

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 June 14, 2022

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on June 14, 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 Proctor, **Seconded by** Commissioner Allen.

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

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

6. Approval of Minutes

- a. May 3, 2022, Special Commission Meeting
- b. May 17, 2022, Regular Commission Meeting

Motion: Approve the Minutes of May 3, 2022 Special Commission Meeting and May 17, 2022 Regular Commission Meeting, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

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

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

7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month ending May 31, 2022
- c. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims
- d. Approval of Behavioral Health Services Division (BHSD) / Reach, Intervene, Support and Engage (RISE) Grant Agreement
- e. Approval of Cooperative Forest Road Agreement Between Lincoln County, New Mexico and the USDA Forest Service Southwest Region, Lincoln National Forest
- f. Memorandum of Understanding Between The Village of Ruidoso and The County of Lincoln for the Provision of Regulation Services of Residential and Commercial Construction Within Certain Specified Areas of The County of Lincoln
- g. Approval of Resolution 2021-67: Annual Capital Assets Inventory Certification FY 2021-2022
- h. Reappointment to the Lincoln Historic Preservation Board – Jack Faulk
- i. Approval of Resolution 2021-70: Adoption of Required CDBG Certifications and Commitments

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.

Attorney Morel asked to go back to Agenda Item 7 as there were some changes need to Item F, the MOU between the Village of Ruidoso and the County of Lincoln. Attorney Morel informed the contract will need to reflect termination notice within 90 days by either party or 90 days prior to the expiration of the agreement.

Motion: Reconsider Item 7F, **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: Approve Item 7F with changes suggested by attorney, **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.

EXHIBIT A: Copies of the Consent Agenda Items including Resolution 2021-67, and Resolution 2021-70 are attached hereto in reference thereto made a part hereof.

8. Budget Adjustment FY 20/21 by Resolution 2021-68

Chair Stewart informed the line item with \$540,000 General County Discretionary Mil was just being moved to the correct line to reflect proper revenues.

Motion: Approve Budget Adjustment FY 20/21 Resolution 2021-68, **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 2021-68 is attached hereto in reference thereto made apart hereof.

9. Forest, Land & Natural Resources Matters:

- a. Smokey Bear Ranger District
- b. Lincoln County / NMSU Extension Services
- c. State Forestry - EMNRD
- d. South Central Mountain RC & D
- e. Upper Hondo Soil & Water Conservation District

f. LANRAC

Robert Barber, RC&D, stated they were working on the McBride Fire EWP Program. Mr. Barber informed they worked with Attorney Morel to get a property owner agreement developed and mailed to everyone who had requested assistance; so far 3 had been signed and received back. Mr. Barber stated they were working with a vendor and the NRCS to get additional waddles to help with flooding and grass seeds to help the affected areas. Mr. Barber informed they were also working with State Forestry on the WUI billings for the end of their fiscal year.

Robert Barber, Upper Hondo Soil & Water Conservation District, stated they are looking at extending their contract with their current ground treatment contractors, a lot of which will help with the flooding from last Memorial Day.

Robert Barber, LANRAC, stated they will be meeting to discuss three projects in conjunction with the Forest Service to include flood control on Gavilan Canyon, power lines at the top of Nogal Hill and the US Forest Service Wildfire Crisis implementation plan.

Laura Rabon, PIO for Lincoln National Forest, informed the Forest remained closed due to the low moisture and extreme fire danger. Ms. Rabon spoke on the Peppin Canyon fire that broke out over the weekend but stated it was contained by Monday. Ms. Rabon informed Camille Howes, Smokey Bear District Ranger, accepted the Forest Supervisor position in the Gila National Forest, and Ms. Rabon also accepted another position but both enjoyed their time with Lincoln County.

Melody Gains, Lincoln County Family Consumer Science Agent, spoke about the Youth Get Away in Glorietta where some of the younger 4Her's were able to attend. Ms. Gains stated June started their busy time getting ready for the upcoming County Fair as well as District and State Contests. Ms. Gains informed they held a Cloverbud Day for the youngest 4Her's to learn more about 4H and have a day just for them to have fun and explore different options for the future.

10. Renewal of Fire Restrictions and Imposition of Fireworks Restrictions by Resolution 2021-69

Manager Pearson informed this Resolution included Fireworks and in the equipment section of the Resolution also included the use of chainsaws.

Motion: Approve Resolution 2021-69, **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 2021-69 is attached hereto in reference thereto made apart hereof.

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

Manager Pearson informed this funding from the State Children Youth and Families Department is annual agreement which the County is the Fiscal Agent.

Chair Stewart expressed his frustration at how poorly managed the program has become. Chair Stewart stated it used to save the County when the juveniles were housed in the detention center.

Attorney Morel requested at the behest of Judge Bryant this agenda item be postponed until the judge can come speak to the commission.

12. Lincoln County Medical Center Update – Todd Oberheu

Manager Pearson stated Mr. Oberheu was unable to attend the meeting.

13. Lincoln County Detention Center Update – Warden Scott Colvin

Manager Pearson stated Warden Colvin was unable to attend the meeting.

14. Acknowledge Lincoln County Annual Lodgers' Tax Audit (Agreed-Upon Procedures)

Daniel Trujillo, Kubiak, Melton & Associates, reported on the Annual Lodgers' Tax Audit and the Agreed-Upon Procedures. Mr. Trujillo stated there were four (4) entities which were audited for accuracy of Lodgers Tax payments. Mr. Trujillo stated one of the Lodges underpaid by \$220.34 so the County invoiced the difference, the second Lodge was correct, the third Lodge overpaid by about \$100 so the County would have to determine if they would be issued a credit or a check for the difference, and the fourth Lodge underpaid by about \$214 so the County invoiced the difference.

Motion: Acknowledge the Lincoln County Annual Lodgers' Tax Audit, **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.

15. 9:30 A.M.: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS (Items are for discussion only – no action will be taken)

Commissioner Crunk stated he attended the State Workforce Solution Board Meeting it was noted we were almost back to pre-pandemic numbers. Commissioner Crunk stated there was a need to focus on Schools and their preparedness for the next level of schooling. Commissioner Crunk stated we need to start looking at ways to promote trade school training for our students as an alternative to college.

Commissioner Allen informed she went on the radio as requested and discussed the information provided to her from Commissioner Crunk.

Commissioner Proctor stated he attended the New Mexico Joint Cattleman and Livestock Association meeting and stated they had a large attendance and would probably be looking to attend here in our County again for their bi-annual meeting next year.

Treasurer Calaway provided an updated on the Financial Accounting Report and stated they had collected 94.51% of the Taxes owed.

Sheriff Wood shared some statistics from his office over the last month.

Probate Judge Rhonda Burrows discussed her concern about the Compensation Advisory Committee and the lack of its use with the managerial driven proposals for new job descriptions, new positions, and new salaries. Judge Burrows informed the Committee was created because of perceived inequities within the salary structure by both the department heads and employees themselves. Judge Burrows explained the Committee provided for a peer review of the changes, which provided transparency among departments and between elected officials as to how to maintain balance and equity among employees and the salaries allocated for the duties they are charged with. Judge Burrows recommended the Commission have the peer review before adopting positions or significant salary changes which may cause a top-heavy problem again. Judge Burrows recommended the use of the Compensation Advisory committee as a way to have a transparent and open process which promotes integrity and moral among all County Employees.

David Vandenburg, Lincoln County Concerned Citizen, agreed with Commissioner Crunk about the focus needed for Schools. Mr. Vandenburg also agreed we need to be concerned about the next disaster that is going to happen.

Cynthia Black, Chair of Republican Party of Lincoln County, shared her appreciation for the Commission allowing the Clements to give a presentation. Ms. Black also shared her appreciation for the current and former County Clerks for all their work.

Jay Block, Sandoval County Commissioner, shared his appreciation for the Commission allowing the Clements to present. Mr. Block stated the County Clerks were above board with Integrity.

Chrissy Cantra, resident of New Hampshire and of New Mexico, voiced her concern about election integrity.

Marc Fischer, commissioner elect for district 5, stated the most important thing we can do for the republic is to make sure all votes are counted and legal. Mr. Fischer informed the presentation from the Clements is very complicated, and he stated only complicated schemes can appear real when they are not.

— Jerry Blockman, citizen from Otero County, stated he was concerned about fair and proper elections.

John Biltramp, citizen from Sandoval County, echoed everything already said. Mr. Biltramp stated he was concerned about the Dominion machines; ballot drop boxes and the over 200,000 illegal citizens who come across the border monthly.

Matt Crecelius, citizen from Otero County, stated the presentation from the Clements was a nationally charged propaganda campaign used across the Country, and he urged the Commission to look at the legal exposure which Otero County is already facing.

16. Election Integrity Presentation – David Clements

David and Erin Clements presented their findings regarding election integrity. Mr. Clements provided an analysis and Ms. Clements spoke to data.

Chair Stewart recessed the regular commission meeting for Lunch 12:30 PM and reconvened at 1:15 PM.

Motion: Recess the Board of County Commission Meeting and convene the County Canvassing Board.

17. Canvass June 7, 2022, Primary Election Votes– Clerk Whitney Whittaker

— Whitney Whittaker, Lincoln County Clerk spoke to the findings and questions related to agenda item 16. Clerk Whittaker stated elections are complex with many guidelines, statutes, and deadlines that must be followed.

Clerk Whittaker stated prior to deployment of any tabulator, or any system used in the election, countless hours are spent testing for accuracy, error, and precision by both staff and vote technicians. Clerk Whittaker also explained the certification process is open to the public.

Clerk Whittaker provided a demonstration of the tabulators used in each election.

Clerk Whittaker stated knowledge about elections is crucial and no election is perfect, issues do occur but having proper documentation and awareness is key; most everything can be explained.

Clerk Whittaker stated there were three (3) major parties involved in the 2022 Primary Election: Democratic, Libertarian and Republican. Clerk Whittaker stated this was the first year that Lincoln County had Election Day same day voter registration. Clerk Whittaker explained that same day registration was where a voter could register to vote or update their existing registration and vote on the same day. Clerk Whittaker informed that same day registration happened in the previous election but only throughout the duration of early voting.

— Clerk Whittaker informed there were 3,210 Democrats; 8,163 Republicans; and 188 Libertarians for a total of 11,568 registered voters eligible to cast a ballot in the 2022 Primary Election.

Clerk Whittaker stated 248 Absentee by Mail ballots were received and tabulated; 921 residents Voted Early; and 2,010 residents cast their ballot on Election Day for a total of 3,879 ballots cast. Clerk Whittaker stated additionally three (3) provisional ballots were qualified.

Clerk Whittaker provided spreadsheets of the unofficial results as reported to the Secretary of State, absentee/early vote roster covers, ballots delivered, ballots cast, candidate summary and precinct summary. Clerk Whittaker also made available results tapes from each tabulator and other related election returns for inspection.

Clerk Whittaker requested the County Canvass Board certify the 2022 Primary Election for Lincoln County by their signature on the Certification of Canvass Results.

Chair Stewart adjourned the Canvassing Board and reconvened the Special Meeting at 2:25 PM.

Motion: Certify Lincoln County's canvassed results for the 2022 Primary Election, **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.

SEE EXHIBIT D: Copy of the 2022 Primary Election Certification of Canvass Results is attached hereto in reference thereto made a part hereof.

18. Manager's Report

1) Update From Penasco Valley Telephone (PVT) – May 31, 2022

Commissioner Allen and I received an email updating the County of Lincoln on the application for funding Fiber in the Lincoln area:

"Good Morning,

I just wanted to let you know that we have submitted an application for funding including our fiber to the premise design to serve the town of Lincoln. It is expected that we will be notified no later October 1st if our application is approved. PVT has doubled our portion of the cost share requirement to increase the likelihood of receiving an award."

"Again, Thank you for your letter of support. We'll keep you posted as the process moves forward."

Mitch Hibbard

Engineer Technician

Peñasco Valley Telephone Cooperative, Inc. (PVT)

2) USFS – Cibola Forest Plan Revision Email

On June 1, 2022, we received an email from Jay Turner notifying collaborators that the final plan documents will soon be available. We are pleased to announce that we are nearing the end of our decade-long Forest Plan Revision process. During the week of March 13th through 19th, Regional Forester Michiko Martin and representatives of the three northern New Mexico national forests met with objectors to clarify issues, promote mutual understanding, and discuss potential remedies. Regional Forester Martin recently released a response letter to objectors based on these sessions with instructions for the forests to modify to plan documents according to the objection review. We are now wrapping up these changes and will be sending them to the writer-editor soon. We are anticipating a signed Record of Decision (ROD) for the Forest Plan at the beginning of July. We never would have made it to this point without the contributions, participation, and partnership of you and your organizations. The time and effort that you have generously given our appreciated and have helped made for a better plan. We are planning some more formal forest plan roll-out/implementation events in the fall. The final plan documents and the signed ROD will be posted at this link:

<https://www.fs.usda.gov/main/cibola/landmanagement/planning>. We would like to offer these documents on a USB drive to all of our Cooperating Agencies. Please reply to this message if you would like one sent to you.

3) New Horizons Building Update

Appraiser, Marc Beaty, met with me at the New Horizons building on June 2, 2022. Obtaining a valid commercial appraisal is one the first requirements set forth by the NM DFA when disposing of real property.

4) Biggs Fire – Near Corona - May 20th

The Biggs Fire started around 11:30 am on May 20, 2022. A fence building company was using a grinder that

caused grass to ignite at the Bonito Canyon Ranch (southeast of Corona). By 8pm, over 7,000 acres had burned. Lincoln County VF, Corona VF, Carrizozo VF, BLM, NM State Fire and local residents combined efforts to hold the north moving fire at State Road 247. Lincoln County Fire – Passing command to NM State Forestry on Saturday morning.

5) Josh Hammond Retirement – Road Department - May 25th

A small lunch reception was held for former Road Foreman on May 25, 2022. Josh has been with the County of Lincoln for 26 years.

6) Police Training Reporting Requirements

A recent report showed that over 60% of law enforcement agencies in New Mexico did not report whether they had completed the required training for their departments. The Lincoln County Sheriff's Office completed the training and reported the training to the state of NM on time.

7) Enchanted Forest Update

8) Director's Reports

19. Approval to issue Requests for Proposals (RFP) and/or Invitation For Bids (IFB)

- a. IT Services for The County of Lincoln
- b. Purchase of Road Base Material
- c. County-Wide Green Waste / Slash Pile Removal

Manager Pearson informed Systems MD was the current IT provider for the County which started as 4-year contract but currently a year to year.

Motion: Approval to issue RFP or IFB for (a) IT services for the County of Lincoln and (b) Purchase of road base material, **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 Proctor.

Absent: Commissioner Crunk.

Manager Pearson reported the Green Waste and Slash Piles which have been piling up around dumpsters and informed if Sierra Contracting picks, it up it will be considered bulky household waste and go against our allotment because there was trash mixed in with it. Commissioner Willard requested further research to see if there was trash in the piles and if not, if the cleanup would be included in the Sierra Contracting Contract. Commissioner Willard moved to issue an RFP for Item c if it was not already included in the Sierra Contracting contract. Commissioner Proctor voiced his concern about authorizing the issuance of an RFP if it isn't already included in a contract and Attorney Morel agreed he would not use that wording. It was agreed it should be a Motion with the Power to Act with an RFP.

Motion: Approve, if necessary, an RFP, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

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

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

Absent: Commissioner Crunk.

20. Approval to Contract with NM Appraisal Company to Obtain an Appraisal of the New Horizon's Building in Carrizozo, NM

Manager Pearson informed DFA would require a certified commercial appraisal if the County was to do anything with the New Horizon's building. Manager Pearson informed NM Appraisal Company would look at other 1949 20,000 sq ft buildings in the State for comparison, they would look at the cost to demo the building using the old hospital as an example, and they would also look at the cost to make it re-inhabitable.

Motion: Approve to Contract with NM Appraisal Company to Obtain an Appraisal of the New Horizon's Building, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

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

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

Absent: Commissioner Crunk.

21. Discussion and Direction on the Disposition of Check for \$6,000.00 received from the Forest Service for its use of the County Fairgrounds Buildings during the McBride/Nogal Canyon Fire

Manager Pearson informed during the Nogal and McBride Fires; the County of Lincoln entered into an agreement to rent one of the Fair Buildings to the Forest Service at \$1,000/day for 6 days.

Motion: Approval to use the \$6,000 for parking lot improvements at the Lincoln County Fairgrounds, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Proctor.

Vote: Motion passed (summary: Yes = 3, No = 1, Abstain = 0).

Yes: Chair Stewart, Commissioner Willard, Commissioner Proctor.

No: Commissioner Allen.

Absent: Commissioner Crunk.

22. Authorization to Schedule Public Hearing to Consider Other Outdated or New Lincoln County Ordinance: Variance of Ordinance 2006-6: Lincoln County Outdoor Advertising Regulation Ordinance

There was a brief discussion if the County should schedule another public hearing since one was already scheduled and held with no attendance by the requestors.

Motion: Approval to Schedule Public Hearing for Advertising Variance, **Action:** Approve, **Moved by** Commissioner Allen, None seconded.
Died for lack of second.

23. 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)

Motion: To Close the Meeting for the purposes of an 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),

New or Updated Matters since last report *

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

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

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

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

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

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

the case, on June 17, 2019, the case was transferred to the Northern District of Ohio noting that as of December 5, 2017, 1,534 cases have been transferred to Ohio for further proceedings. The case is still pending.

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

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

7. **Lincoln County, ex rel, Greentree Solid Waste Authority and Mary Mansfield vs. Sierra Contracting, Inc, et al, Cause No. D-1226-CV-2020-00081** Complaint Under Fraud Against Taxpayers Act was filed by Zach Cook and Victor Marshall on March 31, 2020. On September 17, 2020, Plaintiffs filed their Notice that Qui Tam Plaintiffs are proceeding with this action. On January 6, 2022 Judge Sugg entered an Order of Dismissal for Lack of Prosecution. On January 12, 2022, Plaintiffs filed their Motion to Reinstate.

8. **Debra Wilcox v. Board of County Commissioners, Deputy Samuel C. Hanna, Caroline McCoy and Former Sheriff Robert Shepperd, Cause No. D-1215-CV-2021-00574** Complaint for Damages was filed on the 2nd day of September, 2021 by Steven Sanders alleging personal injury resulting from an improper and grossly negligent investigation and for "malicious abuse of process". County Defendants were served on November 2, 2021. The case is still pending.

9. **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.

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. The case is still pending. 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.

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.

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, 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

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.

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

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

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

Absent: Commissioner Crunk.

Chair Stewart recessed the Regular Meeting and convened the Closed Session at 3:20 PM.

Chair Stewart recessed the Closed Session and reconvened the Regular Meeting at 4:00 PM.

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

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

All authorized use of stamp and or electronic seal

25. Next meetings:

- a. July 19, 2022- Regular Commission Meeting

22. Authorization to Schedule Public Hearing to Consider Other Outdated or New Lincoln County Ordinance: Variance of Ordinance 2006-6: Lincoln County Outdoor Advertising Regulation Ordinance

Manager Pearson requested reconsideration to schedule a public hearing.

Motion: Reconsider Scheduling a Public Hearing with all expenses to be paid by the Requestor,

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

Vote: Motion passed (**summary:** Yes = 3, No = 1, Abstain = 0).

Yes: Chair Stewart, Commissioner Allen, Commissioner Willard.

No: Commissioner Proctor.

Absent: Commissioner Crunk.

Motion: Approval to Schedule a Public Hearing for the Variance, **Action:** Approve, **Moved by** Chair Stewart, **Seconded by** Commissioner Allen.

Vote: Motion passed (**summary:** Yes = 3, No = 1, Abstain = 0).

Yes: Chair Stewart, Commissioner Allen, Commissioner Proctor.

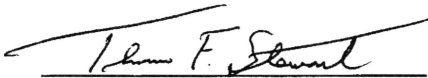
No: Commissioner Willard.

Absent: Commissioner Crunk.

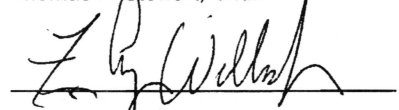
26. Adjourn

There being no further business to come before the Board of County Commissioners, Chair Stewart adjourned the meeting at 4:08 PM.

County of Lincoln
Board of Commissioners



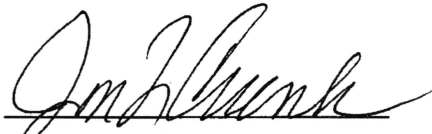
Thomas F. Stewart, Chair



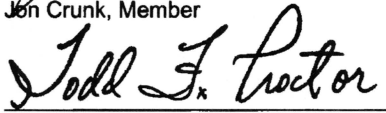
F Lynn Willard, Vice Chair



Elaine Allen, Member



Jon Crunk, Member



Todd Proctor, Member

ATTEST:



Whitney Whittaker, County Clerk

July 19, 2022

Date Approved

