

# 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 March 18, 2014

Minutes of the Special Meeting of the Lincoln County Commission held at 8:30 AM on March 18, 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 8:30.74 AM

#### 2. Roll Call

##### Roll Call.

**Present:** Chair Powell, Commissioner Minter, Commissioner Doth, Commissioner Draper

**Absent:** Commissioner Stone

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

#### 3. Invocation

The invocation was presented by Commissioner Minter.

#### 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 Draper, **Seconded by** Commissioner Doth.

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

**Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter

#### 6. Approval of Minutes

- February 18, 2014 - Regular Commission Meeting
- March 7, 2014 – Special Commission Meeting

**Motion:** Approve the minutes of the February 18, 2014 Regular Commission Meeting with minor corrections and the March 7, 2014 Special Commission Meeting as presented,

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

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

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

#### 7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month ending February 28, 2014
- c. Volunteer Firefighters Annual Report to PERA
- d. Law Enforcement Protection Fund

**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 = 4)

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

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

**8. Consideration / Direction on Assignment of Research and Development of Land Development Ordinance to Lincoln County Planning Commission**

Ms. Taylor reminded Curt Temple, Planning Director previously proposed seeking a planning grant assisting with development of a Land Development Ordinance. Ms. Taylor stated Mr. Temple subsequently learned the County was ineligible to apply for this grant assistance as the medium income level of the County exceeded grant limits. Ms. Taylor stated the Land Development Ordinance was proposed to aid in the management of development within previously approved but currently undeveloped subdivisions and also development of parcels created by claims of exemption. Ms. Taylor discussed the significant investment of time and resources required to create such an ordinance and suggested, at a minimum, the Lincoln County Planning Commission could begin researching related issues and draft a document for review.

**Motion:** Table for further discussion later in the meeting, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Minter.

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

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

**9. Lincoln County Detention Center Update**

Warden Arthur Anderson informed on monthly bookings and releases at the Lincoln County Detention Center and stated the total average daily population was 140. Warden Anderson stated the current population was 140 including 19 BIA prisoners and no US Marshal prisoners. Warden Anderson stated the current population was composed of 33 female and 107 male prisoners.

**10. Consideration / Action on 2014 Annual Certified County Maintained Mileage by Resolution 2013-35**

Ms. Taylor stated in accordance with NMSA 66-6-23 and responding to notification from the NM Department of Transportation, the annual Certified County Maintained Mileage Report was due by April 1, 2014. Ms. Taylor reminded the County was required to adopt an Administrative Resolution specifying the total maintained mileage for the current year as part of the certification process.

Ms. Taylor stated the Rural Addressing Department calculated this year's total County mileage as 807,1291 miles including 703,0970 miles of regular county roads and 104,0321 of county roads in National Forests.

**Motion:** Adopt Resolution 2013-35, **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Doth.

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

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

**SEE EXHIBIT B:** Copy of Resolution 2013-35 is attached hereto in reference thereto made a part hereof.

**13. Consideration / Action on a June 2013 Outstanding Invoice**

Ms. Taylor informed the County received an invoice in January of 2014 from CenturyLink for a 911 ADE Full Database Extract of 13,116 units. Ms. Taylor stated after researching the invoice history she learned data was extracted once yearly in June to update the E911 database for the County's Code Red Program. Ms. Taylor stated the invoice was received late due to the initial billing of the Village of Ruidoso in error. Ms. Taylor stated the data transfer was essential to maintain an accurate database for the Code Red Service and steps were taken ensuring accurate and timely billing in the future.

**Motion:** Approve payment of the June 2013 invoice from CenturyLink, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Draper.

Commissioner Doth discussed the dilemma of residents without land lines who are reliant upon cell phones and questioned how to access emergency contact information for those residents.

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

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

**8. Consideration / Direction on Assignment of Research and Development of Land Development Ordinance to Lincoln County Planning Commission (continued)**

**Motion:** Remove the Item from the table for further discussion, **Action:** Adjourn, **Moved by** Commissioner Doth, **Seconded by** Commissioner Draper

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

**Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter

Commissioner Minter supported Ms. Taylor's recommendation from the earlier discussion for the Lincoln County Planning Commission researching the feasibility of developing a Land Development Ordinance and provide recommendations.

Tom Mann, member of Lincoln County Planning Commission stated belief the members of the Commission were in agreement as to the need addressing the undeveloped subdivisions within the County and they were eager to begin developing some guidelines.

Curt Temple, Planning Director questioned if the Board of Commissioners had specific topics for the Planning Commission to consider.

Commissioner Draper volunteered to attend the next meeting of the Planning Commission to participate in the discussion. Commissioner Draper stated concern about undeveloped subdivisions and the associated 10,000 lots. Commissioner Minter mentioned "left overs" from the recent discussion and revision of the County Subdivision Ordinance including water conservation devices for new construction and requirements for thinning on lots.

Mr Temple commented on a recent development which obtained subdivision status through a claim of exemption. Commissioner Minter suggested the Planning Commission research options addressing these claims of exemption. Chair Powell suggested the County's recently revised Comprehensive Land Use Plan might prove useful for guidance in development of a Land Use Ordinance. Mr Temple discussed the use of zoning assisting with land development requirements and the potential need of zoning for enforcement. Commissioner Doth expressed a desire for a mechanism requiring full thinning of any subdivision. Mr. Temple discussed the potential need for a "minimum" lot size for future development. Chair Powell commented on the impact of thinning on an owner's insurance premiums as an incentive for thinning. Chair Powell also discussed the need for long range thinning plans over 5, 10, and 20 years.

There was general consensus to request the Planning Commission consider and develop recommendations for a Land Use Ordinance

**11. 9:00 A.M.: Consideration and Action on Lodger's Tax Applications with Backup Material:**

Commissioner Doth recused himself from the vote on Item 11a due to a potential conflict of interest

- a. **TABLED:** Funding Request \$13,570  
Purpose Smokey Bear Days  
Date(s) of Event: May 2-4, 2014  
Presenter Bennie Long/Smokey Bear's Hometown Association

**Motion:** Remove Item 11a from the table, **Action:** Approve, **Moved by** Commissioner Minter, **Seconded by** Chair Powell.

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

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

**Abstain:** Commissioner Doth

Chair Powell questioned if the funds approved for this particular entity's request last year were totally expended. Punkin Schlarb, Finance Director reported the entity requested and was approved for \$7500 last year and had expended the total amount

Ms Taylor stated for future requests staff would provide the amount requested by each entity in the previous year and the amount actually expended.

**Motion:** Approve the Smokey Bear Days Request for \$13,570, **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Minter.

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

**Yes:** Chair Powell, Commissioner Minter, Commissioner Draper

**Abstain:** Commissioner Doth

- b Funding Request: \$1,900  
Purpose: Ruidoso Sprint Triathlon  
Date(s) of Event: June 14, 2014  
Presenter: Frederic Moras/Bicycle Ruidoso

**Motion:** Approve the Ruidoso Sprint Triathlon request for \$1,900, **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Doth.

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

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

- c. Funding Request: \$8,500  
Purpose: Lincoln Merchant Brochure  
Date(s) of Event: Brochure  
Presenter: Elaine Brannen/Lincoln Merchants Association

**Motion:** Approve the Lincoln Merchant Brochure request for \$8,500, **Action:** Approve, **Moved by** Commissioner Minter, **Seconded by** Commissioner Draper.

Commissioner Draper questioned if the request was attached to a particular event. Elaine Allen of the Lincoln Merchants Association explained the purpose of the request was to print and distribute a brochure advertising the sixteen merchants in Lincoln but not to promote a specific event.

Chair Powell suggested future requests be limited to 50% of actual cost with merchants providing the additional "buy in" of the cost. Commissioner Doth requested a more detailed budget including the specific use of contributed funds. Chair Powell requested specific area events be included in the brochure. Ms. Allen agreed to comply with the suggestions.

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

**Yes:** Chair Powell, Commissioner Minter, Commissioner Doth, Commissioner Draper

- d. Funding Request: \$2,500  
Purpose: Hondo Iris Festival  
Date(s) of Event: May 2014  
Presenter: David Hall & Alice Seely/Hondo Iris Farm

**Motion:** Approve the Hondo Iris Festival request for \$2,500, **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Doth

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

**Yes:** Chair Powell, Commissioner Minter, Commissioner Doth, Commissioner Draper

- e. Funding Request: \$5,000.00  
Purpose: Aspencash Motorcycle Rally  
Date(s) of Event: May 15-18, 2014  
Presenter: Patric Pearson/CP6 Solutions, LLC

- f Funding Request: \$5,000.00  
Purpose: Golden Aspen Rally  
Date(s) of Event: September 17-21, 2014  
Presenter: Patric Pearson/CP6 Solutions, LLC.

**Motion:** Approve the Aspencash Motorcycle Rally and the Golden Aspen Rally request for \$5,000 each, **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Doth.

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

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

**12. 9:30 A.M.: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS**

Paul Baca, Assessor informed his office planned to mail the Annual Notices of Value to property owners on April 1, 2014. Mr. Baca reminded owners had thirty days to protest their assessed value. Mr. Baca also reminded the notices would contain new information including the previous year's tax rates and tax values for comparison. Mr. Baca stated the additional information would allow property owners to estimate their tax bill for comparison to last year.

Paul Baca, speaking as a volunteer fire fighter, expressed appreciation for a recent class conducted by Spencer Baldwin, Office of Emergency Services and a USFS representative on wild land firefighting.

Glenna Robbins, Treasurer stated her office would mail out 10,744 Notices of Second Half Tax Payment Due reminders this week. Ms. Robbins stated property tax collections were at 67.36% for the current tax year which was consistent with previous years.

#### 15. Consideration / Action on Supporting H.R. 3189 – Water Rights Protection Act

Ms. Taylor requested guidance as to the level of support the Board of County Commissioners wished to lend to HR 3189 which was introduced to prevent action by a recent federal directive for federal agencies requiring certain entities to relinquish their water rights to the United States in order to use public lands. Ms. Taylor stated the current directive was applicable to ski areas specifically but concerns were that this was a threat to all water users including ranchers. Ms. Taylor stated the bill sponsored by US Representative Tipton would "prohibit federal agencies from pilfering water rights through leases, permits, and other land management arrangements".

Ms. Taylor stated Commissioner Stone had requested support of this legislation. Chair Powell supported language of the letter provided by the NM Cattlemen's Association which addressed concerns of grazing permit holders.

Commissioner Doth stated the bill passed the US House on March 13, 2014 and suggested any letter of support should go to the US Senate. Commissioner Doth expressed concern about legislation written for specific reasons which might create unintended consequences. Commissioner Minter questioned if the proposed legislation might impact the Village of Ruidoso. Chair Powell expressed belief the letter would support the Village's right to utilize water from Federal Lands.

There was general consensus to send a letter of support for HR 3189.

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

Scott Annala, IHC Administrator presented the Sole Community Provider/Lincoln County Medical Center claims carried for approval. Mr. Annala processed 40 claims with 37 recommended for approval and 3 recommended for disapproval for a total authorization of \$72,410.37 and a year to date authorization of \$889,600.32. Mr. Annala noted the average monthly hospital claims to date was \$98,844 with a projected annual approval for FY 2013-2024 of approximately \$1.2 million.

Mr. Annala presented the Indigent Health Care Payments request for the month. Mr. Annala processed 44 claims with 35 recommended for approval and 9 recommended for disapproval. Mr. Annala noted the most prevalent reason for disapproval being individuals becoming eligible for Medicaid. Mr. Annala stated while there was a slowdown in applications, he had a large number of claims pending final approval or denial of eligibility from Medicaid. Mr. Annala stated the total of claims recommended for payment this month was \$10,259.85 for a year to date total of \$181,044. Mr. Annala noted the average monthly indigent claims to date were \$20,116 with a projected annual expenditure of \$241,392. Mr. Annala reminded the FY 2013 -2014 budget for indigent claims was \$393,278 and projected adequate funds for the fiscal year.

**Motion:** Approval and denial of the claims as indicated for Sole Community Provider and Indigent Health Care Program payments as recommended, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Minter.

Commissioner Doth questioned if beginning in the next fiscal year the 1/12<sup>th</sup> required by Senate Bill 268 would reduce the Indigent Health Care budget. Mr. Annala stated the final language of the bill provided flexibility as to how each County could fund the equivalent of 1/12<sup>th</sup> GRT including but not limited to the Indigent Health Care GRT, the Mill Levy, or other taxing authority. Mr. Annala noted the bill required adoption of an Ordinance committing the equivalent of 1/12<sup>th</sup> to the State. Commissioner Draper discussed the line item veto of particular language in the bill. Mr.

Annala stated counties were expressing concern about the legality of vetoing "language" within SB 268

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

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

**Excused:** Commissioner Stone

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

Chair Powell recessed the Regular Meeting at 9:59:12 AM and reconvened at 10:14 31 AM.

**14. Consideration / Action on Resolution 2013-36 – Supporting Local Water Management By Acequias in New Mexico and Commemorating the Twenty-Fifth Anniversary of the New Mexico Acequia Association**

Ms Taylor stated the Resolution was drafted in conjunction with Senate Memorial 57 passed during the recent legislative session to recognize the water management capabilities of the acequias in New Mexico and to acknowledge the contribution of acequias as a form of water governance with an overall positive effect on watersheds.

Chair Powell commented on the historical nature of acequias and stated the political structure of acequia management was one of the oldest forms of governance within the United States Chair Powell presented a map of acequias in the State of NM indicating the 82 acequias located in Lincoln County. Chair Powell stated acequias were acknowledged as formal political subdivisions of the State of New Mexico in 1996

**Motion:** Adopt Resolution 2013-36, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Draper

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

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

**SEE EXHIBIT D:** Copy of Resolution 2013-36 is attached hereto in reference thereto made a part hereof.

**17. Manager's Report**

- 1. Smokey Bear Ranger District.** Acting Smokey Bear District Forester, Larry Cordova, reported the remodel of the Ruidoso Ranger Station was near completion with a "soft grand opening" scheduled in April and a formal grand opening set for August 9, 2014 on Smokey Bear's 70<sup>th</sup> birthday. The Smokey Bear Hotshots were scheduled to start work this week. District Ranger Dave Warnack on special assignment in Flagstaff, Arizona informed he was looking forward to sharing acquired information about implementation of new fire and flood mitigation processes.
- 2. GSWA.** The Manager reminded a Special Meeting was held on March 7, 2014 to take action on GSWA's request for approval of the First Amendment to the Joint Powers Agreement for the Financing and Establishment of the Otero County/Lincoln County Regional Landfill. The Manager stated the amendment allowed a rebate of excess revenues from the Landfill to GSWA and Otero County, with GSWA's net amount (after payment to the Village of Ruidoso) being \$86,270. The Manager further reminded the Commissioners approved the amendment contingent, upon GSWA Board approval of the following motion:

**GSWA Board Member:** *I move that this Board direct that the refund to Greentree Solid Waste Authority in the approximate amount of \$86,270.00, once received, be restricted to repayment of the New Mexico Finance authority debt incurred by GSWA*

- 3. EPA Revised "New Source Performance Standards (NSPS) for new residential wood heaters".** The Manager reported the Environmental Protection Agency had proposed revising the New Source Performance Standards (NSPS) for new residential wood heaters. The EPA contended action was necessary to update 1988 NSPS to reflect significant advancements in wood heater technologies and design. The rule is expected to require manufacturers to redesign wood heaters to be cleaner and lower-emitting. These standards would apply only to new residential wood heaters and not to existing residential wood heating appliances. The Manager stated consumer concern was the new standards may effectively kill the fireplace and wood stove market, as there may be little or no ability to adhere to new guidelines. Additionally, although the standards would not

apply to existing wood-heating appliances, the use of wood as a source for heating new homes would be reduced or minimized. The Manager stated formal comments were due by May 5, 2014.

Commissioner Doth stated comments posted on the EPA website by manufacturers regarding the proposed changes indicated the new requirements would effectively eliminate the cost effectiveness of producing wood heaters. There was a general consensus to prepare comments for approval at the next meeting.

**4. Update: Request for USFS Investigation – Cibola National Forest – Mountainair District.** The Manager provided a copy of Attorney Morel's formal request for an investigation into the Mountainair District Ranger's decision to ban or modify grazing privileges on the Cibola National Forest on January 22, 2013. The Manager reported Deputy Director Gilbert Zepeta had stated the County would receive a letter of response within the next week.

**5. Legislative Update and Capital Outlay:**

- a. The Manager provided copy of a letter received from Senator Phil Griego providing a summary of events and actions during the 2014 legislative session
- b. The Manager provided copy of a letter received from Hubert Quintana, Executive Director-SNMEDD which included a 2014 SNMEDD Legislative Recap. The Manager detailed specific capital outlay requests approved for the County:
  - i. Construct / expand Detention Center \$ 163,000
  - ii. Construct Expansion of White Oaks VFD \$ 20,000
  - iii. Construct Hondo VFD Fire Station \$ 25,000
  - iv. Construct Communications Tower \$ 25,000
  - v. Storm Ditch Improvements \$ 50,000
  - vi. SEO Alto Lake Dam Improvement \$ 300,000

**6. Upcoming Events:** The Manager provided a detailed list of events including

- a. The New Deal in New Mexico – Art and Photographic Exhibit – Opening Event Ft. Stanton Museum Galleries March 16
- b. NMAC Legislative Update – Alamogordo March 19
- c. Exploring New Frontiers-Carrizozo Heritage Museum March 20
- d. NM 2014 Wildland Urban Interface Summit – Taos April 2-3
- e. Forest Health Conference – Village of Ruidoso April 11
- f. Town Hall on Water Planning Development & Use – Albuquerque April 15 & 16

**7. Building Updates:**

- a. The Manager reported the Court / Sheriff's Complex expansion was proceeding on time and on budget
- b. The energy-audit work prescribed by Verterre, Inc. to replace windows, lighting and HVAC units in the existing building was being coordinated;
- c. Ft. Stanton Fire Department was near completion.
- d. All funding in-hand to begin coordination between SNMEDD and Wilson & Co. to begin work on the Carrizozo Senior Center.

**8. Departmental Updates:**

- a. Punkin Schlarb, Finance Director discussed current efforts by Michelle Caskey, Fixed Asset Administrator to build a Capital Asset Plan for the County. Ms. Caskey stated the plan would provide the ability to sort assets by condition for evaluation and determination of the useful life of County assets. Ms. Schlarb reported Orlando Samora, Purchasing Agent was working toward the required State Certification for Purchasing Agents
- b. Carl Palmer, Road Superintendent had no update other than bid awards for this meeting
- c. Curt Temple, Planning Director informed the Rural Addressing Department continued to remove and replace old County road signs with street signs. Mr. Temple discussed the recent meeting of the Joint Land Use Study group and estimated the study was about one and one half years from completion. Mr. Temple reminded the JLUS group was a military directed study to preserve training capabilities of the associated bases. Mr. Temple noted the group associated with

JLUS did not support the current route of the SunZia transmission line but did support development of alternative energy resources

- d. Spencer Baldwin, EOC Coordinator reported on recent small fires in the area and ongoing fire preparedness training including a refresher course conducted for the County Road Department Mr Baldwin discussed the receipt of the SIMs table and noted he would receive additional training on the use of the table for training at the upcoming WUI conference.

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

- 1. Water Rights Notice Ms. Taylor reported one new water right notice was posted to the State Engineer's website as follows:

FNF Construction, Inc filed Application T-6008 on January 22, 2014 requesting a permit to temporarily appropriate underground water within the Tularosa Underground Water Basin in Lincoln County Applicant proposes to utilize an existing well on the Malkerson Ranch, LLC for a temporary appropriation of groundwater not to exceed 90 acre feet for NMDOT road construction Project No 2100250 on Highway 54

- 2. Ms. Taylor stated a Town Hall Meeting on Water Planning, Development and Use was scheduled by "New Mexico First" on April 15<sup>th</sup> and 16<sup>th</sup>, 2014 to bring people from all over the State to develop practical recommendations on water use and policy. Ms. Taylor stated specific topics included: long range and crisis water planning; New Mexico's aging water infrastructure; conservation and reuse; and water development to include possible desalination. Ms. Taylor stated registration information was available for the seminar for those interested in attending

Ms Taylor informed the Clean Water State Fund was soliciting requests from entities for funding to be used for watershed restoration. Ms Taylor stated she would research the opportunity and application requirements for review at the next meeting.

Ms. Taylor reported Rick Merrick, the new Rural Forester with South Central RC&D had reported working on a New Mexico Association of Counties grant application and various other grant and funding opportunities for thinning projects

**19. Status of Subdivision Development Ordinances within the County of Lincoln**

Ms. Taylor stated Ordinance 2013-03 was adopted on June 7, 2013 establishing a temporary moratorium on subdivision development within the County. Ms Taylor reminded adoption of the Ordinance was predicated on the need to revise the existing Subdivision Ordinance due to concerns related to limited water resources Ms Taylor stated Ordinance 2013-03 which imposed the moratorium contained a clause of expiration after six months or until such time as the County Commission repealed the Ordinance Ms. Taylor explained the six month expiration occurred first and therefore no action to consider a repeal was required at this time. Ms Taylor stated subsequently the revised Subdivision Ordinance 2013-02 addressing water availability concerns was adopted on July 16, 2013

Chair Powell noted while water rights might be available for transfer, the limited amount of water actually available in the County and current water use far exceeded the adjudicated water rights available.

**21. Consideration / Action on Bid Awards:**

Ms Taylor detailed the bids received as follows.

- a. Bid 13-14-006 Resurface Roads - Fawn Ridge Subdivision

1. Mesa Verde Enterprises, Inc.	\$ 60,348.65
2. Renegade Construction	\$ 79,435.76
3. Star Paving Company	\$ 81,331.25
4. Burn Construction Co , Inc	\$ 97,080.85

- b. Bid 13-14-007 Resurface Roads - Palo Verde and La Junta Ranch Subdivision

1. Mesa Verde Enterprises, Inc.	\$162,447.20
2. Renegade Construction	\$216,700.20
3. Star Paving Company	\$227,093.75

- |                               |              |
|-------------------------------|--------------|
| 4. Burn Construction Co., Inc | \$277,572.75 |
|-------------------------------|--------------|
- c. Bid 13-14-008 Resurface Roads - Valley Heights Subdivision
- |                                |              |
|--------------------------------|--------------|
| 1. Mesa Verde Enterprises, Inc | \$ 64,242.06 |
| 2. Renegade Construction       | \$ 83,443.75 |
| 3. Star Paving Company         | \$ 83,847.01 |
| 4. Burn Construction Co., Inc  | \$111,798.85 |

**Motion:** Award Bid 13-14-006 for \$ 60,348.65, Bid 13-14-007 for \$162,447.20, and Bid 13-14-008 for \$ 64,242.06 to Mesa Verde Enterprises, Inc, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Minter

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

**Yes:** Chair Powell, Commissioner Minter, Commissioner Doth, Commissioner Draper

Carl Palmer, Road Superintendent reminded these were Cap/Coop projects funded by the Department of Transportation and anticipated after completion of these projects additional funding might be available for other projects. Mr Palmer stated he would request approval of additional projects such as striping. Commissioner Draper requested improvements be considered for roads in Alpine Village subdivision. Mr Palmer discussed potential solutions to culverts being clogged in that area.

**22. Budget Preparation Procedures and Timeline Approval FY 2014-2015**

Ms. Taylor recommended a timeline for budget preparation and discussed procedures including the notice to external agencies requesting budget input. Ms. Taylor suggested a Special Budget Meeting scheduled for May 2, 2014 to develop a preliminary budget for submission to DFA on June 1, 2014 with plans for a Final Budget hearing during the Regular Meeting of July 15, 2014.

**Motion:** Approve the proposed schedule of dates presented for budget development, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Draper

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

**Yes:** Chair Powell, Commissioner Minter, Commissioner Doth, Commissioner Draper

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

- a. Special Meeting and Public Hearing for Preliminary Budget Fiscal Year 2014-2015 for May 2, 2014

**Motion:** Schedule a Special Meeting and Public Hearing for Preliminary Budget Fiscal Year 2014-2015 for May 2, 2014, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Chair Powell.

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

**Yes:** Chair Powell, Commissioner Minter, Commissioner Doth, Commissioner Draper

- b. Schedule a Public Hearing to consider adoption of an Ordinance for compliance with SB 268

**Motion:** Schedule a public hearing for the next Regular Meeting scheduled in April to consider adoption of an Ordinance for compliance with SB 268, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Chair Powell.

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

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

Chair Powell recessed the Regular Meeting at 12:06:34 PM and reconvened at 1:03:56 PM.

Chair Powell recessed the Regular Meeting at 1:04:07 PM and convened the Public Hearing

**20. 1:00 P.M. Public Hearing to Consider amending Ordinance 2007-2 An Ordinance Prohibiting the Import for Release into the Wild of Certain Genera by Ordinance 2014-2**

Ms Taylor reported on the increasing concerns of Commissioners and private citizens regarding the threat that the reintroduction and existence of the wolf in Lincoln County and surrounding counties posed to the County and its inhabitants. Ms. Taylor explained the US Fish and Wildlife Services final rule implementing the introduction of the experimental wolf population did provide for Mexican Gray Wolves to be "taken" in certain instances. Ms. Taylor stated the purpose of the

public hearing was to consider amending the County's current Ordinance 2007-2 to establish procedures for problem wolves presenting imminent danger to humans, domestic animals, or livestock to be "taken" in these instances. Ms. Taylor provided copy of an Ordinance adopted by similarly affected counties

Chair Powell commented on the expansion of the wolf territory to all land south of Interstate Highway 40 and the subsequent need to develop a process to protect people and property in the County.

Commissioner Doth discussed concerns about the potential burden the proposed Ordinance might place on the Board of County Commissioners and suggested the language might be more "touchy feely" than practical

Ms Taylor explained Commissioner Stone had requested review of the Ordinance and had expressed concern that while the current Ordinance prohibited the release of wolves, no remedy or method to deal with wolves placing population at risk was included. Ms. Taylor suggested revisions would provide specific procedures for the County to follow should a problem wolf be identified

Attorney Morel reminded that wolves were a protected species and explained there were specific Federally defined criteria to lawfully "take" or kill a wolf. Attorney Morel discussed the important need to inform the public that simply because they might feel threatened this did not meet the criteria to kill a wolf Ms Taylor expressed belief that by defining the process to lawfully "take" a wolf the County would be protected from potential action.

Commissioner Doth questioned if the County might provide authority to the Sheriff's office to determine the need to "take" a wolf by proper procedure. Robert Sheppard, Sheriff informed that while Catron County had hired a specific employee to investigate wolf problems, he did not feel it appropriate to delegate decision making authority for this situation to his deputies. Sheriff Sheppard stated neither he nor his deputies could violate federal law and any proposed response would require very specific guidelines.

Commissioner Draper expressed concern about the time between when a problem occurred and when the Commission might meet to determine a particular wolf was a problem. Commissioner Draper also questioned the role of the NM State Game and Fish Department in this issue.

Chair Powell discussed the State's "three strike rule" and the reluctance of NM Game and Fish to become involved. Chair Powell suggested intervention by a Board of County Commissioners might prompt more action than an individual complaint.

Sheriff Sheppard noted the recreational nature of Lincoln County and discussed problems associated with the movement of all types of wildlife to municipal areas due to residents feeding the wildlife

Commissioner Doth suggested Lincoln County create a minimal ordinance which addressed the timeliness of response to resident complaints.

Commissioner Minter questioned if the local Predator Control officers might be used as a resource. Attorney Morel opined on the potential need to hire a professional investigator to prove a wolf attack.

Roy Gannaway, Chair of the Rancho Ruidoso Valley Estates Association committee reported seeing a grey wolf in the Alto area and suggested the County not wait to act until a resident was harmed Mr Gannaway also requested the County investigate how wolves might be discouraged from entering into populated areas Mr Gannaway further suggested the County educate people about the procedure to call and reporting sightings

Sheriff Sheppard suggested a call to the Sheriff's office to document sightings and initiate an investigation. Sheriff Sheppard discussed the presence of hybrid wolves in the area which had generated calls to his office.

Receiving no further public comment, Chair Powell adjourned the Public Hearing and reconvened the Regular Meeting at 1.31:35 PM.

Ms Taylor stated adoption of the Ordinance would enable the County, as per the language in Section 3, to petition the Federal Wildlife Service for an incidental "take" statement or to be an authorized person or for a special management plan.

**Motion:** Adopt Ordinance 2014-02 with correction of minor typographical errors, **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Doth  
**Vote:** Motion passed by roll call vote (**summary:** Yes = 3, No = 1, Abstain = 0).  
**Yes:** Chair Powell, Commissioner Doth, Commissioner Draper  
**No:** Commissioner Minter

**SEE EXHIBIT E:** Copy of Ordinance 2014-02 is attached hereto in reference thereto made a part hereof.

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

**a Tabled-Planning Commission**

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

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

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

**Motion:** Appoint Dennis Dunham to the Planning Commission, **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Doth.

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

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

**b Tabled-Senior Citizens Olympic Committee**

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

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

**Yes:** Chair Powell, Commissioner Minter, Commissioner Doth, Commissioner Draper

**Motion:** Reappoint Bart Young to the Senior Citizens Olympic Committee, **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Doth

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

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

**c Southeastern New Mexico Economic Development District (SNMEDD)**

**Motion:** Appoint Chair Powell as Alternate to SNMEDD, **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Doth

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

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

**25. Consideration / Action on MOU with the Village of Ruidoso Permitting Process in the County**

Attorney Morel reminded the County was working with the Village of Ruidoso to develop a Memorandum of Understanding (MOU) to provide for permitting of residential and commercial construction within certain specified areas of the County. Attorney Morel presented the MOU as approved by the Village of Ruidoso during their March 11, 2014 council meeting. Attorney Morel stated a map of the specific area addressed by the MOU was also adopted by the VOR as part of the MOU.

Attorney Morel reminded the Village and the County were in agreement to not adopt language which specifically defined jurisdiction as part of this MOU. Attorney Morel stated the MOU contained language which provided for termination by either party with four months prior notice. Attorney Morel stated the Village agreed to gather data about permits issued under the MOU for the next few months after which time the parties could determine whether to continue with the MOU or propose additional changes.

Roy Gannaway, Chair of the Rancho Ruidoso Valley Estates Association expressed approval of the inclusion of the complete subdivision within one jurisdiction as an aid to enforcement of bylaws and covenants.

Commissioner Draper questioned if the New Mexico State Construction Industries Division were in agreement with the proposed MOU. Attorney Morel stated CID had previously expressed a strong desire for such an agreement between the County and the Village of Ruidoso.

**Motion:** Approve the MOU Agreement between the County of Lincoln and the Village of Ruidoso for the agreed term of six months, **Action:** Approve, **Moved by** Commissioner Minter, **Seconded by** Commissioner Doth

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

**Yes:** Chair Powell, Commissioner Minter, Commissioner Doth, Commissioner Draper

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

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

New or Updated Matters since last report \*

- 1 Lodger's Tax Issue B Casa del Cocinero B making regular payments.
- 2 *Cooper, Gale and DeBaca County News v. County of Lincoln, Sheriff of Lincoln County, et al* D-1329-CV-200701364. Suit filed. October 15, 2007. Verified Complaint for Declaratory Judgment Ordering Production of Certain Records and Information. Hearing took place Dec. 13, 2013 with new filings of Suggestion of Death December 19, 2013.
- 3 *Michael Wheaton v Paul F. Baca, Lincoln County Assessor, et.al.* D-1226-CV-2011-00341. Suit filed October 18, 2011 Notice of Appeal of Final Order of the Lincoln County Valuation Protests Board. Attorney has agreed to stay the case pending the decision from the Court of Appeals
- \*4 *Coble Constructors, LLC, et al v Carl Kelley Construction Ltd. Co, et al.* D-1226-CV-2012-00003. Suit filed January 15, 2012 Complaint to Foreclose Mechanic's Lien Order granting motion for resetting 4/17/13. Motion for Summary Judgment filed Jan. 29, 2014, Hearing scheduled for April 24, 2014.
- 5 *Alto Lakes Golf & Country Club, Inc v Barbara Fleming, and Jesus and Maria Guardiola, et al* D-1226-CV-2011-00044 Suit filed February 18, 2011. Complaint to Foreclose Lien. Counterclaim and Crossclaim suit filed by Washington Federal Savings on September 21, 2012 naming Board of Commissioners of Lincoln County and Lincoln County Solid Waste Authority Stipulated and Default Judgment, Foreclosure, Order of Sale, and Appointment of Special Master, entered 8-12-13. County's lien was not extinguished and is still a valid lien against the property Order approving sale and Special Master's Report filed Oct. 23, 2013. Ownership has changed to Washington Federal and Lincoln County has not received any payments as of March 11, 2014.
- 6 *Greentree Solid Waste Authority v. Lincoln County, et.al.* D-0101-CV-2013-00104. Suit filed January 9, 2013. Petition for Declaratory Judgment, Preliminary and Permanent Injunction. Order Granting ALW&SD's Motion for Judgment on the Pleadings and for Summary Judgment entered by the court on 6-15-13. Plaintiff's Motion to Reconsider with Judge Singleton was denied in Hearing Jan. 24, 2013. Melendres, Melendres and Harrigan hired by the county to manage county's withdrawal from GSWA Meeting with both parties without attorneys and managers produced an agreed desire to discontinue appeal, however Appeal was filed by Mr Beauvais Feb 27, 2014. County's response is in progress with Melendres firm as of March 11, 2014
- \*7 *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. Hearing scheduled March 10, 2014 was unproductive. New telephonic Hearing on the Merits will be scheduled.
- 8 *Steven Miller, et al. v. State Forestry Division, NM Energy, Minerals, and Natural Resources Department, County of Lincoln, et al.* D-1226-CV-2013-00160. Suit filed June 15, 2013. Lincoln County Manager and Commissioners served July 9, 2013. Complaint for Negligence, Injury and Damages. On August 2, 2013, NMAC advised Attorney Bryan Evans has been assigned as counsel for Lincoln County. Judge Waylon Counts has been assigned the case Plaintiff's Response to Lincoln County's and State's Motion to Dismiss filed Jan. 3, 2014. Hearing scheduled for March 24, 2014 at 1:30 p.m at the Otero County Courthouse
- 9 *Barbara Diane Latham, et al v. Neal Cox, Ben Hazen, Lincoln County Sheriff's Department and the County of Lincoln.* D-1226-CV-2013-00191 Suit filed July 19, 2013. Complaint for Violation of Civil Rights, Wrongful Death and Damages by Attorney Gary Mitchell. LCSO and LC Manager were served on August 5, 2013. Tort Claim Notice was filed on

October 27, 2011 Advised NMAC has assigned the case to Brennan and Sullivan Law Firm 9/5/13 Case has been moved to Federal Court August 30, 2013. Order Settlement Conference scheduled for July 22, 2014

10. *State of NM/ Lincoln County v. Gonzales Gonzales M-30-MR-2014-00004* Filed Jan. 7, 2014. Alleged bringing contraband into LCDC – Chris Nedbalek with Gary Mitchell's firm assigned as public defender. Pre-Trial Hearing scheduled for March 21, 2014
11. *State of NM/ Lincoln County v. Alberto Ruiz – M-30-MR-2014-00012* Filed Jan. 5, 2014 Alleged bringing contraband into LCDC – Chris Nedbalek with Gary Mitchell's firm assigned as public defender Pre-Trial Hearing scheduled for March 21, 2014.
12. *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.
13. *US Bank National Association v John C. Allen, et al D-1226-CV 2013-00304* Filed Dec. 24, 2013 Foreclosure Entry of Appearance filed Jan. 17, 2014 and Disclaimer of Interest filed January 20, 2014.
14. *State of NM/ Lincoln County v. Nathan Little – M-30-MR-2014-00015* Filed Jan 21, 2014. Alleged bring contraband into LCDC – Chris Nedbalek with Gary Mitchell's firm assigned as public defender. Pre-Trial Hearing scheduled for March 21, 2014.
15. *State of NM / Lincoln County v. Shann M Marler M-30-MR-2014-00026* Alleged bringing contraband into LCDC. Chris Nedbalek with Gary Mitchell's firm assigned as public defender. Pre-Trial Hearing scheduled for March 21, 2014
16. *State of NM v. Johnny Cervantes – M-30-MR-2014-00030* Filed Feb 18, 2014. Alleged dogs and cats running at large Mr. Cervantes has not pled as of March 11, 2014
17. *State of NM v. Gerald Williams – M-30-MR-2014-00037* Filed Feb 21, 2014. Alleged vicious animals and dogs and cats running at large. Mr. Williams has not pled as of March 11, 2014.
- \*18. *State of NM v. Irene Howcroft – M-30-MR-201300190* Alleged animal nuisance Ms. Howcroft pled not guilty August 22, 2013 Mr. Morel has just received the case from the court Non-Jury Trial is scheduled for April 14, 2014.

#### **Tort Claims Notices Received or Threatened**

##### **2013**

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

**Borrego, Albert** - Tort Claim Notice received from attorney Gary Mitchell on June 14, 2013, alleging continued harassment to Albert G. Borrego by police while responding to a noise complaint at Mr. Borrego's residence on February 28, 2013, and a separate incident resulting in Mr. Borrego's arrest on March 5, 2013, due to an outstanding warrant, during which Mr. Borrego allegedly sustained injuries while in custody due to an existing broken back injury 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 12<sup>th</sup> 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 Aito Lakes Water & Sanitation District for a water well

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

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

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

**Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Draper.  
**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 4).  
**Yes:** Chair Powell, Commissioner Minter, Commissioner Doth, Commissioner Draper.  
**Excused:** Commissioner Stone

Chair Powell recessed the Regular Meeting and convened the Closed Session at 1 46:36 PM.

Chair Powell adjourned the Closed Session and reconvened the Regular Meeting at 2:47:06 PM.

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

**27. Signing of Official Documents**

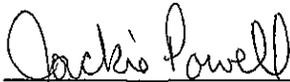
**28. Next meetings:**

- a. April 17, 2014 - Regular Commission Meeting
- b. May 2, 2014 - Special Commission Meeting - FY 14-15 Budget Considerations

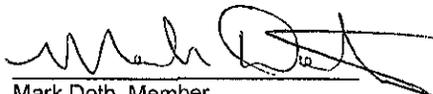
**29. Adjourn**

There being no further business to come before the Board of County Commissioners, Chair Powell adjourned the meeting at 2.47:30 PM.

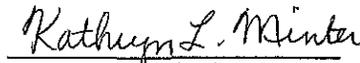
County of Lincoln  
Board of County Commissioners

  
\_\_\_\_\_  
Jackie Powell, Chair

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

  
\_\_\_\_\_  
Mark Doth, Member

  
\_\_\_\_\_  
Dallas Draper, Member

  
\_\_\_\_\_  
Kathryn Minter, Member

ATTEST:

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



April 25, 2014  
Date Approved