

# COUNTY OF LINCOLN

## New Mexico Regular Meeting Board of County Commissioners

Thomas F Stewart, Chair  
Lynn Willard, Vice Chair

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

### Minutes Tuesday January 18, 2022

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on January 18, 2022, in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico.

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

#### 1. Call to Order

Chair Stewart called the Regular Meeting of the Board of County Commissioners to order at 8:35 AM.

#### 2. 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 Shannan Hemphill, Lincoln County Chief Deputy 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 selected Chair to move items as necessary, **Action:** Approve, **Moved by** Commissioner Proctor, **Seconded by** Commissioner Allen.

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

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

#### 6. Selection of Lincoln County Board of Commissioners Chairman and Vice-Chairman

**Motion:** Nominate Chair Stewart to continue as Chair for the next 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.

**Motion:** Nominate Commissioner Willard as Vice-Chair, **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.

**7. Approval of Minutes:**

- a. December 21, 2021 Regular Commission Meeting

**Motion:** Approve the minutes of the December 21, 2021 Regular Commission Meeting, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

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

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

**8. Approval of Consent Agenda**

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month ending December 31, 2021
- c. Treasurer's 2nd Quarterly Report by Resolution 2021-40
- d. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims
- e. Approval of Resolution 2021-39: Disposition of County Inventory and Capital Assets
- f. Approval of Resolution 2021-41 Authorizing the Village of Ruidoso to Submit an Application to DFA to Participate in the Local DWI Grant and Distribution Program
- g. Approval of Professional Services Agreement Between Holcomb Law Office and the County of Lincoln
- h. Approval of Agreement Between the County of Lincoln and Cibola National Forest & National Grasslands

**Motion:** Approve the consent agenda, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

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

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

**SEE EXHIBIT A:** Copies of the Consent items including Resolution 2021-39 and Resolution 2021-41 are attached hereto in reference thereto made a part hereof.

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

- a. Smokey Bear Ranger District

Manager Pearson stated the Smokey Bear Ranger District intends to provide a letter of support for the ROV route.

- b. Lincoln County / NMSU Extension Services

Melody Gaines informed the Horse evaluation team went to the National Western Stock Show and the Western National Roundup in Denver and did very well bringing home the award of Reserve National 4H Horse Judging Champions.

- c. State Forestry – EMNRD
- d. South Central Mountain RC & D

Robert Barber, RC&D informed they are continuing to work with the State on the WUI Grants.

- e. Upper Hondo Soil & Water Conservation District

Robert Barber stated he would give an update on the EWP and their position on it.

- f. Land and Natural Resources Advisory Committee-LANRAC

Robert Barber informed on the Sun Zia Transmission Lines and stated they did not have any issues with the process and expect very little to no impact.

Mr. Barber stated Resolution 2014-02 is in reference to the Sheriff and how they deal with wolf-human conflicts pertaining to health and safety efforts. Mr. Barber stated as long as it didn't conflict with their rule, they would support it.

Mr. Barber stated there were restrictions on taking wolves on Federal Land, Non-Federal land and when it dealt with excessive kills of elk, deer and other animals. Mr. Barber stated he would be back with further clarification on the benchmark.

**10. Southeastern New Mexico Economic Development District Board Appointment Confirmation**

Manager Pearson stated they had received an Email from Pansy Moffitt regarding the appointment of the SNMED board member and the alternate. Manager Pearson informed at the January 19, 2021, Regular Commission Meeting, Commissioner Allen was appointed as the SNMED Board Member and Commissioner Crunk was appointed as the alternate, both for two year appointments.

**11. Consideration of the Natural Resources Conservation Service (NRCS) Grant Agreement for the Emergency Watershed Protection (EWP) Program**

Manager Pearson updated on the status of the Grant Agreement and the matching funds and in-kind work. Manager Pearson requested the Commission approve the full amount of \$202,770.00.

**Motion:** Approve the NRCS Grant agreement and allocate the necessary funds with the projects outlined in the agreement, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Chair Stewart.

Chair Stewart recommended to make sure it was in the budget and a budget adjustment was done next month.

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

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

**14. Budget Adjustment FY 21/22 by Resolution 2021-43**

**Motion:** Approve Budget Adjustment Resolution 2021-43, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

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

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

**SEE EXHIBIT B:** Copy of Resolution 2021-43 is attached hereto in reference thereto made a part hereof.

**20. Consideration of the Public Project Revolving Fund (PPRF) 2022 Legislative Authorization**

Manager Pearson informed this Authorization allowed the County to seek funding. Manager Pearson stated there was no need to commit a specific project and there were no specific requirements, it just puts the County on the list if they choose to use the revolving fund in the future.

**Motion:** Approve the NMFA's PPRF Program adding the County to the list, **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.

**21. Approval of Contracts for Voting System Technicians:**

- a. Paul Baca
- b. Mario Zamora Jr.
- c. Bonifacio Zamora

**Motion:** Approve the Contracts for Voting System Technicians, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Proctor.

Commissioner Willard stated the pay rate was not very high and the work is very appreciated. Commissioner Willard stated the pay rates may need to be adjusted in the future.

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

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

**25. Approval of Prior Year Invoice – Staples**

**Motion:** Approve prior year invoice from Staples, **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.

**26. Consideration of Resolution 2021-42 Per Diem and Mileage Policy**

Manager Pearson recommended updating the amount of per diem and stated the mileage amount was based on the IRS rate.

**Motion:** Approve Resolution 2021-42 Per Diem and Mileage Policy Rescinding Resolution 2018-33, **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.

**SEE EXHIBIT C:** Copy of Resolution 2021-42 is attached hereto in reference thereto made a part hereof.

**12. 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 was still attending the GreenTree Board meetings and had also attended the latest SNMED meeting. Commissioner Allen informed the Legislative Session this year would focus most of the discussions and money on infrastructure improvements. She stated the DOT is also talking about Broadband and working with communities to provide access through their rights-of-way. Commissioner Allen informed Lincoln County recovered very well from the effects of COVID since the County was mostly tourism and tourism didn't seem to suffer as much. Commissioner Allen stated the State had lots of money available for any community that could be designated Colonias.

Commissioner Willard would be attending a SERPTO meeting later in the month.

Commissioner Proctor attended the LANRAC committee meeting and informed they were doing a good job for the County.

Walter Hill, County Assessor informed his office sent out a mailing to property owners who were receiving the special method of valuation for Ag land and livestock. Assessor Hill explained the

Property Tax Division in Santa Fe had implemented a new software program. The Assessors Office has brought into compliance all the forms the State is now requiring.

Beverly Calaway, County Treasurer stated the fund balance was \$13,177,117.20. Treasurer Calaway informed 67.78% of the first half taxes had already been collected.

Michael Wood, County Sheriff shared stats generated from his Agency since the last meeting.

David Vandenberg, County resident spoke in opposition of agenda item #18 and the mandating of vaccines.

Jim Kalveledge, Alto Resident stated in 1998 the Billy the Kid Scenic Byway was established. He explained the Federal Highway Administration Scenic Byway Program had 6 necessary qualities to establish a Scenic Byway. Mr. Kalveledge opposes the cement batch plant as it does not fit within the qualities needed of a Scenic Byway.

Nancy Antilla, Alto resident opposes the concrete batch plant as she has moderate to severe asthma and would have to leave the area if a concrete batch plant was built.

Galin Farrington, Alto resident spoke in opposition to the concrete batch plant and informed about the hearing being held February 9-11, 2022.

Sherry Kohler, Alto resident spoke in opposition to the concrete batch plant voicing her concern for the water usage.

Diorly Steirwalt, Alto resident spoke in opposition to the concrete batch plant. Ms. Steirwalt explained they owned their property and house since 2000 and made it through sickness, fires, floods and insects but would lose their home if the batch plant was built.

Trina Nunnally, County resident submitted a comment in the chat box in opposition to agenda item #18.

Chair Stewart commented he was monitoring pre-filed bills. Chair Stewart attended a Regional Economic Recovery Meeting. Chair Stewart explained they were coordinating a summary plan for goals under the Southeastern New Mexico Economic Development District Board.

Chair Stewart stated there would be a NMED hearing on the batch plant February 9, 2022 at the Traylor Gym in the Capitan Schools.

**13. 10:00 AM: PUBLIC HEARING:**

- a. 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 recessed the Regular Meeting and convened the Public Hearing at 10:00AM.

Attorney Morel stated the Ordinance would be effective 30 days after approval.

Chair Stewart requested public comment and having none adjourned the public hearing.

Attorney Morel stated there was a serious need for a code enforcement officer. Attorney Morel informed the Officer would be authorized to go to court and prosecute the cases on behalf of The County. Attorney Morel stated the Enforcement Officer would work under the supervision of the Lincoln County Sheriff's Office however, they would not be fully deputized.

Sheriff Wood stated he supported the decision to create this Ordinance. Sheriff Wood informed it would be a limited Commission in the sense they would be able to present cases on a petty Misdemeanor County Ordinance level only, there would be no arresting authority.

**Motion:** Approve Ordinance 2022-01 Providing for an Efficient and Fair Method of Enforcing the Ordinances of Lincoln County, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Willard.

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

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

**SEE EXHIBIT D:** Copy of Ordinance 2022-01 is attached hereto in reference thereto made a part hereof.

**15. Lincoln County Detention Center**

**a. Approval to Perform Virtual Annual Inspection**

Manager Pearson stated he would like to do a walkthrough virtual inspection of the Lincoln County Detention Center with the Warden but would do an on-site visit if it was preferred.

Commissioner Proctor commented he was concerned about the plumbing at the detention center and wanted an emphasis on the plumbing with as much detail as possible and a better explanation of the problems.

Manager Pearson informed he was working with Wilson and Co on Task Orders for the detention center as well as all the County Owned Facilities.

**Motion:** Approve a Virtual Annual Inspection, **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.

**b. Restricted Housing Quarterly Report 10/2021-12/2021**

Scott Colvin, Warden for the Lincoln County Detention Center stated there were no in custody deaths, no serious uses of force upon prisoners, no serious injuries and no serious inmate disturbances in 2021.

Warden Colvin informed they are pursuing the New Mexico Association of Counties Detention Accreditation Certification and named Lieutenant Amaya as the Accreditation Manager.

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

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

Warden Colvin commented on the RISE program close-out meeting with Anita Mesa, Division Chief for the RISE Program at the NM Division of Behavioral Health who rated the program as #1 in the State as far as innovation and inroads and cooperative agreements with the Mescalero Apache Tribe. Warden Colvin informed on the TLC Program (Traditions Language and Culture) to reconnect the Mescalero Prisoners with the important cultural elements of the Mescalero Apache Tribe.

Chair Stewart recessed the regular meeting at 10:26 AM and reconvened the regular meeting at 10:36 AM

**16. Lincoln County Medical Center Update – Todd Oberheu**

Manager Pearson stated Todd Oberheu was unavailable to attend.

**17. Manager's Report**



1) OHV/ROV Update

Francisco Sanchez, District 2 Engineer, is going to present the Lincoln County ROV Route to the NMDOT commission in March. The meeting will be held in Roswell. Francisco advises that Lincoln County solicit letters of support from USFS and the City of Alamogordo.

2) Joint Application filed by Pattern SC Holdings, LLC, et. al

Joint Application filed by Pattern SC Holdings, LLC, et. al requesting that the PRC Commission enter a Final Order that (a) expands the area for the Joint Applicants' wind turbines comprising the Corona Wind Project beyond that previously approved in NMPRC Case Nos. 17-00221-UT and 18-00065-UT; (b) modifies the proposed route for the 345- kilovolt Corona Wind Project Gen-Tie System approved in NMPRC Case No. 18-00065-UT and reconfigured and expanded in NMPRC Case No. 20-00008-UT; and (c) provides the necessary approval to the extent required by law, for the 180-200-foot right-of-way for the revised Corona Gen-Tie System which is the subject of this Joint Application.

3) Compactor Cameras

Cameras are installed at the Eagle Creek compactor site. The first week we captured two illegal dumpers on camera. As of 1/13/2022, we caught one of the dumpers. This site is our test site. We are looking at different cameras, angles, fencing and proper placement. The plan will be to install fencing and cameras at all compactor sites (maybe some dumpster sites)

4) Prioritizing Projects at the Lincoln County Fairgrounds

A special meeting was held by the Lincoln County Fair Association. Commissioner Willard, Commissioner Proctor and I attended. We discussed the importance of participating in the Master Plan update approved by the BOCC in the December meeting. Wilson & Co. will lead the update and help prioritize projects, soliciting the funds and project management. Overall, the meeting and project plan was well received.

5) Telecommunications Contract & Update on Cell Tower at Copper Ridge

The contract with Center for Municipal Solutions Group has been reviewed by both Lincoln County and CMS. It should be signed this week. We have asked Sean Milks, Gravity Pad, to work with CMS to get started on preliminary paperwork. We want to make sure that the cell tower will work in that area before a contract is signed. Attorney Morel has reviewed other governmental cell tower agreements in preparation in drafting a contract / agreement.

6) Ruidoso Downs Racetrack Indoor Arena – Update

Ethan Linder has informed me that the City of Ruidoso Downs has place the indoor arena on their ICIP list. They are seeking funding directly from the Governor for this project.

7) Director's Reports

Billie-Jo Guevara, Finance Director  
Renee Montes, Senior Center Program Director  
Joe Kenmore, Office of Emergency Services Directory  
Francesca Herrera, Public Works Director  
Jeff Honeycutt, Road Superintendent  
Brianna Ventura, HR/AA

18. OSHA Vaccine Mandate:

a. Consideration of OSHA Mandated COVID-19 Vaccination Policy

Attorney Morel informed the Supreme Court struck down OSHA mandate on vaccines.

b. Discussion and Direction of Testing Lincoln County Employees

There was a general discussion of testing Lincoln County Employees.

c. Approval to Hire COVID-19 Administrator

**Motion:** Approve testing for employees if they choose to be tested; not mandatory, voluntary testing for the employees; testing to be available at the Courthouse and to hire an administrator to handle the job; using Federal Funding. **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.

d. Approval to Purchase COVID-19 Testing Kits

**22. Identify Stakeholders to Participate in Lincoln County Fairgrounds Survey and Masterplan Update Workshop**

There was a general discussion of possible stakeholders to include The Fair Board, The Capitan government, 4H leaders, the road dept, Lincoln County, Office of Emergency Services, Sheriff Wood, Jr. Rodeo Club, the Red Cross and FFA Advisors.

Eric Hamilton, Wilson and Co Project Manager stated they were finishing the Survey and should have a presentation in a few weeks. Mr. Hamilton informed they are planning to hold a stakeholder meeting scheduled 3 weeks out.

Chair Stewart recessed the regular meeting at 12:00 PM and reconvened the regular meeting at 12:30 PM

**19. Review of Boards/Committees/Commissions and Appointments**

There was a general review of the Boards and Committees. Any that were no longer valid would be archived.

**23. Consideration of Wilson & Co. Task Order for the Nogal Fire Station Water Storage System**

Manager Pearson commented on the Fire Marshal Grant and stated there was no matching. Manager Pearson informed there would be an estimated shortage of \$150,000. Manager Pearson stated they would look for grants or other sources of funds.

**24. Peñasco Valley Telephone (PVT) Broadband Opportunity Presentation**

There was a presentation from Peñasco Valley Telephone about their Broadband Opportunities.

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

**Motion:** To Close The Meeting For The Purpose Of 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)

**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 12<sup>th</sup> Judicial District Court for further proceedings. A 5 day Jury Trial is scheduled to begin on September 19, 2022.

7. \*Jacob Scott v. Lincoln County Board of Commissioners, Brack Rains and Unknown Defendants, Cause No. D-1226-CV-2021-00001 Complaint for Negligence and Negligence Per Se and Deprivation of Constitutional Rights was filed on January 1, 2021. Lincoln County has yet to be served with the Complaint. On December 10, 2021, the case was dismissed for lack of prosecution and the deadline to reinstate the case is January 10, 2022. There were no Motions to Reinstate the Case filed and, this matter is now concluded.

8. \*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.

9. 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 A Complaint for Damages was filed on the 2<sup>nd</sup> 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.

10. State of N.M. v. Mikel Mason, Cause no. M-30-MR-2021-00054 On August 10, 2021, LCSO Sgt. Finley issued a Non-Traffic Citation to the Defendant for violation of Lincoln County's Solid Waste Ordinance No. 2016-02. The case is still pending.

11. \*Alto Lakes Golf & Country Club v. Luis Landarerde, et al A Complaint to Foreclose Lien was filed on 12/9/21. LC's Answer to the Complaint was filed on January 4, 2022. The case is still pending.

12. \*New Mexico Bank & Trust v. Roger Gomez, et al A Complaint for Foreclosure of Mortgage was filed on January 4, 2022. The case is still pending.

#### Tort Claims Notices Received or Threatened

##### 2021

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

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

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

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

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

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

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

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

**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, Cynthia** – 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**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**2019**

**2018**

**Duke, Arnold** – Harrisburg Document recovery

**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.

Chair Stewart recessed the Regular Meeting and convened the Closed Session at 1:30 PM.

Chair Stewart adjourned the Closed Session and reconvened the Regular Meeting at 2:05 PM.

Commissioner Allen 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.

**28. Authorization to Sign Janssen Settlement Agreement – Attorney Alan Morel**

Attorney Morel informed on the Opioid Litigation that the County was involved in and stated the State of New Mexico has agreed to sign off on the Janssen Settlement Agreement. Attorney Morel recommended signing off on the Settlement Agreement. Attorney Morel stated if everyone signed off on the Agreement, the State of New Mexico would receive up to \$39 million depending on how many sign off on the Agreement. Attorney Morel informed the participation agreement has yet to be negotiated however it was being worked on.

**Motion:** Approve signing off on the Settlement Agreement, **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.

**Motion:** Authorize Chair Stewart to represent the County Commissioner Board with the power to act in regard to the Liability in the Janssen Settlement and the participation agreement,

**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.

**29. Signing of Official Documents**

All Commissioners allowed the use of their electronic signatures.

**30. Next meetings:**

- a. February 15, 2022 – Regular Commission Meeting
- b. March 15, 2022 – Regular Commission Meeting

**31. Adjourn**

There being no further business to come before the Board of County Commissioners, Chair Stewart adjourned the meeting at 2:10 PM.

County of Lincoln  
Board of Commissioners

  
Thomas F. Stewart, Chair

  
F Lynn Willard, Vice Chair

  
Elaine Allen, Member

  
Jon Crunk, Member

  
Todd Proctor, Member

ATTEST:

  
Whitney Whittaker, County Clerk

February 15, 2021  
Date Approved

