

COUNTY OF LINCOLN

New Mexico Regular Meeting Board of County Commissioners

Todd F Proctor, Chair
Jon F Crunk, Vice Chair

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

Minutes Tuesday November 14, 2023

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on November 14, 2023, in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico. The meeting was also accessible via Zoom.

1. Call to Order

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

2. Roll Call

Roll Call.

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

Others present included Makayla Zonfrilli, County Manager; Alan Morel, County Attorney; and Shannan Hemphill, County Clerk.

3. Invocation

The Invocation was presented by Commissioner Fischer.

4. Pledge of Allegiance

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

5. Approval of Agenda

Motion: Acceptance of the Agenda and authorized the Chair to move items as necessary,
Action: Approve, **Moved by** Commissioner Crunk, **Seconded by** Commissioner Serna.

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

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

6. Approval of Minutes:

- a. October 17, 2023, Regular Commission Meeting

Motion: Approve the Minutes of the October 17, 2023, Regular Commission Meeting as Amended, **Action:** Approve, **Moved by** Commissioner Serna, **Seconded by** Commissioner Fischer.

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

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

Chair Proctor recessed the Board of County Commissioners and convened as the Lincoln County Canvassing Board at 8:39 AM.

7. Canvassing of the Vote – Regular Local Election of November 7, 2023

Clerk Hemphill expressed her appreciation for her staff and all the Election Workers throughout the County on a successful Election. Clerk Hemphill detailed the 2023 Regular Local Election and

presented the tabulator tapes, rosters, and hand tally forms for approval. Clerk Hemphill stated there were 14,201 registered voters in Lincoln County and there were 3,816 ballots issued for the Election which was held on November 7, 2023. Of the 3,816 voters who cast a ballot in the election, 466 were Absentee Voters, 1,165 were Early Voters and 2,185 were Election Day Voters. Clerk Hemphill stated of the 466 Absentee Ballots issued, 322 were tabulated, 11 were hand tallied, 2 were rejected for incomplete information on the return envelope and 131 were unreturned prior to 7:00 PM on Election Night. Clerk Hemphill detailed the Lincoln County voter turnout for the 2023 Regular Local Election and stated it was a 26.9% voter turnout which was a record and well surpassed the prior Regular Local Elections. The voter turnout in Lincoln County was even greater than the 2022 Primary Election.

Chair Proctor adjourned the Lincoln County Canvassing Board and reconvened as the Board of County Commissioners at 8:54 AM.

Motion: Approve the Canvass of the November 7, 2023, Regular Local Election, **Action:** Approve, **Moved by** Commissioner Fischer, **Seconded by** Commissioner Pfeffer.

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

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

SEE EXHIBIT A: Copy of the County Canvass is attached hereto in reference thereto made a part hereof.

8. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month Ending October 31, 2023
- c. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims
- d. Approval of Required 2024 Operational Resolutions:
 - i. Resolution 2024-27 – Open Meetings Act
 - ii. Resolution 2024-28- Establishing 2024 Regular Commission Meetings
 - iii. Resolution 2024-29- Establishing 2024 County Official Holiday Calendar
 - iv. Approval of 2024 Committee Meeting Schedules – (a) Lincoln Historic Preservation Board, (b) Lodger's Tax Committee and (c) Land & Natural Resources Committee (LANRAC)

Commissioner Fischer requested to remove item c and d3 for discussion.

Item c- Commissioner Fischer questioned the large amount, if the budget would hold, and if there was a trend which could be tracked. Scott Annala, Indigent Health Care administrator, explained he used to spend about \$24,000/month but hadn't been lately so there was plenty of money left in the budget. He stated there wasn't a trend to track, it was just normal waxing and waning. Commissioner Fischer felt it may help to get a better understanding of what the budget was and how it was replenished.

Item d3- Commissioner Serna stated she would like to strike Good Friday, March 9, Election Day, November 5, and part of Christmas December 26 & 27. Commissioner Fischer stated 10-12 days of paid holidays was sufficient. Commissioner Serna explained the benefit package included paid days off which could also be used. Commissioner Fischer felt he would rather trade Juneteenth for Good Friday.

Motion: Approve item d3, striking Presidential Election Day, Tuesday November 5 and Christmas break days December 26 and 27, **Action:** Approve, **Moved by** Commissioner Serna, **Seconded by** Commissioner Fischer.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Crunk.

No: Commissioner Pfeffer, Chair Proctor.

Motion: Approve the consent agenda excluding item d3, **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.

SEE EXHIBIT B: Copies of the Consent Agenda items including Resolution 2024-27, Resolution 2024-28 and Resolution 2024-29 are attached hereto in reference thereto made a part hereof.

9. Approval of Resolution 2024-25 for FY 23-24: Deer Park Valley Loan Payoff

Troy Niederstadt, Chief Deputy Treasurer, explained the early payoff was for a bond loan issued in 2010 for the Deer Park Valley Subdivision. He requested to transfer \$5,000 from the General fund to cover the final payment, one year early, which would save the County \$15,308.79 in interest and would be paid back to the General Fund within the next year.

Motion: Adopt Resolution 2024-25, **Action:** Adopt, **Moved by** Commissioner Serna, **Seconded by** Commissioner Fischer.

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

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

SEE EXHIBIT C: Copy of Resolution 2024-25 is attached hereto in reference thereto made a part hereof.

10. Approval of Budget Adjustment for FY 23/24 by Resolution 2024-26

Motion: Adopt Resolution 2024-26, **Action:** Adopt, **Moved by** Commissioner Fischer, **Seconded by** Commissioner Serna.

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

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

SEE EXHIBIT D: Copy of Resolution 2024-26 is attached hereto in reference thereto made a part hereof.

11. Forest, Land & Natural Resources Matters:

a. Smokey Bear Ranger District

Chair Proctor explained there was miscommunication with some of the entities who did not get notice of the date change for the Commission meeting and were unable to attend.

b. Lincoln County / NMSU Extension Services

Melody Gaines, NMSU Extension Services, explained they worked with the third-grade students in Ruidoso on an Ag in the Classroom project using pumpkins, which concluded with the students making pumpkin pie in a bag to take home. She stated they would be doing the same project the next week with the fourth-grade students in Capitan. Ms. Gaines then detailed the many activities they were working on within the County.

c. South Central Mountain RC & D

Laura Doth, South Central Mountain RC&D, explained they completed 2 Community Wildfire Defense Grants, submitted 1 for updating the Lincoln County Community Wildfire Protection Plan and another for 300 acres of mitigation on some properties with the Village of Ruidoso, however they were County properties. Ms. Doth detailed other projects they were working on within the County and stated they were looking to outreach to Corona.

d. Upper Hondo Soil & Water Conservation District

e. Land and Natural Resources Advisory Committee-LANRAC

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

Chair Proctor welcomed the new County Manager and thanked everyone who helped him as interim County Manager. Chair Proctor detailed the many meetings he attended over the last month. Chair Proctor stated the house at the fairgrounds had been completed and the certificate of occupancy was received on October 10, 2023. He explained the remodel estimate was \$76,300. The materials were \$74,597 and labor was \$63,506.76 so the total cost to remodel the house was \$138,103.83, which well exceeded the estimated cost, so he was hopeful they would be able to get a return on that investment in the future.

Commissioner Crunk explained the State gave Workforce Solutions a \$140,000 grant to carry on the youth project. He detailed some of the projects which were very successful, including a program he attended last year where individual business owners talked to High Schoolers about the need for completion of their education even without going to college.

Commissioner Pfeffer attended a couple meetings in his district about the transition to the new trash pickup program. He thanked Mr. Annala for his presentation and attendance at the meetings. Commissioner Pfeffer detailed numerous meetings he attended over the prior month. Commissioner Pfeffer welcomed the new County Manager and stated he was looking forward to her involvement in all aspects of the County.

Commissioner Serna commended Tracy with Enchanted Forest Subdivision and stated she had received an award for seeking funding to improve water infrastructure for their area. Commissioner Serna thanked the Veterans for their sacrifice and hard work for the people of the Country.

Commissioner Fischer spoke with some of the Candidates for School Board; however, many did not feel free to discuss their conservative positions and were worried about what happened to the Floyd School Board who were all kicked out after a disagreement with the State. Commissioner Fischer met with Dean Holman from Ruidoso Downs who was working with Ruidoso to stimulate businesses and business growth in the area. Commissioner Fischer spoke on the meeting held at the Fairgrounds and the notion of conservation leases which would stop all activities on the land, multiple uses would no longer be allowed on those lands. Commissioner Fischer welcomed the new County Manager.

Clerk Hemphill again thanked her staff for all their hard work and dedication to making sure the election was a success. Clerk Hemphill explained the State Canvassing Board would meet on November 28, 2023, to certify the results of the election and order automatic recounts which would need to be completed by December 8, 2023. Clerk Hemphill stated her office would hold a swearing-in ceremony later in December with a Judge available to swear in anyone elected who would like to attend. Clerk Hemphill explained her office received notice last week from the FBI about letters which were mailed to election departments in various States which were laced with a dangerous substance, initial tests showed them to contain fentanyl. She explained her office had implemented extra precautions to help mitigate any potential issues.

Assessor Hill welcomed the new County Manager. Assessor Hill stated they held the Assessors Affiliate meeting in Ruidoso, and it was well attended and well run.

Troy Niederstadt, Chief Deputy Treasurer, stated the 2023 property taxes were mailed out. Mr. Niederstadt explained they had collected 31% so far and he commended the staff for their hard work.

Sheriff Wood thanked the Veterans for their service and welcomed the new County Manager. Sheriff Wood provided statistics from his office over the last month.

Steve Fortelny, Lincoln County Resident, explained he was an activist early in pandemic and spoke on behalf of the children who were made to wear masks for 10 hours at a time. He also spoke on the Carrizozo Mayors response to the pandemic. Mr. Fortelny stated he would be submitting a formal complaint about being unable to hear Commissioners discussions.

Jeff Bleau, Lincoln County Resident, commended the Clerk's Office for their preparation and handling of the election. He stated, as a poll worker, it made it easier for them to support the election process with a well-run office behind them. Mr. Bleau talked about Broadband in the County and especially the need for the students in the rural areas of the County.

Chair Proctor recessed the Regular Commission Meeting at 9:52 AM and reconvened at 10:00 AM.

13. Galen Farrington – Resident – Requesting a BOCC letter of support against the proposed location of a concrete batch plant (10-minute presentation)

Galen Farrington, Lincoln County Resident, gave a presentation on the opposition to the proposed location of a concrete batch plant in Alto. After the presentation, Chair Proctor questioned if there was still pending litigation and Mr. Farrington stated there was. Commissioner Fischer stated there was a concrete batch plant in Ruidoso and there did not seem to be any ill effects from it. Commissioner Crunk stated it was not intended to be a discussion item; it was a presentation only.

20. Public Works:

- c. Approval of Revised Lodgers' Tax Request:
Event: **Billboard on US HWY 380 Lease**
Date of Event: **10/02/2023-09/29/2024**
Requestor: **Friends of Historic Lincoln**

Amount Requested: **\$5,000.00**

Elaine Allen, Friends of Historic Lincoln, explained the state would pay \$5,000 and they would like reimbursement from the County for the other \$5,000. She stated the billboard would be on Highway 70, not Highway 380.

Motion: Approve \$5,000 in Lodgers Tax funding, **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.

- a. Approval of Filing of Solid Waste Liens
 - 1. Robert W. McKelvey - **\$690.78**
 - 2. Womble Enterprises, LTD - **\$629.24**
 - 3. Michael C. Marks & Paula J. Marks - **\$629.24**
 - 4. Kelly Jo McCarty & Arthur Rojas - **\$629.24**
 - 5. Justin Uller - **\$606.16**
 - 6. Carl A. Williams & Tabitha Crisp - **\$590.78**
 - 7. Cathi J. Jones - **\$572.70**
 - 8. Robert Lee Daleske & Mary Lynn Daleske - **\$572.70**
 - 9. Jerry Don Manire - **\$444.62**
 - 10. Manuel Preciado Sr.-**\$817.32**
 - 11. Henry R. Herbert Jr. & Anastasia Herbert- **\$690.78**
 - 12. William Seellbach III- **\$684.24**
 - 13. Thomas James Bramble Jr. & Karen Marie Bramble- **\$629.42**
 - 14. Thomas Schiele- **\$643.63**
 - 15. Charles W. Leslie-**\$691.96**
(Land#294775 Charles W. Leslie) (MH#350138 Kathy L. Chapman)
- b. Approval to Release & Refile Solid Waste Liens:
 - 1. Richard W. Purcella & Frances J. Martinez - **\$2,239.63**
 - 2. Maria N. Guillen - **\$1,961.48**
(Land# 1007381 Maria N. Guillen) (MH# 337375 Maria Madina)
- d. Approval to Release Lien Against Jerry Lee Gutierrez & Michael Floyd Gutierrez for Amount Less than Lien is Currently Filed for

Motion: Approve a, b and d, **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.

25. Presentations in Response to RFP 23-24-3 Youth Mentoring Services and Positive Active Programming

Toni Foligno, Lincoln County Chief Procurement Officer, stated they would be receiving oral presentations by four agencies which applied for the RFP. Commissioner Serna questioned if the Big Brothers & Big Sisters was eligible as they were not currently in Lincoln County.

Brenda Dorsey, Big Brothers Big Sisters, explained they responded to the RFP as seed money to restart in Lincoln County, however they were not currently in Lincoln County. Attorney Morel stated he was unfamiliar with the RFP and would need to do some research prior to her presentation.

Tim Coughlin, Boys and girls club, explained they worked with students from Ruidoso, Ruidoso Downs, Hondo, Alto, Capitan and some of the outlying areas. He spoke on the method for mentoring and the determination of mentoring ability. Mr. Coughlin stated they receive parental consent forms as well as information from the students to determine the best fit. He explained they determine risk factors and use evidence-based programs and prevention programs to track the progress of the child. Mr. Coughlin detailed the after-school mentoring program provided 5 days/week, which they provide 1 on 1 mentoring, however in a hybrid situation, following the rule of 3 to provide safeness for the children. Mr. Coughlin explained the amount of funding would determine how many children they could provide for and how the funds would be spent. Commissioner Fischer questioned the current budget of the Boys and Girls Club. Mr. Coughlin stated it was \$550,000, with \$350,000 of it going to salaries and benefits. Commissioner Fischer

questioned the mentoring piece and the types of activities they provided and participated in. Mr. Coughlin stated the activities were fun and engaging for both participants and included things that interested them such as art, sports, etc.

Melanie Gutierrez, Lincoln County Extension Services, explained they offer county wide programming, as well as school enrichment programs, to serve the county as a whole. Ms. Gutierrez stated the slogan was "Learn by Doing", so everything was hands on. She stated they had five areas everything fell into, Ag and livestock, family and community health, natural resources, leadership and citizenship, and STEM. Ms. Gutierrez explained they used the 4H curriculum which was a research-based curriculum used nationwide and included a couple different models. She said the first was BIG M- Belonging, Independence, Generosity, and Mastery. She explained the Thrive Model and stated the developmental context is the root of what they do, which leads to a growth mindset and a hopeful purpose. Ms. Gutierrez explained the funds could be used to buy a suburban to transport the youth if that was acceptable. She stated they could also use the funds for program supplies. They created brush-bots at the last in-service which were neat, however they cost \$15 each to create, which puts a hardship on everyone. She stated it cost almost \$300 in supplies to do the pumpkin pie in a bag project and the plant the moon challenge was \$41/kid to participate. Ms. Gutierrez explained they operate on \$14,000 and spend about \$12,500 on their operating budget.

Attorney Morel stated he did not have a copy of the Legislative Appropriation #23-ZH9241, however it was to contract for youth mentoring and positive active programming in Lincoln County, not for seed money or for a vehicle.

Laurie Benavidez, founder of High Mountain Youth Project of NM, explained they mentor the most vulnerable youth in the County. She stated they had a mentoring program in place and were expanding their program so the added funds would help. Ms. Benavidez explained they had evening drop-in services for ages 13-18 and plan to have a future drop-in 24-hour youth crisis shelter. She stated they hoped to help 90 vulnerable youth in Lincoln County over a year once they are completely functional. Ms. Benavidez explained they were looking to budget .25 salary for a program manager, .25 salary for a social worker, .25 salary for 6 youth development specialists, mileage reimbursement for transportation, training materials printing and supplies. She stated High Mountain would match the amount of granted funds. Ms. Benavidez explained they pay for the criminal background checks and fingerprinting for all the mentors, staff and volunteers, as well as snacks and meals for the mentors and mentees during their mentoring activities, they also provide online services during inclement weather or when travel is unavailable. Ms. Benavidez detailed their current budget of \$110,000 was for the evening drop-in center, however their new budget to include the 24-hour youth crisis shelter would be \$856,846. Commissioner Fischer questioned the referral process. Ms. Benavidez stated it was through the drop-in center, school referrals and parents or community members. Commissioner Fischer questioned the impact of the program. Ms. Benavidez explained they had served over 400 youth since February of 2018. Commissioner Serna questioned the skills they would learn. Ms. Benavidez explained they use the KC Life skills assessment to help them learn life skills.

27. Approval of Award for RFP 23-24-3 Youth Mentoring Services and Positive Active Programming

Commissioner Serna expressed her apologies that Big Brothers Big Sisters was not notified ahead of time that they were ineligible for the grant.

Commissioner Fischer was impressed with the hands-on piece and specific goal setting and outreach of the Extension Services and appreciated how frugal they were with their existing funds. Commissioner Fischer appreciated the need for the High Mountain Youth drop-in services, however he felt it was less useful in the outlying areas of the county and more focused on Ruidoso and the more populous areas. Commissioner Fischer explained the Boys and Girls Club had been around for quite some time and he didn't feel as compelled to provide a large portion to them. Commissioner Fischer recommended a 50/30/20 split between the Extension program, High Mountain Youth and the Boys and Girls Club.

Commissioner Serna felt the split should be 70/20/10 between the Boys and Girls Club, High Mountain Youth, and the Extension service. She felt the extension service catered more to affluent families and the need should be more of a focus on at risk youth.

Commissioner Pfeffer felt the High Mountain youth were the most vulnerable and would like to look at the opioid funds and how they could be tied into the program.

Commissioner Crunk commended the High Mountain Youth project's ability to provide for needy kids. He had high praise for the FFA program, and he felt very highly about youth mentorship as a whole throughout the County.

Chair Proctor felt all three programs were great, however the Extension hit all the communities in the County. Chair Proctor stated the Boys and Girls Club and High Mountain Youth didn't seem to reach out to more rural areas of the County. He felt the need for mentorship throughout the County was essential and highly encouraged.

Motion: Approve the award for RFP 23-24-3 to the Lincoln County Extension Services at 50%, High Mountain Youth at 30%, and the Boys & Girls Club at 20%, **Action:** Approve, **Moved by** Commissioner Fischer, **Seconded by** Commissioner Pfeffer.

Commissioner Pfeffer felt the percentages needed to be adjusted to 35% for the Extension Services, 35% for the Boys & Girls Club, and 30% to High Mountain Youth.

Motion: Amend the motion to Approve the award for RFP 23-24-3 to the Lincoln County Extension Services at 35%, High Mountain Youth at 35%, and the Boys & Girls Club at 30%, **Action:** Amend, **Moved by** Commissioner Fischer, **Seconded by** Commissioner Pfeffer.

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

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

13(a). Discussion and possible action on letter of support of Roswell-Chaves County hosting the National Championship Air Races (letter needed by Nov. 17th, 2023).

Commissioner Serna explained they were relocating the National Championship Air Races from Reno where they had been held for 50 years and they were looking for a letter of support to move to this area. She stated it would be a benefit to the entire area.

Motion: Approve a letter of support of Roswell-Chaves County hosting the National Championship Air Races, **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.

14. Lincoln County Detention Center Update

The Warden was unavailable to provide an update.

15. Lincoln County Medical Center Update – Todd Oberheu

Mr. Oberheu was unavailable to provide an update.

16. Manager's Report

1) Code Enforcement Officer – Nick Herrera

Monday 11/6/2023 I met with Scott, Nick, Sheriff Wood, and Undersheriff Martinez to discuss our next phase in orientation for our Code Enforcement Officer. We have given Mr. Herrera the cell phone formerly associated with Francesca's position. His badge is being ordered. Sheriff Wood and Undersheriff Martinez will be working with Mr. Herrera to get a vest fitting in Albuquerque. Mr. Herrera will work with the team to get his truck properly outfitted with a radio and visible decals for identification. I am working with the Village to determine if Mr. Herrera can shadow with the Village's Code Enforcement Officer for a day or two. Mr. Herrera will work with the Animal Control officer in the Sheriff's office to assist with animal control needs as well as carry out the additional ordinance enforcement to include but not be limited to Open Fire/Burn, Solid Waste, etc. Officer Herrera will also be participating in a few days of shadowing with a Sheriff Deputy and/or Animal Control officer. There is training offered by the State pertaining to State Animal Control laws. Officer Herrera will be participating in these training courses to know when to enforce and when to call for a Deputy/Sheriff's Animal Control Officer. Officer Herrera will also be participating in OC/Pepper spray, Taser/Phaser training, and baton training. We will also work to build or purchase an animal cage and gather quotes for an animal lift for safety and security of animal loading (to be brought before the Commission). We will re-evaluate the progress after the Thanksgiving break to provide additional updates. We still need to meet with Alan on Court procedures and citation information. We will need to

work on a new contract with the Human Society to include the County's new Code Enforcement Officer.

Requested Motion: Motion to gather estimates for code enforcement training and quotes for an animal cage and lift system for the County's Code Enforcement Officer to be presented at the next meeting.

Commissioner Pfeffer stated the position was originally moved from Law enforcement to Public Works and was concerned the position was sliding back to the law enforcement side. Commissioner Fischer reiterated what Commissioner Pfeffer stated and explained there needed to be more focus on illegal dumping and fire mitigation and less on animal control.

2) Town of Carrizozo

Navigating through the former County Manager's emails, I came across a grant agreement for the Town of Carrizozo for the Law Enforcement Recruitment Fund (LERF) for the amount of \$131,250. I left a voicemail with Chief Hill from the Carrizozo Police dept. to seek further information on this grant/project.

3) Annual Survey of Local Government Finances – U.S. Census Bureau

Due December 12, 2023

4) Contractor Annual Service Contract Reporting Requirements

Due November 15, 2023.

5) Solid Waste Update

Our solid waste billing is wrapping up and we have a few accounts with credits. Scott and the team are putting together a comprehensive list. I have corresponded with Rhaganne and she is speaking with the VP to see if we can transfer those credits. If not, we may need to decide to issue reimbursement checks for anything over \$5.00.

Requested Motion: Motion to approve the County Manager to work with the County Attorney to negotiate with USW to transfer credits of existing customers if agreeable by USW and if not present the cost of reimbursement at the next Commission meeting for discussion and potential action to issue reimbursements.

Motion: Approval to issue a check to USW and have it credited to the proper account holders,

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.

6) Financial reporting / Treasurer reporting to the Commission

I am working with the Finance office and the Treasurer's office to come up with a more reader-friendly financial report. Tyler MUNIS software would greatly assist with this. In the meantime, we will work as a team to have something more reader-friendly for the December meeting. With the current software and starting on 11/1 I did not have enough time to go through all the financial and treasurer reports to manually create a more presentable report based on the data given each month. Example Cover sheet provided. I will need to work with the Treasurer, Finance, and Assessors for this information as well as Triadic to see how we can produce such reports as I am most familiar with Tyler Tech.

7) LATCF (Local Assistance and Tribal Consistency Fund)

We have \$5.8 million of unallocated LATCF funds. These funds can be used for software improvements to increase public service provision such as finance software like Tyler Technologies and VOIP phone system upgrades. I would like to propose using some of these funds to implement a better accounting and government finance system and phone system for our county staff to provide more transparent reports and work more efficiently to serve the public which will increase government transparency. Otero and Chaves County also have switched from Triatic to Tyler.

Requested Motion: Motion to approve the County Manager to get quotes on the Tyler Technologies finance system Enterprise package and VOIP phone systems to present to the Commission for the December meeting.

8) Strategic Plan

I want to hold a department head and elected officials meeting and then a workshop with the commissioners (eventually) to get a consensus among staff on their feelings

about a county wide strategic plan. From there, I want to do an internal workplace culture analysis, determine internal goals, work with planning and the assessor's office to do some sort of community survey on needs/wants in the county, survey and meet with each town/village, and form a county-wide strategic planning committee. There are a lot of other things that will go into this plan for a strategic direction but phase I will be the information gathering phase. I am seeking the Board's permission to begin forming a strategic direction and gather some initial data to work towards a strategic plan in the form of phases. The Commission will clearly have final oversight and approval, but I want to put something very nice and informative for the board to discuss in a workshop and then discuss in a commission meeting.

Outreach is also going to be a big part of this plan, visiting each village/city to get survey results and from all the internal and external results I think the commission could use that information to determine goals for strategic direction.

I'd like to get to a point where I can provide information on what staff think, what residents think, what county leaders think, and then what the commission would like to see and put that all into a nice strategic plan proposal. I've done this in the past 3 counties I've worked in, and it has been a successful endeavor, so I look forward to working with the Board on such a project.

There may be grants available and we could also explore outsourcing this planning project if the Board doesn't want to use County staff. This would be considered optional for elected officials but can be adopted by them if they choose to participate.

Requested Motion: Motion to approve the County Manager to beginning the process of strategic planning for the County and enter phase I of the Strategic planning process which is to provide a detailed outline to the Commission of Phase I: Research and Data Collection and present this phase I proposal to the Commission in the December 2023 meeting for consideration of implementation of a phased County Strategic Plan.

10) Support Letter for Aquifer Legislation and/or Funding

A letter was submitted by former Commissioner Spencer regarding the wells that are causing issues on his ranch property. He asked the Commission to produce a letter of support for an Aquifer study and future funding.

Requested Motion: Motion to approve the letter of support as presented and submit it to the parties indicated.

Chair Proctor explained the letter of support for the aquifer study was already approved and this was just an updated letter.

Chair Proctor recessed the Regular Commission Meeting at 11:59 AM and reconvened at 12:46 PM.

11) Director's Reports

Manager Zonfrilli requested the Commissioners rank their top five ICIP requests. Each Commissioner listed their top priorities and Manager Zonfrilli compiled the results into a list. She stated the order was an ambulance building, an evidence building, a crime scene vehicle, detention center upgrades, and a mini excavator and work truck for the road department.

Motion: Approve the top five ICIP priorities as an ambulance building, an evidence building, a crime scene vehicle, detention center upgrades, and a mini excavator and work truck for the road department, **Action:** Approve, **Moved by** Commissioner Fischer, **Seconded by** Commissioner Pfeffer.

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

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

Absent: Commissioner Serna.

9) Grant Writer Position, Public Works Director, Solid Waste Clerks

The County is undergoing some changes with the Solid Waste process. We have two employees acting in the roles of Clerks, collecting payments and such. We also have a Public Works Director position open as well as a grant writer position. I would like to seek permission from the Board to do a department and job description review and present a proposal to the Commission on what should be done with these positions.

Requested Motion: Motion to approve the County Manager to review the job descriptions of the Grant Writer, Public Works Director, and Solid Waste Clerks and propose a course of action for reorganization and operational efficiency at the December 2023 meeting.

22. Approval of Amendments to the 2020 and 2022 Industrial Revenue Bonds (IRB) Leases and Subleases – Pattern Energy/Luis Carrasco

Jeremy Turner, Pattern Energy, presented the project as it had progressed to the current point. He stated they had already broken ground and expected to be going from zone to zone until the end of April 2026. Mr. Turner explained they were finally able to adjust the layout and they no longer had transmission lines in Lincoln County or go through the military base. He stated they currently have 600 workers on the project, and they expect it will ramp up to 1,500 workers. Mr. Turner stated it was the largest wind farm in the western hemisphere and the largest investment in renewable energy.

Motion: Approve the amendments to the 2020 and 2022 Industrial Revenue Bonds as described,

Action: Approve, **Moved by** Commissioner Pfeffer, **Seconded by** Commissioner Crunk.

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

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

Absent: Commissioner Serna.

19. Office of Emergency Services

- a. Insurance Services Office (ISO) Presentation – Ashley Dalton and OES Director, Arron Griewahn

Ashley Dalton, owner of insurance agencies in Alamogordo and Ruidoso, gave a lengthy presentation on the ISO readings in the County and what could be done to help out in the future. Ms. Dalton explained the Insurance companies also look at other factors in the area when determining the ratings.

Aaron Griewahn, OES Director, explained if they had the capability to have water systems at every fire station it would help to increase the PPC and ISO ratings. He stated training hours helped the PPC rating as well, however volunteers are counted at 3:1 and paid employees are counted at 1:1. Mr. Griewahn felt a training Center would help the PPC rating since volunteers have a hard time going to the State training facility, and they would need two acres of land and two water sources for a training facility.

- b. Request to Purchase Utility Terrain Vehicle (UTV) for Lincoln Volunteer Fire Department

Aaron Griewahn, OES Director, explained they needed a new UTV for the Lincoln Volunteer Fire Department which would be the same as the one which was just purchased for the Hondo Fire Department, however this one would need to include a trailer.

Motion: Approve the purchase of the UTV and trailer for the Lincoln Volunteer Fire Department,

Action: Approve, **Moved by** Commissioner Fischer, **Seconded by** Commissioner Crunk.

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

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

Absent: Commissioner Serna.

- c. Approval of Subrecipient Grant Agreement from the Department of Homeland Security to Install the Gallinas Radio Tower in the Amount of \$524,000.00

Motion: Approve the Subrecipient Grant Agreement from the Department of Homeland Security to Install the Gallinas Radio Tower in the Amount of \$524,000.00, **Action:** Approve, **Moved by** Commissioner Crunk, **Seconded by** Commissioner Fischer.

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

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

Absent: Commissioner Serna.

17. Discussion and Approval to Return the 1917 La France Fire Truck to the City of Santa Fe

Chair Proctor explained it was originally a gift from the City of Santa Fe to Lincoln County. It was then turned over to a car club for restoration which unfortunately didn't happen, and it was recently picked up from the car club in pieces and stored at the Fort Stanton fire house. Attorney Morel recommended the Commission move to transfer it back to the City of Santa Fe in "as is" condition with the Fire Marshalls consent.

Motion: Authorize the return of the 1917 La France Fire Truck to the City of Santa Fe in "as is" condition with the Fire Marshalls consent, **Action:** Approve, **Moved by** Commissioner Crunk, **Seconded by** Commissioner Fischer.

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

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

Absent: Commissioner Serna.

18. Approval of Declaration and Final Plat of Avalon Forest Subdivision – Developer, Don Murphy

Don Murphy, developer of the Avalon Forest Subdivision, explained this whole process was started in 2006 and it was finally nearing completion. Mr. Honeycutt stated the roads were not to County specifications as they were only 20 feet wide, however everything else looked good. Mr. Murphy stated the roads would be private roads which would not become part of the County property.

Motion: Approve the declaration and final plat of the Avalon Forest Subdivision with the stipulation that the roads will never become County roads, **Action:** Approve, **Moved by** Commissioner Crunk, **Seconded by** Commissioner Fischer.

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

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

Absent: Commissioner Serna.

Chair Proctor recessed the Regular Commission Meeting at 3:07 PM and reconvened at 3:15 PM.

16(a). Agenda Setting Policy – County Manager

Manager Zonfrilli requested the ability to set a policy to have all requests and documentation for the agenda in her office 6 days prior to the meeting. That would give her time to send everything out to the Commission for approval prior to the final posting of the agenda and the packet. Commissioner Pfeffer questioned the need for six days and requested she change it to five days prior to the meeting.

Motion: Approve the policy of receiving all agenda items and documentation 5 days prior to the meeting, **Action:** Approve, **Moved by** Commissioner Crunk, **Seconded by** Commissioner Pfeffer.

Commissioner Fischer was worried it was too rigid and there should be an option for the Chair to approve any changes needed after the 5-day window closed.

Motion: Amended motion to approve the policy of receiving all agenda items and documentation 5 days prior to the meeting and any changes after that day should be done with Chair approval, **Action:** Approve, **Moved by** Commissioner Crunk, **None Seconded**

The Original motion stands.

The Motion and Second were withdrawn and the agenda item will be brought back at the next meeting.

21. Approval of McBride Fire EWP Agreement for Additional Funding in the amount of \$1,242,500.00

Chair Proctor explained the agreement was approved at a prior meeting, however there was an additional \$30,000 supplemental administrative fee which was added to it.

Motion: Approve the McBride Fire EWP Agreement for additional funding in the amount of \$1,242,500.00, **Action:** Approve, **Moved by** Commissioner Fischer, **Seconded by** Commissioner Pfeffer.

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

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

Absent: Commissioner Serna.

23. Discussion and Approval of the 4th and Final Renewal of the Agreements Between the County of Lincoln and Ventura Plumbing, Heating and Cooling for HVAC Services and Plumbing Services

Commissioner Fischer requested some training be given to the vendor on the billing procedures as well as permits be required to be pulled when needed. Attorney Morel explained, after some research, it was determined permits were not required if the footprint of the work was not changing. Commissioner Pfeffer questioned if this was the final year of the last 4-year renewal and if they would have to go out to RFP at that point. He stated they should consider raising the contract amount in the future.

Motion: Approve the 4th and final renewal of the agreement between the County of Lincoln and Ventura Plumbing, Heating and Cooling with the change in the cap amount to \$10,000 and with the requirement that permits are obtained as required by law, **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.

24. Lincoln County Road Department:

a. Review and Discussion of Road Maintenance Plan

Jeff Honeycutt, Road Superintendent, explained the progress over the prior 3 years as well as current projects which were ongoing. He explained there were \$4,000,000 worth of grants and the County match was \$370,400. Mr. Honeycutt gave a lengthy presentation on past, current and future projects.

Chair Proctor would like to have Renegade and Wilson and Co back at the next meeting for a review of the delay of the projects at the Fairgrounds.

b. Approval of Month-to-Month Contract Extension for the D6T Dozer and the CSB56 Roller

Mr. Honeycutt explained the leases expire on January 17 and January 7, 2024, respectively. He provided options for the machines going forward and recommended going on a month-to-month basis.

Commissioner Fischer questioned the month-to-month on the machines, the month-to-month on the warranty, and the additional charges. He stated longer leases were usually more favorable. Mr. Honeycutt stated he would bring it back next month with numbers for approval.

c. Discussion and Approval of Surcharge Increase in the Amount of \$4,000.00 for Mack Granite Dump Truck

Mr. Honeycutt stated he would need to review the contract and bring it back next month.

8. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month Ending October 31, 2023
- c. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims
- d. Approval of Required 2024 Operational Resolutions:
 - i. Resolution 2024-27 – Open Meetings Act
 - ii. Resolution 2024-28- Establishing 2024 Regular Commission Meetings
 - iii. Resolution 2024-29- Establishing 2024 County Official Holiday Calendar
 - iv. Approval of 2024 Committee Meeting Schedules – (a) Lincoln Historic Preservation Board, (b) Lodger's Tax Committee and (c) Land & Natural Resources Committee (LANRAC)

Commissioner Crunk, on the original prevailing side of the original motion, chose to bring back item d3 for discussion again. Commissioner Crunk explained he would like to remove Juneteenth, Presidential Election Day, and Christmas break days December 26 & 27, and add Christmas Eve, Tuesday, December 24, 2024, to the Official Holiday Calendar, leaving the employees with their usual 13 paid holidays.

Motion: Adopt Resolution 2024-29 as amended, **Action:** Adopt, **Moved by** Commissioner Crunk, **Seconded by** Commissioner Fischer.

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

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

SEE EXHIBIT B: Copy of Resolution 2024-29 is attached hereto in reference thereto made a part hereof.

26. **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); Discussion of Competitive Sealed Proposals Solicited Pursuant to the Procurement Code During the Contract Negotiation Process, Section 10-15-1(H)(6); and Limited Personnel Matters, Including County Manager, Makayla Zonfrilli, Contract Review, Section 10-15-1, Subparagraph (H)(2)**

Motion: To close the meeting for the purposes of an Executive Session Pursuant to the Open Meetings Act: Discussion of all Threatened and/or Pending Litigation, Section 10-15-1, Subparagraph (H)(7); Discussion of the Purchase, Acquisition or Disposal of Real Property or Water Rights by the Public Body, Section 10-15-1, Subparagraph (H)(8); Discussion of Competitive Sealed Proposals Solicited Pursuant to the Procurement Code During the Contract Negotiation Process, Section 10-15-1(H)(6); and Limited Personnel Matters, Including County Manager, Makayla Zonfrilli, Contract Review, Section 10-15-1, Subparagraph (H)(2), **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.

Chair Proctor recessed the Regular Meeting and convened the Closed Session at 4:32 PM.

New or Updated Matters since last report *

1. **Board of County Commissioners of Lincoln County v. Roger Romero D-1226-CV-2018-00055** Complaint for Foreclosure. Complaint was filed February 20, 2018. Defendant Roger Romero filed an Answer to the Complaint asserting a Counterclaim to be filed in the U.S. District Court on April 2, 2018. A Judicial Inquiry Hearing took place September 4, 2018. The case is still pending.

2. **Roger Romero v. State of New Mexico – D-1226-CV-2018-00113 (Underlying Cases are: Board of County Commissioners of Lincoln County v. Roger Romero, D-1226-CV-2018-00055, and State of N.M. v. Roger Romero M-30-MR-2016-00142)** A Petition for Writ of Habeas Corpus was filed requesting that the Judgment & Sentence entered by Judge Vega in Cause No. M-30-MR-2016-00142 be vacated and set aside. George Romero's Answer to Complaint and Counterclaim was filed April 30, 2018 in Cause No. D-1226-CV-2018-00055. On February 26, 2019, an Order Setting Aside Conviction was entered by Judge Counts.

On March 25, 2019, a Notice of Appeal was filed with the N.M. Supreme Court, Case No. S-1-SC-37602 On January 8, 2021, the Supreme Court entered its Dispositional Order of Transfer transferring the case to the Court of Appeals for consideration and review.

On January 28, 2021, a Dispositional Order was entered transferring the case to the NM Court of Appeals for consideration and review. Case No. A-1-CA-39446 On December 8, 2022, the case was submitted to a 3 Judge Panel for a decision and, the case is still pending.

3. **Romero, et al. v. Stone, et al, Cause No. D-1226-CV-2019-00271** Request for Appointment of Guardian Ad Litem for Plaintiffs and Complaint for Violation of Civil and Constitutional Rights, Negligence, Prima Facie Tort and Wrongful Taking was filed on October 9, 2019 along with a Jury Demand. Lisa B. Riley is the presiding Judge. The case is still pending.

4. **Brd. of County Commissioners of Lincoln County v. Amerisourcebergen Drug Corp., et. al – U.S. Dist. Court Case No. 2:19-cv-00462** – Complaint for Public Nuisance, Violations of Racketeer Influenced and Corrupt Organizations Act (RICO)... filed on May 20, 2019 by Attorneys Robles, Rail & Anaya, P.C., et. al. After receiving no oppositions to the transfer of the case, on June 17, 2019, the case was transferred to the Northern District of Ohio noting that as of December 5, 2017, 1,534 cases have been transferred to Ohio for further proceedings. Settlement has been reached with some of the Defendants and, Lincoln County has begun receiving payments from some of the settling Defendants. The case is still pending.

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

6. **Debra Wilcox v. Board of County Commissioners, Deputy Samuel C. Hanna, Caroline McCoy and Former Sheriff Robert Shepperd, Cause No. D-1215-CV-2021-00574** Complaint for Damages was filed on the 2nd day of September, 2021 by Steven Sanders alleging personal injury resulting from an improper and grossly negligent investigation and for "malicious

abuse of process". County Defendants were served on November 2, 2021. The case is still pending.

7. **Eby Revocable Trust AND William R. Moser v. Lincoln County Assessor, et al, Cause No. D-1226-CV-2021-0260** A Notice of Appeal of Decision of Tax Protest Board was filed on the 14th day of December, 2021 by Attorney Zach Cook. On January 27, 2022, New Mexico Counties assigned Attorney Daniel Macke to represent Lincoln County. The case is still pending.

8. **Crystal Buster v. Board of County Commissioners for Lincoln County, Correctional Solutions Group, LLC, et al, Cause No. 2:21-cv-01208** A Complaint for Recovery of Damages Caused by the Deprivation of Civil Rights with a Jury Demand was filed on the 12th day of December, 2021, by Coyte Law P.C., and the Law Offices of Matthew Vance, P.C. The case is still pending.

9. **Lionel Burns v. Lincoln County Sheriff's Department; Deputy Daniel Brawley; in their individual and official capacities, and Rhonda Burns, Cause No. D-1226-CV-2022-00032** A Complaint for Damages was filed on the 4th day of March, 2022, by Clayton E. Crowley, Esq. and Joseph J. Gribble, Esq.

On April 22, 2022 the case was removed to the U.S. District Court for the District of New Mexico, Cause No. 1:22-cv-000304. The case is still pending.

10. ***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. On October 31, 2023, a Judgment of Quiet Title was entered by Judge John P. Sugg bringing this matter to a conclusion.

11. **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.

12. ***Board of County Commissioners of Catron County, et al v. Secretary Robert E. Doucette, Jr., Cause No. D-725-CV-2023-00085** A Complaint for Declaratory Judgment was filed on June 30, 2023 requesting that GSD's Health Plan Assessments to Counties are unconstitutional and void. Petitioners filed their Motion for Summary Judgment on November 3, 2023 which has yet to be ruled upon. The case is still pending.

13. ***Brandon A. Gonzales and Kevin D. Trapp, on behalf of themselves and other similarly situated v. Lincoln County Board of County Commissioners, and Lincoln County Sheriff's Office, Michael Wood, John Doe #1, John Doe #2, Cause No. D-1226-CV-2023-00192** A Complaint alleging improper oaths of office given to the Sheriff, Sheriff's Deputies, for false arrest, false imprisonment, and denial of due process as guaranteed by the NM Constitution was filed on July 28, 2023 by Attorneys Lauren Temple and Luke Ragsdale. A hearing on Defendants' Motion to Dismiss is scheduled to take place on December 15, 2023 at 3:00 p.m. The case is still pending.

14. **KC Dorgan and Sara Cummins v. Deputy Levi Wrye, Yancy Darby, Matthew Cude and Lincoln County Sheriff's Department, Cause No. D-1226-CV-2023-00147** A Third-Party Complaint was filed by Third-Party Plaintiffs, KC Dorgan and Sara Cummins, on July 25, 2023 by Attorneys Freda Howard McSwane, and Edward Dev Bunn, Jr. alleging negligent infliction of emotional distress, violation of due process rights, and loss of financial resources. Lincoln County Defendants filed their Motion to Dismiss Third-Party Complaint on September 13, 2023. The case is still pending.

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

Tort Claims Notices Received or Threatened

2023

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

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

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

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

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

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

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

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

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

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

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

2022

Schwartz, Neil – Tort Claim Notice received on February 10, 2022 alleging malicious and/or tortious actions and/or omissions by the State of New Mexico, the Lincoln County Sheriff's Department, the New Mexico State Police, and the Twelfth Judicial District Attorney's Office resulting in damages to Claimant including, but not limited to, infliction of mental pain and suffering, injuries to Claimant's reputation, and current and future loss of earnings.

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

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

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

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

Chair Proctor adjourned the Closed Session and reconvened the Regular Meeting at 4:56 PM.

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

Motion: Authorize Council to file a quitclaim deed regarding the New Horizon Properties including an acknowledgement of reverter as part of the quitclaim, with authorization for Council and the County Manager to sign, **Action:** Approve, **Moved by** Commissioner Pfeffer, **Seconded by** Commissioner Crunk.

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

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

Absent: Commissioner Serna.

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

Chair Proctor stated there was nothing to schedule at this time.

29. Next meeting:

- a. December 19, 2023, Regular Commission Meeting

30. Adjourn

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

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

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


Absent: Commissioner Serna.

There being no further business to come before the Board of County Commissioners, Chair Proctor adjourned the meeting at 4:59 PM.

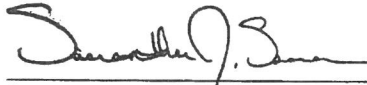
County of Lincoln
Board of Commissioners



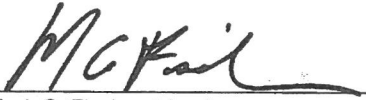
Todd F. Proctor, Chair



Jon F. Crunk, Vice Chair



Samantha J. Serna, Member

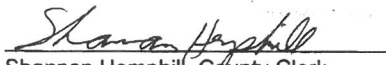


Mark G. Fischer, Member



Pierre S. Pfeffer, Member

ATTEST:



Shannan Hemphill, County Clerk

December 19, 2023

Date Approved

