

## COUNTY OF LINCOLN

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### 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, May 20, 2014

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on May 20, 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 8:32:05 AM.

#### 2. Roll Call

##### Roll Call.

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

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

#### 3. Invocation

The invocation was presented by Pastor Roland Burnett.

#### 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 Minter.

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

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

#### 6. Approval of Minutes

April 25, 2014 Regular Commission Meeting

**Motion:** Approve the minutes of the April 25, 2014 Regular Commission Meeting,

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

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

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

#### 7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month ending April 30, 2014
- c. Carrizozo Soil and Water Conservation District Mill Levy

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

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

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

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

#### 8. Smokey Bear District Ranger Update

Ranger David Warnack informed Stage 1 Fire Restrictions were in effect as of May 21, 2014 on all Ranger Districts in the Lincoln National Forest. Ranger Warnack reminded Stage 1 Restrictions include a ban on open campfires and coal or wood burning stoves except in designated campgrounds. Ranger Warnack stated fireworks were prohibited and smoking was limited to enclosed or designated areas. Ranger Warnack stated the USFS would monitor ongoing conditions.

Commissioner Doth expressed concern about the potential for arson and requested the Forest Service seek public assistance in watching for any suspicious activity. Ranger Warnack explained the Smokey Bear District employed a six person fire prevention team to travel the District daily, make public contact to discuss conditions, provide trash bags, and monitor activity in the forest.

Ranger Warnack stated on May 8, 2014 representatives from the Lincoln National Forest Service met with municipal, county, and state officials to provide a briefing on fire conditions. Ranger Warnack stated there was robust conversation about preparedness and noted the "highly evolved" coordination between entities for emergency response to fires in this area.

#### 9. Lincoln County Detention Center Update

Arthur Anderson, Warden provided statistics on monthly bookings and releases at the Lincoln County Detention Center and stated the current total average daily population as 130. Warden Anderson stated the current population of the Detention Center was 121 including 17 BIA prisoners and no US Marshal prisoners. Warden Anderson also noted the current population was composed of 24 female and 97 male prisoners.

Commissioner Draper questioned if the facility was still short staffed. Warden Anderson reported three new employees were added this week but the Center still needed additional employees to be fully staffed.

#### 10. Resolution 2013-40: Fire Danger Emergency Declaration

Nita Taylor, County Manager recommended in conjunction with the Lincoln National Forest's decision to impose fire restrictions on May 21, 2014, the County consider adoption of a Resolution to extend fire restrictions to non-Forest Service land within the County. Ms. Taylor noted the Resolution would impose a ban on all burning of open flames, fires, campfires (except in designated areas) except by permit. Ms. Taylor further explained the Resolution, once adopted, would remain in effect for thirty days or until rescinded or extended by the Board of Commissioners.

**Motion:** Adopt Resolution 2013-40, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Minter.

Commissioner Minter noted the Resolution as worded would not impose restrictions on outdoor smoking. Commissioner Minter commented the fire restrictions imposed by the Lincoln National Forest and the Village of Ruidoso included a ban on smoking.

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

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

Manager Taylor reminded State Statute did not allow the County to impose restrictions on the use of fireworks within the County until 20 days prior to a holiday. Ms. Taylor informed due to the Regular Meeting being rescheduled to June 10<sup>th</sup>, the earliest the County could adopt fireworks restrictions was June 16<sup>th</sup> which would require a Special Meeting.

**SEE EXHIBIT B:** Copy of Resolution 2013-40 is attached hereto in reference thereto made a part hereof.

#### 11. Memorial Day Proclamation

Ms. Taylor presented the Proclamation in recognition of Memorial Day. Ms. Taylor stated on behalf of a grateful nation, it was fitting to recognize this year's Memorial Day observance. Ms. Taylor stated the Proclamation was "In memory of those who have previously and more recently given their lives in the defense of all we hold dear" including those who served in Iran and Afghanistan.

**Motion:** Approve the Proclamation, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Draper.

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

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

**12. 9:00 A.M.: Tabled - Consideration and Action on Lodger's Tax Applications with Backup Material.**

**Motion:** Remove Lodger's Tax Applications from the table, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Chair Powell.

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

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

Chair Powell informed only \$9,595 in available funding remained in the budget for this fiscal year. There was a general discussion about consideration of dates and priorities of events occurring within this physical year for funding. The requests as recommended by the Lodger's Tax Committee were as follows.

4. Funding Request: \$4,550.29; Art Loop July 4-6, 2014; Application 1715  
Presenter: Ronda Dougherty/Lincoln County Art Loop
5. Funding Request: \$ 1,000 00; Christmas Jubilee November 7-9, 2014  
Application 1716; Presenter: Linda McKinley/Ruidoso Valley Greeters
6. Funding Request: \$ 5,000.00; Fort Stanton Live July 11-13, 2014;  
Application 1717; Presenter: Larry Auld/Fort Stanton, Inc
7. Funding Request: \$ 2,800.00; Ruidoso Grindstone Trail Runs July 26, 2014  
Application 1718; Presenter: Frederic Moras/Ski Run Road Challenge
8. Funding Request: \$ 10,000.00; True Enchantment Tourism Board,  
March 1, 2014-February 28, 2015; Application 1719  
Presenter: Jim Boswell/Carrizozo Works, Inc.

**Motion:** Approve Application 1715 for \$4,000 and Application 1717 for \$4,500; table Applications 1716, 1718, and 1719, **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Doth.

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

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

Ms. Taylor informed the Manager's office and staff planned to schedule a meeting with the Lodger's Tax Committee to clarify funding availability and processes.

**14. Discussion/Possible Action – Continued Production of Erosion Control Wattles – FEMA Project**

Ms. Taylor discussed the history of the grant awarded by FEMA for a work project producing erosion control wattles utilizing 16,000 cubic yards of wooded debris removed from Eagle Creek, Bonito, and Magado drainages after the Little Bear Fire. Ms. Taylor stated the FEMA total estimate utilizing all of the debris for producing wattles was \$634,650.35 and as of this date the County had received \$237,994 from FEMA and \$39,666 from the State with the County's obligation also being \$39,666. Ms. Taylor stated the contractor for the project had received \$229,890 to date.

Ms. Taylor stated the number of wattles produced had far exceeded the public demand for use. Ms. Taylor stated potential impediments to distributing the wattles included the logistics of loading the cumbersome wattles and perhaps the location of the yard where the wattles were stored. Ms. Taylor discussed potential options for selling the wattles to other governmental entities and the requirement by some such agencies for the wattles to be tested and certified as "weed free".

There was a lengthy discussion about options to dispose of the remaining debris including options to utilize an "air burner" or "broadcast" the debris over certain sites.

Chair Powell questioned the cost for testing to determine if the wattles were "weed free". Ms. Taylor stated she would research the cost and commented, should they be "weed free", other counties had expressed interest in purchasing the wattles. Ms. Taylor informed the cost of testing was not an eligible expense for the FEMA grant funding.

Ms. Taylor stated the contractor was almost finished utilizing the 16,000 cubic foot of debris specified by contract and requested guidance whether the County should cease production of wattles until a process for distribution was identified.

**Motion:** Cease production of wattles, test debris to determine if the material was "weed free", and broadcast remaining debris to available sites. **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Draper

Ms. Taylor discussed the potential option to sell wattles "at cost" to offset the County's match. Commissioner Stone suggested if Dona Ana County was interested in obtaining some of the wattles, they might offset costs by providing transportation for delivery of the wattles

**Vote:** Motion carried by unanimous vote (**summary:** Yes = 5).  
**Yes:** Chair Powell, Commissioner Minter, Commissioner Stone, Commissioner Doth, Commissioner Draper.

#### 15. Lodger's Tax Audit Draw

Ms. Taylor stated in accordance with County Ordinance 2004-04, the County Commission shall select for audit one or more vendors to verify the amount of gross rent subject to the occupancy tax. Ms. Taylor stated County lodgers were divided into two pools with 14 large vendors and 14 small vendors in each. Ms. Taylor reminded vendors audited in the prior year were removed from the draw.

Commissioner Minter drew two lodgers from each group with lodger numbers 6 and 11 being drawn from the small pool and 18 and 27 from the large pool.

#### 16. Amend Professional Services Agreement – King Industries Corporation

Ms. Taylor discussed the need to amend the current Professional Services Agreement with King Industries Corporation from \$50,000 to \$60,000. Ms. Taylor stated King Industries was hired to lead the effort in developing the application for a \$3.5 million FEMA/NMDHSEM Mitigation grant. Ms. Taylor stated King Industries additionally assisted with work to fine tune the initial application and finalizing a second application by obtaining Environmental Assessments, identification and enrollment of private landowners, and oversee completion of the thinning project.

Ms. Taylor explained the State Procurement Policy was modified in 2013 increasing the limit for professional services contracts from \$50,000 to \$60,000. Ms. Taylor noted the County adopted a revised Purchasing Policy on October 15, 2013 to reflect the increased limit. Ms. Taylor stated King Industries was nearing the \$50,000 limit but as there were additional tasks to be completed for the grant application process, requested a contract amendment increase from \$50,000 to \$60,000

**Motion:** Amend the contract with King Industries from a maximum of payment for services from \$50,000 to \$60,000 for the fiscal year, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Minter.

**Vote:** Motion carried by unanimous vote (**summary:** Yes = 5).  
**Yes:** Chair Powell, Commissioner Minter, Commissioner Stone, Commissioner Doth, Commissioner Draper.

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

Scott Annala, IHC Administrator presented the Sole Community Provider/Lincoln County Medical Center claims for approval. Mr. Annala processed 31 claims with 29 recommended for approval and 2 recommended for disapproval for a total authorization of \$62,730 and a year to date authorization of \$992,892. Mr. Annala noted the average monthly hospital claims to date was \$90,263 with a projected annual approval for FY 2013-2024 of approximately \$1.08 million.

Mr. Annala presented the Indigent Health Care Payments request for the month and stated he processed 26 claims with 22 recommended for approval and 4 recommended for disapproval. Mr. Annala stated the total of claims recommended for payment this month was a record low of \$5,178.15 for a year to date total of \$199,725. Mr. Annala noted the average monthly indigent claims to date were \$18,157 with a projected annual expenditure of \$217,884. Mr. Annala reminded the FY 2013-2014 budget for Indigent claims was \$393,278 with adequate funds available for the final month of the fiscal year.

Mr. Annala anticipated the Legislative Finance Committee might develop a report requiring County's to provide information on revenues and expenditures from the dedicated 1/8<sup>th</sup> Indigent Health Care GRT. Mr. Annala anticipated the State would be reviewing County budgets seeking additional sources of funding for health care

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

Commissioner Minter suggested the County reconsider maximum payment amounts for services to providers as well as lifetime limits to help ensure the funds were utilized locally. Mr. Annala agreed and suggested an agenda item to consider revision of the Indigent Health Care Resolution for a meeting in the near future.

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

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

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

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

Commissioner Draper congratulated recent Lincoln County High School graduates and noted the large amount of scholarships awarded to students from various schools within the County.

Rhonda Burrows, County Clerk reminded early voting for the 2014 Primary Election began on May 17, 2014. Ms. Burrows discussed the two Early Vote sites open in Lincoln County located at the Lincoln County Courthouse and at the Horton Complex in Ruidoso. Ms. Burrows reminded voters of the multiple ways to vote including Absentee by Mail, Early Voting and Election Day Vote Centers.

### 18. Manager's Report

1. **HAT's OFF!** To Glenna Robbins, Treasurer, and Charlene "Punkin" Schlarb, Finance Director and their staffs for compiling the Fiscal Year 2014-2015 preliminary budget for consideration. A special thanks also to all other Public Officials and Department Heads for the in-depth scrutiny of their individual portions of the budget, which collectively comprise the whole.
2. **HAT'S OFF again!** Manager Taylor presented a letter of recognition to Renee Montes, Program Director of Lincoln County Zia Senior Centers by the Non-Metro Area Agency on Aging (NMAAA) for her Outstanding Submission of Budgets for FY 2014 – 15.
3. **Building Projects**
  - a. **Judicial and Sheriff Expansion.** As of the last billing, the expansion project was 80% complete, with an anticipated substantial completion date of August 7, 2014. Fine-tuning of the details, including meeting county, court and public requirements along with staying within the confines of the budget for the project continues to be a balancing act. With all entities cooperating, the project continues to be on time and on budget.
  - b. **Ft. Stanton Volunteer Fire Department:** The project funded by a CDBG grant of \$397,000 CDBG and \$277,765 in State Fire Marshall Funds was 98% complete. Total construction costs for the project were estimated as \$470,536, leaving approximately \$200,000 to purchase furniture and equipment.
  - c. **Carrizozo Senior Center:** A planning meeting with Architect Howard Kaplan of Wilson and Co.; Dora Batista of the Southeastern New Mexico Economic Development

District (SNMEDD); and Lincoln County Zia Senior Center staff was scheduled for June 11, 2013 to discuss issuing the construction Request for Proposals (RFP).

4. **Ft. Stanton – State Veteran Cemetery Program.** The Ft Stanton Cemetery was selected as one of four cemeteries in New Mexico to compete for federal funding in an initiative to provide for federally-rated final resting places that are closer to home for New Mexico veterans. Other selected locations were Angel Fire, Carlsbad and Gallup. The Manager reported on attendance by herself, Commissioner Powell, and Larry Holt, Lincoln County Volunteer Coordinator for the State Veteran Cemetery Program at the Point-of-Contact meeting for representatives from all four counties. The Manager noted the land required for the expansion of the Ft. Stanton Cemetery was currently owned by the state, significantly reducing up-front work to be completed. The Manager stated the State had pledged \$600,000 as the match for federal funding and would prefer to see all four sites developed at the same time. The Manager noted Governor Martinez was scheduled to speak at Ft. Stanton's Veterans Day Memorial Services on May 24, 2014
5. **Wood burning stoves.** The Manager reminded of prior discussion at the March Regular Meeting of the EPA's Revised "New Source Performance Standards (NSPS) for new residential wood heaters". Concern was expressed that the new standards might effectively kill the fireplace and wood stove market and the Commission directed the Manager to submit comments opposing the regulations. The Manager provided copy of the comments submitted.
6. **Cell Tower.** The Manager stated Verizon Wireless expressed interest in installing a new wireless communications facility north of Angus along State Highway 48 to serve the highway and surrounding communities. Lincoln County's Office of Emergency Services (OES) is located in the area at 111 Copper Ridge Road, and due to the location and nature of this property, Verizon Wireless proposed a lease agreement for approximately thirty feet by forty feet ground space just north of the OES building on County land. The Manager stated, if the Commission so directed, she would work with Verizon, CMS and Attorney Morel on a specific proposal for consideration. The Manager expressed belief the County could benefit from lease revenues and also have access to space for communications equipment on a tower.

Attorney Morel requested direction as to how to proceed and discussed options related to ownership of towers, leasing of space and related liabilities. There was a general consensus to develop a proposal.

7. **Upcoming Events.**

- a. May 22<sup>nd</sup> - State Transportation Committee Meeting in Ruidoso. Hubert Quintana as moderator requested Chair Powell make a five minute presentation on transportation needs. Other presentations were expected from local governments.
- b. May 24<sup>th</sup> - Veteran's Memorial Service at Ft. Stanton. 11:00 am.
- c. May 26<sup>th</sup> - Holiday – Memorial Day Observed (County offices closed)
- d. June 3<sup>rd</sup> - Primary Election
- e. June 6<sup>th</sup> - Special Commission Meeting – Canvassing of Primary Election Votes
- f. June 10<sup>th</sup> - Regular Commission meeting

8. **Departmental Updates:**

b. **Roads** – Carl Palmer, Road Superintendent discussed his recent attendance at the Rancho Ruidoso Valley Estates Home Owners' Association (HOA) meeting. Mr. Palmer reported the meeting was informative and discussed the HOA's concerns about the unpaved cul de sacs in the subdivision. Mr. Palmer explained the County's position that the cul de sacs were not as great a priority as other more heavily traveled roads.

a. **Finance** – Charlene "Punkin" Schlarb, Finance Director discussed the recent purchase of new tablets for use by County Commissioners to obtain agendas, receive email, and conduct County business. Ms. Schlarb planned to conduct a training on use of the tables in the near future

c. **Planning** – Curt Temple, Planning Director reported the County Clerk's office received a grant award for records preservation from the State based on a grant application submitted by Samantha Vega, Ordinance Administrator. Mr. Temple

stated Ms. Vega and his department continued work on the pending FEMA grant application.

d. **EOC** – Joe Kenmore, Director reported on three recent small fires in the County one of which was an unattended control burn. Mr. Kenmore also reported on the recent Emergency Medical Service (EMS) conference held in Ruidoso with approximately 731 in attendance. Mr. Kenmore stated the EOC conducted a demonstration of the SIMS table during Smokey Bear Days. Mr. Kenmore stated as the Risk Awareness Program Director he was happy to report the County met the target for the first half of this year resulting in less loss to the County.

Rick Merrick of South Central RC&D provided an update on grant applications for funding for thinning projects and reported on the joint project between multiple entities to remove burned trees on both sides of Bonito Road.

Chair Powell recessed the Regular Meeting at 10:10.44 AM and reconvened at 10:27.35 AM.

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

1. **Water Rights Notice.** There were no new water right notices posted on the State Engineer's website.
2. **Newspaper publication of prior water rights notices posted on the State engineer's website:** Ms. Taylor informed, as a result of the newspaper publication of applications by the Village of Ruidoso to transfer water rights from the Hondo Valley to the Village of Ruidoso (VOR), 300 Lincoln County residents and landowners filed protests with the State Engineer's office. Ms. Taylor provided copy of the letter sent on behalf of the Board of County Commissioners protesting the applications due to long term impairment in a critical management area and further noting the applicant had utilized five years of allotted water rights in three years.
3. **Town Hall on Water Planning, Development and Use:** Ms. Taylor anticipated a formal report from the session to be available soon.
4. **Pecos Valley Water Users meeting:** Ms. Taylor reported Chair Powell attended the meeting held on May 9, 2014 in Artesia.
5. **New Mexico Environmental Department Water Sustainability Workshop:** Ms. Taylor stated the Commissioners and Manager were invited to attend a workshop on May 21, 2014.

Chair Powell discussed the need for the County to protect the interests of small unincorporated communities in the use and distribution of water. Chair Powell discussed the current lack of "wet water" in the Rio Ruidoso and the problem of approving water transfers "on paper" with no "live water" to actually divert. Chair Powell noted these years were not necessarily "drought" years and might actually be the norm which necessitated the need to live within the current water budget. Chair Powell stated the requested transfers equaled an amount of water held in Bonito Lake and maintained the transfer would alter the very nature of the Hondo Valley.

Commissioner Doth commented on the need for the VOR to be more proactive in the matter of water storage. Chair Powell commented on the Village's need for a 40 year plan, connection of current systems such as Alto and Grindstone, and other water saving measures.

**21. Liquor License Fee Resolution 2013-39**

Rhonda Burrows, County Clerk informed NMSA 1978 7-24-2 required the Board of County Commissioners adopt a Resolution setting the fees for a local license to sell or dispense alcohol. Ms. Burrows stated the proposed fees were unchanged over the past several years and recommended no changes at this time.

**Motion:** Adopt Resolution 2013-39, **Action:** Approve, **Moved by** Commissioner Minter, **Seconded by** Commissioner Doth.

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

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

SEE EXHIBIT D: Copy of Resolution 2013-39 is attached hereto in reference thereto made a part hereof

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

There was a general discussion regarding whether it was appropriate for the County to impose outdoor smoking restrictions along with restrictions on open burning within the County.

Commissioner Doth spoke in favor of outdoor smoking restrictions to be consistent with other prevailing jurisdictions. Sheriff Shepperd discussed problems related to enforcement Joe Kenmore, OES Director stated as Wildfire investigator since 2010, he had not discovered a fire caused by smoking and stated typically roadside fires were started by catalytic convertors or other auto related mechanical issues

There was general consensus not to consider or adopt outdoor smoking restrictions.

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

a. **Tabled-Senior Citizens Olympic Committee**

No action was taken

b. **Property Tax Protest Board**

**Motion:** Reappoint Lori Wetzel, Donda Richardson, and Dexter Moorhead, **Action:** Approve, **Moved by** Commissioner Minter, **Seconded by** Commissioner Doth.

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

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

**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-200701364. Suit filed: October 15, 2007. Verified Complaint for Declaratory Judgment Ordering Production of Certain Records and Information. Hearing took place Dec. 18, 2013, and case is ongoing.
2. *Michael Wheaton v Paul F Baca, Lincoln County Assessor, et. al.* D-1226-CV-2011-00341. Suit filed October 18, 2011. Notice of Appeal of Final Order of the Lincoln County Valuation Protests Board. Attorney has agreed to stay the case pending the decision from the Court of Appeals.
3. *Coble Constructors, LLC, et al v Carl Kelley Construction Ltd. Co, et al.* D-1226-CV-2012-00003 Suit filed January 15, 2012. Complaint to Foreclose Mechanic's Lien. Order granting motion for resetting 4/17/13. Motion for Summary Judgment filed Jan. 29, 2014, Hearing scheduled April 24, 2014 produced an Order Granting Motion for Extension of Time which was filed May 6, 2014.
- \*4. *Greentree Solid Waste Authority v. Lincoln County* D-1226-CV-2014-00095. Suit filed May 1, 2014 Verified Petition for Declaratory and Supplemental Relief: Injunction, Motion to Waive Time to Reassign District Judge (Judge Karen Parsons was disqualified). County was served May 14, 2014. Paul Melendres is composing the Answer, Motion to Disqualify Mr. Beauvais and for Change of Venue.
- \*5. *Greentree Solid Waste Authority v. Lincoln County, et. al.* D-0101-CV-2013-00104. Suit filed January 9, 2013. Petition for Declaratory Judgment; Preliminary and Permanent Injunction Mr. Beauvais filed an appeal Feb. 27, 2014 Mr. Beauvais filed a Reply to Motion to Review Stay and Supersedeas Bond on April 16, 2014. Waiting on the Court's ruling of ALW&SD Oral Motion to Reconsider the granting of a Stay to GSWA.
- \*6. *Rio Grande-Alameda, Ltd. v Paul Baca, Lincoln County Assessor* D-1226-CV-2013-

00005. Suit filed January 9, 2013. Complaint for Refund of Taxes Paid. Defendant's first motion to dismiss or Summary Judgment filed August 29, 2013, with plaintiff's response filed Oct. 4, 2013 Defendant's Reply to Motion to Dismiss or for Summary Judgment filed Oct. 21, 2013. Hearing was Jan. 6, 2014, and produced an Order of Dismissal, with a Motion to Reconsider filed Jan. 8, 2014. Hearing on the Merits scheduled for May 12, 2014 in Carrizozo with Judge Parsons. The case has been held over
7. *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. Judge Counts granted Motion to Dismiss March 24, 2014.
  8. *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.
  9. *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.
  - \*10. *State of NM/Lincoln County v. Warren Marker M 30 MR 2014-00046* Filed Feb. 28, 2014. Alleged bringing contraband into LCDC – Chris Nebalek with Gary Mitchell's firm assigned as public defender. Pre-Trial Hearing April 14, 2014 was attended by the Defendant who was removed from the court due to creating a disturbance. Noelle Prosequi mailed by Mr Morel May 12, 2014.
  - \*11. *State of NM v. Irene Howcroft – M-30-MR-2013-00190* Alleged animal nuisance. Hearing set for May 27, 2014 Will be continued Awaiting new trial date. Case may be prosecuted by District Attorney. Awaiting decision of DA.
  - \*12. *State of NM v. Stephen D. Rabdurn M 32 MR 2014-00076* alleged dogs and cats running at large. Arraignment scheduled April 28, 2014. Mr. Rabdurn entered a plea of No Contest on April 14, 2014. Judgment and Sentencing entered. Case concluded.
  - \*13. *State of NM v. Sherrie Coronado M 32 MR 2014-00075* alleged dogs and cats running at large. Arraignment scheduled April 28, 2014. Ms. Coronado entered a plea of Guilty on April 28, 2014. Judgment and Sentencing entered. Case concluded.

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

##### **2014**

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

**Millerden, Kenneth and Anita** – Tort Claim Notice received May 19, 2014 alleging negligence from staff at Lincoln County Medical Center during postpartum care for their infant son.

##### **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 Alto Lakes Water & Sanitation District for a water well.

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

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

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

**Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Chair Powell

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

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

Chair Powell recessed the Regular Meeting and convened the Closed Session at 11:08:48 PM.

Chair Powell recessed the Closed Session and reconvened the Regular Meeting at 12:04:50 PM.

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

### **25. Possible Action relating to Greentree Solid Waste Authority Litigation**

**Motion:** Direct the County Attorney and County Manager to purchase advertisement for the publication of a chronological sequence of events related to Greentree Solid Waste litigation,

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

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

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

**Motion:** Request permission from the Village of Ruidoso for Jeff Kaplan to coordinate and communicate expertise related to Solid Waste, **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Doth.

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

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

**No:** Commissioner Minter

Chair Powell recessed the Regular Meeting at 12:06:50 PM and reconvened 1:02:25 PM.

Chair Powell recessed the Regular Meeting and convened the Public Hearing at 1:02:34 PM.

### **20. 1:00 P.M. Public Hearing to consider the following: Adoption of the Preliminary Budget, FY 2014-2015 by Resolution 2013-38**

Ms. Taylor presented the FY 2014-2015 Preliminary Budget as revised following the May 2, 2014 Budget Meeting and Public Hearing.

Ms. Taylor stated, after incorporation of actions from the May 2<sup>nd</sup> meeting, the County's projected ending balance over required reserves was \$279,301. Ms. Taylor noted \$398,481 in full or partial requests were approved at the May 2<sup>nd</sup> meeting and provided a summary of the approved requests.

Ms. Taylor received a request from White Mountain Search and Rescue (WMSR) for funding in the amount of \$1000 after the May 2<sup>nd</sup> meeting. Tony Davis, President of WMSR presented the request for \$1000 to be used for basic operational costs and maintenance of two vehicles. Mr

Davis stated appreciation for the previous allocation of Title III funds but informed WMSR encountered difficulties in meeting the criteria for reimbursement.

Ms. Taylor presented a summary of internal request by departments including requests for capital outlay and employee additions or modifications which were approved at the May 2<sup>nd</sup> meeting. Ms. Taylor reminded the Commission elected to consider recommendations for salary adjustments including adjustments to employee Pay Steps and Grades; an across the board cost of living increase for all employees, and a potential salary increase for Elected Officials at mid-year. Ms. Taylor provided a detailed list of revenue transfers accommodating approved funding.

Ms. Taylor detailed the requests from Presbyterian (LCMC) for \$521,810 in combined operating funds and capital outlay for the clinics in Capitan, Carrizozo and Corona. Ms. Taylor stated La Casa Buena Salud of Hondo requested \$85,000 to assist with medical services. Ms. Taylor reminded these particular requests were funded from Mill Levy proceeds. Ms. Taylor estimated the revenue from the .6 apportioned for clinics to be \$620,000 which was sufficient to fund the clinic requests.

Ms. Taylor presented a detailed breakdown of the LCMC budget requests which included requests for funding of Emergency Services, LCMC, and funding for the Safety Net Care Pool local match. Ms. Taylor discussed the State mandated 1/12<sup>th</sup> contribution due from Lincoln County for the Safety Net Care Pool and reminded of the additional \$325,720 which the County paid to fund the State Medicaid program. Ms. Taylor reminded these funds were paid from Mill Levy proceeds but were not part of the more specific LCMC budget request. Ms. Taylor reminded of the uncertainty about the total amount of funding LCMC was projected to receive under the new Safety Net Care Pool distribution. Ms. Taylor noted the NM Department of Health and Human Services (HSD) projections indicated LCMC funding from the program may exceed federally matched funding under the Sole Community Provider program received in prior years. Ms. Taylor recommended no final decision on budgeted funding for LCMC until the amount of funding to be distributed through the Safety Net Care Pool was known.

Additional comments during Public Hearing were as follows:

Chair Powell requested a vote to fund South Central RC and D at the May 2<sup>nd</sup> meeting be reconsidered. Chair Powell explained the vote on this particular request was included in a vote of approval of multiple requests and to clarify the record Commissioner Doth wished to recuse himself from the vote on this particular request due to a potential conflict of interest.

Charlene "Punkin" Schlarb, Finance Director informed the Glencoe Fire Department voted to repay a loan to the County in the amount of \$33,000 which would reduce budget transfers by \$16,000.

Commissioner Minter questioned the lack of expenditure of the previously budgeted funding for USGS. Ms. Taylor informed the County had received an invoice which was pending payment.

Chair Powell questioned the increase in worker's compensation cost estimates. Ms. Schlarb explained the worker's compensation cost as being based on job descriptions and prior claims submitted. Ms. Schlarb stated NMAC continued to review various aspects of the costs to Counties with plans to present revised costs at a later date.

Ms. Taylor commented the request for operational cost support from LCMC was difficult to evaluate due to the lack of information regarding actual operational costs and suggested it would be beneficial having information from LCMC similar to that provided by La Casa. Chair Powell noted this was the first time LCMC had requested funding for operations. There was a general consensus to request overall budget detail from LCMC to evaluate the percentage of support requested as part of the overall operational budget. Ms. Taylor stated it would be helpful having the same information for each clinic separately from LCMC.

Chair Powell adjourned the Public Hearing and reconvened the Regular Meeting at 1:39:50 PM

**Motion:** Motion to reconsider approval of funding request from South Central Mountain RC and D, **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Draper.

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

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

Commissioner Doth recused himself from the vote on South Central Mountain RC and D due to a potential conflict of interest.

**Motion:** Approve \$40,000 for South Central Mountain RC and D, **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Draper. **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Minter

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

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

**No:** Commissioner Stone.

**Abstain:** Commissioner Doth.

**Motion:** Approve \$1000 for White Mountain Search and Rescue from Title III funds for actual search and rescue operations, **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Minter

Commissioner Minter requested the requirements for reimbursement be clarified. Ms. Taylor stated uncertainty about requirements to obtain Title III funding but stated she would seek clarification on the guidelines.

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

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

**No:** Commissioner Stone

**Motion:** Approve \$521,810 for the LCMC clinics and \$85,000 for La Casa Bueno Salud, **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Draper.

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

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

**Motion:** Budget \$1.1 million for requested operating funds and capital requests for LC Emergency Medical Services, LCMC, and the LCMC Community Assistance Program to be re-evaluated in July, **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Draper.

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

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

Ms. Taylor explained Departmental modifications were approved in concept at the May 2<sup>nd</sup> Budget Meeting but the actual funding costs were unknown at the time.

**Motion:** Approve \$425,879 in funding for additional positions and employee salary modifications, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Chair Powell

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

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

Ms. Taylor suggested adoption of the budget adjustment for repayment of the Glencoe Fire Department loan.

**Motion:** Approve prepayment by the Glencoe Fire department of a loan in the amount of \$33,000, **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Doth

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

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

**Motion:** Adopt Resolution 2013-38, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Chair Powell

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

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

**SEE EXHIBIT E:** Copy of Resolution 2013-38 is attached hereto in reference thereto made a part hereof.

**Motion:** Reconvene Executive Session, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Draper.

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

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

Chair Powell recessed the Regular Meeting and convened the Closed Session at 1:55:13 PM.

Chair Powell adjourned the Closed Session and reconvened the Regular Meeting at 2:09:51 PM.

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

**26. Signing of Official Documents**

**27. Next meetings:**

- June 6, 2014 Special Commission Meeting
- June 10, 2014 Regular Commission Meeting

Chair Powell informed the Office of Emergency Services would conduct a demonstration of the SIMS table after the meeting was adjourned

**28. Adjourn**

There being no further business to come before the Board of County Commissioners, Chair Powell adjourned the meeting at 2:11.15 PM.

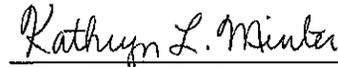
County of Lincoln  
Board of County Commissioners

  
 Jackie Powell, Chair

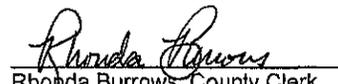
  
 Preston Stone, Vice Chair

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

  
 Dallas Draper, Member

  
 Kathryn Minter, Member

ATTEST

  
 Rhonda Burrows, County Clerk

July 15, 2014  
Date Approved

