

COUNTY OF LINCOLN

New Mexico Regular Meeting Board of County Commissioners

Todd F Proctor, Chair
Jon F Crunk, Vice Chair

Samantha J Serna, Member
Mark G Fischer, Member
Pierre S Pfeffer, Member

Minutes Tuesday August 22, 2023

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on August 22, 2023, in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico. The meeting was also accessible via Zoom.

1. Call to Order

Chair Proctor called the Regular Meeting of the Board of County Commissioners to order at 8:30 AM.

2. Roll Call

Roll Call.

Present: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

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

3. Invocation

The Invocation was presented by Chair Proctor.

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 Pfeffer, **Seconded by** Commissioner Crunk.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

Commissioner Serna requested to move Agenda items 21 and 23 to the front of the meeting.

Motion: Move items 21 and 23 to the beginning of the meeting, **Action:** Approve, **Moved by** Commissioner Fischer, **Seconded by** Commissioner Serna.

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

Yes: Commissioner Fischer, Commissioner Serna.

No: Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

6. Approval of Minutes:

- a. July 6, 2023, Special Commission Meeting
- b. July 18, 2023, Regular Commission Meeting
- c. July 28, 2023, Special Commission Meeting

Motion: Approve the minutes of the July 6, 2023, Special Commission Meeting, July 18, 2023, Regular Commission Meeting, and the July 28, 2023, Special Commission Meeting, **Action:**

Approve, **Moved by** Commissioner Fischer, **Seconded by** Commissioner Pfeffer.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month Ending July 31, 2023
- c. Approval of Road Project Agreement No. 23-RO-1103033-258 Between the County of Lincoln and the USDA, Forest Service, Cibola National Forest and National Grasslands
- d. Approval of Resolution 2024-09 – Approval of Disposition of Surplus Inventory
- e. Approval of Safety Net Care Pool & Indigent Health Care Claims
- f. Approval of Resolution 2024-11 a Resolution to Continue as an Active Member of the Southeastern New Mexico Economic Development District / COG
- g. Approval of the Membership Agreement between the Southeastern New Mexico Economic Development District / COG and the County of Lincoln
- h. Approval of the Addendum to the Lincoln County Community Wildfire Protection Plan
- i. Approval of the County of Lincoln Drug and Alcohol Policy for DOT Safety Sensitive Employees Subject to Federal Drug and Alcohol Testing
- j. Approval of Memorandum of Understanding Between Lincoln County and Otero County Electric Coop Buck Mountain Tower Site (Tower or Tower premises)
- k. Approval to Release and Refile Solid Waste Liens:

Liens to be released and refiled:

- 1. Delores Herrera - **\$2,523.99**
- 2. Leopoldo G. Herrera or Emma Jean Herrera - **\$2,574.57**
- 3. Randy W. Horst - **\$2,052.00**
- 4. Cheryl Huband - **\$2,138.46**
- 5. Helene O. Kobelnyk - **\$2,506.34**
- 6. Helene Kobelnyk - **\$2,506.34**
- 7. Cynthia A. Lanmon - **\$2,355.23**
- 8. Douglas E. Larue - **\$2,624.95**
- 9. Manuel R. Lopez - **\$2,142.74**
- 10. Yovanne Lucero and Crystal Lucero - **\$2,256.15**
- 11. Keith Alan McDaniel and Keri Sue McDaniel - **\$2,404.55**
- 12. Bonnie McEuen - **\$2,523.86**
- 13. Diane K. Medcalf - **\$2,613.91**
- 14. Jesus Medina (Land# 1007379) Sandra Medina & Ricardo Almanza (MH# 252481) - **\$2,649.40**
- 15. Jesus Medina Jr. & Rosa Medina (Land# 252292) (MH# 252291) - **\$2,649.40**

Total: \$36,521.89

Liens to be filed:

- 16. Jesus Medina (Land# 1007379) (MH# 1003398) - **\$2,202.36**
- 17. Craig Wilguess and Eleanor Wilguess (Land# 294575) (MH# 330209) - **\$672.32**
- 18. Pete M. Salas Jr. and Nancy J. Sanchez (Land# 251575) Julio & Irma Martinez (MH# 258669) - **\$701.58**
- 19. Jack R. Valentine (Land# 267475) Rudy A. & Jennifer D. Chavez (MH# 311829) - **\$701.58**
- 20. John R. Clark and Wanda E. Clark - **\$733.86**

Total: \$5,011.69

Total amount filing: \$41,533.59

Commissioner Fischer requested to remove item c, item f, item g, item h, and item j from the consent agenda.

Motion: Approve the Consent Agenda excluding Item 7c, 7f, 7g, 7h, and 7j, **Action:** Approve, **Moved by** Commissioner Pfeffer, **Seconded by** Commissioner Fischer.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

Item 7c- Commissioner Fischer requested clarification on how the costs were incurred. Jeff Honeycutt, road superintendent, explained the agreement between the County of Lincoln and the Cibola National Forest was similar to the agreement with the Lincoln National Forest. Mr. Honeycutt explained the County obligation was to blade the road, however if there were any culverts, cattleguards, etc. needed, they would be provided by the Cibola National Forest.

Motion: Approve Item 7c, **Action:** Approve, **Moved by** Commissioner Fischer, **Seconded by** Commissioner Pfeffer.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

Item 7f- Commissioner Fischer questioned the dues and was hoping to see a better return on investment. Commissioner Pfeffer stated there was a return on investment, however it could be better. Chair Proctor stated he had been working with Dora Batista and SNMED and was hoping to get a better return on investment in the future.

— **Motion:** Adopt Resolution 2024-11, **Action:** Adopt, **Moved by** Commissioner Fischer, **Seconded by** Commissioner Serna.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

Motion: Approve Item 7g, **Action:** Approve, **Moved by** Commissioner Fischer, **Seconded by** Commissioner Pfeffer.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

Item 7h- Commissioner Fischer questioned the addendum. Laura Doth, Executive Director of the South Central Mountain RC&D, explained Gavilan Canyon and Paradise Canyon were private property so they collaborated with the NM State Forestry Division. Ms. Doth detailed the WUI program and explained it was a 50/50 match with a maximum. Robert Barber, Chair of the LANRAC Committee, stated they were more proactive in the areas questioned. Commissioner Serna questioned if the funds were available for use in the incorporated areas of the County. Ms. Doth explained the incorporated areas were included as well as the unincorporated areas.

Motion: Approve Item 7h, **Action:** Approve, **Moved by** Commissioner Fischer, **Seconded by** Commissioner Crunk.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

Item 7j- Attorney Morel explained his concern with the MOU would allow OCEC to add onto the tower at 40 & 50 feet and to place equipment in the building. Attorney Morel questioned if it was a Fair Exchange of Value. Commissioner Fischer questioned if it was an MOU or a Contract. Attorney Morel stated it was an MOU, however it read as more of a contract. Manager Pearson explained the term MOU was used since the land was donated by the Forest Service and therefore it could not be a contract. Joe Kenmore, Lincoln County OES, stated the MOU was the best terminology to use and he felt it was fair and beneficial to all.

Motion: Approve Item 7j, **Action:** Approve, **Moved by** Commissioner Fischer, **Seconded by** Commissioner Pfeffer.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

SEE EXHIBIT A: Copies of the Consent Agenda items including Resolution 2024-09 and Resolution 2024-11 are attached hereto in reference thereto made a part hereof.

8. County of Lincoln Budget

a. Approval of Budget Adjustment for FY 23/24 by Resolution 2024-08

— Treasurer Huddleston explained the revenues transfer into the 420 fund and stated it was two separate grants which must be transferred in, then expended and put back into the General Fund after they have been received. Treasurer Huddleston stated the volunteer fire department funds were to true up the state fire allotments. Commissioner Serna questioned the software purchase for the Assessor's office. Leroy Zamora, Chief Deputy Assessor, stated it was for Granicus which was for the short-term rentals within the municipalities.

Motion: Adopt Resolution 2024-08, **Action:** Adopt, **Moved by** Commissioner Serna, **Seconded by** Commissioner Fischer.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

SEE EXHIBIT B: Copy of Resolution 2024-08 is attached hereto in reference thereto made a part hereof.

b. Discussion and Consideration of County Employee Pay Plan

Treasurer Huddleston explained the Pay increase for the County Employees and stated it was moved to a Tiered pay plan instead of the grade and step plan which was used in the past. Treasurer Huddleston stated there was some discrepancy between the two different evaluations of the individual salaries based on experience. Treasurer Huddleston recommended approving the Tier scales as presented and allowing the Elected Officials and Department Heads to assess the employee pay based on their prior experience. Commissioner Pfeffer questioned the evaluations of prior experience and the option to have the Elected Officials and Department Heads evaluate the individual positions based on prior experience. Treasurer Huddleston explained the positions would each have a starting pay but could slide up the scale if they had prior related experience which would allow the departments to hire at a higher salary for those which would be better suited to the job. Chair Proctor stated he felt the Tiered scale was well overdue and hoped to be fair and consistent across all of the County employees.

Commissioner Fischer questioned the scale used in the setup of the Tiers. Treasurer Huddleston explained they reviewed four or five different Counties and many municipalities across the state to place the jobs in the various tiers, then the employees' salaries would be adjusted based on their prior experience. Commissioner Serna questioned the Public Works Director position and why it was included. Treasurer Huddleston agreed and felt the contract employees should not have been included. Commissioner Fischer questioned if anyone contacted the NM Workforce Connection to gather some of the data they had from across the state.

Commissioner Serna stated she didn't feel a job title was inclusive and comprehensive enough to determine if the needs of the organization were being met and if the employees had the certification and education needed to hold the titles. Commissioner Serna did not feel they should be lumped together in tiers simply because they had similar names. Commissioner Serna explained she felt the adjustments should be made through attrition unless they held certificates or education or by providing services that met the accomplishments and objectives of Lincoln County. Commissioner Fischer stated he felt Commissioner Serna's concerns were well founded with respect to comparables as they weren't necessarily equivalent just because the designation appeared to be correct. Commissioner Fischer explained there was still a great disparity in some of the jobs with respect to education and responsibility.

Commissioner Fischer stated the tiered format as presented was a great starting point, however they would like the committee to go back and take a closer look at some of the differences and come back with solutions. Commissioner Serna explained the foundation was good and the intent of a minimum and maximum for each job description was good, however she felt all departments didn't have an opportunity to provide input into the pay plans and felt a workshop to include a couple of the Commissioners to provide input was warranted. Commissioner Serna stated it was hard to determine the correct tiers without seeing an org chart or level of service being provided. Commissioner Serna also requested to see the existing pay rate of the current employee and the impact to the budget to include the benefits.

Motion: Endorse the proposal with direction for more detail with respect to individual job descriptions, **Action:** Approve, **Moved by** Commissioner Fischer, **Seconded by** Commissioner Pfeffer.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

12. 9:30 A.M.: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS (Items are for discussion only – no action will be taken)

Chair Proctor stated he had been working with Dora Batista. Chair Proctor provided an update on the many meetings he attended over the last month and spoke on some projects discussed in the NMC meeting.

Commissioner Crunk spoke on the insurance problems being felt in the County and the affects in the future if something wasn't done.

Commissioner Pfeffer commented on the fire Issues being handled by OES and stated Harlan Vincent was aware of the issues and would be assisting as much as possible. Commissioner Pfeffer explained broadband services throughout the County were very close and stated OCEC and PVT would be working together. Commissioner Pfeffer recommended the Commission write

a letter on their behalf in support of their endeavors. Commissioner Pfeffer stated Congresswoman Stansbury would be opening an office in Ruidoso to assist the County better.

Commissioner Serna wanted to draw attention to a few issues she encountered across the County including weed trimming and mowing needed along FFA road, the many RV parks along Gavilan Canyon and whether they had been permitted or had sufficient water rights, and some misleading signage in the Bonito area which did not allow public access.

Commissioner Fischer attended the Old Lincoln Days and Billy the Kid Pageant. Commissioner Fischer commended Commissioner Pfeffer on his efforts to get broadband in Lincoln and stated he spoke with PVT and was informed they would have broadband in Lincoln by the end of the year. Commissioner Fischer commended the Sheriff's office in their handling of shots fired and remains found in his area. Commissioner Fischer would like to come up with a better way to keep track of items discussed during the meeting and have a better follow up afterwards. Commissioner Fischer expressed his concern about the replacement of Joe Kenmore and questioned the process to replace him. Commissioner Fischer also questioned the water storage facilities for Firefighting in the County.

Clerk Hemphill explained the Regular Local Election was scheduled for November 7, 2023 and was the non-partisan election which would include all of the Schools and College, the Soil and Water Conservation Districts, the Water and Sanitation Districts, the Special Zoning District and all of the Municipalities within the County with the exception of the Village of Ruidoso as they had opted to hold their own election separately instead of having it combined with the rest of the County. Clerk Hemphill stated candidate sign up day would be on August 29 from 9:00 AM -5:00 PM in the County Clerk's Office for anyone who was interested in running for a position on one of the boards. Clerk Hemphill attended the mandatory Election School put on by the Secretary of State's Office and received an updated election code handbook with the changes made to statute within the last legislative session. Clerk Hemphill detailed a change which was made to the layout of the Regular Local Election Ballot and explained she would be doing voter outreach to make sure the voters were aware of the change.

Treasurer Huddleston and Chief Deputy Troy Niederstadt attended the Treasurers Affiliate meeting where they met with Title Companies to discuss procedures and policies. Treasurer Huddleston stated the tax sale would be held on September 14, 2023.

Leroy Zamora, Chief Deputy Assessor, stated they were re-appraising the commercial properties in Alto, Ruidoso and Ruidoso Downs and explained the process for collecting and using income and expense data for commercial property valuation. Commissioner Fischer questioned if there was a penalty for not answering the income and expense template questions provided by the Assessor's Office.

Chair Proctor recessed the Regular Meeting and convened the Public Hearing at 10:01 AM.

13. 10:00 AM PUBLIC HEARING:

Ordinance No. 2024-01: Solid Waste Collection, Disposal and Fees Ordinance of the County of Lincoln, New Mexico - an Ordinance Repealing Lincoln County Ordinances 2016-02 and 2020-04 and Enacting an Ordinance Which Regulates Acceptable and Unacceptable Waste in Lincoln County, and Providing for Efficient and Sanitary Collection of Waste, Providing for Mandatory Disposal and Assessment of Fees, Providing a Penalty for Violation of this Ordinance, Repealing Ordinances in Conflict; Providing for the Severability of Parts Hereof; and Providing an Effective Date

Attorney Morel explained the process to combine both Solid Waste Ordinances. Attorney Morel detailed the changes in the combination of the ordinances and stated many of the changes were made in the attachments.

Ted Lacoe, Resident in Biscuit Hill area, was concerned about an oil spill in his area. Commissioner Serna explained there was an agenda item later in the meeting which was to address his concerns and stated the public hearing was about the combination of the two solid waste ordinances.

Chair Proctor closed the public hearing and reconvened the Regular Meeting at 10:07 AM.

Motion: Approve Ordinance 2024-01, **Action:** Approve, **Moved by** Commissioner Serna, **Seconded by** Commissioner Pfeffer.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

SEE EXHIBIT C: Copy of Ordinance No. 2024-01 is attached hereto in reference thereto made a part hereof.

12. 9:30 A.M.: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS (Items are for discussion only – no action will be taken)- Continued

Commissioner Fischer argued against the income and expense template being used and questioned the limit on raising the non-residential rates in the County. Mr. Zamora stated there was not a limit on raising the non-residential rates. Commissioner Fischer requested Assessor Hill and Chief Deputy Assessor Zamora come back at the next meeting and explain the process so they can understand it and better explain it to the public when they are questioning it. Commissioner Crunk questioned if the inventory in a business would be included. Mr. Zamora stated personal, tangible and movable property was included, however inventory was not. Commissioner Serna questioned how the Assessor's office was identifying the commercial property in the County as there was not a business registration requirement.

Sheriff Wood thanked Commissioner Fischer for his kind words. Sheriff Wood detailed some statistics from his office over the past month.

David Vandenburg, Lincoln County Concerned Citizen, wanted to bring attention to the global issues in our Country. Mr. Vandenburg stated societal change was happening and a change needed to be made. Mr. Vandenburg explained the citizens needed to look out for each other and citizens needed to work together and not be part of the problem but to be a unified solution.

Chair Proctor recessed the Regular Commission Meeting at 10:21 AM and reconvened at 10:27 AM.

8. County of Lincoln Budget- Continued

- c. Approval of Bargaining Agreement Between the County of Lincoln and the Lincoln County Deputy Sheriff's Association

Manager Pearson detailed the Collective bargaining agreement changes within the pay salary and advanced training. Sheriff Wood explained they need to be recognized by the state.

Commissioner Fischer questioned if the agreement was acceptable to the bargaining association. Commissioner Fischer felt the term Sheriff's Department was inappropriate and should be considered as the Sheriff's Office instead. Attorney Morel stated it would need to be approved by the Union as well.

Motion: Approve the Bargaining Agreement as amended, **Action:** Approve, **Moved by** Commissioner Fischer, **Seconded by** Commissioner Serna.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

- d. Discussion and Consideration of the Sheriff's Civil Service Software Program

Sheriff Wood detailed the Civil Service Program and stated the software they had been using crashed, so they were entering everything manually.

Yvonne Petty, Sheriff's Office Administrative Director, stated Tyler Technology was being used in their office and the Civil Service Program would be an added benefit. Commissioner Serna questioned if there was already a budget for this item. Ms. Petty stated it was not budgeted as it was a catastrophic failure with the Sleuth software program.

Motion: Approve the Sheriff's Civil Service Software Program, **Action:** Approve, **Moved by** Commissioner Fischer, **Seconded by** Commissioner Serna.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

- e. Consideration of Unfunded Departmental Requests

Commissioner Serna questioned if there were quotes submitted with the requests.

Motion: Table the agenda item until the next meeting, **Action:** Table, **Moved by** Commissioner Serna, **Seconded by** Commissioner Pfeffer.

Commissioner Serna withdrew her motion and Commissioner Pfeffer withdrew his second.

9. Colonias in Lincoln County

- a. Approval of Resolution No. 2023-12 - A Resolution Authorizing Acceptance of Colonias Infrastructure Fund (CIF) Project No. 6131-CIF Funding Offer; Roads/Drainage Infrastructure Palo Verde Slope Subdivision Roadway Project from The New Mexico Finance Authority.

Eric Hamilton, Wilson & Co., detailed phase two of the Palo Verde Slope project. Mr. Hamilton stated NMFA met and approved the terms, funding structure and the conditions of a conditional Grant agreement. Mr. Hamilton stated there was a grant for \$1,350,000 and a 10% loan for \$150,000 which combined to \$1,500,000, however it also required a 10% match of \$150,000 so the total project cost was \$1,650,000. Commissioner Serna questioned why the \$900,000 in ARPA funds was not recommended for this project as a shovel-ready project and why it was never presented as a shovel-ready project since January. Mr. Hamilton explained that phase two was not a shovel-ready project, they were still working on phase one. Manager Pearson explained there was a typo and it should have been Resolution 2024-12.

Motion: Adopt Resolution 2024-12, **Action:** Adopt, **Moved by** Commissioner Fischer, **Seconded by** Commissioner Pfeffer.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

SEE EXHIBIT D: Copy of Resolution 2024-12 is attached hereto in reference thereto made a part hereof.

- b. Resolution 2024-10 - a Resolution Designating Enchanted Forest Mutual Domestic Water Consumers Association as a Colonia

Manager Pearson explained the designation of the Enchanted Forest Mutual Domestic Water Consumers Association as a Colonia. Commissioner Pfeffer questioned if Attorney Morel had reviewed the Resolution. Attorney Morel stated his office had put together the Resolution looking at a number of other resolutions and ran it by Dora Batista and the COG to make sure the language was acceptable.

Motion: Adopt Resolution 2024-10, **Action:** Adopt, **Moved by** Commissioner Serna, **Seconded by** Commissioner Pfeffer.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

SEE EXHIBIT E: Copy of Resolution 2024-10 is attached hereto in reference thereto made a part hereof.

10. Discussion, Consideration and Direction Regarding Appropriation No. 23-ZH9241 in the Amount of \$100,000 to contract for youth mentoring and positive active programming in Lincoln County

Manager Pearson explained the Village of Ruidoso agreed to be the fiscal agent, however through legislation there was a change, and the County of Lincoln was required to be the fiscal agent. Ron Sena, Village of Ruidoso, explained the change in fiscal agent and Commissioner Serna stated she felt it would be a requirement to go out to RFP for this service as there were many entities which could handle the request. Manager Pearson requested approval and to figure out a way to make it work, maybe through a partnership or MOU with the Village.

Commissioner Fischer questioned if the funds were to be used solely for the Boys and Girls Club. Commissioner Serna stated it was originally intended for the Boys and Girls Club, however in the law, they couldn't name an entity or an organization.

Rick Layne, CEO Boys and Girls Club of Chaves and Lincoln Counties, stated it would be earmarked directly for Lincoln County and would not be used in Chaves County. Mr. Layne proposed an alternative for record keeping and stated they would make sure there was no need for the County to manage the grant. Manager Pearson stated the Grant would still need to be managed by the County. Attorney Morel explained there was no guarantee the Boys and Girls

club would be the only response to the RFP and the money could very well go to someone other than who it was intended for. Attorney Morel questioned if the Village of Ruidoso would assist in the preparation of the RFP to get it out in a timely manner since the County would be without a manager shortly. Mr. Sena stated the Village of Ruidoso would be willing to work with the County on the RFP process.

Motion: Accept Appropriation No. 23-ZH9241 in the Amount of \$100,000 to contract for youth mentoring and positive active programming in Lincoln County with the assistance of the Village of Ruidoso utilizing their capacity and to issue an RFP, **Action:** Approve, **Moved by** Commissioner Serna, **Seconded by** Commissioner Pfeffer.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

11. Forest, Land & Natural Resources Matters:

a. Smokey Bear Ranger District

Jennifer Thomas, Smokey Bear District Ranger, stated they were transitioning a couple of employees. JW McCoy, Fire Management Officer with the Smokey Bear Ranger District, provided an update on the West Mountain Fire which started on the third of August. Mr. McCoy stated they were managing the fire to protect structures and planning to keep it on the forest and off the private lands. Mr. McCoy explained it was a low intensity fire, not reaching the canopy, so they were hoping to manage the fire and reap the benefits. Mr. McCoy stated the resources were fence lines, springs and archaeological sites which would be managed. Mr. McCoy stated it was currently at 601 acres and they were hoping to get to 3,000 acres.

b. Lincoln County / NMSU Extension Services

Melody Gaines, Lincoln County Cooperative Extension Services, thanked the many County Employees for their assistance and participation in making it the most successful fair yet. Mrs. Gaines provided an update on the Lincoln County Fair and detailed it was the highest grossing Fair sale to date bringing in \$317,000 prior to add-ons.

c. South Central Mountain RC & D

Laura Doth, Executive Director of the South Central Mountain RC&D, stated they were almost done with the EWP Grant and the remainder was earmarked for a sentiment pond. Ms. Doth stated they were working with NRCS to get additional projects started. Ms. Doth detailed a \$20,000 grant from fish and game to be used for gravel in the Hale Lake area. Ms. Doth stated the fire summit would be held in Ruidoso in October. Commissioner Crunk stated there needs to be a designation made for patients with oxygen needs to work with the providers to assist in getting them to a certain area. Commissioner Crunk explained oxygen concentrators were a big necessity and there should be a triage situation to assist in making sure they get what they need.

d. Upper Hondo Soil & Water Conservation District

Robert Barber, Upper Hondo, introduced Lindsey Mares, a new employee who recently joined the organization and had already started a newsletter to better reach out to the community about the options available to them. Lindsey Mares, project manager for Upper Hondo, gave a brief presentation on her history and how she got to this point. Mr. Barber stated they were continuing to work on EWP projects in the area and detailed many small projects and a couple large projects they were working on. Mr. Barber stated the Nogal Canyon EWP was completed.

e. Land and Natural Resources Advisory Committee-LANRAC

Robert Barber, LANRAC, stated they were working with RC&D on Community Wildlife Defense Funding, and they would be requesting a letter of support from the County in the near future. Mr. Barber stated a Grant would allow the purchase of equipment and they hoped to purchase very large incinerator units. Mr. Barber talked about funding to revise the CWPP and update the grant to hire a professional. Commissioner Crunk questioned the use of a masticator. Mr. Barber explained it was not as beneficial in our area as it didn't turn to mulch quick enough and could cause a fire problem. Mr. Barber stated they would request a letter of support from the Commission and they would work on a cost-benefit analysis.

Mr. Barber stated the US Fish and Wildlife proposed three major changes to the endangered species act rule. Mr. Barber explained comments were past due and he missed the deadline, but the comments would be submitted after the fact. Mr. Barber stated they treat threatened species

and endangered species the same way, however LANRAC did not feel they should be treated the same.

Mr. Barber spoke on the Bonito Lake concerns with the City of Alamogordo taking water out of Bonito Lake. Mr. Barber stated they would be looking for a letter of support to visit with the City on the water rights issues. Mr. Barber explained LANRAC was working with Upper Hondo to determine the water rights down the river.

Mr. Barber explained he continued to work with the collaborative group on the programmatic solar environmental impact statement for BLM. Mr. Barber stated the BLM was revising the 2012 Western States Rule for utility grade solar farms on BLM land.

14. Lincoln County Medical Center Update-Todd Oberheu

Sandie Nunnally, EMS Manager, provided an update on the 24-hour EMS stations. Ms. Nunnally stated all the employees for the Carrizozo Station had been hired and Alto had filled all the positions except two.

15. Lincoln County Detention Center

a. Update – Ross Castleton, Warden

Ross Castleton, Warden, provided statistics from the detention center over the last month. Warden Castleton stated they were working on different projects at the detention center, and they had completed painting the inside of the facility and replacing the windows which had been covered. Warden Castleton stated they had 6 staff vacancies they were trying to fill. Warden Castleton explained they had GED and construction skills classes ongoing at the detention center. Warden Castleton stated the annual staff training was being done so the staff was up to date on all of the changes. Warden Castleton explained they were working on the accreditation process as well as the implementation of a Medication Assisted treatment program.

b. Consideration of Setting Bed Rates, Per-Hour Fees, Mileage Charges, Annual Increases and Approving the Performance Work Statement for the Bureau of Indian Affairs (BIA), Office of Justice Services

Manager Pearson explained the removal of the BIA detainees in the past. Attorney Morel explained the changes to the rates and fees and the recommended amounts. Warden Castleton stated the nationwide standard was \$74.

Motion: Approve the rates with the ability to negotiate, **Action:** Approve, **Moved by** Commissioner Fischer, **Seconded by** Commissioner Pfeiffer.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeiffer, Commissioner Crunk, Chair Proctor.

16. County Manager

a. Report / Update

1) Opioid Settlement Participation 7/19/2023

Alan Morel and I have signed on behalf of the County of Lincoln to participate in the Opioid Settlement Agreements (Amneal, Hikma, KVK-Tech & Walgreens).

2) GreenTree Meeting 7/20/2023

Commissioner Proctor and I attended the regular scheduled GreenTree meeting as a member of the Otero landfill. The Otero Landfill update was postponed – again. Commissioner Proctor should have a Landfill update after the 8/17/2023 meeting.

3) Criminal Justice Coordinating Council Meeting – 8/16/2023

Phil Jones is stepping down as the LCJJB Coordinator and as Citation Officer. Amanda Lueva will be taking over the position. With the start of the school year, this program will be critical in helping children stay out of the Juvenile Justice system. I recommend the BOCC appoint a member of the county to continue attending and participating in the Criminal Justice Coordinating Council Meetings.

Commissioner Serna volunteered to participate in the Criminal Justice Coordinating Council Meetings on behalf of the County.

4) Meeting with Singleton Schreiber Law Firm

On August 10, 2023, I spoke with Brian Colon (attorney and partner) regarding lawsuits against PNM / McBride Fire. I explained that the BOCC has had previous law firms present to the idea of litigation against the electric provider and chose not to participate. If the BOCC desires a discussion with the Singleton Schreiber Law Firm, please advise.

5) Harassment Prevention Training 7/31/2023

Many Lincoln County Employees attended the virtual Harassment Prevention training provided by New Mexico Counties. Certificates were provided and HR has recorded the LC attendees in each file.

This training will provide the participant an understanding of the behavior and conduct which constitutes unlawful harassment on the basis of sex, sexual orientation, gender identity, race, color, religion, national origin, age (40+), and disability. Participants will learn the difference between quid pro quo sexual harassment and hostile work environment, who can be considered harassers, and that illegal harassment is not limited to the workplace. Employees, supervisors, and managers will learn their responsibilities in reporting, investigating, and stopping unlawful harassment. The class will cover the risks of romantic consensual relationships (when love blossoms in the workplace), and the line between the consensual romance and sexual harassment (when the flower withers and dies). Participants will also learn what conduct is considered retaliatory. At the conclusion, participants knowledge will be tested by answering two hypotheticals.

6) PRC / Ambulance Update

The Lincoln County Certificate to Operate was received on 8/10/2023 and is valid until August of 2026.

7) Applications for Director of Public Works

Three applications have been received and are being reviewed.

8) Director's Report

- b. Approval to Allow Manager to Utilize County Laptop and Software Until a New Manager is actively Working - With No Compensation
- c. Designation of New Opioid Settlement Authorized Signatory

Attorney Morel recommended the Chair, or another Commissioner if they so choose, be authorized to sign the Opioid Settlement on behalf of the County in the Manager's absence.

Motion: Approve the designation of Commissioner Pfeffer as the Opioid Settlement Authorized Signatory, **Action:** Approve, **Moved by** Commissioner Serna, **Seconded by** Commissioner Crunk.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

- d. Discussion and Direction Regarding Biscuit Hill Dumpster Locations

Manager Pearson explained the background on the Biscuit Hill Dumpster Locations. Ted Lacoe, county resident, had been in the area for 26 years and explained the problems with the dumpster location. Mr. Lacoe state the trash truck broke in front of the dumpster and leaked fluid onto the ground, then rains and snow helped to soak the leaked fluid into the ground and possibly contaminate the ground water and wells in the area.

Commissioner Fischer stated illegal dumping was an issue County-wide. Chair Proctor explained the County was not in a position to relocate any dumpsters when there was a transition or re-negotiation in process for the solid waste services.

Chair Proctor recessed the Regular Commission Meeting at 1:12 PM and reconvened at 1:43 PM.

17. On-Call Engineers, Wilson & Co.

- a. Approval of Construction Contract Award to MP Chavez Enterprises Inc. for the Nogal Fire Station Water Storage System Rebid in the Amount of \$317,412.61

Eric Hamilton, Wilson & Co., explained there were two bid request processes. Mr. Hamilton stated the first one had no response, however the second one had one bid from MP Chavez Enterprises Inc. Mr. Hamilton explained there was a minor mistake, however it was not consequential.

Motion: Approve the Construction Contract Award to MP Chavez Enterprises Inc. for the Nogal Fire Station Water Storage System Rebid in the Amount of \$317,412.61, **Action:** Approve, **Moved by** Commissioner Serna, **Seconded by** Commissioner Fischer.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

- b. Approval of Resolution No. 2024-13 - a Resolution by the Board of County Commissioners, the Governing Body of Lincoln County, New Mexico, Whereby the Board of County Commissioners Authorizes and Approves the Submission of a Completed Application for Financial Assistance and Project Approval to the New Mexico Finance Authority for the Water Trust Board

Mr. Hamilton stated the Magado Creek Vehicle Bridge was a shovel-ready project. Mr. Hamilton explained the approval of the resolution would authorize the County to submit an application for phase 1 which would be done through the fall and winter. Mr. Hamilton stated it was expected to rank high as it was a shovel-ready project and it fit the criteria for flood protection. Commissioner Serna questioned if the match was budgeted. Jeff Honeycutt, Road Superintendent, stated the design was included in phase 1A of the ARPA funding. Mr. Honeycutt explained shovel-ready projects were more acceptable when looking for funding, however they were having a problem finding funding for the bridge. Mr. Hamilton stated the County should be able to budget for the match in the next fiscal year.

Motion: Approve Resolution 2024-13 with an emphasis on the funding in the 2025 budget, **Action:** Approve, **Moved by** Commissioner Crunk, **Seconded by** Commissioner Pfeffer.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

SEE EXHIBIT F: Copy of Resolution 2024-13 is attached hereto in reference thereto made a part hereof.

18. Discussion, Consideration and Direction Regarding the NACO Request of Voluntary Contributions, Equivalent to 1% of the LATCF Funding Each County Received Over the Two-Year Period, as a One-Time Endowment to Establish the Public Lands Resource Center.

Chair Proctor stated 1% of the LATCF funding was roughly \$58,000 and was requested to help with the establishment of the Public Lands Resource Center. Chair Proctor felt it would be a great benefit to the County. Manager Pearson explained the LATCF funding was not available to be used for this purpose. Commissioner Fischer questioned the statement about the prohibition of partisan issues.

Motion: Approve a voluntary contribution equivalent to 1% of the LATCF Funding as a one-time endowment to establish the public lands resource center with the funding to come out of the general fund, **Action:** Approve, **Moved by** Commissioner Crunk, **Seconded by** Commissioner Pfeffer.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

19. Approval to Issue a Request for Proposals (RFP) for Independent Contractor Services for Misdemeanor Compliance Program.

Manager Pearson explained this agenda item was for independent contractor services for the misdemeanor compliance program within the County. Attorney Morel explained 31-20-5.1 allowed Counties to establish the fees. Attorney Morel stated the Magistrate Courts imposed fees on DWI offenders and others which needed to be monitored. Attorney Morel explained the fees were then put into a fund and the fund was used to pay for the misdemeanor compliance program. Attorney Morel stated the contract was a 4-year contract which was up and needed to be renewed.

Motion: Approve the issuance of a Request for Proposals for Independent Contractor Services for the Misdemeanor Compliance Program, **Action:** Approve, **Moved by** Commissioner Serna, **Seconded by** Commissioner Crunk.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

20. Avalon Forest Subdivision Development Agreement Update – Don Murphy

Don Murphy, Real Estate Developer, provided a lengthy update on the 60 acre, 24 lot Avalon Forest Subdivision Development. Mr. Murphy stated the subdivision had been in development for numerous years with many delays. Mr. Murphy explained Harcrow Surveying would re-survey the entire subdivision since it was started by DT Collins many years ago and had not been completed. Mr. Murphy stated the bylaws and restrictive covenants would be updated as well. Attorney Morel recommended bringing this Agenda Item back at the October 17, 2023 meeting.

21. Discuss and Develop Strategies That Promote Effective Communication Between Elected Officials and Established Employee Complaint Procedures, Fostering a Transparent and Accountable Work Environment.

Commissioner Pfeffer wanted to make sure the staff knew they were appreciated. Commissioner Pfeffer explained a commissioner is considered a supervisor and there is a specific path to undertake. Commissioner Pfeffer stated there was a process for staff when there was a problem and the process did not control the Commission, however the Commission was responsible for any complaints and resulting lawsuits brought by County employees. Commissioner Pfeffer stated the County was liable for the actions of the Commission. Commissioner Pfeffer explained the Public Works Director had left and the Manager was also leaving, possibly due to a commissioner. Commissioner Pfeffer explained the design was to keep the process respectful not to micro-manage the different departments. Commissioner Pfeffer stated it was an investment in the proper functioning of the County and it sent a message to the staff that this can't go forward, and they can speak up. Commissioner Pfeffer stated there was a need to be able to address the problem immediately and he requested the County Attorney review the process and give input. Commissioner Pfeffer stated it couldn't be handled through HR as it pertained to Commissioners.

Commissioner Fischer applauded the effort started by Commissioner Pfeffer and stated it was a matter of respect for each other and not presuming motivations. Commissioner Fischer explained what bothered him was when you asked for something respectfully and it was acknowledged however it did not appear. The notion that your contributions may not be as accepted and appreciated as someone else's. Commissioner Fischer reiterated information is power. Commissioner Fischer requested anyone who felt disrespect by him would talk to him about it. Commissioner Fischer did not feel the need to bring the Attorney into the discussions and was hoping to be approached directly instead. If they did not feel they could be approached, it could still be presented to the Attorney. Commissioner Fischer stated he and Commissioner Pfeffer were on opposite ends of the ideological spectrum, however they respect each other and found more common ground than anyone else on the Commission.

Commissioner Crunk detailed a previous experience in which he had to come up with a set of guidelines and that included having someone in charge. Commissioner Crunk stated in the past the County Manager and County Commissioners have always worked together. Commissioner Crunk explained their job was to provide the fuel and energy to run the County, not to micromanage the departments and offices. Commissioner Crunk reiterated the employees were valuable and they need to be taken care of. Commissioner Crunk explained if there was a problem it should be discussed with the County Manager and then brought to the individual Commissioners during Executive Session.

Attorney Morel stated County Commissioners and Elected Officials were not subjected to the personnel policy or managed by the HR codes and it was difficult to force people to be nice to each other. Commissioner Pfeffer explained the County could be sued due to a complaint directed at a commissioner. Commissioner Fischer stated it was designed to assist the Commissioners by default, however it was mainly to allow the employees and staff to go to a neutral third party, ie Attorney, HR or County Manager, to discuss a problem. Attorney Morel stated he could bring back some policies in the future for them to review.

8. County of Lincoln Budget- Continued

- c. Approval of Bargaining Agreement Between the County of Lincoln and the Lincoln County Deputy Sheriff's Association

To be brought back on September 7 for the pay period beginning September 16, 2023.

e. Consideration of Unfunded Departmental Requests

Billie Jo Guevara, Finance Director, withdrew their request for a new vehicle.

Aaron Griewahn, Emergency Services Coordinator, explained the generator for the OES Office would replace the generator which was currently out of commission. Mr. Griewahn stated they had received \$80,000 in Junior Bill funding which covered the vehicle purchase, however \$18,000 would still be needed to outfit the vehicle.

Clerk Hemphill explained the needs in the warehouse were regulated by the Secretary of State's Office and may include grant funding, so she had nothing to provide at this time.

Manager Pearson explained there were 4 sheriff's vehicles already purchased with last year's funding, however the crime scene vehicle would still need to be outfitted. Commissioner Serna would like to have it added to the ICIP for Junior Bill funding in January. Sheriff Wood explained they needed to upgrade the camera system in the office. Commissioner Serna would like to add the evidence building to the ICIP. Sheriff Wood stated they would like it to be a 2 bay with a walk-in door and electric with possible HVAC. Sheriff Wood explained the shotguns were needed and the trade in would help to offset the cost, and they were going to the Mossburg Semi-automatic with a pistol grip.

Sheriff Wood explained the need for video redaction software. Yvonne Petty, Sheriff's Office, stated they appreciated the Commissioners approving the new Tyler Software, however they needed to determine the funding source for the Tyler Software set-up fee and annual maintenance fee. Commissioner Serna stated it would need to come out of the General Fund.

Jeff Honeycutt, Road Superintendent, stated the Freightliner was to replace an existing one with a cracked frame. Mr. Honeycutt explained the \$66,826 for the salt spreader pickup and stated they needed 2 dump trucks and 4 salt spreader pickups to be fully operational. Commissioner Serna would like to add the Mini excavator to the ICIP.

Manager Pearson stated the detention center vans would need to be replaced. Commissioner Fischer stated the vans could be added to the ICIP.

Lieutenant Wilson stated the video redaction software would cost \$10,000/yr.

Motion: Approve the departmental requests as presented, **Action:** Approve, **Moved by** Commissioner Serna, **Seconded by** Commissioner Pfeffer.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

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

a. Noisy Water Winery Local Economic Development Act (LEDA) Project Ordinance

Manager Pearson explained there would need to be two public hearings scheduled, one for the new LEDA Ordinance which Attorney Morel will present and the second to remove the old LEDA ordinance which was 2022-02.

Motion: Schedule a Public Hearing on September 19, 2023, to remove Ordinance 2022-02 an existing LEDA ordinance in place and to replace it with the public hearing to consider the Noisy Water Winery Local Economic Development Act Project Ordinance, **Action:** Approve, **Moved by** Commissioner Serna, **Seconded by** Commissioner Pfeffer.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

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); and Limited Personnel Matters; Section 10-15-1, Subparagraph (H)(2)

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); and Limited Personnel Matters; Section 10-15-1, Subparagraph (H)(2), **Action:** Approve, **Moved by** Commissioner Crunk, **Seconded by** Commissioner Serna.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

Chair Proctor recessed the Regular Meeting and convened the Closed Session at 3:31 PM.

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 On December 8, 2022, the case was submitted to a 3 Judge Panel for a decision and, 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. Settlement has been reached with some of the Defendants and, Lincoln County has begun receiving payments from some of the settling Defendants. The case is still pending.

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

6. **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.

7. **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.

8. **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.

9. **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.

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

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

12. **Rosarita Brady, et al v. The Board of County Commissioners of the County of Lincoln, et al, Cause No. D-1226-CV-2022-00199** A Verified Complaint was filed by Attorneys Alexandra Bobbit and McKenzie St. Denis on the 27th day of September, 2022. Lincoln County was served on the 22nd day of November, 2022. Lincoln County Defendants filed their Motion to Dismiss in Lieu of an Answer to the Complaint on the 6th day of January, 2023. A hearing on Defendants' Motion to Dismiss took place on May 1, 2023. A ruling on the Motion to Dismiss has yet to be entered.

13. **BB Lane, LLC / 137 Bluebelle Lane** Violation of Lincoln County's Lodgers' Tax Ordinance.

14. **Kendallco, LLC / 29276 Hwy. 70** Violation of Lincoln County's Lodgers' Tax Ordinance.

15. ***Copper Ridge Homeowners Association, LLC v. Len Stokes, et al, Cause No. D-1226-CV-2022-00133**. A Complaint for Declaratory Judgment was filed by Plaintiff on July 1, 2022 and an Amended Complaint was filed on August 4, 2022. On January 11, 2022, Judge Daniel A. Bryant entered an Order allowing Plaintiff to further amend its complaint to join the County of Lincoln as a Defendant based upon the County's ownership of Lot 4A in the Copper Ridge Subdivision. On August 10, 2023, a Stipulated Order Granting Joint Motion for Dismissal with Prejudice was entered by Judge Bryant concluding this matter.

16. **Board of County Commissioners of Catron County, et al v. Secretary Robert E. Doucette, Jr., Cause No. D-725-CV-2023-00085**. A Complaint for Declaratory Judgment was filed on June 30, 2023 requesting that GSD's Health Plan Assessments to Counties are unconstitutional and void. The case is still pending.

17. ***Kurtis Grassie v. Michael Wood, Cause No. D-1226-CV-2023-00122** - Loss of employment with the Lincoln County Sheriff's Office commencing on June 23, 2022. This case is still pending.

18. ***Rex E. Beard v. Michael Wood in his official capacity of the Sheriff of the Lincoln County Sheriff's office, Cause No. D-1226-CV-2023-00169** A Verified Petition for Writ of Mandamus was filed on July 10, 2023 by Attorney Freda Howard McSwane alleging that LCSO Deputies have not been legally sworn in. The case is still pending.

19. ***Brandon A. Gonzales and Kevin D. Trapp, on behalf of themselves and other similarly situated v. Lincoln County Board of County Commissioners, and Lincoln County Sheriff's Office, Michael Wood, John Doe #1, John Doe #2, Cause No. D-1226-CV-2023-00192** A Complaint alleging improper oaths of office given to the Sheriff, Sheriff's Deputies, for false arrest, false imprisonment, and denial of due process as guaranteed by the NM Constitution was filed on July 28, 2023 by Attorneys Lauren Temple and Luke Ragsdale. The case is still pending.

20. ***KC Dorgan and Sara Cummins v. Deputy Levi Wrye, Yancy Darby, Matthew Cude and Lincoln County Sheriff's Department, Cause No. @-1226-CV-2023-00147** A Third-Party Complaint was filed by Third-Party Plaintiffs, KC Dorgan and Sara Cummins, on July 25, 2023 by Attorneys Freda Howard McSwane, and Edward Dev Bunn, Jr. alleging negligent infliction of emotional distress, violation of due process rights, and loss of financial resources. The case is still pending.

21. **New Horizons Building in Carrizozo, NM.**

22. **Deer Park Valley Special Paving Assessments & Delinquencies**

Tort Claims Notices Received or Threatened
2023

Ornelas, Mark – Tort Claim Notice received on January 4, 2023, alleging injuries sustained on October 11, 2022, as a result of an automobile accident / rollover of the Detention Center Transport Van owned by Lincoln County while being transported from Eddy County Detention Center to Lincoln County Detention Center.

Booth, Marcus – Tort Claim Notice received January 26, 2023, alleging injuries sustained by Claimants head due to the actions by staff of the Lincoln County Detention Center and staff's refusal to take Claimant for medical treatment.

Ramos, Heber – Tort Claim Notice received on February 17, 2023, alleging Civil Rights Violations and injuries sustained while Mr. Ramos was incarcerated at the Lincoln County Detention Center.

Smoley, Cinthia – Tort Claim Notice received February 24, 2023, [Claimant also sent the Tort Claim directly to New Mexico Counties Claims Department] alleging that beginning on November 28, 2022, she was subjected to a conspiracy of constitutional deprivations when she was unlawfully removed from her home at 105 Bluebird Lane, Ruidoso, NM. Her claims include that: she sustained injuries while being detained, she was abused during her incarceration at the Lincoln County Detention Center, she was assigned a Public Defender without her consent, and that all of her pets were immediately euthanized by the Lincoln County Humane Society the day of her arrest. Claimant has named the following agencies in her claim: Twelfth Judicial District Court, Lincoln county Sheriff's Office, Ruidoso Police Department, New Mexico State Police, Ruidoso Animal Control, Lincoln County Animal Control, Humane Society, Lincoln County Magistrate Court Judge, Katie Lund.

Smoley, Robert – Tort Claim Notice received February 24, 2023, [Claimant also sent the Tort Claim directly to New Mexico Counties Claims Department] alleging that beginning on November 28, 2022, he was subjected to a conspiracy of constitutional deprivations when he was unlawfully removed from his sister's home at 105 Bluebird Lane, Ruidoso, NM where is resided. His claims include that he was abused during his incarceration at the Lincoln County Detention Center, he was assigned a Public Defender without his consent, and that all of his pets were immediately euthanized by the Lincoln County Humane Society the day of his arrest. Claimant has named the following agencies in his claim: Twelfth Judicial District Court, Lincoln county Sheriff's Office, Ruidoso Police Department, New Mexico State Police, Ruidoso Animal Control, Lincoln County Animal Control, Humane Society, Lincoln County Magistrate Court Judge, Katie Lund.

Provine, Allison – Tort Claim Notice received March 14, 2023, referencing the Lincoln County Sheriff's Office stating: "faulty tail light"

Mendoza, George – Tort Claim Notice received March 20, 2023, alleging that on or about December 10, 2022, Lincoln County Medical Center and/or its agents fell below the standard of care resulting in injuries and damages to Claimant.

Soden, Sue – Tort Claim Notice received March 31, 2023, alleging that on or about March 1, 2022 and continuing thereafter to on or about April 12 and May 5, 2022, Lincoln County Medical Center and/ or its agents fell below the standard of care resulting injuries and damages to Claimant.

Vargas, Luis A. – Tort Claim Notice received June 7, 2023, alleging personal injuries sustained during a motor vehicle collision as a result of a large pothole. Claimant alleges that the Village of Ruidoso, Lincoln County and/or the State of New Mexico may have an exposure for liability in connection with this loss.

***Sambrano, Patrick** – Tort Claim Notice and Intent to Sue received August 4, 2023, alleging violation of Claimant's 5th and 6th Amendments of the U.S. Constitution, violations of Article II, Section 10, 13, 14, and 18 of the NM Constitution, false reporting, and indifference to the impact and consequences of Claimant's arrest based on false pretenses, and detained for 72 days before his arraignment.

2022

Schwartz, Neil – Tort Claim Notice received on February 10, 2022 alleging malicious and/or tortious actions and/or omissions by the State of New Mexico, the Lincoln County Sheriff's Department, the New Mexico State Police, and the Twelfth Judicial District Attorney's Office

resulting in damages to Claimant including, but not limited to, infliction of mental pain and suffering, injuries to Claimant's reputation, and current and future loss of earnings.

Downs, Barbara – Tort Claim Notice received May 6, 2022 alleging improper road and/or waterline maintenance resulting in a vehicle collision due to the icy road at the intersection of Sudderth Drive and Paradise Canyon in Ruidoso, New Mexico. A 2nd Tort Claim Notice was received on May 9, 2022 for a separate source with the same allegations as those set out in the May 6, 2022 notice.

McMinn, David – Tort Claim Notice received on July 6, 2022, alleging multiple, serious issues due to the use of excessive force by BIA law enforcement who may have been agents of or acting on behalf of the Village of Ruidoso, Ruidoso Police Department, Lincoln County, N.M. State Police and the State of New Mexico.

New Mexico Boys and Girls Ranches, Inc. and its Employee, Bridgman, Ted – Tort Claim Notice received on August 9, 2022, alleging violation of civil rights and tort claims act, including a demand to cease and desist and the return of promotional materials confiscated by County representatives at the Lincoln County Fair.

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

Snodgrass, Joshua – Tort Claim Notice received on November 2, 2022 concerning loss of employment with the Lincoln County Sheriff's Office commencing on June 23, 2022.

2021

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 – On November 8, 2021, Ms. Smoley submitted to the Lincoln County Treasurer's 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.

Chair Proctor adjourned the Closed Session and reconvened the Regular Meeting at 4:30 PM.

Commissioner Crunk 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.

Motion: Authorize Attorney Morel to prepare a quitclaim deed to the Estate of Jane E Spencer Turner for the New Horizons building in Carrizozo New Mexico, **Action:** Approve, **Moved by** Commissioner Serna, **Seconded by** Commissioner Pfeffer.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

24. Authorization to Utilize Electronic/Stamp Signature for the FY 23/24 Fiscal Year for Agenda Items Only

Clerk Hemphill explained there were instances where an agenda item was approved, however a commissioner may have inadvertently missed signing a document or where a document had been approved with a minor typo and needed to be corrected and re-signed. Clerk Hemphill recommended the Commissioners give authorization to utilize their electronic/stamp signature for agenda items which were approved, and the Commissioners were unable to sign in person. Clerk

Hemphill stated the authorization would be effective for all Commission Meetings within the year and would be re-authorized each year.

Motion: Authorize the County Clerk to utilize the Electronic/Stamp Signatures in the event a Commissioner is not physically present to sign the documents for the Fiscal Year 23/24 for Agenda Items only, **Action:** Approve, **Moved by** Commissioner Serna, **Seconded by** Commissioner Crunk.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

25. Signing of Official Documents

26. Next meetings:

- a. September 7, 2023 - Special Meeting to Impose Property Tax Rates (Subject to Change)
- b. September 19, 2023 – Regular Meeting

27. Adjourn

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

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

There being no further business to come before the Board of County Commissioners, Chair Proctor adjourned the meeting at 4:36 PM.

County of Lincoln
Board of Commissioners



Todd F. Proctor, Chair



Jon F. Crunk, Vice Chair



Samantha J. Serna, Member

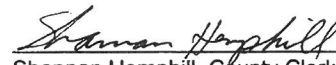


Mark G. Fischer, Member



Pierre S. Pfeffer, Member

ATTEST:



Shannan Hemphill, County Clerk

September 19, 2023
Date Approved

