

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 May 16, 2023

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on May 16, 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 was unable to attend in person and requested Vice Chair Crunk be the Acting Chair for the Commission Meeting. Chair Crunk 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, Chair Crunk, Commissioner Proctor via zoom.

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

3. Invocation

The Invocation was presented by Chair Crunk.

4. Pledge of Allegiance

- a. Pledge – USA Flag
- b. Salute – NM Flag

5. Approval of Agenda

Motion: Acceptance of the Agenda and authorized the Chair to move items as necessary,

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

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

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

6. Approval of Minutes:

- a. April 18, 2023, Regular Commission Meeting

Motion: Approve the Minutes of April 18, 2023, Regular Commission Meeting, **Action:** Approve, **Moved by** Commissioner Serna, **Seconded by** Commissioner Proctor.

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

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

7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month Ending April 30, 2023
- c. Upper Hondo Soil & Water Conservation District Mill Levy Rate
- d. Guadalupe Soil & Water Conservation District Mill Levy Rate
- e. Claunch-Pinto Soil & Water Conservation District Mill Levy Rate
- f. Chaves Soil & Water Conservation District Mill Levy Rate
- g. Appointment of Billy Roberts to the Lincoln Historic Preservation Board

- h. Approval of Public Celebration Permit – Noisy Water Winery
- i. Approval of Retaining RBC Capital Markets, LLC as the Municipal Advisor
- j. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims
- k. Approval of Resolution 2023-54, Policy for the Acceptance of Debit/Credit Cards or Electronic Means for Payment of Utilities and Related Services
- l. Approval of Resolution 2023-56, Resolution Setting a Deadline for the Timely Submission of Requests by Special Districts Located Within the County of Lincoln for Mill Levy Funding
- m. Approval of Resolution 2023-57: Liquor License Fees
- n. Approval of Memorial Day Proclamation – Monday, May 29, 2023

Motion: Approve the Consent Agenda Items as presented, **Action:** Approve, **Moved by** Commissioner Fischer, **Seconded by** Commissioner Proctor.

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

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

SEE EXHIBIT A: Copies of the Consent Agenda items including Resolution 2023-54, Resolution 2023-56 and Resolution 2023-57 are attached hereto in reference thereto made a part hereof.

8. Board of Finance – Lincoln County Treasurer, Sherrie Huddleston

Treasurer Huddleston provided details about the delinquent property tax notices which were mailed out. Treasurer Huddleston further explained the Treasurer's Financial Report for the month ending April 30, 2023.

9. Approval of Budget Adjustment FY 22/23 by Resolution 2023-52

Manager Pearson explained the Budget Adjustment was to cover Sheriff's Vehicles and the approved E911 generator.

Motion: Adopt Resolution 2023-52 Budget Adjustment for FY22/23, **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, Chair Crunk, Commissioner Proctor.

SEE EXHIBIT B: Copy of Resolution 2023-52 is attached hereto in reference thereto made a part hereof.

10. Forest, Land & Natural Resources Matters:

a. Smokey Bear Ranger District

Jennifer Thomas, District Ranger with the Smokey Bear Ranger District, stated the district went into high fire danger and was hoping for rain to help out.

b. Lincoln County / NMSU Extension Services

Melody Gaines, Family Consumer Science Agent, provided statistics from the office over the last month.

c. South Central Mountain RC & D

Robert Barber, RC&D, explained the NRCS was trying to get additional funding to assist the McBride EWP. Mr. Barber reminded the Commissioners there were no matching funds requirements for the McBride EWP projects.

d. Upper Hondo Soil & Water Conservation District

Robert Barber, Upper Hondo SWDC, explained the Nogal EWP was proceeding well and they hoped to be done in November. Mr. Barber stated they were looking for landowners along the Rio Ruidoso to help with treatment along the riverbank as they had \$40,000 which needed to be spent by June 2025. Mr. Barber explained there was a 25% cost to the landowner and they would cover the other 75% up to \$7,500.

e. Land and Natural Resources Advisory Committee-LANRAC

Robert Barber, LANRAC, attended the solar rule plan meeting as well as a meeting with the BLM on a rule for conservation and landscape health. Mr. Barber stated Section 6100 prioritizes the health of the land leaving the current usage in place.

14. Lincoln County Medical Center Update-Todd Oberheu

Todd Oberheu, Hospital Chief Executive, stated they were close to closing the agreement with the Ruidoso Municipal Schools and Presbyterian on the land swap. Mr. Oberheu stated Dr. Otero was going back to clinic practice in Ruidoso and would no longer be the Chief Medical Officer. Dr. Keri Rath agreed to serve as interim CMO and Dr. Kyle McCombs would serve as the Medical Director of the Emergency Room and hospice service.

16. Lincoln County Office of Emergency Services:

a. Updates on Structure and Wildfires in Lincoln County

Joe Kenmore, Office of Emergency Services, explained there had been eight brush fires in the last month. Mr. Kenmore stated they were adding cutting, welding and grinding to the Fire Danger Emergency Resolution. Mr. Kenmore explained in the future during a fire, questions should be directed to Manager Pearson not directly to OES as they would be busy with the fires and wouldn't have time to be answering questions.

b. Outside Agency/County Cooperation and Command Structure During Fire Events

Mr. Kenmore explained if a fire was on State or Private property it falls back to the County to be in command however, the Forest Service took control when it was on their land.

c. Approval of Resolution 2023-55, Declaration of Fire Danger Emergency

Manager Pearson explained they increased the level of restriction and added many additions to include fireworks, smoking, chainsaws, cutting, welding, grinding and others to the Resolution. Jennifer Thomas, District Ranger, stated fireworks were prohibited on Forest Service lands year around.

Motion: Adopt Resolution 2023-55, Declaration of Fire Danger Emergency, **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, Chair Crunk, Commissioner Proctor.

SEE EXHIBIT C: Copy of Resolution 2023-55 is attached hereto in reference thereto made a part hereof.

d. Consideration of the Sub-Grant Agreement Between the Department of Homeland Security and Emergency Management and the County of Lincoln

Manager Pearson requested this item be brought back in June.

11. 9:30 A.M.: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS (Items are for discussion only – no action will be taken)

Commissioner Proctor detailed the many meetings he had attended including the solid waste meeting, the Tabulator certification for the Capitan School Special Election, the open house in Ruidoso, and was currently attending the WIR conference in Georgia. Commissioner Proctor stated at the Board of Directors meeting they were informed the fees would be going up for each County.

Commissioner Fischer stated he attended the Ruidoso Public School Board of Education meeting. Commissioner Fischer explained New Mexico is at the bottom in the Country for Education and we need to teach about the basics, not sexualize the students. Commissioner Fischer stated every School system in the County is faced with the same issues and Lincoln County Schools were below the median in the State.

Commissioner Serna recognized National Police Week and thanked all the police and deputies throughout the County.

Commissioner Pfeffer congratulated Brandi and Gary on landing the first Grant they wrote. Commissioner Pfeffer explained they wrote a grant to get a contract for a Grant Writer outside of

the County. Commissioner Pfeffer stated they were working on an additional \$100,000 Grant for solid waste. Commissioner Pfeffer attended a working Group on Opioids to include the Judges and Otero County and thanked Stephen Ochoa who had been helpful in the process.

Chair Crunk met with the Office of the Superintendent of Insurance, however there was no good news to provide. Chair Crunk explained wildfire could no longer be underwritten for. Chair Crunk explained the mountainous regions within the desert cause problems in the insurance industry and many of the homes which were lost in the fires were Multigenerational homes which can no longer be replaced. Chair Crunk stated if they want something done they need to get the ISO ratings down.

Clerk Hemphill provided an update on the three Special Elections being held in the County. Clerk Hemphill thanked everyone who attended the tabulator certification and reiterated everything her office does is open to the public and they welcome participation. Clerk Hemphill explained there were statutory requirements they had to meet in all their processes and requested participation and questions directly related to the project at hand. Clerk Hemphill stated if someone was interested in other parts of the job, i.e.- getting a rundown of the tabulators, she would be happy to discuss it with them later when time could be scheduled for the discussion, not during the statutorily required processes. Clerk Hemphill reminded everyone about the Regular Local Election in November and stated Candidate sign-ups would be on August 29, 2023, from 9:00 AM -5:00 PM.

Assessor Hill stated his office mailed their Notice of Values to property owners in the County. Assessor Hill explained the deadline to protest was May 31, 2023, and the hearings would be in July.

Sheriff Wood explained it was National Police Week and he thanked those individuals standing behind the badge. Sheriff Wood provided statistics from his office during the last month.

Jim Spiri, Lincoln Resident, commended Mr. Stout for doing a good job. Mr. Spiri spoke about the land which was on Salazar Canyon and is Day use only however, it is not being enforced and they may need a bigger sign which says it is a day use only area. Mr. Spiri stated people were camping there and it was not being monitored.

Galen Farrington, Legacy Estates, spoke on the Ruidoso School Board meeting and stated it was about the School Boards policy to have the School Board work with the parents. Mr. Farrington spoke on the questions Mr. Roper missed on his application in June 2021.

Chair Crunk recessed the Regular Meeting and convened the Public Hearing at 10:00 AM.

12. 10:00 A.M: Public Hearings/Budget Hearing (immediately following Public Hearing):

- a. Amendments/Revisions to Ordinance No. 2020-04 an Ordinance Providing for the Efficient and Sanitary Collection of Solid Waste in Lincoln County; Providing for Mandatory Disposal and Assessment of Fees; Providing a Penalty for Violation of the Ordinance; Repealing Ordinance 2017-07

Commissioner Fischer stated his recommendation would be to combine the two current solid waste ordinances into one cohesive ordinance. Commissioner Fischer stated his dislike for the term violator in paragraph E and recommended the term citee instead.

Attorney Morel agreed with the combination of the two ordinances into one and stated he felt it was premature to hold the public hearing, however since it was scheduled, they were required to take public input.

Manager Pearson explained they would revise and combine both ordinances and then schedule a Special Meeting to review it in detail.

- b. Ordinance No. 2020-04 Page 4, Paragraphs D, E and F as it Relates to Revising the Current Established Fees

Francesca Herrera, Public Works Director, stated rates had not been raised in more than 8 years. Ms. Herrera explained a 20% rate increase, which would be \$80/quarter for polycarts and \$75/quarter for dumpsters/compactors, would bring them into the black however there would be no ability to purchase additional equipment.

Commissioner Serna requested information on raising the price by 25% instead of the 20% rate increase. Commissioner Fischer stated his preference was to only go up 20% at this time, however it could be raised again in the future to be able to cover the additional costs. Commissioner Pfeffer agreed and stated it was a moving target which the County will always be chasing so he preferred to only increase 20% at this time and see what happens in the future. Ms. Herrera explained after rerunning the numbers it would be a 25% increase if the GRT was added in.

Andrea Fernandez, Ruidoso Resident, recommended reducing the waste instead of reducing the cost.

Russ W., County Resident, recommended enforcement and collection of the Liens which were already on the properties.

Chair Crunk recessed the public hearing and reconvened the Regular meeting at 10:38 AM.

Motion: Table Agenda Item 12a and conduct another public hearing for amendments and revisions to Ordinance 2020-04 at the next Regular Commission Meeting in June, **Action:** Table, **Moved by** Commissioner Serna, **Seconded by** Commissioner Proctor.

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

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

Motion: Approve Resolution 2023-58 increasing the solid waste collection fees to \$80/quarter for Polycarts, \$75/quarter for dumpsters, and \$40/quarter for a second polycart, all prices include GRT, **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, Chair Crunk, Commissioner Proctor.

SEE EXHIBIT E: Final Approval of Resolution 2023-58 approved prior to Executive Session.

Chair Crunk recessed the Regular Meeting and reconvened the Public Hearing at 10:44 AM.

- c. Amendments/Revisions to Ordinance No. 2022-01 an Ordinance Providing for an Efficient and Fair Method of Enforcing the Ordinances of Lincoln County; Establishing the Position of Ordinance Enforcement Officer Under the Supervision of the Public Works Department; Authorizing the Ordinance Enforcement Officer to Enforce the Provisions of Lincoln County Ordinances; Designating Authority and Procedures for Ordinance Enforcement Officers; Providing for the Severability of Parts Hereof; Repealing Ordinance 2022-01 and Any Other Ordinances in Conflict Herewith; and Providing an Effective Date

Attorney Morel explained the ordinance which had been brought to the Commission numerous times before to determine who would be best to enforce the ordinance. Commissioner Serna felt it best left in the planning department and the Sheriff's office could be included at the end if it had to go to court. Commissioner Pfeffer agreed the initial steps should be handled in the planning department with the Sheriff's Office involvement if needed.

Commissioner Fischer would like to see the language changed to Citee instead of Violator. Commissioner Serna would like to have the notice of violation mailed in addition to having a posting requirement at the location in order to advise both the owner and the tenant.

Chair Crunk recessed the public hearing and reconvened the Regular meeting at 10:52 AM.

Motion: Approve Ordinance 2023-04 with amendments as stated, **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, Chair Crunk, Commissioner Proctor.

Chair Crunk recessed the Regular Meeting and reconvened the Public Hearing at 10:54 AM.

- d. Adoption of the Preliminary Budget by Resolution 2023-53 Fiscal Year 2023-2024

Commissioner Fischer explained priority 1 was to find additional sources of revenue, priority 2 was to improve management of existing resources, and priority 3 was to maintain a balanced budget however, he would like to rearrange the priorities so Priority 3 would become Priority 1.

Commissioner Pfeffer questioned if the 2.6 mil for the Lincoln County Medical Center could go to 3 mil if needed. Manager Pearson explained they were looking at the preliminary budget and any changes would need to be made prior to the final budget in July so they would need to revisit it at the June meeting.

Chair Crunk adjourned the public hearing and reconvened the Regular meeting at 11:07 AM.

Motion: Adopt Resolution 2023-53 with the following changes- Priority 1 maintain a balanced budget without incurring increases in taxation rates and by minimizing increases in fees for Lincoln County Citizens, priority 2 remains the same and priority 3 find additional resources of revenue by encouraging economic development, **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, Chair Crunk, Commissioner Proctor.

SEE EXHIBIT D: Copy of Resolution 2023-53 is attached hereto in reference thereto made a part hereof.

Chair Crunk recessed the Regular Meeting at 11:10 AM and reconvened at 11:20 AM.

11. 9:30 A.M.: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS (Items are for discussion only – no action will be taken)

Jeff Bleu, Alto resident, appreciated the commissioners' statements about their opposition to the batch plant. Mr. Bleu continued reading Mr. Farrington's comments. Mr. Bleu expressed his concern about the apathetic nature of the Judicial System and others involved. Mr. Bleu stated the concrete batch plant would affect the assessment and the tax revenue of the houses in the Alto area.

Commissioner Fischer stated he was torn on the issue as he was for private property rights as well as the disturbance of the area with an industrial facility. Commissioner Fischer explained the issue brought up concerns about future planning in the County and how to secure the legacy of the different areas and neighborhoods in the County.

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

Ross Castleton, Warden LCDC, provided statistics from the detention center over the last month. Warden Castleton explained they had staffing issues and were down 8 staff, so they raised the base pay to \$20/hr. Warden Castleton stated they had a job fair and contacted NMWFC to try and find staff. Warden Castleton detailed some renovations including removing the paint on the windows, painting the walls within the facility, and installing ladders on the beds. Warden Castleton explained it was Correctional Professional Week last week, so the detention center provided fun activities for the staff as a thank you.

Commissioner Fischer questioned the screening of the employees entering the facility. Warden Castleton explained employees were wanded and must have clear bags, however the screening process would be too invasive.

Commissioner Pfeffer questioned counseling programs available at the facility. Warden Castleton explained the RISE program had a counseling piece and they had a private practice mental health provider as well.

15. Lincoln County Assessor, Walter Hill:

- a. 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 recognized 4 members of his staff; Raymond Monrreal, Amanda Trujillo, Taylor Thornton, and Dena Badore who were now certified Appraisers. Assessor Hill spoke on SB 324 and stated he would like to have all his employees with training receive certification pay.

Chair Crunk stated he would like information on the commercial appraisals throughout the County. Assessor Hill explained all Commercial Properties in Ruidoso and Ruidoso Downs would be done next year, Corona was done last year, and Carrizozo would be done this year. Assessor Hill stated his office was short staffed, so they were behind.

Attorney Morel explained Statute 4-39-4 and 4-39-5 and stated both were affected by SB 324. Attorney Morel explained effective July 1, 2023, all Assessor's employees could receive up to \$9,000 for all 4 certifications. Attorney Morel detailed the AG Opinion and interpretation from Grace Phillips, the Attorney for the New Mexico Counties, who stated Article 10 Section 1 of the NM Constitution provided the Legislature shall fix the salaries of all County Officers and no County Officer shall receive additional compensation other than the annual salary provided by law. Attorney Morel stated his opinion was, although it would take affect July 1, 2023, an elected official would not be entitled to the increase per the Constitutional provision during the current term of office. Attorney Morel explained the Assessor was already receiving an additional \$7,500 however, he felt he would not be able to receive the additional amount until the next term began.

Attorney Morel explained the pay adjustments were discretionary for all employees. Assessor Hill stated there were 4 levels of certification available. Chair Crunk questioned the different jobs in other Counties and how they were paid.

Commissioner Serna questioned the open positions in the office since the Assessor stated he was short staffed. Assessor Hill stated there were currently no open positions in the Assessor's Office. Commissioner Pfeffer commended the staff who had increased their training and received their certifications. Commissioner Pfeffer stated they were not short staffed, they were fully staffed, and there were not many departments in the County who could say that, so he applauded them for having the extra incentive to keep staff in the office.

Commissioner Proctor would like to consider the raises for the County staff however he was concerned about the Assessor pay increase as it was considered un-Constitutional and it was stated as may, not shall.

Commissioner Fischer spoke on the County employees' pay and stated it should be done globally, not specifically to each office. Commissioner Fischer would like a study of the compensation for all the offices, not just the Assessor's Office.

b. Consideration of a Variance/Exception from Resolution 2021-41, PER DIEM AND MILEAGE POLICY, Section 3. D.5.

Attorney Morel explained the Resolution stated a set amount which could be received per mileage and per diem however, the Commission could approve anything over that amount. Assessor Hill explained his interpretation was it could be approved by the department head, Elected Official or the Commission. Assessor Hill stated they were currently over by \$161.40 for a couple of employees.

Billie Jo Guevara, Finance Director, stated they were over by \$161.40/employee however, that didn't reflect the other 20% which they needed to submit for, and they wanted to attend the summer conference as well which was estimated at an additional \$500/employee.

Assessor Hill explained the two employees attended two full weeks of training with Tyler Tech. Chair Crunk questioned employees being trained in new software which hadn't been decided on or approved. Manager Pearson stated they were going to RFP or proposal of some kind for software for the County as a whole. Chair Crunk stated he didn't understand why they were attending training on a program which hadn't been approved.

Commissioner Fischer explained the Commission was looking for confidence the Assessor was doing his due diligence in being efficient. Commissioner Fischer stated the Assessor's 5-year plan which was just being implemented was really impacting the citizens of the County as the appraisals were increasing. Commissioner Fischer appreciated the 5-year plan however, he would have liked to see it implemented in the beginning of the Assessor's term of office, not the end. Commissioner Fischer felt it appropriate to increase the mileage and per diem as requested so the employees could further their knowledge of office duties.

Motion: Approve the overage above \$2,500 for each of the two employees, plus up to an additional \$500 for them to be able to attend the Summer Conference, **Action:** Approve, **Moved by** Commissioner Fischer, **Seconded by** Chair Crunk.

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

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

Chair Crunk recessed the Regular Meeting at 12:26 PM and reconvened at 1:00 PM.

Chair Crunk recessed the Board of County Commissioners and convened as the Lincoln County Canvassing Board.

17. Canvass Capitan Schools Special Election, Lincoln County Clerk, Shannan Hemphill

Clerk Hemphill detailed the Capitan Schools Special All-Mail Election and presented the tabulator tapes, roster, and hand tally forms for approval. Clerk Hemphill stated there were 3,822 active voters and 445 inactive voters for a total of 4,267 total registered voters in the Capitan School District. Clerk Hemphill explained the ballots were mailed to all active voters in the Capitan School District on April 14, 2023, for the Election which was held on May 9, 2023. Of the 3,822 ballots which were mailed, 1,236 were returned with 1,180 accepted and 56 which were rejected for no ID, no Birth Year, no Signature, incorrect address, or the entire envelope was left blank. Clerk Hemphill stated the results were 575 votes For the Public School Capital Improvements Tax and 605 votes Against the Public School Capital Improvements Tax. Clerk Hemphill explained there were an additional 177 ballots which were returned undeliverable and 48 ballots which were received after the deadline.

Motion: Approve the results of the Capitan Schools Special Election as presented, **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, Chair Crunk, Commissioner Proctor.

Chair Crunk adjourned the Lincoln County Canvassing Board and reconvened as the Board of County Commissioners.

18. Lincoln County Public Works:

a. Approval to Issue Request for Proposal – Solid Waste Services

Manager Pearson explained the RFP for Solid Waste Services. Commissioner Serna questioned the sentence which said proposers were not required to propose on all activities. Manager Pearson stated they would like to give them the ability to be flexible if they had better ideas than what was being requested. Commissioner Serna questioned the scoring as it would not be given the same consideration if they were not all the same.

Commissioner Fischer stated there were baseline must haves which were required and must be bid on; however, they could include optional services which would be scored differently with extra points.

Motion: Approve the issuance of the Solid Waste RFP, **Action:** Approve, **Moved by** Commissioner Proctor, **Seconded by** Commissioner Pfeffer.

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

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

b. Approval to Adjust Invalid Solid Waste Charges with Manager Oversight

Manager Pearson explained many accounts were incorrectly charged years ago, some were never paid, and others were houses which were sold before a lien was placed on them so they would like the ability to clean up the books and remove some of the outstanding charges.

Motion: Approve the adjustment to the solid waste charges with the manager's oversight, **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, Chair Crunk, Commissioner Proctor.

c. Alarm Permit Violation:

1. Approval of the Release of Liens – Charles Welch

Attorney Morel stated the alarm permit fee had not been paid by Mr. Welch since 2008. Attorney Morel explained there were liens created over the years and some were filed however others were not. Attorney Morel recommended the Commission release the liens which had been filed and then re-institute a new claim of lien from November 2008-current.

2. Approval of Claim of Lien in the amount of \$2,000 – Charles Welch

Motion: Approval to release the liens which had already been filed and file a new claim of lien in the amount of \$2,000 on the property owned by Charles Welch, **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, Chair Crunk, Commissioner Proctor.

d. Consideration and Approval of Gate Repair – Sonterra Compactor Site

Francesca Herrera, Public Works Director, explained the problems with the broken fence and gate at the Sonterra Compactor Site. Ms. Herrera stated Sonterra agreed to fix the fence and asked the County to replace the gate.

Motion: Approve \$1,800 to repair the gate at the Sonterra Compactor Site 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, Chair Crunk, Commissioner Proctor.

19. Economic Development

a. Local Economic Development Act (LEDA) Introduction

Kevin Wilson, LEDA, explained the State's anti-donation clause and stated one of the exceptions was for economic development if the local entity had a Local Economic Development Act. Mr. Wilson explained LEDA would reimburse people for land, infrastructure or building expenses which would all stay in the area regardless of what happened to the business.

Manager Pearson explained the process involved and stated the individual business would have a contract with the State and the County would be the pass-through agency.

b. U.S. Economic Development Administration Funding Opportunities – Discussion and Direction

Manager Pearson stated on April 24 EDA announced there were some funding opportunities for regions impacted by natural disasters. Manager Pearson detailed a few options to include the fairgrounds and working with ENMU on the Rodeo Club, the Pavilion at the Racetrack, water, infrastructure, sewer, the Village of Ruidoso plan and design at the intersection of US Highway 70 and NM 48, and re-construction of the circle at the upper end of Sudderth by Upper Canyon. Commissioner Serna stated there would be a 20% match component which could not come out of federal dollars. Manager Pearson explained they were not looking at specific projects yet, they would just like the authority to pursue the funding opportunities.

Motion: Authorize the County Manager to pursue EDA Funding opportunities, **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, Chair Crunk, Commissioner Proctor.

20. Award of Electrical On-Call Services for the County of Lincoln RFP #22-23-5

Manager Pearson recommended no action be taken.

21. Manager's Report

1) Audit Timeframes Update

Lincoln County staff contacted Kubiak auditors regarding the 2022-2023 audit schedule. The past couple of years, staff has been working through Thanksgiving weekend finalizing the requests from the auditors.

This year's audit will begin much earlier (August 1, 2023). This should allow staff and the auditors to have final documentation completed by October 1, 2023. Burn permits can be found on the Lincoln County Website -

2) Burn Permit is Now Online

Burn permits can be found on the Lincoln County Website -

https://www.lincolncountynm.gov/services/fire_emergency_services/burn_permit.php

The permit requires Name / Mailing AND Burn Address/ Cell Phone Number and the Time and Dates of the burn.

3) Meeting With ALG&CC – 3/27/2023.

Commission Pfeffer, Sandy Nunnally and I met with the Alto Lakes Board to discuss the new Fire Station and Ambulance service in Lincoln County.

The Board appreciated us updating them on the topics and inviting us back as topics arise.

4) Construction Begins on Carrizozo Court Complex

1. The 12th Judicial District has started the transition of moving the Carrizozo Magistrate into the Complex.
2. White Sands Construction commenced building of one ADA restroom in the 1960's portion of the building. Construction is expected to last 90-120 days.

5) FEMA Training 101 – 3/30/2023

FEMA representative, Mike Ku, built an introductory course that covers the basics of dealing with disasters and navigating the FEMA system. This was a great workshop that helped everyone learn the FEMA process (and acronyms).

Lincoln County, VOR, Capitan and the SE COG were all in attendance.

6) Lincoln County Recovery Coordination Meeting (DR-4652)

Every two weeks we join the NMDHSEM team to discuss the latest progress on our recovery efforts (McBride and Nogal Fires). FEMA NMDHS, County, VOR EDA and many more teams give the latest update and try to set achievable goals before the next meeting. Progress has been made with EDA (future funding opportunities). We still have NOT been reimbursed for CAT A & B (debris clean up).

7) Inspection of Public Records - IPRA

The County Manager's office has had 5 major IPRA requests during the last 30 days.

Requirements:

- Response required within 3 days of receiving the IPRA
- Provide Information to requester within 15 days of receiving IPRA
- Invoice requester (if charges apply)
- Wait to receive payment / Receive payment
- Mail the information to the requester

The Sheriffs office receives IPRA requests – almost daily.

8) Director's Reports

22. Approval of Lodger's Tax Funding Requests:

- a. Event: Christmas Jubilee
Amount Requested: \$3,000.00
Date(s) of Event(s): Nov. 10-12, 2023
Presenter: Pam Dutton

Judy Ellis, Ruidoso Valley Greeters, requested funds for the Christmas Jubilee in the amount of \$3,000 to help with advertising. Ms. Ellis explained all the merchants were from Lincoln County and they anticipated 4,000-5,000 attendees.

Motion: Approve \$3,000 as requested, **Action:** Approve, **Moved by** Commissioner Proctor, **Seconded by** Commissioner Fischer.

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

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

Excused: Commissioner Serna.

- b. Event: Smokey Bear Stampede
Amount Requested: \$40,000.00
Date(s) of Event (s): July 1-4, 2023
Presenter: Renee Montes

Robert Shepperd, Lincoln County Fair Board, detailed the Annual Rodeo and 4th of July Smokey Bear Stampede. Mr. Shepperd explained they had \$84,500 in expected costs, they were unable to do fireworks, and they were looking to add concerts. Mr. Shepperd stated they requested \$40,000 to help pay for the headliner, security, sanitation, trash, janitorial, advertising, the halftime show and the stock contractor. Mr. Shepperd explained there would be a \$15 entry fee, and attendance varied based on the day of the week the 4th fell on.

Renee Montes, Lincoln County Fair Board, explained there was \$85,000 brought in last year without a headliner so they were expecting a larger turnout with a headliner.

Motion: Approve \$40,000 as requested, **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, Chair Crunk, Commissioner Proctor.

- c. Event: White Oaks Miners' Day
Amount Requested: \$5,465.00
Date(s) of Event(s): August 19, 2023
Presenter: Susan Gerke

Susan Gerke, White Oaks Miners' Day, explained the requested amount would be used to cover expenses for White Oaks Miners' Day to include advertising, porta potties and insurance.

Attorney Morel stated the T-shirts which were written on the request were unable to be included unless they were given away not sold.

Motion: Approve \$4,165 for the White Oaks Miners' Day, **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, Chair Crunk, Commissioner Proctor.

- d. Event: Summer Concert Series #8 Pat Green
Amount Requested: \$2,000.00
Date(s) of Event(s): July 14 & 15, 2023
Presenter: Matt Ingram
- e. Event: Summer Concert Series #9 Randall King
Amount Request: \$2,000.00
Date(s) of Event(s): July 21 & 22, 2023
Presenter: Matt Ingram
- f. Event: Summer Concert Series #10 WAR
Amount Request: \$2,000.00
Date(s) of Event(s): July 28 & 29, 2023
Presenter: Matt Ingram
- g. Event: Summer Concert Series #11 Anything Selena/Bobby Pulido
Amount Request: \$2,000.00
Date(s) of Event(s): August 4 & 5, 2023
Presenter: Matt Ingram
- h. Event: Summer Concert Series #12 Bruno Tribute
Amount Request: \$2,000.00
Date(s) of Event(s): August 14 & 15, 2023
Presenter: Matt Ingram
- i. Event: Summer Concert Series #13 Little Joe
Amount Request: \$2,000.00
Date(s) of Event(s): August 18 & 19, 2023
Presenter: Matt Ingram
- j. Event: Summer Concert Series #14 Depeche Mode
Amount Request: \$2,000.00
Date(s) of Event(s): August 25 & 26, 2023
Presenter: Matt Ingram

Matt Ingram, Ruidoso Downs Racetrack, explained the summer concert series and said Fridays were free however, Saturdays average ticket price was about \$55.00. Mr. Ingram requested \$2,000 for each series and stated it would be used for printing and social media advertising. Mr. Ingram stated the maximum occupancy in the event tent was 4,000.

Motion: Approve all 7 Summer Concert Series requests at \$2,000 each 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, Chair Crunk, Commissioner Proctor.

- k. Event: Cowboy Festival
Amount Request: \$10,000.00
Date(s) of Event(s): September 29 & 30, 2023
Presenter: Matt Ingram

Mr. Ingram detailed the Cowboy Festival and explained they would be adding a rough stock rodeo, 2 nights of live entertainment, and a PBR challenger series with bull riding. Mr. Ingram requested \$10,000 to be used for social media advertising and printing.

Motion: Approve \$10,000 as requested, **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, Chair Crunk, Commissioner Proctor.

- l. Event: Old Lincoln Days/Marketing Plan
Amount Request: \$18,600.00
Date(s) of Event(s): August 4-6, 2023
Presenter: Tim Roberts
- m. Event: Old Lincoln Days/Marketing Plan
Amount Request: \$19,600.00
Date(s) of Event(s): July 15 & 16 and August 4-6, 2023
Presenter: Tim Roberts

Tim Roberts explained they had a two-part request. The first was \$6,000 for the traditional marketing of Old Lincoln Days to include radio ads, social media marketing and posters to name a few. The second part of the request was for a comprehensive marketing plan for Lincoln. Mr. Roberts stated the comprehensive marketing plan would include new branding and social media over the next 12 months and the development of a new website.

Attorney Morel stated he was unsure if a marketing plan qualified as advertising so it may not be acceptable under the Lodger's Tax funding request.

Commissioner Serna questioned the Lincoln After Dark event and the cost associated for advertising. Mr. Roberts stated the cost would be \$1,000 for advertising Lincoln After Dark.

Motion: Approve \$7,000 for advertising of Old Lincoln Days and Lincoln After Dark, **Action:** Approve, **Moved by** Commissioner Proctor, **Seconded by** Commissioner Serna.

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

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

23. Consideration and Approval to Enter into an Agreement with Desert West, LLC for Services Approved by Resolution No. 2023-21 – Participation in Transportation Project Fund Program Administered by the NM DOT

Jeff Honeycutt, Road Superintendent, stated the presented contract was cheaper than the state pricing agreement. Mr. Honeycutt explained Desert West LLC had a contract with Roosevelt County which had a provision for other Counties to piggyback off the pricing and it was guaranteed through September 2023. Mr. Honeycutt clarified there was a resolution and approval in October 2022 to micro-surface FFA Road, Schlarb Road, Juniper Springs, Alpine Village and Musketball.

Mr. Honeycutt explained \$56,000 was the County match portion of the Transportation Project Fund Program. Mr. Honeycutt stated the 2 miles of chipseal on Fort Loan Tree would be the remaining part of the \$1.1 million.

Motion: Approve obligating the Transportation fund grant of \$1,125,000 for micro surfacing of the 8.2 miles as presented and the chipseal and grading of the 2 miles on Fort Loan Tree, contingent on documentation from Desert West agreeing to those terms, **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, Chair Crunk, Commissioner Proctor.

12. 10:00 A.M: Public Hearings/Budget Hearing (immediately following Public Hearing):

b. Attorney Morel presented the adjusted Resolution 2023-58 setting the fees for solid waste services to reflect polycart residential service at \$26.67/ month inclusive of Gross Receipts, Lincoln County extra polycart service at \$13.33/ month inclusive of Gross Receipts, and Lincoln County residential dumpster service at \$25.00/month inclusive of Gross Receipts. Attorney Morel stated the Resolution would be effective on June 30, 2023, one day prior to the next billing cycle. The resolution was approved during the public hearing however, Attorney Morel requested a vote on the Resolution as presented with the changes.

Motion: Adopt Resolution 2023-58 as presented, **Action:** Adopt, **Moved by** Commissioner Serna, **Seconded by** Commissioner Proctor.

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

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

SEE EXHIBIT E: Copy of Resolution 2023-58 is attached hereto in reference thereto made a part hereof.

c. Attorney Morel presented the adjusted Code Enforcement Ordinance 2023-04 and stated the citations would be posted at the property and the word violator was changed to citee. The Ordinance was approved during the public hearing however, Attorney Morel requested a vote on the Ordinance as presented with the changes.

Motion: Approve Ordinance 2023-04 as presented, **Action:** Approve, **Moved by** Commissioner Proctor, **Seconded by** Commissioner Serna.

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

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

24. 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 Proctor, **Seconded by** Commissioner Pfeffer.

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

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

Chair Crunk recessed the Regular Meeting and convened the Closed Session at 3:11 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.

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. *Dennis Rich and Yvonne Rich, v. Walt Hill, et al, Cause No. D-1226-CV-2022-00230 A Complaint to Quiet Title was filed on the 22nd day of November, 2022 by Attorney H. John

Underwood. On May 4, 2023, Lincoln County filed its Disclaimer of Interest in the case which concluded Lincoln County's involvement in this cause of action.

14. ***State of New Mexico v. Richard Jeremy Moisa, Cause No. M-30-MR-2022-00087A** A Complaint for Violation of Lincoln County's Animal Control Ordinance was filed by LCSO Sgt. Jesse Finley on the 29th day of August, 2022. On April 11, 2023, LCSO Sgt. Jesse Finley filed a Notice of Dismissal with Prejudice based upon lack of jurisdiction. This matter is now concluded.

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

16. ***KVL Realty, LLC / 228 Eagle Ridge Rd.** Violation of Lincoln County's Lodgers' Tax Ordinance. On May 2, 2023, Lodgers' Tax payments were received by Lincoln County. This account is now in good standing and, this matter is concluded.

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

18. ***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 in injuries and damages to Claimant.

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 Crunk adjourned the Closed Session and reconvened the Regular Meeting at 4:39 PM.

Commissioner Serna 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.

25. Discussion and Direction Regarding Leasing the Small House Located on the Fairgrounds Property in Capitan, NM

Jeff Honeycutt, Road Superintendent, provided an update on the small house renovations at the fairground's property in Capitan, and stated the next step was the inspection. Chair Crunk would like a walk through to see the progress. Mr. Honeycutt detailed the hours the County employees spent working on the project and explained the finances thus far in the project. Chair Crunk expressed his concern about the liability issues.

Commissioner Pfeffer expressed his concern about the security or who would be living at that location. Manager Pearson stated the original intent was for the house to be for the caretaker or watcher over the fairground's property and the maintenance yard once it was completed.

Attorney Morel explained it was originally planned as a place for the road superintendent to live however, the terms of the contract would need to be included in the lease. Chair Crunk expressed his concern about the optics of favoritism from other County employees.

Manager Pearson stated they would do a market analysis to get a general idea of the market value of the house and include the required duties in the lease.

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

There were no public hearings to schedule at this time.

27. Signing of Official Documents

28. Next meeting:

- a. June 13, 2023, Special Meeting Canvass Village of Capitan Election
- b. June 20, 2023, Regular Commission Meeting

29. Adjourn

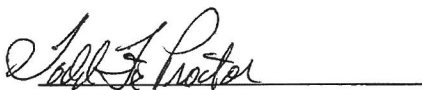
Motion: Adjourn, **Action:** Adjourn, **Moved by** Commissioner Serna, **Seconded by** Commissioner Pfeffer.

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

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

There being no further business to come before the Board of County Commissioners, Chair Crunk adjourned the meeting at 5:01 PM.

County of Lincoln
Board of Commissioners



Todd F. Proctor, Chair

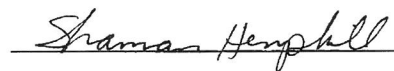

Jon F. Crunk, Vice Chair


Samantha J. Serna, Member


Mark G. Fischer, Member


Pierre S. Pfeffer, Member

ATTEST:


Shannan Hemphill, County Clerk

June 20, 2023

Date Approved

