

COUNTY OF LINCOLN

New Mexico Regular Meeting Board of County Commissioners

Preston Stone, Chair
Dallas Draper, Vice Chair

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

Minutes
Tuesday, May 17, 2016

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on May 17, 2016 in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico.

1. Call to Order

Chair Stone called the Regular Meeting of the Board of County Commissioners to order at 8:29 AM.

2. Roll Call

Roll Call.

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

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

3. Invocation

The invocation was presented by Pastor Hayden Smith.

4. Pledge of Allegiance

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

5. Approval of Agenda

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

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

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

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

6. Approval of Minutes

- a. April 15, 2016 - Special Commission Meeting
- b. April 19, 2016 - Regular Commission Meeting

Motion: Approve the minutes of the April 15, 2016 Special Meeting and the April 19, 2016 Regular Meeting; **Action:** Approve, **Moved** by Commissioner Stewart, **Seconded** by Commissioner Allen.

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

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

7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month ending April 30, 2016
- c. Carrizozo Soil and Water Conservation District Mill Levy Rate
- d. Upper Hondo Soil and Water Conservation District Mill Levy Rate

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

Commissioner Stewart requested clarification of several budget line items and expenditures including payments to King Industries.

Ms. Taylor stated staff would present line item budget adjustments for approval to resolve any negative balances at the end of the fiscal year. Ms. Taylor reminded any payments to King Industries were constrained by the total annual contract award.

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

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

No: Commissioner Stewart.

Commissioner Stewart clarified his vote in the negative was specifically related to Agenda Item 7(a).

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

8. Forest, Land & Natural Resources Matters:

a. Smokey Bear Ranger District

Heather Noel, District Ranger reported on continuing efforts to rebuild the Southfork Campground near Bonito Lake. Ranger Noel stated the Ranger District had requested US Forest Service regional and national funding to rebuild the site for both day use and overnight camping.

Ranger Noel stated trail work will continue in wilderness areas utilizing cross cut saws to remove trees. Ranger Noel stated crews had also done extensive trail work in the Bonito and Three Rivers areas.

Ranger Noel stated seasonal crews were added for the fire season and expressed gratitude for the level of participation by students from New Mexico State University. Ranger Noel stated one of her priorities was to identify opportunities for local school districts to participate in forest health projects.

Ranger Noel stated plans to host a public meeting to discuss the upcoming Forest Plan revision and address other questions from the community.

b. Cibola National Forest

Ms. Taylor stated the Cibola Forest Plan Revision process was in Phase II which included the presentation of the Proposed Plan and Draft Environmental Impact Statement (EIS) for public comment. Ms. Taylor stated a final Objection Period would occur prior to approval of the Preferred Alternative and Final EIS with Notice of Plan Approval and Final EIS anticipated in 2018.

c. Community Forester

Rick Merrick, Community Forester for South Central Mountain Resource and Conservation District reported on a recent FireWise Meeting held with the residents of the Ranches of Sonterra. Mr. Merrick reported Sherriff Robert Shepperd and Joe Kenmore, Director of Emergency Services were in attendance to answer questions. Mr. Merrick reminded the subdivision had qualified as a FireWise Community and they committed to maintaining properties to limit fire danger.

Mr. Merrick reported the next Eastern New Mexico University Speaker Series topic was "Grassland Restoration Efforts on the Smokey Bear Ranger District".

Mr. Merrick provided an update on the Ruidoso Collaborative Forest Restoration Program Grant activities including a prescribed burn in Cedar Creek. Mr. Merrick discussed an upcoming prescribed burn planned in the West Mountain area.

Mr. Merrick reported SCMRCD received two grants from the New Mexico Association of Counties. Mr. Merrick stated one grant was for additional equipment for public education of FireWise programs. Mr. Merrick stated the second grant was to purchase an air curtain incinerator. Mr. Merrick anticipated the loss of curbside slash pick up for County residents would increase the need for the portable incinerator to burn slash piles.

d. Upper Hondo Soil & Water Conservation District

Ms. Taylor stated Laura Johnson, Program Coordinator was unable to attend this meeting.

e. Office of State Engineer-Water Issues

Ms. Taylor reported there were no new applications for water transfers posted to the State Engineer's website this month.

9. FY17 Grant Agreement: Children, Youth and Families Department for Lincoln County Juvenile Justice Board

Ms. Taylor presented the Fiscal Year 2016-2017 Grant Agreement Number 17-690-19800 with the New Mexico Children, Youth and Families Department (CYFD). Ms. Taylor stated the long standing agreement provided annual funding for the Lincoln County Juvenile Justice Board through a grant award to Lincoln County. Ms. Taylor stated the grant totaled \$104,751 for this fiscal year.

Motion: Approve the Fiscal Year 2016-2017 Grant Agreement with the Children, Youth, and Families Department, **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Stewart.

Commissioner Stewart questioned if the subcontractor had reviewed the agreement and understood the requirement for a funding match of \$40,000.

Ms. Taylor reported the Lincoln County Juvenile Justice Board would provide the funding match through in kind services.

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

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

10. Abandonment and Vacation of Easement: Kurt and Belinda Stegemann

Attorney Morel informed Kurt and Belinda Stegemann were requesting the Board of County Commissioners abandon and vacate a dedicated easement granted to Lincoln County in 1931. Attorney Morel stated Lincoln County had never utilized the easement located on land west of Glencoe and there were no plans to do so in the future. Attorney Morel noted the State of New Mexico had previously abandoned their easement at the same location.

Motion: Approve request for Abandonment and Vacation of land as legally described as 10A-ABMT-1 within the NE ¼ of Section 7, Township 11 South, Range 15 East as shown by the NM Department of Transportation Right of Way and Monumentation Map filed in the Office of the County Clerk Cabinet K, Slide Number 26; **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

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

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

11. Request to Issue Invitation to Bids

- a. Plumbing / Heating and Cooling
- b. Electrical

Ms. Taylor informed the current contracts for these services were awarded in June of 2013 for a one year period with a provision for annual renewal up to three years. Ms. Taylor stated the County could extend these contracts for one additional year but noted a number of revisions were necessary to meet procurement code and purchase order requirements.

Ms. Taylor stated the new Request for Proposals would include revisions requiring greater billing detail and itemization along with specific definitions of routine maintenance versus on call

maintenance. Ms. Taylor also discussed the benefits of combining bids for plumbing services with heating and cooling services.

Motion: Issue termination letters and develop requests for bids, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Willard.

Chair Stone stated belief services provided by "contract labor" should include all necessary tools and equipment to perform the contractual services.

Attorney Morel stated while a contractor should furnish "normal tools of the trade" there were instances requiring "specialized" tools or equipment. Attorney Morel stated it was not uncommon for contractors to bill the customer the cost of this "specialized" equipment.

Ms. Taylor suggested any contract include the option to audit costs billed for special equipment.

Attorney Morel suggested inclusion of language requiring prior authorization for any additional equipment costs.

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

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

12. Liquor License Fee by Resolution 2015-39

Ms. Taylor reminded NMSA 7-24-2 states the "boards of county commissioners ...are empowered, by resolution duly adopted, on or before the first day of June of each year to impose an annual, non-prohibitive license tax upon the privileges of persons holding state license under the provisions of the Liquor Control Act to operate within such counties..."

Motion: Adopt Resolution 2015-39, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

SEE EXHIBIT B: Copies of Resolution 2015-39 are attached hereto in reference thereto made a part hereof.

13. Memorial Day Proclamation

Ms. Taylor presented the proclamation in recognition of this year's Memorial Day celebration.

Commissioner Stewart read the Proclamation for the record acknowledging the debt of gratitude owed to veterans who have fought and died to defend our nation's freedom.

Motion: Approve the Memorial Day Proclamation, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

16. Manager's Report

1. **Mandatory ICIP Training:** The Manager reported she and staff would attend a mandatory Infrastructure Capital Improvement Plan (ICIP) webinar training. The Manager reminded September 1, 2016 was the deadline for the Fiscal Year 2018 – 2022 ICIP submission for counties. The Manager stated plans to submit a draft ICIP during the June Regular Commission Meeting and to adopt a final ICIP during the August Regular Meeting.
2. **State Auditor Approval for Lincoln County's request to contract with RPC CPAA and Consultants, LLP:** The Manager reported Lincoln County received a letter of approval from the State Auditor to contract with RPC for the annual audit. The Manager informed these were the same auditors who performed Lincoln County's annual audit for a number of years but the business name had changed.
3. **Carrizozo Senior Center:** The Manager anticipated finalization of the change order approved last month in the near future. The Manager spoke with Carrizozo Mayor

Lucero regarding the Town of Carrizozo repairing the sidewalk adjacent to the new Senior Center. Mayor Lucero provided a copy of the Town of Carrizozo's Ordinance which assigns the responsibility for repair of sidewalks to the property owner. The Manager stated Mayor Lucero committed to discussing the situation with the Town's Counsel.

4. **Voluntary Fire Stations – Update:** The Manager reported the Nogal Fire Station's bright red building was visible from Highway 37; architectural work started on the new Hondo Fire Station; and the expansion of the White Oaks Fire Station was the next scheduled fire station project.

5. **Calendar of Events:**

- a) May 18: Fair Board Meeting
- b) May 19: Lincoln County Historic Preservation Board Meeting
- c) May 24: ICIP Training
- d) June 7: ENMU Speaker Series: "Grassland Restoration efforts on the Smokey Bear District"- Kim Kuhar, Forest Fuels Specialist
- e) June 22-24: NMAC Annual Conference – Lea County
- f) June 28 Commission Meeting

6. **Departmental Updates:**

a. **Curt Temple, Planning Director** informed exterior work on the Nogal Fire Station building was 90% complete with some interior work pending completion.

Mr. Temple provided on update on activities associated with the new compactor site on Cora Dutton Road. Mr. Temple discussed the acquisition and placement of security cameras for compactor sites. Mr. Temple stated the lack of equipment to load and unload dumpsters was hindering efforts to distribute new dumpsters and relocate others. There was a lengthy discussion regarding the need to replace and move dumpsters to various sites and possible options to acquire equipment to handle the dumpsters.

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

Commissioner Draper reported on his attendance at a recent meeting conducted by the State of New Mexico Environmental Department on Food Handler Safety. Commissioner Draper informed the State of New Mexico recently adopted new Food and Drug Administration guidelines including requirements for continuing education for food handlers.

Commissioner Stewart reported plans to participate in several upcoming Joint Land Use Study (JLUS) Committee meetings.

Rhonda Burrows, Clerk reminded Early Vote sites would open in Ruidoso on May 21, 2016 and in Carrizozo on May 23, 2016. Ms. Burrows reported Absentee Voting began on May 10, 2016. Ms. Burrows acknowledged the important service provided by poll workers in the conduct of elections.

Doris Cherry voiced multiple concerns about the proposed business license ordinance for Lincoln County. Ms. Cherry stated the licensure requirement could lead to the closure of small home based businesses resulting in a loss of gross receipts tax revenues. Ms. Cherry suggested the proposed requirement for anyone with a NM State Gross Receipts Tax number to have a business license was Lincoln County's way of "backing into a requirement for all businesses to have a commercial trash account". Ms. Cherry suggested the licensing requirement and subsequent requirement for a commercial trash account would particularly burden those single owner businesses which typically operate out of the individual's home. Ms. Cherry also objected to the licensure requirement to increase solid waste billings in view of the large number of individuals granted exemption from solid waste billing based on the 300 Acre Exemption.

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

a. **Curt Temple, Planning Director** continued the discussion of challenges associated with the relocation of dumpsters.

Chair Stone suggested utilizing Road Department equipment and personnel to move dumpsters rather than seeking new resources.

Mr. Temple agreed the County could use Road Department equipment but reminded of the associated financial commitment of personnel and travel time to move and relocate dumpsters.

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

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

New or Updated Matters since last report *

1. **Cooper, Gale and DeBaca County News v. County of Lincoln, Sheriff of Lincoln County, et al.* D-1329-CV-2007-01364. Suit filed: October 15, 2007. Verified Complaint for Declaratory Judgment Ordering Production of Certain Records and Information. Hearing took place Dec. 18, 2013, and Stipulated Judgment was entered June 4, 2014 in favor of Ms. Cooper. Ms. Cooper filed an appeal June 10, 2014, and Judge John F. Davis was assigned Aug. 3, 2014. Joint Answer Brief of Defendants-Appellees' Steven Sederwall and Rick Virden with Request for Oral Argument filed in the Court of Appeals Sept. 28, 2015. Case was submitted to a panel of three judges for decision on February 1, 2016. Memorandum Opinion was filed March 23, 2016 affirming the district court's determination that statutory damages are not available and vacating \$100,000 punitive damages and attorney fee awards.

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

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

4. **A. Preston, DeAnna v. County of Lincoln, Sheriff Robert Shepperd D-1226-CV-2015-00112* Notice of Appeal of Post Disciplinary Hearing filed June 10, 2015. Amended Complaint alleging Civil Rights Violation and Gender Based Discrimination filed on Oct. 13, 2015. Removed to Federal Court Nov. 12, 2015. Order Granting Defendant's Motion for Protective Order and stay of discovery filed January 29, 2016. Amended Complaint Civil Rights Violation [42 USC 1983] was filed May 6, 2016.

B. Preston, DeAnna: Notice of Charge of Discrimination submitted to the U.S. Equal Employment Opportunity Commission July 21, 2015. Mediation was Oct. 29, 2015. Plaintiff requested a Right to Sue from the EEOC on January 29, 2016.

5. *Valle del Sol v. Naron, et. al. D-1226-CV-2015-00166* Complaint to Enforce and Collect Upon Promissory Note and to Foreclose Mortgage upon Real Property filed Sept. 24, 2015. Plaintiff's Motion for Summary Judgment was filed December 2, 2015. Motion Hearing took place January 19, 2016. Proposed Motion for Summary Judgment approved as to form February 5, 2016. Motion Hearing took place February 15, 2016 where Judge Bryant gave the parties until March 15, 2016 to resolve or Summary Judgement will be entered. Summary Judgment Against Defendants Willie E. Naron and Joanne R. Naron entered on March 23, 2016.

6. *Orlando Montes v. Pinnacle Propane, LLC, Allen Sultemeier, County of Lincoln, Lincoln County Fair Association, John Does; D-1226-CV-2016-00006* Complaint for Wrongful Death, Statutory Tort, Violation of Constitutional Rights (Due Process), Negligence Per Se: Loss of Consortium, Negligent Infliction of Emotional Distress filed with the 12th Judicial District Court Jan. 19, 2016. Incident occurred at Lincoln County Fairgrounds July 2, 2015. County was served with Complaint on January 25, 2016. The case was removed to Federal Court Feb. 22, 2016.

7. *Walter Ray Seidel / Brian Ray Seidel v. Anthony Manfredi, Lincoln County Sheriff Department M-32-CV-2016-00036* Civil Complaint filed March 9, 2016 alleging personal and property damage.

8. **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. GSWA's Writ of Certiorari was denied by the New Mexico Supreme Court December 2, 2015. Mandate to District Court Clerk from the Clerk of the Court of Appeals filed on April 19, 2016. Notice of Status Conference (Judgment on

Mandate) scheduled for May 10, 2016 at 10:30 a.m. before Judge Sarah Singleton at the 1st Judicial District Court in Santa Fe, NM.

Lincoln County Ordinance Violations:
Alan P. Morel: 12th Judicial District Attorney's Office

9. *State of NM v. Blaylock, Gregory M-30-MR-2016-00016 Violation of County Ordinance 2014-04-Contraband at Lincoln County Detention Center. Non-Traffic citation was filed in Carrizozo Magistrate Court on February 10, 2016. A misdemeanor arraignment took place February 12, 2016 when the Defendant pled "Not Guilty." Defendant represented by Public Defender's office. Pre Trial Hearing was scheduled for March 29, 2016 but due to Defendant's automobile accident March 28, a reset was scheduled for April 12, 2016 at which time Defendant failed to appear. A Bench Warrant has been issued by the court for failure to appear in the sum of \$400-cash only (\$300 fine and \$100 bench warrant fee). A Pre-Trial Hearing is scheduled June 7, 2016 at 9 a.m. on a trailing docket before Judge Mickie Vega.

10. *State of NM v. Sandoval, Andrew D. M-30-MR-2016-00042 Violation of County Ordinance 2008-08-Animals running at large. Criminal Complaint filed March 31, 2016 in Carrizozo Magistrate Court. First Appearance hearing took place April 20, 2016 where the Defendant pled "Guilty" and was found Guilty. Sentencing Hearing is scheduled for May 24, 2016 9 a.m. on a trailing docket before Judge Mickie Vega.

11. *State of NM v. Rice, Wallace M-30-MR-2015-00241 Violation of County Ordinance 2014-04-Transportation or Possession of Contraband into Lincoln County Detention Center. Criminal Complaint filed November 23, 2015 in Carrizozo Magistrate court. First Appearance hearing took place December 14, 2015 where the Defendant pled "Guilty." Sentencing Hearing was scheduled for January 19, 2016 however, the Defendant failed to appear due to his concurrent incarceration, being in the custody of the US Marshal in the case of USA v. Wallace R. Rice, Criminal No. 15-mj-4434 until federal prosecution is complete. Bench warrant was served April 28, 2016, along with an Order Setting Conditions of Release and Bail Bond by Judge Mickie Vega. Sentencing Hearing is scheduled for Tuesday, May 24, 9 a.m. on a trailing docket before Judge Mickie Vega.

Tort Claims Notices Received or Threatened

2016

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

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

Seidel, Walter R., Jr. – Tort Claim Notice received January 26, 2016 regarding a motor vehicle accident involving Claimant and a Lincoln County Sheriff's vehicle.

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

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

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

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

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

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

2015

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

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

UNM Hospital-Prins, Chad – Tort Claim Notice received Feb. 26, 2015 in which UNM Hospital seeks reimbursement of expenses incurred while Lincoln County Detention Center inmate Prins was on furlough.

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

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

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

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

Chavez, Billy – Ordinance Violation: 2009-03 Regulating Refuse, Solid Waste and Litter in the County. March 10, 2015 certified letter mailed to Mr. Chavez giving him 30 days to dispose of debris on his property at 142 White Cat Road, San Patricio (Section 26, Township-10S, Range 16E, tract of land lying in the NE 4SE4). April 10, 2015 the property was inspected and noted no progress had been made.

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

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

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

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

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

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

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

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

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

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

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

2014

Millerden, Kenneth and Anita – Tort Claim Notice received May 9, 2014 from Attorney Victor F. Poulos alleging negligence from staff at Lincoln County Medical Center during prepartum care for their infant son.

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

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

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

Class Action – Tort Claim Notice received June 23, 2014 from Attorney Ryan Villa/Cooper Law Firm alleging false imprisonment, false arrest, deprivation of rights at Lincoln County Detention Center 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.

McGarry, Sean – Tort Claim Notice received July 25, 2014 from Attorney S. Doug Jones Witt alleging wrongful arrest, false imprisonment, malicious prosecution, intentional or negligent infliction of emotional distress, abuse of process, wrongful termination and retaliatory discharge

regarding discharge from the Capitan Police Department.

Ramos, Aaron – Tort Claim Notice received August 7, 2014 alleging lack of Due Process for inmates at Lincoln County Detention Center.

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

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

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

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

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

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

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

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

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

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

2013

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

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

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

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

Chair Stone recessed the Regular Meeting and convened the Closed Session at 9:50 AM.

Chair Stone recessed the Closed Session and reconvened the Regular Meeting at 11:39 AM.

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

Chair Stone stated Executive Session would reconvene later in the meeting.

16. Manager's Report (continued)

b. Joel Bonnell, Road Superintendent discussed issues related to Fort Lone Tree Road noting there was a dangerous blind spot in one curve. Mr. Bonnell stated the road currently had an eighteen to twenty foot driving surface and the associated right of way was limited to thirty five feet. Mr. Bonnell stated the narrow surface and narrow easement limited options available to widen or improve the curve.

Alan Morel, County Attorney informed Fort Lone Tree road existed by a Prescriptive Easement which grants the "right to use" of any such easement in use for greater than ten years. Attorney Morel stated prescriptive easement rights do not include a right to expand the easement.

Commissioner Stewart was excused from the meeting at 11:47 AM.

Chair Stone suggested placing signage to notify drivers of the dangerous curve and also to request permission from the private land owner to remove the trees adjacent to the road.

Commissioner Willard suggested pursuing permission from the land owner to eliminate the curve by straightening the road to the access point at the State Highway.

Chair Stone reminded the County would need to seek permission from the NM Department of Transportation's to alter any access point to Fort Lone Tree Road from State Highway 247.

Motion: Send a letter to owner of property on Fort Lone Tree Road requesting permission to widen the road, straighten the curve, and cut down obscuring trees making any necessary improvements; **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

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

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

Excused: Commissioner Stewart.

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

Commissioner Stewart returned to the meeting.

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

18. 1:00 PM: Public Hearing to consider a Transfer of Ownership and Location of Liquor License No. 0812, with Package Sales; Liquor License/App. No. 0812/Application No. 993506 from Allsup's Convenience Stores, Inc. No. 130 US Hwy 70/380 and Don Pablo Road, Hondo, New Mexico 88336

Ed Tatum, legal counsel for Allsup's, Inc. introduced several representatives from Allsup's staff including Brian Ashburn, Director of Operations.

Mr. Tatum provided details and conceptual drawings for the new store planned for construction at the Hondo site pending approval of the application for transfer. Mr. Tatum stated plans were to initially dispense liquor from the current site until the new larger store was constructed. Mr. Tatum presented a site plan denoting the location of the new store on the approximately eight acre parcel. Mr. Tatum discussed benefits of moving the store further back from the highway.

Commissioner Draper questioned if the relocation would move the store closer to the school.

Mr. Tatum expressed belief the new store location would actually be further away from school property.

Commissioner Allen stated during a prior discussion between Allsup's and local residents a concern was raised by adjacent property owners regarding noise levels.

Mr. Ashburn stated he was aware of this discussion and although not depicted on the current drawing he would commit to building a wall similar to other walls constructed at Allsup's sites.

Commissioner Draper clarified the license was a transfer from the Tinnie Silver Dollar and was now limited to the sale of packaged liquor. Commissioner Draper questioned if the permit included permission to sell liquor on Sundays.

Mr. Tatum expressed belief the license included a provision for the Sunday sale of liquor.

Jim Cooper, Hondo School Board Member informed the Hondo School Board was unanimously in favor of the license transfer. Mr. Cooper reported the Hondo School Board held a public meeting in May and received no comments in opposition to the transfer. Mr. Cooper also introduced Marvin Martin, Superintendent of Hondo Schools who was present for today's public hearing.

Chair Stone requested additional public comment and receiving none adjourned the Public Hearing and reconvened the Regular Meeting at 1:11 PM.

Motion: Approve the Application for Transfer of Ownership and Location of Liquor License Number 0812, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Attorney Morel questioned if the application and license as presented included a waiver of the requirement for any site selling liquor be 300 feet from the nearest school.

Mr. Tatum stated the application as presented included the waiver.

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

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

16. Manager's Report (continued)

b. Joel Bonnell, Road Superintendent resumed his report and informed the Road Department received the newly purchased screening plant. Mr. Bonnell stated contracted work to chip seal Cora Dutton Road was in progress and the contractor would move to other awarded Lincoln County road projects upon completion. Mr. Bonnell reported a meeting was set with the Zia Natural Gas District Manager for May 20, 2016 regarding the pipeline on Bogle Road.

Ms. Taylor and Attorney Morel reported they would attend the meeting with Zia Natural Gas on behalf of the County.

Chair Stone stated he received confirmation from the Public Regulatory Commission the responsibility for pipeline burial was that of the utility company who owned the line.

Attorney Morel expressed belief it was the obligation of the utility to ensure lines were of sufficient depth to allow for road maintenance. Attorney Morel stated the solution to the problem on Bogle Road would likely depend on possible options and related costs.

c. Joe Kenmore, Director Office of Emergency Services Director reported the recent Emergency Medical Services convention and training in Ruidoso was well attended with approximately 500 individuals attending to receive Continuing Education Units. Mr. Kenmore commented on the expansion of the White Oaks Fire Department stating the plan was not to expand the current building but to erect an additional building on site for equipment storage.

d. Billie Jo Guevara, Administrative Assistant and Human Resources reported Catapult Health team members were recently onsite to conduct basic health tests for employees and their dependents.

Chair Stone recessed the Regular Meeting and convened the Public Hearing at 1:31 PM.

19. 1:30 PM: Public Hearing to consider an applicant seeking a restaurant beer and wine license with on-premises consumption only for Liquor License No. 995507: Alto Café, Inc. 810 St. HWY 48, Alto, NM, New Mexico 88312

Cheryl and Pete Blanchard owners of the Alto Café requested approval of the application for a restaurant beer and wine license. Ms. Blanchard stated they had owned and operated the restaurant continuously for fifteen years. Ms. Blanchard also informed they previously had a liquor license at another site and had no history of any issues or problems.

Commissioner Draper questioned if the hours of operation for the restaurant would change if the license was granted.

Ms. Blanchard stated while there were no immediate plans to increase hours of operation it was an option they might consider.

Chair Stone requested public comment and receiving none adjourned the Public Hearing and reconvened the Regular Meeting at 1:33 PM.

Motion: Approve the application for Liquor License Number 995507, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Willard.

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

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

16. Manager's Report (continued)

e. Renee Montes, Senior Services Director stated all operations were going well.

17. Approval or Disapproval of Safety Net Care Pool and Indigent Health Care Claims

Mr. Annala presented the Safety Net Care Provider Pool claims for approval. Mr. Annala processed 22 claims with 22 recommended for approval and none recommended for disapproval for a monthly authorization of \$11,166. Mr. Annala stated approval of the claims

would result in a total approval to date of Safety Net Care Pool claims for Fiscal Year 2015-2016 of \$199,232 or a monthly average of \$18,112.

Mr. Annala presented the Indigent Health Care Payments request for the month. Mr. Annala processed 5 claims with 4 claims recommended for approval and 1 for disapproval for a total payment this month of \$7,059. Mr. Annala stated approval of the claims would result in a total expenditure to date for IHC claims for Fiscal Year 2015-2016 of \$71,539 or a monthly average of \$6,054. Mr. Annala stated based on the current monthly average he anticipated an annual expenditure of \$78,043 for the current fiscal year.

Commissioner Willard questioned how the Medicaid expansion was affecting the Indigent Health Care Fund.

Mr. Annala discussed the anticipated shortfall in State funding for Medicaid and upcoming legislative meetings to discuss options to meet the shortfall. Mr. Annala stated currently provider reimbursement cuts were proposed and there was also some discussion of a "Provider Fee". Mr. Annala reminded the State had attempted in the past to co-opt County Indigent Health Care funds. Mr. Annala stated as Chair of the Health Care Affiliate he planned to work through the New Mexico Association of Counties (NMAC) to protect County Indigent Health Care Funds.

Rhonda Burrows, Clerk and NMAC Board of Directors Member informed the NMAC Health Policy Committee had drafted a Resolution supporting the role of counties in the discussion of health care funding and opposing an increase in any County contributions to State health care programs.

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

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

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

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

Chair Stone recessed the Regular Meeting and convened the Public Hearing at 1:45 PM.

20. 1:45 PM: Public Hearing to consider the Adoption of the Preliminary Budget for Fiscal Year 2016-2017 by Resolution 2015-40

Ms. Taylor presented the modified preliminary budget reflecting changes approved following the Public Hearing of May 2, 2016. Ms. Taylor stated after incorporation of changes approved on May 2, 2016, Lincoln County's projected ending balance over required reserves was \$4,492,119. Ms. Taylor provided a summary of requests and approvals from the Preliminary Budget Meeting on May 2, 2016.

Ms. Taylor discussed the funding requests presented by La Casa and Presbyterian for clinic operations noting Lincoln County Medical Center requested \$594,370 for clinics in Capitan, Carrizozo, and Corona and La Casa requested \$139,560 for the Hondo Clinic.

Troy Clark, Acting Administrator provided an overview of services provided to residents at Lincoln County Medical Center, Presbyterian clinics, and Emergency Medical Services. Mr. Clark also presented an overview of LCMC's calendar year budget stating projected revenues were \$42,170,308 and expenses totaled \$40,178,909. Mr. Clark noted the budget provided an operating margin of 4.72%.

There was discussion regarding the high loss ratio for Emergency Medical Services.

Mr. Clark cited low reimbursement rates and a higher uncollectable rate for EMS services when compared to other departments.

There was further discussion regarding potential funding options to meet Lincoln County's Safety Net Care Pool obligation.

Commissioner Stewart suggested budgeting a portion of the Safety Net Care Pool payment from Indigent Health Care revenues with the goal of utilizing all revenues in the fund.

Ms. Taylor reminded Lincoln County's mandatory Medicaid contribution was currently budgeted from the Indigent Health Care funds in addition to medical care for prisoners.

Commissioner Stewart stated while there were currently sufficient funds to accommodate the funding requests from the clinics and the hospital, the Board of Commissioners needed to "go on record" as stating Lincoln County could not continue to fund requests exceeding the total annual revenue from the mill levy.

Chair Stone recessed the Regular Meeting at 2:46 PM and reconvened at 2:55 PM.

Ms. Taylor reminded Renee Montes, Director of Senior Services presented options during the Preliminary Budget Meeting to address the Senior Services Department funding shortfall created by a decline in Federal and State reimbursements for services.

Ms. Montes stated the initial projected shortfall was \$139,000 but she had identified operational budget cuts reducing the shortfall to \$46,000. Ms. Montes stated options previously presented to accomplish further reductions included reducing full time positions to part time and reducing hours in some locations.

Ms. Montes stated should the Board of Commissioners decide to fully fund the department, she would still recommend a review of several positions to redefine duties in order to best meet service needs at different locations.

Ms. Taylor stated she would convene the Compensation Board to consider Ms. Montes' recommendations for changes to job descriptions.

Chair Stone adjourned the Public Hearing and reconvened the Regular Meeting at 3:30 PM.

Motion: Approve the FY 2016-2017 General Fund Budget as presented, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Draper.

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

Yes: Chair Stone, Commissioner Draper, Commissioner Willard.

No: Commissioner Stewart, Commissioner Allen.

Motion: Approve Clinic funding in the amount of \$733,930 with \$139,560 for La Casa Hondo Clinic and \$594,370 for Presbyterian Clinics, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Vote: Motion passed by roll call vote (summary: Yes = 4, No = 1, Abstain = 0).

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

No: Commissioner Willard.

Motion: Approve Lincoln County Medical Center budget request for \$325,850 for Emergency Medical Services, \$74,000 for capital requests, \$110,000 for the Community Assistance Program; \$1,400,000 for subsidy of hospital operations and \$5000 for Emergency Medical Services utilities; also approve expenditure of \$214,226 for the safety net care pool obligation from mill levy funds with the remainder of \$200,000 budgeted from Indigent Health Care funds, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

Vote: Motion failed on a roll call vote (summary: Yes = 2, No = 3, Abstain = 0).

Yes: Commissioner Stewart, Commissioner Allen

No: Chair Stone, Commissioner Draper, Commissioner Willard.

Commissioner Stewart reminded mill levy funds were dedicated to support of the hospital and suggested budgeting an amount equal to annual mill levy revenues for Lincoln County Medical Center funding.

Motion: Approve Lincoln County Medical Center request for funding in the amount of \$1,509,850, **Action:** Approve, **Moved by** Commissioner Draper, **None seconded.**

Motion dies for lack of a second.

Motion: Approve Lincoln County Medical Center request for funding as recommended by the Manager in the amount of \$1,759,850, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Draper.

Vote: Motion passed (summary: Yes = 3, No = 2, Abstain = 0).

Yes: Chair Stone, Commissioner Allen, Commissioner Draper.

No: Commissioner Stewart, Commissioner Willard.

Ms. Taylor reminded the County historically budgeted \$5000 for Emergency Medical Services utilities.

Motion: Approve payment of \$214,226 from Mill Levy funds for the Safety Net Care Pool payment with the remainder to be paid from Indigent Health Care funds also approve the expenditure of \$5,000 for EMS utilities, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

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

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

Motion: Adopt Resolution 2015-40, **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Allen.

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

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

No: Commissioner Stewart.

SEE EXHIBIT D: Copy of Resolution 2015-40 is attached hereto in reference thereto made a part hereof.

15. Lincoln County Solid Waste Matters

- a. Lease Agreement between the Village of Ruidoso and County of Lincoln for the Lincoln Compactor Site location

Ms. Taylor informed the Village of Ruidoso agreed to lease Lincoln County the compactor site in Lincoln for a fee of \$0.09 per square foot per year. Ms. Taylor stated the resulting total lease cost of \$720 per year was payable in equal installments quarterly.

Motion: Approve the lease agreement with the Village of Ruidoso, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Draper.

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

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

- b. Waiver of Solid Waste Fees due to 300-Acre Exemption per Lincoln County Ordinance 2016-01

Ms. Taylor reminded of prior discussions and action to approve a 300 Acre Exemption to Solid Waste Fees for those landowners of at least 300 contiguous acres with adequate disposal sites per household which do not impact the environment or endanger public health. Ms. Taylor noted the approval of the exemption generated 167 verified requests for exemption associated with \$23,457.26 in unpaid solid waste billings. Ms. Taylor recommended approval of a blanket waiver for the accounts identified and verified as eligible for this exemption.

Motion: Approve the waiver of solid waste billings in the amount of \$23,457.26 for accounts determined eligible for the 300 Acre Exemption, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

Commissioner Willard expressed belief landowners who requested the 300 Acre Exemption might continue to use County dumpsters in addition to disposal onsite.

Ms. Taylor stated applicants were required to attest to the fact they do not utilize County owned solid waste facilities.

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

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

- c. Waiver of Solid Waste Fees due to Un-inhabitability Exemption per Lincoln County Ordinance 2016-01

Ms. Taylor reminded of the previously approved exemption from solid waste billing for those properties requesting a waiver based on "un-inhabitability" of the premises. Ms. Taylor stated to date 34 requests for an exemption based on "un-inhabitability" were verified and these exemptions were associated with \$6,329.54 in unpaid solid waste billings. Ms. Taylor recommended a blanket waiver for the accounts identified.

Motion: Approve the waiver of solid waste billings in the amount of \$6,329.54 for accounts determined eligible for the Uninhabitable exemption, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

Commissioner Draper noted the Uninhabitable Exemption application required the applicant provide photos of the premises and suggested the 300 acre exemption also require applicants to provide photos of their waste disposal site.

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

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

Motion: Revise the 300 Acre Exemption application to include a requirement for photos of the landowners disposal pit and to include a description of the penalty for violation of terms, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Draper.

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

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

Ms. Taylor clarified the request for photos was applicable only to new applicants for the 300 acre exemption.

Attorney Morel concurred the requirement was for new applicants only and did not apply to those applications previously approved.

d. New Service Offering – Personal Dumpsters

Ms. Taylor reminded of prior discussions regarding requests for a new "personal dumpster service" for residents. Ms. Taylor stated staff was working with Sierra Contracting to determine a process, pricing and needed equipment for such a service. Ms. Taylor stated she would provide recommendations for consideration during a proposed public hearing to consider "A System of Fees for Solid Waste Collection".

Ms. Taylor stated the hearing would include a discussion of the proper procedure for filing of liens for nonpayment of solid waste services.

e. Business License Discussion

Ms. Taylor stated she and Alan Morel, County Attorney contacted other counties to determine their requirements for business licenses as well as current fees and billing processes.

Attorney Morel presented a draft Ordinance and a draft Business Registration Application for review. Attorney Morel requested direction regarding refinement of the draft to include potential exemptions and a possible effective date. Attorney Morel also requested direction regarding any proposed late fee for past due payments.

f. Status Update

Ms. Taylor reported Sierra Contracting continued to identify sites which needed either new replacement dumpsters or additional dumpsters. Ms. Taylor stated a lack of equipment to load and haul dumpsters was preventing the removal and replacement of dumpsters. Ms. Taylor noted some dumpsters were designed to reduce bear activity and these needed placement at particular sites. Ms. Taylor suggested consideration of approval for overtime pay for Road Department employees to assist with the deployment of dumpsters.

Ms. Taylor informed Lincoln County did not receive grant funding to purchase security cameras for collection sites but three cameras were ordered for the most significant illegal dump sites.

Ms. Taylor reported County residents continued to express concern about slash and green waste disposal but Sierra Contracting had reported an increase in "self-hauling" of slash to their main site.

Ms. Taylor informed a number of customers who were billed for services were not paying and suggested development of a process to file liens on these properties.

There was discussion regarding possible implementation of business license requirement.

Commissioner Allen suggested an exemption from licensing requirements for certain small

home based businesses.

Commissioner Stewart discussed the option of utilizing a list of gross receipts tax payers to assist in identifying commercial trash accounts as an option to requiring a county business license.

There was additional discussion regarding requests for slash pick up, equipment for relocation of dumpsters, requests for private dumpsters and other services not currently available.

Ms. Taylor stated Sierra Contracting was aware of these needs and anticipated the company would develop increased capabilities during the eight year contract

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

- a. Establish a system of fees for the Solid Waste Collection for the June 28, 2016 Regular Commission Meeting;

Motion: Schedule a Public Hearing to establish a system of fees for Solid Waste Collection for the June 28, 2016 Regular Meeting, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

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

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

- b. Business Registration Ordinance: Business Licenses

No action was taken.

22. Approval of Lodger's Tax Application(s):

- a. Purpose: Ruidoso Grindstone Trail Runs
Request: \$2,030.00
Date(s) of event: July 30, 2016
Presenter: Frederic Moras/Ski Run Road Challenge
Application No. 0014 – Approved by LTC for \$1000

Motion: Approve \$1000 for Ruidoso Grindstone Trail Runs Application Number 0014, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

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

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

Ms. Taylor stated applicants for the Lincoln County Cowboy Symposium and Fort Stanton Live agreed to postpone their requests for consideration at a later date.

- b. Purpose: Lincoln County Cowboy Symposium
Request: \$5000.00
Date(s) of Event: October 7, 8 & 9, 2016
Presenter: Sunny Hirschfeld/Hubbard Museum of the American West Foundation
- c. Purpose: Fort Stanton Live
Request \$8000.00
Date(s) of Event: July 9-10, 2016
Presenter: Dr. Walter Pittman/Fort Stanton Inc.

23. Consideration of Appointments and Removal from Boards/Commissioners /Committees:

- a. Senior Citizens Olympic Committee

Motion: Reappoint Gene Nitz and Jim Clements to the Senior Citizens Olympic Committee, **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Stewart.

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

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

b. SERPTO

Commissioner Stewart suggested the appointed elected official should serve on the Policy Committee and the Road Superintendent should serve on the Technical Committee based on SERPTO's process.

Motion: Appoint Joel Bonnell to the Technical Committee, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

c. Property Tax Board

Motion: Reappoint Donda Richardson and Lori Wetzel as members and Derek Moorhead as Alternate to the Property Tax Protest Board, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

Ms. Taylor requested a continued search for members of the Lodger's Tax Committee, Land and Natural Resources Advisory Committee (LANRAC), and the Planning Commission.

Commissioner Stewart requested a copy of committee members and vacancies by representative district for future reference.

25. Approval of RFP #15-16-011 Environmental Consultant Services to SZ Enterprises, LLC Environmental Consulting

Ms. Taylor reminded the Request for Proposal was issued to conduct an environmental assessment for the mitigation of hazardous fuel reduction and defensible space for an area consisting of approximately 993 acres on six private land parcels. Ms. Taylor stated the environmental assessment was required by FEMA prior to commencing the actual thinning project.

Ms. Taylor stated a single bid was received from SZ Enterprises, LLC for a project cost of \$85,020.00.

Ms. Taylor disclosed for the record, her brother in law Clark Taylor was a member of the SZ Enterprises, LLC team.

Motion: Award RFP #15-16-011 to SZ Enterprises, LLC, **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Stewart.

Commissioner Draper questioned if SZ Enterprises had done any previous project work for Lincoln County.

Curt Temple, Planning Director informed the company had not previously bid on any other Lincoln County projects. Mr. Temple stated SZ Enterprises was recently selected from six bids received to complete hazard mitigation planning for the municipalities within Lincoln County.

Commissioner Stewart noted the average cost per acre based on the bid was \$85 an acre and questioned the reimbursement mechanism.

Mr. Temple clarified the cost was significantly below the original estimate with FEMA responsible for the greater portion and Lincoln County responsible for 25%. Mr. Temple reminded the project was for private property only and areas were identified for the maximum fire mitigation benefit.

Chair Stone objected to any project on private land for which the land owner has no financial obligation.

Ms. Taylor reminded the Lincoln County match for the multi-million dollar project was split over several budget years.

Mr. Temple informed any contract approved was subject to review by Homeland Security and FEMA prior to execution.

Vote: Motion passed (summary: Yes = 3, No = 2, Abstain = 0).
Yes: Commissioner Stewart, Commissioner Draper, Commissioner Willard.
No: Chair Stone, Commissioner Allen.

Chair Stone and Commissioner Allen clarified their vote in the negative was in protest of the lack of any contribution to the project from private land owners.

24. 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). (continued)

Chair Stone recessed the Regular Session and reconvened the Closed Session at 5:35 PM.

Chair Stone adjourned the Closed Session and reconvened the Regular Meeting at 5:59 PM.

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

26. Signing of Official Documents

27. Next meetings:

- a. June 28, 2016 – Regular Commission Meeting
- b. July 19, 2016 – Regular Commission Meeting

28. Adjourn

There being no further business to come before the Board of County Commissioners, Chair Stone adjourned the meeting at 6:09 PM.

County of Lincoln
Board of County Commissioners



Preston Stone, Chair

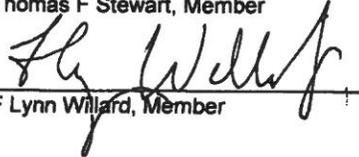
Dallas Draper, Vice Chair



Elaine Allen, Member



Thomas F Stewart, Member



F Lynn Willard, Member

ATTEST:



Rhonda Burrows, County Clerk



June 28, 2016
Date Approved