo Soil & Water Conservation District

Manager Taylor stated Upper Hondo held its July Meeting on the 14th via teleconference.

c. ENMRD – State Forestry Bronze Smokey Bear Award to Bennie Long

Manager Taylor informed Bennie Long was the recipient of the prestigious Bronze Smokey Bear Award. Manager Taylor stated the annual award is granted to individuals, organizations, or teams for outstanding wildfire prevention service that has a significant impact within the state of New Mexico.

d. LANRAC

Robert Barber, Chair of LANRAC informed last week he attended a virtual meeting with Fish and Wildlife Services about the revision to the 2015 rule and the 2014 Environmental Impact Study. Mr. Barber stated in our area there were no changes to zone 2 geography. Mr. Barber explained zone 2 was the area within our county.

Mr. Barber stated the LANRAC committee prepared comments to the Lincoln National Forest Wilderness Inventory Evaluation Step and over 87,000 comments were submitted of which 48,000 were by conservation centers. Mr. Barber stated Fish and Wildlife Services drafted an MOU for the County of Lincoln to review. Mr. Barber explained the MOU is based on County Resolutions and Ordinances concentrating on land plans and wildlife management.

Manager Taylor stated she will bring the MOU for action next month.

12. Lincoln County Detention Center

b. Status Update

Scott Colvin, Warden introduced himself and shared a short synopsis of his career. Warden Scott stated he vacated his position at the Orleans Parish Sheriff's Office where he was most recently the Assistant Chief of Corrections.

a. Approval of RISE Grant

Manager Taylor stated CSG worked diligently with the County and Justice System liaison Anita Morales to develop an Application for the Reach, Innovate, Support and Engage (RISE) program for the Lincoln County Detention Center.

Manager Taylor stated the grant is on a reimbursement basis with reimbursement being made to the County on the 1st and the 15th of each month, with no later than a 5-day turn-around. Manager Taylor stated the County of Lincoln has the option of either paying CSG the invoiced amount and seeking reimbursement or submitting the CSG invoice for payment from the Grant and then use that reimbursement to pay CSG.

Motion: Approve RISE Program, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Chair Draper questioned if this is a re-occurring grant.

Manager Taylor stated hopefully it can be re-occurring every year, it will depend on how successful the program is.

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

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

14. Manager's Report

1. HAT'S OFF to Road Superintendent and the members of the Road Department for replacement of the Culvert on Chaves Street in Nogal. At Exhibit 1 is a letter of gratitude and appreciation from Bob and Sue Stearns for the replacement of the old culvert on Chaves Street in Nogal. They are proud of what they term as the "finest crossing in Lincoln County!!!" Recognized for their remarkable work are: Jeff Honeycutt – Superintendent; Josh Hammond, Foreman; and employees Kim Roper, Walter Garfield, Gilbert Zamora, Sammy Roper, Eddie Peed, Ramon Lueras, Jonathan Campbell, Jake Kinnick, David Munro, Frank Kratochvil, Brian Samson, Nick Herrera and Seth Anderson. They know their "THANK YOU" is not nearly enough.

2. Lincoln County 2020 Census Update: Lincoln County's goal for 2020 Census participation is 35.2%, a goal set by the iCountNM team based on the Final 2010 Self-Response. As the 2010 U.S. Census did not have the online self-response option, it is not an exact comparison to the 2020 self-response numbers. However, broadband internet and mobile phone reception is not uniform in our geographically large rural state or county, so it is unclear how the online self-response option is assisting in our Census count. NM is considered the hardest to count state in the nation.

New Mexico Census Coordinator Page Best informs that New Mexico will be able to self-respond during the U.S. Census Bureau's Nonresponse Follow-up (NRFU) operation. The deadline has been extended through October 31st. In order to reach the state goal of a 60% self-response rate by that date, 800 households will need to self-respond per day for the next 103 days.

3. COVID – 19 Update: Among the Governor's Office, the Department of Health, the NM Counties and Lincoln County Medical Center, ongoing update of COVID-19 information has been provided. LCMC Administrator Todd Oberheu reports no hospitalized cases at this time. LCMC is testing daily, in addition to the NM Health Department's tests.

4. Application Process for Local Governments to Apply for CARES Act Funding. The County has been notified by its Budget & Finance Analyst with the Local Government Division of DFA that applications are anticipated to go out at the end of this week, along with a two-week turnaround to for submittal. We had previously submitted costs through early April to the NM Association of Counties. Of the \$184,694 identified at that time, the County has received notification of federal reimbursement in the amount of \$46,461.75 from the Department of Homeland Security and Emergency Management for 75% of the Blue-Med Triage Facility Shelter.

5. Pattern Energy Update. After receiving the Village of Capitan's June 25th 'Mayor's Letter' relaying "The wind generators for the wind farm located in Corona, NM will be passing through Carrizozo, NM. 700 of the wind generators will be on trains headed to Corona, NM; they were sited in Texas. The wind generators are massive; the kids may like to see them. The project starts in August"; Manager contacted Crystal Coffman with Pattern Energy for a new calendar of events. Manager Coffman had no idea where these wind generators were headed; but not to Pattern's Corona project(s).

6. Otero County Electric Work for Dawson Road Solid Waste Cameras. An Agreement with Otero County Electric Coop to place a new transformer and meter to enable the installation of a camera at the dumpster location on Dawson Road. We continue to work with Windstream for the internet and Mountain Alarm for the camera. OCEC's practice is to collect this fee in the amount of \$2,196.30 for Contribution in Aid of Construction prior to commencing construction.

**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 stated he would continue to attend the Joint Land Use Study Group meetings. Commissioner Stewart informed Sun Zia applied to the Cibola National Forest for a right-of-way north of the White Sands Missile Range. Commissioner Stewart stated the application was rejected as it interfered with previous agreements.

Beverly Calaway, Treasurer informed House Bill 6 which was signed into law implements temporary provisions to waive penalties and interest for tax liabilities related to personal and corporate income taxes. Treasurer Calaway stated the waiving of penalties and interest appears to be intended to provide flexibility to taxpayers unable to make tax payments due to the outbreak of COVID-19. Treasurer Calaway stated the office is in the process of refunding accumulated charges for delinquent property tax payments to individuals in the County. Treasurer Calaway stated as of today the amount owed is \$2,787.68.

Walter Hill, Assessor stated the office will hold protest hearings August 17th and 18th. Assessor Hill stated there are 63 active protest to be heard and the hearing will be conducted through Zoom. Assessor Hill stated the 2020 certifications for Lincoln County were mailed Friday.

Chair Draper expressed his disappointment to the New Mexico Supreme Court decision to temporarily pause a District judge's decision in Eddy County to allow indoor dining to reopen.

Chair Draper stated a judge in Eddy County granted a restraining order, meaning the governor's orders on restaurants and shutting down indoor dining could not be enforced for at least the next 10 days.

13. Replacement Hospital Update

Todd Oberheu gave an update on COVID-19 testing and reports for Lincoln County.

Manager Taylor reminded during the Special Meeting the Lincoln County Commission approve a Change Order in the amount of \$286,070 to remove additional asbestos and other hazardous material that had not been identified in the original scope of work.

Manager Taylor stated Teryn Lamoreaux, Jaynes Project Manager would describe three scenarios in which Jaynes could move forward with demolition, pavement and asphaltting the parking lot once the abatement was complete.

Mr. Lamoreaux presented a narrative of each of the three options. Mr. Lamoreaux stated all scenarios and associated costs were dependent on Grancor Environmental's completion of the abatement by September 18, 2020.

Mr. Lamoreaux stated a decision from the Commission would be best by mid- August so that work can start mid-September.

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

There was a long discussion on the hospital abatement and the contingency usage.

Vote: Motion failed (summary: Yes = 2, No = 3, Abstain = 0).

Yes: Commissioner Stewart, Commissioner Allen.

No: Chair Draper, Commissioner Willard, Commissioner Stone.

Motion: Approve option A, **Action:** Approve, **Moved by** Chair Draper, None seconded.
Motion failed to lack of second.

Chair Draper requested this agenda item be brought back to the next regular meeting.

Chair Draper recessed the regular meeting at 10:18 and reconvened the regular meeting at 10:31AM

14. Manager's Report- continued.

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

Jeff Honeycutt- Road Superintendent stated they completed the drainage structure in Nogal. Mr. Honeycutt stated the Road Department added 8 inches of caliche to a mile of road in White Oaks.

Commissioner Stone questioned if the Road Use Agreement was completed with Pattern Energy.

Mr. Honeycutt stated the agreement was adjusted to fit the needs of Lincoln County.

Billie Jo Guevara, Finance Director stated she had been working on the County budget and would attend an ICIP training.

Brianna Ventura Human Resources Director/Administrative Assistant, provided an update on all open positions in Lincoln County.

Joe Kenmore, Office of Emergency Services Director reported a couple of small fires in the county, nothing above 2 acres. Mr. Kenmore reported flooding in Bonito area, in the Reynolds stable. Mr. Kenmore report no injuries. Mr. Kenmore stated there had been three (3) roll overs on Highway 54 with no casualties. Mr. Kenmore stated station inspections would restart and the last inspection was 8 or 9 years ago.

Commissioner Stone expressed his concerns with the cell service at the bottom of Nogal and towards Capitan. Commissioner Stone asked if AT&T could look into a Tucson Repeater.

Mr. Kenmore stated he had contacted AT&T multiple times to express his concerns with the repeater, but would be happy to do so again.

Manager Taylor stated she would write a letter of support to assist Mr. Kenmore with AT&T.

Glenda Allen, Director of Planning and Project Management reported she was currently working with Joe Kenmore on applying hot spot locations around the county.

Alex Fuller, planning department gave an update on Host Compliance and nightly rentals. Mr. Fuller reported 68.8% identified as a nightly rental address; 258 individual cabins; 112 residents.

15. Discussion of FY 2022-2026 Preliminary ICIP (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 the Commission will be presented with a list of proposed projects during its August 18, 2020 meeting with a final proposed ICIP in September.

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

- a. Ruidoso Visitor Guide
Request: \$5,000.00
Date(s) of Event: 2020-2021
Presenter: Lajuana Martinez
Recommendation: \$5,000.00

Motion: Approve the Lodger's Tax Committee amounts presented for a total amount of \$5,000,
Action: Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Commissioner Stone expressed concern with the amount and suggested the funding from a different entity.

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

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

No: Commissioner Stone.

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

Manager Taylor stated there are no public hearings to be scheduled at this time.

19. Consideration of Appointments and/or Re-Appointments to Boards/Commissioner's Committees

Motion: Appoint Jim Spiri to the Lincoln Historic Preservation Board, **Action:** Approve, **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.

20. **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 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. **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. 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. Judge Daniel A. Bryant is the presiding Judge. 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.

12. *Lincoln County Lodgers' Tax Collection

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.

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 problem Manager)

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.

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

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 11:04 AM.

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

21. Lincoln County Lodgers' Tax Discussion

Motion: Direct the County Assessor to generate an IPRA request for the Village of Ruidoso for all business licenses obtained for short-term rentals for the past year; direct the County Manager to create an IRPA for relevant information compiled by the County Planning Department regarding short term rentals and lodgers tax; request an audit of the lodgers within the County of Lincoln;

publish both IPRA's to the news, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Stone.

Vote: Motion failed (**summary:** Yes = 2, No = 3, Abstain = 0).

Yes: Commissioner Stewart, Commissioner Stone.

No: Chair Draper, Commissioner Allen, Commissioner Willard.

Motion: Direct the County Assessor to generate an IPRA request for the Village of Ruidoso for all business licenses obtained for short-term rentals for the past year; direct the County Manager to create an IPRA for relevant information compiled by the County Planning Department regarding short term rentals and lodgers tax; request an audit of the lodgers within the County of Lincoln, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

No: Chair Draper.

22. Announcement of Interviewees for County Manager Position

Manager Taylor announced the following candidates will be interviewed for the position of Lincoln County Manager.

Larry Fry
 Alan Briley
 Ira Pearson
 Chris Brice
 Paul Stresow
 Jeffrey Honeycutt
 Alex Fuller
 Michael Hawkes
 Vernon Wilson
 Bryan Dikeman

Chair Draper Recessed the regular meeting at 12:20 PM and convened the public hearing at 1:00 PM.

17. 1:00 P.M.: Public Hearing to consider the Final Budget for FY 20-21 by Resolution 2020-04.

Manager Taylor reminded at the Regular Commission meeting of May 28, 2020 the County of Lincoln approved the preliminary budget with modifications and forwarded it to DFA for subsequent approval. Manager Taylor stated the Treasurers' beginning cash balance of \$7,519,151 has been modified from the preliminary conservative budget of \$4,750,000. Manager Taylor stated this reflects a true-up of \$2,769,151 or +58.3%. Manager Taylor stated the final adjusted budgeted fund expenditures of \$8,281,084 have increased slightly from the preliminary budget amount of \$8,233,250. Manager Taylor informed both set of adjustments are required to accommodate bills received and paid since May as well as to account for expenses budgeted for the prior year which were underspent, to realize individual fund revenues exceeded conservative estimates, and recognize other factors occurring since the approval of the preliminary budget. Manager Taylor stated the Adjusted Ending Cash Balance was \$7,712,458 adjusted from the preliminary balance of \$4,803,277.

Manager Taylor stated by law, funds must be reserved in the amount of 3/12 of General Fund expenditures. Manager Taylor informed the required reserve is \$2,070,271 and this budget reflects \$5,642,187 over the requirement. Manager Taylor stated they had a cash balance of over \$7.7 million the Commission may consider additional funding requests, however with the shortfall of required funds to complete the construction of the hospital it is recommended to hold off on additional expenses.

Manager Taylor reminded Lincoln County voters previously approved the imposition of a Hospital Mill Levy for up to 3.0 Mills. Manager Taylor stated traditionally Lincoln County had budgeted revenues from the mill levy at the current levels of 2.0 mills for the hospital and .6 mills for the rural clinics and reminded those rates were established in the Final Budget process.

Manager Taylor stated the Elected Officials and Departments heads are to be commended for diligently participating in the budget process.

Chair Draper asked for public comment and receiving none adjourned the public hearing at 1:16 PM.

Motion: Adopt Resolution 2020-04, **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.

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

23. Signing of Official Documents

24. Next meetings:

- a. July 24, 2020 Special Commission Meeting.
- b. August 18, 2020 Regular Commission Meeting

25. Adjourn

There being no further business to come before the Board of County Commissioners, Chair Draper adjourned the meeting at 1:18 PM.

County of Lincoln
Board of County Commissioners

Approved Telephonically
Dallas Draper, Chair

F. Lynn Willard
F Lynn Willard, Vice Chair

Approved Telephonically
Preston Stone, Member

Approved Telephonically
Thomas Stewart, Member

Elaine Allen
Elaine Allen, Member

ATTEST:

Whitney Whittaker
Whitney Whittaker, County Clerk

August 18, 2020
Date Approved

