

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 August 17, 2021**

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on August 17, 2021, in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico.

In accordance with the New Mexico Public Health Emergency Order, this meeting was conducted on a platform for video and audio.

1. 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, Commissioner Allen, Commissioner Willard, Commissioner Crunk, Commissioner Proctor (via Zoom).

Others present included Ira Pearson, County Manager; Alan Morel, County Attorney; and Nicholas Morerod, Deputy Clerk.

3. Invocation

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 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.

6. Approval of Minutes:

- a. July 20, 2021 – Regular Commission Meeting

Motion: Approve the minutes of the July 20, 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

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month Ending July 31, 2021
- c. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims
- d. Approval of Correction to Treasurer's Financial Report for the Month Ending June 30, 2021
- e. Approval of Sun Valley Mill Levy
- f. Approval of Budget Adjustment FY 21/22 by Resolution 2021-12
- g. Approval of Resolution 2021-11 Lincoln County Policy Governing Capital Assets Rescinding Resolution 2010-28

Motion: Approve the Consent Agenda, **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.

EXHIBIT A: Copies of the Consent Items including Resolution 2021- 12 and Resolution 2021- 11, are attached hereto in reference thereto made a part hereof.

8. Forest, Land & Natural Resources Matters:

a. Smokey Bear Ranger District

Camille Howes, Smokey Bear District Ranger spoke on distributing Fire Fighter Teams across the nation to deal with the PL5 (planning level 5) maximum level of wildland fire activity. District Ranger Howes stated there were no active fires in Lincoln County.

b. Lincoln County / NMSU Extension Services

Melanie Gutierrez, County Program Director stated the Lincoln County Fair sales of livestock valued at \$190,600.00 plus \$44,000.00 in add-ons for a grand total of \$234,600.00; Ms. Gutierrez stated that was one of the highest sales ever recorded. Melanie Gutierrez spoke on the State Fair preparations and school outreach enrichment projects.

Manager Pearson stated he attended the Lincoln County Fair, and it was very well attended by the public.

Melody Gaines, Family & Consumer Science/4H Agent expressed the appreciation and support from community.

c. State Forestry - EMNRD

Robert Barber, Chair of LANRAC spoke on the Lincoln Nation Forest Plan being posted, the Forest Service accepting public comment until November 5, 2021, and future public meetings. Robert Barber stated the draft of the final decision for the Cibola National Forest will be posted for public comment within the next 60 days. Robert Barber spoke on meeting with Fish and Wildlife to regarding final draft and public comment to be scheduled in the fall.

Commissioner Proctor questioned the status of the grant regarding the restoration of the Lincoln National Forest in Otero County.

Robert Barber stated the project was on schedule despite weather and slowdowns from Covid. Manager Pearson spoke on the draft EIS (Environmental Impact Statement) and appreciation of Robert Barbers' updates and efforts for the county.

d. South Central Mountain RC & D

Robert Barber stated the district is looking at hiring a new community forester to oversee the WUI's, and grants.

e. Upper Hondo Soil & Water Conservation District

Commissioner Willard questioned the reports and was looking forward to future updates.

f. LANRAC

21. Presentation of Proposed USFS Fee Changes – Laura Rabon

Laura Rabon presented on USFS fee changes proposal letter of support. Ms. Rabon reminded the commission of the fee allocations and basis for increases. Ms. Rabon stated the comment period ends September 30, 2021.

Commissioner Willard questioned on how fees were collected.

Ms. Rabon informed options for collecting fees through drop box, in person, and or credit card at locations with cellular service.

Motion: Approve Proposed Letter of Support for USFS Fee Changes **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.

12. History in Lincoln County: County Manager, Ira Pearson - "12 Miles from Daylight" Fort Stanton Cave and the Snowy River Discovery

Manager Pearson Presented on the book titled - "12 Miles from Daylight" Fort Stanton Cave and the Snowy River Discovery.

10. Healing America's Heroes Presentation

Eddy Crain stated Healing America's Heroes is asking Lincoln County to be our Fiscal Agent for any funding or financial assistance we will receive in the future that requires a fiscal agent. Mr. Crain stated if Lincoln County accepts this request, it would be such a big relief to us as an organization.

Manager Pearson stated being a fiscal agent will require the County of Lincoln to provide some administrative work and fiscal oversight. Manager Pearson stated additional personnel might be needed to perform the duties and responsibilities in taking on the task of being a fiscal agent for Healing America's Heroes.

Eddy Crain Presented on Healing Americas Heroes Organization and request for the County of Lincoln to become a fiscal agent.

Dennis Carter Continued Presentation.

9. 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 on Old Lincoln Days 80th year.

Commissioner Proctor stated he attended the Interstate Stream Commission meeting along with others via Zoom on July 21, 2021. Commissioner Proctor stated he attended the Lincoln County Fair.

Whitney Whittaker, Lincoln County Clerk stated Regular Election Candidate Filing day to be September 24, 2021 from 9:00 am to 5:00 pm.

Walter Hill, Lincoln County Assessor stated they were currently working on protest and in the process of hiring.

Beverly Calaway, Lincoln County Treasurer stated the previous Thursday night the Capitan School Board held a special meeting to discuss the consideration and approval of an amended resolution for Capital Improvement Tax Ballot Question which would have appeared on the Nov 2, 2021, Local Election. Treasurer Calaway stated after weeks of discussion regarding the resolution, the Capitan School Board voted unanimously to remove the 2021 tax year from the resolution. Treasurer Calaway stated the 2021 property tax will follow the regular billing cycle scheduled for Oct 20, 2021 and distribution to all Lincoln County Entities will proceed per state statute. Treasurer Calaway stated the Lincoln County bills will be mailed Nov 1, 2021, become due Nov 10, 2021 and become delinquent after Dec 10, 2021. Treasurer Calaway shared her appreciation for the Commissioners and Capitan School Boards time and efforts. Treasurer Calaway stated she received two letters, one from the DFA confirming Capitan's School District

Mil Leavy Resolution and from the Property Tax Division confirming to proceed with regular scheduled procedures.

Geraldine Martinez Undersheriff stated there were no current updates.

Manager Pearson stated there was communication with Robert Barber through the Zoom chat regarding Soto Road and that Robert Barber would work with Judy Brock regarding updates.

10. Healing America's Heroes Presentation- continued

Eddy Crain continued presentation on Healing Americas Heroes.

11. AOC / Ruidoso Magistrate Court Update – Judge Daniel A. Bryant

Honorable Judge, Daniel Bryant stated they will be looking at a completion date for the Ruidoso Magistrate Court and determining a date for later in month regarding a public hearing. Judge Bryant spoke on the increase of the cost of steel due to the Covid pandemic and instead using a more traditional wood structure for the project. Judge Bryant spoke on the design and placement to increase parking spaces through layout.

Tim Dodge Village of Ruidoso spoke on working with the AOC.

Jason Clack Administrative Offices of the Courts spoke on working with the Village of Ruidoso in adjusting the site plan for multiple benefits. Mr. Clack spoke on funding for the project. Allan Morel County Attorney inquired on when remodeling and accommodations would be needed.

Mr. Clack stated due to the facilities being a county owned the architectural teams would need to get together to coordinate a site plan. Mr. Clack stated the facility in Ruidoso may be completed first but could work on both simultaneously.

13. Lincoln County Detention Center Update – Warden, Scott Colvin

Scott Colvin, Warden Lincoln County Detention Center stated the detection center booked 120 and released 106 for July 2021 and booked 65 and released 70 in August 2021. Warden Colvin stated the current count had been 79 with 66 county inmates and 13 federal inmates. Warden Colvin stated in July 2021 there were 3 minor uses of force with no major injury with 2 of them being breaking up inmate altercations. Warden Colvin stated there had been 3 inmates on suicide watch. Warden Colvin reported 4-unit searches conducted with 1 positive Covid inmate and 0 staff for July 2021 and 1 positive Covid inmate and 1 staff resulting in testing for all staff for August 2021. Warden Colvin reported 1 inmate on suicide watch and 1 minor use of force for the month of August 2021 with 1 unit search and 1 fire resulting in 0 injuries. Warden Colvin stated the first Covid 19 Vaccine clinic was held on August 6, 2021, with 18 inmates and 2 staff members receiving the vaccine. Warden Colvin spoke on appreciation for book donations and preparing the GED program for startup. Warden Colvin provided an update on the life skills program. Warden Colvin spoke on reviewing and selecting vocational programs. Warden Colvin spoke on the RISE program.

Commissioner Willard inquired on the American rescue funds and the body scanner.

Manager Pearson spoke on the capital outlay for the detention center equipment provided by the State of New Mexico and selecting a body scanner which may include a temperature scanner.

Commissioner Proctor expressed appreciation of a tour of the facility provided by Warden Colvin.

14. Lincoln County Medical Center Update – Todd Oberheu

Todd Oberheu, Hospital Chief Executive LCMC spoke on the increase in Covid cases within Lincoln County. Mr. Oberheu stated all 6 ICU beds were full of 3 being COVID cases at a total of 9 Covid Patients, with a total hospital capacity of 50%. Mr. Oberheu stated on average there were 8 to 9 positive cases through the testing facilities daily. Mr. Oberheu stated they were holding a final Pfizer vaccine pod and would start offering doses only from clinics. Mr. Oberheu stated they are willing to come to any of the clinics if at least 6 doses can be scheduled. Mr. Oberheu stated the Moderna vaccine is available in all the clinics except for Hondo and Corona. Mr. Oberheu stated they are unable to get the Johnson and Johnson vaccine at this time due to shortage.

Mr. Oberheu stated since July 2021 82% of positive cases at the hospital were not vaccinated. Mr. Oberheu stated since June 2021 84% of positive case were not vaccinated. Mr. Oberheu stated hospital is operating well with staffing being the main concern.

Brief discussion regarding staffing and hours of operation in Corona and Hondo.

15. Manager's Report

Manager Pearson presented:

1) Rain / Floods and an Email Complimenting the Road Department

In late July, I received an email from Matthew Midgett (please see attachment). Matt sent pictures of the water running near Cherry Creek Road after a significant rainfall. He wanted to send his thanks for the responsiveness of both Jeff Honeycutt and David Munro to his maintenance request.

2) O-Bar-O Road Update

The Road Department started working on the lower part of O-Bar-O road. The questionable private property signs have been removed from this section of the road. The signs are still posted, in the County ROW, along the last 1.5 miles of the road.

3) NMSU Extension Office Installs 4H Signs

Melanie Gutierrez and Melody Gaines have been installing the new 4H signs around the county. There is a welcoming sign on every major highway entering Lincoln County.

4) Visit to White Oaks Communication Tower – Carrizo Mountain

On August 6, 2021, Joe Kenmore and I visited the White Oaks communication tower on Carrizo peak. Joe performed routine maintenance while explaining the communications set up. Most of the equipment you see in the picture was abandoned by the previous owners of the tower site. Previous County Manager, Tom Stewart, secured this tower site to help with emergency communications.

5) Paving Ft Stanton Road

On July 26, 2021, all hands were participating in the paving of Ft Stanton Road. The Sheriff and many deputies helped with traffic control while Renegade Construction started paving the Ft Stanton / highway 48 intersection. Road Department, Sheriff Department - Thank you!!

16. Approval to Combine Planning and Solid Waste Departments – Creating a Department of Public Works

Manager Pearson stated On September 7, 2020, the Lincoln County Planning Department had five employees in five positions:

- Director of Planning \$44,000 / year \$72,000 w/benefits
- GIS Specialist \$44,000 / year \$72,000 w/benefits
- Addressing Technician \$35,000 / year \$55,000 w/benefits
- Ordinance Administrator \$39,000 / year \$59,000 w/benefits
- Indigent Coordinator \$44,000 / year \$72,000 w/ benefits
-

Manager Pearson stated the GIS Specialist employee took another position within the county. Manager Pearson stated GIS was combined / absorbed into the Road Department's Administrative Assistant position (Savings of over \$50,000 / year).

Manager Pearson stated the Addressing Technician has been vacant since October of 2020. Manager Pearson stated the county kept this position with the idea of having a Solid Waste / Ordinance Code Enforcement.

Manager Pearson stated the Director of Planning resigned in May of this year. Manager Pearson stated this vacancy allowed the Manager's office to review the duties and workload of the position.

Manager Pearson stated the Solid Waste Director position has not been filled since the creation of the position in May of 2021. Manager Pearson stated this position pays \$44,000 / year - \$72,000 with benefits.

Manager Pearson stated I am proposing to combine the Planning and Solid Waste Departments, creating a Public Works Department.

Manager Pearson stated the Department would have one director that is a non-classified employee. Manager Pearson stated a yearly contract would guide the terms of employment. Manager Pearson stated the job description is written to attract qualified and experienced applicants in the field of Public Works. Manager Pearson stated if hired at the high end of the pay scale (\$85,000 / year - \$108,000 w/benefits), the County would still save \$30,000 - \$40,000 per year in salary and benefits by combining the two positions.

Manager Pearson recommended the approval to combine the Planning and Solid Waste departments to create a Department of Public Works.

Commissioner Crunk spoke on the need and benefits of having the Department of Public Works position.

Commissioner Proctor spoke on the workload and benefits of the Department of Public Works position.

Motion: Approve the Public Work position, **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.

17. Lincoln County Fair Board Presentation

Manager Pearson stated Julie Anne Leonard canceled presentation

18. Approval to Demolish the Glencoe Canyon Trading Post Building

Manager Pearson stated he met with Joe Kenmore yesterday and went extensively through the building. Manager Pearson stated he took some pictures and e-mailed them. Manager Pearson spoke on the condition of the building. Manager Pearson spoke on the alternative of selling the building and it not being a viable option due to layout. Manager Pearson spoke on the multiple issues, not being up to code, and estimate of \$300,000 to fully repair. Manager Pearson spoke on the \$27,000 estimate and that it may cost more due to size and shutting off utilities and a more accurate estimate may be \$40,000 to \$50,000. Manager Pearson spoke the general estimate repair and use the building as an extension of the fire station being approximately \$350,000. Manager Pearson recommended demolishing the building.

Joe Kenmore spoke on the building last having a meeting 2 years prior.

Motion: Approve the demolition of the Glencoe Canyon Trading Post Building, **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.

Chair Stewart recessed the regular meeting at 11:48AM and reconvened the regular meeting at 12:30PM

19. Off-Highway Vehicle NMSA Statue Discussion – County Commissioner, Jon Crunk

Commissioner Crunk lead a brief discussion on OHV (Off Highway Vehicle) uses in Lincoln County, statues, and recommendations for passing an ordinance

20. Sun Valley Fire Station Update – County Manager, Ira Pearson

Manager Pearson spoke on the acquired loan and the future fire funds to pay for the building. Manager Pearson stated the original contract sum was \$1,120,000 for the fire station. Manager Pearson stated as of June 25, 2021, a certified copy from Roper's Construction was received. Manager Pearson stated the previous payout with the architect at the time was \$46,789 in June 2020. Manager Pearson stated to finish the original 1.2 million dollars the was \$120,000 left to

complete the original contract. Manager Pearson stated Pettigrew had been asked to complete a site plan, fix the driveway access, retaining wall, and parking area. Manager Pearson stated Roper Construction submitted \$284,379.40 as the addition cost to complete the work proposed by the architect. Manager Pearson stated the additional work is \$284,379.40 and the original contract has \$120,000 to complete the original contract. Manager Pearson spoke with Rick Hall, Joe Kenmore, and Pettigrew and all agreed that the cost was reasonable for the project. Manager Pearson stated Joe Kenmore recommended applying for a fire grant to complete the project. Manager Pearson stated he recommended completing the project and working with Roper Construction to finalize the project.

There was a brief discussion on the initial project.

22. Approval of Public Health Office Renovations Funded by the Women, Infant and Children (WIC) Program

Manager Pearson spoke on the interior remodeling requested through WIC for the Department of Health.

Margie Blatnik, Southeast Project Manager WIC spoke on the interior renovation request and it being solely for the WIC area. Ms. Blatnik spoke on the operations workflow and remodeling request.

Motion: Approve the Public Health Office Renovations Funded by the Women, Infant and Children (WIC) Program,

Action: Approve, Moved by Commissioner Crunk, 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.

23. NMDOT – County Road Superintendent, Jeff Honeycutt:

- a. Approval to Submit a Completed Application for the New Mexico Department of Transportation Federal Fiscal Year 2023+ Transportation Alternatives Program (TAP) for Magado Creek Pedestrian Bridge and Trail

Jeff Honeycutt, County Road Superintendent stated the County match for the TAP application is at a 14.56% match of \$65,174.05, and the Federal match is at \$382,449.95 for the Magado Creek Pedestrian Bridge and Trail at a total project cost of \$447,624. Mr. Honeycutt stated an asphalt trail would be placed behind the arena along with the bridge. Mr. Honeycutt stated a meeting was held with State of New Mexico and Wilson & CO and had turned in the PFF which will be evaluated and voted on in the upcoming meeting on September 8, 2021.

Motion: Approve the submission of a Completed Application for the New Mexico Department of Transportation Federal Fiscal Year 2023+ Transportation Alternatives Program (TAP) for Magado Creek Pedestrian Bridge and Trail, **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.

- b. Approval of Maintenance Commitment

Motion: Approve the Maintenance Commitment once the Transportation Alternatives Program (TAP) for Magado Creek Pedestrian Bridge and Trail is completed, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

Brief discussion on the adjoining property and layout of project.

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

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

24. Approval of Re-Appointment to Property Tax Protest Board

Motion: Appoint Jim Russ to the Property Tax Protest Board, **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.

25. Cannabis Ordinance Review and Discussion

Attorney Morel spoke on creating a written memorandum regarding zoom meetings held to discuss the statutes and ordinances the counties of New Mexico can and cannot implement. Attorney Morel spoke on the differences of counties who have zoning and do not have zoning regarding regulation through state law. Attorney Morel stated a consolidated ordinance with other counties has been created to review. Attorney Morel recommended scheduling a public hearing for adopting the proposed ordinance.

Chair Stewart spoke on sections 5.1 and 5.2 regarding proximity of residence and simplification.

Commissioner Proctor spoke on the clarification and working with the Sheriff's Office.

Motion: Place the Cannabis Ordinance Review and Discussion on Public Hearing,
Action: Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Proctor.

There was a brief discussion on growth and consumption regulation.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).
Yes: Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk, Commissioner Proctor.

26. Approval of Sale and Issuance of Quitclaim Deed of Vacated Soto Road to the JoAnn Hall Family Trust and MP Chavez and Corina Chaves

Manager Pearson stated In December of 2008, the Board of County Commissioners vacated Soto Road located in the Valley East Estates off Gavilan Canyon Road. Manager Pearson stated Soto Road had never been established and the Hall Family Trust had it vacated. Manager Pearson stated that currently the trust still owns the property and a portion by the Chavez's. Manager Pearson stated property is currently attempting to be purchased from the trust but a deed cannot be issued as it was never sold by the county. Manager Pearson stated the plat dedicates the property to Lincoln County and Lincoln County does own it. Manager Pearson stated through the Assessor the true assessed value for the Halls Trust is approximately \$7,000 dollars and MP Chavez is approximately \$3,600. Manager Pearson stated through Assessor Hills note regarding the property not being buildable, a very small tract of land, and only useable by the owners the market value is not feasible in the appraisal. Manager Pearson stated Mr. Hills estimate would be approximately \$1,000 an acre calculating the Halls Trust portion to \$269 and the Chavez portion to \$138.

Attorney Morel stated the County must process the road through the Road Review Committee which had been completed in 2008. Attorney Morel stated fair market value now must be received for the property provided by the Assessor. Attorney Morel spoke on getting the two legal descriptions to complete the Quitclaim Deeds.

Manager Pearson Spoke on the owners providing the two legal descriptions.

Attorney Morel stated the Hall Family Trust tract was .269 acres at \$269 and the Chavez Tract .138 acres at \$138 requiring the two separate legal descriptions.

Motion: Approve the sale and Issuance of Quitclaim Deed of Vacated Soto Road to the JoAnn Hall Family Trust and MP Chavez and Corina Chaves,
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.

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

Manager Pearson stated there are no public hearing to be scheduled at this time

28. **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); and Limited Personnel Matters, County Manager, Ira Pearson, Contract Review / Negotiations, Section 10-15-1, Subparagraph (H)(2)**

Motion: Close the Meeting for the purposes of an executive session Pursuant to the Open Meeting 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); and Limited Personnel Matters, County Manager, Ira Pearson, Contract Review / Negotiations, Section 10-15-1, Subparagraph (H)(2)

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. 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. **On January 28, 2021, a Dispositional Order was entered transferring the case to the NM Court of Appeals for consideration and review. Case No. A-1-CA-39446** 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. On May 7, 2021 Defendants filed their Motion to Dismiss in Lieu of an Answer. The case is still pending. A Hearing on Defendants' Motion to Dismiss is scheduled to take place on August 26, 2021 @ 2:00 p.m.
4. **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.
5. **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 took place on April 28, 2021 before retired Judge William Bustamante at which time, settlement did not occur. The case is still pending.
6. **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.
7. **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. The case is still pending.
8. **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.

9. **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.

10. **State of New Mexico v. Ohlin Skeen, Cause No. D-1226-CR-2020-00038** Criminal Complaint alleging aggravated battery, false imprisonment, interference with communications, etc. Lincoln County has filed a Motion for Reconsideration of the Court's Order to House the Defendant at Otero County Detention Center. The case is still pending.

11. **Lincoln County, ex rel. Greentree Solid Waste Authority and May Mansfield vs. Sierra Contracting, Inc, et al, Cause No. D-1226-CV-2020-00081** Complaint Under Fraud Against Taxpayers Act was filed by Zach Cook and Victor Marshall on March 31, 2020. On September 17, 2020, Plaintiffs filed their Notice that Qui Tam Plaintiffs are proceeding with this action. 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.

Cervantez, Adam – Tort Claim Notice received alleging the use of excessive force and related constitutional claims during his arrest on April 22, 2021.

***Kieter, Dave; Jakubcewicz, Mark; Riddle, Jasper; Patton, Van** – Claimants each allege damages to personal and real property as a result of the extraordinary flooding experienced throughout Lincoln County.

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.

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.

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.

2019

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 Allen.

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 1:29 PM.

Chair Stewart adjourned the Closed Session and reconvened the Regular Meeting 2:47 PM.

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

29. County Manager Ira Pearson Contract Review/Negotiations

Motion: Renew County Manager Ira Pearson's Contract at a salary of \$95,000, with the County picking up 100% of the cost of Medical Insurance,

Action: Approve, **Moved by** Commissioner Crunk, **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.

30. Signing of Official Documents and Authorization to Utilize Electronic/Stamp Signature

Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk, and Commissioner Proctor all authorized the use of their electronic stamp

31. Next meetings:

- a. September 3, 2021-Special Meeting to Impose Property Tax Rates (Subject to Change)
- b. September 21, 2021-Regular Commission Meeting

32. Adjourn


There being no further business to come before the Board of County Commissioners, Chair Stewart adjourned the meeting at 2:50 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

September 21, 2021
Date Approved

