

COUNTY OF LINCOLN

New Mexico Regular Meeting Board of County Commissioners

Jackie Powell, Chair
Mark Doth, Vice Chair

Kathryn Minter, Member
Dallas Draper, Member
Preston Stone, Member

Minutes Tuesday, April 16, 2013

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on April 16, 2013 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 8:31:20 AM

2. Roll Call

Roll Call.

Present: Chair Powell, Commissioner Minter, Commissioner Stone, Commissioner Doth, Commissioner Draper.

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

3. Invocation

Chair Powell requested a moment of silence to honor victims of the Boston, Massachusetts bombing. The invocation was presented by Pastor Hayden Smith.

4. Pledge of Allegiance

- a. Pledge – U.S. A. Flag – Commissioner Draper
- b. Salute – N.M. Flag – Commissioner Stone

5. Approval of Agenda

Motion: Acceptance of the Agenda and authorized the Chair to move items as necessary.

Action: Approve. **Moved by** Commissioner Doth, **Seconded by** Commissioner Draper.

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

Yes: Chair Powell, Commissioner Minter, Commissioner Stone, Commissioner Doth, Commissioner Draper.

6. Approval of Minutes

- a. March 19, 2013 - Regular Commission Meeting
- b. April 5, 2013 - Special Commission Meeting

Motion: Approve the minutes of the March 19, 2013 Regular Commission Meeting and the April 5, 2013 Special Commission Meeting. **Action:** Approve. **Moved by** Commissioner Doth, **Seconded by** Commissioner Minter.

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

Yes: Chair Powell, Commissioner Minter, Commissioner Stone, Commissioner Doth, Commissioner Draper.

7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month ending March 31, 2013
- c. 2014 Fire Fund Distribution Applications

- d. Road Name Changes/Correction
- e. Mill Levy Rate for Carrizozo Soil & Water Conservation District

Commissioner Minter questioned the .75 Mill Rate for the Carrizozo Soil and Water Conservation District that was higher than the Upper Hondo SWCD. Commissioner Stone explained each District voted to set their individual rates. Commissioner Minter stated residents who were subject to the Mill Levy tax should be reminded of the potential services and grants administered by the Soil and Water Conservation Districts.

Commissioner Doth questioned if the scope of the project to build a new Ft. Stanton Fire Station had increased. Ms. Taylor stated the plan remained unchanged with funding of \$397,000 in Capital Outlay and Fire Protection Funds of \$277,000. Ms. Taylor stated the funding would be adequate to complete the project.

Chair Powell requested information regarding the proposed Road Name Changes/Corrections. Curt Temple, Planning Director informed on several proposed name changes in the Sun Valley area including the proposed change to La Junta Drive. Mr. Temple stated after determining La Junta was in fact a private road, no change to that road would occur. Mr. Temple stated a portion of the road named Snowflake would also remain unchanged contrary to the recommendation presented.

Motion: Approval of Consent items as presented except the Road Name Change request for renaming a portion of Snowflake Road to La Junta Drive. **Action:** Approve. **Moved by** Commissioner Minter, **Seconded by** Commissioner Doth.

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

Yes: Chair Powell, Commissioner Minter, Commissioner Stone, Commissioner Doth, 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

Nita Taylor, County Manager stated Ranger David Warnack was unable to attend but had provided a briefing paper of critical updates. Ms. Taylor stated the joint presentation made by the Smokey Bear Ranger District and Lincoln County at the Wildland Urban Interface Summit in Taos, NM was well received. Ms. Taylor informed the Ranger District had developed a new "Outdoor Hazards" outreach campaign to educate visitors about potential hazards when visiting the forest particularly in the burn area. Ms. Taylor provided a copy of the brochure and sign template for the campaign. Ms. Taylor stated the Ranger District continued to work with NM Department of Transportation to mitigate hazard trees along sections of Highway 37.

9. Greentree Solid Waste Authority (GSWA) Update

Chair Powell reminded of pending litigation and deferred any discussion until Executive Session.

10. Lincoln County Detention Center Update

Warden Arthur Anderson reported on bookings and releases for the month of April and informed the average daily population was 145.

Chair Powell questioned the status of a proposed five year plan for asset management. Warden Anderson stated he would discuss with the Administration at Emerald Corporation when the budget was presented.

Ms. Taylor reminded the County had awarded the new contract, based on the Request for Proposals, with Emerald Corrections to manage the Detention Center for five more years. Ms. Taylor stated Attorney Alan Morel had completed the new contract and it would be presented for finalization in the near future.

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

Scott Annala, IHC Administrator presented the Sole Community Provider claims for approval. Mr. Annala processed 71 claims with 69 recommended for approval and 2 recommended for disapproval for a total authorization of \$106,295 for a year to date total of \$1,096,472 and for an approximate monthly average of \$109,647. Mr. Annala stated the program was on track to authorize the \$1.3 million which the County budgeted for the Sole Community Provider match.

Mr. Annala presented the Indigent Health Care Payments request for the month. Mr. Annala processed 34 claims with 30 recommended for approval and 4 recommended for disapproval. Mr. Annala stated the total of claims recommended for payment this month was \$19,377. Mr. Annala stated the total year to date Indigent Claims including this month's claims would be \$232,562.63 for a monthly average of \$23,256 by comparison. Mr. Annala anticipated expenditure of \$279,075 of the budgeted amount of \$386,461.

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** Chair Powell.

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

Yes: Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter, Commissioner Stone.

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

12. Presentation by White Sands Missile Range's Chief of Staff, Mr. Dan Hicks on the mission impacts of the proposed location of the SunZia Transmission Line

Dan Hicks, Chief of Staff for White Sands Missile Range voiced WSMR's overall support for renewable and alternate energy resources and discussed various plans to develop and use this type of resource at the installation. Mr. Hicks provided a detailed explanation of the potential impact of the SunZia Transmission line on the mission of WSMR to maintain and test missile defense systems. Mr. Hicks highlighted problems associated with the current "preferred" SunZia Transmission line route through the northern portion of WSMR. Mr. Hicks stated the "preferred" route, as presented by the Bureau of Land Management, would have a negative impact on cruise missile testing and informed there was no other space in the country which could provide the low flight space need to perform this testing. Mr. Hicks informed WSMR and other cooperating agencies were requesting an alternative route be developed along Highway 60 to lessen the impact on current and future missions.

Commissioner Doth stated an article published in the Albuquerque Journal indicated the Under Secretary of Defense was unhappy with the current proposal and implied the project could jeopardize continued operations at WSMR. Commissioner Doth stated the SunZia group maintained the current proposal was more economical. Mr. Hicks discussed in detail the nature of missile testing and the need for strategic planning to keep testing routes viable. Mr. Hicks stated the Department of Defense maintained the alternative routes were equally viable but had less impact on the mission and expressed optimism the Department of Interior and the Department of Defense could reach a compromise.

Commissioner Stone reported on attendance at a recent meeting between the SunZia developer and landowners. Commissioner Stone stated the transmission line was important to the future of renewable energy but commented on other obstacles which might affect construction. Commissioner Stone noted the affected private landowners might not be in complete agreement as to the proposed route. Commissioner Stone expressed belief National Security should take precedence over the transmission line.

Commissioner Minter commented on extensive past efforts by communities to retain military operations in the State of New Mexico. Commissioner Minter discussed the nature of renewable energy as a subsidized business and the increased costs associated with production. Commissioner Minter questioned if the military bases were working to move "off the grid". Mr. Hicks stated the current goal was more to provide back-up capabilities to power and other sources than to discontinue use of local utilities.

Mr. Hicks stated the final Environmental Impact Study would be released by the Department of the Interior in the near future and reminded there would be a comment period associated with that process. Mr. Hicks encouraged all stakeholders to take the opportunity to comment.

13. 9:30 A.M.: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS

Robert Sheppard, Sheriff discussed the proposed courthouse expansion and informed, should the project be limited to the expansion of the court facilities, the Sheriff's office would need to retain all of the current physical space which was planned for transferring to District Court in the combined expansion plan.

Commissioner Draper reported on the recent Southeast New Mexico Development Council which was a five county district. Commissioner Draper informed there a Mayor's summit was scheduled in Ruidoso on May 23, 2013. Commissioner Draper stated a new group, the Southeastern New Mexico Quality Care for Veteran's Association, presented information regarding veterans in the area reporting there were currently 658 veterans living in Lincoln County. Commissioner Draper reported \$23 million in Capital Outlay had been received by the region with Lincoln County receiving \$1.4 million. Commissioner Draper expressed appreciation for the work of SNMED and Hubert Quintana to secure the funding.

Curt Temple, Planning Director discussed a bill passed by the New Mexico Legislators which would require any new subdivisions in the State of New Mexico to possess water rights for development.

Chair Powell recessed the Regular Meeting at 10:01:15 AM and reconvened at 10:15:02.

21. LCMC Physician's Office Building

- a. Water Saving Alternatives -Findings & Recommendations by Ted Kostranchuk (DPS)

Ms. Taylor reminded the deletion from final landscaping plans of a cistern system was approved at the March Regular Meeting with an agreement to consider other water savings proposals at a later date. Ms. Taylor provided a letter detailing Dekker/Perich/Sabatini's (DPS) recommendations to accomplish the water savings.

Ted Kostranchuk of DPS discussed the benefits of and the Village of Ruidoso requirements for minimal landscaping along with recommendations to utilize water efficient plans and shrubs with artificial turf. Mr. Kostranchuk discussed the various other water savings measures proposed would save approximately 25,000 gallons per year.

Commissioner Doth informed he had reviewed the landscape proposals with Shaun Forte, Planning Director for the Village of Ruidoso. Commissioner Doth noted the Village was open to working with the County on landscape issues but had requested a written landscape plan. Commissioner Doth recommended following the landscaping style currently surrounding Lincoln County Medical Center and elimination of the artificial turf in light of the small size of the area for landscaping.

Mr. Kostranchuk discussed various other value engineering options which presented opportunities for savings. Mr. Kostranchuk informed the contractor was considering rebidding the contract for landscaping based on the final decisions of the number of plants and other factors. Mr. Kostranchuk stated any changes might not result in the savings anticipated as additional fees would be incurred for redesign and rebid.

Motion: Approve DPS recommendations for water savings alternatives. **Action:** Approve. **Moved by** Commissioner Minter, **Seconded by** Chair Powell.

Commissioner Draper noted the estimate for the artificial turf seemed high and suggested a local contractor could provide the item at a lower cost.

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

Yes: Chair Powell, Commissioner Minter, Commissioner Stone, Commissioner Draper.

No: Commissioner Doth.

11. 9:00 A.M.: Lodger's Tax Applications with backup material:

Commissioner Doth recused himself from the discussion at 10:33:53 AM.

- a. Application 1687: Amount: \$3,500.00; CP6 Solutions, Aspencash Motorcycle Rally May 16-19, 2013 Requestor: Patric Pearson/CP6 Solutions
- b. Application 1688: Amount: \$ 3,500.00; CP6 Solutions, Golden Aspen Motorcycle Rally September 18-22, 2013; Requestor: Patric Pearson/CP6 Solutions
- c. Application 1689: Amount: \$ 2,200.00; Ruidoso Sprint Triathlon June 8, 2013; Requestor: Frederic Moras/ Bicycle Ruidoso
- d. Application 1690: Amount: \$1,500.00; Ski Run Road Challenge, July 27, 2013; Requestor Frederic Moras Ski Apache Disabled Skier Program

- e. Application 1691: Amount: \$300.00; Renaissance Festival; Requestor: Jamie Gieb/Shire of Ghillie
- f. Application 1692; Amount: \$19,000.00; Lincoln Pageant & Festival August 2-4, 2013; Requestor: Bennie Long/Lincoln State Monument

Motion: Approve Application 1687 for \$3,500; Application 1688 for \$3,500; Application 1689 for \$2,200; Application 1690 for \$1,500; Application 1691 for \$300; and Application 1692 for \$19,000 as recommended by the Lodger's Tax Committee. **Action:** Approve. **Moved by** Commissioner Stone, **Seconded by** Commissioner Minter.

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

Yes: Chair Powell, Commissioner Minter, Commissioner Stone, Commissioner Draper.

Abstain: Commissioner Doth.

Commissioner Doth returned to the meeting at 10:41:37 AM.

16. Manager's Report

1. Business Retention Gross Receipt Tax (3/16th) Tracking (FY 13):

| <u>Business Activity Month</u> | <u>FY13</u> | <u>FY12</u> | <u>Difference</u> |
|--------------------------------|------------------|------------------|-------------------|
| July | \$ 78,841 | \$ 79,726 | (\$ 885) |
| August | \$ 80,921 | \$ 86,567 | (\$ 5,646) |
| September | \$ 90,730 | \$ 81,314 | \$ 9,416 |
| October | \$ 75,315 | \$ 72,669 | \$ 2,646 |
| November | \$ 71,927 | \$ 61,132 | \$ 10,795 |
| December | \$ 72,885 | \$ 63,984 | \$ 8,901 |
| January | \$ 85,855 | \$ 83,853 | \$ 2,002 |
| February | \$ 67,615 | \$ 65,132 | \$ 2,483 |
| YTD | \$624,089 | \$594,377 | \$ 29,712 |
| Annualized | \$936,134 | | |

It appeared that July and August, 2012 were impacted by the Little Bear Fire, however year-to-date revenues increased by approximately 5%.

2. EOC News. The Manager reported the Emergency Operations Center was now fully staffed with the promotion of Joe Kenmore to Emergency Services Director, and with Spencer Baldwin being employed as the Emergency Operations Coordinator.

Joe Kenmore, EOC Director attended a "Train the Trainer" Class for Communications Leaders April 9-11, 2013 in Santa Fe with the New Mexico Department of Homeland Security and Emergency Management.

On April 11, 2013 a meeting of the Lincoln County Fire Officers was held at the Operations Center. In attendance were: Glencoe, Hondo, Arabella, Lincoln, Bonito, Nogal, and White Oaks Volunteer Fire Departments; municipal fire departments from Corona, Capitan, and Ruidoso Downs; State Forestry, BLM, and USFS; along with the Sheriff's Office and Lincoln County EMS. The Village of Ruidoso and Carrizozo Volunteer Fire Departments did not attend. The meeting served as a discussion and planning session for the upcoming fire season.

3. Mandatory Employee Meetings called by NM General Services Dept. This spring, all employees are required to re-enroll in the State Benefit Plan (or re-waive benefits). Significant changes were in place, with dependent verifications being conducted with this April/May mandatory enrollment. Employees were required to provide proof of dependency (copy of marriage license, notarized domestic partner form, proof of dependent children.)

4. 2013 CDBG Grant Application Hearings. The 2013 CDBG applications have been submitted and were currently being rated and ranked by Local Government Division staff. The application presentations were tentatively scheduled for May 10, 2013. Lincoln County submitted a CDBG application for construction of a new Carrizozo Senior Center. Copy of information from Dora Batista of SNMEDD was provided. The Manager noted Howard Kaplan from Wilson & Company, the design architect, would be in attendance at the presentation.

5. WUI Summit. Commissioner Powell, Joe Kenmore, Samantha Mendez along with the County Manager attended the Wildland Urban Interface Conference in Taos.

The Manager reported she, Commissioner Powell, and Ranger Dave Warnack of the Smokey Bear Ranger District gave a presentation on "Lessons Learned after the Fire". The Manager stated lessons learned included the need for teamwork between all entities involved and the growing need for meaningful education to the public.

6. Flood Mitigation Efforts. The Manager reported the County was currently involved in a number of potential flood mitigation efforts to include:

- a. **Use of Board of Finance loan/grant for flood mitigation (\$255,000)**
- b. **NRCS-Emergency Watershed Protection Program– Recovery (\$474,000)**
- c. **FEMA projects (\$1.0 million)**
- d. **Lincoln County Working Group**

7. Potential Intercept of second 1/8th GRT. The Manager reported Brent Ernest, Deputy Secretary, NM Human Services had informed the State of NM was initiating a plan to intercept all counties' second 1/8th GRT. The Manager noted 31 of 33 counties had enacted the second 1/8th GRT with Lincoln County enacting the tax in January of 2000 after voter approval. The Manager stated the state intended to use the intercepted funds for the Sole Community Provider (SCP) program to ensure the funds used for the Federal match was public money. The Manager stated the plan might also ensure predictable revenue for the program and eliminate the need for hospitals to negotiate yearly with County Commissions for funding. Lincoln County currently uses the second 1/8th GRT to fund the Indigent program and for medical care of prisoners.

Scott Annala, Indigent Health Care Administrator confirmed Mr. Ernest had informed the NMAC Health Care Affiliate of the State's desire to intercept the second 1/8th GRT which the County had enacted to fund the Indigent Health Care Program. Mr. Annala advised this intercept would effectively end the County Indigent Health Care Program as the funds would be diverted for the Sole Community Provider match. Mr. Annala informed the second 1/8th GRT generated about \$600,000 and pointed out this amount was less than the \$1,300,000 approved by the Board of Commissioners for SCP which was currently funded from the Mill Levy.

Mr. Annala discussed the State expansion of Medicaid as related to the recent passage of the Federal Health Care Act. Mr. Annala stated the expansion could decrease the number of residents requesting Indigent Assistance but expressed concerns there would always be individuals who "fall through the cracks".

Commissioner Minter clarified the change would eliminate the opportunity for non Sole Community Providers to receive reimbursement. Mr. Annala confirmed and noted counties typically used this GRT to fund a number of programs other than Sole Community Provider match for their residents. Mr. Annala stated Mr. Ernest had urged counties not to repeal their 1/8th GRT in response to State actions.

Rhonda Burrows, Clerk and former IHC Administrator expressed belief the State could not intercept the 1/8th GRT enacted by voters in Lincoln County without legislative action. Ms. Burrows noted these changes were a trickle down from federal changes and ultimately the County might not have a voice in the final decisions.

Attorney Morel stated the issue had not been researched but voiced belief any intercept would require legislative action as the tax had been approved by the voters of Lincoln County.

8. Secure Rural Schools. Paul Gutiérrez, Executive Director of NMAC forwarded documentation that New Mexico counties were requested to return funds already distributed under the Secure Rural Schools Act. The request is stated to be made based on the FY13 sequester. The Manager provided a copy of a letter of protest, requesting the action be halted as signed by a number of Congressmen, including Representative Steve Pearce.

Chair Powell questioned the amount of funding Lincoln County received for this program. The Manager informed Lincoln County received approximately \$26,000 for Title III funding with a total impact to the State of approximately \$600,000. The Manager stated the funds were used for the "Fire wise Program".

9. Ft. Stanton Fire Dept. The Manager reported on the process to enter into a long-term lease with the NM State Monuments Division for land required to build the new fire station. The process required sign-off by the Board of Regents and the DFA. The County entered into an agreement with DFA for a Severance Bond Capital Appropriation Project in the amount of \$397,000 in October, 2012 with additional funding of \$277,765

committed by the State Fire Marshal. The Manager reported the updated estimated cost of construction was \$470,536.

10. SunZia Southwest Transmission Project. The principals of SunZia Southwest were in Lincoln County meeting with landowners in Corona regarding status of the project. The Manager provided a copy of the BLM schedule for completing the Federal permitting process (NEPA), and a map of the proposed route. Commissioner Stone attended the meeting and may want to provide additional information.

11. The Manager announced Ada Hendryx, Senior Director would be retiring as of May 30, 2013.

14. Consideration of Cost Analysis for Courthouse/Sheriff's Complex Addition

Ms. Taylor requested direction and authorization for additional funding for the Courthouse Complex expansion or remodel. Ms. Taylor reminded \$1.5 million was approved at a prior meeting for the Courthouse expansion and additional "facility improvements". Ms. Taylor stated since the initial approval extensive planning and further discussion along with a separate Energy Audit had resulted in a revision of the cost estimates. Ms. Taylor provided estimates of \$2.491 million for the Courthouse expansion; \$.124 million for Courthouse remodel of existing space; \$1.234 million for Sheriff's office expansion; \$.336 million for Energy Audit upgrades to county offices and \$.122 million for Energy Audit upgrades to the Sheriff's office for a combined project cost estimate of \$4.307 million.

In response to a request by the Board of Commissioners, Ms. Taylor provided cost estimates for building a new Courthouse on land near the Detention Center. Ms. Taylor stated estimates for a 15,000 square foot building ranged from \$4.386 million to \$4.967 million. Ms. Taylor provided various options for a phased expansion and remodel of the current Courthouse complex. Ms. Taylor discussed various considerations for planning to include approximately \$65,000 in planning costs already incurred; the critical need for space as expressed by Judge Karen Parsons; the potential to "phase in" the expansion of the Courthouse and Sheriff's office separately; and noted a full expansion of the current Courthouse complex was estimated to cost less than the estimate for new construction.

Motion: Approve \$4.307 million for the joint remodel and expansion of the Courthouse and Sheriff's office for \$4.307 million. **Action:** Approve. **Moved by** Commissioner Stone, **Seconded by** Commissioner Minter.

Chair Powell commented on the large size of the project, the recent occurrence of the Little Bear Fire, and other ongoing County projects. Chair Powell questioned how the District Court would continue to operate during the proposed remodel.

Judge Karen Parsons stated the Court would continue to convene and operate during any remodel and would adapt to ongoing construction. Judge Parsons expressed a preference to have the current facility remodeled and expanded rather than consider a new facility. Judge Parsons stated safety and security would be compromised if the Court and the Sheriff's office were separated.

Chair Powell opined the Sheriff's expansion should be done at a later date due to budget constraints. Chair Powell suggested an RFP be developed rather than proceeding based only on the plans developed by Basic IDIQ. Chair Powell stated a utilization study of the space might be of benefit to help phase the project in.

Commissioner Minter discussed the need to seek Capital Outlay to help fund the project but voiced belief the project needed to be moved forward at this time. Commissioner Minter suggested any action today be contingent upon requests for Capital Outlay.

Commissioner Stone defended the motion and stated the expenditure was not "out of hand". Commissioner Stone reminded of the statutory obligation by the County to provide the court adequate facilities. Commissioner Stone stated postponement of even a portion of the project would result in higher costs at a later date.

Commissioner Doth expressed concerns about current economic conditions which might affect County revenues and stated belief all due diligence had not been exercised in planning this particular project. Commissioner Doth stated he could not support the expenditure at this time.

Commissioner Draper commented on the rising costs over time and supported researching additional financing options to complete the dual expansion. Commissioner Draper noted Taos County had received a significant Capital Outlay for a Courthouse facility.

Commissioner Minter questioned the status of the overall design. Ms. Taylor informed Basic IDIQ had completed the design to include expansion of the Court and Sheriff's facilities and to incorporate the Energy Audit recommendations. Commissioner Minter noted having the design in place would facilitate a Capital Outlay request. Ms. Taylor noted requests for Capital Outlay were by nature uncertain.

Punkin Schlarb, Finance Director suggested the decision be postponed and then incorporated into the upcoming Fiscal Year 2012-2013 budget process identifying funding.

Glenna Robbins, Treasurer provided a historical overview of the Capital Projects Fund. Ms. Robbins reminded the amounts to consider were the amount budgeted in a fiscal year for all capital projects and the amount remaining after required reserves. Ms. Robbins stated in FY 2009-2010 the County budgeted \$4,821,000 for all capital projects with \$20,267 over the required amount for reserves; FY 2010-2011 \$5,426,852 for capital projects with \$42,000 over required reserves; FY 2012-2013 \$5,700,000 with \$2,945 over required reserves and now for FY 2013-2014 the proposed budget was \$6,820,000 for capital outlay which included the previously approved \$1,500,000 for the Courthouse leaving \$4,365,000 for all construction projects in the upcoming year. Ms. Robbins noted the budgeted amount each year had not been fully expended and the County had accumulated funds in savings but reminded all approved projects had to be considered during the budget hearings.

Ms. Taylor reminded the final budget would not be presented to the Board of Commissioners until July. Ms. Taylor stated the estimates presented were valid today but should the decision be postponed the costs would likely increase.

Commissioner Minter questioned if the motion might be amended to be contingent upon a Capital Outlay distribution from the legislature. Chair Powell clarified the current motion on the table committed \$4.307 in County funding to the project and was not contingent upon any other funding.

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

Yes: Commissioner Minter, Commissioner Stone, Commissioner Draper.

No: Chair Powell, Commissioner Doth.

Chair Powell recessed the Regular Meeting at 1:22:09 PM and reconvened at 1:39:19 PM.

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

Ms. Taylor reported there were no new water right notices posted on the State Engineer's website since the notice posted by Enchanted forest Water Corporation of Alto on February 25, 2013.

Ms. Taylor reported there were no topics specific to Lincoln County on the NM Game and Fish website.

Ms. Taylor stated the fire danger level as reported by the Fire Behavior Research Center in Missoula, Montana and the Smokey Bear Ranger District was "High" for Lincoln County. Ms. Taylor noted there had been several small wildfires in the County.

18. **Consideration of Date Change for the May 21, 2013 and June 18th, 2013 Commission Meetings and to Schedule Special Meeting date on April 25th.**

Ms. Taylor reminded the NM Association of Counties meeting was scheduled for the week of June 18th and suggested the June Regular Meeting be moved to June 25, 2013. Ms. Taylor also requested the May Regular Meeting be moved to May 14, 2013 due to a number of conflicts and a Special Commission Meeting scheduled for April 25, 2013 to award bids.

Motion: Reschedule the May Regular Meeting to May 14, 2013, the June Regular Meeting to June 25, 2013; and schedule a Special Meeting for April 25, 2013. **Action:** Approve. **Moved by** Commissioner Doth, **Seconded by** Chair Powell.

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

Yes: Chair Powell, Commissioner Minter, Commissioner Stone, Commissioner Doth, Commissioner Draper.

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

- a. Amending Subdivision Ordinance 2008-01

Motion: Schedule a Public Hearing to amend Ordinance 2008-01. **Action:** Approve. **Moved by** Commissioner Doth, **Seconded by** Chair Powell.

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

Yes: Chair Powell, Commissioner Minter, Commissioner Stone, Commissioner Doth, Commissioner Draper.

25. Bid/RFP(s) Award:

- a. RFP12-13-006 Inmate Phone System for Lincoln County Detention Center

Ms. Taylor informed five bids were received and presented the combined rankings based on 300 possible points as follows: Securus Technologies 289 points; Legacy Inmate Communications 273 points; NCIC Inmate Phone Service 269 points; IC Solutions 266 points; and Inmate Communications, Inc. 264 points.

- b. IFB 12-13-007 Grinding of Wooded Debris

Ms. Taylor informed four bids were received and presented the details as follows: Sierra Contracting \$63,580; Guardiola Construction \$68,170; Jeff Harvey Construction \$89,950; and Renegade Construction \$159,970.

- c. RFP 12-13-008 Inmate Medications

Ms. Taylor informed one bid had been received from the incumbent provider, Diamond Pharmacy Services. Ms. Taylor stated the Diamond Pharmacy Services proposal was based on a discount from the Medispan published average wholesale price (AWP) as follows: Brand Name and Single Source Medications at AWP less 20%; Generic Multi-Source Medications at AWP less 52%; and as an alternative proposal all prescriptions billed at AWP less 30%.

Motion: Award RFP 12-13-006 to Secures Technologies, IFB 12-13-007 to Sierra Contracting, and RFP 12-13-008 to Diamond Pharmacy. **Action:** Approve. **Moved by** Commissioner Doth, **Seconded by** Commissioner Minter.

Attorney Morel informed he recused himself from the process to develop IFB 12-13-007 for Grinding of Wooded Debris due to a potential conflict with prior representation of one of the contractors. Attorney Morel informed outside council had been hired to review the IFB on behalf of the County.

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

Yes: Chair Powell, Commissioner Minter, Commissioner Stone, Commissioner Doth, Commissioner Draper.

Chair Powell recessed the Regular Meeting and convened the Public Hearing at 1:31:05 PM.

22. 1:30 P.M.: Public Hearing to consider the request of a transfer of ownership Liquor License from JJJ Dollar Bar, LLC. d/b/a the Tinnie's Silver Dollar Steakhouse & Saloon at 28842 US Hwy 70, Tinnie, NM 88351. Application No. 848154

Paul Stevens representing the new owners, Jerry Rush and Jana Rush explained they were currently leasing the liquor license and were requesting approval of the final transfer of the license.

Commissioner Draper questioned if Mr. Stevens would be acting as the "resident agent" and if the license was a full dispenser's license. Mr. Stevens confirmed this was a full license including package sales and he would be the resident agent.

No public comment being received, Chair Powell adjourned the Public Hearing and reconvened the Regular Meeting at 1:33:33 PM.

Motion: Approve Application No. 848154 for transfer of ownership. **Action:** Approve. **Moved by** Commissioner Minter, **Seconded by** Commissioner Doth.

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

Yes: Chair Powell, Commissioner Minter, Commissioner Stone, Commissioner Doth, Commissioner Draper.

24. Authorization to Schedule Public Hearing to Consider Other Outdated or New Lincoln County Ordinance (cont)

Ms. Taylor requested approval of a second public hearing for the consideration of the adoption of a Preliminary Budget for FY 2013-2014 and the Infrastructure Capital Improvement Plan (ICIP).

Motion: Schedule a Public Hearing to consider adoption of a Preliminary Budget for FY 2013-2014 and the ICIP. **Action:** Approve. **Moved by** Commissioner Doth, **Seconded by** Commissioner Draper.

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

Yes: Chair Powell, Commissioner Minter, Commissioner Stone, Commissioner Doth, Commissioner Draper.

19. Subdivision Ordinance Revisions-Ongoing Discussion

Curt Temple, Planning Director informed proposed revisions for the current Subdivision Ordinance from the Planning Committee would be presented during the public hearing scheduled for the next Regular Meeting. Mr. Temple informed the State of New Mexico had passed legislation which required certain new subdivisions to acquire water rights for development.

Mr. Temple informed the Planning Commission received multiple presentations on potential requirements for thinning and defensible space. Mr. Temple read a statement from the Planning Commission noting the lack of universal standards for tree thinning of properties along with a recommendation for considering this requirement in the proposed Land Development Standards Ordinance rather than the Subdivision Ordinance.

Attorney Morel further reported the Chair of the Planning Commission suggested a requirement considered for large subdivisions to be built in phases with each phase completed prior to beginning the next phase. Attorney Morel suggested this requirement be further defined by the Planning Commission and considered during the public hearing.

Attorney Morel discussed the provisions in the current ordinance requiring community water systems and detailed suggested changes. Attorney Morel clarified proposed language changes would require any subdivision regardless of "Type" to have a community water system and hold water rights. Attorney Morel questioned if it was the Board of Commissioner's intent to require both water rights and community water systems.

Motion: Accept the proposed changes to be presented at Public Hearing. **Action:** Approve. **Moved by** Commissioner Minter, **Seconded by** Commissioner Doth.

Commissioner Draper questioned how many existing Subdivisions held water rights. Chair Powell stated there were approximately 12 subdivisions with water rights. Mr. Temple reminded there were a number of older subdivisions which have community water systems.

Commissioner Draper questioned the State Engineer's position on water rights for subdivisions. Mr. Temple stated the State Engineer had supported the recent legislation and opposed the practice of purchasing land with water rights, selling the water rights, and then developing the lots with domestic wells.

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

Yes: Chair Powell, Commissioner Minter, Commissioner Stone, Commissioner Doth.

No: Commissioner Draper.

Commissioner Stone questioned if the Planning Commissioners might work collaboratively with appropriate agencies to develop standards for thinning. Mr. Temple stated this could be accomplished but would require the employment of an expert to develop standards for uniformity across the County.

Chair Powell recessed the Regular Meeting, convened the Public Hearing on Ordinance 2013-1, recessed the Public Hearing and reconvened the Regular Meeting at 1:55:41 PM.

Commissioner Minter questioned the lack of defined thinning practices considering the ongoing efforts to create defensible space. Mr. Temple clarified the benefit of creating standards for clearing defensible space during the actual lot development rather than putting the burden on the subdivision developer who might not anticipate the desires of the individual property owners as to the location of their home or other improvements.

20. Election of New Mexico Association of Counties Board Members

Whitney Whitakker, Elections Clerk informed two nominations were received for the Board Member position with both being for Rhonda Burrows, Clerk. There being no further nominations, Ms. Whitakker provided and tallied the paper ballots. Ms. Whitakker announced Ms. Burrows was elected unanimously to serve as the NMAC Board Member for Lincoln County.

Chair Powell recessed the Regular Meeting and reconvened the Public Hearing at 2:02:50 PM.

23. 1:45 P.M: Public Hearing to consider Ordinance 2013-1; Amending Ordinance 2005-4 Lincoln County Personnel Polices & Procedures

Attorney Morel outlined substantive changes proposed to the current Personnel Policy.

There was lengthy discussion regarding the accumulation of compensatory time and who might approve or disapprove an employee's request. There was a general consensus approval for compensatory time and/or the use of leave by a probationary employee would be the responsibility of the County Manager.

Paul Baca questioned if there would be a restriction on how long compensatory time might be held after accrual. Attorney Morel reported once accrued, any leave is owed to the employee. Ms. Taylor suggested any compensatory time accumulated be used within six months. There was a general consensus to leave the decision to the County Manager.

Curt Temple, Planning Director requested clarification on whether a probationary employee was entitled to payment for accrued sick and annual leave. Attorney Morel clarified any accrued leave would be paid upon termination.

Chair Powell adjourned the Public Hearing and reconvened the Regular Meeting at 2:28:32 PM.

Motion: Adopt Ordinance 2013-1 with the recommended changes. **Action:** Approve. **Moved by** Commissioner Doth, **Seconded by** Chair Powell.

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

Yes: Chair Powell, Commissioner Minter, Commissioner Stone, Commissioner Doth, Commissioner Draper.

SEE EXHIBIT C: Copy of Ordinance 2013-1 is attached hereto in reference thereto made a part hereof.

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

- a. **Tabled** – Road Review Advisory Committee

No action was taken.

- b. Lincoln Historic Preservation Board

Motion: Reappoint L.M. Smith to the Lincoln Historic Preservation Board. **Action:** Approve. **Moved by** Commissioner Minter, **Seconded by** Chair Powell.

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

Yes: Chair Powell, Commissioner Minter, Commissioner Stone, Commissioner Doth, Commissioner Draper.

- c. Lodger's Tax Committee- Letter or Resignation

Commissioner Doth stated he had a potential nominee but requested the item be tabled until he could contact the individual. Commissioner Stone recommended a candidate from the Carrizozo area be considered to balance the representation.

Motion: Motion to table the appointment. **Action:** Approve. **Moved by** Commissioner Draper, **Seconded by** Chair Powell.

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

Yes: Chair Powell, Commissioner Minter, Commissioner Stone, Commissioner Doth, Commissioner Draper.

d. Southeast Regional Planning Organization (SERPO)

Ms. Taylor, requested Carl Palmer, Road Superintendent be appointed to the position as this organization typically dealt with road related issues.

Motion: Appoint Carl Palmer to SERPO. **Action:** Approve. **Moved by** Commissioner Doth, **Seconded by** Commissioner Minter.

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

Yes: Chair Powell, Commissioner Minter, Commissioner Stone, Commissioner Doth, Commissioner Draper.

27. Sun Valley Subdivision Discussion

Commissioner Doth stated he had been contacted by a resident of Sun Valley about the problem of slash piles accumulating within the subdivision. Commissioner Doth stated the large piles exceeded the 12 yards allowed for pickup by GSWA and so remained as a fire hazard. Commissioner Doth suggested Sun Valley residents were not adequately informed on the requirements for slash pick up and this was true for other areas.

Curt Temple, Planning Director stated the problem had been reported to his office and in addition to property owners accumulating their own slash piles, there were instances of dumping on private property of which absent owners were unaware. Mr. Temple stated staff had identified 46 separate slash piles within Sun Valley alone. Mr. Temple provided copy of a report from GSWA indicating which owners had reached the maximum pickup of 12 yards.

Mr. Temple presented the options for action by the County. Mr. Temple stated a request could be made to GSWA to pick up all slash but the cost factor would need to be addressed. Mr. Temple also discussed use of the County Road Department equipment, steps to hire private contractors for removal, and efforts to notify and work with owners on an individual basis. Mr. Temple stated the County also had the option to issue citations and could in fact apply a lien for cost of cleanup.

Commissioner Minter informed GSWA had only one grappling truck and typically was behind in operations during the spring when most people were thinning. Commissioner Minter expressed belief the County should not pay for negligence by certain owners when others had complied with requirements on their own. Commissioner Minter suggested an educational process to educate the property owners as to their responsibilities.

Commissioner Stone commented property owners should take responsibility for thinning and disposal of slash. Chair Powell suggested the problem be considered by the Lincoln County Work Group. Commissioner Draper noted if County resources were utilized for this problem then others would expect the same. Commissioner Doth discussed the problem of no thinning by owners of empty lots. Commissioner Doth voiced support for enforcement of the current Ordinance including issuing citations.

Mr. Temple suggested each of the property owners receive a strongly worded letter regarding the slash build up prior to issuance of citations.

Robert Shepperd, Sheriff supported the idea of notification by letter prior to involving an officer. Sheriff Shepperd stated once all other options were reported as being exercised by the Planning Director including notification, he would send officers to issue citations.

Motion: Direct the Planning Department to send letters to all property owners with slash piles on their property in Sun Valley and Alpine Village requiring compliance with the current Ordinance. **Action:** Approve. **Moved by** Commissioner Doth, **Seconded by** Chair Powell.

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

Yes: Chair Powell, Commissioner Minter, Commissioner Stone, Commissioner Doth, Commissioner Draper.

28. 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 Pending and/or Threatened 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. *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.
2. *Green Tree Servicing, LLC v. William T. Joiner, Lincoln County, et. al.* D-1226-CV-2010-394. Suit filed November 17, 2010. Complaint for Enforcement of Contract and Foreclosure of Security Interest and Mortgage.
3. *Luis Grife as Personal Representative of The Estate of Arturo Grife, Jr., and Lizeth Grife v. County of Lincoln.* D-1226-CV-201100148. Complaint for Wrongful Death and Negligence, Jury Demand.
4. *New Mexico Ranch Sales v Mary T. Greene, LC Treasurer, et. al.* D-1226-CV-2011-00226. Suit filed August 1, 2011. Complaint In Rem to Foreclosure Mortgage Upon Real Property.
5. *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.
6. *New Mexico Ranch Sales v Marianne Clark, LC Treasurer, et. al.* D-1226-CV-2011-00409. Suit filed November 17, 2011. Complaint to Enforce and Collect Upon Promissory Note and to Foreclose Mortgage Upon Real Property.
7. *Bank of Clovis v Mona Bryant as Personal Representative of Marjorie Bryant (deceased), Village of Ruidoso, Lincoln County, et al.* D-1226-CV-2011-00429. Suit Filed February 10, 2012. Complaint for Foreclosure.
8. *New Mexico Ranch Sales v Tammy Palombi-Cade, LC Treasurer, et. al.* D-1226-CV-2012-00042. Suit filed February 13, 2012. Complaint to Enforce and Collect Upon Promissory Note and to Foreclose Mortgage Upon Real Property.
9. *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.
10. *Alto Lakes Golf & Country Club, Inc. v. Barbara Fleming, and Jesus and Maria Guardiola, et al.* D1226-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.
11. *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.
12. *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.
13. *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.
14. *New Mexico Ranch Sales v. Villalba, LC Treasurer, et al.* D-1226-CV-2013-00046. Suit Filed February 15, 2013. Complaint to Enforce and Collect Upon Promissory Note and to Foreclose Mortgage Upon Real Property.

Tort Claims Notices Received or Threatened

2012

Cathy and Steve Altstatt – 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. – Correspondence received from Theresa Riordan on March 28, 2012 concerning her son's treatment and detention conditions while being held in LCDC.

Sheridan, Michael – 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 – 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.

2011

Latham, Diana –Tort Claim Notice received from Attorney, Gary C. Mitchell on October 27, 2011, claiming violation of the late James Latham’s constitutional rights resulting from his shooting death by the Lincoln County Sheriff’s Department.

Miller, Peggy and Steven - Tort Claim Notice received from Attorney, Gary C. Mitchell on September 26, 2011, claiming negligence by State Forestry and Lincoln County during Donaldson Complex Fire.

Justice, Charles – Tort Claim Notice received from Builders Trust Insurance Company on July 13, 2011 alleging liability by Lincoln County as a result of an auto accident on State Road #368.

Verschueren, Ronald and Constance M. – Tort Claim Notice received by attorney Robert J. Beauvais on June 13, 2011 alleging wrongful arrest by the LCSO.

Meadows Group, LLC - Tort claim notice received May 23, 2011 from attorney George P. Marquez alleging refusal and non-timely production of public records by the County of Lincoln and damages allowed under the Inspection of Public Records Act 14-2-11 NMSA 1978.

Salas, Johnny – Tort claim notice received from Johnny Salas on May 20, 2011 alleging damage to residence caused by a LCSWA (GSWA) garbage truck.

Saldana, Renetta - Tort claim notice received from Renetta Saldana on May 4, 2011 alleging sexual harassment suffered during transportation from LCDC to Magistrate Court in Ruidoso, NM.

Action: Approve. **Moved by** Commissioner Stone, **Seconded by** Commissioner Draper.

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

Yes: Chair Powell, Commissioner Minter, Commissioner Stone, Commissioner Doth, Commissioner Draper.

Chair Powell recessed the Regular Meeting and convened the Closed Session at 3:00:20 PM.

Chair Powell adjourned the Closed Session and reconvened the Regular Meeting at 3:27:40 PM.

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

29. Signing of Official Documents

30. Next meetings:

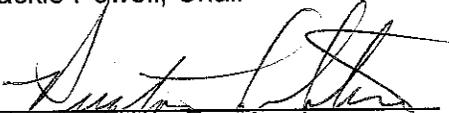
- a. April 25, 2013 - Regular Commission Meeting
- b. May 3, 2013 - Special Commission Meeting
- c. May 14, 2013 - Regular Commission Meeting

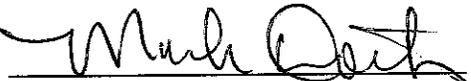
31. Adjournment

There being no further business to come before the Board of County Commissioners, Chair Powell adjourned the meeting at 3:28:40 PM.

Board of County Commissioners
Lincoln County, State of New Mexico

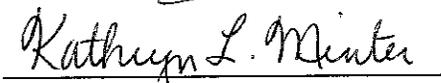

Jackie Powell, Chair


Preston Stone, Vice Chair


Mark Doth, Member

May 14, 2013
Date Approved


Dallas Draper, Member


Kathryn Minter, Member

ATTEST: (SEAL)


Rhonda Burrows, County Clerk

