COUNTY OF LINCOLN

New Mexico
Regular Meeting
Board of County Commissioners

Jackie Powell, Chair
Preston Stone, Vice Chair

Kathryn Minter, Member
Mark Doth, Member
Dallas Draper, Member

Minutes
Tuesday January 14, 2014

Minutes of the Special Meeting of the Lincoln County Commission held at 8:00 AM on January 14, 2014 in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico.

1. Call to Order

Chair Powell called the Regular Meeting of the Board of County Commissioners to order at 8:34:41 AM.

2. Roll Call

Roll Call.
Present: Chair Powell, Commissioner Minter, Commissioner Draper.
Absent: Commissioner Stone, Commissioner Doth.

Others present included Nita Taylor, County Manager; Alan Morel, County Attorney; and Rhonda Burrows, County Clerk.

3. Invocation

The invocation was presented by Commissioner Minter.

4. Pledge of Allegiance

A. Pledge – U.S.A. Flag – Chair Powell
B. Salute – N.M. Flag – Commissioner Draper

5. Approval of Agenda

Motion: Acceptance of the Agenda and authorized the Chair to move items as necessary,
Action: Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Minter.
Vote: Motion carried by unanimous vote (**summary:** Yes = 3).
Yes: Chair Powell, Commissioner Minter, Commissioner Draper.

6. Approval of Minutes

A. December 17, 2013 - Regular Commission Meeting
B. January 2, 2014 - Special Commission Meeting

Motion: Approve the minutes of the December 17, 2013 Regular Commission Meeting and the January 2, 2014 Special Commission Meeting, **Action:** Approve, **Moved by** Commissioner Minter, **Seconded by** Commissioner Draper.

Commissioner Minter stated the minutes as presented were accurate but her reference to the potential loss of PILT funding as being $300 million was inaccurate and the actual potential loss to the State of New Mexico was $100 million. There was general consensus to amend the Resolution language and place the item on the agenda for adoption at the next meeting.

Vote: Motion carried by unanimous vote (**summary:** Yes = 3).
Yes: Chair Powell, Commissioner Minter, Commissioner Draper.

7. Approval of Consent Agenda

A. Payroll/Accounts Payable/Budget/ Expenditures
B. Treasurer's Financial Report for the Month ending December 31, 2013

Motion: Approval of Consent items as presented, **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Minter.
Vote: Motion carried by unanimous vote **(summary:** Yes = 3).
Yes: Chair Powell, Commissioner Minter, Commissioner Draper.

SEE EXHIBIT A: Copies of Consent Items are attached hereto in reference thereto made a part hereof.

8. Smokey Bear District Ranger Update

Todd Rawlinson, Wildlife Specialist and Larry Cordova, Wildlife Biologist presented the briefing paper on behalf of Ranger Dave Warnack.

Mr. Rawlinson informed decisions to reauthorize two grazing permits in the Hale Lake allotments were signed in September. Mr. Rawlinson stated both decisions were appealed in December and anticipated a decision to either uphold the Ranger's decision or remand the decision would be made by January 30, 2014.

Mr. Rawlinson stated the decision authorizing salvage logging on the Loma Grande area was also signed in September, no appeal was filed, and the sale would be advertised in the near future.

Mr. Rawlinson stated work continues on a Supplement to the Draft Environmental Impact Statement (DEIS) related to the Village of Ruidoso wells located on USFS land in the North Fork of Eagle Creek. Mr. Rawlinson commented on the impact of the Little Bear Fire which burned 98% of the watershed triggering a supplemental analysis accounting for changed conditions. Mr. Rawlinson anticipated a final decision in December 2014.

Mr. Rawlinson informed the Ranger District was partnering with multiple agencies to plan a Forest Health Expo in April at the Ruidoso Convention Center.

Mr. Rawlins stated the NM Game and Fish Habitat Stamp Program had funded a project on Grindstone Mesa to reestablish water for wildlife for longer periods of time.

Commissioner Minter commented on recent efforts by the USFS to improve signage and conditions on Forest Service trails. Mr. Rawlinson noted the Ranger District had been absent a Wilderness Technician for many years but had recently hired Shawn Donaldson for the position. Mr. Rawlinson stated Mr. Donaldson had begun to inventory signage and conditions on trails within the District. Mr. Rawlinson discussed plans to work with various volunteer groups in the summer to replace signage on trails.

9. Greentree Solid Waste Authority (GSWA) Update

Nita Taylor, County Manager provided copy of draft minutes from the December 19, 2013 from GSWA. Ms. Taylor informed she and Chair Powell had attended the meeting and noted Ms. Ingle had informed the GSWA Board that recent reports of drivers making $100,000 per year was incorrect "in her mind". Ms. Taylor also noted Ms. Ingle had voiced a desire for the Board of County Commissioners to amend the minutes of a past Commission Meeting to reflect more detail regarding a disclosure by the County Attorney related to a potential conflict of interest. Ms. Taylor informed Ms. Ingle. County Commission meeting minutes were not verbatim and Ms. Ingle acknowledged the GSWA Board minutes were also not verbatim.

Chair Powell directed attention to the GSWA minutes of December 19, 2013 and her specific request for clarification from Ms. Ingle regarding the financial position of GSWA as of the end of November. Chair Powell noted the minutes reflected Ms. Ingle's response confirming, for the Year to Date as of November 2013, GSWA "was in the black".

10. Lincoln County Detention Center Update

Ms. Taylor reminded the Board of Commissioners was scheduled to review the Detention Center Facility during lunch.

Warden Arthur Anderson informed on monthly bookings and releases at the Lincoln County Detention Center and stated the total average daily population for the month of January 2014 was

129. Warden Anderson stated the current population was 128 including 11 BIA prisoners and 0 US Marshal prisoners.

Commissioner Draper questioned if the County might request placement of the US Marshall prisoners as a source of revenue. Warden Anderson acknowledged the placement was of benefit but reminded the detention center was often filled at or above the total population capacity of 144 with local prisoners.

Commissioner Draper asked about current staff vacancies. Warden Anderson stated the facility was currently short four officers but pending background checks there were five officers and a new Chief scheduled to start on January 20, 2014.

11. Consideration and Approval of Limited Suspension of Section 501B.8. and 501B.9.C. of the Personnel Policy

Ms. Taylor informed the County currently had two employees who due to major illness would require time off exceeding their accumulated annual and sick leave. Ms. Taylor noted there were several employees who wished to donate sick leave and requested approval of a six month waiver to allow for the donation of leave by other employees and a similar waiver to suspend the limitation of the donation of a maximum of 20 hours by any employee within a twelve month period.

Motion: Approve a six month waiver of Sections 501B.8 and 501B.9.C of the Personnel Policy,
Action: Approve, **Moved by** Commissioner Draper, **Seconded by** Chair Powell.
Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 3).
Yes: Chair Powell, Commissioner Minter, Commissioner Draper.

12. Consideration and Approval for the Renewal of Contracts for Voting System Technicians

Rhonda Burrows, Clerk presented the contracts for approval and noted the contracts were with the same individuals as the prior two year contracts. Ms. Burrows stated there were no changes from the prior contract terms regarding rate of reimbursement or contract terms.

Ms. Burrows stated technicians assist with preparation and delivery of equipment prior to elections and provide Election Day trouble shooting services. Ms. Burrows noted technicians were required to complete training and certification with the Secretary of State's office.

Motion: Approval of the Voting System Contracts with Paul Baca, Rodney Zamora, and LeeRoy Zamora Jr., **Action:** Approve, **Moved by** Commissioner Minter, **Seconded by** Commissioner Draper.
Vote: Motion carried by unanimous vote (**summary:** Yes = 3).
Yes: Chair Powell, Commissioner Minter, Commissioner Draper.

13. Consideration and Approval to Dispose of County Property by Auction – Resolution 2013-28

Michelle Caskey, Assets and Information informed the County had six vehicles and a piece of dispatch computer equipment which were purchased for over $5000. Ms. Caskey did not anticipate the items would sell for more than $5000 but noted the purchase price necessitated approval prior to sale at auction.

Chair Powell questioned if there was any concern for information being retained on the digital recorder. Sheriff Shepperd assured as a matter of policy all information was erased and the hard drive removed from computer equipment prior to sale. Sheriff Shepperd stated due to the age of this equipment and the fact information was recorded on cassette tapes there was no concern about the sale.

Motion: Adopt Resolution 2013-28, **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Draper.

Commissioner Draper questioned if an inspection of the vehicles was required. Ms. Caskey confirmed DFA required a 30 day notice and an inspection by elected officials. Commissioner Minter, Commissioner Draper and Paul Baca, Assessor volunteered to review the vehicles prior to sale.

Vote: Motion carried by unanimous vote (**summary:** Yes = 3).
Yes: Chair Powell, Commissioner Minter, Commissioner Draper.

SEE EXHIBIT B: Copy of Resolution 2013-28 is attached hereto in reference thereto made a part hereof.

14. Consideration and Approval to Authorize the Village of Ruidoso to Submit an Application to the Department of Finance & Administration, Local Government to Participate in the Local DWI Grant and Distribution Program by Resolution 2013-27

Ms. Taylor presented the request on behalf of the Village of Ruidoso to submit a grant application to DFA to participate on behalf of the County in the Local DWI Grant and Distribution Program.

Chair Powell questioned if there were any changes from the Resolutions adopted in prior years. Ms. Taylor confirmed there were no changes.

Motion: Adopt Resolution 2013-27, **Action:** Approve, **Moved by** Commissioner Minter, **Seconded by** Commissioner Draper.
Vote: Motion carried by unanimous vote (**summary:** Yes = 3).
Yes: Chair Powell, Commissioner Minter, Commissioner Draper.

SEE EXHIBIT C: Copy of Resolution 2013-27 is attached hereto in reference thereto made a part hereof.

15. Consideration and Approval to Submit an Application to NMFA for a Grant to Build an Asset Management Plan

Ms. Taylor requested approval for submission of an application for a grant funding an Asset Management Plan. Ms. Taylor stated a comprehensive Asset Management Plan would assist with the operation, maintenance, and management of assets in a cost effective, sustainable fashion. Ms. Taylor stated the first step of a five core component plan would be identification of assets, their location, current condition, remaining useful life, current value, and plan for replacement. Ms. Taylor noted the County maintains a list of current assets as required by State law but commented on the need to identify critical needs, current condition, and need for redundancy. Ms. Taylor stated the plan would provide for a proactive management approach versus a reactive approach.

Ms. Taylor stated the maximum grant award from NMFA was $50,000 requiring a County pledge of a 5% match or $2500. Ms. Taylor informed she, the Finance Director and the Asset Manager met with Engineers, Inc., a company experienced in working with NMFA and local governments on Asset Management Plans. Ms. Taylor suggested the County solicit assistance from Engineers, Inc. in completion of the grant application and the subsequent development of an Asset Management Plan should the grant be awarded.

Chair Powell requested clarification as to the use of any grant funding whether it would be for purchase of software or staff time. Ms. Taylor explained the grant would fund the actual development of the plan itself including an onsite inventory identifying the age and potential life of all assets. Ms. Taylor anticipated such a plan would help identify needs prior to the budget process and also suggested such a plan would facilitate approval of CDBG grant applications. Chair Powell questioned if depreciation of assets might also be addressed in the plan. Ms. Taylor noted the audit finding had been corrected but depreciation might be considered within the plan.

Motion: Approve a pledge of a 5% match for any grant award up to $50,000, **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Chair Powell.

Commissioner Draper noted State agencies were also considering what planning tools were in place when considering Capital outlay requests as well as grant applications. Commissioner Draper questioned if the maximum grant of $50,000 was sufficient for development of a completed plan. Ms. Taylor stated uncertainty of the final cost estimate but suggested NMFA's offer of the $50,000 grant was probably based on their estimate of the total planning cost.

Vote: Motion carried by unanimous vote (**summary:** Yes = 3).
Yes: Chair Powell, Commissioner Minter, Commissioner Draper.

17. Consideration and Approval of Bid Award 13-14-005 Lower Rio Bonito Sediment and Debris Basin

Ms. Taylor presented the bids received and opened on January 7, 2014 as follows:

1.	Renegade Construction, LLC	$36,707.97
2.	Sierra Valley Contractors, LLC	$48,384.59

3.	Southwest Paving & Grading d/b/a Ruidoso Sand and Gravel	$36,939.42
4.	Jack Johnson Excavating, Inc.	$37,911.51
5.	Mesa Verde Enterprises, Inc.	$56,939.70

Motion: Award Bid 13-14-005 to Renegade Construction for $36,707.97, **Action:** Approve, **Moved by** Commissioner Minter, **Seconded by** Commissioner Draper.
Vote: Motion carried by unanimous vote (**summary:** Yes = 3).
Yes: Chair Powell, Commissioner Minter, Commissioner Draper.

18. Consideration of Approval or Disapproval of Indigent Health Care Claims

Ms. Taylor presented the claims for approval on behalf of Scott Annala, Indigent Health Care Administrator. Ms. Taylor stated 38 Sole Community Provider claims were processed with 38 recommended for approval for a total authorization of $61,579.68. Ms. Taylor stated 68 Indigent Health Care claims were processed with 64 recommended for approval and 4 recommended for disapproval for a total recommended payment this month of $32,596.25.

Ms. Taylor informed the FY 2013 -2014 budget for Indigent claims was $393,278 with a total expenditure to date of $114,324.16 and an average monthly payment of $23,025.86. Ms. Taylor stated the FY 2013 – 2014 Sole Community Provider claims total approval year to date was $698,931.22 with a monthly average of $99,847.32.

Motion: Approval and denial of the claims as indicated for Sole Community Provider and Indigent Health Care Program payments as recommended, **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Minter.
Vote: Motion carried by unanimous vote (**summary:** Yes = 3).
Yes: Chair Powell, Commissioner Minter, Commissioner Draper.

SEE EXHIBIT D: Copies of the Sole Community Provider and Indigent Health Care Payments are attached hereto in reference thereto made a part hereof.

Commissioner Doth joined the meeting telephonically at 9:16:00 AM.

19. Manager's Report

1. **Lincoln County Medical Center:** The Manager stated Al Santos, LCMC Administrator clarified LCMC'S total parking responsibilities for compliance with Village of Ruidoso's requirements was based on the total number of parking spaces for the entire complex; the Physician's Office Building on a stand-alone basis does not have a specific quota.

2. **Legislative Initiatives:** The Manager detailed information related to the session:

   a. The 2014 legislative session begins on Tuesday, January 21 and ends on Thursday, February 20, 2014.
   b. The Senate Finance Committee will meet on January 16, 2014 with an agenda item to discuss the funding of SCO Hospitals, Uncompensated Care and Hospital Rate Increases. The Manager and Scott Annala plan to attend.
   c. Commissioner Draper scheduled time to spend at the Capitol during the session; and will advocate for county initiatives.
   d. The Manager planned to attend the NMAC County Lobbyist meeting on January 16, 2014.
   e. Lincoln County Day in Santa Fe, sponsored by the Ruidoso Valley Chamber of Commerce, is scheduled for February 5, 2014.
   f. The Manager informed Lincoln County had six subscriptions to the "NM Legislative Reports", a daily-updated series of reports on proposed and passed legislation, analysis, floor calendars, etc. The Manager will provide user name / passwords upon request.

3. **NMAC Annual Legislative Conference:** The NMAC Legislative Conference was set for January 21 – 23, 2014 with planned attendance by County employees. In addition to the conference itself, many employees and elected officials will participate in the NM EDGE classes and work with legislators on issues important to the County.

4. **PILT UPDATE:** The Manager provided copy of a National Association of Counties (NACo) letter to the House and Senate appropriators signed by more than 750 county officials and 15 state associations of counties urging them to fully support the PILT.

New Mexico was well represented with 18 counties participating in the NACo effort as well as sending additional letters and Resolutions, strongly recommending the continued funding of the PILT program.

5. **Ruidoso Downs:** The Manager informed Ruidoso Downs invited the County and the NM Department of Transportation to participate in a Work Session of the Governing Body of the City of Ruidoso Downs to discuss what action to take regarding future operation of Lincoln County Transit. The Manager noted the County previously declined funding requests for the operation of the system but planned to attend the meeting on the County's behalf. The Manager informed the City of Ruidoso Downs was also calendaring a time to discuss the lease for the building which houses the Ruidoso Downs Senior Center.

6. **Building Updates:**

   a. **Courthouse/Sheriff's Complex Expansion**. The Manager reported work on the expansion was proceeding as planned and was basically on schedule and on budget. The Manager noted Basic IDIQ working with JRP Master Builders was doing a great job and utilizing local contractors almost exclusively.
   b. **Ft. Stanton Fire Department.** The Manager reported the 3-bay metal structure was about 50% complete and the project was on schedule and on budget.
   c. **Carrizozo Sr. Center.** The Manager stated the CDBG Grant was in place; the legislative Capital Outlay grant was being finalized; and the design was complete. The Manager anticipated Wilson and Company would assist with issuing the bid for construction in February.

7. **Departmental Updates**:

   a. Office of Emergency Services: Joe Kenmore, OES Director informed the County's Incident Management Team (IMT) was scheduled for training in Sandy, Utah the first of February. Mr. Kenmore stated a Firefight Survival Class was scheduled at the Copper Ridge OES site and anticipated attendance by local fire departments. Mr. Kenmore further reminded the Sierra Blanca Wildland Fire Academy was scheduled for the last week of January. Mr. Kenmore discussed the current windy dry conditions and suggested restrictions might need to be considered earlier this year. Mr. Kenmore thanked David Roper, Bill and Bryan Hightower, and Billy Bob Shafer for their assistance in the removal of 96 head of cattle during a cattle truck fire on Highway 54.

16. 9:30 A.M.: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS

Commissioner Draper reported attendance as the County representative to the Southeastern New Mexico Economic Development District (SNMEDD) meeting. Commissioner Draper provided information relating to the Governor's Executive Order 2013-006 requiring all entities seeking State funding to have complete and up to date audits; the adoption by SNMEDD of a Resolution opposing the intercept of the County 1/8th GRT for Health Care; and the need for a Regional Water Plan if applying for Water Trust Fund grants. Chair Powell clarified a Regional Water plan currently exists for our Region and the State Engineer's office had awarded $800,000 for updates.

Commissioner Minter commended efforts by property owners, volunteers, contractors and other agencies on work to restore the land within the Little Bear Fire area.

Rick Rotert, President of the Nogal Water Association reminded the Association was working to replace the entire 25 year old water system in Nogal. Mr. Rotert stated Phase I with construction of the building housing the treatment facility and a new storage tank was nearly complete and Phase II completing the project would begin once the Association received the $1.2 million dollars appropriated through the Colonia's grant program.

Mr. Rotert expressed concern about the unintended economic burden of audit requirements under the Governor's Executive Order related to entities receiving State funding. Mr. Rotert explained under their agreement receiving the Colonia's grant the Association could not use grant funding to pay for the required audits and stated the cost of the audits was prohibitive for a small entity. Chair Powell commented this problem was becoming a larger issue as other small agencies such as Soil and Water Conservation Districts were being burdened with audits which increased in complexity and cost depending on the amount of funding received. Chair Powell stated Commissioners should work to educate legislators about the issue and encourage a legislative fix.

Attorney Morel reported revisions of the proposed Memorandum of Understanding (MOU) for inspection services in areas of the County were requested by the Village of Ruidoso. Attorney Morel anticipated the MOU would be placed on the agenda for discussion and action next month. Commissioner Doth informed the Secretary for the Department of Regulation had resigned as of a January 1, 2014 and a new Director of the Constructions Industries Division (CID) had been appointed. Commissioner Doth suggested in light of the new personnel the County should continue to work to seek approval for the use of third party inspectors.

19. Manager's Report (continued)

7. Departmental Updates: (continued)

b. Planning: Curt Temple, Planning Director informed King Industries continued to work on the FEMA Hazard Mitigation Grant application and the required additional revisions. Mr. Temple stated the SIMS table was ordered with plans to begin outreach and education as required by the HMG grant. Mr. Temple commented on the need for clarification from the State as to whether CID is still supportive of an MOU between entities for inspection and permitting in light of the new personnel in that department.

Commissioner Minter questioned if there was an opportunity for reimbursement of cost of the SIMS table through the FEMA grant. Mr. Temple anticipated the cost expenditure along with in kind services would be utilized to meet the match for the FEMA grant.

Commissioner Doth was excused from the Regular Meeting at 10:07:30 AM.

Chair Powell recessed the Regular Meeting at 10:07:31 AM and reconvened at 10:20:30 AM.

7. Departmental Updates: Continued

c. Road Department: Carl Palmer, Road Superintendent anticipated the receipt of FEMA funding to offset expenses for road repair after flooding in September. Mr. Palmer stated while several of the affected roads had been repaired, there were additional roads still in need of work.

20. Water issues/Forest/Wildlife Health Programs/Land and Natural Resources Advisory Committee (LANRAC)

1. Ms. Taylor reported two new water right notices were posted to the State Engineer's website:

a. SEA GEM, LLC and the Village of Ruidoso filed No. 01300-1; 01300-2; 01300-3; 0826-2 into 0275 et al; and H 271 et al (T) to temporarily change the Surface and Supplemental Groundwater Points of Diversion and Change Place and Purpose of Use in the Hondo Underground Water Basin.

Ms. Taylor provided additional documentation related to this notice indicating the application was filed under the NM Leasing ACT of NMSA 72-6-1 through 72-6-7 with an Emergency Authorization request under NMSA 72-5-25.

b. Lea County Application No. CP-295 POD# proposing a supplemental well locating within the Capitan Water Underground Water Basin, approximately six miles northeast of the City of Jal, NM.

Ms. Taylor stated while the Lea County application does not appear to impact Lincoln County, she would request further clarification from the State Engineer's office.

Ms. Taylor also reported a legal notice of the Village of Ruidoso's application No. H-53-2 into 0275-A and H-272 et al (T) was published for the third time in the Lincoln County News. Ms. Taylor reminded for this application the points of diversion and places of use were located at the race track in Ruidoso Downs with proposed move to points of diversion and place of use to be located within the Village of Ruidoso.

Chair Powell reminded postings on State Engineer's website were not necessarily relevant and the County should continue to monitor legal publications in the local newspapers.

There was a general discussion regarding ongoing drought conditions, effects on the watershed of the Little Bear Fire; a past water forum sponsored by Lincoln County in 2006, and possible partner agencies to assist with another forum. Ms. Taylor stated she would research potential partners and topics and begin tentative planning for a water forum in the near future.

2. Ms. Taylor informed efforts by the Western States Congressional Caucus had led to a recent decision by Interior Secretary Jewell to dissolve the "Blueways Program" an initiative to unilaterally designate entire river watersheds as "National Blueways". Ms. Taylor noted similarity to current EPA and Army Corp of Engineer's efforts to include streams and ditches in the definition of "navigable waters".

3. Ms. Taylor provided a copy of the final meeting notes for the Mexican Wolf EIS Cooperating Agency IPT meeting and an update on the current status of the proposal. Ms. Taylor commented that the decision by the County to becoming a participating agency was beneficial. Ms. Taylor stated the US Fish and Wildlife Service decided to conduct a peer review for the June 13, 2013 proposal to list the Mexican wolf as an endangered subspecies in the southwest and delist gray wolves elsewhere. Ms. Taylor stated she would prepare an updated "Wolf" Resolution for consideration at the next regular meeting.

21. Authorization to Schedule Public Hearing to Consider Other Outdated or New Lincoln County Ordinance

A. Ordinance No. 2011-05 Flood Damage Prevention
B. Ordinance No. 2013-04 Personnel Policy

Ms. Taylor informed Commissioner Stone requested a review of the Flood Damage Prevention Ordinance and staff requested a review of the Personnel Policy.

Motion: Schedule a Public Hearing for Ordinance 2011-05 and Ordinance 2013-04, **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Chair Powell.
Vote: Motion carried by unanimous vote **(summary:** Yes = 3).
Yes: Chair Powell, Commissioner Minter, Commissioner Draper.

22. Consideration of Appointments and Removals from Boards/ Commissioners /Committees:

a. Coalition of Counties

Motion: Reappoint Chair Powell and appoint Commissioner Stone, **Action:** Approve, **Moved by** Commissioner Minter, **Seconded by** Commissioner Draper.
Vote: Motion carried by unanimous vote (**summary:** Yes = 3).
Yes: Chair Powell, Commissioner Minter, Commissioner Draper.

b. Interstate Stream Commission

Motion: Reappoint Chair Powell, **Action:** Approve, **Moved by** Commissioner Minter, **Seconded by** Commissioner Draper.
Vote: Motion carried by unanimous vote (**summary:** Yes = 3).
Yes: Chair Powell, Commissioner Minter, Commissioner Draper.

c. New Mexico County Insurance Authority - Worker's Compensation

Motion: Reappoint Commissioner Minter and reappoint Ms. Taylor to serve as Alternate, **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Draper.
Vote: Motion carried by unanimous vote (**summary:** Yes = 3).
Yes: Chair Powell, Commissioner Minter, Commissioner Draper.

d. New Mexico Insurance Authority – Multi-Line Pool

Motion: Reappoint Commissioner Minter and appoint Commissioner Draper to serve as Alternate, **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Minter.
Vote: Motion carried by unanimous vote (**summary:** Yes = 3).
Yes: Chair Powell, Commissioner Minter, Commissioner Draper.

e. Planning Commission

Motion: Appoint Mary Ann Russ as the District 3 member, **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Draper.

Vote: Motion carried by unanimous vote (**summary:** Yes = 3).
Yes: Chair Powell, Commissioner Minter, Commissioner Draper.

23. Consideration and Approval of Resolution 2013-29 Requesting the State of New Mexico to Protect County Government Revenue Streams

Ms. Taylor presented the Resolution and discussed the alternate proposal of the New Mexico Association of Counties. Ms. Taylor stated the NMAC proposal would solicit a financial commitment from each County in the amount equal to 1/16th of the County's GRT. Ms. Taylor noted while the Commission might support the NMAC alternative, there was strong opposition to legislation which would provide for an intercept of local taxes.

Motion: Adopt Resolution 2013-29, **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Draper.
Vote: Motion carried by unanimous vote (**summary:** Yes = 3).
Yes: Chair Powell, Commissioner Minter, Commissioner Draper.

SEE EXHIBIT E: Copy of Resolution 2013-29 is attached hereto in reference thereto made a part hereof.

24. Amend Resolution 2013-15 Designations of Polling Places for Precincts by Resolution 2013-30

Rhonda Burrows, Clerk stated during an inspection of polling places an alternate site for Early Voting in Ruidoso was identified. Ms. Burrows reminded the County had for many past years utilized the Ruidoso Senior Center as an Early Vote site for Primary and General Elections. Ms. Burrows stated a review of a site associated with Region IX Education Cooperative offices in the Horton Complex identified several advantages over the current site including expanded parking, a larger more secure space for voting activities, and greater security.

Ms. Burrows stated as per the Secretary of State's Office the adoption of an Amended Polling Place Resolution would accomplish the change and requested approval of the Resolution as presented.

Motion: Adopt Resolution 2013-30, **Action:** Approve, **Moved by** Commissioner Minter, **Seconded by** Commissioner Draper.
Vote: Motion carried by unanimous vote (**summary:** Yes = 3).
Yes: Chair Powell, Commissioner Minter, Commissioner Draper.

SEE EXHIBIT F: Copy of Resolution 2013-30 is attached hereto in reference thereto made a part hereof.

25. Lease Agreement with Presbyterian Healthcare Services for the Lincoln County Medical Center Complex

Attorney Morel presented the renegotiated lease agreement between the County of Lincoln and Presbyterian Healthcare Services (PHS) for the Lincoln County Medical Center Complex. Attorney Morel informed principal points within the second amended agreement included:

1. The County shall pay to PHS the full amount of any mill levy proceeds collected less any obligation for the Sole Community Provider Program or successor program. Attorney Morel noted LCMC would have input into decisions about payment to other programs but the Board of Commissioners would retain final decision making authority.
2. PHS shall pay the County $1,100,000 per year for one year, in monthly installments with the County retaining decision rights as to the expenditure of any lease payment received.
3. PHS and the County will meet ninety days prior to the end of each year, beginning for the first time on October 1, 2015 to determine whether any adjustment to the base rate is warranted.
4. If the parties fail to agree on any adjustment, PHS shall pay for the following year the base rent then in effect plus $50,000.

Chair Powell questioned if the date of first review of adjustment of the base rate should be October 1 of 2014. Attorney Morel confirmed this was the case and stated corrections throughout would be made.

Attorney Morel informed PHS, through a separate agreement, would provide Medical Director Services for the Sheriff's Department and Fire Departments as they currently do for Emergency Medical Services (EMS).

Commissioner Minter expressed concern about ongoing funding from mill levy proceeds for the Hondo Clinic as it is not a PHS clinic. Commissioner Minter stated the contract seemed to commit all mill levy funding for clinics to PHS. Attorney Morel expressed belief the wording allowed for funding of the Hondo clinic but stated he would clarify the matter with LCMC.

Commissioner Minter also expressed a desire to commit a certain amount of mill levy proceeds yearly to savings. Attorney Morel noted this would require a separate specific contractual negotiation.

Commissioner Draper questioned whether LCMC and the Village of Ruidoso reached an agreement regarding the total amount of parking spaces required for the new Professional Office Building. Attorney Morel voiced understanding that LCMC requested the total number of parking spaces within the entire complex be considered when verifying compliance with Village requirements. Attorney Morel stated he would seek a letter from the Village verifying compliance.

Motion: Approve the lease agreement with PHS with revision of the date for first review of the contract to October 1, 2014 and with the contingency of agreement from PHS for the use of a portion of mill levy funds for the Hondo Clinic, **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Draper.
Vote: Motion carried by unanimous vote (**summary:** Yes = 3).
Yes: Chair Powell, Commissioner Minter, Commissioner Draper.

SEE EXHIBIT G: Copy of the Lease Agreement with PHS for the Lincoln County Medical Complex is attached hereto in reference thereto made a part hereof.

26. Consideration and Approval of Road Review Request to vacate a 16' Alley Block 19 in the White Oaks Townsite by Ernest (Roy) and Marie Huffmeyer.

Ms. Taylor presented the application and recommendation by the Road Review Committee for approval of the request.

Motion: Approve the vacation of 16' Alley in Block 19 of the White Oaks Townsite contingent upon provision of appropriate legal description, plat and fees as provided by Ordinance, **Action:** Approve, **Moved by** Commissioner Minter, **Seconded by** Commissioner Draper.
Vote: Motion carried by unanimous vote (**summary:** Yes = 3).
Yes: Chair Powell, Commissioner Minter, Commissioner Draper.

Commissioner Doth rejoined the meeting telephonically at 11:16:28 AM.

27. Executive Session Pursuant to the Open Meetings Act: Discussion of all Threatened and/or Pending Litigation Section 10-15-1, Sub-Paragraph H.(7); and Discussion of the purchase, acquisition or disposal of real property or water rights by the public body, Section 10-15-1, Sub-Paragraph H.(8).

Motion: To close the meeting for the purposes of an Executive Session to discuss Threatened and/or Pending Litigation pursuant to the Open Meetings Act, Section 10-15-1, Sub Paragraph H.(7) and the purchase, acquisition or disposal of real property or water rights by the public body, Section 10-15-1, Sub-Paragraph H.(8) and as follows:

New or Updated Matters since last report = *

1. Lodger's Tax Issue B Casa del Cocinero B making regular payments
2. *Cooper, Gale and DeBaca County News v. County of Lincoln, Sheriff of Lincoln County, et al.* D-1329-CV-200701364. Suit filed: October 15, 2007. Verified Complaint for Declaratory Judgment Ordering Production of Certain Records and Information. Hearing took place Dec. 13, 2013 with new filings of Suggestion of Death December 19, 2013.
3. *Michael Wheaton v Paul F. Baca, Lincoln County Assessor, et. al. D-1226-CV-2011-00341.* Suit filed October 18, 2011. Notice of Appeal of Final Order of the Lincoln County Valuation Protests Board.-Attorney has agreed to stay the case pending the decision from the Court of Appeals.

*4. *Coble Constructors, LLC, et al v Carl Kelley Construction Ltd. Co, et al. D-1226-CV-2012-00003.* Suit filed January 15, 2012. Complaint to Foreclose Mechanic's Lien. Order granting motion for resetting 4/17/13. Motion for Substitution of Parties filed December 10, 2013.

#5. *Alto Lakes Golf & Country Club, Inc. v. Barbara Fleming, and Jesus and Maria Guardiola, et al. D-1226-CV-2011-00044.* Suit filed February 18, 2011. Complaint to Foreclose Lien. Counterclaim and Crossclaim suit filed by Washington Federal Savings on September 21, 2012 naming Board of Commissioners of Lincoln County and Lincoln County Solid Waste

Authority. Stipulated and Default Judgment, Decree for Foreclosure, Order of Sale, and Appointment of Special Master, entered by the Court on 8-12-13. L.C.'s lien was not extinguished and is still a valid lien against the subject property. Order approving sale and Special Master's Report filed Oct. 23, 2013. Ownership has changed to Washington Federal and Lincoln County has not received any payments as of January 7, 2014.

6. *Johnathan Warren v. Lincoln County Detention Center, Emerald Healthcare Systems, et al.* 2:12-CV-01086-CG-LAM. Suit filed October 19, 2012. Complaint for the Recovery of Damages Caused by the Deprivation of Civil Rights.
7. *Greentree Solid Waste Authority v. Lincoln County, et. al. D-0101-CV-2013-00104.* Suit filed January 9, 2013. Petition for Declaratory Judgment; Preliminary and Permanent Injunction. *Order Granting ALW&SD's Motion for Judgment on the Pleadings and for Summary Judgment entered by the court on 6-15-13. Mediation with Mr. Walker Nov. 11, 2013 was unsuccessful. Hearing for plaintiff's Motion to Reconsider scheduled with Judge Singleton Jan. 24, 2013

*8. *Rio Grande-Alameda, Ltd. v Paul Baca, Lincoln County Assessor D-1226-CV-2013-00005.* Suit filed January 9, 2013. Complaint for Refund of Taxes Paid. Defendant's first motion to dismiss or Summary Judgment filed August 29, 2013, with plaintiff's response filed Oct. 4, 2013. Defendant's Reply to Motion to Dismiss or for Summary Judgment filed Oct. 21, 2013. Hearing was Jan. 6, 2014, and produced an Order of Dismissal.

9. *Washington Federal Savings v. Timothy Rose; Chanda Rose; and Lincoln County D-1226-CV-2013-00105.* Suit filed April 15, 2013. Complaint for Foreclosure. July 29, 2013 Ltr to Bishop, White, Marshall & Weibel, P.S. advising of payoff amount through Aug. 5, 2013. Lots 139, 169, 170 paid in full. Stipulated and Default Judgment ordering foreclosure filed Nov. 22, 2013, with legal notices published in local newspapers.
10. *Wells Fargo Bank, NA, et al v. Jerry Turner, Board of County Commissioners of the County of Lincoln, New Mexico, et al. D-1226-CV-2013-00129.* Suit filed May 6, 2013. First Amended Complaint for Foreclosure filed by Morel on June 21, 2013.
11. *State of New Mexico (Lincoln County) v. Stephen Gore M-30-MR-2013-00113.* Citation filed June 17, 2013. Lincoln County Solid Waste Ordinance 2009-03 Violation. Notice of Sentencing Hearing scheduled for Dec. 4, 2013. Documentation was supplied showing Mr. Gore in compliance. Dismissal filed Dec. 4, 2013.
12. *Steven Miller, et al. v. State Forestry Division, NM Energy, Minerals, and Natural Resources Department, County of Lincoln, et al. D-1226-CV-2013-00160.* Suit filed June 15, 2013. Lincoln County Manager and Commissioners served July 9, 2013. Complaint for Negligence, Injury and Damages. On August 2, 2013, NMAC advised Attorney Bryan Evans has been assigned as counsel for Lincoln County. Peremptory challenge of Judge Angie Schneider filed by Commission Chair Jackie Powell. Judge Waylon Counts has been assigned the case Oct. 25, 2013. Hearing requested Nov. 25, 2013 for state's motion to dismiss.
13. *Barbara Diane Latham, et al v. Neal Cox, Ben Hazen, Lincoln County Sheriff's Department and the County of Lincoln. D-1226-CV-2013-00191.* Suit filed July 19, 2013. Complaint for Violation of Civil Rights, Wrongful Death and Damages by Attorney Gary Mitchell. LCSO and LC Manager were served on August 5, 2013. Tort Claim Notice was filed on October 27, 2011. Advised NMAC has assigned the case to Brennan and Sullivan Law Firm 9/5/13. Case has been moved to Federal Court August 30, 2013.

Tort Claims Notices Received or Threatened

2013

Allen, Katherine Elizabeth- Notice of Tort Claim against Lincoln County Detention Center for alleged injuries sustained during transport.

Borrego, Albert - Tort Claim Notice received from attorney Gary Mitchell on June 14, 2013, alleging continued harassment to Albert G. Borrego by police while responding to a noise complaint at Mr. Borrego's residence on February 28, 2013, and a separate incident resulting in Mr. Borrego's arrest on March 5, 2013, due to an outstanding warrant, during which Mr. Borrego allegedly sustained injuries while in custody due to an existing broken back injury.

Espinoza, Robert B Tort Claim Notice received from Robert Espinoza on June 4, 2013, alleging property damage from vehicle accident while Linda Mullins, driving the LC Senior Center meal delivery van ran off road hitting chain link fence, poles and railroad ties.

Harrisburg Documents- Attempts to recover Lincoln County documents illegally taken from the county. County Clerk Rhonda Burrows has been in contact with Harrisburg, PA in recovery efforts.

Montoya, Emilia L. - Tort Claim Notice received by attorney Freda Howard McSwane on April 23, 2013, alleging injuries sustained by Ms. Montoya when a physical altercation took place at the LCDC.

Ramos, Aaron - Tort Claim Notice received by attorney Robert J. Beauvais on April 18, 2013, (correspondence dated September 13, 2011) alleging concerns about Mr. Ramos' safety and welfare and violation of his U.S. Constitutional rights.

Silva, Elmo B Tort Claim Notice received from attorney Richard Marquez November 6, 2013. Alleges false imprisonment for Mr. Silva, who was sentenced in the 12th Judicial District Court to 38 years filed on July 3, 1990.

2012

Cathy and Steve Altstatt B Telephone conference with Cathy Altstatt on April 19, 2012, concerning their unbuildable and unsellable Deer Park Valley lot due to lot size, septic tank set back requirements, and an easement granted to Alto Lakes Water & Sanitation District for a water well.

Riordan, J.T. B Correspondence received from Theresa Riordan on March 28, 2012, concerning her son's treatment and detention conditions while being held in LCDC.

Sheridan, Michael B Tort Claim Notice received from Attorney, Jennifer Burrill on February 21, 2012, claiming the Lincoln County Sheriff's Department forced him to register as a sex offender when he did not meet the requirements.

Biggs, M. Jolene B Tort Claim Notice received from Attorney, Adam Rafkin on February 6, 2012, claiming liability by the County of Lincoln by failing to maintain the surface of the parking lot across from the Lincoln County Courthouse in Carrizozo, NM.

Action: Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Draper.
Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).
Yes: Chair Powell, Commissioner Minter, Commissioner Doth, Commissioner Draper.

Chair Powell recessed the Regular Meeting and convened the Closed Session at 11:16:32 AM.

Chair Powell adjourned the Closed Session and reconvened the Regular Meeting at 2:58:35 PM.

Commissioner Draper attested that no action was taken during the closed session and items discussed were limited to those as stated in the motion for closure.

28. Consideration and action on Hiring Legal Counsel for County's Withdrawal from GSWA

Motion: Engage the law firm of Melendres, Melendres, and Harrigan to assist with the resolution of specific issues with GSWA, **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Doth.
Vote: Motion carried by unanimous vote (**summary:** Yes = 4).
Yes: Chair Powell, Commissioner Minter, Commissioner Doth, Commissioner Draper.

29. Signing of Official Documents

30. Next meetings:

February 18, 2014 Regular Commission Meeting

31. Adjourn

There being no further business to come before the Board of County Commissioners, Chair Powell adjourned the meeting at 3:02:02 PM.

Board of County Commissioners
Lincoln County, State of New Mexico

Jackie Powell, Chair

Preston Stone, Vice Chair

Mark Doth, Member

February 18, 2014
Date Approved

Dallas Draper, Member

Kathryn Minter, Member

ATTEST: (SEAL)

Rhonda Burrows, County Clerk

SEAL