

COUNTY OF LINCOLN

New Mexico Regular Meeting Board of County Commissioners

Thomas F Stewart, Chair
Lynn Willard, Vice Chair

Elaine Allen, Member
Jon Crunk, Member
Todd Proctor, Member

Minutes Tuesday August 16, 2022

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on August 16, 2022, in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico.

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 Proctor.

Absent: Commissioner Crunk.

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

3. Invocation

The Invocation was presented by Chair Stewart.

4. Pledge of Allegiance

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

5. Approval of Agenda

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

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

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

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

6. Approval of Minutes:

- a. July 19, 2022 – Regular Commission Meeting

Motion: Approve the minutes of the July 19, 2022, Regular Commission Meeting, **Action:**

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

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

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

7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month Ending July 31, 2022
- c. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims
- d. Approval of Alpine Village Mill Levy

- e. Approval of Lease Agreement Between Help End Abuse for Life, INC and the County of Lincoln
- f. Approval of Resolution 2023-08 – Lincoln County Purchasing Policy
- g. Approval of Membership Agreement between the Southeastern New Mexico Economic Development District and the County of Lincoln
- h. Approval of Resolution 2023-09 – A Resolution Requesting the Services of the Southeastern New Mexico Economic Development District.

Motion: Approve the Consent Agenda, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Willard.

Chair Stewart questioned the Verizon bill

Billie Jo Guevara, Finance Director informed the cost was due to the integration of tablets used by Lincoln County Emergency Services.

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

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

EXHIBIT A: Copies of the Consent Items including Resolution 2023-08, and Resolution 2023-09 are attached hereto in reference thereto made a part hereof.

8. Presentation – Turning Food Waste to Energy – Russ Guillete

Manager Pearson stated Mr. Russ Guillete could not attend but will provide an update at a later date.

9. Forest, Land & Natural Resources Matters:

- a. Smokey Bear Ranger District

Jennifer Thomas, acting District Ranger, stated she is looking forward to working with the County of Lincoln.

- b. Lincoln County / NMSU Extension Services

Melanie Gutierrez, NMSU Extension Services stated success in the 2022 Lincoln County Fair. Ms. Gutierrez provided statistics of the animals and participation. Ms. Gutierrez thanked all the sponsors and community members with their involvement.

- c. South Central Mountain RC & D

Laura Doth, Coordinator stated they have begun to seed the area of the burn scares. Ms. Doth stated they waited to seed until after monsoon season.

Ms. Doth informed of a new opportunity Community Wildfire Defense Grants. Ms. Doth indicated the grants are intended to help at-risk local communities and Tribe's plan and reduce the risk against wildfire. Ms. Doth stated there are two primary project types for which the grant provides funding; the development and revision of Community Wildfire Protection Plans and the implementation of projects described in a Community Wildfire Protection Plan that is less than ten years old.

Commissioner Crunk entered the meeting via Zoom at 8:44 AM

- d. Upper Hondo Soil & Water Conservation District

Robert Barber, Board of Supervisors reported they will begin to work in Nogal with EWP due to flooding. Mr. Barber stated the EWP in the Hondo Valley came across issues and they are currently working with the engineers for solutions. Mr. Barber reported the district has a signed an agreement with the county for weed treatment Mr. Barber stated the vinegar concentration stronger this year from a 12% to 15% dilution.

- e. LANRAC

Robert Barber, Board Member stated the U.S. Fish and Wildlife Service announced the opening of a public comment period on the Draft Environmental Assessment for the Designation of Critical Habitat for the Peñasco least chipmunk. Mr. Barber stated a 30-day public comment period will allow the public the opportunity to review and comment on the Environmental Assessment (EA), which includes a description of the proposed action and anticipated impacts.

15. Region IX Funding Presentation – Bryan Dooley

Bryan Dooley, Region IX director informed New Mexico Early Childhood Education and Care Department announced that it has awarded funding to qualifying entities around the state of New Mexico. Mr. Dooley stated this funding will help stabilize childcare businesses impacted by the COVID-19 pandemic by improving enrollment and retaining childcare professionals, and more importantly increase access to quality childcare for New Mexico families. Mr. Dooley stated they are finalizing the proposal for COVID Fiscal Recovery Funds and would like to get it under consideration with the County Commission. Mr. Dooley is proposing a new centralized location in Mechum for the new facility. Mr. Dooley stated the four locations we had are being relocated and finding adequate space has been an issue.

Mr. Dooley stated Region IX has invested \$500,000 towards the childcare facility.

Motion: Support Region IX in the application process, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Willard.

Commissioner Proctor questioned the location of Region IX and who all they serve in the State of New Mexico.

Mr. Dooley stated Region 9 Education Cooperative has provided direct services to children and families and support services in the surrounding area. Mr. Dooley stated the service area includes Capitan, Carrizozo, Cloudcroft, Corona, Ruidoso, Hondo, and Tularosa school districts and communities.

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

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

13. Lincoln County Medical Center Update – Todd Oberheu

Todd Oberheu, Hospital Chief Executive provided an update on the facility. Mr. Oberheu stated Dr. Yildiz from General Surgery will soon be replaced by Dr. Rosales. Mr. Oberheu stated oncology is going well with Dr. Agbemadzo coming twice a month. Mr. Oberheu stated space is becoming an issue but that is a good issue to have and will discuss at a later date. Mr. Oberheu stated Presbyterian recently hired Scott Crawford at the Capitan Clinic. Mr. Oberheu stated Mr. Crawford was apart of the nurse practitioner program and is glad to have him aboard.

Mr. Oberheu stated the Hondo clinic was now open 3 days a week; Monday, Tuesday, and Wednesday. Mr. Oberheu stated they are averaging around 12 patients a day.

Chair Stewart asked about the Mil Levy outreach.

Mr. Oberheu stated a lot of the outreach will be in conjunction with the 50-year anniversary with Presbyterian through social media and some news outlets.

Commissioner Willard question the number of Covid patients.

Mr. Oberheu stated this last month he has seen a rise in Covid patients, but the severity of the illness is not as bad, but still a concern. Mr. Oberheu stated there is currently no monkeypox reported in the county.

Commissioner Willard questioned the parking lot.

Mr. Oberheu stated there was a mis design that has resulted in flooding in the handicap area. Mr. Oberheu stated they are working with DTS and Jaynes to determine the best solution, but in the meantime, there is a sub pump that will drain when necessary.

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

Commissioner Allen stated she will continue to attend Greentree meetings.

Commissioner Willard attending a meeting with the County Manager, the Village of Ruidoso, and Senator Ben Lujan regarding the flooding and FEMA.

Commissioner Proctor reported he attended a meeting on Forest Road July 21, 2022, at 1:00PM. Commissioner Proctor stated Camille Howes, Smokey Bear District Ranger did an outstanding job orchestrating the meeting in concern to bridges and roads with regards to emergency services.

Commissioner Proctor stated he attended the 2022 Lincoln County Fair.

Commissioner Crunk stated continued efforts to seek 2 or 3 business owners to be appointed to the New Mexico Department of Workforce Solutions. Commissioner Crunk stated there are a lot of programs that would benefit county wide.

Commissioner Crunk stated the received a visit from FEMA encouraging people to sign to help protect property from floods.

LeeRoy Zamora, Chief Deputy Assessor provided an update on the reappraisal program. Mr. Zamora stated the County shall physically visit, inspect, verify, and gather physical data. Mr. Zamora stated employees are at the 3rd week of inspections and estimates the physical phase completion to be another few months. Mr. Zamora stated once complete will provide an update to the commission.

Beverly Calaway, Lincoln County Treasurer reported on delinquent home verification. Treasurer Calaway stated the physical process of id the properties can be difficult due to the mobilization of the structures.

Treasurer Calaway reported a healthy balance with reference to page one of the general fund balance. Treasurer Calaway referenced page thirteen of the financial report, stating an error with the interest rate on local government investment pool. Treasurer Calaway stated they are currently negotiating with the banks for a higher interest rate. Treasurer Calaway stated cash held was \$32,732,167.75 as of July 31, 2022.

Treasurer Calaway referenced page 20 of the tax schedule maintenance report. Treasurer Calaway reported 96.75% of the property tax collections. Treasurer Calaway stated they will be getting the tax rate September 1st and once checked will then schedule a special meeting to certify the tax rates.

Michael Wood Lincoln County Sheriff reported some statistics for the month. Sheriff Wood reported 304 calls for service, 23 arrests, 11 traffic investigations and 186 civil papers. Sheriff Wood stated the 2022 Summer New Mexico Sheriffs' Association conference will be held at the Ruidoso Convention Center & MCM Elegante Lodge Hotel, Ruidoso, New Mexico.

Manager Pearson referenced the 3 nominations for local businesses and could make an agenda item for next meeting.

Commissioner Crunk stated the zoom quality was poor.

Whitney Whittaker, Lincoln County Clerk reported our historical clerk of 20 years, Karen Mills retired. Clerk Whittaker stated she is going to be missed, and the office will be hiring for the position in the future. Clerk Whittaker stated she would like to add and change the current job description to add more duties. Clerk Whittaker stated she will approach the commission for approval when complete.

David Vandenberg, resident stated we are facing some serious times. Mr. Vandenberg stated statistics and data are available to show that things are falling apart. Mr. Vandenberg stated these things are happening due to poor leadership.

Tracie Johnson, Enchanted Forest resident wanted to thank Lincoln County for assistance regarding a well.

Keith Kull, The Ranches spoke to events happening at the Lincoln County Fair.

Ted Bridgman, The Ranches spoke to events at the Lincoln County Fair regarding business transactions and stated he emailed extension office. Mr. Bridgman discuss a timeline of events that went on at the county fair this year.

Mark Fischer spoke to the 3.6 billion wind farm project and asked why support.

Gaylon Farrington, Legacy Estates wanted an update regarding the Concrete Batch Plant.

James Townsend, State Representative spoke tow SB 105 and stated will provide public comment during public hearing.

David Fresquez, Landowner in Arabela stated he didn't get letter for road closure EO40 in enough time to make appropriate accommodations. Mr. Fresquez discuss the inconvenience of the road closure by no access for cattle and no detour available as well as the maintenance of the current road.

Alan Fresquez, Landowner in Arabela stated the road needs caliche and continued maintenance.

Chair Stewart recessed public comment and convened the regular meeting at 10:02AM.

Chair Stewart recessed the regular meeting and convened the public hearing at 10:03AM.

11. 10:00 A.M.: PUBLIC HEARINGS:

- a. Authorizing the Issuance and Sale of Lincoln County, New Mexico Taxable Industrial Revenue Bonds (Pattern SC Holdings LLC Project), Series 2022A, in an Aggregate Principal Amount not to Exceed \$3,600,000,000 (The "Bonds"); to Provide Funds to Finance the Acquisition, Construction, Equipping and Installation of Wind Energy Facilities to be Constructed in One or More Phases for the Purpose of Generating Electricity and Located Within the County but Outside the Boundaries of any Incorporated Municipality; Authorizing the Execution and Delivery of an Indenture, a Lease Agreement, a Bond Purchase Agreement, a Sublease Agreement, the Bonds, and Other Documents in Connection with the Issuance of the Bonds; Making Certain Determinations and Findings Relating to the Bonds; Ratifying Certain Actions Taken Previously; and Repealing all Actions Inconsistent with this Ordinance

Attorney Morel informed the public hearing would take place as advertised today but is requesting no action from the commission until further information is retained from Pattern.

Jeremy Turner, Pattern Energy provided a PowerPoint presentation. Mr. Turner stated over \$3.5 billion been invested in New Mexico, they have a set up headquarters out of Albuquerque with field offices in Curry County and Corona. Mr. Turner stated they are responsible for over 60 permanent jobs in the development of the wind facility operation. Mr. Turner stated Pattern Energy had successfully developed and financed over 1,600MW of wind and transmission projects in New Mexico.

Mr. Turner explained for consideration the Lincoln County Mesa Canyons Wind IRB. Mr. Turner stated this is not to exceed \$3.6 billion and is approximately 1225 MW with a total anticipated Payments in Lieu of Taxes (PILT) based on 1225 MW + agreed upon \$110 million over 30 years to the County and Schools.

Mr. Turner reminded about the Industrial Revenue Bond Distributions for the school districts. Mr. Turner stated an aggregate amount equal to the amount received by the county multiplied by the percentage determined by dividing the average of the operating, capital improvement and bond mills imposed by the school districts in the county and state debt service mills as of the date of issuance of the bonds by the average of the mills imposed by all entities levying taxes on property in the county as of such date. Mr. Turner stated this is shared among the school districts located with the county equally, they are not to be less than the amount due to the school districts in the tax year immediately preceding the issuance of the bonds from the property included in a project,

had such project not been created. Mr. Turner stated then the County receives remaining amount, likely 60-65%.

Commissioner Allen stated the energy is purchased by California and not used in New Mexico.

Commissioner Proctor questioned how many fulltime employees in Lincoln County.

Mr. Turner stated they have 7 full time employees in Lincoln currently.

Commissioner Proctor questioned the State Land Office Leases with Pattern Energy.

Mr. Turner stated the land is multi-use with two (2) areas that are outstanding, but the lands are available for grazing. Mr. Turner stated the revenues flow to state.

Mr. Fischer, resident, and candidate for County Commission District 5 spoke in opposition to the IRB. Mr. Fischer questioned the overall interaction and functionality with the County. Mr. Fischer spoke to the regulations regarding the endangered species and the number of restrictions imposed on us and would like to see figures and research studies pertaining to the wind farms.

Representative James Townsend expressed his concern with the IRB bond. Representative Townsend stated the IRB rule was developed to promote employment and it was a way to get around the anti-donation clause. Representative Townsend stated the farms have brought great jobs to New Mexico, but they have also been a huge benefit for Pattern. Representative Townsend suggested an evaluation of the PILT. Representative Townsend stated nobody should take the first bid on anything. Representative Townsend stated the wind farms are more incredulous, arguing that the expected benefits would not justify the cost in the loss of tax revenues.

Gary Popplewell, Lincoln County resident stated he was a project engineer for a major corporation. Mr. Popplewell stated these wind turbines usually end up becoming permanent fixtures due to the amount of material use at the beginning construction. Mr. Popplewell questioned the tax rates and how they would be identified. Mr. Popplewell quoted the Constitution "We the People of the United States, in Order to form a more perfect Union, establish Justice, ensure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity."

Mr. Popplewell questioned the maintenance of the roads from the heavy machinery use.

Francesca Herrera Public Works Director questioned the disposal when the product becomes unusable.

Through general discussion the disposition of turbines was stated to be built into the ordinance agreement.

Chair Stewart adjourned the public hearing at 10:35AM and convened the Regular Meeting.

Motion: Approve the readvertising of public hearing for next month's meeting, **Action:** Adjourn, **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.

Chair Stewart recessed the regular meeting until 10:41AM and convened the public hearing at 10:41 AM

- b. Public Hearing on an Application for a Telecommunications Tower- Applicant Seeks to Amend the Previously Approved Conditional Special Use Permit and a Variance for Setback and Other Items from the Lincoln County Wireless Regulations as Stated in Ordinance 2012-03 An Ordinance Regulating Wireless Communications Facilities

Manager Pearson stated applicant is proposing to build a new 125' Monopole Tower with antennas, radios and low-profile mounts that are not in a stealth configuration and are requesting an amendment for a future 10' extension to a revised height of 135'

Kevin Winner, Gravity Pad, stated they are finalizing the fall zone easement. Mr. Winner stated the adjacent landowners have agreed to the reduction from the fall zone impacts.

Robert A. Naumann, Center for Municipal Solutions stated based on the previous information provided and the revised application materials received CMS recommends the following conditions of approval:

1. As a condition of approval for the reduced setback (20'), applicant shall provide an executed easement as submitted (150') to the County / CMS for review and approval prior to the commencement of construction.
2. Applicant shall not utilize the pad and pier foundation as provided in the structural analysis but may use a pad and pier design if it is submitted to the County / CMS for review and approval prior to the commencement of construction.
3. County approves the reduced future capacity loading as documented in the structural analysis.

Chair Stewart adjourned the public hearing and reconvened the Regular Meeting at 10:51 AM.

Motion: Approve the variance and the Conditional Special Use Permit upon completion of obtaining the Fall Zone Easement and recommendations from the Center of Municipal Solutions,

Action: Approve, **Moved by** Chair Stewart, **Seconded by** Commissioner Willard.

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

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

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

Scott Colvin, Warden provided statistics on monthly arrests, daily population, and releases for the year of 2022. Warden Colvin stated the General Information System project will be online soon and it is looking forward to integration and benefits from the software. Warden Colvin stated soon after the completion of the General Information Project they will begin to integrate the Electronic Landing System. Warden Colvin stated this system will upgrade the security in the facility.

14. Manager's Report

- 1) Gavilan Canyon Flooding July and August rains have been devastating to the Gavilan Canyon area. On August 9th, 1.5" of rain fell causing infrastructure damage to: Private property, County of Lincoln roads and property, Village of Ruidoso roads and property, PNM lines, Zia Gas distribution lines.
- 2) Senator Ben Ray Lujan Visit on August 15, 2022, Senator Ben Ray Lujan visited Lincoln County. Commissioner Willard and Ira will provide update.
- 3) ROV Route Update NM Game and Fish has notified me that the ROV route has been successful. Residents and tourists are learning the route and are complying with the law.
- 4) McBride Fire Update Several residents have received letters from law firms regarding the McBride fire. The letter is stating that PNM could possibly be responsible for the fire.
- 5) FEMA Insurance Rating Meeting on July 26th, representatives from FEMA visited Lincoln County. Cynthia McKenzie stated that Lincoln County was nominated to participate in a Flood Insurance Rating Program (Hazard Mitigation). This program allows the county residents to benefit from mitigation efforts by receiving lower insurance premiums. Commissioner Crunk and I will be researching the benefits to homeowners if we follow this program.
- 6) Bonito Creek Clean up Meeting on July 21, 2022, Camille Howes organized a meeting to view the amount of debris in the Bonito creek area. Most of the debris

is from the Little Bear fire. A tentative plan was discussed, and action items were given to individuals. Most of the property is owned by the City of Alamogordo.

- 7) Enchanted Forest Update Statewide Drilling (well company from Alamogordo) inspected the main well in the Enchanted Forest subdivision. Water was located at 500 feet. The well is 1250 feet deep. The pump and motor need to be replaced. The entire well casing needs to be descaled and cleaned.

- 8) Director's Reports

16. County of Lincoln Road Department

- a. Gavilan Canyon Turn Lane Update

Jeffery Honeycutt, Road Superintendent Renegade construction won the bid and construction on Gavilan, will begin on Monday, August 22, 2022. Superintendent Honeycutt stated Gavilan will be closed with the following detours at Warrior Drive and Barney Luck. Superintendent Honeycutt stated NMDOT will also have a project starting on the same day for highway 48. Superintendent Honeycutt suggested a contract to reinstall culverts.

- b. Gavilan Canyon Debris Removal Update

Superintendent Honeycutt stated due to the rain hitting the burn scars on Gavilan there has been a lot of clean up in the area. Superintendent Honeycutt reported approximately 200 dumb trucks of debris removal.

- c. Approval to Award the Annual Base Course Supply Contract to Roper Construction – Invitation to Bid # 22-23-02

Motion: Award Contract to Roper Construction for bid #22-23-02, **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.

- d. Consideration of the Abandonment and Vacation Application of Mark and Barbara Sultemeier to vacate a portion of Round Mountain Ranch Road

Motion: Approve Abandonment and Vacation subject to associated fees **Action:** Approve, **Moved by** Chair Stewart, **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.

- e. Consideration and Approval of Increased Corona Bus Routes #3 and #6

Superintendent Honeycutt stated Corona Schools has increased their School Bus Routes and need approval from the commission.

Motion: Approve increased Corona Bus Routes #3 and #6, **Action:** Approve, **Moved by** Chair Stewart, **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.

17. Discussion and Consideration of the County of Lincoln Infrastructure Capital Improvement Plan (ICIP)

Manager Pearson stated the Infrastructure Capital Improvement Plan (ICIP) was due Friday August 19, 2022

There was a brief discussion regarding the projects listed; they are funded but not fully funded.

Motion: Approve ICIP as presented, **Action:** Approve, **Moved by** Chair Stewart, **Seconded by** Commissioner Allen.

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

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

18. Memorandum Of Agreement Between the County of Lincoln and the Village of Ruidoso - Contributing Respective Proportions of the 60% Preliminary Project Design of the Gavilan Canyon Road Bridge, Meander Drive Culvert, Warrior Drive Culvert, and Gavilan Canyon Road Culvert Near Janet Drive

Manager Pearson stated the County of Lincoln would have to contribute \$52,278.00 excluding any New Mexico Gross Receipts Tax towards the 60% startup preliminary project design. Manager Pearson stated the \$52,278.00 payment shall be made directly to the Village of Ruidoso.

Motion: Approve Memorandum of Agreement Between the County of Lincoln and the Village of Ruidoso, **Action:** Approve, **Moved by** Chair Stewart, **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. Discussion and Direction Regarding the Feasibility of Pooling Resources, and to Participate with the State and Other Counties and Municipalities to Support the Development of A Regional Treatment System to Help Those Suffering From Opioid Use Disorder Within New Mexico

Attorney Morel stated that State and local leaders can invest in evidence-based programs to combat opioid use disorder (OUD) when they understand how to prevent overdose deaths, provide treatment, and ensure that communities have the resources they need most effectively. Attorney Morel stated the County would get \$188,000 a year for a total of 8 years.

Attorney Morel stated the deadline to decide the route is September 2, 2022.

Manager Pearson stated under the agreement the county would be responsible for all accounting.

Motion: Permit the Attorney, through the County Chairman, to seek pooling, **Action:** Approve, **Moved by** Chair Stewart, **Seconded by** Commissioner Allen.

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

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

No: Commissioner Willard.

20. Approval of Prior Year Invoices – FY 20-21 & FY 21-22 – Ruidoso Laser Wash

Manager Pearson stated county employees are able to utilize the Ruidoso Laser Wash to help maintain their county vehicles. Manager Pearson stated there were several invoices unpaid dating back from March. Manager Pearson informed due to audit reasons the county will need to insure receipt prior to any payment.

Sheriff Wood stated several invoices from the Ruidoso Laser Wash were sent to an email that is no longer in service but would like to continue using the services provided.

Motion: Allow the county finance director to work with Ruidoso Laser Wash, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

Commissioner Willard removed his motion from the table and Commissioner Allen removed second.

Chair Stewart recessed the regular Meeting at 12:02 AM reconvened the regular Meeting at 12:35 PM.

21. Consideration of Resolution No. 2023-10 A Resolution Authorizing Acceptance of Colonias Infrastructure Fund (CIF) Project No. 5778-CIF Funding Offer; Roads and Drainage Infrastructure; Palo Verde Slope Subdivision Improvements Project from the New Mexico Finance

Manager Pearson informed the Board of Directors of the New Mexico Finance Authority ("NMFA") met on June 23, 2022, to approve the final terms, structure and conditions of Colonias

Infrastructure Funding in the amount of \$1,000,000 to the Lincoln County ("County") for its Water Infrastructure Project. Manager Pearson stated this action is a result of the Colonias Infrastructure Board recommendations approved on May 24, 2022, where the approved funding structure consists of a 10% loan in the amount of \$100,000, and a 90% grant in the amount of \$900,000. Manager Pearson explained the loan component is a 20-year term at interest rate of 0% and the loan and grant are to be used by the County for the construction including a new subsurface stormwater drainage system, and roadway improvements.

Motion: Adopt Resolution 2023-10, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

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

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

EXHIBIT B: Copy of Resolution 2023-10 is attached hereto in reference thereto made a part hereof.

22. Approval of Bargaining Agreement Between the County of Lincoln and the Lincoln County Deputy Sheriff's Association

Manager Pearson stated the County of Lincoln recognizes the Lincoln County Deputy Sheriffs' Association as the exclusive collective bargaining representative for the regular full-time non-probationary, non-supervisory, non-confidential sworn officers, in the rank of Deputy, of the Lincoln County Sheriffs' Department. Manager Pearson informed the parties shall not discriminate against any member of the bargaining unit based on race, color, sex, creed, religion, age, national origin, membership, or non-membership in the Association.

Motion: Approve bargaining agreement, **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.

23. Discussion and Direction Regarding the Secure Rural Schools (SRS) County of Lincoln Allocation

Manager Pearson stated Title III payments are made from the Forest Service to states. States then distribute the payment to all eligible counties.

- Title I - Secure payments schools and roads
- Title II - Special projects on federal land
- Title III - County funds for specific purposes

Manager Pearson stated the reauthorization is effective for three years. (2021-2023), funding would revert to the 2017 funding level (\$282,043,153), and the three-year reauthorization removes the annual 5% reduction for each year.

There was a lengthy discussion of the

Motion: Approve 8515, **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. Authorization to Schedule Public Hearing to Consider Other Outdated or New Lincoln County Ordinances:

- a. Ordinance No. 2012-03: An Ordinance Regulating Wireless Communications Facilities
- b. Business Registration Ordinance-An Ordinance Defining Engaging in Business and Related Terms; Providing for the Establishment of a System of Local Business Registration; Providing for the Collection of Fees; Prohibiting Operating an Unregistered Business; and Providing for a Fine for Violation

Motion: Schedule Public Hearings for next Regular Meeting with an addition of the Issuance and Sale of Lincoln County, New Mexico Taxable Industrial Revenue Bonds (Pattern SC Holdings LLC Project), **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.

25. **Lincoln County Executive Session Pursuant to the Open Meetings Act: Discussion of all Threatened and/or Pending Litigation, Section 10-15-1, Subparagraph (H)(7); Discussion of the Purchase Acquisition or Disposal of Real Property or Water Rights by the Public Body, Section 10-15-1, Subparagraph (H)(8); and Limited Personnel Matters and County Manager, Ira Pearson, Contract Review / Negotiations, Section 10-15-1, Subparagraph (H)(2)**

Motion: To close the meeting for the purposes of an Executive Session to discuss 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); and limited personnel matters and county manager, Ira Pearson, contract review / negotiations, section 10-15-1, subparagraph (h)(2)

New or Updated Matters since last report *

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

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

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

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

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

4. **Brd. of County Commissioners of Lincoln County v. Amerisourcebergen Drug Corp., et. al – U.S. Dist. Court Case No. 2:19-cv-00462** – Complaint for Public Nuisance, Violations of Racketeer Influenced and Corrupt Organizations Act (RICO)... filed on May 20, 2019 by Attorneys Robles, Rail & Anaya, P.C., et. al. After receiving no oppositions to the transfer of the case, on June 17, 2019, the case was transferred to the Northern District of Ohio noting that as of December 5, 2017, 1,534 cases have been transferred to Ohio for further proceedings. The case is still pending.

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

6. **Richard Ford v. Terry A. Colwell, II, et al, Cause No. D-1226-CV-2020-00104** Complaint for criminal trespass, theft, misappropriation of monies and violations of civil rights was filed by Gary C. Mitchell on May 11, 2020. Lincoln County was served on May 29, 2020. On June 26, 2020, the case was removed to the U.S. District Court and, on March 30, 2021, the case was remanded back to the 12th Judicial District Court for further proceedings. The 5 day Jury Trial scheduled to begin on September 19, 2022 was re-scheduled to begin on May 15, 2023.

7. **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. On January 6, 2022 Judge Sugg entered an Order of Dismissal for Lack of Prosecution. On January 12, 2022, Plaintiffs filed their Motion to Reinstate.

8. **Debra Wilcox v. Board of County Commissioners, Deputy Samuel C. Hanna, Caroline McCoy and Former Sheriff Robert Shepperd, Cause No. D-1215-CV-2021-00574** Complaint for Damages was filed on the 2nd day of September, 2021 by Steven Sanders alleging personal injury resulting from an improper and grossly negligent investigation and for "malicious abuse of process". County Defendants were served on November 2, 2021. The case is still pending.
9. **New Mexico Bank & Trust v. Roger Gomez, et al, Cause No. D-1226-CV-2022-00001** Complaint for Foreclosure of Mortgage was filed on January 4, 2022. A Decree of Foreclosure was entered by Judge Sugg. The Special Master's Foreclosure Sale scheduled to take place on June 8, 2022 will be continued. The case is still pending.
10. **Eby Revocable Trust AND William R. Moser v. Lincoln County Assessor, et al, Cause No. D-1226-CV-2021-0260** A Notice of Appeal of Decision of Tax Protest Board was filed on the 14th day of December, 2021 by Attorney Zach Cook. On January 27, 2022, New Mexico Counties assigned Attorney Daniel Macke to represent Lincoln County. The case is still pending.
11. **Allen Theaters Properties, LLC v. Walter Hill, County Assessor, Lincoln County, Cause No. D-1226-CV-2021-0264** A Complaint for Property Tax Refund was filed on the 27th day of December, 2021 by Attorney Gary Eisenberg. On January 26, 2022, New Mexico Counties assigned Attorney Daniel Macke to represent Lincoln County. The case is still pending.
12. **Crystal Buster v. Board of County Commissioners for Lincoln County, Correctional Solutions Group, LLC, et al, Cause No. 2:21-cv-01208** A Complaint for Recovery of Damages Caused by the Deprivation of Civil Rights with a Jury Demand was filed on the 12th day of December, 2021, by Coyte Law P.C., and the Law Offices of Matthew Vance, P.C. The case is still pending.
13. **Lionel Burns v. Lincoln County Sheriff's Department; Deputy Daniel Brawley; in their individual and official capacities, and Rhonda Burns, Cause No. D-1226-CV-2022-00032** A Complaint for Damages was filed on the 4th day of March, 2022, by Clayton E. Crowley, Esq. and Joseph J. Gribble, Esq.
- On April 22, 2022 the case was removed to the U.S. District Court for the District of New Mexico, Cause No. 1:22-cv-000304.** The case is still pending.
14. ***Potential Recovery of County of Lincoln Losses from the McBride / Nogal Fires**

Tort Claims Notices Received or Threatened

2022

Schwartz, Neil – Tort Claim Notice received on February 10, 2022 alleging malicious and/or tortious actions and/or omissions by the State of New Mexico, the Lincoln County Sheriff's Department, the New Mexico State Police, and the Twelfth Judicial District Attorney's Office resulting in damages to Claimant including, but not limited to, infliction of mental pain and suffering, injuries to Claimant's reputation, and current and future loss of earnings.

Downs, Barbara – Tort Claim Notice received May 6, 2022 alleging improper road and/or waterline maintenance resulting in a vehicle collision due to the icy road at the intersection of Sudderth Drive and Paradise Canyon in Ruidoso, New Mexico. A 2nd Tort Claim Notice was received on May 9, 2022 for a separate source with the same allegations as those set out in the May 6, 2022 notice.

***McMinn, David** – Tort Claim Notice received on July 6, 2022, alleging multiple, serious issues due to the use of excessive force by BIA law enforcement who may have been agents of or acting on behalf of the Village of Ruidoso, Ruidoso Police Department, Lincoln County, N.M. State Police and the State of New Mexico.

***New Mexico Boys and Girls Ranches, Inc. and its Employee, Bridgman, Ted** – Tort Claim Notice received on August 9, 2022, alleging violation of civil rights and tort claims act, including a demand to cease and desist and the return of promotional materials confiscated by County representatives at the Lincoln County Fair.

2021

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

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

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

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

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

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

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

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

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

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

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

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

2020

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 Trespacios, 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.

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

Chair Stewart recessed the Regular Meeting and convened the Closed Session at 12:54 PM.

Chair Stewart adjourned the Closed Session and reconvened the Regular Meeting at 2:17 PM.

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

26. County Manager Ira Pearson Contract Review/Negotiations

Attorney Morel informed the County Manager's current contract is set to expire September 6, 2022.

Motion: Renew the County Manager's contract with a salary of \$105,000 a year, **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. Signing of Official Documents and Authorization to Utilize Electronic/Stamp Signature

Commissioner Crunk provided authorization for the use of his electronic/stamp signature.


28. Next meetings:

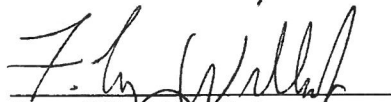
- a. September 7, 2022-Special Meeting to Impose Property Tax Rates
- b. September 20, 2022-Regular Commission Meeting

29. Adjourn

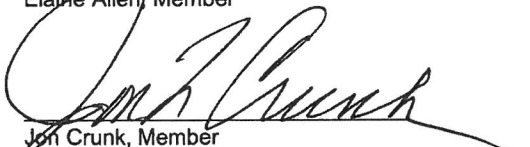
There being no further business to come before the Board of County Commissioners, Chair Stewart adjourned the meeting at 2:22 PM.


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 Whitaker, County Clerk

September 20, 2022
Date Approved

