

COUNTY OF LINCOLN

New Mexico Regular Meeting Board of County Commissioners

Thomas F Stewart, Chair
Lynn Willard, Vice Chair

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

Minutes Tuesday December 20, 2022

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on December 20, 2022, in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico.

This meeting was also 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 8:31 AM.

2. Roll Call

Roll Call.

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

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

Chair Stewart stated the County was without power which would hopefully be restored quickly. Chair Stewart informed there would be a farewell to outgoing commissioners during the Public Comment section.

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

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

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

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

6. Approval of Minutes:

- a. November 15, 2022 Regular Commission Meeting

Motion: Approve the Minutes of November 15, 2022 Regular Commission Meeting, **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.

7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month ending November 30, 2022
- c. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims

- d. Approval of Required 2023 Operational Resolutions:
- i. Resolution 2023-31- Establishing 2023 County Official Holiday Calendar
- e. Approval for Nogal Volunteer Fire to Purchase Command Unit Utilizing Fire Funds
- f. Approval of Appointment to Lincoln Historic Preservation Board – Elaine Allen, Effective January 1, 2023
- g. Approval of Resolution 2023-29 Disposition of Surplus Inventory
- h. Approval of Agreement Between Curry County and Lincoln County to House Inmates at the Lincoln County Detention Center
- i. Approval of Agreement Between Quay County and Lincoln County to House Inmates at the Lincoln County Detention Center
- j. Approval of Agreement # 23-RO-11030300-022 Cooperative Forest Road Agreement Between the County of Lincoln and the USDA, Forest Service Cibola National Forest and National Grasslands.
- k. Approval of Memorandum of Understanding Between the County of Lincoln and Kenneth Vega for Misdemeanor Compliance

Commissioner Willard questioned Agenda Item g and the disposition of the Smith and Wesson rifles. Commissioner Willard asked if they had received any bids for the rifles and why the decision was made to sell them to Sandman Armory.

Manager Pearson stated it should not say "sell to Sandman Armory" as they will do the proper disposition to determine how to legally and properly get rid of the firearms and they may not go to Sandman Armory.

Commissioner Willard stated when he makes his motion it will not include the rifles until they are listed correctly on the form.

Commissioner Willard informed in prior years one commissioner would go to the storage facility and do a spot check, he questioned why it was not done on any of these items.

Attorney Morel stated the disposition of fixed assets was set by statutes 2.20.1.18 section D which says as a prerequisite, state agencies shall designate a committee of at least 3 officials of the governing authority. Attorney Morel stated all the commissioners were overseeing the process serving as a board, so the requirement was satisfied.

Commissioner Willard questioned a lot of HIDTA items being transfer to the program in Alamogordo.

Manager Pearson stated we would still participate in the program however Lincoln County would no longer be the fiscal agent therefore all the items which were purchased with HIDTA dollars would be transferred to the new fiscal agent.

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

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

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

No: Commissioner Willard.

SEE EXHIBIT A: Copies of the Consent Agenda items including Resolution 2023-31, Resolution 2023-29 and Resolution 2023-26 are attached hereto in reference thereto made a part hereof.

8. Budget Adjustment FY 22/23 by Resolution 2023-30

Manager Pearson stated his office worked directly with the Treasurer and Finance Offices on the EWP project portion which was all reimbursable funds.

Chair Stewart stated he reviewed it, and it looked pretty good. Chair Stewart stated there was a lot of interest and there were adjustments in personnel which they had approved in prior meetings as well as the purchase of a large piece of equipment in the Nogal Fire Department.

Motion: Approve Budget Adjustment Resolution 2023-30, **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.

SEE EXHIBIT B: Copy of Resolution 2023-30 is attached hereto in reference thereto made a part hereof.

17. ENMU Presentation – Ryan Trosper

Ryan Trosper, president of ENMU-Ruidoso, stated they had partnered with the Lincoln County Detention Center and had numerous GED participants over the years however, last week he had the opportunity to go into the Detention Center and award two students with their College Certificates in Construction Trades, one of which has partnered with the NM Workforce Connections and will have a job when they are released in 30 days. Mr. Trosper wanted to thank the Commissioners and the working relationship they have had in order to serve the students and help them out on their next steps after incarceration.

Mr. Trosper gave a presentation on the possibility of athletics at the college which they had been working towards for a couple of years. Mr. Trosper spoke on the value of being able to bring athletics to the College and stated they were looking at golf, cross country and rodeo programs with the expected kick off year of 2024.

Commissioner Willard questioned the use of the County owned fairgrounds and rodeo arena as a possible partnership allowing the students to house animals and use the facility as well as host a rodeo.

Mr. Trosper stated in the future, the College would like to look into a partnership with the County to use the fairgrounds and rodeo arena facilities.

9. Forest, Land & Natural Resources Matters:

- a. Smokey Bear Ranger District
- b. Lincoln County / NMSU Extension Services

Melody Gains, Family Consumer Science Agent, updated on the end of year projects they were working on. Mrs. Gains elaborated on the Ranch Calf Program and stated the Hightower Ranch in Ancho was the producer of the ranch calves this year.

- c. South Central Mountain RC & D

Robert Barber stated things were progressing well with the McBride Fire.

- d. Upper Hondo Soil & Water Conservation District

Robert Barber stated they were making progress with the bonito flooding.

- e. Land and Natural Resources Advisory Committee-LANRAC

Robert Barber reported he attended a public meeting with Sun Zia and they were making progress towards getting the line started by the end of next year.

Mr. Barber participated in a BLM conference to discuss upcoming grazing rules and stated they had a lot of push back, and they would need to start over.

Mr. Barber attended another meeting put on by the forest to discuss the future and rangeland management. Mr. Barber indicated there were lots of changes coming this way and they were looking at large scale approaches.

12. Lincoln County Detention Center Update

Manager Pearson informed CSG had hired a new warden out of Michigan who will be here full time in a month or two. Manager Pearson state Pauline Tope is the acting warden and things were operating as usual.

13. Lincoln County Medical Center Update-Todd Oberheu

Manager Pearson stated they were working on ordering new ambulances however they would have to be the smaller ones as the larger ones currently have a three-year waiting period and the prices have increased significantly.

Chair Stewart mentioned the new Commission may want to consider using ARPA funds for the purchases.

14. Manager's Report

1) NM Wildland Urban Fire Summit Presentation – November 17, 2022

The County of Lincoln and the VOR presented on the success of collaboration between the two entities. Collaboration topics included fire response, road projects (Gavilan), consolidated dispatch, workforce housing and disaster recovery. The presentation was well received by an audience of over 150 attendees. We stressed the importance of working together while maintaining each entity's identity.

2) Road Use Discussion With Pattern Energy – November 28, 2022

Representatives from Pattern Energy met with County of Lincoln staff to discuss pre-construction road use. Use, maintenance and cost were discussed to keep the roads in the current condition. Pattern and Jeff H have built a plan to maintain the roads while allowing contractors to do their job.

3) Auditors Exit Meeting – November 28, 2022

County of Lincoln staff attended the virtual Exit meeting to discuss the Audit process. This meeting allowed both sides to voice concerns and learn the audit process. The audit was submitted on November 29, 2022 (due December 30th). Detail of the audit will be discuss once approved by the NM State Auditor.

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

Commissioner Proctor attended BIPO (Better Informed Public Officials) conference and stated it was a great experience and he learned a lot. Commissioner Proctor stated it was good to see fellow commissioners in attendance as well.

Commissioner Crunk stated he also attended BIPO and it was an educational experience. Commissioner Crunk informed he spoke with the New Mexico Counties insurance department about an insurance pool for wildfires and was hoping to have some progress in the future. Commissioner Crunk spoke at length regarding property insurance and informed the problem is getting worse and something had to be done about it.

Clerk Whittaker informed the position of historical clerk had been advertised and should be filled soon.

Beverly Calaway, treasurer reminded she would be retiring at the end of December with 27 years of service in the Treasurer's Office. Treasurer Calaway referenced statute and detailed the transition process from her term of office to Treasurer Elect Sherrie Huddleston. Treasurer Calaway thanked the outgoing County Officials as well as all the employees in her office.

Sheriff Wood thanked the outgoing County Officials and introduced Lieutenant Wilson as the first midlevel position in his office. Sheriff wood provided stats from his office over the last year.

Doris Cherry, county resident and journalist thanked the outgoing elected officials. Ms. Cherry stated she had many miles of copy provided to the Lincoln County News before they closed their doors a year ago after publisher and owner Peter Aguilar passed away.

Nita Taylor, former County Manager, thanked the outgoing commissioners for everything they had accomplished in their time working together.

Jim Spiri, resident of Lincoln, thanked the outgoing commissioners for all their hard work and for always taking his calls.

Chair Stewart postponed the remainder of the public comment until later in the meeting when the power came back on.

14. Manager's Report Continued

4) Lodger's Tax Committee Meeting – November 29, 2022

The Committee listened to two presentations and asked meaningful questions. After the presentations, the committee requested that the BOCC appoint another member to help make a quorum when a member is absent. The committee had many questions about the Lodger's Tax budget and how much was available for applicants.

5) Disaster Recovery Roundtable – November 30, 2022

Trisha Korbas (Lead Field Coordinator for the Economic Recovery Line of Effort DR-4652-NM), lead the discussion about the impacts of the Nogal and McBride fires. Other federal recovery team members participated both in-person and virtually (FEMA / EDA / USDA). Trisha and her team have been the most dedicated agency in finding solutions for the VOR and County of Lincoln. Virtual meetings are planned every two weeks to check the progress.

6) Better Informed Public Officials Conference - December 6-8, 2022

Attendees: Commissioners Proctor and Crunk / Commissioner-Elect Fischer / Ira Pearson
This three-day event was well attended from newly elected officials from all over New Mexico. The County of Lincoln commissioners received a "crash course" in the duties of a newly elected commissioner. Presentations included Roles and Responsibilities, NMC Resources and Risk Management, Ethics, County Revenues & Financial Responsibility

7) NRCS / EWP Reimbursement

The County of Lincoln has received the following reimbursements:
Hondo Valley EWP (May 2021) – \$91,941 75/25 cost share.
McBride Area EWP- \$106,971 100% reimbursement rate.

8) Lincoln County Environmental Gross Receipts Tax Update

Chair Stewart recessed the meeting at 10:00 AM and convened the public hearing at 10:01 AM.

- 11. 10:00 AM: November 15, 2022 Public Hearing Continuance – An Ordinance Providing for an Efficient and Fair Method of Enforcing the Ordinances of Lincoln County; Establishing the Position of Ordinance Enforcement Officer Under the Supervision of the Sheriff's Department; Authorizing the Ordinance Enforcement Officer to Enforce the Provisions of Lincoln County Ordinances; Designating Authority and Procedures for Ordinance Enforcement Officers; Providing for the Severability of Parts Hereof; Repealing Ordinances in Conflict Herewith; and Providing an Effective Date**

Chair Stewart requested public comment and received none.

Attorney Morel stated he spent an hour or more in consultation with Sheriff Wood about the issue. Attorney Morel explained Sheriff Wood was willing to leave things as they were in order to move forward for now. Attorney Morel stated there would be a conference in January as this was a statewide issue and it was his recommendation to take no action and readvertise a public hearing in the new year when the new Commissioners could take action on it.

Chair Stewart adjourned the public hearing and reconvened the Regular Meeting at 10:07 AM.

There was no action taken.

14. Manager's Report- continued

9) Director's Reports

Jeff Honeycutt informed on the four Forest Service pits and stated the County was authorized to mine them, there were 2 in process and 2 untouched.

Joe Kenmore spoke about the water tank project in Nogal and informed they had a crew and the \$300,000 Fire Marshalls grant to finish the project. Mr. Kenmore stated it would be completed in cooperation with the Lincoln County Road dept and a contractor.

10. 9:30 A.M.: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY

OFFICIALS INCLUDING FAREWELL TO OUTGOING OFFICIALS (Items are for discussion only – no action will be taken)- Continued

Commissioner Willard read a letter he wrote as an outgoing Commissioner detailing his last 8 years in office and things for the incoming Commissioners to be aware of.

Chair Stewart postponed the remainder of the public comment until later in the meeting.

15. Approval of Department of Finance Administration's Appropriation No. 22-ZG1016-36 Regarding Law Enforcement Recruiting and Retention

Manager Pearson gave a brief description of the Appropriation.

Motion: Approve Appropriation No. 22-ZG1016-36, **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. Review and Approval of Land Use Agreements:

- a. Corona Land Lease Agreement for Rural Health Clinic
- b. Hondo Valley Land Lease Agreement for Rural Health Clinic

Manager Pearson provided an explanation on the Land Lease Agreements.

Motion: Approve the Land Lease Agreements, **Action:** Approve, **Moved by** Commissioner Proctor, **Seconded by** Commissioner Crunk.

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

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

18. Discussion and Direction Regarding Invoices for MP Chavez for FEMA Cleanup

Manager Pearson detailed the invoices and explained they attempted to get 3 bids however MP Chavez was the only company who was able to do the work. Manager Pearson stated it was necessary and acceptable under the emergency authorization.

Motion: Approve the invoices provided and pay MP Chavez for the FEMA Cleanup, **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.

19. Discussion and Direction Regarding Letter in Opposition of Fort Sill Casino

Motion: Approve the letter in opposition of the Fort Sill Casino, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Proctor.

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

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

20. Appointment of an Opioid Settlement Replacement "Authorized Official"

Chair Stewart stated his recommendation was to change the Authorized Official from himself to Manager Pearson for this matter.

Motion: Approve the County Manager as Authorized Official, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Crunk.

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

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

21. Discussion and Direction Regarding United States Forest Service Letter in Opposition of Increasing LNF Wilderness Areas

Commissioner Proctor explained the letters and the reasoning behind them.

Motion: Approve both letters in opposition of increasing LNF Wilderness Areas, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

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

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

22. Review of Current Procedures of Inspection of Public Records Requests

Manager Pearson detailed the IPRA process and the increasing number of requests that have been received lately.

23. Public Works / Solid Waste Department

- a. Approval to Purchase TrashFlow Program to Create New Databases for Public Works Department in the Amount of \$2,495.00

Francesca Herrera reported on the TrashFlow program and associated costs.

Motion: Approve purchase of TrashFlow Program, **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. Approval to File Solid Waste Liens
 - A. Robert Junell and Beverly Junell - \$956.56
 - B. Deborah S. Pennington - \$956.56
 - C. Christopher S. Suttle - \$956.56
 - D. Hector Cano and Brandi Dawn Byrd - \$1,435.07
 - E. Elisa Maria Sanchez - \$1,999.28
 - F. Richard D. Sanchez and Elisa Sanchez - \$2,078.03

Motion: Approve the Solid Waste Liens as presented, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Proctor.

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

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

- c. Approval to Publish a Request for Proposal for County-Wide Slash Pile Removal

Ms. Herrera requested ability to go out to RFP for the proposed slash pile removals.

Commissioner Willard questioned the date of 2022 and if it should be changed to 2023.

Commissioner Proctor questioned the estimated cost for the removal and Ms. Herrera stated the price had gone up significantly, even though the amount of slash was less than last time the price would probably be similar.

Motion: Approval to go out to RFP for Slash Pile Removal, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Crunk.

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

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

24. Approval of Lodger's Tax Funding Requests:

- a. Event: EMS Region 3 EMS Conference
Amount Requested: \$7,204.00
Date (s) of Event: 4/23/2023-4/30-2023
Presenter: Donnie Roberts – EMS Region III Director
- b. Event: Carrizozo Music, Inc. (5 Events Throughout 2023)
Amount Requested: \$21,750.00
Date(s) of Event(s): 4/15/23, 5/9/23, 8/12/23, 9/20/23 and 12/2/23
Presenter: Fran Altieri – President

Motion: Approve both funding requests, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Chair Stewart.

Chair Stewart Commended the Lodger's Tax Board for their due diligence on the two requests.

Commissioner Willard questioned if the Ruidoso Lodger's Tax had helped with the EMS Conference.

Sandy Nunnally informed the EMS Region 3 was a non-profit organization and they had not gone through the Ruidoso Lodger's Tax.

Chair Stewart withdrew his second.

Motion still stands with Commissioner Allen, no second- motion dies due to lack of second.

Fran Altieri, Carrizozo Music, informed the events were not only for Carrizozo residents, they were County wide, Statewide and since it was virtual, they were also Worldwide.

Motion: Approve Carrizozo Music Lodgers Tax Request, Item B, **Action:** Approve, **Moved by** Commissioner Crunk, **Seconded by** Commissioner Allen.

Commissioner Willard questioned the use of the funds and if the performers would be paid with the funds as well.

Ms. Altieri stated the funds would be used for advertising and paying for part of the performances was considered advertising.

Chair Stewart requested EMS ask for funds from the Village of Ruidoso Lodgers Tax as well.

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

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

Commissioner Allen stated the EMS request was well within the budget and they could ask for additional funding from the village of Ruidoso.

Motion: Approve EMS Region 3 Lodgers Tax request, Item A, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

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

Yes: Chair Stewart, Commissioner Allen, Commissioner Willard.

No: Commissioner Crunk, Commissioner Proctor.

25. Selection of New Mexico County Insurance Pool Voting Alternate

Motion: Appoint the County Manager as the Alternate, **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 and reconvened the meeting after a 15-minute break.

26. American Rescue Plan Act / Local Assistance and Tribal Consistency Fund (LATCF) Allocation

Eric Hamilton, Wilson and Company, detailed the progress of the projects and the funding.

Manager Pearson stated phase 1 of the fairgrounds project had been funded.

There was a lengthy discussion about the ARPA and LATCF funds.

Lieutenant Wilson explained Mobile Data Terminals and the benefits of having them in the Sheriff's Vehicles.

- 27. Consideration of Funding the Repairing and Remodeling of the Small House Located at the Lincoln County Fairgrounds for Use as a Caretaker's Residence**
- a. Budget
 - b. Retaining a Licensed Contractor with a GB98

- c. Authorization to Utilize County Employees to Assist in Remodel to Reduce Costs

Attorney Morel discussed funding and issues involved in the process.

Jeff Honeycutt stated the house was functional and the utilities were already hooked up. Mr. Honeycutt explained the inside of the house would have to be completely remodeled as there was not much inside that was salvageable except the floors.

Motion: Pursue the renovation and remodel of the small house, **Action:** Approve, **Moved by** Commissioner Proctor, **Seconded by** Commissioner Willard.

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

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

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

Chair Stewart informed the low-income public hearing needed to be scheduled in January of odd numbered years.

Motion: Approve Scheduling of the low-income public hearing, **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.

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

Chair Stewart gave farewell addresses to the fellow Commissioners and Elected Officials.

Chair Stewart recessed the Regular Meeting at 12:25 PM and reconvened at 1:00 PM.

29. 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); and Limited Personnel Matters Including: (A) County Road Superintendent, Jeffrey Honeycutt, Contract Renewal/Negotiations; (B) General Legal Counsel, Alan P. Morel, P.A., Contract Renewal/Negotiations, Section 10-15-1, Subparagraph (H)(2)

Motion: To close the meeting for the 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 Including: (A) County Road Superintendent, Jeffrey Honeycutt, Contract Renewal/Negotiations; (B) General Legal Counsel, Alan P. Morel, P.A., Contract Renewal/Negotiations, Section 10-15-1, Subparagraph (H)(2),

New or Updated Matters since last report *

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

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

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** On December 8, 2022, the case was submitted to a 3 Judge Panel for a decision.

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. Settlement has been reached with some of the Defendants and, Lincoln County has begun to receive payments from some of the settling Defendants. 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. On December 12, 2022, Judge Murphy entered a Stipulated Order Dismissing Defendant Colwell with Prejudice, and, on December 13, 2022, Judge Murphy entered a Stipulated Order Dismissing Defendant Lincoln County Board of Commissioners.

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 September 27, 2022, Judge Sugg entered a Notice of Intent to Dismiss giving the Plaintiffs 30 days to take significant action in the matter or the case will be dismissed. On October 31, 2022, Judge Sugg entered a Disposition Order for Lack of Prosecution and, Plaintiffs have until November 30, 2022 to move to reinstate the case. Plaintiff's failed to timely move to reinstate the case and, the case is now closed.

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. **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.

10. ***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. On November 18, 2022, a Stipulated Final Judgment was entered by Judge Bryant bringing this case to a conclusion.

11. **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.

12. **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.

13. **Potential Recovery of County of Lincoln Losses from the McBride / Nogal Fires**

14. **Butch's Properties, LLC v. Vera Cruz Ranches, et al, Cause No. D-1226-CV-2022-00166** A Complaint to Quiet Title was filed on the 18th day of August, 2022 by Attorney William Griffin. Lincoln County was served on the 26th day of August, 2022, and filed its Answer to the Complaint on the 26th day of September, 2022. The case is still pending.

15. ***Pioneer Bank v. Andrew Smith, et al, Cause No. D-1226-CV-2022-00089** An Amended Complaint for Foreclosure and Collection of note was filed on the 24th day of August, 2022 by Attorney Andrew Ragsdale. Lincoln County was served on the 24th day of August, 2022, and filed its Answer to the Complaint the 28th day of September, 2022. On November 16, 2022, Plaintiff filed its Motion to Dismiss. The case is still pending.

16. ***Rosarita Brady, et al v. The Board of County Commissioners of the County of Lincoln, et al, Cause No. D-1226-CV-2022-00199** A Verified Complaint was filed by Attorneys Alexandra Bobbit and McKenzie St. Denis on the 27th day of September, 2022. Lincoln County was served on the 22nd day of November, 2022 and its Answer to the Complaint is due on or before the 22nd day of December, 2022.

17. ***Dennis Rich and Yvonne Rich, v. Walt Hill, et al, Cause No. D-1226-CV-2022-00230** A Complaint to Quiet Title was filed on the 22nd day of November, 2022 by Attorney H. John Underwood. The County of Lincoln has yet to be served.

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.

Villanueva, Leticia – Tort Claim Notice received on October 3, 2022, alleging negligent, malicious and/or tortious actions and/or omissions, and infliction of pain and suffering.

Estates of Wesley Clark and Linda Clark – Tort Claim Notice received on October 11, 2022 alleging wrongful deaths as a result of the McBride Fire due in part to faulty siren warning systems.

Unnamed inmate in the process of being transported from Eddy County to Lincoln County Detention Center alleging injuries sustained on October 11, 2022, as a result of an automobile accident / rollover of the Detention Center Transport Van owned by Lincoln County.

Snodgrass, Joshua – Loss of employment with the Lincoln County Sheriff's Office commencing on June 23, 2022.

Grassie, Kurtis - Loss of employment with the Lincoln County Sheriff's Office commencing on June 23, 2022.

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

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

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.

Chair Stewart recessed the Regular Meeting and convened the Closed Session at 1:01 PM.

Chair Stewart adjourned the Closed Session and reconvened the Regular Meeting at 1:56 PM.

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

30. Renewal of County Contracts:

- a. County Attorney – Alan Morel – Effective January 1, 2023

Manager Pearson recommended keeping the contract base amount the same and decreasing the no charge fee from \$7,500 to \$5,000.

Motion: Approve the contract as stated, **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. County Road Superintendent – Jeffrey Honeycutt – Effective January 17, 2023

Commissioner Willard stated they would increase the Road Superintendent pay by 6% and it would be effective January 18, 2023 as his prior contract runs through January 17, 2023.

Chair Stewart stated for the record the new amount of the contract would be \$93,704 per year.

Motion: Approve the County Road Superintendent contract as stated, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Proctor.

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

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

31. Signing of Official Documents

Authorization was received from all commissioners to use their electronic/stamp signatures as needed.

32. Next meeting:

a. January 17, 2023, Regular Commission Meeting

33. Adjourn

Motion: Adjourn, **Action:** Adjourn, **Moved by** Commissioner Allen, **Seconded by** Commissioner Crunk.

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

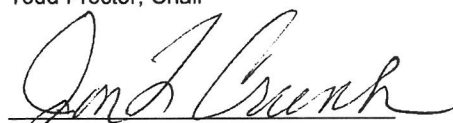
Yes: Chair Stewart, Commissioner Allen, Commissioner Crunk.

No: Commissioner Willard, Commissioner Proctor.

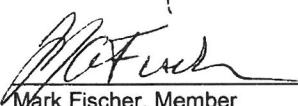
There being no further business to come before the Board of County Commissioners, Chair Stewart adjourned the meeting at 2:00 PM.

County of Lincoln
Board of Commissioners


Todd Proctor, Chair


Jon Crunk, Vice Chair


Samantha Serna, Member


Mark Fischer, Member

Vacant
Member

ATTEST:

Shannon Hemphill
Shannon Hemphill, County Clerk

January 17, 2023
Date Approved

