COUNTY OF LINCOLN

New Mexico Regular Meeting Board of County Commissioners

Thomas F Stewart, Chair Lynn Willard, Vice Chair

Elaine Allen, Member Jon Crunk, Member Todd Proctor, Member

Minutes Tuesday April 20, 2021

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on April 20, 2021 in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico.

Call to Order

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

2. Roll Call

Roll Call

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

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

Invocation

The invocation was presented by Chair Stewart.

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 Allen, Seconded by Commissioner Willard.

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

Yes: Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk, Commissioner Proctor.

Approval of Minutes:

March 16, 2021 Regular Commission Meeting

Motion: Approve the minutes of the March 16, 2021 Regular Commission Meeting, Action: Approve, Moved by Commissioner Willard, Seconded by Commissioner Allen.

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

Yes: Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk, Commissioner Proctor.

7. Approval of Consent Agenda

- Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month Ending March 31, 2021
- c. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims
- d. Treasurer's 3rd Quarterly Report
- e. Approval of Chaves Soil and Water Conservation District Mill Levy Rate

- f. Restricted Housing Report Quarter Ending March 2021
- g. Approval of MOU between the Village of Ruidoso and the County of Lincoln for Use of the Gavilan Canyon Solid Waste Transfer Station
- Approval of MOU Between the Village of Ruidoso and the County of Lincoln for the Provision of Regulation Services of Residential and Commercial Construction Within Certain Specified Areas of the County of Lincoln
- Host Compliance / Granicus Expanded Services Address Identification

Motion: Approve the Consent Agenda with a continuation in the contract between Village of Ruidoso and the County of Lincoln, Action: Approve, Moved by Commissioner Willard, Seconded by Commissioner Proctor.

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

Yes: Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk, Commissioner Proctor.

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

Approval of Budget Adjustment FY 20/21 by Resolution 2020-37

Manager Pearson informed as per State Statute counties can requests budget adjustments 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.

Chair Stewart suggested the County of Lincoln increase line item for extra services from Host Compliance from \$20,000 to \$45,000.

Motion: Adopt Resolution 2020-45 with the addition of an increase for Host Compliance from \$20,000 to \$45,000, Action: Approve, Moved by Commissioner Willard, Seconded by Commissioner Allen.

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

Yes: Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk, Commissioner Proctor.

SEE EXHIBIT B: Copy of Resolution 2020- 45 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 Willard, Seconded by Commissioner Allen.

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

Yes: Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk, Commissioner Proctor.

9. Board of Finance- Lincoln County Treasurer Beverly Calaway

Beverly Calaway, County Treasurer directed the Board of Finance's attention to the Treasurer's Financial Report for the month ending March 31, 2021.

Treasurer Calaway stated the Lincoln County Treasurer's office opened a new Property Tax Payment Center Thursday, April 15, 2021 at the County Sub office in Ruidoso. Treasurer Calaway informed the satellite office would be open to the public Tuesdays and Thursdays from 9:00AM to 3:00 PM.

Treasurer Calaway reported the office is now collecting second half tases for 2020. Treasurer Calaway stated the taxes became due April 10, 2021 and delinquent after May 10, 2021. Treasurer Calaway reported as of March 31, 2021 they have collected 72% of 2020 taxes billed.

Treasurer Calaway reported the ending balance of \$7,625,143.82 in the General Fund. Treasurer Calaway stated the balance reduction of the General Fund in this fiscal year is primarily due to the transfers to the Correction Fund, Capital Improvements Projects, and the Lincoln County Medical Center Construction.

Treasurer Calaway noted the Detail of Receipts for the General Fund Account reflected anticipated General Fund revenues of \$13,707,514.93 for the Fiscal Year.

Treasurer Calaway stated the remaining pages in the financial report detail property tax distributions general obligation bonds and payments schedules for the Lincoln County Medical Center, Detention Debt Service, the Fire Department Loan Agreements with New Mexico Finance Authority, and the Loan Agreement for the Deer Park Valley Special Paving Assessment District.

Motion: Adjourn the Board of Finance and reconvene the Regular Meeting, Action: Approve, Moved by Commissioner Proctor, Seconded by Commissioner Allen.

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

Yes: Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk, Commissioner Proctor.

Forest, Land & Natural Resources Matters:

a. Smokey Bear Ranger District – Acting Ranger Larry Cordova Cristina Thompson, Smokey Bear Ranger District spoke on behalf of acting Ranger Larry Cordova. Ms. Thompson stated we are in stage one fire restrictions with no fires, no smoking, and no fireworks in a. Ms. Thompson stated the new Ranger takeover was delayed until May.

South Central Mountain RC & D

Laura Doth, South Central Mountain RC & D reported a productive month. Ms. Doth stated with the ski area closed they have been treating the area for bark beetle. Ms Doth was pleased to announce starting July 1, the district will begin to share projects on social media. Ms. Doth stated she will send link for the media platform.

Upper Hondo Soil & Water Conservation District

Manager Pearson stated Judy Bock was unable to attend the meeting but provided a written update.

d. LANRAC

Robert Barber, Chair of LANRAC provided an update on current projects. Mr. Barber provided an update on the US FWS draft purpose and Need statement and the Alternative Selection Criteria for Mexican Wolves.

There was a discussion regarding the Lincoln County Forest management revision plan.

SunZia Update and Presentation – John Ryan (Executive Director of SunZia New Mexico)

John Ryan, Executive Director of SunZia New Mexico presented a PowerPoint on current operations. Mr. Ryan stated the project is approximately 520-mile independent transmission that runs through New Mexico and Arizona. Mr. Ryan stated SunZia's first customer is Pattern Energy that will own and operate wind generation facilities in central New Mexico. Mr. Ryan went over the history and timeline of events informing construction would start in 2022 with the target commercial operation of the first 500kV line year 2025.

Crystal Coffman, Pattern Energy provided an updated on the Western Sprit Line.

12. 9:30 A.M.: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS (Items are for discussion only – no action will be taken)

Commissioner Allen reported she attended the Southeast Economic meeting. Commissioner Allen expressed her disappointment in the disconnect in the 2021 legislative session. Commissioner Allen stated the public was not allowed in the Capital during the session and informed it was hard to effectively participate.

Commissioner Allen stated she will continue to attend the Greentree meetings.

Commissioner Allen shared her admiration to the historic find located in the White Sands National Park in New Mexico. Commissioner Allen stated archaeologists examined a 10,000-year-old track of human footprints there.

Commissioner Willard stated he attended a meeting with Senator Ben Ray Luján to discuss the significance of the American Rescue Plan to the people of New Mexico.

Commissioner Willard stated he will attend the quarterly meeting of the Board of Directors of the Southeastern New Mexico Economic Development (SERPTO) meeting May 6, 2021.

Commissioner Crunk stated he attended the Southeastern New Mexico Economic Development Meeting. Commissioner Crunk stated he was particularly interested in the liquor license in relation to small business.

Walter Hill, Assessor reported the 2021 notice of values were mailed April 1, 2021. Assessor Hill stated during this 30-day protest period is when the public should apply for exceptions. Assessor Hill stated that the only exception that is available all year round is the disabled veteran exception. Assessor Hill stated all the forms are online or they can contact the County office to obtain information and forms.

Whitney Whittaker, Clerk reported on the 2021 census and county participation for the 2021 Redistricting Act.

Michael Wood, Sheriff provided a statement supporting law enforcement and the respect he has for all departments.

Charmaine O Rouke, resident of Lincoln County questioned the statement made by Sheriff Wood.

Dr. Phillip Jeffers, owner of O bar O stated the many issues between the residents in the area and the Lincoln County Forest. Dr. Jeffers stated the many troubles with the maintenance of the roads that lead to the national forest and the issues that are based around hunters. Dr. Jeffers stated the many relationships over the years with the County Road Superintendent and his concerns Talk to the road department about the concern- have some rocks in the middle of the road- three people have hit those. Turned over to residents- take over the roads.

Trever Neigren , Game Warden informed the importance of the maintenance of the O bar O road and the potential effect it could have for the public if not accessible.

Chair Stewart stated he also attend the April 8th "go to southeastern workforce solution meeting". Chair Stewart stated the primary focus was distribution of federal funds to the district. Chair Stewart stated one of the projects is RestartNM; a statewide strategy that includes several partners, both public and private to create a hub for workforce development opportunities, direct job referrals, resources to overcome work-related barriers, and guidance on safe return-to-work practices. Chair Stewart stated the public postsecondary institutions will be a critical partner in this project. Chair Stewart stated the projected date is July 1, 2021.

Chair Stewart stated he will continue to attend the Joint Land Use Study Group quarterly meetings.

13. O-Bar-O Road Meeting Update and Possible Commission Direction

Alan Morel, Attorney Morel provided a history of easements, deeds, and plats regarding the O Bar O area. Attorney Morel provided four options for the Commission to consider. Attorney Morel stated the commission can vote to vacate the road, close the road, declare road primitive, or maintain road.

There was a lengthy discussion regarding the current condition and road access.

Motion: Approve to maintain road and allow signage under letter of law, Action: Approve, Moved by Commissioner Crunk, Seconded by Commissioner Proctor.

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

Yes: Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk, Commissioner Proctor.

Chair Stewart recessed the Regular Meeting at 10:50 AM and reconvened the Regular Meeting at 11:00 AM

Approval of Proclamation Declaring the Month of May as Motorcycle Awareness Month

Manager Pearson stated the National Highway Traffic Safety Administration has declared May as "Motorcycle Awareness Month." Manager Pearson stated if approved the County Commission will join the NHTSA in raising awareness of motorcyclists on Lincoln County's roadways.

Motion: Adopt the Motorcycle Awareness Proclamation for the Month of May, Action: Approve, Moved by Commissioner Proctor, Seconded by Commissioner Allen.

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

Yes: Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk, Commissioner Proctor.

15. Manager's Report

- NEPA Training for LANRAC On March 25th and 26th, Robert Barber attended a special NEPA training to help understand the revised regulations. Robert is an integral part of our LANRAC team and this training will help us in navigating the Federal rules and regulations.
- 2) Update From Red Cloud Project Crystal Coffman wrote the following email to Commissioner Willard regarding the PILT calculation. Thank you for reaching out to me this afternoon. I pulled the Lease Agreement for the Red Cloud project in Lincoln County currently under construction. By my interpretation, we will need to submit an annual PILT Calculation certificate to the County on or before June 24th 2021. At that time, we will report the "Certified project MW Capacity". As of today, I'm not clear what that will be since we will still be under construction. I will get back to you on that as soon as able. Once we are fully installed at the end of 2021, we plan to have 87.42 MW installed in Lincoln County.
- 3) Fire Drill at Carrizozo Complex The OES Department performed a surprise fire drill on April 1, 2021. Overall evacuation was performed well and every was out of the building and accounted for. By performing this fire drill, Lincoln County can assess what we need to improve on.
- 4) Buck Mountain Tower Visit Joe Kenmore and I drove to the top of Buck mountain to review the site location of the new Lincoln County communications tower. Construction should begin in the next few weeks. While visiting the site we noticed that the existing tower had some broken cables that were causing interference in communications. Having our own tower is going to be a great advantage over sharing space on a tower owned by another entity. Existing tower is on the left Broken cables causing problems.
- 5) Valve and Water Line Repair at White Oaks Fire Station The main water line in White Oaks received some much-needed repairs on April 2nd, 2021. A four-inch valve was installed as well as welding the upper shaft damage caused by extreme freezing this winter. This fill line allows trucks to receive water from above the tank. Installing new valve Testing valve
- 6) Illegal Dumping in Lincoln County Every month we have received multiple complaints about the illegal dumping at or near compactor / dumpster sites. Plans are being discussed on creating a better procedure in dealing with this increasing problem. Compactor on Highway 37 Dumpsters near Capitan on Dawson Household garbage on 37 Couches left for weeks Mattress added to the couches.
- 7) Project List for Lincoln County
- 8) Project No. 20-L-G-2608, LINCOLN CO HOSPITAL REPLACEMENT With help of Finance Director, Billie-Jo Guevara, we were able to expend the NM State Capital Appropriation (\$460,340.00) in a very short amount of time. The money was available to help with the construction of the new hospital on a reimbursable basis. Please see the attached PDF from DFA Program Manager, David Buchen.

Motion: Approve a Special meeting Friday April 23, 2021, Action: Approve, Moved by Commissioner Proctor, Seconded by Commissioner Allen.

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

Yes: Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk, Commissioner Proctor

16. Office of Emergency Services:

a. Approval of Fire Fund Electronic Application Process

Joe Kenmore, Office of Emergency Services. The NMSFM Fire Support Services Application for Fire Protection Funds is now an online application process. The Applications are due by April 30, 2021. Office of Emergency Services (OES) Director Joe Kenmore is requesting approval to submit the online application with oversight from Chairman Stewart.

The Lincoln and Nogal Volunteer Fire Departments are requesting approval to purchase two, Ford F-550 Flat Bed Pickups. Both purchases have been approved by the Deputy State Fire Marshall Randy Varela.

Motion: Approve the online application process for Fire Protection Funds. **Action:** Approve, **Moved by** Commissioner Proctor, **Seconded by** Commissioner Allen.

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

Yes: Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk, Commissioner Proctor.

Approval for Lincoln VFD and Nogal VFD to Purchase Two Ford F-550 Type 5
 Flat Bed Pickup Trucks

Motion: Approve the purchase of two, F-550 pickup trucks for the Lincoln and Nogal Volunteer Fire Departments, Action: Approve, Moved by Commissioner Proctor, Seconded by Commissioner Allen.

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

Yes: Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk, Commissioner Proctor.

c. County of Lincoln Fire Ban Discussion and Possible Direction

Joe Kenmore informed with current drought conditions beginning it would be smart of the county to begin the discussion regarding the possible ban of fireworks.

There was a general discussion regarding the county fireworks ordinance and the consensus was to bring this item back in the next regular meeting in June.

Approval of Award of Contract for On-Call Engineer

Manager Pearson stated proposals were due on Friday, April 16, 2021 by 2:00 PM. Manager Pearson stated the scoring committee met on Monday, April 19, 2021 to tabulate the proposals and rank them accordingly.

OFFEROR'S NAME	EVALUATOR #1	EVALUATOR #2	EVALUATOR #3	OFFEROR TOTAL SCORE	OFFEROR AVERAGE SCORE
ASA ARCHITECTS	98.175	95.025	107.625	300.825	100.275
DESERT PEAK	103.95	106.05	105	315	105
HUITT- ZOLLARS	100.8	79.8	108.15	288.75	96.25
PETTIGREW	101.95	96.6	101.85	300.4	100.1333333
WILSON &	110.25	107.1	106.05	323.4	107.8
EVALUATOR TOTAL	515.125	484.575	528.675	1528.375	509.4583333
AVERAGE	103.025	96.915	105.735	305.675	101.8916667

Motion: Award Wilson and Company as highest bidder, Action: Approve, Moved by Commissioner Willard, Seconded by Commissioner Proctor.

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

Yes: Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk, Commissioner Proctor.

Chair Stewart recessed the Regular Meeting at 12:02 PM and reconvened the Regular Meeting at 1:01 PM

18. Lincoln County Medical Center Update

Todd Oberheu, Hospital Chief Executive for LCMC stated the hospital recently hired two new physicians. Mr. Oberhue stated Dr. Carlos Revelos Saravia and Dr. Sabrina Rocke joined the Presbyterian Medical Group in Ruidoso, thus expanding care to Lincoln County. Mr. Oberheu stated the hospital is currently working on getting another nurse practitioner to help in Capitan. Mr. Oberheu was pleased to announce that tent was ready to be taken down due to the decrease in COVID cases in the county.

Consideration of Change Order ASI 37 Addressing Lincoln County Medical Center Construction

Manager Pearson stated Chairman Stewart, Attorney Alan Morel and himself attended the biweekly LCMC Phase II Construction meeting on Thursday, April 15, 2021 to discuss the current budget and potential change orders. Manager Pearson stated Jaynes Construction has provided ASI 37 for consideration by the Board of County Commissioners.

John Nichols, Project Manager discussed the change order. Mr. Nichols stated HMCG will provide subsurface utility designation (line-spotting) of on-site privately-owned utilities to establish the existence and horizontal location of utilities in advance of site work, excavation, demolition, or other invasive work associated with the subject project. Mr. Nichols stated the first review any available record utility drawings that will be provided by the Owner at the onset of our services. Mr. Nichols informed any information will be used to correlate with current field conditions and support the designation process by establishing a basic understanding of utility locations within the project limits.

Motion: Approve change order, Action: Approve, Moved by Commissioner Proctor, Seconded by Commissioner Allen.

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

Yes: Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk, Commissioner Proctor.

20. Lincoln County Detention Center Update

Scott Colvin, Warden informed there were seventy-one (71) arrests, sixty-four (64) releases with an average daily population of sixty- six (66), and the average length of stay of forty- seven (47) days for the month of March. Warden Colvin stated four hundred twenty (420) arrests and four hundred twenty-one (421) releases for the 2021 year.

Warden Colvin discussed the importance of the body scanner and the master control room for the for the upcoming budget meeting regarding capital outlay for the Detention Center.

Warden Colvin stated in 1984, President Ronald Reagan signed a Proclamation creating "National Correctional Officers' Week." Warden Colvin stated each year, the first full week in May is recognized as National Correctional Officers and Employees Week, commemorating the contributions of correctional officers and personnel who work in jails, prisons, and community corrections across the country.

21. History in Lincoln County:

 Carrizozo News Articles from August 20, 1909 Regarding the Vote to Move the County Seat from Lincoln to Carrizozo

Manager Pearson presented the historic Newspaper Article.

b. "Sheriff Kelsey Takes Sanitary Action to Protect Court House Water"

Manager Pearson presented the historic Newspaper Article.

22. Approval to File Solid Waste Liens:

a.	Justin Uller	S.	1.042.34
b.	Mary Grace Baker (Land) 1006404 (MH) 0181325	\$	953.50
C.	Jaime Duran & Veronica Duran	\$	949.64
d.	Thomas Schiele	\$	893.10
e.	Wilford Charles Schneider & Marsha Gayle Schneider	\$	893.10
f.	Frank M Luna & Marlene A Luna	\$	877.31
g.	Katharine Thompson	\$	849.64
h.	Donald W Shouse & Jennifer L Shouse	S	815.51
i.	Rhonda J Dion & Gerald L Dion	\$	780.02
j.	Timothy James Sanders	\$	780.02
k.	Joe A Jarvis & Cheyenne K Jarvis	\$	722.04
1.	William F Studer Jr & Teresa Studer	\$	661.94
m.	Stanley T Cape & Amy Cape	\$	661.94
n.	Debbie Padilla & Melanie Padilla Whipple	\$	522.34
0.	James D Smith & Kimberly J	\$	449.64

Motion: Approve the filing of liens as presented with the exception of Mr. and Mrs. Shouse, Action: Approve, Moved by Commissioner Proctor, Seconded by Commissioner Allen.

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

Yes: Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk, Commissioner Proctor.

Approval of Resolution 2020-38: A Resolution for a Variance from Ordinance No. 2004-5, Allowing Temporary Vendors and Structures at Special Events in Lincoln, New Mexico

Manager Pearson stated the Resolution would grant the Lincoln Historic Preservation Board a variance for Ordinance for temporary structures for certain annual events to offer concessions and other vendor wares at these events, specifically the Market Day, Old Lincoln Days and the Arts in the Orchard events, is in the best interest of the Historic District.

Motion: Adopt Resolution 2020-38, Action: Approve, Moved by Commissioner Willard, Seconded by Commissioner Allen.

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

Yes: Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk, Commissioner Proctor.

SEE EXHIBIT C: Copy of Resolution 2020- 38 is attached hereto in reference thereto made a part hereof.

Approval of Lodger's Tax Application with backup material:

- Aim High-ENMU Request: \$8,500.00

Date(s) of Event: June 26, 2021 Presenter: Ruidoso Rhonda Vincent Recommendation: \$8,500,00

Motion: Approve the request as presented, Action: Approve, Moved by Commissioner Willard, Seconded by Commissioner Allen.

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

Yes: Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk, Commissioner Proctor.

25. Approval of White Oaks Billboard Permit Cost Increase

Manager Pearson reminded in the September 15, 2020 Regular Commission Meeting the Board of Commissioners approved the renewal of the White Oaks Billboard Permit with the State of New Mexico Land Office. Manager Pearson stated on March 25, 2021 he received an email from the State of NM Land Office stating that the cost of the two-sided billboard is now \$1,200. Manager Pearson stated the original permit application that the County of Lincoln had received from the State of NM Land Office in 2020, the application reflected the amount of \$700.

There was a general discussion on the implementation of a historic sign placed by NMDOT.

Motion: Approve the removal the sign by July 1, 2021, Action: Approve, Moved by Commissioner Proctor, Seconded by Commissioner Allen.

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

Yes: Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk, Commissioner Proctor.

Authorization to Schedule a Public Hearing to Consider the Transfer of Location of Dispenser Liquor License No. 0812 - Package Sales Only

Manager Pearson stated BW Gas & Convenience Retail, LLC., doing business as Allsup's Convenience Stores, Inc., had applied for a transfer of location for Liquor License No. 0812 from 28586 US Highway 70, Hondo, NM 88336 to 28691 US Highway 70, Tinnie, NM 88351. Manager Pearson stated the Director of the Alcoholic Beverage Control (ABC) has granted Preliminary Approval of the transfer application.

Manager Pearson stated a public hearing is required within forty-five (45) days after receipt of a Notice from the ABC. Manager Pearson stated a Notice of the Public Hearing shall be given by the governing by publishing a notice twice during the 30 days prior to the hearing.

Motion: Schedule the Public Hearing and approve the publication of the hearing in general circulation, Action: Approve, Moved by Commissioner Allen, Seconded by Commissioner Proctor. Vote: Motion passed (summary: Yes = 4, No = 1, Abstain = 0).

Yes: Chair Stewart, Commissioner Allen, Commissioner Crunk, Commissioner Proctor.

No: Commissioner Willard.

27. Approval of Revisions to the Solid Waste Waivers/Exemption Applications

Manager Pearson reminded in the March 16, 2021 Regular Commission Meeting, the Board of County Commissioners discussed the newest waiver/exemption application and its lack of proof that the customer/resident must provide. Manager Pearson explained that the current waivers/exemption applications not only need to be signed by the property owner but must be accompanied by a small list of documents to show proof of each reason for said exemptions. Manager Pearson stated in the attached waivers/exemption applications, each one now must be notarized as well, including the newest waiver/application.

Motion: Approve changes to all three waiver/exemption applications, Action: Approve, Moved by Commissioner Allen, Seconded by Commissioner Willard.

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

Yes: Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk, Commissioner Proctor.

Insurance and ISO Ratings in Lincoln County – Commissioner Jon Crunk

Commissioner Crunk presented insurance and ISO ratings in the County. Commissioner Crunk informed an ISO fire rating is a measure of how prepared your area is to respond to fires. Commissioner Crunk stated it is not related to your home, but rather the community you reside in. Commissioner Crunk stated an ISO assigns its rating using the Fire Suppression Rating Schedule which places a class 1 (best) through 10 (worst).

Commissioner Crunk stated most homeowner's insurance policies cover damage due to fires, although it is sometimes excluded in extremely high-risk areas. Commissioner Crunk informed if your house is in a community with a strong fire and a weak ISO rating, premiums would increase to reflect a greater risk for damage.

29. 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); 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: 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); 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 *

- 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. 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 On January 8, 2021, the Supreme Court entered its Dispositional Order of Transfer transferring the case to the Court of Appeals for consideration and review. The case is

still pending.

3. *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. The Complaint was served upon Lincoln County's General Counsel on April 7, 2021; and the remaining Lincoln County have yet to be served with the Complaint.

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.

5. 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.

6. *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. Mediation is scheduled for April 28, 2021 before retired Judge

William Bustamante.

 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.

8. 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 March 30, 2021, the case was remanded back to the 12th Judicial District Court for further proceedings.

 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. A hearing on Plaintiff's Appeal is scheduled to take place on April 22, 2021

before Judge John P. Sugg.

10. 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. On October 26, 2020, an Entry of Default as to Defendant
Smile 4 U was entered. The case is still pending.

11. *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 filed its Answer to the Complaint on December 3, 2020. On January 28, 2021, Judge John Sugg entered a Decree of Foreclosure, a Special Master's Sale took place on March 31, 2021, and on April 1, 2021.

2021, an Order Approving Sale and Special Master's Report was entered.

12. *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 filed its Answer to the Complaint on December 3, 2020. On December 29, 2020, a Disclaimer of Interest on behalf of the Estate of J. Lynn Starr was filed. On January 28, 2021, Judge John Sugg entered a Decree of Foreclosure, a Special Master's Sale took place on March 31, 2021, and on April 1, 2021, an

Order Approving Sale and Special Master's Report was entered.

13. *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 filed its Answer to the Complaint is on December 3, 2020. On December 29, 2020, a Disclaimer of Interest of Defendants Moises and Casandra De La Torre was filed. On January 27, 2021, Plaintiff filed its First Amended Complaint to Foreclose Lien and The County of Lincoln filed its Answer to First Amended Complaint that same day. On March 5, 2021, Judge Sugg entered a Decree of Foreclosure, a Special Master's Sale took place on April 7, 2021, and on April 9, 2021, an Order Approving Sale and Special Master's Report was entered.

 Jacob Scott v. Lincoln County Board of Commissioners, Brack Rains and Unknown Defendants, Cause No. D-1226-CV-2021-00001 Complaint for Negligence and Negligence Per Se and Deprivation of Constitutional Rights was filed on January 1, 2021. Lincoln County has yet

to be served with the Complaint.

15. *Daniel Caouette v. Lincoln County, Cause No. D-1226-CV-2021-00039 A Complaint alleging violation of the Inspection of Public Records act was filed. Lincoln County was served with the Complaint on April 5, 2021. The case is still pending.

Tort Claims Notices Received or Threatened

2021

Cline, Terry – Tort Claim Notice received January 11, 2021 alleging injuries sustained as a result of claimant's garbage truck being struck by a front-end loader at the Otero-Greentree Regional Landfill.

Purcella, Les – Tort Claim Notice received January 28, 2021 alleging damage to his automobile by an employee with the Lincoln County Assessor's office.

Chavez, Cecilia – Tort Claim Notice received February 1, 2021 alleging damage to NM State Police vehicle by Deputy Wikoff with the Lincoln County Sheriff's Office.

Mow, Jacob - Tort Claim Notice received February 18, 2021 alleging damage to his vehicle due to icy road conditions on Cora Dutton Rd. and the County Road Department's failure to salt to roadway.

2020

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 fees 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, 20 alleging that members of the Lincoln County Sheriff's Office did commit multiple torts against Claimant by failing to perform their duties.

Buster, Crystal - 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.

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 Trespalacios, 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.

Goodman, John and Lovone - Tort Claim Notice received November 24, 2020 alleging substantial damage as a result of Lincoln County Sheriff Deputy Joshua William Snodgrass' failure to yield right of way.

Humphrey, John D. - Tort Claim Notice received December 17, 2020 alleging personal injuries occurring at Moon Mountain Disc Golf.

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

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

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 Proctor, Seconded by Commissioner Willard.

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

Yes: Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk, Commissioner Proctor

Chair Stewart recessed the Regular Meeting and convened the Closed Session at 2:50 PM.

Chair Stewart adjourned the Closed Session and reconvened the Regular Meeting at 3:14 PM.

Commissioner Willard attested that matters discussed in the closed meeting were limited to those specified in the motion for closure or in the notice of separate closed meeting.

30. Signing of Official Documents

Chair Stewart and Commissioner Crunk authorized approval of their stamp and or electronic signature.

31. Next meetings:

- a. April 23, 2021 Special Commission Meeting
- b. May 4, 2021 Special Commission Meeting
- c. May 18, 2021 Regular Commission Meeting
- d.

32. Adjourn

There being no further business to come before the Board of County Commissioners, Chair Stewart adjourned the meeting at 3:16 PM.

County of Lincoln Board of Commissioners

Thomas F. Stewart, Chair

F Lynn Willard, Vice Chair

Elaine Allen, Member

Jon Crunk, Member

Todd Proctor, Member

ATTEST:

Whitney Whittaker, County Clerk

May 18, 2021 Date Approved

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