

COUNTY OF LINCOLN

New Mexico Regular Meeting Board of County Commissioners

Jackie Powell, Chair
Preston Stone, Vice Chair

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

Minutes Tuesday, September 17, 2013

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on September 17, 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 8:31:22 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

The invocation was presented by Pastor Barbara Buttram.

4. Pledge of Allegiance

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

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 Doth.

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) August 14, 2013 - Special Commission Meeting
- b) August 20, 2013 - Regular Commission Meeting

Motion: Approve the minutes of the August 14, 2013 Special Commission Meeting and the August 20, 2013 Regular Commission Meeting with a minor revision.

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.

7. Approval of Consent Agenda

- a) Payroll/Accounts Payable/Budget/ Expenditures
- b) Treasurer's Financial Report for the Month ending August 31, 2013
- c) Sun Valley Water & Sanitation District Mill Levy Request
- d) Road Name Request

Motion: Approval of Consent items as presented. **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.

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

8. Smokey Bear District Ranger Update

Ms. Taylor provided copy of the Briefing Paper prepared by Ranger David Warnack detailing planned thinning and prescribed burn projects. Ms. Taylor further reported the Smokey Bear District office in Ruidoso was undergoing renovations and most USFS seasonal employees were to be laid off as of September 21, 2013.

Chair Powell questioned if Ranger Lessard of the Cibola District had rescinded the order removing permitted grazing from that forest. Ms. Taylor expressed belief the order was not rescinded.

9. Greentree Solid Waste Authority (GSWA) Update

Ms. Taylor provided copy of the minutes of the GSWA Regular Meeting of July 23, 2013 for review and commented on her attendance at the meeting. Ms. Taylor discussed a misquote attributed to her in the minutes and clarified she had voiced belief the County maintained rate approval authority over any proposed rate changes in the unincorporated area of the County.

After discussion there was a general consensus to request GSWA's draft minutes be provided for review by the County Manager and County Attorney.

Commissioner Stone questioned if the County might appoint an alternate to attend GSWA meetings should the appointed Commissioner be unable to do so. Commissioner Doth clarified the Board of GSWA does not acknowledge alternates but utilizes "proxy" voting. Attorney Morel stated the County continued to maintain proxy voting was improper. Attorney Morel suggested it would be beneficial to have a Commissioner present at GSWA meeting's if the appointed member could not attend. Chair Powell stated she would attend as an alternate should Commissioner Doth be unavailable, pending mediation.

10. Lincoln County Detention Center Update

Warden Arthur Anderson informed on monthly bookings and releases and stated the total average capacity since January 1, 2013 as of this date was 140 and with a current population of 134.

Commissioner Minter requested Warden Anderson and Emerald Company work with the County Manager to determine an accurate estimated cost to expand the Detention Center.

Chair Powell recessed the Regular Meeting and convened the Board of Finance at 8:46:56 AM.

11. Board of Finance

Glenna Robbins, Treasurer reported the Treasurer's office sent a list of properties delinquent on taxes for more than two years to the NM Property Tax Division (PTD) as required on July 12, 2013. Ms. Robbins stated the list included 100 new properties owing 2010 taxes and 27 properties from previous years. Ms. Robbins reported the total delinquent list was down from last year's 239 properties.

Ms. Robbins informed PTD had authorized County Treasurer's to accept partial payment of property taxes for properties on the State's delinquent list. Ms. Robbins reminded this was a point of contention between PTD and the County Treasurer's last year.

Ms. Robbins stated In June the New Mexico Association of Counties hosted a mediated meeting with County Treasurer's, PTD, the Department of Taxation and Revenue, and the Department of Finance to discuss the concerns of County Treasurer's on a variety of issues including property tax payment on installment agreements, disposition of penalties and interest for properties on the State's delinquent property list, and the process of conducting tax auctions.

Ms. Robbins stated the meeting was productive and two issues were identified as top legislative priority issues to be advanced by the New Mexico Association of Counties. Ms. Robbins stated the legislative priorities would permit County Treasurer's to receive all payments of property taxes including those placed on the State's delinquent property list and placed on installment agreements. Ms. Robbins stated the second priority would clarify that the County would receive both payment and penalty and interest for properties which were removed from the State's delinquent property list.

Ms. Robbins provided charts detailing the collection of gross receipts tax for the last four years. Ms. Robbins reminded the County imposed two 1/8th GRT increments in January of 2000 for Detention Center debt service and for Indigent Health Care. Ms. Robbins noted a slight increase in gross receipts tax revenues over last year. Ms. Robbins also discussed the 1/8th Environmental GRT imposed on residents in the unincorporated areas of the County to support the collection of solid waste and noted revenue from this tax was forwarded to Greentree Solid Waste.

Ms. Robbins reported the County received the annual distribution of the Business Retention Tax (BRT) in the amount of \$138,984, the balance of the BRT collected after the \$750,000 tax credit. Ms. Robbins stated this was only the second distribution the County had received from the BRT with last year's distribution being \$109,160.

Chair Powell adjourned the Board of Finance meeting and reconvened the Regular Meeting at 8:55:22 AM.

15. Consideration of entering into a Contract for a Lincoln County Medical Center Condition Assessment

Ms. Taylor stated Lincoln County Medical Center (LCMC) Administration and the architect for the current construction project of the Professional Office Building (POB) recommended the County conduct a "condition assessment" of the main LCMC building and physical plant. Ms. Taylor stated the purpose of the assessment would be to determine the overall health of the existing building, the potential lifespan of the building, and the potential costs of bringing the infrastructure up to standard.

Ms. Taylor discussed the prior assessment and energy audit conducted by Verterre Corporation for the County Courthouse complex. Ms. Taylor presented a proposal from Verterre to perform a similar audit of the main hospital building.

Chair Powell suggested as the POB still under construction it was premature to consider additional work as the LCMC POB was still under construction. Commissioner Doth stated appreciation for the previous analysis performed by Verterre but noted current Commissioners were very aware of the age and condition of the hospital. Commissioner Draper commented any study conducted now would be outdated by the time the County was prepared to proceed.

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

Scott Annala, IHC Administrator presented the Sole Community Provider/Lincoln County Medical Center claims for approval. Mr. Annala processed 55 claims with 54 recommended for approval and 1 recommended for disapproval for a total authorization of \$92,947.33 and a year to date authorization of \$316,943. Mr. Annala noted the average monthly hospital claims to date was \$105,647 with a projected annual approval for FY 2013-2024 of approximately \$1.3 million.

Mr. Annala presented the Indigent Health Care Payments request for the month. Mr. Annala processed 92 claims with 84 recommended for approval and 8 recommended for disapproval. Mr. Annala stated the total of claims recommended for payment this month was \$21,187 for a year to date total of \$69,139. Mr. Annala noted the average monthly indigent claims to date was \$23,046 with a projected annual expenditure of \$276,552. Mr. Annala reminded the FY 2013 - 2014 budget for Indigent claims was \$393,278.

Mr. Annala provided charts and graphs for comparison of current payments to prior fiscal years.

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 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.

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

17. Manager's Report

1. **Forest Health Funding Initiatives.** The Manager reported on progress on a number of funding initiatives:
 - a. NRCS EWP Process – application being finalized
 - b. Finalization of FEMA - NM Homeland Security grant – application being finalized
 - c. 2012 Lincoln County WUI – approximately \$150,000 of the \$255,000 grant remains
 - d. 2014 Lincoln County WUI - \$300,000 grant applied for by State Forestry for Lincoln County
 - e. The Little Bear Forest Reform Coalition was exploring the possibility of having a public outreach event this fall on forest health with additional details to follow.
 - f. South Central Mountain RC&D was working on updating the Lincoln County Community Wildfire Protection Plan (CWPP). The greater Ruidoso plan was written in 2004 and included only the Villages of Ruidoso and Ruidoso Downs. The Lincoln County Plan was written in 2008 and excludes the Villages. To ensure the County and municipalities remain current with planning and with competing for the fuel reduction grants a document common to the entire County would help identify and prioritize areas for treatment. Once the update work has been complete, it will be presented to the County for approval.
2. **FY 2012 - 2013 Audit.** The Manager reported representatives from the Accounting & Consulting Group, LLP, were in the County last week concluding the in-house review for the annual audit. Based on the questions asked, additional information requested and feedback at the conclusion of their visit, the Manager expressed belief audit findings would be minimal.
3. **The New Mexico Association of Counties.** The Manager provided several dates of interest announced by NMAC including various NMAC Board meetings. The Manager informed Paul Gutierrez, Executive Director of NMAC had accepted another position and NMAC would conduct a search to fill the position.
4. **LCMC Update.** The Manager reported on attendance at a meeting with Scott Annala, Indigent Health Care Administrator and LCMC representatives regarding the development of reporting requirements for Sole Community Provider claims as requested during the July final budget meeting. The Manager anticipated the first reports would be available for the Regular Meeting of October 15, 2013 for review and direction.
5. **Building Updates.**
 - a. LCMC Physician's Office Building (POB). The Manager stated work on the POB was expected to be complete by mid-October, enabling move-in activities shortly thereafter. The Manager stated LCMC initially proposed a grand opening at that time, but now proposed to wait until mid-January. The Manager stated LCMC was seeking Commission input on the timing of the event, as well as the attendee invitation list. The Manager anticipated the project would be complete ahead of time and on or below budget.

There was a general consensus to request the Open House for the new POB be held in November.

- b. Lincoln County Courthouse/Sheriff's Expansion. The Manager reported work had commenced on the courthouse expansion. The Manager stated James Parker of JWP Master Builders would provide a progress report and a summary of the utilization of local contractors during the meeting. The Manager reminded the total timeline commitment from start to finish was 365 days.
- c. Ft. Stanton Fire Station. The Manager stated work had commenced on the site for the Fire Station with the building ordered and expected on site in a couple of weeks. The Manager stated Mr. Parker would also provide an update on this project which has a total timeline commitment from start to finish of 182 days.
- d. Carrizozo Senior Center. The Manager stated Wilson and Company had completed design work on the project. The Manager stated Wilson would issue

Requests for Proposals for the project, assist in the selection process and project-manage the construction. The Manager stated the project was on hold pending formal receipt of the CDBG grant.

6. **MOU with Village of Ruidoso (VOR)** – The Manager reported Attorney Morel and Planning Director, Curt Temple met with the Village of Ruidoso and reached preliminary agreement on the area to be permitted and inspected by the VOR. The Manager stated a draft MOU was in progress.

Curt Temple, Planning Director informed he worked with Attorney Morel and VOR Attorney Dan Bryant to identify subdivisions currently split by jurisdiction and to discuss a process to assure County Ordinance requirements were met prior to the issuance of any permit.

Attorney Morel stated the Assessor would prepare a map to illustrate the proposed jurisdiction boundaries. Attorney Morel discussed the option of an administrative fee being remitted to the County for the review of County requirements. Attorney Morel stated another question arose regarding whether a property owner might be allowed to opt out of VOR permitting in favor of State CID permitting. Attorney Morel also discussed the process by which fees might be increased in the future. Attorney Morel stated the proposed contract would provide a 90 day termination clause but failure to exercise the termination clause would result in automatic renewal. Attorney Morel reminded the VOR would be responsible for initial compliance in the proposed jurisdiction but ultimately the State would have enforcement responsibilities.

Attorney Morel requested guidance as to whether the County wished to charge an administrative fee. Commissioner Doth suggested the Village of Ruidoso should return a portion of their fee to the County rather than add an additional fee. Mr. Temple reminded the Road Department does receive a \$25 culvert fee for approval of each entrance.

After lengthy discussion there was a general consensus to ask the Village of Ruidoso to return a \$25 fee to the County without increasing their permit fee. After further discussion regarding an "opt out" provision for property owners it was agreed Attorney Morel would discuss this option with the State CID Director.

14. **9:30 A.M.: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS**

Harvey Foster, local realtor and businessman objected to the fee of \$100 charged as per recently adopted Resolution 2012-40 for information he obtained monthly from the Assessor's office. Mr. Foster informed he had compensated the County's software vendor many years ago for the creation of the file format to export the information required and expressed belief any fee charged should not exceed \$25.00.

Paul Baca, Assessor and Rhonda Burrows, Clerk discussed the background for the Fee Resolution change including the passage of recent state statute which designated County assessment information as a database for which a royalty fee may be charged.

Sheriff Robert Shepperd provided pictures of an illegal dump at the GSWA compactor site on Highway 37. Sheriff Shepperd stated despite numerous complaints GSWA refused to clean up the dump area and was informing the public it was the duty of the Sheriff's office. Sheriff Shepperd stated it was not the duty of the Sheriff's office to pick up refuse nor did he believe it was the duty of the County Road Department. Sheriff Shepperd noted cameras at the site were installed and controlled by GSWA but GSWA had provided no photos of the recent illegal dumping. The Sheriff reminded without evidence his office could not pursue nor prosecute the individuals responsible.

Ms. Taylor suggested a tracking report be developed to ensure GSWA continued to provide information, reports and photos related to illegal dumping to the Sheriff's office.

17. **Manager's Report (continued)**

7. **Health Insurance Marketplace.** Attorney Morel informed the County would notify all employees prior to October 1, 2013 of the availability of alternative health insurance as per the Affordable Health Care Act federal requirements.

8. **Summary of Recent Rain Events.** Joe Kenmore, Emergency Services Director and Carl Palmer, Road Superintendent provided an update of total rainfall at various locations within the County and provided charts indicating stream flow rise. Mr. Kenmore noted Bonito Lake was full and water was being release as previously planned

for flood control. Mr. Kenmore stated the cleaning of the water ways after the Little Bear Fire resulted in favorable conditions to allow the flow of water to progress with minimal damage.

Mr. Palmer discussed the impact to County roads including the closure of County Road A012 in the northern part of the County. Mr. Palmer stated every district in the County had experienced road problems as a result of heavy rains.

Chair Powell recessed the Regular Meeting at 10:22:51 AM and reconvened at 10:34:02 AM.

24. Proclamation for Grant Dean

Ms. Taylor presented the proclamation to recognize Grant Dean and memorialize his assistance to Lincoln County during times of catastrophic emergencies including the 2012 Little Bear Fire.

Motion: Approve the Proclamation for Grant Dean, **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Doth.

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

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

13. JRP Master Builders Presentation

James Parker of JRP provided a status report for the Courthouse/Sheriff's Office Complex Expansion. Mr. Parker discussed the preference of JRP to use local subcontractors. Mr. Parker stated outside work was delayed somewhat due to rain but inside work continued to progress.

Commissioner Draper questioned if there had been any major issues other than rain delay. Mr. Parker noted due to the age of the building there were some "unforeseens" but these were not insurmountable.

Chair Powell reminded the County preferred projects to be on time and under budget. Ms. Taylor stated Basic IDIQ and JRP were holding weekly meetings to provide status updates on the construction project.

Mr. Parker also informed JRP had begun the project to build the new Fort Stanton Fire Station. Mr. Parker stated due to the historical nature of the site any excavation required oversight by the State Archeologist. Mr. Parker stated the excavation was completed with no findings which would delay the project.

12. Systems MD Presentation – Lior Glikshtern

Lior Glikshtern, Lead Systems Engineer for Systems MD provided a detailed written summary of the County's current Information Technology (IT) network and the proposed solution to reconfigure and upgrade the entire County IT network.

Mr. Glikshtern stated Systems MD would begin establishing the new network next week. Mr. Glikshtern informed the intent was to create a secure network which would allow the sharing of data, access to data from off-site users, and ongoing backup and disaster planning.

Commissioner Stone questioned why the Sheriff's office was on a separate network. Sheriff Shepperd informed of the federal requirement for access to data acquired by the Sheriff's office to be additionally protected from unauthorized users.

Commissioner Draper questioned how long the new system would be sustainable. Mr. Glikshtern informed based on a 20% data growth factor, the system had an estimated eight year life before a need might arise to upgrade servers and storage.

18. Renewal of Lease Agreement Ruidoso Downs Senior Center

Attorney Morel presented the Cooperative Agreement and Lease for the Ruidoso Downs Senior Citizens Center for a period of ten years beginning October 21, 2013 to October 21, 2023. Attorney Morel stated the terms and conditions were the same as set forth in the original agreement between the County and the City of Ruidoso Downs including a \$1.00 lease amount which was appropriate for a government to government lease.

Commissioner Minter questioned a provision which referenced the use of a City of Ruidoso Downs van. Michelle Caskey, Fixed Assets confirmed currently there were two County owned vans in use at the site. Attorney Morel stated he would revise the agreement to remove the outdated reference and reflect County ownership and maintenance of the vans.

Motion: Approve the Lease Agreement for the Ruidoso Downs Senior Center with the revision as discussed. **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.

19. Resolution 2013-14 Adopting Revisions to Resolution 2010-34 of the Indigent Claims Policy Limits Payable from the Lincoln County Indigent Healthcare Fund

Attorney Morel presented two proposed Resolutions the first of which would set Lincoln County IHC income limits at 200 percent of the Federal Poverty Level (FPL) and the second utilizing Income limits of 180 percent of the FPL. Attorney Morel commented LCMC currently utilized the 200 percent poverty levels for their sliding scale program.

Attorney Morel stated both Resolutions included a new category of payment for Physical Therapy with a payment cap of \$3,000 and an Air Ambulance category with a payment cap of \$1,000.

Commissioner Doth questioned the impact of the change in the poverty level limit to the program. Scott Annala, IHC Administrator recommended the County adopt the 200 percent FPL to be consistent with LCMC's sliding scale. Mr. Annala stated belief the change would not have a great impact on the IHC fund.

Motion: Adopt Resolution 2013-14 with the 200 percent FPL income limits. **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.

SEE EXHIBIT C: Copy of Resolution 2013-14 is attached hereto in reference thereto made a part hereof.

20. Tabled New Medical Provider No. 52; the Ruidoso Physical Therapy Clinic, Inc.

Motion: Remove the item from the table, **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.

Ms. Taylor reminded all requests to receive Indigent Health Care funds must be approved by the Board of Commissioners.

Motion: Approve the IHC Medical Provider Agreement with Ruidoso Physical Therapy Clinic, Inc., **Action:** Approve, **Moved by** Commissioner Stone, **Seconded by** Commissioner Doth.

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

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

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

Ms. Taylor stated Application T-5977 was filed on July 17, 2013 by FNF Construction, Inc. for permit to temporarily appropriate Underground Water not to exceed 10 acre feet per annum from an existing well to be diverted for road construction on Highway 54 with a time period not to exceed one year.

Ms. Taylor informed the Cibola National Forest was one of eight national forests selected to implement the new USFS 2012 Planning Rule. Ms. Taylor stated the Cibola released a tentative Plan Revision Schedule revising its 1985 Forest Plan beginning in 2012 and ending in 2016 with the Final Plan Approval and Final EIS. Ms. Taylor stated she had informed LANRAC members they might be assigned oversight of this initiative.

Chair Powell requested a letter to Ranger Lessard asking her to rescind the order removing permitted grazing on the Cibola.

Ms. Taylor provided copy of a letter sent to the U.S. Fish and Wildlife Service as a result of discussion at the Special Meeting of September 9, 2013 informing of the County's intent to enter into a Memorandum of Understanding (MOU) in order to participate as a cooperative agency for the Environmental Planning of the Mexican Wolf Recovery Program. Ms. Taylor provided additional information regarding three related items currently out for review along with the dates for Public Hearing and Public Comment. Ms. Taylor further provided copy of a stakeholder letter to the USFWS requesting a number of actions be taken as requested at the last meeting.

Ms. Taylor reported the three counties which planned to propose language changes to the MOU were making suggestions to accommodate NEPA Ordinances enacted by each of those counties.

Chair Powell expressed concern about water right transfer notices not being posted to the State Engineer's website. There was a general consensus to send a letter of concern to the State Engineer about the non-posting of water right transfer notices to the website for potential comment.

22. Lodger's Tax Audit Random Draw

Ms. Taylor stated Lincoln County Ordinance 2004-04 required an annual random audit of "one or more vendors" to verify the amount of gross rent subject to lodger's tax.

Ms. Taylor reminded the County traditionally drew from two pools, one for small lodgers and another for larger entities. Ms. Taylor also reminded lodger's who were audited in the prior year were removed from this year's pool selection.

Chair Powell drew for the audit from both the small lodger's pool and the large lodger's pool.

23. Designation of Polling Places for Precincts by Resolution 2013-15

Rhonda Burrows, Clerk stated NM State Statute 1-3-2 required the Board of County Commissioners to designate by resolution the polling places for the upcoming 2014 Primary and General Elections. Ms. Burrows stated NMSA 1-3-4D provided for consolidation of precincts to accommodate Vote Center voting. Ms. Burrows reminded vote centers were utilized with success during the 2012 election cycle. Ms. Burrows reported feedback from voters and related election organizations regarding vote center voting was positive overall.

Motion: Adopt Resolution 2013-15, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Draper.

Commissioner Draper questioned if the planned construction at the Capitan Schools might prove to be a problem for that vote center location. Ms. Burrows stated awareness of the plans for construction on the school campus. Ms. Burrows noted the entire campus was designated as a polling location allowing some flexibility and commented that should there be an insurmountable problem with construction the Clerk may by State Statute obtain a District Court Order to relocate the polling site.

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

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

SEE EXHIBIT D: Copy of Resolution 2013-15 is attached hereto in reference thereto made a part hereof.

25. Consideration and Action on the Infrastructure Capital Improvement Plan (ICIP)

Ms. Taylor presented a revised ICIP list based on recommendations from the August 20, 2013 Regular Meeting. Ms. Taylor reported working with the Department of Finance and Administration to populate the State ICIP Data Base with the information to meet the deadline for submission of September 30, 2013.

Ms. Taylor stated projects and estimated costs were currently listed as follows:

- | | |
|-------------------------------|-----------|
| 1) Detention Center Expansion | \$500,000 |
|-------------------------------|-----------|

2)	New Hondo Fire Station	\$300,000
3)	Live Fire Training Facility	\$500,000
4)	Tower on Sheriff's office	\$100,000
5)	Improvements to Fairgrounds Existing Facilities	\$120,000
6)	Improvements to Fairgrounds Water Crossings	\$318,000 - \$1,370,000
7)	Expand White Oaks Fire Station	\$152,000
8)	Repair the Glencoe Bridge	\$500,000
9)	Energy Audit Improvements to County Offices	\$165,000
10)	New Road Yard	\$560,000
11)	Fire Station Water Holding Tanks	\$ 30,000

Commissioner Doth questioned if recent rains had impacted the water crossing at the fairgrounds. Carl Palmer, Road Department noted there was overflow but the current culverts were handling the run off. Commissioner Doth suggested ongoing monitoring of flow in the area to provide a historic understanding of water levels to assist with a decision as to the type of crossing needed.

Commissioner Doth questioned the cost of contracting out the housing of inmates versus the cost of expansion of the Detention Center. Ms. Taylor informed one factor to consider in contracting out housing was the cost of transport. Ms. Taylor stated costs provided by neighboring counties were fairly expensive.

Commissioner Stone stated belief the final use of the fairgrounds property should be determined prior to requesting funding for improvements. Commissioner Stone expressed support for expansion of the Detention Center based on the opportunity to house Federal prisoners. Commissioner Stone suggested the Live Fire Training Facility be lowered on the priority list.

Commissioner Draper questioned if the Capitan Schools wished to acquire the adjacent County Road Yard property for their expansion. Commissioner Draper noted several of the projects were interrelated and dependent on the final determination of use of existing County Property land. Commissioner Draper expressed support for the Detention Center expansion and suggested the Energy Audit be moved up the priority list.

Chair Powell reminded the State legislature typically considered the top three priorities for potential funding and the remaining items were more typically utilized for County planning.

Commissioner Minter suggested moving the White Oaks Fire Station up the priority list to number three and requested the cost for the top three priorities be identified. Commissioner Minter commented on some current live fire training facilities in the County and discussed the advantages to sending personnel for training in Socorro.

The Board of Commissioners approved the top five priorities on the list as follows and to authorize the Manager to update estimated costs with notification to the Commissioners:

1)	Detention Center Expansion	\$500,000
2)	New Hondo Fire Station	\$300,000
3)	Energy Audit Improvements to County Offices	\$165,000
4)	Tower on Sheriff's office	\$100,000
5)	Expand White Oaks Fire Station	\$152,000

26. Consideration and Action on Angus Church of the Nazarene Request for Variance of Ordinance No. 2006-6, Lincoln County Outdoor Advertising Regulation Ordinance

Attorney Morel discussed the Ordinance language which provided for an application for a variance. Attorney Morel informed the Ordinance required a public hearing prior to approval of any variance should the Board of Commissioners wish to consider the application. Attorney Morel noted this variance was required due to the proposed sign's display of moving lights and images.

Rick Hutchinson, Pastor of the Angus Church submitted the application for a variance. Pastor Hutchinson discussed the Church's request to install the digital sign to not only inform of church activities but to be utilized to post community service notices for the surrounding residents in partnership with the County Emergency Services Department.

Attorney Morel commented the Ordinance also required adjacent property owners be notified in addition to the public hearing.

Motion: Schedule the public hearing to Consider the application for variance as required by Ordinance 2006-6, **Action:** Approve, **Moved by** Commissioner Stone, **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. Authorization to Schedule Public Hearing to Consider Other Outdated or New Lincoln County Ordinance

Public Hearing scheduled as per Agenda Item 26.

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

a) LANRAC

Motion: Reappoint Douglas Fuqua, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Stone.

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

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

b) Lincoln Historic Preservation Board

Motion: Reappoint Melissa Boute, **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.

c) Planning Commission

Motion: Reappoint Mary Dokianos, **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.

Chair Powell recessed the Regular Meeting at 11:54:19 AM and reconvened at 1:00:11 PM.

Chair Powell recessed the Regular Meeting and convened the 1:00 PM Public Hearing at 1:01:07 PM.

28. 1:00 P.M.: Public Hearing to consider amending Ordinance 2002-08 An ordinance requiring a certificate issued by the Lincoln County Treasurer establishing that Property Tax Obligations are current prior to any subdivision plat or claim of exemption approval by the County of Lincoln with Ordinance 2013-05.

Ms. Taylor requested the item tabled until the next meeting pending additional revisions of the current Ordinance.

Chair Powell adjourned the Public Hearing and reconvened the Regular Meeting at 1:02:09 PM.

Motion: Continue the Public Hearing to consider amending Ordinance 2002-08 until the next Regular Meeting on October 15, 2014 at 1:00 PM. **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Doth.

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

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

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

a) **Consideration of Entering into MOU with US Fish and Wildlife Services and other Arizona / New Mexico Counties Re: Development of the Mexican Wolf Environmental Impact Statement (EIS)**

Ms. Taylor discussed the difference between participating as cooperating agency or a coordinating agency which required a higher level of knowledge and commitment for participation. Ms. Taylor stated Attorney Morel recommend proceeding as a cooperating agency by signing the MOU.

Motion: Approve the MOU with US Fish and Wildlife Services in cooperation with Howard Hutchinson and the Coalition of Counties, **Action:** Approve, **Moved by** Commissioner Stone, **Seconded by** Commissioner Doth.

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

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

31. Signing of Official Documents

30. 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 – Casa del Cocinero
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.
3. *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. Sale of property reported by county treasurer with liens satisfied.
4. *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. Stipulated notice of dismissal with prejudice 8/20/13.
5. *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. Sale confirmed 12/8/11.
6. *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.
7. *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. Deficiency Judgment filed 5/2/13 in favor of NM Ranch Sales
8. **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. Report of sale 6/12/12; release of lien, county payment of taxes and sale of property confirmed by county assessor and Bank of Clovis
9. **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. Deficiency Judgment in favor of NM Ranch Sales filed October 4, 2012.
10. *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. Waiting on courtdate.
11. **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. Notice of sale scheduled 9/17/13.

12. *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.
13. **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. August 21, 2013 was the deadline for GSWA to file its Notice of Appeal. *In the process of scheduling mediation and determining between Walker or White as mediators.
14. **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 8/29/13.
15. **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. Partial Release of Lien is on file.
16. *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.
17. **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. *June 17, 2013 Trial continued - Defendant given 60 days to complete clean up of property. Non-Jury hearing set for 10/1/13.
18. ** 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. Waiting on court to assign new judge 8/27/13.
19. ** 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.
20. **State of New Mexico (Lincoln County) v. Erma Jim (need approval to proceed with filing of Complaint prepared by Deputy David Hightower for possession of a Samsung cell phone with a charged cell phone battery contrary to L.C. Ordinance No. 2011-01.*
21. **State of New Mexico (Lincoln County) v. Leandra Pino (need approval to proceed with filing of Complaint prepared by Deputy David Hightower for possession of a Samsung cell phone with a charged cell phone battery contrary to L.C. Ordinance No. 2011-01.*
22. **State of New Mexico (Lincoln County) v. Michael Mitchell (need approval to proceed with filing of Complaint prepared by Deputy David Hightower for possession of a Samsung cell phone with a charged cell phone battery contrary to L.C. Ordinance No. 2011-01.*

Tort Claims Notices Received or Threatened

2013

Harrisburg Document Issues: Attempts to recover historical county documents illegally taken from the county.

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 - 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.

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.

Action: Approve, **Moved by** Commissioner Doth, **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 1:36:58 PM.

Chair Powell adjourned the Closed Session and reconvened the Regular Meeting at 2:37:54 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.

32. Next meetings:

October 15, 2013 - Regular Commission Meeting

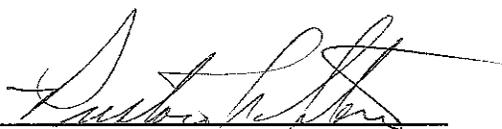
33. Adjournment

There being no further business to come before the Board of County Commissioners, Chair Powell adjourned the meeting at 2:38:21 PM.

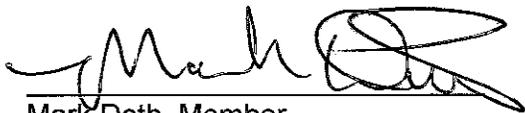
County of Lincoln
Board of County Commissioners



Jackie Powell, Chair

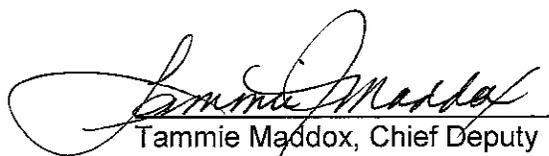


Preston Stone, Vice Chair



Mark Doth, Member

ATTEST:



Tammie Maddox, Chief Deputy
County Clerk

Dallas Draper, Member



Kathryn Minter, Member

October 15, 2013
Date Approved

