

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 September 15, 2020

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on September 15, 2020 in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico.

1. Call to Order

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

2. Roll Call

Roll Call.

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

Absent: Commissioner Stone.

Others present included Nita Taylor, 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 Willard.

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. August 4, 2020 Special Commission Meeting
- b. August 18, 2020 Regular Commission Meeting
- c. August 24, 2020 Special Commission Meeting

Motion: Approve the minutes of August 4, 2020 Special Commission Meeting, August 18, 2020 Regular Commission Meeting, and August 24, 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. Treasurer's Financial Report for the Month ending August 31, 2020

- c. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims
- d. Sun Valley Water and Sanitation District Mill Levy

Motion: Approval of the Consent Agenda, **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.

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

8. Forest, Land & Natural Resources Matters:

1. Smokey Bear Ranger District

Jodie Canfield, District Ranger reported South Fork Campground was open at 50% capacity and the Lincoln County Forest department was open for dispersed recreation and camping. Ranger Canfield stated Three Rivers and Oak Grove were closed, but the public could call to get maps and permits over the phone and via drop box.

Ranger Canfield stated they were closing out fiscal year 2020 and moving to fiscal year 2021 on October 1, 2020. Ranger Canfield announced she will be retiring on September 30, 2020. Ranger Canfield stated it's been a pleasure to serve the Commission.

2. Lincoln County NMSU Cooperative Extension Services

Melanie Gutierrez, Lincoln County Extension Agent provided an update of activities. Ms. Gutierrez reported success at the County Jr. Livestock Sale, with 88 kids showing and 21 booster exhibitors; 4 beef heifers; 15 steers; 3 ranch steers; 22 dairy goats; 6 dairy heifers; 27 horse show kids; 6 breeding goats; 107 market goats; 66 poultry; 4 breeding ewes; 66 market lambs and 40 market swine. Ms. Gutierrez stated fifty-five animals were sold resulting in \$143,500 directly from the sale, and \$171,500 including packer animal and add-ons.

3. South Central Mountain RC & D

Laura Doth, Executive Director reported two open Board of Director Positions. Ms. Doth gave an update on activities that included the WUI projects, CWPP updates, Firewise program, and NM State Forestry workshop.

Ms. Doth reported the Hale Lake project was out for public comment and will be working with the district ranger to review.

4. Upper Hondo Soil & Water Conservation District

Manager Taylor stated Upper Hondo provided an agenda for their September 8, 2020 meeting.

5. ENMRD State Forestry

- a. Frank Silva Retirement
- b. Smokey bear Hometown Association
- c. Lincoln County WUI FY21 Application is in the Hopper
- d. They continue to participate with the Multi Agency ALL Lands bi-weekly call to assist in contractor/thinning project matchmaking so that businesses stay afloat during MSO shutdown.

6. LANRAC

Robert Barber, Chair of LANRAC reported that he would be participating in the Joint Chief's landscape Improvement meeting on September 18 and would participate in a cooperating agency meeting with USD.

9. Review and Approval of Lincoln County's Response to the New Mexico Attorney General's Office Regarding Village of Ruidoso Mayor Lynn Crawford's Open Meetings Act Complaint

Manager Taylor reminded during the September 8, 2020 Special Meeting, the Commission was informed of an Open Meetings Act Complaint filed with the Office of the Attorney General by Mayor Lynn Crawford of the Village of Ruidoso against the County.

Attorney Morel informed he requested Commission approval to quote a portion of the attorney-client privilege discussion that was held in Executive Session in order to properly respond to the Open Meeting Act Complaint. Attorney Morel stated his response would be public record.

Motion: Approve response to the Attorney General, **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.

10. Update on the American La France Fire Truck

Manager Taylor stated the County of Lincoln initially heard and considered research conducted on the Status of the 1919 La France Fire Truck in November, 2018. Manager Taylor stated at the time Pine Top Car Club and Fort Stanton Inc. were given 30 days to develop a plan for restoration. Manager Taylor stated if no plan could be developed the County would commence the process to have the La France returned. Manager Taylor stated a plan was developed as illustrated and the Memorandum to the Commission submitted in December, 2018 with the restoration to be completed by July 1, 2019.

Motion: Regain custody of the American La France Fire Truck and transfer to Fort Stanton, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

There was a general discussion on the funds allocated for recovery.

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

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

11. Authorization to Renew Billboard Permit

Ira Pearson, Manager informed the County of Lincoln supported a White Oaks Billboard on State Highway 54 that faces both North and South. Manager Pearson stated the county received from the Commissioner of Public Land a billboard permit to be renewed which costs \$700 per year. Manager Pearson stated the billboard required subsequent approval from the New Mexico Department of Transportation. Manager Pearson stated both the State Land Office and the NM State Highway Department require the signage to be properly maintained.

Motion: Approve the maintenance of the sign, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

Commissioner Willard would like for the sign to be properly maintained and possibly get the sign restored.

Commissioner Allen expressed her belief there is a wrap that can be placed around the billboard to help reduce costs.

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

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

12. Lincoln County Detention Center

a. RISE Grant

Manager Taylor stated during the July Meeting the Commission authorized acceptance of the Award Letter for the RISE grant in the amount of \$335,559 with a reserve of \$38,728 to be held until needed, to fund the RISE program for Lincoln county Detention Center for one year. Manager

Taylor stated the County of Lincoln was approved to start submitting expenses tied to the plan developed and submitted by Correctional Solutions Group and the County.

b. Staffing Issues

Manager Taylor informed Warden Scott Colvin was unable to attend the meeting but asked to relay the promotion of long term Lincoln County Detention Center employee Pauline Tope to the position of assistant Warden. Manager Taylor stated the Warden was proud of Ms. Tope and had strong confidence in her ability to thrive in that position and provide the level of support the County needed.

c. True-Up of Operating Costs between Correctional Solutions Group and Lincoln County

Manager Taylor informed the contract negotiated between parties requires a cost true up to be reviewed quarterly. Manager Taylor stated CSG had been tracking costs, which had underrun budgeted levels due to COVID- 19 and a lower jail population than anticipated. Manager Taylor stated the final true-up calculation of \$55,355.41 was under review.

Motion: Approve \$55,355.41, **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.

14. Lincoln County Medical Center Update:

e. LCMC Administrator – Todd Oberheu

Todd Oberheu, Hospital Chief Executive for LCMC stated the installation of the Blu-Med Tent happened on September 3, 2020. Mr. Oberheu stated he was pleased to announce the high possibility of Presbyterian purchasing an air pressure regulator to be installed within the tent. Mr. Oberheu stated they would utilize the tent for evening respiratory operations and depending on the flu season or if they see an uptick in COVID cases then the tent will be extremely useful.

Mr. Oberheu stated on October 2, 2020 the hospital would discontinue community COVID-19 testing and only offer the test if recommended by a provider.

Mr. Oberheu stated the Hondo clinic would be operational again on September 16, 2020 and would be open one day a week.

Mr. Oberheu stated the hospital was still waiting for information on the free flu shots.

Mr. Oberheu stated that LCMC was once again recognized by the New Mexico Hospital Association as the top small hospital in New Mexico for quality of care and patient safety.

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 stated he would continue to attend the Joint Land Use Study Group meetings and would attend a meeting on October 6, 2020.

Commissioner Willard expressed his gratitude for the frequency of the trash pickup. Commissioner Willard stated it has really helped with the appearance of the County.

Beverly Calaway, treasurer informed her office started data input of the 2020 property tax billings. Treasurer Calaway stated she would have a board of finance meeting and would discuss the 2020 property tax schedule for the November Meeting.

Walter Hill, Assessor informed the abstracts which were the final values the County Assessor provided to the state of New Mexico was due October 1, 2020.

Whitney Whittaker, Clerk informed her office began mailing out Absentee Ballots on October 6, 2020. Clerk Whittaker stated the Early Vote site in Ruidoso would open on October 17, 2020 and

in Carrizozo on October 19, 2020. Clerk Whittaker encouraged residents to vote and discussed the importance of a high turnout within the County.

Chair Draper stated he would attend a CHANGE meeting on September 29, 2020. Chair Draper expressed the importance of support for our education system during virtual distance learning. Chair Draper stated the importance of completing the census.

Jim Rapp, Director of the New Horizons Developmental Center gave an update on the center. Mr. Rapp stated the Center and the County are working on a lease agreement. Mr. Rapp stated once a lease was developed they could discuss some repairs to the building. Mr. Rapp stated he was looking at grant opportunities.

14. Lincoln County Medical Center Update: continued

a. Status of Abatement Stage

Manager Taylor reminded during the special meeting on July 16, 2020 the Commission approved 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 \$24,750 of this amount was the cost of completing the additional scope of work within seven weeks, which would enable Jaynes to move forward with Phase II of the project, the demolition phase. Manager Taylor confirmed they were on schedule and Grancor anticipated completion prior to September 18, 2020.

b. Jaynes' Request to Replace Project Manager for Demolition State

Manager Taylor stated the County received a request from Interim Project Manager Teryn Lamoreux for the County to accept a proposal for a replacement Project Manager, John Nichols to conclude Phase II of the project. Manager Taylor stated John Nichols had great experience in the construction industry and Jaynes had great confidence in his and Ernesto Rodriguez's abilities to serve the County well to the completion of this project. Manager Taylor stated as required by the Agreement with Jaynes, John Nichols' resume was being provided to the County for Commission review.

c. EMS Recertification

Manager Taylor stated the County received notification that it was time to apply for the reissuance of certification to provide ambulance service in Lincoln County, as the current certification was scheduled to expire on September 20, 2020. Manager Taylor stated the Public Regulation Commission Economist assisted through the process, resulting in the submittal of the application with required documents for recertification. Manager Taylor stated in addition, an application for temporary authority was submitted, as the resulting certification may not be granted prior to the expiration of the current certification on September 20, 2020.

d. Blue-Med Tent Installation

Manager Taylor informed a team of volunteers from County Volunteer Fire Departments, State Forestry and PHS, along with County office of Emergency Management erected the Blue-Med tent to assist with COVID-19 testing and other potential uses. Manager Taylor stated the County received 75% reimbursement of the \$62,000 for the tent from FEMA.

15. Approval of Budget Adjustment for FY 20-21 by Resolution 2020-10

Ira Pearson, Manager 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.

Motion: Adopt Resolution 2020-10, **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.

SEE EXHIBIT B: Copy of Resolution 2020-10 is attached hereto in reference thereto

Made a part hereof.

16. Bid Awards

a. Juniper Springs Road-Reconstruction IFP 19-20-003-RB

Jeff Honeycutt, Road Superintendent reminded a year and half ago the County ran out of funds and funding from the state was only with a county match. Mr. Honeycutt stated the department would start the project but would need an extension to finish it. Mr. Honeycutt stated the weather would need to be warmer in order to complete the job, so it would need to be extended to the spring.

David Roybal, Engineer Manager at Pettigrew & Associates stated the project would go out to bid in April. Mr. Roybal stated the extension was understood due to the weather requirements.

Motion: Approve bid and file for an extension, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

There was a lengthy discussion regarding the extension and time period allocated for the project.

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

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

b. Buck Mountain Communications Tower-RFP 20-21-002

Ira Pearson, Manager stated the County received and evaluated six proposals responsive to the RFP. Manager Pearson stated the evaluation committee consisted of current County Manager Taylor, New County Manager Pearson, Emergency Services Director Kenmore and Arron Griewahn, Emergency Services Coordinator. Manager Pearson stated the committee's review:

Green Crane & Rigging	94.875
Advanced Tower	76
EnerTech Resources LLC	59
EasTech Tower	58
NeuComm Solutions LLC	56.5
Tilson	49

Motion: Awarded RFP to Green Crane & Rigging, **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.

c. Electric Maintenance Services - RFP 20-21-003

Manager Pearson stated the County received and evaluated three proposals responsive to RFP.

Zuni Electric Inc	92
The Aisling Company	95.67
TLC	48.33

Motion: Award RFP to Aisling Company, **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.

d. Plumbing- RFP 20-21-004

e. HVAC- RFP 20-21-005

Manager Pearson stated the bids for Plumbing Maintenance Service and HVAC are identical for both bids.

Yearout Service, LLC	74.33
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Ventura Plumbing, Heating & Cooling
TLC

97.33
71.67

Motion: Award RFP to Ventura Plumbing, Heating and Cooling, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Stewart.

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

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

Chari Draper recessed the regular session at 10:22 AM and reconvened at 10:33 AM.

Manager Taylor informed due to the Buck Mountain Communications Tower Site and CBDG grant would cause the county to be automatically audited.

17. Request to Issue RFP for Cell Tower Oversight and Tracking of Cell Tower Initiatives

Manager Taylor stated Ordinance No. 2012-03 amended Ordinance No 2007-3, an ordinance regulating wireless communications facilities, including antennas, towers and other facilities, prescribing regulations for location, placement, construction, appearance, design and modifications.

Manager Taylor stated when cell towers, and associated cell service began to arrive in Lincoln County, the Center for Municipal Solutions based out of Glenmont, New York approached the County to assist with the development of an ordinance and with the tracking and oversight of the placement and regulation of cell towers. Manager Taylor stated CMS had been providing that service to the County since that time. Manager Taylor stated the local representative was working with an employee a number of times during the process. Manager Taylor stated the current local representative is not a New Mexico resident nor does a county employee participate in the physical review process.

Manager Taylor stated the Ordinance calls for the cell tower company to pay the County a \$5,000 non-refundable fee and place \$8,500 in escrow to cover other costs, including consultant costs. Manager Taylor stated CMS bills the County for administrative duties such as reviewing Special Use Permits and monitoring the process. Manager Taylor stated the County had been approached by a New Mexico based company that also provides oversight services tracking services and a professed ability to update the County ordinance. Manager Taylor stated in addition, a number of other cell tower consulting firms specialize in assisting public agencies navigate the intricacies of communications towers or antenna sites. Manager Taylor proposes issuing an RFP for services

Motion: Approve the development and issuance of RFP, **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.

18. Consideration of Leasing Portion of County Building Housing Extension Office to a Retail Independent Tele-pharmacy

Manager Pearson informed Carrizozo Mayor, Ray Dean had asked the County of Lincoln to consider leasing a portion of the Extension Services Building located at 409 Central Avenue in Carrizozo, New Mexico, to Riogrande Care Pharmacy based in Las Cruces, NM.

Manager Pearson stated since then the Town of Carrizozo found a location on 12th street for the tele-pharmacy.

19. Manager's Report

1. HAT'S OFF to Joe Kenmore and Arron Griewahn, Lincoln County's Office of Emergency Services, and a generous, energetic team of volunteers for the day-long chore of erecting the Blu-Med 20'X32.5' Triage & Isolation Tent on the Lincoln County Medical Center Campus. Participating in the effort were Hondo Fire volunteer Jose Carivales; Bonito Fire volunteer Johnathan High; State Forestry volunteers: Spencer Baldwin, Martín Sanchez and Dalton Lenzo; and Mike Coker with LCMC EMS. Hospital Chief Executive Todd Oberheu anticipated commencing the daily operation of the tent on November 9th for half a day. The tent will be used

for COVID-19 testing, with an intent to set up appointments, and a flexibility to accommodate walk-ins. As flu season ramps up, they will look to expand hours.

2. **HATS OFF AGAIN** to the Lincoln County Road Department for stepping out of their normal day to extract all the obsolete equipment, ductwork and electrical connections from the heating / cooling room in the Public Official's Building in preparation for construction of ADA restroom facilities. The removal of this equipment and connections will reduce the contractor construction costs by thousands of dollars, and has made the space construction-ready. Contributing to this effort were Jeff Honeycutt, Josh Hammond, Ramon Lueras, Sammy Roper, Nick Herrera, Brian Samson and Frank Kratochvil.

3. **Quarterly Economic Summary for Lincoln County – 4th Quarter FY20** published by NM Economic Development Department. See Exhibit 3. The report indicated that "Matched Taxable Gross Receipts (MGTR) Per Quarter, is the best tax data available to show underlying economic activity"; and that at Chart 2 this data matches a tax payment with reported receipts for each taxpayer (by industry). It also points out that the 4th quarter is the first full quarter of economic impacts from the COVID-19 pandemic, and that business closures statewide caused downward trends in matched taxable gross receipts. Also illustrated is the negative impact of 1% Census undercount over 10 years in the County. We are among a handful of Counties with less than 15% response rate at the time of this report.

4. **CARES Act Funds - Local Government / NM Small Business continuity Awards.** The County was notified of receipt of CARES Act Funds - Local Government and NM Small Business Continuity Awards. The County applied for \$50,000 for five grants (maximum of \$10,000 per grant); and was awarded \$18,638. The Village of Ruidoso, where the vast majority of small businesses in the County are located, received \$1,171,500 of the \$2,000,000 million requested. These grants are limited to a maximum of \$10,000 per applicant. Lincoln County was awarded \$63,334 of \$187,656 requested. Included in the request was the cost for the Blu-Med tent of approximately \$63,000, for which the County received 75% reimbursement from FEMA. Implementation guidelines are being developed. The Village of Ruidoso received \$2,787,792 of \$5,186,590 requested; and City of Ruidoso Downs received all of the \$9,700 requested.

5. **The Bureau of Land Management in New Mexico** soliciting applications to transfer two excess Type 6 fire engines, equipment and supplies to local fire departments to enhance their wildland firefighting capabilities. Arron Griewahn submitted a narrative, EMS Coordinator, requesting consideration; which earned the award of one of these fire engines to Lincoln County. Congratulations are in order, as this was a very competitive process!

6. **Review of Lease Agreement with PHS Regarding Rent.** Article 2, upon completion of the New Facility, the County shall obtain certification from its appraiser, VMG Health, that the appraisal remains accurate in all material respects. The parties to this agreement have agreed that in the event the certification from the County's appraiser results in an increase in the rental rate, the increase will be accounted for by application of Uncompensated Services to the extent possible as set forth in Section 2.3.

Manager has contacted VMG Health, which can certify the appraisal based on the "As Built" documentation. The quoted fee is \$14,000. See Exhibit 11. At the time the study was conducted, the old EMS structures were still being used, and the initial rent study did not include the new EMS building in the square footage being leased.

7. Department Head Updates:

Glenda Allen, Director of Planning and Project Management informed their office had a number of ordinance issues. Ms. Allen stated the letters get sent to the residents in noncompliance immediately. Ms. Allen also stated she had been working on the ICIP list with County Manager.

Joe Kenmore, Office of Emergency Services reported his office did a Safety walk around the County of Lincoln. Mr. Kenmore stated the County of Lincoln pulled out the old heating unit and taped off the hallway.

Renee Montes, Senior Services Director reported they would continue to utilize the grab and go meals and had issued 58,000 meals this month. Ms. Montes stated she attends a weekly zoom meeting and there had been no reported changes to the meal distribution.

Jeff Honeycutt, Road Superintendent reported completion on the compactor site in Glencoe. Mr. Honeycutt stated they recently lost 6 employees in April to higher paying jobs and two (2) employees to retirement. Mr. Honeycutt expressed the need to be competitive with other entities in the area, and stated he was very concerned with the winter season approaching.

Brianna Ventura Human Resources director and Admin Assistant provided an update on the openings around the County.

Manager Taylor expressed the need for the County of Lincoln to consider having a job study done in order to develop a clear budget for the county.

20. Approval of FY 2022-2026 Infrastructure Capital Improvement Plan to be Submitted to Department of Finance – Local Government Division

- a. Resolution 2020-11 County of Lincoln
- b. Resolution 2020-12 Zia Senior Citizens Centers

Manager Taylor stated the Commission is required to submit its FY2022-2026 Infrastructure Capital Improvement Plan (ICIP) along with formal Resolution adopting the Plan by September 18, 2020. Manager Taylor reminded during its August 18, 2018 meeting, the Commission considered the following projects to include on the year's ICIP.

Motion: Adopt Resolution 2020-11 and 2020-12 with the priorities for the County 1) Lincoln County Fairgrounds 2) Body Scanner and Control Panel for the Lincoln County Detention 3) Building expansion 4) dump trucks for Road Department and 5) Bridge repair, **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.

21. Approval of Prior Year Invoices FY 19-20:

GSWA
E & M International Inc.
Pinnacle
SambaSafety
New Mexico WorkForce Solutions

Manager Taylor stated the Finance Department received the attached invoices by email for prior year approval. Manager Taylor stated while doing their books, the vendors discovered these invoices had not been paid due to the confusion during the COVID-19 pandemic. Manager Taylor stated the vendors contacted the Finance Department to verify whether the invoices have been paid, and they have not.

Motion: Approve payment for all five (5) invoices, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Willard.

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

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

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 pursuant to the open meetings act: discussion of all threatened and/or pending litigation, section 10-15-1, subparagraph (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)

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 and, the parties have until September 24, 2020 to reinstate the case.

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. **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. A Hearing on the Motion to Dismiss will take place on September 28, 2020 at 9:00 a.m.

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. On May 6, 2020, Defendant filed its Motion to Dismiss in Lieu of an Answer. Settlement has been 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. 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.

12. **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 August 13, 2020, County Defendants filed a Motion to Dismiss, which is still pending.

Tort Claims Notices Received or Threatened

2020

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

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

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

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

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

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

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

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

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

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

Deer Park Paving Lien Assessments/Foreclosures

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

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.

Arenas, Jalme – 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 = 4).

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

Chair Draper recessed the Regular Meeting and convened the Closed Session at 11:29 AM.

Chair Draper recessed the Closed Session and reconvened the Regular Meeting at 11:49 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. Authorization to Schedule Public Hearing to Consider Other Outdated or New Lincoln County Ordinances

No scheduled public hearings at this time

24. Signing of Official Documents

25. Next meeting:

- a. October 20, 2020 – Regular Commission Meeting

26. Adjourn.

There being no further business to come before the Board of County Commissioners, Chair Draper adjourned the meeting at 11:52 AM.

County of Lincoln
Board of Commissioners

Approved Telephonically
Dallas Draper, Chair

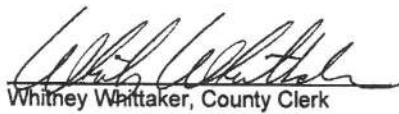

F Lynn Willard, Vice Chair


Elaine Allen, Member

Approved Telephonically
Thomas F Stewart, Member


Preston Stone, Member

ATTEST:


Whitney Whittaker, County Clerk

October 20, 2020
Date Approved

