

## 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 May 28, 2020

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on May 28, 2020 in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico.

#### 1. Call to Order

Chair Draper called the Regular Meeting of the Board of County Commissioners to order at 8:30 AM.

#### 2. Roll Call

##### Roll Call.

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

Others present included Nita Taylor, County Manager; Alan Morel, County Attorney; Shannan Hemphill, Chief Deputy Clerk; and Whitney Whittaker, County Clerk.

#### 3. Invocation

The invocation was presented by Chair Draper

#### 4. Pledge of Allegiance

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

#### 5. Approval of Agenda

**Motion:** Acceptance of the Agenda and authorized the Chair to move items as necessary,

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

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

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

#### 6. Approval of Minutes:

- a. April 3, 2020 Special Commission Meeting
- b. April 21, 2020 Regular Commission Meeting

**Motion:** Approve the minutes of the April 3, 2020 Special Commissioner Meeting and April 21, 2020 Regular Commission Meeting, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

#### 7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures

- b. Treasurer's Financial Report for the Month ending April 30, 2020
- c. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims
- d. Memorial Day Proclamation
- e. Chaves Soil & Water Conservation District Mill Levy Rate
- f. Resolution 2019-43 Liquor License Fees
- g. MOU Between Village of Ruidoso & County as the Administrative Authority for Lincoln County Sheriff's Office for Driving While Intoxicated (DWI) Prevention Enforcement Activities & Reimbursement of Costs
- h. Grant Award Agreement Between the State of New Mexico, Energy, Minerals and Natural Resources Department and Lincoln County
- i. Request to Issue RFP No. 20-21-001 "Banking Services for the County of Lincoln"

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

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

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

**SEE EXHIBIT A:** Copies of the Consent Items including Resolution 2019-43 is attached hereto in reference thereto made a part hereof.

**Motion:** Recess the Regular Meeting and convene the Board of Finance, **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.

#### **8. Lincoln County Board of Finance – Treasurer Beverly Calaway**

Beverly Calaway, County Treasurer informed July 15, 2020 the Treasurer Office will send out liens to delinquent the mobile home owners. Ms. Calaway stated their office received notice from Wells Fargo banking that during COVID-19 and the being in a financial impact the escrow accounts will continued to be paid. Ms. Calaway stated they have collected 93.77% for the 2019 outstanding property taxes.

Ms. Calaway directed the Board of Finance's attention to the Treasurer's Financial Report for the month ending April 30, 2020. Ms. Calaway stated the ending cash balance for Fiscal Year 2019-2020 was \$5,452,686.07.

Ms. Calaway noted the Detail of Receipts for the General Fund Account reflected the anticipated general fund revenues of \$14,440,342 for Fiscal Year 2018-2019. Ms. Calaway noted 82% of the projected revenues received.

Ms. Calaway noted the interest earned on investments reflected the increased rates nationwide. Ms. Calaway stated she continued to work with local banks to seek the best return possible subject to the requirement of 102% collateralization.

There was a general discussion regarding revenue transfers

**Motion:** Adjourn the Board of Finance and reconvene the 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.

#### **9. Assessor's Annual Report – Assessor Walter Hill**

Walter Hill, Assessor presented the County Assessor Annual report. Mr. Hill presented the valuation maintenance/re-appraisal program, the five year re-appraisal plan, 2020 sales ratio study, 2020 net new valuation report, 2020 contributory value report and the 2020 livestock report.

**Motion:** Approve Annual report, **Action:** Approve, **Moved by** Commissioner Stone, **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 Districts**

Jodie Canfield, District Ranger for the Smokey Bear Ranger District reported there were no Lincoln County National Forest Campgrounds open other than Baca campsite in the Smokey Bear Ranger District. Ranger Canfield reported Lincoln National Forest opened campgrounds at limited capacity and urges Memorial Day visitors to recreate responsibly. Ranger Canfield report high fire danger and due to COVID-19 the forest has closed down campfires.

Ranger Canfield stated they are will start a new project in which they will build trailhead off of Carrizo canyon road. Ranger Canfield reported they still need biological opinion in order to open South fork campground. Ranger Canfield stated owls are doing well, and they will be working with Upper Hondo in July.

**b. County Extension Services.**

**c. South Central Mountain RC & D**

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

**e. LANRAC**

Robert Barber, Chair provided Comments to the Lincoln County National Forest Wilderness Inventory Evaluation Step. Mr. Barber reported comments are to be filed June 25, 2020.

**13. 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 he continues to attend the Joint Land Use Study Group quarterly meetings. Commissioner Stewart reported Sun Zia reroute lines north of white sands is scheduled to happen. Commissioner Stewart stated BLM will have to do another environmental analyze prior to re-route.

Commissioner Willard raised concern about ATV traffic on the roads in Little Creek. Commissioner Willard stated it is becoming dangerous for our citizens.

**10. Forest, Land & Natural Resources Matters: continued**

**e. LANRAC- continued**

Robert Barber, Chair informed the commissioners on the comments submitted for the Mexican Wolf restoration program.

Chair Draper questioned if Mr. Barber contained a map or the area in which they would introduce the Mexican Wolf.

Mr. Barber stated he will have to research the matter.

**11. Consideration of Additional Funding Request for CDBG Project – Construction of New Hondo Senior Center**

Nita Taylor, County Manager stated on September 19, 2018, Lincoln County was awarded a CDBG Grant for the design and construction of a new Hondo Senior Center in the amount of \$513,747.00 with a Capital Outlay Grant awarded by Aging & Long-Term Services for \$75,000 and a County match of an additional \$75,000 totaling \$663,747 for the project. The CDBG required form of Invitation for Bids was noticed on March 31, 2020 with Bids due by April 30<sup>th</sup> at 10:00am. Ms. Taylor informed the apparent low bidder was White Sands Construction at \$847,165 for the base bid and \$92,840 for Additive Alternate #1 (additional west porch, slab and pavement) resulting in the total bid of \$940,005. Ms. Taylor stated it was \$370,205 greater than

the construction budget. Ms. Taylor requested consideration of the approval of additional funding for the completion of the project.

**Motion:** Approve transfer of \$290 to Hondo Senior Center CDBG Construction Project, **Action:** Approve, **Moved by** Commissioner Stone, **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.

## 12. Approval of Budget Adjustment FY 19/20 by Resolution 2019-42

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

**Motion:** Adopt Resolution 2019-42, **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.

**SEE EXHIBIT B:** Copy of Resolution 2019-42 is attached hereto in reference thereto made a part hereof.

## 14. 10:00 AM: Public Hearings:

- a. Consideration of Ordinance No. 2020-02, Noisy Water Winery Local Economic Development Act (LEDA) Project- to provide public support for economic development and to contribute to the community's long-term economic growth and sustainability.

Alan Morel, Attorney stated the hearing was to consider the Noisy Water Winery Local Economic Development Act (LEDA) Project Ordinance to be enacted pursuant to the New Mexico Constitution, the Local Economic Development Act and the County of Lincoln Economic Development Ordinance No 2009-2. Attorney Morel explained the attached exhibits including the Local Economic Development Project Participation Loan Agreement, the Intergovernmental Agreement between the New Mexico Economic Development Department and the County of Lincoln, the LEDA Application submitted by Noisy Waters Winery as well as a Report of the Economic Impact of Noisy Water Winery in Lincoln County.

Chair Draper requested public comment and receiving none adjourned the Public Hearing and reconvened the Regular Meeting at 10:02 AM

**Motion:** Approve Ordinance No 2020-02, **Action:** Approve, **Moved by** Commissioner Stone, **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 C:** Copy Ordinance No. 2020-02 is attached hereto in reference thereto made a part hereof.

Chair Draper convened the Public Hearing at 10:03 AM.

- b. Adoption of the Preliminary Budget by Resolution 2019-44, Fiscal Year 2020-2021.

Beverly Calaway, Treasurer presented the revised budget from the preliminary budget presented on May 4, 2020 to reflect a conservative projection of budgeted revenues, transfers and expenses. Ms. Calaway recommended reducing the projected property tax collections to 87% which will produce \$10,547,280 in property tax collections.

Sherrie Huddleston, Chief Deputy Treasurer stated they transferred from 462 Homeland Security \$ 226,665.63, the 509 LCMC Lease fund \$500,602, Forrest Health Fund reduced transfers in by over 2 million.

Commissioner Stewart requested actual documents of the budget.

**Motion:** Adopt Resolution 2019-44, **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 D:** Copy Resolution 2019-44 is attached hereto in reference thereto made a part hereof.

Chair Draper recessed the Regular Meeting and reconvened at 10:28 PM

#### **15. 911 Dispatch Update – Sheriff Robert Shepperd**

Robert Shepperd, Sheriff informed the 911 system called Viper was installed in 2013. The technology in the system was already 2 years old so the technology is now 9yrs old. Sheriff Shepperd stated the system actually belongs to the State as it comes under the E911 Grant. Sheriff Shepperd stated they located another viper system in Socorro so they were trying to do an intergovernmental transfer from Socorro.

#### **16. Replacement Hospital Update**

Nita Taylor, Manager provided information from Jaynes showing the major milestones that were completed this month. Manager Taylor informed they planned to vacate the old hospital by June 7<sup>th</sup> with abatement to begin June 8 and demolition of old hospital to begin June 30<sup>th</sup>.

Todd Oberheu, Hospital Chief Executive stated they completed the move on May 20 and they had their first patient at 3:30 AM. Mr. Oberheu stated they started transferring patients to the new hospital and the first baby was born in the new hospital on May 20. Mr. Oberheu informed the increased lease payment would become effective June 1. Mr. Oberheu stated since COVID-19 impacted the planned Grand Opening, they would plan for a Public Grand Opening after total completion of the project.

#### **18. Manager's Report**

**6. Plaques for the New Replacement Hospital and the EMS Building** are being designed by Planning & Project Management Director, Glenda Allen and Staff. See Exhibit 8. The formatting is similar to those placed in recently constructed County buildings. The date for the EMS Building will be changed, and I suggest the "Acceptance and Funding Phase" be changed to "Completion and Final Closeout Phase"6.

Commissioner Willard recommended changes to the plaque including limiting it to one column instead of two since the Commissioners were all the same and removing the wording "Replacement Hospital". Commissioner Willard stated he felt Commissioner Stone should be listed as Chairman as he was Chair through the majority of the project.

Commissioner Stone and Chair Draper both stated they did not care what title was by their name.

Chair Draper questioned if Jim Klein could be added as the consultant.

Manager Taylor stated she had seen plaques around the County without the Architect and General Contractor listed so they could put Jim Klein instead.

Commissioner Willard stated he would rather have Jim Klein than Dekker/Perich/Sabatini listed on the plaque however he would like to keep it consistent with the EMS Building plaque so his recommendation was to remove Dekker/Perich/Sabatini, leave Jaynes and include Jim Klein.

There was a general consensus.

### 17. Lincoln County Detention Center Update

Carlos Morales, Warden informed CSG contracted a risk management inspector to do an assessment and they will have the report soon. Warden Morales stated construction of the Sally Port had started and it would improve access in and out. Warden Morales informed all inmates and staff have been tested for COVID-19 and all tests received so far have been negative. Any new inmates presenting with symptoms would go directly into quarantine for 14-21 days and they were working with BIA during transports so they would be quarantined when they arrive. Warden Morales stated they had a new rounding system where the Officers had to tap a chip placed throughout the jail to record the time they were there and it would increase efficiency using an electronic system instead of the paper version.

Mike Curley, Regional Director informed video conferencing has seen an improvement in lowering transportation runs. They were down 5 staff but are interviewing for a new Assistant Warden and maintenance person and will be back up to full staff soon.

### 18. Manager's Report- Continued

1. **HAT'S OFF to Gabriel Samora** – who, after nearly 32 years of service, has announced his retirement from Lincoln County, effective May 29, 2020. Gabe started his County journey on July 25, 1988 as a temporary employee in the Maintenance Department at a starting wage of \$3.35 per hour; and moved into a permanent position a short year later. Thirty-two years later, Gabe thinks he is ready to end this County journey and start a new phase of his life. Congratulations!

2. **Land Purchase at Nogal for Fire Department.** The land purchase for the Nogal Fire Department has finalized and is ready for Nogal Fire Department's use.

Commissioner Willard questioned the purchased of .373 acres for \$25,429 and stated the price seemed high.

Manager Taylor informed it was the appraised value from the State of New Mexico.

3. **New Mexico Behavioral Health Collaborative.** Anita Morales, the Justice System Liaison for the Behavioral Health Services Division of the NM Human Services Department, notified Manager of a funding opportunity for the County of Lincoln. In 2019, the Department received a \$2.5 million Legislative appropriation to support and collaborate with counties to reduce reincarceration and homelessness rates, as well as improve reentry services for incarcerated non-violent offenders; specifically, those with behavioral health needs and disorders. The full name of the program is "Reach, Intervene, Support and Engage" (RISE). That funding supported the implementation of programs in five counties: Grant, Sierra, San Miguel, San Juan and Valencia.

Legislative funding for FY 20-21 has increased to an additional \$1.5 million and will include five additional counties. The grants could range from \$250K - \$400K, depending on the health of the application and the needs of each detention center. Ms. Morales states "Information they have collected indicates Lincoln County aligns with the epidemiological data, and other relevant source data, considered for the implementation of the RISE program."

Manager and Mrs. Morales met, via conference call, with the Warden and Regional Director of Lincoln County Detention Center, who play a critical role in the success of the program. Success is dependent on 1) development of a behavioral health treatment plan, unique to Lincoln County, to be conducted *inside* the detention center; 2) implementation of the plan, which will require the hiring of professions i.e., a clinician, a social worker, etc. This step of the plan will require a labor pool from which to hire these professionals.

The development of this Plan (Phase 1) will require a substantial coordinated effort between the County and LCDC. Phase 2 will be implementation of the Plan. As the grant funds are available now, and may not be legislatively renewed in FY 21-22, I recommend we move forward, with the commitment of Correctional Solutions Group LLC, that they can meet the requirements.



Commissioner Willard informed he spoke with Sierra County about the program and they stated it made a big difference in their Behavioral Health Program and they highly recommend it.

Anita Morales, Justice System Liaison stated they currently support 5 Counties and have solicited 5 additional including Lincoln County.

Mike Curley stated it appeared to be a good program but he had some concern with the practical application without jeopardizing public safety. The extra space they had has since been taken by the Court System.

Ms. Morales informed the majority of services will be provided inside the jail however some will be available outside of the jail.

Mr. Curley stated his understanding was the grant will fund the Clinicians and other support staff needed to conduct the program.

There was a lengthy discussion about the RISE program and its use in other Counties.

**Motion:** Move forward with the Program of the Behavioral Health Collaboration, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

Ms. Morales stated there was a deadline of June 26 for submission of proposal however as far as planning and implementation was concerned they could work in conjunction with the County at the requested pace.

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

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

**No:** Commissioner Stone.

4. **Census.** The State Census Bureau has been holding conference calls with several groups of similarly sized counties, to explain current timeline changes, ongoing reporting requirements and rates of response. See **Exhibit 5** for letter from DFA notifying of a request to Congress of an extension of the self-response deadline to October 31, 2020, due to the COVID pandemic. See **Exhibit 6** for updates from Craig Westbrook, Chair – Lincoln County Complete Count Committee. See **Exhibit 7** for Press Release regarding Reopening of the Las Cruces Area Census Office and statistics of self-report rates by County.

5. **Nightly Rentals.** Alex Fuller has been working with Host Compliance to ensure we have information about rental property.

**Alex Fuller, Addressing Tech** informed of a May 12, 2020 kickoff call with host compliance. Mr. Fuller stated they had already matched 74.4% of 328 rental listings to addresses in the County and they believe they will have 90%+ matched within 2 weeks. Mr. Fuller stated there are 82 lodging vendors registered with the County. Mr. Fuller informed Condotel was sorting out their 53 listings with the County versus what they have listed with the Village.

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

**Joe Kenmore, Office of Emergency Services Director** informed of a fire north of town and stated they used a drone to help look at it from above. Mr. Kenmore informed of an interesting rescue over the holiday weekend for 2 dogs falling in a mine in the Jicarillas. Mr. Kenmore stated they had a good stock of PPE around the County and any new orders are picked up every Tuesday in Roswell. Mr. Kenmore stated the Alaskan shelter was received and in a bay at the office. Mr. Kenmore informed fire restrictions may need to be put in place within next 2 weeks.

**Jeff Honeycutt, Lincoln County Road Superintendent** informed he was working with the Fair Board to remove the top soil from the arena and replace it with red sand. Mr. Honeycutt stated the Buckhorn loop compactor should be finished by end of June. Mr. Honeycutt stated they were working on the drainage on Chaves Rd in Nogal and had bought culvert and were working with the utility companies to resolve conflicts.

Robert Shepperd, Sheriff informed they will be using the same sand as used in Otero County arena and it has held up for many years.

Billie Jo Guevara, Finance Director informed they were very busy with the budget and they were hoping to advertise the Purchasing position in the next week.

Renee Montes, Senior Services Director stated they had done about 5,200 meals last year on the grab and go and home delivered meals. Ms. Montes stated they received funds from the Families First Coronavirus Response Act (FFCRA) in the amount of \$17,451 and the Coronavirus Act Relief and Economy Security (CARES) funds in the amount of \$54,753 to help offset the budget.

Brianna Herrera, Human Resources/Administrative Assistant informed they still have some open positions in the County, 2 Operator II and 1 Operator III positions in the Road Department, 1 dispatch and 1 Deputy in the Sheriff's Department, 1 Appraisal position, and Gabe's Maintenance position just closed. Ms Herrera stated the Solid Waste department added 132 new residential accounts.

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

Manager Taylor stated there were no public hearings to schedule at that time.

**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); 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 all Threatened and/or Pending Litigation Section 10-15-1 H (7); 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).

LINCOLN COUNTY EXECUTIVE SESSION PURSUANT TO THE OPEN MEETINGS ACT: DISCUSSION OF ALL THREATENED AND/OR PENDING LITIGATION, SECTION 10-15-1, SUBPARAGRAPH (H)(7); AND DISCUSSION OF THE PURCHASE, ACQUISITION OR DISPOSAL OF REAL PROPERTY OR WATER RIGHTS BY THE PUBLIC BODY, SECTION 10-15-1, SUBPARAGRAPH (H)(8).

New or Updated Matters since last report \*

1. **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.

7. **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.

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.

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 has yet to be served with the Complaint.

12. **\*Daniel Caouette v. Lincoln County, Cause No. D-506-CV-2020-00648** Complaint alleging violation of the Inspection of Public Records Act was filed on May 12, 2020. Judge Mark Sanchez is the presiding Judge. Lincoln County has yet to be served with the Complaint.

#### Tort Claims Notices Received or Threatened

##### 2020

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

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

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

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

**Stubblefield, Rory** – Tort Claim Notice received February 20, 2020 alleging that members of the Lincoln County Sheriff's Office did commit multiple torts against Claimant by failing to perform their duties.

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

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

2019

**HES, LLC and, Kenneth and Irene Livingston** – Tort Claim Notice received January 3, 2019 alleging The N.M. Dept. of Health seized and destroyed cannabis plants belong to HES, LLC and Kenneth and Irene Livingston. On January 24, 2019, NMAC denied the claim.

**Lueras, Ramon** – Tort Claim Notice received January 31, 2019 from Pizzonia Law Firm was received which referenced "Lueras v. Lincoln County Road Dept., et al" requesting copies of Mr. Lueras' employment records. While the correspondence appeared to be more like an IPRA, NMAC was notified out of an abundance of caution. On February 8, 2019, NMAC confirmed that Mr. Lueras has a work comp claim and that the January 31, 2019 correspondence from Pizzonia Law Firm relates to that claim. NMAC did open a claim as "record only".

**Estrada, Ricardo** – Tort Claim Notice received February 14, 2019 alleging that, while incarcerated at LCDC, the Claimant was physically attacked by a former employee of LCDC out of retaliation causing injuries to his small finger on his left hand and possibly a left foot fracture. TCN emailed to R. Martinez on February 15, 2019 and that same day, NMAC advised that there is no coverage for this matter as NMAC does not provide coverage on behalf of counties or their detention centers which are operated or administered by a private contractor.

**Lopez, Iris; May, Andrew; Bustamante, Joseph; Flanagan, Wayne Otero; Hernandez, Gabriel** – Tort Claim Notice received March 18, 2019 from Chris Nedbalek, Nedbalek Law Office, LLC alleging deprivation of Claimants' rights, including the Eighth Amendment prohibiting cruel and unusual punishment (i.e. unsanitary conditions, drug use by inmates, and mold problems.)

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

**Youtz, Shane** – Correspondence received May 7, 2019 threatening litigation if Lincoln County's Right to Work Ordinance (Ordinance No. 2018-01) is not repealed due to the passing of HB85.

**Udall, Steve** – Tort Claim Notice received May 22, 2019 [dated 12-14-19] alleging a Lincoln County Sheriff's Deputy's vehicle hit the air conditioning condensing unit located at the Magistrate Court in Ruidoso damaging the unit beyond repair.

**Divelbliss, Kim** – Tort Claim Notice received June 17, 2019 [dated 6-11-19] alleging that the Claimant was taunted, harassed and her rights were violated resulting in her ultimate termination from employment by the Lincoln County Detention Center.

**Divelbliss, Ty** – Tort Claim Notice received June 17, 2019 [dated 6-11-19] alleging that the Claimant was terminated from employment by the Lincoln County Detention Center out of retribution.

**Yokley, Scott** – Tort Claim Notice received June 17, 2019 [dated 6-12-19] alleging that the Claimant was sprayed directly in the eye with pepper spray during his employment with the Lincoln County Detention Center.

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

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

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

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

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

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

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

## **2018**

**Duke, Arnold** – Harrisburg Document recovery

**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.

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

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

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

Chair Draper recessed the Regular Meeting and convened the Closed Session at 12:41 PM.

Chair Draper adjourned the Closed Session and reconvened the Regular Meeting at 12:58 PM.

Commissioner Willard 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.

**Motion:** Settle Inspection of Public Records Case- Beauvais, P.A. vs. County of Lincoln, Cause No. D-1226-CV-2020-00085 in the amount of \$1,750.00, **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.

## 21. Signing of Official Documents

## 22. Next meetings:

- a. June 9, 2020 Special Commission Meeting  
(Canvassing of Primary Election Votes)
- b. June 16, 2020 Regular Commission Meeting

## 23. Adjourn

There being no further business to come before the Board of County Commissioners, Chair Draper adjourned the meeting at 1:00 PM.

Respectfully submitted by,

County of Lincoln  
Board of Commissioners

Approved Telephonically

Dallas Draper, Chair

Approved Telephonically

F Lynn Willard, Vice Chair

  
Elaine Allen, Member

4827

  
Thomas F Stewart, Member

Approved Telephonically  
Preston Stone, Member

ATTEST:

  
Whitney Whitaker, County Clerk

June 16, 2020  
Date Approved

