

COUNTY OF LINCOLN

New Mexico Regular Meeting Board of County Commissioners

Todd Proctor, Chair
Jon Crunk, Vice Chair

Samantha Serna, Member
Mark Fischer, Member
Pierre Pfeffer, Member

Minutes Tuesday June 20, 2023

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on June 20, 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 Serna, **Second 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.

6. Approval of Minutes:

- a. May 2, 2023, Special Commission Meeting
- b. May 16, 2023, Regular Commission Meeting

Motion: Approve the Minutes of the May 2, 2023, Special Commission Meeting and the May 16, 2023, Regular Commission Meeting, **Action:** Approve, **Moved by** Commissioner Pfeffer, **Second 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.

7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month Ending May 31, 2023
- c. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims
- d. Approval of Behavioral Health Services Division (BHSD) / Reach, Intervene, Support and Engage (RISE) Grant Agreement

- e. Approval of Resolution 2023-60: Disposition of Surplus Inventory
- f. Approval of Resolution 2023-61: Annual Capital Assets Inventory Certification FY 2022-2023
- g. Approval of Local Government Road Fund County Cooperative Agreement – Control No. L200591
- h. Approval of Local Government Road Fund County Arterial Program Agreement – Control No. L200609
- i. Approval of Local Government Road Fund School Bus Route Agreement – Control No. L200614
- j. Consideration and Approval of Appointment to Lodgers' Tax Committee – Dusty Cornelius

Commissioner Fischer requested to remove Items 7g, 7h, and 7i from the consent agenda.

Motion: Approve the consent agenda excluding items 7g, 7h, and 7i, **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.

Commissioner Fischer questioned missing Exhibit C on all three of the items and requested more detail in future requests when spending such a large amount of money. Commissioner Fischer stated he had a problem with how they were presented, not with the scope of the project and he requested they look for opportunities to use the funds for projects in other parts of the county.

Manager Pearson recommended tabling all three items until Resolutions were attached and stated it could be brought back in July.

Motion: Table Items 7g, 7h and 7i until a future meeting where they can be presented with Resolutions, **Action:** Table, **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 2023-60 and Resolution 2023-61 are attached hereto in reference thereto made a part hereof.

8. Approval of Budget Adjustment FY 22/23 by Resolution 2023-65

Treasurer Huddleston explained the adjustment was intended to true-up the ending budget and account for the additional PILT, additional revenues from current property taxes, and an opioid settlement payment which was received.

Motion: Adopt Resolution 2023-65, Budget Adjustment FY 22/23, **Action:** Adopt, **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.

SEE EXHIBIT B: Copy of Resolution 2023-65 is attached hereto in reference thereto made a part hereof.

9. Forest, Land & Natural Resources Matters:

- a. Smokey Bear Ranger District

Jennifer Thomas, Lincoln National Forest Smokey Bear Ranger District, informed the Commission they were planning for the upcoming busy weekends. Ms. Thomas explained they hired a new Assistant Fire Management Officer, so they re-reviewed the prescribed burn plans in depth. Ms. Thomas reiterated fireworks were not allowed in the Forest at any time.

- b. Lincoln County / NMSU Extension Services
- c. South Central Mountain RC & D

Laura Doth, South Central Mountain RC&D, stated they were working on the EWP expenditures and had processed about 50% of the budget. Ms. Doth explained they were waiting on a

nationwide permit via NRCS to be able to do work in the river and once done, it will complete the EWP funding for the McBride fire.

d. Upper Hondo Soil & Water Conservation District

Robert Barber, Board of Supervisors, explained they were working with the BLM on several projects. Mr. Barber stated they were also working with the State Forestry on the Nogal WUI with local landowners, and they had received a grant to do some work on the Rio Bonito WUI. Mr. Barber stated the Soil and Water Conservation Commission grant had its first landowner willing to participate.

e. Land and Natural Resources Advisory Committee-LANRAC

Robert Barber, Chairman of LANRAC, explained the grazing rule was stuck in Information and Regulatory Affairs, and may be released in July for comment. Mr. Barber spoke on the Western solar programmatic EIS in response to revising the 2012 solar management rule, which was a proposal to increase from 6 states and include an additional 5 Northwest States and included a reduction of land fees on property with renewable energy projects. There was a lengthy discussion on the options the County could take to assist Mr. Barber in his discussion with the Federal Government.

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

Chair Proctor attended the WIR conference May 16-19 and learned there were problems with land issues as far as Hawaii, so they were not specific to our area. Chair Proctor stated our comments were reaching who they needed to reach however, he did not feel it would do much good. Chair Proctor attended the NM Counties meeting in Farmington where the new Officers were elected.

Commissioner Crunk spoke on the Insurance rates in Lincoln County and the increases currently being felt and well as the increases which will be felt in the future. Commissioner Crunk stated he had been working for a few years to get an additional fire policy similar to a flood policy, however it had not been allowed. Commissioner Crunk explained in California they had a Fair plan which would not include liability; however, they could buy liability separately and when he talked about implementing something similar in the state of New Mexico it was denied. Commissioner Crunk stated the County was about to lose its tax base and the value of their homes.

Commissioner Pfeffer appreciated Commissioner Crunk's comments. Commissioner Pfeffer attended a broadband summit with Attorney Morel, and he was concerned about the PVT project. Commissioner Pfeffer stated the Opioid working group was continuing to meet.

Commissioner Serna was concerned that Juneteenth was observed as a federal holiday however it was not observed locally and should be added in the future. Commissioner Serna met with Assessor Hill and Chief Deputy Zamora and recommended the Commissioners visit with all the Elected Officials to better understand their jobs and positions.

Commissioner Fischer attended the NM Cattlegrowers meeting and stated they were all very concerned with the 30x30 effort. Commissioner Fischer detailed the wild and scenic river designations and stated the Pecos River would likely be listed as a wild and scenic river. Commissioner Fischer was concerned about the fiscal accountability of the schools in the County and was looking to get more information and different options in the future. Commissioner Fischer stated the Citizens were suffering and struggling to meet their financial requirements, so he was concerned about the taxes and fees going up.

Clerk Hemphill spoke on the third Special Election her office was holding and informed the voters they would need to return their ballots by June 27, 2023, at 7:00 PM in order to be counted. Clerk Hemphill stated they were gearing up for the Regular Local Election which would be held in November, and they were currently in the process of receiving notices from the local entities detailing which positions would be on the ballot. Clerk Hemphill explained Candidate sign up day was on August 29, 2023, from 9:00 AM -5:00 PM so anyone who was thinking of running for one of the positions would need to sign up in her office at that time.

Sheriff Wood provided stats from his office over the last month and recognized Joe Kenmore and his staff for everything they do for the residents of the County.

Assessor Hill thanked Commissioner Serna for taking the time to visit with him. Assessor Hill explained he sent six members of his staff to the NMC meeting in Farmington and stated it was

well attended. Assessor Hill stated they were working on the Certification of Values being sent to the Property Tax Division in Santa Fe. Assessor Hill advised the Assessors Affiliate would be holding their conference in Ruidoso in October.

Treasurer Huddleston explained her office was working on the delinquent accounts and they were trying new collection procedures on the delinquent mobile homes in the County.

Gary Popplewell, Lincoln County Resident, thanked the Commissioners and County employees for everything they did. Mr. Popplewell explained he had presented in January on some issues and thanked the Commissioners for adding agenda item 27 as an action item before the Board. Mr. Popplewell felt it important and stated in order to honor the documents, they should be displayed with honor.

Richard Mastin, Lincoln County Resident, stated he had a Master of Divinity and was a Minister however, he was in opposition of the Ten Commandments being hung on the wall as they were a religious document, not a government document. Mr. Mastin did not feel they should be mixed as there has been a separation of Church and State since George Washington. Mr. Mastin explained there were many religions and even non-religious people, and religion should not be part of County government.

Jeff Bleau, Lincoln County Resident, stated the focus of the Commission was on the Community and he was glad to see the Constitution and Bill of Rights displayed on the wall, however, there were gallons of blood spilled in the creation of this great nation and they were not all the same faith. Mr. Bleau felt all levels of Government needed to be inclusive of all cultures and not be divisive.

David Vandenberg, Lincoln County Resident, stated he was a servant of Jesus Christ. Mr. Vandenberg stated the things taking place in the Country right now were abysmal because of the government. Mr. Vandenberg explained the County must be united and include everyone and he felt the Constitution, Ten Commandments and Bill of Rights were meant to include everyone not to be divisive.

Hayden Smith, Pastor First Baptist Church, supports item 27. Pastor Smith explained the phrase which talks about separation of religion and government, and stated a Pastor wrote to Thomas Jefferson with great concern about it. It was explained they would work together however the government would never establish a government religion. Pastor Smith stated we all believe the same basic things no matter what religion anyone chooses to observe or even if they don't observe any religion at all.

Robert Barber, Lincoln County Resident, supports item 27. Mr. Barber stated the Bill of Rights and Constitution can't be overemphasized and explained separation meant the government couldn't tell the people what to believe. Mr. Barber explained many of the laws in the Country were built on the Ten Commandments.

Christian Hurst, Firefighter, EMT and contractor in Lincoln County, supports item 27. Mr. Hurst stated the Ten commandments, Bill of Rights and Constitution were written by God fearing men. Mr. Hurst explained our great nation was made strong by these divinely inspired and divinely written pieces of literature and they remind us of the sacrifice, dedication and will of our predecessors, forefathers and God, that freedom is not free.

Tim Keithley, Chairman of the Republican Party of Lincoln County, supports item 27. Mr. Keithley stated Republicans stand for Faith, Freedom, and Family and by having the living breathing documents in front of them it will help in governing all the people in Lincoln County. Mr. Keithley explained the Resolution was what the Republican Party was about, and they want to make sure everyone in the County knows they stand for, in favor of, and in full support of, all three documents being presented.

Maureen McGuire, resident of Lincoln County, stated the Ten Commandments was not a governmental document and you couldn't put Christian Iconography in a Government building. Ms. McGuire stated this Resolution was coming from the National Republican Party and the Ten Commandments being displayed in a Governmental building had been refuted by the Supreme Court numerous times.

Vicki Porter, Lincoln County resident, explained she taught a class on the Constitution, and she invited the Commissioners to attend her classes to learn more about it. Ms. Porter stated there was no such thing as separation of Church and State and the Government wasn't going to get involved in forcing people to have one Government church.

Chair Proctor recessed the Regular Commission meeting at 10:22 AM and reconvened at 10:30 AM.

10. Approval of Renewal of Fire Restrictions and Imposition of Fireworks Restrictions by Resolution 2023-63

Motion: Adopt Resolution 2023-63 Declaration of Fire Danger Emergency, **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 2023-63 is attached hereto in reference thereto made a part hereof.

11. Lincoln County Medical Center

a. Update – Todd Oberheu

Todd Oberheu, Hospital Chief Executive, stated they were working on the final preparations from the Title Company on the land swap. Mr. Oberheu explained the property would be owned by Presbyterian not by the County and would be used for a helipad which they hoped to have available by December.

Hayden Smith, EMT, started in 1989 and had been an EMT for over 33 years. Mr. Smith explained Ruidoso EMS had full-time paid staff and there were close to 80 volunteers in the County when he started. Mr. Smith stated the Fort Stanton ambulance was moved to Capitan, Alto ambulance was closed, and volunteers have decreased over the years. In 1997 LCMC took over ambulance service for the County. Mr. Smith explained that for many years, the EMT's from Lincoln County have been some of the best trained in the State and were generally trained in all additional skills as soon as possible. Mr. Smith stated the EMT class at the College was a 3-month class with book work and hands-on skills. Mr. Smith explained they were looking for volunteers for either full-time or part-time and stated they were not required to go on every call, any help would be appreciated as there was a shortage of EMT's all over the State.

Mr. Oberheu stated the request for the letter does not say EMS is included, however it does say rural healthcare so he is hopeful they can get the funds to help off-set the costs. Mr. Oberheu explained close to 80% of all residents would have a response time within 25-30 minutes if they could implement the current plan.

Commissioner Crunk questioned who determined which air ambulance to call when the need arose. Mr. Oberheu explained the call goes out and they get whoever can respond the quickest. Mr. Oberheu stated his understanding was most of the air ambulances now have signed agreements with the insurance agencies to help with the costs. Mr. Oberheu explained there were 3 new paramedics which should be graduated and certified soon and once they were complete there would be the highest number of Paramedics ever in Lincoln County.

b. Discussion and Direction Regarding the Hospital Mill Levy Budget

Manager Pearson explained the current Mill Levy could handle the 24-hour ambulance service in Carrizozo and Alto. Treasurer Huddleston stated the \$2.6 was a good figure and didn't believe they would need to raise the mil rate. There was a general consensus the 24-hour ambulance service would be beneficial and should be pursued.

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

Ross Castleton, LCDC Warden, provided statistics from the Detention Center over the previous month. Warden Castleton stated they were working on improvements at the jail to include painting and other projects. Warden Castleton explained they had improved staffing levels and they felt the increased wage was helping to increase the staffing levels.

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

Manager Pearson explained this item needed to be moved to next month.

27. Consideration and Direction Regarding Resolution 2023-62 - Approval for the Prominent Display of the Ten Commandments, the Declaration of Independence, and the United States Constitution on the Wall Behind the Commissioner's Bench

Commissioner Fischer explained it was an effort to re-center the community, a baseline for how people dealt with each other, not an effort to establish religion, but to let everyone know what was important to the people.

Commissioner Crunk stated he had studied and prayed over this topic and believed the Ten Commandments should be taught and made available, not hung on the wall. Commissioner Crunk supported the printing and placement on the table in the foyer for anyone to take and read and walk away with, not to be on display, but to be available to everyone who wants it.

Commissioner Pfeffer stated this Country was settled by those escaping religious tyranny and felt secular law should not be mixed with religious iconography.

Chair Proctor stated he had prayed about this topic and said when he went through BIPO and took NM Edge classes they explained the job of the Commission was to work on budgeting, taxing, issuing bonds and other Ordinances and Resolutions. Chair Proctor did not feel having the Ten Commandments on display behind him would alter the way he felt about things or the way he voted on issues, he didn't feel having it hanging on display would make any difference. Chair Proctor said when he was sworn in, he had a Bible of his choice when he gave his oath and he had every intention to follow that oath.

Attorney Morel explained this issue had been litigated many times over the years and there was case law both ways, this issue had a varied history throughout time. Attorney Morel stated he could almost guarantee a lawsuit if it was agreed upon.

Commissioner Fischer stated this was an important topic and he felt civil society was collapsing. Commissioner Fischer explained they were not asking people to go to church, they were not asking for secular humanists to pray or be God believers, it was the established culture which allows the fruit of the Country to grow and even those which don't have a particular interest in religion to thrive and be protected.

Motion: Approve Resolution 2023-62, **Action:** Approve, **Moved by** Commissioner Crunk, **Seconded by** Commissioner Fischer.

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

Yes: Commissioner Fischer, Commissioner Serna.

No: Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

26. Reconsideration of Region IX's Funding Request

Bryan Dooley, Executive Director of Region IX, detailed the building of the early childhood center. Commissioner Pfeffer questioned how a building in Ruidoso would further the outreach in the community and make resources available countywide. Mr. Dooley explained there were five early childhood programs from prenatal up to age 5 and they did home visits in Corona since it was too far from Ruidoso. Mr. Dooley stated the staff needed office space and classroom space was needed in the Ruidoso area as well. Mr. Dooley explained they could only be enrolled in PreK if the child was 3 by September, however with Region IX they could be enrolled anytime once they turn 3. Mr. Dooley stated there was no funding from the Village of Ruidoso to assist with this project, instead they extended the sewer line.

Chair Proctor stated there was funding from the Federal and State level and did not feel that much funding from the County was good stewardship of the County dollar.

Motion: Approve the Region IX Funding Request, **Action:** Approve, **Moved by** Commissioner Pfeffer, **None seconded.**

Motion died for lack of second.

30. Approval of Revisions to Sheriff's Deputies Omnibus Crime Bill Act/HB 68 Guidelines

Geraldine Martinez, Undersheriff, detailed 16 deputies received stipends last week and a new Deputy would be certified by Friday and would receive the stipend at that point. Undersheriff Martinez stated they had an additional Deputy who was certified in Texas and was working on certification in New Mexico. Undersheriff Martinez explained she originally wrote the guidelines to give a stipend if a deputy was certified however, she requested to amend the guidelines to state if they receive the State Certification, they could receive the stipend.

Motion: Approve the revisions to the Sheriff's Deputies Omnibus Crime Bill guidelines, **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.

Chair Proctor recessed the Regular Commission meeting at 11:57 AM and reconvened at 12:35 PM.

15. Manager's Report

- a. Update on the New Mexico Employee Health Benefits Fund and Life Insurance Fund Invoice in the amount of \$307,252.79

Attorney Morel stated this would be discussed during executive session.

1) ADA Restroom Construction

White Sands Construction have been working on the new ADA restroom since the middle of May. The main drainage tie-in was located across the hall (women's restroom). This project is funded by a NM State Capital appropriation and Lincoln County general fund.

2) GreenTree Meeting 5/18/2023 and 6/8/2023

Commissioner Proctor and I are attending the regular and special meetings of the GreenTree Solid Waste Authority. The County of Lincoln has a voting role on all matters regarding the Alamogordo landfill. At the 6/8/2023 special meeting, operational consultant, Joe Lewandowski, gave a status report on the Regional Landfill operations. The financial report was presented by Evelyn Huff (City of Alamogordo Finance Director).

3) LCDC / RISE Funding Discussions – 5/23/2023

CSG staff and I met with Tamara Espinoza (NM HSD department) regarding the 2023-2024 RISE funding utilization in Lincoln County. The program at LCDC is recognized as a leading example of the intent of the funding and will be awarded \$345,550 for the upcoming fiscal year.

4) Hazard Mitigation Planning Meeting – 5/25/2023

Wendy Blackwell (SWCA Environmental Consultants) continues to drive the meetings to create a comprehensive Hazard Mitigation Planning document. May's meeting focused on the mitigation strategy section of the Lincoln County Multi-jurisdictional Hazard Mitigation Plan. Wendy reminds us, "please keep in mind that in order to be considered an active participant, adopt the plan, and be eligible to apply for FEMA funding, each community must participate in the Planning Team Meetings and respond to the requests for feedback and information".

Joe Kenmore has been the Lincoln County representative attending and participating in every meeting.

5) Lincoln County Deputy Sheriffs' Association Contract Negotiations

The Deputy Sheriffs have requested negotiations within the required timeframe stated in the contract:

"The parties agree that collective bargaining shall occur between the dates of March 1st and April 30th (of each year). If the choice is to open negotiations the Association and the County will be limited to negotiating on wages and three (3) non-economic issues each. If the choice is to accept the general increase granted to non-bargaining unit employees ("Evergreen Clause") the collective bargaining agreement expiration date shall be extended for an additional twelve (12) months".

Once the terms of the contract have been negotiated, final approval will be brought before the BOCC.

6) PRC / Ambulance

Alan Morel, Sandie Nunnally and I have submitted the New Mexico Public Regulation Commission Ambulance Certificate Reissuance Application. This application is due sixty (60) days prior to the expiration of the current certificate (Current certificate expires - November 2023). This certificate is issued for three years and allows Lincoln County to Sublease the certificate to PHS.

7) New Mexico Broadband Summit – May 24, 2023

Commissioner Pfeffer, Alan Morel and I attended the NM Broadband summit, titled "Internet for All". The summit was well attended and provided examples of creative collaborations to provide internet in remote areas. Local provider, Peñasco Valley Telephone (PVT), attended the event looking for ideas on how to move forward on projects that have seen significant increases in construction costs.

8) Fairgrounds Visit and Update

Commissioner Crunk, Alan Morel and I visited the fairgrounds on May 25. Parking lot construction was progressing and following the projected schedule. House remodel is progressing.

9) Director's Reports

Manager Pearson publicly recognized Nick Herrera from the Road Department and Troy Niederstadt from the Treasurer's Office for outstanding work in their respective jobs.

31. Approval of Resolution 2023-64 a Resolution on BLM's Proposed Rule on Conservation and Landscape Health

Robert Barber, LANRAC, recommended opposing the proposed rule on conservation and landscape health.

Commissioner Fischer explained alternative two had wording which stated restoration as opposed to preservation which is something he could support.

Mr. Barber stated he felt the comments were important enough they needed to stand on their own and recommended writing a letter as a separate document, so the comments weren't lost in the shuffle.

Commissioner Pfeffer explained they had been working for two years to get the BLM to engage with Alto and the BLM had refused which was a violation of their obligations to preserve the Snowy River Cave.

Motion: Adopt Resolution 2023-64 on BLM's Proposed Rule on Conservation and Landscape Health as submitted by Robert Barber, **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 D: Copy of Resolution 2023-64 is attached hereto in reference thereto made a part hereof.

16. Approval to Issue a Request for Proposal - Independent Contractor Services for Misdemeanor Compliance Program

Manager Pearson explained the Misdemeanor Compliance Program was a State program where the fees were remitted to the County and paid back out. Attorney Morel explained there was a state requirement that the County be the fiscal agent and the County sees no reporting information. Commissioner Fischer requested the addition of a background investigation and driver's license check. Attorney Morel requested to revisit this agenda item later in the meeting.

19. U.S. Economic Development Administration (EDA) Grants

- b. Discussion and Direction Regarding Project Submittals by the County of Lincoln

Dora Batista, South Eastern Economic Development District Council Of Governments, spoke on the Economic Development Administration grant for technical assistance to Lincoln County due

to the fire last year. Ms. Batista explained the EDA disaster recovery funds were available for a limited time for the recent fires, both the fires which affected Lincoln County and the fires up north. Ms. Batista stated the Economic Recovery Projects must have a nexus to the fire and to economic development. Ms. Batista explained there was a group discussion about possible uses for the funding to include the fairgrounds which was used as an animal evacuation center during the fires, the fairgrounds could redo the kitchen as an incubator kitchen, which could be used by the college and the extension office, some of the bridges in the county could be included as needing repairs, and a technical capacity grant individual trained as a FEMA consultant could be hired for 3 years and could eventually be included in the County budget. Ms. Batista stated it was an 80% grant with a 20% cash match, and there was a possibility of in-kind support to cover the cash match. Ms. Batista explained it was on a first come first served basis and it would be nice if Lincoln County could get some of the grant funding, so it didn't all go to the fires up north. There was a general consensus to submit an application and work out the details later.

a. Consideration of the Village of Ruidoso's request for a letter of Support

Commissioner Serna stated the letter of support was for the same grant application Dora Batista spoke about previously. Commissioner Serna explained the plan was for a \$17,000,000 event/evacuation center located off Highway 70 next to the Track, which would need to be on land owned by the Village of Ruidoso. Commissioner Serna stated the property was currently held privately; however, it would need to be purchased by the Racetrack and given to the Village of Ruidoso as in-kind support.

Motion: Approve signing the letter of support for the application submitted by the Village of Ruidoso to EDA, **Action:** Approve, **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.

16. Approval to Issue a Request for Proposal - Independent Contractor Services for Misdemeanor Compliance Program (continued)

Attorney Morel explained 31-20-5.1 of the criminal code which stated the County may create a misdemeanor compliance program to monitor compliance with conditions of probation imposed by a District or Magistrate Court. Attorney Morel further explained the Counties program must comply with the AOC guidelines including a rigid background investigation.

Motion: Approval to issue an RFP to provide probation supervision for Lincoln County Magistrate Courts under the Lincoln County Misdemeanor Probation Program guidelines, **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 Leasing the Small House Located on the Fairgrounds Property in Capitan, NM

Manager Pearson stated the Commission authorized the remodel of the small house located on the Fairgrounds property in November 2022 and with it getting close to completion they would need to decide on some contract stipulations and pricing agreements. There was a discussion on the price range for housing in the area.

Attorney Morel detailed some of the terms of the agreement to include the timeframe of July 1, 2023-June 30, 2024, with no occupancy until the certificate of occupancy is received, lease to be renewed annually unless either party chose to terminate it, if employment was terminated the tenant would have 60 days to vacate the premises, rent would be \$1,000/month with up to \$100/week for watchdog/security services, the deposit would be equal to one month's full rent, tenant would pay utilities, there would be a \$100 late fee if rent was not paid within 10 days, no pets allowed, no commercial activities allowed, tenant must maintain the exterior and interior of the premises, no subletting, and if the tenant was not on the premises for 14 days without prior notice it was considered abandonment.

Commissioner Serna recommended \$900/month rent instead of \$1,000/month. Chair Proctor was concerned with the investment of \$75,000 just on material, not including labor, associated with the remodel of the house, and wanted to make sure the return on investment was reasonable.

Motion: Approve the lease of the small house on the fairgrounds property per the details discussed to include monthly rent of \$900 and up to \$400/month for security services, with the lease to begin July 1, 2023, no occupancy allowed until the certificate of occupancy was received and authorizing the County Manager to sign the agreement, **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.

18. Consideration of the Contract Between the County of Lincoln and Desert West Enterprises LLC for the 2022 New Mexico Department of Transportation's Project Fund Micro-Surfacing Roadway Improvements

Jeff Honeycutt, Road Superintendent, explained the type 2 micro-surfacing for 8.5 miles on Schlarb, FFA, Musketball, Juniper Springs and Alpine Village roads, to begin June 26, 2023. Mr. Honeycutt stated a chip-sealed road would normally last 4-5 years, however it could last 10-12 years when micro-surfaced.

Commissioner Fischer was concerned all the activity was on the other side of the County and would like to start looking at other locations in the County, specifically more in his area, for road rehabilitation projects.

Motion: Approve the contract to Desert West Enterprises for micro-surfacing as described, **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.

Chair Proctor recessed the Regular Commission meeting at 2:21 PM and reconvened at 2:28 PM.

20. Assessor's Office Items

a. Consideration of Purchasing Short Term Rental Identification Software

Assessor Hill explained the Granicus request and stated the prior request was for the un-incorporated part of the County only however, he would like to expand it to the entire County including the incorporated areas. Assessor Hill stated it was critical that the Assessor's Office obtain this data as the short-term rental properties must be identified and reclassified for assessment purposes both in the incorporated and un-incorporated parts of the County. Commissioner Serna questioned if the Assessor would have a staff member dedicated to determining if the information was being entered accurately. Commissioner Fischer questioned if it was a one-time data dump. Assessor Hill stated it was a daily input and it would be a recurring yearly fee. Manager Pearson explained the original Granicus purchase was paid using Lodger's Tax funds however, they were unable to add the additional \$10k out of Lodger's Tax so this funding request would need to come out of the general fund in the new budget year or out of the re-appraisal fund. Commissioner Fischer questioned the use and balance of the re-appraisal fund. Assessor Hill gave an overview of the re-appraisal fund and stated there was \$289,805.00 in the fund which he had been saving to offset the cost of the new appraisal software package they would like to purchase. Commissioner Serna questioned the \$275,000 for new software being brought forward next month in addition to the software being requested this meeting and the additional \$27,000 in the next item request for the staff certificate pay, there wouldn't be enough in the re-appraisal fund to cover everything the Assessor was asking for.

Attorney Morel explained per statute section 7-38-38.1 subparagraph D stated expenditures from the property valuation fund required a program presented by the Assessor and submitted for approval before the Commission so there should be a plan of how to spend the money with Commission approval. Commissioner Fischer requested a budget from the Assessor to determine how best to use the re-appraisal fund.

Motion: Approve the Assessor's office purchase of Granicus software as presented using the reappraisal funds, **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.

b. Discussion and Direction Regarding SB 324, Increasing the Amount of Additional Compensation a County May Provide to Assessors and Certain Certified Employees in Appraisal Offices.

Assessor Hill explained the incentive pay requested for the employees in the office who received their certificates. Manager Pearson explained the budget would need to reflect the full amount of all the certificates for all the employees since they can become certified at any point, which would increase the budget by \$40,500. Commissioner Serna questioned if the pay increases would increase the benefits and PERA contributions as well. Assessor Hill stated if the Commission were to grant a percentage raise to the employees it would not be added to the certificate pay as well.

Commissioner Fischer questioned all employees being certified and getting the certificate pay when they are not doing the specific job the certificates are required for.

Attorney Morel explained the law was revised to reflect the employees of the Assessor's office be eligible to receive the incentive pay, however it was not required. Attorney Morel stated he did not feel the Assessor's pay should be increased during his term of office. Assessor Hill stated he would not feel the need to have his pay increased and would like to have the employees in his office receive the full pay amount. Manager Pearson stated Statute 4-39-4 deals with the Assessor and 4-39-5 deals with the Appraisers in the Assessor's Office.

Commissioner Fischer stated this was not something which had been budgeted. Treasurer Huddleston explained the PERA would increase on the County side and she felt the 499 fund would be able to sustain the pay increases for the employees.

Motion: Give non-elected employees in the Assessor's Office the certificate pay increase over a two-year period beginning the first day of the 2024 budget, **Action:** Approve, **Moved by** Commissioner Crunk, **None seconded**. Commissioner Crunk rescinded his motion.

Motion: Approval to grant the employees of the Assessor's office full credit for their certifications in accordance with Statute 4-39-5 excluding the Elected Official, beginning July 1, 2023, for FY23 budget year out of the Assessors reappraisal fund 499, **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.

21. Approval of Lodgers' Tax Requests:

- a. Event: New Mexico 4x4 Rally
Amount Requested: \$10,000
Date(s) of Event: 9/21-9/23, 2023
Presenter: Garrett LaMay

Garrett LaMay detailed the first annual 4x4 Rally and stated all trails were approved through the forestry department and they would have liability and waiver forms. Mr. LaMay requested \$10,000 and explained it would be used for advertising to include flyers, banners, online promotions, and other advertisements. Mr. LaMay explained they received \$5,000 from the Village of Ruidoso and were requesting \$10,000 from the County.

Motion: Approve \$1,000 for the New Mexico 4x4 Rally, **Action:** Approve, **Moved by** Commissioner Serna, **Seconded by** Commissioner Fischer.

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

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

Abstain: Commissioner Pfeffer.

Commissioner Pfeffer questioned if the recommendations had been approved through the Lodger's Tax Committee prior to the Commission Meeting. Manager Pearson stated they had been approved by the Lodger's Tax Committee. Commissioner Pfeffer was concerned if the Committee had recommended approval, why would the Commission not approve their recommendations, and if the Commission was unhappy with the Committee's recommendations, maybe there needed to be additional training. Commissioner Pfeffer requested in the future maybe the Commission could be presented with the requested amount and a Committee recommended amount as well to show they had reviewed it.

- b. Event: Ruidoso Grindstone Trail Run
Amount Requested: \$5,000
Date(s) of Event: 8/25 – 8/26, 2023
Presenter: Shane Asbury

Shane Asbury explained his prior experience and detailed the 9th annual Ruidoso Grindstone Trail Run. Mr. Asbury requested \$5,000 and explained it would be used for advertising.

Motion: Approve the requested \$5,000 for the Ruidoso Grindstone Trail Run, **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.

Chair Proctor recessed the Regular Commission meeting at 3:53 PM and reconvened at 4:00 PM.

22. Public Works:

a. Approval to File Solid Waste Liens:

1. Delores Herrera-\$900.02 (Land#1000170 Delores Herrera) (MH#1008096 Jesus J Rue)
2. Robert H. Hawkins and Kathleen A. Hawkins-\$961.56
3. Sandra Y. Overstreet and T. Overstreet-\$961.56
4. Lewis R. Rumfield and Kelly A. Rumfield-\$1,018.10
5. Dianna Wells-\$902.72
6. Sheila M. Zumwalt-\$890.02
7. Timothy James Sanders-\$1,005.66
8. James Warren Hanson and Katie A. Hanson-\$961.56
9. James Warren Hanson and Katie A. Hanson-\$407.70
10. Guadalupe Gallegos-\$1,259.42 (Land#365552 Guadalupe Gallegos) (MH#1007188 Joe & Fran McDuff)
11. Josephine E. Gutierrez-\$776.94
12. Sandra Herrera-Rue-\$1,259.25 (Land#239000 Sandra Herrera-Rue) (MH#193026 Sandra & Mesha Rue)
13. Beverly Hammond-\$715.40
14. Ginger Trichell-\$715.40
15. Hi Lonesome Ranch-\$715.40
16. Hi Lonesome Ranch-\$402.93
17. James Rupley & Claudia Francisca Rupley-\$709.74
18. Steven Raterman-\$715.40
19. Jonathan L. Blair & Evelyn R. Blair-\$700.09 (Jonathan L & Evelyn R Blair MH#12743) (land#0004625 Jonathan L & Evelyn R Blair)
20. Ruben R Chavez-\$1,491.20 (Land#1007300 Ruben Chaves) (MH#335575 Ruben Chavez)

Motion: Approve filing of the Solid Waste Liens 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.

b. Approval to Release and Refile Solid Waste Liens:

1. Cecilia Z. Apodaca - \$2435.69
2. Jayson Long (Land#310015) & Bank of New York Mellon, Trustee (MH# 1004841) - \$2352.78
3. Billy Joe Brady (Land# 237925) & Laura Brady (MH# 223796) - \$2495.08
4. Carolyn Jo Burch, Jordan Lee Ann Burch, & Shaley Faith Amber Burch (Land# 1002366) & Carolyn Burch (MH# 1001519) - \$2335.56
5. Cassandra Chavez - \$2435.56
6. Kimberly Dianne Conner - \$2435.69
7. John Warren Courtney - \$1695.54
8. Harold Corn & Rhonda Weitner (Land#364060) & Harold Corn (MH# 364061) - \$2548.77
9. Cheryl Lynn Mangelsdorf-\$2,435.69

Francesca Herrera, Public Works Director, stated the liens presented were old liens which they would like to refile, so the liens don't time out.

Motion: Approve the release and refiling of the solid waste liens as presented, **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.

23. Discussion and Direction Regarding the Consolidated Solid Waste Ordinances

Attorney Morel detailed the ongoing discussion since 2019 in an attempt to consolidate two Solid Waste Ordinances, 2016-02 and 2020-04, into one ordinance.

Attorney Morel explained Section 13 dealt with exemptions and he felt it needed more clarification. Pertaining to the 300-acre exemption, Commissioner Fischer stated the onus could be placed on the property owner by way of an attestation instead of approval by the County Commission. Regarding the habitable or uninhabitable exemptions, Ms. Herrera stated there was a waiver to request uninhabitable status. Attorney Morel explained the Solid Waste Department would need to have the same definition of uninhabitable as the Assessor's office. Regarding the multi-residence exemptions, Ms. Herrera felt it would be appropriate to charge the first residence the full price and the remaining residences on the same property half price. Attorney Morel also spoke about the MOU currently in place with Corona to take care of the trash services in the northern part of the County. Attorney Morel stated they could look at the possibility of increasing the area which Corona would cover.

Commissioner Fischer reviewed his list of questions and concerns including the definition of "Premises", the definition of habitable vs uninhabitable, acceptable vs unacceptable waste in regard to cardboard and brush piles, and the lack of due process if the County were to file directly in Magistrate Court without notifying the customer.

Manager Pearson requested to bring this item back in July with the recommended changes.

24. Approval of Code Enforcement Job Description and Hourly Rate of Pay

Manager Pearson detailed the newly created Code Enforcement Job Description and hourly rate of pay. Commissioner Serna questioned the ordinance administrator compared to the code enforcement officer and were the duties of each position so much that it wasn't something the ordinance administrator could take care of instead of creating a new position. Commissioner Serna felt the department was overstaffed and did not have enough work to have two full-time positions. Ms. Herrera explained the job duties of the Code Enforcement Officer and stated the ordinance administrator had other job duties as well. Commissioner Fischer requested a better understanding of the job duties of the ordinance administrator to determine if the job was needed or if the job duties could be reassigned to other positions. Commissioner Fischer also requested to include a full background investigation for the Code Enforcement position. Commissioner Serna stated she did not feel personnel were being managed properly.

Motion: Approve the Code Enforcement job description with the addition of a full background investigation, **Action:** Approve, **Moved by** Commissioner Fischer, **Seconded by** Commissioner Pfeffer.

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

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

No: Commissioner Serna.

25. Review of the County of Lincoln's Infrastructure Capital Improvement Plan for FY 2025-2029

Manager Pearson explained the background of the ICIP process. Commissioner Serna requested a minimum of two meetings at local senior centers, with less than three Commissioners at each to avoid having to create a public meeting, to get public input on what they would like to see included in the ICIP. Commissioner Pfeffer felt it would be more useful to have the Planning Department hold meetings and visit with constituents to determine what they felt was important and needed to be discussed instead of having the Commission hold the public meetings. Commissioner Fischer would like to have a more organized meeting instead of just visiting with constituents.

Manager Pearson recommended having the Commissioners poll their constituents and his office could gather the list for Commission review and ranking at a future meeting.

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

There were no public hearings to schedule at this time.

29. 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); Limited Personnel Matters, Section 10-15-1, Subparagraph (H)(2); and Collective Bargaining Negotiations, Section 10-15-1, Subparagraph (H)(F)

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

Chair Proctor recessed the Regular Meeting and convened the Closed Session at 5:04 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 to receive 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. The County has yet to be served with the Second Amended Complaint.

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.

Cummins, Sara – Tort Claim Notice received March 27, 2023, alleging unlawful/malicious acts by the Lincoln County Sheriff's Department.

Dorgan, K.C. – Tort Claim Notice received March 27, 2023, alleging unlawful/malicious acts by the Lincoln County Sheriff's Department.

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.

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.

Grassie, Kurtis - Loss of employment with the Lincoln County Sheriff's Office commencing on June 23, 2022.

2021

Cervantez, Adam - Tort Claim Notice received on July 8, 2021 alleging the use of excessive force and related constitutional claims during his arrest on April 22, 2021.

Kieter, Dave; Jakubcewicz, Mark; Riddle, Jasper; Patton, Van – Tort claim Noticed received on July 27, 2021. Claimants each allege damages to personal and real property as a result of the extraordinary flooding experienced throughout Lincoln County.

Myers, Sylvia – Tort Claim Notice received August 30, 2021 alleging that Lincoln County Medical Center's treatment fell below the standard of care.

Siegel, Erik – Tort Claim Notice received August 30, 2021 alleging deprivation of rights involving tort, constitutional rights, and other claims.

White, Lionel Glenn, Jr., and family members and tenants, Ralph Nosker and his family members, Barbara Arthur and her family members, and Barlou, LLC – Tort Claim Notice received September 16, 2021 alleging inundation by water resulting in damages to existing roadways and parking in the Gavilan Canyon Road area which are all located within the municipality of the Village of Ruidoso.

Smoley, Cinthia – 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 6:00 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.

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

The Commissioners gave authorization to use their stamp or electronic signatures.

33. Next meeting:

- a. Thursday, July 6, 2023, Special Commission Meeting
- b. Tuesday, July 18, 2023, Regular Commission Meeting

34. 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.

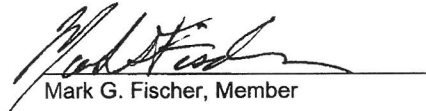
There being no further business to come before the Board of County Commissioners, Chair Proctor adjourned the meeting at 6:02 PM.

County of Lincoln
Board of Commissioners


Todd F. Proctor, Chair

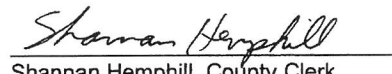

Jon F. Crunk, Vice Chair


Samantha J. Serna, Member


Mark G. Fischer, Member


Pierre S. Pfeffer, Member

ATTEST:


Shannan Hemphill, County Clerk

July 18, 2023
Date Approved

