

## COUNTY OF LINCOLN

### New Mexico Regular Meeting Board of County Commissioners

Preston Stone, Chair  
Dallas Draper, Vice Chair

Thomas F. Stewart, Member  
Elaine Allen, Member  
Lynn Willard, Member

#### Minutes Tuesday, August 16, 2016

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on August 16, 2016 in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico.

#### 1. Call to Order

Chair Stone called the Regular Meeting of the Board of County Commissioners to order at 8:28 AM.

#### 2. Roll Call

##### Roll Call.

**Present:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

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

#### 3. Invocation

The invocation was presented by Commissioner Draper.

#### 4. Pledge of Allegiance

- a. Pledge – US Flag
- b. Salute – NM Flag

#### 5. Approval of Agenda

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

**Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

#### 6. Approval of Minutes

- a. July 19, 2016 - Regular Commission Meeting

**Motion:** Approve the minutes of the July 19, 2016 Regular Meeting; **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

#### 7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month ending July 31, 2016
  1. Amended Treasurer's Financial Report for the Month ending June 30, 2016  
Pages 1-3-6
  2. Amended Treasurer's 4<sup>th</sup> Quarterly Report Ending June 30, 2016

3. Amend Resolution 2016-3 Adopting the Final Budget FY 2016-2017 for Lincoln County
  - c. Claunch-Pinto Soil & Water Conservation District
  - d. Agreements to Facilitate Video Arraignment for Lincoln County Detention Center for Magistrate Court in Carrizozo & Ruidoso

Commissioner Stewart stated he would withhold his signature of approval for the Amended Resolution 2016-3.

**Motion:** Approval of the Consent Agenda as presented, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

**SEE EXHIBIT A:** Copies of Consent Items including Amended Resolution 2016-3 are attached hereto in reference thereto made a part hereof.

Chair stone recessed the Regular Meeting and convened the Board of Finance Meeting at 8:45 AM.

#### 8. Board of Finance – County Treasurer Beverly Calaway

Beverly Calaway, Treasurer reviewed the Treasurer's Financial Statement for the month ending July 2016. Ms. Calaway anticipated Lincoln County would receive \$12,144,775 in General Fund revenues for Fiscal Year 2016-2017. Ms. Calaway stated the County would continue to receive a portion of late fees generated from the County Business Retention Tax which expired in December of 2015.

Ms. Calaway discussed the Road Department Fund which reflected budgeted revenues of \$953,148 in addition to \$1,615,883 of transfers from the General Fund. Ms. Calaway reminded Road Department revenues were generated from road permit fees, road co-op agreements, motor vehicle fees, US Forest Service Title I funds, school bus co-op agreements and general co-op road funds.

Ms. Calaway stated Lincoln County received \$734,913 in Fire Protection Funds as the annual distribution from the State Fire Marshal for the Fiscal Year 2016-2017. Ms. Calaway stated this was an increase in funding of \$116,019 from prior years for the eight fire districts in Lincoln County. Ms. Calaway reminded these funds were specifically for the maintenance, purchase, construction, repair and operation of fire stations in addition to expenditures for fire apparatus, equipment and insurance premiums for fire fighters.

Ms. Calaway informed investments included \$3,137,247.51 in Certificates of Deposit, Debt Reserve Requirements, and the Local Government Investment Pool in addition to \$8,800,000 in money market accounts with local banks. Ms. Calaway stated \$9,200,000 was deposited in Lincoln County operational accounts and \$3,200,000 in federal funding was held in a non-interest bearing account as per federal requirements. Ms. Calaway stated the total cash held by the Treasurer as of July 31, 2016 was \$24,015,419.77 with all funds fully vested and collateralized at 102%.

Ms. Calaway directed attention to the Tax Schedule Maintenance Report reflecting \$29,326,552.46 in billed property taxes for 2015. Ms. Calaway stated as of July 31, 2016 the Treasurer's Office had collected 96.11% of the 2015 taxes.

Ms. Calaway reported the State of New Mexico Property Tax Division held a property tax auction on August 4, 2016 and 26 of the 33 parcels eligible had sold for a total of \$42,800. Ms. Calaway stated no bids were received for seven properties and those would return for sale in 2017.

Ms. Calaway anticipated Lincoln County would receive the 2016 Tax Rate Certificate from the New Mexico Department of Finance and Administration on September 1, 2016. Ms. Calaway stated once the rates were reviewed and approved the Treasurer's Office would begin the billing process for the 2016 property taxes.

Ms. Calaway also provided a copy of a spreadsheet titled "General Fund History of Revenues and Expenditures" for the past ten years for reference.

Commissioner Draper questioned if the Treasurer could shift some of the funds deposited in money market funds with local banks to those with higher rates of return.

Ms. Calaway explained NM State Statute required the County to offer local banks a pro rata share of investments and those banks were required only to offer the minimum rate as set by Dunn and Bradstreet.

Chair Stone adjourned the Board of Finance and reconvened the Regular Meeting at 8:50 AM.

**Motion:** Approve the Board of Finance Report, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Willard.

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

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

#### 9. Approval of 2015-2016 Prior Year Invoices

Nita Taylor, County Manager detailed the history of invoices presented for payment for products or services provided in Fiscal Year 2015 -2016 from All American Meat, Inc.; Xerox Corporation; Lincoln Community Church Inc.; Mesa Verde Enterprises, Inc.; and American Linen.

**Motion:** Approve the payment of invoices as presented, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Willard.

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

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

#### 10. Forest, Land & Natural Resources Matters:

##### a. Smokey Bear Ranger District

Ms. Taylor stated Ranger Noel had sent notice of her intent to vacate the District Ranger position due to family obligations. Ms. Taylor stated Anthony Sanchez, Smokey Bear District Fire Management Officer would serve as the Acting District Ranger in the short term.

Anthony Sanchez, Acting District Ranger informed the District would conduct a small prescribed burn on Ski Run Road and a prescribed burn in Coke Canyon. Mr. Sanchez stated since the District had entered into the monsoon season, a large number of fire personnel were deployed to other areas of the country.

Mr. Sanchez reported construction continued on mountain bike trails in the Cedar Creek area with Forest Service personnel receiving a large amount of work and support from EcoServants. Mr. Sanchez stated the funding was in place to create a downhill bike trail in the area.

Commissioner Draper reminded a portion of the Bonito Lake Road was owned by the US Forest Service and expressed a desire to engage the City of Alamogordo and the USFS in discussions about the condition of the road.

Anthony Sanchez stated he would research the issue with the Smokey Bear District's Roads and Lands Officer.

Commissioner Willard questioned if Lincoln County had a Memorandum of Understanding (MOU) for maintenance on Bonito Road.

Ms. Taylor stated she would review the record and review any MOU's in place.

##### b. Cibola National Forest – LANRAC Update

Ms. Taylor reported two meetings were held recently to address questions and comments from the public regarding the recently released Cibola Draft Forest Plan Revision. Ms. Taylor stated in addition to herself Chair Stone and Land and Natural Resources Advisory Committee (LANRAC) members Robert Barber, James Taylor, and Duane Frost attended the August 2, 2016 meeting in Corona. Ms. Taylor stated comments on the draft plan were due by August 31, 2016. Ms. Taylor stated Chair Stone would represent Lincoln County on a newly formed team to evaluate comments from participating agencies and develop uniform positions. Ms. Taylor stated LANRAC members would review the draft plan and develop comments for consideration by the Board of County Commissioners.

Robert Barber, speaking as Chairman of LANRAC stated the committee conducted a preliminary review of the Cibola Draft Plan and assembled fourteen comments for consideration. Mr. Barber stated the committee planned to review additional materials associated with the Draft Plan and anticipated the development of additional comments prior to the deadline. Mr. Barber discussed the lack of a clearly stated "vision" for the Draft Plan. Mr. Barber also discussed LANRAC comments addressing the management of non-native invasive species, land owner rights, and the proposed use of underground water for replacement of surface water during drought conditions. Mr. Barber also commented on language related to the District's acquisition of new land and suggested this proposal seemed inappropriate considering current management issues.

Chair Stone expressed concerns about the Draft Plan and noted earlier comments submitted by Lincoln County and the New Mexico Department of Agriculture regarding methods for analysis of grazing conditions were never incorporated.

Mr. Barber concurred and commented the "process seemed broken" and expressed belief the final planning language did not fully address areas such as grazing, fire management, and watershed preservation while focusing too heavily on wilderness and recreational management.

c. South Central Mountain RC&D - Community Forester

Rick Merrick, Community Forest stated he was working with South Central Mountain on submission of an application for the next cycle of the cost share thinning program.

Mr. Merrick reported the next Eastern New Mexico University Speaker Series would feature a discussion of the Snowy River Cave Project located near Fort Stanton.

Mr. Merrick stated the Ruidoso Collaborative Forest Restoration Program to conduct thinning on Moon Mountain was at year end and he was meeting with various collaborators to extend the CFRP project for an addition year to utilize unspent funding.

Mr. Merrick reported South Central Mountain was in the process of ordering an air curtain incinerator. Mr. Merrick stated plans were to identify potential locations for burning and also to coordinate support personnel.

Chair Stone expressed concern about "managed" burns on private land due to drought conditions and the potential for these burns to damage neighboring properties.

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

Commissioner Stewart reported on a briefing for the Joint Land Use Study group regarding "The Western Spirit Project", a transmission line for wind generated energy north of Corona to Northern California lying outside of Lincoln County. Mr. Stewart stated the JLUS group also requested an update on the Zia Transmission Line. Mr. Stewart also reported he was invited to tour Holloman Air Force Base to visit the Remote Pilot Training Program and attend a briefing on F-16 trainings and activities.

Commissioner Allen reported on her attendance at a Historic Preservation Conference in Mobile, Alabama along with Curt Temple, Planning Director and Becky Borowski, resident of the Lincoln Historic District. Commissioner Allen stated the conference focused on combining economic development with historic preservation to sustain preservation during this economic period of declining public funding. Commissioner Allen reported the NM Secretary of Cultural Affairs was working diligently to implement the plan to restructure local personnel by filling several open positions.

Commissioner Draper reported on his participation on the New Mexico Association of Counties Economic Development Committee and stated the group was developing a questionnaire for counties to identify economic development issues. Commissioner Draper stated the expansion of broadband access continues to be a priority economic development issue.

Commissioner Draper stated he provided welcoming remarks on behalf of Lincoln County to the Legislative Finance Committee who recently met in Ruidoso. Commissioner Draper addressed questions from the committee regarding the County's Capital Outlay appropriations. Commissioner Draper also discussed the effect of the incorrect distribution of funding for the Carrizozo Senior Center to the Southeastern New Mexico Economic Development District rather than to Lincoln County who was the appropriate fiscal agent.

Commissioner Willard reported on his attendance at the Legislative Finance Committee Meeting for the Department of Cultural Affairs presentation. Commissioner Willard stated during the

discussion of personnel cuts for Lincoln and Fort Stanton Historic District staffing, the Chairman of LFC had some strong words for DCA about spending money equally throughout the State. Commissioner Willard expressed belief these words were directed towards the decision to cut positions here in Lincoln County. Commissioner Willard stated he also attended the dinner for the New Mexico Association of Counties Board of Directors which also recently met in Ruidoso.

Commissioner Willard stated while attending the Lincoln County Fair members of the Lincoln County Fair Board expressed appreciation for County improvements to the sidewalks and the electrical service.

Rhonda Burrows, Clerk reported on her attendance at the Legislative Finance Committee Meeting and the NMAC Board of Directors Meeting commenting on multiple discussions regarding the State's budget problems.

Beverly Calaway Treasurer discussed a recent news article about the proposed issuance of Water Bonds by the Village of Ruidoso. Ms. Calaway stated the article mentioned staff from the Village of Ruidoso had contacted the Treasurer's office regarding property tax distributions and the current rates of collection. Ms. Calaway stated contrary to those comments, no official from the Village had contacted her office. Ms. Calaway discussed the process to notify entities of the property tax rates and the projected yields. Ms. Calaway stated the Treasurer's office also instructs entities by written notice to utilize an estimate collection rate of 93% when estimating revenues. Ms. Calaway stated the Treasurer's Office was always available to answer any questions other entities might have regarding the collection or distribution of taxes.

**10. Forest, Land & Natural Resources Matters (continued):**

**d. Upper Hondo Soil & Water Conservation District (UPHSWCD)**

Laura Johnson, Program Director reported the UPHSWCD would pursue a contract with the US Forest Service to participate in the Lincoln National Forest Plan Revision as a cooperating agency. Ms. Johnson stated the District intended to contact grazing allotment owners to gather comprehensive comments for submission. Ms. Johnson noted the US Forest Service reviewed the recently adopted UPHSWCD Land Use Plan as part of the analysis phase for the Forest Plan Revision.

Ms. Johnson stated renovation of the Salado Dam was progressing and reported EcoServants had worked with the Upper Hondo, contributing a large portion of the work. Ms. Johnson stated local law enforcement and the Bureau of Land Management had stepped up patrols of the Salado Dam area due to damage on the inlet tower from target practice. Ms. Johnson stated some traffic modifications were under consideration to reduce traffic in the area. Ms. Johnson stated the District had received some funding from the Water Trust Board for the project and the Federal Emergency Management Agency (FEMA) was examining site ownership documentation to determine if the project was eligible for FEMA funding.

Ms. Johnson stated the Upper Hondo had received approval from Santa Fe for cost share projects for the mechanical and manual removal of non-native species. Ms. Johnson reported the Upper Hondo also received a grant from New Mexico Department of Agriculture for water quality control projects.

**e. Office of State Engineer-Water Issues**

Ms. Taylor reported Ruidoso Downs Racing, Inc. and Adkins Engineering Associates filed Application Number H-381-A and H-381-B for permit to add points of diversion and expand the places and purpose of use of underground waters.

Ms. Taylor stated after the notice was published in the Ruidoso News, Alan Morel contacted Kelly Cassels, the attorney working with Lincoln County on water issues. Mr. Cassels contacted the State Engineer's office questioning why Lincoln County did not receive an advance notice.

Attorney Morel reported the State Engineer's Office indicated this was a renewal of a long standing agreement previously approved.

Chair Stone expressed belief regardless of whether an application was a renewal or a new change, the current status of water should be evaluated.

Jackie Powell, Hondo Valley resident and former County Commissioner explained the transfer began approximately ten years ago to support the well utilized for the Links Golf Course in Ruidoso. Ms. Powell noted the application proposed to expand the number of wells referenced

and the sites for potential usage. Ms. Powell reminded the Rio Ruidoso had gone dry for over six miles in the Hondo Valley this year. Ms. Powell stated flow rates for the river were established in the 1950's and therefore did not reflect new wells drilled and the current lack of any water in various tributaries. Ms. Powell suggested the best way to elicit a response from the State Engineer to these concerns was to file protests. Ms. Powell provided a brief history of flow fluctuations and the decline in total water acreage feet available. Ms. Powell discussed the need to reevaluate actual, current flow rates and the need for addition metering of river flow. Ms. Powell discussed the need for local communities to work together to preserve river flow and stated belief the beauty of the Hondo Valley was an economic development asset to adjacent communities.

Chair Stone suggested Lincoln County file a protest to the application and request the State Engineer's Office re-evaluate the current flow of the river.

Ms. Powell noted the State Engineer had several options to impose conditions for approval of any applications including the requirement for metering.

**Motion:** Authorize the filing of a protest from Lincoln County, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Willard.

Chair Stone requested any protest include a request for re-evaluation of 1950's data and a requirement for additional metering of river flow.

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

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

#### 11. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims

Mr. Annala presented the Safety Net Care Provider Pool claims for approval. Mr. Annala processed 19 claims with 16 recommended for approval and 3 recommended for disapproval for a monthly authorization of \$6,261. Mr. Annala stated approval of the claims would result in a total approval of Safety Net Care Pool claims for Fiscal Year 2016-2017 to date of \$12,411 or a monthly average of \$6,206.

Mr. Annala presented the Indigent Health Care Payments request for the month. Mr. Annala processed 11 claims with 10 claims recommended for approval and 1 for disapproval for a total payment this month of \$9,411. Mr. Annala stated approval of the claims would result in a total expenditure for Fiscal Year 2015-2016 to date of \$14,043 or a monthly average of \$7,021.

Commissioner Stewart commented on the need for a midyear budget review should the average monthly payment for Indigent Health Care continue to exceed \$9,000. Commissioner Stewart also noted an increase in the distribution of funds for Indigent Burials which could necessitate a mid-year budget increase for the line item.

**Motion:** Approval and denial of the claims as indicated for the Safety Net Care Pool and Indigent Health Care as recommended, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

**SEE EXHIBIT B:** Copies of the Safety Net Care Pool and Indigent Health Care Payments are attached hereto in reference thereto made a part hereof.

#### 12. Approval to Extend Liquor License Service Area at the Outlaw Golf Course

Ms. Taylor reported The Alto Lakes Golf and Country Club requested approval to extend the liquor license service area at the Outlaw Golf Course. Ms. Taylor stated the current license restricted sales to members in a specific area and the Club was seeking an extension to include the golf course and cart easements.

**Motion:** Approve the request for extension of the service area at The Alto Lakes Golf and Country Club, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Commissioner Stewart disclosed he was a current member of the Alto Lakes Golf and Country Club but stated belief there was no specific conflict of interest.

Commissioner Draper questioned the current type of license for the facility and whether the club had received any notices of violation.

Keith Spaniel, Controller for Alto Lakes Golf and Country Club informed the license in question was a Club License. Mr. Spaniel stated no violation or fines were issued but the intent was to rectify the current problem associated with the previously defined service area.

Chair Stone questioned if there was any public comment and receiving none called for the vote.

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

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

Chair Stone recessed the Regular Meeting at 10:26 AM and reconvened at 10:40 AM.

**13. Approval of Memorandum(s) of Understanding Between Lincoln County and Otero County Electric Coop for Co-location on Capitan Mountain and Carrizo Mountain Tower Sites**

Ms. Taylor stated the memorandums were not fully prepared for consideration and requested postponement of any action until next month.

Attorney Morel expressed belief an actual tower lease agreement was required rather than a Memorandum of Understanding. Attorney Morel stated he had identified approximately twelve issues to be addressed including insurance requirements and the actual location of equipment. Attorney Morel stated the agreements also needed to clarify the benefit of the arrangement to Lincoln County to avoid violation of the Anti-Donation Act.

**15. Carrizozo Senior Center Update – Approval of Change Order**

Ms. Taylor reminded of approval during the July Regular Meeting of Change Order #2 totaling \$18,793.26 plus gross receipts tax with increased costs being shared by the Wilson and Company Architects and Roper Construction. Ms. Taylor stated three additional modifications were identified and grouped under the proposed Change Order #3. Ms. Taylor stated the modifications identified were additional fencing with an estimated cost of \$1,021 paid; additional Fire Marshall devices with an estimated cost of \$1,739; and the Otero County Electric transformer with an estimated cost of \$3,120. Ms. Taylor stated final cost estimates for the modifications when combined with the previously approved paving of the parking lot resulting in the total amount of \$57,780.56 plus gross receipts tax. Ms. Taylor stated as a result of the termination of the Business Retention Tax the relevant gross receipts tax declined from 7.185% to 7.0% resulting in a tax reduction in the amount of \$1,706.63 and an amended total for Change Order #3 of \$60,064.57 including paving of the parking lot.

**Motion:** Approve Change Order #3, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Commissioner Draper questioned the total square footage of the building.

Renee Montes stated the original design was for 5000 square feet but this was reduced to approximately 4500 square feet.

Commissioner Willard questioned the cost estimate of \$3,120 for the transformer reminding Otero County Electric had offered a reduced cost in prior discussion.

Ms. Taylor requested additional time to research the question.

Commissioner Stewart offered to withdraw his motion and Commissioner Allen concurred.

**Motion:** Table Item 15 for further discussion, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

**16. Award of RFP 16-17-002 Purchase Metal Building for Hondo Fire Department**

Ms. Taylor stated a Request for Proposal was issued for the purchase of a metal building for the Hondo Fire Department on August 4, 2016. Ms. Taylor detailed the sole proposal received from Steel Depot of Roswell which was opened on August 15, 2016 as follows:

1	Metal Building Package 80 x 90x 20	\$67,490
8	Garage Doors with Opener Package Wind rated and insulated	\$20,586
1	Foundation Plan per Soils Report	<u>\$ 1,650</u>
	Total	\$89,726

**Motion:** Award RFP 16-17-002 to Steel Depot, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Commissioner Stewart questioned how the County planned to fund the full project.

Ms. Taylor stated the intent was to utilize the State Fire Marshall Grant of \$80,000 prior to expiration of the grant. Ms. Taylor stated the Hondo Fire Department planned to obtain a zero percent interest loan from the New Mexico Finance Authority for the remainder.

Chair Stone questioned Presbyterian's contribution towards the cost of the ambulance bay.

Ms. Taylor reminded Lincoln County Medical Center (LCMC) had included a request for \$20,000 in their annual budget request to offset the cost of an ambulance bay.

Attorney Morel reminded Mill Levy funds could not be allocated for construction based on a recent court decision.

Ms. Taylor stated she would address the concern with LCMC.

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

**Yes:** Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.  
**No:** Chair Stone.

#### 17. Manager's Report

1. **Road Superintendent:** The Manager informed County Road Superintendent Joel Bonnell submitted his resignation effective August 1, 2016. The Manager stated current Planning Director Curt Temple would fill the position as Acting Road Superintendent in the interim. In November of 2015 the Commission approved the current salary range and job classification for the position and the Human Resources Director will immediately issue a broad notification and advertisement for the position utilizing the approved range and classification.

Chair Stone requested expansion of the advertisement sources utilized for the prior posting of the open position.

2. **Fort Lone Tree Road Blind Curve:** Since last month's initial communication with Mr. Golder the owner of property adjacent on both sides of Fort Lone Tree Road, he has spoken with his local foreman regarding the road situation. The Manager stated visibility on the road was limited by the number and location of trees located both on the road right of way and on Mr. Golder's land. Mr. Golder expressed a preference to first address the problem by managing the trees and then to re-evaluate the safety of the road. Mr. Golder expressed belief the previously discussed curve served a purpose in reducing speeds on the road.
3. **The New Mexico Association of Counties:** The NMAC Board of Directors met in Ruidoso on August 4<sup>th</sup> and 5<sup>th</sup>, 2016. The Manager reported the Board established the 2017 Legislative Priorities for the Association and noted consideration of a Resolution of support was on the agenda today.
4. **Ruidoso Valley Chamber of Commerce:** The Chamber requested support from Lincoln County for their campaign entitled "Love It...Don't Trash It", Lincoln County, Keep this Paradise Litter Free.

There was a general consensus to participate in the Ruidoso Valley Chamber of Commerce "Love it – Don't Trash It" campaign.

5. **Memorandum from Governor Susana Martinez:** The Manager provided copy of the memo notifying all NM State agencies under the Governor's direct control of the

revenue deficiency the State faces and of an immediate reduction of general fund spending by at least 5%.

6. **Department of Cultural Affairs Reorganization of Historic Sites – Lincoln and Fort Stanton:** The Manager, Commissioner Allen and a number of other residents from Lincoln attended the State Personnel Board hearing in Santa Fe on July 21, 2016. The Manager stated there was very good participation from attendees who signed up to offer comment; exceptional questions were posed by Personnel Board members trying to fully understand the situation, and clear and thoughtful responses were presented by the Department of Cultural Affairs ("DCA"). The Personnel Board eventually granted DCA's request to proceed with its proposed Reduction in Force ("RIF"). The Manager provide a copy of a DCA update on the current status of reorganization efforts in Lincoln County.
7. **White Sands Missile Range Roadblocks on Hwy 380:** The Manager reported the New Mexico Department of Transportation (DOT) has a permanent electronic sign which they remotely activate located about two miles East of San Antonio on Highway 380 heading toward Carrizozo. The Manager questioned if additional signs were available for westbound traffic out of Carrizozo and DOT staff from Roswell acknowledged there were three such signs: two on Highway 70 between Alamogordo and Las Cruces and the other near San Antonio. DOT stated factors considered in determining where to place the signs include the level of traffic volume, the availability of fiber optic infrastructure and the internet capability. The Manager stated plans to do further research and consider additional signage.

Commissioner Stewart suggested pursuing placement of an electronic sign by DOT in Carrizozo.

#### 8. Miscellaneous:

**Building Issues:** The Manager reported much need maintenance was completed at the Fairgrounds prior to the Lincoln County Fair. Repairs included electrical work to ensure circuits weren't blown when multiple exhibitors were preparing their livestock for shows at the same time and the repair of cracked and uneven sidewalks to provide better mobility and access.

**The Sun Zia Transmission Project:** The Manager provided a copy of the Memorandum of Understanding finalized between SunZia Transmission, L.L.C.; the Department of Defense; and the Department of the Army. The Manager noted SunZia was still seeking an anchor tenant. The Manager extended an invitation to SunZia to provide an update during the September 26, 2016 Regular Commission Meeting.

**The Hondo Clinic:** The Hondo Clinic hired a Nurse Practitioner to begin work on September 6, 2016. The Manager reported the Hondo Clinic Advisory Committee scheduled a meeting for September 6, 2016 which she and Commissioner Allen planned to attend.

9. **Calendar of Events:** The Manager presented a list of meetings and events scheduled for the next few weeks.

#### 10. Departmental Updates:

- a) **Curt Temple, Interim Road Superintendent** informed the Road Department acquired millings from the State Department of Transportation for use on roads in the Windmill Ranches Subdivision. Mr. Temple stated plans to request permission to use additional DOT millings located near Glencoe area for maintenance on Devil's Canyon Road. Mr. Temple stated plans to utilize funding to overlay a rough portion of the new chip seal on Cora Dutton Road. Mr. Temple stated he had also identified a contractor for the project. Mr. Temple stated work was continuing on Gavilan Canyon Road to clean ditches and open clogged culverts. Mr. Temple stated a purchase order was issued for a jet culver cleaner and anticipated delivery within 90 days.

Mr. Temple referred to prior discussions involving Lincoln County's maintenance of US Forest Service roads and informed the USFS was pursuing a program to relinquish ownership of these roads to counties. Mr. Temple informed should a county accept ownership of these roads they would also accept responsibility for bridges and other issues associated with the roads. Mr. Temple further stated if a county refused the transfer of ownership the USFS would not allow the County to maintain the roads and the resulting minimal maintenance by the USFS would result in numerous complaints for affected residents.

Chair Stone suggested the County contact Congressman Steve Pearce regarding the impact of this proposed policy change and suggested it was a type of blackmail.

Mr. Temple provided additional updates on open positions within the department, efforts to obtain confirmation of school bus routes from the School Districts, and the status of salt acquisition for the upcoming winter.

- b) **Samantha Mendez, Interim Planning Director** stated Rural Addressing staff completed the correction and readdressing of multiple locations in the Cedar Creek area. Ms. Mendez stated Amanda Garcia was working with the area Homeowner's Association to keep residents informed and to replace incorrect signage.

Ms. Mendez stated she was completing courses to obtain certification as a Public Information Officer to assist the Office of Emergency Services, working to close current grant awards, and submit two grants to the Hubbard Foundations for fire related equipment. Ms. Mendez stated she would continue to assist with monitoring and researching illegal dumping activities including reviewing data from recently installed cameras.

- c) **Renee Montes, Senior Services Director** reported the department had exceeded delivery goals and sites were now fully staffed. Ms. Montes stated she attend a state wide meeting of Senior Services Directors for a discussion of the Governor's mandated 5% decrease in State budgets. Ms. Montes stated the decrease would not affect this year's activities due to a previously negotiated contract. Ms. Montes stated she was working on requests for Capital Outlay funding for some needed renovations at sites. Ms. Montes stated all staff would require certification in the newly defined food handling requirements.

Commissioner Willard commented on the approval to pave the new Carrizozo Senior Center parking lot and questioned if all Senior Citizen Center Sites had paved lots.

Ms. Montes informed the Hondo Senior Center did not have a paved parking lot and discussed the access problems at that site.

- d) **Billie Jo Guevara, Administrative Assistant and Human Resources** advised all employees were provided information on the open or switch benefit enrollment period. Ms. Guevara stated she and Kim Roper from the Road Department attended a training on worker's compensation claim procedures. Ms. Guevara also reported sixteen employees received CPR and AED training.

- e) **Joe Kenmore, Director Office of Emergency Services** reported on recent fire activity in the County and additionally informed all Fire Departments had recently completed required hose testing. Mr. Kenmore stated repairs were identified for Road Department communications on the Capitan site and a review of the Buck Mountain site was planned. Mr. Kenmore stated a unit from the Sheriff's office was equipped with a mobile repeater to test this option to improve communications. Mr. Kenmore reported a new cave rescue crew was recently formed consisting of Bureau of Land Management personnel and volunteer fire fighters from the Bonito and Nogal Fire Departments for response to any required cave rescues. Mr. Kenmore stated OES continued to meet with municipalities to develop hazard mitigation plans.

**19. Resolution 2016-5 Lincoln County Infrastructure Capital Improvement Plan (ICIP) FY 2018-22 Discussion & Final Update for Submission to DFA of September 2, 2016**

Ms. Taylor presented the revised ICIP based on recommendations received during the August Regular Meeting. Ms. Taylor also discussed the decline in the amount of Capital Outlay awards due to State budget shortfalls and suggested lower cost projects were more likely to receive funding.

Ms. Taylor informed Lincoln County had received the \$60,000 Capital Outlay award for replacement of the Ruidoso Public Health Office and anticipated project completion in the near future.

Commissioner Willard suggested reprioritizing the White Oaks Fire Station as the number one request as a more viable opportunity for funding.

Ms. Taylor reminded Lincoln County received a prior Capital Outlay appropriation of \$160,000 towards the cost of the Detention Center Expansion which if not utilized would be lost. Ms. Taylor suggested reducing the amount requested for completion of the Detention Center Expansion to increase the chance of an appropriation or consider budgeting additional funding from the General Fund.

Commissioner Draper suggested reducing the requested amount for the Detention Center.

Ms. Taylor suggested the County pursue the policy of lobbying for one project at a time to help ensure completion of the project and minimize the chance of losing previously appropriated funds.

Chair Stone questioned if there were other sources of funding available to assist with the expansion of the White Oaks Fire Station.

Mr. Kenmore informed approximately one half of the White Oaks Fire Department's annual budget was currently dedicated to an equipment loan and the department did not have additional funds available for a grant match.

Commissioner Draper questioned if the County could utilize the \$45,000 Capital Outlay award to meet the match requirement for a State Fire Marshall grant.

Mr. Kenmore stated he was unaware of this option but acknowledged the Department could apply for a State Fire Marshall grant for up to \$100,000 if matching funds were available.

Ms. Taylor stated she would research the option to utilize Capital Outlay for a match even though the use was not defined in the ICIP at the time of the award.

**Motion:** Approve the modified Resolution 2016-5 P with a change of priority moving Expansion of White Oaks Fire Station to the number one priority and the Expansion of the Detention Center to the second priority, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

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

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

**SEE EXHIBIT C:** Copy of Resolution 2016 -5 is attached hereto in reference thereto made a part hereof.

Chair Stone recessed the Regular Meeting at 12:00 PM and reconvened at 12:59 PM.

Chair Stone recessed the Regular Meeting and convened the Public Hearing at 1:00 PM.

**23. 1:00 PM: Consider Ordinance 2016-02; An Ordinance repealing Lincoln County Ordinance 2015-05 and enacting an Ordinance which regulates Solid Waste and Litter in Lincoln County**

Attorney Morel stated the current ordinance contained information which needed clarification for purposes of enforcement. Attorney Morel stated the principal change was inclusion of specific definitions of "acceptable waste" and "unacceptable waste" for clarification of what materials residents could place in compactors or dumpsters and what they could not. Attorney Morel reviewed the proposed changes including deletion of prior definitions of litter, rubbish and garbage. Attorney Morel stated these language changes clearly established it is an unlawful action to place anything but "acceptable waste" in County owned trash compactors or dumpsters.

Commissioner Willard suggested addition language to clarify the Ordinance was applicable to residents of the county but residents of municipalities were excluded.

Attorney Morel agreed to additional clarification for the exclusion of municipalities from the authority.

Commissioner Draper questioned if penalties for noncompliance were sufficient and suggested consideration of stronger fines.

Attorney Morel informed penalties and fines imposed by County Ordinance were limited by State Statute.

Chair Stone requested additional public comment and receiving none adjourned the Public Hearing at 1:14 PM.

**Motion:** Approve Ordinance 2016-02 as amended by Attorney to included comments, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Willard.  
**Vote:** Motion carried by unanimous roll call vote (**summary: Yes = 5**).  
**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

**SEE EXHIBIT D:** Copy of Ordinance 2016-02 is attached hereto in reference thereto made a part hereof.

**Motion:** Remove Agenda Item 15 from the table, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.  
**Vote:** Motion carried by unanimous vote (**summary: Yes = 5**).  
**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

#### 15. Carrizozo Senior Center Update – Approval of Change Order (continued)

Ms. Taylor presented a revised definition of those items and associated costs included in the final total for Change Order #3. Ms. Taylor stated absent the quote for the electric transformer and after obtaining revised quotes for fencing, State Fire Marshall devices, and the parking lot pavement the final total for the change order was \$60,064.57 including gross receipts tax.

**Motion:** Approve Change Order #3 as presented, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.  
**Vote:** Motion carried by unanimous vote (**summary: Yes = 5**).  
**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

#### 18. Solid Waste Collection Services

##### 1) Authorization to File Liens on All Property Owners Listed on Non-Payment List

Ms. Taylor reminded two new Administrative Fees related to Solid Waste Collection Services were approved by Resolution 2015-45 during the Regular June Meeting. Ms. Taylor stated the Resolution authorized the imposition of a fee of \$100 for the filing of a lien for non-payment of solid waste collection service charges and an additional fee of \$100 to file a release of lien. Ms. Taylor noted when the Resolution was adopted there 377 solid waste accounts with outstanding balances dating back to the County's initial billing in January of 2015. Ms. Taylor stated since adoption of the fees 63 accounts or 23% of those were paid.

Ms. Taylor stated initial steps to begin filing liens including development of a current list of delinquent accounts and obtaining a copy of the current deed for each of those accounts was completed.

Attorney Morel requested the list of accounts identified and approved for the filing of liens be incorporated into the record. Attorney Morel stated his office would develop a memorandum detailing the process to prepare and file a lien for non-payment of solid waste billings and staff would also assist with training County staff to complete the process.

There was a general discussion about providing additional notice to the public regarding the placement of liens and the effect of placement of the liens.

Commissioner Stewart questioned how the County would deal with ongoing charges to accounts for which a lien was previously filed.

Attorney Morel suggested an annual review of the accounts and filing of a follow up lien similar to the process utilized for noncompliance with the Lincoln County Alarm Permit Ordinance.

Commissioner Willard suggested publishing the list of outstanding accounts in the local papers prior to the placement of liens giving residents additional opportunity to respond.

Attorney Morel stated the publication of the list was similar to publication of the delinquent property tax list and would serve as additional notice prior to filing of liens.

Commissioner Draper stated support for publication of an initial notice of the intent to file liens followed by a separate publication of the list of accounts.

**Motion:** Approve the filing of liens for delinquent solid waste accounts after prior publication of the list in local papers including notice of the actual filing date for the liens, **Action:** Approve, **Moved by Commissioner Willard, Seconded by Chair Stone.**

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

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Willard.

**No:** Commissioner Allen, Commissioner Draper.

Ms. Taylor anticipated the filing of liens by approximately September 25, 2016 prior to the next billing but after publication of the notices.

- 2) Authorization to enter into Intercept Agreement with New Mexico Finance Authority authorizing an intercept of Lincoln County's Environmental Gross Receipts Tax for application to the existing Debt Service

Ms. Taylor reminded of prior discussions relating to a potential intercept of Lincoln County's Environmental Gross Receipts Tax. Ms. Taylor reminded the tax was dedicated to the debt service for a Loan Agreement between the New Mexico Finance Authority and the members of the Lincoln County Solid Waste Authority for the construction of a solid waste facility and transfer station.

Attorney Morel presented a draft of the agreement with the New Mexico Finance Authority for the intercept and stated once the agreement was signed NMFA would intercept Lincoln County's Environmental Gross Receipts Tax for payment towards the loan agreement. Attorney Morel noted language was deleted which obligated Lincoln County to cover the obligation of other parties to the loan agreement.

**Motion:** Approve the Intercept Agreement with the New Mexico Finance Authority, **Action:** Approve, **Moved by Commissioner Stewart, Seconded by Commissioner Allen.**

Commissioner Draper questioned if the agreement required approval from other members of the Greentree Solid Waste Authority.

Attorney Morel stated no other signatures were required but anticipated NMFA would request the other parties to the loan agreement sign similar agreements for an intercept.

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

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

### 3) General Update

#### a. Compactor Sites:

- i. Glencoe Compactor: Ms. Taylor reminded of prior approval to leave the compactor on the current private property site. Ms. Taylor stated a "corner stake" survey of the property confirms the site is not on the adjacent County owned property. Ms. Taylor further stated consultation with Sierra Contracting resulted in a decision to leave the compactor as situated and to consider adding some fencing to reduce illegal dumping of bulky items.

- ii. Eagle Creek Court: Ms. Taylor reminded funds initially identified for the Glencoe site were reallocated to develop the Eagle Creek site. Ms. Taylor reported the site was surveyed and the County was working with PNM to obtain electrical service.

- iii. Alpine Village: Ms. Taylor reported she and Curt Temple, Planning Director met with Alpine Village area residents to identify potential compactor sites and subsequently discussions were held with PNM regarding the provision of electrical service. Ms. Taylor stated area residents requested additional dumpsters at a site further up on Alpine Village Road to relieve the overuse of the existing dumpsters.

- b. Dumpsters: Ms. Taylor reported Sierra Contracting identified 41 dumpsters which need replacement and requested 6 additional dumpsters for existing needs. Ms. Taylor stated two truckloads or a total of 72 dumpsters would provide for current needs and also provide additional dumpsters for future use. Ms. Taylor stated the cost for each truckload of dumpsters was \$20,808. Ms. Taylor suggested delaying any offering of "personal dumpsters" until the County could obtain additional information regarding possible demand and associated costs.

**Motion:** Authorize the purchase of two loads of new dumpsters and delay offering a new service to provide personal dumpsters, **Action:** Approve, **Moved by Commissioner Stewart, Seconded by Commissioner Allen.**

Chair Stone reminded of his previous request for additional information about how the County might estimate the actual demand for private dumpsters.

Ms. Taylor suggested placement of an ad in the newspaper to gauge interest in the service.

Commissioner Allen noted the cost for personal dumpster service was not currently defined and suggested residents would want to know associated costs prior to any commitment.

Ms. Taylor concurred and discussed options including a proposed \$50 fee per month but also suggested the County could request information from the Village of Ruidoso to assist in an estimate of costs.

Commissioner Willard and Commissioner Allen voiced belief the County needed to determine cost prior to advertisement for interest.

Ms. Taylor stated she would work to provide cost information in the near future.

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

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

- c. **Slash:** Ms. Taylor reminded a number of County residents were requesting slash pick up services but noted other residents had either personally removed slash or hired a private contractor. Ms. Taylor stated during the recent discussion with Alpine Village she learned the subdivision had hired a private contractor to remove slash and they were satisfied with the arrangement. Ms. Taylor stated current decisions involved how to deal with current slash accumulations and whether to offer slash collection and disposal on a routine basis.

Ms. Taylor received two different informal quotes for existing slash pick up and disposal both for the rate of \$100 per hour. Ms. Taylor commented on the problem of estimating total costs without full knowledge of the scope of work. Ms. Taylor stated staff had identified general areas of slash accumulation and recommended utilizing Rural Addressing staff to identify slash pile locations and estimate the total amount of slash by site.

Ms. Taylor stated she received a cost estimate of \$15,000 per month to provide ongoing slash pick up and disposal service to County residents from Sierra Contracting. Ms. Taylor stated the additional cost to customers would result either in an increase of \$11.55 per quarter if all customers were billed or an additional \$28.14 per quarter if only customers within the slash collection geographic area were billed.

Commissioner Draper questioned what the \$15,000 per month would encompass.

Ms. Taylor expressed belief each service address would receive this service but was uncertain as to whether the service was monthly, quarterly, or as requested.

Commissioner Draper questioned how the County would clearly define specific geographical areas for slash pick up.

Ms. Taylor stated pending additional slash pile location information from Rural Addressing the Solid Waste Collection Clerk had identified specific subdivisions and areas where slash piles currently exist.

Linda Phillips, Solid Waste Billing Clerk stated working in conjunction with the Assessor's Office she had identified subdivisions which accumulate slash on an ongoing basis and estimated there were approximately 1600 customers in those areas. Ms. Phillips stated the estimate from Sierra Contracting was based on the estimated number of accounts and slash pick up for sites every six weeks.

Commissioner Willard suggested contacting the Greentree Solid Waste Authority to determine if they could provide the service for a lower cost per month.

Commissioner Stewart stated GSWA had the necessary equipment and had indicated a willingness to provide the service. Commissioner Stewart stated belief the County should deal with the current accumulation with a onetime pick up and then make it illegal to dump slash. Commissioner Stewart reminded South Central Mountain RC and D would have an air curtain burner in the near future for slash disposal.

There was a general discussion concerning various slash disposal options.

**Motion:** Authorize the Manager to acquire location data and cubic yard estimates for current slash piles and acquire bids for removal, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Willard.

Attorney Morel recommend issuance of a request for bids to which both government and nongovernmental entities could respond.

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

**Yes:** Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

**No:** Chair Stone.

**20. Resolution 2016-6 Requirement for Non-Profit Organizations in Lincoln County to Acquire Commission Approval Prior to Applying for New Mexico Capital Appropriations**

Ms. Taylor discussed the current process whereby nongovernmental entities such as nonprofits receive capital outlay appropriations from the New Mexico State Legislature. Ms. Taylor stated in the event a nongovernmental or nonprofit entity received an appropriation, local governmental entities including counties were required to administer the award disbursement and provide "up front" funding prior to reimbursement from the State.

Ms. Taylor discussed the importance of requiring these entities to obtain approval from Lincoln County prior to submission of an application for Capital Outlay funding due to the administrative and financial burden involved. Ms. Taylor presented the Resolution in support of legislation to require such approval and to provide for a three percent administrative fee. Ms. Taylor further noted the New Mexico Association of Counties had identified this issue as one of four legislative priorities for the upcoming legislative session.

**Motion:** Adopt Resolution 2016-6, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

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

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

**SEE EXHIBIT E:** Copy of Resolution 2016-6 is attached hereto in reference thereto made a part hereof.

**21. Resolution 2016-7 Payments in Lieu of Taxes and Secure Rural Schools and Community Self-Determination Act**

Ms. Taylor discussed the dependence of Lincoln County on the annual PILT payments and discussed proposed federal changes to the Secure Rural Schools payment distributions. Ms. Taylor reminded Secure Rural School payments were offsets to PILT payment funding and stated the proposed changes would shift PILT payments to counties in the Northeastern United States.

**Motion:** Adopt Resolution 2016-7, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

**SEE EXHIBIT F:** Copy of Resolution 2016-7 is attached hereto in reference thereto made a part hereof.

**22. Resolution 2016-8 Supporting the 2017 Legislative Priorities of the New Mexico Association of Counties**

Ms. Taylor reminded the New Mexico Association of Counties (NMAC) annually adopts legislative priorities to focus legislative efforts on behalf of counties.

**Motion:** Adopt Resolution 2016-8, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Stewart.

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

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

**SEE EXHIBIT G:** Copy of Resolution 2016-7 is attached hereto in reference thereto made a part hereof.

**24. Approval of Lodger's Tax Application:**

- a) Purpose: Tour De Ruidoso  
Request: \$2,000  
Date(s) of Event: September 24, 2016  
Presenter: Michelle Thurston/Bicycle Ruidoso, Inc.  
Lodgers Tax Committee Approved: \$2,000  
Application No. : 0019

**Motion:** Approve \$2,000 for Application No. 0019 from Tour De Ruidoso, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

Commissioner Stewart questioned the current fund balance and anticipated revenues for the year.

Beverly Calaway, Treasurer clarified the fund balance included a carry-over of funds from the prior fiscal year but noted there were also some encumbrances.

Commissioner Stewart discussed the need for potential budget adjustments to account for additional receipts in the current fiscal year.

Ms. Calaway agreed and suggested a review of the line item at mid-year for potential adjustment. Ms. Calaway also reminded typically not all funds encumbered were fully expended.

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

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

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

No action taken.

**26. Resolution 2016-9 County of Lincoln Supports Lincoln County Transit by Allocating \$5,000 County Funds**

Ms. Taylor reminded of the prior approval of an external agency request to provide \$5000 in funding for Lincoln County Transit. Ms. Taylor stated Lincoln County Transit's agreement with the New Mexico Department of Transportation required approval of the funding by Resolution.

**Motion:** Adopt Resolution 2016-9, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

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

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

**SEE EXHIBIT H:** Copy of Resolution 2016-9 is attached hereto in reference thereto made a part hereof.

**27. Approval of Water Use Agreement Between the County of Lincoln Fire and Emergency Services and Rainmakers Utilities**

Attorney Morel reminded Lincoln County supports and maintains a number of Volunteer Fire Departments throughout the County to provided essential emergency and first responder services. Attorney Morel stated these Fire Departments utilize various water systems throughout the County as water sources for emergency response services. Attorney Morel stated it was critical to identify these sources and to obtain permissions to utilize the resources when needed. Attorney Morel noted there were approximately nine individual entities or locations within Lincoln County which provided water to local fire departments.

Attorney Morel stated Lincoln County was approached by Rainmakers to develop an agreement for the use of their water. Attorney Morel stated the agreement included a provision for payment for water used if the water was utilized for any purpose other than an emergency.

Attorney Morel additionally recommended Lincoln County enter into similar agreements with the other entities who provide water for emergency purposes.

**Motion:** Approve the agreement between the County of Lincoln Fire and Emergency Services and Rainmakers Utilities, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Commissioner Draper disclosed he was currently employed by Rainmakers.

Chair Stone questioned how often the County might utilize water for training which might result in a cost.

Joe Kenmore, Director of the Office of Emergency Services (OES) anticipated no need to utilize Rainmakers' water for training.

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

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

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

**Motion:** To close the meeting for the purposes of an Executive Session to discuss 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. **Cooper, Gale and DeBaca County News v. County of Lincoln, Sheriff of Lincoln County, et al. D-1329-CV-2007-01364.** Suit filed: October 15, 2007. Verified Complaint for Declaratory Judgment Ordering Production of Certain Records and Information. Hearing took place Dec. 18, 2013, and Stipulated Judgment was entered June 4, 2014 in favor of Ms. Cooper. Ms. Cooper filed an appeal June 10, 2014, and Judge John F. Davis was assigned Aug. 3, 2014. Joint Answer Brief of Defendants-Appellees' Steven Sederwall and Rick Virden with Request for Oral Argument filed in the Court of Appeals Sept. 28, 2015. Case was submitted to a panel of three judges for decision on February 1, 2016. Memorandum Opinion was filed March 23, 2016 affirming the district court's determination that statutory damages are not available and vacating \$100,000 punitive damages and attorney fee awards. Order filed April 12, 2016 granting Plaintiff's Motion to Extend Time to File Petition for Writ of Certiorari to May 31, 2016. Plaintiff-Appellant Gale Cooper's Petition for Writ of Certiorari filed with the New Mexico Supreme Court May 31, 2016. Defendants' Response In Opposition to Petition for Writ of Certiorari filed June 15, 2016 in the New Mexico Supreme Court. Order Denying Plaintiff's Petition for Writ of Certiorari entered on June 22, 2016. Plaintiff filed her Motion for Reconsideration and Rehearing on July 8, 2016. Order Denying Motion for Reconsideration and Hearing was filed July 20, 2016.

2. **Water Rights Protests: New Mexico State Engineer Hearing Numbers: 14-039 and 14-041.** Protests of Applications 01300-1, 01300-2, 01300-3, 0826-2 into 0275 *et al.* and H-272 *et al* (T) and H-50-1 into H-272 *et al.* (T) filed July 15, 2013 pertaining to movement / transfer of water rights from the Hondo Valley to the Village of Ruidoso and the City of Ruidoso Downs. Docketing Order filed Sept. 18, 2014. Kelly Cassels/Sanders, Bruin, Coll & Worley, P.A. has been retained by the County, entered his appearance Sept. 22, 2014 and has responded in behalf of the County.

3. **Wesmax, Ltd. V. Paul Baca, Lincoln County Assessor D-1226-CV-2014-00188** Appeal of the Final Order from Lincoln County Valuation Protest Board. Appeal filed Oct. 8, 2014. Case assigned to Basham & Basham/Dwyer. Record of Appeal and Transcript of Proceedings was filed Oct. 23, 2014.

4. **A. Preston, DeAnna v. County of Lincoln, Sheriff Robert Shepperd, Et Seq. D-1226-CV-2015-00112** Notice of Appeal of Post Disciplinary Hearing filed June 10, 2015. Amended Complaint alleging Civil Rights Violation and Gender Based Discrimination filed on Oct. 13, 2015. Removed to Federal Court Nov. 12, 2015. Amended Complaint Appealing the Adverse Administrative Decision filed May 9, 2016 by Mr. Beauvais. Defendant's Notice of Filing Petition for Removal to Federal Court was filed May 19, 2016.

**B. Preston, DeAnna v. County of Lincoln, Sheriff Robert Shepperd, Et Seq In the United States District Court For The District of New Mexico 2:15-cv-01029.** Defendants County of Lincoln and Sheriff Robert Shepperd's Motion to Dismiss entered November 19, 2015. Order Dismissing Without Prejudice entered by Judge Stephan Vidmar April 19, 2016. Amended

Complaint Civil Rights Violation filed May 6, 2016 by Mr. Beauvais. Settlement Conference scheduled for December 5, 2016 at 9:30 a.m. before Judge Lourdes A. Martinez.

5. **\*Orlando Montes v. Pinnacle Propane, LLC, Allen Sultemeier, County of Lincoln, Lincoln County Fair Association, John Does; D-1226-CV-2016-00006 United States District Court for the District of New Mexico 2:16-cv-126.** Complaint for Wrongful Death, Statutory Tort, Violation of Constitutional Rights (Due Process), Negligence Per Se: Loss of Consortium, Negligent Infliction of Emotional Distress filed with the 12<sup>th</sup> Judicial District Court Jan. 19, 2016. Incident occurred at Lincoln County Fairgrounds July 2, 2015. County was served with Complaint on January 25, 2016. The case was removed to Federal Court Feb. 22, 2016. County of Lincoln's Answer to Complaint filed February 29, 2016. County's Response to Plaintiff's Motion for Partial Summary Judgment filed July 28, 2016. Estate of Montes and Orlando Montes' Response to County of Lincoln's Motion to Stay Discovery filed August 8, 2016. Settlement Conference scheduled for September 6, 2016.

6. **Walter Ray Seidel / Brian Ray Seidel v. Anthony Manfredi, Lincoln County Sheriff Department M-32-CV-2016-00036** Civil Complaint filed March 9, 2016 alleging personal and property damage. County of Lincoln's Answer to Civil Complaint filed March 29, 2016. Motion for Continuance of Trial granted by Judge Buddy Hall on August 1, 2016.

7. **State of N.M. (NMDOT) v. Neria, et al D-1226-CV-2002-00129** Complaint for Condemnation filed June 10, 2002 by the New Mexico Department of Transportation requesting a Court Order granting NMDOT the fee simple title to certain real property as is necessary for "highway purposes." Order of Dismissal for Lack of Prosecution was entered July 5, 2005. NMDOT submitted a proposed Motion to Vacate Order of Dismissal and Reinstate Case on May 4, 2016 which was not opposed.

8. **\*Sean McGarry v. Board of County Commissioners, Lincoln County Sheriff's Department, Deputy Mike Wood, Deputy Jason Green, Deputy David Hightower in their individual capacities and as employees of the Lincoln County Sheriff's Department in the United States District Court for the District of New Mexico 2:16-cv-00483 GBW GJF** Complaint for damages resulting from the excessive use of force, false arrest, assault and battery, malicious prosecution and false imprisonment of Plaintiff by Defendants. Complaint filed May 26, 2016. Defendants Board of County Commissioners for Lincoln County and Lincoln County Sheriff's Department's Answer to Complaint for Civil Rights Violations filed August 11, 2016.

9. **Property Owners' Committee of Rancho Ruidoso Valley Estates, Inc., Plaintiff v. Y'Hoshua Cohen and NM Dept. of Workforce Solutions, Defendants v. Property Owners' Committee of Rancho Ruidoso Valley Estates, Inc. et. al. and Lincoln County Solid Waste Authority, Third Party Defendants: D 1226-Cv-2016-00217.** Summons improperly served on Lincoln County June 16, 2016, which was for Lincoln County Solid Waste Authority, also known as Greentree Solid Waste Authority.

10. **Deann S. Rauch, F.K/A. Deann S. Kessler v. The County of Lincoln, Keith Kessler, et. al. D 1226 CV 2016 00148** Complaint to Quiet Title filed July 13, 2016. County of Lincoln was served July 28, 2016.

**Lincoln County Ordinance Violations:**  
**Alan P. Morel: 12<sup>th</sup> Judicial District Attorney's Office**  
**Special Prosecutor**

11. **\*State of NM v. Blaylock, Gregory M-30-MR-2016-00016** Violation of County Ordinance 2014-04: Contraband at Lincoln County Detention Center. Non-Traffic citation was filed in Carrizozo Magistrate Court on February 10, 2016. A misdemeanor arraignment took place February 12, 2016 when the Defendant pled "Not Guilty." Defendant represented by Public Defender's office. Pre Trial Hearing was scheduled for March 29, 2016 but due to Defendant's automobile accident March 28, a reset was scheduled for April 12, 2016 at which time Defendant failed to appear. A Bench Warrant has been issued by the court for failure to appear. A Pre-Trial Hearing is scheduled June 7, 2016 at 9 a.m. on a trailing docket before Judge Mickie Vega. Defendant failed to appear and a Bench Warrant was issued June 7, 2016. A Pre-Trial Hearing was scheduled for Tuesday, August 9, 2016 at 9:00 a.m. at which time the Defendant pled "No Contest" and was found guilty of possession of Contraband in Lincoln County Detention Center, sentenced to 90 days jail time with 13 days cred for time served and 77 days suspended for a total of 77 days supervised probation. Defendant was assessed fines of \$300 with \$150 suspended, court costs of \$73, Bench Warrant fees of \$200 for a total of \$423 less \$400 Bond Conversion for a total sum due of \$23 to be paid within 30 days of August 9, 2016.

12. **State of NM v. Widener, Randal M-30-MR-2016-00080** Violation of County Ordinance 2004-05: Unauthorized Structure in Lincoln. Non-Traffic citation was issued by LCSO Sgt. Warren on June 15, 2016 with a court appearance date before Judge Mickie Vega on or by June 30, 2016 at 10:00 a.m. An Entry of Appearance and Plea of Not Guilty was filed by Attorney Alexandra Bobbit on June 23, 2016. A Pre-Trial Hearing was scheduled for July 26, 2016 and was reset for August 30, 2016 at 9 a.m. on a Trailing Docket before Judge Vega.

13. **State of NM v. Mendoza, Almee M-30-MR-2016-00077** Violation of County Ordinance 2008-08: Animals running at large. Non-Traffic citation was issued by Sheriff's Sgt. Warren June

12, 2016 with a request for a Court-issued Summons to the Defendant. An Arraignment Hearing before Judge Mickie Vega was scheduled July 13, 2016 at which time the Defendant pled "Not Guilty." A Pre-Trial Hearing is scheduled for Tuesday, August 30, 2016 at 9 a.m. on a Trailing Docket before Judge Vega.

14. **State of NM v. Nava, Gabriel M-30-MR-2016-00081** Violation of County Ordinance 2014-04 Prohibited Contraband in Lincoln County Detention Center. Non-Traffic citation was issued by Sheriff's Stg. Warren June 13, 2016. A Misdemeanor Arraignment took place June 20, 2016 at which time Defendant pled "Not Guilty." A resolution was not reached at the July 26, 2016 Pre-Trial Hearing and a Trial is now scheduled for August 30, 2016 at 2 p.m. before Judge Vega.

15. **State of NM v. Gunkel, Ronnie M-30-MR-2016-00095** Violation of County Ordinance 2014-04 Prohibited Contraband in Lincoln County Detention Center. Criminal Complaint was filed July 26, 2016. A Misdemeanor Arraignment took place July 27, 2016 before Judge Mickie L. Vega at which time the Defendant pled "No Contest" and was found "Guilty." Sentencing Hearing is scheduled to take place August 16, 2016 at 9 a.m. on a Trailing Docket before Judge Vega.

#### Tort Claims Notices Received or Threatened

##### 2016

**Rains, Bonnie** – Tort Claim Notice received January 18, 2016 alleging failure of the County of Lincoln to maintain road surfaces during snow or ice conditions.

**Brazel, Stephanie** – Tort Claim Notice received January 20, 2016 alleging injuries incurred due to Claimant stepping in an alleged uncovered water meter hole at 2801 Sudderth Drive, Ruidoso, NM.

**William Gayford – Roger Linfoot** – Tort Claim Notice received February 17, 2016 from Attorney W. Chris Nedbalek alleging 4<sup>th</sup> and 14<sup>th</sup> Amendments violations and "possibly other constitutional, statutory, regulatory, legal or equitable rights not specifically named."

**Hill, Walter** – Tort Claim Notice received March 8, 2016 via emailed correspondence from Mr. Hill alleging the unlawful disclosure of confidential information from Mr. Hill's Lincoln County personnel file.

**Sonora Corporation (John Russell-CEO)**-Tort Claim Notice received April 6, 2016 via correspondence from Mr. Russell in response to a Notice of Investigation from NM Construction Industries Division due to an alleged lack of final inspection and deviation from approved plans of construction in 2012 at 119 Bald Eagle Court, Alto, NM.

**Jaramillo, Monica** – Tort Claim Notice received April 8, 2016 alleging Lincoln County road department employee in the performance of his road grading duties damaged Ms. Jaramillo's vehicle.

**Wagoner, John** – Tort Claim Notice received April 12, 2016 via telephone call to Mr. Morel's office when Mr. Wagner threatened suit against Lincoln County with respect to alleged accumulation of garbage at property on Highway 70.

**Steward, Tynell** – Tort Claim Notice received April 18, 2016 alleging abuse while incarcerated in Lincoln County Detention Center.

**Coleman, Chad** – Tort Claim Notice received April 25, 2016 alleging warrantless search and seizure and malicious prosecution.

**Parsons-Williams, Karen** – Tort Claim Notice received June 2, 2016 alleging negligent or malicious medical procedure performed at Lincoln County Medical Center on March 9, 2016.

##### 2015

**Cherry, Doris** – Tort Claim Notice posted in Lincoln County News Jan. 1, 2015 stating possible Civil Rights Violation lawsuits regarding alleged Americans with Disabilities Act non-compliance in remodeling the Lincoln County Courthouse buildings.

**McDaniel, Carl** – Tort Claim Notice received Jan. 23, 2015 from Attorney John Sugg alleging violation of the Unfair Trade Practices Act and engaging in unfair or deceptive trade practices and/or unconscionable trade practices by GSWA.

**Sehorn, Sean M.** – Tort claim Notice received March 2, 2015 from Attorney Gary Mitchell alleging Lincoln County Detention Center failed to provide adequate medical treatment during inmate Sehorn's incarceration.

**Lavin, Erica L. and Rathgeber, Jack** – Tort Claim Notice received March 2, 2015 from Attorney Gary Mitchell alleging Constitutional Rights were violated resulting in wrongful termination.

**Hanley, Constance** – Tort Claim Notice received March 20, 2015 from Attorney John Sugg alleging violations of 42 USC section 1983, malicious prosecution, failure to investigate, defamation of character, libel and abuse of process.

**Capitan Iron Mine through A. Blair Dunn** – Threatened Litigation on April 1, 2015 against the County of Lincoln should Lincoln County require Capitan Iron Mine comply with Lincoln County Mine Ordinance 2009-01.

**Chavez, Billy** – Ordinance Violation: 2009-03 Regulating Refuse, Solid Waste and Litter in the County. March 10, 2015 certified letter mailed to Mr. Chavez giving him 30 days to dispose of debris on his property at 142 White Cat Road, San Patricio (Section 26, Township-10S, Range

16E, tract of land lying in the NE 4SE4). April 10, 2015 the property was inspected and noted no progress had been made.

**Culp, Susan v. LCMC/Lincoln County:** Tort Claim Notice received May 4, 2015 from Attorney Katherine Channing Roehl/Roehl Law Firm alleging medical malpractice, negligent supervision, negligent credentialing by staff, administrators and doctors at LCMC on or about March 3, 2015 during Ms. Culp's gall bladder removal surgery.

**Reyes, Roberto** – Tort Claim Notice received May 15, 2015 from Attorney Timothy White/Valdez White Law Firm alleging illegal seizure, illegal search, illegal imprisonment and wrongful conduct of the Lincoln County Sheriff's Department.

**Torres, Leopoldo:** Tort Claim Notice received June 4, 2015 from inmate Torres alleging inmate-initiated attack on inmate Torres at Lincoln County Detention Center.

**Wallace, Stephen:** Tort Claim Notice received June 11, 2015 from Attorney Gary Mitchell alleging deprivation of Constitutional rights due to false incarceration at Lincoln County Detention Center without proceeding with a timely extradition.

**Rodriguez, Victor** – Tort Claim Notice received July 13, 2015 from Attorney W. Chris Nedbalek alleging hostile treatment from fellow employees while employed at Lincoln County Detention Center.

**Prudencio, Fabian and Corinne** – Tort Claim Notice received July 24, 2015 from Attorney Daniel P. Ulibarri alleging negligence, personal injury, spoliation, indemnification and property damage against the County of Lincoln.

**Yates, Barbara** – Verbal Threat against the County issued July 21, 2015 due to ongoing flooding at her private property.

**Davis, Jack and Rema** – Verbal Threat against the County issued July 21, 2015 due to ongoing flooding at their private property.

**Capitan Iron Mine** – Tort Claim Notice received Sept. 24, 2014 via email from A. Blair Dunn, alleging County trespass on private property.

**L. Phillip Onsrud** – Tort Claim Notice received Nov. 3, 2015 via email alleging lack of medical care while incarcerated in Lincoln County Detention Center.

**Brown, Shelly** – Tort Claim Notice received December 31, 2015 alleged failure of the County of Lincoln to maintain road surfaces during snow or ice conditions.

#### 2014

**Lambert, David and Bonnie** - Tort Claim Notice received Sept. 8, 2014 from Attorney W. Chris Nedbalek alleging damage to Lambert property due to Mr. Rodney Bunsen using his own equipment to alter a platted County right of way without the authorization or knowledge of the County.

**Caughron, Brittany and Anderson, Amie** – Tort Claim Notice received Oct. 24, 2014 by Attorney W. Chris Nedbalek alleging overcrowding of Lincoln County Detention Center as a violation of 8<sup>th</sup> Amendment Rights.

**Ryen, Allen**- Tort Claim Notice received Oct. 27, 2014 by Attorney W. Chris Nedbalek alleging Mr. Ryen was exposed to unsanitary conditions at Lincoln County Detention Center.

**Inmate Group** – Tort Claim Notice received Oct. 27, 2014 by Attorney W. Chris Nedbalek alleging overcrowding and unsanitary conditions at Lincoln County Detention Center.

**Caughron, Brittany and Anderson, Amie** – Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris Nedbalek alleging inadequate medical care and overcrowding at Lincoln County Detention Center.

**Inmate Group** – Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris Nedbalek alleging overcrowding and unsanitary conditions at Lincoln County Detention Center.

**Long, Cameron** – Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris Nedbalek alleging mistreatment by an Officer with Adult Probation and Parole.

**McClarnon, Brian** – Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris Nedbalek alleging violations of U.S. Constitutional Amendment rights.

**Diana Martwick, 12<sup>th</sup> Judicial District Attorney** – Tort Claim Notice received Nov. 25, 2014 alleging lack of adequate office space provided by the County of Lincoln.

**Inmate Group** – Tort Claim Notice received Dec. Dec. 22, 2014 by attorney W. Chris Nedbalek alleging inmates were mistreated at Lincoln County Detention Center.

#### 2013

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

**Action:** Approve, Moved by Commissioner Stewart, **Seconded** by Commissioner Allen.

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

**Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

Chair Stone recessed the Regular Meeting and convened the Closed Session at 2:38 PM.

Chair Stone adjourned the Closed Session and reconvened the Regular Meeting at 5:22 PM.

Commissioner Willard attested that matters discussed in the closed meeting were limited to those specified in the motion for closure or in the notice of separate closed meeting.

29. **Signing of Official Documents**

30. **Next meetings:**

- a) September 7, 2016 Special Commission Meeting  
(Impose Property Tax Rates)
- b) September 27, 2016, Regular Commission Meeting

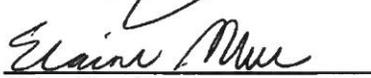
31. **Adjourn**

There being no further business to come before the Board of County Commissioners, Chair Stone adjourned the meeting at 5:23 PM.

County of Lincoln  
Board of County Commissioners

  
 \_\_\_\_\_  
 Preston Stone, Chair

  
 \_\_\_\_\_  
 Dallas Draper, Vice Chair

  
 \_\_\_\_\_  
 Elaine Allen, Member

  
 \_\_\_\_\_  
 Thomas F Stewart, Member

  
 \_\_\_\_\_  
 F Lynn Willard, Member

ATTEST:

  
 \_\_\_\_\_  
 Rhonda Burrows, County Clerk

September 27, 2016  
Date Approved

