

# 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 December 21, 2021

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on December 21, 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 8:44 AM

Chair Stewart informed there was technical difficulties concerning audio.

#### 2. Roll Call

##### Roll Call.

**Present:** Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk, Commissioner Proctor.

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

#### 6. Approval of Minutes:

- a. November 9, 2021 Special Commission Meeting (Canvassing of Votes)
- b. November 16, 2021 Regular Commission Meeting

**Motion:** Approve the minutes of the November 9, 2021 Special Commission Meeting (Canvassing of Votes) and the November 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**

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month Ending November 30, 2021
- c. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims
- d. Approval of Resolution 2021-34 Disposition of Surplus Inventory
- e. Approval of Resolution 2021-35 Budget Adjustment FY 21/22
- f. Approval to Transfer Air Shore Kit to Lea County
- g. Approval of Grant Agreement Between the County of Lincoln and the NM Department of Transportation for Funding the ENDWI and STEP Projects

**Motion:** Approve 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.

**SEE EXHIBIT A:** Copies of the Consent items including Resolution 2021-34 and Resolution 2021-35 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 reported the fall cleanup and repurposing of five (5) culverts and five (5) cattle guards. Ms. Howes spoke on the fall cleanup in the Smokey Bear District of the Bonito Corridor. Ms. Howes reported on the Hale Lake off-road trails placement of signs and new parking lot. Ms. Howes reported on the riparian restoration project near bonito. Ms. Howes reported on prescribed burning near grindstone with updates found at nmfireinfo.com. Ms. Howes spoke on the Forest Plan Comment period closing on Nov 4, 2021.

- b. Lincoln County / NMSU Extension Services

Melody Gains, Lincoln County Family & Consumer Science 4-H Agent reported on the Program Rural Resilience Farm and Ranch Stress relief project and presentation at the New Mexico Joint Stockman's Convention in Albuquerque. Ms. Gains spoke on the new year enrollment ending on Dec 3, 2021 and Jan 5<sup>th</sup> through the 9<sup>th</sup> 2022 trip to Denver with the Lincoln County 4-H evaluation team. Ms. Gains thanked the Horse Team, Raffle, and Grant from the Corona Landowner's Association for helping to make the trip possible.

- c. State Forestry – EMNRD
- d. South Central Mountain RC & D
- e. Upper Hondo Soil & Water Conservation District

Robert Barber, Chair of LANRAC stated the burn box class was held and state test would be the following month. Mr. Barber stated they are continuing to work with the EWP program and their approvals.

- f. Land and Natural Resources Advisory Committee-LANRAC

Mr. Barber stated he had submitted comments for the Penasco chipmunk as well the burn certification program. Mr. Barber reported on attending public meetings with Sun Zia and Fish and Wildlife Service regarding the Mexican wolves. Mr. Barber spoke on awaiting funding for repairs.

**9. Consideration of Resolution 2021-37 in Opposition of Heavier and Longer Trucks Travelling on US Highways 54, 70 and 380**

Manager Pearson stated Mr. Josh Collins, National Field Director for the Coalition Against Bigger Trucks (CABT) in Alexandria, Virginia, had contacted Commissioner Allen to request an action by the commission opposing a potential initiative permitting larger trucks on our highways. Manager Pearson stated Commissioner Allen had requested this agenda item in the previous commission

meeting. Manager Pearson stated CABT describes itself as a national, non-profit organization that advocates for highway safety and more information can be gained by visiting the organization's web site at cabt.org.

Manager Pearson stated Mr. Collins provided the fact sheet. Manager Pearson stated he also provided a sample resolution for consideration and forwarding to the Washington delegation.

**Motion:** Adopt Resolution 2021-37 in Opposition of Heavier and Longer Trucks Travelling on US Highways 54, 70 and 380,

**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.

**SEE EXHIBIT B:** Copy of Resolution 2021-37 is attached hereto in reference thereto made a part hereof.

**10. Approval of Purchases Utilizing Fire Protection Fund Monies and Grant Award Monies:**

- a. Arabela VFD \$49,994.00 – will be used to purchase new bunker gear and air packs
- b. Bonito VFD \$292,180.00 – Will be used to complete their new fire station
- c. Hondo VFD \$300,000.00 – Will be used to purchase a new pumper
- d. Lincoln VFD \$199,821.00 – Will be used to purchase a new brush truck
- e. County Admin. \$36,772.00 – Will be used to purchase new bunker gear
- f. Nogal VFD \$276,394.00 – Will be used to build a dedicated fire water supply system
- g. White Oaks VFD \$300,000 – Will be used to purchase a new pumper/tanker

Manager Pearson stated the County of Lincoln has received the New Mexico State Fire Protection Funds. Manager Pearson stated these applications were reviewed and officially approved on Oct 15, 2021. Manager Pearson stated the funds were deposited in the county bank account in late November. Manager Pearson stated included in this award is \$292,180 for the completion of the Sun Valley Fire Station. Manager Pearson stated once approved the final construction can commence. Manager Pearson recommended the approval of the purchases of fire protection fund monies.

**Motion:** Acceptance of Purchases Utilizing Fire Protection Fund Monies and Grant Award Monies.

**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.

**13. Lincoln County Medical Center Update-Todd Oberheu**

Todd Oberheu, Hospital Chief Executive Lincoln County Medical Center reported there were sixteen of the nineteen patient beds occupied with four Covid patients. Mr. Oberheu spoke on expanding the Covid testing capabilities due to additional covid testing emergency room test request causing delays and encouraged using Curative for testing. Mr. Oberheu reported on the hiring of new physicians, Dr. Ferguson, Dr. Olcese, and Dr. Purcell.

**12. Lincoln County Detention Center Update- Warden Scott Colvin**

Manager Pearson stated Warden Colvin was unable to attend meeting. Manager Pearson reported on receiving pricing for the intake systems for the various types.

**15. Solid Waste Request for Approval to File Liens:**

- |    |                      |            |
|----|----------------------|------------|
| a. | Barbara Diane Latham | \$1,303.12 |
| b. | Jesse Luevano        | \$1,084.33 |
| c. | Joe G Sanchez        | \$5,053.96 |
|    |                      | \$7,441.41 |

**Motion:** Approve liens as presented, **Action:** Approve, **Moved by** Commissioner Allen, **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.

**16. Approval to Purchase Communication Equipment to Assist First Responders in the Unincorporated Area of Lincoln, NM**

Manager Pearson stated emergency communication is very limited in and around Lincoln, New Mexico. Manager Pearson stated cell phone service is almost nonexistent and radio communication is intermittent at best. Manager Pearson stated Specialty Communications has provided a quote for a repeater system that will link radio traffic in Lincoln with the Capitan communications tower. Manager Pearson stated the Lincoln repeater will give first responders direct communication with dispatch. Manager Pearson stated this expanded service will provide a more efficient coverage area while increasing response times. Manager Pearson stated upgrading first responder equipment could be an eligible expense under the American Rescue Plan Act. Manager Pearson stated we are still researching the eligible uses.

Manager Pearson stated in following procurement laws, we are soliciting quotes from other vendors. Manager Pearson stated Specialty Communications has been the only response at this time. Manager Pearson stated if we find a better suited price and or service from another vendor, adjustments can be made. Manager Pearson recommended the approval of the purchase of communication equipment for the Lincoln, NM area.

**Motion:** Approval to purchase communication equipment to assist first responders in the unincorporated area of Lincoln, NM and the use of ARPA funds, **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.

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

Commissioner Proctor reported he attended the New Mexico Cattle Growers Association Joint Stockmen's convention in Albuquerque last week.

Commissioner Willard stated he attended a meeting at ENMU- Ruidoso late November and it was reported the Lincoln County Detention Center was working with the college helping inmates get a higher education. Commissioner Willard stated there were currently 65 inmates actively taking the GED and personal development classes; and as of last Friday, 3 former inmates were enrolled.

Commissioner Crunk stated he was proud that the Bonito Fire Department had secured funding to complete the fire station.

Whitney Whittaker, Lincoln County Clerk reported on the 2021 Regular local election expenses. Clerk Whittaker stated it cost the County approximately \$35,046.66 to administer the election. Clerk Whittaker stated the New Mexico Secretary of State's office reimbursed the County \$29,739.07; with an out of county pocket expense at \$5, 307.59.

Walter Hill, Lincoln County Assessor wished the Commissioners, all Elected Officials, and our staff a Merry Christmas. Assessor Hill announced that the Assessor's Office is fully staffed, and that we are preparing for the 2022 appraisal year.

Beverly Calaway, Lincoln County Treasurer spoke on collections for the 2021 first half property tax season ending December 10, 2021. Treasurer Calaway stated as of November 30, 2021, we had collected 43.61% of the \$35,578,324.12 taxes charge to the County Treasurer for collections. Treasurer Calaway stated this was in comparison to 32.31% of collections in November 2020. Treasurer Calaway informed the Commissioners to note page #13 of the November 2021

Treasurer's Financial Report. Treasurer Calaway reported the total cash held by the Treasurer as of November 30, 2021, was \$38,832,492.96.

Treasurer Calaway reported the Deputy Treasurer 1 position had been filled and the Treasurer's office was now at full staff.

Michael Wood, Lincoln County Sheriff stated appreciation to Detective Wilson, sergeant Jesse Finley and Deputy Kurtis Grassie regarding the case of Sergio Boyle.

Chair Stewart opened public comment at 9:42AM.

John Skinner, Lincoln County resident spoke in opposition to the concrete batch plant.

Dr. Fred French stated he was a resident of the Sonterra Subdivision and is diagnosed with lung cancer. Dr. Fred French stated he was opposed to the batch plant, and questioned if the plant goes into operation would we know that the batch plant produces a large amount of particulate matter, what happens when my cancer is exacerbated, who do I sue? Dr. Fred French stated is it the developer of the batch plant, or is it the County of Lincoln for allowing it to occur? Dr. Fred French stated the batch plant uses millions of gallons of water, where I'm down stream, I have 4 miles as the crow flies from the proposed plant, what happens when my well goes dry. Dr. Fred French stated who's going to pay for either drilling new wells or deepening my well? Dr. Fred French stated the road 220 is going to get torn up, who's going to pay for that, is that going to be the County, it'd have to be the County? Dr. Fred French stated I'm all for a batch plant in north County, I think the economics are there, and I think it's appropriate, but there is tremendous amount of room out on Hwy 48, away from developments, away from people, that will not allow the batch plant to become an environmental and health catastrophe. Dr. Fred French stated I'm all for private property rights, until those private property rights impair on the rights, health, and environment of their neighbors. Dr. Fred French stated I'm opposed to the batch plant, I think there's very good reason for the batch plant not to be put in the current location and would ask you to take that into your consideration, thank you.

Mike Brown, resident stated we can see the property where the proposed batch plant is to be located from my bedroom, from my kitchen, from the great room, from both of our decks. Mr. Brown stated I think that anybody that lives in this part of the country, when the wind blows, we get particulate matter from white sands. Mr. Brown stated we get it on our grill we get it on our outdoor patios, it's everywhere. Mr. Brown stated I have written each of you a letter and I won't go over the specifics of the letter because you've already got it in your hands, and you understand my position. Mr. Brown stated I do have a new document; it has to do with the distance of certain landmarks to the proposed batch plant. Mr. Brown stated how that is affected by the wind speed, and as the doctor pointed out, the silicate matter that is part of this process is a known carcinogen. Mr. Brown stated OSHA had declared it a workplace hazard and I also agree with him on the use of the water. Mr. Brown stated I don't know Mr. Roper, I have no idea who he is, I've seen a picture but, I'm sure he's a good person and a good businessman, but this is primarily a residential area with some lite commercial. Mr. Brown stated it's not an industrial area, and it doesn't need to be an industrial area. Mr. Brown stated to me it's explosive and I'm not giving up, I'll never give up, I'm going to fight this to the very end, and I respect what you do, I really do, and I appreciate the opportunity to address you.

Kathleen Williams, resident stated my husband and I have lived here since 1975, we're retired educators. Ms. Williams stated I hope all of you got our letter. Mr. Brown stated we're here to defend our home, our area and you know we don't want to be here. Mr. Brown stated this is the last thing we wanted to do in our retirement, to get into this mess, but here we are. Mr. Brown stated I'm a retired teacher, so I just wanted to address this as reactive or proactive and I see that you're in an opportunity to do both. Mr. Brown stated reactive means a response, resistance, or opposition to a force or influence or a movement whereas proactive is a policy of action created or controlling a situation by causing something to happen rather than responding to it after it happens, identifying and preventing potential problems. Mr. Brown stated I see that you're in the position to do both, we must react to this proposal and yet proactively for the future of this area. Mr. Brown stated easy thing to do is to kick the can down the road, do nothing, this probably should have been tended to before now, before this has happened. Mr. Brown stated because we've been here since '75 whenever Ruidoso was just a sleeping rural community, this was all ranch land out here where we're living. Mr. Brown stated there were no stop lights, it was a speed bump in the road in front of the wild snail, Lynn probably remembers that. Mr. Brown stated Lincoln

County has grown exponentially, and you know if you look at the map you can see where the population has gone and where it hasn't, where it is still primitive. Mr. Brown stated so here we are, and I don't know what your motivation was to run for commission, but this is the hard work, taking care of the land, taking care of the people. Mr. Brown stated in our involvement in coalition, which again did not choose to get into this mess but here we are, people like Dave Builder who worked for a concrete plant for 20 years, and when he described the day to day operation, it's just stunning what's going to be going on there, or a lady named Mary Stanfield that talked about her health issues, just like the doctor that just talked about it. Mr. Brown stated I would hope you would take the time to talk to some of these people before you make your decision, and I know you'll make a fair decision about the ordinance or, the zoning, or whatever needs to be done in the future, not the punitive but fair, that's all we ask.

Donnie Williams, resident stated we are 2/10<sup>th</sup>s of a mile from the proposed batch plant and were here to talk about this this morning. Mr. Williams stated in theory we've heard the words and the talk about private property, or someone being able to build what they want to on their property, in theory I'll agree with that, but as long as whatever's build does not affect my well-being, and as long as what's being built on that property can be contained on that property. Mr. Williams stated first of all is there going to be any environmental health hazards released in the atmosphere and if there is can it be contained on that property, or would it be going somewhere else. Mr. Williams stated are there going to be any loud noises, by the way this starts at 3 AM in the morning, are there going to be any loud noises from that property and can it be contained on that property. Mr. Williams stated there going to be any bright lights coming through that property starting at 3 AM in the morning, I believe so. Mr. Williams stated one big question we have as a whole, will the batch plant reduce the value of my property and their properties, we believe so. Mr. Williams stated my question is, I guess, not only to you guys and I'm sorry ma'am, how in the world, and why in the world would anyone build a batch plant right in the middle of a residential area. Mr. Williams stated I heard that well, we didn't expect this much blowback, in the middle of a residential area, you're going to get blowback. Mr. Williams stated Like Kathy said, "we don't want to be here", we don't want to do this, but it's been put upon us to do it. Mr. Williams stated I would encourage you to look at the website, it's called crystalline silica, it's a dust that possibly comes from a batch plant, and the health effects it has on people it's critical. Mr. Williams stated you go to your labor department, OSHA and read about that, it's frightening, and as Dr. French said it's lungs, it's respiratory, it's frightening. Mr. Williams stated I also encourage you to go the newspaper article that was written about the plant in Carrizozo, that stuff is airborne, the particles are airborne, and we are going to get some stuff from that plant.

Craig Kathey, resident stated I live right across 220 from the property where Roper Construction is planning to build a Concrete Batch Plant. Mr. Kathey stated at the time we bought our property in 2013, we were told that the vacant land along 220 was protected by something called the Extra Territorial Zone the ETZ as it's referred to. Mr. Kathey stated making it available for retail or lite-commercial use, but not available for heavy industrial purposes like a Concrete Batch Plant. Mr. Kathey stated we were further assured that the properties nearest to our home, along 220 including Ropers' property, were covered by deed restrictions prohibiting noise, odors, or other intrusions which might be disruptive to the quiet enjoyment of our home. Mr. Kathey stated now it seems everything has changed there is no more ETZ. Mr. Kathey stated you probably know more about that than I do, but there isn't one, and I hear that Ryan Roper has been telling people that property deed restrictions are not enforceable in Lincoln County, don't know why, and all he needs to begin construction at that property site is an approved air quality permit. Mr. Kathey stated well the air quality bureau which issues those permits tells us that they are only considering issue related to air. Mr. Kathey stated being such as water usage, ground water contamination, noise, traffic congestions, road repairs, violations of the night skies ordinance, disruption of wildlife, negative impact on property values which local real estate professionals are telling us will be devastating. Mr. Kathey stated apparently, they do not figure into their decision making, that's why we need your help. Mr. Kathey stated there are more than 140 different property owners within one half mile of this proposed plant, all of whom will likely suffer severe personal economic hardships and health consequences if Ropers' rights are given more consideration than the rights of the hundreds of local neighbors who are opposing those actions. Mr. Kathey stated I will not presume to tell you how to do your job, but I will ask you to each take the time to read a brief report from the occupational health and safety administration (OSHA), about the health effects or respirable silica crystalline silica dust as a known carcinogen, that is commonly emitted by concrete batch plants.

Galen Farrington, resident stated I Represent myself and my wife, we live in Legacy Lane across the street from the proposed cement plant. Mr. Farrington stated our driveways the only one in all the people of Legacy Estates that exits onto the highway. Mr. Farrington stated during the last seven months of listening to discussion, concerning Mr. Ryan Ropers proposed Cement Batch Plant project, I've heard repeatedly, either directly or indirectly, two reactionary concepts. Mr. Farrington stated Mr. Roper has not violated any laws and number two, the opposition to this proposal needs to file a lawsuit. Mr. Farrington stated I recently asked if any commissioner has read Mr. Roper's application, realizing that this task is deferred to their lawyer, the commissioner's response was, no. Mr. Farrington stated we have all hear the term rule of law and have created individual interpretations of those three words, the term is comprised of four major concepts, one of which has direct application to this situation. Mr. Farrington stated element two, just law states the law is clear, publicized, and stable, and is applied evenly, it ensures human rights, as well as property, contract, and procedural rights. Mr. Farrington stated from the beginning when Mr. Roper agreed to ignore the deed restrictions that were enumerated to him, to the continued assertion as stated on his application, that there is no opposition to this proposed use of the land it becomes clear that his actions are disingenuous. Mr. Farrington stated those of us living in the area have purchased our properties with the expectation that future purchasers would follow the same restrictions as defined before purchase, just law. Mr. Farrington stated some months ago a commissioner stated that this situation was to be decided in a court of law, rather than just writing a letter of solidarity to the New Mexico Environmental Board, which would express the community opposition to this proposed location. Mr. Farrington stated lawyers are expensive. Mr. Farrington stated factor seven of the rule of law index has evaluated accessibility and the ability to afford civil justice in 128 countries. Mr. Farrington stated the United States rank 109<sup>th</sup> with 65% of the population not having the resources to oppose injustice. Mr. Farrington stated there are people who live at all levels of the financial stratum in zip code 88312, and they all deserve your representation. Mr. Farrington stated Mr. Roper opened the flood gate of human rights concerns, when he stated that the location of his plant could be evaluated as social injustice. Mr. Farrington stated are those existing at the lowest levels of financial resources to be disrespected again, by your transference of responsibility, I hope not.

Barbara Yount, resident stated I come before you to ask for your help in protecting my property rights and others property owners in the area from a potentially devastating intrusion into our peaceful primarily residential area. Ms. Yount stated Roper Construction has applied for an air quality permit, to build a concrete batch plant close to the intersection of New Mexico 48 and 220. Ms. Yount stated he may do anything on his property that he wishes if he complies with the existing deed restrictions and the effects of his activities stop at the borders of his property. Ms. Yount stated this proposed batch plant with its toxic air, extreme water usage, loud industrial noise, proposed long operating hours, and heavy truck traffic would reach far beyond its borders harming the health and welfare of residents, disturbing habitats of native New Mexican flora and fauna, depleting natural resources, and contaminating the scarce surface water. Ms. Yount stated perhaps even irreparably harming the sub-surface water that we all share. Ms. Yount stated the benefits of this concrete batch plant will accrue to Roper Construction leaving taxpayers of the County, the State, and the Federal Government, and local property owners to pay for increased health care costs, road repairs, management of road dust, water quality, damage to local wells and loss of property value, in short subsidize the profits of Roper Construction. Ms. Yount stated one owner's property rights cannot be elevated above the property rights of hundreds of other owners, and no company has the right to subsidize it profits with the physical and mental health of Lincoln County residents. Ms. Yount stated I ask you to do three things. Ms. Yount stated number one pass an effective ordinance that prohibits heavy industry, such as this proposed batch plant, on the 220 corridor between New Mexico 48 and the airport. Ms. Yount stated number two publicly affirm your support for the existing deed restrictions registered with the Lincoln County Clerk's Office and three urge the New Mexico Environmental Department to deny the air quality permit because of its disastrous impact on the residents and property in the area.

Donald Bennett, resident stated I recently submitted a proposal for revisions to the Lincoln County Animal Control Ordinance. Mr. Bennett stated the two revisions I would like you guys to consider are one is to ban dogs from riding in the back of pickup trucks. Mr. Bennett stated according to the American Veterinary Association over 100,000 dogs a year are killed, many more are maimed and permanently disfigured. Mr. Bennett stated the second thing I would like you guys to consider is the chaining of a companion animal. Mr. Bennett stated he spoke to many people about this from you legislators to the animal control officers. Mr. Bennett stated basically these laws that have been passed can amount to animal cruelty in my estimation. Mr. Bennett stated what's interesting is that a guard dog doesn't need to be tethered, he must be in an enclosed area or a

building, and a companion animal can be tethered his whole life. Mr. Bennett stated, I have given the County Manager a copy of the revisions I've made, I would hope you guys would look at them, and please consider them.

#### **14. Manager's Report**

##### **1) 161 Screaming Eagle – Property Cleanup**

Linda Phillips has been working to get this property cleaned for over two years. The former owners had started cleaning the property and a fire destroyed the home in the middle of the process. Property has been sold and the new owners have been contacted. Public Works Director, Francesca Herrera is trying a few different approaches in achieving compliance with property owners. One such approach is matching community organizations with property owners that don't have the means to clear debris and unacceptable waste.

##### **2) Update - Compacter Site at Buckhorn loop**

The pole and meter box are set. Waiting on Otero Electric to connect power.

##### **3) American Rescue Plan Act (ARPA) Update**

The BOCC showed interest in looking at the following projects using ARPA funding:

- ☐ Lincoln County Fairgrounds improvements
- ☐ Fiber infrastructure in Lincoln, NM

Wilson and Co. has presented a Fairgrounds task order for consideration by the BOCC. The U.S. Treasury has not updated their final ruling for eligible uses since May of 2021.

The Lincoln Mutual Domestic Water Consumers Association (LMDWCA) will present updated information during the BOCC meeting.

##### **4) NMC Legislative Conference**

The annual NMC Legislative Conference will be held from January 18th through January 20, 2022.

The following employees and Elected Officials have registered for the event. NMC is offering in-person and virtual participation.

Alan Morel Terri Knight Ira Pearson Beverly Ann Calaway Toni Foligno  
Brianna Ventura Francesca Herrera Rhonda Burrows Joe Kenmore  
Sherrie Huddleston Whitney Whittaker

##### **5) Capital Outlay / ICIP – Legislative Requests**

The ICIP and Capital Outlay process is in full swing. Carmen Morin (DFA Bureau Chief) has helped Lincoln County with the ICIP process. If any changes need to be made, she can guide us through the process.

The Capital Outlay process has been challenging. I presented the ICIP projects as Capital Outlay requests to the regional legislators on November 29, 2021. Hubert Quintana came to Carrizozo to walk our office through the process on December 10, 2021. Hubert's visit clarified many of the questions we had and allowed us to submit the requests for legislative review.

County Fairgrounds and Arena Improvements - \$750,000  
Lincoln County Detention Center Facility Upgrades - \$250,00  
Lincoln County Courthouse ADA Improvements/Renovations - \$750,000  
Lincoln County Road Department Dump Trucks - \$375,000  
Bridge Inspection Repair - \$910,000

##### **6) Update on Cell Tower at Copper Ridge**

Alan Morel and I are reviewing existing cell tower agreements in preparation of drafting an agreement with Gravity Pad Towers, LLC. This agreement will need to be approved by the BOCC and NM DFA before proceeding with construction.

##### **7) Ruidoso Downs Racetrack Indoor Arena**

Ethan Linder contacted me regarding \$20 million indoor arena located in Ruidoso Downs, NM. The City of Ruidoso Downs has agreed to work with Ethan and the Ruidoso Downs Racetrack in placing the project on their ICIP project list. As the project moves forward, the Ruidoso Downs Racetrack will be seeking community letters of support.

##### **8) Director's Reports**

We are experimenting with a standardized reporting form for the six directors. If the BOCC would like to see any specific information, please advise.

Each director provided a paper report.

**17. Approval of NM Department of Homeland Security and Emergency Management Disaster Assistance Program Grant Agreements:**

- a. 2021-026-LC-001
- b. 2021-026-LC-002
- c. 2021-026-LC-003
- d. 2021-026-LC-004

Erik Hamilton, Wilson & Company spoke on the overall Lincoln County rainfall over the Memorial Day weekend and the disaster relief request sent to Homeland Security. Mr. Hamilton provided an overview of the processes for the disaster relief grant with reviewal of the 5 sites affected by the storm and county wide debris removal. Mr. Hamilton informed the grant would cover 75% of the cost and the county would have to provide the 25% match. Mr. Hamilton informed of the differences and application of cost.

Commissioner Willard inquired on information regarding the site locations per grant agreement.

Mr. Hamilton informed that a. 2021-026-LC-001 was for Picacho Road, b. 2021-026-LC-002 was for Alamo Canyon Road, c. 2021-026-LC-003 was for Coe Canyon Bridge, and d. 2021-026-LC-004 Tully Lane Bridge. Mr. Hamilton informed grant agreements no. 3 & no. 4 had revisions. Brief discussion regarding EWP, grant match monies, and debris removal.

**Motion:** Approval with revision of 3 to 4 of the NM Department of Homeland Security and Emergency Management Disaster Assistance Program Grant Agreements,

**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.

**18. Approval of Resolution 2021-38 Supporting the New Mexico Counties 2022 Legislative Priorities – Clerk Whitney Whittaker**

Clerk Whittaker stated the Board of Directors met Oct 7, 2021 and agreed to support these priorities for the 2022 Legislative Conference. Clerk Whittaker asked the commission to approve the resolution.

**Motion:** Acceptance of Resolution 2021-38 Supporting the New Mexico Counties 2022 Legislative Priorities,

**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:** Copies of the Consent items including Resolution 2021-38 are attached hereto in reference thereto made a part hereof.

**19. Review and Consideration of Phase-1 Lincoln County Fairgrounds Survey and Masterplan Utilizing America Rescue Plan Act Funding**

Manager Pearson spoke on consolidating phase-1 and the masterplan.

Eric Hamilton, Manager Engineer of Wilson Company spoke on the designs and county master plan. Mr. Hamilton stated Manager Pearson, Mr. Honeycutt, and I met just after the fair and spoke about the congestion and road alignments. Mr. Hamilton stated an analysis was done through the Assessors GIS to determine county owned property. Mr. Hamilton spoke on rectifying all issues to prepare for phase-1.

Brief discussion on land ownerships, locations, use of Lodgers Tax funds and or qualifying ARPA funds recommendation and steps for progressing to phase-1.

**Motion:** Accept the Review and Consideration of Phase-1 in the amount of \$45,637.24 including the NMGRT utilizing American Rescue Plan Act Funding,  
**Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

Mr. Hamilton provided an updated on the pedestrian bridge located downstream and main bridge.

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

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

**20. Lincoln Mutual Domestic Water Consumers Association Update**

Commissioner Allen spoke on correspondence the Lincoln Mutual Domestic Water Consumers Association received approving their application and supporting documents. Commissioner Allen stated expectations are for more information approximately Jan-Feb 2022.

Manager Pearson spoke on Penasco Telephone regarding fiber optic implementation, with a presentation scheduled for January 2022.

**21. Review and Consideration of Service Agreement between the County of Lincoln and Windstream Communications for the Office of Emergency Services**

Manager Pearson stated Windstream has presented a five-year contract for phone and internet service at the OES building. Manager Pearson stated new infrastructure will be designed for the service (including fiber). Manager Pearson stated this service will bring 200mb/s of internet speed into the building. Manager Pearson stated current speeds are unknown at approximately 2 – 20 mb/s.

Brief discussion on issues with communications and zoom services due to internet speeds.

Manager Pearson recommended Approval for management to sign Windstream / County of Lincoln Service Agreement.

Brief discussion on possible alternatives, benefit of fiber optics, cost factors, and timeline of approximately 6 months.

**Motion:** Approve management to sign Windstream / County of Lincoln Service Agreement,

**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.

**22. Review and Consideration of Resolution 2021-36 Designating County Commission Districts in Lincoln County Redistricting of Political Boundaries Establishing Properly Sized Precincts in Accordance with Article 3 of the Election Code – Clerk Whitney Whittaker**

Clerk Whittaker presented and informed on the proposed plans for redistricting.

**Motion:** Adopt Plan B Resolution 2021-36 Designating County Commission Districts in Lincoln County Redistricting of Political Boundaries Establishing Properly Sized Precincts in Accordance with Article 3 of the Election Code,

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

Brief discussion on changes and cost regarding becoming a part of CD-1.

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

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

**SEE EXHIBIT D:** Copies of the Consent items including Resolution 2021-36 and Resolution 2021-35 are attached hereto in reference thereto made a part hereof.

**23. County Ordinance Discussion and Direction**

- a. Animal Control Ordinance 2008-08

Manager Pearson spoke on resident Donald Bennett's contact with Commissioner Allen and revisions presented to the commissioners.

Brief discussion on the proposed changes and enforcement implementation.

b. Code Enforcement – Proposed

Brief discussion on ordinance enforcement.

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

- a. Authorizing The Issuance And Sale Of Lincoln County, New Mexico Taxable Industrial Revenue Bonds (Pattern Sc Holdings LLC Project), Series 2021, In One Or More Series, In An Aggregate Principal Amount Not To Exceed \$3,600,000,000 (The "Bonds"); To Provide Funds To Finance The Acquisition, Construction, Equipping And Installation Of Wind Energy Facilities To Be Constructed In One Or More Phases For The Purpose Of Generating Electricity And Located Within The County But Outside The Boundaries Of Any Incorporated Municipality; Authorizing The Execution And Delivery Of An Indenture, A Lease Agreement, A Bond Purchase Agreement, A Sublease Agreement, The Bonds, And Other Documents In Connection With The Issuance Of Each Series Of Bonds; Making Certain Determinations And Findings Relating To The Bonds Of Each Series; Ratifying Certain Actions Taken Previously; And Repealing All Actions Inconsistent With This Ordinance

**Motion:** Schedule Public Hearing for the Issuance and Sale for the IRB Codes Enforcement Officer,

**Action:** Approve, **Moved by** Commissioner Allen, **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 11:56AM and reconvened at 12:59PM.

Chair Stewart certified all commissioners and staff were present

**28. Review and Direction of Resident Complaint Regarding a Locked Gate on a County Road – Bluewater Spring Road**

Manager Pearson stated Alan Fresquez contacted Commissioner Alan regarding a gate on Bluewater Spring Road. Manager Pearson stated the gate was installed several years ago across a county-maintained road. Manager Pearson stated the Road Department has not bladed the portion of road behind the gate in several years. Manager Pearson stated road Superintendent, Jeff Honeycutt, has identified many other gates across county-maintained roads.

Alan Morel, County Attorney spoke on the locations and determination of where to end county road maintenance. Attorney Morel spoke on legalities regarding obstructing roadways and or restrictions. Attorney Morel spoke how to address and resolve these issues through presenting a letter through certified mail to the owners.

Brief discussion on determining methods of access to continue or end county road maintenance in relation to obstructions or ownerships to public or private properties and vacating properties as needed.

**Motion:** **Withdrew** by Commissioner Allen, **Withdrew** by Commissioner Crunk.

**Motion:** Send a Letter to the Owner of the Property on Blue Springs Road that Installed the Gate, Informing them to remove the Gate, and of the Agreement Made with the County regarding the Cattle Guard. If no Response is Returned to then send a Summons. In Interim Contact Alan Fresquez to unlock and be Available at the Gate while the Road is Being Bladed and to Leave the Gate Open.

**Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Willard.  
**Vote:** Motion passed (summary: Yes = 3, No = 2, Abstain = 0).  
**Yes:** Commissioner Allen, Commissioner Willard, Commissioner Crunk. **No:** Chair Stewart, Commissioner Proctor.

30. **Consideration of Agreement of Partial Redemption for Red Cloud LLC Project, pursuant to which Red Cloud LLC will redeem a portion of the \$125,000,000 industrial revenue bonds leaving \$10,000 in outstanding principal amount. All obligations to County under the IRBs including obligations to make annual PILOT payments, to cover county expenses and to indemnify County will remain unchanged**

Eddy Duffy, Attorney provided information regarding the Partial Redemption, IRBs, and Impact on the County. Mr. Duffy clarified the processes and how to process the paperwork.

**Motion:** Approve the Partial Redemption for Red Cloud LLC Project,  
**Action:** Approve, **Moved by** Commissioner Allen, **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. **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: (A) County Road Superintendent, Jeffrey Honeycutt, Contract Renewal/Negotiations; (B) County General Legal Counsel, Alan P. Morel, P.A., Contract Renewal/Negotiations, Section 10-15-1, Subparagraph H (2)**

Motion: To Close the meeting for the purpose of an Executive Session to 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: (A) County Road Superintendent, Jeffrey Honeycutt, Contract Renewal/Negotiations; (B) County General Legal Counsel, Alan P. Morel, P.A., Contract Renewal/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. The case is still pending.

2. **Roger Romero v. State of New Mexico – D-1226-CV-2018-00113 (Underlying Cases are: Board of County Commissioners of Lincoln County v. Roger Romero, D-1226-CV-2018-00055, and State of N.M. v. Roger Romero M-30-MR-2016-00142)** A Petition for Writ of Habeas Corpus was filed requesting that the Judgment & Sentence entered by Judge Vega in Cause No. M-30-MR-2016-00142 be vacated and set aside. George Romero's Answer to Complaint and Counterclaim was filed April 30, 2018 in Cause No. D-1226-CV-2018-00055. 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.

**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. The case is still pending.

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. **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.

6. **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 12<sup>th</sup> Judicial District Court for further proceedings. A 5-day Jury Trial is scheduled to begin on September 19, 2022.

7. **\*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. On December 10, 2021, the case was dismissed for lack of prosecution and the deadline to reinstate the case is January 10, 2022.

8. **Lincoln County, ex rel, Greentree Solid Waste Authority and Mary 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.

9. **Debra Wilcox v. Board of County Commissioners, Deputy Samuel C. Hanna, Caroline McCoy and Former Sheriff Robert Shepperd, Cause No. D-1215-CV-2021-00574 A** Complaint for Damages was filed on the 2<sup>nd</sup> day of September 2021 by Steven Sanders alleging personal injury resulting from an improper and grossly negligent investigation and for "malicious abuse of process". County Defendants were served on November 2, 2021. The case is still pending.

10. **\*State of N.M. v. Mikel Mason, Cause no. M-30-MR-2021-00054** On August 10, 2021, LCSO Sgt. Finley issued a Non-Traffic Citation to the Defendant for violation of Lincoln County's Solid Waste Ordinance No. 2016-02. 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.

**Myers, Sylvia** – Tort Claim Notice received August 30, 2021, alleging that Lincoln County Medical Center's treatment fell below the standard of care.

**Siegel, Erik** – Tort Claim Notice received August 30, 2021, alleging deprivation of rights involving tort, constitutional rights, and other claims.

**White, Lionel Glenn, Jr., and family members and tenants, Ralph Nosker and his family members, Barbara Arthur and her family members, and Barlou, LLC** – Tort Claim Notice received September 16, 2021 alleging inundation by water resulting in damages to existing roadways and parking in the Gavilan Canyon Road area which are all located within the municipality of the Village of Ruidoso.

**Smoley, Cinthia** – Ms. Smoley submitted to the Lincoln County Treasurer Department a Statement dated 11/2/2021, for "Arbitration Award/monies due for default".

**\*Vonderane, Glenn** – Tort Claim Notice received October 19, 2021, alleging personal injury while using a staircase at the Village of Ruidoso public parking lot located at 151 Center Street.

**\*Brady, Rosarita** – Tort Claim Notice received December 6, 2021 alleging an improper investigation of a shooting death by the Lincoln County Sheriff's Office.

## **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 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.

**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 5<sup>th</sup> 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**

**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 Allen, **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 and convened the Closed Session at 1:39 PM.

Chair Stewart adjourned the Closed Session and reconvened the Regular Meeting 2:15 PM.

Commissioner Willard attested matters discussed in the closed meeting were limited to those specified in the motion for closure or in the notice of separate closed meeting and no action was taken.

**26. Renewal of County Contracts:**

- a. County Attorney – Alan Morel – Effective January 1, 2022

**Motion:** Approve County Attorney Morels Contract at the Same Rate as 2021, **Action:** Approve, **Moved by** Commissioner Allen, **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.

- b. County Road Superintendent – Jeffrey Honeycutt – Effective January 19, 2022

**Motion:** Approve a 4% raise for County Road Superintendent Jeffrey Honeycutt after Jan 19, 2022, **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.

**27. Authorization to Sign New Mexico Distributor Settlement Agreement – Attorney Alan Morel**

Attorney Morel recommended approval of the settlement agreement.

**Motion:** Authorization to Sign New Mexico Distributor Settlement Agreement, **Action:** Approve, **Moved by** Commissioner Allen, **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.

**29. Gavilan Canyon Turn Lane Expansion Project – Consideration and Approval of Agreement Between Alto Café, Inc. and the County of Lincoln Regarding the Transfer of Certain Real Estate Described in the Two Deeds Attached as Exhibits to the Agreement in Exchange for the County Doing Work on Alto Café, Inc.'s Property as Set Forth in the Agreement.**

Attorney Morel stated the County of Lincoln will do certain road work in exchange for 3 properties owned by Alto Café Inc and recommended approval.

**Motion:** Approval of Agreement Between Alto Café, Inc. and the County of Lincoln Regarding the Transfer of Certain Real Estate,

**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.

**31. Signing of Official Documents**

All five commissioners authorized permission to use electronic signature/stamp.

**32. Next meeting:**

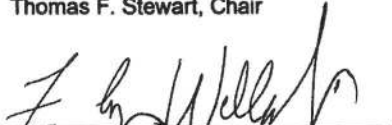
- a. January 18, 2022, Regular Commission Meeting

**33. Adjourn**

There being no further business to come before the Board of County Commissioners, Chair Stewart adjourned the meeting at 2:25 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

January 18, 2021  
Date Approved

