

COUNTY OF LINCOLN

**New Mexico
Regular Meeting
Board of County Commissioners**

Thomas F Stewart, Chair
Lynn Willard, Vice Chair

Elaine Allen, Member
Jon Crunk, Member
Todd Proctor, Member

**Minutes
Tuesday November 15, 2022**

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on November 15, 2022, in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico.

This meeting was conducted on a platform for video and audio.

1. Call to Order

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

2. Roll Call

Roll Call.

Present: Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk, Commissioner Proctor.

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

3. Invocation

The Invocation was presented by Chair Stewart.

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 Allen, **Seconded by** Commissioner Proctor.

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

Yes: Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk, Commissioner Proctor.

6. Approval of Minutes:

- a. October 18, 2022, Regular Commission Meeting

Motion: Approve the Minutes of October 18, 2022 Regular Commission Meeting, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Proctor.

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

Yes: Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk, Commissioner Proctor.

Chair Stewart recessed the Board of County Commissioners and Convened the Lincoln County Canvassing Board at 8:33 AM.

7. Canvassing of the Vote – General Election of November 8, 2022

Attorney Morel informed they were required to file an emergency motion with the District Judge to open a ballot box in the Capitan polling location due to a discrepancy between the tally sheets and the tabulator tape totals. Tabulator M0036 reflected a total of 18 write-in ballots however the hand count showed a total of 19 write-in ballots.

Whitney Whittaker, Lincoln County Clerk stated the discrepancy was caught during the internal canvass. Clerk Whittaker informed it was not really a matter or a discrepancy or a missing ballot it was more of a clerical error that needed to be addressed. The ballot box was opened, and the write-in ballots were counted to total 19. Clerk Whittaker stated they would be hand tallied again to check if there was a possible co-mingle with the other ballots.

Chair Stewart recessed the Canvassing Board and reconvened the Board of County Commissioners at 8:42 AM.

18. Lincoln County Medical Center Update – Todd Oberheu

Todd Oberheu, Lincoln County Hospital Chief Executive, shared the hospital's healthcare mil levy passed at 77%. Mr. Oberheu explained some of the future plans for the Capitan Clinic with the passage of the Mil Levy monies. Mr. Oberheu stated the hospital had hired Dr. Rosales, as a General Surgeon to start on December 12, Dr. French would be working General Surgery during the month of December and Dr. Lamour would also be working General Surgery during December so they were hoping to get a good handle on the backlog of patients with scheduled surgeries and procedures. Mr. Oberheu stated they also hired a new Tech to do Nuclear Medicine at the hospital again. Mr. Oberheu informed they were going to look into possibly hiring a psychiatrist at the hospital to help in the community.

8. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures

- b. Treasurer's Financial Report for the Month ending October 31, 2022
- c. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims
- d. Approval of Required 2023 Operational Resolutions:
 - i. Resolution 2023-24- Establishing 2023 Regular Commission Meetings
 - ii. Resolution 2023-25- Establishing 2023 County Official Holiday Calendar
 - iii. Resolution 2023-26- Open Meetings Act
 - iv. Approval of 2023 Committee Meeting Schedules – (a) Lincoln Historic Preservation Board, (b) Lodger's Tax Committee and (c) Land & Natural Resources Committee (LANRAC)
- e. Approval of ENDWI and STEP Grant Agreement for FY 2023 Between the NM Department of Transportation Traffic Safety Division and the County of Lincoln

Motion: Approve the consent agenda, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

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

Yes: Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk, Commissioner Proctor.

SEE EXHIBIT A: Copies of the Consent Agenda items including Resolution 2023-24, Resolution 2023-25 and Resolution 2023-26 are attached hereto in reference thereto made a part hereof.

9. Approval of Budget Adjustment for FY 22/23 by Resolution 2023-28

Motion: Adopt Resolution 2023-28, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Proctor.

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

Yes: Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk, Commissioner Proctor.

SEE EXHIBIT B: Copy of Resolution 2023-28 is attached hereto in reference thereto made a part hereof.

10. Approval of Prior Year Invoice:

- a. American Linen - \$52.54
- b. Center of Municipal Solutions - \$1,100.63

Motion: Approve both invoices as presented, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

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

Yes: Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk, Commissioner Proctor.

11. Forest, Land & Natural Resources Matters:

- a. Smokey Bear Ranger District
- b. Lincoln County / NMSU Extension Services

Melanie Gutierrez, Lincoln County Extension Services, informed on some of the end of year projects happening within the office. Ms. Gutierrez also explained some of the children's projects and stated the fair tag in has changed back to a central tag in with 3 different locations available for the kids to bring their animals to be tagged.

c. South Central Mountain RC & D

Laura Doth, South Central Mountain RC&D, stated the EWP was still moving forward and they were almost completely done placing waddles. Ms. Doth informed they seeded up to the window right before the freeze so the seeds should start growing once the weather warms up. Ms. Doth informed they would be requesting an extension for the pit tanks project as they were held up with the weather. Ms. Doth stated the WUI project had some transitions but was starting to get under way.

d. Upper Hondo Soil & Water Conservation District

Robert Barber, Board of Supervisors for Upper Hondo, informed they were continuing to close projects with the Hondo Valley EWP and the Nogal Canyon EWP was moving slow because of hunting season.

e. Land & Natural Resources Advisory Committee-LANRAC

Robert Barber, Chairman of the LANRAC Committee, stated the BLM Grazing was in the process of revising the rules. Mr. Barber informed on the Sun Zia Transmission lines and stated they were working with BLM who issued the EIS and their updated POD. Mr. Barber said they would continue to monitor the Lincoln National Forest Land Management plan.

15. Discussion and Approval of New/Updated Job Descriptions:

a. Lieutenant's Job Description

Manager Pearson informed on the changes of the job description.

Motion: Approve the Lieutenant's Job Description, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

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

Yes: Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk, Commissioner Proctor.

b. Uncertified Deputy Job Description

Sheriff Wood explained the reasoning behind having an Uncertified Deputy and the process they would go through to become Certified.

Motion: Approve the Uncertified Deputy Job Description, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

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

Yes: Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk, Commissioner Proctor.

c. Certified Deputy Job Description

Manager Pearson informed on the changes of the job description.

Motion: Approve the Certified Deputy Job Description as presented with changes, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

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

Yes: Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk, Commissioner Proctor.

d. Lodger's Tax Administrator Job Description

Manager Pearson explained the job description as it was brand new and combined from numerous other positions and would be paid through lodgers tax funds.

Commissioner Proctor questioned the pay rate of the new position when there are currently employees who have been employed by the County for numerous years and they are at a grade of 17 or less.

Motion: Approve the Lodger's Tax Administrator Job Description, **Action:** Approve, **Moved by** Commissioner Crunk, **Seconded by** Commissioner Allen.

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

Yes: Chair Stewart, Commissioner Allen, Commissioner Crunk.

No: Commissioner Willard, Commissioner Proctor.

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

Commissioner Crunk reiterated on the insurance issues within the County.

Sherrie Huddleston, Chief Deputy Treasurer, referred to the Finance Report for October 2022 to give updated numbers for the County.

Sheriff Wood provided monthly stats from his office.

Jeff Honeycutt, Lincoln County Road Superintendent, introduced Gerald Chavez who was hired as the Road Foreman back in May.

Manager Pearson stated as of this morning Taylor Horst from NMC had not received a response on reinsurance through the NMC Self Insurance Pool for Law Enforcement, Multi Line and Workman's Comp. Manager Pearson informed the pool covered the County up to \$2,000,000 for incidents however the county had \$5,000,000 of coverage leaving a \$3,000,000 gap which is usually covered with reinsurance. Manager Pearson informed starting January 1, 2023 the County may be insured up to \$2,000,000 and that is all.

David Vandenburg, Lincoln County Resident and concerned citizen said everyone needed to be looking out for one another and be aware of misinformation being handed down from top officials.

Rebecca Ward, Capitan resident and lifelong citizen of Lincoln County, has had issues since 2014 with the County Road which was redone improperly and washed out the family barn and flooded it numerous times. Mrs. Ward provided a copy of the letter they sent on November 19, 2014 to Nita Taylor, Carl Palmer and Preston Stone but have never received a response. Mrs. Ward requested the County come out to see the issue for themselves and remedy the situation.

Robert Ward, Capitan Resident, informed the issue started when Carl Palmer, former County Employee who was friends with the neighbor, raised the road 5 ft and covered a culvert which diverted the water to their property and flooded their barn. Mr. Ward invited anyone out who wanted to see what was being discussed and how to correct it.

16. Bridges in Lincoln County:

- a. New Mexico Department of Transportation November 8, 2022, Meeting Update

Jeff Honeycutt, Road Superintendent, updated on the meeting that was held with NMDOT and identified the top three bridges they would like to include.

- b. Discussion and Direction Regarding Ownership, Maintenance and Cost of Repairs

Jeff Honeycutt, Road Superintendent, verified they had the 8 bridges accounted for accurately.

17. Lincoln County Detention Center Update

Manager Pearson informed Warden Scott Colvin had moved and was no longer working here so Pauline Tope was the Acting Warden. Manager Pearson informed there were about 8 applications for the Warden position and has asked to be a part of the hiring process.

22. Discussion and Approval of Resolution 2023-27 a Resolution Supporting the New Mexico Counties 2023 Legislative Priorities

Manager Pearson informed on some of the NMC Legislative Priorities.

Motion: Adopt Resolution 2023-27, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Willard.

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

Yes: Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk, Commissioner Proctor.

SEE EXHIBIT C: Copy of Resolution 2023-27 is attached hereto in reference thereto made a part hereof.

Chair Stewart Recessed the Board of County Commissioners Meeting and Convened the Public Hearing at 10:02 AM.

13. 10:00 AM: PUBLIC HEARING:

- a. Revisions to Ordinance 2022-01 “An Ordinance Providing for an Efficient and Fair Method of Enforcing the Ordinances of Lincoln County; Establishing the Position of Ordinance Enforcement Officer Under the Supervision of the Sheriff’s Department; Authorizing the Ordinance Enforcement Officer to Enforce the Provisions of Lincoln County Ordinances; Designating Authority and Procedures for Ordinance Enforcement Officers; Providing for the Severability of Parts Hereof; Repealing Ordinances in Conflict Herewith; and Providing an Effective Date

Attorney Morel explained the reason for the revisions to Ordinance 2022-01 and explained the move from the Supervision of the Sheriff’s Department to the Supervision of the Public Works Director.

Marc Fischer, Arabela Resident, questioned having ordinance officers not under the supervision and direction of the Sheriff doing essentially what was a Sheriffs’ Deputy job.

Sheriff Wood expressed his concern with the position being supervised by the Public Works Director instead of his office and with the ability of the Code Enforcement Officer to impose criminal charges with the possibility of imprisonment of the citizen. Sheriff Wood was also concerned with the duties of the Code Enforcement Officer specifically their ability to enter someone’s property without the proper training and law enforcement background and the ability to issue a warrant and Court Oder to enter their property if they don’t allow it. Sheriff Wood stated the Revised Ordinance as written would not be acceptable or work for him. Sheriff Wood informed he stood in absolute opposition of the revisions if they could put someone in jail and his office was not involved in the process. prosecutorial discession

Robert Barber, concerned citizen, said he felt the easiest solution was to give the Sheriff the manpower to staff a Division in his office to do that and then mandate the departments the ordinances apply to be responsible for the identification and referral to the Sheriff’s department.

Chair Stewart Adjourned the Public Hearing and reconvened as the Board of County Commissioners at 10:41 AM.

Motion: Continue the Public Hearing to December 20, 2022 at 10:00 AM, **Action:** Continue, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

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

Yes: Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk, Commissioner Proctor.

Chair Stewart recessed the Regular Meeting at 10:42 AM and reconvened at 10:54 AM.

Chair Stewart certified all commissioners and staff were present.

7. Canvassing of the Vote – General Election of November 8, 2022

Chair Stewart reconvened the Canvassing Board at 10:55 AM.

Clerk Whittaker reminded the purpose of the meeting was for the Board of County Commissioners acting as the Canvass Board for Lincoln County to review and certify the 2022 General Election results.

Clerk Whittaker presented the 2022 General Election Unofficial Results for Lincoln County. Clerk Whittaker informed 14,757 registered voters were eligible to cast a ballot for the General Election held on November 8, 2022. Clerk Whittaker informed this was the first election where same day registration took place at every voting convenience center. Clerk Whittaker reported 269 voters updated their voter registration during this General Election. Clerk Whittaker stated the turnout was 57%. Clerk Whittaker stated of the total ballots cast 1012 were cast by Absentee Voters, 3736 were Early Voters, and 3629 were Election Day Voters.

Clerk Whittaker noted of the 17 Uniform and Overseas Citizens Absentee Voting Act (UOCAVA) ballots issued and 13 were returned and tallied. Clerk Whittaker stated 19 Provisional Ballots were issued of which 18 were qualified and tallied and 1 rejected.

Clerk Whittaker provided printouts of vote totals by precinct and summaries by contest. Clerk Whittaker also presented supporting documentation for review by the Board of Canvass including rosters, applications and permits.

Motion: Approve the Canvass of the Votes for the General Election of November 8, 2022, **Action:** Approve, **Moved by** Commissioner Crunk, **Seconded by** Commissioner Willard.

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

Yes: Chair Stewart, Commissioner Willard, Commissioner Crunk, Commissioner Proctor.

No: Commissioner Allen.

SEE EXHIBIT D: Copy of the Certificate of Canvass for the 2022 General Election is attached hereto in reference thereto made a part hereof

Chair Stewart adjourned the Canvassing Board and reconvened as the Board of County Commissioners at 11:33 AM.

20. High Mountain Youth Project Presentation – Dave Tomlin, Board Member

Dave Tomlin, Member of the Board of Directors of the High Mountain Youth Project, which is a nonprofit organization established in 2015 for the purpose of addressing the problem of youth homelessness in Lincoln County, reported on the developments which have contributed to the ability of the project to be almost complete. Mr. Tomlin stated they purchased property and building space to accommodate students who needed a place to be safe and comfortable after school before going home in the evening. Mr. Tomlin informed the plan was to convert the metal building in the back of the property to an overnight shelter which would house up to 14 kids when complete. Mr. Tomlin shared the possible opening of the new facility in late Summer or

early Fall. Mr. Tomlin also stated they had an anonymous donor contribute a substantial six figure sum in the form of a stock which would be sold shortly.

21. Region IX Housing Funding Presentation – Bryan Dooley

Bryan Dooley, Executive Director of Region IX, stated he previously presented before the Commission in July to request funding from the recovery dollars which were available at that time and he appreciated the unanimous support. Mr. Dooley stated the original request was for \$4,000,000 however they are requesting consideration of any funding out of recovery dollars which may be unspent and available in the amount of \$2,000,000-\$3,000,00. Mr. Dooley explained they were working on the construction of a 20,000sf two-story facility which would need to be built to accommodate the location and parking needs. Mr. Dooley stated they were working with Tim Dodge and the Village of Ruidoso about some bonding capabilities.

There was a lengthy discussion about the different funding options available and the way they work with the different requirements of the Pre-k, Early Childhood Education, and various PED and Region IX programs.

Chair Stewart recessed the Regular Meeting at 12:15 PM and reconvened at 1:00 PM.

19. Manager's Report

1) Halloween Visit – Carrizozo Day Care / Schools

The Carrizozo Complex was visited by many ghosts and goblins on Halloween! Departments within the County decorated and handed out candy to the children. Congratulations to the Assessor's Office for winning the decoration competition!

2) Otero County Issues RFP for Detention Contractor

The Otero County Commissioners advertised a Request for Proposals to manage the OCDC. A mandatory pre-bid meeting was held on November 3, 2022. CSG attended the meeting and plans on responding to the RFP. Staffing shortages was one of the main factors in trying to contract jail services in Otero County.

3) Capital Outlay Requests Submitted

The State of New Mexico has finally transitioned to a complete online submission portal for Capital Outlay Requests. The County of Lincoln submitted the following requests on October 21, 2022.

- LINCOLN COUNTY DRAINAGE AND ADA COMPLIANCE CONSTRUCT - \$750,000
- LINCOLN COUNTY COURTHOUSE ADA COMPLIANCE - \$750,000
- LINCOLN COUNTY LCDC SECURITY EQUIP - \$400,000
- LINCOLN COUNTY ROAD DUMP TRUCK EQUIP - \$230,000

4) Fairgrounds Meeting – 10/28/2022

On October 28, 2022, a meeting was held at the Lincoln County Fairgrounds in Capitan. Those in attendance were: Commissioners Proctor and Willard, Jeff Honeycutt, myself, three members of the Fair board and 2 members from the NMSU extension office. Future use plans were discussed in detail to ensure that all parties were on the same page.

5) County of Lincoln and District Courts Working Together

On October 27, 2022, the District Court had Grand Jury testimony and a jury trial being held on the same day. The Grand Jury was held in the Commission Chambers and the Jury Trial was held in the District Court Courtroom. Being able to navigate and process the large number of people was a challenge for the State and County employees. I want to recognize the flexibility and hard work that the County of Lincoln employees have put towards working as a team and doing what is best for the citizens of this county.

6) PNM Update Meeting

On October 27, 2022, I met with Bruce Ashburn (PNM Community Manger) to discuss the upcoming changes that might affect the County of Lincoln residents. The Avangrid / PNM merger is still moving forward as they are appealing the PRC decision to not allow the merger. On December 8, 2021, President Biden signed an Executive Order that requires: *100 percent carbon pollution-free electricity (CFE) by 2030, at least half of which will be locally supplied clean energy to meet 24/7 demand.* PNM is seeking the merger with Avangrid to incorporate 30+ years of experience in the renewable energy generation.

7) FEMA / NRCS Reimbursement

The County of Lincoln has submitted for reimbursement for County-Wide Debris removal under the initial FEMA disaster declaration. Staff is following up with FEMA representatives to determine where we are in the process. We are working with NRCS on two different EWP (Emergency Watershed Protection) programs: Hondo Valley EWP (May 2021) – We have submitted for reimbursement at a 75/25 cost share. McBride Area EWP- Submissions have been made at a 100% reimbursement rate.

8) Director's Reports

14. Lincoln County Compensatory Advisory Board Requests and Recommendations:

- a. Lincoln County Assessor – Appraisal Clerk/Sales Ratio Reclassification and Increase in Salary from a Grade 14 to a Grade 17

Assessor Hill presented on his request for reclassification and increase in salary for the Appraisal Clerk position. Assessor Hill previously met with the Compensation Advisory Committee which agreed with his request. Assessor Hill explained this position would be the direct point of contact for the Solid Waste department as well.

Motion: Approve the Assessors request for Reclassification and Increase in Salary, **Action:** Approve, **Moved by** Commissioner Proctor, **Seconded by** Commissioner Willard.

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

Yes: Commissioner Proctor.

No: Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk.

- b. Lincoln County Clerk – Archivist Records Clerk Increase in Salary from a Grade 14 to a Grade 17

Clerk Whittaker explained the reasoning in adjustment for the Archivist Records Clerk position and detailed the change in job description after the retirement of Karen Mills and before the position was re-advertised for hire.

- a. Lincoln County Assessor – Appraisal Clerk/Sales Ratio Reclassification and Increase in Salary from a Grade 14 to a Grade 17

Chair Willard was on the prevailing side of the previous motion and requested reconsideration.

Motion: Approve both position reclassifications from 14 to 17, and include the certificates for the Assessor's position to be paid out of the re-appraisal fund, effective with the next full pay period, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

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

Yes: Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk, Commissioner Proctor.

23. Discussion and Direction Regarding an Appointment to the Lodger's Tax Committee – a Member who is in a Capacity that is Tourist Related

Manager Pearson informed James Hobbs had stepped down from the Lodger's Tax Committee and is looking for a new member.

24. Discussion and Direction of Potential Use of American Rescue Plan Act (ARPA) Funds

Manager Pearson detailed the ARPA payments and requested direction on the usage of the funds and how much would be allocated under the current Commission and how much would be saved for allocation under the incoming Commission. Commissioner Willard and Commissioner Crunk requested a list of projects and prices for the Commission review and recommendation.

Manager Pearson stated he would create a complete list of everything that had been requested as well as the cost of what it would take to complete the projects and he would include it both for ARPA funds and other funding sources. Manager Pearson stated he would have the complete list available for the December Commission Meeting and they could go through each bullet point to decide what they are going to do and what will be saved for the future Commission Board.

25. Discussion and Consideration of IT Infrastructure Upgrade for the Lincoln County Detention Center

This item will be moved to the December Commission Meeting.

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

Chair Stewart stated the only Public Hearing next month would be the continuation of the Public Hearing from this month.

27. 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)

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 The case is still pending.
3. **Romero, et al. v. Stone, et al, Cause No. D-1226-CV-2019-00271** Request for Appointment of Guardian Ad Litem for Plaintiffs and Complaint for Violation of Civil and Constitutional Rights, Negligence, Prima Facie Tort and Wrongful Taking was filed on October 9, 2019 along with a Jury Demand. Lisa B. Riley is the presiding Judge. The case is still pending.
4. ***Brd. of County Commissioners of Lincoln County v. Amerisourcebergen Drug Corp., et. al – U.S. Dist. Court Case No. 2:19-cv-00462** – Complaint for Public Nuisance, Violations of Racketeer Influenced and Corrupt Organizations Act (RICO)... filed on May 20, 2019 by Attorneys Robles, Rail & Anaya, P.C., et. al. After receiving no oppositions to the transfer of the case, on June 17, 2019, the case was transferred to the Northern District of Ohio noting that as of December 5, 2017, 1,534 cases have been transferred to Ohio for further proceedings. Settlement has been reached with some of the Defendants and, Lincoln County has begun to receive payments from some of the settling Defendants. The case is still pending.
5. **Greentree Solid Waste Authority v. Lincoln County, Cause No. D-1226-CV-2014-00095** – Compromise and Settlement Agreement and Release executed on December 17, 2015.
6. **Richard Ford v. Terry A. Colwell, II, et al, Cause No. D-1226-CV-2020-00104** Complaint for criminal trespass, theft, misappropriation of monies and violations of civil rights was filed by Gary C. Mitchell on May 11, 2020. Lincoln County was served on May 29, 2020. On June 26, 2020, the case was removed to the U.S. District Court and, on March 30, 2021, the case was remanded back to the 12th Judicial District Court for further proceedings. A 5 day Jury Trial is scheduled to begin on May 15, 2023.
7. ***Lincoln County, ex rel, Greentree Solid Waste Authority and Mary Mansfield vs. Sierra Contracting, Inc, et al, Cause No. D-1226-CV-2020-00081** Complaint Under Fraud Against Taxpayers Act was filed by Zach Cook and Victor Marshall on March 31, 2020. On September 17, 2020, Plaintiffs filed their Notice that Qui Tam Plaintiffs are proceeding with this action. On September 27, 2022, Judge Sugg entered a Notice of Intent to Dismiss giving the Plaintiffs 30 days to take significant action in the matter or the case will be dismissed. On October 31, 2022, Judge Sugg entered a Disposition Order for Lack of Prosecution and, Plaintiffs have until November 30, 2022 to move to reinstate the case.

8. **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.
9. ***New Mexico Bank & Trust v. Roger Gomez, et al, Cause No. D-1226-CV-2022-00001** Complaint for Foreclosure of Mortgage was filed on January 4, 2022. A Decree of Foreclosure was entered by Judge Sugg. The Special Master’s Foreclosure Sale took place on October 3, 2022 at 9:00 a.m. On October 14, 2022, an Order Approving Special Master’s Report of Sale of Real Property was entered by Judge Sugg concluding this matter as it relates to the County of Lincoln.
10. **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.
11. ***Allen Theaters Properties, LLC v. Walter Hill, County Assessor, Lincoln County, Cause No. D-1226-CV-2021-0264** A Complaint for Property Tax Refund was filed on the 27th day of December, 2021 by Attorney Gary Eisenberg. On January 26, 2022, New Mexico Counties assigned Attorney Daniel Macke to represent Lincoln County. Settlement in this case has been reached and, the parties are awaiting entry of a Stipulated Final Judgment by Judge Bryant.
12. **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.
13. **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.
14. **Potential Recovery of County of Lincoln Losses from the McBride / Nogal Fires**
15. **Butch’s Properties, LLC v. Vera Cruz Ranches, et al, Cause No. D-1226-CV-2022-00166** A Complaint to Quiet Title was filed on the 18th day of August, 2022 by Attorney William Griffin. Lincoln County was served on the 26th day of August, 2022, and filed its Answer to the Complaint on the 26th day of September, 2022. The case is still pending.
16. **Pioneer Bank v. Andrew Smith, et al, Cause No. D-1226-CV-2022-00089** An Amended Complaint for Foreclosure and Collection of note was filed on the 24th day of August, 2022 by Attorney Andrew Ragsdale. Lincoln County was served on the 24th day of August, 2022, and filed its Answer to the Complaint the 28th day of September, 2022. The case is still pending.

Tort Claims Notices Received or Threatened

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.

Villanueva, Leticia – Tort Claim Notice received on October 3, 2022, alleging negligent, malicious and/or tortious actions and/or omissions, and infliction of pain and suffering.

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.

Unnamed inmate in the process of being transported from Eddy County to Lincoln County Detention Center 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.

***Snodgrass, Joshua** – Loss of employment with the Lincoln County Sheriff's Office commencing on June 23, 2022.

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

2021

Cline, Terry – Tort Claim Notice received January 11, 2021 alleging injuries sustained as a result of claimant's garbage truck being struck by a front-end loader at the Otero-Greentree Regional Landfill.

Purcella, Les – Tort Claim Notice received January 28, 2021 alleging damage to his automobile by an employee with the Lincoln County Assessor's office.

Chavez, Cecilia – Tort Claim Notice received February 1, 2021 alleging damage to NM State Police vehicle by Deputy Wikoff with the Lincoln County Sheriff's Office.

Mow, Jacob – Tort Claim Notice received February 18, 2021 alleging damage to his vehicle due to icy road conditions on Cora Dutton Rd. and the County Road Department's failure to salt to roadway.

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

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

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

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

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

Smoley, Cinthia – Ms. Smoley submitted to the Lincoln County Treasurer 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.

Brady, Rosarita – Tort Claim Notice received December 6, 2021 alleging an improper investigation of a shooting death by the Lincoln County Sheriff’s Office.

2020

Goodman, John and Lovone – Tort Claim Notice received November 24, 2020 alleging substantial damage as a result of Lincoln County Sheriff Deputy Joshua William Snodgrass’ failure to yield right of way.

Humphrey, John D. – Tort Claim Notice received December 17, 2020 alleging personal injuries occurring at Moon Mountain Disc Golf.

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

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

Yes: Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk, Commissioner Proctor.

Chair Stewart recessed the Regular Meeting and convened the Closed Session at 2:17 PM.

Chair Stewart adjourned the Closed Session and reconvened the Regular Meeting 3:17 PM.

Commissioner Proctor 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.

28. Discussion and Direction of the Lincoln National Forest Land Management Plan and Environmental Impact Statement – Commissioner Todd Proctor

Commissioner Proctor informed he sat in on the LANRAC committee meeting and there has been discussion with the correspondents of Eddy, Otero, and Chaves Counties. Commissioner Proctor stated the deadline for comments on the Forestry Wilderness Plan was in September however they were still waiting for a response back. Commissioner Proctor recommended joining the Coalition with the other three Counties and stand solidified.

Chair Stewart stated they needed specific instances of people losing their rights and then target them specifically not generally.

29. Signing of Official Documents and Approval to Utilize Electronic Stamp

All five commissioners authorized permission to use their electronic signature/stamp.

30. Next meeting:

- a. December 20, 2022, Regular Commission Meeting

31. Adjournment

There being no further business to come before the Board of County Commissioners, Chair Stewart adjourned the meeting at 3:25 PM.

Respectfully submitted by,
Shannan Hemphill
Lincoln County Chief Deputy Clerk