

COUNTY OF LINCOLN

New Mexico Regular Meeting Board of County Commissioners

Jackie Powell, Chair
Preston Stone, Vice Chair

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

Minutes Tuesday, July 15, 2014

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on July 15, 2014 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 8:45:29 AM.

2. Roll Call

Roll Call.

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

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

3. Invocation

The invocation was presented by Commissioner Stone.

4. Pledge of Allegiance

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

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 = 5).

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

6. Approval of Minutes

- a. May 02, 2014 Special Commission Meeting
- b. May 20, 2014 Regular Commission Meeting
- c. June 06, 2014 Special Commission Meeting
- d. June 10, 2014 Regular Commission Meeting
- e. June 16, 2014 Special Commission Meeting

Motion: Approve the minutes of the May 02, 2014 Special Commission Meeting; May 20, 2014 Regular Commission Meeting; June 6, 2014 Special Commission Meeting; June 10, 2014 Regular Commission Meeting; and June 16, 2014 Special Commission Meeting,

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

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

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

7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month ending June 30, 2014
- c. Annual Renewal DWI Activities Cost with Village of Ruidoso
- d. Alpine Village Sanitation District Mill Levy Tax Rate Approval

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

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

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

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

8. Smokey Bear District Ranger Update

David Warnack, Ranger informed the Lincoln National Forest lifted Stage I Fire Restrictions on July 9, 2014 as a result of recent moisture. Ranger Warnack expressed appreciation for the interagency response to several small wildfires in the area. Ranger Warnack discussed plans to begin prescribed burns and informed the Ranger District would begin when the County lifted their burn ban.

Ranger Warnack provided a copy of the Standard Operating Procedures of the Lincoln National Forest for response to flooding and other All Hazard events. Ranger Warnack noted these procedures outlined the scope of capabilities as well as limitations of US Forest Service first responders.

Commissioner Doth discussed the importance of keeping the public aware of the dangers of flash flooding associated with recent rainfall.

Ranger Warnack issued an invitation to the Commissioners, County Staff and the general public to attend the Grand Opening of the newly renovated Smokey Bear Ranger District Visitors Center on August 9, 2014 in Ruidoso. Ranger Warnack stated the Ranger District would also celebrate Smokey Bear's 70th Birthday and the 50th anniversary of the Wilderness Act during the ceremony.

9. Lincoln County Detention Center Update

Nita Taylor, Manager provided statistics on monthly bookings and releases at the Lincoln County Detention Center on behalf of Warden Anderson. The Detention Center reported a current total average daily population of 136 and a current population of 138 prisoners including 9 BIA prisoners and 0 US Marshal prisoners. The current population was composed of 30 female and 108 male prisoners.

10. Research and Development Update on the Land Development Ordinance

Ms. Taylor reminded there was a general consensus at the March 18, 2014 meeting requesting the Planning Commission consider and develop recommendations for a Land Use Ordinance.

Tom Mann, Chair of the Planning Commission presented a list of nine recommendations for an ordinance governing the development of vacant tracts of land and lots within the County. Mr. Mann discussed the associated costs of enactment of a Land Development Ordinance including the need for permitting and enforcement staff. Mr. Mann requested the Board of Commissioners consider whether or not the County would financially support the enforcement portion of the proposed Ordinance before the Planning Commission proceeded. Mr. Mann noted the proposed Ordinance would not necessitate the hiring of inspectors as those services could continue as currently established.

Mr. Mann commented on the current most common form of development as being approved through State exemptions. Mr. Mann discussed language regarding the "disturbance of land" to trigger enforcement of the proposed Ordinance. Mr. Mann also discussed the proposed limitations on water well pumping. Mr. Mann stated Attorney Morel had advised the proposed restrictions on water well use would require both a "critical management area" designation by the State Engineer" and well metering. Mr. Mann discussed additional requirements for developers to use National "Firewise" guidelines to govern vegetation on lots or tracts and a requirement for access to a public roadway.

Commissioner Minter expressed support for a Land Development Ordinance and commented permit fees might offset costs of increased staffing and enforcement. Commissioner Stone expressed concern about preserving private property rights. Commissioner Stone objected to the proposal to meter wells as setting a precedence which might affect agricultural water use. Commissioner Stone also expressed concern about property owners having the necessary technical expertise to evaluate erosion control and "Firewise" guidelines".

Karyl Williams, member of the Planning Commission expressed concern about the proposed disturbance of 1000 square feet as a "trigger". Ms. Williams stated belief permitting requirements might be detrimental to private property rights and would require associated staff time for issuance and enforcement.

Chair Powell stated metering as a "one size fits all" action was detrimental to agricultural purposes. Chair Powell favored the limitation of water well pumping to .25 acre feet per annum for residential development of the 10,000 undeveloped tracts and lots. Chair Powell requested additional public input be sought prior to the Board of Commissioners directing the Planning Commission to proceed.

Mr. Mann expressed belief there was common agreement on many elements. Mr. Mann suggested as an example, the revision of the "trigger" point criteria was something easily accomplished.

Attorney Morel reminded a prior proposal for Code Enforcement was not adopted by the County Commission. Attorney Morel opined if the State Engineer declared Lincoln County as a "critical management area" the County could require metering. Attorney Morel discussed the various potential costs associated with monitoring and compliance.

Commissioner Doth suggested the first consideration for development was the presence of water rather than the disturbance of soil. Commissioner Doth requested additional information about determining a "critical management area" and expressed belief the water issue was the principal concern. Chair Powell stated she would be meeting with the State Engineer and would research the question.

Craig Westbrook, resident of Capitan suggested the trigger might be conditioned upon a particular time frame and have exclusions for certain "disturbances". Mr. Westbrook expressed concern about the ability of users to read meters and the need for clarification of "Firewise guidelines".

There was a general consensus to reconsider the proposed Land Development Ordinance at the September Regular Meeting.

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

Commissioner Draper provided an update from the Southern New Mexico Economic Development District meeting and informed a bylaw change to eliminate term limits of appointed members was adopted. Commissioner Draper stated the NM Economic Development Department had initiated a new program titled "Fund It" supporting rural economic development and providing a centralized hub to assist with audit questions.

Commissioner Minter reported on the NMAC Worker's Compensation members meeting and informed based on the last ten years of County worker's compensation claims, there would be a 6% increase in premiums for the County. Commissioner Minter stated there was also good news for the County with a decline in claims for the last two years. Commissioner Minter stated Lincoln County received a rebate check of over \$4,000 for participating in the Risk Awareness Program.

Commissioner Minter also attend the Southeast Regional Transportation Planning Organization along with Carl Palmer, Road Superintendent. Commissioner Minter discussed the organization's research to assist with long range transportation planning and noted tourism accounted for only 10% of the State's GDP. Commissioner Minter stated the oil and gas counties which generate the most revenue also have the greatest need for road improvements due to heavy truck traffic. Commissioner Minter stated the only project specific to the County was a grant to Ruidoso Downs of \$128,000 for their transit system.

Rhonda Burrows, County Clerk reported on the NMAC Board of Directors meeting at the Summer Conference. Ms. Burrows stated topics discussed were similar to those of this Commission including the need for comments on the federal US Waterways proposal. Ms.

Burrows informed the new officers for NMAC were Paul Garcia (Mora County), President; Sharon Stover (Los Alamos County), President Elect; and Clyde Ward (San Juan County), Vice President.

Glenna Robbins, Treasurer introduced Cassie Sponagel as the newly employed Deputy Treasurer. Ms. Robbins also informed Sherri Huddleston received her Treasurer's Certification two years ago and her Certified Public Official designation from the NM Edge program in June of this year.

Paul Baca, Assessor informed Rodney Zamora, Mapper Technician in the Assessor's office downloaded and printed a map of the Rio Hondo Watershed for the Commissioners. Mr. Baca also commented on a recent ruling by the NM Supreme Court which upheld the statutory language also referred to as "tax lightening" requiring properties to be reassessed at market value following a sale. Commissioner Doth questioned if there was opportunity to educate realtors and the public about the property tax increases associated with a sale. Mr. Baca stated realtors and others can submit a request to the Assessor's office for an estimate of property taxes based on the listing price.

12. 9:00 A.M.: Consideration and Action on Lodger's Tax Applications:

There was a general discussion about the current available funding of \$17,388.92 as well as the requirement for funding to be awarded prior to any expenses being incurred.

- a. **Tabled** - Funding Request: \$ 1,000.00; Christmas Jubilee November 7-9, 2014 Application 1716; Presenter: Linda McKinley/Ruidoso Valley Greeters

Motion: Remove the item from the table, **Action:** Approve, **Moved by** Commissioner Minter, **Seconded by** Commissioner Doth.

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

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

Motion: Approve Application 1716 for \$1,000.00, **Action:** Approve, **Moved by** Commissioner Minter, **Seconded by** Commissioner Doth.

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

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

- b. **Tabled** - Funding Request: \$ 2,800.00; Ruidoso Grindstone Trail Runs July 26, 2014 Application 1718; Presenter: Frederic Moras/Ski Run Road Challenge

No action was taken.

- c. **Tabled** - Funding Request: \$ 10,000.00; True Enchantment Tourism Board; March 1, 2014-February 28, 2015; Application 1719
Presenter: Jim Boswell/Carrizozo Works, Inc.

Motion: Remove the item from the table, **Action:** Approve, **Moved by** Commissioner Minter, **None seconded.**

- d. Funding Request: \$3,000.00; Tour De Ruidoso- September 2014 Application 1720; Presenter: Michel Thurston, Bicycle Ruidoso

Motion: Approve Application 1720 for \$3,000.00, **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Minter.

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

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

Fran Alteri, President of Carrizozo Chamber of Commerce discussed the request for \$10,000 for the True Enchantment Tourism Board. Ms. Alteri stated the group applied to the State of NM for a Tourism grant and requested guidance as to when the Commissioners might consider the request. Ms. Alteri stated the group currently had over \$47,000 in commitments from other businesses and entities. Ms. Alteri stated the group requested the \$10,000 as a match for State funding.

Commissioner Minter suggested the request be funded as recommended by the Lodger's Tax Committee. Chair Powell recommended the request be reconsidered after additional Lodgers Tax revenues were received.

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

**4. Lincoln County and Its Long Term Commitment to Forest/Watershed Projects.
Presentation – Dr. Brent Racher**

Brent Racher, Phd., representing the New Mexico Forest Industries and as a Fire Ecologist, commented on the far reaching effects of wildfire and poorly functioning watersheds. Dr. Racher discussed the development of Water Funds now being formed in New Mexico to secure clean water for future generations.

Dr. Racher encouraged Lincoln County to make a long term financial commitment to achieve forest and watershed restoration at an accelerated pace and scale. Dr. Racher stated a commitment for greater than ten years was necessary to leverage local, state and federal funding for wildfire and water source protection treatments. Dr. Racher discussed the lack of private investment in utilizing forests products due to a lack of long term supply. Dr. Racher stated the advantages of such a long term commitment included creating economic opportunity by creating an ongoing reliable source supply for private industry. Dr. Racher estimated a cost to the County of \$600,000 – \$800,000 per year for ten years to achieve significant watershed restoration.

Commissioner Doth expressed support for the concept and commented on the costs associated with the Little Bear Fire including the ongoing damage to the watershed and area roads. Chair Powell stated support for the concept and suggested utilizing revenue such as the Business Retention Tax for this type of project. Commissioner Stone expressed concern about the effectiveness of any investment without the ability to perform work on federal and state lands.

Dr. Racher stated by pledging funding over a period of years the County could better compete for federal and state projects requiring matching funds. Dr. Racher also discussed potential benefits to agriculture water users and noted despite disagreements about water use there was general agreement the watershed was not functioning properly.

Chair Powell noted the cost of cleaning debris from the Little Bear fire from Alto Lake one time was \$600,000 and suggested an equivalent investment to protect the watershed was appropriate. Commissioner Doth expressed support for a Business Retention GRT to provide funding for this project. Attorney Morel stated he would research the appropriateness of using this type of tax to fund this type of project. Commissioner Draper suggested a workshop to further explore the potential investment. Dr. Racher stated he did not anticipate action by the Board of Commissioners today but expressed a desire for further robust discussion.

Ranger Warnack commented on the use of public funds and the need to ensure any treatments were done in the areas most advantageous to the whole watershed. Ranger Warnack reminded the Little Bear Fire burned across six watersheds and discussed the appropriate management approach in those burn areas to provide both fire protection and protect the watershed for the future. Ranger Warnack supported the idea of a workshop to develop a comprehensive approach.

There was a general consensus to have the County Manager and Dr. Racher coordinate and schedule a workshop to further explore the proposal.

6. Update from South Central Mountain RC&D Forrester, Rick Merrick

Rick Merrick, Rural Forrester discussed the work of the Planning Commission as it related to "Firewise" protection. Mr. Merrick volunteered to assist with pre-inspection of properties to determine needs should the Ordinance be adopted.

Mr. Merrick discussed funding associated with cost share thinning programs and stated there were numerous requests from private land owners for assistance and stated site inspections were beginning.

Mr. Merrick discussed the Community Forester Program as a collaborative effort by multiple agencies and noted the Bureau of Land Management recently signed on as cooperating agency.

Commissioner Stone questioned if the Community Forester Program had received financial support from Otero County. Mr. Merrick confirmed Otero County budgeted \$40,000 towards the CFP.

17. Consideration and Approval of a Road Review Request to abandonment and vacate of an unnamed, unbuilt 25 foot wide road in the Angus Town Site by Frances P. McKinney

Robert Barber, Chair of the Road Review Committee presented information regarding the request to vacate a road easement established in the 1950's. Mr. Barber noted the applicant Frances P. McKinney as well as David Robinson, an adjacent land owner, were present in the audience.

Mr. Barber stated the easement in question was unused and an alternate route to the west of each property was established. Mr. Barber stated the Road Review Committee met to review the site and to listen to the concerns of the adjacent land owner, Mr. Robinson. Mr. Barber stated the Road Review Committee saw no reason as to why the road could not be vacated and believed the abandonment would not cause harm to other landowners. Mr. Barber stated the Robinson's expressed concern about access to their property through the easement but noted their property was accessible from a different road.

David Robinson, adjacent property owner objected to the vacation of the easement as restrictive to their access to the back of their property. Mr. Robinson objected to the loss of prescribed access and the potential loss of property value. Mr. Robinson discussed options to remove his objection to the request for vacancy including a split of the vacated property to which the applicant did not agree. Mr. Robinson requested the Board either deny or delay the request based on use of the easement for greater than fifteen years.

Attorney Morel questioned how Mr. Robinson maintained access over an un-built road. Mr. Robinson stated there was a visible meandering road on the easement.

Attorney Morel clarified Mr. Robinson's request was to deny the vacation based on belief the access exists. Attorney Morel suggested, in view of the objection to the vacation based on a claim of lawful access, no action be taken today to give the parties time to reach an agreement.

Motion: Table the item until the next Regular Meeting, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Stone.

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

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

24. Appeal of Lincoln Historic Preservation Board Decision – Ronda and Randy Dougherty

Attorney Morel informed an application was submitted to the Lincoln Historic Preservation Board by Ronda and Randy Dougherty to erect metal fence panels on their property within the District. Attorney Morel stated the Historic Preservation Board subsequently denied the request and the Dougherty's wished to appeal the decision to the Board of County Commissioners.

Attorney Morel stated after meeting with Mrs. Dougherty to discuss the appeal he wished to propose a resolution to allow the metal fence panels to be erected with a requirement for the panels to be painted brown and covered with latillas. Attorney Morel stated if this resolution was approved by the Board of County Commissioners, the County would inform all landowners in the Historic District of the decision and terms to ensure equal treatment.

Attorney Morel stated the options for action as defined in the related Ordinance were to reverse the ruling of the Historic Preservation Board, uphold the decision of the Board, or to make any change to any requirement, determination or decision of the Board.

Ronda Dougherty stated the green panels in question were utilized by several other residents in the area for various purposes. Ms. Dougherty stated the property in questions had panels in place when they moved there and expressed belief these were "grandfathered in". Ms. Dougherty noted the State Department of Transportation had installed a large number of the

panels as gates throughout the Historic District. Ms. Dougherty stated agreement with the terms of the proposed resolution and informed work had begun to cover the panels with latillas.

Elaine Allen, Secretary of the Historic Preservation Board stated the prior board allowed the use of green "panels" for horse pens and acknowledged the State of New Mexico Department of Transportation utilized similar panels for gates but stated the Board did not allow the use of panels for long stretches of fencing. Ms. Allen stated the Historic Board requested individuals utilize "t" posts and other fencing as per the Ordinance. Ms. Allen stated the Dougherty's did not make application prior to constructing the fence and suggested the problem may have been avoided by proper application and prior discussion. Ms. Allen expressed belief the suggested remedies might be inadequate to preserve the historic nature of the community.

Commissioner Stone questioned the specific language and restrictions of the Ordinance. Curt Temple, Planning Director explained metal panels were prohibited by the Ordinance but stated the suggestion of utilizing brown panels was a compromise. Mr. Temple discussed the "grandfathering in" of panels by other properties prior to enactment of the Ordinance but stated there were two other current enforcement actions as a result of other property owner's utilizing panels. Commissioner Stone suggested those purchasing property in the area should be prepared to comply with the Ordinance.

Attorney Morel clarified the Ordinance lists acceptable and unacceptable types of fencing but does not specifically address the use of metal panels for fencing. Attorney Morel stated if the compromise of painting the panels brown and adding lattias was unacceptable the Board of Commissioners could set a date and time for an administrative hearing.

Motion: Approve the placement of panels if painted brown and covered with lattias as outlined by Attorney Morel with a requirement for completion within three months, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Minter.

Commissioner Stone questioned if the vote would set a precedent. Attorney Morel confirmed any decision would set a precedent.

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

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

Attorney Morel stated the County would send letters to all property owners in the Historic District to ensure uniform compliance.

11. **Water Issues/Forest/Wildlife Health Programs/Land and Natural Resources Advisory Committee (LANRAC) – continued**

1. **Water Rights Notice:**

There were no new water right notices posted to the State Engineer's website.

2. **Water Rights Transfer Protests:**

Ms. Taylor provided copy of letters received from the Office of the State Engineer which identified the protestants to Transfer Applications: SD-1300-1; 1300-2; 1300-3; 826-2 into 9275-1 and H272 et al (t); and H-501 into 075-1 and H-272. Ms. Taylor noted the State Engineer in both letters "highly recommended that the applicants attempt to resolve the protestant's issues prior to the pre-hearing". Ms. Taylor discussed a request submitted to the Office of the State Engineer for Chair Powell to be included in any meetings with the Village of Ruidoso and for the County to receive copies of public records. Ms. Taylor stated a response was received inviting the County to schedule an appointment to view the public records. Ms. Taylor informed Chair Powell had initiated educational meetings among the parties beginning with a field trip on June 25, 2014 attended by representatives for the NM Environmental Department, the Office of the State Engineer, Representative Zach Cook and Manager Taylor. Ms. Taylor stated the purpose of the meeting was to show the degree of impairment to the Rio Ruidoso downstream in the Ruidoso and Hondo Valley.

Chair Powell discussed the lack of acknowledgement by the State Engineer's Office of the protests lodged on transfers of water from 30 miles downstream. Chair Powell commented on the inappropriateness of the State Engineer's defense in favor of actions by the Village of Ruidoso rather than senior water right holders in the Hondo Valley. Chair Powell noted the State of New Mexico was revising the sixteen different regional water plans at this time without

a lack of real public input along with a sense of disregard for agriculture. Chair Powell suggested the transfer of large amounts of water from the Valley would eventually negatively affect all economic development in the County.

There was a general consensus to seek an in person audience with Governor Martinez to discuss the water issues.

3. Community Meeting Addressing "Watersheds in the Sacramento Mountains":

Ms. Taylor informed the NM Environmental Department (NMED) Surface Water Quality Bureau was hosting a Community Meeting to address "Watersheds in the Sacramento Mountains" on July 16, 2014. Ms. Taylor stated the primary topic was "Total Maximum Daily Load" development which was described as a planning document to establish specific goals to meet water quality standards in watersheds where pollutant limits are exceeded. Ms. Taylor stated a 30 Day Public Comment Period opened July 7 and closed on August 7, 2014.

5. Risk Mapping, Assessment and Planning ("MAP") Program:

Ms. Taylor informed FEMA in partnership the NM Department of Homeland Security and Emergency Management (NMHSEM) selected the Rio Hondo Watershed for the initial step in the Risk MAP process called "Discovery". Ms. Taylor stated the goal of the "Discovery" was to gain a holistic picture of the flood hazard within the Rio Hondo watershed, collect data to validate flood risk, identify and facilitate mitigation planning to reduce flood risk.

7. Water & Natural Resources Legislative Committee and New Mexico Finance Authority Oversight Committee Joint Meeting:

Ms. Taylor stated she had attended and participated in a panel discussion at the joint committee meeting which addressed water and wildfire related issues.

Chair Powell recessed the Regular Meeting at 12:10:40 PM and reconvened at 1:04:20 PM.

Absent: Commissioner Doth.

Chair Powell recessed the Regular Meeting and convened the Public Hearing at 1:04:26 PM.

27. 1:00 P.M. Public Hearing is to consider Final Budget FY 2014-2015

a. Resolution 2014-2 - Line Budget Adjustment Fiscal Year 2013-2014

Ms. Taylor explained the purpose of the Resolution as an internal measure to adjust budget line items for increased revenues and to accomplish balancing for the following line items:

i.	Bonito Fire	\$ 6,434.60
ii.	Cell Tower Expenses	\$36,389.92
iii.	Corrections	\$36,499.10
iv.	LC Solid Waste Authority – Environmental GRT	\$ 1,775.58
v.	NM HIDTA	<u>\$11,756.01</u>
	TOTAL	\$92,805.21

Ms. Taylor informed this resolution was an internal adjusting document, requiring no DFA approval.

b. Resolution 2014-3 - Budget Closeout FY 2013-2014

Ms. Taylor stated the purpose of the Resolution was to detail the budget adjustments to revenues and required transfers from the general fund to cover unreimbursed expenditures for the fiscal year end as follows:

Revenue increases to the budget	\$454,300.68
General Fund Transfers	\$ 13,884.29
Transfer from Fund 682 to 664	\$ 8,539.73

Ms. Taylor stated the actions detailed in this Resolution required DFA approval.

c. Resolution 2014-4 - Adopt Final Budget FY 2014-2015

Ms. Taylor requested the Public Hearing to consider Resolution 2014-4 be continued on July 24, 2014 at 8:30 AM to allow for further consideration of proposed FY 2014-2015 budget changes.

Chair Powell adjourned the Public Hearing and reconvened the Regular Meeting at 1:09:29 AM.

Motion: Adopt Resolution 2014-2 and Resolution 2014-3, **Action:** Approve, **Moved by** Commissioner Stone, **Seconded by** Commissioner Draper.

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

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

Absent: Commissioner Doth.

Motion: Continue the Public Hearing to consider Resolution 2014-4 until July 24, 2014 at 8:30 AM, **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Minter.

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

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

Absent: Commissioner Doth.

SEE EXHIBIT B: Copies of Resolution 2014-2 and Resolution 2014-3 are attached hereto in reference thereto made a part hereof.

14. Consideration of Approval of the following Resolutions:

a. Resolution 2014-1 - Resolution and Proclamation of Hospital Mill Levy General Election

Attorney Morel informed the current hospital mill levy would expire June 30, 2015. Attorney Morel stated adoption of the Resolution would place the question to continue the mill levy at the rates currently approved on the General Election ballot for 2014.

Commissioner Draper questioned if LCMC and Presbyterian were in support of the Resolution as presented. Attorney Morel informed the Resolution was reviewed by LCMC and Presbyterian with no objections.

Commissioner Minter questioned if the language was restrictive of use of funding for operations and maintenance and exclusive of use of funds for uncompensated care. Attorney Morel stated the question was previously raised and a review of the associated Statute provided assurance funds could be utilized for other health care delivery system purposes.

Motion: Adopt Resolution 2014-1, **Action:** Approve, **Moved by** Commissioner Minter, **Seconded by** Commissioner Stone.

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

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

Absent: Commissioner Doth.

b. Resolution 2014-5 - Amending Resolution 2013-37 Lincoln County Detention Center Good Time Policy

Attorney Morel reminded the similar Resolution 2013-37 was adopted several months ago. Attorney Morel stated after reviewing the Resolution the District Court Judge requested any reference to the District Judge be deleted and all determination authority be directed to the County Sheriff and Detention Center.

Commissioner Minter reminded of her question about the award of good time for attendance at religious activities. Attorney Morel stated after researching the question he did not believe the Statute provided the latitude to include attendance of religious activities in calculating good time.

Motion: Adopt Resolution 2014-5, **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 Draper.

Absent: Commissioner Doth.

c. Resolution 2014-6 – Adopt Lincoln County Senior Citizen's Program Senior Center Policy Manual

Ms. Taylor informed this was the first time the Senior Citizens Program Policy Manual was presented to the Board of Commissioners for approval.

Motion: Adopt Resolution 2014-6, **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 Draper.
Absent: Commissioner Doth.

d. **Resolution 2014-7** Renewal of Fire Restrictions

Ms. Taylor commented on the recent lifting of fire restrictions by the US Forest Service and the State of New Mexico. Ms. Taylor stated based on recent moisture received she recommended the current burn ban be rescinded.

Motion: Rescind Resolution 2013-41 imposing fire restrictions, **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 Draper.
Absent: Commissioner Doth.

e. **Resolution 2014-8** Declaring July 14 thru 18, 2014 As "New Mexico Hunger Week"

Motion: Adopt Resolution 2014-8, **Action:** Approve, **Moved by** Commissioner Stone, **Seconded by** Commissioner Draper.
Vote: Motion carried by unanimous vote (**summary:** Yes = 4).
Yes: Chair Powell, Commissioner Minter, Commissioner Stone, Commissioner Draper.
Absent: Commissioner Doth.

f. **Resolution 2014-11** – Confirmation that Lincoln County Fire Department and Fire Chief have read and understand, and will comply with Terms of Wildfire Risk Reduction Program.

Ms. Taylor informed Bennie Long, Chief of the Lincoln Fire Department worked with South Central RC&D to apply for a hazardous fuels reduction grant in the amount of \$15,000. Ms. Taylor stated the grant application included a requirement for the Board of Commissioners to attest and confirm the Fire Department understood and would comply with terms of the wildfire risk reduction program.

Motion: Adopt Resolution 2014-11 with clarification of the title to reflect Lincoln Fire Department, **Action:** Approve, **Moved by** Commissioner Minter, **Seconded by** Commissioner Draper.
Vote: Motion carried by unanimous vote (**summary:** Yes = 4).
Yes: Chair Powell, Commissioner Minter, Commissioner Stone, Commissioner Draper.
Absent: Commissioner Doth.

SEE EXHIBIT C: Copies of Resolution 2014-1, 2014-5, 2014-6, 2014-8 and 2014-11 are attached hereto in reference thereto made a part hereof.

15. **Consideration of Approval for Southeastern NM Economic Development District as Fiscal Agent for 2014 Legislative Capital Outlay Appropriations:**

- a. Project No. 14-1940 \$25,000 to plan, design, replace and relocate the county communications towers in Carrizozo
- b. Project No. 14-1941 \$163,000 to plan, design, construct and furnish an expansion to the detention center in Carrizozo
- c. Project No. 14-1942 \$25,000 to plan, design, construct, equip and furnish a fire station in Hondo
- d. Project No. 14-1943 \$20,000 to plan, design, construct and furnish an expansion of the White Oaks Fire Station

Motion: Approve the fiscal agent agreements for Projects No. 14-1940; 14-1941; 14-1942; and 14-1943, **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Chair Powell.

Commissioner Minter questioned if the County would have to budget funding to complete each of the projects. Ms. Taylor stated the County had not approved additional funding except for the Communications Tower. Ms. Taylor expressed belief the Outlay Appropriations could be

utilized for design of the projects without commitment of funding for construction and furnishing at this time. Commissioner Stone clarified the approval of the fiscal agent agreements did not obligate the County to further funding. Ms. Taylor confirmed this was the case.

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

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

Absent: Commissioner Doth.

16. Consideration of Approval 2014-2015 CAP/COOP/School Bus Agreements and Resolution 2014-9 Amending Resolution 2013-31 NMDOT Cooperative Road Programs

Carl Palmer, Road Superintendent informed the State had indicated an increase in funding for Cap and COOP projects but noted a decrease in funding for School Bus route projects. Mr. Palmer stated the increases were significant and the decrease was minor. Mr. Palmer explained as a result of the State funding changes, the required County matching funding for projects would increase for Cap and Coop and decrease for School Bus Routes.

Motion: Adopt Resolution 2014-9 and approve the associated agreements, **Action:** Approve, **Moved by** Commissioner Minter, **Seconded by** Commissioner Draper.

Commissioner Stone questioned if the allocated funding exceeded cost of a particular project, could the remainder be reallocated. Mr. Palmer stated any remaining funds would be reallocated to eligible projects after approval by the Board of Commissioners.

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

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

Absent: Commissioner Doth.

SEE EXHIBIT D: Copy of Resolution 2014-9 is attached hereto in reference thereto made a part hereof.

24. Appeal of Lincoln Historic Preservation Board Decision – Ronda and Randy Dougherty (continued)

Attorney Morel explained the Lincoln Historic District Ordinance required any proposed resolution to an appeal be presented to the Historic Board prior to consideration by the Board of Commissioners. Attorney Morel stated he would present the recommended resolution to the Historic Board and if the Historic Board did not agree a public hearing to consider the appeal would be set.

Motion: Reconsider the vote to approve the resolution of the Dougherty appeal to the Lincoln Historic Board, **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Minter.

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

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

Absent: Commissioner Doth.

Motion: Motion to rescind the vote to approve the placement of panels if painted brown and covered with lattias as outlined by Attorney Morel with a requirement for completion within three months, **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Minter.

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

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

Absent: Commissioner Doth.

18. Consideration of Approval Help End Abuse for Life, Inc. Lease Agreement Renewal

Ms. Taylor requested approval of the lease agreement with Help End Abuse for Life, Inc. for an additional year with an option to renew the lease for three additional years one year at a time.

Commissioner Minter requested the monthly report from HEAL include financial reporting from CYFD.

Motion: Approve the Lease Agreement with HEAL with addition to monthly reporting requirement to include financials from CYFD, **Action:** Approve, **Moved by** Commissioner Stone, **Seconded by** Commissioner Draper.

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

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

Absent: Commissioner Doth.

19. Consideration of Approval Village of Capitan Lease Agreement Revision

Attorney Morel reminded a new Senior Citizens Center was constructed in Capitan utilizing a CDBG grant award to the Village of Capitan in 2010. Attorney Morel stated as a result of the construction, the lease agreement for the old facility was no longer valid. Attorney Morel presented a revised agreement with the new property description for consideration. Attorney Morel requested the Board of Commissioners take no action today to allow time for the Attorney for the Village of Capitan to review the revised agreement.

20. Consideration of Approval of Rio Grande Cutthroat Trout ("RGCT") MOU

Ms. Taylor stated a request was relayed by the New Mexico Association of Counties for Lincoln County and other New Mexico counties to enter into a Memorandum of Understanding (MOU) with the Colorado Rio Grande Cutthroat Trout County Coalition. Ms. Taylor stated the position of the MOU and signatories was supportive of long term conservation of the species through local and state control of land and species management rather than the "listing" of the Cutthroat Trout by the US Fish and Wildlife Service. Ms. Taylor reminded of previous discussion of the importance of support from neighboring counties and states when opposing the "listing" of a particular species even if those counties or states were not immediately impacted by such a "listing".

Motion: Approve MOU with the Colorado Rio Grande Cutthroat Trout County Coalition, **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Chair Powell.
Vote: Motion carried by unanimous vote (**summary:** Yes = 4).
Yes: Chair Powell, Commissioner Draper, Commissioner Minter, Commissioner Stone.
Absent: Commissioner Doth.

21. Consideration of Approval of an Emergency Services and Fire Vehicles:

a. Office of Emergency Services

Ms. Taylor presented the request to purchase a new Ford F250 truck for the Office of Emergency Services. Ms. Taylor provided copy of the approval received from the State Fire Marshall for purchase of the vehicle.

Commissioner Stone questioned the mileage of the current Ford truck. Joe Kenmore, OES explained the vehicle had approximately 50,000 miles but also had required fairly significant repair work. Mr. Kenmore stated the new OES part time employee would use the older vehicle and Spencer Baldwin would use the new pick up.

Motion: Approve the purchase of a Ford F250 truck for \$50,000, **Action:** Approve, **Moved by** Commissioner Minter, **Seconded by** Commissioner Draper.
Vote: Motion carried by unanimous vote (**summary:** Yes = 4).
Yes: Chair Powell, Commissioner Draper, Commissioner Minter, Commissioner Stone.
Absent: Commissioner Doth.

b. Nogal Fire Department

Chair Powell questioned if a request for an additional vehicle might impact the funding available for construction of a new fire station. Ms. Taylor explained this request might impact the project and noted no approval was yet granted by the State Fire Marshall for a vehicle purchase at this time. Ms. Taylor recommended no action at this time.

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

Scott Annala, IHC Administrator presented the Sole Community Provider/Lincoln County Medical Center/Safety Net Care Provider Pool claims for approval. Mr. Annala processed 42 claims with 41 recommended for approval and 1 recommended for disapproval for a total authorization of \$51,943. Mr. Annala stated the average monthly approval for the last fiscal year was \$86,211. Mr. Annala noted all claims presented were for services in the prior fiscal year.

Mr. Annala presented the Indigent Health Care Payments request for the month and stated he processed 16 claims with 11 claims recommended for approval and 5 for disapproval for a total

payment this month of \$4,090. Mr. Annala reminded the average monthly indigent claims payment for the past fiscal year was \$16,919.

Mr. Annala stated based on this first month's claims total he estimated an expenditure of only \$49,000 for the fiscal year. Mr. Annala stated the decline in claims payment presented additional opportunities to revise the Indigent Health Care Resolution to either increase provider limits or increase payments for particular services. Mr. Annala stated he would be presenting options to revise the Resolution in the near future.

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 Stone, **Seconded by** Commissioner Minter.

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

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

Absent: Commissioner Doth.

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

23. Consideration of Approval of Southeastern New Mexico Economic Development District Agreement and Resolution 2014-10

Ms. Taylor presented the agreement and resolution as required to solidify the arrangement between the County of Lincoln and SNMEDD.

Motion Approve the Agreement with SNMEDD and adopt Resolution 2014-10, **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Minter.

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

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

Absent: Commissioner Doth.

SEE EXHIBIT F: Copy of Resolution 2014-10 is attached hereto in reference thereto made a part hereof.

25. Manager's Report

- 1. NM Department of Finance and Administration, Local Government Division, on June 19, 2014, granted approval of the interim budget approved by this Commission on May 20th. The Manager stated the approval certified the use of the interim budget pending approval of the final budget due to DFA by July 31, 2014.**
- 2. Building Construction / Maintenance Projects:**
 - a) Carrizozo Senior Center:** The Manager reported a planning meeting for issuing the construction RFP for the new Senior Center was scheduled for next week with Architect Howard Kaplan of Wilson and Co., Dora Batista of SNMEDD, and the Lincoln County Zia Senior Center staff.
 - b) Courthouse Expansion Project:** The Manager reported the project was on time and on budget. Recent actions included:
 - Work by Otero County Electric to install a new power feeder for the building including installation of a new pole and underground cable for the new transformer to serve the entire campus.
 - Concrete work to continue completing steps and a pad for the power disconnect.
 - Installation of railing on steps.
 - Interior work to install ceiling grids and lay ceramic tile.
 - c) Physician's Office Building:** The Manager presented copy of the letter submitted at the request of the Commission on behalf of the County to support the nomination of the Physician's Office Building for an award honoring the best construction projects and the companies that designed and built them.
- 3. Office Space Changes / Additional Requests for Space:**

The County's Rural Addressing Department, under the direction of Curt Temple, relocated from the Courthouse Annex in Carrizozo to the Sub-station in Ruidoso. The Manager stated both the Public Defender's Office and the District Attorney's Office out of Alamogordo expressed an interest in utilization of the unused office space. The Manager suggested the County may have multiple uses for the space

and also discussed the potential use of the recently purchased Title Company property in Carrizozo.

4. **Wattles:** The Manager received notification from New Mexico State University Seed Certification Department that the County's wattles were weed-free. The Manager furnished a copy of the Certificate of Inspection and Transit Inspection. The certification enables marketing the wattles to entities requiring the weed-free certification. The County has available approximately 1,100,000 linear feet of wattles. The Manager in consultation with Attorney Morel recommended a government to governmental agency transfer as the most appropriate venue to market wattles.

There was general consensus to direct the Manager to market and sell the wattles.

5. **Lincoln County OES to Host MGT 383 Emergency Operations Plans for Rural Jurisdictions:** *Emergency Operations Plans for Rural Jurisdictions* is an eight-hour, management and planning level, instructor-led course designed to provide emergency managers and rural first responders with the knowledge and skills to develop an emergency operations plan (EOP) for their respective jurisdictions. The course provides practical knowledge about the planning process, different types of EOP formats, and the components of each. Participants engage in scenarios designed to reinforce lessons learned, enable them to determine the best format for their particular jurisdictions, and to organize the various planning components into an EOP.

6. **Update on Sole Community Provider Federal Compliance (Committee Substitute for SB268): Joint Hearing with Revenue Stabilization and Tax Committee and legislative Finance Committee:** The Manager reported she and Scott Annala, Indigent Health Care Coordinator, attended the joint hearing of interim committees on the status of the new Safety Net Care Pool and the Expanded Medicare Payments. The NM Human Services Department (HSD) has received applications with detailed information regarding the amount of Indigent care / Medicaid / Medicare services provided by each hospital. HSD is now in the process of determining the total level of payment derived from County, State and Federal match contributions each hospital will receive. The Manager discussed the significant unrest among the County governments regarding SB268 tied to the Governor's line item veto of the three-year sunset clause.

7. **Upcoming Events:**

- a) July 16th – Presentation: Watersheds in Sacramento Mountains - Village Hall in Ruidoso
- b) July 17th – GSWA Board Meeting
- c) July 24 - Economic Development Mtg. (Hubert Quintana)
- d) Aug. 7 - Comment Close date for "Total Maximum Daily Load for Sacramento Mountains"

8. **Departmental Updates:**

- a) **Finance** – Punkin Schlarb, Finance Director informed the department continued to provide documentation for the upcoming audit as requested by the auditors. Ms. Schlarb stated the department was in the process of updating the 2014-2015 budget for presentation at the Special Meeting July 24, 2014.

Ms. Schlarb reported on a lightning strike which disabled a hard drive on the new computer network system.

- c) **Planning** - Curt Temple, Planning Director reported on the move of the Rural Addressing Department to the substation in Ruidoso. Mr. Temple stated the move was beneficial in providing addressing in accordance with the MOU with the Village of Ruidoso for permitting within the County.

Mr. Temple reported on the Joint Land Use Study Technical Committee to discuss imposition of costs for the implementation of the JULS. Mr. Temple anticipated implementation cost to Lincoln County to be approximately \$2500 which was equal to the initial cost for development.

Mr. Temple informed the County flood plain maps were being re-delineated by the contractor to correct problems with the recently adopted maps. Mr. Temple

explained the corrections would not necessarily affect identified flood plains but would provide more detailed information.

b) **Roads** - Carl Palmer, Road Superintendent informed the Road Department sponsored a class for blade operators last week which was conducted by the State Highway Department.

Mr. Palmer expressed hope for the sale and distribution of wattles and reminded the County had additional material stockpiled to make more wattles.

The Manager stated she would seek approval from the Commission prior to initiating the making of additional wattles.

d) **OES** - Joe Kenmore, Director of OES provided an update on recent fires in the area. Mr. Kenmore stated a storm on July 2, 2014 generated a noticeable rock slide on the Bonito roadway. Mr. Kenmore informed the Road Department responded immediately to clear the road. Mr. Kenmore stated on July 14, 2014 Highway 37 from the Bonito Lake turn off back to Highway 48 flooded with the USFS responding along with the County Road Department to clear debris resulting from the burn scar area.

Mr. Kenmore commented on the recent Ham Operators field day with participation from almost every state to demonstrate radio capabilities in an emergency situation.

Chair Powell recessed the Regular Meeting at 3:04:24 PM and reconvened at 3:17:20 PM.

26. Consider Authorization to Pursue Affordable Housing Plan

Ms. Taylor informed the plan was integral to economic development and explained SNMEDD was mandated to develop such a plan every five years.

Commissioner Draper commented on the definition of Affordable Housing as "not being" subsidized or low income housing but rather the availability of housing for current residents. Commissioner Draper stated this was an opportunity to conduct a study of housing needs in the County and also to help meet future grant award requirements. Commissioner Draper stated there was verbal support from the Mayors of Capitan and Ruidoso Downs to contribute to the Study costs. Commissioner Draper suggested the study was an opportunity to work in partnership with all of the entities in the County to conduct an extensive study of housing needs and incorporate those needs into other planning efforts including water use.

Chair Powell questioned the financial commitment requested from the County. Commissioner Draper stated the maximum commitment from the County would be \$10,000 depending on the level of participation of other entities.

Commissioner Minter suggested housing issues were best served by nongovernmental entities. Commissioner Stone questioned how the study would help rural municipalities. Commissioner Draper stated the study would identify the needs of each of those communities in a legitimate manner. Commissioner Minter suggested getting a commitment from each of the municipalities for financial support prior to a decision. Chair Powell questioned if the County could pledge a specific amount contingent upon participation by other entities. Commissioner Stone objected to the timing of the request and lack of opportunity to consider the issue.

Motion: Pursue the Affordable Housing Plan, **Action:** Approve, **Moved by** Commissioner Draper, **None seconded.**

There was a general consensus to reconsider funding for an Affordable Housing Plan in the next year's budget considerations.

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

No action was taken.

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

- a. Lodger's Tax Committee

No action was taken.

b. Planning Commission

Motion: Reappoint Tom Mann to the Planning Commission, **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Stone.

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

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

Absent: Commissioner Doth.

c. Road Review Advisory Committee

Motion: Reappoint Billy Seelbach to the Road Review Advisory Committee, **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 Draper.

Absent: Commissioner Doth.

d. Tabled-Senior Citizens Olympic Committee

No action was taken.

e. Southeast Regional Transportation Planning Organization (SERTPO)

Motion: Reappoint Kathryn Minter to the SERTPO Technical Committee and Carl Palmer to the SERTPO Policy Committee, **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Stone.

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

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

Absent: Commissioner Doth.

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

Motion: To close the meeting for the purposes of an Executive Session to discuss Threatened and/or Pending Litigation pursuant to the Open Meetings Act, Section 10-15-1, Sub Paragraph H.(7) and the purchase, acquisition or disposal of real property or water rights by the public body, Section 10-15-1, Sub-Paragraph H.(8) and as follows:

New or Updated Matters since last report *

1. *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 took place Dec. 18, 2013, and Conclusion of Law/Order was filed May 15, 2014 entered in favor of Ms. Cooper. Ms. Cooper filed an appeal June 10, 2014.
2. *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.
3. *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. Motion for Summary Judgment filed Jan. 29, 2014, Hearing scheduled April 24, 2014 produced an Order Granting Motion for Extension of Time which was filed May 6, 2014.
4. *Greentree Solid Waste Authority v. Lincoln County* D-1226-CV-2014-00095. Suit filed May 1, 2014 Verified Petition for Declaratory and Supplemental Relief: Injunction, Motion to Waive Time to Reassign District Judge (Judge Karen Parsons was disqualified). County was served May 14, 2014. Mr. Melendres has filed Answer, Motion to Disqualify Mr. Beauvais and Change of Venue. Motion Hearing is scheduled December 8, 2014.
5. *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. Mr. Beauvais filed an appeal Feb. 27, 2014. Mr. Beauvais filed a Reply to Motion to Review Stay and Supersedeas Bond on April 16, 2014. Mr. Melendres filed Lincoln County's Answer to Oral Motion to Reconsider May 14, 2014. Ruling on Reconsidering Stay denied by Judge Singleton June 11, 2014.

6. *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 Oct. 4, 2013. Defendant's Reply to Motion to Dismiss or for Summary Judgment filed Oct. 21, 2013. Hearing was Jan. 6, 2014, and produced an Order of Dismissal, with a Motion to Reconsider filed Jan. 8, 2014. Hearing on the Merits scheduled for May 12, 2014 in Carrizozo with Judge Parsons. The case has been continued.

7. *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. LCSD 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 August 30, 2013. Settlement Conference scheduled for July 22, 2014.

*8. *State of NM/Lincoln County v. Avalon-Construction, Ruidoso, NM D-1226-CV 2014-00006* Filed Jan. 6, 2014 Open complaint for Refund of Taxes paid. Case assigned to Basham & Basham/Dwyer. Peter Dwyer is lead attorney. Settlement conference scheduled for December 5, 2014.

9. *State of NM v. Irene Howcroft - M-30-MR-2013-00190* Alleged animal nuisance and violation of Lincoln County Ordinance No. 2008-08. Pre-Trial Hearing is scheduled for August 12, 2014.

10. Potential Litigation: 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.

Tort Claims Notices Received or Threatened

2014

Ramos, Aaron – Tort Claim Notice received from Mr. Ramos March 18, 2014 alleging his rights were violated during incarceration at Lincoln County Detention Center. Mr. Ramos alleges damages by not being granted detainee to detainee correspondence.

Millerden, Kenneth and Anita – Tort Claim Notice received May 9, 2014 alleging negligence from staff at Lincoln County Medical Center during pre-partum care for their infant son.

Ogden, John D – Tort Claim Notice received May 26, 2014 alleging mistreatment while incarcerated at LCDC on March 11, 2014.

Rounds, Christopher – Tort Claim Notice received June 4, 2014 alleging being held in LCDC without being advised of his charges.

Herbert, Crystal – Tort Claim Notice received June 23, 2014 alleging false imprisonment, due process violations, unlawful detention of a minor, emotional distress.

Class Action – Tort Claim Notice received June 23, 2014 alleging false imprisonment, false arrest, deprivation of rights at LCDC that arise with Immigration and Customs Enforcement charges.

Atwell, Stacey – Tort Claim Notice received June 25, 2014 alleging unlawful seizure of her two minor children during a request for a deputy to assist in keeping the peace.

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. Claim has been denied by NMAC.

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. County Clerk Rhonda Burrows has been in contact with Harrisburg, PA in recovery efforts.

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. Constitutional rights.

Silva, Elmo - Tort Claim Notice received from attorney Richard Marquez November 6, 2013. Alleges false imprisonment for Mr. Silva, who was sentenced in the 12th Judicial District Court to 38 years filed on July 3, 1990.

2012

Cathy and Steve Altstatt - Telephone conference with Cathy Altstatt on April 19, 2012, concerning their unbuildable and unsellable Deer Park Valley lot due to lot size, septic tank set back requirements, and an easement granted to Alto Lakes Water & Sanitation District for a water well.

Riordan, J.T. - Correspondence received from Theresa Riordan on March 28, 2012, concerning her son's treatment and detention conditions while being held in LCDC.

Sheridan, Michael - Tort Claim Notice received from Attorney, Jennifer Burrill on February 21, 2012, claiming the Lincoln County Sheriff's Department forced him to register as a sex offender when he did not meet the requirements.

Biggs, M. Jolene - Tort Claim Notice received from Attorney, Adam Rafkin on February 6, 2012, claiming liability by the County of Lincoln by failing to maintain the surface of the parking lot across from the Lincoln County Courthouse in Carrizozo, NM.

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

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

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

Absent: Commissioner Doth.

Chair Powell recessed the Regular Meeting and convened the Closed Session at 3:49:46 PM.

Chair Powell adjourned the Closed Session and reconvened the Regular Meeting at 4:36:15 PM.

Absent: Commissioner Draper.

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

Motion: Direct the County Attorney and County Manager to send a letter requesting the Office of the Attorney General file an injunction against the Office of the State Engineer in support of protests filed by the County concerning two water transfer application from the Hondo Valley to the Village of Ruidoso, **Action:** Approve, **Moved by** Commissioner Minter, **Seconded by** Chair Powell.

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

Yes: Chair Powell, Commissioner Minter, Commissioner Stone.

Absent: Commissioner Doth, Commissioner Draper.

31. **Signing of Official Documents**

32. **Next meetings:**

- a. July 24, 2014 Special Commission Meeting
- b. August 19, 2014 Regular Commission Meeting

33. **Adjourn**

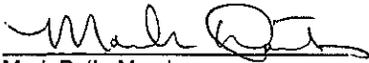
There being no further business to come before the Board of County Commissioners, Chair Powell adjourned the meeting at 4:40:55 PM.

County of Lincoln
Board of County Commissioners

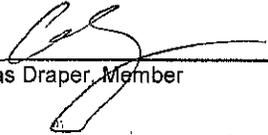

Jackie Powell, Chair



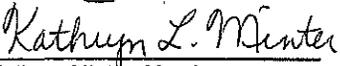
Preston Stone, Vice Chair



Mark Doth, Member



Dallas Draper, Member



Kathryn Minter, Member

ATTEST:



Rhonda Burrows, County Clerk

August 19, 2014
Date Approved

