

# 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 September 19, 2023

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on September 19, 2023, in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico. The meeting was also accessible via Zoom.

#### 1. Call to Order

Chair Proctor called the Regular Meeting of the Board of County Commissioners to order at 8:37 AM.

#### 2. Roll Call

##### Roll Call.

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

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

#### 3. Invocation

The Invocation was presented by Commissioner Crunk.

#### 4. Pledge of Allegiance

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

#### 5. Approval of Agenda

**Motion:** Acceptance of the Agenda with the removal of 12b and 19, and authorized the Chair to move items as necessary. **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. Approval of Minutes:

- a. August 3, 2023, Special Commission Meeting
- b. August 22, 2023, Regular Commission Meeting

**Motion:** Approve the August 3, 2023, Special Commission Meeting minutes and the August 22, 2023, Regular Commission Meeting minutes as originally provided with the addition of the exhibit on Item 13. **Action:** Approve, **Moved by** Commissioner Pfeffer, **Seconded by** Commissioner Crunk.

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

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

#### 7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month ending August 31, 2023
- c. Approval of Safety Net Care Pool & Indigent Health Care Claims
- d. Approval of Resolution 2024-17 – Approval of Disposition of Surplus Inventory
- e. Acknowledgement of Budget Acceptance Letter from the New Mexico

## Department of Finance and Administration for Fiscal Year 2024

- f. Approval of Health Council Resolution 2024-18 Recognizing the Lincoln County Community Health Council as the Official Health Planning Body of Lincoln County
- g. Approval to Appoint Marian Carpenter to the Lincoln Historic Preservation Board
- h. Approval of Resolution 2024-20 - Repealing Resolution 2023-58 - A Resolution Setting Fees to be Charged by Lincoln County in the Provision of Solid Waste Collection Services
- i. Approval to File Solid Waste Liens:
  1. Rhonda K. Montoya-Gunkel- \$1,203.48 (Land#320800 Rohnda K. Montoya-Gunkel) (MH# 338025 Rohnda K. Montoya-Gunkel)
  2. George Roessner- \$672.32 (Land# 205920 Kelli Marable & Kenneth Hinojosa) (MH# 205921 Kelli Marable & Kenneth Hinojosa) (Real Estate Contract)
  3. Patricia A. Ford- \$670.50
  4. Alejandro Pena Jr. and Jaquelyne Pena- \$572.32
  5. Shannon Shay Griffin- \$612.32
  6. Russell H. Seacat III and Cynthia Seacat- \$610.78

## Approval to Release and Refile Solid Waste Liens:

1. Maria N. Guillen - \$2,041.33 (Land# 1007381 Maria Medina) (MH# 337375 Maria Medina)
2. Mark Milliorn & Karen Milliorn - \$2,527.55
3. Karen Hegarty Mills - \$1,621.77
4. Richard R. Montano & Cindy Gomez - \$1,933.08 (Land# 245675 Richard R. Montano & Cindy Gomez) (MH# 252586 Emiline Montano)
5. Eloy Pat Montes & Patricia I. Montes- \$2,430.96
6. Conception A. Morales & Conception G. Morales - \$2,680.23 (Land# 204770 Conception A. Morales & Conception G. Morales) (MH# 204771 Connie G. Morales)
7. Angela Marietta Smith Mustian - \$2,711.28
8. Raina L. Najar aka Raina McDonald - \$2,365.60 (Land# 203700 Raina L. Najar) (MH# 210092 Raina L. Najar)
9. Steven W. Nesbit - \$2,401.82
10. Jack G. Orio Jr. & Kathleen A. Orio - \$2,601.62
11. Roy D. Padilla & Rita E. Padilla - \$2,617.60
12. W. Ray Parrish - \$2,062.84
13. Peter Joshua Payan, Sr. & Cynthia Payan - \$1,949.39 (Land# 308090 Peter Joshua Payan, Sr. & Cynthia Payan) (MH# 1006878 Peter J. Payan)
14. Jack Pickel - \$2,680.23
15. Ima Florence Powell - \$2,687.09
16. Pat Preheim - \$2,500.44
17. Richard W. Purcella & Frances J. Martinez - \$2,500.44
18. Tito Reyes & Edelmira Reyes - \$2,687.09 (Land# 311500 Tito Reyes & Edelmira Reyes) (MH# 336932 Tito Reyes & Edelmira Reyes)
19. Pete M. Salas, Jr. & Nancy J. Sanchez - \$4,793.87 (Residence 201 on Land# 251575 Pete M. Salas, Jr. & Nancy J. Sanchez) (Land# 251575 Pete M. Salas, Jr. & Nancy J. Sanchez) (MH# 12764 Bobby & Nancy Sanchez)
20. Frankie G. & Mickie Rena Reynolds - \$2,572.81

Commissioner Fischer requested to remove item a, item f and item g from the consent agenda.

**Motion:** Approve the Consent Agenda excluding item a, item f and item g, **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 Pfeiffer, Commissioner Crunk, Chair Proctor.

Commissioner Serna requested a detailed overview of item 7a. Billie Jo Guevara, Finance Director, explained it was a recap for the month of August and the two columns needed to balance. Commissioner Fischer requested they receive a detailed explanation each time.

Commissioner Fischer stated the Health Council was responsible for health planning for the county and requested details on how the council was composed, the requirements to be part of the council and what sorts of things the council did. Scott Annala, Lincoln County Community

Health Council, explained they were a 501(c)(3) and anyone could become a member, they had monthly meetings at the methodist community church and Alicia Westmacott was the coordinator. Mr. Annala explained they worked on county projects and presented back to the Commission. Mr. Annala stated the resolution would grant them more power and prestige to receive grants and they did not receive direct funding from the County. Commissioner Serna questioned which entities were represented on the Board. Mr. Annala stated there was a Physical Therapist, the Hospital Administrator, Responsible Gaming, CYFD and Juvenile Probation. Commissioner Fischer stated the County was receiving considerable amounts of money for the opioid settlements and was hopeful they could work together.

Commissioner Fischer stated Mrs. Carpenter and her husband moved to Lincoln, purchased the Wortley Hotel and were helping in the community.

**Motion:** Approve Item 7a, item 7f and item 7g, **Action:** Approve, **Moved by** Commissioner Fischer, **Seconded by** Commissioner Crunk.

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

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

**SEE EXHIBIT A:** Copies of the Consent Agenda items including Resolution 2024-17, Resolution 2024-18 and Resolution 2024-20 are attached hereto in reference thereto made a part hereof.

#### **8. Approval of Budget Adjustment for FY 23/24 by Resolution 2024-19**

Treasurer Huddleston explained the revenue budget adjustments as listed in the Resolution as well as the Transfers. Billie Jo Guevara, Finance Director, explained the expense adjustments were due to the approved salary increases and adjustments to the related benefits.

**Motion:** Adopt Resolution 2024-19, **Action:** Adopt, **Moved by** Commissioner Crunk, **Seconded by** Commissioner Pfeffer.

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

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

**SEE EXHIBIT B:** Copy of Resolution 2024-19 is attached hereto in reference thereto made a part hereof.

#### **9. Forest, Land & Natural Resources Matters:**

##### **a. Smokey Bear Ranger District**

Jennifer Thomas, Smokey Bear District Ranger, explained the US Mountain Fire was caused by a lightning strike however they managed the fire and allowed it to burn and it was considered contained. Ms. Thomas stated they had done 362 acres of prescribed burns and would continue to do prescribed burns as needed and possible in the future. Ms. Thomas explained most campgrounds had been closed except for the Baca Campsite which would remain open year-round, Sam Tobias which required reservations and they hoped to reopen Three-Rivers on January 2, 2024.

##### **b. Lincoln County / NMSU Extension Services**

Melanie Gutierrez, Lincoln County Extension Services, explained they set up the County Booth at the State Fair which received third place. Ms. Gutierrez detailed the contests the children participated in at the State Fair and stated the Eastern Fair would be held October 1-7. Ms. Gutierrez explained they were able to start Ag literacy in the Ruidoso Schools and their first project would be Pumpkin pie in a bag with the third graders.

##### **c. South Central Mountain RC & D**

Robert Barber, RC&D, stated on October 11-13, 2023, they would hold a wildland urban fire summit in Ruidoso at the Convention Center. Mr. Barber explained they would recognize Joe Kenmore, OES, for all his involvement over the years.

##### **d. Upper Hondo Soil & Water Conservation District**

Mr. Barber explained the Upper Hondo Soil & Water Conservation District continued to work with the flooding issues and the EWP.

##### **e. LANRAC**

Mr. Barber explained the LANRAC was still waiting to hear from BLM on the grazing policy changes. Mr. Barber stated the collaborative groups for energy were making steady progress. Mr. Barber explained they were looking at new efforts by US Fish and Wildlife for critical habitat designation for the Checkerspot butterfly. Mr. Barber stated they were looking at 1,600 acres, with 200 acres identified as having the butterfly. Mr. Barber detailed the biggest threat to the butterfly was cattle and elk and they were looking to manage the existing grazing in the area. Commissioner Crunk stated the Wild Horses in the area couldn't be managed and they were causing more damage than the cattle and elk.

Chair Proctor recessed the meeting at 9:27 AM and reconvened the Regular Commission Meeting at 9:31 AM.

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

Chair Proctor detailed the many meetings he participated in over the previous month.

Commissioner Crunk stated for the first time in 25 years he could not find an insurance company to cover a home over \$1,000,000, and they must find a way to lower the ISO scores.

Commissioner Pfeffer echoed Commissioner Crunk's concerns about the lack of insurability in the County. Commissioner Pfeffer stated Alto Lakes now included Kokopelli.

Commissioner Serna detailed the many meetings she participated in over the previous month. Commissioner Serna spoke on the passing of Hubert Quintana who served as the Executive Director of the Local Government Division for many years and was instrumental in her career.

Commissioner Fischer spoke on the strategic placement of water reservoirs within the County to assist with fighting fires. Commissioner Fischer explained the residents needed to create defensible perimeters around structures to aid in the fighting of fires.

Clerk Hemphill provided an update on the Regular Local Election and informed everyone when and where they could vote for their School Boards, the Municipalities with the exception of the Village of Ruidoso who would hold their election at a later date, the Soil & Water Conservation Districts, the Water & Sanitation Districts, and Special Zoning Districts. Clerk Hemphill stated Election Day would be on November 7, 2023.

Treasurer Huddleston explained the State held the delinquent tax auction and sold 18 out of the 59 properties on the list, 4 of which had homes and one had a mobile home. Treasurer Huddleston stated they sold for \$513,937.50 and the owners could request the excess funds back from the State.

Sheriff Wood shared some statistics from his office over the last month.

Galen Farrington, Legacy Lane Subdivision in Alto, stated he had asked for a letter of solidarity from the Commission to prevent the concrete batch plant from being built, however he never received it. Mr. Farrington spoke on the EPA standards to guard against environmental racism. Mr. Farrington detailed the sacrifice zones around the Country and the people who live within them.

Harlan Vincent, State Representative for District 56, stated he was willing to offer Junior money to help with a consultant, like the one which was used in Ruidoso, to help lower the ISO rating in the County. Representative Vincent spoke on the feral horses and stated other locations around the Country had found ways to deal with them and it may take some creative thinking, however he felt something could be done. Representative Vincent stated Opioid Settlement Counties filed lawsuits as individuals and were able to get funds.

David Vandenberg, Lincoln County Concerned Citizen, spoke on the leadership issues in the Country. Mr. Vandenberg explained the United Nations started 77 years ago and there were 30 basic human rights. Mr. Vandenberg stated the citizens needed to step up to do what was right and to focus on the future and how to fix the mess they were in.

**11. Lincoln County Medical Center**

- b. Consideration of Lincoln County Emergency Medical Service (LCEMS) Letter of Support for Funding from the New Mexico Rural Health Care Delivery Fund



**Motion:** Approve the letter of support for the Lincoln County Emergency Medical Services,  
**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.

## 12. Lincoln County Detention Center

### a. Update – Ross Castleton, Warden

Ross Castleton, Warden, provided statistics from the Detention Center over the prior month. Warden Castleton stated they were looking at staffing issues in the facility and hoped to have the positions filled soon. Warden Castleton explained they continued to work on upkeep at the detention facility. Warden Castleton stated they were continuing with GED classes and educational classes, and religious services were ongoing at the facility. Warden Castleton explained the MAP program which was being worked on with others who had already started the program in their areas.

### b. Approval of Detention Center Repairs – Ventura Plumbing, Heating and Cooling

This item was removed from the Agenda.

## 13. County Director Reports

Brianna Herrera, Human Resources Director, stated the meetings with the employees who would like to discuss their pay raises would be held at a later date when the whole panel as well as the supervisors of the employees could meet together to discuss it.

Aaron Griewahn, OES, stated the Glencoe Fire Station would be torn down due to safety concerns. Mr. Griewahn explained the Tularosa School District donated a portable building to be used and the Fire Department would cover the cost of the movement of the portable building to the needed location. Mr. Griewahn stated Joe Kenmore's last day would be September 28, 2023, at which time he would assume roll as director, Brian would move into his position and they would hire for the firefighter position.

Joe Kenmore gave a farewell address to the Commissioners, County staff and public.

Scott Annala, acting public works director, spoke on the solid waste collection rates in the County. Commissioner Serna questioned the Granicus software. Mr. Annala stated they were hoping to go live with the Granicus software in the Lodgers Tax department in November.

Jeff Honeycutt, Road Superintendent, explained he and Eric Hamilton from Wilson & Co would be presenting to the water trust board for potential funding of the vehicle bridge at Magado Creek in the amount of \$1,400,000 which would also have a match and loan component. Chair Proctor questioned the punch list of the Fairgrounds phase 1A. Mr. Honeycutt stated they had some cracked concrete which would need to be sealed, some gates which needed to be realigned and set correctly, and some drainage issues in the asphalt parking lot which needed to be addressed. Mr. Honeycutt explained the flag pole placement would be part of the phase 1B punch list.

Renee Montes, Senior Services Program Director, explained the walk-in freezer in Hondo needed repairs so they were working through that process. Commissioner Serna questioned the renovations at the Corona Site. Ms. Montes stated the renovations included updating the restrooms, kitchen and flooring, and they had hoped to upgrade the HVAC, however they did not have enough funding at the time.

Chair Proctor recessed the meeting at 10:40 AM and reconvened the Regular Commission Meeting at 10:46 AM.

## 14. Approval of Order Setting Property Tax Rates – 2023 Property Tax Year

Treasurer Huddleston stated all entities approved, by signed letter, the lower amount they would be receiving due to the exemptions being inadvertently included in the tax rates.

Commissioner Fischer read the following statement: On September 8, 2023, the County of Lincoln received an Order from the State of New Mexico Department of Finance & Administration along a Certificate of Property Tax Rates setting the 2023 Property Tax Rates for all governmental units imposing rates in Lincoln County; and immediately upon receipt of the Certificate of Property Tax Rates, it was determined that the tax rates set out in the Certificate were incorrect; and immediately after receipt of the Certificate of Property Tax Rates, it was determined that the

Lincoln County Assessor's Office failed to deduct the exemptions from gross tax values of all properties located in Lincoln County; and tax rates are determined by assessed gross taxable values minus exemptions in order to set the property tax rates for each taxable entity; and immediately after discovery of the error, the County of Lincoln contacted the Lincoln County Assessor, the Lincoln County Treasurer, the State of New Mexico Department of Finance & Administration, the Public Education Department, and the State of New Mexico Taxation and Revenue Department in an effort to correct the error in the Certificate of Property Tax Rates for the County of Lincoln and was advised that the error could not be corrected due to the fact that the Department of Finance & Administration, the Public Education Department, Property Tax Division, adjacent counties, school districts, and municipalities have all utilized the tax rates as certified by the Lincoln County Assessor in setting their tax rates and budgets; and the Board of County Commissioners are required by NMSA 1978 § 7-38-34 and in accordance with NMAC 3.6.50.11, (D) to certify the tax rates to the Local Government Division of the Department of Finance & Administration.

**Motion:** Certify the Certificate of Property Tax Rates as certified by the County Assessor and forwarded to Lincoln County on September 8, 2023, with full knowledge that the tax rates are incorrect but cannot be corrected at this late date, **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.

**15. Lodger's Tax:**

a. Approval of Lodger's Tax Funding Requests:

1. White Mountain Christmas at the Flying J Ranch  
Request: \$7,500.00  
Date(s) of Event: November 24-December 31, 2023  
Presenter: James Hobbs

**Motion:** Approve the Lodger's Tax Funding Request for the White Mountain Christmas at the Flying J Ranch in the amount of \$7,500, **Action:** Approve, **Moved by** Commissioner Serna, **Seconded by** Commissioner Pfeffer.

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

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

b. Approval of Refunds to Lodging Tax Vendors Due to Duplicate Payments:

1. Nicole Abshire in the Amount of **\$829.10**
2. Ofer Molad in the Amount of **\$534.14**
3. Scott & Jane Christensen in the Amount of **\$172.25**

**Motion:** Approve the refunds to Lodging Tax Vendors Due to Duplicate Payments, **Action:** Approve, **Moved by** Commissioner Serna, **Seconded by** Commissioner Pfeffer.

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

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

**16. Approval of Prior Year Invoices:**

- a. Vital Records Control (VRC) (3 invoices) - **\$410.87**
- b. Total Destruction, LLC - **\$31.17**

**Motion:** Approve all three Prior Year Invoices from Vital Records Control and the Prior Year Invoice from Total Destruction, LLC, **Action:** Approve, **Moved by** Commissioner Serna, **Seconded by** Commissioner Fischer.

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

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

**17. Acknowledgement of New Mexico County Insurance Authority Pool Multi-Line and Law Enforcement Deductibles**

Commissioner Fischer requested a look into this item based on past histories of losses to get an estimate of where the County would stand. Commissioner Crunk explained NMC provided insurance for Counties and stepped in as a self-funded organization when the Counties could not get workers compensation and other types of insurances, so they formed their own insurance

company. Commissioner Crunk stated they were not controlled by the PRC so they could do what they wanted and would continue to raise their rates.

**18. Consideration and Approval of Resolution 2024-21 a Resolution of the County Board of Commissioners in Support of the Second Amendment to the United States Constitution**

Commissioner Fischer explained the assault on our second amendment right by the Governor. Commissioner Fischer read parts of the Resolution and encouraged the Commissioners to adopt it.

**Motion:** Adopt Resolution 2024-21, **Action:** Adopt, **Moved by** Commissioner Fischer, **Seconded by** Commissioner Pfeffer.

Commissioner Crunk questioned the investigation and the type of bullet used in the shooting in Albuquerque. Sheriff Wood stated it was not the firearm which killed the child, it was the criminal who should not have been there at that time. Sheriff Wood explained criminal activity should be targeted not the guns themselves, and they should not be targeting firearms dealers.

Commissioner Pfeffer stated he had a 30-year career of defending the fourth amendment. Commissioner Pfeffer was concerned with the resolution as written and felt if it was re-written they could all agree to it. Commissioner Pfeffer stated he would like to address the problem and agreed they should uphold the second amendment; however, he did not feel the resolution was the right way to go about it. Commissioner Pfeffer felt the resolution should be re-written to express Christian empathy. Commissioner Pfeffer explained the Attorney General stepped in and stated the Governor had overstepped.

Commissioner Fischer stated he helped compose the resolution with other Counties and stated there was more which could be done, however this was a start. Commissioner Fischer explained they moved the restrictions from the public to the gun dealers.

Sheriff Wood stated he did not feel the resolution was politically targeted. Sheriff Wood explained neither he nor his officers would violate the Constitution. Commissioner Pfeffer stated the Sheriff made a good point and he would like the resolution sent back for adjustments to better cover what was needed.

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

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

**No:** Commissioner Pfeffer.

**SEE EXHIBIT C:** Copy of Resolution 2024-21 is attached hereto in reference thereto made a part hereof.

**19. Consideration and Approval to Purchase Vehicles:**

- a. Capitan Senior Citizen's Center - **\$34,284.00**
- b. Carrizozo Senior Citizen's Center - **\$48,429.00**
- c. Corona Senior Citizen's Center - **\$34,284.00**
- d. Hondo Senior Citizen's Center - **\$30,000.00**

This item was removed from the Agenda.

**20. Consideration and Approval of the County of Lincoln's Code of Ethics**

Attorney Morel stated he had been working with Commissioner Pfeffer for several months to discuss how employees and Commissioners or other Elected Officials should interact with each other and the ability to call out harassment or other issues. Attorney Morel explained the County had a personnel policy which had a harassment section already included.

Commissioner Pfeffer felt there needed to be a process put into place so the employees knew they were protected. Commissioner Crunk stated the County needed to have morals and ethics in the way they did business. Attorney Morel explained the County needed an updated Personnel policy and felt a professional should be hired to update the entire policy. Commissioner Fischer felt an updated handbook was needed which incorporated State and Federal laws. Commissioner Fischer spoke on the need to facilitate the avenues of communication within the organization.

Commissioner Pfeffer requested to bring it back in 30 days after further discussion with Attorney Morel to find a process and starting point until the entire handbook could be reviewed and redone. Commissioner Serna would like to hire an outside entity to update the personnel policy.

Chair Proctor recessed the meeting at 12:05 PM and reconvened the Regular Commission Meeting at 12:45 PM.

**21. Discussion and Direction Establishing Lincoln County Priorities Regarding Federal Funding**

Commissioner Pfeffer stated some of the priorities were listed by the previous County Manager and may need some adjustment. Nick Crockett, Federal Lobbyist, stated priorities tended to shift as things happened and times changed. Mr. Crockett explained the normal protocol of communication was usually with the County Manager.

Commissioner Crunk would like the Federal Government and State Government to work together to create a Wildfire Program similar to the National Flood Insurance Program.

Commissioner Fischer would like to focus on roads and bridges in the County and would like to work with the Road Superintendent to identify specific needs. Commissioner Fischer would also like to focus on the need for desalinization of water in the County.

Commissioner Serna felt the County would need local ordinances in place for affordable housing, approved by MFA.

**11. Lincoln County Medical Center**

**a. Update – Todd Oberheu**

Todd Oberheu, Hospital Chief Executive, stated both of the new 24-hour EMS stations were up and running.

Mr. Oberheu explained the Physicians building in Ruidoso was not big enough to house all the needed physicians and they were already at capacity so they would like to convert the Heritage building into a medical facility with the intention of making it into a women's health facility.

Mr. Oberheu stated they wanted to update the physician's building as well, by converting the check-in areas to a unified check-in location on each floor.

**22. Discussion and Direction for the Need to Obligate the Local Assistance and Tribal Consistency Fund (LATCF)**

Treasurer Huddleston stated \$5,894,798.12 was received for the Local Assistance and Tribal Consistency Fund and the Commission would need to obligate the funds once they determined how they could be spent.

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

**a. 2023 Noisy Water Winery Local Economic Development Act (LEDA) Project Ordinance**

Kevin Wilson, Economic Development Department, explained the LEDA project and stated the County would be the fiscal agent without having any financial obligations tied to it.

**b. Repealing Lincoln County Ordinance No. 2020-02 (2020 Noisy Water Winery Local Economic Development Act (LEDA) Project)**

**Motion:** Approval to schedule a public hearing for the 2023 Noisy Water Winery Local Economic Development Act Project Ordinance and to Repeal Lincoln County Ordinance 2020-02, **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.

**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); and Limited Personnel Matters; Section 10-15-1, Subparagraph (H)(2) and Discussion and Direction Regarding Solid Waste Request for Proposals, Section 10-15-1, Subparagraph (H)(6)**

**Motion:** To close the meeting for the purposes of an Executive Session Pursuant to the Open Meetings Act: Discussion of all Threatened and/or Pending Litigation, Section 10-15-1, Subparagraph (H)(7); Discussion of the Purchase Acquisition or Disposal of Real Property or Water Rights by the Public Body, Section 10-15-1, Subparagraph (H)(8); and Limited Personnel Matters; Section 10-15-1, Subparagraph (H)(2) and Discussion and Direction Regarding Solid Waste Request for Proposals, Section 10-15-1, **Subparagraph (H)(6), Action:** Approve, **Moved by** Commissioner Serna, **Seconded by** Commissioner Crunk.

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

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

Chair Proctor recessed the Regular Meeting and convened the Closed Session at 1:35 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 Courts.

**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 2<sup>nd</sup> 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 14<sup>th</sup> 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 12<sup>th</sup> 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 4<sup>th</sup> 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 18<sup>th</sup> day of August, 2022 by Attorney William Griffin. Lincoln County was served on the 26<sup>th</sup> day of August, 2022, and filed its Answer to the Complaint on the 26<sup>th</sup> 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 27<sup>th</sup> day of September, 2022. Lincoln County was served on the 22<sup>nd</sup> day of November, 2022. Lincoln County Defendants filed their Motion to Dismiss in Lieu of an Answer to the Complaint on the 6<sup>th</sup> 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. **Board of County Commissioners of Catron County, et al v. Secretary Robert E. Doucette, Jr., Cause No. D-725-CV-2023-00085** A Complaint for Declaratory Judgment was filed on June 30, 2023 requesting that GSD's Health Plan Assessments to Counties are unconstitutional and void. The case is still pending.

14. **\*Kurtis Grassie v. Michael Wood, Cause No. D-1226-CV-2023-00122** - Loss of employment with the Lincoln County Sheriff's Office commencing on June 23, 2022. Settlement was reached on 8/31/23 and a Notice of Dismissal with Prejudice was filed on September 13, 2023 concluding this matter.

15. **\*Rex E. Beard v. Michael Wood in his official capacity of the Sheriff of the Lincoln County Sheriff's office, Cause No. D-1226-CV-2023-00169** A Verified Petition for Writ of Mandamus was filed on July 10, 2023 by Attorney Freda Howard McSwane alleging that LCSD Deputies have not been legally sworn in. On September 7, 2023, a Stipulated Order of Dismissal was entered by Judge Lara concluding this matter.

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

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

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

19. **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 5<sup>th</sup> and 6<sup>th</sup> Amendments of the U.S. Constitution, violations of Article II, Section 10, 13, 14, and 18 of the NM Constitution, false reporting, and indifference to the impact and consequences of Claimant's arrest based on false pretenses, and detained for 72 days before his arraignment.

## **2022**

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

**Downs, Barbara** – Tort Claim Notice received May 6, 2022 alleging improper road and/or waterline maintenance resulting in a vehicle collision due to the icy road at the intersection of Sudderth Drive and Paradise Canyon in Ruidoso, New Mexico. A 2<sup>nd</sup> Tort Claim Notice was



received on May 9, 2022 for a separate source with the same allegations as those set out in the May 6, 2022 notice.

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

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

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

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

## 2021

**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.

**Smokey, Cinthia** – On November 8, 2021, Ms. Smokey submitted to the Lincoln County Treasurer's Department a Statement dated 11/2/2021, for "Arbitration Award/monies due for default".

**Vonderane, Glenn** – Tort Claim Notice received October 19, 2021 alleging personal injury while using a staircase at the Village of Ruidoso public parking lot located at 151 Center Street.

Chair Proctor adjourned the Closed Session and reconvened the Regular Meeting at 4:08 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.

### **25. Approval to Negotiate with Potential Solid Waste Provider(s)**

**Motion:** Approval to allow the County Attorney to enter into negotiations and draft a contract with Universal Waste Systems to be brought back at a future meeting for final approval, **Action:** Approve, **Moved by** Commissioner Serna, **Seconded by** Commissioner Pfeffer.

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

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

### **26. County Manager:**

- a. Consideration of Hiring a Temporary County Manager and Contract Negotiations
- b. Consideration of Entering into Negotiations for County Manager Position

Attorney Morel explained the County and Makayla Zonfrilli-Lang had come to terms on the contract for the new County Manager to include a salary of \$160,000/year, a review in 1yr, the ability to telework on Fridays, three weeks' vacation, eligibility for insurance at 80%, PERA equivalent to other employees, a vehicle, a phone, a computer and her official start date would be November 1, 2023 and included a two month termination without cause.

**Motion:** Approval to enter into a contract with the conditions specified by the County Attorney, **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.


### **27. Signing of Official Documents**

**28. Next meeting:**

a. October 17, 2023 – Regular Commission Meeting

**29. Adjourn****Motion:** Adjourn, **Action:** Adjourn, **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.

There being no further business to come before the Board of County Commissioners, Chair Proctor adjourned the meeting at 4:19 PM.

County of Lincoln  
Board of Commissioners
  
 Todd F. Proctor, Chair

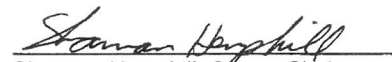
  
 Jon F. Crunk, Vice Chair

  
 Samantha J. Serna, Member

  
 Mark G. Fischer, Member

  
 Pierre S. Pfeffer, Member

ATTEST:

  
 Shannan Hemphill, County Clerk
October 17, 2023  
Date Approved