

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 December 19, 2023

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on December 19, 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 Makayla Zonfrilli, County Manager; Alan Morel, County Attorney; and Shannan Hemphill, County Clerk.

3. Invocation

The Invocation was presented by Commissioner Fischer.

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 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.

6. Approval of Minutes:

- a. November 14, 2023 Regular Commission Meeting

Motion: Approve the November 14, 2023 Regular Commission Meeting, **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.

7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month Ending November 30, 2023
- c. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims
- d. Approval of Revised Land and Natural Resources Advisory Committee (LANRAC) 2024 Operational Schedule
- e. Approval of Resolution 2024-30 Disposition of Surplus Inventory
- f. Approval of Annual Renewal of J-Mar's Preventative Maintenance Agreement for Planning Plotter/Copier/Scanner

- g. Approval of ENDWI and STEP Grant Agreement for FY 2024 Between the NM Department of Transportation Traffic Safety Division and the County of Lincoln

Commissioner Fischer requested items 7a and 7f pulled for a brief discussion.

Motion: Approve the Consent Agenda Items excluding items a and f, **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.

Item 7a- Commissioner Fischer requested a side-by-side comparison to see how the County is trending month to month.

Item 7f- Commissioner Fischer questioned the dates as they were prior to the approval. Manager Zonfrilli felt they would be covered but stated she would check with J-Mar. Commissioner Serna questioned the maintenance agreements within the other offices. She requested the County Manager find a way to combine contracts from all departments in the future.

Motion: Approve Consent Agenda Items a and f, **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.

SEE EXHIBIT A: Copies of the Consent Agenda items including Resolution 2024-30 are attached hereto in reference thereto made a part hereof.

8. Finance:

- a. Discussion and Direction Regarding New Financial Reporting Requests

- b. Approval of Budget Adjustment FY 23/24 by Resolution 2024-31

Manager Zonfrilli stated this agenda item would need to be brought back later in the meeting. Commissioner Serna requested to add lodgers tax to the budget report.

- c. Approval of Prior Year Invoices – Parts Plus (2 Invoices) in the Amount of \$313.15

Aaron Griewahn, OES, explained the parts were picked up by the Arabela Fire Department, however it was added to the wrong account.

Motion: Approve the prior year invoices as presented, **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.

9. Forest, Land & Natural Resources Matters:

- a. Smokey Bear Ranger District

- b. Lincoln County / NMSU Extension Services

Melanie Gutierrez, Lincoln County Extension Services, updated on the happenings in her office and around the County.

- c. South Central Mountain RC & D

Laura Doth, South Central Mountain RC&D, attended a meeting in Lincoln to discuss the possibility of submitting a WUI grant in the area. She stated all EWP reports had been completed and submitted. Ms. Doth explained they had a meeting on the diversion in the racetrack area and would need to request additional funds. She was concerned the RC&D council had not had a problem in prior years making the payment and then being reimbursed, however there may be a problem with the amount this year. She stated they would need to go to RFP for the project.

- d. Upper Hondo Soil & Water Conservation District

Judy Bock, Upper Hondo Soil & Water, explained they were making plans for weed spraying in the spring. She stated the Hondo Valley EWP was complete.

e. Land and Natural Resources Advisory Committee-LANRAC

Robert Barber, LANRAC, stated they were working on the land use resolution. He explained the Smokey Bear District ranger was back and they were working with grazing permittees. Mr. Barber stated they had hired a new Supervisor who would start in January.

12. Lincoln County Medical Center:

a. Update from Todd Oberheu, Hospital Chief Executive

Todd Oberheu, Hospital Chief Executive, explained the Lincoln County Medical Center recently received designation from CMS as a 4-star facility and stated there were only four in the State who received that designation. He stated the remodeling of the front desk area in the Physicians Building should be completed in the next week.

b. Presentation of Remodel Concept for a Women's Clinic

Mr. Oberheu presented on the anticipated remodel of the old Heritage Building. He explained they were using DPS as the architects and the remodel would require plumbing and other changes to make it into a clinic.

Mike Coker, EMS, stated they had prior approval for \$350,000 for the purchase of a new ambulance. Mr. Coker explained they were able to find a remount manufacture for about \$231,000 which should be delivered in 3-4 months. He requested to use the remaining funds for a new response vehicle, and they would like to use the old response vehicle as a maintenance vehicle around the hospital.

11. Lincoln County Detention Center Update – Ross Castleton, Warden

a. Request for CSG reimbursement for two segregation showers

Manager Zonfrilli toured the Detention Center and updated on the bars in the showers being replaced.

13. Manager's Report

1) Security Updates – Courts (CEO Audrey Hukari) & Lincoln County

Total cost: 682,508.20

Tentatively deduct \$48,285.00 Including NMGR to Delete Stucco at Rack Façade Parapets.

The quotes are from February 2023. Audrey and I will be setting up a meeting with Zeke from White Sands to make sure this quote is still good. If not, we will bring the updated cost to the January Meeting.

Manager Zonfrilli explained invoices 2, 4 and 6 were more important and would be included in phase 1. She stated they were planning a walk-through in early January. She explained ENMU-Ruidoso had offered the use of their facilities for Commission meetings in the future if the building was under construction and a new location was needed. Manager Zonfrilli stated the County needed to adjust their plan and she felt they should work on the swipe doors first and look at other options for the future.

2) Nick Crockett – Lobbyist

The county has entered a contract with CapGov to assist in securing federal funding for various projects that serve the interests of Lincoln County residents. Mr. Crockett had the ability to tour the county as well as meet with most of the Commissioners on their priority items for the County which includes but is not limited to; broad band, fairgrounds, housing, ISO scores/Fire, OES building, county-wide initiatives, paid fire staff, etc. Lincoln County's interests overlap with many other stakeholder partners in the Community including water districts, municipalities, COG, etc.

10. 9:30 A.M.: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS INCLUDING FAREWELL TO OUTGOING OFFICIALS (Items are for discussion only – no action will be taken)

Chair Proctor detailed the many meetings he attended over the prior month. Chair Proctor stated there were no findings on the exit audit and commended the staff for their hard work.

Commissioner Crunk did not have a report.

Commissioner Pfeffer detailed some of the meetings he attended over the prior month.

Commissioner Serna stated Mayor Crawford had attended a meeting and was able to get contact information from AirBnb. Commissioner Serna was then able to meet with an AirBnB representative who explained they were not able to release the information of their individual businesses to the County or Municipality as it was a privacy concern, however they would be willing to receive shapefiles to determine which businesses were in the County instead of in a Municipality, so she felt it was a step in the right direction.

Commissioner Fischer attended the DOT meeting in Lincoln about the speed humps. He also stated Lincoln should have broadband by the end of the year. Commissioner Fischer detailed meetings he attended over the prior month.

Clerk Hemphill explained her office held 4 automatic recounts and 2 voting system checks over a two-week period along with Judge Sugg and a Precinct Board. She was happy to announce that the votes at the end of both processes were exactly the same as the results presented at the County Canvass. Clerk Hemphill stated all votes count and every vote matters, as seen in the large number of offices which were decided by a very small margin. Clerk Hemphill invited everyone to attend the Countywide swearing in Ceremony, which was scheduled for December 21, 2023 at 8:30 AM.

Treasurer Huddleston detailed the tax collections received by her office prior to the deadline was 64% and she commended her staff for all their hard work. She stated the second half taxes needed to be received by April 10, 2024.

Sheriff Wood provided statistics from his office over the prior month.

Assessor Hill explained his office was completing the commercial reassessment and reappraisals. He explained there was a change in Statute in the prior year which mandated a uniform Notice of Value across the State, however they had to request a waiver as Triadic was unable to meet the new requirements. Assessor Hill stated they had been working diligently with Triadic and would be in compliance with the State requirements for the upcoming year.

Dale Gibson, Alto resident, was concerned with the proliferation of wild horses in the area. He requested an agenda item in January to discuss some options for the future.

Gilbert Lucero and Lance Wright, OCEC, were concerned about the abandonment of Dead Man's Road as it was a rugged area, and they utilized the road to get to the power lines and poles for inspection and upkeep.

Chair Proctor recessed the Regular Commission Meeting at 9:53 AM and reconvened at 10:03 AM.

13. Manager's Report- Continued

3) Lodger's Tax Software

Last week I discovered we had spent about \$27k on a software for Lodger's tax (Granicus). This is similar to a program we have now (Rental Scape) but with more features. Apparently, we have been paying on both software and Granicus has not followed through with their end of the bargain these past 6 months. I am working with their contract team to get a copy of the SOW and also have a meeting set up Friday to do a teleconference to discuss the lack of project communication and service provision. Otherwise, we are going to continue to pay for 2 software which I do not want to do!

4) LATCF Funding

a. Tyler Munis

- i. We have procured quotes from the State procurement site and therefore do not need an RFP. Quotes attached.

b. Phone/Internet

- i. We are still working on a proposal

5) Opioid Funding Proposal

There was a lengthy discussion about the possible use of the Opioid funding. The Commission recommendation was to do an RFP for an organization who would run the whole program and have a comprehensive solution.

6) Reorganization of Maintenance, Assets, and Procurement

Manager Zonfrilli stated this item needed to be discussed during Executive Session.

Chair Proctor recessed the Regular Commission Meeting at 11:21 AM and reconvened at 11:26 AM.

7) Fire Chief Meeting

This was a hot topic but I think the meeting went better than anyone anticipated. The original plan was to propose a consolidation and the use of 12 paid fire staff. Prior to the meeting I had the chance to meet with several firefighters and a few chiefs and I came up with an impromptu idea of doing 6 full time, 6 part time, and volunteer firefighter benefits such as mileage reimbursement and Property tax rebate program (which I ran by Alan) and other counties do this.

This still wasn't as well received as I had hoped but towards the end, we came up with a common goal which was the County's wish to lower ISO scores. Although we shouldn't give up on consolidation completely because consolidation gives full credit for reduction in ISO, we can get partial credit with the 6 paid, 6 part time staff which the group agreed with. Consolidation will be set to the side for now and we will be meeting the 7 chiefs, myself, and Arron & Bryan in January to discuss further options of coming together and identifying our top challenges such as water storage tanks, hydrants, or other challenges. I want to work with the Chiefs to come up with a comprehensive strategic plan for fire mitigation and ISO scores. Overall, I was pleased with our first meeting.

8) Sheriff's Dept. & Road Dept. Staff Meeting – Executive Session Item

9) Agenda Policy

Manager Zonfrilli detailed her recommendation for the agenda policy going forward.

Motion: Approve the Agenda setting policy 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.

10) Strategic Planning

I reached out to other counties and discovered Consensus Planning which is a part of the State website so no RFP needed. I plan to reach out for a quote.

*Consensus Planning
(Ms) Jackie Fishman, 505-764-9801
Fishman@consensusplanning.com*

11) Paid Family Leave Act: Senate Bill SB11

Manager Zonfrilli detailed Senate Bill SB11 and there was a lengthy discussion on how it would impact the County.

Motion: Support SB 11, Paid Family Leave Act, **Action:** Approve, **Moved by** Commissioner Pfeffer, **Seconded by** Commissioner Fischer.

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

Yes: Commissioner Pfeffer.

No: Commissioner Fischer, Commissioner Serna, Commissioner Crunk, Chair Proctor.

12) Planning Training – Sante Fe County

I am working with Gary from Santa Fe (their Planning Director) to get me, Gary, and Scott some training on processes of planning in New Mexico such as proper Plat review and other processes. I am looking forward to this training to assist staff with their duties.

13) Director's Reports

Nick Herrera, Ordinance Enforcement Officer, provided an update on his progress over the past month.

8. Finance: -Continued

- b. Approval of Budget Adjustment FY 23/24 by Resolution 2024-31

Motion: Adopt Resolution 2024-31 as amended to remove the Opioid and Indigent funding,
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.

SEE EXHIBIT B: Copy of Resolution 2024-31 is attached hereto in reference thereto made a part hereof.

13. Manager's Report- Continued
13) Director's Reports

Sheriff Wood commended Mr. Herrera for his efforts to assist a Sheriff's Deputy in apprehending and detaining a suspect.

- 14. Senior Citizen's Centers:**
- a. Discussion and Approval to Renew Cooperative Agreement and Lease for the Corona Senior Citizen's Center Between the County of Lincoln and the Village of Corona
 - b. Approval of Capital Appropriation Project Agreement for **Capitan** Senior Citizen Center in the Amount of **\$34,284.00** to Purchase and Equip Vehicles
 - c. Approval of Capital Appropriation Project Agreement for **Carrizozo** Senior Citizen Center in the Amount of **\$48,429.00** to Purchase and Equip Vehicles
 - d. Approval of Capital Appropriation Project Agreement for **Corona** Senior Citizen Center in the Amount of **\$34,284.00** to Purchase and Equip Vehicles
 - e. Approval of Capital Appropriation Project Agreement for **Hondo** Senior Citizen Center in the Amount of **\$30,000.00** to Purchase and Equip Vehicles
 - f. Approval of Capital Appropriation Project Agreement for **Ruidoso Downs** Senior Citizen Center in the Amount of **\$48,429.00** to Purchase and Equip Vehicles

Motion: Approve Items a-f as presented, **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.

18. Letter of Support for the Upper Hondo Soil & Water Conservation District to Apply for the River Stewardship Grant Program to Rehabilitate the Rio Bonito Riparian Area

Motion: Approve a Letter of Support for the Upper Hondo Soil & Water Conservation District Grant Program, **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.

17. Discussion and Direction Regarding Village of Ruidoso's Request to Utilize Local Assistance Tribal Consistency Funds in the Amount of \$2.5 Million for the Village's workforce housing initiative.

Commissioner Fischer questioned the number of employees they were expecting per the number of housing units. Michael Martinez, Deputy Village Manager for the Village of Ruidoso, explained they were hoping to have 100, if completely maxed out. Commissioner Fischer was concerned about the water usage and the water availability in the area. He questioned if the project could be privately funded instead of the County covering \$2.5 Million. Mr. Martinez talked about water usage and explained they had a Water Director who was starting to evaluate the water rights and protection of the current resources. Mr. Martinez explained they were looking at both public and private funding sources.

Commissioner Crunk questioned who would qualify for the affordable housing and how it would be handled. Colin Kruger, developer working with the Village for three years, explained it was an income restricted project targeting workforce housing folks. He explained the applicants would

have to show a job income and qualify through their income levels; it wasn't a Section 8 property. Mr. Kruger stated it would be approximately \$1,000/month for a two-bedroom apartment and the rental amounts were regulated by HUD. Todd Oberheu stated he had been on the housing committee for a while, and they were seeing a shift. He explained they had seen an increased number of individuals living in Capitan and working in Ruidoso, which was starting to strain the resources and increase the rental rates in Capitan. He stated about 10% of his workforce couldn't afford to live in the County and come from Alamogordo or another County. Mr. Oberheu explained the ability to get housing built in Lincoln County was a huge problem because of the cost of construction.

Chair Proctor questioned if there was a comprehensive plan put in place two years ago when the land was acquired. Mr. Martinez explained they started a planning document in 2015, they updated it in 2018 and they were revisiting it again this year.

Commissioner Pfeffer questioned if they had an idea of how many homes in Ruidoso had been transformed from worker housing to weekend or short-term rentals. Mr. Martinez explained there were currently 1,488 short term rentals within Ruidoso and stated the short-term rental business had increased across the Country in the last few years, however they didn't have a specific number of homes which had been converted.

Motion: Approve the allocation of \$2.5 Million to the Village of Ruidoso using Local Assistance Tribal Consistency Funds, **Action:** Approve, **Moved by** Commissioner Serna, **None seconded.**

Motion died for lack of a second.

Chair Proctor recessed the Regular Commission Meeting at 12:49 PM and reconvened at 1:16 PM.

15. Road Department:

- a. Capital Projects Update – Renegade and Wilson & Co.: Fairgrounds, Lower Eagle Creek, & Palo Verde Phase I Funding; Projects in Construction; Project Going to Construction; 2024 Upcoming Projects

Eric Hamilton, Wilson and Company, provided an update on the status of the upcoming projects.

Michael Stevenson, President of Renegade Construction, discussed the schedule of the Lower Eagle Creek Phase 1 projects.

Mr. Hamilton detailed the Fairgrounds Project Phase 1b.

Mr. Stevenson discussed the detailed schedule and the phase 1a punch list.

Mr. Hamilton explained the Palo Verde Phase 1 projects.

- b. Approval of New Mexico Department of Transportation Local Grant Road Fund Grant Extension Request by Resolution 2024-32: a Resolution to Extend the Termination Date of the Local Government Road Fund County Arterial Program Agreement, Contract No. D19377, Control number L200577 from December 31, 2023, to June 30, 2024. Lower Eagle Creek Cap. (County Arterial Program) \$251,137.00 (with County Match)

Mr. Hamilton explained the Grant agreement extensions and stated they should be complete by the end of January 2024; however, the recommendation was to put June 30, 2024 on the contract. Attorney Morel explained the numbers were transposed and it should read 2024-34.

Motion: Adopt Resolution 2024-34, **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 C: Copy of Resolution 2024-34 is attached hereto in reference thereto made a part hereof.

- c. Approval of New Mexico Department of Transportation Local Grant Road Fund Grant Extension Request by Resolution 2024-33: a Resolution to Extend the Termination Date of the Local Government Road Fund Cooperative Agreement,

Contract No. D19375, Control number L200563 from December 31, 2023, to June 30, 2024. Co-op \$133,333.00 (with County match).

Motion: Adopt Resolution 2024-33, **Action:** Adopt, **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.

SEE EXHIBIT D: Copy of Resolution 2024-33 is attached hereto in reference thereto made a part hereof.

- e. Approval of Revision to Cooperative Project Agreement for Project Control No. 2104780 (Magado Creek Pedestrian Livestock Bridge) Between the NMDOT and County of Lincoln – Funding source reallocation.

Mr. Hamilton explained there was a budget shortfall and NMDOT suggested they move the program from TAP (Transportation Alternative Program) to the Rural Carbon Reduction Program, the rest of the agreement remained the same.

Motion: Approve the revision to the Cooperative Project Agreement Control No 2104780, **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.

- f. Discussion on Colonias Grant Phase II – Palo Verde Slopes – Loan component & County Match – corresponding with Resolution 2024-12 (10% loan \$150,000 & 90% grant \$1,350,000.00).

Mr. Hamilton detailed the Phase II Grant agreement. Attorney Morel explained there was a typo and it should read Resolution 2024-32.

Motion: Adopt Resolution 2024-32, **Action:** Adopt, **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.

SEE EXHIBIT E: Copy of Resolution 2024-32 is attached hereto in reference thereto made a part hereof.

- d. Informational review regarding the citizen concerns on Dead Man's Canyon Road, Arabela, New Mexico

Robert Barber, Chairman of the Road Review Committee, explained they did an informal review of the road, however not all members were available, and they did not have a completed application. He stated the utility companies did not show up, but they did have some citizens from the area who attended. Mr. Barber stated the County maintained 1 mile and there was an additional half mile which was privately owned.

Joseph Morales, Game and Fish Department, questioned what role the Game and Fish department had in the future of the discussion. Mr. Barber explained they would be invited to the meeting in the future if an application was submitted. Commissioner Serna requested the Game and Fish provide a harvest report so they could determine the impact on the hunters.

- g. Discussion on the CAT quotes for a D6 Tractor - \$504,400.00 or \$7,092.83 per month for 72 months. (appraisals pending and cost may come down).
- h. Discussion on the CAT quotes for CS12GC Paving - \$176,900.00 total and \$2,848.13 per month for 60 months. (appraisals pending and cost may come down).

Eugene Mora, Wagner Equipment Company, explained the provided quotes included trade values. Mr. Honeycutt explained the payment was going up with the trade in, increasing about \$1,900/month.

Mr. Mora explained they would warrant the old equipment until the new equipment was available, and the monthly payment would remain the same until the new equipment was available as well.

Motion: Approve both contracts as presented, **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.

16. Lincoln County Planning Department

- a. Approval to File Solid Waste Liens:
 - 1. Bonnie Bass- **\$572.70**
 - 2. Thomas D. Darrah and Cathy L. Darrah- **\$932.36**
 - 3. Cecilia Runnels- **\$675.40**
(Land 1001805 Cecilia Runnels)
(MH 315728 Cecilia Runnels)
 - 4. Frances Chavez- **\$875.40** (acct #755)
 - 5. Frances Chavez- **\$875.40** (acct #1189)
(Land 238300 Frances Chavez)
(MH 390992 Frances Chavez)
 - 6. Raven Stewart- **\$1,118.10**
 - 7. Stansell Ranch LP- **\$1,326.18**
(Land 368650 Stansell Ranch LP)
(MH 371355 Stansell ranch LP)

Scott Annala, Planning Department, stated they needed to remove item 7 Stansell Ranch from the Lien process.

Motion: Approve Filing Solid Waste Liens 1-6 as presented, **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 to Issue Customer Refund for Ameilia Handrich, in the Amount of \$198.08 for Solid Waste Billing Error (Property # 302172)

Motion: Approval to issue a Customer Refund for Ameilia Handrich as presented, **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.

- c. Request to Transfer Current Customer Credits by True-Up to Universal Waste Systems in the Amount of **\$13,974.31**

Motion: Approval to Transfer Current Customer Credits 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.

- d. Approval of Lodgers' Tax Request:
Event: **Spencer Theater Summer Season 2024**
Date of Event(s): **June-August 2024**
Requester: **Spencer Theater for the Performing Arts**
Amount Requested: **\$15,000.00**

Motion: Approve the Lodgers' Tax Request as presented, **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.

19. Request for Approval for a Release of Bond for Don Murphy Regarding the Avalon Forest Subdivision in the Amount Of \$25,180.00.

Motion: Approve the Release of Bond for Don Murphy as presented, **Action:** Approve, **Moved by** Commissioner Pfeffer, **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.

20. Approval of Subrecipient Agreement Between the New Mexico Department of Finance and Administration and the County of Lincoln for the Regional Recreation Centers Quality of Life Program in the Amount of \$236,990.00

Motion: Approve the Subrecipient Agreement as presented, **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.

**21. Dora Batista – Council of Governments
Discussion and Approval of the Revised EDA Application 00003329 (the original in-kind match won't be counted and therefore a cash match is required for amendment).**

Manager Zonfrilli explained the original in-kind match wouldn't be counted so they would need to come up with a \$40,000 cash match. She stated there were a few other applications pending which may come through with additional funding.

Motion: Approval to Accept the revised EDA Application as presented, **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.

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

- a. Public Hearing to Consider Approval of New Application for a Club Liquor License with On Premises Consumption Only with Patio Service by Alto Lakes Golf and Country Club, Inc. located at #1 Country Club Rd., Alto, NM 88312; for Kokopelli at Alto Lakes Golf; located at 1200 High Mesa Road, Alto, NM 88312.

Scott Annala, Planning Department, explained the application which was received for Alto Lakes to take over the Kokopelli Liquor License as an on-site only license, the package liquor license would then be sold.

Motion: Approval to Schedule a Public Hearing in the January 2024 Regular Commission Meeting to Consider Approval of a New Application for a Club Liquor License with On Premises Consumption 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.

- b. Ordinance No. 2014-06 Lincoln County Indigent Hospital/Health Care Ordinance Adopting Public Assistance Provisions relating to Health are for Indigents, in Accordance with the Indigent Hospital and County Health Care Act; Providing for the Annual Adjustment to IHC Income and Claims Policy Limit Schedules; Providing for the Severability of Parts Hereof; Repealing Ordinances in Conflict Herewith; and Declaring an Effective Date

Scott Annala, Health Care Assistance Program, explained there were statutory changes made which affected the approval amounts of the prior Ordinance, requiring an update to come into compliance.

Motion: Approval to Schedule a Public Hearing in the January 2024 Regular Commission Meeting for Ordinance No 2014-06, **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.

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); 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 Including: (A) County Road Superintendent, Jeffrey Honeycutt, Contract Renewal/Negotiations; (B) General Legal Counsel, Alan P. Morel, P.A., Contract Renewal/Negotiations, Section 10-15-1, Subparagraph (H)(2); and Limited Personnel Matters, Including County Manager, Makayla Zonfrilli, Contract Review, Section 10-15-1, Subparagraph (H)(2) and other related discussion.**

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); 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 Including: (A) County Road Superintendent, Jeffrey Honeycutt, Contract Renewal/Negotiations; (B) General Legal Counsel, Alan P. Morel, P.A., Contract Renewal/Negotiations, Section 10-15-1, Subparagraph (H)(2); and Limited Personnel Matters, Including County Manager, Makayla Zonfrilli, Contract Review, Section 10-15-1, Subparagraph (H)(2) and other related discussion, **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.

Chair Proctor recessed the Regular Meeting and convened the Closed Session at 2:44 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. **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.

11. ***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. Petitioners filed their Motion for Summary Judgment on November 3, 2023 and Respondent has also filed a Counter-Motion for Summary Judgment. A hearing on the Motion and Counter-Motion is scheduled to take place on December 18, 2023 at 1:30 p.m. The case is still pending.

12. **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. A hearing on Defendants' Motion to Dismiss is scheduled to take place on December 15, 2023 at 3:00 p.m. The case is still pending.

13. ***KC Dorgan and Sara Cummins v. Deputy Levi Wrye, Yancy Darby, Matthew Cude and Lincoln County Sheriff's Department, Cause No. D-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. Lincoln County Defendants filed their Motion to Dismiss Third-Party Complaint on September 13, 2023. A hearing on County Defendants' Motion to Dismiss is scheduled to take place on January 31, 2024 at 1:30 p.m. The case is still pending.

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.

Wall, Ronald Gordon – Tort Claim Notice received September 28, 2023 alleging that Lincoln County Medical Center, by and through its employees, acted under the standard of care resulting in Mr. Wall's death on July 9, 2023.

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.

Chair Proctor adjourned the Closed Session and reconvened the Regular Meeting at 5:21 PM.

Commissioner Fischer 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.

24. Renewal of County Contracts:

- a. County Attorney – Alan Morel – Effective January 1, 2024

Motion: Approve the Contract as Presented for the County Attorney, Alan Morel, **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.

- b. County Road Superintendent – Jeffrey Honeycutt – Effective January 16, 2024

Motion: Approve Superintendent Jeffrey Honeycutt's Contract with an Annual Salary of \$100,000 as presented, **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.

13. Manager's Report- Continued

6) Reorganization of Maintenance, Assets, and Procurement

Motion: Approve the reorganization as presented by the County Manager to include moving Assets, Maintenance, and Procurement under the County Manager; and reorganize the Public Works Department to be the County Planning Department to include the reorganization of the Indigent Health Care Coordinator, Lodger's Tax Administrator, Planning Technician/Ordinance Administrator, Ordinance Enforcement Officer at \$43,500 (hourly employee), Planning Administrative Assistant at \$42,591.37 (hourly employee); with performance reviews for the new FY beginning on July 1, 2024; and create a project manager/administrative assistant position to be advertised in a range of \$45-68k (hourly employee); and to eliminate the Public Works Director position; all effective as of December 20, 2023, **Action:** Approve, **Moved by** Commissioner Pfeffer, **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.

25. Signing of Official Documents

26. Next meeting:

- a. Tuesday, January 16, 2024, Regular Commission Meeting

27. Adjourn

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

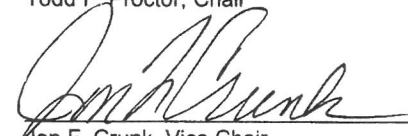
Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 5).

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

There being no further business to come before the Board of County Commissioners, Chair Proctor adjourned the meeting at 5:27 PM.

County of Lincoln
Board of Commissioners


Todd F. Proctor, Chair

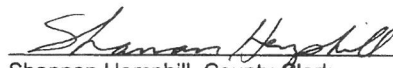

Jon F. Crunk, Vice Chair


Samantha J. Serna, Member


Mark G. Fischer, Member


Pierre S. Pfeffer, Member

ATTEST:


Shannan Hemphill, County Clerk

January 16, 2024
Date Approved

