

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 March 16, 2021

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on March 16, 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 8:48 AM.

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

2. Roll Call

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

3. Invocation

Vice Chair Willard asked for a moment of silence.

4. Pledge of Allegiance

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

5. Approval of Agenda

Motion: Acceptance of the Agenda and authorized the Chair to move items as necessary,

Action: Approve, **Moved by** Commissioner Proctor, **Seconded by** Commissioner Allen.

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

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

6. Approval of Minutes:

- a. February 16, 2021 Regular Commission Meeting

Motion: Approve the minutes of the February 16, 2021 Regular Commission Meeting, **Action:** Approve, **Moved by** Commissioner Proctor, **Seconded by** Commissioner Allen.

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

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

7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month ending February 28, 2021
- c. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims
- d. Approval of Procedures & Timeline for 2020-2021 Budget Preparation
- e. Notification of Alto Lakes Water and Sanitation District Application for OSE Permit to Clean Well #16 (H719-S14)

- f. Approval of Road Mileage Certification Resolution 2020-34
- g. Eastern Area Workforce Development Board Agreement
- h. 2019 Volunteer Firefighters Annual Reporting
 - Arabela Volunteer Fire Department
 - Bonito Volunteer Fire Department
 - Glencoe Palo Verde Volunteer Fire Department
 - Hondo Valley Volunteer Fire Department
 - Lincoln Volunteer Fire Department
 - Nogal Volunteer Fire Department

Motion: Approve the Consent Agenda, **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.

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

8. Approval of Budget Adjustment FY 20/21 by Resolution 2020-31

Motion: Adopt Resolution 2020-31, **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.

EXHIBIT B: Copy of Resolution 2020-31 is attached hereto in reference thereto made a part hereof

9. Approval of Prior Year Invoices-

- a. NMC Commissioner Affiliate 2018, 2019 and 2020 Dues

Manager Pearson informed the New Mexico Association of Counties is Owed Three Years of Commissioner Affiliate Dues from the Years 2018, 2019 and 2020.

Motion: Approve prior invoices from New Mexico Association of Counties, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Chair Stewart.

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

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

10. Discussion of Ruidoso Valley Chamber of Commerce Annual Membership Investment

Manager Pearson informed on February 12, 2021 the Lincoln County Finance Department received an invoice for the annual membership investment from the Ruidoso Valley Chamber of Commerce. Manager Pearson stated it is unclear what the membership investment provides to the County of Lincoln.

There was a general discussion regarding membership and benefits.

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

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

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

11. Approval of Resolution 2020-33 a Resolution Acknowledging and Accepting the FY 2020 Audit for Lincoln County

Manager Pearson reminded on November 18, 2020 Lincoln County staff and officials participated in an exit conference with the Independent Public Account (IPA) Daniel Trujillo, Director of Audits with Kubiak Melton & Associates, LLC.

Daniel Trujillo, Director of Audits for Kubiak Melton & Associates, LLC stated the Audit Report was submitted to the New Mexico State Auditor and published properly and available on the State Auditors website.

Mr. Trujillo reported on the financial statement of findings. Mr. Trujillo reported Improper Year-End Accruals. Mr. Trujillo stated during test work over the County's cutoff procedures, noted that three (3) out of thirty-four (34) transactions tested were not properly accrued as accounts payable. Mr. Trujillo stated the total amount of this fiscal year 2021 expenditure was \$106,748. Mr. Trujillo stated no management progress had been made on this finding from prior year.

Mr. Trujillo stated per the 2013 COSO Framework, management is responsible for establishing and maintaining internal controls to ensure accurate financial reporting, which includes controls for the County's accounts payables and expenses. Mr. Trujillo reported management improperly excluded four items that are considered to be accounts payable at year-end and related expenditure for that period. Mr. Trujillo stated an entry was proposed to correct the accounts payable and related expenditure balances at June 30, 2020; not properly identifying cutoff related to expenditures results in expenditures recorded in the improper period as it relates to the modified accrual basis of accounting.

Mr. Trujillo recommended building an accounts payable listing for the audit, the County should thoroughly review disbursements subsequent to the year-end to determine which fiscal year the transactions should be reported in for the different basis of accounting.

Manager Pearson stated the County will implement the process to thoroughly review disbursements after year-end to determine in which fiscal year the transactions should be reported for the different basis of accounting. Manager Pearson stated all departments will be required to provide Finance with the details of expenditures which were incurred in one fiscal year and paid in a different fiscal year.

There was a general discussion over audit proceedings and findings.

Motion: Adopt Resolution 2020-33 to approve the Fiscal Year Audit, **Action:** Approve, **Moved** by Commissioner Allen, Seconded by Chair Stewart.

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

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

EXHIBIT C: Copy of Resolution 2020-33 is attached hereto in reference thereto made a part hereof

15. 9:30 A.M.: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS (Items are for discussion only – no action will be taken)

Whitney Whittaker, Clerk reported on current legislation from the fifty fifth legislature of the State of New Mexico. Clerk Whittaker announced the new Bureau of Elections Clerk, Faithe Samora would report later today regarding the 2021 Board of Registration.

Walter Hill, Assessor stated in preparation for the distribution of The Notice of Values the Assessor's office had until the following day to submit all data.

Assessor Hill announced they recently hired new GIS mapper Amanda Garcia.

Beverly Calaway, Treasurer stated the 2nd half of 2020 taxes are due April 10, 2021 and will become delinquent after May 10, 2021. Treasurer Calaway stated 69.9% of property taxes had been collected.

Michael Wood, Sheriff thanked the Lincoln County Commission and Manager Pearson for their support of law enforcement.

Cynthia Black, Chair of the Lincoln County Republican party spoke in support of Resolution 2020-35. Ms. Black stated we need to protect the economy and protect the borders. Ms. Black stated she was in strong support of adding back the language regarding the Constitution to the Resolution.

Joshua Beug, General Manager from the Tularosa Basin Telephone Company, spoke to agenda Item 18, the O bar O Easement. Mr. Beug stated they had a fiberoptic cable running down the road and the landowner was threatening to keep them off. Mr. Beug said there may be possible litigation about them trespassing. Mr. Beug confirmed they were looking at the plat and following the 50ft easement the County has platted for the road. Mr. Beug stated some customers are in jeopardy of losing 911 and TBTC services should access be blocked.

Karyl Williams, Lincoln County Resident spoke in support of Resolution 2020-35. Ms. Williams asked for the original language of the Constitution be restored to the Resolution. Ms. Williams Stated she believed Congresswoman Herrell was the only Legislative Representative supporting our concerns and representing us.

Beverly Sills, resident spoke in support of agenda item 25, the Resolution supporting Yvette Herrell. Ms. Sills stated our congresswoman supports the oil and gas industry and the jobs that come with it.

Megan Rogers, resident spoke in support of Resolution 2020-35 and highlighted a portion of the Resolution that was in support of the defense to bear arms. Ms. Rogers stated she would choose to defend her property and neighbors.

Nancy Munetake, resident spoke in support of Resolution 2020-35. Ms. Munetake stated she supports the efforts by the Congresswoman to have COVID testing prior to any non-citizen entering the Country.

Richard Cintron, Chair of the Lincoln County Democratic party spoke in opposition of Resolution 2020-35.

Chair Stewart reported he attended a Southeast New Mexico Economic Development District meeting February 25, 2021. Chair Stewart reported the Federal Economic Development Administration, and the State of New Mexico are assisting local governments in southeast New Mexico by working together to create a recovery plan as a result from the COVID-19 pandemic.

Chair Stewart also attended the Eastern Area Workforce Development Board CEO Agreement meeting. Chair Stewart stated its a partnership with postsecondary leaders across the state and the New Mexico Higher Education Department developed a statewide plan for reopening campuses. Chair Stewart is very interested in the development of the "Re-Start New Mexico" project and the effect it will have on the one stop capabilities at ENMU- Ruidoso.

Chair Stewart stated he would continue to attend the Joint Land Use Study Group meetings. Chair Stewart reported in the last meeting he was happy to report the military bases were in approval with the county's tower ordinance.

12. Forest, Land & Natural Resources Matters:

a. Smokey Bear Ranger District – Acting Ranger Larry Cordova

Acting Ranger Larry Cordova stated they hired Camilla Howes as District Ranger and will be started Mid- April. Acting Ranger Cordova stated she came from Virginia and holds lots of knowledge and brings a vast majority of experience to the District.

Acting Ranger Cordova reported the seasonal fire personnel started this month and are currently attending trainings.

Acting Ranger Cordova stated he would not be surprised if later this year we would expect to obtain some restrictions due to dry weather.

Acting Ranger Cordova stated they recently hired a NEPA planner that would start at the end of May.

b. South Central Mountain RC & D

Robert Barber reported on current activities of the district. Mr. Barber reported Jodie canfield is a newly elected member of South Central Mountain RC & D.

c. Upper Hondo Soil & Water Conservation District

Robert Barber, Member the Conservation District (SWCD) will continue to offer noxious weed control treatments.

d. LANRAC

Robert Barber, chair provided an updated on 2015 Mexican wolf rule and the 2014 EIS. Mr. Barber stated he will provide comment recommendations to the Commissioners soon. Mr. Barber reported that the BLM grazing lease was on hold until further notice.

13. Lincoln County Community Health Council Update and Presentation Given by Shannon Dictson, LCCHC Coordinator and Sergio Castro, LCCHC Chairman

Shannon Dictson, Coordinator of the Lincoln County Community Health Council presented a copy of the Council's 2021 activities report. Ms. Dictson reported the organization was a nonprofit which received grant funding from various sources. Ms. Dictson stated they had continued to provide suicide prevention training virtually using the QPR (Question, Persuade, Refer) curriculum. Ms. Dictson informed articles have been distributed regarding mental health issues as well as gun locks at a suicide prevention "glow walk" in Mescalero. Ms. Dictson said they have also sponsored a billboard which is located on one of our major streets in town offering help, hope and numbers to contact for people in need. Ms. Dictson discussed several other Council's projects including sponsorship of a mobile food bank; the health fair; natural helpers' program; adopt a mile; and the fitness challenge program.

Ms. Dictson informed they have partnered with the Lincoln County Detention Center to bring the RISE (Reach, Intervene, Support and Engage) Program to fruition. Ms. Dictson stated this program would help educate inmates about drugs and alcohol and would help them access services and transition into the communities.

Ms. Dictson stated the health council was working towards completing a comprehensive health assessment for Lincoln County and was participating in the Robert Wood Johnson Foundation – Build a Culture of Health project with other health councils across the State to bring about health equity to our communities.

14. Wilson & Company Update and Presentation on Reconstruction of Fort Stanton Road and Consideration to Delegate Signature Authority to County Manager for Award of Construction Management

Manager Pearson reminded in 2019, Lincoln County along with its Consultant, Wilson & Company, applied for and secured funding under a new NMDOT Local Government Transportation Project Funds (LGTPF). Manager Pearson stated the project scope is defined as Fort Stanton Road – Pavement rehabilitation/improvements, reconstruction, full construction, and drainage improvements (Project or CN LP20002). Manager Pearson stated the original grant amount was \$1,791,225.00 and the match for the county was \$94,275.00 (5%).

Manager Pearson stated on Monday, March 8, 2021, Road Superintendent Jeff Honeycutt and Wilson & Company had a final coordination meeting before letting the project out for bid.

Mario Juarez, Wilson & Company, stated on Sunday March 21st they would advertise in the local newspaper as well as in Las Cruces and Albuquerque. Mr. Juarez stated the road they would be working on was a 2.3 Mile long, two-lane roadway and they would be replacing the major culverts and some of the driveway culverts as well. Mr. Juarez said they hope to come before the Commission on April 6th with the bids and they hope to have the Contractor on the ground on or before April 19. Mr. Juarez stated they would have four months for substantial completion which would be August 27th with one month available for final cleanup which would be about September 17th.

Chair Stewart stated he did not think the Commission should delegate the authority to the Manager at this time. Chair Stewart mentioned a special meeting would have to be held in the beginning of April to award the Bid and the Commissioners could delegate the authority at that time.

16. Approval of Proclamation Recognizing April 6, 2021 as National Service Recognition Day

Manager Pearson informed this year's Annual Day of Recognition for National Service was April 6, 2021. Manager Pearson stated this day is set aside to encourage residents to recognize the positive impact to national service in Lincoln County.

Motion: Approve the Proclamation, **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.

17. Board of Registration Presentation of Minutes and Findings- BOE Clerk, Faithe Samora

Faithe Samora, Bureau of Elections Clerk provided a review of the removal process for the Board of Registration Meeting held on March 5, 2021.

Ms. Samora reminded the Board of County Commissioners appointed the members and alternates to serve on the Board of Registration during the June Regular Meeting. Ms. Samora stated the Board of Registration, consisting of Charles Nesbitt III, Cynthia Black and Richard Cintron convened on March 5, 2021 to review the voter purge list of 198 registered voters in Lincoln County.

Ms. Samora explained voters eligible for the NVRA removal list were mailed a confirmation mailing in August of 2018, had not updated their registration, and had not voted in any election since the mail out. Ms. Samora stated the practice was consistent with Federal and State Statutes.

Ms. Samora stated after an examination of the list and supporting documentation, the Board of Registration found no discrepancies and reported no objections to the list as presented. Ms. Samora stated the Board of Registration certified the list of 198 voters for removal from the voter registration rolls of Lincoln County. Ms. Samora stated after removal of the identified voters there were approximately 13,652 registered voters in Lincoln County.

18. Approval to Issue an RFP for On-Call Engineering, Architectural, Surveying and Environmental Services

Manager Pearson stated the current on-call engineering contract expires May of 2021. Manager Pearson stated the county attorney, purchasing manager and the manager's office had been working on creating a new RFP to encompass the needs of the County of Lincoln.

Motion: Approve the issuance of RFP for On-Call Engineering, Architectural, Surveying and Environmental Services, **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.

19. Road Discussion and Direction Regarding Easements and Right-of-Way Maintenance of the O-Bar-O Road

Manager Pearson stated a dispute had arisen regarding the ownership and maintenance of sections of the O-Bar-O Road.

There was a lengthy discussion regarding the 50 ft utility easement. Consensus was to bring back agenda item.

20. Approval of Lease Agreement Between the County of Lincoln and the Ranches of Sonterra Property Owners Association for Compactor Site

Manager Pearson stated the current lease agreement between the County of Lincoln and Ranches of Sonterra expired March 16, 2021. The County Attorney had updated a new lease agreement with the Ranches of Sonterra Property Owners Association for the current compactor site.

Motion: Approve the Lease Agreement Between the County of Lincoln and the Ranches of Sonterra Property Owners, **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.

24. History in Lincoln County – The Honor List – Presented by Judge Martha Proctor

Manager Pearson presented a new commission item to pay tribute to historical findings related to Lincoln County. Manager Pearson invited Honorable Retired Magistrate Judge Martha Proctor to discuss some stories found in "The Lincoln County and Mescalero Apache Tribe Honor List" book. Manager Pearson asked permission to incorporate the historical findings as a reoccurring agenda item.

Honorable Judge Martha Proctor spoke about the book the Honor List.

Motion: Approve the incorporation of the "History in Lincoln County" to the monthly commission meetings, **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.

21. Manager's Report

1) Letter From Carrizozo Mayor, Ray Dean

Lincoln County worked with The Village of Ruidoso, The Village of Capitan, The Village of Corona, The City of Ruidoso Downs and The Town of Carrizozo in a COVID-19 testing initiative called *Together Lincoln County*. Every entity worked hard to test as many residents as possible to get Lincoln County out of the Red Level and into the Yellow. Carrizozo Mayor, Ray Dean, sent a letter of appreciation to the manager's office expressing that "All of the persons from the County of Lincoln conducted themselves in a competent and professional manor (sp), they are a credit to your organization." I want to thank everyone for making this testing initiative a success!

2) Calf Saved By Firefighters

On February 23, 2021 several Lincoln County fire departments responded to a brush and grass fire on the west side of Devil's Canyon. The 25-acre fire was on BLM and Forest property. While containing some "hot spots", Robbie Hall encountered a young calf that was about to be consumed by the fire. With the help of Joe Kenmore, the calf was rescued and placed in the front of a truck while the crews stayed on the fire. The calf's owner was located a few hours later and reunited with his mother. A big thank you to Robbie Hall, Joe Kenmore and all of the firefighters in Lincoln County.

3) LCMC Construction Continues

The Lincoln County Medical Center parking lot construction resumed on March 1, 2021. Adjustments to electrical locations, curb, gutter and driveways have all been finalized. Anticipated final walk-through is scheduled for May 21, 2021.

4) New Mobile Dispatch Trailer Has Arrived

The State of New Mexico Department of Homeland Security has transferred a communications trailer to the County of Lincoln for the purpose of providing mobile dispatch to any entity in Southeastern New Mexico. This trailer has three dispatch stations, multiple communication radios and full recording capabilities. There is a small kitchenette and a restroom on board. Maintenance costs for this unit will be paid by the State of NM.

5) Solid Waste Department Update

Implementing the receiving and receipting procedures has helped in the accounting of payments coming into the county. There is a large volume of returned mail every billing cycle. The address is checked with both the Treasurer's office and the Assessor's office. This is a time-consuming process. The "working" of delinquent accounts is a full-time job in itself. The next billing cycle is at the end of this month. I plan to participate in all aspects of the process.

6) Project List for Lincoln County

Glenda Allen has been working with Billie-Jo Guevara to create a master list for all projects in the county. This list will help keep everyone up to date and will be presented on a monthly basis.

25. Resolution 2020-35 in Support of the Policies Being Pursued and Supported by Representative Yvette Herrell in her capacity as the elected congresswoman from New Mexico's 2nd Congressional District

Motion: Restore original constitution language to the Resolution, **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.

Motion: Adopt Resolution 2020-35, **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.

EXHIBIT D: Copy of Resolution 2019-24 is attached hereto in reference thereto made a part hereof

Chair Stewart recessed the Regular meeting at 12:05 PM and reconvened at 1:00 PM.

22. Lincoln County Medical Center Update

Todd Oberheu, Lincoln County Medical Center Executive Director provided an update on the vaccines given throughout the county. Mr. Oberheu reported a 25.8% vaccination rate in Lincoln County. Mr. Oberheu also stated the hospital had all three vaccines: Moderna, Pfizer and Johnson & Johnson. Mr. Oberheu stated they only had one positive COVID patient that was currently hospitalized. Mr. Oberheu stated he was hopeful our County would turn green soon.

23. Lincoln County Detention Center Update

Scott Colvin, Warden reported the Lincoln County Detention Center presented the RISE Program to the Mescalero Tribal Government last week with positive feedback. Warden Colvin stated nine (9) detention officers were certified in Firearms safety and training. Warden Colvin expressed his appreciation for the sheriff's office and ENMU-Ruidoso for assisting in the training event.

Warden Colvin stated the average daily population for the month of February was 76 with an average length of stay of 26 days.

26. Discussion and Direction Regarding the New Application for Waiver of the Solid Waste Fee for Multiple Habitable Premises Other than Main Residence

Manager Pearson stated four applications for waivers of the solid waste fee for multiple habitable premises had been received by the solid waste department. Manager Pearson was seeking guidance on approval of the applications and any other documentation or verification that may be necessary. There was a lengthy discussion about what could be included with the application and any modifications to be made to the application.

27. Approval to File Solid Waste Liens:

a.	Kevin Torrez (land) Della Gutierrez (MH)	\$ 1386.96
b.	Luis Polaco & Ernestina (land) John Vigil (MH)	\$ 967.72
c.	Shawn Wallis	\$ 861.96

d.	Russell Family Trust (land) Alyssa Dean (MH)	\$ 836.56
e.	Whitney R Palm	\$ 836.56
f.	Cruz Antonio Lira Salgado & Zandy Mata Mata	\$ 836.56
g.	Alfonso M Valdez & Margarita Ch De Murguia	\$ 836.56
h.	Catherine Caudle	\$ 833.88
i.	Martha A Perez, Beatrice M Lucero, Norma M.	\$ 821.96
j.	Deanie Chappell Beavers	\$ 751.59
k.	Linda Miller	\$ 723.48
l.	William C Van Winkle	\$ 694.62
m.	Douglas C Smith & Judy A	\$ 666.94
n.	Deborah J Strader	\$ 666.94
o.	Kenneth B Ellard	\$ 521.49
p.	Elizabeth & Wallauer Long	<u>\$ 339.64</u>
		\$ 12,583.42

Manager Pearson state Linda Miller and William C Van Winkle fulfilled their payment prior to the Commission meeting.

Motion: Approve the liens as presented apart from Miller and Van Winkle, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Crunk.

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

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

28. Approval of Resolution 2020-32 – Disposition of Surplus Inventory

Motion: Adopt Resolution 2020-32, **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 E: Copy of Resolution 2019-24 is attached hereto in reference thereto made a part hereof

29. Approval of Lodger's Tax Application with backup material:

- Aspen Cash Motorcycle Rally

Request: \$5,000.00

Date(s) of Event: May 20-23, 2021

Presenter: Ruidoso Golden Aspen Rally 2 LLC/Blayne Maldonado

Recommendation: \$5,000.00

Motion: Approve Lodger's Tax Application for \$5,000; Aspen Cash Motorcycle Rally, **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. Lodger's Tax Audit –FY 20

- a. Obtain Board of County Commissioners Random Selection of Lodgers for FY 20 Annual Audit

Manager Pearson stated in accordance with County Ordinance 2019-03, the "County Commission shall select for annual random audits of one or more vendors." Manager Pearson stated the audit was to verify the amount of gross rent subject to the occupancy tax and to ensure that the full amount of occupancy tax on that rent was collected from each vendor audited. Manager Pearson informed the Commissioners have the responsibility of determining the number to be audited and then to select the vendors for audit.

Manager Pearson stated additionally, the County Manager may select a number to verify the tax. Manager Pearson stated the results of the audit are to be reported to DFA and the Board of

County Commissioners. Manager Pearson stated the vendors to be audited have been divided into two pools based on the amount of tax they paid; the smaller tax pool is \$305.23 and below while the larger tax pool is \$305.90 and above for a total of ninety (90) active vendors for FY 19/20.

- b. Approval for Kubiak Melton & Associates to Conduct Annual Lodgers Tax Audit

Motion: Approve Kubiak Melton & Associates, LLC to conduct the annual Lodger's Tax Audit once vendors are selected, **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.

32. Request for Variance from Chief Dispatcher Job Requirements – Certifications Due to COVID-19

Manager Pearson informed the Chief Dispatcher position was left vacant and a current employee was hired as Administrative Secretary. Manager Pearson stated only one applicant applied to the posting. Manager Pearson stated the applicant had been employed with Lincoln County as a dispatcher for a year and eight months. Manager Pearson explained the position of Chief Dispatcher required specific certification. Manager Pearson stated due to COVID-19 there had been a lack of re-certification classes available to maintain certification, therefore, this applicant/employee has been unable to recertify.

Motion: Grant variance from the chief dispatcher job requirements with commitment from employee to recertify, **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.

33. Consideration of Appointments and Removals from Boards/Commissioners' Committees:

- a. Land and Natural Resources Advisory Committee

- i. Preston Stone
- ii. Robert Shepperd

Motion: Appoint Preston Stone and Robert Shepperd to the Land and Natural Resources Advisory Committee, **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.

34. Lincoln County Executive Session Pursuant to the Open Meetings Act: Discussion of all Threatened and/or Pending Litigation, Section 10-15-1, Subparagraph (H)(7); Discussion of the Purchase Acquisition or Disposal of Real Property or Water Rights by the Public Body, Section 10-15-1, Subparagraph (H)(8)

New or Updated Matters since last report *

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-JAPGJF 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. On March 1, 2021, the U.S. Court of Appeals for the Tenth Circuit entered its Order and Judgment affirming the ruling of the U.S. District Court for the State of New Mexico. The deadline for Plaintiffs to file a Petition for Rehearing is March 15, 2021.

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 Page 2 of 5 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. A hearing on Plaintiff's Appeal is scheduled to take place on April 22, 2021 before Judge John P. Sugg.

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. On January 28, 2021, Judge John Sugg entered a Decree of Foreclosure and a Special Master's Sale is scheduled to take place on March 31, 2021 at 10:00 a.m. at 313 Cree Meadows Dr., Ruidoso, NM.

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. On January 28, 2021, Judge John Sugg entered a Decree of Foreclosure and a Special Master's Sale is scheduled to take place on March 31, 2021 at 10:15 a.m. at 313 Cree Meadows Dr., Ruidoso, NM.

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 is on December 3, 2020. On December 29, 2020, a Disclaimer of Interest of Defendants Moises and Casandra De La Torre was filed. On January 27, 2021, Plaintiff filed

its First Amended Complaint to Page 3 of 5 Foreclose Lien and The County of Lincoln filed its Answer to First Amended Complaint that same day. On March 5, 2021, Judge Sugg entered a Decree of Foreclosure and a Special Master's Sale is scheduled to take place on April 7, 2021 at 10:00 a.m. at 313 Cree Meadows Dr., Ruidoso, NM.

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. On March 4, 2021, an order Making Preliminary Entry Order Permanent was entered.

16. **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.

17. ***Daniel Caouette v. Lincoln County, Cause No. D-1226-CV-2021-00039** A Complaint alleging violation of the Inspection of Public Records act was filed. Lincoln County has yet to be served with the Complaint.

Tort Claims Notices Received or Threatened

2021

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

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

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

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

2020

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

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

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. Page 4 of 5

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

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

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

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

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

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

Stark, Cary – Tort Claim Notice received October 9, 2020, in which Claimant alleges that, after making a 911 call concerning the driver of a vehicle he was a passenger in, the responding officers allowed him to leave with the same driver which ultimately resulted in a crash causing Claimant to sustain injuries.

Touche, Claudia and Trespalacios, Antonio – Tort Claim Notice received November 5, 2020 alleging false arrest, excessive force, intentional infliction and emotional distress, and harassment by the Lincoln County Sheriff's Deputies, and claims against the County of Lincoln based on retaliation, negligent training and supervision, and for inadequate policies and procedures.

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

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

2019

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. Page 5 of 5

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 Proctor, Seconded by Commissioner Allen.

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 2:00 PM.

Chair Stewart adjourned the Closed Session and reconvened the Regular Meeting at 3:00 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.

30. Lodger's Tax Update

There was no action taken on this agenda item.

35. Signing of Official Documents

Chair Stewart, Commissioner Willard, Commissioner Proctor, Commissioner Allen, and Commissioner Crunk provided approval for the use of electronic signature.

36. Next meetings:

- a. April 20, 2021 Regular Commission Meeting

37. Adjourn

There being no further business to come before the Board of County Commissioners, Chair Stewart adjourned the meeting at 3:08 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

April 20, 2021
Date Approved