

COUNTY OF LINCOLN

New Mexico Special Meeting Board of County Commissioners

Jackie Powell, Chair
Preston Stone, Vice Chair

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

Minutes Friday, June 7, 2013

Minutes of the Special Meeting of the Lincoln County Commission held at 9:00 AM on June 7, 2013 in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico.

1. Call to Order

Chair Powell called the Special Meeting of the Board of County Commissioners to order at 9:00:39 AM.

2. Roll Call

Roll Call.

Present: Chair Powell, Commissioner Minter, Commissioner Stone.

Absent: Commissioner Doth, Commissioner Draper.

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

3. Invocation

The invocation was presented by Commissioner Stone.

4. Pledge of Allegiance

- a. Pledge – U.S.A. Flag – Chair Powell
- b. Salute – N.M. Flag – Commissioner Minter

5. Approval of Agenda

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

Vote: Motion carried by unanimous vote (**summary:** Yes = 3).

Yes: Chair Powell, Commissioner Minter, Commissioner Stone.

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

- a. Appointment for Lodger's Tax Committee Member

Alan Morel, County Attorney informed the Lodger's Tax Ordinance included a requirement for any individual appointed to the Lodger's Tax Committee to be a resident of the unincorporated area of the County. Attorney Morel informed at the last Regular Meeting an individual was appointed who did not meet this requirement.

Motion: Rescind appointment of Ray Dean to the Lodger's Tax Committee. **Action:** Approve, **Moved by** Commissioner Stone, **Seconded by** Commissioner Minter.

Commissioner Stone stated he would continue to search for a suitable appointee.

Vote: Motion carried by unanimous vote (**summary:** Yes = 3).

Yes: Chair Powell, Commissioner Minter, Commissioner Stone.

7. Bid/RFP(s) Award:

- c. 12-13-017 Emergency On-Call Contractors

3146

Attorney Morel stated due to damage from the Little Bear Fire, subsequent flooding events and in preparation for the ensuing monsoon an Invitation for Bid (IFB) was issued for Emergency On Call Contractors.

Attorney Morel informed Shawn Wilson Excavation, Jeff Harvey Construction, Renegade Construction, Jack Johnson Excavating, Guardiola Construction, Apple Mountain Constructors, Mesa Verde Enterprises and Everguard Roofing each responded to the IFB. Attorney Morel recommended awarding contracts to each of the respondents in the amount of up to \$50,000 plus gross receipts tax for the term of one year. Attorney Morel explained that should an emergency occur, rather than contract for services on an emergency basis, the County could request a particular service based on the detailed rates as quoted in bid responses as detailed in Exhibit A.

Motion: Award IFB 12-13-017 to Shawn Wilson Excavation, Jeff Harvey Construction, Renegade Construction; Jack Johnson Excavating, Guardiola Construction, Apple Mountain Constructors, Mesa Verde Enterprises and Everguard Roofing in the amount of up to \$50,000 plus gross receipts tax. **Action:** Approve, **Moved by** Commissioner Minter, **Seconded by** Commissioner Stone.

Vote: Motion carried by unanimous vote (**summary:** Yes = 3).

Yes: Chair Powell, Commissioner Minter, Commissioner Stone.

a. 12-13-015 Resurface Roads at Sun Valley Subdivision

Attorney Morel detailed the bids proposals received as follows: Mesa Verde Enterprises \$167,170.10; Star Paving Company \$197,492.58; and Blue Collar Construction \$227,691.91.

Motion: Award RFP 12-13-015 to Mesa Verde Enterprises for \$167,170.10. **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Stone.

Vote: Motion carried by unanimous vote (**summary:** Yes = 3).

Yes: Chair Powell, Commissioner Minter, Commissioner Stone.

b. 12-13-016 Resurface Roads at Enchanted Forest Subdivision

Attorney Morel detailed the bids proposals received as follows: Mesa Verde Enterprises \$73,456.58; Star Paving Company \$87,935.67; and Blue Collar Construction \$91,606.20.

Motion: Award RFP 12-13-016 to Mesa Verde Enterprises for \$73,456.58. **Action:** Approve, **Moved by** Commissioner Stone, **Seconded by** Commissioner Minter.

Vote: Motion carried by unanimous vote (**summary:** Yes = 3).

Yes: Chair Powell, Commissioner Minter, Commissioner Stone.

SEE EXHIBIT A: Copy of the Awarded On Call Emergency Contractors Equipment Rate Breakdown is attached hereto in reference thereto made a part hereof.

8. Waiver of fees for a claim of exemption plat with the Village of Ruidoso on a land swap plat with the school district located in the County

Attorney Morel informed the Village of Ruidoso and the Ruidoso School District had entered into an agreement to swap parcels of land. Attorney Morel stated a portion of the land was within the unincorporated area of the County and thus subject to the County's \$100.00 fee for a Claim of Exemption. Attorney Morel noted the proposed land agreement was between two governmental entities and requested waiver of the \$100.00 Claim of Exemption fee.

Motion: Approve the waiver of the Claim of Exemption fee for the Village of Ruidoso. **Action:** Approve, **Moved by** Commissioner Minter, **Seconded by** Chair Powell.

Vote: Motion carried by unanimous vote (**summary:** Yes = 3).

Yes: Chair Powell, Commissioner Minter, Commissioner Stone.

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

a. Ordinance No. 2013-1 An Ordinance Amending Lincoln County Personnel Policies and Procedures

Attorney Morel explained a request was received from staff to amend the Personnel Ordinance to reflect an effective date for insurance benefits for newly hired employees.

Attorney Morel also reminded pending revisions to the current Subdivision Ordinance would require a final public hearing for adoption.

Motion: Schedule Public Hearings to consider changes to the Personnel Policies and Procedures Ordinance and the Subdivision Ordinance for the next Regular Meeting. **Action:** Approve, **Moved by** Commissioner Minter, **Seconded by** Commissioner Stone.

Vote: Motion carried by unanimous vote (**summary:** Yes = 3).

Yes: Chair Powell, Commissioner Minter, Commissioner Stone.

11. Renewal of Fire Restrictions Resolution 2012-39

Attorney Morel reminded Resolution 2012-32 adopted at the Regular Meeting of April 25, 2013 imposed restrictions based upon current fire conditions and the related state statute required a review of conditions every 30 days. Attorney Morel recommended the Resolution be adopted to extend fire restrictions based upon the current "extreme" fire danger.

Motion: Adopt Resolution 2012-39. **Action:** Approve, **Moved by** Commissioner Stone, **Seconded by** Commissioner Minter.

Vote: Motion carried by unanimous vote (**summary:** Yes = 3).

Yes: Chair Powell, Commissioner Minter, Commissioner Stone.

SEE EXHIBIT B: Copy of Resolution 2012-39 is attached hereto in reference thereto made a part hereof.

Chair Powell recessed the Special Meeting at 9:23:40 AM.

Chair Powell convened the Public Hearing at 9:32:20 AM.

9. 9:30 a.m.: Public Hearing to consider adoption of an Ordinance Imposing a Temporary Moratorium on Subdivision Development within Lincoln County.

Attorney Morel explained the timeline for approval of proposed revisions to the current Subdivision Ordinance included a 30 day review by State agencies, a final public hearing, and then a 30 day delay prior to being effective. Attorney Morel stated the proposed Moratorium Ordinance would restrict any subdivision development until such time as it was rescinded.

Commissioner Minter questioned if the Moratorium would expire once the revised Subdivision Ordinance went into effect or if it would require an action to rescind. Attorney Morel confirmed it would require a vote to rescind the Moratorium and suggested this could be placed on the agenda once the new Subdivision Ordinance was in effect.

Chair Powell commented on the current drought conditions. Commissioner Stone noted the municipality of Magdalena was completely out of water necessitating hauling of water for the residents. Commissioner Stone stated recent data indicated New Mexico was now considered the worst state for drought conditions in the country.

There being no public comment, Chair Powell adjourned the Public Hearing and reconvened the Special Meeting at 9:40:47 AM.

Motion: Adopt Ordinance 2013-03. **Action:** Approve, **Moved by** Commissioner Stone, **Seconded by** Chair Powell.

Vote: Motion passed (**summary:** Yes = 2, No = 1, Abstain = 0).

Yes: Chair Powell, Commissioner Stone.

No: Commissioner Minter.

SEE EXHIBIT C: Copy of Ordinance 2013-03 is attached hereto in reference thereto made a part hereof.

2. 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 all Pending Threatened and/or Pending Litigation pursuant to the Open Meetings Act, 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); and as follows:

New or Updated Matters since last report = *

*1. Alarm Ordinance Violation – William Rodney Huband

*2. Alarm Ordinance Violation – Robert J. Cordova and Brenda R. Cordova

*3. Alarm Ordinance Violation – Jack F. Paul and Mary J. Paul

- *4. Alarm Ordinance Violation – Charles W. Welch
- *5. Solid Waste Ordinance Violation – Steve and Cecilia Gore
- 6. *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.
- 7. *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.
- 8. *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.
- 9. *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.
- 10. *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.
- 11. *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.
- 12. *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.
- 13. *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.
- 14. *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.
- 15. *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.
- 16. *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.
- 17. *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.
- 18. *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.
- 19. *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.
- *20. *Washington Federal Savings v. Timothy Rose; Chanda Rose; and Lincoln County* D-1226-CV-2013-00105. Suit filed April 15, 2013. Complaint for Foreclosure.

Tort Claims Notices Received or Threatened

2013

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. Constitution Fifth and Sixth Amendment rights.

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

Action: Approve, **Moved by** Commissioner Minter, **Seconded by** Chair Powell.

Vote: Motion carried by unanimous vote (**summary:** Yes = 3).

Yes: Chair Powell, Commissioner Minter, Commissioner Stone.

Chair Powell recessed the Regular Meeting and convened the Closed Session at 9:42:0 AM.

Chair Powell adjourned the Closed Session and reconvened the Special Meeting at 10:29:37 AM.

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

Motion: Approve the filing of liens for Alarm Ordinance violations for William Rodney Huband; Robert J. and Brenda R. Cordova; Jack F. and Mary J. Paul; and Charles W. Welch and approve issuance of a citation for violation of the LC Solid Waste Ordinance to Steve and Cecilia Gore. **Action:** Approve. **Moved by** Chair Powell, **Seconded by** Commissioner Stone.

Vote: Motion carried by unanimous vote (**summary:** Yes = 3).

Yes: Chair Powell, Commissioner Minter, Commissioner Stone.

13. Signing of Official Documents

14. Next Regular Meeting

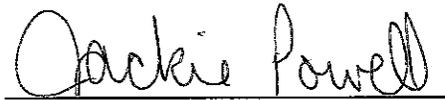
Tuesday, June 25, 2013

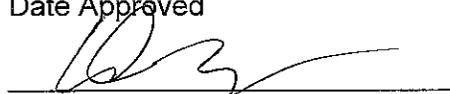
15. Adjournment

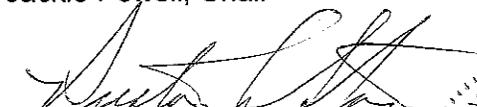
There being no further business to come before the Board of County Commissioners, Chair Powell adjourned the meeting at 10:31:04 PM.

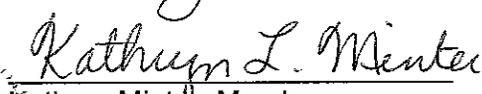
Board of County Commissioners
Lincoln County, State of New Mexico

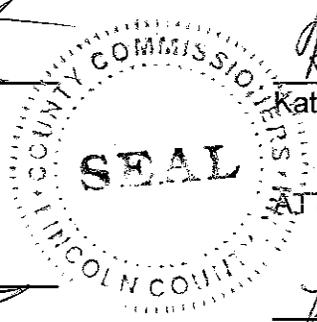
June 25, 2013
Date Approved

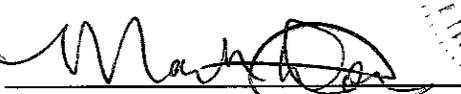

Jackie Powell, Chair


Dallas Draper, Member


Preston Stone, Vice Chair


Kathryn Minter, Member




Mark Doth, Member

ATTEST: (SEAL)

Rhonda Burrows, County Clerk

