

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 July 19, 2022

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on July 19, 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 8:30 AM.

2. Roll Call

Roll Call.

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

Others present included Ira Pearson, County Manager; Alan Morel, County Attorney; and Shannan Hemphill, Chief Deputy 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 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.

6. Approval of Minutes:

- a. June 2, 2022, Special Commission Meeting
- b. June 14, 2022, Regular Commission Meeting

Motion: Approve the minutes of the June 2, 2022, Special Commission Meeting and the June 14, 2022, Regular Commission Meeting, **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.

7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Approval of Resolution 2023-01: Budget Adjustment FY 21/22
- c. Treasurer's Financial Report for the Month ending June 30, 2022
- d. Approval of Resolution 2023-02: Treasurer's 4th Quarter Financial Report
- e. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims
- f. Upper Hondo Soil & Water Conservation District Mill Levy Rate
- g. Claunch-Pinto Soil & Water Conservation District Mill Levy Rate
- h. Restricted Housing Report - Quarter Ending June 30, 2022
- i. Approval of Community Development Block Grant Program (CDBG) Resolution 2023-04 a Resolution of the Commissioners of Lincoln County, New Mexico, Authorizing the Submission of a New Mexico Community Development Block Grant Program Application to the Department of Finance and Administration/Local Government Division; and Authorizing the Commission Chair to Act as the County's Chief Executive Officer and Authorized Representative in all Matters Pertaining to the County's Participation in the Community Development Block Grant Program
- j. Approval of Commercial Supply and Lease Agreement Between Pinnacle Propane, LLC and the County of Lincoln
- k. Approval of Work and Financial Plan Between Lincoln County and the United States Department of Agriculture Animal and Plant Health Inspection Service Wildlife Services (APHIS-WS) for July 1, 2022, through June 30, 2023
- l. Approval of the State of New Mexico Department of Finance and Administration Local Government Division Enhanced 911 Act Grant Program Grant Agreement, Project No. 23-E-26

Motion: Approve the Consent Agenda, **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.

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

9. Forest, Land & Natural Resources Matters:

- a. Smokey Bear Ranger District

Camille Howes, Forest Service, introduced Jennifer Thomas who would be the temporary fill in until her position was filled. Ms. Howes spoke on the debris from the Little Bear fire 10 years ago which was washing down into the Bonito River. Ms. Howes presented Certificates of Appreciation to Nick Herrera, Jeff Honeycutt, Joe Kenmore and Ira Pearson.

8. Approval of Children, Youth and Families Continuum of Graduated Sanctions Agreement # 21-690-3200-20839 (LCJJB)

Judge Bryant gave a brief history of the formulation of the Juvenile Justice Boards throughout the State. Judge Bryant spoke of the savings incurred by the decrease in juvenile incarcerations due to the program's success. Judge Bryant explained the breakdown in communication over the last three years and the fixes planned for the near future.

Chief Judge Angie Schneider, Vice-Chair of the Juvenile Justice Advisory Committee, shared her support for the program and was looking forward to the positive changes expected to take place as the program progresses with the new leadership at the State level.

Motion: Approval to Continue the CYFD 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.

9. Forest, Land & Natural Resources Matters:

- b. Lincoln County / NMSU Extension Services

Melanie Gutierrez, extension agent, informed on the many activities which had taken place over the last month.

c. South Central Mountain RC & D

Laura Doth gave an update on the flood mitigation efforts after the fires.

d. Upper Hondo Soil & Water Conservation District

Robert Barber spoke about the waddles and grass seed needed and planned for the area for both flood mitigation and other needs. Mr. Barber explained they found a solution to the problem they had with the extreme price of the vinegar, so they were able to order some from Dallas at a much cheaper price and at a higher quality.

e. LANRAC

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 continues to attend the Greentree meetings.

Commissioner Willard attended the Ruidoso Hondo Valley Chamber of Commerce Banquet last month and shared the plaque which was received for the reduction of about 24,000 kWh as a result of the transition from the old hospital to the new hospital and other energy efficiency measures which were taken.

Commissioner Crunk spoke of the lack of insurance and un-insurability of properties in the area.

Whitney Whittaker, Lincoln County Clerk, stated there were two Independent Candidates that signed up for the General Election. One signed up to run for House District 56 and the other signed up to run for County Commissioner District 5.

Walter Hill, Lincoln County Assessor, commended his staff for completion of the protest period.

Beverly Calaway, Lincoln County Treasurer, recognized the budget team and their hard work and dedication. Treasurer Calaway stated they had already received 96% of the projected collections even without the delinquent tax sale. Treasurer Calaway informed the cash held by the Treasurer was \$33,767,162.20.

Michael Wood, Lincoln County Sheriff, shared statistics from his office over the last 30 days.

Jim Spiri, Lincoln County Resident, spoke about his discontentment with some youth in the area and hoped something positive would come out of the CYFD/LCJJB agreement.

Galen Farrington, Lincoln County Resident, spoke of his opposition to the concrete batch plant which is planned for the Alto area.

David Vandenberg, Lincoln County Resident, expressed his concerns for the residents and youth of Lincoln County and shared his hope for more community involvement in the many different areas of need.

Chair Stewart recessed the Board of County Commissioners and convened the Public Hearing at 9:56 AM.

11. 10:00 AM PUBLIC HEARINGS:

- a. Variance of Ordinance 2006-6: Lincoln County Outdoor Advertising Regulation Ordinance an Ordinance Establishing Restrictions and Prohibitions to Promote Safety of Travelers Along Certain Highways, to Prevent Visual Pollution of Those Highways Through Regulation of Outdoor Advertising, to Protect the Investment in Public Highways and Private Property Values; Defining Areas to be Regulated; Making Restrictions on Signs and Billboards; Requiring a Permit Prior to Construction or Alteration; Providing for Exceptions; Prohibiting Abandoned and Dangerous Signs; Providing for Removal of Non-Compliant Billboards, and Establishing Penalties for Violations; Providing for Ordinances in Conflict Herewith and for the Severability of Parts Hereof; Providing an Effective Date;

and Repealing Ordinance 2004-10 Requested by BW Gas and Convenience LLC
(DBA Allsup's) and Clovis Sign Service, Inc.

Manager Pearson explained the request for a variance in the height restriction of the new Allsup's sign.

Derrick Fowler, Clovis Sign Service, explained the need for a taller sign to allow for customers to pull into the convenience store in a safer manner.

Commissioner Allen stated she did not feel a taller sign would be seen any sooner than the sign which is currently there. Commissioner Allen expressed her concerns since it was a scenic area.

Commissioner Crunk shared his thought of placing billboards further down the highway to make drivers aware of the upcoming store sooner than a taller sign would be able to.

Attorney Morel explained the purpose and content of the ordinance.

Marvin Green, Regional Manager of Allsup's stated his concern of accidents if the sign was not allowed to be raised.

Commissioner Willard expressed his support for the sign variance and questioned other signs in the area which were taller than the ordinance allowed.

Commissioner Proctor reiterated the previous statements that a sign further down the road before the turnoff would be more beneficial than one taller at the site.

Gary Popplewell, resident of Ruidoso, would like to hear from the Sheriff as far as safety.

Sheriff Wood stated he agreed with the previous comments that a sign in either direction further down the road would be more beneficial in allowing people to slow down and be ready to stop.

Chair Stewart adjourned the Public Hearing and reconvened the Board of County Commissioners at 10:20 AM.

Chair Stewart deferred to the Commissioner in the District and shared his concern of the Hondo Valley being very historic and scenic.

Motion: Adopt the variance based on safety issues for that location due to the visibility and the traffic response to the visibility to make it a safer intersection, **Action:** Approve, **Moved by** Commissioner Crunk, **Seconded by** Commissioner Willard.

Commissioner Allen questioned the safety concerns and the advantage of the taller sign compared to the current sign.

Marvin Green, Regional Manager of Allsup's, stated his biggest concern is safety and he believed a taller sign would be a benefit.

Derrick Fowler, Clovis Sign Service, stated his belief that it was more important at night to have the taller sign than during the day.

Don Eldred, District Manager of Allsup's, agreed the concern was more for the traffic going East than the West bound traffic. Mr. Eldred stated he did receive comments at the store pretty regularly from people headed East.

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 Variance of Ordinance 2006-06 is attached hereto in reference thereto made apart hereof.

BUDGET ADOPTION HEARING IMMEDIATELY FOLLOWING ITEM a.

- b. Consideration of Adoption of the Final Budget, Fiscal Year 2022-2023 by Resolution 2023-03

Chair Stewart recessed the Board of County Commissioners and convened the Public Hearing at 10:30 AM.

Manager Pearson explained a few things which were discussed during the preliminary budget and were to be brought back at the final budget meeting to include Elected Officials salaries, employee salaries and modified work schedules.

Chair Stewart was ecstatic and commented he had been doing this since 1998 and this was the best budget he had ever seen.

Treasurer Calaway added a hats off to the Commissioners for their fiscally responsible natures and attention to the budget as a whole.

The Commission was provided breakdowns of different salary percentages of 2%, 4%, and 6% for employees and 6% for elected officials.

Commissioner Proctor stated he believed the employees needed to be taken care of but with some precautions since the price of things was increasing so drastically.

Chair Stewart mentioned with the 6% for employees last year and a 4% this year it would take them to the current consumer price index and 6% this year would take them over.

Commissioner Allen recommended 4% for both employees and elected officials so elected officials did not receive a larger raise then the employees.

Treasurer Calaway reminded the Elected Officials are locked into their salary for 4 years and will not receive an increase, so she recommended considering a 6% raise for the Elected Officials.

Chair Stewart commented he liked the thought of 4% for both employees and Elected Officials, however Commissioner Willard stated he liked the thought of 6% for both employees and Elected Officials because they didn't want to lose any of the employees.

Manager Pearson stated the current personnel policy allowed Elected Officials and Department Heads to allow flexible schedules as needed which would be a beneficial recruiting and retaining tool for employees.

Chair Stewart applauded the ability to come together and allow flexible schedules as long as the County Offices remained open five days a week, however he stated it may be time to start looking at schedules and holidays to see if maybe the County could go to a 4-day work week in the future to help with hiring and retaining employees.

Assessor Hill stated he felt a 6% for both employees and elected officials would be beneficial for hiring and retaining employees. Assessor Hill stated his office would benefit from flexible schedules during times of reappraisals when they had to be out in the field and lose time traveling.

Chair Stewart mentioned they need to be open with the public about the possibility of going to a four-day work week and consider that option for the future.

Chair Stewart adjourned the Public Hearing and reconvened the Board of County Commissioners at 10:54 AM.

Motion: Approve a 6% employee increase and a 6% Elected Official increase, **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.

Chair Stewart clarified the raise for the employees would take effect on the next full pay period and the raise for the Elected Officials would only affect the newly appointed officials.

Motion: Adopt the Budget Resolution 2023-03, **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 C: Copy of Resolution 2023-03 is attached hereto in reference thereto made apart hereof.

Chair Stewart recessed the Board of County Commissioners at 10:56 AM and reconvened at 11:05 AM.

12. Lincoln County Road Department:

- a. Approval of Resolution 2023-05 Participation in Local Government Road Fund Program Administered by New Mexico Department of Transportation (Cooperative Agreement L200563)

Jeff Honeycutt, Road Superintendent, informed this was the additional money that was requested for Lower Eagle Creek which was one of the areas that was hit hard by the flooding in the burn scar area.

Motion: Adopt Resolution 2023-05, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

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

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

SEE EXHIBIT D: Copy of Resolution 2023-05 is attached hereto in reference thereto made apart hereof.

- b. Approval of Resolution 2023-06 Participation in Local Government Road Fund Program Administered by New Mexico Department of Transportation (County Arterial Agreement L200577)

Mr. Honeycutt stated this would also be for the Lower Eagle Creek Road.

Motion: Adopt Resolution 2023-06, **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 E: Copy of Resolution 2023-06 is attached hereto in reference thereto made apart hereof.

- c. Discussion and Direction on Accepting Roads from Lincoln National Forest Service

Mr. Honeycutt explained the Schedule A road agreement with the Lincoln National Forest Service and the maintenance of various roads.

Attorney Morel stated his office would work directly with the Road Superintendent and the Forest Service to bring specific documentation for each of the roads back to the Commission.

- d. Approval to Award a Contractor for the Right Turn Lane Project on Gavilan Canyon and Highway 48.

Mr. Honeycutt informed the low bidder for the project was Renegade Construction which came in under the budgeted amount.

Motion: Approve the Contract with Renegade Construction, **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.

- e. Approval of Wilson & Co. Task Order – Perry Springs Trail and Ford Channel Culvert Crossing

Manager Pearson explained the task order and Mr. Honeycutt explained the need for the County to replace the low water crossing.

Motion: Approve the Task Order, **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.

- f. Consideration of the Lincoln County Road Review Committee's Recommendation to Close 0.25 Miles of Mary Helen Lane, County Road E032

Chair Stewart specified it was to vacate that portion of the road, not to close it.

Robert Barber, Chair of the Road Review Committee, explained vacating the portion of road has no effect on access to public land or to any other private land.

Motion: Proceed with vacating the portion of road in the amount of approximately 0.25 miles,

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.

13. History in Lincoln County: Creation of Otero County – January 30, 1899

Manager Pearson shared the documentation from 1899 which showed the creation of Otero County.

14. Lincoln County Detention Center Update – Warden Scott Colvin

Scott Colvin, Lincoln County Detention Center Warden, explained there was a slight up-tick in incarcerations post COVID. Warden Colvin stated he had been the Warden of the Detention Center for two years and was planning on many more good years ahead with the help of the Commission and the County. Warden Colvin updated on the various training programs being held for the detention center employees. Warden Colvin also spoke on the RISE program and the recidivism in the County Detention Center.

15. Lincoln County Medical Center Update – Todd Oberheu

Todd Oberheu was unavailable for the meeting.

16. Workforce Innovation and Occupational Act (WIOA)

- a. Eastern Area Workforce Development Board Presentation

Beth Elias, Executive Director of the Eastern Area Workforce Development Board, informed the Commission on the roles and responsibilities of the Board within the Eastern area of New Mexico under the guidance of the Chief Elected Officials.

- b. Consideration and Approval of Eastern Area Grant Agreement – Program Year 2022

Ms. Elias informed the Commission they had an opportunity to provide input based on community need as to how the dollars were to be allocated.

Chair Stewart authorized Commissioner Crunk to sign the agreement.

23. Enchanted Forest Water System Update – Tracie Johnson

Tracie Johnson, Enchanted Forest, stated she and Jonelle Ingram had been working tirelessly and were finally able to get approval for a Mutual Domestic Water Association. Ms. Johnson informed they were on the list for 2 ICIP Grants however they would not be available until 2024. Ms. Johnson spoke on the requirements from the New Mexico Environment Department and the Office of the State Engineer regarding the supplemental application to Jack Johnson's well.

Manager Pearson explained the ARPA use of funds with a focus on improving and fixing the system.

Motion: Authorize the repair of the well up to \$32,000 as an emergency with the use of ARPA funds, **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 Board of County Commissioners at 12:10 PM and reconvened at 12:45PM.

17. Manager's Report

1) Update – Buckhorn Compactor on July 6, 2022, Sierra Contracting notified the County of Lincoln that the Buckhorn compactor has been moved to the new site.

2) Update – Trading Post Building Has Been Demolished on June 30, 2022, we received notice that the Trading Post on Highway 70 had been demolished. All debris had been removed and the site was level.

3) ROV Route Update The signage for the new ROV route has been installed. NM Game and Fish and Village of Ruidoso have been notified.

4) Fire Debris Cleanup Update Brian Samson (OES Office) has been a tremendous help in coordinating the cleanup efforts from the McBride and Nogal fires. FEMA will reimburse 100% of the costs associated with the cleanup (until August 2).

5) Construction Continues on the Sun Valley Fire Station As supplies become available, Roper construction is nearing the completion of the Sun Valley Fire Station. We anticipate substantial completion near the end of August.

6) Municipal League – City Manager's Meeting on June 23rd, I was invited to speak at the City Manager's meeting in Ruidoso. About 30 attendees listened to the fire response from both the County and the VOR. The Municipal League has asked that the VOR and County attend their annual conference to speak about counties and cities working together to better their communities – September 1, 2022

7) Enchanted Forest Update on June 24th I visited Roosevelt County to meet with their County manager and department directors. I learned that they had recently completed building a new "road shop" for \$625K. This building is similar to what is needed when Lincoln County moves the Road Department to the Capitan Fairgrounds area.

18. Public Works Department:

- a. Approval for Management Authority to Correct and Adjust Solid Waste Accounts

Manager Pearson explained the authority would only be to correct mistakes in billing, not to issue or authorize credits.

Motion: Approve managements authority to correct and adjust solid waste accounts, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Chair Stewart.

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

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

No: Commissioner Proctor.

- b. Approval of Work Session to Discuss and Review Solid Waste Procedures, Rates and Long-Term Plan

There was a discussion on different options and things that would need to be discussed and reviewed in a work session.

Motion: Approve a work session to discuss and review solid waste, **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.

- c. Discussion and Approval for County Manager to Sign Liquor License Renewals

19. Consideration and Approval to Apply for the 2023 State Homeland Security Grant Program – OES Director, Joe Kenmore

Joe Kenmore, Office of Emergency Services Director, spoke on the purpose of the grant and the use of the new building.

Manager Pearson explained the building would be very beneficial during emergency situations as a general place for everyone to be. Manager Pearson stated the grant was a 100% reimbursement grant.

Motion: Approve the application for the 2023 State Homeland Security Grant, **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.

20. Discussion and Direction Regarding Business Licenses in Lincoln County – County Attorney, Alan Morel

Attorney Morel explained the reasoning behind business licenses and stated the fee was set at a maximum of \$35 by statute. Attorney Morel stated there would be an exemption for agricultural businesses.

Manager Pearson explained he was more interested in contact information of the businesses within the County to allow for follow-up on different benefits available to them and as a general way to know what businesses are out there and he stated he was not interested in regulating the businesses or collecting the business license fees.

21. Consolidated Dispatch Update – County Attorney, Alan Morel

Attorney Morel stated the consolidated dispatch would be at the new Horton Complex. There was a lengthy discussion surrounding the consolidated dispatch and if there was a need for a joint power's agreement or a simple agreement.

Mr. Kenmore stated he was in agreement as long as he had a seat on the board and had some say.

22. Consideration of Resolution 2023-07 a Resolution Calling on the New Mexico Legislature to Enhance the Faith of the Voting Public in Election Outcomes Through Improved Election Process

Whitney Whittaker, Lincoln County Clerk, stated agrees there is a need for a resolution however the resolution as written is not good for Lincoln County.

24. Discussion and Direction Regarding a Lincoln County "Red Flag" Ordinance – Commissioner Elaine Allen

There was a lengthy discussion on red flag ordinances and their need or use. Attorney Morel stated he would need to do more research on the legality of the ordinance as presented.

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

- 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
- b. A Public Hearing on an Application for a Telecommunications Tower- Applicants Gravity Pad and Kevin Winner - Seek 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

Motion: Approval to schedule the two public hearings, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Willard.
Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).
Yes: Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk.
Excused: Commissioner Proctor.

26. **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; 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. **Will add additional info. on Confidential Report.**
9. ***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 was dismissed on June 29, 2022.

10. ***Alto Lakes Golf & Country Club v. Luis Landarerde, et al, Cause No. D-1226-CV-2021-00257** Complaint to Foreclose Lien was filed on 12/9/21. LC's Answer to the Complaint was filed on January 4, 2022. A Decree of Foreclosure was entered by Judge Bryant on April 21, 2022 and, a Special Master's Foreclosure Sale took place on May 27, 2022. The case was concluded on June 27, 2022.
11. **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.
12. **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.
13. **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.
14. **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.
15. **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. **Will add additional info. on Confidential Report.**

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.

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.

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

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.

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

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

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

Excused: Commissioner Proctor.

Chair Stewart recessed the Regular Meeting and Convened the Closed Session at 2:10 PM.

Chair Stewart adjourned the Closed Session and Reconvened the Regular Meeting 3:07 PM.

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

27. Approval of Settlement in the Matter of Allen Theaters Properties, LLC v. Walter Hill, County Assessor, Lincoln County, Cause No. D-1226-CV-2021-0264

Motion: Approve the settlement in the matter of Allen Theaters and Walter Hill in the amount of \$1,483.29, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Crunk.

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

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

28. Signing of Official Documents and Authorization to Utilize Electronic/Stamp Signature

Commissioner Proctor authorized the use of his electronic/stamp signature.

29. Next meetings:

- a. August 16, 2022- Regular Commission Meeting
- b. September 7, 2022-Special Meeting to Impose Property Tax Rates (Subject to Change)

30. **Adjourn**

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

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

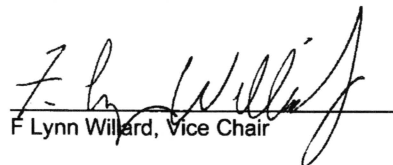
Yes: Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk.

Excused: Commissioner Proctor.

There being no further business to come before the Board of County Commissioners, Chair Stewart adjourned the meeting at 3:10 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

August 16, 2022
Date Approved

