

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, October 15, 2013

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on October 15, 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 8:35:32 AM.

2. Roll Call

Roll Call.

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

Absent: Commissioner Draper.

Others present included Nita Taylor, County Manager; Alan Morel, County Attorney; and Tammie J. Maddox, Chief Deputy County Clerk.

3. Invocation

The invocation was presented by Commissioner Stone.

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 Doth, **Seconded by** Commissioner Minter.

Vote: Motion carried by unanimous vote (**summary:** Yes = 4).

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

6. Approval of Minutes

Motion: Approval of September 9, 2013 Special Meeting and September 17, 2013 Regular Meeting Minutes as presented. **Action:** Approve, **Moved by** Commissioner Minter, **Seconded by** Commissioner Doth.

Vote: Motion carried by unanimous vote (**summary:** Yes = 4).

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

7. Approval of Consent Agenda

Motion: Approval of Consent Agenda items as presented. **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Minter.

Vote: Motion carried by unanimous vote (**summary:** Yes = 4).

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

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month ending September 30, 2013

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

8. Greentree Solid Waste Authority (GSWA) Update

County Manager Nita Taylor presented the update from Greentree Solid Waste Authority in the absence of Operational Supervisor Debra Ingle. Ms. Taylor reported the minutes of the Authority's last meeting of August 22, 2013 were provided for review. Ms. Taylor stated the next meeting was scheduled for October 22, 2013; however, the agenda was not available. Ms. Taylor reported a public hearing notice for discussion of Special Service Rates, which does not include the regular monthly rate, was posted on the GSWA website for the October 22, 2013 meeting.

Ms. Taylor reported the mediation between GSWA and the County of Lincoln was scheduled for Monday, November 11, 2013 at 9:00 AM.

10. Consideration/Approval or Disapproval of Indigent Health Care Claims

In the absence of Scott Annala, IHC Administrator, Ms. Taylor presented the Sole Community Provider/Lincoln County Medical Center claims for approval. Ms. Taylor reported that Mr. Annala processed 61 claims with 54 recommended for approval and 7 recommended for disapproval for a total authorization of \$127,647.56.

Ms. Taylor reported Mr. Annala submitted the following Indigent Health Care Payments request for the month. Ms. Taylor reported that Mr. Annala processed 56 claims with 46 recommended for approval and 10 recommended for disapproval. Ms. Taylor reported that Mr. Annala stated the total of claims recommended for payment for the month was \$16,541.80 for a year to date total of \$85,680.55. Ms. Taylor stated that Mr. Annala had noted the average monthly indigent claims to date were \$21,420.14.

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 Minter, **Seconded by** Commissioner Doth.

There was minimal discussion and Mr. Annala arrived at the meeting to clarify some of the claims presented for payment.

Vote: Motion carried by unanimous vote (**summary:** Yes = 4).

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

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

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

Ms. Taylor presented the information and discussion of water right notices, forest health, and Game and Fish.

Ms. Taylor reported a Water Rights Notice was posted on the State Engineer's website on October 9, 2013. Ms. Taylor reported the notice was for a permit to "Temporarily Change Surface and Supplemental Groundwater Points of Diversion and Change Place and Purpose of Use in the Hondo Underground Water Basin in the State of New Mexico." Ms. Taylor reported the applicant proposed to discontinue the diversion of 203.125 acre-feet per annum of the surface waters of the Rio Bonito via the Kirkland Ditch and to temporarily commence the diversion of 203.125 acre-feet per annum of the surface waters of the Rio Ruidoso, and supplemental shallow groundwater, from multiple points of diversion for municipal purposes within the Village of Ruidoso. Ms. Taylor stated the temporary lease and permit period would begin as of the filing date of the application and extend through October 31, 2021. Ms. Taylor stated the authorized points of diversion and place of use were located in Hondo, NM; the move to points of diversion and place of use were located within the Village of Ruidoso, NM.

Chair Powell stated the County should take a firm stand against the Village of Ruidoso diverting water from the Rio Bonito. Chair Powell stated taking water from one watershed and diverting it to another set a bad precedent and should not have been considered.

Motion: To send a strong letter of objection to the State Engineer regarding taking water from one watershed and diverting it to another as setting a bad precedent which should not have

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

Vote: Motion carried by unanimous vote (**summary:** Yes = 4).

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

- a. Consider Submittal of Comments regarding EPA Wetlands Guidance Regulations: Deadline November 6, 2013

Ms. Taylor reported the EPA's Science Advisory Board had released for public comment a draft scientific report, "Connectivity of Streams and Wetlands to Downstream Waters: A Review and Synthesis of the Scientific Evidence." Ms. Taylor stated the draft report synthesized more than 1,000 peer-reviewed pieces of scientific literature about how smaller, isolated water bodies were connected to larger ones and represented the state of the science on the connectivity and isolation of waters in the United States. Ms. Taylor stated the final version of the report would serve as a basis for joint EPA and Army Corps of Engineers rulemaking, resulting in "Guidance Regulations", which would clarify the jurisdiction of the Clean Water Act. Ms. Taylor stated per EPA, this joint rule would provide greater consistency, certainty and predictability nationwide by providing clarity for determining where the Clean Water Act applied and where it did not. Ms. Taylor stated that Per the American Land Rights Association, the EPA and Army Corp were attempting to:

- a. Neutralize the requirement that the EPA and Corps have jurisdiction over "Navigable Waters" [only];
- b. Gain jurisdiction over all waters of the United States, and all activities affecting all waters of the United States;
- c. Regulate waters now considered entirely under state jurisdiction.

Ms. Taylor stated a public docket had been opened to receive comments by November 6, 2013. Ms. Taylor reported comments would be provided to the Scientific Advisory Board (SAB Panel for its consideration in advance of its December 16-18, 2013 meeting.

Motion: Send a letter of protest to the Scientific Advisory Board, New Mexico Governor and Congressional Delegation and work with the Arizona/New Mexico Coalition of Counties to protest this action and keep it under local control. **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Doth.

Vote: Motion carried by unanimous vote (**summary:** Yes = 4).

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

12. Consideration/Action on Contracts with South Central Mountain RC&D

- a. Project Manage NRCS Award 68-8C30-13-001
- b. Project Manage ENMRD WUI/Hazardous Fuels Reduction Project – Cedar Creek NFL – Project No 14-05-1156

Ms. Taylor requested approval to enter into the two agreements with SCMRCD to manage two forest health projects. There was extensive discussion concerning the Federal budget shutdown and the length of the project. Chair Powell stated the County should send a formal request to extend the timeline of the projects for the length of the Federal budget shutdown.

Motion: Approve the Project Manage NRCS Award 68-8C30-13-001 and Project Manage ENMRD WUI/Hazardous Fuels Reduction Project – Cedar Creek NFL-Project No 14-05-1156 and make a formal request for the extension as discussed. **Action:** Approve, **Moved by** Commissioner Stone, **Seconded by** Commissioner Minter.

Vote: Motion carried by unanimous vote (**summary:** Yes = 4).

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

13. Consideration/Action on Proposed Lincoln County all Hazard Incident Management team

Ms. Taylor presented the request to formalize the establishment of the Lincoln County All Hazard Incident Management Team (AHIMT). Ms. Taylor introduced Spencer Baldwin, Emergency Services Coordinator, to summarize the proposed Team.

Mr. Baldwin stated the Lincoln County All Hazard Incident Management Team would fill a gap in the Incident Command System (ICS) organization from the on-scene local Incident Commander to the Type-3, 2, or 1 Teams which may be called in to manage an incident within the County. Mr. Baldwin stated filling this "gap" in the system decreased possible safety issues for personnel and the citizens that were to be protected. Mr. Baldwin discussed the control of expenditures,

accountability of personnel and resources, and the recorded documentation of the incident would provide a smooth and safer transition in the event another Incident Management Team was requested to oversee the incident. Mr. Baldwin requested support for the development of an AHIMT before further research and development was completed.

Mr. Baldwin responded to questions concerning implementation, training and budget issues. Mr. Baldwin stated the proposed budget was minimal and most of the training could be accomplished online at no charge to the students. Mr. Baldwin stated there would be some expense for the incident command requirements but that was the largest portion of the budget which was essentially, as stated before, minimal.

Mr. Baldwin listed the proposed Command Staff: Joe Kenmore, Director of the Emergency Operation Center; Spencer Baldwin, Incident Commander; Curt Temple, Deputy Incident Commander; two volunteer firefighters as Safety Officers; Village of Ruidoso, for Planning; and the County Finance Department for Finance. Mr. Baldwin stated these were the basic core members and after the core team members were trained then more team members could be identified. Mr. Baldwin stated the County could draw on many organizations for help and assistance when needed, but the core team should be fully trained in order to facilitate management of an incident.

Commissioner Doth discussed that hazards could include significant amounts of snow and freezing temperatures and believed these were underemphasized in the plan presented. Mr. Baldwin agreed and stated the intent was to have a well-rounded all-hazards team.

Chair Powell discussed the various trainings offered and finding organizations which provided beneficial opportunities. Mr. Baldwin stated there was a weeklong training sponsored by an All-Hazards Incident Group that was intensive and universal so that all aspects of a hazard incident were covered for each section of expertise.

Motion: Approval of the establishment of the Lincoln County All Hazard Mitigation Team.
Action: Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Minter.

There was extensive discussion concerning the cost of training the team members at the Utah All-Hazards Training Conference. Curt Temple, Planning Director, stated the costs of airfare and training were covered by the Emergency Management Institute. Mr. Temple stated there was a meal site at the hotel; however, there would be costs involved with incidentals and transportation. Mr. Temple stated these costs would be covered by existing travel budgets.

Vote: Motion carried by unanimous vote (**summary:** Yes = 4).

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

16. Consideration/Action on Resolution 2013-17 to Trade-In Four Obsolete Cardiac Monitors

Michelle Caskey, Assets and Information, presented the request for approval of Resolution 2013-17, allowing the trade-in of obsolete cardiac monitors towards purchase of new ones. Ms. Caskey stated the Lifepak 15 Cardiac Monitors were over 10 years old and service/repair support was terminated on October 31, 2012. Ms. Caskey stated EMS would return these obsolete cardiac monitors to Physio-Control with a value of \$5,000 for each trade-in.

Motion: Adopt Resolution 2013-17 as submitted. **Action:** Approve, **Moved by** Commissioner Minter, **Seconded by** Commissioner Doth.

Vote: Motion carried by unanimous vote (**summary:** Yes = 4).

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

SEE EXHIBIT C: Copy of Resolution 2013-17 is attached hereto in reference thereto made a part hereof.

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

Commissioner Minter reported on the State Transportation Improvement Plan that affected Lincoln County. Commissioner Minter reported on planned maintenance work on Highway 54, Highway 70 through Hondo, and Highway 380. Commissioner Minter reported approximately 20 million was allocated for the projects within Lincoln County.

Larry Holt, Volunteer Coordinator, Fort Stanton Cemetery, requested support for the Fort Stanton Cemetery as one of the first regional Veteran's cemetery in New Mexico. Mr. Holt

stated Governor Martinez announced on July 1, 2013 a plan to bring State veterans cemeteries to rural areas of New Mexico. Mr. Holt stated the New Mexico Department of Veterans' Services would initially submit applications for 3 or 4 locations in New Mexico to the Department of Veterans Affairs, Washington DC no later than July 1, 2014. Mr. Holt listed several points on why the Fort Stanton Veterans Cemetery should be designated as a State Regional Veterans' Cemetery. There was a general consensus from the Board of Commissioners to support the request.

14. **Manager's Report**

1. **HATS OFF...To Rachel Monreal.** Rachel Monreal, Lincoln County Finance Officer, took the initiative to investigate billing issues she considered to be out of the ordinary. Ms. Monreal drew on resources outside of County records to conduct an in depth audit, enabling the Manager and Attorney to further work with the vendor to ensure accurate billing was being issued to the County. Her efforts were over and above her normal scope of work, and for that, we tip our hats.
2. **Forest Health Funding Initiatives.** Work continues to progress on a number of funding initiatives:
 - a. **NRCS EWP Grant - \$194,947; 25% County (landowner) Match.** The Cooperative Agreement was signed by County Manager and NRCS representative on September 19th. Provided for review were the Notice of Grant and Agreement Award; excerpts from the Agreement illustrating the costs approved the amount that could be spent on Technical Assistance; a summary of the 4 projects; budget information; and the Release of Liability and Indemnity agreement. The Manager reported the bid packet for the Angus Church Project was ready to be advertised, but must be signed off on by NMRC personnel, who were currently impacted by the federal government shut-down. Projects must be complete by January 7, 2014, however, an opportunity exists to amend the end date if requested 60 days prior to the expiration date.
 - b. **FEMA - NM Homeland Security Grant - \$3.5 Million.** The final application was received by NM Department of Homeland and Emergency Management on September 27th. NMDHSEM is the Grantee and Lincoln County is the Sub-Grantee. Once it meets the approval of NMDHSEM, it will be formally sent to FEMA.
 - c. **2012 Lincoln County WUI** – of the \$255,000 grant, approximately \$150,000 remains
3. **FY13 Audit.** Accounting and Consulting Group, LLP met with County representatives on Friday, October 11th to conduct an Exit Interview. An Unqualified report was issued for both the Financial Statements and the Federal Awards. Feedback provided disclosed 6 findings; 2 of which were Repeated/Modifications of last year's findings; and two were considered material weaknesses. Staff is in agreement with Accounting and Consulting Groups' recommended fixes, and is already in the process of incorporating recommendations into best practices. Of the seven findings in last year's audit, 5 have been resolved. All of staff whose job duties are subject to audit take very seriously the impact their work has on county operations and tasks are completed with the goal of following county practices. Each has worked hard to minimize circumstances of non-compliance. If county practices require modifications, it is up to each of us to have a role in developing the fix, obtaining proper approvals, and implementing new processes. Details of these findings will be provided to the Commission and the public once formal steps have been taken to ensure the State Auditor's approval of the audit.
4. **eNew Mexico Health Affiliate Meeting.** Manager and Indigent Health Care Coordinator attended the Healthcare Affiliate Meeting in Ruidoso during the first week in October. Of key concern for the affiliate in general and each county specifically was the process of meeting the financial obligations tied to providing proper funding to their individual hospitals for healthcare for the low income and indigent. Affiliate members were 100% opposed to the state-suggested fix to intercept each county's 2nd 1/8 GRT to redistribute to hospitals in need. To help members better understand the portion of the fix relating to the provision/requirement for all citizens to purchase health insurance, a representative from the New Mexico Health Insurance Exchange (NMHIX) presented an overview of the program. Finally, the NM Association of Counties (NMAC) is asking for county governments to help implement outreach and education events throughout the state to inform individuals and small businesses about the NMHIX program, and is offering grants to each county in the amount of \$3,000 to assist with that effort. Unless directed otherwise by the Commission, Manager will submit Grant Application to NMAC.
5. **LCMC Update.** At the July, 2013 final budget meeting, the Commission approved SCP and other funding for LCMC. The approval consisted of an arrears amount for FY12-13

due to an unanticipated shortfall in federal matching funds to the hospital. In addition, the Commission approved 1.2 million for its SCP match and other funds requested by LCMC. With the approval the Commission also required the development of reporting requirements for LCMC. Manager has requested monthly detail rather than only year-to-date detail, as some comparison can be done with the formal reports provided by the Indigent Health Care Coordinator. Manager and IHC Coordinator will review report in detail and may make further recommendations to LCMC and Commission. Input is requested from the Commissioners.

6. Building Updates.

- a. **LCMC Physician's Office Building (POB).** Work on the POB is expected to be complete by mid-October, enabling move-in activities shortly following; Grand Opening is scheduled to be on November 21st from 3 – 5 PM. A slight stumbling block has been the taking over of the inspection by NM Construction Industries Division from the Village of Ruidoso. However, as promised, this project is going to complete on time (ahead of time) and on budget (below budget). Representatives from Dekker/Perich/Sabatini and Janyes Corporation will provide a final presentation to the Commission at its November meeting.
- b. **Lincoln County Courthouse/Sheriff's Expansion.** Work is continuing on the courthouse expansion. Solutions are being identified and decisions made regarding the replacement of water and sewer pipes, the completion of the Sheriff's evidence room, freeing up space for the new restrooms, sound and safety requirements for the Court, etc. Basic IDIQ is hosting weekly meeting with participants to ensure progress is smooth and timely.
- c. **Ft. Stanton Fire Station.** Work has commenced on the site for the Fire Station. The concrete has been poured and inspected; the building ordered.
- d. **Carrizozo Senior Center.** The County has formally received the CDBG Grant. Commissioner Powell signed the necessary paperwork and the fully executed copy should be returned this week. At that point, our architect will work closely with SNMEDD to develop the RFP for construction and release it as soon as practicable.

7. **MOU with Village of Ruidoso: Permitting and Inspections** – Mr. Morel will provide a summary of progress made on the MOU. Progress has slowed somewhat with the resignation of The Village of Ruidoso's Certified Building Inspector, leaving the Village short of the entire inspection team required by law to provide such inspections. Efforts are underway to train an existing employee to fill that role and to hire additional employees.

8. **Update from Lincoln County Emergency Services Director.** Joe Kenmore reported on recent windy weather trends that required "no burn" bans be put in place on several occasions. Also OEC team attended "Unified Command" training at Ruidoso Fire Dept. ICS 300 and 400 classes will be taught, by instructors Joe Kenmore and Matt Ford, Roswell Fire, at the County OEC during the week of November 4th through 8th. County employees are completing prerequisite training to be able to attend that training. The Bonito Lake water level is 7' below the spillway; City of Alamogordo will have a boat on the lake during the week of October 21st to begin core testing.

Discussion ensued concerning the New Mexico Health Affiliate Meeting and concerning the healthcare education funds. There was a general consensus to add a link to the Lincoln County Website for the public to download information provided by the New Mexico Health Insurance Exchange and New Mexico Association of Counties.

Commissioners requested the Lincoln County Medical Center monthly update and financial report only represent County funds and further requested the report be specific for the month and detailed for clinics. Commissioners agreed a monthly detailed report of the sole community provider payments and other funds from the County would be more beneficial than the year to date report that was provided. Scott Annala and Ms. Taylor stated the information requested would be relayed to the hospital administrator.

Curt Temple, Planning Director, further reported the boundary lines for permitting were being worked out but the shortage of staff at the Village had delayed progress. There was discussion on the procedures for staffing, permitting and interworking with the County. Mr. Morel stated he received a draft of the MOU from the Village's attorney that day but it had not been reviewed. Chair Powell stated the attorney should review the information before it was presented to the Commission.

Chair Powell recessed the regular meeting at 10:27:05 AM and reconvened at 10:40:40 AM.

15. Consideration/Action on Resolution 2013-16, amending Resolution 2011-29 2013 Local Road Fund Project/CAP COOP/School Bus

Ms. Taylor introduced Carl Palmer, Road Department Supervisor, to provide information concerning the amendment to Resolution 2011-29.

Carl Palmer Road Department Supervisor, requested modifications to the original plans for spending State Highway Cooperative funding. Mr. Palmer stated original projects were completed at less cost than anticipated and additional projects were identified to enable the Road Department to take full advantage of these funds. Mr. Palmer stated the funds had to be expended by the end of the year. Mr. Palmer explained the projects included striping and freshening up those roads already in the approved project. Mr. Palmer stated a sand seal would be done on the lower portion of Gavilan Canyon. Mr. Palmer stated this would help seal the cracks to keep the moisture from getting under the pavement.

Motion: Adopt Resolution 2013-16 amending Resolution 2011-29. **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Stone.

Vote: Motion carried by unanimous vote (**summary:** Yes = 4).

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

SEE EXHIBIT D: Copy of Resolution 2013-16 is attached hereto in reference thereto made a part hereof.

17. Consideration/Action on Resolution 2013-18 to Amend Lincoln County Purchasing Policy

Alan Morel, County Attorney, presented Resolution 2013-18, Repealing Resolution 2011-25, entitled the "Lincoln County Purchasing Policy" and re-adopting the modified "Lincoln County Purchasing Policy." Mr. Morel stated most changes were clean-up and compliance with The Legislatures adopted Senate Bill 182.

Mr. Morel provided a summary of the changes proposed that included but was not limited to the following:

1. Willful or knowing violation of Purchasing Policy (\$50,000 or less) is a misdemeanor;
2. Willful or knowing violation of Purchasing Policy (more than \$50,000) is a fourth degree felony;
3. Changes the monetary guidelines for various types of purchases and bids;
4. New guidelines for entering into Sole Source Contract;
5. New guidelines for Emergency or Urgent Purchases and Emergency Contracts;
6. New guidelines for "Exemptions" from the Procurement Code.

Mr. Morel noted other minor changes of typographical errors and clarifications.

Motion: Adopt Resolution 2013-18 as presented and corrected. **Action:** Approve, **Moved by** Commissioner Minter, **Seconded by** Commissioner Doth.

Commissioner Doth questioned the informal policy on spending caps before expenditures were brought before the Commission for approval. Mr. Morel observed that if there was a restriction placed on the Manager it should be part of the Purchasing Policy. Ms. Taylor stated it was unknown what the cap amount was, but would research it and bring a proposal back to the Commission.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).

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

SEE EXHIBIT E: Copy of Resolution 2013-18 is attached hereto in reference thereto made a part hereof.

18. Consideration/Action on Resolution 2013-19 for the Formation of a Lincoln County Loss Prevention Committee

Ms. Taylor presented the request for approval of Resolution 2013-19 establishing a Loss Prevention Committee.

Ms. Taylor reminded that at the August meeting the Manager was authorized to enroll the County in NMAC's Risk Awareness Program (RAP). Ms. Taylor stated the RAP required county employee's participation in a 12 to 15 minute safety awareness meeting each week for fifty weeks. Ms. Taylor reported that coincident with the RAP was the need to have a Loss Prevention Committee. Ms. Taylor stated that each department has identified a representative to serve on the Committee and James Chaves with NMAC provided the initial training on September 24, 2013. Ms. Taylor recommended adoption of Resolution 2013-19.

Motion: Adoption of Resolution 2013-19 as presented. **Action:** Approve, **Moved by** Commissioner Stone, **Seconded by** Commissioner Minter.

Vote: Motion carried by unanimous vote (**summary:** Yes = 4).

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

SEE EXHIBIT F: Copy of Resolution 2013-19 is attached hereto in reference thereto made a part hereof.

19. Consideration/Action on Resolution 2013-20 for the 2015 – 2019 Infrastructure Capital Improvement Plan

Ms. Taylor presented Resolution 2013-20, adopting the previously approved fiscal year 2015-2019 ICIP. Ms. Taylor stated the ICIP as previously approved assigned priority to the projects and the resolution formalized the plan for submission to DFA. Ms. Taylor listed the top 5 priorities:

Priority 1)	Expand Detention Center	\$700,000
Priority 2)	Construct New Hondo Fire Station	\$300,000
Priority 3)	Energy Improvements to County Offices	\$165,000
Priority 4)	Relocate Communications Tower	\$100,000
Priority 5)	Expand White Oaks Fire Station	\$252,000

Commissioner Doth noted an increase in the funding request on two of the items. Ms. Taylor agreed and stated some of the original estimates were low and outdated.

Motion: Adoption of Resolution 2013-20 as presented. **Action:** Approve, **Moved by** Commissioner Minter, **Seconded by** Commissioner Doth.

Vote: Motion carried by unanimous vote (**summary:** Yes = 4).

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

SEE EXHIBIT G: Copy of Resolution 2013-20 is attached hereto in reference thereto made a part hereof.

21. Consider/ Adoption of Domestic Violence Awareness Month Proclamation

Representing HEAL and requesting the Proclamation for Domestic Violence Month in Lincoln County were: Brenden Gochenour, Rick Hutchison, Rachel Weber, and Mark Chino. Mr. Gochenour presented statistics on domestic abuse and the efforts of the many who work toward improving victim safety and holding perpetrators of domestic abuse accountable for their actions.

Ms. Taylor read the proclamation in recognition of the important work done by the programs in Lincoln County and proclaiming the Month of October to be National Domestic Violence Awareness Month in Lincoln County.

Motion: Approve the Proclamation as read. **Action:** Approve, **Moved by** Commissioner Minter, **Seconded by** Chair Powell.

Vote: Motion carried by unanimous vote (**summary:** Yes = 4).

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

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

a. Planning Commission

Commissioner Doth stated he would have a nomination at the next regular meeting. No action was taken.

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

Mr. Morel recommended reconsideration of the ordinance which required the Lincoln County Commission name the Chair and Vice Chair of the Planning Commission and consider allowing the Planning Commission to elect their own Chair and Vice Chair.

Motion: Schedule a public hearing on amending Ordinance 2008-05 concerning the Planning Commission Chair and Vice Chair selection. **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Doth.

Vote: Motion carried by unanimous vote (**summary:** Yes = 4).

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

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: Closed Session for the purpose of conducting an 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) as follows:

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. Hearing to rule on plaintiff's motions for cost, sanctions and production of records scheduled Dec. 13, 2013.

*3. *Michael Wheaton v Paul F. Baca, Lincoln County Assessor, et. al.* D-1226-CV-2011-00341. Suit filed October 18, 2011. Notice of Appeal of Final Order of the Lincoln County Valuation Protests Board.-Attorney has agreed to stay the case pending the decision from the Court of Appeals.

*4. *Coble Constructors, LLC, et al v Carl Kelley Construction Ltd. Co, et al.* D-1226-CV-2012-00003. Suit filed January 15, 2012. Complaint to Foreclose Mechanic's Lien. Order granting motion for resetting 4/17/13. Waiting on court date.

*5. **Alto Lakes Golf & Country Club, Inc. v. Barbara Fleming, and Jesus and Maria Guardiola, et al.* D-1226-CV-2011-00044. Suit filed February 18, 2011. Complaint to Foreclose Lien. Counterclaim and Crossclaim suit filed by Washington Federal Savings on September 21, 2012 naming Board of Commissioners of Lincoln County and Lincoln County Solid Waste Authority. *Stipulated and Default Judgment, Decree for Foreclosure, Order of Sale, and Appointment of Special Master, entered by the Court on 8-12-13. L.C.'s lien was not extinguished and is still a valid lien against the subject property. Notice of sale scheduled 9/17/13.

6. *Johnathan Warren v. Lincoln County Detention Center, Emerald Healthcare Systems, et al.* 2:12-CV-01086-CG-LAM. Suit filed October 19, 2012. Complaint for the Recovery of Damages Caused by the Deprivation of Civil Rights.

*7. *Greentree Solid Waste Authority v. Lincoln County, et. al.* D-0101-CV-2013-00104. Suit filed January 9, 2013. Petition for Declaratory Judgment; Preliminary and Permanent Injunction. *Order Granting ALW&SD's Motion for Judgment on the Pleadings and for Summary Judgment entered by the court on 6-15-13. 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. Mediation scheduled with Mr. Walker November 11, 2013.

*8. *Rio Grande-Alameda, Ltd. v Paul Baca, Lincoln County Assessor* D-1226-CV-2013-00005. Suit filed January 9, 2013. Complaint for Refund of Taxes Paid.

Defendant's first motion to dismiss or Summary Judgment filed August 29, 2013, with plaintiff's response filed October 4, 2013.

*9. **Washington Federal Savings v. Timothy Rose; Chanda Rose; and Lincoln County D-1226-CV-2013-00105*. Suit filed April 15, 2013. Complaint for Foreclosure. *July 29, 2013 Ltr to Bishop, White, Marshall & Weibel, P.S. advising of payoff amount through Aug. 5, 2013. Lots 139, 169, 170 paid in full. Partial Release of Lien has been delivered and is on file.

10. *Wells Fargo Bank, NA, et al v. Jerry Turner, Board of County Commissioners of the County of Lincoln, New Mexico, et al. D-1226-CV-2013-00129*. Suit filed May 6, 2013. First Amended Complaint for Foreclosure.

*11. *State of New Mexico (Lincoln County) v. Stephen Gore M-30-MR-2013-00113*. Citation filed June 17, 2013. Lincoln County Solid Waste Ordinance 2009-03 Violation. *June 17, 2013 Trial continued - Defendant given 60 days to complete clean up of property. Non-Jury hearing set for October 22, 2013.

*12. *Steven Miller, et al. v. State Forestry Division, NM Energy, Minerals, and Natural Resources Department, County of Lincoln, et al. D-1226-CV-2013-00160*. Suit filed June 15, 2013. Lincoln County Manager and Commissioners served July 9, 2013. Complaint for Negligence, Injury and Damages. *On August 2, 2013, NMAC advised Attorney Bryan Evans has been assigned as counsel for Lincoln County. Peremptory challenge of Judge Angie Schneider filed by Commission Chair Jackie Powell. Judge Jerry Ritter assigned case October 2, 2013.

*13. *Barbara Diane Latham, et al v. Neal Cox, Ben Hazen, Lincoln County Sheriff's Department and the County of Lincoln. D-1226-CV-2013-00191*. Suit filed July 19, 2013. Complaint for Violation of Civil Rights, Wrongful Death and Damages by Attorney Gary Mitchell. LCSO and LC Manager were served on August 5, 2013. Tort Claim Notice was filed on October 27, 2011. Advised NMAC has assigned the case to Brennan and Sullivan Law Firm 9/5/13. Case has been moved to Federal Court.

Tort Claims Notices Received or Threatened

2013

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

Borrego, Albert - Tort Claim Notice received from attorney Gary Mitchell on June 14,

2013, alleging continued harassment to Albert G. Borrego by police while responding to a noise complaint at Mr. Borrego's residence on February 28, 2013, and a separate incident resulting in

Mr. Borrego's arrest on March 5, 2013, due to an outstanding warrant, during which Mr. Borrego allegedly sustained injuries while in custody due to an existing broken back injury.

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

Harrisburg Documents- Attempts to recover Lincoln County documents illegally taken from the county

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** Chair Powell, **Seconded by** Commissioner Doth.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).

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

Chair Powell recessed the regular session convened the closed session at 11:21:43 AM.

Chair Powell adjourned the closed session at 12:05 reconvened the regular session at 1:00:18 PM.

Chair Powell recessed the regular meeting and convened the public hearing at 1:01:12 PM.

22. **1:00 P.M.:** Continue 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.

Mr. Morel presented Ordinance 2013-05 "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; Repealing Ordinances in Conflict; Providing for the Severability of Parts Hereof; and Providing an Effective Date and Repealing Ordinance No. 2002-08."

Mr. Morel explained the amendments to the Ordinance and read the new paragraph as follows:

"NM SB406 requires all taxes, penalties, interest and fees be paid in full through the taxable year in which a property is divided or combined prior to filing a plat. Prior to any division or combination of property, or the filing of same, the Lincoln County Assessor or his designee must certify all taxes, penalties, interest and fees are paid in full. After signature, the Assessor's certification will be valid for a period of thirty (30) days or December 31 of the current year."

Chair Powell opened the discussion to Commissioners and members of the public.

There being no further comment Chair Powell closed the public hearing and reconvened the regular meeting at 1:04:14 PM.

Motion: Adopted Ordinance 2013-05 as presented. **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Minter.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).

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

SEE EXHIBIT H: Copy of Ordinance 2013-05 is attached hereto in reference thereto made a part hereof.

27. Consideration/Action of County Manager Contract Renewal

Mr. Morel presented the potential renewal of the County Manager's contract. Mr. Morel stated Nita Taylor had been with the County for two years and in accordance with Section 5, the Board of County Commissioners may negotiate a new contract or elect to terminate the agreement.

Mr. Morel discussed extending the contract for another year with a potential increase to the County Manager's salary.

Chair Powell agreed a raise was in order for the Manager, but did request to receive the Manager's Reports earlier in order to review them before the meeting. Chair Powell recommended a total \$5,000 raise to the current annual salary of \$85,000. Chair Powell stated Ms. Taylor went over and above the job requirements and expressed belief she had provided good service and leadership to the County. Commissioner Doth agreed with comments that the Manager did a great job, but voiced concern about the state of the economy. Commissioner Doth suggested a 3% raise; the same as the County employees received.

Commissioner Minter pointed out that Ms. Taylor had done a good job in developing staff and going to meetings representing the County. Commissioner Minter agreed with either amount and extended appreciation to Ms. Taylor for the hard work she had put forth for the County.

Commissioner Stone stated Ms. Taylor had done an outstanding job and he had great respect for her. Commissioner Stone supported the \$5,000 raise.

Motion: Approved the renewal of the contract with Ms. Taylor with a \$5,000 raise. **Action:** Approve, **Moved by** Commissioner Stone, **Seconded by** Commissioner Doth.

Vote: Motion carried by unanimous vote (**summary:** Yes = 4).

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

Chair Powell recessed the regular meeting at 1:16:10 PM and reconvened at 1:30:27 PM.

Chair Powell recessed regular meeting and convened the public hearing at 1:30:43 PM.

23. 1:30 P.M.: Public Hearing to consider a Variance from Section 5.A.7 of Ordinance 2006-06 Lincoln County Outdoor Advertising Regulation, disallowing intermittent, moving or flashing lights, or video images. The variance is requested by the Angus Church of the Nazarene.

Mr. Morel stated a public hearing was required to consider a variance from Ordinance 2006-06, Lincoln County Outdoor Advertising Regulation, disallowing intermittent, moving or flashing lights, or video images. Mr. Morel stated Rick Hutchison, representing the Angus Church of the Nazarene, was requesting the variance.

Rick Hutchison, Pastor, stated the digital sign was 4' x 8' and the Angus Church wished to utilize the sign as a community service to the residents and public for messages of caution, information, and crisis as needed. Mr. Hutchison also stated the existing billboard would be removed. Mr. Hutchison further stated the Angus Church was willing to comply with the Night Sky Protection Act and extinguish the lighting by an automatic shutoff device between the hours of 11:00 PM and sunrise.

Chair Powell pointed out the proposed sign was smaller than the current billboard that was on the property.

Curt Temple, Planning Director, reported per ordinance requirement, 120 letters were mailed to property owners within 1000 feet of the property. Mr. Temple stated there were three responses received by mail, two which did not have a problem with the proposed sign and one which was opposed.

Chair Powell opened the discussion to members of the public that wished to speak concerning the proposed variance.

Patricia Dunagan basically stated opposition to the variance. Ms. Dunagan stated the ordinance prohibited this type of sign and it would spoil the natural beauty of area.

Mr. Morel reported of the letters received John Novosad and Danny Watkins supported the variance and Bernard Roth was opposed.

Dan Bolin stated support for the sign and pointed out it would serve a good purpose for caution or alert notifications. Mr. Bolin pointed out the State Highway Department had flashing digital signs along the highway.

Patrice Brazie, Lincoln County News, questioned the brightness of the sign and whether it would be on 24 hours per day seven days per week. Mr. Morel reiterated that the Angus Church had

stated compliance with the Night Sky Protection Act and would turn the sign off from 11:00 PM until sunrise.

Chair Powell stated the sign would be a notification mechanism that the County did not currently have.

Chair Powell adjourned the public hearing and reconvened the regular meeting at 1:46:21 PM.

Commissioner Minter pointed out the proposed sign was preferable to the current sign which was larger and had spot lights pointing upward. Commissioner Minter pointed out the Angus Church facilities were the only FEMA approved evacuation center in the County. Commissioner Minter stated the people she heard from in her district were supportive of the variance, but with the lights out from 11:00 PM to dawn.

Mr. Morel disclosed for the record that Mr. Hutchison was the Pastor of the Angus Church and his wife, Sue Hutchison, was an employee in his law office.

Mr. Morel questioned the wattage of the digital lights and Mr. Hutchison stated this was unknown. Mr. Morel questioned if the lights were mercury vapor lights and Mr. Hutchison stated they were not.

Motion: Grant the variance to the Angus Church of the Nazarene with the conditions the sign would be turned off from 11:00 PM until sunrise daily and the billboard would be removed.

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

Vote: Motion carried by unanimous vote (**summary:** Yes = 4).

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

24. Consideration/Action on ZiaScapes Landscaping Request for Variance of Ordinance No. 2006-6, Lincoln County Outdoor Advertising Regulation Ordinance

Ms. Taylor stated that ZiaScapes Landscaping was requesting a variance from the Lincoln County Outdoor Advertising Regulation Ordinance. Ms. Taylor stated as with the previous item in order to grant a variance certain criteria had to be met by the County and a public hearing had to be scheduled.

Motion: Schedule a public hearing for the November 19, 2013 Commission Meeting to consider the request for variance. **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Minter.

Vote: Motion carried by unanimous vote (**summary:** Yes = 4).

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

20. Review of and Discussion of Funding Alternatives for Construction Costs Relating to Courthouse / Sheriff's Complex Expansion

Ms. Taylor presented the consideration of funding alternatives for the Lincoln County Courthouse/Sheriff's Complex Expansion and requested consideration of adoption of Resolution 2013-21. Ms. Taylor stated the County's financial advisor, First American Financial Advisors, Inc. and investment banking firm RBC Capital Markets (whom the County has used on previous detention center refinancing) had prepared a preliminary study pertaining to the funding of the County building efficiency and judicial complex projects. Ms. Taylor stated there may be benefits for funding the project through the use of a bond issue instead of using the accumulated cash reserves. Ms. Taylor stated there were two steps necessary to determine whether the County desired to utilize the bond issue method of paying for the two projects:

1. In order to maintain the right to do this, without incurring any obligation to issue a bond, the County was required to pass a resolution allowing the County to recoup any costs paid in the last 60 days, as well as any incurred until the County might issue a bond. This proposed resolution was prepared by the Modrall Law firm whom the County had used as bond counsel on all of the previous bond issues.
2. It would be prudent to have the County's financial advisor conduct a full study of the issue, based not only on the numbers but also with input from the County Commission, County Manager, and County Treasurer.

Ms. Taylor introduced Rob Burpo, President, First American Financial Advisors, Inc., to further explain the presentation.

Mr. Burpo discussed the County's planning for several years for these projects and the accumulated \$4,200,000. Mr. Burpo explained the funds saved averaged about \$700,000 per

year for the last six years. Mr. Burpo stated if the County paid cash, then the \$4,200,000 goes away, but the County would still have \$700,000 per year in unallocated income. Mr. Burpo suggested the County could save the \$4,200,000, spend \$544,000 of the yearly unallocated income, and still have an extra \$1,200,000 at the end of the term.

Mr. Burpo explained the County has an unallocated source of revenue generated by the general obligation mil levy of approximately \$3,000,000 that went to the general fund. Mr. Burpo stated that \$700,000 from the \$3,000,000 has been set aside in a savings account for the Courthouse addition. Mr. Burpo explained these funds were a "pledge-able" revenue source because they were mil levy funds. Mr. Burpo detailed the program with the debt paid in 15 years and the County revenue balance after that time would be the \$4,200,000 plus a net income of \$1,195,713.54.

Mr. Burpo reported the next step the County would need to take was to adopt the Reimbursement Resolution provided. Mr. Burpo stated this met the IRS test. Mr. Burpo stated a study would be conducted at no cost to the County to determine the best solution. Mr. Burpo explained they would seek a "revenue neutral" approach to possible funding and income streams. Mr. Burpo stated none of these actions were binding on the County or Commission and if the County decided not to go forward the Resolution would be rescinded.

Commissioner Minter stated opposition to bonding for the facility. Commissioner Minter stated the County was fiscally responsible by saving for the expenditure. Commissioner Minter discussed the volatility of the market and pointed out the interest rate could increase and the County would realize less revenue income.

a. Consideration/Action on Reimbursement Resolution 2013-21

Motion: Adopt Resolution 2013-21 and direct the Manager to have Financial Advisor conduct a full study of the issues. **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Stone.

Vote: Motion passed (summary: Yes = 3, No = 1, Abstain = 0).

Yes: Chair Powell, Commissioner Stone, Commissioner Doth.

No: Commissioner Minter.

SEE EXHIBIT I: Copy of Resolution 2013-21 is attached hereto in reference thereto made a part hereof.

29. **Signing of Official Documents**

30. **Next meetings:**

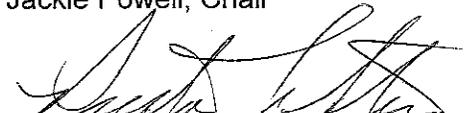
- a. October 31, 2013 Special Meeting to Award Bid for NRCS Project
- b. November 19, 2013 Regular Commission Meeting

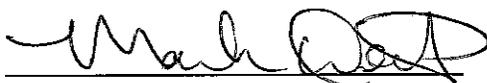
31. **Adjournment**

There being no further business to come before the Board of County Commissioners, Chair Powell adjourned the meeting at 2:21:10 PM.

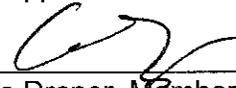
Board of County Commissioners
Lincoln County, State of New Mexico


Jackie Powell, Chair


Preston Stone, Vice Chair


Mark Doth, Member

November 19, 2013
Date Approved


Dallas Draper, Member


Kathryn Minter, Member

ATTEST:

(SEAL)


Rhonda Burrows, County Clerk

