

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 May 17, 2022

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on May 17, 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.

6. Approval of Minutes

- a. April 12, 2022, Emergency Commission Meeting
- b. April 19, 2022, Regular Commission Meeting

Motion: Approve the minutes of April 12, 2022 Emergency Commission Meeting and April 19, 2022 Regular Commission Meeting, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 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 April 30, 2022
- c. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims
- d. Memorial Day Proclamation

The Memorial Day Proclamation was read aloud by Commissioner Willard.

- e. Resolution 2021-63: Liquor License Fees
- f. MOU Between Village of Ruidoso & County as the Administrative Authority for Lincoln County Sheriff's Office for Driving While Intoxicated (DWI) Prevention Enforcement Activities & Reimbursement of Costs

Chair Stewart mentioned number 4 in the MOU was reduced from \$5,000 to \$2,000.

- g. Approval of MOU 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

Manager Pearson requested to remove Item g from the consent agenda and discuss it separately.

Motion: Approval of the Consent Agenda with changes and without Item g, **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.

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

- g. Approval of MOU 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

Manager Pearson explained the Village of Ruidoso requested extending the time of the MOU to every two years instead of yearly with a 90 day termination and would submit quarterly reports for updates. Attorney Mores stated this item would be brought back at another time with an updated MOU.

8. Preliminary Budget Requests

- a. Boys & Girls Club of Chaves and Lincoln Counties Funding Request
Discussion and Possible Action – Tim Coughlin

Motion: Approval of \$10,000 for the Boys & Girls Club, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

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

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

- b. Sheriff's Office LT Position – Salary Clarification

Manager Pearson updated on the pay and level of the Lieutenant Position which is above the Sergeants Position.

Motion: Approve the increase for the Lieutenants Position, **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.

9. Forest, Land & Natural Resources Matters:

- a. Smokey Bear Ranger District

Manager Pearson informed the Lincoln National Forest would be closed due to the severe drought and notice would be sent out to inform the public.

b. South Central Mountain RC & D

Robert Barber stated they are working with the County and the Village on the EWP for the McBride fire.

c. Upper Hondo Soil & Water Conservation District

Robert Barber informed they are still working with those in the Valley on the EWP due to the flooding issues from last year. Mr Barber stated they purchased grass seed to assist with the destruction from the McBride and Nogal Canyon Fires to assist with erosion. Mr Barber mentioned the Upper Hondo Board agreed to act as the Agent for the Nogal Fire and assist with the EWP.

d. LANRAC

A. Appointment of New Member – Clark Taylor

Robert Barber stated James Taylor served his last day on the Board and Clark Taylor had stepped up to be his replacement.

Motion: Approve the Appointment of Clark Taylor, **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.

B. Lincoln County Emergency Response Team Discussion

C. Consideration of Resolution 2021-62 A Resolution to Promote Water Conservation in Lincoln County

Motion: Adopt Resolution 2021-62 with changes necessary to make it grammatically correct,

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

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

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

No: Commissioner Willard.

SEE EXHIBIT B: Copy of Resolution 2021-62 is attached hereto in reference thereto made apart hereof.

25. **Consideration and Possible Action of the Lincoln County Road Review Committee Report – Closure of a Portion of Grand Avenue, Oscuro, New Mexico**

Robert Barber recommended not approving the closure of a portion of Grand Avenue as there are 142 Acres of State Land at the end of the road.

Motion: Close a portion of Grand Avenue, Oscuro, NM, **Action:** Approve, **Moved by** Commissioner Crunk, **Seconded by** Commissioner Willard.

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

Yes: Commissioner Proctor.

No: Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk.

10. **Board of Finance- Lincoln County Treasurer Beverly Calaway**

Motion: Convene Board of Finance Meeting, **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.

Beverly Calaway, Lincoln County Treasurer stated due to the McBride fire, the Property Tax Division delayed the Delinquent Tax Sale as some of the properties on the tax sale list might have been destroyed by the fire.

Treasurer Calaway informed as of May 13th her office collected about 94% of the 2021 taxes billed. Treasurer Calaway mentioned on June 1, 2022 the Lincoln County Treasurer's Office will mail out over 4,000 Delinquent Property Tax Notices.

Treasurer Calaway informed on the April 30, 2022 financial report and stated the General Fund Line had an ending balance of \$9,277,571.54 in comparison to the ending balance of \$7.2 million in April 2021. Treasurer Calaway stated they already collected 82% of the projected General Fund revenues of \$15,782,858.91 for fiscal year 2021/2022. Treasurer Calaway informed the total cash held by the Treasurer on April 30, 2022 was \$31,452,865.30.

Chair Stewart Adjourned the Board of Finance Meeting and Reconvened as the Board Of County Commissioners.

Motion: Approve the Treasurers Report, **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.

14. 9:30 A.M.: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS (Items are for discussion only – no action will be taken)

Jim Spiri, Lincoln resident and member of the Lincoln Historic Preservation Board stated he disagreed with the Counties request of the Preservation Board to never try to tweak the Ordinance. Mr Spiri stated he was all for the food trucks in Lincoln and believes some changes should be made. Mr Spiri informed he has been in contact with the Secretary of Interior Deb Haaland's Office as well as Congresswoman Yvette Harrell's Office about the Bonito Reservoir and the water that currently goes to Holoman Air Force Base. Mr Spiri believes the County Commission, the Secretary's Office and the Congresswoman's Office should all get together to fix the ridiculous problem. Mr Spiri informed the trash bins are a mess, especially the ones heading toward the Baca Campsite. He stated they should be replaced and emptied more often.

Judge Ellen Jessen, Division II Judge for the 12th Judicial District Court informed on the proceedings of the Court and explained it only handled Domestic Relations and Civil cases on the docket.

Cathy Weems, Alto resident again voiced her concern about the Concrete Batch Plant.

Commissioner Crunk spoke about the numerous disasters in Lincoln County and stated another disaster the residents of the County would soon be a part of was the lack of homeowners insurance. Commissioner Crunk informed he was notified over 30 of his customers would not have their insurance renewed. Commissioner Crunk stated the Superintendent of Insurance made available a no wait period so homeowners need to get Flood Insurance as soon as possible.

Donnie Weems, Alto resident voiced his concern about the Concrete Batch Plant and stated the permit had been denied but it was not over yet. Mr Weems informed on the Financial and Emotional Burden on the residents of Alto. Mr Weems presented a letter from Mr Roper given to the residents and shared a copy of the letter with the Commissioners.

Mr. Weems read a letter from Galen Farrington addressed to the Commission in regards to his opposition of the Concrete Batch Plant.

Diorly Stierwalt, Alto resident stated there was misinformation put out at the last Commission meeting and the residents of Alto had not requested County Wide Zoning. Mrs. Stierwalt spoke about her opposition to the Concrete Batch Plant and shared the concern of all of the residents of Lincoln County that they have specific property rights available to them.

11. Approval of Budget Adjustment FY 21/22 by Resolution 2021-60

Motion: Adopt Resolution 2021-60, **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.

SEE EXHIBIT C: Copy of Resolution 2021-60 is attached hereto in reference thereto made apart hereof.

12. Elected Official's Report: Assessor / Clerk / Probate Judge / Treasurer / Sheriff / Commissioners

Shannan Hemphill, Chief Deputy County Clerk informed the Primary Election was underway and Voting had started in Lincoln County. Mrs. Hemphill stated the Early Voting location in Ruidoso had moved from the Horton Complex to Eastern New Mexico University- Ruidoso Branch Community College.

Treasurer Calaway requested the Commission consider a Cost of Living Raise for the County Employees.

Sheriff Wood provided an update from his office on the monthly statistics. Commissioner Willard questioned where dispatch would be housed once it was consolidated. Sheriff Wood informed dispatch would be moved to Ruidoso and an Administrator would need to be hired.

Commissioner Allen mentioned many discussions throughout the County and one of the biggest concerns was the Mental Health issues and homelessness which extend to everyone including students and veterans.

Commissioner Willard attended a Serpto meeting in Roswell.

Commissioner Proctor attended a Special meeting in Otero County in regard to the Lincoln National Forest. Commissioner Proctor also attended the NMC Board of Directors Meeting and informed there would be a 10% increase in fees next year.

Commissioner Crunk commended Executive Director Beth Elias from the Eastern Area Workforce Development Board for her commitment to the citizens of Lincoln County. Commissioner Crunk spoke on the need to create an organization for emergency assistance for the Citizens of Lincoln County.

Chair Stewart recessed the Board of County Commissioners and convened the Public Hearing.

15. 10:00 AM: Public Hearings/Budget Hearing (immediately following Public Hearing):

- a. Amending ORDINANCE NO. 2002-01 Amending, Recompiling and Re-Enacting Ordinance 2001-13, Which Regulates Road Cuts; Requiring Persons to Give Notice Prior to Excavation in Rights-Of-Way; Providing for Emergency Excavation; Requiring the Installation of Culverts in County Rights-of-Way Access; Setting Fees; and Providing Penalties for Violation.

County Attorney Morel discussed changes from Ordinance 2001-13 to 2022-02. Attorney Morel stated the biggest change would be the deposit which would be required every time a road cut was requested. Attorney Morel also stated the fees were removed and set out in a separate resolution.

Chair Stewart adjourned the Public Hearing at 10:18 and reconvened the Board of County Commissioners.

Motion: Approve Ordinance 2022-02, **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.

34. Approval of Resolution No. 2021-65 A Resolution Setting Fees To Be Charged By Lincoln County Pursuant To Lincoln County Road Cuts Ordinance No. 2022-02

Attorney Morel explained Resolution 2021-65 sets forth the fees which were removed from the Ordinance.

Commissioner Willard clarified ordinance and resolution

Motion: Adopt Resolution 2021-65, **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 2021-65 is attached hereto in reference thereto made apart hereof.

Chair Stewart recessed the Board of County Commissioners and reconvened the public hearing at 10:23.

15. 10:00 AM: Public Hearings/Budget Hearing (immediately following Public Hearing):

b. 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

Manager Pearson explained the public hearing was called and posted as required however Allsup declined to participate at the current time and may pursue it at a future date.

Chair Stewart adjourned the Public Hearing and reconvened the Board of County Commissioners at 10:25.

c. Adoption of the Preliminary Budget by Resolution 2021-59 Fiscal Year 2022-2023

Manager Pearson discussed the Preliminary Budget and recommended looking at possible salary increases for newly elected officials as well as all employees possibly receiving a Cost of Living Allocation. Manager Pearson informed it could be considered as late as July.

Chair Stewart stated he didn't believe they should look at ARPA funding now and may want to look at it in July.

Commissioner Crunk questioned if ARPA funds could be used for a Disaster Committee.

Chair Stewart questioned page 53 of the Budget specifically line 2525 which had \$265,000 and was told the safety care net pool and indigent funds were split 50/50.

There was a discussion on incorporating into the budget to accommodate the needs of the Commission meetings being held on zoom and in person.

Chair Stewart recessed the Commission Meeting at 10:40 and reconvened at 10:52.

Chair Stewart summarized the changes made by eliminating line 2956 and moving the \$265,000 from the safety care net pool to the indigent fund. Chair Stewart stated the changes made did not affect the General Fund and it was important to notice the indigent fund line still had funding available.

Motion: Approve the Preliminary Budget by Resolution 2021-59 for Fiscal Year 2022-2023,
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 2021-59 is attached hereto in reference thereto made apart hereof.

13. County Manager's Report

1) Lodger's Tax Committee Training – April 26th

During the regular scheduled meeting on April 26th, the manager's office met with the Lodger's Tax committee. We discussed the Ordinance, the procedures and overall goal to get more events funded. The next meeting is scheduled for May 31st, 2022.

2) Workforce Solutions Meeting - May 10th

Acting Director Ricky Serna lead the discussion regarding the workforce shortage in Lincoln County. Transportation, childcare, and housing were all major topics that need to be addressed. Commissioner Crunk inquired about the possibility of Workforce Solutions paying for hook-ups of utilities for displaced residents. Retired workers and the youth were identified as the main demographics to recruit.

3) New Horizons Building Walk Through

New Horizons has relocated every resident and the building is now only housing a staff of two. We walked the building and noted a few things that will need to be done before June 30th (last day of New Horizons). Billie-Jo will be getting utilities shut off and solid waste services cancelled.

4) Cabinet Secretaries in Lincoln County – May 5th

Governor MLG asked the NM Cabinet Secretaries to visit Lincoln County on May 5th. The Village of Ruidoso hosted the meeting at the Convention Center. Other attendees included NRCS, Workforce Solutions, Motor Vehicle Department, and other agencies.

5) Temporary Housing for Displaced Fire Victims

The Village of Ruidoso has been visiting housing manufacturing sites to look into the viability of moving housing into Lincoln County. The above picture is one type of house that might work for the needs of the Citizens of Lincoln County.

6) Director's Reports

16. Lincoln Country Detention Center Update – Warden Scott Colvin

Scott Colvin, Warden reported on the monthly numbers for the Detention Center. Warden Colvin stated the booking floor was mostly completed. He stated they are working on other renovations in the Detention Center to increase security.

17. Lincoln County Medical Center Update- Todd Oberheu

Todd Oberheu, Hospital Chief Executive explained they were not seeing an increase in COVID patients in the hospital however it was increasing throughout the state. Mr. Oberheu informed it was the 47th Annual Celebration of EMS Week.

18. Enchanted Forest Water Corporation Drought – Discussion and Possible Direction

Tracy Johnson, Bookkeeper for Enchanted Forest Water Corporation discussed the lack of water in the wells in the area. Ms. Johnson stated one well is completely dry, another has decreased to 1 gal/min and they are now 100% purchasing water from various locations. Ms Johnson explained the 5 wells they had were no longer available; #1 was purchased by an individual owner, #2 and #3 were plugged, #4 was drilled lower and was still dry and #5 was drilled lower and only produces 1 gal/min.

Attorney Morel explained the restrictions due to the anti-donation clause and use of possible ARPA funds.

Ms Johnson stated they needed \$12,000-\$18,000/month for 3 months to get through until they become a Mutual Domestic Water Association.

There was a lengthy discussion on the options available to try and help get more water for the area including the possibility of purchasing the well from Jack Johnson and including him as part of Enchanted Forest Water.

Chair Stewart recessed the Commission Meeting for Lunch 12:05 and reconvened at 12:50.

23. Office of Emergency Services

a. McBride and Nogal Fires Update

Joe Kenmore, Office of Emergency Services Director stated the fires were 100% contained and explained the difference between contained and controlled. Mr. Kenmore informed the fires were not controlled.

b. Natural Resources Conservation Service – Emergency Watershed Program Update

Mr. Kenmore stated they were working with the NRCS-Emergency Watershed Program however the ground was too charred and would no longer accept water.

c. New Mexico Department of Homeland Security and Emergency Management Update

Mr. Kenmore informed they were working with the NM Department of Homeland Security and Emergency Management to keep everyone apprised of the situation. Mr. Kenmore stated they would need to work with the Army Corps of Engineers if they get into the river and change the course.

d. Resolution 2021-61: Declaration of Fire Danger Emergency

Motion: Adopt Resolution 2021-61: Declaration of Fire Danger Emergency, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Crunk.

Joe explained the changes in the Resolution to include no smoking, no tracer ammunition, and cutting, welding, and grinding of metal in areas of dry vegetation are prohibited.

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

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

SEE EXHIBIT F: Copy of Resolution 2021-20 is attached hereto in reference thereto made apart hereof.

19. APEX Clean Energy's Turquoise Wind Project in Lincoln County - Presentation

Dylan Ikkala, Senior Development Manager with APEX Clean Energy presented on options and opportunities available through their company. Mr. Ikkala stated they had one project permitted in Curry County and explained the project they were hoping to start in Lincoln County. Chair Stewart questioned where the electricity would be going to. Mr. Ikkala informed there were multiple options available including keeping the electricity local in the State but nothing had been decided yet.

20. Lincoln County Fairgrounds

a. Masterplan - Phase One Task Order / Scope / Funding Needs

Eric Hamilton, Wilson & Co, explained Phase One of the Master Plan was all of the drainage and site work, new site access road, paved parking, perimeter fencing and gates and the wash racks. Mr. Hamilton stated the total cost for Phase One was approximately \$1.4-\$1.5 million.

Manager Pearson requested a Special Commission Meeting to be held on June 2, 2022.

b. NMDOT Pedestrian Bridge Approval

Mr. Hamilton mention NMDOT in the last two weeks sent an award approval for funding to complete the design and construction of the Pedestrian/Cattle Bridge. Mr. Hamilton stated the total grant amount was \$447,624 and he discussed the match. Manager Pearson stated it was Federal Funds so ARPA funds could not be used for the match.

c. Facilities Repair Budget

Manager Pearson updated on the repairs and other things done by the Road Department for the facilities and looked for a different way to handle them.

21. Approval of Nogal Fire Station Water Storage Construction Contract

Mr. Hamilton informed on the funding for the project. He stated only one bid was received and it was significantly over budget. Mr. Hamilton will discuss other options at the Special Meeting.

26. Lincoln Domestic Water Association:

a. State Water Trust Board Funding Update

Rory McMinn informed the State Water Trust Board awarded the Grant amount of \$2,360,000 based on a 90/10 grant/loan split so the total would be \$2,690,000. Mr. McMinn stated they are requesting \$280,000 from the County. Mr. McMinn explained they needed to upgrade all of the piping in town and drill a new well as the two they currently have are not sufficient.

b. Consideration of Request of Lincoln County to Provide Grant Match

Motion: Approve a \$280,000 Grant using ARPA funds, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Crunk.

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

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

Abstain: Commissioner Allen.

22. Discussion and Consideration of Community Development Block Grant Projects

Manager Pearson stated in order to participate in CDBG a letter would need to be submitted listing potential projects as well as the methodologies by June 1st.

There was a lengthy discussion to decide what projects could be considered and the list was narrowed down to three.

24. Consideration of Recreational Off-Highway Vehicle Route Signage Maintenance Agreement between the New Mexico Department of Transportation and the County of Lincoln.

Attorney Morel updated on the required signage.

Mr. Honeycutt stated the signs had been purchased and were awaiting final approval for placement.

Motion: Approve the Agreement, **Action:** Approve, **Moved by** Commissioner Crunk, **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.

27. Lodger's Tax

a. Lodger's Tax Proceeds – Usage Requirements

Manager Pearson gave options to use Lodger's Tax Funds including sanitation and Officers' salaries during special events.

b. Management of Lodger's Tax - Discussion and Possible Action

Manager Pearson stated he would like to hire a Lodger's Tax Administrator.

Treasurer Calaway informed the Treasurer's Office would still need to collect the Lodger's Tax and receipt it.

Commission agreed to have a job description and salary brought back for approval at another meeting.

28. American Rescue Plan Act (ARPA)

a. Funding Update

Manager Pearson informed the Magado Vehicle Bridge and waterway would qualify for ARPA funds.

b. Discussion and direction regarding Projects

Manager Pearson listed different projects which had been discussed at length to include the Detention Center plumbing issues, updating the current Courthouse building to include ADA accessibility, a new Road Dept building, new generators for OES and the Courthouse, and the Lincoln Water Project.

Commissioner Willard stated he did not believe compactors should be considered for the funds. Chair Stewart felt they should pick those projects that could be funded in full without having to use other sources of funds.

29. Credit Card Payments for Lincoln County Taxes, Services, Permits and Related Services

a. Approval of Resolution 2021-64

Manager Pearson informed on the updated DFA requirements.

b. Approval of the County of Lincoln Policy for the Acceptance of Debit/Credit Cards or Electronic Transfer for Payments of Utilities and Related Services

Motion: Adopt Resolution 2021-64 and the associated policy, **Action:** Approve, **Moved by** Commissioner Proctor, **Seconded by** Commissioner Willard.

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

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

SEE EXHIBIT G: Copy of Resolution 2021-64 is attached hereto in reference thereto made apart hereof.

30. Authorization to Schedule a Public Hearing to Consider Other Outdated or New Lincoln County Ordinances:

No scheduled public hearings at this time.

31. Lincoln County Executive Session Pursuant to the Open Meetings Act: Discussion of all Threatened and/or Pending Litigation, Section 10-15-1, Subparagraph (H)(7); and Discussion of the Purchase Acquisition or Disposal of Real Property or Water Rights by the Public Body, Section 10-15-1, Subparagraph (H)(8); and Limited Personnel Matters; Evaluation of Lincoln County Public Works Director, Francesca Herrera, Section 10-15-1, Subparagraph (H)(2)

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) and Limited Personnel Matters; Evaluation of Lincoln County Public Works Director, Francesca Herrera, 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. A 5 day Jury Trial is scheduled to begin on September 19, 2022.
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 will take 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 and a Special Master's Foreclosure Sale will take place on June 8, 2022.

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.

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 Willard, **Seconded by** Commissioner Allen.

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

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

Chair Stewart recessed the Regular Meeting and convened the Closed Session at 2:46 PM.

Chair Stewart adjourned the Closed Session and reconvened the Regular Meeting at 3:14 PM.

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

32. Lincoln County Public Works Director, Francesca T. Herrera Six (6) Month Review/Contract Negotiations

Motion: Approve the contract with a \$5,000 raise, **Action:** Approve, **Moved by** Commissioner Crunk, **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.

33. Direction to County Manager and County Attorney Regarding Inmate Housing Contracts

Attorney Morel recommended preparing contracts for housing of inmates from the different entities.

35. Solid Waste Request for Approval to File Lien; David M. Danner \$967.72

Motion: Approval to file Lien, **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.

36. Signing of Official Documents

Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk, Commissioner Proctor all gave permission to use their signature if needed.

37. Next meeting:

a. June 14, 2022, Regular Commission Meeting

38. Adjourn

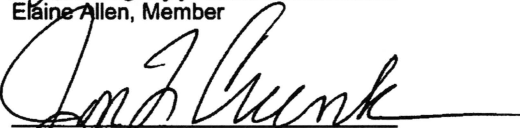
There being no further business to come before the Board of County Commissioners, Chair Stewart adjourned the meeting at 3:23 PM.

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

June 14, 2022
Date Approved

