

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 September 21, 2021

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on September 21, 2021, in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico.

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

1. Call to Order

Chair Stewart called the Regular Meeting of the Board of County Commissioners to order at 8:30 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 Nicholas Morerod, Deputy Clerk.

3. Invocation

Invocation was presented by Chair Stewart.

4. Pledge of Allegiance

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

5. Approval of Agenda

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

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

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

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

6. Approval of Minutes:

- a. August 10, 2021, Special Commission Meeting
- b. August 17, 2021, Regular Commission Meeting]

Motion: Approve the Minutes of the August 10, 2021, Special Commission Meeting and the August 17, 2021, Regular Commission Meeting

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

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

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

7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month ending August 31, 2021
- c. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims
- d. Acknowledgement of Final Budget Approval from the State of NM Department of Finance and Administration
- e. Approval of Amendments to Local Government Road Fund Agreements
 - 1. L200485 - County Cooperative Program Agreement
 - 2. L200499 - County Arterial Program Agreement
 - 3. L200507 - County School Bus Route Program Agreement
- f. Approval of Road Review Advisory Committee Re-Appointment: James Russ, II
- g. Resolution 2021-21: Participation in Capital Outlay Program Administered By New Mexico Department of Transportation

Motion: Approval of Consent Agenda, Action: Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Proctor.

Chair Stewart stated consent item G needed corrections on Pg. 4 regarding Nita Taylor as manager, Rhonda Burrows e-mail address, and Clerks' P.O. Box.

Manager Pearson stated they would be discussing the Capital Outlay with Billie Jo the following week and presenting ideas for utilization to the Commission.

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

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

SEE EXHIBIT A: Copies of the Consent Items including Resolution 2021-21 is attached hereto in reference thereto made apart hereof.

8. Forest, Land & Natural Resources Matters:

- a. Smokey Bear Ranger District

Laura Rabon, Lincoln National Forest Public Affairs Officer introduced two presenters, Diane Prather, Forest Planner and David Baker, Specialist.

Diane Prather, Forest Planner informed the Lincoln National Forest was in the middle of a Land Revision Effort which started with an assessment in 2015. Ms. Prather stated they received over 1,300 comments on the preliminary draft plan which was used to create an environmental impact statement. Ms. Prather informed on the five (5) different options created and stated there was a 90-day comment period.

- b. Lincoln County / NMSU Extension Services

Melody Gains, Lincoln County Family Consumer Science and 4H Agent informed they just returned from the NM State fair where we had 23 projects from Lincoln County displayed. Mrs. Gains stated there were ten (10) First Place and five (5) Second Place projects as well as many third and fourth place projects. Mrs. Gains informed there were 117 projects from Lincoln County headed to the Eastern New Mexico State Fair. Mrs. Gains commented the Lincoln County Fair Sale made \$191,000 which increased to \$244,000 with add-ons and packer animals for the benefit of the youth of Lincoln County.

Melanie Gutierrez informed the New Mexico Youth Livestock Expo was a replacement for the State Fair for the youth to show their animals. Mrs. Gutierrez stated there were over 400 hogs, 300 sheep, 200 goats, 60 dairy heifers and 110 head of cattle which made for a great turnout.

- c. State Forestry – EMNRD

- d. South Central Mountain RC & D

Tony McWilliams, Rural Community Forester introduced himself as the new Community Forester for RC & D. Mr. McWilliams stated he had over 30 Years working for the US Forest Service in the Lincoln National Forest. Mr. McWilliams informed they are currently signing up new WUI cost share participants in both Counties.

Laura Doth, stated they finally received their notice to proceed on Lincoln County WUI funds of approximately \$260,000 working with private property owners. Ms. Doth informed the Board approved a funding match with RC & D funds to help in the Valley with some of the engineering costs due to the recent flooding.

e. Upper Hondo Soil & Water Conservation District

Manager Pearson read a letter from the Upper Hondo Soil & Water Conservation District.

f. LANRAC

Manager Pearson stated Robert Barber was deployed with the Red Cross and was unable to attend.

9. Compensatory Board Recommendations:

a. Sheriff's Office – Dispatchers

Manager Pearson informed on the numerous vacancies in dispatch over the last year to year and a half. Manager Pearson stated the pay was not sufficient to keep staff employed as dispatchers in Lincoln County.

Michael Wood, Lincoln County Sheriff stated dispatchers were the very first responders when something happened. Sheriff Wood explained there were different levels of certification which needed to be attained. Sheriff Wood informed the dispatchers handle dispatching for more agencies than any others in the County, they include all the volunteer firefighters as well as some of the area Police and Fire Departments.

Billie Jo Guevara, Lincoln County Finance informed the pay scales would work with only minor adjustments in the Triadic system.

Motion: Approve suggested Classifications for Sherriff's Office Dispatchers,
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.

b. Office of Emergency Services – Full-Time Firefighter

Manager Pearson explained the temporary firefighter position would be more beneficial as a full-time position allowing Joe Kenmore, Office of Emergency Services, to focus on County Wide Safety.

Joe Kenmore, Office of Emergency Services informed on the need of an assistant to help with the numerous duties of the office and allow more time for Risk Management.

Motion: Approve New Job Description and Pay Rate for a Full-Time Firefighter,
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.

10. Approval of Budget Adjustment for FY 21/22 by Resolution 2021-17

Manager Pearson informed the approval of \$162,000 for the Body Scanner for the Detention Center which included \$2,000 for AIPP.

Chair Stewart questioned the \$49,319 in the Sheriff's Office and was informed it was the Dispatcher pay adjustments which were approved.

Motion: Approval of Budget Adjustment for FY 21/22 by Resolution 2021-17,
Action: Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Willard.

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

SEE EXHIBIT B: Copies of the Budget Adjustments including Resolution 2021-17 is attached hereto in reference thereto made apart hereof.

11. Lincoln County Detention Center Update - Warden Scott Colvin

Scott Colvin, Warden Lincoln County Detention Center gave an update on the arrests and releases from the Detention Center in the last few months. Warden Colvin stated they had 36 high intensity motion controlled solar lighting units around the perimeter of the Detention Center as part of a new solar lighting project.

13. 9:30 A.M.: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS (Items are for discussion only – no action will be taken)

Commissioner Proctor stated there were 13 attendees present in Corona for the State Natural Resource Committee Meeting at the NMSU Ranch. Commissioner Proctor spoke on the Zoom meeting regarding Lodgers Tax.

Commissioner Willard spoke attending the SEPRTO meeting regarding the new chair and changes of format and policy committees. Commissioner Willard spoke on the need for a resolution regarding the trash compactors being filled with mattresses and furniture. Commissioner Willard suggested the need for an Assistant County Manager.

Commissioner Crunk inquired about the status of the Sun Valley Fire Station.

Manager Pearson stated they had met with original architect John Kirkpatrick and next will be meeting with Ryan Roper. Manager Pearson stated the need to see the plans for the bidding to verify.

Whitney Whittaker Lincoln County Clerk stated the 2021 Regular Election started. Clerk Whittaker stated absentee voting will start Oct 5, 2021, in the clerk's office. Clerk Whittaker stated to request an absentee ballot please call 575-648-2306 Ext. 6.

Walter Hill Lincoln County Assessor stated currently they are working on protest and wanted to thank the staff. Assessor Hills stated the protest board will convene Monday and Tuesday September 27 and 28, 2021 through Zoom. Assessor Hill stated currently there are 13 protests with 2 of them having hearings.

Beverly Calaway Lincoln County Treasurer stated the County wide distribution of gross receipts for the current month equaled \$235,163.42 and the distribution of county equalization at \$524,490.11. Treasurer Calaway stated for 2020 the county equalization was \$170,598. Treasurer Calaway stated the 2021 tax bills are being prepared and are on schedule.

Commissioner Allen inquired on the frequency of the distributions.

Treasurer Calaway stated the distributions are annually.

Commissioner Proctor spoke on the staffing situation regarding wait times at the hospital and clinics.

Lincoln County Sheriff Michael Wood stated in last 30 days there had been 311 calls for service. Sheriff Wood stated there had been 26 arrest and served 285 civil papers. Sheriff Wood stated thanks for continued support.

Chair Stewart opened public comment 9:37AM

Darrell Sederwall spoke on the concrete batch plant proposed for highway 220. Mr. Sederwall read from a letter regarding the Roper cement batch plant.

Hospital Chief Executive LCMC Todd Oberheu spoke on the decline in positive Covid cases. Mr. Oberheu stated there had been a high-volume hospital admissions peak of 14 patients in one day with an average of 7 to 11 patients. Mr. Oberheu stated there were 7 Covid patients within the ICU being at 100% positive cases.

Commissioner Proctor inquired the Carrizozo, Corona, and Capitan plan to promote, hire, and help staffing.

Mr. Oberheu spoke on loss of staff due to vaccine mandate and relocation of staff to maintain operations. Mr. Oberheu stated there is a Capitan nurse about to start and active hiring through Presbyterian and has done a raise of wages which will take affect approximately within a week. Mr. Oberheu stated the base pay is \$15 currently.

Commissioner Proctor stated the need to inform Presbyterian about the staffing in Corona and Capitan due to the increase in population at Corona.

Commissioner Allen inquired on the number of employees lost due to the vaccine mandate.

Mr. Oberheu stated there were 16 that were lost with 5 registered nurses and 2 paramedics. Mr. Oberheu stated 3 EMT's were lost gaining back 1 registered nurse at a total of 2 resignations. Mr. Oberheu stated Presbyterian did not require termination due to the mandate but afforded a personal leave of absence for up to 4 months of time. Mr. Oberheu stated they hope to work through an exemption process or complete vaccine requirements.

Commissioner Allen inquired on the mandate.

Mr. Oberheu stated it had been a state mandate. Mr. Oberheu spoke on EMS being under the mandate or not and Presbyterian stance was to place all employees under the mandate.

Manager Pearson inquired on the exemption form.

Mr. Oberheu stated they were able to submit an exemption form but there is a need to clarify the federal mandate. Mr. Oberheu stated there was 65 exemptions awarded at the hospital with 19 obtaining the vaccine.

Mr. Oberheu stated they had hired a new urologist but due to not having one for 7 years, there is a lack of equipment. Mr. Oberheu stated in the mil levy there was \$400,000 dollars set aside for renovation of the Physical Therapy Heritage facility. Mr. Oberheu stated after consulting Manager Pearson and staff the decision was made to set aside the money. Mr. Oberheu inquired on the approval to afford part of the mil levy money for the urologist equipment. Mr. Oberheu stated the equipment would reside on the county books and be tagged. Mr. Oberheu stated they would need approximately \$250,000. Mr. Oberheu stated the invoices would be presented at the next meeting.

Chair Stewart concluded public comment. Chair Stewart stated there would be a conference call for the Southeast Military Installations on the Sept 23, 2021.

Commissioner Allen requested to bring back agenda item regarding the batch patch for the following month due to private property rights.

10:00 A.M.: PUBLIC HEARING AN ORDINANCE PROVIDING FOR REGULATION OF LOCATION AND CONSUMPTION OF RECREATIONAL AND MEDICAL CANNABIS; PROVIDING A PENALTY; ESTABLISHING SEVERABILITY AND AN EFFECTIVE DATE

Chair Stewart recessed as the board of county commissioners at 10:01 AM and convened the public hearing.

Attorney Morel spoke on the abilities of certain counties to regulate the growth, manufacturing, and sale of cannabis within government jurisdictions. Attorney Morel stated the changes and concerns for the proposed draft options and revisions needed.

Commissioner Crunk spoke on property rights regarding grown of cannabis.

Attorney Morel spoke on regulation regarding property rights Lincoln County and enforcement of laws through ordinance.

Sherriff Wood spoke on the need and requested more time due to how extensive the state statue is. Sherriff Wood spoke on how the visibility of cannabis growth affects public safety. Sherriff Wood spoke on how ordinances decisions would affect medical cannabis users. Sherriff Wood spoke on public and private use and regulations. Sherriff Wood spoke on not being opposed to prevent public property consumption of cannabis but would like more time to address private property rights.

Commissioner Willard inquired if a fence is required by the state for outdoor cultivation of cannabis.

Attorney Morel spoke on researching medical cannabis cultivation further. Attorney Morel stated there was nothing currently requiring fencing to grow the allotted 6 cannabis plants per person recreationally.

Doris Cherry, county resident and a patient of the medical cannabis program. Ms. Cherry stated she had a permit for outdoor growing for several years and to answer the question about the under the medical program, you had to complete an application form in which you had to indicate the property and weather you plan to grow indoor or outdoor. Ms. Cherry stated If you planned to grow outdoor you had to describe how you planned to provide security. Ms. Cherry stated I sent the county manager yourself Mr. Chairman and to Allen the written comments I made where I include some of the provisions of the medical marijuana program and the requirements to do outdoor grow. Ms. Cherry stated I am very concerned, because I have an outdoor grow, approved through the program for a few years, and held license. Ms. Cherry stated This year they sent my application and check back and said, "we no longer regulate that", "that's Department of Health". Ms. Cherry stated That is where the medical programs administrator was prior to now. Ms. Cherry stated my main concern is, there is no provision for grandfathering in and that is going to require me and many other patients to invest in indoor, or green house, or some other form. Ms. Cherry stated we will be forced to go to the dispensaries and purchase it. Ms. Cherry stated it is not cheap and plus I'm a gardener, so I have requested in my written comments in section 5 sub section 5.4 that you add a clause "or fenced with a privacy shield, gated locked door outdoor location, out of public view and outdoor locations previously accepted by the NMDOH medical cannabis personal production application. Ms. Cherry stated I do feel this will be a personal burden and financial hardship especially since many of us on the program don't have extra money, we're on disability of social security and that doesn't leave you much for building structure or purchasing lights. Ms. Cherry stated so I am just asking to consider a last clause to consider some grandfathering to use who have been doing it for many years and have been approved with these licenses. Ms. Cherry stated also I am glad to hear about all of you supporting private property rights.

Christian Hurst stated I'd like to address a few items Doris had touched on. Mr. Hurst stated the MCP program, that she stated she sent her application into the State, and they sent it back stating they are no longer regulating, this implies that the medical cannabis program, will make your personal production just go to the wayside. Mr. Hurst stated Like she said you would have to go into the dispensaries to purchase your cannabis or grow your recreational plants at your home on your property. Mr. Hurst stated Now we've been growing our own for the past several years, we have the benefit of having a green house under lock and key and a camera. Mr. Hurst stated These are the items that we had put in our applications to the Department of Health, they okayed it, they gave us the green light and we've been doing just that. Mr. Hurst stated Now we've had this green house for about 7 years, and we grow vegetables along side our medical plants, but changing up some of these regulations, they seem kind of arbitrary to the reason for doing it in the first place. Mr. Hurst stated touching on the recreational and medical producers and not allowing the grandfathering in to have to put the carbon filters to mask the odor or for home production to have it enclosed and out of sight, seems a bit steep because like she said they can't afford to do this indoors with artificial lighting and what have you. Mr. Hurst stated outside and in your backyard in a cedar picketed fence or something that doesn't allow neighbors to see so much of it, maybe the tops of the plants of whatever, like the sheriff said before that "we have bigger problems to worry about" than you know the neighbors seeing it or somebody smelling it. Mr. Hurst stated consumption on your own property in my own opinion should be okay, I don't have too much to say as far as public property goes, and should be the same as alcohol, unless you're licensed or it's a designated area to do so. Mr. Hurst stated I would also like to address just briefly the commercial production and some of the laws they have in place may pave a better picture for personal use. Mr. Hurst stated the office of the state engineer requires a water source that would be acceptable to produce cannabis, now this goes along with any type of commodity such as wheat or corn or ag product and if that's the case it seems to me that is inline with horticulture.

Melanie Dean stated I am a 34-year resident of Lincoln County first of all I want to thank Sherriff Mike Wood who seems to always have his pulse on the residents of Lincoln County, so I appreciate you very much. Ms. Dean stated I am the regional manager of Oso Cannabis which was formerly Compassionate Distributors. Ms. Dean stated we've been in business for 10 years we have close to 50 employee's and if you vote to not grandfather us in you will completely end those 50 employees' and our business overnight. Ms. Dean stated I ask that you do not vote to not grandfather us in we serve over 10,000 patients, and that's another aspect I really want to point out is that you will be ending the supply of medicine for over 10,000 patients which is extremely important. Ms. Dean stated we have been in the industry for 10 years and we have 8 locations and we're working on 7 more so we're looking to have 15 locations. Ms. Dean stated we're concerned that you're taking this very harsh agenda at just not grandfathering in a company that's been in your county for 10 years. Ms. Dean stated so we are looking into this very closely and our attorneys are looking at this to determine if the legalities are approved in accordance with the regulation of the state. Ms. Dean stated this is a very difficult time to find employees as all of you know in this industry very difficult, it's difficult in every industry to find employees. Ms. Dean stated to have 50 employees in Lincoln County, we feel very blessed that

we have them, and they're all incredible and so what you're proposing is to wipe out those people's income overnight and 10,000 patients medicine which I do not support at all. Ms. Dean stated I have been a member of the cannabis hearing committee for Ruidoso and offered a lot of education, I'd be willing to do that for you as well, I urge you to make room for every grower that wants to come into this community and make room for us who have been in this community for 10 years. Ms. Dean stated you're taking away medicine from patients and that's not good.

Kimberly Cherry stated I work for Not Too Shabby as a house cleaner professionally, I use to work for a medical farm, and I also used to grow for medical patients. Ms. Cherry stated I grow for myself as a medical marijuana patient and I only have a slight issue with subsection 5.4, which is not grandfathering in, it also doesn't provide any provision for outdoor grows. Ms. Cherry stated I'll make this very short, very sweet I know you guys have a lot of people to go through, I feel that you know this is kind of the like small Colorado town in northern Colorado did the same thing. Ms. Cherry stated they hadn't made a lot of detail into their amendments on what they were going to do, grandfather people in, exclude recreational and medical and separating the two, because they should be separated. Ms. Cherry stated a lot of patients are in the older generation and a lot of them don't grow for themselves and even if they do grow for themselves, they can't afford to do any of what you guys are asking them to do. Ms. Cherry stated it would literally be a discriminating against the poor, it would be a discrimination that would do more harm than good. Ms. Cherry stated Not even just for the patients that are dealing with it firsthand, but for the economy of our county it's grown quite a bit with the medical marijuana industry. Ms. Cherry stated speaking on behalf of someone I used to grow for that unfortunately passed away very shortly ago, I feel that she would just be like oh my god this isn't happening because she is a very hard-working person in the community and became a medical patient and could still do certain things due to medical marijuana. Ms. Cherry stated I watched her deteriorate because she had to stop using medical marijuana due to other things interfering with it. Ms. Cherry stated it's sad because I know other people that grow for the older generation also feel the same. Ms. Cherry stated I think that since our license already hold us so that we have a gated locked initiative for ourselves as medical marijuana patients, but if you just want to detail that wording more with the Department of Health or however will be regulating our licenses, would make more sense, as well as grandfathering in those that have been medical marijuana patients for the last 10 years. Ms. Cherry stated some of us have held our licenses for 5 or more years, some for 10 years, some for just under 8, its kind of discerning. Ms. Cherry stated you want to help our local authorities to have the availability enforce those kinds of laws but there's already laws that already enforce us to not smoke outside and things that force us to not do that in a public place. Ms. Cherry stated I don't know a medical patient that would do that in the first place, so those are not already written down in another place. Ms. Cherry stated I find that this is nice how the public comment is set up and appreciate you listening to what I have to say. Ms. Cherry stated again my only issue is with subsection 5.4 where you guys are not grandfathering in anyone, and I'm thinking of all the medical patients that I know over the age of 60 that would just deteriorate if they were forced to stop using medical marijuana.

Karyl Williams stated I wrote a letter and put some information together analyzing the ordinance and I appreciate Sheriff Wood and the other comments that reached beyond my understanding of some of the issues here. Ms. Williams stated with the ordinance we have yet to identify what we are trying to target here I don't think that we have anything that's a problem that we need to target at this time, and I appreciate the Sheriff bringing up the point that we need to take some time to identify issue that need to be addressed. Ms. Williams stated you know the smoking on public property might be one, applying some of the restrictions for consumption that might be with alcohol might be appropriate and accountability for protecting storage areas and cultivating for folks not involved in the medical licensing area but should be accountable to make sure their supplies and cultivations are secure from unauthorized access. Ms. Williams stated this draft of the ordinance I thought maybe was a second amendment type of a tact that was trying too reasonable but wasn't. Ms. Williams stated going way beyond the 5.4 section it is written very poorly, it is applying to every single person commercial or otherwise and I think if an ordinance is considered it needs to be short and sweet and to the point of where there are risks, thank you.

Michael Wise stated I am a lifelong citizen of Lincoln County and what I'd like to do if I might, I'm just going to read a small statement. Mr. Wise stated let's do it this way, any attempt at further regulation on cannabis beyond that which is already provided by the state law is a gross misuse of power by the commission. Mr. Wise stated there is no crime being committed cause there is no victim. Mr. Wise stated I honestly believe that an attempt to bar someone from viewing a plant grown outside would be the same as saying you don't want to see me growing cucumbers or you don't want to smell vanilla in your home, it is a gross overstep and mistreatment of your seats of authority, as such I would go as far as to say this. Mr. Wise stated cannabis has never and will never hurt another individual. Mr. Wise stated the steps have already been taken and put in place to make sure that we're not publicly consuming it, much like alcohol and that is the

only comparison to alcohol that is reasonable to make. Mr. Wise stated I simply stated for all members that are seated, we do vote, and we do remember things and I strongly urge you to reconsider your stance. Mr. Wise stated I think you are taking steps in a direction that is not favorable to the community and you have an obligation to the community to vote with the will of the people. Mr. Wise stated if it is not already been made clear to you, our people desire to have cannabis de-regulated, we don't want criminal activity, we don't want to be fined, we don't want to potentially be jailed. Mr. Wise stated you are putting a weight and a burden not just on you people but also on your Sheriffs Department. Mr. Wise stated I'm done and want to thank every citizen of Lincoln County for attending this meeting.

Chris Cherry stated I am a lifelong citizen of Lincoln County. Mr. Cherry stated I would like to thank our Sherriff for his words regarding private property rights and I would like to say that this ordinance is verging on a constitutional issue in that you're restricting access to people of limited means. Mr. Cherry stated as the Sherriff has stated there's a very limited budget for him to enforce things in Lincoln County and I think that adding another ordinance to be enforced adds to that burden, thank you.

Mike Barker stated unlike some you long time Lincoln County residence, I'm a new transplant here. Mr. Barker stated Covid found my ability to work from home with a very good paying job and I brought my tax dollars to a place that I felt was a little bit more liberally progressive but was still a strong defender of personal freedoms and individual rights and individual property rights. Mr. Barker stated first off I'd like to say thank you to the Sherriff who spoke up earlier, I have not had a chance to vote for you yet, but based on your comments you will probably have my vote in the future. Mr. Barker stated looking at these ordinances, the medical cannabis program is one of the reasons I moved to New Mexico and brought my high paying job, and my tax dollars to this county. Mr. Barker stated I stand with the other people here that are voicing concerns about low-income people, and people not having the means to grow outside on their personal property or not having the means to meet the new regulations. Mr. Barker stated one thing that concerned me in the article I read, is the consumption anywhere, it sounded like even on private property, where it could be smelled from a public place. Mr. Barker stated I understand not wanting people setting around and running people off in the parks, but if somebody is on their personal property and somebody drives by and smells it, that shouldn't be against the law. Mr. Barker stated that's an infringement on the property owners' personal rights. Mr. Barker stated I just hope the County Commission doesn't overstep their bounds here and start to impose additional regulations when state regulations should be sufficient.

Doris Cherry stated one of the last clauses of that draft ordinance, it mentions Sierra County commissioners

Kimberly Cherry stated from someone who was unable to attend the meeting via Zoom wanted to ask if you guys decide on a grandfathering measure she was asking for the distribution between medical and recreational marijuana, as many other states who've introduced laws like this have had to defer between the two.

Chair Stewart stated he received an email from Sinclair Carbajal she said quote "I am against this new policy that will make it illegal to grow outside. It will make it too expensive and use too much energy to grow inside. We need to be able to grow medical cannabis outside".

Chair Stewart closed public hearing and reconvened as the Board of County Commissioners.

Commissioner Crunk stated good points brought up, but I really don't think we've put enough time and effort into the definition of outside aspects. Commissioner Crunk stated I really think we need to analyze the Ordinance prior to any decisions.

Commissioner Allen stated I agree with what the Sherriff was stated and a little more time to review the state statute and then see what the county needs to do beyond for enforcement. Commissioner Allen stated to bring back at another time.

Commissioner Proctor stated I feel like we're all on the same page here without acting on this without more knowledge in areas which we're not positive that can be enforced or allocated or re-allocated. Commissioner Proctor stated I think the Sheriff said it best when he said he'd like more time as far as understanding what the ordinance will allow him to do.

Commissioner Willard stated I'm not sure we need an ordinance but will listen to my other colleagues.

Chair Stewart stated I tend to agree with Commissioner Willard. Commissioner Stewart stated when hearing from the state in respects still working on it, we have a way to go before we do anything with the county.

Commissioner Allen stated I agree with Commissioner Willard, and I agree with all of us saying the same thing that we need to wait and see if this become an issue and address it at that time.

12. Lincoln County Medical Center Update - Todd Oberheu

Todd Oberheu, Hospital Chief Executive Lincoln County Medical Center gave a brief overview of the incidences of COVID exposures. Mr. Oberheu informed approximately 16 staff was lost as part of the new vaccine mandates, so they have had to rearrange staff to accommodate for the losses. Mr. Oberheu stated Presbyterian afforded their employees up to four months of Personal Leave of Absence instead of termination for the new vaccine mandates. Mr. Oberheu stated they hoped to hire more staff and possibly regain the staff they lost as changes are made to the vaccine mandates. Mr. Oberheu explained there were over 65 exemptions awarded to individuals at the hospital.

Mr. Oberheu informed they recently signed a new Urologist to Lincoln County Medical Center which they have not had in over 7 years. Mr. Oberheu explained there was \$400,000 to be used for the Physical Therapy center, however they would like to use up to \$250,000 of the funds to purchase Urology equipment instead. Manager Pearson informed they would bring it to the Commission as a budget adjustment at the next meeting.

15. Approval of Resolution No. 2021-20: a Resolution Declaring the Intent of Lincoln County, New Mexico (The "County") to Issue Taxable Industrial Revenue Bonds, in One or More Series, in an Aggregate Principal Amount Not to Exceed \$3,600,000,000 (The "Bonds") in Connection with an Industrial Revenue Bond Project for the Generation of Wind Energy to Be Located Within the Boundaries of the County, but Outside the Boundaries of Any Incorporated Municipality, in Order to Induce Pattern SC Holdings LLC, a Delaware Limited Liability Company, or Any Affiliated Entity Thereof and Their Respective Successors, Assigns And/or Their Affiliates (Collectively, the "Company"), to Develop the Project Site and Acquire, Construct, Equip and Install the Project Being Developed by the Company in One or More Phases.

Jeremy Turner, Pattern Energy gave a presentation on additional wind farm development in Lincoln County and an Inducement Resolution.

Motion: Approval of Resolution No. 2021-20: a Resolution Declaring the Intent of Lincoln County, New Mexico (The "County") to Issue Taxable Industrial Revenue Bonds, in One or More Series, in an Aggregate Principal Amount Not to Exceed \$3,600,000,000,
Action: Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

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

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

SEE EXHIBIT C: Copy of Resolution 2021-20 is attached hereto in reference thereto made apart hereof.

20. Approval to Draft a Resolution to Allow Travel by Off-Highway Vehicles on State Highways Located Within Lincoln County's Jurisdiction in Conformity with the Off-Highway Motor Vehicle Act

Attorney Morel informed there were 9 criteria which would need to be met in order to approve having Off-Highway Vehicles used on State Highways. Attorney Morel stated there were a couple options for approval including Highway 48 down to Highway 37 and then over to Bonita Lake as well as Highway 220 (Airport Rd).

Manager Pearson stated there was some confusion with the different names/kinds of off highway vehicles however they would all have to conform to the laws as far as seat belts and such.

Commissioner Willard questioned the need for a Resolution.

Attorney Morel stated a Resolution was not necessary.

Motion: Approval of a letter identifying Highway 48 to Highway 37 and then over to Bonita Lake as well as a study on Highway 220 (Airport Rd) for Off-Highway Vehicle Usage on State Highways. **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. History in Lincoln County

Manager Pearson informed the presenter was unavailable so it would be brought back next month.

17. Manager's Report

1) Site Visit – Capitan Communications Tower

EMS and Sheriff's communication equipment is housed at the Capitan communications tower. Joe Kenmore performed routine maintenance while explaining the various functions of the tower equipment. Manager Pearson presented pictures of inside the building – Repeaters Batteries – Complete Solar System

2) Compactor Near Lincoln

While inspecting compactors, we noticed the weeds and grass that surrounded the Lincoln compactor. It is unclear on who is responsible for the ground maintenance near compactors and dumpsters. Bobby Vallejos took on the challenge and cleaned up the property in a few hours. Thank you, Bobby, for going above and beyond your regular duties.

3) More Flooding at Glencoe Loop Low Water Crossing

The low water crossing was flooded again on September 1, 2021. We will continue to work with NRCS in finalizing the plan for debris removal and reconstruction of the low water crossing.

4) Buck Tower is under construction. We hope to have this project completed soon.

5) We have been given the green light to proceed with Palo Verde Slopes. This \$200,000 in funding is provided from NM State Capital Appropriations. Jeff Honeycutt and I will review the best path forward and present to the Commission in a future meeting.

6) Advertisement for the Director of Public Works position garnered two (2) applicants. We are selecting a panel this week to perform in-person interviews. If a suitable candidate is selected, we will bring the decision to the Board for approval of contract.

7) Department Head Updates

Brianna Ventura provided an update:

1. Open enrollment is just around the corner beginning October 1, 2021 and lasting through October 31, 2021. **Changes submitted after October 31, 2021 will not be accepted.**
2. All enrollments/changes will need to go through HR. Please do not utilize the online enrollment tool.
3. Every employee will need to fill out a form whether they are making changes or keeping their deductions as-is.
4. Fresh marriage certificates will be required for employees making changes who didn't enroll in 2021. **If we have birth certificates and domestic partner affidavits on file, those documents will not need to be resent.**
5. All forms should be typed, no handwritten forms will be accepted.
6. Carefully look over forms to make sure they are filled out accurately and completely prior to submittal to the Human Resources Director.
7. Enrollments will only be accepted in their entirety with all supporting documentation. Due to all employees having to submit forms, I am expecting a busier enrollment period and will not keep track of incomplete enrollments.

Chair Stewart Recessed the regular meeting at 11:54AM and reconvened the regular meeting at 12:30PM

18. Approval of Lodger's Tax Funding Requests:

- a. Golden Aspen Motorcycle Rally
Requester: Ruidoso Golden Aspen Rally 2, LLC.
Original Requested Amount (for this meeting): \$7,000.00
Recommendation: \$10,000
Date(s) of Event(s): September 15-19, 2021
Presenter: Blayne Maldonado

Manager Pearson stated the request was originally approved on March 16, 2021, for \$5,000 for the event to be held in May 2021. The event was cancelled and rescheduled for September.

Motion: Re-authorize the original \$5,000 Golden Aspen Motorcycle Rally Lodger's Tax Funding Requests scheduled in May 2021, **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.

- b. All-American Cowboy Fest
Requester: All-American Ruidoso Downs Foundation
Original Requested Amount: \$5,000.00
Recommendation: \$7,000
Date(s) of Event(s): September 30-October 3, 2021
Presenter: Crystal Sifuentes

Motion: Approve the All-American Ruidoso Downs Foundation All-American Cowboy Fest request of \$5,000, **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.

19. Approval of Proposed Lincoln Historic Preservation Board Application for Construction, Alteration, or Demolition of Structure in Lincoln Historic District

Attorney Morel explained they had received a request from the LCHPB to update the application to provide further clarification on requirements.

Motion: Approval of Proposed Lincoln Historic Preservation Board Application for Construction, Alteration, or Demolition of Structure in Lincoln Historic District, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

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

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

Abstain: Commissioner Proctor.

21. Request for Approval of a New Maintenance Shop and Re-Allocation of Building Funds for Maintenance Department

Manager Pearson stated 2 years ago the Commission approved \$48,000 for the Detention Center to build a new storage shop. Manager Pearson recommended giving the old metal storage building to the Detention Center and re-allocating the money to be used for a new County Assets and/or Maintenance Shop.

Motion: Re-Allocate Building Funds and Create a plan for a New Assets and/or Maintenance Shop, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Chair Stewart.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).

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

Absent: Commissioner Crunk.

22. Approval of FY 2023-2027 Infrastructure Capital Improvement Plan to be Submitted to Department of Finance – Local Government Division

- a. Resolution 2021-18 County of Lincoln

b. Resolution 2021-19 Zia Senior Citizens Centers

Motion: Adopt Resolution 2021-18 and Resolution 2021-19,

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

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

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

SEE EXHIBIT D: Copy of Resolution 2021-18 and Copy of Resolution 2021-19 are attached hereto in reference thereto made apart hereof.

23. **Approval to Select and Implement a New County-Wide Website Provider**

Manager Pearson informed the current website for the County of Lincoln is not designed as an interactive Government website. Manager Pearson stated he checked with other entities and found three website providers that would provide a better and more interactive Government website.

Motion: Approval to Select and Implement a New County-Wide Website Provider, **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.

24. **Approval of Lincoln County Vehicle Requests**

c. Increase in Approved Funding for Road Department Trucks

Manager Pearson informed the Road Superintendent had received quotes on a couple of trucks, but the prices had increased since then. Manager Pearson stated the water truck increased by about \$31,000 and the one-ton pickup increased about \$6,000.

Jeff Honeycutt, Road Superintendent stated the chassis for the water truck was on the lot however it was bigger with a larger engine than previously ordered.

Motion: Approval of Lincoln County Vehicle Requests, **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.

d. Purchase of a New OES Fire Response Vehicle Utilizing Fire Protection Fund Monies

Motion: Purchase of a New OES Fire Response Vehicle Utilizing Fire Protection Fund Monies at \$58,584, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

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

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

25. **Approval to Purchase Pro-Vision Body Camera System for the Lincoln County Sheriff's Office**

Manager Pearson informed the current body camera system was insufficient in storage and usage and an upgrade was needed.

Sheriff Wood stated the new system came with a warranty, upgraded equipment and more storage capabilities at a cheaper price.

Motion: Approval to Purchase Pro-Vision Body Camera System for the Lincoln County Sheriff's Office with American Rescue Plan Act Funds and/or General Funds,

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

Manager Pearson stated they would like approval to purchase more then the 26 body cameras listed in the quote.

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

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

26. Transition of Eastern Area Workforce Development Board- Discussion and Direction

Chair Stewart informed the Workforce Boards were undergoing significant changes. Chair Stewart stated there were 12 Counties in the Eastern Area Workforce Development Board Area. Chair Stewart explained the representative from the County should be either Commissioner Proctor or Commissioner Crunk since they would be continuing after the next election.

Commissioner Crunk agreed he would represent Lincoln County on the Board.

Motion: Approval to File a Designation Letter with the Eastern Area Workforce Development Board and have Commissioner Crunk Attend the 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.

27. Jayne's Construction Request for \$21,000 for the Lincoln County Medical Center Construction- Discussion and Possible Action

Manager Pearson stated John Nichols contacted him about an accounting error which led to an underpayment of approximately \$21,000. Manager Pearson explained no backup documentation had been received.

28. Wildland Urban Interface Ordinance Discussion and Review

There was a lengthy discussion about the Wildland Urban Interface Ordinance.

29. Installation of Telecommunications Tower at 111 Copper Ridge Road, Capitan, NM -Discussion and Direction

There was a general discussion about telecommunications towers.

30. Approval to File Solid Waste Liens:

e. Dunn, Nathaniel P & Susan L Dunn	\$1,465.42
f. Latham, Barbara D & Latham, James Creighton & Shrecengost, Shawna Marie	\$1,241.58
g. Foote, Sheryl A	\$1,003.10
h. Hufstedler, Michael	\$ 998.10
i. Resendez, Vince Vicente	\$ 991.58
j. Riley, Clyde R	\$ 966.18
k. Rollins, Cecilia H	\$ 946.56
l. Wetzel, Clinton	\$ 946.56
m. Davis, Samuel Tucker	\$ 885.02
n. Slatton, James Duane & Sherry Darlene	\$ 850.22
o. Limon, Hector Jr & Snell, Erin	\$ 828.48
p. Rustic Land Holdings, LLC	\$ 828.48
q. Trevino, Abel & Misty D	\$ 828.48
r. Sleeper Living Trust	\$ 828.48
s. Bouldin, Thelma	\$ 828.48
t. Reed, Christopher R & Reed, Lucille J	\$ 815.43
u. Lovato, Eslavio	\$ 803.10
v. Hidalgo, Bertha N	\$ 803.10
w. Baker, Mary Grace & Oweegon, Kathleen	\$ 776.54
x. Aguilar, Ben & Brittany	\$ 772.32
y. Gonzales, Virginia M	\$ 771.94
z. Marotzke, Ronald W	\$ 763.48
aa. Bonnell, Richard Ty & Tina A	\$ 379.60
	\$20,322.23

Motion: Approve the filing of 21 Solid Waste Liens with Corrections and remove them as they start to pay, **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.

31. Approval to Discontinue Private Dumpster Service in Lincoln County Billed by the Lincoln County Solid Waste Department

Manager Pearson explained the County would no longer provide private dumpster service and would refer people to the existing providers.

Motion: Approve to Discontinue Private Dumpster Service in Lincoln County Billed by the Lincoln County Solid Waste Department Beginning Jan 1, 2022, **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.

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

Manager Pearson stated there are no public hearings at this time.

33.

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); and Discussion of the Purchase, Acquisition or Disposal of Real Property or Water Rights by the Public Body, Section 10-15-1, Subparagraph (H)(8)

Motion: Close the Meeting for the purposes of an executive session Pursuant to the Open Meeting Act: Discussion Of All Threatened and/or Pending Litigation, Section 10-15-1, Subparagraph (H)(7); Discussion Of The Purchase Acquisition Or Disposal Of Real Property Or Water Rights By The Public Body, Section 10-15-1, Subparagraph (H)(8)

New or Updated Matters since last report *

1. **Board of County Commissioners of Lincoln County v. Roger Romero D-1226-CV-2018-00055** Complaint for Foreclosure. Complaint was filed February 20, 2018. Defendant Roger Romero filed an Answer to the Complaint asserting a Counterclaim to be filed in the U.S. District Court on April 2, 2018. A Judicial Inquiry Hearing took place September 4, 2018. The case is still pending.

2. **Roger Romero v. State of New Mexico – D-1226-CV-2018-00113 (Underlying Cases are: Board of County Commissioners of Lincoln County v. Roger Romero, D-1226-CV-2018-00055, and State of N.M. v. Roger Romero M-30-MR-2016-00142)** A Petition for Writ of Habeas Corpus was filed requesting that the Judgment & Sentence entered by Judge Vega in Cause No. M-30-MR-2016-00142 be vacated and set aside. George Romero's Answer to Complaint and Counterclaim was filed April 30, 2018 in Cause No. D-1226-CV-2018-00055. On February 26, 2019, an Order Setting Aside Conviction was entered by Judge Counts.

On March 25, 2019, a Notice of Appeal was filed with the N.M. Supreme Court, Case No. S-1-SC-37602 On January 8, 2021, the Supreme Court entered its Dispositional Order of Transfer transferring the case to the Court of Appeals for consideration and review. The case is still pending.

On January 28, 2021, a Dispositional Order was entered transferring the case to the NM Court of Appeals for consideration and review. Case No. A-1-CA-39446 The case is still pending.

3. **Romero, et al. v. Stone, et al, Cause No. D-1226-CV-2019-00271** Request for Appointment of Guardian Ad Litem for Plaintiffs and Complaint for Violation of Civil and Constitutional Rights, Negligence, Prima Facie Tort and Wrongful Taking was filed on October 9, 2019 along with a Jury Demand. Lisa B. Riley is the presiding Judge. The case is still pending.

4. **Brd. of County Commissioners of Lincoln County v. Amerisourcebergen Drug Corp., et. al – U.S. Dist. Court Case No. 2:19-cv-00462** – Complaint for Public Nuisance, Violations of Racketeer Influenced and Corrupt Organizations Act (RICO)... filed on May 20, 2019 by Attorneys Robles, Rail & Anaya, P.C., et. al. After receiving no oppositions to the transfer of the case, on June 17, 2019, the case was transferred to the Northern District of Ohio

noting that as of December 5, 2017, 1,534 cases have been transferred to Ohio for further proceedings. The case is still pending.

5. **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.

6. **Greentree Solid Waste Authority v. Lincoln County, Cause No. D-1226-CV-2014-00095** – Compromise and Settlement Agreement and Release executed on December 17, 2015.

7. **Richard Ford v. Terry A. Colwell, II, et al, Cause No. D-1226-CV-2020-00104** Complaint for criminal trespass, theft, misappropriation of monies and violations of civil rights was filed by Gary C. Mitchell on May 11, 2020. Lincoln County was served on May 29, 2020. On June 26, 2020, the case was removed to the U.S. District Court and, on March 30, 2021, the case was remanded back to the 12th Judicial District Court for further proceedings. A 5 day Jury Trial is scheduled to begin on September 19, 2022.

8. **Alto Lakes Golf & Country Club v. Smile 4 U, et al, Cause No. D-1226-CV-2020-00184** Complaint to Foreclose Lien was filed on September 1, 2020 and an Amended Complaint to Foreclose Lien was filed to add the County of Lincoln as a Defendant. The County filed its Answer to the Complaint on October 23, 2020. On October 26, 2020, an Entry of Default as to Defendant Smile 4 U was entered. A Foreclosure Sale occurred on August 31, 2021 and Lincoln County is awaiting receipt of the proceeds from the sale pursuant to the court's Judgment.

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

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

Tort Claims Notices Received or Threatened

2021

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

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

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

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

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

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

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

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

2020

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2019

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 Willard, **Seconded by** Commissioner Allen.

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

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

Chair Stewart recessed the Regular Meeting and convened the Closed Session at 2:41 PM.

Chair Stewart adjourned the Closed Session and reconvened the Regular Meeting 2:55 PM.

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

34. Signing of Official Documents

Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk, Commissioner Proctor all gave permission to use their signature if needed.


35. Next meeting:

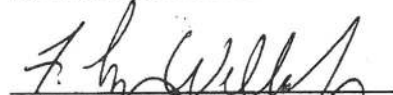
October 19, 2021 – Regular Commission Meeting

36. Adjourn

There being no further business to come before the Board of County Commissioners, Chair Stewart adjourned the meeting at 2:57 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

October 19, 2021
Date Approved

