

## 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 January 19, 2021

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on January 19, 2021 in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico.

#### 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.

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

#### 3. Invocation

The invocation was presented by Chair Stewart

#### 4. Pledge of Allegiance

- a. Pledge – USA Flag
- b. Salute – NM Flag

#### 5. Approval of Agenda

**Motion:** Acceptance of the Agenda and authorized the Chair to move items as necessary **Action:** Approve, **Moved by** Commissioner 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.

#### 6. Approval of Minutes:

- a. December 1, 2020 Special Commission Meeting
- b. December 7, 2020 Special Commission Meeting
- c. December 15, 2020 Regular Commission Meeting
- d. December 29, 2020 Special Commission Meeting

**Motion:** Approve the minutes of the December 1, 2020 Special Commission Meeting, December 7, 2020 Special Commission Meeting, December 15, 2020 Regular Commission Meeting, and December 29, 2020 Special Commission Meeting, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

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

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

**Abstain:** 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, 2020
- c. Treasurer's Financial Report for the Month ending December 31, 2020
- d. Treasurer's 2nd Quarterly Report by Resolution 2020-26
- e. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims
- f. Approval of Resolution 2020-21 Certifying FY 19/20 Capital Asset Inventory
- g. Approval of Resolution 2020-25 Authorizing the Village of Ruidoso to Submit an Application to DFA to Participate in the Local DWI Grant and Distribution Program
- h. Approval of Professional Services Agreement Between Holcomb Law Office and the County of Lincoln
- i. Approval of Extension of Employment Contract Between the County of Lincoln and Jeffrey Honeycutt

**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 2020-21, Resolution 2020-25 are attached hereto in reference thereto made a part hereof.

#### **8. Approval of Budget Adjustment FY 20/21 by Resolution 2020-24**

**Motion:** Adopt Resolution 2020-24, **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 B:** Copy of Resolution 2020-24 is attached hereto in reference thereto made a part hereof.

#### **9. Forest, Land & Natural Resources Matters:**

- a. Smokey Bear Ranger District

Karl Honkonen, acting ranger for the Smokey Bear Ranger District stated his term will expire February 13, 2021 and the board has not yet appointed a new ranger at this time.

Ranger Honkonen provided an update on the Sierra Blanca restoration Project, and the federal fuel reductions project.

- b. South Central Mountain RC & D

Laura Doth reported they have two new board members Robert Shepperd and Robert Barber but still have one vacancy on the board. Ms. Doth stated they will begin to reach out to the conservation districts to see if they can offer any assistance to current projects. Ms. Doth reported they will continue to work on the spruce beetle project at ski apache and hopeful for that project to be completed come spring. Ms. Doth reported the Hale Lake Transportation Plan is currently looking for funding for the creation of parking and signage in the area.

- c. Upper Hondo Soil & Water Conservation District

Manager Pearson stated the district was unable to attend meeting.

- d. LANRAC

Robert Barber, chair provided an updated on 2015 Mexican wolf rule and the 2014 EIS.

Mr. Barber informed the New Mexico Cattle Growers' Association is seeking an injunction against the Environmental Protection Agency (EPA) for alleged dubious regulation of the Clean Water Act. Mr. Barber stated the association claims its cattle growers are required to have permission

before working their own land under a new rule creating additional regulation and time where their lands are not able to be used for business purposes. Mr. Barber stated the New Mexico Cattle Growers' Association asks for a change in the definitions in the Waters Protection Rule which would keep the water on its members' land from being reclassified.

## 12. Consideration and Approval to Pay Prior Year Invoices:

### a. Bonito River Services – LCDC Water Heater Repair

Chair Stewart informed the Bonito River installed a 100-gallon water heater at the Lincoln County Detention Center on February of 2020. Chair Stewart stated the invoice was not received in the Finance Department until December 18, 2020.

### b. Pettigrew & Associates – Juniper Springs

Chair Stewart justified that Lincoln County received two separate invoices for Pettigrew and Associates in June of 2020. Chair Stewart informed there was a misunderstanding with one payment was generated when two actual bills were to be paid.

**Motion:** Approve finance to pay prior year invoices, **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.

## 13. Manager's Report

### 1. Sanitizing Facilities:

Lincoln County purchased four (4) Ryobi Electrostatic Sprayers for use in all Lincoln County facilities. Joe Kenmore and Arron Griewahn provided training to key individuals to properly spray in each building. Spraying touch spots Spraying Rooms

### 2. Solar Lights – LCDC Sally Port

The LCDC Sally Port is almost complete. Lincoln County tested two (2) solar parking lights above the Sally Port gate this last week. These lights require no wiring and operate at 30% illumination for 14-16 hours. Solar charge time is 6-8 hours. When motion is detected, they illuminate to full capacity, alerting LCDC employees of movement near the lights. Detention, Law enforcement and Public safety is a top priority for Lincoln County and these solar lights will help in that endeavor. We will continue working with Warden Colvin to place solar lighting around the perimeter of the facility. 30% Illumination 100% Illumination (look at the ground) View @Sally Port gate - 100% illumination South and West sides - Needs lighting

### 3. Corrections Solutions Group (CSG):

CSG has been operating the LCDC facility since November of 2019. The contract between CSG and the County of Lincoln states that CSG is entitled to a Cost-of-Living Adjustment increase of 3% after one year of operations. The Lincoln County Finance Director and I are analyzing the current 2021 budget to see if adjustments are needed in future months. We will report the data to the Commission once the analysis is complete.

### 4. New Fire Vehicle in Service:

In October of 2020, the County Commission approved the purchase of Can Am fire fighting vehicle. This 6-wheeled vehicle will be utilized for search and rescue as well as fire suppression. Joe Kenmore sent an email updating Lincoln County that the vehicle has arrived and is in service. "Good afternoon all, just thought you would like to see a new six-wheel piece of firefighting apparatus in Lincoln County. This is a Can Am 1000 HD and a Kim Tek tank, live reel with the set-up to put a stokes on it to be able to use it for rescue too. It holds 70 gallons of water and with the right nozzle it takes care of a lot of fire. The units have a 50-watt VHF radio for communications. We have 4 of these in Lincoln County that help catch fires and we hope to keep them small. Any questions please let us know". JPK

### 5. Working with all Municipalities:

Working as a group, Lincoln County, Ruidoso, Capitan, Corona, Ruidoso Downs and Carrizozo, started mobile COVID-19 testing in the remote areas of the county. **Together Lincoln County** is the "Tagline" to increase the number of tests performed daily. We are encouraging everyone to get tested, not just individuals that might be sick. It is a matter of numbers. The Governor has set

the bar for reopening, based on the number of positive test results per 100,000 people. **Together Lincoln County** is testing as many residents as possible in hopes to increase our number of negative test results to achieve our goal of reopening Lincoln County for business.

#### 11. Lincoln County Detention Center

##### a. Approval of LCDC Inspection on 12/30/2020

Chair Stewart informed the Lincoln County Detention Center inspection was done by video this year and saved to a thumb drive for all the commissioners to review. Chair Stewart stated due to the current pandemic, and it was not advised to tour in person, the video served as the inspection.

Commissioner Willard expressed his appreciation to Manager Pearson and Warden Colvin for the video. Commissioner Willard stated he was very impressed with the facility.

Chair Stewart expressed his appreciation for the improvements in the facility. Chair Stewart stated there was improvement for COVID precautions by the implementation of temperature checks at the gate. Chair Stewart also expressed appreciation of the integration of the new library.

**Motion:** Approve and acknowledge the Lincoln County Detention Center Inspection on 12/30/2020, **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.

##### b. Restricted Housing Quarterly Report 10/2020-12/2020

Chair Stewart stated there are three (3) detainees in segregated restricted housing.

**Motion:** Approve Restricted Housing Quarterly Report, **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.

##### c. LCDC Update from Warden Scott Colvin

Scott Colvin, Warden reported he conducted a jail leadership training with all supervisors. Warden Colvin informed it was a formal way to assign inmate custody levels. Warden Colvin reported four (4) officer vacancies within the department. Warden Colvin stated transportation remains a concern due to minimal personnel.

Warden Colvin stated the average daily population for the month of January was 72 inmates.

#### 13. Manager's Report-continued.

Jeff Honeycutt, Road superintendent stated his department recently hired two (2) operator level-two employees. Mr. Honeycutt stated they still have three openings left in the department.

Commissioner Willard questioned if a fence could be constructed around the solid waste compactor site in Glencoe. Commissioner Willard expressed his concern with the amount of wind in the area would end up in private property.

Mr. Honeycutt stated he would research the construction of a fence.

#### 10. 9:30 A.M.: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS (Items are for discussion only – no action will be taken)

Commissioner Willard reported he and Mr. Honeycutt will attend the virtual transportation meeting SERPTO on February 11, 2021.

Commissioner Allen stated her concern for local business in Lincoln County. Commissioner Allen expressed appreciation to Sheriff Wood for his continued efforts to support Lincoln county and small business.

Sheriff Wood reported on current staffing changes and job opportunities in the sheriff's department.

Sheriff Wood stated he reached out to the Governor of New Mexico representing some small county business owners regarding the current order and the alleged consequences in current public health order.

Whitney Whittaker, Clerk invited prior Probate Judge Stirling Spencer and current Probate Judge Rhonda Burrows to help present an award to Charlotte Emmons current probate Clerk for exceptional work over the years.

Whitney Whittaker, Clerk informed she will attend the NMC Board of Directors meeting later this evening.

Sherrie Huddleston, Chief Deputy Treasurer reported they have collected 65% of property taxes as to date.

Wendy Hansel, resident of Lincoln County expressed concern with current Solid Waste Ordinance and will wait to speak about double billing during the public hearing.

Todd Oberheu, Lincoln County Medical Center Executive Director provided an update on the vaccines given throughout the county. Mr. Oberheu reported giving 600 vaccines this week.

Chair Stewart reported he would continue to attend the Joint Land Use Study Group meetings.

### 13. Manager's Report-continued.

Joe Kenmore, Officer of the Emergency Services Director reported a few red flag warnings and small fires throughout the county. Mr. Kenmore reported he attend a fire chief meeting last Saturday night.

Chair Stewart questioned the location of the 1910 fire truck.

Mr. Kenmore stated the fire truck was in the Lincoln fire station.

Mr. Kenmore informed the Sun Valley station once the weather warms up the continuation on the building construction will commence.

Glenda Allen, Director of Planning and Project Management provided an update on survey exception plat approvals.

Renee Montes, Senior Center Project Director reported the Center is assisting the seniors who are wanting to get vaccinated.

### 14. Review of Boards/Committees/Commissions and Appointments

Manager Pearson stated the County of Lincoln has compiled a listing of all the county boards, commissions and committees Manager Pearson stated the listing contains current and historical data.

**Motion:** Remove and archive the obsolete committees, **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.

*Changes are in italic*

1. 33 Counties Executive Board- Whitney Whittaker elected January 12, 2021
2. Board of Registration – Appears Up to Date
3. Cooperative Weed Management – Appears Up to Date
4. Emergency Program Manager – Appears Up to Date
5. Carrizozo Health Center Advisory Board – Unknown Status – No Action Required
6. *Chaves County Community Action Program – Commissioner Proctor*
7. Economic Development Ordinance – Unknown Status
8. *Interstate Stream Commission on the Pecos – Commissioner Proctor*

9. LANRAC – Appears to need some reappointments (County Ordinance 2008-4)
10. Lincoln Historic Preservation Board – Appears Up to Date
11. Local Workforce Investment Act Advisory Board Commissioner Willard
12. Lodgers Tax Committee – Appears Up to Date
13. *New Mexico Insurance Authority – Commissioner Crunk Primary, Stewart as Alternate*
14. *New Mexico Multi-Line – Same as Above*
15. Predatory Animal Control Board – Appears Up to Date
16. Property Tax Protest Board – Appears Up to Date
17. Regional Wastewater Joint Use Board – Unknown Status of Board
18. Road Review Advisory Committee – Appears Up to Date
19. *Southeastern New Mexico Economic Development District- Commissioner Allen, Crunk as Alternate*
20. *Solid Waste Authority – Commissioner Allen primary, proxy Commissioner Proctor*
21. Fact Finding Committee for a County Vision – Obsolete
22. Eastern Area Workforce Development - Commissioner Willard
23. Fort Stanton Development Commission – Obsolete
24. Reclassification Advisory Committee –
25. Road Task Force Steering Committee – Obsolete?
26. Special Boundary Commission – Disbanded
27. SERPO – Commissioner Willard, Jeff Honeycutt
28. Community Health Improvement – May Require Update – Unknown Current Status
29. Comprehensive Steering Committee – Obsolete
30. Lincoln County Transit Steering – Obsolete
31. Wolf EIS Cooperating Agency – Needs Updating – Unknown Status
32. Ruidoso Valley Economic Development Corporation – Unknown Status
33. ADA Coordinator – Obsolete
34. Western Homestead Legacy Alliance – Unknown Status
35. JLUS Implementation Committee –Stewart
36. Senior Citizen Advisory Committee – Unknown Status
37. PLURAC – Obsolete
38. Water Research – Obsolete
39. ETZ Authority – Obsolete
40. ETZ Commission – Obsolete
41. ETZ Commission Ruidoso Downs – Obsolete
42. Senior Citizen Olympic Committee – Obsolete
43. Coalition of AZ NM Counties
44. Planning Commission – Obsolete
45. Labor Management Review Board – Obsolete

**Motion:** Approve new appointments, **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.

#### 15. Approval of Elected Official's Stamped Signatures

**Motion:** Approve the purchase and use of a rubber and or electronic stagnate that is applicate to law, **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.

#### 16. Consideration of Land Donation for New Fire Station North of Capitan, NM

Chair Stewart reported Lincoln County resident, Ed Tinsley, has voiced his interest in donating an acre of land approximately 2 miles north of Capitan with the intention of it being used for a volunteer fire department.

There was discussion on current status and interest in the acre of land. The consensus was to for current staff to investigate the status of the project and subdivision.

#### 17. Consideration and Approval of Lincoln County's COVID-19 Employee Leave Plan

Manager Pearson informed the Federal CARES Act requires employers to provide up-to 80 hours of COVID-19 leave, per employee, for various COVID-19 related reasons. Manager Pearson



stated once an employee has exhausted the full eighty hours, they are expected to use their own accrued leave. Manager Pearson stated throughout the pandemic, plans have changed several times. Manager Pearson informed starting in April of 2020, our Finance Department had been tracking the leave hours related to COVID-19. Manager Pearson stated the last eight and a half months, while administration has made accommodations, many employees have utilized over the allotted

There was a lengthy discussion regarding the implementation on the direction of the plan as it pertains to COVID-19.

**Motion:** Approve a set 80 hours per calendar year 2021, **Action:** died, **Moved by** Commissioner Crunk, None seconded.

Motion died due to lack of second.

**Motion:** Table item, **Action:** Approve, **Moved by** Commissioner Proctor, **Seconded by** Commissioner Willard.

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

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

**No:** Commissioner Allen, Commissioner Crunk.

#### 18. Consideration of NACo Participation – January 1, 2021 – December 31, 2021

Manager Pearson stated the Nation Association of Counties (NACo) has sent an invoice to the County of Lincoln in the amount of \$450. Manager Pearson this invoice is for County Membership Dues for the period of January 1, 2021 through December 31, 2021.

**Motion:** Approve invoice to participate as a member of NACo. **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Proctor.

Commissioner Allen questioned the county's benefit in being a participate.

Manager Pearson stated some counties are very active in this association and other not, and it was up to the county and how they involved we would like to be.

Commissioner Proctor stated he would rather be a part of the association than not.

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

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

**No:** Commissioner Allen.

#### 19. Approval to File Solid Waste Liens:

- a. Nikko & Diane M. Chavez- \$849.64
- b. James H. & Shelley L. McGarvey- \$1,293.88
- c. Cameron & Tawnya Sidwell- \$635.05
- d. David M. & Vonna P. Stevens- \$538.86
- e. Patricia A. Kile Thompson- \$804.63

Chair Stewart questioned if proper research was conducted and proper outreach was taken before filing the liens.

Commissioner Willard questioned the amounts and why they are so high.

Manager Pearson stated these residents have had at least 2 letters sent to them making them aware of the late fee. Manager Pearson stated the staffing was minimal and proper research had to be conducted prior to approval.

Commissioner Crunk stated the implementation of delinquent days should be added to this process. Commissioner Crunk stated since billed in quarters, then 180 days delinquent would be a proper place to start to file a lien on the applicants.

Commissioner Allen stated service cannot be stopped and dumpsters will still be available to reside dents despite any violation.

There was a general discussion on established parameters on the amount of delinquent days and associated costs.

**Motion:** Approve the filing of the Solid Waste Liens, **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.

**20. 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)**

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

1. **Board of County Commissioners of Lincoln County v. Roger Romero D-1226-CV-2018-00055** Complaint for Foreclosure. Complaint was filed February 20, 2018. Defendant Roger Romero filed an Answer to the Complaint asserting a Counterclaim to be filed in the U.S. District Court on April 2, 2018. A Judicial Inquiry Hearing took place September 4, 2018. A Disposition Order for Lack of Prosecution was entered on August 25, 2020. An Order Reinstating Case was entered on October 19, 2020.
2. **\*Roger Romero v. State of New Mexico – D-1226-CV-2018-00113 (Underlying Cases are: Board of County Commissioners of Lincoln County v. Roger Romero, D-1226-CV-2018-00055, and State of N.M. v. Roger Romero M-30-MR-2016-00142)** A Petition for Writ of Habeas Corpus was filed requesting that the Judgment & Sentence entered by Judge Vega in Cause No. M-30-MR-2016-00142 be vacated and set aside. George Romero's Answer to Complaint and Counterclaim was filed April 30, 2018 in Cause No. D-1226-CV-2018-00055. Judge Counts is the presiding Judge. On February 26, 2019, an Order Setting Aside Conviction was entered by Judge Counts. **On March 25, 2019, a Notice of Appeal was filed with the N.M. Supreme Court, Case No. S-1-SC-37602** On January 8, 2021, the Supreme Court entered its Dispositional Order of Transfer transferring the case to the Court of Appeals for consideration and review. The case is still pending.
3. **Roger Romero, et al vs. Lincoln County, et al – U.S. Dist. Court Cause No. 2:18-cv-01137-JAP-GJF** A Complaint for Violation of Civil, Constitutional and Statutory Rights was filed on December 5, 2018. On December 27, 2018. A Guardian Ad Litem has been appointed to represent the Plaintiffs. On September 16, 2019, the case was dismissed and, on October 7, 2019, Plaintiffs filed their Notice of Appeal to the United States Court of Appeals for the Tenth Circuit, Docket No. 19-2165. The case is still pending.
4. **Romero, et al. v. Stone, et al, Cause No. D-1226-CV-2019-00271** Request for Appointment of Guardian Ad Litem for Plaintiffs and Complaint for Violation of Civil and Constitutional Rights, Negligence, Prima Facie Tort and Wrongful Taking was filed on October 9, 2019 along with a Jury Demand. Lisa B. Riley is the presiding Judge. Lincoln County has yet to be served with the Complaint.
5. **Kane County, Utah, et al v. The United States, 17-739C and 17-1991C (Consolidated)** Class Action Lawsuit to recover PILT underpayments for fiscal years 2015-2017. On August 14, 2018, Lincoln County submitted its Opt-In Notice to participate in the lawsuit. On October 16, 2019, Lincoln County received notice that it would be receiving \$46,011.00 from the Judgment Fund.
6. **Brd. of County Commissioners of Lincoln County v. Amerisourcebergen Drug Corp., et. al – U.S. Dist. Court Case No. 2:19-cv-00462** – Complaint for Public Nuisance, Violations of Racketeer Influenced and Corrupt Organizations Act (RICO)... filed on May 20, 2019 by Attorneys Robles, Rail & Anaya, P.C., et. al. After receiving no oppositions to the transfer of the case, on June 17, 2019, the case was transferred to the Northern District of Ohio noting that as of December 5, 2017, 1,534 cases have been transferred to Ohio for further proceedings. The case is still pending.
7. **City of Albuquerque, et al vs. John Monoforte & N.M. Taxation & Revenue Department, Cause No. D-202-CV-2018-08036** Judge Franchini is the presiding judge. Lincoln County has entered into an Agreement for joining in the litigation to recover amounts representing unauthorized reductions in violation of New Mexico Statutes. On November 14, 2019, Lincoln County joined in the litigation. The case is still pending.
8. **Greentree Solid Waste Authority v. Lincoln County, Cause No. D-1226-CV-2014-00095** – Compromise and Settlement Agreement and Release executed on December 17, 2015.
9. **Richard Ford v. Terry A. Colwell, II, et al, Cause No. D-1226-CV-2020-00104** Complaint for criminal trespass, theft, misappropriation of monies and violations of civil rights was filed by Gary C. Mitchell on May 11, 2020. Lincoln County was served on May 29, 2020. On June 26, 2020, the case was removed to the U.S. District Court and, on July 3, 2020, County Defendants filed their Motion to Dismiss which is still pending.
10. **Phillip Vice v. L.C. Assessor, Cause No. D-1226-CV-2020-00192** A Petition appealing the decision of the Lincoln County Valuation Protest Board was filed by Plaintiff Vice on



September 11, 2020. On October 23, 2020, Lincoln County, through its counsel Daniel Macke, withdrew its Motion to Dismiss. The case is still pending.

11. **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.

12. **Alto Lakes Golf & Country Club v. Jack H. McCloud, et al, Cause No. D-1226-CV-2020-00235**

Complaint to Foreclose Lien was filed on October 19, 2020. The County filed its Answer to the Complaint on December 3, 2020. The case is still pending.

13. **Alto Lakes Golf & Country Club v. J. Lynn Starr, et al, Cause No. D-1226-CV-2020-00236**

Complaint to Foreclose Lien was filed on October 19, 2020. The County filed its Answer to the Complaint on December 3, 2020. On December 29, 2020, a Disclaimer of Interest on behalf of the Estate of J. Lynn Starr was filed. The case is still pending.

14. **Alto Lakes Golf & Country Club v. Moises De La Torre, et al, Cause No. D-1226-CV-2020-00237** Complaint to Foreclose Lien was filed on October 19, 2020. The County filed its Answer to the Complaint on December 3, 2020. On December 29, 2020, a Disclaimer of Interest of Defendants Moises and Casandra De La Torre was filed. The case is still pending.

15. **\*State of New Mexico Department of Transportation v. Anthony Sanchez, et al, Cause No. D-1226-CV-2020-00217** Complaint for Condemnation was filed on October 7, 2020. This cause of action was filed in conjunction with the current sidewalk improvement project taking place on US Hwy. 54 in downtown Carrizozo and 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.

##### **2020**

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

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

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

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

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

**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**

**Lueras, Ramon** - Tort Claim Notice received January 31, 2019 from Pizzonia Law Firm was received which referenced "Lueras v. Lincoln County Road Dept., et al" requesting copies of Mr. Lueras' employment records. While the correspondence appeared to be more like an IPRA, NMAC was notified out of an abundance of caution. On February 8, 2019, NMAC confirmed that Mr. Lueras has a work comp claim and that the January 31, 2019 correspondence from Pizzonia Law Firm relates to that claim. NMAC did open a claim as "record only".

**Estrada, Ricardo** - Tort Claim Notice received February 14, 2019 alleging that, while incarcerated at LCDC, the Claimant was physically attacked by a former employee of LCDC out of retaliation causing injuries to his small finger on his left hand and possibly a left foot fracture. TCN emailed to R. Martinez on February 15, 2019 and that same day, NMAC advised that there is no coverage for this matter as NMAC does not provide coverage on behalf of counties or their detention centers which are operated or administered by a private contractor.

**Lopez, Iris; May, Andrew; Bustamante, Joseph; Flanagan, Wayne Otero; Hernandez, Gabriel** - Tort Claim Notice received March 18, 2019 from Chris Nedbalek, Nedbalek Law Office, LLC alleging deprivation of Claimants' rights, including the Eighth Amendment prohibiting cruel and unusual punishment (i.e. unsanitary conditions, drug use by inmates, and mold problems.)

**Balderas, Hector** - Tort Claim Notice received April 9, 2019 regarding threat of litigation and liability for failure to enforce the law.

**Youtz, Shane** - Correspondence received May 7, 2019 threatening litigation if Lincoln County's Right to Work Ordinance (Ordinance No. 2018-01) is not repealed due to the passing of HB85.

**Udall, Steve** - Tort Claim Notice received May 22, 2019 [dated 12-14-19] alleging a Lincoln County Sheriff's Deputy's vehicle hit the air conditioning condensing unit located at the Magistrate Court in Ruidoso damaging the unit beyond repair.

**Divelbliss, Kim** - Tort Claim Notice received June 17, 2019 [dated 6-11-19] alleging that the Claimant was taunted, harassed and her rights were violated resulting in her ultimate termination from employment by the Lincoln County Detention Center.

**Divelbliss, Ty** - Tort Claim Notice received June 17, 2019 [dated 6-11-19] alleging that the Claimant was terminated from employment by the Lincoln County Detention Center out of retribution.

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

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

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

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

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

**Arenas, 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 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 11:56 PM.

Chair Stewart adjourned the Closed Session and reconvened the Regular Meeting at 12:27 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.

Chair Stewart recessed the regular meeting at 12:55PM and convened the public hearing at 1:02PM

### **21. 1:00 P.M.: Public Hearings:**

- a. **Public Hearing to Consider Lincoln County Ordinance No. 2020-03; Amending and Repealing Lincoln County Ordinance 2016-01 an Ordinance Providing for Dedication to the Safety Net Care Pool Fund an Amount Equal to a Gross Receipt Tax Rate of One Twelfth (1/12) Percent Applied to the Taxable Gross Receipts Reported During the Prior Fiscal Year by Persons Engaging in Business in the County;**

Attorney Morel stated the Safety Net Care Pool fund is a non-reverting fund, which according to the Bill, will consist of public funds transferred from counties for use by the Human Services Department to make payments to qualifying hospitals under an agreement with the federal Centers for Medicare and Medicaid Services. Attorney Morel stated this amendment will allow different allowances from funding sources.

Chair Stewart informed the amendment to this ordinance gives the manager the flexibility to utilize the mill levy funding, that is connected to the hospital, and the indigent funds to fund different sources. Chair Stewart informed the indigent funding has seen a decrease and this amendment will allow for the county manager to have some flexibility to which fund to use.

Chair Stewart requested public comment, hearing none adjourned the public hearing at 1:07PM and reconvened the Regular Meeting at 1:07PM.

**Motion:** Adopt Ordinance No. 2020-03, **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.

(Immediately following Public Hearing A above)

Chair Stewart recessed the Regular Meeting at 1:10PM and convened the Public Meeting at 1:11PM

- b. **Consideration of the Adoption of an Ordinance Providing a Low-Income Tax Rebate Pursuant to NMSA 7-2-14.3G on a County by County Option Basis.**

Attorney Morel informed In January of every odd-numbered year in which a county does not have in effect an ordinance adopted pursuant to this subsection, the board of county commissioners of the county shall conduct a public hearing on the question of whether the property tax rebate provided in this section benefiting low-income property taxpayers in the county should be made available through adoption of a county ordinance. Attorney Morel stated notice of the public hearing shall be published once at least two weeks prior to the hearing date in at least one newspaper of general circulation in the county and broadcast at sometime within the week before the hearing on at least one radio station with substantial broadcasting coverage in the county.

Attorney Morel stated at the public hearing, the board shall act on the question and if a majority of the members elected votes to adopt an ordinance, it shall be adopted no later than thirty days after the public hearing.

Attorney Morel stated adoption basically shifts the taxes over to a party that can provide and produce proper funding due to that taxes have to be billed regardless. Attorney Morel informed Santa Fe County adopted this Ordinance under negotiated settlement.

Chair Stewart informed the State would figure out the tax break that was applied and then the county would be faced with the burden of coming up with a way to make up the difference.

(Immediately following Public Hearing B above)

Chair Stewart recessed the Regular Meeting at 1:12 PM and convened the Public Hearing at 1:12 PM.

**c. Public Hearing to Consider Lincoln County Ordinance 2020-04; Amending Lincoln County Ordinance 2017-07 an Ordinance Providing for the Efficient and Sanitary Collection of Solid Waste in Lincoln County; Providing for Mandatory Disposal and Assessment of Fees; Providing a Penalty for Violation of the Ordinance.**

Attorney Morel stated the ordinance provides a system for the citizens of Lincoln County to apply for waivers of certain solid waste fees when determined as necessary on secondary homes on private property.

Attorney Morel proceeded to go through the revisions in the ordinance and definition changes.

Attorney Morel informed changes in section 7 with the addition of (d) "an Owner of a Habitable Premise with multiple Habitable Premises other than the main residence shall have an opportunity to request a Waiver if the following Premises are not generating routine waste:

1. the Habitable Premise is not being lived in or in which business is not being conducted;
2. the Habitable Premise is used as an occasional guest home;
3. the Habitable Premise is not used to generate income as rental property.

The Waiver of the Solid Waste Fee for Multiple Habitable Premises Other Than Main Residence is attached to this Ordinance, and must be both submitted to and approved by the County"

Commissioner Willard expressed his concern with the term occasional guest home and to define occasional in more depth.

Commissioner Willard suggested to add definition of occasional to state a property that is occupied less than 30 days per year.

Manager Pearson stated 70 parcels are being billed at double rates.

Commissioner Willard questioned how many applied to 300 exception.

Manager Pearson stated over 100 waivers are filed, but exact number is not accounted.

Commissioner Proctor expressed his concern to not infringe on the 300-acre exception procedures.

Commissioner Allen expressed her concern with the exception and the fact that other residents are paying extra for a smaller "casita" when other residents do not have to pay anything.

Commissioner Crunk stated if the assessor taxes two dwelling on a parcel then two bills should be billed.

Manager Pearson stated a rural area in a part of the county that would have to be considered as part of an exception.

Chair Stewart stated the county should consider doing away with the exceptions.

Attorney Morel stated that would require another public hearing.

Commissioner Proctor expressed his concern with the lack of research applicable to him, numbers of parcels and properties being billed.

Chair Stewart expressed his concern to keep looking at the Ordinance until next meeting.

Commissioner Willard questioned the appeal process.

Attorney Morel stated if the resident does not like the answer of that of the county manager, it could go to the county commission for consideration.

Wendy Ansel, resident of the Hondo Valley expressed her concern of multiple bills. Ms. Ansel stated she would like for the county to consider the one bill per property.

Chair Stewart adjourned the Public Hearing 1:45 PM and reconvened the Regular Meeting at 1:46 PM.

**Motion:** Adopt Ordinance 2020-04 with additional language of occasional defined, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

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

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

**No:** Commissioner Proctor.

## 22. Signing of Official Documents

Chair Stewart, Commissioner Willard, and Commissioner Proctor allowed for electronic signature.

## 23. Next meetings:

- a. February 16, 2021-Regular Commission Meeting
- b. March 16, 2021-Regular Commission Meeting

## 24. Adjourn

There being no further business to come before the Board of County Commissioners, Chair Stewart adjourned the meeting at 1:47 PM.

County of Lincoln  
Board of Commissioners

  
Thomas F. Stewart, Chair

Approved Telephonically  
F Lynn Willard, Vice Chair



4982

Elaine Allen

Elaine Allen, Member

Jon Crunk

Jon Crunk, Member

Approved Telephonically

Todd Proctor, Member

ATTEST:

Whitney Whittaker

Whitney Whittaker, County Clerk

February 16, 2021

Date Approved