

COUNTY OF LINCOLN
New Mexico
Regular Meeting
Board of County Commissioners

Preston Stone, Chairman
Elaine Allen, Member
Lynn Willard, Member
Rhonda Burrows, Clerk
Robert Shepperd, Sheriff

Dallas Draper, Vice Chairman
Thomas F. Stewart, Member
Paul Baca, Assessor
Beverly Calaway, Treasurer
Stirling Spencer, Probate Judge

Nita Taylor, County Manager

AGENDA

Commission Chambers, Tuesday, May 19, 2015 @8:30 A.M.

1. Call to Order
2. Roll Call
3. Invocation
4. Pledge of Allegiance
 - a) Pledge – U.S. A. Flag
 - b) Salute – N.M. Flag (“I salute the flag of the State of New Mexico, the Zia Symbol of perfect friendship among united cultures”)
5. Approval of Agenda
6. Approval of Minutes-
 - a) April 13, 2015 Special Commission Meeting
 - b) April 14, 2015 Special Commission Meeting
 - c) April 21, 2015 Regular Commission Meeting
 - d) April 28, 2015 Special Commission Meeting
7. Approval of Consent Agenda
 - a) Payroll/Accounts Payable/Budget/ Expenditures
 - b) Treasurer’s Financial Report for the Month ending April 30, 2015
8. Capitan Municipal Schools Request to Co-locate Repeaters on County Sites
9. Funding Options for Lincoln County Medical Center’s Renovations and Expansion Plan: Presentation by Erik Harrigan, RBC Capital
 - a) Consideration of Retaining RBC Capital Markets, LLC
10. **9:30 A.M.:** PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS (Items are for discussion only – no action will be taken)

PLEASE NOTE: ALL SUBJECTS LISTED ON THIS AGENDA ARE TO BE CONSIDERED ACTION ITEMS BY THE BOARD OF COUNTY COMMISSIONERS UNLESS OTHERWISE INDICATED.

11. Land & Natural Resources Matters
 - a) Smokey Bear Ranger District
 - b) Cibola National Forest - Consideration of Entering into MOU
 - c) Community Forester
 - d) NM Game & Fish – Bear and Cougar Hunting Rules
 - e) Office of State Engineer - Water Issues
 - f) Predator Control Activities
 - g) American Land Council
12. Manager's Report
13. Random Selection for Audit of Lodger's FY14-15 pursuant to Lincoln County Lodger's Tax Ordinance, Section 9
14. Memorial Day Proclamation
15. Liquor License Fee by Resolution 2014-43
16. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims
17. Lincoln County Alarm System Ordinance 2011-04 Permit Violations:
 - a. Jessica Quintana
18. Letter of Support for Tierra del Sol Housing Corporation's request for the "Affirmation of Eligible Partner Status in the House by House Reservation Program."
19. Dispose of Surplus Inventory via Turn in for Credit
20. FEMA Emergency Declarations 4197 and 4199: Conventional Program vs. Alternative Procedures Pilot Program
21. **1:00 P.M.:** Public Hearing to consider the following
 - a) Lincoln County Ordinance No. 2015-03 – An ordinance Providing for the Efficient and Sanitary Collection of Solid Waste in Lincoln County; Providing for Mandatory Disposal and Assessment of Fees; Providing a Penalty for Violation of the Ordinance; and Repealing Ordinance 2014-07.
 - b) Adoption of the Preliminary Budget, Fiscal Year 2015-2016 by Resolution 2014-44
22. Authorization to Schedule Public Hearing to Consider Other Outdated or New Lincoln County Ordinance

PLEASE NOTE: ALL SUBJECTS LISTED ON THIS AGENDA ARE TO BE CONSIDERED ACTION ITEMS BY THE BOARD OF COUNTY COMMISSIONERS UNLESS OTHERWISE INDICATED.

23. Consideration of Appointments and Removals from Boards/Commissioners/Committees:
 - a) Lincoln Historic Preservation Board
 - b) Planning Commission
 - c) Senior Citizens Olympic Committee

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

25. Greentree Solid Waste Authority items for consideration/action:
 - a) Re-negotiation of the current Joint Powers Agreement should the County of Lincoln elect to remain a full member of Greentree Solid Waste Authority.
Tabled
 - b) Potential Action on Rates for Solid Waste Collection Services in Lincoln County outside municipalities and Alto Lakes Water and Sanitation District by Resolution 2014-40 - **Tabled**
 - c) Consideration of Options:
 - i. Issue Third party Request for Proposal (RFP) for County of Lincoln Solid Waste Services. - **Tabled**
 - ii. Negotiation of Joint Powers Agreement and the status of the County of Lincoln should an RFP for a Third Party Contract for Services be sought.
 - d) Any and all other items pertaining to Greentree Solid Waste Authority and the County of Lincoln.

26. Office Space remediated & renovated by the County of Lincoln for use by the 12th Judicial District Attorney

27. Signing of Official Documents

28. Next meetings:
 - a) June 23, 2015, Regular Commission Meeting
 - b) July 21, 2015, Regular Commission Meeting

29. Adjourn

PLEASE NOTE: ALL SUBJECTS LISTED ON THIS AGENDA ARE TO BE CONSIDERED ACTION ITEMS BY THE BOARD OF COUNTY COMMISSIONERS UNLESS OTHERWISE INDICATED.

Agenda Item 6

SUBJECT

Approval of Minutes:

- a) April 13, 2015 Special Commission Meeting
- b) April 14, 2015 Special Commission Meeting
- c) April 21, 2015 Regular Commission Meeting
- d) April 28, 2015 Special Commission Meeting

1 **COUNTY OF LINCOLN**

2 **New Mexico**
3 **Special Meeting**
4 **Board of County Commissioners**

5
6 **Preston Stone**, Chair
7 **Dallas Draper**, Vice Chair

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

8
9 **Minutes**
10 **Monday, April 13, 2015**

11
12 Minutes of the Special Meeting of the Lincoln County Commission held at 3:00 PM on April 13,
13 2015, in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New
14 Mexico.

15
16 **1. Call to Order**

17
18 Chair Stone called the Regular Meeting of the Board of County Commissioners to order at 2:59:48
19 PM.

20
21 **2. Roll Call**

22
23 **Roll Call.**

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

26
27 Others present included Nita Taylor, County Manager; Alan Morel, County Attorney; and Whitney
28 Whittaker, Chief Deputy Clerk.

29
30 **3. Invocation**

31
32 The invocation was presented by Commissioner Draper.

33
34 **4. Pledge of Allegiance**

- 35
36 a. Pledge – US Flag
37 b. Salute – NM Flag
38

39 **5. Approval of Agenda**

40
41 **Motion:** Accept the agenda as presented, **Action:** Approve, **Moved by** Commissioner Draper,
42 **Seconded by** Commissioner Stewart.

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

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

46
47 **6. Executive Session Pursuant to the Open Meetings Act: Discussion of all Threatened**
48 **and/or Pending Litigation Section 10-15-1, Sub-Paragraph H.(7); and Discussion of**

49 **the purchase, acquisition or disposal of real property or water rights by the public**
50 **body, Section 10-15-1, Sub-Paragraph H.(8).**
51

52 **Motion:** To close the meeting for the purposes of an Executive Session to discuss Threatened
53 and/or Pending Litigation pursuant to the Open Meetings Act, Section 10-15-1, Sub Paragraph
54 H.(7) and the purchase, acquisition or disposal of real property or water rights by the public body,
55 Section 10-15-1, Sub-Paragraph H.(8) and as follows:
56

57 **New or Updated Matters since last report = ***
58

59 1. *Cooper, Gale and DeBaca County News v. County of Lincoln, Sheriff of Lincoln County,*
60 *et al.* D-1329-CV-200701364. Suit filed: October 15, 2007. Verified Complaint for Declaratory
61 Judgment Ordering Production of Certain Records and Information. Hearing took place Dec. 18,
62 2013, and Stipulated Judgment was entered June 4, 2014 in favor of Ms. Cooper. Ms. Cooper
63 filed an appeal June 10, 2014, and Judge John F. Davis was assigned Aug. 3, 2014.

64 2. *Greentree Solid Waste Authority v. Lincoln County D-1226-CV-2014-00095.* Suit filed May
65 1, 2014. Verified Petition for Declaratory and Supplemental Relief: Injunction, Motion to Waive
66 Time to Reassign District Judge (Judge Karen Parsons was disqualified). County was served May
67 14, 2014. Mr. Paul Melendres has been retained by the County. Hearing on All Pending Motions
68 was Nov. 20 both with Judge Ritter, who found Mr. Beauvais had a conflict of interest and was
69 disqualified from representing GSWA. Stipulated Partial Dismissal was entered and GSWA's
70 Motion to Reconsider was filed Dec. 5, 2014. GSWA has retained Robert Doughty as new counsel
71 Dec. 13, 2014. Hearing regarding GSWA's Motion First Amended Verified Emergency Motion
72 Seeking Further Relief on GSWA's Request for Preliminary Injunction Concerning the Rate at
73 which the County Will Bill and Lincoln County's Motion for Sanctions is scheduled for May 12,
74 2015 at 9 a.m.

75 3. *Greentree Solid Waste Authority v. Lincoln County, et. al. D-0101-CV-2013-00104.* Suit
76 filed January 9, 2013. Petition for Declaratory Judgment; Preliminary and Permanent Injunction.
77 Mr. Beauvais filed an appeal Feb. 27, 2014. Ruling on Reconsidering Stay denied by Judge
78 Singleton June 11, 2014. GSWA's Brief in Chief filed Sept. 9, 2014. Record Proper was filed Sept.
79 25, 2014. Alto Lakes Water and Sanitation District's and Lincoln County's Joint Response Brief
80 was filed with the Court of Appeals Oct. 24, 2014. GSWA filed it Reply Brief Dec. 1, 2014. The
81 case has been submitted to a panel of judges for decision and the County received Notice of
82 Submission from the Court of Appeals Jan. 2, 2015.

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

90 5. *Wesmax, Ltd. V. Paul Baca, Lincoln County Assessor D-1226-CV-2014-00188* Appeal of
91 the Final Order from Lincoln County Valuation Protest Board. Appeal filed Oct. 8, 2014. Case
92 assigned to Basham & Basham/Dwyer. Record of Appeal and Transcript of Proceedings was filed
93 Oct. 23, 2014.
94

95 **Tort Claims Notices Received or Threatened**

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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 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 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 alleging Constitutional Rights were violated resulting in wrongful termination.

***Hanley, Constance** – Tort Claim Notice received March 2, 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.

2014

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

Millerden, Kenneth and Anita – Tort Claim Notice received May 9, 2014 alleging negligence from staff at Lincoln County Medical Center during 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 alleging false imprisonment, due process violations, unlawful detention of a minor, emotional distress.

Class Action – Tort Claim Notice received June 23, 2014 alleging false imprisonment, false arrest, deprivation of rights at 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 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.

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

146 **Rider, Edward Allen and Moorhead, Brennon** – Tort Claim Notice received Oct. 20,
147 2014 by attorney W. Chris Nedbalek alleging Lincoln County Narcotics Enforcement Unit officers
148 destroyed items in a home.

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

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

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

156 **McMurray, Cody** – Tort Claim Notice received Nov. 6, 2014 by attorney W. Chris
157 Nedbalek alleging lack of adequate medical care at Lincoln County Detention Center.

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

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

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

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

167 **Diana Martwick, 12th Judicial District Attorney** – Tort Claim Notice received Nov. 25,
168 2014 alleging lack of adequate office space provided by the County of Lincoln.

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

171
172 **2013**

173 **Allen, Katherine Elizabeth**- Notice of Tort Claim received Sept. 12, 2013 from Katherine
174 Allen against Lincoln County Detention Center for alleged injuries sustained during transport.

175 **Borrego, Albert** - Tort Claim Notice received from attorney Gary Mitchell on June 14,
176 2013, alleging continued harassment to Albert G. Borrego by police while responding to a noise
177 complaint at Mr. Borrego's residence on February 28, 2013, and a separate incident resulting in
178 Mr. Borrego's arrest on March 5, 2013, due to an outstanding warrant, during which Mr. Borrego
179 allegedly sustained injuries while in custody due to an existing broken back injury. Claim has been
180 denied by NMAC.

181 **Espinoza, Robert** -Tort Claim Notice received from Robert Espinoza on June 4, 2013,
182 alleging property damage from vehicle accident while Linda Mullins, driving the LC Senior Center
183 meal delivery van ran off road hitting chain link fence, poles and railroad ties.

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

187 **Montoya, Emilia L.** - Tort Claim Notice received by attorney Freda Howard McSwane on
188 April 23, 2013, alleging injuries sustained by Ms. Montoya when a physical altercation took place
189 at the LCDC.

190 **Ramos, Aaron** - Tort Claim Notice received by attorney Robert J. Beauvais on April 18,
191 2013, (correspondence dated September 13, 2011) alleging concerns about Mr. Ramos' safety
192 and welfare and violation of his U.S. Constitutional rights.

193 **Silva, Elmo** - Tort Claim Notice received from attorney Richard Marquez November 6,
194 2013. Alleges false imprisonment for Mr. Silva, who was sentenced in the 12th Judicial District
195 Court to 38 years filed on July 3, 1990.

196
197 **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

201
202 Chair Stone recessed the Regular Meeting and convened the Closed Session at 3:03:01 PM.
203

204 Chair Stone adjourned the Closed Session and reconvened the Regular Meeting at 4:23:56 PM.
205

206 Commissioner Draper attested that matters discussed in the closed meeting were limited to those
207 specified in the motion for closure or in the notice of separate closed meeting
208

209 **7. Consideration/Action: Greentree Solid Waste Authority Issues as they relate to the**
210 **County of Lincoln:**

- 211
212 3. Consideration/Action of a possible advance of rate payer funds from the County
213 of Lincoln to Greentree Solid Waste Authority, and conditions for any such
214 advance required by the County of Lincoln.
215

216 Joe Lewandowski, Operational Consultant for GSWA discussed budget and receipts normally
217 received during this time of year. Mr. Lewandowski stated GSWA experienced a 40% reduction
218 in revenue with GSWA billing normally receipting \$257,000 in the first quarter. Mr. Lewandowski
219 stated combined receipts from GWSA and Lincoln County created a shortfall of \$108,000.
220

221 Mr. Lewandowski commented during the last meeting Lincoln County agreed to the transfer of
222 payments to GSWA to accommodate the \$108,000 shortfall.
223

224 Chair stone expressed concern about this reimbursement to GSWA, and asked how GWSA would
225 use the funds.
226

227 Mr. Lewandowski responded GSWA would utilize the money to cover the shortfall and future bills.
228

229 Commissioner Draper questioned what percentage of the accounts were uncollected during a
230 normal billing cycle. Mr. Lewandowski stated typically 6% of GSWA's quarterly billing was
231 uncollected.
232

233 Mr. Lewandowski expressed concern about the current County rate of \$55. Mr. Lewandowski
234 stated GSAW could not continue certain services at that rate. Mr. Lewandowski also expressed
235 concern with illegal dumping associated with any reduction in services.
236

237 Chair Stone expressed concern about GWSA's expenses. Chair Stone suggested it would benefit
238 GSWA for the Lincoln County to withdraw from the Authority since GSWA asserted services to
239 County residents were subsidized.
240

241 Nita Taylor, County Manager stated GSWA's reported expenses did not support the rate they
242 were requesting.
243

244 1. Consideration of Options:
245

246 A. Issue Third Party Request for Proposals (RFP) for County of Lincoln Solid
247 Waste Services.

248 B. Negotiation of Joint Powers Agreement and the status of the County of Lincoln
249 should an RFP for a Third Party Contract for Services be sought.
250

251 2. Re-negotiation of the current Joint Powers Agreement should the County of Lincoln
252 elect to remain a full member of Greentree Solid Waste Authority.
253

254 4. Any and all other items pertaining to Greentree Solid Waste and the County of
255 Lincoln
256

257 **Motion:** Table items 1, 2, and 4 **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded**
258 **by** Commissioner Allen

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

260 **Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper,
261 Commissioner Willard.
262

263 8. **Signing of Official Documents**
264

265 9. **Next Meeting**
266

267 a. Special Commission Meeting - April 14, 2015

268 b. Regular Commission Meeting - April 21, 2015
269

270 8. **Adjournment**
271

272 There being no further business to come before the Board of County Commissioners, Chair Stone
273 adjourned the meeting at 2:21:11 PM.
274

275 Respectfully submitted by,
276 Whitney Whittaker
277 Chief Deputy Clerk

1 **COUNTY OF LINCOLN**

2 **New Mexico**
3 **Special Meeting**
4 **Board of County Commissioners**
5

6 **Preston Stone**, Chair
7 **Dallas Draper**, Vice Chair

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

8 **Minutes**
9 **Tuesday, April 14, 2015**
10

11
12 Minutes of the Special Meeting of the Lincoln County Commission held at 9:00 AM on April 14,
13 2015 in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New
14 Mexico

15
16 **1. Call to Order**

17
18 Chair Stone called the Regular Meeting of the Board of County Commissioners to order at 9:04:39
19 AM

20
21 **2. Roll Call**

22
23 **Roll Call.**

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

26
27 Others present included Nita Taylor, County Manager; Alan Morel, County Attorney; and Rhonda
28 Burrows, County Clerk.

29
30 **3. Invocation**

31
32 The invocation was presented by Commissioner Stewart.

33
34 **4. Pledge of Allegiance**

- 35
36 a. Pledge – US Flag
37 b. Salute – NM Flag
38

39 **5. Approval of Agenda**
40

41 **Motion:** Approve the agenda as presented, **Action:** Approve, **Moved by** Commissioner Stewart,
42 **Seconded by** Commissioner Allen.

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

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

46
47 Chair Stone recessed the Regular Meeting and convened the Public Hearing at 9:07:29 AM.

48

6. 9:00 AM: A Public Hearing to consider possible change in rates to the Ordinance 2014-07 An Ordinance providing for the efficient and sanitary collection of Solid Waste in Lincoln County; providing for mandatory disposal and assessment of fees by Resolution 2014-40.

49

50 Joe Lewandowski, Operational Consultant for GSWA provided a detailed analysis of costs and
51 revenues defined on a percentage basis per entity member of GSWA.

52

53 Charles Fiedler, Environmental Consultant with Gordon Associates provided an independent
54 analysis of costs for solid waste services based on "tonnage" collected for various services.

55

56 Commissioner Stewart discussed the benefits of yard waste collection versus the potential to
57 reduce rates by eliminating this service.

58

59 Elizabeth Hood, resident of Ruidoso objected to any discontinuation of yard waste collections
60 stating the services helped to limit illegal dumping.

61

62 Doris Cherry, resident of the Capitan area questioned if GSWA had reduced services and
63 commented on the removal of dumpsters from two areas. Ms. Cherry expressed belief the
64 removal of dumpsters or any decrease in services would prompt an increase in illegal dumping.

65

66 Harrold McCaw, resident of Mountain View Road near Capitan discussed the County's billing him
67 for two separate properties. Mr. McCaw stated there was only one residence on the properties
68 and GSWA previously agreed to bill him for only one site. Mr. McCaw stated he recently began
69 the process to re-plat and combine the properties.

70

71 Commissioner Willard questioned Mr. McCaw as to whether he objected to the rate GSWA billed
72 him. Mr. McCaw stated he thought the rate was a little high but he did not object to the rate as
73 much as being billed for the multiple properties.

74

75 Nita Taylor, County Manager explained the current Lincoln County Solid Waste Ordinance
76 required property owners be billed for each parcel owned. Ms. Taylor stated any change to the
77 billing criteria for issues such as one owner of multiple properties or the classification of a buildings
78 as "uninhabitable" would require revision of the current Ordinance.

79

80 Mr. Lewandowski discussed various billing challenges experienced by GSWA over the years and
81 provided some suggestions for revision of the Ordinance to standardize billing practices.

82

83 Commissioner Willard questioned if GSWA had removed dumpsters recently.

84

85 Debra Ingle, GSWA Operational Supervisor informed several dumpsters were removed recently
86 for damage repair and some dumpsters were moved due to site problems. Ms. Ingle stated no
87 dumpsters were removed as a result of the current dispute with Lincoln County.

88

89 Commissioner Allen questioned how GSWA accommodates the billing complaints if the County
90 Ordinance was specific. Ms. Ingle stated GSWA would conduct site inspections to determine if
91 a building was an actual residence or something such as a storage facility.

92

93 Ms. Taylor requested Mr. Lewandowski clarify whether or not GSWA had reduced services to
94 County residents since the County began billing a different rate. Mr. Lewandowski reiterated
95 GSWA had not reduced services due to the rate changes.
96

97 Commissioner Willard questioned if the estimated landfill tonnage hauled by GSWA was 5,123
98 tons annually. Mr. Lewandowski confirmed this was correct. Commissioner Willard clarified
99 regardless of the collection method Mr. Fiedler's estimated cost for current services was \$200 per
100 ton. Mr. Fiedler confirmed this was correct. Commissioner Willard stated based on GSWA's
101 estimated tonnage of 5,123 and Mr. Fiedler's estimated cost per ton of \$200, the estimated cost
102 of services totaled \$1,024,000. Commissioner Willard suggested a comparison of estimated total
103 cost of services based on Mr. Fiedler's \$200 cost per ton at \$1,024,000 to revenues reported by
104 GSWA at \$1,033,000 from County residents. Mr. Lewandowski noted the reported \$1,033,000 in
105 anticipated revenues from County residents was based on the GSWA suggested rate of \$70 per
106 quarter.
107

108 Mary Stanfield, resident of Rancho Ruidoso Valley Estates, reminded the subdivision requested
109 poly cart services in 2005 to reduce illegal dumping and requested the County continue that
110 service. Ms. Stanfield also requested the yard waste disposal service and biannual cleanups
111 continue to be offered to reduce illegal dumping.
112

113 Roy Gannaway of Rancho Ruidoso Valley Estates expressed appreciation for the yard waste pick
114 up service but objected to the size limit of 12 cubic yards. Mr. Gannaway stated GSWA charged
115 \$8 per cubic yard for waste hauled to the GSWA facility and suggested the 12 cubic yard size
116 limit be increased or eliminated. Mr. Gannaway also questioned the fuel surcharge imposed by
117 GSWA and commented there appeared to be no corresponding reduction in the surcharge
118 although fuel costs had declined. Mr. Gannaway suggested the County could better monitor
119 charges and costs by assuming billing for County residents.
120

121 Darwin Odom expressed appreciation for the current solid waste services provided and noted his
122 costs for solid waste disposal declined after moving to Lincoln County from Texas.
123

124 Ms. Taylor questioned the basis of GSWA's proposed \$70 rate. Mr. Lewandowski stated the
125 proposed rate was based on the costs presented and percentage of time spent for services to
126 each member. Ms. Taylor expressed concerns about Mr. Lewandowski's percentage "allocation"
127 of services per entity as the basis of any proposed rate. Ms. Taylor suggested "actual costs"
128 were the more appropriate basis for rate determination.
129

130 Ms. Taylor questioned Jeff Kaplan, General Services Director for the Village of Ruidoso (VOR),
131 regarding his opinion as to which of the two methods of analysis presented provided the most
132 appropriate basis for rate setting. Mr. Kaplan suggested a review of the entire operational budget
133 of GSWA for each service provided and then dividing those costs by the tonnage associated with
134 a particular service to determine cost. Mr. Kaplan stated the Village of Ruidoso allocated costs
135 and set separate rates per services, such as, basic solid waste collection, yard waste collection,
136 and recycling fees.
137

138 Commissioner Allen commented on Mr. Fiedler's analysis of the operational capacity of the new
139 GSWA facility transfer station and questioned why GSWA built a new facility if the transfer station
140 was not fully utilized.
141

142 Mr. Lewandowski stated GSWA built the new facility to accommodate multiple problems
143 associated with the prior location site and to comply with new solid waste facility regulations. Mr.

144 Lewandowski stated the \$7 million dollar GSWA transfer station and recycling facility currently
145 carried \$3 million in debt. Mr. Lewandowski stated payment of this debt would provide an
146 opportunity to reduce rates. Mr. Lewandowski also discussed the benefit of ownership of the
147 landfill reminding any entity owner was entitled to a reduced landfill rate.
148

149 Commissioner Allen commented on the 30% increase in rates since 2008 and questioned if
150 additional services were added during that period. Mr. Lewandowski attributed the increase in
151 rates to tax increases, fuel increases, and other operational expenses.
152

153 Commissioner Allen questioned what services GSWA might cut to reduce overall costs. Mr.
154 Lewandowski stated discontinuing certain services such as yard waste collection would reduce
155 costs but suggested the services provided were necessary to "protect the health and safety" of
156 citizens.
157

158 Commissioner Allen questioned how GSWA accomplished the reported \$500,000 reduction in
159 expenses from prior years. Mr. Lewandowski stated this reduction in expenses was primarily a
160 result of the withdrawal of the Alto Lakes Water and Sanitation District from GSWA.
161

162 Commissioner Draper expressed appreciation for the analysis provided by Mr. Lewandowski but
163 reminded the Board of County Commissioners were obligated to justify the need for a rate
164 increase amounting to approximately \$66 per resident per year.
165

166 Jean Colton, Trustee for the Village of Capitan questioned how many complaints the County
167 received about GSWA's \$70 rate. Commissioner Draper stated he had personally received many
168 complaints.
169

170 Sharon Stewart, resident of Sun Valley Water and Sanitation District, commented on the
171 challenges of dealing with seasonal residents. Ms. Stewart expressed belief discontinuation of
172 yard waste pickup would contribute to fire danger.
173

174 Ms. Taylor acknowledge the critical need to provide reimbursement of costs to GSWA and stated
175 the issue was to identify the actual costs in order to set the rates.
176

177 Chair Stone adjourned the Public Hearing and reconvened the Regular Meeting at 11:52:53 AM.
178

179 **7. Potential Action on rates for Solid Waste Collection Services in Lincoln County**
180 **outside municipalities and Alto Lakes Water and Sanitation District**
181

182 Chair Stone suggested action for this item be postponed until the Regular Meeting of April 21,
183 2015 to provide an opportunity for GSWA and the County to reach a compromise on rate
184 adjustment, cooperate on the billing transition, begin revision of the Joint Powers Agreement, and
185 either dismiss or stay any legal action. Chair Stone stated the maintenance of current services
186 was a top priority.
187

188 **Motion:** Table action on a potential Rate Adjustment until the Regular Meeting of April 21, 2015,
189 **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.
190 **Vote:** Motion passed (**summary:** Yes = 4, No = 1, Abstain = 0).
191 **Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper.
192 **No:** Commissioner Willard.
193

194 Chair Stone recessed the Regular Meeting at 12:01:45 PM and reconvened at 1:03:53 PM.

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8. 1:00 PM: LCMC Financial Healthcare Workshop

Al Santos, LCMC administrator provided an analysis of revenues and expenses associated with Lincoln County Medical Center (LCMC). Mr. Santos defined the primary sources of revenue as 95.7% patient charges; 2.7% from Mill Levy revenues; 1.2% Safety Net Care Pool funding; and .4% other sources. Mr. Santos defined expenses as 41.9% operating expenses; 48.6% Contracts, Discounts and Allowances; 3.5% bad debt; and 1.9% charity or indigent care.

Mr. Santos stated LCMC's budgeted operating efficiency was approximately 2 to 5%. Mr. Santos discussed the need for reserves to meet requirements for "cash on hand"; Medicare and Medicaid requirements, and improved bond ratings.

Chair Stone recessed the Special Meeting at 2:13:14 PM and reconvened at 2:27:16 PM.

Bobby George of Dekker, Perich, and Sabatini presented his assessment of the Lincoln County Medical Center including the current challenges of maintaining a 60 year old facility to meet the requirements for Joint Commission Accreditation (JCA). Mr. George informed critical issues at the facility identified by JCA included a non-compliant emergency electrical system, undersized Intensive Care Unit rooms, and an aging mechanical system.

Mr. George discussed changes in the healthcare marketplace which placed more emphasis on outpatient services such as outpatient surgery, diagnostics, and specialty services. Mr. George discussed the need to shift care from the Emergency Department to an Urgent Care setting. Mr. George expressed belief the outdated facility inhibited recruitment and retention of nurses and physicians.

Mr. George stated there were four options to address these issues including: 1) do nothing; 2) bring existing facility up to minimum standards or use a "short term fix"; 3) renovation and expansion to replace critical areas and renovate remaining areas or 4) replacement with an entirely new facility on an adjacent site. Mr. George discussed the various pros and cons of each option and the associated estimated costs. Mr. George estimated the cost of the "short term fix" as minimally \$24 million; the cost of renovation and expansion as \$33 million; and the cost of a replacement facility as \$60 million.

Based on the various factors presented Mr. George recommended the Board of County Commissioners consider the renovation and expansion option. Mr. George stated this option utilized parts of the existing facility, provided new space for intensive uses, and presented a lower cost than building a new facility. Mr. George explained this option would require relocation of the current Emergency Medical Services facility.

Mr. Santos supported the renovation and expansion option and provided an analysis of various funding options. Mr. Santos stated in addition Presbyterian Health Services (PHS) would contribute \$8 million for purchase of equipment. Mr. Santos expressed belief LCMC could contribute an additional \$8 million in grants and private denotation's which in addition to County reserves would reduce the finance amount to approximately \$25 million. Mr. Santos anticipated an increase in the annual hospital lease based on improvements to and addition of leased facility space. Mr. Santos suggested the lease payment would then be sufficient to service the debt incurred for renovation and expansion.

245 Adam Johnson, Senior Lending Officer with New Mexico Finance Authority (NMFA) discussed
246 the agency's relationship with Lincoln County and reminded the County often financed fire
247 protection infrastructure projects through NMFA. Mr. Johnson discussed the advantage of
248 utilizing NMFA including their AAA Standard and Poor's senior lien bond rating.
249

250 Mr. Johnson provided information related to various financing formulas including the issuance of
251 both taxable and tax exempt bonds. Mr. Johnson explained the revenue stream dedicated to
252 repayment of any loan would determine whether NMFA could provide tax exempt bonds. Mr.
253 Johnson discussed various revenue streams which Lincoln County might pledge to finance and
254 repay project loans. Mr. Johnson stated a pledge of the hospital lease payment would likely result
255 in a taxable transaction.
256

257 Attorney Morel questioned if the termination clause in the current lease might hinder use of this
258 payment for debt service. Mr. Johnson declined to provide an opinion pending an analysis of the
259 lease payment by NMFA's bond counsel as to whether the lease payment could secure a loan
260 and if so whether the loan would be taxable or tax exempt.
261

262 Mr. Santos suggested an increase in the lease payment to \$1.5 million annually as sufficient to
263 secure the estimated \$25 million debt for renovation and expansion. Mr. Santos emphasized the
264 importance of beginning the NMFA application process as soon as possible to secure the lowest
265 rates.
266

267 Attorney Morel questioned the dependency of partial financing through collection of \$8 million in
268 grants and fundraising philanthropy. Mr. Santos stated LCMC had begun the process of securing
269 private donation commitments but commented these efforts were pending adoption of a plan by
270 the County Commission.
271

272 There was a general discussion regarding the various options presented as well as the associated
273 financial requirements. Attorney Morel reminded as this agenda item was a workshop any action
274 would need to occur at a later date.
275

276 **9. Signing of Official Documents**

277
278 **10. Next Meeting**

- 279
280 a. Regular Commission Meeting - April 21, 2015
281

282 **11. Adjournment**
283

284 There being no further business to come before the Board of County Commissioners, Chair Stone
285 adjourned the meeting at 4:05:36 PM.
286

287 Respectfully submitted by,
288 Rhonda B. Burrows
289 Lincoln County Clerk

1 **COUNTY OF LINCOLN**

2 **New Mexico**
3 **Regular Meeting**
4 **Board of County Commissioners**

5
6 **Preston Stone**, Chair
7 **Dallas Draper**, Vice Chair

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

8
9 **Minutes**
10 **Tuesday, April 21, 2015**

11
12 Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on April 21,
13 2015 in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New
14 Mexico.

15
16 **1. Call to Order**

17
18 Chair Stone called the Regular Meeting of the Board of County Commissioners to order at 8:30:11
19 AM.

20
21 **2. Roll Call**

22
23 **Roll Call.**

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

26
27 Others present included Nita Taylor, County Manager; Alan Morel, County Attorney; and Rhonda
28 Burrows, County Clerk.

29
30 **3. Invocation**

31
32 The invocation was presented by Pastor Barbara Buttram.

33
34 **4. Pledge of Allegiance**

- 35
36 a. Pledge – US Flag
37 b. Salute – NM Flag
38

39 **5. Approval of Agenda**

40
41 **Motion:** Acceptance of the Agenda and authorized the Chair to move items as necessary,

42 **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Allen.

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

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

46
47 **6. Approval of Minutes**

- 48
49 a. March 13, 2015 - Emergency Commission Meeting
50 b. March 17, 2015 - Regular Commission Meeting
51 c. March 19, 2015 - Special Commission Meeting
52

53 **Motion:** Approve the minutes of the March 13, 2015 Emergency Meeting, March 17, 2015
54 Regular Commission Meeting, and the March 19, 2015 Special Commission Meeting.

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

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

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

59
60 **7. Approval of Consent Agenda**

- 61
62 a. Payroll/Accounts Payable/Budget/ Expenditures
63 b. Treasurer's Financial Report for the Month ending March 31, 2015
64 c. 2015 Fire Fund Distribution Applications
65 d. Road Name Request
66 e. Carrizozo Soil & Water Conservation District Mill Levy Resolution 02-2014-2015
67

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

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

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

73
74 **SEE EXHIBIT A:** Copies of Consent Items are attached hereto in reference thereto made a part
75 hereof.

76
77 **17. Manager's Report**

78
79 1. **Hat's Off:** Manager Taylor informed LeeRoy Zamora Sr. was retiring after 25 years of
80 service with Lincoln County. Ms. Taylor commented on Mr. Zamora's history of work for
81 multiple County Manager's and expressed her appreciation for his services over the years.
82 Paul Baca, Assessor, Beverly Galaway, Treasurer, Rhonda Burrows, Clerk and Renee
83 Montes, Director of Senior Services all commented on Mr. Zamora's valued assistance
84 over the years.
85

86 **8. Smokey Bear District Ranger Update**

87
88 Ms. Taylor informed Ranger David Warnack was currently on temporary assignment on the Gila
89 National Forest. Ms. Taylor stated Christina Thompson, the Acting District Ranger, was unable
90 to attend today's meeting. Ms. Taylor provided a copy of the briefing listing current activities on
91 the Ranger District including information on a public meeting in March to discuss the Forest Plan
92 Revision; a recent increase from "Low" to "Moderate" in fire danger; and the current full staffing
93 of seasonal fire crews.
94

95 Chair Stone commented on the importance of Lincoln County providing input on the Forest
96 Revision Plan.
97

98 **11. Potential Property Purchase Sun Valley Station-Bonito Fire Department**
99

100 Ms. Taylor presented a request from Chief Carl Bartley of the Bonito Fire Department for
101 permission to seek a formal property appraisal of a potential site to construct a new Sun Valley
102 Fire Station. Ms. Taylor provided Chief Bartley's evaluation of the current outdated fire station
103 as well as his timeline of potential events and related financing considerations to construct a new
104 fire station.
105

106 **Motion:** Approve hiring an appraiser for potential property purchase, **Action:** Approve, **Moved**
107 **by** Commissioner Draper, **Seconded by** Commissioner Stewart.
108

109 Commissioner Willard questioned what would happen to the current Sun Valley Fire Station when
110 a new station was constructed.
111

112 Joe Kenmore, Director of the Office of Emergency Services stated unless there was an objection
113 by the owner who donated the current site, the Bonito Fire Department wished to use the site for
114 storage of equipment.
115

116 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 5).
117

118 **Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper,
119 Commissioner Willard.
120

121 **12. 2015 Board of Registration Report**

122 Whitney Whittaker, Chief Deputy Clerk provided a report on recent actions by the Lincoln County
123 Board of Registration. Ms. Whittaker stated the Board of Registration convened on March 10,
124 2015 to review the list of 1787 voters defined by Federal and State Statute as eligible for removal
125 through the purge process.
126

127 Ms. Whittaker reminded members and alternates for the Board of Registration were appointed by
128 the Board of County Commissioners during the February Regular Meeting. Ms. Whittaker stated
129 the three member Board of Registration convened with members Jack Nesbitt, Daryl Snyder and
130 Nina Grunseth present.
131

132 Ms. Whittaker discussed the criteria developed by the Board of Registration for the review
133 process. Ms. Whittaker stated the Board found no discrepancies nor lodged any objections to
134 those listed and classified all 1787 voters as removable.
135

136 **13. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims**
137

138 Scott Annala, Indigent Health Care Administrator presented the Sole Community Provider/Safety
139 Net Care Provider Pool claims for approval. Mr. Annala processed 30 claims with 29
140 recommended for approval and 1 recommended for disapproval for a monthly authorization of
141 \$17,063. Mr. Annala stated the total approval for SCP/SNCP claims for Fiscal Year 2014-2015
142 to date was \$208,618 with a monthly average of \$20,862.
143

144 Mr. Annala presented the Indigent Health Care Payments request for the month and stated he
145 processed 14 claims with 8 claims recommended for approval and 6 for disapproval for a total
146 payment this month of \$4,886.50. Mr. Annala stated the total expenditure for IHC claims for
147 Fiscal Year 2014-2015 to date was \$61,095.94 for an average monthly indigent claims payment

148 of \$6,110. Mr. Annala estimated expenditures based on average monthly payments of
149 approximately \$73,320 of a budgeted \$363,000 this fiscal year.
150

151 **Motion:** Approval and denial of the claims as indicated for SCP/SNCP and Indigent Health Care
152 as recommended, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by**
153 Commissioner Willard.

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

155 **Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper,
156 Commissioner Willard.
157

158 **SEE EXHIBIT B:** Copies of the Sole Community Provider and Indigent Health Care Payments
159 are attached hereto in reference thereto made a part hereof.
160

161 **9. 9:00 A.M: Consideration and Action on Lodger's Tax Applications with backup**
162 **material:**
163

164 Ms. Taylor discussed the current cash balance of the Lodger's Tax Fund as being sufficient to
165 cover the requests recommended for approval by the Lodger's Tax Committee. Ms. Taylor stated
166 however should the Board of Commissioners approve any additional requests this Fiscal Year
167 that action would necessitate a budget adjustment.
168

169 a) Application Withdrawn for Golden Aspen Rally
170

171 b) Application 1724 Lincoln Pageant & Festival
172

173 c) Application 1723 Art Loop
174

175 d) Application 1726 Ft. Stanton Live
176

177 e) Application Withdrawn for The Frontier Trail
178

179 f) Application 1725 Carrizozo Music
180

181 **Motion:** Approve Application 1724 for \$4000, Application 1723 for \$2,000, Application 1726 for
182 \$2,000, and Application 1725 for \$1000. **Action:** Approve, **Moved by** Commissioner Stewart,
183 **Seconded by** Commissioner Allen.

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

185 **Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper,
186 Commissioner Willard.
187

188 **14. Permission to Auction Surplus Inventory by Resolution 2014-41**
189

190 Ms. Taylor provided a list of obsolete inventory for approval to list for sale via online auction. Ms.
191 Taylor stated the list included four vehicles from the Sheriff's Department in addition to a tire
192 balancer and an older auto chassis from Emergency Medical Services (EMS). Ms. Taylor stated
193 Mickey Howard of Assets and Information would solicit Elected Officials to review the items at the
194 appropriate time.
195

196 **Motion:** Adopt Resolution 2014-41, **Action:** Approve, **Moved by** Commissioner Draper,
197 **Seconded by** Commissioner Allen.

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

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

201
202 **SEE EXHIBIT C:** Copy of Resolution 2014-41 is attached hereto in reference thereto made a
203 part hereof.

204
205 **15. Resolution 2014-42 in Support of a Special Session to resolve the issues & pass**
206 **the capital outlay legislation**
207

208 Ms. Taylor discussed Senate Bill 159, the Capital Outlay Appropriations bill, which included
209 approximately \$170 million in appropriations for projects statewide. Ms. Taylor stated a Senate
210 Finance Committee substitute for Bill 159 increased appropriations to approximately \$275 million.
211 Ms. Taylor stated the bill was amended again in the House Ways and Means Committee but there
212 was insufficient time left in the legislative session to accomplish a reconciliation with the Senate.
213

214 Ms. Taylor stated due to the critical nature of capital outlay funding there was increasing support
215 for the Governor to call a Special Session to approve capital outlay. Ms. Taylor presented the
216 Resolution in support of a Special Legislative Session for consideration.
217

218 **Motion:** Adopt Resolution 2014-42, **Action:** Approve, **Moved by** Commissioner Willard,
219 **Seconded by** Commissioner Stewart

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

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

223
224 **SEE EXHIBIT D:** Copy of Resolution 2014-42 is attached hereto in reference thereto made a
225 part hereof.
226

227 **16. Lincoln County Alarm System Ordinance 2011-04 Permit Violations:**
228

229 Curt Temple, Planning Director reminded Ordinance 2011-04 required individuals who possess a
230 burglar alarm to obtain a permit annually from Lincoln County. Mr. Temple stated the individuals
231 listed were in violation of the Ordinance due to non-payment or non-renewal of alarm permits and
232 were therefore subject to action.
233

- 234 a) Angel and Mary Salazar
 - 235 b) Michael and Deborah Miller
 - 236 c) Jesus and Brisa Garcia
 - 237 d) Charles Welch
- 238

239 **Motion:** Authorize the Attorney to prepare and file liens against Angel and Mary Salazar, Michael
240 and Deborah Miller, Jesus and Brisa Garcia, and Charles Welch, **Action:** Approve, **Moved by**
241 Commissioner Stewart, **Seconded by** Commissioner Allen.
242

243 Commissioner Draper questioned the purpose of the Ordinance. Mr. Temple explained the
244 history and problems associated with false alarms particularly with multiple offenders. Mr.
245 Temple stated the Ordinance which requires registration of all alarms also solicits valuable contact
246 information which the Sheriff's Department utilized to deal with false alarms.
247

248 Commissioner Willard questioned the total number of alarm permits issued by Lincoln County.
249 Mr. Temple stated the County issues between 900 to 1000 permits annually.
250

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

252 **Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper,
253 Commissioner Willard.
254

255 **17. Manager's Report - continued**
256

257 **2. Building Updates:**
258

259 **Annex:** Construction Industries Division conducted a preliminary inspection and
260 approved the ADA bathroom improvements. The Manager stated there was sufficient
261 first floor space to accommodate the District Attorney and the Historical Records Clerk.
262

263 **Public Officials building:** Work on individual heating and cooling units for each office
264 was near completion.
265

266 **Carrizozo Senior Center:** The Manager reminded the project was partially funded by
267 a CDBG grant of \$500,000 and prior Capital Outlay of \$240,000. The Manager
268 reminded the receipt of an initial bid over the budgeted amount resulted in direction to
269 revise plans and reissue the Request for Proposal. The Manager reported plans were
270 revised accordingly and anticipated the project would move forward in the near future.
271

272 **NMAC building inspection:** The New Mexico Association of Counties conducted
273 their annual site inspection last week resulting in some noncritical findings. The
274 Manager stated findings included ceiling tiles showing water stains, storage of
275 improper materials in utility rooms and clear access to electrical breakers. The
276 Manager stated staff was addressing issues and would report back to NMAC in 30
277 days.
278

279 **3. Hat's Off:** The Manager informed Pam Hall Allen, a longtime Lincoln County resident
280 and high school coach, was nominated for and accepted into the National High School
281 Coaching Hall of Fame. The Manager suggested presentation of a proclamation
282 honoring Coach Allen at the next Regular Meeting.
283

284 **4. Departmental Updates**
285

286 a) Carl Palmer, Road Department Superintendent discussed the potential effects of
287 SB 125 which limits the maximum speed limit on a county road without a posted limit
288 to 55 mph. Mr. Palmer stated NMAC currently recommend County's not post signage
289 on dirt roads. Sheriff Shepperd informed on roads not currently posted, speeds are
290 limited to 35 miles per hour in a residential area or to the posted speed limit of the
291 nearest highway.
292

293 **10. 9:30 A.M.: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY**
294 **OFFICIALS**
295

296 Rhonda Burrows, Clerk invited the Board of County Commissioners and the general public to
297 attend a ceremony on May 9, 2015 at the White Oaks Cedarvale Cemetery to honor Charles H.
298 McVeigh, Private Company B of the 8th Cavalry and a recipient of the Medal of Honor in 1869.

299 Ms. Burrows explained Karen Mills, Historical Records Clerk received a request approximately
300 two years ago for assistance in locating and verifying the burial of remains of this Medal of Honor
301 recipient. Ms. Burrows stated Private McVeigh's remaining family in the area provided additional
302 documentation for confirmation.
303

304 Robert Shepperd, Sheriff commented on the detrimental effects of HB 560 "Forfeiture Procedure
305 and Reporting" signed by Governor Martinez and effective on July 1, 2015. Sheriff Shepperd
306 discussed the current process for the seizure of assets acquired as a result of drug activity. Sheriff
307 Shepperd stated his department did not act independently to seize assets but typically filed a civil
308 forfeiture action in conjunction with a criminal case to afford due process. Sheriff Shepperd stated
309 HB 560 does not prohibit seizure of assets but redirected any proceeds from asset sales from
310 local law enforcement agencies to payment of attorney fees and to the State General Fund.
311 Sheriff Shepperd speculated a decline in drug enforcement may occur as local law enforcement
312 agencies would no longer have the revenue from asset forfeiture sales to conduct operations and
313 would need to seek funding from other sources.
314

315 Bennie Long, Manager of the Smokey Bear Historical Park and event coordinator for Smokey
316 Bear Days expressed appreciation for support received from Lodger's Tax funding. Ms. Long
317 invited the Board of Commissioners and the public to enjoy the twelfth annual Smokey Bear Days
318 on May 1st and 2nd of this year.
319

320 **17. Manager's Report - continued**

321 **4. Departmental Updates - continued**

322
323
324 b) Curt Temple - Planning Director presented a "Turn Around - Don't Drown" or "TADD"
325 sign provided to Lincoln County through grant funding under the New Mexico Department
326 of Homeland Security (NMDHS). Mr. Temple reported Lincoln County received 24 signs
327 for 12 separate low water crossings in the County.
328

329 Mr. Temple stated a review of the newly revised map book for Lincoln County resulted in
330 identification of additional roads for inclusion and the need to formally name some
331 additional County maintained roads.
332

333 Mr. Temple reported thinning grant applications were submitted to the (NMDHS) for review
334 and forward to FEMA. Mr. Temple stated staff were closing out the associated Education
335 and Outreach FEMA grant and preparing submissions for reimbursement. Mr. Temple
336 commented on the smaller number of participants who signed up for the thinning projects
337 than originally anticipated. Mr. Temple attributed the lower numbers to a lack of
338 participation from seasonal home owners. Mr. Temple anticipated the lower number of
339 participants would result in a significantly lower final FEMA grant award than the initial
340 request of \$3.5 million.
341

342 c) Joe Kenmore, Director of OES stated the last Education and Outreach Meeting held
343 on April 14, 2015 had approximately sixteen people in attendance. Mr. Kenmore reported
344 on two recent wildfires in the County and remarked on the potential need to adopt an
345 Ordinance to govern the improper handling of fire.
346

347 Mr. Kenmore anticipated the Nogal Fire Department would see a benefit from the
348 placement of new fire hydrants in the area during the department's ISO review. Mr.
349 Kenmore also commented on the recent Emergency Medical Services conference in

350 Ruidoso as being attended by a large number of New Mexico attendees as well as some
351 from other states.
352

353 Commissioner Draper questioned the necessary steps to begin developing guidelines for proper
354 handling of fire. Attorney Morel reminded Lincoln County has an Ordinance governing the
355 improper handling of fire but suggested the Ordinance may need review and updating.
356

357 d) Punkin Schlarb, Finance Director informed she planned to attend a Department of
358 Finance Authority budget workshop in conjunction with Treasurer's staff to review recent
359 finance changes. Ms. Schlarb stated the County began the new audit process contracting
360 with the same auditor for the same cost as last year. Ms. Schlarb stated she was also
361 working on the Information Technology (IT) contract seeking a reduction in costs with an
362 additional onsite service day. Ms. Schlarb reminded the preliminary budget would be
363 presented at a Special Meeting on May 5, 2015.
364

365 Chair Stone recessed the Regular Meeting at 10:06:11 AM and reconvened at 10:21:14 AM.
366

367 **5. Hubbard Grant:** The Manager informed Lincoln County received a Hubbard Grant in
368 the amount of \$6,250 for the purchase of communication equipment. The Manager stated
369 Samantha Mendez and Joe Kenmore co-wrote the grant to purchase three portable
370 communication repeaters for use in the field. The Manager invited those interested to
371 attend a ceremony on May 30, 2015 at the Ruidoso Downs Race Track.
372

373 **18. Water issues/Forest/Wildlife Health Programs/Land and Natural Resources**
374 **Advisory Committee (LANRAC)**
375

376 **Water Rights Notices:** Ms. Taylor reported no new publications on the State Engineers website
377 for Lincoln County. Ms. Taylor provided copy of recent correspondence from Attorney Kelly
378 Cassels on behalf of Lincoln County to the State Engineer commenting on the department's failure
379 to provide due process when approving the diversion of water rights without opportunity for those
380 harmed to protest. Ms. Taylor stated no response was received from the State Engineer to date.
381

382 **Secure Rural Schools (SRS) Expansion:** Ms. Taylor commented on the expiration of the SRS
383 program as of September 30, 2014, the lack of reauthorization by Congress, and the financial
384 effects amounting to the loss of \$151,000 in funding for the Road Department and \$20,000 in
385 funding for the partnership and activities with South Central Mountain RC and D. Ms. Taylor
386 reported on April 15, 2015 Congress reauthorized the Secure Rural Schools program retroactively
387 for Fiscal Years 2014 and 2015. Ms. Taylor anticipated receiving funding prior to the end of the
388 County's Fiscal Year.
389

390 **South Central Mountain RC and D:** Rick Merrick, Community Forester stated no burns were
391 conducted this last month and he did not anticipate any burning in the near future due to current
392 weather conditions. Mr. Merrick stated he continued to engage in public outreach and education
393 through various events such as the Ruidoso Home and Garden Show. Mr. Merrick stated he
394 was reviewing the current list of applicants for the Lincoln County Cost Share program to conduct
395 thinning and noted there was a waiting list for participation. Mr. Merrick stated through multiple
396 programs \$363,656 was expended on thinning in Lincoln County this last year. Mr. Merrick
397 informed the Little Bear Forest Reform Coalition was raising funds to purchase an additional
398 electronic bulletin board for the Smokey Bear Ranger District office to heighten public awareness.
399

400 **19. Capitan Culinary Arts Presentation**

401
402 Ms. Taylor informed members of the Capitan Culinary Arts Program won a New Mexico State
403 competition and were now eligible to represent Lincoln County in Washington, DC. Ms. Taylor
404 stated the students were unable attend today's meeting but she would attempt to reschedule.
405

406 **20. Approval of Fair Housing Month Proclamation**
407

408 Ms. Taylor stated the New Mexico Department of Finance and Administration provided notice
409 each local government was required to certify affirmation of implementation of fair housing
410 practices by annually: 1) conducting a fair housing self-assessment; 2) developing a Fair Housing
411 resolution or proclamation; and 3) conducting a fair housing activity. Ms. Taylor presented a
412 proclamation recognizing April as Fair Housing Month. Ms. Taylor noted CDBG funding requests
413 also required fair housing activities.
414

415 **Motion:** Approve the Lincoln County Fair Housing Month Proclamation, **Action:** Approve, **Moved**
416 **by** Commissioner Willard, **Seconded by** Commissioner Stewart.
417

418 Commissioner Willard questioned what type of fair housing activity the County conducted. Ms.
419 Taylor stated fair housing information flyers were distributed to the public through the senior
420 centers.
421

422 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 5).
423

424 **Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper,
425 Commissioner Willard.
426

427 **22. Award of Invitation to Bids:**
428

429 Ms. Taylor detailed the bids received as follows
430

- 431 a) Bid 14-15-006 Chip Seal Bancroft Road in Capitan
432 1. Blue Collar Construction \$154,203.00
433 2. Mesa Verde Enterprises, Inc. \$127,514.00
434 b) Bid 14-15-007 Chip Seal Biscuit Hill & Apple Blossom Roads in Ruidoso Downs
435 1. Blue Collar Construction \$ 24,948.00
436 2. Mesa Verde Enterprises, Inc. \$ 18,081.00
437 c) Bid 14-15-008 Chip Seal Laughing Horse in Capitan
438 1. Blue Collar Construction \$ 39,204.00
439 2. Mesa Verde Enterprises, Inc. \$ 36,282.00
440 d) Bid 14-15-009 Chip Seal Laughing Horse II in Capitan
441 1. Blue Collar Construction \$ 74,052.00
442 2. Mesa Verde Enterprises, Inc. \$ 63,907.00
443
444
445

446 **Motion:** Award to Mesa Verde Enterprises, Inc. Bid 14-15-006 for \$127,514; Bid 14-15-007 for
447 \$18,081; Bid 14-15-008 for \$36,282; and Bid 14-15-009 for \$63,907, **Action:** Approve, **Moved**
448 **by** Commissioner Stewart, **Seconded by** Commissioner Willard.
449

450 Commissioner Stewart clarified the roads identified were not within municipal limits. Carl Palmer,
451 Road Department Supervisor stated the roads were county maintain roads only.

452
453 Commissioner Willard questioned how roads were selected for projects. Mr. Palmer stated he
454 conducted inspections of roads, considered the number of complaints received and determined if
455 the road or portion of the road served as a school bus route.
456

457 Commissioner Draper questioned the County's financial commitment for these projects. Mr.
458 Palmer stated county match was 25% for these projects. Mr. Palmer reminded any remaining
459 State funding after projects were completed was available for additional projects, subject to
460 Commission approval.
461

462 **Vote:** Motion carried by unanimous vote (summary: Yes = 5)
463 **Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper,
464 Commissioner Willard.
465

466 **23. Authorization to Schedule Public Hearing to Consider Other Outdated or New**
467 **Lincoln County Ordinance**
468

- 469 a) Adoption of the Preliminary Budget, Fiscal Year 2015-2016
470
471 b) Amend Ordinance 2014-07 – Collection of Solid Waste in Lincoln County by
472 Ordinance 2015-03
473

474 **Motion:** Schedule a Public Hearing for the Regular Meeting of May 19, 2015 at 1:00 PM to
475 consider the Preliminary Budget and amendment of Ordinance 2014-07, **Action:** Approve,
476 **Moved by** Commissioner Stewart, **Seconded by** Commissioner Willard.
477

478 **Vote:** Motion carried by unanimous vote (summary: Yes = 5).
479 **Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper,
480 Commissioner Willard.
481

482 **24. Consideration of Appointments and Removals from Boards/Commissioners**
483 **/Committees:**
484

- 485 a) Planning Commission
486 No action.
487
488 b) **Tabled**-Senior Citizens Olympic Committee
489

- 490 No action.
491
492 c) Advisory Committee-Senior Citizens Program
493

494 Ms. Taylor reminded the new committee was approved during the March Regular Meeting. There
495 was general consensus to instruct the Manager and Senior Services Director to identify and solicit
496 potential members for the committee.
497

498 Chair Stone recessed the Regular Meeting at 10:51:09 and reconvened at 1:00:10 PM.
499

500 Chair Stone recessed the Regular Meeting and convened the Public Hearing at 1:00:15 PM.
501

502 **21. 1:00 P.M.: Public Hearing to consider the following Ordinance:**

503
504 a) Amend Ordinance 2004-04 Lodger's Tax Ordinance by Ordinance 2015-02
505

506 Attorney Morel discussed the proposed changes to current forms and the suggested addition of
507 a contractual agreement to the list of forms and documents required for the award and expenditure
508 of Lodger's Tax Funds. Attorney Morel stated a contract was beneficial to "bind" the parties
509 awarded funding to meet requirements set forth in the Ordinance.
510

511 Attorney Morel commended the Lodger's Tax Committee and in particular Sue Hutchinson for
512 their extensive review of the current Ordinance and suggestions for improvements. Attorney
513 Morel stated changes to the Ordinance as presented were approved by the Lodger's Tax
514 Committee.
515

516 Commissioner Stewart suggested some refinement of the new language for clarification. Attorney
517 Morel concurred with the suggestions.
518

519 Attorney Morel noted new language included a requirement to submit requests for Lodger's Tax
520 funding utilizing the most recent application no later than four months prior to the event and a
521 requirement to submit a request for reimbursement form within 90 days after the event occurred.
522

523 Chair Stone adjourned the Public Hearing and reconvened the Regular Meeting at 1:11:00 PM.
524

525 **Motion:** Adopt Ordinance 2015-02 with minor language changes and approve the associated
526 forms and contractual agreement, **Action:** Approve, **Moved by** Commissioner Stewart,
527 **Seconded by** Commissioner Allen.

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

529 **Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper,
530 Commissioner Willard.
531

532 **SEE EXHIBIT E:** Copy of Ordinance 2015-02 is attached hereto in reference thereto made a part
533 hereof.
534

535 **24. Executive Session Pursuant to the Open Meetings Act: Discussion of all Threatened**
536 **and/or Pending Litigation Section 10-15-1, Sub-Paragraph H.(7); and Discussion of**
537 **the purchase, acquisition or disposal of real property or water rights by the public**
538 **body, Section 10-15-1, Sub-Paragraph H.(8).**
539

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

544 1. *Cooper, Gale and DeBaca County News v. County of Lincoln, Sheriff of Lincoln County,*
545 *et al.* D-1329-CV-200701364. Suit filed: October 15, 2007. Verified Complaint for Declaratory
546 Judgment Ordering Production of Certain Records and Information. Hearing took place Dec. 18,
547 2013, and Stipulated Judgment was entered June 4, 2014 in favor of Ms. Cooper. Ms. Cooper
548 filed an appeal June 10, 2014, and Judge John F. Davis was assigned Aug. 3, 2014.

549 2. *Greentree Solid Waste Authority v. Lincoln County D-1226-CV-2014-00095.* Suit filed May
550 1, 2014 Verified Petition for Declaratory and Supplemental Relief: Injunction. County was served
551 May 14, 2014. Mr. Paul Melendres has been retained by the County. Hearing on All Pending
552 Motions took place Nov. 20 before Judge Ritter, who found Mr. Beauvais had a conflict of interest

553 and was disqualified from representing GSWA. GSWA has retained Robert Doughty as new
554 counsel Dec. 13, 2014. Hearing regarding 1) GSWA's Motion First Amended Verified Emergency
555 Motion Seeking Further Relief on GSWA's Request for Preliminary Injunction Concerning the
556 Rate at which the County Will Bill and 2) Lincoln County's Motion for Sanctions is scheduled for
557 May 12, 2015 at 9 a.m.

558 3. *Greentree Solid Waste Authority v. Lincoln County, et. al. D-0101-CV-2013-00104*. Suit
559 filed January 9, 2013. Petition for Declaratory Judgment; Preliminary and Permanent Injunction.
560 Mr. Beauvais filed an appeal Feb. 27, 2014. Ruling on Reconsidering Stay denied by Judge
561 Singleton June 11, 2014. GSWA's Brief in Chief filed Sept. 9, 2014. Record Proper was filed Sept.
562 25, 2014. Alto Lakes Water and Sanitation District's and Lincoln County's Joint Response Brief
563 was filed with the Court of Appeals Oct. 24, 2014. GSWA filed its Reply Brief Dec. 1, 2014. The
564 case has been submitted to a panel of judges for decision and the County received Notice of
565 Submission from the Court of Appeals Jan. 2, 2015.

566 4. *Water Rights Protests: New Mexico State Engineer Hearing Numbers: 14-039 and 14-*
567 *041*. Protests of Applications 01300-1, 01300-2, 01300-3, 0826-2 into 0275 *et. al.* and H-272 *et*
568 *al (T)* and H-50-1 into H-272 *et. al. (T)* filed July 15, 2013 pertaining to movement / transfer of
569 water rights from the Hondo Valley to the Village of Ruidoso and the City of Ruidoso Downs.
570 Docketing Order filed Sept. 18, 2014. Kelly Cassels/Sanders, Bruin, Coll & Worley, P.A. has been
571 retained by the County, entered his appearance Sept. 22, 2014 and has responded in behalf of
572 the County.

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

Tort Claims Notices Received or Threatened

2015

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

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

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

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

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

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

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

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

603 16E, a tract of land lying in the NE 4SE4). April 10, 2015 the property was inspected and noted
604 no progress had been made.

605

606 **2014**

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

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

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

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

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

618 **Class Action** – Tort Claim Notice received June 23, 2014 alleging false imprisonment,
619 false arrest, deprivation of rights at Lincoln County Detention Center that arise with Immigration
620 and Customs Enforcement charges.

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

623 **McGarry, Sean** – Tort Claim Notice received July 25, 2014 alleging wrongful arrest, false
624 imprisonment, malicious prosecution, intentional or negligent infliction of emotional distress,
625 abuse of process, wrongful termination and retaliatory discharge regarding discharge from the
626 Capitan Police Department.

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

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

633 **Rider, Edward Allen and Moorhead, Brennon** – Tort Claim Notice received Oct. 20,
634 2014 by attorney W. Chris Nedbalek alleging Lincoln County Narcotics Enforcement Unit officers
635 destroyed items in a home.

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

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

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

643 **McMurray, Cody** – Tort Claim Notice received Nov. 6, 2014 by attorney W. Chris
644 Nedbalek alleging lack of adequate medical care at Lincoln County Detention Center.

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

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

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

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

654 **Diana Martwick, 12th Judicial District Attorney** – Tort Claim Notice received Nov. 25,
655 2014 alleging lack of adequate office space provided by the County of Lincoln.
656 **Inmate Group** – Tort Claim Notice received Dec. Dec. 22, 2014 by attorney W. Chris
657 Nedbalek alleging inmates were mistreated at Lincoln County Detention Center.
658

659 **2013**

660 **Allen, Katherine Elizabeth-** Notice of Tort Claim received Sept. 12, 2013 from Katherine
661 Allen against Lincoln County Detention Center for alleged injuries sustained during transport.

662 **Borrego, Albert** - Tort Claim Notice received from attorney Gary Mitchell on June 14,
663 2013, alleging continued harassment to Albert G. Borrego by police while responding to a noise
664 complaint at Mr. Borrego's residence on February 28, 2013, and a separate incident resulting in
665 Mr. Borrego's arrest on March 5, 2013, due to an outstanding warrant, during which Mr. Borrego
666 allegedly sustained injuries while in custody due to an existing broken back injury. Claim has been
667 denied by NMAC.

668 **Espinoza, Robert** - Tort Claim Notice received from Robert Espinoza on June 4, 2013,
669 alleging property damage from vehicle accident while Linda Mullins, driving the LC Senior Center
670 meal delivery van ran off road hitting chain link fence, poles and railroad ties.

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

674 **Montoya, Emilia L.** - Tort Claim Notice received by attorney Freda Howard McSwane on
675 April 23, 2013, alleging injuries sustained by Ms. Montoya when a physical altercation took place
676 at the LCDC.

677 **Ramos, Aaron** - Tort Claim Notice received by attorney Robert J. Beauvais on April 18,
678 2013, (correspondence dated September 13, 2014) alleging concerns about Mr. Ramos' safety
679 and welfare and violation of his U.S. Constitutional rights.

680 **Silva, Elmo** - Tort Claim Notice received from attorney Richard Marquez November 6, 2013.
681 Alleges false imprisonment for Mr. Silva, who was sentenced in the 12th Judicial District Court to
682 38 years filed on July 3, 1990.

683
684 **Action:** Approve, Moved by Chair Stone, **Seconded** by Commissioner Stewart.

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

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

688
689 Chair Stone recessed the Regular Meeting and convened the Closed Session at 1:12:50 PM.

690
691 Chair Stone adjourned the Closed Session and reconvened the Regular Meeting at 3:24:40 PM.

692
693 Commissioner Draper attested that matters discussed in the closed meeting were limited to those
694 specified in the motion for closure or in the notice of separate closed meeting.

695
696 **26. Greentree Solid Waste Authority items for consideration/action:**

697
698 A. Re-negotiation of the current Joint Powers Agreement should the County of Lincoln
699 elect to remain a full member of Greentree Solid Waste Authority. **Tabled**

700
701 B. Potential Action on Rates for Solid Waste Collection Services in Lincoln County
702 outside municipalities and Alto Lakes Water and Sanitation District by Resolution
703 2014-40 – **Tabled**
704

705 C. Consideration of Options:
706

- 707 1) Issue Third party Request for Proposal (RFP) for County of Lincoln Solid Waste
708 Services. - **Tabled**
709 2) Negotiation of Joint Powers Agreement and the status of the County of Lincoln
710 should an RFP for a Third Party Contract for Services be sought.
711

712 D. Consideration/Action of a possible advance of rate-payer funds from the County of
713 Lincoln to Greentree Solid Waste Authority, and conditions for any such advance
714 required by the County of Lincoln.
715

716 E. Any and all other items pertaining to Greentree Solid Waste Authority and the County
717 of Lincoln.
718

719 Commissioner Stewart, speaking as the County board member of GSWA, discussed recent
720 actions by the GSWA Board including a general agreement to the terms of settlement presented
721 today. Commissioner Stewart asked Mr. Lewandowski if GSWA had taken action to dismiss legal
722 actions pending against Lincoln County.
723

724 Mr. Lewandowski stated as a consultant for GSWA he was not authorized to discuss matters
725 discussed in GSWA's Executive Session. Mr. Lewandowski expressed belief should the Board
726 of Commissioners agree to the terms of the settlement agreement presented today GSWA would
727 dismiss all legal actions.
728

729 **Motion:** Reimburse GSWA \$89,382 for the months January through June contingent upon
730 dismissal of all legal action and agreement to all other terms, **Action:** Approve, **Moved by**
731 **Commissioner Stewart, Seconded by Commissioner Draper.**
732

733 Mr. Lewandowski reiterated his belief GSWA would meet the terms of the settlement agreement.
734

735 **Commissioner Stewart withdrew his motion pending further discussion.**
736 **Commissioner Draper concurred and withdrew his second.**
737

738 Mr. Lewandowski stated should reimbursement be delayed to a later date GSWA would suspend
739 services to County residents beginning May 1, 2015.
740

741 Mr. Lewandowski stated revision of the Joint Powers Agreement (JPA) and other issues
742 discussed in GSWA's Executive Session resulted in directions to the GSWA Attorney and staff to
743 proceed with a request for reimbursement and revising the JPA, but noted completing some
744 actions would require more time.
745

746 Stirling Spencer, former County Commissioner during the development of the initial JPA,
747 expressed belief GSWA had an endemic problem related to operational expenses and
748 management. Mr. Spencer stated the rate increases imposed over the last fifteen years were
749 not properly supported. Mr. Spencer reminded when the County agreed to the initial JPA it was
750 with understanding all costs might not be "proportional" but the municipalities would realize
751 savings and economic benefits associated with a decline in illegal dumping. Mr. Spencer
752 suggested the Board of Commissioners consider whether the settlement agreement presented
753 today was just a "patch" or a long term solution.
754

755 Jeff Kaplan, Village of Ruidoso General Services Director reiterated concerns about any reduction
756 in services and the potential strain on Village of Ruidoso services. Mr. Kaplan reminded Mr.
757 Lewandowski of prior statements GSWA would not cut services.
758

759 Mr. Lewandowski responded his position was service would continue as long as GSWA could
760 meet obligations. Mr. Lewandowski stated a moratorium for the purposes of resolution would not
761 provide revenue to pay bills. Mr. Lewandowski concurred with Mr. Spencer's comments the initial
762 intent of the JPA included understanding the municipalities would bear a disproportionate share
763 of costs for certain services such as illegal dumping. Mr. Lewandowski reminded GSWA had
764 reduced operational costs by \$500,000 and based on his percentage analysis of services the
765 other entities were subsidizing County services.
766

767 **Motion:** Agree in principal to the list of proposed actions presented by GSWA, **Action:** Approve,
768 **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

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

770 **Yes:** Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.
771 **No:** Chair Stone.
772

773 Mr. Lewandowski requested the Board of County Commissioners consider setting a Special Joint
774 Meeting after the GSWA Board meeting on April to consider action.
775

776 Attorney Morel and Attorney Paul Melendres concurred acceptance of any formal agreement
777 would require consideration and action in a Special Meeting.
778

779 **Motion:** Schedule a Special Meeting to consider action on a settlement agreement with GSWA,
780 **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Chair Stone.

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

782 **Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper,
783 Commissioner Willard.
784

785 Chair Stone stated the key factor was preparation of a legal document for the Board of
786 Commissioners to consider at the next Meeting.
787

788 **27. Lincoln County Medical Center (LCMC) items for consideration/action:**
789

790 A. Consider options and approval/authorization of LCMC renovation and expansion.
791

792 B. Consideration approval/authorization to re-negotiate terms of LCMC/Lincoln County
793 Lease with Presbyterian Healthcare Services.
794

795 C. Consideration approval/authorization to file application with New Mexico Finance
796 Authority for the sum of \$25 million dollars.
797

798 D. Consider/approval/authorization to retain Dekker, Perich, Sabatini to complete
799 design plans and enter into contract negotiations.
800

801 Mr. Santos restated the list of options developed to address current conditions at LCMC.
802

803 Commissioner Stewart noted an increase in the estimated expense to be financed from \$25 to
804 \$30 million.
805

806 Mr. Santos reminded some concern was expressed about the proposed amount of funding
807 anticipated from philanthropy and grants. Mr. Santos suggested the proposal to finance \$30 was
808 "optioned" to hedge against any lack of philanthropy in a timely manner. Mr. Santos informed
809 NMFA had determined that any financing secured by a lease agreement would result in issuance
810 of a taxable bond. Mr. Santos stated the issuance of a \$25 million taxable bond would result in
811 a debt service of \$1.5 million annually for 30 years and similarly a \$30 million taxable bond would
812 require a debt service \$1.796 million annually. Mr. Santos opined the County could meet either
813 of these funding obligations without completely depleting annual health care revenues and without
814 imposing any additional taxes.

815
816 Commissioner Stewart stated clearly the County need to take action based on the JPA
817 certification requirements. Commissioner Stewart stated prior to any financial commitment the
818 County needed to ascertain if the lease payment was "bondable".
819

820 Mr. Santos stated subsequent conversations with NMFA indicated the lease amount was
821 bondable but there was a need for a contingency financing option to secure the loan due to the
822 180 day lease termination clause. Mr. Santos stated 40 to 50% of the payment amount would
823 need to be secured by a separate source.
824

825 Commissioner Willard questioned if NMFA was the only source of financing considered by LCMC.
826 Mr. Santos stated NMFA typically presented the most economical bonding opportunity for
827 governmental agencies. Ms. Taylor informed she contacted RBC Capital and they had agreed to
828 present some other bonding options.
829

830 Commissioner Draper stated support for the project but expressed concerns about commitment
831 to \$25 or \$30 million in debt without researching all possible financing solutions including
832 utilization of Gross Receipt Tax increments. Commissioner Draper expressed a desire to obtain
833 additional public input on the process.
834

835 Attorney Morel questioned how NMFA might review any application which did not define a
836 particular funding source. Attorney Morel questioned if the hospital lease would need revision
837 prior to any application submission.
838

839 Mr. Santos stated NMFA agreed to review an application and consider the viability of utilizing the
840 lease payment to secure financing. Mr. Santos advocated for adoption of a Resolution supporting
841 the submission of an application with a renegotiation of the lease at a later date.
842

843 **Motion:** Approve the Renovation and Remodel option for the LCMC facility as presented, **Action:**
844 Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

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

846 **Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper,
847 Commissioner Willard.
848

849 Mr. Santos suggested submitting an application to NMFA to determine the outcome of that
850 process to analyze with other financing options.
851

852 Commissioner Willard questioned if the County Manager and County Attorney were comfortable
853 with proceeding with the NMFA application option.
854

855 Ms. Taylor suggested RBC Capital be allowed to present other options prior to submission of any
856 application. Attorney Morel suggested it was preferential for the County to deal directly with
857 NMFA.

858
859 **Motion:** Schedule consideration of a Resolution and potential action for the next Special Meeting,
860 **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

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

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

864
865 Patsy Sanchez, resident of Carrizozo and taxpayer, questioned the presence of a significant
866 amount of funds on a prior LCMC "Combined Statement of Operations and Net Assets" in a fund
867 titled "Doubtful Accounts". Ms. Sanchez stated she questioned the prior LCMC Administrator
868 about the approximately \$8 million dollars in this fund on several occasions during past
869 Commission meetings but received no response.

870
871 Dudley McCauley, Chief Financial Officer for LCMC stated the fund Ms. Sanchez referenced was
872 a "reserve for self-pay accounts" which was no longer maintained. Mr. Santos stated he would
873 research the question and provided additional information during the local Community Advisory
874 Meeting scheduled in the near future.

875
876 **28. Signing of Official Documents**

877
878 **29. Next meetings:**

- 879
880 a) May 5, 2015 - Special Meeting & Public Hearing - Preliminary Budget FY 15-16
881 b) May 19, 2015 - Regular Commission Meeting

882
883 **30. Adjourn**

884
885 There being no further business to come before the Board of County Commissioners, Chair Stone
886 adjourned the meeting at 4:37:21 PM.

887
888 Respectfully submitted by,
889 Rhonda B. Burrows
890 Lincoln County Clerk

1 **COUNTY OF LINCOLN**

2 **New Mexico**
3 **Special Meeting**
4 **Board of County Commissioners**

5
6 **Preston Stone**, Chair
7 **Dallas Draper**, Vice Chair

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

8
9 **Minutes**
10 **Tuesday, April 28, 2015**

11
12 Minutes of the Special Meeting of the Lincoln County Commission held at 9:00 A.M. on April 28,
13 2015 in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New
14 Mexico

15
16 **1. Call to Order**

17
18 Chair Stone called the Special Meeting of the Board of County Commissioners to order at 9:00:03
19 AM.

20
21 **2. Roll Call**

22
23 **Roll Call.**

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

26
27 Others present included Nita Taylor, County Manager; Alan Morel, County Attorney; and Rhonda
28 Burrows, County Clerk.

29
30 **3. Invocation**

31
32 The invocation was presented by Commissioner Stone.

33
34 **4. Pledge of Allegiance**

- 35
36 a. Pledge – US Flag
37 b. Salute – NM Flag
38

39 **5. Approval of Agenda**

40
41 **Motion:** Acceptance of the Agenda and authorized the Chair to move items as necessary,

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

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

44 **Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper,
45 Commissioner Willard.
46

57 **6. Executive Session Pursuant to the Open Meetings Act: Discussion of all Threatened**
58 **and/or Pending Litigation, Section 10-15-1, Sub-paragraph H(7); and Discussion of**
59 **the purchase, acquisition or disposal of real property or water rights by the public**
60 **body, Section 10-15-1, Sub-paragraph H(8).**
61

62 Paul Melendres, of Melendres and Melendres, acting as attorney for Lincoln County joined the
63 meeting telephonically.

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

68 **New or Updated Matters since last report = ***
69

70 1. *Cooper, Gale and DeBaca County News v. County of Lincoln, Sheriff of Lincoln County,*
71 *et al.* D-1329-CV-200701364. Suit filed: October 15, 2007. Verified Complaint for Declaratory
72 Judgment Ordering Production of Certain Records and Information. Hearing took place Dec. 18,
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74 filed an appeal June 10, 2014, and Judge John F. Davis was assigned Aug. 3, 2014.

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76 1, 2014. Verified Petition for Declaratory and Supplemental Relief, Injunction. County was served
77 May 14, 2014. Mr. Paul Melendres has been retained by the County. Hearing on All Pending
78 Motions took place Nov. 20 before Judge Ritter, who found Mr. Beauvais had a conflict of interest
79 and was disqualified from representing GSWA. GSWA has retained Robert Doughty as new
80 counsel Dec. 13, 2014. Hearing regarding 1) GSWA's Motion First Amended Verified Emergency
81 Motion Seeking Further Relief on GSWA's Request for Preliminary Injunction Concerning the
82 Rate at which the County Will Bill and 2) Lincoln County's Motion for Sanctions is scheduled for
83 May 12, 2015 at 9 a.m.

84 3. *Greentree Solid Waste Authority v. Lincoln County, et. al.* D-0101-CV-2013-00104. Suit
85 filed January 9, 2013. Petition for Declaratory Judgment; Preliminary and Permanent Injunction.
86 Mr. Beauvais filed an appeal Feb. 27, 2014. Ruling on Reconsidering Stay denied by Judge
87 Singleton June 11, 2014. GSWA's Brief in Chief filed Sept. 9, 2014. Record Proper was filed Sept.
88 25, 2014. Alto Lakes Water and Sanitation District's and Lincoln County's Joint Response Brief
89 was filed with the Court of Appeals Oct. 24, 2014. GSWA filed it Reply Brief Dec. 1, 2014. The
90 case has been submitted to a panel of judges for decision and the County received Notice of
91 Submission from the Court of Appeals Jan. 2, 2015.

92 4. *Water Rights Protests: New Mexico State Engineer Hearing Numbers: 14-039 and 14-*
93 *041.* Protests of Applications 01300-1, 01300-2, 01300-3, 0826-2 into 0275 *et. al.* and H-272 *et*
94 *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.

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

Tort Claims Notices Received or Threatened

95 **2015**

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

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

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

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

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

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

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

116 **Chavez, Billy – Ordinance Violation: 2009-03 Regulating Refuse, Solid Waste and**
117 **Litter in the County.** March 10, 2015 certified letter mailed to Mr. Chavez giving him 30 days to
118 dispose of debris on his property at 142 White Cat Road, San Patricio (Section 26, Township-
119 10S, Range 16E, tract of land lying in the NE 4SE4). April 10, 2015 the property was inspected
120 and noted no progress had been made.

121 ***Preston, DeAnna** – Lincoln County Sheriff's Deputy – Threatened Litigation on April
122 22, 2015 through attorney J. Robert Beauvais against the County of Lincoln in reference to Dep.
123 Preston's Disciplinary Action Dispute.

124
125 **2014**

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

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

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

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

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

138 **Class Action** – Tort Claim Notice received June 23, 2014 alleging false imprisonment,
139 false arrest, deprivation of rights at Lincoln County Detention Center that arise with Immigration
140 and Customs Enforcement charges.

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

143 **McGarry, Sean** – Tort Claim Notice received July 25, 2014 alleging wrongful arrest, false
144 imprisonment, malicious prosecution, intentional or negligent infliction of emotional distress,
145 abuse of process, wrongful termination and retaliatory discharge regarding discharge from the

146 Capitan Police Department.

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

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

153 **Rider, Edward Allen and Moorhead, Brennon** – Tort Claim Notice received Oct. 20,
154 2014 by attorney W. Chris Nedbalek alleging Lincoln County Narcotics Enforcement Unit officers
155 destroyed items in a home.

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

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

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

163 **McMurray, Cody** – Tort Claim Notice received Nov. 6, 2014 by attorney W. Chris
164 Nedbalek alleging lack of adequate medical care at Lincoln County Detention Center.

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

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

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

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

174 **Diana Martwick, 12th Judicial District Attorney** – Tort Claim Notice received Nov. 25,
175 2014 alleging lack of adequate office space provided by the County of Lincoln.

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

178
179 **2013**

180 **Allen, Katherine Elizabeth**- Notice of Tort Claim received Sept. 12, 2013 from Katherine
181 Allen against Lincoln County Detention Center for alleged injuries sustained during transport.

182 **Borrego, Albert** - Tort Claim Notice received from attorney Gary Mitchell on June 14,
183 2013, alleging continued harassment to Albert G. Borrego by police while responding to a noise
184 complaint at Mr. Borrego's residence on February 28, 2013, and a separate incident resulting in
185 Mr. Borrego's arrest on March 5, 2013, due to an outstanding warrant, during which Mr. Borrego
186 allegedly sustained injuries while in custody due to an existing broken back injury. Claim has been
187 denied by NMAC.

188 **Espinoza, Robert** - Tort Claim Notice received from Robert Espinoza on June 4, 2013,
189 alleging property damage from vehicle accident while Linda Mullins, driving the LC Senior Center
190 meal delivery van ran off road hitting chain link fence, poles and railroad ties.

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

194 **Ramos, Aaron** - Tort Claim Notice received by attorney Robert J. Beauvais on April 18,
195 2013, (correspondence dated September 13, 2011) alleging concerns about Mr. Ramos's safety
196 and welfare and violation of his U.S. Constitutional rights.

197 **Silva, Elmo** - Tort Claim Notice received from attorney Richard Marquez November 6,
198 2013. Alleges false imprisonment for Mr. Silva, who was sentenced in the 12th Judicial District
199 Court to 38 years filed on July 3, 1990.
200

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

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

203 **Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper,
204 Commissioner Willard.
205

206 Chair Stone recessed the Regular Meeting and convened the Closed Session at 9:02:52 AM.
207

208 Chair Stone recessed the Closed Session and reconvened the Regular Meeting at 10:20:47 AM.
209

210 Commissioner Draper attested that matters discussed in the closed meeting were limited to those
211 specified in the motion for closure or in the notice of separate closed meeting.
212

213 **7. Greentree Solid Waste Authority items for consideration/action:**
214

- 215 1. Re-negotiation of the current Joint Powers Agreement should the County of Lincoln
216 elect to remain a full member of Greentree Solid Waste Authority: **TABLED**
- 217 2. Potential Action on Rates for Solid Waste Collection Services in Lincoln County
218 outside municipalities and Alto Lakes Water and Sanitation District by Resolution
219 2014-40: **TABLED**
- 220 3. Consideration of Options:
221 a. Issue Third Party Request for Proposal (RFP) for County of Lincoln Solid
222 Waste Services: **TABLED**
223 b. Negotiation of Joint Powers Agreement and the status of the County of Lincoln
224 should an RFP for a Third Party Contract for Services be sought.
- 225 4. Consideration/Action of a possible advance of rate-payer funds from the County of
226 Lincoln to Greentree Solid Waste Authority, and conditions for any such advance
227 required by the County of Lincoln.
- 228 5. Any and all other items pertaining to Greentree Solid Waste Authority and the County
229 of Lincoln.
- 230 6. Consideration/Action pertaining to a Settlement Agreement between Greentree Solid
231 Waste Authority and the County of Lincoln.
232

233 Nita Taylor, County Manager provided a copy of the Settlement Agreement and Release
234 negotiated by attorney's representing GSWA and Lincoln County. Ms. Taylor stated GSWA's
235 Board met on April 27, 2015 and tentatively agreed to the terms of the agreement as presented.
236

237 There was a lengthy discussion regarding Section 5 of the agreement titled "County Settlement
238 Report" containing two options. Option A defined a settlement payment of \$78,229.72 from
239 Lincoln County to GSWA to assist with the decrease of income associated with the rate
240 differential. Option A also contained a provision for GSWA to reimburse certain customers for
241 an additional cost of \$10,165. Option B defined a settlement payment of \$75,987.60 with the
242 County responsible for reimbursements to customers.
243

244 Joe Lewandowski, GSWA Operational Consultant explained there were 149 customers entitled
245 to a refund for duplicate payments made to GSWA and Lincoln County and 1084 customers

246 entitled to a reimbursement based on the rate differential. Mr. Lewandowski expressed belief
247 the County was best able provide refunds through credits to current billing.
248

249 Chair Stone stated GSWA had previously agreed to reimburse customers for duplicate billing and
250 the rate differential. Mr. Lewandowski clarified while there was a prior agreement to reimburse
251 customers, the method of reimbursement was not established.
252

253 Ray Dean, Chair of the GSWA Board discussed Options A and B and expressed support for
254 Option B suggesting the best course was for the County to credit reimbursement amounts to
255 current billings.
256

257 Punkin Schlarb, Finance Director expressed concern about Lincoln County issuing refunds for
258 payments made to GSWA. Ms. Schlarb questioned the source of documentation necessary to
259 process credits and the potential impact on the County's gross receipt tax responsibilities. Ms.
260 Schlarb also expressed concern about the staff time required to accomplish posting and tracking
261 refunds.
262

263 Debra Ingle, GSWA-Operational Supervisor reminded an unknown number of customers had
264 made partial payments either to GSWA or Lincoln County based on their past payments at the
265 higher rate.
266

267 **Motion:** Approve the Settlement Agreement including the dismissal of legal action as stated in
268 the agreement and the approval of Option B of Section 5 for Lincoln County to process
269 reimbursements for duplicate or overpayments, **Action:** Approve, **Moved by** Commissioner
270 Willard, **Seconded by** Commissioner Stewart
271

272 Mr. Lewandowski suggested GSWA issue Lincoln County a Non Taxable Transaction Certificate
273 for the revenue associated with the necessary reimbursements to alleviate the need for either
274 entity to adjust Gross Receipts reporting.
275

276 Ms. Schlarb requested a recess to consult with the auditor for Lincoln County's budget process.
277

278 Chair Stone recessed the Special Meeting at 11:02:01 AM and reconvened at 11:17:35 AM
279

280 Ms. Schlarb stated it was the auditor's opinion the County could accept a lump sum payment from
281 GSWA for refunds and then apply credit to current accounts. Ms. Schlarb reminded the Finance
282 Department was working on both the annual audit and the budget for the next fiscal year. Ms.
283 Schlarb stated additional work to process the reimbursements would be particularly burdensome
284 to staff at this time.
285

286 **Commissioner Willard withdrew the motion.**

287 **Commissioner Stewart concurred and withdrew his second.**
288

289 **Motion:** Approve the Settlement Agreement to include Section 5 Option A with an amendment
290 to reflect \$5082.50 for reimbursement of 149 duplicate payments to be processed by GSWA as
291 soon as possible with remaining reimbursements to be issued within 90 days, **Action:** Approve,
292 **Moved by** Commissioner Stewart, **Seconded by** Commissioner Willard.

293 Attorney Melendres reminded any payment of settlement by Lincoln County would not occur until
294 GSWA filed motions to dismiss all legal actions.

295
296 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 5).
297 **Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper,
298 Commissioner Willard.
299

300 **6. Executive Session Pursuant to the Open Meetings Act: Discussion of all Threatened**
301 **and/or Pending Litigation, Section 10-15-1, Sub-paragraph H(7); and Discussion of**
302 **the purchase, acquisition or disposal of real property or water rights by the public**
303 **body, Section 10-15-1, Sub-paragraph H(8). - Continued**
304

305 **Motion:** To close the meeting for the purposes of an Executive Session to discuss Threatened
306 and/or Pending Litigation pursuant to the Open Meetings Act, Section 10-15-1, Sub Paragraph
307 H.(7) and the purchase, acquisition or disposal of real property or water rights by the public body,
308 Section 10-15-1, Sub-Paragraph H.(8) and as previously stated. **Action:** Approve, **Moved by**
309 Commissioner Draper, **Seconded by** Commissioner Stewart.

310 **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 5).
311 **Yes:** Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper,
312 Commissioner Willard.

313
314 Chair Stone recessed the Regular Meeting and reconvened the Closed Session at 11:33:02 AM.
315

316 Chair Stone adjourned the Closed Session and reconvened the Regular Meeting at 11:46:56 AM.
317

318 Commissioner Draper attested that matters discussed in the closed meeting were limited to those
319 specified in the motion for closure or in the notice of separate closed meeting.
320

321 **8. Discussion of funding options for Lincoln County Medical Center's Renovation and**
322 **Expansion Plan.**
323

324 Ms. Taylor reported contacted RBC Capital Markets to obtain additional information on financing
325 options for the proposed renovation and expansion of LCMC. Eric Harrigan of RBC Capital
326 Markets in Albuquerque joined the meeting telephonically.
327

328 Mr. Harrigan stated he could provide some basic information about finance options today and
329 offered to attend the next Regular Meeting for additional discussion. Mr. Harrigan discussed the
330 basic two types of bonds available for financing capital outlay projects. Mr. Harrigan stated
331 General Obligation Bonds required a pledge of property tax revenues while Revenue Bonds
332 required a pledge of gross receipts tax or in some cases revenues from services provided. Mr.
333 Harrigan stated bond repayment required a revenue stream sufficient to service annual debt but
334 also sufficient to provide additional financial cushion or "coverage" in the event of any revenue
335 fluctuation.
336

337 Mr. Harrigan suggested the use of a hospital lease payment as a dedicated revenue source might
338 preclude any bond sale unless Lincoln County pledged an additional tax revenue stream as a
339 "double barrel" revenue guarantee.
340
341

342 Mr. Harrigan discussed other revenue pledge alternatives including imposition of additional GRT
343 increments or authorization by voters to issue a General Obligation Bond for the imposition of
344 property taxes.

345
346 There was additional discussion about the opportunity to impose GRT increments or issue a
347 General Obligation Bond but not impose the tax unless the lease payment failed to service the
348 debt payment.

349
350 There was a general consensus to request additional information from RBC Capital at the next
351 Regular Meeting.

352
353 Commissioner Willard questioned Al Santos, Administrator about LCMC's efforts to raise funding
354 from private donations.

355
356 Mr. Santos stated current pledges and donations amounted to approximately \$600,000. Mr.
357 Santos expressed belief the facility could raise \$5 million through philanthropy and grants over
358 the next three years.

359
360 **7. Greentree Solid Waste Authority items for consideration/action: - continued**

361
362 **6. Consideration/Action pertaining to a Settlement Agreement between Greentree Solid**
363 **Waste Authority and the County of Lincoln**

364
365 Attorney Morel requested the Board of Commissioners review the GSWA Settlement Agreement
366 as amended today to reflect the changes presented in the Ordinance.

367
368 There was consensus the language of the Settlement Agreement was properly amended to reflect
369 the motion as approved and to request GSWA's approval of the amended agreement.

370
371 **9. Next Meetings:**

372
373 Special Meeting – May 5, 2015
374 Regular Meeting - May 19, 2015.

375
376 **10. Adjournment**

377
378 There being no further business to come before the Board of County Commissioners, Chair Stone
379 adjourned the meeting at 12:26:02 PM.

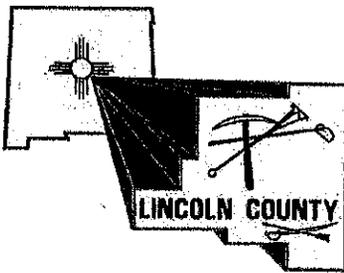
380
381 Respectfully submitted by,
382 Rhonda B. Burrows
383 Lincoln County Clerk

Agenda Item 7

SUBJECT

Approval of Consent Agenda:

- a. Payroll/Accounts Payable/Budget/Expenditures
- b. Treasurer's Financial Report for the Month ending April 30, 2015



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County of Lincoln

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ACCOUNTS PAYABLE and PAYROLL

The following claims or bills on file with the office of the Lincoln County Manager were examined and approved as paid with checks hereof drawn upon the various County funds according to the check register covering the period from April 1 through April 30, 2015 in the amount of \$ 1,904,426.99.

NOW, THEREFORE, the above bills are hereby approved.

ADOPTED, PASSED AND SIGNED the 19th day of May, 2015.

BOARD OF COMMISSIONERS LINCOLN COUNTY, NEW MEXICO

Preston Stone, Chairman

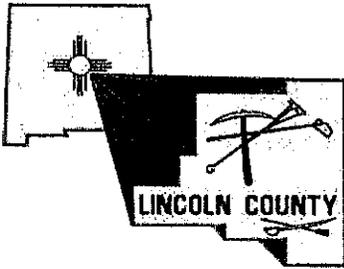
Dallas Draper, Vice-Chair

Tom Stewart, Member

Lynn Willard, Member

Elaine Allen, Member

ATTEST: _____
Rhonda B Burrows, County Clerk



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AGENDA Item No. 8

May 15, 2015

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager *NT*

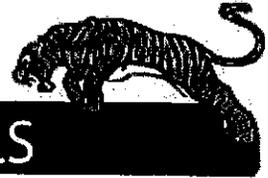
SUBJECT: Capitan Municipal Schools' Request to Co-locate Repeaters in County Building

DISCUSSION:

The Capitan Municipal Schools has requested to co-locate its repeaters in the County building on top of East Capitan Mountain, and on Carrizo Peak in the future. County Manager, OES Director and representative from Southard Services met to discuss the options. We concluded that there is sufficient space in the County Building on top of the Capitan Mountain, and collocation will not interfere with County communications. Joe Kenmore also communicated with the Smokey Bear Ranger District to confirm that additional radio frequencies would not interfere with other users at that site.

Superintendent Shirley Crawford and Business & Transportation Manager Kimberly Stone may be present to formally present its request to the Commission. See **Enclosure 1**.

Recommendation: Approve collocation at the Capitan Mountain Site; defer approval of collocation on Carrizo Peak until time for implementation.



CAPITAN MUNICIPAL SCHOOLS

Home of the Tigers

May 11, 2015

Dear Commissioners:

In order to ensure that we have adequate radio coverage for our school buses we would like to place a repeater that is owned by Capitan Schools on top of East Capitan Mountain and in the future Carrizo Peak.

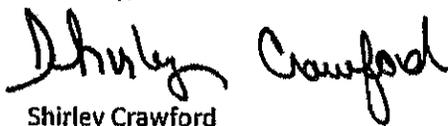
We will be happy to pay a reasonable rate to rent the space if necessary and of course help with any emergency maintenance that has to be done to the generators or other items there.

We met with County Manager, Nita Taylor and EMS Manager, Joe Kenemore to discuss the details of this on March 9, 2015.

We hope to have this work done over the summer months so we can have everything up and running by the first day of school in the fall of 2015.

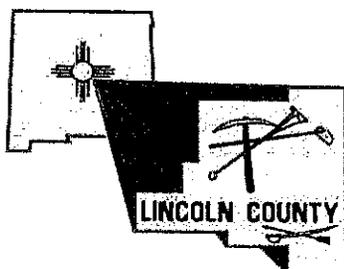
We appreciate your consideration of sharing your location with us and we are happy to answer any questions you might have.

Cordially,


Shirley Crawford

CAPITAN MUNICIPAL SCHOOLS *To Lead, Educate, and Prepare All Students*

Located in 150 Forest, Capitan, NM 88316 • Mailing Address PO Box 278, Capitan, NM 88316 • Phone (575) 354.8500 • Fax (575) 354.8505
Online at www.CapitanTigers.org



www.lincolncountynm.net

County of Lincoln

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AGENDA Item No. 9

May 15, 2015

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager *nt*

SUBJECT: Funding Options for Lincoln County Medical Center's Renovation and Expansion Plan: Presentation by Erik Harrigan, RBC Capital Markets, LLC

DISCUSSION:

During the April 14, 2015 Special Commission Meeting, Lincoln County Medical Center and Dekker/Perich/Sabatini presented an assessment of the physical facility and discussed the options to ensure the continued ability of LCMC to meet the medical needs of the County. Four options were presented: 1) to do nothing; 2) to conduct a short term fix (\$24 million); 3) to expand and renovate (\$33 million) or 4) to replace the facility (\$60 million). LCMC recommended the expansion/renovation option, and informed the Commission of their efforts to contribute \$8 million in grants and private donations. Mr. Santos, LCMC Administrator anticipated that the \$8 million, coupled with County reserves, would result in \$25 million to be financed. Adam Johnson, Representative from New Mexico Finance, presented possible funding options.

During its April 21, 2015, the Commission approved the option to renovate and remodel at a cost to be financed in the amount of \$25 – 30 million. The Commission directed Manager to schedule RBC Capital Markets, LLC to present the various funding options to the Commission, including an option that would require the public to vote.

Mr. Erik Harrigan, Director – RBC Capital Market, LLC, will be in attendance to present funding options to the Commission. See **Enclosure 1**.

Mr. Harrigan has advised the County of the assistance it can provide as its Municipal Advisor. See **Enclosure 2**; and has provided the County a Municipal Advisory Agreement for its consideration. See **Enclosure 3**.

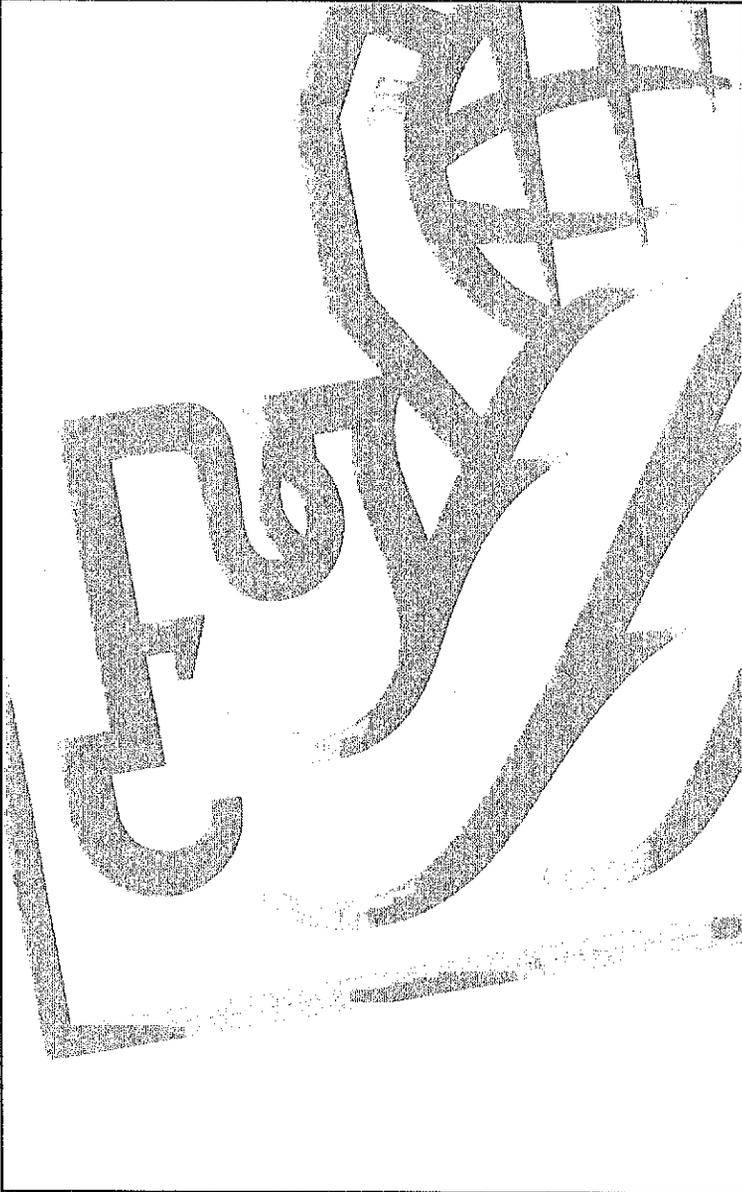
Recommendation: Consider information provided by Mr. Harrigan; direct Manager to enter into Municipal Advisory Agreement with RBC Capital Markets in order to asses and move forward with option(s) of choice.

Lincoln County, NM

Municipal Bonds – Overview

Lincoln County – Overview and Debt Capacity

May 19, 2015



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Table of Contents

- Section I – Municipal Bonds Overview
- Section II – Lincoln County Overview and Debt Capacity

Municipal Bonds - Overview

Section I



RBC Capital Markets

Municipal Bond 101 overview – What is a Municipal Bond?

- A bond is a loan.....plain and simple.
- The terms, pay-back dates and interest rates are carefully spelled out in the legal documents.
- When local governments, like Counties, need money to pay for something today, they promise to pay for it at some time in the future. Those promises are called bonds.
- Millions and millions of bonds are issued every year in the U.S. and the bond market in its entirety is incredibly large.
- Sometimes bonds are referred to by a different name which makes understanding bonds even more confusing.
- Bonds are often called fixed income securities; and

Municipal Bond 101 overview – Tax Exemption

- Interest on bonds excludable as income for federal tax purposes when the bonds are issued by municipal entities (or other non-profit entities) for general public purposes
- No more than 5% of bond proceeds is for the benefit of a private entity
- Proceeds of bonds issued are expected to be spent within three (3) years from the date of issuance
- Interest is typically exempt from state taxes, when purchased by a resident of the state from which the bond is issued

Municipal Bond 101 overview – General Obligation Bonds

Typically least borrowing cost, highest rated debt

Debt can only be incurred for general government purposes.

Debt must be approved by a majority of voters voting.

Total outstanding debt cannot exceed 3% of assessed valuation.

Final maturity cannot exceed 20 years

Bonds are secured be ad valorem property tax on all property in the County.

Tax rate is equal to debt service on the bonds (i.e. no coverage required)

Municipal Bond 101 overview – Revenue Bonds

General Obligation Bonds

- Typically lowest borrowing costs, highest rated debt
- Property tax revenues used to secure debt
- Property tax rates set to pay 100% of the annual debt service (i.e. no coverage required)
- State Constitutional and statutory limitations on amount and length of debt

Gross Receipts Tax Bonds

- Typically lower borrowing costs
- Gross Receipts Tax revenue used to secure debt
- Purchasers require revenue source to exceed debt service payments
- Statutory limitations on length of debt

Municipal Bond 101 overview – Revenue Bonds

Enterprise / Net Revenue Bonds

- Typically higher borrowing costs than General Obligation and Gross Receipts Tax bonds
- Net Revenue (i.e. Operating Revenue less Operating Expenses) pledged to the payment of debt
- Purchasers may require higher revenues to debt service payments depending on financial health of enterprise system
- Little statutory limitations on debt

Lease Revenue Bonds

- Typically highest borrowing cost
- Lease payment pledged to the payment of debt
- Purchasers will require higher revenue to debt service payments
- Underlying long-term lease documents are a critical component
- Fewer purchasers in market as other municipal bonds which can lead to higher interest rates.
- Very little statutory limitations on debt

Municipal Bond 101 overview – Municipal Bond Sale Alternatives

	Negotiated Sale	Competitive Sale	Private Placement
Description	Single or Team of Underwriter's Pre Selected	Public Bid – Specific Date and Time. Underwriter's place bids	Local Banks or Bond Banks purchase the debt
Bond Terms	Very Flexible	"Plain Vanilla" terms	Can be restrictive based upon purchaser's requirements
Sale Date	Determined Day-to-Day	Need Four or More Days Notice	High Flexibility based on Purchaser's Terms
Credit Ratings	Can Better Accommodate Lower Rated / Story Bonds	Needs High Rating for Reliable Results	No Rating Needed

**Overview of Lincoln County
Debt and Capacity Analysis**

Section II



RBC Capital Markets

Gross Receipts Tax
Revenue Bonds

Section III



RBC Capital Markets

Gross Receipts Tax Bonds

- Pros
 - Access to all sale alternatives
 - Lower borrowing cost
 - 30 year repayment schedule
- Cons
 - Requires imposition of additional gross receipts tax bonds
 - May require voter approval prior to imposition of grt increments
 - County revenue on hook if failure to receive lease payments
 - Requires a gross receipts tax increase

The county currently has one Gross Receipts Tax Revenue Bond outstanding.

- Series 2012
- \$2,670,000 Outstanding
- Final Maturity June 1, 2027

Gross Receipts Tax Bonds – Imposed vs. Authorized

Lincoln County, New Mexico Local Option Taxes as of January 1, 2015

Type of Tax & Purpose	Total Taxing Authority		Percentage Imposed	Projected Revenue	Unused Authority	Potential Add'l Revenue (4)
	Authority	Revenue				
County GRT (1) (3)	0.3750%	\$ 1,277,079	0.2500%	\$	0.1250%	\$ 586,827
County 1/16th GRT (1) (3)	0.0625%	-	0.0000%	-	0.0625%	293,414
County 3/8th GRT Hold Harmless (3) (5)	0.3750%	-	0.0000%	-	0.3750%	1,760,482
County Infrastructure GRT (2) (4)	0.1250%	-	0.0000%	-	0.1250%	149,776
County Capital Outlay GRT (1) (4)	0.2500%	-	0.0000%	-	0.2500%	1,173,655
County Emergency Comm. & Medical GRT (1) (4)	0.2500%	-	0.0000%	-	0.2500%	1,173,655
County Healthcare GRT (1) (4)	0.1250%	-	0.0000%	-	0.1250%	586,827
County Hospital Emergency GRT (1) (4) (6)	0.2500%	-	0.0000%	-	0.2500%	1,173,654.88
Speical County Hospital GRT (1) (4) (6)	0.1250%	-	0.0000%	-	0.1250%	586,827
County Local Hospital GRT (1) (4)	0.1250%	-	0.0000%	-	0.1250%	586,827
County Jail GRT (1) (4)	0.1250%	-	0.0000%	-	0.1250%	586,827
County Environmental Services GRT (2) (4)	0.1250%	149,776	0.1250%	149,776	0.0000%	-
County Fire Protection GRT (2) (4)	0.2500%	-	0.0000%	-	0.2500%	299,551
County Quality of Life GRT (3) (4)	0.2500%	-	0.0000%	-	0.2500%	1,173,655
County Business Retention (3) (4)	0.2500%	144,812	0.1875%	144,812	0.0625%	293,414
Total Local Option GRT	3.0625%	\$1,571,667	0.5625%		2.5000%	\$10,425,393

1) County-wide taxable gross receipts. First and third 18th County GRT constitutes Pledged Revenues for outstanding GRT Bonds.

2) Unincorporated taxable gross receipts.

3) Can be imposed without election.

4) Requires election prior to imposition.

5) Can be imposed by ordinance only not subject to referendum.

6) State Statute amendment required prior to consideration of imposition.

Source: *New Mexico Taxation & Revenue Department*

Gross Receipts Tax Bonds – Capacity

- The County has three potential sources of gross receipts tax revenue that does not require a referendum to impose.
 - 3rd 1/8th County Gross Receipts Tax
 - Estimated annual unencumbered revenues of \$586,827
 - 1/16th County Gross Receipts Tax
 - Estimated annual revenues of \$293,413
 - 3 increments of 1/8th County Hold Harmless Gross Receipts Tax
 - Estimated annual revenues of \$1,760,481

- The County has two potential sources of gross receipts tax revenue that would require a referendum to impose.
 - 1/8th County Infrastructure Gross Receipts Tax (Unincorporated County Only)
 - Estimated annual unencumbered revenues of \$149,776
 - Can only be imposed after all County Gross Receipts tax has been imposed
 - 1/4th County Capital Outlay Gross Receipts Tax (Countywide)
 - Estimated annual revenues of \$1,173,645
 - Can only be imposed after the County Infrastructure GRT has been imposed
 - 1/8th County Local Hospital Gross Receipts Tax (Countywide)
 - Estimated annual revenues of \$586,827

Gross Receipts Tax Bonds – FY2015 & FY2014 Collections

FY 2015

	July	August	September	October	November	December	January	February	March	April	May	June	TOTAL	Annualized
County Share GRT	90,326	107,253	111,409	115,048	96,334	107,603	81,627	110,765	90,193	81,638	94,118		1,086,316	1,185,072
County Share GRT(Food)	7,875	8,111	9,515	9,591	7,103	2,503	2,313	2,480	7,396	6,301	7,190		70,378	76,776
County Share GRT(Medical)	993	1,252	1,080	1,042	945	828	851	695	844	666	826		10,020	10,931
Total County Share GRT	99,194	116,616	122,004	125,681	104,382	110,934	84,791	113,939	98,433	88,605	102,135		1,166,714	1,272,779
County Business Retention	260	467	186,137	432	285	304	474	275	480	526	275		189,915	207,180
County Business Retention(Food)	-	-	-	-	-	-	-	-	-	-	-		-	-
County Business Retention(Medical)	-	-	-	-	-	-	-	-	-	-	-		-	-
Total County Business Retention	260	467	186,137	432	285	304	474	275	480	526	275		189,915	207,180
County Environmental	12,923	16,895	14,634	13,930	14,861	17,620	10,285	15,198	12,543	9,856	12,766		151,512	165,285
County Environmental(Food)	40	43	57	42	39	44	33	35	42	37	38		451	492
Total County Environmental	12,963	16,939	14,692	13,972	14,900	17,664	10,318	15,233	12,585	9,893	12,804		151,962	165,777
Total	112,418	134,021	322,833	140,086	119,566	128,902	95,583	129,447	111,498	99,026	115,213		1,621,475	1,768,882

FY 2014

	July	August	September	October	November	December	January	February	March	April	May	June	TOTAL	Annualized
County Share GRT	91,234	112,732	106,128	118,625	102,192	90,886	84,035	103,343	87,137	84,114	103,232		1,173,655	1,273,655
County Share GRT(Food)	7,693	8,064	8,908	9,215	7,026	7,053	6,878	8,020	6,783	6,333	7,256		89,986	89,986
County Share GRT(Medical)	897	971	1,156	1,320	1,072	1,101	1,000	1,568	974	1,028	1,097		13,439	13,439
Total County Share GRT	99,824	121,767	116,192	129,160	110,291	99,041	91,913	112,931	94,894	91,475	111,585		1,277,079	1,377,079
County Business Retention	373	833	139,612	491	428	238	313	218	461	264	426		144,812	144,812
County Business Retention(Food)	-	-	-	-	-	-	-	-	-	-	-		-	-
County Business Retention(Medical)	-	-	-	-	-	-	-	-	-	-	-		-	-
Total County Business Retention	373	833	139,612	491	428	238	313	218	461	264	426		144,812	144,812
County Environmental	9,410	14,288	10,680	11,820	13,102	12,074	12,149	14,627	10,934	12,129	14,431		149,323	149,323
County Environmental(Food)	37	40	51	39	38	39	34	26	37	31	35		45	45
Total County Environmental	9,446	14,328	10,731	11,859	13,140	12,113	12,183	14,653	10,971	12,161	14,466		149,776	149,776
Total	109,643	136,928	266,535	141,510	123,859	111,392	104,410	127,803	106,326	103,900	126,477		1,571,667	1,671,667

Gross Receipts Tax Bonds – Existing Debt and Coverage

Gross Receipts Tax Refunding Loan Series 2012 Bonds

Date	Principal	Coupon	Interest	Total		Debt Service Fiscal Year	Pledged Revenue	Coverage
				Debt Service	Interest			
6/1/2015	175,000	2.000%	47,950.00	222,950.00	222,950.00	222,950.00	638,539.75	2.86
12/1/2015	-	-	46,200.00	46,200.00	46,200.00	-	-	-
6/1/2016	175,000	3.000%	46,200.00	221,200.00	221,200.00	267,400.00	638,539.75	2.39
12/1/2016	-	-	43,575.00	43,575.00	43,575.00	-	-	-
6/1/2017	180,000	3.000%	43,575.00	223,575.00	223,575.00	267,150.00	638,539.75	2.39
12/1/2017	-	-	40,875.00	40,875.00	40,875.00	-	-	-
6/1/2018	190,000	3.000%	40,875.00	230,875.00	230,875.00	271,750.00	638,539.75	2.35
12/1/2018	-	-	38,025.00	38,025.00	38,025.00	-	-	-
6/1/2019	195,000	3.000%	38,025.00	233,025.00	233,025.00	271,050.00	638,539.75	2.36
12/1/2019	-	-	35,100.00	35,100.00	35,100.00	-	-	-
6/1/2020	200,000	4.000%	35,100.00	235,100.00	235,100.00	270,200.00	638,539.75	2.36
12/1/2020	-	-	31,100.00	31,100.00	31,100.00	-	-	-
6/1/2021	205,000	4.000%	31,100.00	236,100.00	236,100.00	267,200.00	638,539.75	2.39
12/1/2021	-	-	27,000.00	27,000.00	27,000.00	-	-	-
6/1/2022	215,000	4.000%	27,000.00	242,000.00	242,000.00	269,000.00	638,539.75	2.37
12/1/2022	-	-	22,700.00	22,700.00	22,700.00	-	-	-
6/1/2023	225,000	4.000%	22,700.00	247,700.00	247,700.00	270,400.00	638,539.75	2.36
12/1/2023	-	-	18,200.00	18,200.00	18,200.00	-	-	-
6/1/2024	235,000	4.000%	18,200.00	253,200.00	253,200.00	271,400.00	638,539.75	2.35
12/1/2024	-	-	13,500.00	13,500.00	13,500.00	-	-	-
6/1/2025	245,000	4.000%	13,500.00	258,500.00	258,500.00	272,000.00	638,539.75	2.35
12/1/2025	-	-	8,600.00	8,600.00	8,600.00	-	-	-
6/1/2026	250,000	4.000%	8,600.00	258,600.00	258,600.00	267,200.00	638,539.75	2.39
12/1/2026	-	-	3,600.00	3,600.00	3,600.00	-	-	-
6/1/2027	180,000	4.000%	3,600.00	183,600.00	183,600.00	187,200.00	638,539.75	3.41
Total	\$ 2,670,000		\$ 704,900.00	\$ 3,374,900.00	\$ 3,374,900.00	\$ 3,374,900.00		

Gross Receipts Tax Bonds – GRT Pledged Coverage

	New DS	Existing	Total DS	Revenue	Coverage
2016	1,409,200	267,400	1,676,600	2,190,000	1.31x
2017	1,406,800	267,150	1,673,950	2,190,000	1.31x
2018	1,408,800	271,750	1,680,550	2,190,000	1.30x
2019	1,410,000	271,050	1,681,050	2,190,000	1.30x
2020	1,410,400	270,200	1,680,600	2,190,000	1.30x
2021	1,410,000	267,200	1,677,200	2,190,000	1.31x
2022	1,408,800	269,200	1,678,000	2,190,000	1.31x
2023	1,406,800	270,400	1,677,200	2,190,000	1.31x
2024	1,409,000	271,400	1,680,400	2,190,000	1.30x
2025	1,410,200	272,000	1,682,200	2,190,000	1.30x
2026	1,405,400	267,200	1,672,600	2,190,000	1.31x
2027	1,409,800	187,200	1,597,000	2,190,000	1.37x
2028	1,408,000		1,408,000	2,190,000	1.56x
2029	1,410,200		1,410,200	2,190,000	1.55x
2030	1,406,200		1,406,200	2,190,000	1.56x
2031	1,406,200		1,406,200	2,190,000	1.56x
2032	1,410,000		1,410,000	2,190,000	1.55x
2033	1,407,400		1,407,400	2,190,000	1.56x
2034	1,408,600		1,408,600	2,190,000	1.55x
2035	1,408,400		1,408,400	2,190,000	1.55x
2036	1,406,800		1,406,800	2,190,000	1.56x
2037	1,408,800		1,408,800	2,190,000	1.55x
2038	1,409,200		1,409,200	2,190,000	1.55x
2039	1,408,000		1,408,000	2,190,000	1.56x
2040	1,410,200		1,410,200	2,190,000	1.55x
2041	1,405,600		1,405,600	2,190,000	1.56x
2042	1,409,400		1,409,400	2,190,000	1.55x
2043	1,406,200		1,406,200	2,190,000	1.56x
2044	1,406,200		1,406,200	2,190,000	1.56x
2045	1,409,200		1,409,200	2,190,000	1.55x
	42,249,800	3,152,150	45,401,950		

To achieve at least 1.30x coverage the county would need to pledge the following:

Type of Tax & Purpose	Available Options	Total
County GRT	\$ 1,225,367	(1)
County 1/16th GRT	293,414	
County 3/8th GRT Hold Harmless	1,760,482	(2)
County Infrastructure GRT	149,776	
County Capital Outlay GRT	1,173,655	
County Emergency Comm. & Medical GRT	1,173,655	
County Local Hospital GRT	586,827	
Total Local Option GRT	\$6,363,176	

(1) The County currently pledges the 1st 1/8th of the County Share (\$38k). The County would need to additionally pledge the 3rd 1/8th County GRT (Not imposed); and

(2) The County has 3 increments of 1/8th that can be imposed to generate \$1,760,482 or roughly \$587,000 per 1/8th. The County would need to impose 2 increments of the 3 available 1/8th Hold Harmless GRT to meet the revenue required on the left

**Medical Center Lease
Revenue Bonds**

Section IV



RBC Capital Markets

Medical Center Improvement Bonds - Overview

- Lease Revenue Bonds
- Pros
 - Potentially limits additional security pledge from County
 - May not require an election prior to issuance of debt
 - 30 year repayment schedule
- Cons
 - Lease revenue only is not sufficient to pledge to repayment of debt – additional revenue source would required
 - Potentially highest borrowing cost
 - Sale alternatives potentially limited to public sale only

Medical Center Improvement Bonds – 30 Year Amortization

— For illustrative purposes only, purchases will probably require either substantially higher coverage or GRT revenues sufficient to meet 100% of annual debt service in addition to lease payment

Lincoln County, New Mexico Lease Revenue Bonds Series 2015 Bonds

Period Ending	Principal	Coupon	Interest	Debt Service	Pledged Revenue	Coverage	Coverage Required	Additional Revenue Required
07/01/2016	\$ 330,000	5.500%	\$ 1,320,000	\$ 1,650,000	1,650,000	1.00	1.30	495,000.00
07/01/2017	350,000	5.500%	1,301,850	1,651,850	1,651,850	1.00	1.30	495,555.00
07/01/2018	370,000	5.500%	1,282,600	1,652,600	1,652,600	1.00	1.30	495,780.00
07/01/2019	390,000	5.500%	1,262,250	1,652,250	1,652,250	1.00	1.30	495,675.00
07/01/2020	410,000	5.500%	1,240,800	1,650,800	1,650,800	1.00	1.30	495,240.00
07/01/2021	435,000	5.500%	1,218,250	1,653,250	1,653,250	1.00	1.30	495,975.00
07/01/2022	455,000	5.500%	1,194,325	1,649,325	1,649,325	1.00	1.30	494,797.50
07/01/2023	480,000	5.500%	1,169,300	1,649,300	1,649,300	1.00	1.30	494,790.00
07/01/2024	510,000	5.500%	1,142,900	1,652,900	1,652,900	1.00	1.30	495,870.00
07/01/2025	535,000	5.500%	1,114,850	1,649,850	1,649,850	1.00	1.30	494,955.00
07/01/2026	565,000	5.500%	1,085,425	1,650,425	1,650,425	1.00	1.30	495,127.50
07/01/2027	595,000	5.500%	1,054,350	1,649,350	1,649,350	1.00	1.30	494,805.00
07/01/2028	630,000	5.500%	1,021,625	1,651,625	1,651,625	1.00	1.30	495,487.50
07/01/2029	665,000	5.500%	986,975	1,651,975	1,651,975	1.00	1.30	495,592.50
07/01/2030	700,000	5.500%	950,400	1,650,400	1,650,400	1.00	1.30	495,120.00
07/01/2031	740,000	5.500%	911,900	1,651,900	1,651,900	1.00	1.30	495,570.00
07/01/2032	780,000	5.500%	871,200	1,651,200	1,651,200	1.00	1.30	495,360.00
07/01/2033	825,000	5.500%	828,300	1,653,300	1,653,300	1.00	1.30	495,990.00
07/01/2034	870,000	5.500%	782,925	1,652,925	1,652,925	1.00	1.30	495,877.50
07/01/2035	915,000	5.500%	735,075	1,650,075	1,650,075	1.00	1.30	495,022.50
07/01/2036	965,000	5.500%	684,750	1,649,750	1,649,750	1.00	1.30	494,925.00
07/01/2037	1,020,000	5.500%	631,675	1,651,675	1,651,675	1.00	1.30	495,502.50
07/01/2038	1,075,000	5.500%	575,575	1,650,575	1,650,575	1.00	1.30	495,172.50
07/01/2039	1,135,000	5.500%	516,450	1,651,450	1,651,450	1.00	1.30	495,435.00
07/01/2040	1,200,000	5.500%	454,025	1,654,025	1,654,025	1.00	1.30	496,207.50
07/01/2041	1,265,000	5.500%	388,025	1,653,025	1,653,025	1.00	1.30	495,907.50
07/01/2042	1,335,000	5.500%	318,450	1,653,450	1,653,450	1.00	1.30	496,035.00
07/01/2043	1,405,000	5.500%	245,025	1,650,025	1,650,025	1.00	1.30	495,007.50
07/01/2044	1,485,000	5.500%	167,750	1,652,750	1,652,750	1.00	1.30	495,825.00
07/01/2045	1,565,000	5.500%	86,075	1,651,075	1,651,075	1.00	1.30	495,322.50
Total	\$ 11,550,000		\$ 21,475,300	\$ 31,375,300				

General Obligation Bonds

Section V



RBC Capital Markets

General Obligation Bonds

- Pros
 - Access to all sale alternatives
 - Lowest borrowing cost
 - Potentially no tax increase if lease payments made on time
 - Requires voter approval prior to issuance of debt
- Cons
 - Requires voter approval prior to issuance of debt
 - Property tax rate increase in the event lease payment is not met
 - 20 year repayment schedule maximum

The county currently does not have any general obligation debt outstanding.

History of Assessed Value, Tax Rates & General Obligation Debt Capacity

Tax Year	Assessed Value	% Change
2010	1,038,712,174	1.89%
2011	1,058,628,937	1.92%
2012	1,108,047,567	4.67%
2013	1,134,575,464	2.39%
2014	1,168,342,311	2.98%

Source: Lincoln County Assessor's Office.

2014 Assessed Valuation	\$1,168,342,311
Debt Limitation	3%
Outstanding General Obligation Debt	\$35,050,269
G/O Bonding Capacity	\$35,050,269

RESIDENTIAL TAX RATES - Per \$1,000 Assessed Valuation

Within 20 Mill Limit For General Purposes

	2014-15	2013-14	2012-13	2011-12	2010-11
State of New Mexico	\$0.000	\$0.000	\$0.000	\$0.000	\$0.000
Lincoln County	5.169	5.164	4.860	4.915	4.803
Carrizozo, Town of	6.317	6.385	6.462	4.506	4.405
Carrizozo Schools	0.312	0.318	0.313	0.319	0.312
Ruidoso, Village of	5.165	5.142	4.842	4.885	4.818
Ruidoso Schools	0.311	0.310	0.295	0.297	0.292
Total	\$17.274	\$17.319	\$16.772	\$14.922	\$14.630

Over 20 Mill Limit - Interest, Principal, Judgment, etc.

	2014-15	2013-14	2012-13	2011-12	2010-11
State of New Mexico	\$1.360	\$1.360	\$1.360	\$1.362	\$1.530
Lincoln County	2.750	2.750	2.750	2.750	2.750
Carrizozo, Town of	0.000	0.000	0.000	0.000	0.000
Carrizozo Schools	7.333	7.399	7.359	7.596	7.887
Ruidoso, Village of	1.500	0.000	0.000	0.000	0.000
Ruidoso Schools	7.951	7.756	7.818	7.830	7.801
Total	\$20.894	\$19.265	\$19.287	\$19.538	\$19.968

Total Levy

	2014-15	2013-14	2012-13	2011-12	2010-11
State of New Mexico	\$1.360	\$1.360	\$1.360	\$1.362	\$1.530
Lincoln County	7.919	7.914	7.610	7.665	7.553
Carrizozo, Town of	6.317	6.385	6.462	4.506	4.405
Carrizozo Schools	7.645	7.717	7.672	7.915	8.199
Ruidoso, Village of	6.665	5.142	4.842	4.885	4.818
Ruidoso Schools	8.262	8.066	8.113	8.127	8.093
Lincoln County Medical Center & Rural Clinics	2.600	2.600	2.535	2.553	2.515
ENMU - Ruidoso Branch	1.808	1.803	1.715	1.726	1.700
Total Residential in Town of Carrizozo	\$25.841	\$25.976	\$25.639	\$24.001	\$24.202
Total Non-Residential in Town of Carrizozo	\$26.534	\$26.160	\$27.641	\$25.868	\$26.078
Total Residential in Village of Ruidoso	\$28.615	\$26.885	\$26.175	\$26.318	\$26.209
Total Non-Residential in Village of Ruidoso	\$30.246	\$28.977	\$31.064	\$30.837	\$30.010

Source: New Mexico Department of Finance & Administration

General Obligation Bonds – Potential Tax Rates

Lincoln County, New Mexico
General Obligation Bonds
Series 2015 Bonds

Period Ending	Principal	Coupon	Interest	Debt Service	Assessed Value	Tax Rate
					@ 90% Collection	
07/01/2016	\$ 820,000	4.000%	\$ 974,200	\$ 1,794,200	1,163,765,087	1.71
07/01/2017	850,000	4.000%	941,400	1,791,400	1,163,765,087	1.71
07/01/2018	885,000	4.000%	907,400	1,792,400	1,163,765,087	1.71
07/01/2019	920,000	4.000%	872,000	1,792,000	1,163,765,087	1.71
07/01/2020	955,000	4.000%	835,200	1,790,200	1,163,765,087	1.71
07/01/2021	995,000	4.000%	797,000	1,792,000	1,163,765,087	1.71
07/01/2022	1,035,000	4.000%	757,200	1,792,200	1,163,765,087	1.71
07/01/2023	1,075,000	4.000%	715,800	1,790,800	1,163,765,087	1.71
07/01/2024	1,120,000	4.000%	672,800	1,792,800	1,163,765,087	1.71
07/01/2025	1,165,000	4.000%	628,000	1,793,000	1,163,765,087	1.71
07/01/2026	1,210,000	4.000%	581,400	1,791,400	1,163,765,087	1.71
07/01/2027	1,260,000	4.000%	533,000	1,793,000	1,163,765,087	1.71
07/01/2028	1,310,000	4.000%	482,600	1,792,600	1,163,765,087	1.71
07/01/2029	1,360,000	4.000%	430,200	1,790,200	1,163,765,087	1.71
07/01/2030	1,415,000	4.000%	375,800	1,790,800	1,163,765,087	1.71
07/01/2031	1,475,000	4.000%	319,200	1,794,200	1,163,765,087	1.71
07/01/2032	1,530,000	4.000%	260,200	1,790,200	1,163,765,087	1.71
07/01/2033	1,595,000	4.000%	199,000	1,794,000	1,163,765,087	1.71
07/01/2034	1,655,000	4.000%	135,200	1,790,200	1,163,765,087	1.71
07/01/2035	1,725,000	4.000%	69,000	1,794,000	1,163,765,087	1.71
Total	\$ 24,355,000		\$ 11,486,600	\$ 34,047,400		

General Obligation Bonds – Tax Rate Matrix - \$25,000,000 of Net Proceeds*

Property Value	Assessed Value	Tax Rate >>>>>		20 Year Amortization (assumes 4% rate)	
		Annual Monthly Change	Annual Monthly Change	Annual Change	Monthly Change
\$150,000	\$50,000	\$0	\$0.00	\$86	\$7.13
200,000	66,667	\$0	\$0.00	\$114	\$9.50
250,000	83,333	\$0	\$0.00	\$143	\$11.88
300,000	100,000	\$0	\$0.00	\$171	\$14.25
500,000	166,667	\$0	\$0.00	\$285	\$23.75

* Actual Results may vary



MAY 1, 2015

Lincoln County
Attn: Nita Taylor, County Manager
PO Box 711
Carrizozo, NM 88301

Ladies and Gentlemen:

1. **Retention of RBC Capital Markets, LLC.** We understand that Lincoln County, New Mexico (“Issuer” or “you”) has under consideration the issuance of obligations evidencing indebtedness (“Obligations”) and that in connection with the issuance of such Obligations you hereby agree to retain RBC Capital Markets, LLC (“RBC CM”) as your municipal advisor in accordance with the terms of this municipal advisory agreement (“Agreement”). The Issuer agrees that the municipal advisory duties of RBC CM shall apply only to matters pertaining to the issuance of such Obligations and that RBC CM is not acting as your municipal advisor with respect to any other matters absent an explicit written municipal advisory agreement.
2. **Scope of Services.** As municipal advisor, we agree to perform the following:
 - (a) Analyze the financing alternatives available to the Issuer, taking into account its borrowing capacity, future financing needs, policy considerations, and such other factors as we deem appropriate to consider.
 - (b) Recommend a plan for the issuance of the Obligations that will include: (1) the type of bonds (current interest, capital appreciation, deferred income, etc.); (2) the date of issue; (3) principal amount; (4) interest structure (fixed or variable); (5) interest payment dates; (6) a schedule of maturities; (7) early redemption options; (8) security provisions; and (9) other matters that we consider appropriate to best serve the Issuer’s interests.
 - (c) Advise you of current conditions in the relevant debt market, upcoming bond issues, and other general information and economic data which might reasonably be expected to influence interest rates, bidding conditions or timing of issuance.
 - (d) Organize and coordinate the financing team selected by you. We will select the paying agents, escrow agents and verification agents, as the particular transaction may require, each of whom will be retained and compensated by you.
 - (e) Work with counsel on the transaction, including bond counsel whom you retain, who will be recognized municipal bond attorneys, whose fees will be paid by you, and who will prepare the proceedings, provide legal advice concerning the steps necessary to be taken to issue the Obligations, and issue an unqualified opinion (in a form standard for the particular type of financing) approving the legality of the Obligations and (as applicable) tax exemption of the interest paid thereon. In addition, bond counsel will issue an opinion to the effect that the disclosure document does not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements

contained therein, in light of the circumstances under which they were made, not misleading. Generally, working with counsel will mean coordinating with the attorneys and assisting in the municipal advisory aspects of preparing appropriate legal proceedings and documents, including documents concerning any required election.

- (f) Assist in the Issuer's preparation of the Preliminary Official Statement ("POS") and the Official Statement ("OS") or equivalent document as the particular transaction may require (such as a private placement memorandum).
- (g) In connection with a competitive sale, we will:
 - i. coordinate the preparation of the Official Notice of Sale, the Uniform Bid Form (containing provisions recognized by the municipal securities industry as being consistent with the securities offered for sale) and other such documents which you may request or deem appropriate;
 - ii. submit all such documents for examination, approval, and certification by appropriate officials, employees, and agents of the Issuer, including bond attorneys;
 - iii. coordinate delivery of these documents to a list of prospective bidders;
 - iv. where appropriate, organize investor meetings;
 - v. coordinate the receipt of bids;
 - vi. advise as to the best bid, including acceptance or rejection of the best bid;
 - vii. if a bid is accepted, coordinate the delivery of and payment for the Obligations;
 - viii. assist in verification of final closing figures;
 - ix. provide copies of documents to the purchaser of the Obligations in accordance with the terms of the Official Notice of Sale and the Uniform Bid Form.
- (h) Make recommendations as to the need for credit rating(s) for the proposed Obligations and, should the Issuer seek a rating, coordinate the process of working with the rating agency or agencies and assist in the preparation of presentations as necessary.
- (i) Make recommendations as to obtaining municipal bond insurance, a liquidity facility or other credit enhancement for the Obligations and, should the issuer seek any such credit enhancement, coordinate the process and assist in the preparation of presentations as necessary.
- (j) Attend meetings of governing bodies of the Issuer, its staff, representatives or committees as requested.
- (k) After closing, we will deliver to the Issuer and the paying agent(s) definitive debt records, including a schedule of annual debt service requirements on the Obligations.

You acknowledge that advice and recommendations involve professional judgment on our part and that the results cannot be, and are not, guaranteed.

3. **Information to be Provided to RBC CM.** You agree (upon our request) to provide or cause to be provided to us information relating to the Issuer, the security for the Obligations, and other matters that we consider appropriate to enable us to perform our duties under this Agreement. With respect to all information provided

by you or on your behalf to us under this Agreement, you agree upon our request to obtain certifications (in a form reasonably satisfactory to us) from appropriate Issuer representatives as to the accuracy of the information and to use your best efforts to obtain certifications (in a form reasonably satisfactory to us) from representatives of parties other than the Issuer. You acknowledge that we are entitled to rely on the accuracy and completeness of all information provided by you or on your behalf.

4. **Official Statement.** You acknowledge that you are responsible for the contents of the POS and OS and will take all reasonable steps to ensure that the governing body of the Issuer has reviewed and approved the content of the POS and OS. You acknowledge that you are subject to and may be held liable under federal or state securities laws for misleading or incomplete disclosure. To the extent permissible by law, you agree to indemnify and hold us harmless against any losses, claims, damages or liabilities to which we may become subject under federal or state law or regulation insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon any misleading or alleged misleading statement, or omission or alleged omission to state in the disclosure document a material fact required to be stated therein or necessary to make the statements therein not misleading; and will reimburse us for any legal or other expenses reasonably incurred by us in connection with investigating or defending any such loss, claim, damage, liability or action.
5. **Fees and Expenses.** In connection with the authorization, issuance, and sale of Obligations, you agree that our fee will be computed as shown on the "Fee Schedule" attached hereto. Our fee will become due and payable simultaneously with the delivery of the Obligations to the Purchaser. Our fee does not include and we will be entitled to reimbursement from you for any actual "out-of-pocket" expenses incurred in connection with the provision of our services, including reasonable travel expenses or any other expenses incurred on your behalf. These expenses will be due and payable when presented to the Issuer, which normally will be simultaneously with the delivery of the Obligations to the Purchaser.
6. **Interest Rate Derivatives.** If you decide to consider the use of interest rate derivative products as part of the financing plan for Obligations covered by this Agreement, the Scope of Services above does not include providing advice or services with respect to derivative products.
7. **Other Conditions.** In addition to the terms and obligations herein contained, this Agreement is subject to the following special conditions: None
8. **Term of Agreement and Waiver of Sovereign Immunity.** This Agreement shall be for a period of 48 months (the "Term") from its date; however, this Agreement may be terminated by either party upon 30 days written notice. You agree and understand that this Agreement is a contract for services and waive any claims you may have that you are immune from suit by virtue of any law, statute, or claim for any matter arising from or relating to this Agreement. Paragraphs 4, 5 and 8 (insofar as they concern indemnity, reimbursable expenses and waiver of sovereign immunity) shall survive any termination of this Agreement.
9. **Miscellaneous Provisions.** This Agreement is submitted in duplicate originals. Your acceptance of this Agreement will occur upon the return of one original executed by an authorized Issuer representative, and you hereby represent that the signatory below is so authorized. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of the Agreement, which shall remain in full force and effect. This Agreement constitutes the entire agreement between the parties as to the subject matter thereof and supersedes any prior understandings or representations. This Agreement may be amended or modified only by a writing signed by both parties. This Agreement is solely for the benefit of you and RBC CM, and no other person. RBC CM may not assign this Agreement without your prior written consent.

RBC CAPITAL MARKETS, LLC

By _____
Name/Title Erik B. Harrigan, Director
Date _____

ACCEPTANCE LINCOLN COUNTY

ACCEPTED this _____ day of _____, 20__

By _____
Name _____
Title _____
Date _____

Attest:

By _____
Name _____
Title _____
Date _____

FEE SCHEDULE

In consideration for the services rendered by RBC CM, the Issuer agrees that our fee for each issue of Obligations will be as follows:

Fees for advance refunding Obligations and/or other Obligations involving escrow Agreements, will be the fee schedule set out above plus 10 percent, and, in addition to our Municipal Advisory fee, we will charge a structuring fee to be negotiated on a case-by-case basis. The additional fees will not exceed 25% of the fee set out in the schedule above.

RBC CM will bill the Issuer at Closing for each issue of Obligations a net amount which will include a fee calculated on the above schedule as well as any out-of-pocket expenses incurred on behalf of the Issuer.

1. **Hourly Rates.** Hourly rates would be charged for advice and services performed that are not related to the issuance of a specific obligation based on the following schedule:

Managing Director	\$200.00/hour
Director	\$200.00/hour
Vice President	\$140.00/hour
Support	\$95.00/hour

2. **Financial Advisory Services.** As consideration for the services rendered by us and as a reimbursement for the expenses we are to incur, it is agreed that the Issuer will pay, and we are to accept, a fee based upon the following schedule, depending upon the amount of the bond issue or loan agreement involved. In no event however will our fee exceed \$59,000 (not including gross receipts tax) for each separate issuance.

If the amount of an Obligation entered into by the Issuer is:

<u>More Than</u>	<u>And Not More Than</u>	<u>Financial Advisory Fee</u>
\$ -0-	\$ 1,999,999	\$16,000
2,000,000	4,999,999	26,000
5,000,000	9,999,999	29,000
10,000,000	19,999,999	30,000
20,000,000	No Limit	\$37,500 + \$1.00 per \$1,000 over \$20,000,000

A refunding issue combined with a new money issue will be billed as a separate issue.

3. **Reimbursable Expenses.** In addition to the Financial Advisory fees above, out-of-pocket travel expenses and mileage expenses will be reimbursed by the Issuer at cost plus gross receipts tax. Due to corporate policy, reimbursable expenses cannot be paid by RBC Capital Markets. However, all expenses incurred during the issuance of bonds will be reviewed by RBC Capital Markets for accuracy and forwarded to the

Issuer for payment from bond proceeds when the bonds are issued. This provides additional savings in Gross Receipts Tax to the Issuer.

4. **Fees for Refunding Obligations.** Fees for refunding Obligations will be the fee schedule set out above plus 10 percent. In addition to our Financial Advisory fee, we will charge a structuring fee to be negotiated on a case-by-case basis due to special circumstances such as litigation, delivery in financing and advanced refunding escrow agreements. The additional fees will not exceed 25% of the fee set out in the schedule above.
5. **Billing for Obligations.** RBC CM will bill the Issuer at Closing for each issue of Obligations a net amount which will include a fee calculated on the above schedule as well as any out-of-pocket expenses incurred on behalf of the Issuer plus gross receipts tax.
6. **Other Services and Billing for Other Services.** If a financing is contemplated but not issued, RBC CM would not charge a fee specific for that transaction. We would request payment of out-of-pocket expenses. If we are providing additional services such as debt policy or other consulting services, we would charge on an hourly basis at the rates listed in Section 1. An alternative would be an annual fixed fee of \$6,000.00 for these services.

MAY 01, 2015

Lincoln County
Attn: Nita Taylor, County Manager
PO Box 711
Carrizozo, NM 88301

Re: Municipal Advisory Services

Dear Ms. Taylor:

As you undoubtedly know, the municipal finance industry has experienced, and continues to experience, regulatory changes reflecting the passage of the Dodd-Frank legislation. RBC Capital Markets, LLC ("RBCCM") strives to be at the forefront of being responsive to these regulatory changes, and in doing so, believes it is important that our municipal advisory clients be mindful of certain considerations in how we interact with underwriters when serving as your municipal advisor.

COMMUNICATIONS WITH UNDERWRITERS

In advising you with the issuance of debt obligations ("Bonds") to meet your financing needs, RBCCM may receive communications from underwriters on your behalf regarding the offer and sale of Bonds. RBCCM believes it is important for you to understand how we will handle these communications in our role as municipal advisor to avoid any real or perceived conflicts.

- If underwriters contact us with financing proposals, marketing materials or solicitations to underwrite your Bonds, we will recommend that they contact you directly while providing RBCCM with a copy of any such materials to review on your behalf.
- When we receive requests by underwriters for information about your planned issuance of Bonds, unless otherwise directed by you, we will provide the same generally available public information about your financing plans to any underwriters requesting such information on an equal access basis.
- We may occasionally have contact with underwriters in restaurants or other social settings where business related conversation regarding your financing plans occurs; as municipal advisor, we will not accept any meals, entertainment or other items of value other than usual and customary business meals held in the offices of the underwriter.

COMPETITIVE SALES

With respect to Bonds that you decide to sell via competitive bid in a public sale:

- RBCCM, as municipal advisor, will recommend that Notices of Sale be posted to an electronic bid submission system (such as i-Preo's Parity System). In situations where use of an electronic bidding system is unavailable or otherwise undesirable, we will recommend the Notice be sent to at least three potential bidders selected by you as the issuer.

SELECTING UNDERWRITER(S) FOR NEGOTIATED SALES

If you select a negotiated sale for the Bonds, it is also important for you and us to understand how the underwriter(s) will be selected by you.

- Upon your request, we will generally provide a list of three or more firms of potential underwriters that we reasonably believe are qualified to provide underwriting services for your bond issue based on past experience of you and other issuers, independent rankings, general industry information and other objective factors.
- Upon your request, we will solicit on your behalf underwriter proposals for marketing and selling the Bonds, using a request for proposal or other process that you deem acceptable.
- Upon your request, we will provide you with summary information regarding the underwriter proposals you receive (e.g., qualifications, rankings, other evaluative data) for your review and consideration.
- While we may provide advice and assistance, you agree to select the underwriter(s) and designate their roles (senior manager, co-manager, etc.) and any syndicate policies or arrangements among the underwriters you select.

RBCCM appreciates the opportunity to serve as your municipal advisor and hope you value our efforts to do so in a fair and equitable manner. If you have any questions regarding the above understandings, please do not hesitate to ask us.

Sincerely,

RBC CAPITAL MARKETS, LLC

By _____
Name _____
Title _____
Date _____

ACKNOWLEDGEMENT

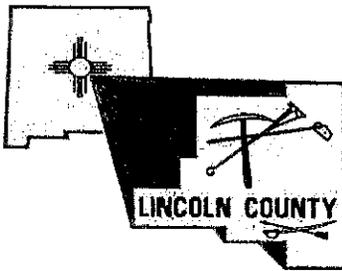
ACKNOWLEDGED this [_____] day of [_____] , 20__.

By _____
Name _____
Title _____

Agenda Item No. 10

SUBJECT

9:30 A.M. Public Comment and Other Business from County Officials (Items are for discussion only – no action will be taken)



www.lincolncountynm.net

County of Lincoln

P.O. Box 711 • 300 Central Ave. • Carrizozo, New Mexico 88301-0711 • (575) 648-2385

AGENDA Item No. 11

May 15, 2015

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager *NT*

SUBJECT: Land and Natural Resources Matters

Smokey Bear Ranger District: Christina Thompson, Acting Ranger - Smokey Bear District, may be in attendance to update the Commission on key activities.

Cibola National Forest – Invitation to Participate as a Cooperating Agency. Forest Supervisor Elaine B. Kehrman has invited the County to participate as a cooperating agency in the development of the draft forest plan, alternatives and Environmental Impact Statement analyses for the Cibola National Forest Mountain Ranger Districts. See **Enclosure 2**. The draft Memorandum of Understanding is at **Enclosure 3**.

Forest Health - Community Forester. Rick Merrick may be in attendance to update the Commissioner on forest health activities. See **Enclosure 4**. Praise was offered by Ranches of Sonterra resident, to Rick for assisting them with their FIREWISE event by helping with coordination, offering guidance, reviewing fire hazard assessments, speaking at events and helping with coordination among State and County agencies. It is the dedication of members of our forest health team, such as Rick Merrick, that makes our residents more aware of the advantages of FIREWISE activities and our County a safer place to live, work and visit.

Much of the forest health work that the County supports is through our participation and sponsorship of the Wildland Urban Interface grant funding offered by the Forest Service. Traditionally, State Forestry develops and submits the application on behalf of the County (after review and concurrence), the grant is awarded, and the County enters into an agreement with South Central Mountain RC&D to project manage the work to its completion. State Forestry has requested the County to take the lead in filling out the application for the 2016 WUI (due in July) and the State Forester will review and assist.

NM Game & Fish – Bear and Cougar Hunting Rules. Commissioner Allen was made aware that the NMDG&F is considering modifications to the Bear and Cougar Rule. See **Enclosure 5** for a very broad overview. Public meetings to discuss the new rule are as follows:

- May 27th – 6 pm at the Ruidoso US Forest Services Fire Control Building
- May 28th – 6 pm at the Silver City Grant County Administration Center
- June 1st - 6 pm at the Raton NMDGF Office

Water Issues:

A. Regional Water Plan Update: Lincoln County, as a Stakeholder in the NM Interstate Stream Commission's (ISC) Region 10 – Lower Pecos, has been made aware of efforts to update the 2001 Water Plan. See **Enclosure 6**. Survey forms have been provided to assist in providing information about ongoing and past projects. A consultant is also working to assist in gathering information about new or updated programs, policies or projects that the region would like to see included in the new plan. Examples include watershed restoration plans, water and sewer master plans, wastewater reuse projects, water audits, etc. The steering committee for our region meets at the Eddy County Fairgrounds Community Center in Artesia. Information must be submitted to the ISC by the end of June. Next regional meetings are scheduled for **Friday, May 22nd** at 10:00 a.m. and **Friday, June 12th** at 10:00 a.m.

B. Water Rights Notices. There are three new water rights notices on the State Engineer's Website this month:

1. SD-0867-9A Valley Apple Estates LLC. See **Enclosure 7**. The applicant proposes to divert 1.973 acre-feet per annum of surface water. The move-from point of diversion and place of use are located near Glencoe; the move-to points of diversion and places of use are located near Hondo.
2. SD-0867-9. Andrew Herrera, Frutoso Herrera, Fermin Herrera, Ervin Herrera, Freddy Herrera and Emileen D. Montano. See **Enclosure 8**. The applicant proposes to divert 0.2656 acre feet per annum. The move-from point of diversion and place of use are located near Glencoe; the move-to points of diversion and places of use are located near Hondo.
3. SD-1914 & H0582-A into H-4442 –PODI. Donaldson Enterprises Inc. The applicant proposes to commence the diversion of 19.5 acre-feet per annum of surface water and groundwater. The move-from and move-to points of diversion and places of use are located 086 miles northwest of Hondo. See **Enclosure 9**.
4. Update of lawsuit against Village of Ruidoso for three 2013 Applications for transfers. County attorney, Kelly Cassels, has provided a copy of the letter sent from the Office of the State Engineer to the Village of Ruidoso. At **Enclosure 10** is a summary of the letter, followed by the letter itself. Briefly:
 - a. OSE cancelled all three requests;
 - b. OSE denied VOR requests for extension of time to fulfill the requirements of the permits;
 - c. VOR will no longer be allowed to accrue credits from one year to the next.

C. American Lands Council. Blair Dunn contacted the County to invite participation in the American Lands Council – New Mexico Post-Session Summit 2015. It is being held on Saturday, May 16th at 10:00. See **Enclosure 11**.



File Code: 1620 / 1920
Date: April 21, 2015

Lincoln County
County Manager Nita Taylor
P.O. Box 711
Carrizozo, NM 88301

RECEIVED

APR 24 2015

ADMINISTRATION
LINCOLN COUNTY NM

Dear County Manager Taylor:

In my letters to you on February 5th and March 18th, 2015, I invited your unit of government to participate as a cooperating agency in the development of the draft forest plan, alternatives, and Environmental Impact Statement (EIS) analyses for the Cibola National Forest Mountain Ranger Districts. I believe, as I hope you do, too, that participating as a cooperating unit of government with the Cibola in this endeavor will foster a collaborative, working relationship to achieve mutual benefits and advance joint efforts by our collective governmental entities. I am very encouraged by the responses received so far. At the meeting of invited cooperating units of government held in Albuquerque April 8th, twenty-eight units of local, state, tribal, land grant, and federal government attended, and fruitful discussions were had on:

- the roles, responsibilities, expectations of participation, and criteria for success as a cooperating unit of government, which included a review and slight edits to a draft Memorandum of Understanding (MOU);
- how cooperators will work together on local landscapes and forest-wide;
- how to engage diverse interests and continue to build relationships with each other, the public, and others;
- what a forest plan is, its timeline, and the process and steps for its completion.

If your unit of government would like to join us in this important endeavor as a cooperator, please download and review an electronic version (in MS Word) of the MOU for your consideration and signature. The document can be downloaded from the Cibola National Forest's forest plan revision website:

- 1) Enter http://www.fs.usda.gov/goto/Cibola_CoopAgency_MOU into your web browser's address bar and hit enter.
- 2) Click on the **Cooperating Units of Government MOU Template** link, then select "save as" and save to your local drive.



When filling out the MOU template, please follow the instructions in the comment balloons in the margin, print out and sign two copies, and return to: **Forest Planner, Cibola National Forest, 2113 Osuna Road NE, Albuquerque, NM 87113.**

Also, if you have not provided to the Cibola a copy of any current, comprehensive land use or land management plan your unit of government may have, please either send a hard copy to the address above or send an electronic version or world- wide-web link to the document, to cibolamtplanrevision@fs.fed.us. We want to be aware of and consider the particulars of your unit of government's plan as the Cibola revised forest plan and draft and final environmental impact statement (EIS) analyses are being developed.

Thank you, and I look forward to your participation with the Cibola in developing cooperative relationships for improving public engagement, developing the plan and environmental impact analyses, and implementing the plan together.

Sincerely,

Jan Cox
Acting for

ELAINE B. KOHRMAN
Forest Supervisor



MEMORANDUM OF UNDERSTANDING

Between The

And The

USDA, FOREST SERVICE CIBOLA NATIONAL FOREST

This MEMORANDUM OF UNDERSTANDING (MOU) is hereby made and entered into by and between the , hereinafter referred to as "Cooperator," and the USDA, Forest Service, Cibola National Forest, hereinafter referred to as the "U.S. Forest Service."

Background: The U.S. Forest Service is revising the existing 1985 Cibola Forest Plan as required by the National Forest Management Act. After two years of engaging the public in assessing conditions, trends, and risks to sustainability and identifying the needs for change to the 1985 Cibola Forest Plan, the U.S. Forest Service has published a Notice of Intent (NOI) to revise the 1985 Cibola Forest Plan and prepare an Environmental Impact Statement (EIS). This proposed action affects the Magdalena, Mt. Taylor, Mountainair and Sandia Ranger Districts.

Title: Cooperating Agency Status

I. PURPOSE:

The purpose of this MOU is to document a framework for cooperation and to define the relationship and duties between the parties as Cooperating Agencies in the preparation of an Environmental Impact Statement (EIS) for Forest Plan Revision. This MOU is established to provide coordination, communication, and the exchange of ideas and information between the Forest Service and the Cooperator pursuant to the revision of the Cibola National Forest's Land and Resource Management Plan and development of the required National Environmental Policy Act (NEPA) Environmental Impact Statement (EIS) analysis. The Forest Service and the Cooperator will cooperate in the areas of natural and cultural resources and properties and traditional land use with respect to each entity's regulations, on matters important to the Cooperator's constituency, and on public involvement activities. While the Forest Service recognizes the expertise of the Cooperator in these subjects, this agreement does not preclude the Cooperator from submitting other information, comments, and/or data pertaining to the Cibola Land and Resource Management Plan or EIS analysis, including but not limited to the suggestion of alternatives or alternative methods of accomplishing natural resource objectives.

II. STATEMENT OF MUTUAL BENEFIT AND INTERESTS:

The U.S. Forest Service is in the process of preparing an EIS for Forest Plan Revision for the Sandia, Mountainair, Magdalena, and Mt. Taylor Ranger Districts. The U.S. Forest Service must assure that the EIS complies with the National Environmental Act (NEPA) and other applicable federal statutes, regulations, and Presidential Executive Orders. In addition, the U.S. Forest Service will produce the EIS in accordance with established timeframes and the terms of this agreement.

The U.S. Forest Service will benefit from this agreement by gaining broader public engagement with wide public support, including all diverse interests, with the anticipated outcome of a revised forest plan and alternatives for lands administered by the U.S. Forest Service as described above. Both parties will benefit the development of the Forest Plan and EIS, as the effects analysis, completed with the supplied information, will be more accurate and support a more informed decision by the Forest Supervisor on a final, revised Cibola Forest Plan.

The authority of the U.S. Forest Service to participate in this agreement is provided by NEPA, 42 U.S.C. 4321 et seq. The authority of the Cooperator to participate in this agreement is provided by 39 CFR Part 219.

In consideration of the above premises, the parties agree as follows:

III. U.S. FOREST SERVICE SHALL, As Lead Agency:

- A. Be responsible for the preparation and content of the EIS
- B. Invite the Cooperator to participate as a member of the extended interdisciplinary team.
- C. Provide the opportunity for the Cooperator to review and comment on:
 - 1) A collaborative, public engagement strategy;
 - 2) A draft proposed action;
 - 3) Preliminary range of alternatives;
 - 4) Preliminary draft of the socio-economic section of the affected environment and environmental consequences;
 - 5) Draft EIS;
 - 6) Final EIS;
- D. Notify the Cooperator of all public notices made by the U.S. Forest Service pertaining to Forest Plan revision;
- E. Keep the Cooperator apprised of the forest plan revision schedule and provide an updated schedule as needed;
- F. Review and incorporate, as appropriate, information provided by the Cooperator into the EIS;
- G. Make the final Forest Plan decision in regards to the management of lands, resources, goods, and services provided by lands administered by the U.S. Forest Service as described above, in accordance with the 2012 Planning Rule (36 CFR 219) and the Council for Environmental Quality's Regulations for Implementing NEPA (40 CFR Parts 1500-1508).

IV. THE Cooperator SHALL, as Cooperating Agency:

- A. Co-convene and help design collaborative public engagement processes and events, inclusive of diverse stakeholders and interests;
- B. Provide the U.S. Forest Service with the relevant information related to the Cooperator's comprehensive plan with respect to natural resource based industries, the economy, culture, and traditional uses;

- C. Provide the U.S. Forest Service with information and effects to the Cooperator's comprehensive planning from management of U.S. Forest Service lands within the borders or jurisdiction of the Cooperator and identify opportunities for the revised forest plan to address identified impacts, contribute to joint objectives, or resolve or reduce conflicts;
- D. Provide the U.S. Forest Service with responses to data requests to the degree the data are reasonably available within the time limits that will meet the project schedule;
- E. Complete a review of the draft and final EIS;
- F. Be available to discuss any documents or analysis provided by the Cooperator;
- G. Provide as specific-as-possible comments on requested products;
- H. May designate a Cooperator representative to serve on the extended interdisciplinary team.

V. IT IS MUTUALLY UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES THAT/TO:

- A. The U.S. Forest Service has sole and ultimate decision-making authority regarding the management of National Forest System lands.
- B. Both Parties will cooperate to achieve better outcomes while ensuring each agency's key mandates and legal requirements are adequately met.
- C. Communicate openly and provide a conduit for the timely exchange of information.
- D. Resolve conflicts at the lowest administrative level.
- E. PRINCIPAL CONTACTS. Individuals listed below are authorized to act in their respective areas for matters related to this agreement.

Principal Cooperator Contacts:

Cooperator Program Contact	Cooperator Administrative Contact
Name:	Name:
Address:	Address:
City, State, Zip:	City, State, Zip:
Telephone:	Telephone:
FAX:	FAX:
Email:	Email:

Principal U.S. Forest Service Contacts:

U.S. Forest Service Program Manager Contact	U.S. Forest Service Administrative Contact
Name: Champe Green	Name: Elaine Kohrman
Address: 2113 Osuna Rd. NE	Address: 2113 Osuna Rd. NE
City, State, Zip: Albuquerque, NM 87113	City, State, Zip: Albuquerque, NM 87113
Telephone: 505-346-3889	Telephone: 505-346-3804
FAX: 505-346-3901	FAX: 505-346-3901
Email: champegreen@fs.fed.us	Email: ekohrman@fs.fed.us

- F. NOTICES. Any communications affecting the operations covered by this agreement given by the U.S. Forest Service or Cooperator is sufficient only if in writing and delivered in person, mailed, or transmitted electronically by e-mail or fax, as follows:

To the U.S. Forest Service Program Manager, at the address specified in the MOU.

To Cooperator, at Cooperator's address shown in the MOU or such other address designated within the MOU.

Notices are effective when delivered in accordance with this provision, or on the effective date of the notice, whichever is later.

- G. PARTICIPATION IN SIMILAR ACTIVITIES. This MOU in no way restricts the U.S. Forest Service or Cooperator from participating in similar activities with other public or private agencies, organizations, and individuals.
- H. ENDORSEMENT. Any of Cooperator's contributions made under this MOU do not by direct reference or implication convey U.S. Forest Service endorsement of Cooperator's products or activities and does not by direct reference or implication convey the Cooperator's endorsement of the U.S. Forest Service's products or activities.
- I. NONBINDING AGREEMENT. This MOU creates no right, benefit, or trust responsibility, substantive or procedural, enforceable by law or equity. The parties shall manage their respective resources and activities in a separate, coordinated, and mutually beneficial manner to meet the purpose(s) of this MOU. Nothing in this MOU authorizes any of the parties to obligate or transfer anything of value.

Specific, prospective projects or activities that involve the transfer of funds, services, property, and/or anything of value to a party requires the execution of separate agreements and are contingent upon numerous factors, including, as applicable, but not limited to: agency availability of appropriated funds and other resources; cooperators availability of funds and other resources; agency and cooperators administrative and legal requirements (including agency authorization by statute); etc. This MOU neither provides, nor meets these criteria. If the parties elect to enter into an obligation agreement that involves the transfer of funds, services, property, and/or anything of value to a party, then the applicable criteria must be met. Additionally, under a prospective agreement, each party operates under its own laws, regulations, and/or policies, and any U.S. Forest Service obligation is subject to the availability of appropriated funds and other resources. The negotiation, execution, and administration of these prospective agreements must comply with all applicable laws

Nothing in this MOU is intended to alter, limit, or expand the agencies' statutory and regulatory authority.

- J. USE OF U.S. FOREST SERVICE INSIGNIA. In order for Cooperator to use the U.S. Forest Service insignia on any published media, such as a Web page, printed publication, or audiovisual production, permission must be granted from the U.S. Forest Service's Office of Communications. A written request must be submitted and approval granted in writing by the Office of Communications (Washington Office) prior to use of the insignia.
- K. MEMBERS OF U.S. CONGRESS. Pursuant to 41 U.S.C. 22, no U.S. member of, or U.S. delegate to, Congress shall be admitted to any share or part of this agreement, or benefits that may arise therefrom, either directly or indirectly.
- L. FREEDOM OF INFORMATION ACT (FOIA). Public access to MOU or agreement records must not be limited, except when such records must be kept confidential and would have been exempted from disclosure pursuant to Freedom of Information Act regulations (5 U.S.C. 552).
- M. TEXT MESSAGING WHILE DRIVING. In accordance with Executive Order (EO) 13513, "Federal Leadership on Reducing Text Messaging While Driving," any and all text messaging by Federal employees is banned: a) while driving a Government owned vehicle (GOV) or driving a privately owned vehicle (POV) while on official Government business; or b) using any electronic equipment supplied by the Government when driving any vehicle at any time. All cooperators, their employees, volunteers, and contractors are encouraged to adopt and enforce policies that ban text messaging when driving company owned, leased or rented vehicles, POVs or GOVs when driving while on official Government business or when performing any work for or on behalf of the Government.
- N. PUBLIC NOTICES. It is the U.S. Forest Service's policy to inform the public as fully as possible of its programs and activities. Cooperator is encouraged to give public notice of the receipt of this agreement and, from time to time, to announce progress and accomplishments. Press releases or other public notices should include a statement substantially as follows:
- "Cibola National Forest of the U.S. Forest Service, Department of Agriculture, is revising its 1985 Cibola Forest Plan and preparing an Environmental Impact Statement analysis on the proposed, revised plan and alternatives to that proposed plan."
- Cooperator may call on the U.S. Forest Service's Office of Communication for advice regarding public notices. Cooperator is requested to provide copies of notices or announcements to the U.S. Forest Service Program Manager and to the U.S. Forest Service's Office of Communication as far in advance of release as possible.
- O. U.S. FOREST SERVICE ACKNOWLEDGED IN PUBLICATIONS, AUDIOVISUALS, AND ELECTRONIC MEDIA. Cooperator shall acknowledge U.S. Forest Service support in any publications, audiovisuals, and electronic media developed as a result of this MOU.

- P. NONDISCRIMINATION STATEMENT – PRINTED, ELECTRONIC, OR AUDIOVISUAL MATERIAL. Cooperator shall include the following statement, in full, in any printed, audiovisual material, or electronic media for public distribution developed or printed with any Federal funding.

In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. (Not all prohibited bases apply to all programs.)

To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.

If the material is too small to permit the full statement to be included, the material must, at minimum, include the following statement, in print size no smaller than the text:

"This institution is an equal opportunity provider."

- Q. TERMINATION. Any of the parties, in writing, may terminate this MOU in whole, or in part, at any time before the date of expiration.
- R. DEBARMENT AND SUSPENSION. Cooperator shall immediately inform the U.S. Forest Service if they or any of their principals are presently excluded, debarred, or suspended from entering into covered transactions with the federal government according to the terms of 2 CFR Part 180. Additionally, should Cooperator or any of their principals receive a transmittal letter or other official Federal notice of debarment or suspension, then they shall notify the U.S. Forest Service without undue delay. This applies whether the exclusion, debarment, or suspension is voluntary or involuntary.
- S. MODIFICATIONS. Modifications within the scope of this MOU must be made by mutual consent of the parties, by the issuance of a written modification signed and dated by all properly authorized signatory officials, prior to any changes being performed. Requests for modification should be made, in writing, at least 30 days prior to implementation of the requested change.
- T. COMMENCEMENT/EXPIRATION DATE. This MOU is executed as of the date of the last signature and is effective through September 2017 or upon approval of the revised Cibola Forest Plan, at which time it will expire, unless extended by an executed modification, signed and dated by all properly authorized signatory officials.
- U. AUTHORIZED REPRESENTATIVES. By signature below, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this MOU. In witness whereof, the parties hereto have executed this MOU as of the last date written below.

South Central Mountain RC&D, Rural Community Forester Report

May 2015

- 1 Ruidoso WUI Interagency Prescribed Fire CFRP Grant : There were no RX burns conducted with collaborators during this period. The additional land of VOR on Gavilin Rd. has gone through the Arch. Survey and has been cleared for mechanical treatment. 14 acres have been marked and work should begin shortly.
- 2 Lincoln County cost share program: Since my last report 7 more acres have been approved for payment
- 3 Cedar Creek NFL: 10 more acres have been completed and submitted for payment.
- 4 I have taken on the role as facilitator and organizer for the monthly Speaker Series at ENMU. Also I gave a Firewise presentation with LeRoy Cockrell at the May ENMU speaker series.
- 5 I will be setting up a booth and giving a brief Firewise presentation at the annual meeting for Ranches of Sonterra Property Association on July 18, 2015
- 6 I am working with the NM Prescribe Fire council on putting a workshop together in Lincoln county later in the year.
- 7 I will continue outreach to landowners that would like to have a Home Assessment taken.

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Living in the WUI

Forest Health and Fire Safety in the Sacramento Mountains

Speaker series on Forest Health

1st Tuesday of the month
6:00 to 7:30 pm
ENMU-Ruidoso Room 102

Free and open to the public

Seating is limited. Register online at www.ruidoso.enmu.edu. Go to Community tab and click on "Forest Health Speaker Series" or call 257-3012.

Learn about your community and living in a Wildland Urban Interface

Schedule

May 5, 2015

**Leroy Cockrell
and
Rick Merrick**

"Fire Adapted Community Update:
Ruidoso's Black Forest Firewise
Program"

Come see how one local community came together to make their neighborhood "firewise," the criteria involved and the resources and assistance available from governmental agencies and organizations to help you to prepare your home for fire season.

A collaborative outreach effort between USFS, Lincoln National Forest, NM State Forestry, Village of Ruidoso Forestry, Lincoln County, SCMRC & DC, Mescalero/BIA, Little Bear Forest Reform Coalition, ENMU-Ruidoso Community Education and private citizens



For more information, please call ENMU-Ruidoso Community Education at 257-3012

Bear and Cougar Rule Changes for Consideration

The New Mexico Department of Game and Fish (Department) has opened the Bear and Cougar Rule to develop prospective amendments to season dates, bag limits, maximum harvest limits, manner & method of take, and other hunting regulations for these species. This rule opens once every 4 years and the Department is currently seeking public comments on the following initial ideas being considered:

BEAR

- Potential increase in harvest limits in specific Bear Management Zones (BMZs) based on research the Department is conducting in cooperation with New Mexico State University. The study will provide updated population estimates in the Sangre de Cristo, Sacramento, and Sandia mountains. Additionally, the Department has updated the bear habitat model using the latest land cover information which would also result in increased bear harvest potential in certain zones.
- Move Game Management Unit (GMU) 48 from BMZ 3 to BMZ 4 to group similar habitat types in the same BMZ.
- Add GMUs 39 and 40 to BMZ 6. GMUs 39 and 40 are currently closed to bear hunting, but the new habitat model and ground observations suggest there are sufficient habitat and bears to provide additional harvest opportunity.
- Modifications to season structure and restricting proportions of total harvest limits to specific hunt timeframes.

COUGAR

- Allow use of traps and snares to harvest cougars. Only 30% of the cougar harvest limit is reached each year, in spite of a year round season and an increased bag limit of 2 cougars. Traps and snares would be allowed in Cougar Management Zones (CMZs) in which harvest limits are not being met. To prevent hunters from being in violation of the federal Endangered Species Act, CMZ L would be excluded to prevent the unlikely accidental capture of a jaguar.
- Prohibit use of hounds during deer and elk archery seasons; this is similar to the current restrictions on hound use for hunting bears.
- Move Game Management Unit (GMU) 18 from Cougar Management Zone (CMZ) I to CMZ H to put similar habitat types in the same zone.
- Allow licensed deer and elk hunters on the Sargent, Humphries, Rio Chama, Urraca, Colin Neblett, E.S. Barker, and Marquez Wildlife Management Areas who also possess a cougar license to hunt cougars with the same weapon type as their license during the period of their hunt. Dogs would not be allowed.



Interstate Stream Commission Regional Water Planning Program

Overview of Regional Water Plan Update Process (Details provided in Updated Regional Water Planning Handbook)

Introduction *(Prepared by the State)*

- Purpose and scope of the update

Public Involvement in the Planning Process *(Prepared by the Region with assistance from ISC Contractors)*

- Steering committee
- Stakeholder involvement
- Frequency and location of meetings

Description of the Planning Region *(Prepared by the State)*

- General overview of the region

Legal Issues *(Prepared by the State)*

- Summary of changes in legislation and new case law relevant to the region that have occurred since the original plan was completed

Water Supply *(Prepared by the State)*

- Key issues and new developments
- Updated climate, surface water, and groundwater data
- Administrative water supply and drought-corrected water supply following common technical platform

Water Demand *(Prepared by the State)*

- Current demand
- Projected population and economic forecast
- Projected future demand following common technical platform

Identified Gaps between Supply and Demand *(Prepared by the State)*

- Difference between projected demand and administrative and drought-corrected water supplies

Implementation of Strategies to Meet Future Water Demand *(Prepared by the Regions with assistance from ISC contractors)*

- Strategies completed since original water plan
- Proposed strategies (projects, programs, policies)
 - Individual entities
 - Regional efforts

County: Lincoln County
 Name: Valley Apple Estates LLC c/o Lela Wright
 File #: SD-0867-9A

NOTICE is hereby given that on March 23, 2015, Valley Apple Estates LLC c/o Lela Wright (managing member), P.O. Box 127, Hondo, New Mexico 88336, filed application No. SD-0867-9A with the STATE ENGINEER for permit to change point of diversion, place of use and add an existing well H-4426-POD1 as supplemental point of diversion for 1.973 acre-feet per annum of surface water by ceasing the diversion of said waters from the A. Sanchez Ditch, which diverts from the south bank of the Rio Ruidoso in the NE1/4SW1/4NE1/4 in Section 33, Township 10 South, Range 15 East, N.M.P.M. by severing said water right from the irrigation of 0.6166 acres of land described as below:

<u>SUBDIVISION</u>	<u>SECTION</u>	<u>TOWNSHIP</u>	<u>RANGE</u>	<u>ACRES</u>
SE1/4SE1/4	27	10 S.	15 E.)	
NE1/4NE1/4	34	10 S.	15 E.)	0.6166

The applicant proposes to commence the diversion of said 1.973 acre-feet per annum of surface water from the Storm Ditch, which diverts from the north bank of the Rio Ruidoso in the SW1/4NW1/4NE1/4 in Section 05, Township 11 South, Range 17 East, N.M.P.M. and a proposed supplemental groundwater well No. H-4426-POD1 located in the SW1/4NW1/4NE1/4 in Section 05, Township 11 South, Range 17 East, N.M.P.M.

for the irrigation of 0.6166 acres of land described below:

<u>SUBDIVISION</u>	<u>SECTION</u>	<u>TOWNSHIP</u>	<u>RANGE</u>	<u>ACRES</u>
Pt. NW1/4NW1/4 & SW1/4NW1/4	04	11 S.	17 E.)	
Pt. SE1/4NE1/4	05	11 S.	17 E.)	0.6166

The above described move-from point of diversion and place of use are located near the Glencoe, Lincoln County, New Mexico. The above described move-to points of diversion and places of use are located near Hondo, Lincoln County, New Mexico.

Any person, firm or corporation or other entity having standing to file objections or protests shall do so in writing (legible, signed, and include the writer's complete name and mailing address). The objection to the approval of the application must be based on: (1) Impairment; if impairment you must specifically identify your water rights; and/or (2) Public welfare/conservation of water; if public welfare or conservation of water within the state of New Mexico, you must show you will be substantially affected. The written protest must be filed, in triplicate, with Tom Blaine, P.E., State Engineer, 1900 West Second Street, Roswell, New Mexico 88201, within ten (10) days after the date of last publication of this Notice. Facsimiles (fax) will be accepted as a valid protest as long as the hard copy is sent within 24-hours of the facsimile. Mailing postmark will be used to validate the 24-hour period. Protest can be faxed to Office of the State Engineer,

(575) 623-8559. If no valid protest or objection is filed, the State Engineer will evaluate the application in accordance with Sections 72-2-16, 72-5-6, and 72-12-3.

County: Lincoln County

Name: Andrew Herrera; Frutoso Herrera; Fermin Herrera; Ervin Herrera; Freddy Herrera and Emileen D. Montano

File #: SD-0867-9

NOTICE is hereby given that on March 23, 2015, Andrew Herrera; Frutoso Herrera; Fermin Herrera; Ervin Herrera; Freddy Herrera and Emileen D. Montano, P.O. Box 24, Glencoe, New Mexico 88324, filed application No. SD-0867-9 with the STATE ENGINEER for permit to change point of diversion, place of use and add an existing well H-4426-POD1 as supplemental point of diversion for 0.2656 acre-feet per annum of surface water by ceasing the diversion of said waters from the A. Sanchez Ditch, which diverts from the south bank of the Rio Ruidoso in the NE1/4SW1/4NE1/4 in Section 33, Township 10 South, Range 15 East, N.M.P.M. by severing said water right from the irrigation of 0.083 acres of land described as below:

<u>SUBDIVISION</u>	<u>SECTION</u>	<u>TOWNSHIP</u>	<u>RANGE</u>	<u>ACRES</u>
SE1/4SE1/4	27	10 S.	15 E.	
NE1/4NE1/4	34	10 S.	15 E.	0.083

The applicant proposes to commence the diversion of said 0.2656 acre-feet per annum of surface water from the Storm Ditch, which diverts from the north bank of the Rio Ruidoso in the SW1/4NW1/4NE1/4 in Section 05, Township 11 South, Range 17 East, N.M.P.M. and a proposed supplemental groundwater well No. H-4426-POD1 located in the SW1/4NW1/4NE1/4 in Section 05, Township 11 South, Range 17 East, N.M.P.M.

for the irrigation of 0.083 acres of land described below:

<u>SUBDIVISION</u>	<u>SECTION</u>	<u>TOWNSHIP</u>	<u>RANGE</u>	<u>ACRES</u>
Pt. NW1/4NW1/4 & SW1/4NW1/4	04	11 S.	17 E.)	
Pt. SE1/4NE1/4	05	11 S.	17 E.)	0.083

The above described move-from point of diversion and place of use are located near the Glencoe, Lincoln County, New Mexico. The above described move-to points of diversion and places of use are located near Hondo, Lincoln County, New Mexico.

Any person, firm or corporation or other entity having standing to file objections or protests shall do so in writing (legible, signed, and include the writer's complete name and mailing address). The objection to the approval of the application must be based on: (1) Impairment; if impairment you must specifically identify your water rights; and/or (2) Public welfare/conservation of water; if public welfare or conservation of water within the state of New Mexico, you must show you will be substantially affected. The written protest must be filed, in triplicate, with Tom Blaine, P.E., State Engineer, 1900 West Second Street, Roswell, New Mexico 88201, within ten (10) days after the date of last publication of this Notice. Facsimiles (fax) will be accepted as a valid protest as long as the hard copy is sent within 24-hours of the facsimile. Mailing postmark will

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be used to validate the 24-hour period. Protest can be faxed to Office of the State Engineer, (575) 623-8559. If no valid protest or objection is filed, the State Engineer will evaluate the application in accordance with Sections 72-2-16, 72-5-6, and 72-12-3.

County: Lincoln County
 Name: Donaldson Enterprises Inc
 File #: SD-1914 & H-582-A into H-4442-POD1

NOTICE is hereby given that on April 8, 2015, Donaldson Enterprises Inc., P.O. Box 24, Hondo, New Mexico 88336 filed application No. SD-1914 & H-582-A into H-4442-POD1 with the STATE ENGINEER for permit to change point of diversion and place of use of 19.5 acre-feet per annum, of surface water and groundwater by ceasing the diversion of said waters from the Bradstreet and Vorwerk Ditch, which diverts from the Rio Bonito in the SW1/4SE1/4SW1/4 in Section 29, Township 10 South, Range 17 East, N.M.P.M. and groundwater well No. H-582-A located in NE1/4SE1/4NE1/4 of Section 32, Township 10 South, Range 17 East, N.M.P.M. by severing said water right from the irrigation of 6.0 acres of land described as below:

<u>SUBDIVISION</u>	<u>SECTION</u>	<u>TOWNSHIP</u>	<u>RANGE</u>	<u>ACRES</u>
Pt. E1/2	32	10 S.	17 E.)	
Pt. W1/2	33	10 S.	17 E.)	6.0

The applicant proposes to commence the diversion of said 19.5 acre-feet per annum of groundwater by drilling a new well No. H-4442-POD1, 6.0 inches in diameter and approximately 400 feet in depth, to be located at a point in the NE1/4NE1/4SE1/4 in Section 8, Township 10 South, Range 17 East, N.M.P.M for the irrigation of 6.0 acres of land described below:

<u>SUBDIVISION</u>	<u>SECTION</u>	<u>TOWNSHIP</u>	<u>RANGE</u>	<u>ACRES</u>
Pt. N1/2	08	10 S.	17 E.	6.0

The above described move-from and move -to points of diversion and places of use are located 1.86 miles north west of Hondo, Lincoln County, New Mexico.

Any person, firm or corporation or other entity having standing to file objections or protests shall do so in writing (legible, signed, and include the writer's complete name and mailing address). The objection to the approval of the application must be based on: (1) Impairment; if impairment you must specifically identify your water rights; and/or (2) Public welfare/conservation of water; if public welfare or conservation of water within the state of New Mexico, you must show you will be substantially affected. The written protest must be filed, in triplicate, with Tom Blaine, P.E., State Engineer, 1900 West Second Street, Roswell, New Mexico 88201, within ten (10) days after the date of last publication of this Notice. Facsimiles (fax) will be accepted as a valid protest as long as the hard copy is sent within 24-hours of the facsimile. Mailing postmark will be used to validate the 24-hour period. Protest can be faxed to Office of the State Engineer, (575) 623-8559. If no valid protest or objection is filed, the State Engineer will evaluate the application in accordance with Sections 72-2-16, 72-5-6, and 72-12-3.



STATE OF NEW MEXICO
OFFICE OF THE STATE ENGINEER
District 2 Office, Roswell, NM

Tom Blaine, P.E.
State Engineer

DISTRICT II
1900 West Second St.
Roswell, New Mexico 88201
Phone: (575) 622-6521
Fax: (575) 623-8559

May 8, 2015

**BY CERTIFIED MAIL, RETURN RECEIPT
REQUESTED: # 7014 2120 0003 8108 6647**

Debi Lee, Village Manager
c/o Village of Ruidoso
313 Cree Meadows Dr.
Ruidoso, NM 88345

RE: Village of Ruidoso Water Rights Issues

Dear Ms. Lee:

The Office of the State Engineer ("OSE") has recently received several communications regarding the Village of Ruidoso's ("VOR") water rights. From these communications the OSE understands that the VOR requests:

1. Withdrawal of the preliminary approval issued for certain applications;
2. An extension of time for submitting an updated Water Development Plan and Water Conservation Plan;
3. A return flow credit for the recent release of water from Grindstone Reservoir; and
4. A five year accounting period for return flow credits.

This letter responds to these specific requests and raises other concerns regarding the VOR's water rights accounting and water rights.

1) On April 15, 2015, the OSE received a request by the VOR to withdraw the preliminary approval that was granted on March 18, 2014 by the OSE for the VOR to use water approved under the New Mexico Water Use Leasing Act for two applications filed by the VOR and Sea Gem, LLC: H-50-1 into SD-275-1 and H-272 et al (T); and SD-1300-1, SD 1300-2, SD-1300-3, SD-0826-2 into SD-275-1 and H-272 et al (T). The preliminary conditions of approval contained in the Letters of Operation for these applications required that an updated Water Development

Plan and Water Conservation Plan be filed with the OSE by March 18, 2015 and a totalizing meter be installed on SD-275-1 POD2. In addition, VOR and Ruidoso Properties Irrevocable Management Trust were given preliminary approval on March 18, 2014 under application H-53-1 into SD-275-1 and H-272 et al (T), which contained the same condition of approval requiring an updated Water Development Plan and Water Conservation Plan. VOR has failed to provide the required plans for any of these conditions of approval, and the OSE concludes that cause exists for revocation of the preliminary approval to divert water under all three of the above Applications. VOR shall not divert any water under any of these three preliminary approvals, and shall pay back any diversions already made for the 2013, 2014 and 2015 accounting years in a manner acceptable to the OSE. The request to withdraw the preliminary approval is not germane as the OSE has revoked the preliminary approval.

2) The OSE recognizes that the VOR did request extensions of time on March 10, 2015 to submit an updated Water Development Plan and a Water Conservation Plan for these three applications. The requests for extensions of time for applications H-50-1 into SD-275-1 and H-272 et al (T); SD-1300-1, SD 1300-2, SD-1300-3, SD-0826-2 into SD-275-1 and H-272 et al (T); and H-53-1 into SD-275-1 and H-272 et al (T) are denied.

3) The VOR drained Grindstone Reservoir from February 2, 2015 to February 26, 2015 during the non-irrigation season. The VOR's request for credit was received on February 2, 2015. VOR did not obtain prior approval from the OSE to receive credit for the release of water as required under the Conditions of Approval for the Permit to Alter or Repair Grindstone Canyon Dam. Your request to capture credit for water released from Grindstone Reservoir is denied.

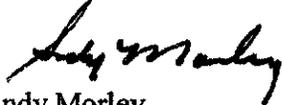
Additionally, before any water can be diverted into Grindstone Reservoir, meters must be installed above the reservoir, below the dam, and at SD-275-1 POD2 (Upper Canyon Rio Ruidoso surface diversion) at the point of diversion as required in the conditions of approval dated October 2, 1984 under permit SP-3871 and various other permits. Finally, pump back credit will no longer be recognized under OSE permit 3871, 3038 & 275-A (A) et al and SP-3871-Accrue. Now that Grindstone Reservoir has been sealed and a liner installed, there is no further need for the pump back station and accrued leakage credit.

4) Allowing a five year accounting period for surface water rights is inherently problematic because it increases the likelihood of detriment to downstream water rights. The diversion of water under accrued credits in accounting years after effluent has been discharged could be detrimental to downstream users. Therefore, carryover of accrued return flow credits will not be allowed from year to year under the administration of the VOR's rights.

The VOR has failed to comply with numerous conditions of approval for permits it holds as outlined in our letter sent to the VOR on February 26, 2015, including, but not limited to, filing an acceptable return flow plan and correcting a broken inflow meter on Grindstone Creek. A summary of the conditions of approval for existing permits and deadlines for completion are contained in an appendix that is attached to this letter. Failure to comply with these conditions in the future shall result in appropriate action by the OSE as necessary, up to and including permit cancellation.

The Office of the State Engineer will continue to cooperate with the Village of Ruidoso and hopes to discuss the future management of the Village of Ruidoso's water portfolio to bring all outstanding issues into compliance. Contact Chris Lindeen, Deputy General Counsel, at (505) 476-7403 if you would like to discuss these issues.

Sincerely,



Andy Morley
District II Manager

cc: Chris Lindeen, Deputy General Counsel
John Romero, WR Director

AMERICAN LANDS COUNCIL NEW MEXICO POST-SESSION SUMMITT 2015

SATURDAY MAY 16, 2015

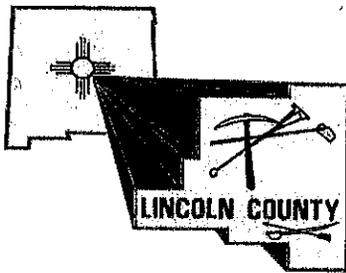
WARBA, LLP
1801 Rio Grande Blvd NW
Albuquerque, NM 87104

Take the Rio Grande Exit off of I-40 and head North about a quarter of a mile. The office will be on the left, gray metal roof building, Oso del Rio office complex.

AGENDA

- I. Welcome and Introduction
- II. Recap of 2015 NM Legislative Session
 - a. Bills
 - b. Talking points
 - c. Opposition
 - d. What happened
- III. American Lands Council
 - a. History
 - b. Current Actions
 - c. National impacts and outcomes
 - d. Membership
 - e. Benefits
 - f. Expectations
- IV. Questions
- V. Adjourn





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County of Lincoln

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AGENDA ITEM NO. 13

May 6, 2015

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager *NT*

SUBJECT: Random Selection for Audit of Lodgers

Purpose: To obtain Board of County Commissioners random selection of lodgers for annual audit.

Discussion:

In Accordance with County Ordinance 2004-04, the county commission shall select for annual random audit" one or more vendors." The audit is to verify the amount of gross rent subject to the occupancy tax. The commissioners have the responsibility of determining the number to be audited and then to select the vendors for audit. Additionally, the county manager may select a number of vendors to verify the tax. The results of the audit are to be reported to DFA and the Board of County Commissioners.

The vendors to be audited have been divided into two pools—one of large businesses and one of smaller business. We currently have 26 active vendors. Therefore; thirteen of the largest and thirteen of the smallest(based on tax receipts) comprise the two pools. Last year's process was to remove the prior year's selectees from the current pool. In keeping with the process, the four lodgers audited last year have been removed from the pools.

Manager will present an envelope with folded numbers in it corresponding to the names of lodgers.. a Commissioner will blind draw from each pool two lodger numbers.

Recommendation: That a Commissioner randomly select for audit two lodgers each from the two pools that have been purged of last year's selectees.

vendor. Monthly reports shall be due from each vendor regulated by this Ordinance even if no tax is due during such reporting period.

5. Reporting forms shall include whether the taxpayer is utilizing a cash or accrual basis of accounting. Vendor's revenue recognition for lodgers' tax reporting shall be consistent with gross receipts tax reporting regulations as specified under NMSA 1978, §§7-9-1 through 7-9-91.

Section 8. Duty of Vendor.

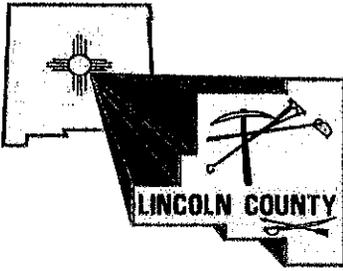
Vendor shall maintain adequate records of facilities subject to the tax and of proceeds received for the use thereof. Such records shall be maintained in Lincoln County and shall be open and available for immediate inspection at the vendor's place of business during reasonable hours and shall be retained for three (3) years.

Section 9. Audit of Vendors.

1. The County Commission shall select for annual random audits of one or more vendors to verify the amount of gross rent subject to the occupancy tax and to ensure that the full amount of occupancy tax on that rent is collected from each vendor thus audited. The County Commission shall annually determine first the number of vendors to be audited, and then the vendor(s) by lot.
2. The County may also, at any time deemed appropriate by the County Manager, audit any vendor to verify the amount of gross rent subject to the occupancy tax and to ensure that the full amount of occupancy tax on the rent is collected from each vendor audited.
3. A copy of each audit conducted under this Section shall be filed annually with the Local Government Division of the Department of Finance and Administration.
4. Procedures for audits under this Section shall be established by the County Manager and approved by the County Commission.

Section 10. Failure to File Report; Failure to Pay Tax; Failure to Make Return; Computation, Civil Penalty, and Notice; Collection of Delinquencies; Occupancy Tax Is a Lien.

1. If any vendor fails to file a report due under the provisions of this Ordinance, or if any vendor makes a return as required by this Ordinance without paying the tax then due, he or she shall be liable for the tax and a civil penalty for any such failure in an amount equal to the greater of ten percent (10%) of the amount that was not duly remitted to the County or One Hundred Dollars (\$100.00), whichever amount is greater.



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Agenda Item No. 14

May 6, 2015

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager *NT*

SUBJECT: Memorial Day Proclamation

Purpose: To proclaim special recognition of this year's Memorial Day celebration.

Discussion: On behalf of a grateful nation, it is fitting to specifically recognize this year's Memorial Day observance.

As a community, citizens should pause to remember those who have given the last measure of themselves in the defense of our country.

In memory of those who have previously and more recently given their lives in the defense of all we hold dear, the Board of Commissioners request special recognition of those who must never be forgotten.

Recommendation: Approve the attached proclamation.

Memorial Day Proclamation

Every Memorial Day, Americans remember the debt of gratitude we owe to our veterans who lost their lives for our country. On this important day, communities across our Nation stop to remember and honor the great sacrifices made by our men and women in uniform.

Since its beginnings, our country has faced many threats that have tested its courage. From battlefields and jungle skirmishes to conflicts at sea and air attacks, generations of brave men and women have fought and died to defeat tyranny and protect our democracy. Their sacrifices have made this Nation strong and our world a better place.

The tradition of Memorial Day reinforces our Nation's resolve to never forget those who gave measure for America. We continue to rely on our brave and steadfast men and women in uniform to defend our freedom. United as a people, we pray throughout the world. We also pray for the safety of our troops. This new generation follows an unbroken line of good, courageous, and unfaltering heroes who have never let our country down.

As we commemorate this noble American holiday, we honor those who fell in defense of freedom. We honor them in our memory through solemn observances, with the love of a grateful Nation.

NOW, THEREFORE, WE DO HEREBY PROCLAIM May 25, 2015, as

MEMORIAL DAY

and urge our citizens to observe Memorial Day as a day of prayer for permanent peace, and as a time to unite in prayer.

PROCLAIMED this 19th day of May, 2015, in Carrizozo, New Mexico.

**BOARD OF COMMISSIONERS
LINCOLN COUNTY, NEW MEXICO**

PRESTON STONE, CHAIRMAN

DALLAS DRAPER, VICE CHAIRMAN

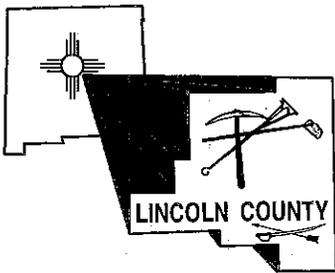
ELAINE ALLEN, MEMBER

THOMAS F. STEWART, MEMBER

DR. LYNN WILLARD, MEMBER

ATTEST:

**RHONDA BURROWS, COUNTY
CLERK**



LINCOLN COUNTY CLERK

Rhonda B. Burrows, County Clerk Whitney E. Whittaker, Chief Deputy Clerk

300 Central Ave. • P.O. Box 338 • Carrizozo, New Mexico 88301-0970
(575) 648-2394 ext. 6 • Fax (575) 648-2576 • (800) 687-2705 ext. 6
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Agenda Item 15

Memo

To: Board of County Commissioners
Cc: Nita Taylor, County Manager
From: Rhonda Burrows, County Clerk
Date: 5/13/2015
Re: Liquor License Resolution 2014-13

As per NMSA 1978 7-24-2: "The boards of county commissioners of counties composing local option districts 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, outside of the municipalities that are local option districts, as retailers, dispensers, canopy licensees, restaurant licensees. The amount of the license tax, which shall not exceed two hundred fifty dollars (\$250), and the dates and manner of the payment shall be fixed by the resolution imposing the tax;..."

The Resolution as presented reflects no change in wording or fees imposed from previous years.

RESOLUTION NO. 2014-43

NOTICE is hereby given by the Board of Commissioners of Lincoln County, State of New Mexico to all person proposing to sell or dispense alcoholic liquors outside of the corporate boundaries of the various municipalities situated in the County of Lincoln and who have qualified under the provisions of the Liquor Control Act, Section 60-3A-1, et seq. N.M.S.A. (1978 REPL. PAMP.), and all acts amendatory thereof and supplementary thereto; and have as a condition precedent hereto secured proper license from the Regulation and Licensing Department, of the State of New Mexico, that pursuant to Section 7-24-2, N.M.S.A. (1990 REPL.PAMP), they may apply to the Board of Commissioners through the office of the County Clerk of Carrizozo, New Mexico, for a license to sell or dispense alcoholic liquors in the following designations:

- DISPENSER'S LICENSE**
- CLUB LICENSE**
- RETAILER'S LICENSE**
- CANOPY LICENSE**
- RESTAURANT LICENSE**
- SPECIAL PERMITS**

The Board of Commissioners within and for the County of Lincoln, New Mexico, has designated and prescribed license fees to be paid to the County of Lincoln, as follows:

DISPENSER'S LICENSE.....	\$250.00
CLUB LICENSE.....	\$25.00
RETAILER'S LICENSE.....	\$250.00
CANOPY LICENSE.....	\$250.00
RESTAURNAT LICESE.....	\$250.00
SPECIAL PERMITS (per day).....	\$25.00

The License Tax period shall begin July 1, 2015 and end June 30, 2016. The full amount of said License Tax fee is due and payable on the date of issuance of the License for the License year. **In the case of a new business, the license fee will be prorated from the date that the State of New Mexico issued its license to the nearest whole month. The concerned business is to provide proof of said date of state issuance. (For Example- If the New Mexico license is issued on or before the 15th of the month, the whole month's proration will apply, if issued after the 15th of the month the county license fee will be charged commencing the following full month.)**

Provided further, that any operator who has not paid or tendered the applicable County License tax shall be subject to closure by the County Sheriff upon the written order of the Board of County Commissioners, in accordance with Section 7-24-3 N.M.S.A. (1990 REPL. PAMP.).

PASSED, APPROVED AND ADOPTED this 19th day of May, 2015.

**COUNTY OF LINCOLN
BOARD OF COUNTY COMMISSIONERS**

PRESTON STONE, CHAIR

DALLAS DRAPER, VICE CHAIR

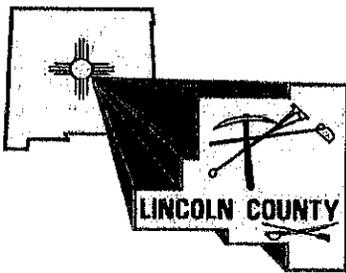
ELAINE ALLEN, MEMBER

THOMAS STEWART, MEMBER

DR. LYNN WILLARD, MEMBER

ATTEST:

RHONDA BURROWS, COUNTY CLERK



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AGENDA ITEM 16

May 12, 2015

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager *NT*

SUBJECT: Safety Net Care Pool & Indigent Health Care Claims

Purpose: To obtain the approval from the IHC Board of SCP/SNCP Payments, and the Indigent Health Care (IHC) Payments.

Discussion:

Safety Net Care Pool Payments: This month our coordinator processed a total of Thirteen (13) claims, all of which are for approval. If approved, the total recommended authorization this month is \$18,134.73. See Enclosure. 1.

Indigent Health Care Claims: This month our coordinator processed ten (10) claims. Seven (7) claims are recommended for approval and three (3) are recommended for disapproval, for the reasons indicated in enclosure 2. If approved, total recommended for payment this month is \$1,244.61. At Enclosure 2 is a summary of total applications approved and denied. At Enclosure 3 is the summary of the Indigent Fund Meeting for May and the Year-To-Date that each lists the applications by provider.

Manager's Analysis – For the last two years, the average Indigent Health Care monthly payments were \$24,262 and \$16,919 respectively. The FY 13-14 year-end total was \$203,029.23. Our budget for FY14 – 15 is \$393,278. To date, the total expenditure is \$62,340.55 or an average of \$5,667.32 monthly.

Similarly, for the last two fiscal years, the total Commission-approved Sole Community Provider Claims were \$1,371,890 and \$1,034,535 respectively. The FY 13 - 14 monthly average was \$86,211. To date, the total authorization is \$226,752.27 or an average of \$20,613.84 a month.

Recommendation: Approve the claims as indicated for the Safety Net Care Pool report at Enclosure 1 and approve and disapprove the Indigent Health Care Program report as indicated at Enclosure 2.

Approved: _____
Preston Stone, Chairman

SCP / SAFETY NET CARE POOL CLAIMS FISCAL YEAR 2014 - 2015

PREVIOUS AMOUNT APPROVED THIS FISCAL YEAR \$208,617.54

ADJUSTMENTS

TOTAL ADJUSTMENTS: \$0.00 \$0.00

MAY # CLAIMS FOR APPROVAL 13
CLAIMS FOR DENIAL 0
MAY # TOTAL CLAIMS 13

MAY TOTAL \$ AMOUNT APPROVED \$18,134.73

TOTAL # CLAIMS THIS FY APPROVED 217
TOTAL # CLAIMS THIS FY DENIED 11
TOTAL # CLAIMS FY 2014 - 2015 228

TOTAL APPROVED THIS FISCAL YEAR \$226,752.27

FACILITY: LINCOLN COUNTY MEDICAL CENTER 05/19/2015 THROUGH 05/19/2015

HC CLAIM #	DATE OF SERVICE	AMT DUE	PAID	
20971	04/20/2015	1018.00	783.86	077%
20972	01/05/2015	6428.00	4949.56	077%
20974	03/20/2015	406.00	312.62	077%
20976	03/27/2015	720.00	554.40	077%
20977	04/07/2015	1260.00	970.20	077%
20978	04/22/2015	479.00	368.83	077%
20979	04/22/2015	2097.00	1614.69	077%
20980	04/25/2015	1898.00	1461.46	077%
20990	04/12/2015	2606.00	2006.62	077%
20991	03/09/2015	95.80	73.77	077%
20985	01/31/2015	4405.00	3391.85	077%
20988	03/31/2015	2034.60	1566.64	077%
20989	03/23/2015	104.20	80.23	077%

18134.73

APPROVED- 13 REJECTED-

INDIGENT HEALTH CARE CLAIMS FISCAL YEAR 2014 - 2015

PREVIOUS AMOUNT APPROVED THIS FISCAL YEAR \$61,095.94

ADJUSTMENTS

TOTAL ADJUSTMENTS:

MAY # CLAIMS FOR APPROVAL	7
# CLAIMS FOR DENIAL	3
MAY # TOTAL CLAIMS	10

MAY TOTAL \$ AMOUNT APPROVED \$1,244.61

TOTAL # CLAIMS THIS FY APPROVED	98
TOTAL # CLAIMS THIS FY DENIED	35
TOTAL # CLAIMS FY 2014 - 2015	133

CURRENT TOTAL APPROVED THIS FISCAL YEAR \$62,340.55
*Assuming the above is approved

FACILITY: ANESTHESIA ASSOCIATES OF NM 05/19/2015 THROUGH 05/19/2015

HC CLAIM #	DATE OF SERVICE	AMT DUE	PAID
20975	04/16/2015	43.26	000%

PATIENT'S BILL IS BELOW \$50

APPROVED- REJECTED- 1

FACILITY: DONA ANA MEDICAL SUPPLY DBA LINC 05/19/2015 THROUGH 05/19/2015

HC CLAIM #	DATE OF SERVICE	AMT DUE	PAID
20931	03/04/2015	108.54	108.54 100%
20992	01/31/2015	201.51	201.51 100%
			310.05

APPROVED- 2 REJECTED-

FACILITY: LINCOLN COUNTY RADIOLOGY 05/19/2015 THROUGH 05/19/2015

HC CLAIM #	DATE OF SERVICE	AMT DUE	PAID
20973	01/05/2015	260.00	200.20 077%
			200.20

APPROVED- 1 REJECTED-

FACILITY: NEW MEXICO ONCOLOGY HEMATOLOY 05/19/2015 THROUGH 05/19/2015

HC CLAIM #	DATE OF SERVICE	AMT DUE	PAID
20981	01/21/2015	2.10	000%
PATIENT'S BILL IS BELOW \$50			
20982	01/28/2015	50.00	38.50 077%
20983	02/03/2015	100.00	77.00 077%
20984	04/02/2015	100.00	77.00 077%
20986	03/12/2015	703.71	541.86 077%
20987	01/28/2015	32.28	000%
PATIENT'S BILL IS BELOW \$50			
			734.36

APPROVED- 4 REJECTED- 2

INDIGENT FUND MEETING

MAY 19, 2015

TOTAL APPLICATIONS	23	19,379.34
TOTAL APPROVED	20	
TOTAL DENIED	3	

ALBUQUERQUE		
ANESTHESIA ASSOCIATES OF NM		
APPROVED-		
DENIED-	1	

RUIDOSO		
DONA ANA MEDICAL SUPPLY DBA LINC		310.05
APPROVED-	2	
DENIED-		

RUIDOSO		
LINCOLN COUNTY MEDICAL CENTER		18,134.73
APPROVED-	13	
DENIED-		

ALTO		
LINCOLN COUNTY RADIOLOGY		200.20
APPROVED-	1	
DENIED-		

ALBUQUERQUE		
NEW MEXICO ONCOLOGY HEMATOLOY		734.36
APPROVED-	4	
DENIED-	2	

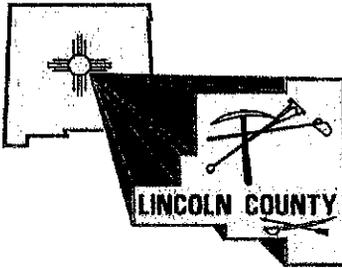
YTD

INDIGENT FUND MEETING

MAY 19, 2015

TOTAL APPLICATIONS	374	289,092.82
TOTAL APPROVED	325	
TOTAL DENIED	49	
ALBUQUERQUE		
ANESTHESIA ASSOCIATES OF NM		3,669.42
APPROVED-	10	
DENIED-	1	
RUIDOSO		
DONA ANA MEDICAL SUPPLY DBA LINC		1,441.80
APPROVED-	12	
DENIED-		
ROSWELL		
EASTERN NM MEXICO MEDICAL CNTR		5,253.63
APPROVED-	3	
DENIED-		
ALAMOGORDO		
GERALD CHAMPION REGIONAL MED CTR		19,055.90
APPROVED-	14	
DENIED-	7	
RUIDOSO		
LC AMBULANCE-PRES HEALTH SVCS		1,952.17
APPROVED-	5	
DENIED-	2	
RUIDOSO		
LINCO MEDICAL & SUPPLY, INC		1,317.21
APPROVED-	16	
DENIED-		
RUIDOSO		
LINCOLN COUNTY FAMILY MEDICAL		
APPROVED-		
DENIED-	7	
RUIDOSO		
LINCOLN COUNTY MEDICAL CENTER		226,752.27
APPROVED-	217	
DENIED-	10	
ALTO		
LINCOLN COUNTY RADIOLOGY		956.09
APPROVED-	11	
DENIED-		
RUIDOSO		
MICHAEL P CLEMENTS, M.D.		48.02
APPROVED-	1	
DENIED-	8	

ALBUQUERQUE		
NEW MEXICO ONCOLOGY HEMATOLOY		5,155.99
APPROVED-	20	
DENIED-	7	
ROSWELL		
PATHOLOGY CONSULTANTS OF NM		679.33
APPROVED-	1	
DENIED-		
ALBUQUERQUE		
PRESBYTERIAN HOSPITAL		17,608.02
APPROVED-	10	
DENIED-	5	
RUIDOSO		
RUIDOSO HOME CARE & HOSPICE		3,000.00
APPROVED-	1	
DENIED-	2	
ALBUQUERQUE		
UNM HEALTH SCIENCES CTR		2,202.97
APPROVED-	4	
DENIED-		



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AGENDA NO. 17

May 13, 2015

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager *NT*

SUBJECT: Alarm Permit Ordinance Violation

Purpose: To obtain approval to file a lien for an Alarm Permit Violation

Discussion:

County Ordinance 2011-04 – Lincoln County Alarm System Ordinance requires individuals who possess a burglar alarm to have a permit for the alarm, and to register/renew it with the County of Lincoln. Non-payment/non-renewal of active house alarm systems constitutes a violation of the Ordinance. See **Enclosure 1** for a summary of the violation for the following individual:

1. Jessica Quintana

Recommendation: Direct County Attorney to place a lien on the property that is in violation of the County Ordinance 2011-04.

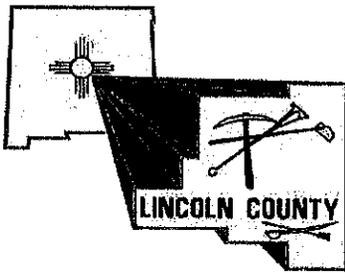
Below is a current alarm possessor that has failed to register their burglar alarm with the County of Lincoln for 2015:

Name	Address	Owner #
1. Jessica Quintana	1473 Little Creek Road Alto, NM 88312	365880

1. **Jessica Quintana** is a customer of ADT and was verified on April 14, 2015 that she has an active alarm. She has failed to register her alarm with the county.

- A registration letter was mailed certified and return receipt on April 14, 2015.
- The letter was returned back to the Ordinance Administrator due to "address unknown-unable to forward."
- The Ordinance Administrator contacted Grace Gwitira at ADT to confirm the mailing address as 1473 Little Creek Road, Alto, NM 88312. The address was confirmed as accurate.
- The Ordinance Administrator also confirmed the mailing address with the current mailing address as listed in the county's AS400 database; the database records indicated the mailing address is 1473 Little Creek Road, Alto, NM, 88312.
- The OA called Ms. Quintana cellphone that was provided from ADT and left a voicemail explaining the situation and for her to please call the office. To date the OA has not had a response.

ENCL 1



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AGENDA Item No. 18

May 15, 2015

MEMORANDUM

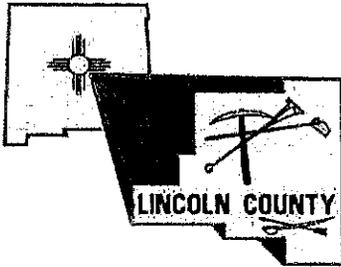
TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager *nt*

SUBJECT: Letter of Support – Tierra del Sol Housing Corporation’s request for the “Affirmation Eligible Partner Status in the House by House Reservation Program”

Discussion: Tierra del Sol Housing Corporation (TdS) is a non-profit housing developer and advocate located in Las Cruces and has been in existence for over 40 years. The organization has renovated hundreds of homes in various NM counties assisting low-income homeowners with much needed housing repairs to bring their home up to today’s code. TdS had been under a New Mexico Mortgage Finance Authority (MFA) “Block Grant Contract for HOME funds” for the past 10 years. The MFA has abolished the competitive Block Grant method and is now strictly utilizing the “House by House” method. As such, MFA is requiring that all current housing rehabilitation grantees go through an “Affirmation of Eligible Partners Status for the Owner-occupied House by House Reservation Program” process. Although Tierra del Sol Housing Corporation has been administering this program for several years, a major component of this process is to obtain a Letter of Support from the local government where it would like to serve. TdS has requested a letter of support to enable them to reach out to assist low-income homeowners in Lincoln County to alleviate code violations, health and safety issues and mobility concerns to their homes. TdS has two requests for assistance from Lincoln County homeowners this month and is attempting to take the proper steps to expand its service area to include Lincoln County. Currently, Lincoln County is not being serviced in the Owner-occupied Housing Rehabilitation Program at all. Both Manager and Commissioner Stone received correspondence from residents in need of this service

Recommendation: Direct Manager to send letter in support of Tierra del Sol Housing Corporation’s request for the “Affirmation of Eligible Partner Status in the House by House Reservation Program”. See **Enclosure 1**.



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May 19, 2015

Rose Garcia, Executive Director
Tierra del Sol Housing Corporation
210 E. Idaho Avenue, Suite B
Las Cruces, NM 88005

RE: AFFIRMATION OF ELIGIBLE PARTNER STATUS
OWNER-OCCUPIED HOUSING REHABILITATION
HOUSE BY HOUSE RESERVATION PROGRAM

Dear Ms. Garcia;

I write in support of Tierra del Sol Housing Corporation's request for the "Affirmation of Eligible Partner Status in the House by House Reservation Program" utilizing HOME funds from the New Mexico Mortgage Finance Authority for the Owner-occupied Housing Rehabilitation Program to assist low-income homeowners in Lincoln County who need to make critical home improvements.

The proposed funding is needed to enhance the housing stock in Lincoln County and meet livability standards consistent with Lincoln County's affordable housing goals. Lincoln County is home to several rural locations with urgent housing needs, and I encourage the New Mexico Mortgage Finance Authority to seriously consider Tierra del Sol Housing Corporation as the Eligible Partner in the House by House Reservation Program to service Lincoln County.

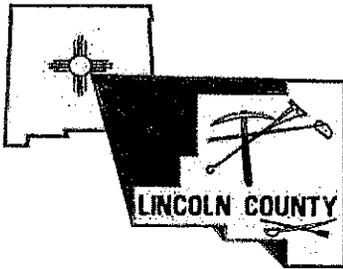
If I can be of any further assistance in helping this Eligible Partner status to succeed, please do not hesitate to call me at (575) 648-2385.

Sincerely,

Nita Taylor
County Manager

Cc: file

Enclosure 1



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Agenda Item 19

May 19, 2015

MEMORANDUM

TO: County Commissioners
FROM: Nita Taylor, County Manager *NT*
SUBJECT: Turn in for Credit Sheriff Department ATV's

Purpose: To obtain approval to turn in for Credit Sheriff Department ATV's to go toward a new ATV side by side

Discussion:

Approval is sought to turn in for credit 4 Sheriff Department ATV's for a new ATV side by side

DESCRIPTION	AGENCY	SERIAL NUMBER	INVENTORY#
2001 Yamaha ATV	Sheriff	JY4AJ02Y51A003555	8702689
2001 Yamaha ATV	Sheriff	JY4AJ02Y81A010211	8702688
2001 Sportsman 4X4	Sheriff	EC380PLE0102787	8705300
2001 Polaris Explorer ATV	Sheriff	4XACF38C4XB082703	8702187

Recommendation: Approve the listed property for reporting to the State Auditor and DFA and request at least three elected officials to review the actual property to be auctioned on Public Surplus website.

RESOLUTION NO. 2014-45

APPROVAL OF DISPOSTION OF SURPLUS INVENTORY VIA TURN IN FOR CREDIT

WHEREAS, the Lincoln County Board of Commissioners meeting in regular session on May 19, 2015 did review the listed surplus inventory that is recommended to turn in for credit for a new ATV side by side for the Sheriff's Department

WHEREAS, the items listed were valued over \$5,000 at time of purchase, and

DESCRIPTION	AGENCY	SERIAL NUMBER	INVENTORY#
2001 Yamaha ATV	Sheriff	JY4AJ02Y51A003555	8702689
2001 Yamaha ATV	Sheriff	JY4AJ02Y81A010211	8702688
2001 Sportsman 4X4	Sheriff	EC380PLE0102787	8705300
2001 Polaris Explorer ATV	Sheriff	4XACF38C4XB082703	8702187

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Lincoln County, approves the listed obsolete inventory to be used as turn in for credit for a new ATV side by side for the Sheriff's Department.

PASSED, APPROVED AND ADOPTED this 19st day of May, 2015.

BOARD OF COMMISSIONERS OF LINCOLN COUNTY, NEW MEXICO

Preston Stone, Chairman

Dallas Draper, Vice Chair

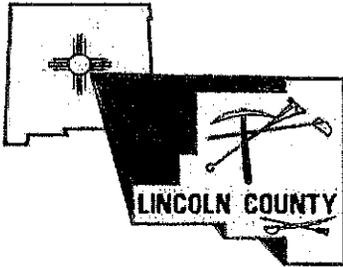
Elaine Allen, Vice Chair

Thomas F. Stewart, Member

Dr. Lynn Willard, Member

ATTEST:

Rhonda Burrows, County Clerk



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County of Lincoln

P.O. Box 711 • 300 Central Ave. • Carrizozo, New Mexico 88301-0711 • (575) 648-2385

Agenda Item 21

SUBJECT

1:00 P.M.: Public Hearing to consider the following

- A. Lincoln County Ordinance No. 2015-03 – An ordinance Providing for the Efficient and Sanitary Collection of Solid Waste in Lincoln County; Providing for Mandatory Disposal and Assessment of Fees; Providing a Penalty for Violation of the Ordinance; and Repealing Ordinance 2014-07.
- B. Adoption of the Preliminary Budget, Fiscal Year 2015-2016 by Resolution 2014-44



LINCOLN COUNTY ORDINANCE NO. 2014-07

AN ORDINANCE PROVIDING FOR THE EFFICIENT AND SANITARY COLLECTION OF SOLID WASTE IN LINCOLN COUNTY; PROVIDING FOR MANDATORY DISPOSAL AND ASSESSMENT OF FEES; PROVIDING A PENALTY FOR VIOLATION OF THE ORDINANCE; AND REPEALING ORDINANCE 2008-07.

WHEREAS, the Board of County Commissioners of Lincoln County finds the following Ordinance necessary to provide the efficient and sanitary collection, transportation and disposal of solid waste in Lincoln County; and

WHEREAS, the Board of County Commissioners of Lincoln County finds it necessary to provide a fair and equitable procedure to allocate the cost of solid waste collection among the residents and businesses outside the municipalities who use such services; and

WHEREAS, the Board of County Commissioners of Lincoln County is delegated the authority pursuant to NMSA 1978, §4-56-1; *et seq.*, to "... establish and maintain, manage and supervise a system of storage, collection and disposal of all refuse"; and

WHEREAS, the Board of County Commissioners of Lincoln County has participated in establishing the Greentree Solid Waste Authority for the purpose of providing a coordinated County-wide program for the collection of solid waste in cooperation with the incorporated municipalities of Capitan, Carrizozo, Corona, and Ruidoso Downs and the unincorporated areas of Lincoln County; and

WHEREAS, a mandatory system of solid waste collection is necessary in order to protect the environs of Lincoln County from illegal dumping by lack of a County-wide system of refuse collection containers; and

WHEREAS, it is necessary that a mandatory solid waste collection program continue, in order to protect the health, welfare and safety of the citizens of Lincoln County.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LINCOLN COUNTY AS FOLLOWS:

Section 1. Short Title.

This Ordinance shall be referred to as the Solid Waste Collection and Disposal Ordinance of the County of Lincoln, New Mexico.

Section 2. Definitions.

As used in this Ordinance:

- A. "Garbage" is defined as all waste foods, swill, carrion, slops and all waste from the preparation, cooking and consumption of food and from the handling, storage and sale of food products and carcasses of animals.
- B. "Refuse" is defined as all junked parts or bodies of automobiles, tires, waste paper, paper cartons, cardboard, trees, tree branches, yard trimmings or clippings, leaves, pine needles, wood, glass, plastic, discarded furniture or appliances, tin cans, bottles, dirt, ashes, liquid petroleum waste, such as motor oil and such similar items, and all other unwholesome material of every kind, not including garbage or debris.
- C. "Debris" is defined as all waste building material, bricks, concrete blocks, shingles, roofing material, lumber, metal or plastic piping, commercial construction wastes and any other matter that is commonly known as debris.
- D. "Responsible party" is defined as the owner or tenant of any premise, whether vacant, improved or unimproved, used primarily for either a private or business purpose, who is responsible for payment of the mandatory fee for collection.
- E. "Owner" is defined as the owner, whether residing in said premises or not, of any property located outside the corporate boundaries of the municipalities of Capitán, Carrizozo, Corona, Ruidoso and Ruidoso Downs, within the County of Lincoln.
- F. "Solid Waste" is defined as garbage, refuse and/or debris of any kind generated by an individual, household or commercial establishment.

G. "Premises" is defined as the site of any dwelling, business, plant or commercial establishment, located on any property outside the corporate limits of the municipalities of Capitan, Carrizozo, Corona, Ruidoso and Ruidoso Downs in the County of Lincoln, and is the unit upon which mandatory fees are assessed and collected.

Section 3. Mandatory Collection and Disposal of Garbage, Refuse, Rubbish and Debris.

- A. The accumulation or disposal of garbage, refuse, or debris, except as provided by this Ordinance is a violation of the Lincoln County Ordinance regarding refuse, solid waste, and litter and this Ordinance.
- B. All garbage, refuse, and debris generated by an owner or tenant on the premises of the responsible party shall only be deposited in a solid waste container authorized by the County or Greentree Solid Waste Authority except as provided in Section 7 herein.

Section 4. Powers of the County.

In connection with the operation of a mandatory solid waste collection system, the Lincoln County Board of Commissioners may:

- A. Execute contracts on behalf of the County, with any municipality, county or other local unit of government, or any private entity for the collection, transportation and disposal of solid waste generated in the unincorporated areas of Lincoln County;
- B. Regulate the collection, transportation, and disposal of refuse by any entity performing collection services on behalf of Lincoln County in the unincorporated areas of Lincoln County;
- C. Establish, assess, and collect fees directly, or through its authorized agent, from responsible parties using the solid waste collection system in amounts sufficient to pay the necessary costs of the collection, transportation and disposal system;

- D. Coordinate the collection, transportation, and disposal of solid waste, in consultation with the New Mexico Environment Department.

Section 5. Mandatory Fee.

- A. Participation in the solid waste collection system is mandatory on each responsible party in the unincorporated areas of Lincoln County, except as provided in Section 7 herein.
- B. The Lincoln County Board of Commissioners shall set fees for solid waste collection based on the actual cost to collect, transport and dispose of such solid waste; however, Lincoln County shall have the power to set fees for Commercial rates.
- C. The Board of County Commissioners of Lincoln County shall establish a system of fees, pursuant to resolution of the Board, which is duly introduced before the Board of County Commissioners of Lincoln County after the Board of County Commissioners has provided notice of the meeting at which final action on the resolution to establish a system of fees is to be taken.
- D. Such notice of public hearing shall be published once in a newspaper of general circulation within the boundaries of Lincoln County at least twenty (20) days prior to said public hearing.
- E. In the event that any responsible party, pursuant to this Section, fails to make payment of fees within thirty (30) days of the due dates set forth pursuant to the billing, said party shall be subject to a late fee as established by the Lincoln County Board of Commissioners. In the event the responsible party fails to pay the fees set forth herein for more than one (1) billing cycle, the penalty shall be assessed for each billing cycle for which payment remains outstanding.

Section 6. Liens.

- A. All fees arising under this Ordinance shall be payable by the responsible party of the tract or parcel of land being served at the time the rate or charge accrues and becomes due, and the County of Lincoln shall be entitled to a lien upon the tract or parcel of land being served pursuant to the authority granted under §§3-36-1 NMSA 1978, *et seq.*, and §4-37-1 NMSA 1978, *et seq.*, which lien shall be a first and prior lien on the property, coequal with municipal liens pursuant to §3-26-2, NMSA 1978, but subject only to the lien of general state and county taxes.
- B. The lien provided for in this Section shall be enforced in the matter prescribed in §§3-36-1 through 3-36-7 NMSA 1978. For purposes of this Section, such action shall be taken by the Lincoln County Clerk. In any proceedings where pleadings are required, it shall be sufficient to declare generally for the service supplied for the collection, transportation and disposal of solid waste. Notice of the lien shall be filed in the manner provided in § 3-36-1 NMSA 1978, and the effect of such filing shall be governed by §3-36-2 NMSA 1978.
- C. The charges and fees imposed herein are the responsibility of the responsible party of the premises, regardless of whether occupied by an owner, tenants or others, and the County may file a lien against the property for such charges, penalties and attorney's fees incurred in the cost of filing the lien, except as provided in paragraph D, below.
- D. Paragraph C of this section shall not apply if an owner notifies the County of Lincoln or its designee that charges that may be incurred by a tenant shall not be the responsibility of the owner. Such notification shall be given in writing prior to the initiation of the debt and shall include the location of the rental property.

Section 7. Exception Procedures.

- A. An owner may request a waiver of the solid waste collection fee if the landowner has at least three-hundred (300) contiguous acres of land with adequate disposal sites per household, obtains a permit from the State Environment Department, agrees to comply with all other provisions of the State regulations as to disposal, and if the solid waste that is generated on that property does not harm the environment or endanger the public health, welfare or safety.
- B. The owner or tenant shall only dispose of waste in accordance with any regulations of the Environmental Improvement Board or the New Mexico Water Quality Control Commission, as determined by the New Mexico Environment Department. The owner or tenant must also comply with the Lincoln County Ordinance regulating refuse, solid waste, and litter, as amended and supplemented, regarding the unauthorized accumulation and disposal of solid waste.

Section 8. Not Applicable to Certain Areas.

This Ordinance does not apply to property inside the boundaries of incorporated municipalities or water and sanitation districts which operate in house or by contract collection, transportation and disposal of solid waste.

Section 9. Penalties.

- A. Persons violating this Ordinance shall, upon conviction, be subject to a fine not to exceed Three Hundred and No/100 Dollars (\$300.00) and/or Ninety (90) days in jail for each separate offense, except as set forth in Paragraphs B and C below.
- B. Persons violating this Ordinance by discarding or disposing of refuse, litter or garbage on public or private property in any manner other than disposing it in an authorized landfill,

shall, upon conviction, be subject to a fine not to exceed One Thousand and No/100 Dollars (\$1,000.00) pursuant to §4-37-3 (A)(1) NMSA 1978.

C. Persons violating this Ordinance by the improper or illegal disposal of hazardous materials or waste in any manner other than as provided for in the Hazardous Waste Act, shall, upon conviction, be subject to a fine not to exceed Five Thousand and No/100 Dollars (\$5,000.00) pursuant to §4-37-3(A)(2) NMSA 1978.

D. Each violation shall constitute a separate offense. Each day an offense continues shall also constitute a separate offense.

Section 10. Severability.

In the event any Section, part or sub-part of this Ordinance shall be determined to be in violation of the Constitution or Statutes of the State of New Mexico by a Court of competent jurisdiction, that Section shall be stricken and be thereafter unenforceable. Such determination shall not invalidate the application or enforcement of the remaining Sections.

Section 11. Conflict Clause.

Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 12. Effective Date.

This Ordinance shall take effect January 1, 2015.

Section 13. Repeal.

Lincoln County Ordinance 2008-07 is repealed upon the effective date of this Ordinance.

PASSED, APPROVED, and ADOPTED this 19th day of November, 2014.

BOARD OF COMMISSIONERS OF
THE COUNTY OF LINCOLN, NEW MEXICO

Jackie Powell
Jackie Powell, Chair

Preston Stone
Preston Stone, Vice Chair

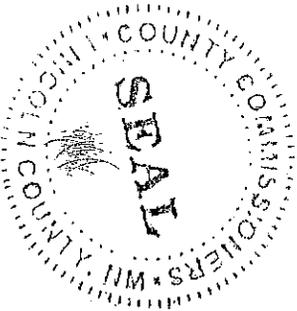
Mark Doth, Member

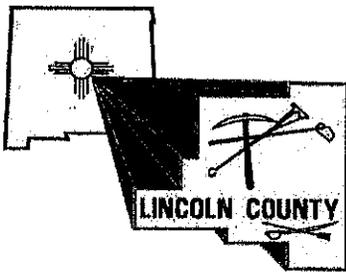
Dallas Draper
Dallas Draper, Member

Kathryn Minter, Member

Attest:

Rhonda Burrows
Rhonda Burrows
Lincoln County Clerk





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County of Lincoln

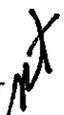
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AGENDA Item No. 20

May 15, 2015

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager 

SUBJECT: FEMA Emergency Declarations 4197 and 4199: Conventional Program vs. Alternative Procedures Pilot Program

Discussion: During its November, 2014 meeting, the Commission addressed the topic of FEMA declaring two separate federal declarations for flooding events that occurred last summer between July and September. These declarations made Public Assistance (“PA”) funding available to eligible state agencies, tribal governments, community ditch associations and a number of NM Counties, including Lincoln County.

FEMA met with County representatives initially in early November to determine the degree of damage to county roads, which was substantial. At that time, the grand total was estimated to be \$4,008,888. As with our past experience, FEMA would cover 75% of the total cost and the state would cover 12.5% of the cost. The County match (12.5%) totaled approximately \$500,000 over a three year time frame. This match can be partially offset with in-kind contributions.

At the time the Commission addressed this matter in November, FEMA had implemented its Alternative Procedures Pilot Program to improve efficiencies in how the PA program is implemented; provide communities flexibility in meeting their post-disaster recovery needs; and support rapid recovery from the impact of major disasters and emergencies. Both the “Conventional Program” and the Alternate Procedure Pilot Program were in place. Basically, under **the Conventional Program**, if a project’s actual costs at the end of the project were higher than estimated, the sub-grant agreement was amended to reflect the overage; and if the actual costs were lower than the estimate, the sub-grant agreements had to be amended for final close-out with the community. **The Alternative Procedure Pilot Program** allowed an entity to apply funds “left over” from a project to other projects, but required that if the project cost more than the estimate, the entity would be required to pay the difference. See **Enclosure 1** for a detailed description of the two programs.

Due to the nature of the damaged roads and the recommended fixes, Staff thought it was likely that the work could be done for less funds than was estimated on the Project Worksheets, and recommended the Alternative Procedure Pilot Program. The Commission unanimously adopted that recommendation: “Direct the Manager to enter into an agreement with FEMA to accept FEMA funding under the guidelines of the new Alternative Procedure Pilot Program. See **Enclosure 2** for Commission minutes for the November 19, 2014 meeting.

Since that time, FEMA and Staff have identified additional damages to County roads caused by those flood events, as well as having identified additional remedies. (PA--06-NM-4197 and 4199). The total assessed value of the damage is \$9,792,451.70, with the County obligated to the 12.5% match, approximately \$1.2 million over a three year timeframe. No transfer from the general fund is required to meet this match in the first year due to carry-over balances in the disaster fund (681). Under FEMA guidelines for large projects, the entity receives 50% of the federal funds and 50% of the state funds up front, providing necessary cash flow to complete the work. The remainder of the funds would be disbursed over the next two years. These projects were included in the preliminary budget approved on May 5th.

Because the recommended treatment of these roads does not allow the same flexibility to complete the job at less cost than the estimate, Staff can no longer recommend the Alternative Procedure Pilot Program. The safer alternative, that ensures the County will not have to pay for overruns, is the Conventional Program.

Recommendation: Direct the Manager to move forward with amending the agreement with FEMA and NMDHSEM for Public Funds – through the Conventional Procedures Process.

FEMA FUNDING

CONVENTIONAL PROGRAM VS NEW ALTERNATE PROCEDURE PILOT PROGRAM

Conventional Program: Prior to May, 2013, the steps for receiving FEMA funding included FEMA and local personnel driving and looking at the damages. An estimate was then developed and a project worksheet was written for individual damaged areas, no matter the size. These project worksheets were then sent through the process for approval and were awarded as a sub-grant through the State of New Mexico. The State of New Mexico NMDHSEM would then fund the community 50% of the Federal Share and 50% of the State Share of the Project worksheet. If the project were over a certain dollar amount, "large project", then the work was completed and all receipts, contracts, etc. were compiled and sent to the State of NM for processing and eventual reimbursement.

If the project value were less than the estimate then the actual project cost was funded by the State and the remainder was de-obligated. Consequently if the project value was over the estimate, then the actual project cost was funded by the State and the project worksheet was "versioned" to be increased to the new actual amount spent. An amended sub-grant agreement was developed and sent to the community for signature then the new amount was obligated. This process can take several months.

New Alternate Procedure Pilot Program: For disasters declared after May 20, 2013, large projects can now be consolidated into one project worksheet instead of several. This helps with the tracking of the projects from an administration stand point. Projects are estimated in the field by project managers and County Personnel to determine a good solid price on the amount of damage. A sub-grant agreement is then developed and sent to the governmental entity for signature. The project is then funded at 75% of the federal share from the State to the Community. The State holds their 12.5% until the projects are complete. If the project value is over what was estimated then the program does not allow for an amended sub-grant agreement and an amended version of the project, therefore the local governmental must pay the overages. However if the project runs under

99 130 which included 14 BIA prisoners and no US Marshal prisoners. Warden Anderson stated
100 the current population was composed of 26 female and 104 male prisoners.
101

102 **13. FEMA Funding Agreement for Declaration 4197 and 4199 – Alternate Procedures**
103 **Pilot Program**
104

105 Ms. Taylor reminded there were two separate federal disaster declarations by FEMA for flooding
106 events which occurred this past summer between July and September. Ms. Taylor stated as a
107 result of these declarations, County representatives met with FEMA to identify flood damage in
108 Lincoln County. Ms. Taylor stated the County working with FEMA developed a total estimate of
109 damages \$4,008,888. Ms. Taylor stated FEMA would reimburse 75% of the total cost, the
110 State of New Mexico would provide 12.5% of the funding, with the County responsible for the
111 remainder of 12.5% or approximately \$500,000. Ms. Taylor reminded the County could meet
112 the required match with in kind contributions.
113

114 Ms. Taylor discussed the difference between the FEMA "conventional" funding programs which
115 require individual worksheets for each action versus the new pilot "alternative" program which
116 allow the combination of multiple projects into one worksheet providing for more efficient
117 administrative procedures.
118

119 Carl Palmer, Road Superintendent stated the Road Department identified several additional
120 projects not included on the original project list for flood damage associated with the Disaster
121 Declaration. Mr. Palmer stated and Justin King were working to update the FEMA project
122 worksheet to reflect those additional projects. Mr. Palmer discussed various actions and
123 options for the County to track and claim work as "in kind" services.
124

125 Commissioner Doth requested clarification as to whether the Board of Commissioner had the
126 option to choose under which program to submit projects for funding. Commissioner Doth
127 stated understanding the "conventional" program provided a mechanism to reimburse for cost
128 overruns. Ms. Taylor confirmed this was correct but noted the "alternate" program allowed
129 flexibility to utilize any funds remaining after projects were completed for other qualified projects.
130

131 Commissioner Draper questioned if the repair of various bridges in the County might qualify for
132 any remaining funding. Mr. Palmer stated funds remaining after identified projects were
133 complete were for infrastructure projects which included bridges.
134

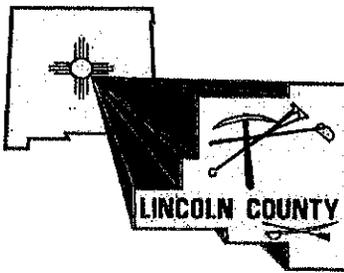
135 **Motion:** Direct the Manager to enter into an agreement with FEMA to accept FEMA funding
136 under the guidelines of the new Alternative Procedure Pilot Program, **Action:** Approve, **Moved**
137 **by** Commissioner Doth, **Seconded** by Commissioner Draper.

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

139 **Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter,
140 Commissioner Stone.
141

142 **11. 9:00 A.M.: Consideration / Action on Lodger's Tax Application:**
143

- 144 a. Application 1722: Funding Request: \$5,000
145 Purpose: Ruidoso Visitor Guide
146 Date(s) of Event: 2014 Guide
147 Presenter: Lajuana Martinez, Adventure Marketing, Ltd. Co.
148



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County of Lincoln

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AGENDA Item No. 21a

May 15, 2015

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager *NT*

SUBJECT: **PUBLIC HEARING:** Solid Waste Collection in Lincoln

Discussion: The purpose of this agenda item is to have the Commission hear and consider citizen concerns regarding the requirement to pay a solid waste collection fee under a number of different, specific circumstances. The current Ordinance requires:

1. The **Responsible Party**, the owner or tenant of any premises (whether vacant, improved or unimproved), is responsible for the payment of the *mandatory fee* for collection; (Page 2.D);
2. The **Premises** is defined as any dwelling, business, plant or commercial establishment located on property outside of municipalities, and is the unit upon which *mandatory fees* are assessed and collected. (Page 2.G);
3. **Mandatory Fee** – Participation in the solid waste collection system is *mandatory on each responsible party*;
4. **Exemption** – An owner may request a waiver of the solid waste collection fee if the landowner has at least three hundred contiguous acres of land with *adequate disposal sites per household*, obtains a permit from the State Environment Department. Page 5, Section 7a.

The County receives many calls and some written correspondence from residents / landowners claiming they should not have to pay for solid waste collection services for a number of reasons. Most common are that residents:

- a. live in the county but do not use the solid waste disposal system;
- b. drive a number of miles to the nearest dumpster and pay the same rate as the person with curb service;
- c. have a second home in the county and do not use the solid waste disposal system much, if at all; might be in the County one week per year;
- d. have multiple properties with premises (buildings), but few, if any, are lived in;
- e. have two premises (buildings) on one piece of property and should only have to pay one bill;
- f. have rental property, but it is sometimes vacant;
- g. have more than one property (contiguous or non-contiguous) and should only have to pay one bill;
- h. have no utilities on the premises;
- i. Have unlivable structures.

The only exemption in the Ordinance is for land-owners with 300 or more contiguous acres of land with adequate disposal sites per household to obtain a permit from the State Environmental Department.

Even though a resident may request a county employee to conduct an inspection of their property to determine livability, etc., under today's Ordinance, county employees do not have authority to grant any exemption.

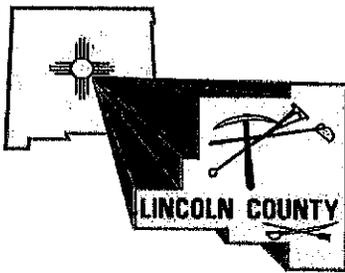
The Ordinance was written under the concept that the collection of solid waste was essential to the public health, welfare and safety of county landowners, residents and visitors. As such, it was designed to issue a mandatory fee to the owner of every premises. Under that concept, the rate assessed to every owner of every premises is the same.

A more costly alternative is to customize the services and rates to individual needs, and to grant exemptions to some of the situations outlined above.

It is important to note that for every exemption granted, the fees assessed to the other residents paying for the service must go up.

Recommendation: Listen and consider suggestions made by the public for the services provided and the rates charged for solid waste collection services. Consider following options:

- a. Determine whether the solid waste collection service is mandatory for the health, safety and welfare of Lincoln County Residents;
- b. Or, whether the solid waste collection service is optional;
- c. If mandatory, determine whether criteria in current ordinance should be changed;
- d. If not mandatory and if adequate information is available, direct Manager to incorporate suggested changes into ordinance;
- e. If inadequate information, direct Manager to gather more data prior to modifying Ordinance.



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County of Lincoln

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AGENDA Item No. 21b

May 15, 2015

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager *NT*

SUBJECT: **PUBLIC HEARING:** Adoption of the Preliminary Budget, FY 2015-2016 by Resolution 2014-44

Please find under separate cover, the modified preliminary FY 15-16 budget for Commission comment and approval. This revised preliminary budget is based on Commission direction from the Public Hearing held on May 5, 2015. We are on target with meeting the timelines required by the following approved budget schedule:

- | | |
|---|-------------------|
| 1. Held Preliminary Hearing with External Entities | May 5, 2015 |
| 2. Submit modified Preliminary Budget to Commissioners for approval | May 19, 2015 |
| 3. Submit Commission approved preliminary budget to DFA | June 1, 2015 |
| 4. Obtain preliminary budget approval from DFA | July 1, 2015 |
| 5. Hold final budget hearing and forward to DFA | July 15, 2015 |
| 6. Load final budget into accounting system | Upon DFA Approval |
| 7. Forward final budget to DFA | Sept. 8, 2015 |

Commission Approved Budget Requests

After incorporating the Commission's actions at the May 5, 2015 preliminary budget hearing, the County's projected ending balance over required reserve is **\$946,253**. At that hearing, the Board of County Commissioners entertained requests from 19 external agencies totaling \$446,976; fully or partially approved 18, totaling \$344,476; and denied full or partial funding for 10 requests in the amount of \$111,500. **Enclosure 1** summarizes the approved requests, along with the reduced requests.

The Commissioners also reviewed optional internal requests by departments and Public Elected Officials, including capital outlay and employee additions and/or modifications. Upon considerable discussion, the Commission approved those requests summarized at **Enclosure 2**. The Commission elected to consider at mid-year the potential incentive adjustment for Chief Procurement Officer as the position required training and certification by the state.

As described in the May 5th budget meeting, increases in certain Fund categories require transfer of general fund revenues to cover the departmental expense, as some Fund categories have no revenue source at all, and others have insufficient revenues to cover its

County Manager's Fax
(575) 648-4182

Finance/Purchasing Fax
(575) 648-2381

Rural Addressing Fax
(575) 648-2816

expenses. As a result of the Commission approved adjustments to the preliminary budget, the revenues required to be transferred from the General Fund increased slightly by \$2,455; from \$7,360,338 to \$7,362,793. See **Enclosure 4** for an illustration of major changes to the budgets.

Budget Requests Under Consideration

1. Clinic Funding Requests

- a. *Lincoln County Medical Center* requested \$514,610 for a combination of operating funds and capital outlay for the clinics in Capitan, Carrizozo and Corona.
- b. *La Casa Buena Salud* requested \$266,000 to fully staff with a Physician MD.
- c. Total of Clinic Funding Requests equals \$780,610.

Both of these requests for the rural health clinics will be funded from the Rural Clinics Health Center Fund (Fund 501, page 53). The budgeted .6 mill levy is estimated to yield \$654,000 and is not sufficient to cover these budget requests. A review of this Fund shows an estimated carryover in the amount of \$381,356. *Total mill levy funds plus Carryover is equal to \$1,035,356.*

2. Lincoln County Medical Center requested funding for its Emergency Medical Services and Medical Center as follows:

a. LCEMS Capital Requests	\$ 392,000
b. LCMC Operating Funds	\$ 1,775,000
c. LCMC Capital Requests	\$ 60,000
d. LCMC Community Assistance Program	\$ 110,000
TOTAL EMS AND MEDICAL CENTER	\$ 2,337,000
TOTAL CLINICS, EMS AND MEDICAL CENTER	\$ 2,851,610

****As additional information requested from LCMC was not provided until after close of business on Friday, May 16th, analysis of its budget request is not yet complete.**

Conclusion & Manager's Recommendation:

I recommend a thorough review of summary pages 1 – 4 (**Enclosure 4**) for an understanding of the good financial health of the County. The Grand Total Line on Page 2 illustrates a cash balance of \$10,053,491 after all revenues collected and all expenses paid:

1. Discuss and provide the manager any desired final adjustments in any area of the budget – internal and external requests at Enclosures 1 and 2;
2. Determine whether to adjust the total amount of the LCMC request of \$2,851,610 that is in the current preliminary budget. I recommend the Commission make a final determination on LCMC funding *only* after the level of matching funds are made public and an analysis conducted to determine need;
3. Approve Resolution 2014-44 (**to be provided**) for forwarding to DFA with the approved preliminary budget

LINCOLN COUNTY PRELIMINARY BUDGET REVIEW - MAY 5, 2015
2015 - 2016 External Requests Summary

	A	B	C	D	E	F	G	H	I
Organization	11-12 Funded	12-13 Funded	13-14 Funded	14-15 Request	14-15 Funded	15-16 Request 5-5.15	Diff. 15-16 Request From 14- 15 Funded	Funded 5-5.15	% Granted
1 NMSU Co-op Ext. Svcs.	\$63,400	\$93,337	\$64,399	\$93,000	\$93,000	\$95,000	\$2,000	\$90,000	95%
2 Capitan Library	\$3,000	\$3,000	\$5,000	\$13,295	\$5,000	\$10,000	\$5,000	\$4,000	40%
3 Corona Library	\$3,000	\$3,000	\$5,000	\$5,000	\$5,000	\$5,000	\$0	\$1,500	30%
4 Ruidoso Library	\$15,000	\$15,000	\$20,000	\$35,000	\$20,000	\$25,000	\$5,000	\$10,000	40%
5 LCJJB	\$8,000	\$8,000	\$8,000	\$8,000	\$8,000	\$22,000	\$14,000	\$8,000	36%
6 SNMEDD	\$6,000	\$6,000	\$6,000	\$6,000	\$6,000	\$6,000	\$0	\$6,000	100%
7 USDA Wildlife Svcs.	\$31,363	\$38,603	\$39,373	\$47,721	\$47,721	\$47,116	-\$605	\$47,116	100%
<p align="center">Note: Total Request \$91,500. Per head tax of \$0.55 = \$18,400; delinquent taxes = \$1,500; Taylor Grazing = \$24,484 Requested \$47,116 from Gen'l Fund.</p>									
8 Upper Hondo (Noxious Weeds)	\$50,000	\$50,000	\$40,000	\$50,000	\$50,000	\$50,000	\$0	\$50,000	100%
9 South Central Mtn. RC&D	\$7,000	\$40,000	\$30,000	\$40,000	\$40,000	\$40,000	\$0	\$40,000	100%
10 Humane Society of Lincoln Cnty	\$30,000	\$30,000	\$30,000	\$35,000	\$30,000	\$30,000	\$0	\$30,000	100%
11 EcoServants	\$20,000	\$15,000	\$15,000	\$25,000	\$15,000	\$25,000	\$10,000	\$10,000	40%
12 NM State Library Rural Bookmobile	\$1,050	\$1,050	\$1,260	\$1,260	\$1,260	\$1,260	\$0	\$1,260	100%
13 Coalition of Counties		\$5,000	\$5,000	\$5,000	\$5,000	\$2,600	-\$2,400	\$2,600	100%
14 Boys & Girls Club	0	\$0	\$3,000	\$6,000	\$6,000	\$10,000	\$4,000	\$8,000	80%
15 Lincoln County Fair Board	\$19,500	\$23,000	\$24,000	\$24,000	\$24,000	\$44,000	\$20,000	\$25,000	57%
16 New Horizons				\$60,000	\$40,000	\$110,000	\$110,000		
17 Sub-total	\$257,313	\$330,990	\$296,032	\$394,276	\$355,981	\$412,976	\$56,995	\$333,476	81%
Special Requests									
18 Miracle's Paws for Pets				\$0	\$0	\$5,000	\$5,000	\$1,000	20%
19 City of Ruidoso Downs				\$0	\$0	\$28,000	\$28,000	\$0	0%
20 Region IX Education				\$0	\$0	\$9,000	\$9,000	\$9,000	**
21 White Mtn. Search & Rescue		\$1,000		\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	100%
22 Sub-total		\$1,000		\$1,000	\$1,000	\$34,000	\$34,000	\$11,000	32%
23 Total	\$257,313	\$331,990	\$296,032	\$395,276	\$356,981	\$446,976	\$90,995	\$344,476	77%
24 % Change-Prior Year Funded		29%	-11%		21%			-4%	

OPTIONAL COUNTY REQUESTS

Preliminary Budget Hearing

May 5, 2015

	Amount Requested	Amount Approved
SHERIFF		
1 Four SUVs	\$145,000	\$108,750
2 Dispatch Radio System	\$500,000	\$500,000
	\$645,000	\$608,750
ROAD DEPT.		
3 Transporter Truck	\$120,000	\$120,000
4 Grid Roller	\$35,000	\$35,000
5 Asphalt Distributer Trailer (mounted)	\$70,000	\$0
	\$225,000	\$155,000
LINCOLN COUNTY DETENTION CENTER		
6 Kitchen Equipment	\$8,224	\$8,224
7 Three Cameras	\$4,546	\$4,546
	\$12,770	\$12,770
MANAGER		
8 Repair Asphalt Parking Lot - County Annex - Ruidoso	\$4,166	\$0
9 Storage Shed for Rural Addressing Supplies	\$1,671	\$0
	\$5,837	\$0
10 (Already included in draft budget)	\$888,607	\$776,520

Salary treatment for Certificated Employees***

*****to be considered at mid-year adjustment**

- 1 HB 348 provides that a Board of County Commissioners may increase additional incentive pay for Appraisers in the office of the County Assessor beyond the current limit of \$1,000 per year, based upon holding of the appropriate qualifying certification specified in the bill. Maximum that can be authorized is \$7,500.

- 2 State Statute 13-1-95.2 requires that each local government have in place a Chief Procurement Officer that has taken and passed requirement training to become certified. Recertification every two years is required. As this is a requirement for the position, state law does not address incentive pay for the additional certification.

Fund		Amount
401	General Fund	Removed Contractual Services from Managers Dept
		63,413
405	Special Programs	Added all external requests
		41,760
414	Capital Improvement Projects	Reduced expense
		(112,087)
418	Agreements	Added all external requests
		204,000
418	Agreements	Removed transfer out to 420
		(20,000)
420	Legislative Appropriations	Removed transfer in from 418
		20,000
423	Predatory Animal Control	Increased transfer
		47,116
423	Predatory Animal Control	Increased expense
		47,116
450	Corrections	Reduced housing of prisoners (re-evaluation)
		(40,000)
450	Corrections	Increased transfer to cover less revenue
		40,000
563	Environmental GRT	Reduced expense
		(12,703)
563	Environmental GRT	Reduced transfer
		(12,703)
654	Indigent Claims	Increased transfer
		1,663
681	Disaster Relief Fund	Removed transferred (due to cash balance)
		(133,460)
681	Disaster Relief Fund	Reduced expense
		(391,418)
681	Disaster Relief Fund	Increased revenue (FEMA 4079)
		236,643
681	Disaster Relief Fund	Increased revenue (FEMA 4197 & 4199)
		1,085,575

Department of Finance and Administration
Local Government Division
Budget Recapitulation

(CENTS ROUNDED TO NEAREST DOLLAR)

Entity Code 26 GENERAL FUND

Fiscal Year 2015-2016
USE OVER REQ. RESERVES
2,866,123 ENDING CASH

(A) PROPERTY TAX CATEGORY	(B) ACCOUNT NUMBER	(C) 2014 FINAL VALUATIONS	(D) 2014 OPERATING TAX RATE	(E) TOTAL PRODUCTION JC X DJ*93%
RESIDENTIAL	31500	810,148,125	0.007919	6,415,563
NON-RESIDENTIAL	31500	353,616,962	0.010624	3,756,827
COLLECTION RATIO		104,105		93%
TOTAL PRODUCTION				9,460,322

FOR LOCAL GOVERNMENT USE:

1,859,870 REQ. RESERVE
946,253 OVER REQ. RESERVE
12,338,130 REVENUES
-7,362,793 TRANSFERS
7,439,479 EXPENDITURES
-2,464,142 REV TO EXP.

946,253 Total over required reserves
-2,464,142 use for Recurring Expenses
-1,517,890 use for NonRecurring expenses

1,859,870 REQUIRED RESERVE 3/12
260,427 REQUIRED RESERVE 1/12

(F) FUND TITLE	(G) FUND NUMBER	(H) FY 2015-2016 BEGINNING CASH BALANCE	(I) FY 2015-2016 ADJUSTED BUDGETED FUND REVENUES	(J) FY 2015-2016 ADJUSTED OPERATING TRANSFER	(K) FY 2015-2016 ADJUSTED BUDGETED FUND EXPENDITURES	(L) FY 2015-2016 ADJUSTED ENDING FUND CASH BALANCE	(M) APPROVED RESOLUTIONS
GENERAL FUND	401	5,270,265	12,338,130	(7,362,793)	7,439,479	2,806,123	
ROAD FUND	402	227,396	678,944	2,282,491	2,928,404	260,427	
RECREATION	404						
SPECIAL PROGRAMS	405		0	76,760	76,760	0	
RECORDING FEES	406	124,884	48,350	0	173,234	0	
BONITO FIRE DEPT.	407	120,000	208,378	(50,799)	277,579	0	
HONDO FIRE DEPT.	409	173,277	104,105	(16,202)	261,180	0	
LINCOLN FIRE DEPT.	410	105,579	117,588	0	223,167	0	
NOGAL FIRE DEPT.	411	54,925	39,218	0	94,144	0	
GLENCOE-PALO VERDE FIRE DEPT.	412	70,000	115,929	(37,683)	148,246	0	
CAPITAL IMPROVEMENTS PROJECTS	414	0	0	1,776,520	1,776,520	0	
WHITE OAKS FIRE DEPT.	416	65,000	71,356	(23,321)	113,035	0	
AGREEMENTS	418	0	20,000	204,000	215,000	9,000	
ARABELA FIRE DEPT.	419	91,043	51,418	(12,180)	130,281	0	
LEGISLATION APPROPRIATIONS	420		547,400	(245,000)	282,400	20,000	
GAS TAX SPECIAL	421	3,724	193,000	0	196,724	0	
PREDATORY ANIMAL CONTROL	423		44,384	47,116	91,500	0	
FIRE SERVICES ADMINISTRATION	424	9,601	52,488	0	62,089	0	
FIREFIGHTING/STRIKE ACTIVITIES	425		33,759	0	33,759	0	
FOREST TITLE III	428		27,000	14,000	41,000	0	
Page Total		6,315,695	14,691,446	(3,347,091)	14,564,499	3,095,551	0

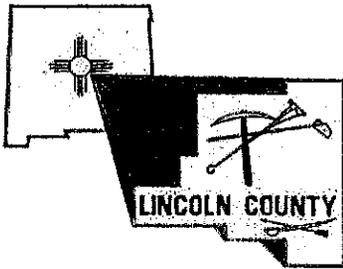
ENCL 4

Budget Recapitulation - Continued
(CENTS ROUNDED TO NEAREST DOLLAR)

(F) FUND TITLE	(G) FUND NUMBER	(H) FY 2015-2016 BEGINNING CASH BALANCE	(I) FY 2015-2016 BUDGETED FUND REVENUES	(J) FY 2015-2016 ADJUSTED OPERATING TRANSFER	(K) FY 2015-2016 ADJUSTED BUDGETED FUND EXPENDITURES	(L) FY 2015-2016 ADJUSTED ENDING FUND CASH BALANCE	(M) APPROVED RESOLUTIONS
LOGGERS TAX FUND	42	20,593	65,075	0	85,688	0	
CORRECTIONS	43	282,000	522,200	2,584,189	3,358,389	0	
JAG	44	0	10,000	0	10,000	0	
HOMELAND SECURITY FUND	45	34,551	660,872	185,066	880,489	0	
SHERIFF SEIZURE FUND	46	27,118	0	0	27,158	0	
REAPPRAISAL FUND	47	375,869	270,000	0	413,197	232,672	
RUIDOSO AREA AMBULANCE	48	0	20,000	0	20,000	0	
CAPITAN AMBULANCE DEPT.	49	0	8,022	0	8,022	0	
CARRIZO AMBULANCE DEPT.	50	0	6,060	0	6,060	0	
CORONA AMBULANCE DEPT.	51	0	5,528	0	5,528	0	
HONDO AMBULANCE DEPT.	52	0	7,626	0	7,626	0	
RURAL HEALTH CLINICS	53	381,366	654,710	0	599,610	436,458	
LCMC - HOSPITAL	54	3,163,270	3,299,100	0	3,081,946	3,380,424	
DEER PARK SP FUND	55	0	0	0	0	0	
DEER PARK SAD INCOME FUND	56	657,501	173,050	(131,890)	0	698,661	
LAW ENFORCEMENT PROTECTION	57	5,000	32,000	0	37,000	0	
ZIA SENIOR CITIZENS	58-63	85,000	749,158	111,151	945,309	0	
ENVIRONMENTAL GROSS RECEIPTS	64	0	1,029,446	254,064	1,283,510	0	
TREASURER'S RETURNED CK FUND	65	1,798	1,930	0	3,728	0	
ENHANCED 911 DATA BASE/NETWORK	66	919	6,000	0	6,000	919	
FOREST HEALTH FUND	67	188,464	47,000	0	47,000	188,464	
MISDEMEANOR COMPLIANCE FUND	68	0	95,500	0	95,500	0	
GDBG GRANT FUND	69	352,110	500,000	323,394	1,175,504	0	
INDIGENT CLAIMS FUND	70	521,211	645,000	11,716	773,116	404,811	
JUVENILE FUND	71	0	113,000	118,000	231,000	0	
NM HIDTA PARTNERSHIP GRANT	72	0	54,267	0	54,267	0	
1st 1/8 GRT STATUTORY RESERVE	73	0	0	0	0	0	
DISASTER RELIEF FUND	74	323,486	4,284,198	0	3,264,151	1,343,533	
1st 1/8th GRT INCOME FUND	75	0	645,000	(377,600)	267,400	0	
1st 1/8th GRT DEBT RESERVE FUND	76	272,000	3,074	269,001	272,076	272,000	
Page Total		6,662,247	13,907,856	3,347,091	16,959,253	6,957,941	0
Grand Total		12,977,942	28,599,302	0	31,523,752	10,053,491	0

(A) GENERAL FUND REVENUES REVENUE SOURCE	(B) ACCOUNT CODE	(C)		(D)	(E)			
		2012 - 2013 FY ACTUAL	2013 - 2014 FY ACTUAL	2013 - 2014 FY ACTUAL	2014 - 2015 FY BUDGET	REQUEST 2015 - 2016 FY BUDGET	ADJUSTMENT	ADJUSTED TOTAL 2015-2016 FY BUDGET
Property - Current	1010	6,255,397	6,485,739	6,485,739	6,349,574	6,483,993		6,483,993
Delinquent Property Tax	1020	304,571	303,071	303,071	300,000	293,447		293,447
Delinquent Discretionary Mills	1033	132,282	126,712	126,712	130,000	126,712		126,712
General County Mill - Current 2.75 mill	1037	2,895,162	2,956,745	2,956,745	2,890,000	2,976,329		2,976,329
Non-Rendition Fees	1041							0
Penalty & Interest	1050	240,734	252,433	252,433	220,000	263,168		263,168
Administrative Fees	1051	1,940	1,864	1,864	2,000	1,813		1,813
Liquor License	1150	3,025	4,025	4,025	2,500	3,475		3,475
Interest on Investments	1180	21,211	29,533	29,533	30,000	23,908		23,908
DWI Traffic Safety Bureau	1200	1,074	3,976	3,976	3,000	3,187		3,187
ODWI	1204				10,000	12,020		12,020
Clerk's Fees	1210	150,935	136,977	136,977	140,000	122,848		122,848
Probate Fees	1220	1,860	2,460	2,460	2,000	2,520		2,520
Sheriff's Fees	1230	12,655	15,260	15,260	10,000	13,554		13,554
Alarm Permit Fees	1231	21,500	24,100	24,100	27,000	25,610		25,610
Placard Fees (rural addressing)	1240	7,426	3,369	3,369	2,200	3,224		3,224
Subdivision/P & Z Fees	1250	10,087	9,414	9,414	10,000	5,400		5,400
OES Fire Reimbursement	1252	23,218	18,307	18,307				0
Flood Plain Ordinance Adm	1253							0
Reimbursement/Refund-Hondo Senior Center	1262	17,496	51,787	51,787				0
Insurance Recoveries	1270	17,745	42,602	42,602				0
Rental of County Property	1290		1,200	1,200				0
Sale of County Property	1340	14,758	24,037	24,037				0
Fax Machine	1345	66	159	159	60	143		143
PAGE TOTAL		10,133,141	10,493,760	10,493,760	10,128,334	10,361,351	0	10,361,351

(A) GENERAL FUND REVENUES REVENUE SOURCE	(B) ACCOUNT CODE	(C)			(D)			(E)		
		2012 - 2013 FY ACTUAL	2013 - 2014 FY ACTUAL	2014 - 2015 FY BUDGET	2013 - 2014 FY ACTUAL	2014 - 2015 FY BUDGET	REQUEST 2015 - 2016 FY BUDGET	ADJUSTMENT	ADJUSTED TOTAL 2015-2016 FY BUDGET	
OTHER CHARGES FOR SERVICES										
Photocopies & Scans	1450	4,275	4,497	3,500		3,846			3,846	
Data Processing	1451	10,127	11,731	10,000		13,122			13,122	
Voided One Year Old Checks	1460	98	73						0	
Motor Vehicle Fees	1530	67,679	68,444	63,000		69,394			69,394	
Cigarette Tax - 2 cent - Regular	1550								0	
Alto Paving Principal & Interest	1562								0	
Alto Paving Late Fees	1563								0	
Election Filing Fees	1570		500						0	
Auto Voters Registration Sys.	1573	134	660	500		621			621	
Trans. & Xtrad. of Prisoners	1590		195			453			453	
Grant Funds	1602			6,250					0	
Forest Patrol - Sheriff	1610	83,089	13,437	21,000		21,438			21,438	
Payment in Lieu of Taxes	1630	1,536,831	1,691,372	1,449,594		1,695,122			1,695,122	
Special P.I.T. - Taxes	1632	7,500	7,500	7,500		5,000			5,000	
Emergency MGMT - Fed/State	1645								0	
County Permit Fees	1646	75		25		25			25	
GRT Tax Equalization (7-1-6.16)	1647	122,758	90,039	90,039		70,090			70,090	
Ft. Stanton Museum	1648								0	
County Business Retention GRT	1649	113,490	144,812	140,000		95,480			95,480	
BJA Bulletproof Vest Grant	1925	1,313	1,253	2,000		2,188			2,188	
Joint Ruidoso Grant (records Mgmt)				0					0	
PAGE TOTAL		1,947,369	2,034,512	1,733,408		1,976,779	0		1,976,779	
TOTAL REVENUES (Carry to Recap)		12,080,510	12,528,272	11,921,742		12,338,130	0		12,338,130	



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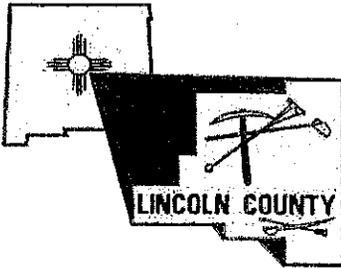
County of Lincoln

P.O Box 711 • 300 Central Ave. • Carrizozo, New Mexico 88301-0711 • (575) 648-2385

Agenda Items No. 22

SUBJECT

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



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Agenda Item No. 23

May 13, 2015

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager

SUBJECT: Appointments and Removals from Boards/Commissioners Committee

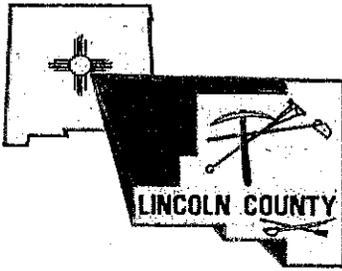
Purpose: To consider appointments to the following committees

Discussion:

To update the commission on vacant positions for committees that still need to be filled:

1. Lincoln Historic Preservation Board (1)
2. Planning Commission (2) Districts 2 & 5.
3. Senior Citizens Olympic (1)

Recommendation: None-informational only unless there are members to appoint.



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Agenda Item. 24

SUBJECT

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).

See attached list.

Alan P. Morel, P.A.

Attorney at Law

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Post Office Box 1030
Ruidoso, New Mexico 88355-1030

Jira Plaza
Telephone (575) 257-3556
Facsimile (575) 257-3558

May 19, 2015

LINCOLN COUNTY EXECUTIVE SESSION PURSUANT TO THE OPEN MEETINGS ACT: DISCUSSION OF ALL THREATENED AND/OR PENDING LITIGATION SECTION 10-15-1, SUBPARAGRAPH H.(7); AND DISCUSSION OF THE PURCHASE, ACQUISITION OR DISPOSAL OF REAL PROPERTY OR WATER RIGHTS BY THE PUBLIC BODY, SECTION 10-15-1, SUBPARAGRAPH H.(8)

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 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.

*2. *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. County was served May 14, 2014. Mr. Paul Melendres has been retained by the County. Hearing on All Pending Motions took place Nov. 20 before Judge Ritter, who found Mr. Beauvais had a conflict of interest and was disqualified from representing GSWA. GSWA has retained Robert Doughty as new counsel Dec. 13, 2014. GSWA filed its Withdrawal of Plaintiff's Original and First Amended Verified Emergency Motion Seeking Further Relief on Plaintiff's Request for Preliminary Injunction Concerning Rate at which County Will Bill May 7, 2015. Lincoln County filed its Motion to Continue its Motion for Sanctions May 8, 2015.

3. *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. Ruling on Reconsidering Stay denied by Judge Singleton June 11, 2014. GSWA's Brief in Chief filed Sept. 9, 2014. Record Proper was filed Sept. 25, 2014. Alto Lakes Water and Sanitation District's and Lincoln County's Joint Response Brief was filed with the Court of Appeals Oct. 24, 2014. GSWA filed it Reply Brief Dec. 1, 2014. The case has been submitted to a panel of judges for decision and the County received Notice of Submission from the Court of Appeals Jan. 2, 2015.

4. *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.

5. *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.

Tort Claims Notices Received or Threatened

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 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 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 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.

Preston, DeAnna – Lincoln County Sheriff's Deputy – Threatened Litigation on April 22, 2015 through attorney J. Robert Beauvais against the County of Lincoln in reference to Dep. Preston's Disciplinary Action Dispute.

***Michael Barela and Jude Renney v. Brack Rains, Lincoln County Sheriff's Deputy, Lincoln County Sheriff Robert Shepperd, and the County of Lincoln** – Tort Claim Notice received May 4, 2015 from Manuel Garcia/Hakanson Firm, alleging violation of defendants' 4th Amendment rights.

***Culp, Susan v. LCMC/Lincoln County**: Tort Claim Notice received May 4, 2015 by 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.

2014

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

Millerden, Kenneth and Anita – Tort Claim Notice received May 9, 2014 alleging negligence from staff at Lincoln County Medical Center during 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 alleging false imprisonment, due process violations, unlawful detention of a minor, emotional distress.

Class Action – Tort Claim Notice received June 23, 2014 alleging false imprisonment, false arrest, deprivation of rights at 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 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 by 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.

Rider, Edward Allen and Moorhead, Brennon – Tort Claim Notice received Oct. 20, 2014 by attorney W. Chris Nedbalek alleging Lincoln County Narcotics Enforcement Unit officers destroyed items in a home.

Caughron, Brittany and Anderson, Amie – Tort Claim Notice received Oct. 24, 2014 by attorney W. Chris Nedbalek alleging overcrowding of Lincoln County Detention Center as a violation of 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.

McMurray, Cody – Tort Claim Notice received Nov. 6, 2014 by attorney W. Chris Nedbalek alleging lack of adequate medical care at Lincoln County Detention Center.

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

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

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

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

Diana Martwick, 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

Allen, Katherine Elizabeth- Notice of Tort Claim received Sept. 12, 2013 from Katherine Allen 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 B 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.

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