

## 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 November 16, 2020

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on November 16, 2020 in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico.

#### 1. Call to Order

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

#### 2. Roll Call

##### Roll Call.

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

Others present included Ira Pearson, County Manager; Alan Morel, County Attorney; and Whitney Whittaker, County Clerk.

#### 3. Invocation

Chair Draper asked for a moment of silence

#### 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. October 20, 2020 Regular Commission Meeting

**Motion:** Approve the minutes of the October 20, 2020 Regular 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 October 31, 2020
- c. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims
- d. Approval of Required 2021 Operational Resolutions:

- i. Resolution 2020-18 - Establishing 2021 Regular Commission Meetings
- ii. Resolution 2020-19- Establishing 2021 County Official Holiday Calendar
- iii. Resolution 2020-20- Open Meetings Act
- iv. Other 2021 Committee Meetings – Lincoln Historic Preservation Board, Lodger's Tax Committee and Land & Natural Resources Committee (LANRAC)
- e. Approval of Agreement Between the Boards of County Commissioners of Lincoln and Otero Counties to House Inmates at the Lincoln County Detention Center
- f. Approval Amendment to Lincoln County Detention Center Operations and Management Agreement Correctional Solutions Group, LLC, and the County of Lincoln, New Mexico

**Motion:** Approval of the Consent Agenda, and authorize the move of the Regular Commission Meeting from January 26, 2020 to January 19, 2020. **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 A:** Copies of the Consent Items are attached hereto in reference thereto made a part hereof.

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

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

Karl Honkonen acting district ranger stated permanent replacement for Jodie Canfield previous District Ranger will be announced mid-February. Acting Ranger Honkonen provided a brief update on forest activities. Acting ranger Honkonen stated Ski Apache was to open December 17, 2020 at 25% capacity and the forest service was working to fill the vacancies in the fire program.

- b. Extension Services- Melanie Gutierrez

Ira Pearson, Manager informed Melanie was unable to attend.

- c. South Central Mountain RC & D- Laura Doth

Manager Pearson informed Laura was unable to attend.

- d. Upper Hondo Soil & Water Conservation District

Manager Pearson informed nobody was able to attend from Upper Hondo Soil and Water but provided the Board Meeting Agenda for November 10, 2020.

- e. LANRAC- Chairman Robert Barber

Robert Barber, Chair stated draft EIS plant management comments are due December 1<sup>st</sup>. Mr. Barber stated the recommendation of the committee is to support the non-native plant management.

Mr. Barber informed the U.S. Fish and Wildlife Service is providing the public and landowners an opportunity to comment on the document, "Initial Release and Translocation Proposal for 2021." Mr. Barber stated the responses received would be forwarded to the New Mexico Department of Game and Fish along with the permit application to release Mexican wolves onto the Gila National Forest Service in New Mexico. Mr. Barber stated responses are due by December 31, 2020.

**9. Approval of Prior Year FY 19/20 Invoices-CES for Lincoln County Medical Center**

Manager Pearson informed two invoices were submitted from CES to the County of Lincoln. Manager Pearson stated the first invoice presented to the Commission is from CES for the month of June 2020 that was not received by Lincoln County Finance until November 3, 2020. Manager Pearson stated the second invoice presented is also from CES, however, this invoice reflects the remaining 4% of construction administration fees from February 2019- April 2020. Manager Pearson stated these expenses were accrued because of travel, meals and lodging.

Attorney Morel informed the expenses are retained through Cooperative Educational Services (CES) and not directly through Dekker Perich Sabatini.

Bobby George, Dekker Perich Sabatini presented the expenses as listed and stated the company could reimburse the County the amount due for parking and flights coming out of Arizona.

**Motion:** Approve payment to CES subject to reimbursements of two flights and parking in roughly an amount of \$1,200, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

**No:** Chair Draper, Commissioner Stone.

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

Commissioner Stewart reported he would continue to attend the Joint Land Use Study Group meetings. Commissioner Stewart stated he is concerned with the illegal dumping in the County and looking forward to the placement of cameras by the dumpsters.

Commissioner Stewart questioned the County Manager's vehicle and the possibility of obtaining a new one.

Commissioner Allen reported the heightened restrictions statewide, enacted through an amended emergency public health order issued by the state Department of Health would be in effect for two weeks. Commissioner Allen stated each County will be given authority and will be rated by COVID rate responses.

Commissioner Allen informed the compactor located at the Hondo fire station was removed and replaced by dumpsters.

Lynn Willard stated he attended a virtual SERPTO meeting about funding for public transportation. Commissioner Willard stated Zia Natural Gas conducted a safety meeting for all county employees.

Robert Shepperd, Sheriff reported on the NMC priorities for the upcoming legislative 60 day session.

Commissioner Stone stated the regulations placed on the citizens because of COVID has effected the financial status of many. Commissioner Stone stated livestock numbers are decreasing and many ranchers have decreased livestock up to as much as 50%.

Commissioner Stone expressed his concern for all concerned citizens to reach out to their state representatives and senators and voice their concerns.

Chair Draper expressed his concern for the economy and the financial crisis people are facing with COVID.

Chair Draper welcomed Todd Proctor and Jon Crunk to the Commission.

Todd Proctor, commissioner elect stated he is ready for the challenge.

Jon Crunk, commissioner elect stated he is excited about serving and excited about getting involved.

Beverly Calaway, Treasurer stated their office is busy collecting property taxes. Treasurer Calaway stated current COVID contingency procedures are working well and they are only accepting payments by mail or online.

Whitney Whittaker, Clerk informed our state requires a post-election voting system check take place after each General Election. Clerk Whittaker stated the random selection of voting precincts to be audited would occur November 19, 2020 at 10:00 a.m.

## **21. Lincoln County Medical Center Update-Todd Oberheu**

Todd Oberheu, Hospital Chief Executive for LCMC gave a report on COVID patients. Mr. Oberheu stated they currently have five (5) ICU patients and two (2) patients are on ventilators. Mr. Oberheu stated they added 8 additional beds and two additional ventilators for the facility.

Mr. Oberheu reported two additional practitioners were hired to the facility and would be starting soon.

## **10. Approval of FY 20/21 Budget Adjustment by Resolution 2020-16**

Manager Pearson stated per statute, Counties may request adjustments to its budgets to accommodate changes in its financial operations during the fiscal year. Manager Pearson stated Commission approved adjustments must also be submitted to the Department of Finance and Administration for approval. Manager Pearson informed Resolution 2020-16 approved adjustments to the FY 20-21 budget.

**Motion:** Adopt Resolution 2020-16, **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.

**Motion:** Review budget for next commission meeting for possible new vehicle for County Manager, **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 B:** Resolution 2020-16 is attached hereto in reference thereto made a part hereof.

## **12. Lincoln County Detention Center**

### **b. General Update**

Scott Colvin, Warden informed the facility is COVID free and they are at an average daily population of 61. Warden Colvin stated he has begun to actively participate and begun a partnership with NM Counties.

### **a. RISE Program Update**

Warden Colvin stated significant movement with the RISE program. Warden Colvin stated they have scheduled an interview for the management position for the Carrizozo and Ruidoso area. Warden Colvin stated he attended the quarterly meeting on the 4<sup>th</sup> of September and had a good meeting with the Mescalero President and discussion of the opportunities the RISE programs offers.

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

### **1. Kitchen Remodel – Update:**

Billy Roach Renovations (BRR) had the lowest bid for the kitchen remodel and was told to proceed in August of 2020. Demolition started on October 6, 2020. Delays in weather and a shortage of construction workers have extended the completion date of October 23, 2020.

## 2. White Oaks Billboard Update:

The permit check has been sent to the State Land Office. Preliminary research has shown that we can obtain a vinyl cover (both sides) for around \$2,000. We will be contacting the original artist this month.

## 3. Courtyard drainage:

The drainage in the front courtyard has been a problem for years. The Capital Outlay Grant of \$100,000 will allow Lincoln County to incorporate proper drainage in conjunction with the US 54 construction next year. I am soliciting bids to determine if it is possible to cut an 8" trench (with metal cover) to the north of the front doors. This will "help" shed water during the next year. I am anticipating a price of \$2,000 - \$3,000.

## 4. Demolition of Old Hospital:

I received a call from Brad Treptow regarding the demolition of the Old Hospital. The crew had discovered a 6" water line that had fed the fire suppression system. After exhaustive research by Jaynes, Village of Ruidoso, and Lincoln County, a shut-off valve was not located. Jaynes sub-contractor, Roper Construction, was able to work with the Village of Ruidoso and cap the water line. Jaynes will return in the spring to pave the parking lot.

## 5. US 54 Construction Update:

We have had several discussions regarding the reconstruction of US 54 through downtown Carrizozo. David Roybal (Pettigrew Engineers), Glenda and I will be working with NMDOT to ensure that Lincoln County Capital Outlay projects work in conjunction with the new highway. I will keep the Commissioners updated as the project nears. Anticipated start date – October 2021.

## 6. Working with the Village of Ruidoso – COVID-19 Testing:

The Department of Health is performing "Blitz" testing in 10 counties where the COVID testing positivity rate was above 10%. The DOH reached out to the counties to help with the media campaign. The Village of Ruidoso manager, Tim Dodge, and I stayed in continual contact to help get the information out as fast as possible. I want to thank the Village for the working partnership.

## 7. Department Head Updates:

Joe Kenmore, Office of emergency Services reported a COVID- overflow from El Paso. Mr. Kenmore stated their office is doing an outreach to teach Lincoln County Citizens how to wear masks. Mr. Kenmore reported a fire yesterday in Osborne canyon.

Jeff Honeycutt, Road Superintendent reported they finished a portion of the chip seal on Juniper Springs Rd and the project would be extended to the Spring of 2021.

## 14. Consideration of Appointments to Boards/ Commissioner's Committees:

- a. Road Review Advisory Committee- Robert Barber (Re-Appointment)
- b. Land and Natural Resources Advisory Committee- Lance Hale (Appointment)

**Motion:** Appoint Robert Barber to the Road Review Advisory Committee and appoint Lance Hale to the Land and Natural Resources Advisory Committee, **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.

## 15. Approval of Annual Capital Assets Inventory Certification FY 19/20

Manager Pearson stated as directed by the Lincoln County Board of Commissioners, for the Fiscal Year 2019 – 2020 annual inventory of equipment valued at \$5,000 or above. Manager Pearson stated in accordance with generally accepted auditing procedures, and in order to meet

the annual requirements for certification as specified in state statute 12-6-10, we hereby certify the listing of property for over \$5,000 for Lincoln County, New Mexico.

**Motion:** Approve Annual Capital Assets Inventory certification, **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.

**16. Approval of Resolution 2020-17: A Resolution Opposing the Recommendations of the New Mexico Civil Rights Commission and Urging the Legislature to Provide More Resources to Address Root Causes of Civil Rights Claims Against Local Governments**

Attorney Morel stated Resolution 2020-17: A Resolution Opposing the Recommendations of the New Mexico Civil Rights Commission and Urging the Legislature to Provide More Resources to Address Root Causes of Civil Rights Claims against Local Governments.

**Motion:** Adopt Resolution 2020-17, **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 C:** Resolution 2020-17 is attached hereto in reference thereto made a part hereof.

**17. Approval of Road Name Change Request- Alpine Meadows Ridge to Solitude Lane**

Manager Pearson stated Lincoln County citizens Riker and Cynthia Davis, as Trustees of Riker & Cynthia Davis Family Trust, requested a road name change for their private road from Alpine Meadows Ridge to Solitude Lane.

**Motion:** Approve requested name change, **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.

**18. Approval of RFP 20-21-006 for Legal Services for the County of Lincoln**

Manager Pearson reminded at the Regular Commission Meeting in December of 2016, the Lincoln County Board of Commissioners approved a one-year contract, with the option of up to three, one-year renewals to Attorney Alan Morel. Manager Pearson stated following New Mexico Procurement Code, Lincoln County must issue a new RFP for legal services.

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

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

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

**19. Approval to Sell the Former Senior Citizen Center Storage Building to the Town of Carrizozo for \$5,000.**

Manager Pearson informed in the Town of Carrizozo's Special Meeting on Tuesday October 27, 2020 the board of Trustees approved the Mayor of Carrizozo to offer the County of Lincoln \$5,000 to purchase the metal storage building. Manager Pearson stated the building was located behind the Carrizozo Public Library on land owned by the Town of Carrizozo.

**Motion:** Accept offer of \$5,000 from the Town of Carrizozo, **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.

**20. Recognition and Memorialization of Lincoln County EMT Steve Olson**

Manager Pearson stated Steve Olson passed away on Wednesday, October 28, 2020 at the age of 69 after spending the last twenty years touching people's lives in Lincoln County and becoming an integral part of our EMS family.

Joe Kenmore, Office of Emergency Service read into record the memorialization of Lincoln County EMT Steve Olson.

**Motion:** Approve Declaration of Recognition, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

**22. 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)**

**Motion:** To close the meeting for the purposes of an Executive Session to discuss Threatened and/or Pending Litigation Section 10-15-1, Subparagraph H. (7); Discussion of Limited Personnel Matters, Section 10-15-1 Subparagraph H. (2) Evaluation County Manager, Ira Pearson; and Discussion of the purchase, acquisition or disposal of real property or water rights by the public body, Section 10-15-1, Sub-Paragraph H. (8),

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

1. **\*Board of County Commissioners of Lincoln County v. Roger Romero D-1226-CV-2018-00055** Complaint for Foreclosure. Complaint was filed February 20, 2018. Defendant Roger Romero filed an Answer to the Complaint asserting a Counterclaim to be filed in the U.S. District Court on April 2, 2018. A Judicial Inquiry Hearing took place September 4, 2018. A Disposition Order for Lack of Prosecution was entered on August 25, 2020. An Order Reinstating Case was entered on October 19, 2020.

2. **Roger Romero v. State of New Mexico – D-1226-CV-2018-00113 (Underlying Cases are: Board of County Commissioners of Lincoln County v. Roger Romero, D-1226-CV-2018-00055, and State of N.M. v. Roger Romero M-30-MR-2016-00142)** A Petition for Writ of Habeas Corpus was filed requesting that the Judgment & Sentence entered by Judge Vega in Cause No. M-30-MR-2016-00142 be vacated and set aside. George Romero's Answer to Complaint and Counterclaim was filed April 30, 2018 in Cause No. D-1226-CV-2018-00055. Judge Counts is the presiding Judge. On February 26, 2019, an Order Setting Aside Conviction was entered by Judge Counts. On March 25, 2019, a Notice of Appeal was filed with the N.M. Supreme Court, Case No. S-1-SC-37602 which is still pending.

3. **Roger Romero, et al vs. Lincoln County, et al – U.S. Dist. Court Cause No. 2:18-cv-01137-JAP-GJF** A Complaint for Violation of Civil, Constitutional and Statutory Rights was filed on December 5, 2018. On December 27, 2018. A Guardian Ad Litem has been appointed to represent the Plaintiffs. On September 16, 2019, the case was dismissed and, on October 7, 2019, Plaintiffs filed their Notice of Appeal to the United States Court of Appeals for the Tenth Circuit, Docket No. 19-2165. The case is still pending.

4. **Romero, et al. v. Stone, et al, Cause No. D-1226-CV-2019-00271** Request for Appointment of Guardian Ad Litem for Plaintiffs and Complaint for Violation of Civil and Constitutional Rights, Negligence, Prima Facie Tort and Wrongful Taking was filed on October 9, 2019 along with a Jury Demand. Lisa B. Riley is the presiding Judge. Lincoln County has yet to be served with the Complaint.

5. **Kane County, Utah, et al v. The United States, 17-739C and 17-1991C (Consolidated)** Class Action Lawsuit to recover PILT underpayments for fiscal years 2015-2017. On August 14, 2018, Lincoln County submitted its Opt-In Notice to participate in the lawsuit. On October 16, 2019, Lincoln County received notice that it would be receiving \$46,011.00 from the Judgment Fund.

6. **Brd. of County Commissioners of Lincoln County v. Amerisourcebergen Drug Corp., et al** – U.S. Dist. Court Case No. 2:19-cv-00462 – Complaint for Public Nuisance, Violations of Racketeer Influenced and Corrupt Organizations Act (RICO)... filed on May 20, 2019 by Attorneys Robles, Rail & Anaya, P.C., et. al. After receiving no oppositions to the transfer of the case, on June 17, 2019, the case was transferred to the Northern District of Ohio noting that as of December 5, 2017, 1,534 cases have been transferred to Ohio for further proceedings. The case is still pending.

7. **City of Albuquerque, et al vs. John Monoforte & N.M. Taxation & Revenue Department, Cause No. D-202-CV-2018-08036** Judge Franchini is the presiding judge. Lincoln County has entered into an Agreement for joining in the litigation to recover amounts representing unauthorized reductions in violation of New Mexico Statutes. On November 14, 2019, Lincoln County joined in the litigation. The case is still pending.

8. **Greentree Solid Waste Authority v. Lincoln County, Cause No. D-1226-CV-2014-00095** – Compromise and Settlement Agreement and Release executed on December 17, 2015.

9. **\*Beauvais, P.A. v. 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. On May 6, 2020, Defendant filed its Motion to Dismiss in Lieu of an Answer. On October 16, 2020 an Order of Dismissal with Prejudice was entered.

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

11. **\*Aaron Ramos v. Sam Chavez, et al, Cause No. D-1226-CV-2020-00155** A Verified Petition for Alternative Writ of Mandamus alleging IPRA violations was filed by Plaintiff Ramos on July 15, 2020. On October 28, 2020, an Order of Dismissal with Prejudice was entered.

12. **\*Phillip Vice v. L.C. Assessor, Cause No. D-1226-CV-2020-00192** A Petition appealing the decision of the Lincoln County Valuation Protest Board was filed by Plaintiff Vice on September 11, 2020. On October 23, 2020, Lincoln County, through its counsel Daniel Macke, withdrew its Motion to Dismiss. The case is still pending.

13. **\*Alto Lakes Golf & Country Club v. Smile 4 U, et al, Cause No. D-1226-CV-2020-00184** Complaint to Foreclose Lien was filed on September 1, 2020 and an Amended Complaint to Foreclose Lien was filed to add the County of Lincoln as a Defendant. The County filed its Answer to the Complaint on October 23, 2020. The case is still pending.

14. **\*Alto Lakes Golf & Country Club v. Jack H. McCloud, et al, Cause No. D-1226-CV-2020-00235** Complaint to Foreclose Lien was filed on October 19, 2020. The County's Answer to the Complaint is due on or before December 4, 2020.

15. **\*Alto Lakes Golf & Country Club v. J. Lynn Starr, et al, Cause No. D-1226-CV-2020-00236** Complaint to Foreclose Lien was filed on October 19, 2020. The County's Answer to the Complaint is due on or before December 4, 2020.

16. **\*Alto Lakes Golf & Country Club v. Moises De La Torre, et al, Cause No. D-1226-CV-2020-00237** Complaint to Foreclose Lien was filed on October 19, 2020. The County's Answer to the Complaint is due on or before December 4, 2020.

#### **Tort Claims Notices Received or Threatened**

**2020**

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

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

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

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



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

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

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

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

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

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

**Deer Park Paving Lien Assessments/Foreclosures**

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

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

**\*Touche, Claudia and Trespacios, Antonio** – Tort Claim Notice received November 5, 2020 alleging false arrest, excessive force, intentional infliction and emotional distress, and harassment by the Lincoln County Sheriff's Deputies, and claims against the County of Lincoln based on retaliation, negligent training and supervision, and for inadequate policies and procedures.

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** –

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

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

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

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

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

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

## 2018

**Duke, Arnold** – Harrisburg Document recovery

**Action:** Approve, **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.

Chair Draper recessed the Regular Meeting and convened the Closed Session at 11:10 AM.

Chair Draper adjourned the Closed Session and reconvened the Regular Meeting at 11:34 AM.

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.

### 23. Approval to Sell 0.002 Acres of Land Located at 700 E. Avenue for Appraised Value of \$50 to Eric Carlson and Janine Mancusi

Manager Pearson informed the County Assessor Walter Hill, had valued the 0.002 acres at \$50. Manager Pearson stated upon approval County Attorney Morel would draft a simple non-warranty real estate contract.

**Motion:** Approve sale of land parcel with all cost associated to the buyer, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Willard.

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

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

### 24. Authorization to Schedule Public Hearing to Consider Other Outdated or New Lincoln County Ordinances:

- a. Safety Net Care Pool Ordinance 2015-01
- b. Lincoln County Ordinance No. 2017-07: An Ordinance Providing for the Efficient and Sanitary Collection of Solid Waste in Lincoln County; Providing for Mandatory Disposal and Assessment of Fees; Providing a Penalty for Violation of the Ordinance; Repealing Ordinance 2016-01

**Motion:** Schedule Public Hearing to consider the Safety Net Care Pool Ordinance and the Solid Waste Ordinance for the next Regular Meeting. **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

There was a general discussion on solid waste and the possibility of delaying the ordinance until January.

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

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

**No:** Commissioner Willard.

**25. Signing of Official Documents**

Chair Draper, Commissioner Stewart, Commissioner Willard, Commissioner Stone granted authority to use their electronic signature.

**26. Next meeting:**

- a. December 15, 2020 Regular Commission Meeting

**27. Adjourn**

There being no further business to come before the Board of County Commissioners, Chair Draper adjourned the meeting at 11:51 AM.

County of Lincoln  
Board of County Commissioners

Approved Telephonically  
Dallas Draper, Chair

Approved Telephonically  
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

December 15, 2020  
Date Approved

