

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 December 20, 2022

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on December 20, 2022, in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico.

This meeting was also 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 8:31 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 Whitney Whittaker, Lincoln 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

Chair Stewart stated the County was without power which would hopefully be restored quickly. Chair Stewart informed there would be a farewell to outgoing commissioners during the Public Comment section.

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

50 **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 5).
51 **Yes:** Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk,
52 Commissioner Proctor.

53

54 **6. Approval of Minutes:**

55 a. November 15, 2022 Regular Commission Meeting

56

57 **Motion:** Approve the Minutes of November 15, 2022 Regular Commission Meeting, **Action:**
58 Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Willard.

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

60 **Yes:** Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk,
61 Commissioner Proctor.

62

63 **7. Approval of Consent Agenda**

64 a. Payroll/Accounts Payable/Budget/ Expenditures

65 b. Treasurer's Financial Report for the Month ending November 30, 2022

66 c. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims

67 d. Approval of Required 2023 Operational Resolutions:

68 i. Resolution 2023-31- Establishing 2023 County Official Holiday Calendar

69 e. Approval for Nogal Volunteer Fire to Purchase Command Unit Utilizing Fire Funds

70 f. Approval of Appointment to Lincoln Historic Preservation Board – Elaine Allen,
71 Effective January 1, 2023

72 g. Approval of Resolution 2023-29 Disposition of Surplus Inventory

73 h. Approval of Agreement Between Curry County and Lincoln County to House
74 Inmates at the Lincoln County Detention Center

75 i. Approval of Agreement Between Quay County and Lincoln County to House
76 Inmates at the Lincoln County Detention Center

77 j. Approval of Agreement # 23-RO-11030300-022 Cooperative Forest Road
78 Agreement Between the County of Lincoln and the USDA, Forest Service Cibola
79 National Forest and National Grasslands.

80 k. Approval of Memorandum of Understanding Between the County of Lincoln and
81 Kenneth Vega for Misdemeanor Compliance

82

83 Commissioner Willard questioned Agenda Item g and the disposition of the Smith and Wesson
84 rifles. Commissioner Willard asked if they had received any bids for the rifles and why the decision
85 was made to sell them to Sandman Armory.

86

87 Manager Pearson stated it should not say “sell to Sandman Armory” as they we will do the proper
88 disposition to determine how to legally and properly get rid of the firearms and they may not go to
89 Sandman Armory.

90

91 Commissioner Willard stated when he makes his motion it will not include the rifles until they are
92 listed correctly on the form.

93

94 Commissioner Willard informed in prior years one commissioner would go to the storage facility
95 and do a spot check, he questioned why it was not done on any of these items.

96

97 Attorney Morel stated the disposition of fixed assets was set by statutes 2.20.1.18 section D which
98 says as a prerequisite, state agencies shall designate a committee of at least 3 officials of the
99 governing authority. Attorney Morel stated all the commissioners were overseeing the process
100 serving as a board, so the requirement was satisfied.

101
102 Commissioner Willard questioned a lot of HIDTA items being transfer to the program in
103 Alamogordo.

104
105 Manager Pearson stated we would still participate in the program however Lincoln County would
106 no longer be the fiscal agent therefore all the items which were purchased with HIDTA dollars
107 would be transferred to the new fiscal agent.

108
109 **Motion:** Approve the Consent Agenda, **Action:** Approve, **Moved by** Commissioner Allen,
110 **Seconded by** Commissioner Crunk.

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

112 **Yes:** Chair Stewart, Commissioner Allen, Commissioner Crunk, Commissioner Proctor.

113 **No:** Commissioner Willard.

114
115 **SEE EXHIBIT A:** Copies of the Consent Agenda items including Resolution 2023-31, Resolution
116 2023-29 and Resolution 2023-26 are attached hereto in reference thereto made a part hereof.

117
118 **8. Budget Adjustment FY 22/23 by Resolution 2023-30**

119
120 Manager Pearson stated his office worked directly with the Treasurer and Finance Offices on the
121 EWP project portion which was all reimbursable funds.

122
123 Chair Stewart stated he reviewed it, and it looked pretty good. Chair Stewart stated there was a
124 lot of interest and there were adjustments in personnel which they had approved in prior meetings
125 as well as the purchase of a large piece of equipment in the Nogal Fire Department.

126
127 **Motion:** Approve Budget Adjustment Resolution 2023-30, **Action:** Approve, **Moved by**
128 Commissioner Proctor, **Seconded by** Commissioner Allen.

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

130 **Yes:** Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk,
131 Commissioner Proctor.

132
133 **SEE EXHIBIT B:** Copy of Resolution 2023-30 is attached hereto in reference thereto made a part
134 hereof.

135
136 **17. ENMU Presentation – Ryan Trospen**

137
138 Ryan Trospen, president of ENMU-Ruidoso, stated they had partnered with the Lincoln County
139 Detention Center and had numerous GED participants over the years however, last week he had
140 the opportunity to go into the Detention Center and award two students with their College
141 Certificates in Construction Trades, one of which has partnered with the NM Workforce
142 Connections and will have a job when they are released in 30 days. Mr. Trospen wanted to thank
143 the Commissioners and the working relationship they have had in order to serve the students and
144 help them out on their next steps after incarceration.

145
146 Mr. Trospen gave a presentation on the possibility of athletics at the college which they had been
147 working towards for a couple of years. Mr. Trospen spoke on the value of being able to bring
148 athletics to the College and stated they were looking at golf, cross country and rodeo programs
149 with the expected kick off year of 2024.

150

151 Commissioner Willard questioned the use of the County owned fairgrounds and rodeo arena as
152 a possible partnership allowing the students to house animals and use the facility as well as host
153 a rodeo.

154
155 Mr. Trosper stated in the future, the College would like to look into a partnership with the County
156 to use the fairgrounds and rodeo arena facilities.

157
158 **9. Forest, Land & Natural Resources Matters:**

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

161
162 Melody Gains, Family Consumer Science Agent, updated on the end of year projects they were
163 working on. Mrs. Gains elaborated on the Ranch Calf Program and stated the Hightower Ranch
164 in Ancho was the producer of the ranch calves this year.

- 165
166 c. South Central Mountain RC & D

167
168 Robert Barber stated things were progressing well with the McBride Fire.

- 169
170 d. Upper Hondo Soil & Water Conservation District

171
172 Robert Barber stated they were making progress with the bonito flooding.

- 173
174 e. Land and Natural Resources Advisory Committee-LANRAC

175
176 Robert Barber reported he attended a public meeting with Sun Zia and they were making progress
177 towards getting the line started by the end of next year.

178
179 Mr. Barber participated in a BLM conference to discuss upcoming grazing rules and stated they
180 had a lot of push back, and they would need to start over.

181
182 Mr. Barber attended another meeting put on by the forest to discuss the future and rangeland
183 management. Mr. Barber indicated there were lots of changes coming this way and they were
184 looking at large scale approaches.

185
186 **12. Lincoln County Detention Center Update**

187
188 Manager Pearson informed CSG had hired a new warden out of Michigan who will be here full
189 time in a month or two. Manager Pearson state Pauline Tope is the acting warden and things
190 were operating as usual.

191
192 **13. Lincoln County Medical Center Update-Todd Oberheu**

193
194 Manager Pearson stated they were working on ordering new ambulances however they would
195 have to be the smaller ones as the larger ones currently have a three-year waiting period and the
196 prices have increased significantly.

197
198 Chair Stewart mentioned the new Commission may want to consider using ARPA funds for the
199 purchases.

200
201 **14. Manager's Report**

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1) NM Wildland Urban Fire Summit Presentation – November 17, 2022

The County of Lincoln and the VOR presented on the success of collaboration between the two entities. Collaboration topics included fire response, road projects (Gavilan), consolidated dispatch, workforce housing and disaster recovery. The presentation was well received by an audience of over 150 attendees. We stressed the importance of working together while maintaining each entity’s identity.

2) Road Use Discussion With Pattern Energy – November 28, 2022

Representatives from Pattern Energy met with County of Lincoln staff to discuss pre-construction road use. Use, maintenance and cost were discussed to keep the roads in the current condition. Pattern and Jeff H have built a plan to maintain the roads while allowing contractors to do their job.

3) Auditors Exit Meeting – November 28, 2022

County of Lincoln staff attended the virtual Exit meeting to discuss the Audit process. This meeting allowed both sides to voice concerns and learn the audit process. The audit was submitted on November 29, 2022 (due December 30th). Detail of the audit will be discuss once approved by the NM State Auditor.

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

Commissioner Proctor attended BIPO (Better Informed Public Officials) conference and stated it was a great experience and he learned a lot. Commissioner Proctor stated it was good to see fellow commissioners in attendance as well.

Commissioner Crunk stated he also attended BIPO and it was an educational experience. Commissioner Crunk informed he spoke with the New Mexico Counties insurance department about an insurance pool for wildfires and was hoping to have some progress in the future. Commissioner Crunk spoke at length regarding property insurance and informed the problem is getting worse and something had to be done about it.

Clerk Whittaker informed the position of historical clerk had been advertised and should be filled soon.

Beverly Calaway, treasurer reminded she would be retiring at the end of December with 27 years of service in the Treasurer’s Office. Treasurer Calaway referenced statute and detailed the transition process from her term of office to Treasurer Elect Sherrie Huddleston. Treasurer Calaway thanked the outgoing County Officials as well as all the employees in her office.

Sheriff Wood thanked the outgoing County Officials and introduced Lieutenant Wilson as the first midlevel position in his office. Sheriff wood provided stats from his office over the last year.

251 Doris Cherry, county resident and journalist thanked the outgoing elected officials. Ms.
252 Cherry stated she had many miles of copy provided to the Lincoln County News before
253 they closed their doors a year ago after publisher and owner Peter Aguilar passed away.

254
255 Nita Taylor, former County Manager, thanked the outgoing commissioners for everything
256 they had accomplished in their time working together.

257
258 Jim Spiri, resident of Lincoln, thanked the outgoing commissioners for all their hard work
259 and for always taking his calls.

260
261 Chair Stewart postponed the remainder of the public comment until later in the meeting
262 when the power came back on.

263

264 **14. Manager's Report Continued**

265

266 **4) Lodger's Tax Committee Meeting – November 29, 2022**

267
268 The Committee listened to two presentations and asked meaningful questions. After the
269 presentations, the committee requested that the BOCC appoint another member to help
270 make a quorum when a member is absent. The committee had many questions about the
271 Lodger's Tax budget and how much was available for applicants.

272

273 **5) Disaster Recovery Roundtable – November 30, 2022**

274
275 Trisha Korbas (Lead Field Coordinator for the Economic Recovery Line of Effort DR-4652-
276 NM), lead the discussion about the impacts of the Nogal and McBride fires. Other federal
277 recovery team members participated both in-person and virtually (FEMA / EDA / USDA).
278 Trisha and her team have been the most dedicated agency in finding solutions for the
279 VOR and County of Lincoln. Virtual meetings are planned every two weeks to check the
280 progress.

281

282

283 **6) Better Informed Public Officials Conference - December 6-8, 2022**

284
285 Attendees: Commissioners Proctor and Crunk / Commissioner-Elect Fischer / Ira Pearson
286 This three-day event was well attended from newly elected officials from all over New
287 Mexico. The County of Lincoln commissioners received a "crash course" in the duties of
288 a newly elected commissioner. Presentations included Roles and Responsibilities, NMC
289 Resources and Risk Management, Ethics, County Revenues & Financial Responsibility

290

291 **7) NRCS / EWP Reimbursement**

292

293 The County of Lincoln has received the following reimbursements:

294 Hondo Valley EWP (May 2021) – \$91,941 75/25 cost share.
295 McBride Area EWP- \$106,971 100% reimbursement rate.

296

297 **8) Lincoln County Environmental Gross Receipts Tax Update**

298

299 Chair Stewart recessed the meeting at 10:00 AM and convened the public hearing at 10:01 AM.

300

301 **11. 10:00 AM: November 15, 2022 Public Hearing Continuance – An Ordinance**
302 **Providing for an Efficient and Fair Method of Enforcing the Ordinances of Lincoln**
303 **County; Establishing the Position of Ordinance Enforcement Officer Under the**
304 **Supervision of the Sheriff’s Department; Authorizing the Ordinance Enforcement**
305 **Officer to Enforce the Provisions of Lincoln County Ordinances; Designating**
306 **Authority and Procedures for Ordinance Enforcement Officers; Providing for the**
307 **Severability of Parts Hereof; Repealing Ordinances in Conflict Herewith; and**
308 **Providing an Effective Date**
309

310 Chair Stewart requested public comment and received none.

311
312 Attorney Morel stated he spent an hour or more in consultation with Sheriff Wood about the issue.
313 Attorney Morel explained Sheriff Wood was willing to leave things as they were in order to move
314 forward for now. Attorney Morel stated there would be a conference in January as this was a
315 statewide issue and it was his recommendation to take no action and readvertise a public hearing
316 in the new year when the new Commissioners could take action on it.
317

318 Chair Stewart adjourned the public hearing and reconvened the Regular Meeting at 10:07 AM.

319
320 There was no action taken.

321
322 **14. Manager’s Report- continued**

323
324 **9) Director’s Reports**

325
326 Jeff Honeycutt informed on the four Forest Service pits and stated the County was authorized to
327 mine them, there were 2 in process and 2 untouched.

328
329 Joe Kenmore spoke about the water tank project in Nogal and informed they had a crew and the
330 \$300,000 Fire Marshalls grant to finish the project. Mr. Kenmore stated it would be completed in
331 cooperation with the Lincoln County Road dept and a contractor.

332
333 **10. 9:30 A.M.: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY**
334 **OFFICIALS INCLUDING FAREWELL TO OUTGOING OFFICIALS (Items are for**
335 **discussion only – no action will be taken)- Continued**
336

337 Commissioner Willard read a letter he wrote as an outgoing Commissioner detailing his last 8
338 years in office and things for the incoming Commissioners to be aware of.

339
340 Chair Stewart postponed the remainder of the public comment until later in the meeting.

341
342 **15. Approval of Department of Finance Administration’s Appropriation No. 22-**
343 **ZG1016-36 Regarding Law Enforcement Recruiting and Retention**
344

345 Manager Pearson gave a brief description of the Appropriation.

346
347 **Motion:** Approve Appropriation No. 22-ZG1016-36, **Action:** Approve, **Moved by** Commissioner
348 Willard, **Seconded by** Commissioner Allen.

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

350 **Yes:** Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk,
351 Commissioner Proctor.

352
353

354 **16. Review and Approval of Land Use Agreements:**

- 355 a. Corona Land Lease Agreement for Rural Health Clinic
356 b. Hondo Valley Land Lease Agreement for Rural Health Clinic

357

358 Manager Pearson provided an explanation on the Land Lease Agreements.

359

360 **Motion:** Approve the Land Lease Agreements, **Action:** Approve, **Moved by** Commissioner
361 Proctor, **Seconded by** Commissioner Crunk.

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

363 **Yes:** Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk,
364 Commissioner Proctor.

365

366

367 **18. Discussion and Direction Regarding Invoices for MP Chavez for FEMA Cleanup**

368

369 Manager Pearson detailed the invoices and explained they attempted to get 3 bids however MP
370 Chavez was the only company who was able to do the work. Manager Pearson stated it was
371 necessary and acceptable under the emergency authorization.

372

373 **Motion:** Approve the invoices provided and pay MP Chavez for the FEMA Cleanup, **Action:**
374 Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Willard.

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

376 **Yes:** Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk,
377 Commissioner Proctor.

378

379

380 **19. Discussion and Direction Regarding Letter in Opposition of Fort Sill Casino**

381

382 **Motion:** Approve the letter in opposition of the Fort Sill Casino, **Action:** Approve, **Moved by**
383 Commissioner Willard, **Seconded by** Commissioner Proctor.

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

385 **Yes:** Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk,
386 Commissioner Proctor.

387

388 **20. Appointment of an Opioid Settlement Replacement “Authorized Official”**

389

390 Chair Stewart stated his recommendation was to change the Authorized Official from himself to
391 Manager Pearson for this matter.

392

393 **Motion:** Approve the County Manager as Authorized Official, **Action:** Approve, **Moved by**
394 Commissioner Willard, **Seconded by** Commissioner Crunk.

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

396 **Yes:** Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk,
397 Commissioner Proctor.

398

399

400 **21. Discussion and Direction Regarding United States Forest Service Letter in**
401 **Opposition of Increasing LNF Wilderness Areas**

402 Commissioner Proctor explained the letters and the reasoning behind them.

403
404 **Motion:** Approve both letters in opposition of increasing LNF Wilderness Areas, **Action:** Approve,
405 **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

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

407 **Yes:** Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk,
408 Commissioner Proctor.

409

410 **22. Review of Current Procedures of Inspection of Public Records Requests**

411

412
413 Manager Pearson detailed the IPRA process and the increasing number of requests that have
414 been received lately.

415

416 **23. Public Works / Solid Waste Department**

417 a. Approval to Purchase TrashFlow Program to Create New Databases for Public
418 Works Department in the Amount of \$2,495.00

419

420 Francesca Herrera reported on the TrashFlow program and associated costs.

421

422 **Motion:** Approve purchase of TrashFlow Program, **Action:** Approve, **Moved by** Commissioner
423 Willard, **Seconded by** Commissioner Allen.

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

425 **Yes:** Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk,
426 Commissioner Proctor.

427

428 b. Approval to File Solid Waste Liens

429 A. Robert Junell and Beverly Junell - \$956.56

430 B. Deborah S. Pennington - \$956.56

431 C. Christopher S. Suttle - \$956.56

432 D. Hector Cano and Brandi Dawn Byrd - \$1,435.07

433 E. Elisa Maria Sanchez - \$1,999.28

434 F. Richard D. Sanchez and Elisa Sanchez - \$2,078.03

435

436 **Motion:** Approve the Solis Waste Liens as presented, **Action:** Approve, **Moved by**
437 Commissioner Allen, **Seconded by** Commissioner Proctor.

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

439 **Yes:** Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk,
440 Commissioner Proctor.

441

442 c. Approval to Publish a Request for Proposal for County-Wide Slash Pile Removal

443

444 Ms. Herrera requested ability to go out to RFP for the proposed slash pile removals.

445

446 Commissioner Willard questioned the date of 2022 and if it should be changed to 2023.

447

448 Commissioner Proctor questioned the estimated cost for the removal and Ms. Herrera stated the
449 price had gone up significantly, even though the amount of slash was less than last time the price
450 would probably be similar.

451
452 **Motion:** Approval to go out to RFP for Slash Pile Removal, **Action:** Approve, **Moved by**
453 Commissioner Allen, **Seconded by** Commissioner Crunk.

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

455 **Yes:** Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk,
456 Commissioner Proctor.

457

458 **24. Approval of Lodger's Tax Funding Requests:**

459

460 a. Event: EMS Region 3 EMS Conference
461 Amount Requested: \$7,204.00
462 Date (s) of Event: 4/23/2023-4/30-2023
463 Presenter: Donnie Roberts – EMS Region III Director

464

465 b. Event: Carrizozo Music, Inc. (5 Events Throughout 2023)
466 Amount Requested: \$21,750.00
467 Date(s) of Event(s): 4/15/23, 5/9/23, 8/12/23, 9/20/23 and 12/2/23
468 Presenter: Fran Altieri – President

469

470 **Motion:** Approve both funding requests, **Action:** Approve, **Moved by** Commissioner Allen,
471 **Seconded by** Chair Stewart.

472

473 Chair Stewart Commended the Lodger's Tax Board for their due diligence on the two requests.

474

475 Commissioner Willard questioned if the Ruidoso Lodger's Tax had helped with the EMS
476 Conference.

477

478 Sandy Nunnally informed the EMS Region 3 was a non-profit organization and they had not gone
479 through the Ruidoso Lodger's Tax.

480

481 Chair Stewart withdrew his second.

482

483 Motion still stands with Commissioner Allen, no second- motion dies due to lack of second.

484

485 Fran Altieri, Carrizozo Music, informed the events were not only for Carrizozo residents, they were
486 County wide, State wide and since it was virtual they were also Worldwide.

487

488 **Motion:** Approve Carrizozo Music Lodgers Tax Request, Item B, **Action:** Approve, **Moved by**
489 Commissioner Crunk, **Seconded by** Commissioner Allen.

490

491 Commissioner Willard questioned the use of the funds and if the performers would be paid with
492 the funds as well.

493

494 Ms. Altieri stated the funds would be used for advertising, and paying for part of the performances
495 was considered advertising.

496

497 Chair Stewart requested EMS ask for funds from the Village of Ruidoso Lodgers Tax as well.

498

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

500 **Yes:** Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk,
501 Commissioner Proctor.

502
503 Commissioner Allen stated the EMS request was well within the budget and they could ask for
504 additional funding from the village of Ruidoso.

505
506 **Motion:** Approve EMS Region 3 Lodgers Tax request, Item A, **Action:** Approve, **Moved by**
507 Commissioner Willard, **Seconded by** Commissioner Allen.

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

509 **Yes:** Chair Stewart, Commissioner Allen, Commissioner Willard.

510 **No:** Commissioner Crunk, Commissioner Proctor.

511

512 **25. Selection of New Mexico County Insurance Pool Voting Alternate**

513

514 **Motion:** Appoint the County Manager as the Alternate, **Action:** Approve, **Moved by**
515 Commissioner Willard, **Seconded by** Commissioner Allen.

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

517 **Yes:** Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk,
518 Commissioner Proctor.

519

520 Chair Stewart recessed and reconvened the meeting after a 15 minute break.

521

522 **26. American Rescue Plan Act / Local Assistance and Tribal Consistency Fund (LATCF)** 523 **Allocation**

524

525 Eric Hamilton, Wilson and Company, detailed the progress of the projects and the funding.

526

527 Manager Pearson stated phase 1 of the fairgrounds project had been funded.

528

529 There was a lengthy discussion about the ARPA and LATCF funds.

530

531 Lieutenant Wilson explained Mobile Data Terminals and the benefits of having them in the
532 Sheriff's Vehicles.

533

534 **27. Consideration of Funding the Repairing and Remodeling of the Small House** 535 **Located at the Lincoln County Fairgrounds for Use as a Caretaker's Residence**

536 a. Budget

537 b. Retaining a Licensed Contractor with a GB98

538 c. Authorization to Utilize County Employees to Assist in Remodel to Reduce Costs

539

540 Attorney Morel discussed funding and issues involved in the process.

541

542 Jeff Honeycutt stated the house was functional and the utilities were already hooked up. Mr.
543 Honeycutt explained the inside of the house would have to be completely remodeled as there was
544 not much inside that was salvageable except the floors.

545

546 **Motion:** Pursue the renovation and remodel of the small house, **Action:** Approve, **Moved by**
547 Commissioner Proctor, **Seconded by** Commissioner Willard.

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

549 **Yes:** Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk,
550 Commissioner Proctor.

551

552

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

555
556 Chair Stewart informed the low-income public hearing needed to be scheduled in January of odd
557 numbered years.

558
559 **Motion:** Approve Scheduling of the low-income public hearing, **Action:** Approve, **Moved by**
560 Commissioner Willard, **Seconded by** Commissioner Allen.

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

562 **Yes:** Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk,
563 Commissioner Proctor.

564
565 **10. 9:30 A.M.: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY**
566 **OFFICIALS INCLUDING FAREWELL TO OUTGOING OFFICIALS (Items are for**
567 **discussion only – no action will be taken)- Continued**

568
569 Chair Stewart gave farewell addresses to the fellow Commissioners and Elected Officials.

570
571 Chair Stewart recessed the Regular Meeting at 12:25 PM and reconvened at 1:00 PM.

572
573 **29. Lincoln County Executive Session Pursuant to the Open Meetings Act: Discussion**
574 **of all Threatened and/or Pending Litigation, Section 10-15-1, Subparagraph (H)(7);**
575 **and Discussion of the Purchase, Acquisition or Disposal of Real Property or Water**
576 **Rights by the Public Body, Section 10-15-1, Subparagraph (H)(8); and Limited**
577 **Personnel Matters Including: (A) County Road Superintendent, Jeffrey Honeycutt,**
578 **Contract Renewal/Negotiations; (B) General Legal Counsel, Alan P. Morel, P.A.,**
579 **Contract Renewal/Negotiations, Section 10-15-1, Subparagraph (H)(2)**

580
581 **Motion:** To close the meeting for the purposes of an Executive Session to discuss Threatened
582 and/or Pending Litigation, Section 10-15-1, Subparagraph (H)(7); and Discussion of the
583 Purchase, Acquisition or Disposal of Real Property or Water Rights by the Public Body, Section
584 10-15-1, Subparagraph (H)(8); and Limited Personnel Matters Including: (A) County Road
585 Superintendent, Jeffrey Honeycutt, Contract Renewal/Negotiations; (B) General Legal Counsel,
586 Alan P. Morel, P.A., Contract Renewal/Negotiations, Section 10-15-1, Subparagraph (H)(2),

587
588 **New or Updated Matters since last report ***

589
590 1. **Board of County Commissioners of Lincoln County v. Roger Romero D-1226-CV-**
591 **2018-00055** Complaint for Foreclosure. Complaint was filed February 20, 2018. Defendant Roger
592 Romero filed an Answer to the Complaint asserting a Counterclaim to be filed in the U.S. District
593 Court on April 2, 2018. A Judicial Inquiry Hearing took place September 4, 2018. The case is
594 still pending.

595
596 2. ***Roger Romero v. State of New Mexico – D-1226-CV-2018-00113 (Underlying Cases**
597 **are: Board of County Commissioners of Lincoln County v. Roger Romero, D-1226-CV-**
598 **2018-00055, and State of N.M. v. Roger Romero M-30-MR-2016-00142)** A Petition for Writ of
599 Habeas Corpus was filed requesting that the Judgment & Sentence entered by Judge Vega in
600 Cause No. M-30-MR-2016-00142 be vacated and set aside. George Romero's Answer to
601 Complaint and Counterclaim was filed April 30, 2018 in Cause No. D-1226-CV-2018-00055. On
602 February 26, 2019, an Order Setting Aside Conviction was entered by Judge Counts.

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

606
607 ***On January 28, 2021, a Dispositional Order was entered transferring the case to**
608 **the NM Court of Appeals for consideration and review. Case No. A-1-CA-39446** On
609 December 8, 2022, the case was submitted to a 3 Judge Panel for a decision.

610
611 3. **Romero, et al. v. Stone, et al, Cause No. D-1226-CV-2019-00271** Request for
612 Appointment of Guardian Ad Litem for Plaintiffs and Complaint for Violation of Civil and
613 Constitutional Rights, Negligence, Prima Facie Tort and Wrongful Taking was filed on October 9,
614 2019 along with a Jury Demand. Lisa B. Riley is the presiding Judge. The case is still pending.

615
616 4. **Brd. of County Commissioners of Lincoln County v. Amerisourcebergen Drug**
617 **Corp., et. al – U.S. Dist. Court Case No. 2:19-cv-00462** – Complaint for Public Nuisance,
618 Violations of Racketeer Influenced and Corrupt Organizations Act (RICO)... filed on May 20, 2019
619 by Attorneys Robles, Rail & Anaya, P.C., et. al. After receiving no oppositions to the transfer of
620 the case, on June 17, 2019, the case was transferred to the Northern District of Ohio noting that
621 as of December 5, 2017, 1,534 cases have been transferred to Ohio for further proceedings.
622 Settlement has been reached with some of the Defendants and, Lincoln County has begun to
623 receive payments from some of the settling Defendants. The case is still pending.

624
625 5. **Greentree Solid Waste Authority v. Lincoln County, Cause No. D-1226-CV-2014-**
626 **00095** – Compromise and Settlement Agreement and Release executed on December 17, 2015.

627
628 6. ***Richard Ford v. Terry A. Colwell, II, et al, Cause No. D-1226-CV-2020-00104**
629 Complaint for criminal trespass, theft, misappropriation of monies and violations of civil rights was
630 filed by Gary C. Mitchell on May 11, 2020. Lincoln County was served on May 29, 2020. On
631 June 26, 2020, the case was removed to the U.S. District Court and, on March 30, 2021, the case
632 was remanded back to the 12th Judicial District Court for further proceedings. On December 12,
633 2022, Judge Murphy entered a Stipulated Order Dismissing Defendant Colwell with Prejudice
634 and, on December 13, 2022, Judge Murphy entered a Stipulated Order Dismissing Defendant
635 Lincoln County Board of Commissioners.

636
637 7. ***Lincoln County, ex rel, Greentree Solid Waste Authority and Mary Mansfield vs.**
638 **Sierra Contracting, Inc, et al, Cause No. D-1226-CV-2020-00081** Complaint Under Fraud
639 Against Taxpayers Act was filed by Zach Cook and Victor Marshall on March 31, 2020. On
640 September 17, 2020, Plaintiffs filed their Notice that Qui Tam Plaintiffs are proceeding with this
641 action. On September 27, 2022, Judge Sugg entered a Notice of Intent to Dismiss giving the
642 Plaintiffs 30 days to take significant action in the matter or the case will be dismissed. On October
643 31, 2022, Judge Sugg entered a Disposition Order for Lack of Prosecution and, Plaintiffs have
644 until November 30, 2022 to move to reinstate the case. Plaintiff's failed to timely move to reinstate
645 the case and, the case is now closed.

646
647 8. **Debra Wilcox v. Board of County Commissioners, Deputy Samuel C. Hanna,**
648 **Caroline McCoy and Former Sheriff Robert Shepperd, Cause No. D-1215-CV-2021-00574**
649 Complaint for Damages was filed on the 2nd day of September, 2021 by Steven Sanders alleging
650 personal injury resulting from an improper and grossly negligent investigation and for "malicious
651 abuse of process". County Defendants were served on November 2, 2021. The case is still
652 pending.

653

- 654 9. **Eby Revocable Trust AND William R. Moser v. Lincoln County Assessor, et al,**
655 **Cause No. D-1226-CV-2021-0260** A Notice of Appeal of Decision of Tax Protest Board was filed
656 on the 14th day of December, 2021 by Attorney Zach Cook. On January 27, 2022, New Mexico
657 Counties assigned Attorney Daniel Macke to represent Lincoln County. The case is still pending.
658
- 659 10. ***Allen Theaters Properties, LLC v. Walter Hill, County Assessor, Lincoln County,**
660 **Cause No.**
661 **D-1226-CV-2021-0264** A Complaint for Property Tax Refund was filed on the 27th day of
662 December, 2021 by Attorney Gary Eisenberg. On January 26, 2022, New Mexico Counties
663 assigned Attorney Daniel Macke to represent Lincoln County. On November 18, 2022, a
664 Stipulated Final Judgment was entered by Judge Bryant bringing this case to a conclusion.
665
- 666 11. **Crystal Buster v. Board of County Commissioners for Lincoln County, Correctional**
667 **Solutions Group, LLC, et al, Cause No. 2:21-cv-01208** A Complaint for Recovery of Damages
668 Caused by the Deprivation of Civil Rights with a Jury Demand was filed on the 12th day of
669 December, 2021, by Coyte Law P.C., and the Law Offices of Matthew Vance, P.C. The case is
670 still pending.
671
- 672 12. **Lionel Burns v. Lincoln County Sheriff's Department; Deputy Daniel Brawley; in**
673 **their individual and official capacities, and Rhonda Burns, Cause No. D-1226-CV-2022-**
674 **00032** A Complaint for Damages was filed on the 4th day of March, 2022, by Clayton E. Crowley,
675 Esq. and Joseph J. Gribble, Esq.
676
- 677 **On April 22, 2022 the case was removed to the U.S. District Court for the District of**
678 **New Mexico, Cause No. 1:22-cv-000304.** The case is still pending.
679
- 680 13. **Potential Recovery of County of Lincoln Losses from the McBride / Nogal Fires**
681
- 682 14. **Butch's Properties, LLC v. Vera Cruz Ranches, et al, Cause No. D-1226-CV-2022-**
683 **00166** A Complaint to Quiet Title was filed on the 18th day of August, 2022 by Attorney William
684 Griffin. Lincoln County was served on the 26th day of August, 2022, and filed its Answer to the
685 Complaint on the 26th day of September, 2022. The case is still pending.
686
- 687 15. ***Pioneer Bank v. Andrew Smith, et al, Cause No. D-1226-CV-2022-00089** An
688 Amended Complaint for Foreclosure and Collection of note was filed on the 24th day of August,
689 2022 by Attorney Andrew Ragsdale. Lincoln County was served on the 24th day of August, 2022,
690 and filed its Answer to the Complaint the 28th day of September, 2022. On November 16, 2022,
691 Plaintiff filed its Motion to Dismiss. The case is still pending.
692
- 693 16. ***Rosarita Brady, et al v. The Board of County Commissioners of the County of**
694 **Lincoln, et al, Cause No. D-1226-CV-2022-00199** A Verified Complaint was filed by Attorneys
695 Alexandra Bobbit and McKenzie St. Denis on the 27th day of September, 2022. Lincoln County
696 was served on the 22nd day of November, 2022 and its Answer to the Complaint is due on or
697 before the 22nd day of December, 2022.
698
- 699 17. ***Dennis Rich and Yvonne Rich, v. Walt Hill, et al, Cause No. D-1226-CV-2022-00230**
700 A Complaint to Quiet Title was filed on the 22nd day of November, 2022 by Attorney H. John
701 Underwood. The County of Lincoln has yet to be served.
702

Tort Claims Notices Received or Threatened

2022

705 **Schwartz, Neil** – Tort Claim Notice received on February 10, 2022 alleging malicious
706 and/or tortious actions and/or omissions by the State of New Mexico, the Lincoln County Sheriff's
707 Department, the New Mexico State Police, and the Twelfth Judicial District Attorney's Office
708 resulting in damages to Claimant including, but not limited to, infliction of mental pain and
709 suffering, injuries to Claimant's reputation, and current and future loss of earnings.
710

711 **Downs, Barbara** – Tort Claim Notice received May 6, 2022 alleging improper road and/or
712 waterline maintenance resulting in a vehicle collision due to the icy road at the intersection of
713 Sudderth Drive and Paradise Canyon in Ruidoso, New Mexico. A 2nd Tort Claim Notice was
714 received on May 9, 2022 for a separate source with the same allegations as those set out in the
715 May 6, 2022 notice.
716

717 **McMinn, David** – Tort Claim Notice received on July 6, 2022, alleging multiple, serious
718 issues due to the use of excessive force by BIA law enforcement who may have been agents of
719 or acting on behalf of the Village of Ruidoso, Ruidoso Police Department, Lincoln County, N.M.
720 State Police and the State of New Mexico.
721

722 **New Mexico Boys and Girls Ranches, Inc. and its Employee, Bridgman, Ted** – Tort
723 Claim Notice received on August 9, 2022, alleging violation of civil rights and tort claims act,
724 including a demand to cease and desist and the return of promotional materials confiscated by
725 County representatives at the Lincoln County Fair.
726

727 **Villanueva, Leticia** – Tort Claim Notice received on October 3, 2022, alleging negligent,
728 malicious and/or tortious actions and/or omissions, and infliction of pain and suffering.
729

730 **Estates of Wesley Clark and Linda Clark** – Tort Claim Notice received on October 11,
731 2022 alleging wrongful deaths as a result of the McBride Fire due in part to faulty siren warning
732 systems.
733

734 **Unnamed inmate in the process of being transported from Eddy County to Lincoln**
735 **County Detention Center** alleging injuries sustained on October 11, 2022, as a result of an
736 automobile accident / rollover of the Detention Center Transport Van owned by Lincoln County.
737

738 **Snodgrass, Joshua** – Loss of employment with the Lincoln County Sheriff's Office
739 commencing on June 23, 2022.
740

741 **Grassie, Kurtis** - Loss of employment with the Lincoln County Sheriff's Office
742 commencing on June 23, 2022.
743

744 **2021**

745 **Cline, Terry** – Tort Claim Notice received January 11, 2021 alleging injuries sustained as
746 a result of claimant's garbage truck being struck by a front-end loader at the Otero-Greentree
747 Regional Landfill.
748

749 **Purcella, Les** – Tort Claim Notice received January 28, 2021 alleging damage to his
750 automobile by an employee with the Lincoln County Assessor's office.
751

752 **Chavez, Cecilia** – Tort Claim Notice received February 1, 2021 alleging damage to NM
753 State Police vehicle by Deputy Wikoff with the Lincoln County Sheriff's Office.
754

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

758
759 **Cervantez, Adam** - Tort Claim Notice received alleging the use of excessive force and
760 related constitutional claims during his arrest on April 22, 2021.

761
762 **Kieter, Dave; Jakubcewicz, Mark; Riddle, Jasper; Patton, Van** – Claimants each allege
763 damages to personal and real property as a result of the extraordinary flooding experienced
764 throughout Lincoln County.

765
766 **Myers, Sylvia** – Tort Claim Notice received August 30, 2021 alleging that Lincoln County
767 Medical Center’s treatment fell below the standard of care.

768
769 **Siegel, Erik** – Tort Claim Notice received August 30, 2021 alleging deprivation of rights
770 involving tort, constitutional rights, and other claims.

771
772 **White, Lionel Glenn, Jr., and family members and tenants, Ralph Nosker and his**
773 **family members, Barbara Arthur and her family members, and Barlou, LLC** – Tort Claim
774 Notice received September 16, 2021 alleging inundation by water resulting in damages to existing
775 roadways and parking in the Gavilan Canyon Road area which are all located within the
776 municipality of the Village of Ruidoso.

777
778 **Smoley, Cinthia** – Ms. Smoley submitted to the Lincoln County Treasurer Department a
779 Statement dated 11/2/2021, for “Arbitration Award/monies due for default”.

780
781 **Vonderane, Glenn** – Tort Claim Notice received October 19, 2021 alleging personal injury
782 while using a staircase at the Village of Ruidoso public parking lot located at 151 Center Street.

783
784 **Brady, Rosarita** – Tort Claim Notice received December 6, 2021 alleging an improper
785 investigation of a shooting death by the Lincoln County Sheriff’s Office.

786
787 **2020**

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

790 **Action:** Approve, Moved by Commissioner Proctor, Seconded by Commissioner Allen.

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

792 **Yes:** Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk,
793 Commissioner Proctor.

794
795 Chair Stewart recessed the Regular Meeting and convened the Closed Session at 1:01 PM.

796
797 Chair Stewart adjourned the Closed Session and reconvened the Regular Meeting at 1:56 PM.

798
799 Commissioner Proctor attested matters discussed in the closed meeting were limited to those
800 specified in the motion for closure or in the notice of separate closed meeting and no action was
801 taken.

802
803 **30. Renewal of County Contracts:**
804 a. County Attorney – Alan Morel – Effective January 1, 2023

805
806 Manager Pearson recommended keeping the contract base amount the same and decreasing
807 the no charge fee from \$7,500 to \$5,000.

808
809 **Motion:** Approve the contract as stated, **Action:** Approve, **Moved by** Commissioner Willard,
810 **Seconded by** Commissioner Allen.

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

812 **Yes:** Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk,
813 Commissioner Proctor.

814
815 b. County Road Superintendent – Jeffrey Honeycutt – Effective January 17, 2023

816
817 Commissioner Willard stated they would increase the Road Superintendent pay by 6% and it
818 would be effective January 18, 2023 as his prior contract runs through January 17, 2023.

819
820 Chair Stewart stated for the record the new amount of the contract would be \$93,704 per year.

821
822 **Motion:** Approve the County Road Superintendent contract as stated, **Action:** Approve, **Moved**
823 **by** Commissioner Willard, **Seconded by** Commissioner Proctor.

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

825 **Yes:** Chair Stewart, Commissioner Allen, Commissioner Willard, Commissioner Crunk,
826 Commissioner Proctor.

827
828 **31. Signing of Official Documents**

829
830 Authorization was received from all commissioners to use their electronic/stamp signatures as
831 needed.

832
833 **32. Next meeting:**
834 a. January 17, 2023, Regular Commission Meeting

835
836 **33. Adjourn**

837
838 **Motion:** Adjourn, **Action:** Adjourn, **Moved by** Commissioner Allen, **Seconded by** Commissioner
839 Crunk.

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

841 **Yes:** Chair Stewart, Commissioner Allen, Commissioner Crunk.

842 **No:** Commissioner Willard, Commissioner Proctor.

843
844 There being no further business to come before the Board of County Commissioners, Chair
845 Stewart adjourned the meeting at 2:00 PM.

846
847 Respectfully submitted by,
848 Shannan Hemphill
849 Lincoln County Clerk