

COUNTY OF LINCOLN
New Mexico
Regular Meeting
Board of County Commissioners

Jackie Powell, Chairwoman
Mark Doth, Member
Dallas Draper, Member
Glenna N. Robbins, Treasurer
Rhonda B. Burrows, Clerk

Preston Stone, Vice Chair
Kathryn L. Minter, Member
Robert Shepperd, Sheriff
Paul Baca, Assessor
Stirling Spencer, Probate Judge

Nita Taylor, County Manager

AGENDA

Commission Chambers, Tuesday, December 16, 2014 @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. November 19, 2014 Regular Commission Meeting
7. Approval of Consent Agenda
 - a. Payroll/Accounts Payable/Budget/ Expenditures
 - b. Treasurer’s Financial Report for the Month ending November 30, 2014
8. Treasurer’s Report- Final Report by Current Treasurer
9. Smokey Bear District Ranger Update
10. GSWA Update
 - a. Consideration / potential action on Conducting of Formal Audit of GSWA operations
11. **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.

12. Water issues/Forest/Wildlife Health Programs
13. Consideration / Potential Action on Space Allocation for 12th Judicial District Attorney
14. Proclamation – Volunteers Fire Fighters of Lincoln County
15. Proclamation – Taos Muncy – Two-time World Saddle Bronc Rider
16. Proclamation – Hondo High School – Six-man Football State Champions
17. Proclamation - Ruidoso High School – Class IV A Volleyball State Champions
18. Proclamation - Ruidoso High School – Class IV A Football State Champions
19. Resolution 2014–30 NM DOT Road Fund Time Extension for Certain Projects/First Amendments to Cooperative Agreements
20. **11:00 A.M.:** Farewell to Departing Elected Officials
 - a. Pot Luck Luncheon
 - b. Open House / Grand Opening of Courthouse / Sheriff’s Complex Expansion
21. **1:00 P.M.:** Public Hearing to consider the following Ordinances:
 - a. Lincoln County Ordinance No. 2014-08 – An ordinance amending Personnel Policies and Procedures; and Repealing Ordinance 2014-01
 - b. A Resolution Setting Fees to be charged by the County of Lincoln for solid waste services to Lincoln County Residents located outside of all municipalities and the Alto Lakes Water and Sanitation District; Pursuant to Lincoln County Ordinance 2008-07 by Resolution 2014-29
22. Manager’s Report
23. Consideration of Approval / Disapproval of Indigent Health Care Claims
24. Award of Invitation to Bid 14-15-005 Annual Base Course Supply
25. Construction of Carrizozo Sr. Center
 - a. Award of Request for Proposal # 14-15-004
 - b. Consideration / Potential Action on Request for Project Budget Change
26. Authorization to Schedule Public Hearing to Consider Other Outdated or New Lincoln County Ordinance
 - a. Low Income Tax payer’s rebate of Property Taxes (Required in Odd numbered years per NMSA 7-2-14.3 G)

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

27. Consideration of Appointments and Removals from Boards/Commissioners/Committees:
 - a. **Tabled**-Senior Citizens Olympic Committee
28. Renewal of County Attorney Contract
29. Lincoln Historic Preservation Board – Grant
30. Executive Session Pursuant to the Open Meetings Act: Discussion of all Threatened and/or Pending Litigation Section 10-15-1, Sub-Paragraph H.(7); and Discussion of the purchase, acquisition or disposal of real property or water rights by the public body, Section 10-15-1, Sub-Paragraph H.(8).
31. Potential Property Purchase
32. Potential Legal Action – Greentree Solid Waste Authority v. County of Lincoln D 1226 CV 2014-00095 Inspection of Public Records Act Violations
33. Signing of Official Documents
34. Next meetings:
 - a. January 13, 2014 Regular Commission Meeting
35. 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 No. 6

SUBJECT

Approval of Minutes:

- a) November 19, 2014 Regular Commission Meeting

1 **COUNTY OF LINCOLN**

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

5
6 **Jackie Powell, Chair**
7 **Preston Stone, Vice Chair**

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

8
9 **Minutes**
10 **Wednesday November 19, 2014**

11
12 Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on
13 November 19, 2014 in the County Commission Chambers, Lincoln County Courthouse, in
14 Carrizozo, New Mexico.

15
16 **1. Call to Order**

17
18 Chair Powell called the Regular Meeting of the Board of County Commissioners to order at
19 8:20:40 AM.

20
21 **2. Roll Call**

22
23 **Roll Call.**

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

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

29
30 **3. Invocation**

31
32 The invocation was presented by 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 Doth, **Seconded by** Chair Powell.

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

44 **Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter,
45 Commissioner Stone.
46
47

48 **6. Approval of Minutes**

- 49
50 a. October 21, 2014 Regular Commission Meeting
51 b. November 7, 2014 Special Commission Meeting
52

53 **Motion:** Approve the minutes of the October 21, 2014 Regular Commission Meeting and
54 November 7, 2014 Special Commission Meeting; **Action:** Approve, **Moved by** Commissioner
55 Doth, **Seconded by** Commissioner Draper.

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

57 **Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter,
58 Commissioner Stone.
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 September 30, 2014
64

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

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

68 **Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter,
69 Commissioner Stone.
70

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

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

75
76 George Douds, Acting District Ranger discussed the administrative process associated with the
77 Supplemental Draft Environmental Impact Statement (SDEIS) for the North Fork Eagle Creek
78 Wells Special Use Authorization Project. Acting Ranger Douds reminded the 2012 Draft
79 Environmental Impact Statement (DEIS) for the North Fork Eagle Creek Special Use Permit
80 required revision due to changes in resource conditions and the environmental effects of the
81 Little Bear Wildfire. Acting Ranger Douds stated the Notice of Availability published November
82 14, 2014 began a 45 day comment period during which stakeholders could submit written
83 comments.
84

85 Acting Ranger Douds stated the District was currently analyzing a proposal from El Capitan
86 Precious Metals, Inc to issue a special use permit for access to the private land site by use of
87 Forest Road 489A. Acting Ranger Douds expected a decision on this proposal to be issued by
88 the end of the week.
89

90 Commissioner Stone questioned whether El Capitan Mine paid a usage fee for access on
91 Forest Road 489A. Christine Thompson of the Smokey Bear Ranger District reported El
92 Capitan paid a minimal annual land use fee for utilization of the road.
93

94 **9. Lincoln County Detention Center Update**

95
96 Ms. Taylor provided copy of Warden Arthur Anderson's report of monthly statistics on bookings
97 and releases at the Lincoln County Detention Center. Warden Anderson's report detailed the
98 Detention Center average total daily population as 137 with a current population of prisoners of

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

149 **Motion:** Approve Application 1722 for \$5,000, **Action:** Approve, **Moved by** Commissioner
150 Doth, **Seconded by** Commissioner Draper.
151 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 5).
152 **Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter,
153 Commissioner Stone.

154
155 **14. Approval of Required 2015 Operational Resolutions:**
156

- 157 a. Resolution 2014-23 – Establishing 2015 Regular Commission Meetings
- 158 b. Resolution 2014-25 - Establishing 2015 County Official Holiday Calendar
- 159 c. Resolution 2014-26 - Open Meetings Act
- 160 d. Other 2015 Committee Meetings – Planning Commission, Lincoln Historic
161 Preservation Board and Lodger’s Tax Committee

162
163 Ms. Taylor presented the three required “operational” Resolutions along with other commission
164 or committee meeting schedules for approval and subsequent publication.
165

166 **Motion:** Adopt Resolution 2014-23, Resolution 2014-25, and Resolution 2014-26; and Approve
167 the schedule of other 2015 Committee Meetings for publication with a correction to reflect the
168 requirement for a 72 hour notice to the public, **Action:** Approve, **Moved by** Commissioner
169 Stone, **Seconded by** Commissioner Doth.

170 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 5).
171 **Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter,
172 Commissioner Stone.
173

174 **SEE EXHIBIT B:** Copies of Resolution 2014-23, Resolution 2014-25; and Resolution 2014-26
175 are attached hereto in reference thereto made a part hereof.
176

177 **15. Resolution 2014-27 Requesting Congress to Provide FY 2015 PILT Funding**
178

179 Ms. Taylor reminded the Payment in Lieu of Taxes funding from the federal government
180 required Congressional authorization and noted the US Congress had not yet authorized PILT
181 funding for 2015. Ms. Taylor stated the 2014 PILT payment was \$1,691,372. Ms. Taylor also
182 provided copy of a National Association of Counties (NACo) news release requesting county
183 support for swift passage of legislation to extend mandatory PILT funding. Ms. Taylor read the
184 proposed Resolution of support for full funding of PILT and for passage of long term sustainable
185 legislation.
186

187 **Motion:** Adopt Resolution 2014-2, **Action:** Approve, **Moved by** Commissioner Doth,
188 **Seconded by** Commissioner Stone.

189 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 5).
190 **Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter,
191 Commissioner Stone.
192

193 Chair Powell requested copy of the Resolution be forwarded to the New Mexico congressional
194 delegation.
195

196 **Motion:** Approve the issuance of a news release by NACo on behalf of Lincoln County in
197 support of PILT funding, **Action:** Approve, **Moved by** Commissioner Stone, **Seconded by**
198 Commissioner Doth.

199
200 Commissioner Doth requested the percentage of total acreage of federal and state land within
201 the County be verified and updated. Commissioner Doth suggested the verified total
202 percentage of public lands within Lincoln County might play a role in various funding algorithms.
203

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

205 **Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter,
206 Commissioner Stone.
207

208 **SEE EXHIBIT C:** Copy of Resolution 2014-27 is attached hereto in reference thereto made a
209 part hereof.
210

211 **10. El Capitan Mine Update**

212

213 Nita Taylor, County Manager reminded of the discussion at the September 16, 2014 Regular
214 Meeting regarding notification by El Capitan Precious Metals, Inc. (El Capitan Mine) of the
215 company's intent to apply to the NM Environmental Department for an air quality permit for the
216 construction of an iron ore crushing and sizing facility. Ms. Taylor provided copy of the minutes
217 reflecting a request by resident Lee Arnone for enforcement of Lincoln County Ordinance 2009-
218 01 and a copy of the Ordinance for review.
219

220 Chris Eustice, Senior Environmental Engineer for the Mining and Minerals Division (MMD) of the
221 State of New Mexico Energy, Minerals and Natural Resource Department (EMNRD) informed a
222 permit was issued by MMD for the El Capitan Mine in 1999. Mr. Eustice stated since that time
223 the mine remained mostly inactive until MMD received notice in 2012 of El Capitan's intent to
224 reactivate the mine. Mr. Eustice stated MMD requested an update of the operations and
225 reclamation plan at that time. Mr. Eustice stated the operator provided updates to the
226 operational plan but the current application was pending provision of the financial assurance for
227 reclamation.
228

229 Mr. Eustice discussed the process to review the updated application and to seek and receive
230 comments from other cooperating agencies such as the USFS and other State Agencies. Mr.
231 Eustice stated while MMD was aware of Lincoln County's Mining Ordinance no Memorandum of
232 Understanding (MOU) existed which designated the County as a co-operating agency. Mr.
233 Eustice suggested the County submit a request to be on the MMD "interested parties list" to
234 receive written notice in the future of all applications submitted to MMD. Mr. Eustice conducted
235 a site visit of the El Capitan Mine in June of 2014 and the operator was in full compliance with
236 the MMD permit at that time.
237

238 Attorney Morel questioned the distinction between the permit issued in 1999 and the current
239 permit under review.
240

241 Mr. Eustice stated the 1999 permit was issued under a minimal impact status while the updated
242 operations plan for the new permit reflected additional operations on site such as separation of
243 materials. Mr. Eustice also informed MMD increased reclamation plan requirements since
244 issuing the 1999 permit. Mr. Eustice discussed the operations plan submitted by El Capitan
245 Mine and stated any additional changes to the plan required notification to MMD and a potential
246 review of the permit.
247

248 Commissioner Minter questioned the nature of the permit as permanent or subject to review.
249 Mr. Eustice stated MMD had the discretion to review any permit every five years but the permit
250 had no specific expiration date.

251
252 Commissioner Stone questioned if MMD regulations required a permit to be retired if a site was
253 inactive for a period of time. Mr. Eustice stated there was no regulation related to a "stand by"
254 status but reminded onsite inspections were conducted minimally every year and often every six
255 months. Commissioner Stone questioned if the operations plan for the 1999 permit was only for
256 removal of iron ore, was this the only mineral the operator could remove. Mr. Eustice stated a
257 permit only required review and modification if a significant change to the operations plan
258 occurred.

259
260 Blair Dunn, Attorney representing El Capitan Mine reiterated the El Capitan Mine was permitted
261 in 1999 and stated there were currently no plans to expand the "footprint" or permitted area of
262 the mine's operations as defined in 1999. Mr. Dunn stated these facts qualified the mine as an
263 "existing operation" as defined by Ordinance 2009-01 and therefore not subject at this time to
264 the Ordinance requirements. Mr. Dunn discussed the issue of access to the mine via a US
265 Forest Service road and informed the USFS agreed to issue a five year special use permit for
266 access to the site.

267
268 Chuck Gerke, Operations Supervisor at the El Capitan Mine described the equipment and plans
269 to ship non-iron ore material daily overseas for extraction of gold. Mr. Gerke anticipated
270 minimal water usage primarily for dust control. Mr. Gerke stated his company conducted a
271 similar operation in Otero County with minimal impact to the site and in cooperation with the
272 County. Commissioner Ronnie Reardon of Otero County stated Otero County's relationship
273 with the company was a positive one.

274
275 Commissioner Draper questioned plans to protect a nearby historical site. Mr. Gerke stated he
276 was unaware of the historic site but reminded operations were limited to the permitted area. Mr.
277 Eustice stated the Department of Cultural Affairs provided comment during the permit review
278 process regarding the historic site near the mine.

279
280 Commissioner Stone questioned if there were any plans for blasting on the site. Mr. Gerke
281 stated there were no plans for blasting at this time. Commissioner Stone expressed concerns
282 about the effect of heavy truck traffic on State Highway 246 into Capitan. Commissioner Stone
283 expressed concern about the company's history of a lack of communication with local residents
284 and with the Village of Capitan. Mr. Dunn expressed a desire to improve public relations and
285 offered to serve as liaison for questions or comments.

286
287 Rich Gross, resident from the area north of Capitan expressed concern about the lack of
288 oversight of previous actions by the company such as illegal drilling and creation of roads.

289
290 Chair Powell discuss past action by the USFS to file a restraining order to stop the taking of
291 core samples without prior permission. Chair Powell reminded current operations by El Capitan
292 Mine were on private property only.

293
294 Heidi Payne resident on Fort Lone Tree Road expressed concern about the impact of heavy
295 truck travel such as noise pollution and dust. Ms. Payne also expressed concern about the
296 potential impact to private property values near the mine site.

297

298 Mr. Dunn stated he would contact the Mayor of Capitan on behalf of the El Capitan Mine to
299 schedule a community meeting.

300

301 **12. 9:30 A.M.: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY**
302 **OFFICIALS**

303

304 Chair Powell requested a proclamation be prepared to acknowledge the success of local high
305 school athletic teams. Chair Powell also suggested the County adopt a proclamation
306 acknowledging current accomplishments of Taos Muncy from Corona.

307

308 Justin King of King Industries commented on the earlier discussion regarding the FEMA
309 "alternate" funding process as being less burdensome administratively. Mr. King also noted the
310 cost estimates submitted to FEMA for repair of flood damage were based on contract prices.
311 Mr. King advocated for the use of local contractors for repairs as less burdensome to the County
312 Road Department.

313

314 Commissioner Stone questioned if the County could utilize any funding remaining after identified
315 repairs were completed on other projects such as bridges. Mr. King confirmed there were
316 multiple options to utilize any funds remaining after initial projects were completed.

317

318 Commissioner Stone requested Mr. King review and provide an opinion on the use of a new
319 product for treatment of dirt roads. Mr. King stated another County was currently utilizing the
320 product and agreed to provide additional information on the product in the future.

321

322 Sheriff Robert Shepperd stated in 1979 Deputy Thomas C. Bedford, Jr. was killed in the line of
323 duty and in 1983 the County substation in Ruidoso was named in his honor. Sheriff Shepperd
324 stated a desire to transfer this honor to the new addition of the Sheriff's office at the Courthouse
325 as the substation was no longer utilized by the Sheriff's department. Sheriff Shepperd stated he
326 would seek approval from the deputy's family prior to making the change.

327

328 **16. Lincoln County Medical Center Matters**

329

330 a. 3rd Amended Lease Agreement

331

332 Attorney Morel discussed the current lease with Presbyterian which requires an annual review
333 of the lease payment. Attorney Morel stated the Manager's recommendation was to renew the
334 lease at the current rate of \$1,100,000 annually.

335

336 Attorney Morel detailed additional revisions to lease language to reflect the changes in the Sole
337 Community Provider program and to address the County's purchase of property adjacent to the
338 Professional Office Building. Attorney Morel suggested additional revisions related to any
339 request for or use of Mill levy funding. Attorney Morel requested the Board of Commissioners
340 consider approval of the annual fee for the lease at this time and consider other revisions
341 associated with a 3rd amended lease agreement at a later date.

342

343 **Motion:** Approve the renewal of the lease agreement with Presbyterian Healthcare Services for
344 \$1,100,000 for a period of one year, **Action:** Approve, **Moved by** Chair Powell, **Seconded by**
345 Commissioner Doth.

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

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

349
350 b. NM Human Services Department Request for County Match for
351 January – June, 2014 Payment to LCMC
352

353 Ms. Taylor provided copy of a letter received from the NM Human Services Department (HSD)
354 requesting counties who did not make a Sole Community Provider (SCP) payment for the period
355 of January to June of 2014 provide funding for this period under the old Sole Community
356 Provider at this time. Ms. Taylor stated HSD was requesting \$193,503 from Lincoln County
357 and noted if the County declined to provide the payment, HSD reserved the right to recoup
358 payment in the amount of \$628,256.49 from Lincoln County Medical Center.
359

360 Ms. Taylor reminded LCMC requested and received additional financial support directly from the
361 County in 2014 to cover a perceived "shortfall" in SCP funding for the period. Ms. Taylor stated
362 at that time the County provided direct funding of \$550,000 in April and an additional \$550,000
363 in June of 2014. Ms. Taylor stated direct funding from the County and SCP payments to LCMC
364 totaled \$1,728,256. Ms. Taylor stated as a result of this information she requested LCMC
365 consider reimbursement to the County in the amount of \$193,503 so the County could provide
366 the requested payment to HSD.
367

368 Ms. Taylor stated current options were 1) to submit payment to HSD in the amount of \$193,503
369 from the mill levy proceeds; 2) submit payment to HSD after receipt of reimbursement from
370 LCMC for the same amount; or 3) should LCMC chose not to reimburse the County, submit
371 notification to HSD the County will opt not to make the SCP payment based on the history of
372 direct payment to LCMC.
373

374 **Motion:** Approve the SCP payment of \$193,503 to HSD pending reimbursement from LCMC or
375 decline HSD's request for SCP payment should LCMC chose not to reimburse the County,
376 **Action:** Approve, **Moved by** Commissioner Minter, **Seconded by** Commissioner Doth.

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

378 **Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter,
379 Commissioner Stone.
380

381 **17. Professional Services Agreement Melendres & Melendres**
382

383 Ms. Taylor stated the County approved an agreement to hire the law firm of Melendres &
384 Melendres to represent the County in litigation matters with Greentree Solid Waste Authority
385 (GSWA) at the January 2014 Regular Meeting. Ms. Taylor stated the 2014 Profession Services
386 Agreement with Melendres & Melendres had reached the statutory monetary limit of \$60,000
387 plus gross receipts tax. Ms. Taylor stated a new Professional Services Agreement was required
388 to continue representation by Melendres and Melendres in the ongoing litigation with GSWA.
389

390 **Motion:** Renew the Professional Services Agreement with Melendres and Melendres for
391 \$60,000 plus gross receipts tax, **Action:** Approve, **Moved by** Commissioner Stone, **Seconded**
392 **by** Commissioner Doth.

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

394 **Yes:** Chair Powell, Commissioner Doth, Commissioner Draper, Commissioner Minter,
395 Commissioner Stone.
396

397 **18. County Assets**
398

399 a. Inventory Assets Annual Certification

400
401 Ms. Taylor stated NMSA 12-6-10 required each agency, including counties, to conduct a
402 physical inventory of movable chattels and equipment costing more than five thousand dollars.
403 Ms. Taylor stated as County Manager she had supervised the annual inventory of fixed assets
404 and presented the Certification for approval.
405

406 **Motion:** Approve the Annual Fixed Asset Inventory Certification, **Action:** Approve, **Moved by**
407 Commissioner Draper, **Seconded by** Commissioner Doth.

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

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

411

412 b. Auction County Assets on Public Surplus Website

413

414 Mickey Howard, Assets and Information provided a list of surplus items proposed for public
415 auction. Ms. Howard noted the removal of one item from the list, a 1994 Ford pickup with
416 removable snowplow. Ms. Howard stated the Ford pickup was transferred to the Planning
417 Department for maintenance of the substation driveway.
418

419 **Motion:** Approve the items listed for public auction with the removal of the 1994 Ford pickup
420 truck with plow, **Action:** Approve, **Moved by** Commissioner Stone, **Seconded by**
421 Commissioner Minter.

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

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

425

426 Commissioner Minter, Commissioner Draper and Paul Baca, Assessor volunteered to review
427 the items prior to sale.
428

429

429 **19. Consideration of Approval or Disapproval of Indigent Health Care Claims**

430

431 Scott Annala, IHC Administrator, presented the Sole Community Provider/Safety Net Care
432 Provider Pool claims for approval. Mr. Annala processed 26 claims with 26 recommended for
433 approval and none recommended for disapproval for a monthly authorization of \$22,808.30. Mr.
434 Annala stated the total approval for SCP/SNCP claims for Fiscal Year 2014-2015 to date was
435 \$124,996 with a monthly average of \$24,999. Mr. Annala noted the payments were far less
436 than prior years.
437

438 Mr. Annala presented the Indigent Health Care Payments request for the month and stated he
439 processed 15 claims with 11 claims recommended for approval and 4 for disapproval for a total
440 payment this month of \$4,735.63. Mr. Annala stated, pending approval, the total for IHC claims
441 for Fiscal Year 2014-2015 to date was \$28,759 for an average monthly indigent claims payment
442 of \$5,752.
443

444

444 **Motion:** Approval and denial of the claims as indicated for SCP/SNCP and Indigent Health Care
445 as recommended, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by**
446 Commissioner Draper.

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

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

450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499

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

20. Manager's Report

1. **Lincoln County Juvenile Justice Board.** The Manager reminded during the October Regular Commission meeting the County recognized Darrell Gasaway who retired as the Project Manager for the Lincoln County Juvenile Justice Board. Ms. Taylor stated Mr. Gasaway's replacement, Ted Allen, was currently working with Mr. Gasaway and would attend a future Commission meeting for introduction.
2. **County Request for Investigation for Actions of Cibola National.** The Manager stated Attorney Morel notified the Cibola National Forest Mountainair Ranger District, of the Commission's dissatisfaction with the lack of responsiveness to requests for information. Attorney Morel requested copies of all information the Cibola District utilized to make the decisions to ban grazing by permittees. As a response, District Ranger Elaine Kohrman provided six compact disks containing hundreds of pages of publications most of which were not current and not specific to the area. Ms. Kohrman did not provide any correspondence relaying how the various principles in the publications provided were utilized to make decisions to ban or modify grazing privileges on the Cibola National Forest in Lincoln County.

Commissioner Stone expressed disappointment with the Regional Supervisor's response to the request for documentation of scientific data related to the removal of nineteen permittees on the Cibola. Attorney Morel acknowledged the material provided was not supportive or relevant to the situation.

There was a general consensus for Chair Powell, Commissioner Stone, and Manager Taylor to schedule a meeting at the USFS Regional Supervisor's office and to request additional representation from the NM Congressional delegation.

3. Building / Project Updates:

- a) **Carrizozo Senior Center** The Manager stated a mandatory pre-bid meeting was held in Carrizozo on November 10, 2014 with a total of nine contractors attending. The Manager stated responses to the RFP were due today November 19, 2014 and anticipated an agenda item to award the contract at the December Commission meeting.
- b) **The Courthouse / Sheriff's Office Expansion is complete!** The Manager provided copy of the Certificate of Occupancy and requested direction on scheduling a Grand Opening.
- c) **The Ft. Stanton Fire Station is complete!** The Manager provided copy of the Certificate of Occupancy and anticipated receiving a recommendation for dates for a Grand Opening from Lincoln Fire Chief Bennie Long.
- d) **The moving of the Radio Antenna** on top of Sheriff's Complex to the ground location was currently in progress;
- e) **Roof Replacement and HVAC Unit Installation** on the Public Officials Building was scheduled to begin in the next week;
- f) **The Annex Building** was in the process of having specific tests scheduled to determine whether and to what extent toxicity is present. The Manager stated once

500 those determinations were concluded work could commence on necessary
501 remediation.

502
503 There was general consensus to host a Grand Opening for the Courthouse/Sheriff's Office
504 expansion on December 16, 2014.

505
506 **4. A Job Deserving Recognition:** The Manager reminded the construction of the Lincoln
507 County Medical Center's Physician's Office Building was completed in November, 2013.
508 The Manager stated Gordon Berch, Vice President of the architectural firm of
509 Dekker/Perrich/Sabatini Firm had informed the County the building won a NAIOF
510 (National Association of Industrial and Office Properties) Award.

511
512 **5. Departmental Updates:**

513
514 **a.** Punkin Schlarb, Finance Director provided an email received from DFA expressing
515 appreciation for the County's provision of information and noting the good collaborative
516 relationship between the Financial Director and the Treasurer. Ms. Schlarb stated
517 equipment and other preparations were in process for the new position of Solid Waste
518 Billing Clerk.

519 **b.** Carl Palmer, Road Superintendent discussed the potential need to delay projects due
520 to recent cold temperatures. Mr. Palmer stated the Road Department may submit a
521 request for extension of time to complete projects from the State for the utilization of
522 Cap/Coop funds. Mr. Palmer reported the County received a donation of materials from
523 the developers of Mesa Verde Subdivision for use on O Bar O Road.

524 **c.** Renee Montes, Senior Program Director informed the process to revise reporting to
525 the State for expenditures by service was nearing completion.

526 **d.** Billie Jo Guevara, Human Resources reported the County participated in a two day
527 wellness program providing an onsite wellness check up to employees and spouses on
528 October 31, 2014. Ms. Guevara informed the Solid Waste Billing and Collection position
529 was advertised and also posted to the County's website.

530 **e.** Curt Temple, Planning Director stated the transfer of the 1994 Ford truck with
531 snowplow would benefit the County's ability to maintain access to the Public Health
532 Office next door to the County substation during winter weather. Mr. Temple stated
533 Rural Addressing continued to replace damaged or stolen road signs throughout the
534 County. Mr. Temple reported a draft map book for the County was in review and would
535 go for publication in the near future. Mr. Temple stated Samantha Mendez, Ordinance
536 Administrator received certification as a Zoning Officer through the Municipal League
537 and was appointed as district representative for this area. Mr. Temple stated inquiries
538 related to development of a Well Capping Ordinance yielded the information that no
539 State Agency has developed a draft Ordinance. Mr. Temple stated there seemed to be
540 a consensus the topic was under the jurisdiction of the State Engineer and any
541 Ordinance would present enforcement problems. Ms. Taylor suggested the County
542 contact NMAC for additional guidance.

543 **d.** Joe Kenmore, OES reported on efforts for community outreach to provide correct
544 addressing and Code Red sign ups. Mr. Kenmore stated Spencer Baldwin was
545 obtaining certification as Certified Fire Instructor and Certified Fire Inspector. Mr.
546 Kenmore discussed working with Acequia groups to identify potential FEMA projects.
547 Mr. Kenmore discussed the associated costs for "pump" testing and stated Chief Carl
548 Bartley of the Bonito Fire Department wrote a grant which was awarded by the State Fire
549 Marshal for a pump test truck to facilitate completion of this requirement in the County.

550

551 Chair Powell recessed the Regular Meeting at 12:08:16 PM and reconvened at 1:00:43 PM.

552

553 **Commissioner Doth was absent from the meeting.**

554

555 Chair Powell recessed the Regular Meeting and convened the Public Hearing at 1:02:19 PM.

556

557 **22. 1:00 P.M.: Public Hearing to consider the following Ordinance:**

558

559 **Lincoln County Ordinance No. 2014-07 – An ordinance Providing for the**
560 **Efficient and Sanitary Collection of Solid Waste in Lincoln County; Providing**
561 **for Mandatory Disposal and Assessment of Fees; Providing a Penalty for**
562 **Violation of the Ordinance; and Repealing Ordinance 2008-07**

563

564 Attorney Morel stated revisions were required to the Ordinance based on the County's prior
565 decision to assume the billing of solid waste collection fees for County residents and the
566 termination of the 1992 Joint Powers Agreement with GSWA.

567

568 Attorney Morel presented various revisions to reflect a past name change from Lincoln County
569 Solid Waste to Greentree Solid Waste Authority and to define the "unincorporated areas of
570 Lincoln County".

571

572 Attorney Morel requested guidance on the determination of who to bill for services and whether
573 there should be a distinction between vacant lots, occupied or unoccupied structures, or
574 whether billing should be tied to an electric service. Ms. Taylor commented on the potential
575 use of records maintained by the Assessor for current billing practices.

576

577 Paul Baca, Assessor informed all parcels were coded according to whether the parcel was
578 vacant, residential, non-residential, commercial, or other various scenarios. Mr. Baca
579 expressed belief it was not the duty of the Assessor to determine if any particular structure was
580 considered "livable or not livable". Mr. Baca also commented on frequent complaints received
581 from the general public about being billed for annual services when services were only utilized
582 part time.

583

584 Attorney Morel stated from the viewpoint of providing access to a particular service it was
585 appropriate to bill for services annually regardless of how often the residence was occupied.

586

587 There was a general discussion about options for billing and also for setting rates and fees.

588

589 Ms. Taylor commented on the difficulty of setting rates without knowing the total cost of
590 services. Ms. Taylor stated when establishing a definition for premises to be billed the County
591 needed to consider the duty of enforcement.

592

593 Attorney Morel suggested for commercial billing purposes a base rate be set and then each
594 particular circumstance be evaluated. Attorney Morel also noted a need to define "special
595 services".

596

597 There was a general consensus to adopt a definition of "premises" for billing purposes as "every
598 dwelling, business, plant, building, or any activity which causes or creates refuse on its
599 premises outside of the unincorporated areas of the County". Attorney Morel reminded the
600 County could not clearly determine the financial impact of any such definition due to the lack of
601 information from GSWA.

602
603 There was a general consensus to follow current Assessor coding guidelines for billing
604 purposes. There was general agreement solid waste billing would reflect any changes by the
605 Assessor to property codes such as from residential to a nonresidential.
606

607 Attorney Morel suggested additional language changes to provide the County the flexibility to
608 contract for collection services in the unincorporated areas of the County but noted the only
609 intent at this time was to assume the billing responsibilities.
610

611 Commissioner Minter suggested adding language to clarify the withdrawal of any new "district"
612 from the joint agreement would obligate that "district" to assume a portion of any debt. Attorney
613 Morel stated this was the subject of current litigation and recommended no changes at this time.
614

615 Nita Taylor, County Manager discussed the lack of an adequate inventory of collection
616 containers distributed by GSWA and the need for such inventory for billing purposes. Attorney
617 Morel suggested retaining the current Ordinance language to provide both the County and
618 GSWA responsibility for inventory.
619

620 Chair Powell requested comments from the public and receiving none, adjourned the Public
621 Hearing at 1:49:45 PM.
622

623 **Motion:** Adopt Lincoln County Ordinance 2014-07 as amended and presented, **Action:**
624 Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Draper.
625

626 Commissioner Minter objected to the motion based on belief GSWA did not have an opportunity
627 to provide input.
628

629 **Vote:** Motion carried by roll call vote (**summary: Yes = 3, No = 1, Abstain = 0**).

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

631 **No:** Commissioner Minter.

632 **Absent:** Commissioner Doth.
633

634 **SEE EXHIBIT E:** Copy of Lincoln County Ordinance 2014-7 is attached hereto in reference
635 thereto made a part hereof.

636 **27. Request by Private Citizen to Lease Portion of County Owned Property (former**
637 **Lincoln County Abstract & Title Co. building) for one year period of time.**
638

639 Ms. Taylor presented a request from Ms. Cecilia Grimes to lease a portion of the County owned
640 property formerly known as the Lincoln County Abstract & Title Co. building for one year.
641

642 Commissioner Draper suggested the item be tabled pending the swearing in of the newly
643 elected Commissioners and the need to consider other issues related to requests for space for
644 relocation of the District Attorney and other County offices.
645

646 **Motion:** Table request from Ms. Grimes to lease County property, **Action:** Approve, **Moved by**
647 Commissioner Draper, **Seconded by** Commissioner Stone.

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

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

650 **Absent:** Commissioner Doth.
651

652 Commissioner Stone requested the item be placed on the January agenda for reconsideration.

653

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

656

657 **Water Rights Notices:** No new water rights notices were posted to State Engineer's website
658 for new applications for water transfers. Ms. Taylor stated two applications were filed with the
659 State Engineer's Office and published in the Lincoln County News. Ms. Taylor stated both
660 applications were for transfers from a site below Ruidoso Downs to the Village of Ruidoso and
661 both requested Emergency Authorization. Ms. Taylor reminded of a prior discussion between
662 herself, Chair Powell, and the State Engineer Scott Verhines during which the State Engineer
663 made a commitment to deny all requests for "Emergency Authorizations". Ms. Taylor provided
664 copy of correspondence from Chair Powell to the State Engineer Verhines reminding him of his
665 commitment.

666

667 **Lincoln County and Its Long Term Commitment to Forest/Watershed Restoration:** Ms.
668 Taylor reminded Dr. Brent Racher of the New Mexico Forest Industry Association made a
669 presentation during the July Regular Commission Meeting seeking a long-term commitment by
670 the County to achieve watershed restoration at an accelerated pace. Ms. Taylor informed the
671 first workshop for potential stakeholders was scheduled for November 21, 2014 at the County's
672 Emergency Operations Center.

673

674 **Hazard Mitigation Grant Program:** Ms. Taylor reported on various public activities associated
675 with the Lincoln County Education and Outreach Program funded by FEMA Grant 4079-DR-NM
676 through a sub-grant agreement with New Mexico Department of Homeland Security and
677 Emergency Management in the amount of \$157,333. Ms. Taylor noted this effort was a
678 precursor to the larger project tied to the FEMA \$3,500,000 grant for the actual thinning of trees.

679

680 Chair Powell informed the last day to protest the applications for Emergency Authorizations was
681 November 17, 2014. Chair Powell stated the State Engineer had previously publicly stated he
682 would no longer approve "Emergency Authorizations". Chair Powell stated actions taken under
683 "Emergency Authorization" discounted the constitutional rights of other water right holders.

684

685 Chair Powell commended Village Councilors John Cornelius, Joe Eby, and Lynn Crawford for
686 attending a tour of the watershed to view actual conditions. Chair Powell discussed the historic
687 sale of water rights from the Bonito Valley. Chair Powell stated as a result of the Little Bear
688 Fire surface water was available from the Bonito but due to the sale of water rights no one in
689 Lincoln County had access to the water. Chair Powell suggested the County learn from this
690 historic lesson and not let the same situation occur in the Hondo Valley.

691

692 Commissioner Stone questioned if the County had standing to protest these actions as not
693 qualifying for Emergency Authorization. Attorney Morel opined the County had the authority but
694 noted the comment period on these particular applications had already expired. Commissioner
695 Stone suggested the County seek representation for these issues during the legislative session.

696

697 **23. Job Title Change – Sheriff's Department**

698

699 Ms. Taylor stated Sheriff Robert Shepperd requested a job title change for a currently vacant
700 part time position from "Dispatcher" to "Secretary". Ms. Taylor stated funding for the position
701 was included in the budget and noted the change would carry a reduction in pay from \$15.00
702 per hour to \$12.92 per hour.

703
704 **Motion:** Approve the part time job title change from Dispatcher to Secretary for the Sheriff's
705 department, **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Minter.
706 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 4).
707 **Yes:** Chair Powell, Commissioner Draper, Commissioner Minter, Commissioner Stone.
708 **Absent:** Commissioner Doth.

709
710 **24. Job Type Change – Office of Emergency Services**

711
712 Ms. Taylor reminded the Office of Emergency Services requested approval of a new seasonal
713 firefighter position. Ms. Taylor stated the new position was approved with the stipulation to hire
714 a contract employee. Ms. Taylor's research of the County's Personnel Policy and Procedures
715 Ordinance revealed a contract employee could not utilize County vehicles or equipment. Ms.
716 Taylor stated based on these limitations OES requested the position be redefined as a seasonal
717 employee. Ms. Taylor stated the change from "contract" to "seasonal" would not alter the
718 associated budgeted expense.

719
720 Ms. Taylor stated the OES further recommended a change in the definition of "seasonal"
721 employee in the Ordinance to allow flexibility to employ an individual for "a period not to exceed
722 six months in a fiscal year" rather than a "twelve month period". Ms. Taylor stated this change
723 would require a Public Hearing to revise the Ordinance.

724
725 **Motion:** Approve the job description change from contract employee to seasonal employee,
726 **Action:** Approve, **Moved by** Commissioner Minter, **Seconded by** Chair Powell.
727 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 4).
728 **Yes:** Chair Powell, Commissioner Draper, Commissioner Minter, Commissioner Stone.
729 **Absent:** Commissioner Doth.

730
731 **25. Job Level/Grade Changes – Recommendations of the Compensation Advisory**
732 **Board for Sheriff's Dept., Treasurer's Dept., Assessor's Dept., Clerk's Dept., and**
733 **Manager's Offices**

734
735 Ms. Taylor presented recommendations from the Compensation Advisory Board pay grade
736 adjustments for eighteen different job descriptions. Ms. Taylor reminded the Board of
737 Commissioners directed the Compensation Advisory Board to review all titles after initial
738 recommendations were presented in May of 2014.

739
740 Rhonda Burrows, Clerk speaking as a member of the Compensation Advisory Board discussed
741 the Board's process and reminded this was an initial step to completely revise the Pay/Grade
742 structure for the County.

743
744 There was general discussion about the proposed pay grade changes and the recommendation
745 to change the Road Superintendent position from a Grade 30 hourly wage to an annual salary.
746 Ms. Taylor recommend the position be considered classified. Commissioner Minter questioned
747 if a salaried employee was not "unclassified" by definition. Attorney Morel suggested he review
748 the statutory definition. Ms. Taylor requested approval of the recommendation to redefine the
749 Road Superintendent position as salaried with clarification of the status of classified or
750 unclassified after Attorney Morel's research.

751
752 **Motion:** Approve the pay grade changes for 18 titles to levels recommended by the
753 Compensation Advisory Board effective December 6, 2014; the change in title from Road

754 Department Secretary to Road Department Administrative Assistant; and the change in
755 classification for Road Superintendent from hourly wage to salaried at the transition level of
756 \$55,000 with classification status pending Attorney's analysis, **Action:** Approve, **Moved by**
757 Commissioner Minter, **Seconded by** Commissioner Draper.
758 **Vote:** Motion passed (**summary:** Yes = 3, No = 1, Abstain = 0).
759 **Yes:** Chair Powell, Commissioner Draper, Commissioner Minter.
760 **No:** Commissioner Stone.
761 **Absent:** Commissioner Doth.

762
763 **Motion:** Approve a new Operator IV Grade 20 Road Department position, **Action:** Approve,
764 **Moved by** Commissioner Minter, **Seconded by** Commissioner Stone.
765 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 4).
766 **Yes:** Chair Powell, Commissioner Draper, Commissioner Minter, Commissioner Stone.
767 **Absent:** Commissioner Doth.

768
769 **26. Issuance of Quit Claim Deed to Steve Morgan for Road Vacated by the County But**
770 **Never Deeded**
771

772 Attorney Morel presented the history of the prior vacation of portion of Delana Drive in April of
773 1996. Attorney Morel stated in the past when the County vacated land it was simply vacated
774 and not transferred or deeded to an individual owner. Attorney Morel stated after adoption of an
775 Ordinance in compliance with the anti-donation clause, a process was created whereby a
776 landowner could purchase vacated land from the County for the fair market value as determined
777 by the Assessor.
778

779 Attorney Morel presented a deed for "a portion of vacated Delana Drive adjoining Lots 33, 34,
780 and 35 of Block 16 Paradise Canyon Subdivision" to transfer ownership to the original applicant
781 Clyde Steve Morgan.
782

783 **Motion:** Approve the transfer of ownership of a portion of Delana Drive to Clyde Steve Morgan
784 conditional upon payment and receipt of current assessed value to the County of Lincoln,
785 **Action:** Approve, **Moved by** Commissioner Minter, **Seconded by** Commissioner Stone.
786 **Vote:** Motion carried by unanimous vote (**summary:**
787 **Yes:** Chair Powell, Commissioner Draper, Commissioner Minter, Commissioner Stone.
788 **Absent:** Commissioner Doth.
789

790 **28. Authorization to Schedule Public Hearing to Consider Other Outdated or New**
791 **Lincoln County Ordinance**
792

793 The Manager requested a Public Hearing to consider revisions to current personnel policies and
794 procedures as defined by Ordinance 2014-01.
795

796 The Manager requested a Public Hearing to set and approve solid waste collection rates as
797 required by Resolution 2008-42.
798

799 **Motion:** Schedule Public Hearings to consider Ordinance 2014-01 and Resolution 2008-42 for
800 the December 16, 2014 Regular Commission Meeting, **Action:** Approve, **Moved by** Chair
801 Powell, **Seconded by** Commissioner Minter.
802 **Vote:** Motion carried by unanimous vote (**summary:** Yes = 4).
803 **Yes:** Chair Powell, Commissioner Draper, Commissioner Minter, Commissioner Stone.
804 **Absent:** Commissioner Doth.

805
806 **29. Consideration of Appointments and Removals from Boards /Commissioners**
807 **/Committees:**

808
809 a. **Tabled-Senior Citizens Olympic Committee**

810
811 **30. Executive Session Pursuant to the Open Meetings Act: Discussion of all**
812 **Threatened and/or Pending Litigation Section 10-15-1, Sub-Paragraph H.(7); and**
813 **Discussion of the purchase, acquisition or disposal of real property or water**
814 **rights by the public body, Section 10-15-1, Sub-Paragraph H.(8).**

815
816 **Motion:** To close the meeting for the purposes of an Executive Session to discuss Threatened
817 and/or Pending Litigation pursuant to the Open Meetings Act, Section 10-15-1, Sub Paragraph
818 H.(7) and the purchase, acquisition or disposal of real property or water rights by the public
819 body, Section 10-15-1, Sub-Paragraph H.(8) and as follows:

820 New or Updated Matters since last report *

821
822 1. *Cooper, Gale and DeBaca County News v. County of Lincoln, Sheriff of Lincoln County,*
823 *et al.* D-1329-CV-200701364. Suit filed: October 15, 2007. Verified Complaint for Declaratory
824 Judgment Ordering Production of Certain Records and Information. Hearing took place Dec. 18,
825 2013, and Conclusion of Law/Order was filed May 15, 2014 entered in favor of Ms. Cooper. Ms.
826 Cooper filed an appeal June 10, 2014.

827 2. *Michael Wheaton v Paul F. Baca, Lincoln County Assessor, et. al.* D-1226-CV-2011-
828 00341. Suit filed October 18, 2011. . Stipulated Notice of Dismissal with Prejudice was filed
829 with the court Sept. 15, 2014.

830 3. *Coble Constructors, LLC, et al v Carl Kelley Construction Ltd. Co, et al.* D-1226-CV-
831 2012-00003. Suit filed January 15, 2012. Complaint to Foreclose Mechanic s Lien. Motion for
832 Summary Judgment filed Jan. 29, 2014. Motion for Grant of Summary Judgment filed July 18,
833 2014. Hearing scheduled for Jan. 5, 2015.

834 *4. *Greentree Solid Waste Authority v. Lincoln County* D-1226-CV-2014-00095. Suit filed
835 May 1, 2014. Verified Petition for Declaratory and Supplemental Relief: Injunction, Motion to
836 Waive Time to Reassign District Judge (Judge Karen Parsons was disqualified). County was
837 served May 14, 2014. Mr. Paul Melendres has been retained by the County and filed Answer,
838 Motion to Disqualify Mr. Beauvais and Change of Venue. Motion to Join the New Mexico
839 Finance Authority as an Indispensable Party filed July 22, 2014. GSWA filed its Motion for
840 Summary Judgment on Sept. 26, 2014. County filed its Response to GSWA's Motion for
841 Summary Judgment on Oct. 13, 2014. Scheduling Conference and Hearing on All Pending
842 Motions is scheduled Nov. 20 both with Judge Ritter. Preliminary Injunction Hearing is
843 scheduled Dec. 17, 2014 with Judge Ritter.

844 *5. *Greentree Solid Waste Authority v. Lincoln County, et. al.* D-0101-CV-2013-00104. Suit
845 filed January 9, 2013. Petition for Declaratory Judgment; Preliminary and Permanent Injunction.
846 Mr. Beauvais filed an appeal Feb. 27, 2014. Ruling on Reconsidering Stay denied by Judge
847 Singleton June 11, 2014. GSWA's Brief in Chief filed Sept. 9, 2014. Record Proper was filed
848 Sept. 25, 2014. Alto Lakes Water and Sanitation District's and Lincoln County's Joint Response
849 Brief was filed with the Court of Appeals Oct. 24, 2014.

850 *6. *Rio Grande-Alameda, Ltd. v Paul Baca, Lincoln County Assessor* D-1226-CV-2013-
851 00005. Suit filed January 9, 2013. Complaint for Refund of Taxes Paid. Defendant s first motion
852 to dismiss or Summary Judgment filed August 29, 2013. Hearing was Jan. 6, 2014, and
853 produced an Order of Dismissal, with a Motion to Reconsider filed Jan. 8, 2014. Hearing on the
854 Merits occurred May 12, 2014 in Carrizozo with Judge Parsons and produced an Order

855 Granting Motion to Dismiss. Appeal was filed Aug. 4, 2014. Settlement has been negotiated.
 856 7. *Barbara Diane Latham, et al v. Neal Cox, Ben Hazen, Lincoln County Sheriff s*
 857 *Department and the County of Lincoln. D-1226-CV-2013-00191 to Federal No: 2:13-CV-00822-*
 858 *RB-SMV.* Suit filed July 19, 2013. Complaint for Violation of Civil Rights, Wrongful Death and
 859 Damages by Attorney Gary Mitchell. Tort Claim Notice was filed on October 27, 2011. LCSO
 860 and LC Manager were served on August 5, 2013. Advised NMAC assigned the case to
 861 Brennan and Sullivan Law Firm Sept. 5, 2013. Case was moved to Federal Court August 30,
 862 2013. Plaintiffs and Defendants Agreed Motion to Modify Scheduling Order filed Aug. 5, 2014.
 863 Motion for Qualified Immunity still pending as of Oct. 4, 2014. Ms. Latham filed a new action in
 864 federal court against Village of Capitan and Police Officer Kevin Kennedy filed July 25, 2014.
 865 The court Sua Sponte consolidated both cases via Order from Judge Brack filed Sept. 29, 2014.
 866 8. *State of NM/Lincoln County v. Avalon-Construction, Ruidoso, NM D-1226-CV 2014-*
 867 *00006* Filed Jan. 6, 2014 Open complaint for Refund of Taxes paid. Case assigned to Basham
 868 & Basham/Dwyer. Motion to Dismiss filed July 17, 2014. Settlement Agreement was signed by
 869 Avalon Sept. 3, 2014 and by Lincoln County Sept. 8, 2014.
 870 *9. *Bank of America, N.A. v. Howard D. Schafer, et. al. (County of Lincoln through LCSWA)*
 871 *D-1226-CV2014-00162* County was served Sept. 2, 2014. Complaint for Foreclosure filed Aug.
 872 19, 2014 Lincoln County filed an Alarm Ordinance Lien and a LCSWA Lien. Mr. Morel entered
 873 his appearance on behalf of the County Sept. 23, 2014. Disclaimer of Interest has been filed.
 874 *10. *Water Rights Protests: New Mexico State Engineer Hearing Numbers: 14-039 and 14-*
 875 *041.* Protests of Applications 01300-1, 01300-2, 01300-3, 0826-2 into 0275 *et. al.* and H-272 *et*
 876 *al (T)* and H-50-1 into H-272 *et. al. (T)* filed July 15, 2013 pertaining to movement / transfer of
 877 water rights from the Hondo Valley to the Village of Ruidoso and the City of Ruidoso Downs.
 878 Docketing Order filed Sept. 18, 2014. Kelly Cassels/Sanders, Bruin, Coll & Worley, P.A. has
 879 been retained by the County, entered his appearance Sept. 22, 2014 and has responded in
 880 behalf of the County.

881
 882 **Tort Claims Notices Received or Threatened**

883
 884 **2014**

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

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

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

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

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

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

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

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

906 **Ramos, Aaron** – Tort Claim Notice received August 7, 2014 alleging lack of Due
907 Process for inmates at LCDC.

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

912 ***Rider, Edward Allen and Moorhead, Brennon** – Tort Claim Notice received Oct. 20,
913 2014 by attorney W. Chris Nedbalek alleging Lincoln County Narcotics Enforcement Unit
914 officers destroyed items in a home.

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

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

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

922 ***McMurray, Cody** – Tort Claim Notice received Nov. 6, 2014 by attorney W. Chris
923 Nedbalek alleging lack of adequate medical care at Lincoln County Detention Center
924

925 **2013**

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

928 **Borrego, Albert** - Tort Claim Notice received from attorney Gary Mitchell on June 14,
929 2013, alleging continued harassment to Albert G. Borrego by police while responding to a noise
930 complaint at Mr. Borrego s residence on February 28, 2013, and a separate incident resulting in
931 Mr. Borrego s arrest on March 5, 2013, due to an outstanding warrant, during which Mr. Borrego
932 allegedly sustained injuries while in custody due to an existing broken back injury. Claim has
933 been denied by NMAC.

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

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

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

943 **Ramos, Aaron** - Tort Claim Notice received by attorney Robert J. Beauvais on April 18,
944 2013, (correspondence dated September 13, 2011) alleging concerns about Mr. Ramos safety
945 and welfare and violation of his U.S. Constitutional rights.

946 **Silva, Elmo** Tort Claim Notice received from attorney Richard Marquez November 6,
947 2013. Alleges false imprisonment for Mr. Silva, who was sentenced in the 12th Judicial District
948 Court to 38 years filed on July 3, 1990.
949

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

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

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

953 **Absent:** Commissioner Doth.
954

955 Chair Powell recessed the Regular Meeting and convened the Closed Session at 3:15:45 PM.
956

957 Chair Powell adjourned the Closed Session and reconvened the Regular Meeting at 5:01:25
958 PM.

959
960 Commissioner Stone attested that matters discussed in the closed meeting were limited to those
961 specified in the motion for closure or in the notice of separate closed meeting.
962

963 **21. Water Rights Notice (continued)**
964

965 **Motion:** Approve the filing of protests for water rights transfers under Emergency Authorization
966 for Applications SD-08-25-21 into SD-0275-1 and H-272 et al; and Application SD-0811-3 into
967 SD-0275-1 and H-272 et al; and the hiring of Attorney Kelly Cassels to enter legal appearance in
968 this matter, **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Stone.

969 **Vote:** Motion passed (**summary:** Yes = 2, No = 1, Abstain = 0).

970 **Yes:** Chair Powell, Commissioner Stone.

971 **No:** Commissioner Draper.

972 **Absent:** Commissioner Doth, Commissioner Minter.
973

974 **31. Signing of Official Documents**
975

976 **32. Next meetings:**
977

978 a. December 16, 2014 Regular Commission Meeting
979

980 **33. Adjourn**
981

982 There being no further business to come before the Board of County Commissioners, Chair
983 Powell adjourned the meeting at 5:03:42 PM.
984

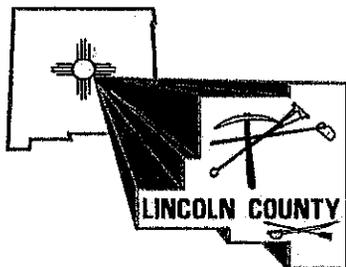
985
986 Respectfully submitted by,
987 Rhonda B. Burrows
988 Lincoln County Clerk
989

Agenda Item No. 7

SUBJECT

Approval of Consent Agenda:

- a. Payroll/Accounts Payable/Budget/Expenditures
- b. Treasurer's Financial Report for the Month ending November 30, 2014



www.lincolncountynm.net

County of Lincoln

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

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 November 1 through November 30, 2014 in the amount of \$1,201,586.14.

NOW, THEREFORE, the above bills are hereby approved.

ADOPTED, PASSED AND SIGNED the 16th day of December, 2014.

BOARD OF COMMISSIONERS LINCOLN COUNTY, NEW MEXICO

Jackie M Powell, Chairwoman

Preston Stone , Vice-Chair

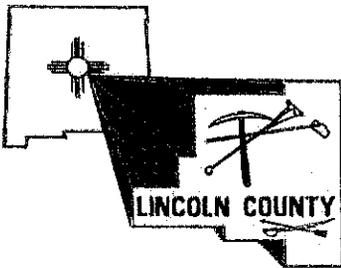
Kathryn Minter, Member

Dallas Draper, Member

Mark Doth, Member

ATTEST:

Rhonda B Burrows, County Clerk



www.lincolncountynm.net

County of Lincoln

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

AGENDA NO. 8

December 6, 2014

MEMORANDUM

TO: County Commissioners *NT*
FROM: Nita Taylor, Lincoln County Manager
SUBJECT: Board of Finance

Purpose: To recess as the Board of County Commissioners and convene as the Board of Finance to receive a final update from the County Treasurer – Glenna Robbins.

Discussion:

With regard to investment decision-making, the County Treasurer determines how to deposit and invest county funds. That decision must then be approved by the Board of County Commissioners, sitting as the County Board of Finance. The Board of Finance has no power to modify the County Treasurer's decision without the Treasurer's concurrence. On the other hand, the County Treasurer cannot impose a unilateral decision upon the Board of Finance.

State statute 6-10-8 reads as follows: "The board of county commissioners in each county in the state shall, ex officio and without additional compensation, constitute a county board of finance and as such shall, subject to the limitations of this act, have supervision over the determination of the qualifications and selection of banks, savings and loan associations and credit unions, whose deposits are insured by an agency of the United States, to receive the public money of their respective counties and of independent rural school districts, rural school districts and municipal school districts of municipalities having less than twenty-five thousand population according to the next preceding United States census and of any special or other districts in their respective counties for which the respective county treasurers of such counties act as ex-officio tax collectors. The county clerk in each county shall, ex officio and without additional compensation, act as clerk of such county board of finance. Every county board of finance shall hold meetings whenever necessary for the discharge of its duties, and the chairman shall convene such board whenever necessity therefore exists or when requested so to do by two of its members or at any time when the county treasurer shall advise the chairman that he has in his custody public money in excess of the aggregate amount which depositories qualified by law are entitled to hold. A majority of the board shall constitute a quorum for the transaction of business.

The county treasurer of each county in the state shall have supervision of the deposit and safekeeping of the public money of his county and all the money which may at any time come into or be in his possession as county treasurer and ex-officio tax collector for the use and benefit of the state or of any county, municipality or district or of any subdivision of any county or of any state or public institution and by and with the advice and consent of the respective boards of finance having jurisdiction over the respective funds shall designate banks, savings and loan associations and credit unions, whose deposits are insured by an agency of the United States, to receive on deposit all moneys entrusted in his care.”

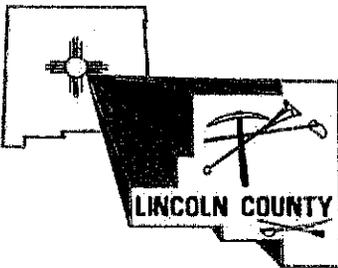
Treasurer Glenna Robbins will discuss her plan to meet the requirement under NMSA 4-34-4 which reads as follows:

4-43-4. [Settlement of accounts upon turning over office to successor; duty of county commissioners]

Statute text:

When a county collector goes out of office he shall make a full and complete settlement with the board of county commissioners, and deliver up in the presence of the county clerk all books, papers, money and all other property appertaining to the office, to his successor, taking his receipt therefor. The board of county commissioners shall make a statement, so far as state revenue is concerned, to the state auditor, showing all charges for whatsoever purposes which have been created against the collector during this term of office, and all credits that have been made, and other unfinished business charged over to his successor, and the amount of money paid to his successor, showing to what year and to what accounts the amount so paid over belongs. They shall also see that the books of the collector are correctly balanced before passing into the possession of the collector-elect.

Recommendation: Receive the outgoing treasurer’s report and discussion.



www.lincolncountynm.net

County of Lincoln

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

Agenda Item No. 9

December 5, 2014

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager

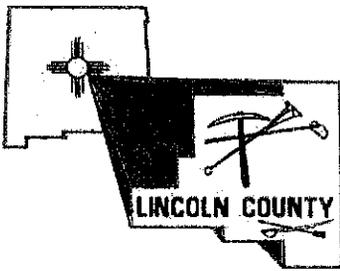
SUBJECT: Monthly Smokey Bear District Ranger Report *Nit*

Purpose: To provide an opportunity for the Smokey Bear District Ranger, David Warnack, to present a monthly report.

Discussion:

David Warnack may be present to update Commissioners and the public on activities in the District. His briefing may be at enclosure 1.

Recommendation: None – information only at this time.



www.lincolncountynm.net

County of Lincoln

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

AGENDA Item No. 10

December 6, 2014

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager *NT*

SUBJECT: GSWA

PURPOSE: GSWA Update

Discussion: GSWA held its monthly meeting on Tuesday, November 18th. At **Enclosure 1** are the Agenda and the Draft Minutes from the October 16, 2014 meeting. During the Public Comment portion of the meeting, at the direction of the Lincoln County Commission, Manager Taylor requested a “billing transition” meeting be held in the near future between representatives of GSWA and the County. This meeting would set the framework for the change in billing entity from GSWA to the County, and would result in a smooth transition among both parties and the Lincoln County citizenry. GSWA Board Chairman Ray Dean directed that the meeting request be formalized in a letter.

- **At Enclosure 2** is the notification letter sent to Greentree Solid Waste Authority on October 21st that the County was terminating the Joint Powers Agreement for Billing Solid Waste Collection Assessments, and would assume the billing responsibility for its residents effective January 1, 2015;
- **At Enclosure 3** is the public notice published in the Ruidoso News twice weekly informing the public of this billing change responsibility, the reason for the change, and the quarterly amount that would be billed, based on the current lawfully approved rate approved by the Commission pursuant to Lincoln County Resolution 2008-42;
- **At Enclosure 4** is the formal request to GSWA Chairman Ray Dean for billing transition meeting;
- **At Enclosure 5** is the follow-up formal request to GSWA Chairman Ray Dean and members of the GSWA Board for a billing transition meeting.

GSWA held a special meeting on November 25th to discuss and take possible action on hiring Legal Counsel subsequent to the Court’s disqualification of Attorney J. Robert Beauvais on November 20, 2014, in case No. D-1226-CV-2014-00095. See **Enclosure 6** for Agenda. Robert M. Doughty II, Esq. was subsequently hired to represent GSWA in this matter.

Recommendation: Information only. No formal action recommended at this time.

County Manager’s Fax
(575) 648-4182

Finance/Purchasing Fax
(575) 648-2381

Rural Addressing Fax
(575) 648-2816

Greentree Solid Waste Authority
NOTICE OF
REGULAR MEETING AGENDA

NOTICE is hereby given that the Greentree Solid Waste Authority has called the Regular Meeting of the Board for Tuesday November 18, 2014 beginning at 10:00 a.m. The meeting will be held at the Greentree Solid Waste Authority Office at 26590 US Highway 70, Ruidoso Downs, New Mexico, the purpose of the meeting is to:

1. Roll Call;
2. Approval of Agenda;
3. Approval of Minutes of Reg. Meeting Oct. 16, 2014;
4. Public Comment Agenda Items Only;
5. Approval of Financial;
 - a. Accounts Payable for Oct. 2014;
 - b. Financials Oct 2014;
6. Approval of Accounts Receivables for Oct. 2014;
7. Discussion/Approval-Resolution 2014-11-01- Public Comment times;
8. Discussion/Approval –Amending Resolution 2014-09-02- Setting a Record Policy & Fee Schedule;
9. Discussion/Approval- Destruction of Files 2013 & 2014;
10. Discussion/Approval – SOP Name Change;
11. Approval of Operational Supervisor Report;
 - a. Directives;
12. Comments from the Public;
13. Executive Session- Threatened and/or Pending Litigation D 0101-CV-2013-00104 & 0095;
14. Discussion/Possible Action Concerning Executive Session –
Threatened and/or Pending Litigation D 0101-CV-2013-00104 & 0095;
15. New/Old Business;
16. Next Regular Meeting Thursday Dec. 18, 2014 10:00 a.m.;
17. Adjourn;

The public is invited to attend the meeting. I certify that notice to the Public Meeting has been given in compliance with Section 10-15-1 through 10-15-4 1989 and Resolution 2014-04-03.

D Ingle, Operational Supervisor
Posted Nov.14, 4:37 p.m.;

ENCL 1

Greentree Solid Waste Authority
REGULAR MEETING
October 16, 2014

Chairman Dean called the Regular Meeting of the Greentree Solid Waste Authority (GSWA) to order at 10:05 a.m. at the office of Greentree Solid Waste Authority in Ruidoso Downs, NM.

ROLL CALL: Members recorded as present Ray Dean (Carrizozo), Sherrill Bradford (Corona), Gary Williams (Ruidoso Downs) by proxy Sherrill Bradford, Jean Coulton (Capitan), Jackie Powell (County of Lincoln), Rifle Salas by proxy Jeff Kaplan (Ruidoso).
Members recorded as absent: None
Staff in attendance: Debra L. Ingle, Operational Supervisor, (OS); Ginny Mansfield (AA), Zachary Cook (GSWA Attorney)
Public present: Joe Lewandowski (Operational Consultants), Nita Taylor (County Manager), Preston Stone (County Commissioner), Eric Russell (Doubletree Glass)

APPROVAL OF AGENDA: Chairman Dean requested moving Item #9 of the Agenda to be placed in as # 3 Moving all other Agenda Items down. Motion by Member Bradford to approve the agenda Moving #9 Comments from the Public to #3 before Approval of Minutes Regular Meeting September 18, 2014, seconded by Member Coulton, motion carried with all ayes.

COMMENTS FROM THE PUBLIC: Chairman Dean recognized County Manager Nita Taylor to speak. She said "that she had a couple of things she wanted to address, one was an IPRA request that was requested on September 26 that was a two piece IPRA one was to provide copies of Greentree's quarterly bills commencing on July 2014 sent to every residential account, and the second one is copies of Greentree bills sent in July 2012 to each Commercial Account for that same time frame. Her response from Mrs. Ingle was that it is overly burdensome and that she could have that information in December, she asked if she could receive the information like she did the last time as suggested by one of the Board Members where as OS Ingle makes the copies if she would then give them to her routinely, instead having to wait until December". Member Dean thanked her and she asked if he had any comments. Member Dean stated that if he had any questions about the County he would ask her, he said that if he has any questions about Greentree he would ask OS Ingle, He said that if she had asked OS Ingle and received her response and that was it. Her other question was regarding a bill that a customer sent to her for \$608.63 Balance forward and they told her that it was the first bill they had ever seen. She stated that Commissioner Draper had also told her about 2 other customers with bills ranging from over \$500-\$1,000 and they told him the same thing that they had never received a bill. She also questioned how much the bill was going to go up in January. Chairman Dean recognized Commissioner Preston Stone to speak. He stated that he would like to address a couple of things after reading through the minutes that Jackie Powell was made the Member and he was made the Alternate at the last meeting of the County Commissioners and that he understood that she was not receiving the paperwork or the Agenda for the meeting it was still being sent to Mark Doth, and so he as a commissioner of the County would appreciate it if their Member of the Board received the information in a timely fashion, he wanted to add about White Oaks and Hondo services not being used adequately and he wanted to say that he spoke to the people and that they felt they were using it adequately. He also wanted it said that it had been recorded in a court of law that the attorney has stated that the County did have the right to withdrawal, and his question to the Board is that if that is the case and the 2 entities could not come together, then why were they continuing to put finances on the table for the legal suits and attorney fees when they could be sitting down at the table and working on discussing it. Chairman Dean recognized Member Powell to speak. She stated that she was going to bring up the Refund that is owed to Lincoln County from the excess landfill revenues, records that they have requested multiple times, the double payment of Beauvais, the attorney fees and holding invoices for five to six months through into the fiscal year, and that this year the legal services are at 101% the third month into the fiscal year, and this Board has not questioned any of that, he was paid the same amount twice and double paid on one and this Board had let that go also, She stated that she agreed with Commissioner Stone that the divorce is immanent and that they needed to be spending time and effort on the divorce not hurting tax payers because of vengeance or because of old grudges held, she said that she represents the people, the services not the grudges, she thinks the service needed to be held to the people that are paying for these services. She stated that the services that had been diminished were showing up in the dirty dozen report, she stated that the \$30,000 for legal stuff could have been used for the people and for their services on the ground.

APPROVAL OF MINUTES REGULAR MEETING SEPTEMBER 18, 2014: Member Powell requested that the minutes be amended to read in comments from the public to read questioned how GSWA was able to add man power for new services for recycling for the Village of Ruidoso, while cutting services from County customers. Operational Consultant Joe Lewandowski stated that his comment from the public stating Ruidoso brought in a new revenue source from recycling was not put in the minutes and requested that it be added to the record also. Member Powell questioned if the County was not the biggest customer. Chairman Dean responded that he did not know the answer to that. Motion by Member Coulton to approve the Minutes Regular Meeting August 21, 2014, a copy of which is attached and made a part hereof, seconded by Member Bradford, motion carried with all ayes.

APPROVAL OF FINANCIALS AUGUST 2014 & SEPTEMBER 2014: Chairman Dean explained that as a new chairman he had omitted at the last months meeting to hold a roll call vote for the financials and so it had been added to this meeting to hold a roll call vote to make it official. OS Ingle presented the September 2014 Accounts Payable of \$152,095.44, copies of which are attached and made apart here of, The Month-End Financial Report for September 2014, copies of which are attached and made apart here of; reflects that the general operating bank accounts had a balance of \$15,606.56, Loan funds, EGRT, closure funds, \$415,791.19. Overall the Authority's budget shows that they should be at 25%, with actual numbers reflecting Revenues at 24%, Expenditures at 22%, Payroll should be at 27%, and the budget reflects 23% and the Transfer of funds at 0%. Current year-to-date figures reflect that Revenues exceed Expenditures by \$70.00. YTD Revenues exceeds Expenditures by \$34,735. Motion by Member Bradford to approve the Financials for August 2014 and September 2014 as presented, seconded by Member Coulton, there was discussion. Member Powell questioned \$30,000 spent on the purchase of a forklift asking why none of that cost was going to recycling. She stated that she was wondering when equipment costs do come out of recycling. She stated that she had been asking for that information since November 2012. She stated that it was very easy to make money in a department when you do not show any expenses. OS Ingle explained that the \$36,000 Member Powell was questioning for the forklift came from a Grant and so that would be shown on page 7. Member Powell stated that for the budget for equipment repairs there is basically only \$48 and only \$1,500 for the whole year, and that is not reasonable, not realistic, so she guess that is how with recycling like with Ruidoso you don't show expenses it makes it look different. She questioned a \$200.00 advance to an employee and she was wondering where the money was on advances. OS Ingle stated that it was in place before her time. OS Ingle explained that employees could receive an advance if they had accrued vacation time or had already worked the hours to cover it. OS Ingle said she would research it more and bring it before the Board if they would like her to. Chairman Dean stated that he did not have a problem with that. Member Powell then questioned if it was an accrual or cash basis financial statement, OS Ingle answered cash basis, Member Powell stated that there had never been an adjustment or a comment about \$30,000 plus member payment that is due to the County. She stated that Ruidoso got theirs and that they were supposed to get theirs, and that it does not show anywhere. OS Ingle responded that Ruidoso had not gotten theirs as it had not come back before the Board yet. Member Powell questioned why it needed to come back before the Board. Member Salas by proxy Jeff Kaplan stated that for the record Ruidoso had not received their portion, and that he was just as interested in getting it also, he believed he was told that GSWA would let them know. OS Ingle said that they were waiting on all the members to approve the JPA Amendment, Chairman Dean stated that there was one more to approve and he thought it was Ruidoso Downs, OS Ingle stated that was the County that did not approve it yet and so the money was on hold. Member Powell stated that they would not. They would be working of the regular JPA and that those payments were to be made since they were possibly going to have to provide there own services that this entity does not provide. Member Salas by proxy Jeff Kaplan wanted to clarify for the record The Village of Ruidoso will not receive any payment until the eleventh member signs which is the County. OS Ingle responded that that was her understanding. Member Salas by proxy Jeff Kaplan requested that the record reflect that Member Powell requested that the record show that the County is supposed to be receiving also, Chairman Dean stated as soon as they sign the agreement. Member Powell stated that is not what is in the agreement at this time. Member Salas by proxy Jeff Kaplan questioned for the record where that money was sitting. OS Ingle responded that it was in the bank account in the reserves account. Member Salas questioned how much was in that reserve account. OS Ingle responded 56,966.75. OC Lewandowski explained the issues surrounding the JPA and the Amendment and the hold up. Member Powell stated that for clarification that this board kept forwarding a negative budget. Chairman Dean questioned if the budget was approved by DFA. OS Ingle stated that yes it was. OS Ingle again tried to explain cash balance forwards. Chairman Dean requested the roll call vote. Motion carried with Ayes from Members Bradford, Coulton Williams by proxy Sherrill Bradford and Chairman Dean, and a nay from Member Powell.

DISCUSSION/POSSIBLE ACTION ACCOUNTS RECEIVABLE SEPTEMBER 2014: OS Ingle provided the Board Approval Determination of Accounts Receivable in the amount of \$11.59 with a paid off account of \$514.90, a copy of which is attached and made apart here of. OS Ingle stated that the Village of Capitan and GSWA is working together to get them all in order. OS Ingle also informed the Board that the City of Ruidoso Downs has approved the Rate increase at their meeting on Tuesday. Motion by Member Bradford to approve the Accounts Receivable for August 2014, seconded by Member Coulton, Member Powell stated that the \$800,000 plus Accounts receivable carried forward there is no breakdown and it was not all County, she requested since November of 2012 a breakdown from 1997 and on of the Accounts Receivables by entity, as discussed at a prior meeting, she then asked if that was clear. OS Ingle stated just to be clear that the \$800,000 was the County because the other entities bill their own. Motion carried upon a roll call vote with ayes from Members Bradford, Williams by proxy Sherrill Bradford, Coulton, and Chairman Dean, with a nay from Member Powell.

DISCUSSION/ APPROVAL -14-1650 STB -- TRUCK; OS Ingle presented the award letter for grant 14-1650STB for the purchase of a solid waste truck, she stated that this would be for the poly cart truck. Motion by Member Bradford to accept grant 14-1650STB for the purchase of Solid Waste Collection Truck, seconded by Member Coulton, motion carried upon a roll call vote with ayes from Members Bradford, Williams by proxy Sherrill Bradford, Coulton, and Chairman Dean, with a nay from Member Powell.

DISCUSSION/ APPROVAL-RESOLUTION 2014-10-02- GRANTEE REPRESENTATIVE AND SIGNATORY; OS Ingle presented a copy of resolution 2014-10-02 Grantee Representative and Signatory for the grant 14-1650 STB a copy of which is attached and made apart hereof, motion by Member Bradford to approve Resolution 2014-10-02-Grantee and Signatory, seconded by Member Coulton, motion carried with upon a roll call vote with ayes from Members Bradford, Williams by proxy Sherrill Bradford, Coulton, and Chairman Dean, with a nay from Member Powell.

APPROVAL OF OPERATIONAL SUPERVISOR REPORT; OS Ingle provided a copy of the Dirty Dozen, and Illegal Dumping Surveillance Report, OS Ingle provided to the Board the Recycling report for September 2014, a copy of which is attached and made apart hereof; 38.3 tons of Cardboard and 1.76 tons of Aluminum was paid for in September, & 18.53 tons of metal had been shipped and paid for in September. There were 963 cubic yards of Yard Waste Collected; year to date 2,738 cubic yards. OS Ingle provided a copy of the current market prices for recyclable materials, a copy of which is attached and made apart hereof. OS Ingle reported that she had been talking with Mr. Kaplan and Member Salas about the transfer of the recycling and a meeting was being set up for November 5th. OS Ingle announced that for the 3rd year Capitan Schools will be joining the Recycle Bowl competition beginning on Monday October 20th. Member Powell again mentioned services being cut. OS Ingle stated she would like to answer that the services had not been cut. Member Powell stated that yes they had. OS Ingle said that they had not and then stated she had been working with the different communities, Rancho Ruidoso Valley Estates, White Oaks and Hondo until June when no one showed up, she explained that Those communities could come to GSWA on the second Saturday from July through September. OS Ingle presented the Surveillance Report for August and September stating that she had not received August in time for last months meeting. Member Powell stated that it pays for services. OS Ingle continued the report. OS Ingle presented the Otero/ Greentree Landfill Quarterly Financials, a copy of which is attached and made apart here of, stating that she found that it was in order with the approved budget. OS Ingle informed the Board under directives about Doubletree Glass, she said that due to the replacement of the arms on the dumpster truck and the fact that the dumpsters are extremely heavy, she recommends that the Board give an exemption to Doubletree Glass from Greentree Solid Waste under the condition that he understands that glass is not C&D waste but is MSW and he would need to ensure that it is disposed of properly in a lined landfill. Member Salas by proxy Jeff Kaplan wanted to clarify on the Recycling with Ruidoso that the public needed to be promoted by radio utility billing and flyers so the public is well informed on the locations. Motion by Member Coulton to approve the Operational Supervisor Report as presented allowing an exception with the condition it is properly disposed of, seconded by Member Bradford, motion carried with all ayes upon a roll call vote. with ayes from Members Coulton, Bradford, Williams by proxy Sherrill Bradford, Salas by proxy Jeff Kaplan and Dean, and a nay from Member Powell.

EXECUTIVE SESSION- THREATENED AND/OR PENDING LITIGATION D-0101-CV-2013-00104 & 0095; Motion by Member Bradford at 11:02 am to go to Executive Session Limited Personnel Matters, Contractual Negotiations, Threatened and/or Pending Litigation D-0101-CV-2013-00104 & 0095 involving OC Lewandowski Excluding the County Member and the Village of Ruidoso Member, seconded by Member Coulton. Member Salas by proxy Jeff Kaplan left the meeting. Member Powell stated that she thought that the County had a right to be in executive session but she did not want to be arrested or detained and that she wanted the Board to read the response from the County. Motion carried upon a roll call vote with ayes from Members Bradford, Coulton, and Dean, a nay from Member Powell and Members Williams by proxy Sherrill Bradford and Salas by proxy Jeff Kaplan abstaining.. Motion by Member Bradford to return from Executive Session at 11:38am, seconded by Member Coulton, motion carried upon roll call vote with ayes from Members Bradford, Coulton, Dean and Member Williams by proxy Sherrill Bradford abstaining. Member Bradford attested the only discussion was on threatened and/or pending litigation D-0101-CV-2013-00104 & 0095.

DISCUSSION/POSSIBLE ACTION - EXECUTIVE SESSION- THREATENED AND/ OR PENDING LITIGATION D-0101-CV-2013-00104 & 0095; No action taken.

NEW/OLD BUSINESS; OS Ingle informed the Board about the E-waste event will be November 1, 2014 at the All American Park from 9:00am until 1:00pm Ruidoso Downs. OS Ingle stated that volunteers would be needed. Member Coulton questioned the status of the Public Comment Resolution. OS Ingle reported that the Tire event went well.

NEXT MEETING; next regular meeting is scheduled for Tuesday, November 18, 2014 at 10:00am.

ADJOURN; Motion by Member Coulton to adjourn the meeting at 11:46am seconded by Member Bradford, motion carried with all ayes.

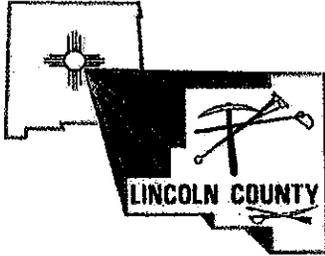
Passed and approved this 18th day of November 2014.

Ray Dean
Chairman, GSWA

Gary L. Williams
Secretary/Treasurer, GSWA

Transcribed by:

M.Ginny Mansfield
GSWA Administrative Assistant



www.lincolncountynm.net

County of Lincoln

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

October 21, 2014

Ray Dean
Chairman, Greentree Solid Waste Authority
P. O. Box 2405
Ruidoso Downs, NM 88346

Re: Notice of Termination of Joint Powers Agreement for billing Solid Waste Collection assessments dated November 16, 1992

Dear Chairman Dean:

I have attached to this correspondence a copy of Lincoln County/Lincoln County Solid Waste Authority Joint Powers Agreement for billing Solid Waste Collection Assessments dated November 16, 1992. Pursuant to Section 7 titled Term of Agreement, Termination and Withdrawal, please accept this correspondence as the County of Lincoln's Notice of Intent to terminate this agreement effective December 31, 2014. Section 7 of this Joint Powers Agreement, Section B states as follows:

"This Agreement may be terminated by either party upon at least thirty (30) days prior written notice, except that such termination shall, in no way, affect or change any obligations incurred under the Agreement until a full settlement has been made."

The County of Lincoln will assume billing responsibility for Lincoln County residents located outside all municipal boundaries effective January 1, 2015.

Sincerely,

NITA TAYLOR
Lincoln County Manager

County Manager's Fax
(575) 648-4182

Finance/Purchasing Fax
(575) 648-2381

Rural Addressing Fax
(575) 648-2816

ENCL 2

RUIDOSO NEWS

Friday, December 5, 2014 75CENTS FACEBOOK.COM/RUIDOSONEWS TWITTER.COM/RUIDOSONEWS

Mostly Sunday
11:57 AM '14
PAGE 2

ruidosonews.com

PUBLIC NOTICE

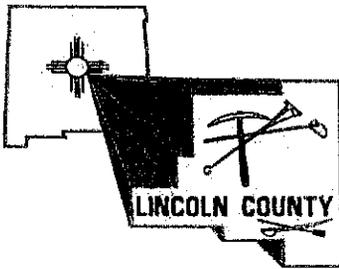
Please be advised that the County of Lincoln will take charge of billing for solid waste services provided to Lincoln County residents located outside of all municipalities effective January 1, 2015.

The County of Lincoln has determined that it has become necessary to terminate billing services provided by Greentree Solid Waste Authority (GSWA) due to the fact that GSW A has implemented two (2) unlawful fee increases and was planning a third increase to County residents without Lincoln County Commission approval and in violation of the New Mexico Open Meetings Act.

The County of Lincoln has the right to assume billing responsibilities for County residents, outside of all municipalities, having provided thirty (30) days' Notice of Termination of the November 16, 1992 Joint Powers Agreement for Billing Solid Waste Collection Assessments entered into between GSWA and the County of Lincoln.

All other members of GSWA (City of Ruidoso Downs, Village of Capitan, Town of Carrizozo and Village of Corona) bill and collect for solid waste services provided to their citizens. The County of Lincoln has found it necessary to assume billing services to ensure that County residents are charged rates that have been lawfully authorized by the Lincoln County Commission.

The current lawfully approved rate for residential solid waste services outside of the municipalities is \$53.85 per quarter, plus Gross Receipts Tax of \$3.06 for a total of \$56.91 pursuant to Lincoln County Resolution 2008-42.



www.lincolncountynm.net

County of Lincoln

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

November 24, 2014

Ray Dean
Chairman, Greentree Solid Waste Authority
P. O. Box 2405
Ruidoso Downs, NM 88346

Re: Formal County Request to Greentree Solid Waste Authority for Meeting to Discuss Billing Transition from GSWA to Lincoln County

Dear Chairman Dean:

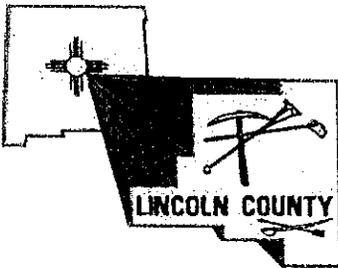
On October 21, 2014, I notified GSWA of the County's intent to terminate the 1992 JPA between the County and GSWA for the Billing of Solid Waste Collection Assessments; the County of Lincoln would assume billing responsibility for Lincoln County citizenry, both residential and commercial, located outside all municipal boundaries, on January 1, 2015.

During GSWA's November 18th meeting, during public comment, I relayed to the GSWA Board the County Commission request for a meeting with GSWA to ensure a smooth transition in this billing change. Per your direction, I am formalizing that request with this letter. It is important to the County that this change in billing entity is made clear to avoid confusion to the citizenry, leaving no question as to where to send payment for which services.

Please let me know at your earliest convenience a date in the near future that we can discuss billing transition.

Sincerely,

Nita Taylor, Manager
County of Lincoln



www.lincolncountynm.net

County of Lincoln

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

December 6, 2014

Ray Dean
Chairman, Greentree Solid Waste Authority
P. O. Box 2405
Ruidoso Downs, NM 88346

Re: Formal County Follow-up Request to Greentree Solid Waste Authority for Meeting to Discuss Billing Transition from GSWA to Lincoln County

Dear Chairman Dean:

Please consider this correspondence as a follow-up request to you and the GSWA Board for a meeting between representatives of GSWA and the County to determine the transition process of the billing of county residents (residential and commercial) from GSWA to the County. As you know, the County has formally notified GSWA of its termination of the 1992 Joint Powers Agreement for Billing Solid Waste Collection Assessments and its assumption of the billing of County residents effective January 15, 2015.

As GSWA already has processes in place for its other member entities to bill their own residents for solid waste collection services, and for those entities to subsequently pay appropriate fees back to GSWA for services provided, it seems beneficial to both the Authority and the County to consider and adopt similar processes for County billing purposes. As you are aware, *all* entities other than the County bill their own residents: Village of Capitan, Town of Carrizozo, Village of Corona and City of Ruidoso Downs.

Please let me know at your earliest convenience a date in the near future that we can discuss billing transition.

Sincerely,

Nita Taylor, Manager
County of Lincoln

cc: GSWA Board Members: Sherrill Bradford (Corona), Jean Coulton (Capitan), Jackie Powell (Lincoln County), Gary Williams (Ruidoso Downs)

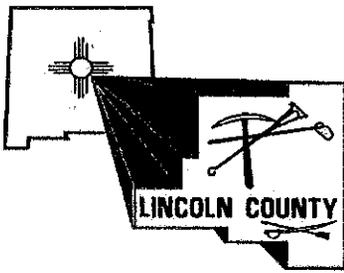
Greentree Solid Waste Authority
NOTICE OF
SPECIAL MEETING AGENDA

NOTICE is hereby given that the Greentree Solid Waste Authority has called the Special Meeting of the Board for Tuesday November 25, 2014 beginning at 10:00 a.m. The meeting will be held at the Greentree Solid Waste Authority Office at 26590 US Highway 70, Ruidoso Downs, New Mexico, the purpose of the meeting is to:

1. Roll Call;
2. Approval of the Agenda;
3. Discussion/Possible Action – Legal Counsel;
4. Next Regular Meeting Thursday December 18, 2015 10:00 a.m.;
5. Adjourn;

The public is invited to attend the meeting. I certify that notice to the Public Meeting has been given in compliance with Section 10-15-1 through 10-15-4 1989 and Resolution 2014-04-03.

D Ingle, Operational Supervisor
Posted Nov. 21, 2014, 9:40 a.m.



www.lincolncountynm.net

County of Lincoln

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

AGENDA Item No. 10a

December 6, 2014

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager

SUBJECT: GSWA

PURPOSE: Consideration / Potential Action on Conducting an AUP (Agreed Upon Procedures) on GSWA Operations

Discussion:

The County has attempted to obtain information from GSWA regarding its operating procedures and practices for months, with limited success. County has been in contact with Accounting & Consulting Group, LLC to conduct an AUP to gain information required by the County. Specific information to include, but not limited to:

- Review of actual costs incurred by entity and rates charged to each entity to support level of rates;
- Propriety of issuing advances to employees;
- Propriety of hiring relatives in key positions;
- Review of billing treatment of solid waste customers to determine uniformity, including assessment of late fees;
- Propriety of retaining all excess profits refunded by GSWA/Otero County Landfill, rather than splitting among entities, as required by 1998 JPA.

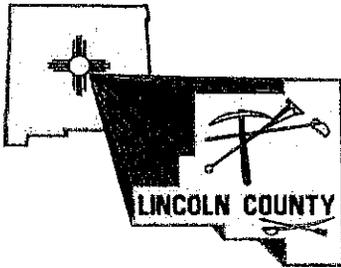
The cost of having Accounting & Consulting Group LLP conduct this AUP is \$19,750, plus out of pocket costs such as report reproduction, travel, postage, etc.

Recommendation: Approve \$19,750 for Manager to enter into Agreement with Accounting & Consulting Group, LLC to conduct AUP on GSWA.

Agenda Item No. 11

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. 12

December 7, 2014

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager 

SUBJECT: Water Issues/Forest Health/Wildlife Programs

Water Rights Notices. Posted on the State Engineer's web site this month are the two Applications filed with the Office of the State Engineer on April 21, 2014, and noticed in the Lincoln County News on October 23, October 30 and November 6. See **Enclosure 1**. As we discussed at the Commission's November 19th meeting, both Applications requested transfers from George and Margaret Tune, located below Ruidoso Downs, to the Village of Ruidoso, and both carried a request for Emergency Authorization under NMSA 72.5.25. Commissioner Powell filed a Protest on behalf of the County. See **Enclosure 2**. Although a number of letters of concern have been sent, and meetings have been attended, State Engineer Verhines has not taken action to support the County.

Gov. Susana Martinez announced that State Engineer Scott Verhines, appointed to the position in 2011, is being replaced effective December 1st by Tom Blaine, former Director of the New Mexico Environment Department's Environmental Health Division. He brings to the position more than 28 years of engineering experience.

Commissioner Powell and Manager Taylor met with a member of the Governor's Staff, James Ross, on Thursday, December 4th, to relay the County's concerns about water rights transfers being granted without following what the County considers to be due process; such as records not being made available to protestants. Mr. Ross recommended the County formulate its concerns in a written correspondence, and committed to deliver it personally to the new State Engineer.

Update on Water Transfer Litigation. By way of review, in its July, 2014 meeting, the Commission authorized Manager and Attorney to enter into Agreement with Kelly Mack Cassels, Roswell Law Firm of Sanders, Bruin, Coll & Worley, P.A., to represent the County in its formal protests of the Village of Ruidoso's Applications for temporary transfers (SD-1300-1 and H-50-1). Mr. Cassels is also representing 1) the Rio Hondo Land & Cattle Company, 2) Darle Vuelta Cattle Co., and 3) Alto Lakes Water & Sanitation District. In addition, separate Counsel has been hired by a group of other Hondo Valley Protestants (38 in number). Key actions to date include:

1. Transfer Application made by Village of Ruidoso and Sea Gem July 15, 2013
2. County formal protest to State Engineer June 2014
3. Docketing Order issued by OSE hearing Examiner Sept. 18, 2014
4. Entry of Appearance of Kelly Mack Cassels Sept. 22, 2014

- | | | |
|----|--|---------------|
| 5. | VOR Motion to Dismiss; Applicant did not Comply w/Requirements | Oct. 3, 2014 |
| 6. | County, et al., Responded to Motion; VOR published notice omitted
Any reference to requirement that copy of protest had to be sent to Applicant
By certified mail; | Oct. 20, 2014 |
| 7. | Hondo Valley interveners filed motion to Cancel and Deny Application
And To Cease Diversion of Water under VOR Application | Oct. 22, 2014 |
| 8. | Water Rights Division of OSE Response To VOR Motion To Dismiss | Oct. 27, 2014 |
| 9. | VOR Reply to Water Rights Division and Hondo Valley interveners | Oct. 31, 2014 |

All the above pleadings addressed whether the **process used to file protests** was properly followed, and as a result whether the protests should be disallowed; NO substantive pleading on whether the Transfer Applications themselves are to be granted. There have been no hearing dates set to date.

Hazard Mitigation Grant Program. The County continues to work on the Lincoln County Education and Outreach Program that was funded by FEMA Grant-4079-DR-NM, through a Sub-grant Agreement with NMDHSEM (\$157,333). The first educational meeting was held on September 23rd, and the calendar is in place for subsequent meetings to be held at the Ruidoso Convention Center:

- | | | |
|-----------------------------|----------------------------|-----------------------------|
| • December 19 th | • January 12 th | • February 13 th |
| • March 13 th | • April 14 th | |

As a result of a team review following the first presentation, the format of the presentation has been modified to include participation from our partners, such as USFS, State Forestry, SCM-RC&D and others. Additionally, at the suggestion of Commissioner Draper, we have requested FEMA / NMDHSEM to authorize the expense to utilize electronic signage to advertise these meetings at a location visible to traffic entering Ruidoso Downs from Hwy 70 East. All critics agree that the SimTable portion of the presentation is key to the success of having land owners understand the importance of thinning projects as they relate to personal protection from wildfires.

South Central Mountain – RCD’s Rural Forester may be available to brief the Commission on other Forest Health initiatives in the County.

County: Lincoln

Name: Village of Ruidoso & George Tune

File No.: SD-0825-1 into SD-0275-1 and H-272

NOTICE is hereby given that on April 21, 2014, Village of Ruidoso, 313 Cree Meadows Drive, Ruidoso, New Mexico 88345 and George P. Tune and Margaret M. Tune, P.O. Box 937, Las Cruces, New Mexico 88004; filed Application No. SD-0825-1 into SD-0275-1 and H-272 et al with the STATE ENGINEER for permit to change point of diversion, place and purpose of use 10.88 acre-feet per annum of surface waters, and change point of diversion from surface to surface water and groundwater, by ceasing the diversion of said surface waters from the Hewett Ditch, which diverts on the north bank of the Rio Ruidoso in the NE1/4NE1/4SE1/4, Section 15, Township 11 South, Range 14 East. and severing said waters from the irrigation of 3.40 acres of land, described as being part of the E1/2SW1/4NW1/4 of Section 12, Township 11 South, Range 14 East, N.M.P.M.

The applicant proposes to commence the diversion of 4.896 acre feet per annum consumptive use of the surface waters of the Rio Ruidoso, and supplemental shallow groundwater from the following described points of diversion:

RIO RUIDOSO

SURFACE WATER	SUBDIVISION	SECTION	TOWNSHIP	RANGE
0275-A POD1	NW1/4SW1/4SW1/4	19	11 S.	13 E.
0275-A POD2	SW1/4NE1/4SW1/4	19	11 S.	13 E.
0275-A POD3	SE1/4NW1/4SW1/4	26	11 S.	13 E.

WELL NO.	SUBDIVISION	SECTION	TOWNSHIP	RANGE
H-272	NW1/4NE1/4SW1/4	36	11 S.	13 E.
H-272-S	SE1/4SW1/4NE1/4	25	11 S.	13 E.
H-272-S-2	SW1/4SW1/4NE1/4	02	11 S.	13 E.
H-272-S-3	NE1/4SW1/4SE1/4	02	11 S.	13 E.
H-272-S-4	SE1/4NW1/4NE1/4	11	11 S.	13 E.
H-272-S-5	NE1/4NW1/4SW1/4	14	11 S.	13 E.
H-272-S-6	SW1/4NE1/4NE1/4	15	11 S.	13 E.
H-272-S-7	SW1/4NE1/4SE1/4	10	11 S.	13 E.
H-272-S-8	SE1/4NW1/4SW1/4	14	11 S.	13 E.
H-272-S-9	NW1/4NE1/4NE1/4	23	11 S.	13 E.
H-272-S-11	NW1/4NE1/4SE1/4	25	11 S.	13 E.

for municipal purposes located within the Village of Ruidoso.

Request is made for 50% return flow credit to allow a diversion of 9.792 acre feet per annum with a return flow of 4.896 of acre feet per annum.

Emergency Authorization is requested under NMSA 72-5-25.

The move-from points of diversion and places of use are located slightly downstream on the Rio Ruidoso below Ruidoso Downs, Lincoln County, New Mexico. The proposed move-to points of diversion and place of use are located within the Village of Ruidoso, Lincoln County, New Mexico.

ENCL 1

County: Lincoln

Name: Village of Ruidoso & George Tune

File No.: SD-0811-3 into SD-0275-1 and H-272

NOTICE is hereby given that on April 21, 2014, Village of Ruidoso, 313 Cree Meadows Drive, Ruidoso, New Mexico 88345 and George P. Tune and Margaret M. Tune, P.O. Box 937, Las Cruces, New Mexico 88004; filed Application No. SD-0811-3 into SD-0275-1 and H-272 et al with the STATE ENGINEER for permit to change point of diversion, place and purpose of use 38.08 acre-feet per annum of surface, and change point of diversion from surface to surface water and groundwater, by ceasing the diversion of said surface waters from the Maxwell Ditch, which diverts on the north bank of the Rio Ruidoso in the NW1/4NE1/4SE1/4, Section 15, Township 11 South, Range 14 East. and severing said waters from the irrigation of 11.9 acres of land, described as being part of the W1/2SW1/4 of Section 12, Township 11 South, Range 14 East, N.M.P.M.

The applicant proposes to commence the diversion of 17.136 acre feet per annum consumptive use of the surface waters of the Rio Ruidoso, and supplemental shallow groundwater from the following described points of diversion:

RIO RUIDOSO				
SURFACE WATER	SUBDIVISION	SECTION	TOWNSHIP	RANGE
0275-A POD1	NW1/4SW1/4SW1/4	19	11 S.	13 E.
0275-A POD2	SW1/4NE1/4SW1/4	19	11 S.	13 E.
0275-A POD3	SE1/4NW1/4SW1/4	26	11 S.	13 E.

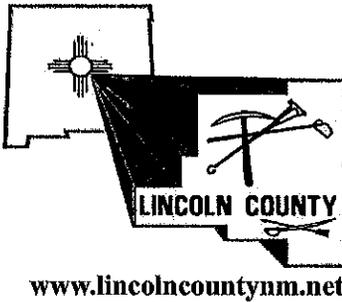
WELL NO.	SUBDIVISION	SECTION	TOWNSHIP	RANGE
H-272	NW1/4NE1/4SW1/4	36	11 S.	13 E.
H-272-S	SE1/4SW1/4NE1/4	25	11 S.	13 E.
H-272-S-2	SW1/4SW1/4NE1/4	02	11 S.	13 E.
H-272-S-3	NE1/4SW1/4SE1/4	02	11 S.	13 E.
H-272-S-4	SE1/4NW1/4NE1/4	11	11 S.	13 E.
H-272-S-5	NE1/4NW1/4SW1/4	14	11 S.	13 E.
H-272-S-6	SW1/4NE1/4NE1/4	15	11 S.	13 E.
H-272-S-7	SW1/4NE1/4SE1/4	10	11 S.	13 E.
H-272-S-8	SE1/4NW1/4SW1/4	14	11 S.	13 E.
H-272-S-9	NW1/4NE1/4NE1/4	23	11 S.	13 E.

for municipal purposes located within the Village of Ruidoso.

Request is made for 50% return flow credit to allow a diversion of 34.272 acre feet per annum with a return flow of 17.136 acre feet per annum.

Emergency Authorization is requested under NMSA 72-5-25.

The move-from points of diversion and places of use are located slightly downstream on the Rio Ruidoso below Ruidoso Downs, NM, Lincoln County, New Mexico. The proposed move-to points of diversion and place of use are located within the Village of Ruidoso, Lincoln County, New Mexico.



County of Lincoln

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

Agenda Item No. 13

December 7, 2014

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager

SUBJECT: Space Allocation for 12th Judicial District Attorney

Purpose: To consider Requests from the Office of the District Attorney for Office Space

Discussion: During its October meeting, the Commission was presented with information regarding space requirements requested by several entities, specifically by the 12th Judicial District Attorney Diana Martwick. County Manager has been in subsequent contact with Ms. Martwick.

On November 25, District Attorney Martwick provided notice to County Manager and Attorney Morel of her intent to sue the County for adequate office space as provided under NMSA §36-1-8.1. She pointed out that the Annex has had leakage problems in the past, resulting in various levels of mold in different parts of the building.¹ She anticipated moving her staff out of the Annex Building as soon as December 1st and temporarily moving the office to Alamogordo. Ms. Martwick requested that the County relocate her office immediately to Ruidoso, where the other agencies they deal with regularly are located and because most of the population resides in Ruidoso. They require a space of approximately 2,700 to 3,000 square feet.

On December 3rd, District Attorney Martwick, along with members of her Staff met with Manager in Carrizozo. Their main points were:

¹ Per District Attorney Martwick, she had a mold test conducted in August and found the toxicity levels were not dangerous.

1. The Annex building does not meet their needs. Even if remediated, they must access their space on the 2nd floor via a staircase; there is not sufficient airflow to lock the office during working hours for the safety of their employees; security is a major component.
2. Purely from a size perspective, the building at 409 Central would be adequate to meet their needs when renovated, but they would need temporary space in the interim.
3. The District Attorney does not see any building renovation in Carrizozo as a solution to the real problem; which is their inability to attract lawyers to live and work in Carrizozo.
4. In order to have a chance for a fully functional staff in Lincoln County, the office must be relocated to Ruidoso, where the DA will be able to recruit attorneys.
5. Whether or not a fully functional District Attorney Staff can exist in Lincoln County is ultimately in the hands of the Commission:
 - a. If the Commission approves space in Ruidoso, the DA can possibly recruit quality attorneys and staff, resulting in a fully functional District Attorney presence in the County;
 - b. If the Commission does not approve space in Ruidoso, the District Attorney will likely leave a smaller staff in Carrizozo, and will conduct the remainder of Lincoln County work out of Alamogordo.
 - c. Per Ms. Martwick's follow-up letter on December 3rd:

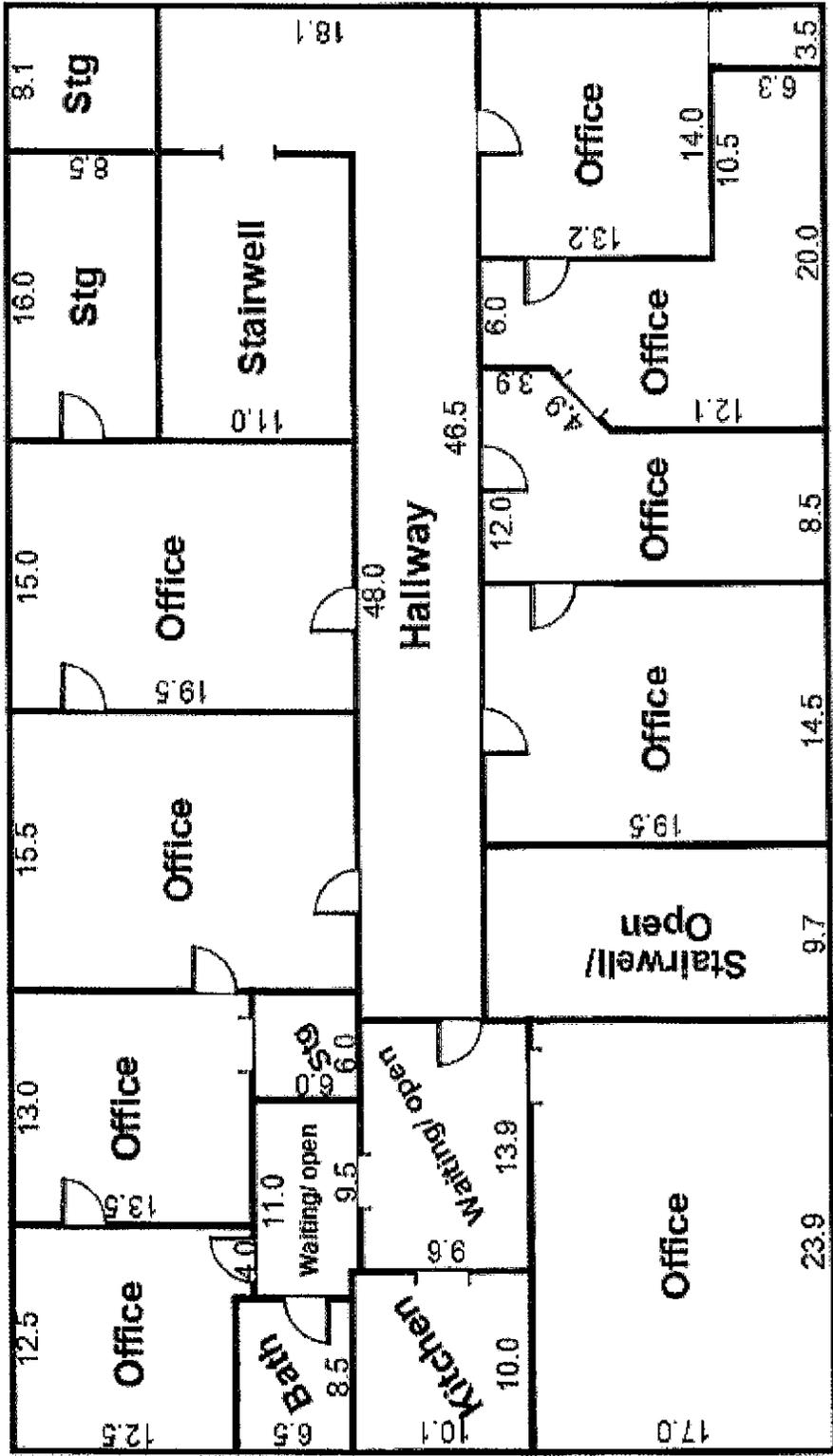
As a practical matter, if the principal office is in Carrizozo, we will likely continue with difficulties finding Assistant District Attorneys as the past is usually the best predictor of the future. If that is the case, we will at least keep an office open up there, but if we have the same difficulties as we have had with keeping attorneys, some of the operations will probably need to be run out of Otero County. If that occurs since we will have more time on the road back and forth, we will probably have to curtail our operations. We are one of only two District Attorneys' offices that prosecute all misdemeanors in the State. We do this because we believe that in our rural community that officers should spend as much time protecting the public as possible. We will probably have to focus on only felonies, misdemeanors DWIs and Domestic Violence to cut down on our case load as every other DA's office, with the exception of one has done in recent years.... We would ask that you hire a County Attorney to assist the other miscellaneous misdemeanors that we couldn't prosecute due to the additional time that our lawyers would spend commuting as we believe that officers need to be out on the street protecting our community, and not in Court prosecuting their own cases.

On December 3rd, following the Manager's meeting with District Attorney Martwick, she and her staff determined the Annex building was too dangerous for her employees to continue to work in, and she notified Manager that they would be relocating to Alamogordo immediately.

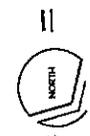
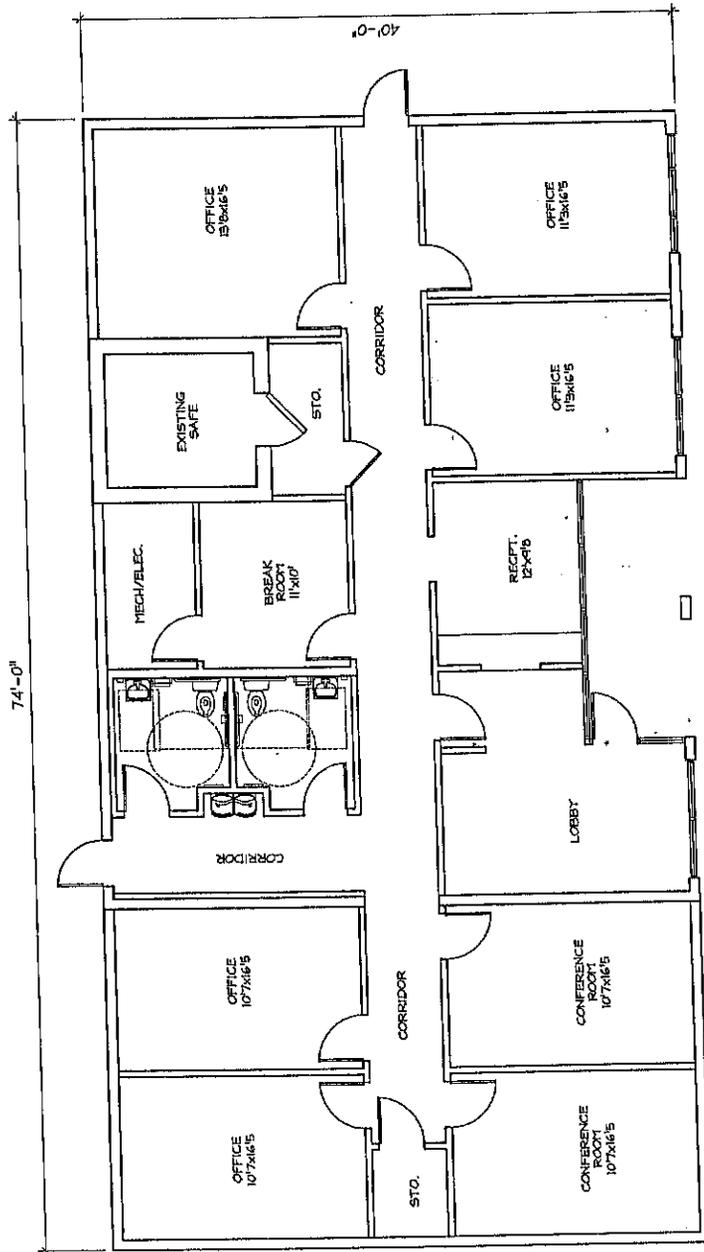
Options: The space options for Commission consideration include:

1. **Lease** approximately 2,700 to 3,000 square feet of space in Ruidoso for an estimated rental cost of \$36,000 to \$54,000 per year; additional space would likely have to be provided in Carrizozo, as well, since the County Courthouse is located in the County Seat of Carrizozo.
2. **Remediate and renovate** the Annex to meet the needs of the District Attorney. The space currently used totals 3,700 square feet, and we've discussed allocating approximately 475 square feet additional space on the first floor to meet their need for an office to meet with the public, etc. See **Enclosure 1**. The estimated cost to the County for this remediation totals is being determined, and will be provided to the Commission at next week's meeting; as well as the estimated timeline for completion.
3. **Renovate** the County property located at 409 Central (formerly the Lincoln County Abstract & Title Co). This 2,960 square foot building meets the stated size requirements of the District Attorney. The estimated cost equals approximately \$237,000 and the estimated timeline is approximately six months. See **Enclosure 2**.
4. **Obtain temporary space** while renovation is taking place. Manager has been in contact with owner of NRCS building in Carrizozo; owner is willing to lease space on a short term basis for approximately \$1,800 monthly.
5. **Locate** space to house a smaller District Attorney Staff in Carrizozo, sized at one to four members. Consider the offsetting consequences predicted by District Attorney Martwick of: 1) having Sheriff's Deputies handle their own misdemeanor cases, or 2) hiring an additional County Attorney to handle those cases.

Recommendation: Consider the pros and cons of each of the alternatives and determine the impact of each on the citizens of Lincoln County.



2nd Floor
Annex Bldg
 3692.61



FLOOR PLAN

SCALE - 1/8" = 1'-0"

Agenda Item No. 14

SUBJECT

Proclamation - Volunteers Fire Fighters of Lincoln County

LINCOLN COUNTY COMMISSION

A PROCLAMATION FOR VOLUNTEER FIREFIGHTERS OF LINCOLN COUNTY

WHEREAS, civic volunteerism has been a tenant of federal, state and local efforts for many years, and

WHEREAS, Lincoln County has 10 formally established Volunteer Fire Departments, consisting of nearly 200 volunteers, to provide fire and emergency services protection services across the County: Arabela, Bonito, Capitan, Carrizozo, Corona, Glencoe, Hondo, Lincoln, Nogal and White Oaks, and

WHEREAS, these volunteers, under the solid leadership and guidance of their Chiefs and the Lincoln County Office of Emergency Services, responded to 120 calls for service last year, taking over 800 hours to resolve, and additionally participated in hundreds of required man-hours of training, and

WHEREAS, these generous men and women of our County tirelessly contribute to the safety and well-being of our residents and visitors through their gifts of time, energy and expertise, and

WHEREAS, volunteer firefighters embody the spirit of the community as they dedicate themselves to saving the lives and property of Lincoln County citizens.

NOW, THEREFORE, THE LINCOLN COUNTY COMMISSION HEREBY PROCLAIMS recognition, appreciation and gratitude to the Volunteers Firefighters of Lincoln County for their outstanding contributions to the health, safety and welfare of our citizens and visitors.

GIVEN UNDER OUR HAND, THIS DECEMBER 16th, 2014, AT THE LINCOLN COUNTY COURTHOUSE, CARRIZOZO, NEW MEXICO.

Jackie Powell, Chairman

Preston Stone, Vice Chairman

Mark Doth, Member

Dallas Draper, Member

Kathryn Minter, Member

ATTEST:

Rhonda Burrows, County Clerk

Agenda Item No. 15

SUBJECT

Taos Muncy-Two-time World Saddle Bronc Rider Proclamation

LINCOLN COUNTY COMMISSION

A PROCLAMATION FOR TAOS MUNCY: TWO-TIME SADDLE BRONC WORLD CHAMPION

WHEREAS, on December 4, 2014 Taos Muncy, a 2005 Corona High graduate, commenced his quest to earn the title of Three-Time World Champion Saddle Bronc Rider; and

WHEREAS, Taos Muncy, 27 years old with 9 years in Professional Rodeo Cowboys Association and two World Championship titles, entered the Wrangler National Finals Rodeo competition in Number 1 position; and

WHEREAS, Taos Muncy first claimed the title of World Champion Saddle Bronc Rider in 2007, after winning the College National Finals in the same year: the third person ever to hold both titles in a single year; and his second title of World Champion Saddle Bronc Rider in 2011, and

WHEREAS, Taos Muncy continues to live, raise his family and conduct his business locally, calling Corona, Lincoln County, New Mexico his home.

NOW, THEREFORE, we do hereby proclaim that we recognize and honor Taos Muncy for his outstanding professional accomplishments as a Saddle Bronc Rider and lend support for his continued efforts.

PROCLAIMED this 16th Day of December 2014 in Lincoln County, New Mexico.

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

Jackie Powell, Chair

Preston Stone, Vice Chair

Mark Doth, Member

Dallas Draper, Member

Kathryn Minter, Member

ATTEST:

Rhonda Burrows, County Clerk

Agenda Item No. 16

SUBJECT

Proclamation - Hondo High School - Six-man Football State Champions

LINCOLN COUNTY COMMISSION
A PROCLAMATION FOR HONDO VALLEY HIGH SCHOOL EAGLES
2014 NEW MEXICO SIX-MAN FOOTBALL CHAMPION

WHEREAS, on Saturday, November 15, 2014, the Hondo Valley High School Eagles' six man football team defeated the Lake Arthur Panthers 72 – 33 to earn the State Championship Title for New Mexico Six-man Football; and

WHEREAS, under the leadership of Head Coach Brandon Devine and Assistant Coach Issac Polaco, this championship team consisting 14 players, ranging from eighth graders to seniors, realized a perfect 10-0 season and defeated every pre-championship game opponent by the 50-point mercy rule, and;

WHEREAS, the Hondo Valley Eagles are ranked 50th in the nation in the six, eight and nine man football classification; and

WHEREAS, the Hondo Valley Head Coach Brandon Devine and senior Quarterback Roberto Nores were recognized as Coach of the Year and Player of the Year by the New Mexico Six Man Coaches Association; and

NOW, THEREFORE, we do hereby proclaim that we recognize and honor all members and leadership of the Hondo Valley Eagles Six-Man Football Team for its outstanding accomplishments and lend support for future success.

PROCLAIMED this 16th Day of December, 2014 in Lincoln County, New Mexico.

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

Jackie Powell, Chair

Preston Stone, Vice Chair

Mark Doth, Member

Dallas Draper, Member

Kathryn Minter, Member

ATTEST:

Rhonda Burrows, County Clerk

Agenda Item No. 17

SUBJECT

Proclamation – Ruidoso High School- Class IV A Volleyball State
Champions

LINCOLN COUNTY COMMISSION

A PROCLAMATION FOR RUIDOSO HIGH SCHOOL LADY WARRIORS

2014 NEW MEXICO VOLLEYBALL CHAMPIONS

WHEREAS, on Saturday, November 15, 2014, the Ruidoso High Lady Warrior Volleyball team defeated Sandia Prep 3 - 1 to earn the State Championship Title for New Mexico Class 4A Volleyball; and

WHEREAS, under the leadership of Head Coach Pam Allen, this championship team obtained a season record of 19 - 5, with all losses to 5A and 6A teams, and;

WHEREAS, the road the Lady Warriors traveled to the championship game was challenging, and resulted in victories over Kirtland Central, Hope Christian and Silver City; and

WHEREAS, the Lady Warriors prospered and held strong community support throughout the season, as was evidenced by the fan caravan that escorted the Warrior Blue Bus loaded with Lady Warriors through Ruidoso upon the team's return as Champions.

NOW, THEREFORE, we do hereby proclaim that we recognize and honor all members and leadership of the Ruidoso Lady Warrior Volleyball team for its outstanding accomplishments and lend support for future success.

PROCLAIMED this 16th Day of December, 2014 in Lincoln County, New Mexico.

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

Jackie Powell, Chair

Preston Stone, Vice Chair

Mark Doth, Member

Dallas Draper, Member

Kathryn Minter, Member

ATTEST:

Rhonda Burrows, County Clerk

Agenda Item No. 18

SUBJECT

Proclamation – Ruidoso High School- Class IV A Football State
Champions

LINCOLN COUNTY COMMISSION

A PROCLAMATION FOR RUIDSO HIGH SCHOOL WARRIORS

2014 NEW MEXICO CLASS 4A FOOTBALL CHAMPIONS

WHEREAS, on Saturday, December 6, 2014, the Ruidoso High School Warrior football team defeated the Cobre Indians 35 - 28 to earn the State Championship Title for New Mexico Class 4A Football; and

WHEREAS, under the leadership of Head Coach Kief Johnson, this championship team consisting of 58 players, ranging from freshmen to seniors, realized an impressive 11-0 season and outscored its opponents 452 - 119, and;

WHEREAS, the Coaches and parents of the Ruidoso Warrior Football Team members support these students in achieving not only athletic goals, but also academic goals, setting the bar at an achievable 3.3 team Grade Point Average, and

THEREFORE, we do hereby proclaim that we recognize and honor all members and leadership of the Ruidoso Warrior Football Team for its outstanding accomplishments and lend support for future success.

PROCLAIMED this 16th Day of December, 2014 in Lincoln County, New Mexico.

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

Jackie Powell, Chair

Preston Stone, Vice Chair

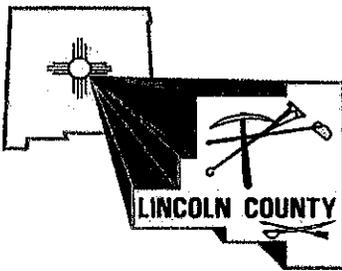
Mark Doth, Member

Dallas Draper, Member

Kathryn Minter, Member

ATTEST:

Rhonda Burrows, County Clerk



www.lincolncountynm.net

County of Lincoln

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

Agenda Item No. 19

December 5, 2014

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager *NT*

SUBJECT: Six months extension

Purpose: To receive six months extension on the following 2014 Cooperative Agreements: Project No. SB-7727(936)14, Control No. L200148
Project No. SP-2-14(906), Control No. L200122; Project No. CAP-2-14(406), Control No. L200156

To obtain approval of an extension to our 2014 Cooperative Agreements ending December 31, 2014. We are requesting the 2014 Funding be extended an additional six months to June 20, 2014.

Our plan is to spend all the money available in the Cooperative Agreement Programs. We went out for bid on our agreement programs and the bids came in lower than anticipated. We then had to come up with other projects and amend our resolution to include the new projects so that we could spend all the money allowed us. Making these changes took time and caused us to run out of warm enough weather to finish our projects.

Recommendation: Approve the six months extension on the above referenced projects by Resolution 2014-30.

RESOLUTION NUMBER 2014-30
A RESOLUTION REGARDING ROAD FUND TIME
EXTENSION OF SIX MONTHS FOR THE PROJECTS LISTED BELOW

WHEREAS, Lincoln County and the New Mexico Department of Transportation have entered into a joint and coordinated effort; and

WHEREAS, Lincoln County recognizes that due to reasons beyond the County's control the projects listed below will not be executed and completed by the current Co-operative Agreement deadline of December 31, 2014.

1. **SCHOOL BUS ROUTE PROJECT:** County Subdivision-Valley Heights Subdivision-Saltbush Road, Wild Rose Circle, Connection Way, Honeysuckle Lane, Ft. Stanton Road.
Saltbush Road-North of Ruidoso on Hwy 48 MM 12.8 turn East onto Bramble Lane go .05 miles turn South onto Saltbush Road project begins and goes .08 miles. **Wild Rose Circle**-Hwy 48 MM 12.8 turn East onto Bramble Lane go .09 miles turn North onto Wild Rose Circle go .05 miles road turns South continue on Wild Rose Circle .2 miles project begins and goes .23 miles in a horse shoe shape.
Connection Way- Hwy 48 MM 12.8 turn East onto Bramble Lane go .09 miles turn North onto Wild Rose Circle go .05 miles road turns South continue on Wild Rose Circle .2 miles turn North onto Connection Way project begins goes .07 miles to intersection with South side of Wild Rose Circle.
Honeysuckle Lane- Hwy 48 MM 12.8 turn East onto Bramble Lane go .09 miles turn South onto Wild Rose Circle go .03 miles turn East onto Honeysuckle Lane project begins and goes .18 miles. **Ft. Stanton Drive**-Northeast off SR 48 MM 9.3 into Alto Village project begins and goes 2.30 miles.
Design, Construction, Reconstruction, Pavement Rehabilitation/Improvements, Blading and Shaping, Drainage Improvements, Misc. on various county roads.
Project No. SB-7727(936)14, Control No. L200148
State \$58,854.00 County \$19,618.00 Total Cost \$78,472.00.
2. **COOPERATIVE AGREEMENT:** County Subdivision- Fawn Ridge Subdivision-Lance Trail, Moccasin Trail, Wagon Trail, Broken Arrow Trail, Paso Monte Drive.
Lance Trail-Ruidoso Hwy 48 MM 8.3 turn East into Gavilan Canyon Road go 2.2 miles turn East onto Rain Dance Trail go .24 miles turn West onto Lance Trail project begins and goes .12 miles. **Moccasin Trail**- Hwy 48 MM 8.3 turn East into Gavilan Canyon Road go 2.2 miles turn East onto Rain Dance Trail go .05 miles turn SE onto Wagon Trail go .12 miles turn East onto Pow Wow Trail go .11 miles turn South onto Moccasin Trail project begins and goes .16 miles. **Wagon Trail**- Hwy 48 MM 8.3 turn East into Gavilan Canyon Road go 2.2 miles turn East onto Rain Dance Trail go .05 miles turn SE onto Wagon Trail go .14 miles project begins and goes .1 mile. **Broken Arrow Trail** - Hwy 48 MM 8.3 turn East into Gavilan Canyon Road go 2.2 miles turn East onto Rain Dance Trail go .05 miles turn South onto Broken Arrow Trail project begins and goes .15 miles. **Paso Monte Drive**-2.2 miles East of Junction SR 48 MM 11.5 and SR 220 turn Southeast onto Paso Monte Drive projects begins and goes 2.25 miles. **Design, Construction, Reconstruction, Pavement Rehabilitation/Improvements, Blading and Shaping, Drainage Improvements, Misc. on various county roads.**
Project No. SP-2-14(906), Control No. L200122
State \$54,335.00 County \$18,112.00 Total Cost \$72,447.00.
3. **COUNTY ARTERIAL PROJECT:** County Subdivisions- Palo Verde Subdivision-Sagebrush Road, Rancher Road, Reynolds Circle -LaJunta Ranch Subdivision-LaJunta Road, Neill Road, Gavilan Canyon Road. **Palo Verde Subdivision-Sagebrush Road**-Ruidoso East on Hwy 70 MM 265.5 turn South onto Stetson Road go .4 miles turn West onto Sagebrush project begins .19 miles to intersection with Reynolds Circle. Then on Stetson at .4 miles turn East onto Sagebrush project begins goes .05 miles to intersection with Rancher Road. **Rancher Road**-Hwy 70 MM 265.5 turn South onto Stetson Road go

.07 miles turn East onto Reynolds Circle go .15 miles turn South onto Rancher Road go .20 miles project begins and goes .09 miles to intersection with Sagebrush. **Reynolds Circle-Hwy 70** MM 265.5 turn South onto Stetson go .07 miles turn East onto Reynolds Circle go .20 miles project begins and goes .28 miles in loop to Hitching Post intersection. **LaJunta Ranch Subdivision-LaJunta Road-Ruidoso** North on Hwy 48 to MM 9.3 turn NW onto Sun Valley Road go .9 miles turn NW onto LaJunta Road go .16 miles project begins and goes .4 miles. **Neill Road-** Ruidoso North on Hwy 48 to MM 9.3 turn NW onto Sun Valley Road go .9 miles turn NW onto LaJunta Road go .16 miles turn onto Neill Road project begins and goes .33 miles. **Gavilan Canyon Road-** Turn East off Hwy 48 MM 8.3 onto Gavilan Canyon Road project begins and goes 4.7 miles.

4. **Design, Construction, Reconstruction, Pavement Rehabilitation/Improvements, Blading and Shaping, Drainage Improvements, Misc. on various county roads.**

Project No. **CAP-2-14(406)**, Control No. **L200156**

State \$143,742.00 County \$47,914.00 Total Cost \$191,656.00

NOW, THEREFORE, the Lincoln County Board of Commissioners requests a Time Extension of 6 Months for the projects listed above.

PASSED, APPROVED AND ADOPTED this 16th day of December 2014.

Board of Commissioners
Lincoln County, State of New Mexico

Jackie Powell, Chairwomen

Preston Stone, Vice-Chairman

Dallas Draper, Member

Kathryn L Minter, Member

Mark Doth, Member

ATTEST:

Rhonda B. Burrows, County Clerk

Contract No.	<u>D14230/1</u>
Vendor No.	<u>54389-002</u>
Project No.	<u>SB-7727(936)14</u>
Control No.	<u>L200148</u>

**FIRST AMENDMENT TO
COOPERATIVE AGREEMENT**

This **FIRST AMENDMENT** to Cooperative Agreement is entered into this _____ day of _____, 201__ between the NEW MEXICO DEPARTMENT OF TRANSPORTATION (“Department”) and the LINCOLN COUNTY (“Public Entity”).

RECITALS

Whereas, the Department and the Public Entity entered into a Cooperative Agreement, Contract No. D14230, on September 17, 2013, and,

Whereas, Section Eighteen, “Amendment” allows the parties to alter the Cooperative Agreement by written consent of the parties; and

Whereas, the Department and the Public Entity want to extend the expiration date of the Agreement to December 31, 2015, to allow completion of the project; and,

Whereas, no additional funding is required to be paid to the Public Entity for this extension of time.

Now, therefore, the Department and the Public Entity agree as follows:

1. **Section Seventeen, “Term:”** is deleted and replaced with the following:
 1. This agreement becomes effective upon signature of all Parties. This Agreement terminates on **December 31, 2015**.

All other obligations set forth in the Original Agreement shall remain in full force and effect unless expressly amended or modified by this First Amendment.

In witness whereof, the parties have set their hands and seals this day and year set forth below.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By: _____

Date: _____

Cabinet Secretary or Designee

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY BY THE DEPARTMENT'S
OFFICE OF GENERAL COUNSEL**

By: _____

Date: _____

Assistant General Counsel

LINCOLN COUNTY

By: _____

Date: _____

Name: _____

Title: _____

ATTEST:

By: _____

Date: _____

LINCOLN COUNTY Clerk

Contract No.	<u>D14229/1</u>
Vendor No.	<u>54389-002</u>
Project No.	<u>SP-2-14(906)</u>
Control No.	<u>L200122</u>

**FIRST AMENDMENT TO
COOPERATIVE AGREEMENT**

This **FIRST AMENDMENT** to Cooperative Agreement is entered into this _____ day of _____, 201__ between the NEW MEXICO DEPARTMENT OF TRANSPORTATION (“Department”) and the LINCOLN COUNTY (“Public Entity”).

RECITALS

Whereas, the Department and the Public Entity entered into a Cooperative Agreement, Contract No. D14229, on September 17, 2013, and,

Whereas, Section Eighteen, “Amendment” allows the parties to alter the Cooperative Agreement by written consent of the parties; and

Whereas, the Department and the Public Entity want to extend the expiration date of the Agreement to December 31, 2015, to allow completion of the project; and,

Whereas, no additional funding is required to be paid to the Public Entity for this extension of time.

Now, therefore, the Department and the Public Entity agree as follows:

1. **Section Seventeen, “Term:”** is deleted and replaced with the following:
 1. This agreement becomes effective upon signature of all Parties. This Agreement terminates on **December 31, 2015**.

All other obligations set forth in the Original Agreement shall remain in full force and effect unless expressly amended or modified by this First Amendment.

In witness whereof, the parties have set their hands and seals this day and year set forth below.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By: _____
Cabinet Secretary or Designee

Date: _____

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY BY THE DEPARTMENT'S
OFFICE OF GENERAL COUNSEL**

By: _____
Assistant General Counsel

Date: _____

LINCOLN COUNTY

By: _____
Name: _____
Title: _____

Date: _____

ATTEST:

By: _____
LINCOLN COUNTY Clerk

Date: _____

Contract No.	<u>D14228</u>
Vendor No.	<u>54389-002</u>
Project No.	<u>CAP-2-14(406)</u>
Control No.	<u>L200156</u>

**FIRST AMENDMENT TO
COOPERATIVE AGREEMENT**

This **FIRST** AMENDMENT to Cooperative Agreement is entered into this _____ day of _____, 201__ between the NEW MEXICO DEPARTMENT OF TRANSPORTATION (“Department”) and the LINCOLN COUNTY (“Public Entity”).

RECITALS

Whereas, the Department and the Public Entity entered into a Cooperative Agreement, Contract No. D14228, on September 17, 2013, and,

Whereas, Section Eighteen, “Amendment” allows the parties to alter the Cooperative Agreement by written consent of the parties; and

Whereas, the Department and the Public Entity want to extend the expiration date of the Agreement to December 31, 2015, to allow completion of the project; and,

Whereas, no additional funding is required to be paid to the Public Entity for this extension of time.

Now, therefore, the Department and the Public Entity agree as follows:

1. **Section Seventeen, “Term:”** is deleted and replaced with the following:
 1. This agreement becomes effective upon signature of all Parties. This Agreement terminates on **December 31, 2015**.

All other obligations set forth in the Original Agreement shall remain in full force and effect unless expressly amended or modified by this First Amendment.

In witness whereof, the parties have set their hands and seals this day and year set forth below.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By: _____

Date: _____

Cabinet Secretary or Designee

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY BY THE DEPARTMENT'S
OFFICE OF GENERAL COUNSEL**

By: _____

Date: _____

Assistant General Counsel

LINCOLN COUNTY

By: _____

Date: _____

Name: _____

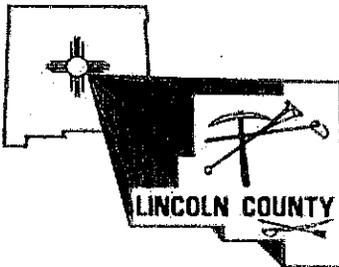
Title: _____

ATTEST:

By: _____

Date: _____

LINCOLN COUNTY Clerk



www.lincolncountynm.net

County of Lincoln

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

Agenda Item No. 20

December 5, 2014

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager *NT*

SUBJECT: Farewell to Departing Officials

Purpose: To acknowledge, thank, and bid farewell to Lincoln County's four elected officials leaving their posts on December 31, 2014

Discussion:

At the end of the month, four valued elected officials will be departing their positions. On behalf of the citizens of Lincoln County, the remaining Board of County Commissioners, the remaining elected officials, and staff of the county, I would like to recognize and thank:

- ❖ Outgoing Commissioner of District Two – Mark Doth
- ❖ Outgoing Commissioner of District Four- Kathryn Minter
- ❖ Outgoing Commissioner of District Five – Commission Chair Jackie Powell
- ❖ Outgoing Treasurer – Glenna Robbins

Recommendation: Providing departing officials recognition and an opportunity to comment.

Agenda Item No. 21

SUBJECT

1. **1:00 P.M.:** Public Hearing to consider the following Ordinances:
 - A. Lincoln County Ordinance No. 2014-08 – An ordinance amending Personnel Policies and Procedures; and Repealing Ordinance 2014-01
 - B. A Resolution Setting Fees to be charged by the County of Lincoln for solid waste services to Lincoln County Residents located outside of all municipalities and the Alto Lakes Water and Sanitation District; Pursuant to Lincoln County Ordinance 2008-07 by Resolution 2014-29

ORDINANCE NO. ~~2014-01~~ 2014-08

Field Code Changed

Formatted: Strikethrough

AN ORDINANCE AMENDING LINCOLN COUNTY PERSONNEL POLICIES AND PROCEDURES; PROVIDING FOR THE SEVERABILITY OF PARTS HEREOF; PROVIDING AN EFFECTIVE DATE AND THE REPEAL OF ORDINANCE NO. ~~2013-04~~ 2014-01

Formatted: Strikethrough

WHEREAS, the Board of County Commissioners of Lincoln County, New Mexico adopted Ordinance No. ~~2013-04~~ 2014-01, which established personnel policies and procedures for the County; and

Formatted: Strikethrough

WHEREAS, it is good public policy to periodically review the personnel policies and procedures to ensure their efficacy and fairness; and

WHEREAS, after reviewing the personnel policies and procedures, the Board of County Commissioners of Lincoln County, New Mexico, desires to amend certain portions of Ordinance ~~2013-04~~ 2014-01; and

Formatted: Strikethrough

WHEREAS, the Board of County Commissioners of Lincoln County has determined that ~~clarification is needed regarding any unclear references to employee annual leave and the amount of hours which may be carried forward from one payroll end calendar year to the next and also policies of forfeiture of any excess annual leave, as well as clarifying other portions thereof; and modification to the description of "temporary or seasonal employee" is needed to optimize use of that position, and to adopt PERA language; and~~

WHEREAS, the Board of County Commissioners of Lincoln County, New Mexico, finds that this amendment is necessary to provide for the safety, preserve the health and welfare, promote the prosperity, order, comfort, and convenience of the County of Lincoln, its personnel, or its inhabitants.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Lincoln County, New Mexico, that the Lincoln County Personnel Policies and Procedures shall be amended to read as follows:

TABLE OF CONTENTS

PREFACE	7
STATEMENT OF RIGHTS.....	7
EMPLOYEE KNOWLEDGE AND INFORMATION.....	7
AMENDMENT OF POLICY	8
PRONOUNS	8
RESPONSIBILITY FOR COMPLIANCE.....	8
EQUAL EMPLOYMENT OPPORTUNITY POLICY.....	8
SAVINGS CLAUSE.....	8
DEFINITIONS	9-13
APPLICATION PROCEDURES	14
RECEIPT OF APPLICATION	14
GENERAL REQUIREMENTS	14
RECRUITING AND POSTING PROCEDURE	14
Posting and Advertising Classified Positions.....	14
POSTING AND/OR JOB ANNOUNCEMENT EXCEPTION.....	15
BASIC QUALIFICATIONS.....	15
SELECTION PROCEDURES	16
Performance Testing	16
Physical Examinations.....	16
Psychological Evaluation.....	16
Background Information	16
Interview.....	17
FINAL SELECTION	17
Basis for Final Selection	17
Notification of Interview Results	17
Pre-Selection Prohibited.....	17
Ineligibility.....	18
RE-EMPLOYMENT OF FORMER EMPLOYEES.....	18
REINSTATEMENT OF EMPLOYEES FROM MILITARY LEAVE.....	18
REHIRE OF WORKERS INJURED ON THE JOB.....	19
RECALL OF EMPLOYEES FOLLOWING REDUCTION IN FORCE (RIF)	19
EMPLOYMENT STATUS	19
FULL-TIME CLASSIFIED EMPLOYEE.....	20
UNCLASSIFIED EMPLOYEES	20
PROBATIONARY EMPLOYEE	20
TEMPORARY/SEASONAL EMPLOYEE.....	21
PART-TIME EMPLOYEE	21
APPOINTED EMPLOYEE	21
GRANT-FUNDED EMPLOYEE	21
CHANGES IN EMPLOYMENT STATUS	21
DEMOTION	21

PROMOTION	22
TRANSFER	22
RESIGNATION	22
REDUCTION-IN-FORCE (RIF)	22
DISMISSAL.....	23
MEDICAL DISABILITY TERMINATION.....	23
SUCCESSFUL COMPLETION OF PROBATIONARY PERIOD.....	23
CHANGE OF CLASSIFIED STATUS	23
CONDITIONS OF EMPLOYMENT.	24
PROBATIONARY PERIOD	24
New Hires.....	24
Temporary Employee Hired to a Classified Position.....	24
Former Employee Hired to a Classified Position.	25
NEPOTISM	25
CONFLICT OF INTEREST	25
ATTENDANCE.....	25
WITNESSES AT PERSONNEL GRIEVANCE HEARINGS.	26
DRESS AND APPEARANCE.....	26
Dress Code	26
Uniforms.	26
DESIGNATED WORK AREAS	26
HEALTH AND INJURY CONDITION.....	26
WORK SCHEDULES.....	26
Changes in Work Schedule	26
Adjustment of Work Hours	27
Call-In	27
Lunch Periods.....	27
Breaks	27
Overtime.....	27
COUNTY PROPERTY	28
Return of County Property.	28
USE OF TELEPHONES.....	28
HATCH ACT	28
POLITICAL ACTIVITY	28
PHYSICAL AND/OR MEDICAL EXAMINATIONS	29
MEDICAL EXAMINATIONS	29
SUBSTANCE ABUSE TESTING (DRUG TESTING)	29
Use of Alcohol, Substances, and/or Drugs.....	29
Reasonable Suspicion Testing.....	30
Positive Results	30
Safety Sensitive Positions	30
Non-Safety Sensitive Positions	31
Refusal to Submit to Alcohol/Substance Abuse Testing.....	32
Retesting	32
Confidentiality.....	32
Commercial Driver Drug Testing	32
COUNTY OPERATOR'S PERMIT TESTING	32

HARASSMENT.....	33
Prohibition of Harassment.....	33
Policy Regarding Harassment.....	33
Harassment Complaint Procedures.....	33
PERSONAL BUSINESS.....	34
FALSE STATEMENTS AND FRAUD.....	34
ADDITIONAL RULES.....	34
BENEFITS.....	34
LEAVE WITH PAY.....	34
Annual Leave (Vacation).....	34
Sick Leave.....	35
Storage of Accrued Sick Leave.....	36
Donated Compensatory Hours, Sick and Vacation Leave.....	36
Loss of Sick Leave.....	36
Holidays.....	37
Bereavement Leave.....	37
Jury Duty.....	37
Court Appearances.....	37
Voting Time.....	37
County Business Leave.....	38
Administrative Leave.....	38
Military Leave.....	38
Compensatory Time Leave (Comp-Time).....	38
LEAVE WITHOUT PAY.....	38
Family and Medical Leave Act (FMLA).....	38
Physician's Certificate.....	39
Use of Accrued Leave.....	40
Personal Leave.....	40
CONDITIONS OF LEAVE WITHOUT PAY.....	41
Position Upon Return.....	41
Vacancies May be Filled by Temporary Employees.....	41
Benefits at Employee's Expense.....	41
OCCUPATIONAL INJURY LEAVE/WORKERS' COMPENSATION.....	41
Reporting Procedure.....	41
UNAUTHORIZED LEAVE.....	42
PERA BENEFITS.....	42
UTILIZATION OF ACCUMULATED VACATION LEAVE AT RETIREMENT.....	42
MEDICAL AND OTHER INSURANCE BENEFITS.....	42
UNIFORMS/CLOTHING.....	43
LEAVE FOR IMPAIRED EMPLOYEES.....	43
VOLUNTARY ACTIVITIES.....	43
COMPENSATION.....	43
ANNIVERSARY DATE.....	44
ENTRY LEVEL COMPENSATION.....	44
WORK WEEK.....	44
PAY PERIODS.....	44

TIME SHEETS	44
PAY ADJUSTMENT FOR PROMOTIONS.....	45
PAY ADJUSTMENT FOR TEMPORARY UPGRADES	45
PAYROLL DEDUCTIONS.....	45
CHIEF DEPUTIES	45
OVERTIME PAY	45
Nonexempt Employees	45
Actual Hours Worked	46
Exempt Employees.....	46
COMPENSATORY TIME FOR NONEXEMPT EMPLOYEES.....	46
GRATUITIES	46
PAY FOR ACCUMULATED SICK LEAVE AT RETIREMENT	76
SICK LEAVE INCENTIVE PAY	47
HOLIDAY PAY.....	47
JURY DUTY PAY.....	47
PAY FOR COURT APPEARANCE	47
PAY FOR APPEARANCE AT PERSONNEL GRIEVANCE HEARING.....	47
EMPLOYEE DISCIPLINE.....	48
BASIS FOR EMPLOYEE DISCIPLINE.....	48
Just Cause Discipline	48
DISCIPLINARY ACTION	48
CONSULTATION WITH COUNTY MANAGER.....	48
PROGRESSIVE DISCIPLINE	48
Verbal Reprimand	49
Written Reprimand	49
Suspension.....	49
Dismissal.....	49
UNLAWFUL ACT	49
PRE-DISCIPLINARY PROCEDURE.....	49
ADMINISTRATIVE LEAVE.....	50
GRIEVANCE AND COMPLAINT PROCEDURES.....	50
INITIAL STEP IN FORMAL GRIEVANCE PROCEDURE	50
POST-DISCIPLINARY APPEAL.	50
PERSONNEL HEARING OFFICER	51
PERSONNEL HEARING OFFICER'S DUTIES AND RESPONSIBILITIES.....	51
APPEAL TO DISTRICT COURT	52
INFORMAL COMPLAINTS	52
Procedures	52
Decision.....	53
CLASSIFICATION OF POSITIONS	53
CLASSIFICATION PLAN.....	53
POSITION DESCRIPTIONS	53
Contents.....	53
Procedures	53

MISCELLANEOUS	54
EMPLOYEE RECORDS	54
Personnel Files and Retention	54
Information Included in Each Employee File	54
Confidentiality.....	54
Public Records	55
SAFETY	55
Occupational Safety and Health Act	55
Unsafe Conditions	55
Personal Protective Equipment	55
Safety Committee.....	56
PERFORMANCE EVALUATION	56
Procedure for Evaluation.....	56
Contents of Evaluations	56
Special Evaluations	56
Unsatisfactory Evaluation	57
Employee Response	57
HOURS OF THE COURTHOUSE OPERATION	57
COURTHOUSE CLOSING	57
Section 1. Conflict Clause	57
Section 2. Severability Clause	57
Section 3. Effective Date and Repeal of Ordinance 2013-01 2014-01	58
Signatures of Board of County Commissioners	58
EFFECTIVE DATE	58
SIGNATURES OF BOARD	58

Formatted: Strikethrough

LINCOLN COUNTY
PERSONNEL POLICIES AND PROCEDURES
FOR EMPLOYEES OF THE COUNTY

Field Code Changed

PREFACE

It is the purpose of these employee policies and procedures to set forth the general principles and the procedures which will be followed by Lincoln County in the administration of wages, salaries, benefits, and working conditions of Lincoln County employees. Specific rules and regulations cannot be formulated for every possible situation. This Personnel Policies and Procedures Manual serves as a general guide for the proper, efficient, and effective administration of personnel matters for the employees of the County of Lincoln.

Elected officials of the County and departmental heads will need to give administrative direction to their respective department functions as mandated by State statutes. Departmental rules shall not conflict with these policies and procedures unless prior approval has been received from the County Commission.

STATEMENT OF RIGHTS

Pursuant to its statutory powers, the Lincoln County Board of Commissioners hereby exercises its express and derived authority to establish by ordinance, policy and procedures regulating employment of all County employees. Where the requirements as set forth in this ordinance conflict with policies or procedures adopted by Elected Officials or Department Heads insofar as they relate to employment with Lincoln County, the policies and procedures contained herein shall control.

The County of Lincoln retains the right to direct the work of employees; to hire, promote, demote, discipline, suspend, and dismiss employees for just cause; to release employees due to lack of work, financial constraints, or for other legitimate reasons.

The County of Lincoln shall retain sole authority to establish and enforce rules and regulations; to change or modify methods, services, equipment or facilities in compliance with the Statutes of the State of New Mexico.

EMPLOYEE KNOWLEDGE AND INFORMATION OF POLICY

Elected Officials/Department Heads shall provide a copy of this policy to present employees and to all new employees with instructions to read and know of all provisions of these rules. Employees shall sign for the copy of this policy upon receipt.

AMENDMENT OF POLICY

The County of Lincoln reserves the right to change these policies and procedures at its discretion.

PRONOUNS

All pronouns used in this Personnel Policy Manual shall include the masculine, feminine, and neuter gender, shall include the singular and plural, and the context of this Personnel Policies and Procedures manual shall be read accordingly.

RESPONSIBILITY FOR COMPLIANCE

A County Manager and a Personnel Director may be appointed by the Commission. If the Board of County Commissioners does not hire a Personnel Director, the responsibilities of that position will be performed by the County Manager or designee.

EQUAL EMPLOYMENT OPPORTUNITY POLICY

Individuals will not be discriminated against on the grounds of race, age, religion, color, national origin, sex, physical or mental handicap or medical condition, in consideration for employment, duration of employment, compensation, terms, conditions, or privileges of employment by Lincoln County. It is the policy of Lincoln County to comply with section 109 of the Housing and Community Development Act of 1974, Title VI of the Civil Rights Act of 1964, Title VII of the Civil Rights Act of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination in Employment Act, and the New Mexico Human Rights Act, in all employment programs administered by Lincoln County.

SAVINGS CLAUSE

Modification, adjustment, or invalidation of any part, rule, or section of these Personnel Policies and Procedures shall not affect the validity of other sections of the Lincoln County government policies.

DEFINITIONS

Field Code Changed

ADMINISTRATIVE LEAVE WITH PAY - Leave with pay granted at the discretion of the Elected Official or Department Head and with the approval of the County Manager. An employee on administrative leave with pay will not have vacation deducted from accumulated vacation balance.

ANNIVERSARY DATE - The anniversary date for eligible full-time employees shall be the first day and month that the employee begins employment with the County. If a part-time employee becomes a full-time employee, the anniversary date shall be the date upon which the employee became a full-time employee.

ANNUAL LEAVE - Leave with pay granted to a regular or qualified appointed employee after accrual. This leave is subject to the approval of the appropriate Elected Official, Department Head or the County Manager.

APPEAL - Written request that a decision of a formal grievance be reconsidered at the next stage of the grievance procedure.

APPLICANT - A person who has made formal application on a County of Lincoln official application form for a vacant position.

APPOINTED EMPLOYEE - An individual who is appointed to an unclassified position by an elected official or County Manager.

AUTHORIZED LEAVE - Any absence with or without pay during regularly scheduled work hours which is approved by a proper authority.

CATASTROPHIC ILLNESS - A major hospitalization and a lengthy recovery period with extraordinary expenditures.

CLASSIFICATION PLAN - An ordering of different positions in the County service according to the duties, responsibilities, and qualifications of the position. A Classification plan is used to determine fair and equitable placement on the salary/wage schedule.

CLASSIFIED EMPLOYEE - A full-time employee who has completed the probationary period, and who is entitled to all the rights and benefits provided by the County of Lincoln Personnel Policies and Procedures Manual. A classified employee must be specifically designated as such on a personnel action form which will be made part of the employee's personnel file. A classified employee may only be disciplined for just cause.

COMPENSATORY TIME (Comp Time) - Paid leave in lieu of overtime compensation that can be accumulated by a non-exempt employee. Comp time leave will be calculated at a rate of one and one-half (1½) times the number of hours worked in accordance with the Fair Labor Standards Act (FLSA).

COUNTY BUSINESS - The performance of duties by an employee at the employee's normal work station or another location authorized by the County.

DAYS - Wherever the term "days" is used in this manual it shall mean calendar days and not working days, unless otherwise specifically stated.

DEMOTION - A personnel action which transfers an employee to a position which is lower in grade and reduces the employee's responsibilities and pay. Demotions may be voluntary or may be the result of disciplinary actions.

DEPARTMENT HEAD - Elected Official or Appointee of the Board of County Commissioners who has responsibility for supervising and administering a specific department of county government.

DISMISSAL - An action taken by a Elected Official/Department Head or the County Manager, which terminates an individual's employment with the County of Lincoln.

DUE PROCESS - The right granted to a full-time classified employee who has completed the probationary period, to pre-disciplinary and post-disciplinary hearings, for management actions of suspension, demotion, or dismissal.

ELECTED OFFICIAL - An individual elected by popular vote or appointed to fill a vacancy in an elected office (*i.e.*, County Commissioner, County Assessor, County Clerk, County Sheriff, County Treasurer, and Probate Judge).

EMERGENCY - A sudden or unforeseen happening requiring the assistance of certain employees or groups of employees necessary to protect the health, welfare, and safety of the community and/or the Lincoln County Courthouse or its annexes.

EXEMPT EMPLOYEES - All executive, administrative, and/or professional employees as defined by the Fair Labor Standards Act, and whose compensation/wage is based on a fixed annual salary.

FULL-TIME EMPLOYEE - An employee whose normal work schedule is established at a minimum of forty (40) hours per week.

GRANT-FUNDED EMPLOYEE - An employee who is hired by the County of Lincoln into an unclassified position and whose funding is based wholly or in part by another agency.

GRIEVANCE - A formal written complaint of an employee concerning actions taken by management which result in suspension, demotion, dismissal, or an actual loss in pay.

IMMEDIATE FAMILY - The employee's spouse, children, parents, mother-in-law, father-in-law, siblings, grandchildren, grandparents, grandmother-in-law, and grand-father-in-law.

LAYOFF - See reduction in force (RIF).

LEAVE WITH PAY - Type of leave which is authorized by a proper authority enabling an employee to be away from work, during regularly scheduled work hours, with pay.

LEAVE WITHOUT PAY - Type of leave which is authorized by a proper authority enabling an employee to be away from work, during regularly scheduled work hours, without pay.

NEAR RELATIVE - A spouse or ex-spouse, children, parents, siblings, grandparents, grandchildren, aunts, uncles, nieces, nephews, first cousins, and like relations of the Elected Official's or employee's spouse. This definition includes any person related to the employee by birth, adoption, or marriage, up to and including those within the third degree of consanguinity or affinity. This includes any person who would fall under the above definition, if the persons who are cohabiting were in fact married.

NEPOTISM - The practice of giving preferential treatment in areas of employment including, but not limited to: selection, benefits, pay, promotion, and discipline to employees who are spouses, ex-spouses, children, parents, siblings, grandparents, grandchildren, aunts, uncles, nieces, nephews, or to unrelated persons who are cohabiting.

NON-EXEMPT EMPLOYEE - Employee who is not exempt under the Fair Labor Standards Act (FLSA). A nonexempt employee is entitled to receive overtime pay and/or compensatory time for actual hours worked as defined by the FLSA.

OVERTIME - Time for which an employee is paid the rate which is one and one-half (1½) the employee's regularly rate of pay for hours actually worked.

PART-TIME EMPLOYEE - An employee whose normal work schedule is established at no more than thirty-two (32) hours per week. Part-time employees cannot grieve disciplinary actions.

PAY PERIOD - The two week period of time designated by the County Commission for which an employee shall be paid for accumulated work.

PAYROLL-END CALENDAR YEAR -- The last Friday in a calendar year that has a corresponding payroll distribution in the same calendar year.

PER DIEM - A flat rate payment for personal travel expense.

PERFORMANCE EVALUATION - The written objective review made by the employee's supervisor of the employee's performance relating to assigned duties. This evaluation is a periodic review conducted for purposes such as evaluating an employee's work habits and skills, to note improvements needed, and record necessary training or experience.

PERSONNEL FILE - Papers and documents relevant to an employee's work history with the County of Lincoln that are kept by a proper administrative authority. These files are confidential and access is based on a legitimate "need to know" factor.

POST-DISCIPLINARY HEARING - A formal hearing conducted by the County Manager and/or hearing officer at the request of an employee, which is held after the pre-disciplinary hearing.

PRE-DISCIPLINARY HEARING - A hearing conducted by an Elected Official/Department Head or the County Manager before the imposition of a disciplinary action of suspension, demotion, or dismissal.

PROBATIONARY PERIOD - A period of time during which an employee who is hired into a classified position is evaluated to determine ability, potential, and suitability for the position. Sheriff Deputies and detention officers must serve a one (1) year probationary period. All other employees are required to serve a six (6) month probationary period. An employee on probation may be dismissed for any reason or no reason and has no rights to the grievance procedures.

PROMOTION - A personnel action which transfers an employee to a position which is higher in grade and increases the employee's responsibilities and pay.

REDUCTION IN FORCE (RIF) - The involuntary separation of an employee from the County of Lincoln services without fault on the part of the employee, due to the abolition of a position, reorganization, lack of work, lack of funds, or lack of appropriated funds.

RESIGNATION - Voluntary separation by an employee from employment with the County of Lincoln.

SEASONAL EMPLOYEE - An employee who may be called on short notice and/or on an occasional basis. Seasonal employees may be terminated for any reason or no reason and have no rights to the grievance procedures.

SENIORITY - The total number of continuous, uninterrupted service as a classified employee of the County.

SICK LEAVE - Leave with pay which may be granted for absence from duty because of personal illness, injuries or legal quarantine, and/or illness in the employee's immediate family, provided that the employee has sick leave accumulated.

SUPERVISOR - Elected or appointed employees and any other employees in the chain of command who have routine administrative authority for the functions and employees of the department.

SUSPENSION - An enforced leave of absence without pay for disciplinary reasons.

TEMPORARY EMPLOYEE - An employee hired not to exceed six (6) months in a calendar year. Temporary employees cannot grieve disciplinary actions.

TERMINATION - Separation from employment with the County of Lincoln for any reason such as resignation, retirement, or dismissal.

TRANSFER - The movement of an employee from one department or office to another department or office in the County of Lincoln service, or to a position in another geographic location or to a position having the same grade and salary.

UNAUTHORIZED LEAVE - Leave of absence during regularly scheduled work hours in which an employee did not receive prior approval by the proper authority.

UNCLASSIFIED EMPLOYEE - A full or part-time employee who is terminable-at-will and who is exempt from the merit provisions of the Personnel Policies and Procedures Manual.

VACATION - See Annual Leave.

VOLUNTEER - An individual who provided a service for the County and does not receive compensation other than expenses or in some cases a stipend. Such an individual is not considered an employee.

WORK WEEK - A period of time, which commences at 12:00 AM on Saturday and ends at 11:59 PM on the following Friday evening.

WORK YEAR - Lincoln County's work year is based on a standard 2,080 hours. Annual benefits are based on a standard work year.

* * *

PERSONNEL POLICIES AND PROCEDURES

100. APPLICATION PROCEDURES

101. RECEIPT OF APPLICATION

Applications will only be taken when a position vacancy is posted. Each applicant for employment with the County shall complete an application form and submit it to the Personnel Department. No person shall be interviewed, examined, tested, referred for consideration, or employed without having completed the required application. Applications for employment must be completed in their entirety and signed by the respective individual making application for employment. An application will be filled out for each position the applicant wishes to apply for. Applications will be good for a period of six months.

102. GENERAL REQUIREMENTS

102.A. All applicants must be a minimum of 18 years of age. Evidence of job performance and capability, experience, education, training, skills and other abilities are carefully considered in reviewing individual qualifications.

102.B. The application shall not be worded as to elicit information concerning the race, color, national origin, religion, sex, medical condition, physical and mental handicap, or political affiliations of any applicant, except that information which is required to assist with equal employment opportunity efforts.

102.C. Applications shall be signed, dated, and the truth of all statements contained therein certified by the applicants signature. Any false statement knowingly made by any applicant in an application for employment with Lincoln County shall be regarded as grounds for disqualifying said applicant from consideration for employment and/or, just cause for dismissal, if hired.

103. RECRUITING AND POSTING PROCEDURE

103.A. Posting and Advertising Classified Positions

1. When a classified position becomes vacant and the County intends to fill the position it will be advertised, unless the vacant classified position may be filled by an employee within County Government without a public announcement.
2. When a vacancy exists for a classified position within the County of Lincoln, an Elected Official/Department Head, with the approval of the County Manager, may, but is not obligated to, fill the vacancy with an existing County employee.
3. The classified vacancy shall be posted within the County for five (5) days on designated bulletin boards in the County Courthouse and other County sites when applicable.
4. To apply for a posted job vacancy, County employees must contact the Personnel Department with a letter requesting consideration for the vacancy. An employee seeking the position shall be expected to meet the basic qualifications of the position for which the employee is applying, including physical

examination, and/or other tests deemed necessary by the appropriate Elected Official/Department Head. Employees within the Department may be considered before other employees of the County.

5. No County employee or elected official can deny a County employee who has completed probationary period, and who is not the subject of disciplinary action, permission to apply for a job vacancy in another County office or department for which the employee is qualified.

6. If necessary, the County Manager's Office may issue job announcements through such media as is deemed appropriate to insure open and competitive recruitment of individuals outside of County service, with sufficient time to insure reasonable opportunity for persons to apply. Internal posting and external job announcements may be made simultaneously.

7. The job announcement will list the position, locations, and basic qualifications, for each classified vacancy. Job announcements shall indicate a closing date, after which applications will not be received. The Personnel Director, in conjunction with the Appointing Authority, shall establish the time limits for which applications for a position shall be accepted, but such period shall in no case be less than ten (10) calendar days.

103.B. All postings and job announcements will be good for any classified vacancies that occur for a six (6) month period.

104. POSTING AND/OR JOB ANNOUNCEMENT EXCEPTION

104.A. Vacant positions may be filled without posting by temporary employees on a temporary basis to replace a regular employee on leave, and/or pending the selection of a regular employee for the position.

104.B. A temporary employee who successfully performs in a seasonal position, may be re-employed each year without public announcement.

104.C. A public announcement for positions of the same title is required only one (1) time during each six (6) month period, provided there is a sufficient pool of applications received through original advertisement to insure competitive recruitment for such positions that are vacant within the six (6) month period.

104.D. Vacant positions may be filled without posting or public announcement by employees returning:

1. from approved leave of absence,
2. from military service, or
3. due to reduction in force.

105. BASIC QUALIFICATIONS

Basic qualifications, together with desirable attributes, will be contained in the job description for each classified position within the County and include the specific educational levels and skills which are necessary to perform the essential functions of the job. Waivers may be granted on basic qualifications by the County Manager. If a waiver is requested by an Elected Official or Department Head, they shall

be in writing and shall contain the reason for such waiver request. If a waiver is granted, the position will be posted again.

106. SELECTION PROCEDURES

106.A. Performance Testing

1. Performance tests may be conducted for typing, shorthand, spelling and other skills for clerical/secretarial employees. Performance tests may also be given by appropriate Department Heads or Elected Officials for positions requiring operation of certain equipment to test the applicant's ability to operate equipment and/or vehicles.
2. A physical agility test may be given to applicants for the positions of deputy sheriff, detention officer, and transport officer.

106.B. Physical Examinations

1. The County may require the applicant selected to fill a vacant position to take a physical examination prior to commencing work to determine whether the employee can perform the essential functions of the position. The offer of employment is contingent upon the physician's statement that the applicant can perform the essential functions of the position. The examination shall be performed by a licensed physician contracted for, or approved by the County. If the employee does not successfully complete the physical, it will result in immediate withdrawal of the offer of employment. Medical examination shall include blood testing, urinalysis, and radiographic examinations for those employees from whom physical labor is expected.
2. The physical examination may include a substance abuse test. A confirmed positive test for drugs or alcohol shall result in rejection of the applicant.
3. In emergency situations, an employee may begin work immediately upon approval of the County Manager. The employee must sign a statement that the employee understands that the physical must be taken and results obtained within thirty (30) days.
4. Annual physical examinations may be required for individuals who operate County equipment.
5. Fees for the required physical examination shall be paid by the County.

106.C. Psychological Evaluation

The Sheriff and Detention Center Administrator may have a recognized psychological evaluation performed by a licensed psychologist for all employees under their supervision.

106.D. Background Information

1. Applicants will execute all necessary authorizations for disclosure of background information. References provided by the applicant will be fully processed for the top three (3) candidates. References provided by the applicant shall be checked. Applicants will be asked by the County to sign an authorization for the County to check references, perform a driver's license check, and any other

background check, as necessary. Only applicants who sign the authorization will be considered for the position for which they have applied.

2. An applicant is responsible for providing evidence to support any statements or certifications made in an application for employment. Said evidence shall be of a sufficient degree to fully substantiate any and all assertions made by the applicant. Applicants must also furnish proof of identification and right to work in accordance with the Immigration Reform Act of 1986.

106.E. Interview

1. The Personnel Department shall determine which applicants meet the basic qualifications of the job. The Personnel Department shall refer the qualified applicants to the Elected Official/Department Head or their representative, who shall interview the top three (3) applicants selected by the Personnel Department.

2. In the event there are three (3) or fewer applicants, all will be interviewed.

107. FINAL SELECTION

The respective Elected Official/Department Head shall make the final selection, with the approval of the County Manager. Equally qualified County employees will be given preference.

107.A. Basis for Final Selection

Selection shall be based on the applicant's overall qualifications compared to the requirements of the position. Final Selection for a position will be made by the Department Head or Elected Official and will be based upon criteria such as the following:

1. physical examination and/or substance abuse testing;
2. psychological examination, if conducted;
3. skills and/or proficiency test;
4. education, background, and experience;
5. personal interview; and
6. references.

107.B. Notification of Interview Results

An applicant who has been interviewed shall be notified in writing by the Personnel Department within fifteen (15) working days the results of the interview.

107.C. Pre-Selection Prohibited

Positions that are not filled by County employees and are otherwise publicly advertised shall not be promised to a person prior to completing the recruitment and selection provisions contained in this policy.

107.D. Ineligibility

Applicants or former employees may be considered ineligible for hire or rehire by Lincoln County if the applicant or former employee:

1. made any false statement or omitted any relevant information on the application;
2. did not meet the requirements of the position;
3. failed to complete the medical examination, psychological examination, or other requirements as directed by the employing authority;
4. has not been certified by a physician that the applicant can perform the essential duties of the position;
5. has been dismissed from County service for disciplinary reasons;
6. is not a legal resident of the United States;
7. failed to fulfill the statutory requirement of NMSA 1978, §4-41-8, if applying for position of deputy sheriff or detention officer;
8. has been convicted of a felony or misdemeanor under the provisions of the Criminal Offender Employment Act, NMSA 1978, or convicted of a felony or infamous crime as defined in NMSA 1978, §10-1-3;
9. has not met the criteria for insurance bonding as required by County or State law where applicable;
10. has had a DWI conviction within the past five (5) years, if required to drive as part of employment with the County.

108. RE-EMPLOYMENT OF FORMER EMPLOYEES

Re-employment preference will be given in the following order:

- 108.A. Employees returning from an approved leave of absence, including military leave;
- 108.B. Employees laid-off due to reduction in-force;
- 108.C. Former qualified full-time and part-time employees, and temporary employees. Nothing shall require such re-employment, but only consideration by the employing authority.

109. REINSTATEMENT OF EMPLOYEES FROM MILITARY LEAVE

An employee who leaves a position with the County, other than a temporary position, to enter the armed forces of the United States, national guard or organized reserve, and who serves on active duty and is honorably discharged or released from active duty to complete the remaining service in a reserve component, and who is still qualified to perform the duties of the County position previously held, shall be re-employed in such position or to a similar position. To be re-employed in such position, the

employee must make application for re-employment within ninety (90) days after being relieved from training or duty, or from hospitalization continuing after discharge for a period of not more than one (1) year.

109.A. The returning employee will be deemed to have accrued seniority and length of service rights as though employment with the County had been continuous since the date of initial employment.

109.B. The employee taking military leave will not be required to exhaust annual or sick leave. The returning employee shall have all annual and sick leave accrued at the time of departure for military service restored.

110. REHIRE OF WORKERS INJURED ON THE JOB

110.A. The County may offer to rehire an employee who has been terminated from work due to an injury for which the employee received, or is due to receive benefits under the Workers' Compensation Statute.

110.B. If an employee applies for a position, the employee is subject to the following conditions:

1. the employee's treating health care provider certifies that the employee is fit to carry out the essential duties of the pre-injury position or a modified position similar to the pre-injury position without significant risk of re-injury; and
2. the County has a position available.

110.C. Compensation benefits of an employee rehired prior to reaching maximum medical improvement shall be reduced as provided in the Workers' Compensation Statute.

111. RECALL OF EMPLOYEES FOLLOWING REDUCTION IN FORCE (RIF)

111.A. Classified employees who are eliminated due to a RIF will be considered for recall on a seniority basis for a period of six (6) months from the date of the RIF. Qualified individuals on RIF status will be given preference on positions to be filled in the classification that the employee held prior to the RIF. To be considered for other vacancies, the RIF'ed employee must re-apply.

111.B. A classified employee who is RIF'ed and returns to County employment within six (6) months of the RIF shall not be required to serve another probationary period if the employee returns to the employee's previous classification.

111.C. A RIF-classified employee returning to classified County employment will be credited for all unused sick leave accrued at the time of the RIF, if such return is within six (6) months. Reduction-in-force is not grievable.

200. EMPLOYMENT STATUS

All positions are divided into "unclassified" and "classified" positions.

201. FULL-TIME CLASSIFIED EMPLOYEE

A full-time classified employee is one who has successfully completed the probationary period, and who normally works a minimum of forty (40) hours per week. This employee is entitled to all rights and benefits of the Lincoln County Personnel Policies and Procedures manual.

202. UNCLASSIFIED EMPLOYEES

202.A. The County Manager, the chief deputy of each Elected Official, the executive secretary to the Sheriff, the Under-sheriff, probationary employees, temporary employees, seasonal employees, part-time employees, and grant-funded employees are unclassified and serve at the discretion of the Department Head or Elected Officials under whom they serve.

202.B. Unclassified employees are terminable-at-will, and are exempt from the merit provisions of this Ordinance. Unclassified employees cannot grieve disciplinary actions. Unclassified employees, with the exception of temporary or grant-funded employees, are subject to all other provisions contained herein, unless specifically excluded.

202.C. Unclassified employees are required to join the Public Employees Retirement Association (PERA). However, Elected Officials may choose to join PERA or not.

203. PROBATIONARY EMPLOYEE

203.A. A probationary employee is a newly hired full-time or part-time employee who is hired to fill a classified position and who has not completed the probationary period of employment during which the employee is evaluated to determine the employee's ability, potential and suitability for the position.

203.B. At any time during this period, the employee may be terminated for any reason or no reason and has no grievance rights.

203.C. Probationary employees accrue leave and benefits. Probationary employees cannot take accrued sick or annual leave until the probationary period is completed, unless written approval is obtained from the County Manager.

203.D. A former Lincoln County classified employee rehired more than sixty (60) days after termination, or rehired into a new position at any time shall serve the required probation period.

203.E. An employee who is temporarily assigned to a vacant classified position and is subsequently hired to fill that position shall serve the required probationary period. The beginning date of the probationary period is the day when the employee is officially changed from temporary to classified status.

203.F. If an employee does not satisfactorily complete the probationary period, the employee will be dismissed. Proposed dismissal of a probationary employee must be discussed with the County Manager prior to dismissal.

203.G. As an alternative to dismissal, an Elected Official/Department Head or County Manager may extend an employee's probationary status for a period not to exceed three (3) months.

204. TEMPORARY/SEASONAL EMPLOYEE

204.A. A temporary or seasonal employee may be hired either in a full-time or part-time basis to a position created to last no more than nine consecutive months for a period not to exceed six (6) months in a twelve (12) month period, beginning with the employee's first day of employment.

Formatted: Strikethrough

204.B. A temporary employee also includes one who is hired to perform a specific job or fill the temporary absence of a classified or unclassified employee.

204.C. Temporary employees have no expectation of continued employment, are not eligible for County benefits and, therefore, do not accrue vacation, sick leave or holiday pay.

204.D. The determination of what constitutes a "seasonal" workload is determined by the Elected Official/Department Head or County Manager.

204.E. Employees in these positions are terminable for any reason or no reason.

205. PART-TIME EMPLOYEE

A part-time employee is one who has successfully completed the probationary period and who normally works no more than thirty-two (32) hours per week. Part-time employees are not eligible for County benefits.

206. APPOINTED EMPLOYEE

An individual who is appointed to an unclassified position by an Elected Official(s).

207. GRANT-FUNDED EMPLOYEE

207.A. A grant-funded employee is one whose work and term of appointment is subject to the availability of grant funds from the funding agency and the required appropriations by the Board of County Commissioners. All grant-funded positions are unclassified.

207.B. Benefits, wages, and other conditions of employment shall be in accordance with the contractual agreement between the County of Lincoln and the other governmental entity providing funding to the program or project.

300. *CHANGES IN EMPLOYMENT STATUS*

301. DEMOTION

301.A. An employee may be demoted to a lower position for which the employee is qualified when:

1. the employee would otherwise be terminated because the position is being abolished due to a lack of funds, or lack of work; or
2. when the employee does not render satisfactory performance in the position presently held; or

3. when the employee voluntarily requests such a demotion.

301.B. Demotion is not a required step in progressive discipline.

302. PROMOTION

A personnel action which transfers an employee to a position which is higher in grade and increases the employee's responsibilities and pay.

303. TRANSFER

303.A. An employee may voluntarily transfer to a vacant position for which the employee is qualified if the employee meets the qualifications required.

303.B. An employee may be involuntarily transferred from one position to another. The employee may be transferred if it is in the best interest of the County of Lincoln, or if further training and development of an employee in another position would be beneficial to future staffing potential of the County. Involuntary transfers are not grievable.

303.C. There shall be no pay adjustment for employees transferred from one position to another of comparable grade.

304. RESIGNATION

304.A. A County employee who wishes to resign in good standing must submit a letter to the immediate supervisor at least fifteen (15) days before leaving, unless the Elected Official/Department Head agrees to permit a shorter period of notice. If it is impossible to give fifteen (15) days notice, the letter should explain the circumstances that prevent it. All County equipment, uniforms, and other County property shall be turned into the department upon termination.

304.B. Application for refund of retirement will not be forwarded to PERA until after termination of the employee. The letter of resignation must be promptly delivered to the Personnel Department.

304.C. Verbal resignations will not constitute termination of employment in good standing with the County of Lincoln.

305. REDUCTION-IN-FORCE (RIF)

The County may reduce the number of employees due to reorganization, lack of funds, lack of appropriation, lack of work, or other considerations. If reduction of force occurs the Elected Official/Department Head shall make the determination of the job classification to be affected. The reduction will occur in the following manner:

305.A. RIF will be determined by department within job classification. A temporary employee, probationary employee, or part-time employee within a Department will be RIF'ed before a full-time classified employee with the same classifications within the given Department, unless specific skills and knowledge must be retained.

305.B. RIF of a classified employee shall be done in reverse order of seniority. For the purpose of this section, seniority shall mean total years of continuous, uninterrupted service as a classified employee of the County. Seniority is applied to the current classification held.

305.C. An employee to be RIF'ed shall be notified in writing by the Elected Official/Department Head.

306. DISMISSAL

306.A. An Elected Official/Department Head with the approval of the County Manager, or the County Manager shall have the authority to dismiss classified employees for just cause which shall include, but not be limited to, unsatisfactory performance, illegal activity, misconduct, or violation of established work rules or policies.

306.B. Unclassified employees serve at the discretion of Elected Official(s) or the County Manager under whom they are appointed, and may be dismissed for any reason or no reason. Unclassified employees have no rights to the grievance procedures.

307. MEDICAL DISABILITY TERMINATION

307.A. An employee shall be involuntarily terminated six (6) months from the last day of work after a qualified, licensed physician certifies that the employee is physically unable to perform the essential functions of the employee's position.

307.B. During this period of disability, the employee will be placed on medical leave without pay status.

307.C. This period may be extended up to six (6) months with the approval of the County Manager.

307.D. The employee must submit monthly reports from a qualified, licensed physician on the employee's condition. However, if the employee is declared to be permanently disabled and unable to perform the essential duties of the position, then the employee will be terminated if all other leave has been exhausted.

307.E. Medical disability termination will be taken in compliance with the Americans With Disabilities Act.

308. SUCCESSFUL COMPLETION OF PROBATIONARY PERIOD

If an employee satisfactorily completes the probationary period, the employee will be placed in classified County service. A personnel action notice from the Elected Official/Department Head must be sent to the County Manager before the employee can become a classified employee and entitled to all of the rights and benefits of classified service.

309. CHANGE OF CLASSIFIED STATUS

In the event an employee changes from a classified position to an unclassified position, the employee may elect to receive payment for accumulated vacation time or take the time as annual leave.

400. CONDITIONS OF EMPLOYMENT

401. PROBATIONARY PERIOD

401.A. New Hires

1. The probationary period is an integral part of the evaluation process and is utilized for observing the employee's performance, assisting the employee in effectively adjusting to the position, determining if the employee is suited for the position, and for dismissing any employee whose performance does not meet the required work standards.
2. An employee hired to fill a classified position shall serve a probationary period. An employee hired to fill a classified sheriff's deputy or detention officer position shall serve a probationary period of twelve (12) months. All other employees hired to fill classified positions shall serve a six (6) months probationary period.
3. During the probationary period, the employee may be dismissed for any reason or no reason. An employee on probationary status has no right to the grievance procedures. A probationary employee may be terminated at any time during the probationary period.
4. If a probationary employee does not successfully complete the probationary period, it may be extended at the discretion of the Elected Official/Department Head to whom the employee reports. The probationary period may be extended for up to three (3) months.
5. If the Elected Official/Department Head chooses to extend the probationary period of an employee for any given period of time not to exceed the maximum period of three (3) months, the Elected Official/Department Head will notify the employee in writing of the extension and the reasons for the extension. A copy of this notification will go into the employee's personnel file. In the event that the Elected Official/Department Head declines to convert the employee's status to classified at the end of the probationary period, the employee will be dismissed.
6. A probationary employee hired to fill a deputy sheriff or detention officer position shall serve a twelve (12) month probationary period, during which time the employee shall be required to obtain appropriate certification for the position. Failure to obtain such certification within the twelve (12) month period shall result in the employee's dismissal.
7. A probationary employee may apply for other positions in another County office, but if selected, shall serve another complete probationary period.
8. If the employee is hired to a full-time classified position, the first day of work shall be used in computing the beginning of the probationary period.

401.B. Temporary Employee Hired to a Classified Position

A temporary employee who is subsequently selected to fill a classified position shall serve the required probationary period. The beginning date of the probationary period shall be the date the employee changes from temporary status.

401.C. Former Employee Hired to a Classified Position

1. A former County employee rehired more than six (6) months after termination, or rehired at any time to fill a different position, shall serve the required probationary period. All benefits will accrue at the same rate as any new employee.
2. A former County employee whose termination was in good standing and who is rehired within six (6) months after termination to fill the same position in which the employee was previously employed, will not be required to serve an probationary period.

402. NEPOTISM

402.A. The practice of nepotism is prohibited. Any person elected or appointed to public office shall not give employment as clerk, deputy, assistant or other class of departmental employee to their spouse, ex-spouse, children, parents, siblings, grandparents, grandchildren, aunts, uncles, nieces, nephews, or to an unrelated individual sharing a spousal relationship with an employee when that person's compensation is \$600.00 or more. (§ 10-1-10, NMSA 1978.)

402.B. When there is a change in assignment or relative relationships among County employees which leads to one employee supervising another employee, as specified in Section 402.A., in the same department, the employees must inform the Elected Official/Department Head in writing within five (5) working days. The Elected Official/ Department Head must transmit a letter and a recommended course of action to the County Manager within five (5) working days of receipt of the letter. The County Manager will attempt to transfer one of the employees in question and will officially notify those involved, if a position is available. If no position is available within three (3) months of notice, one employee will be terminated. Any employee not submitting a letter indicating a change of relative or spousal relationship, as specified in this section, will be disciplined.

402.C. Employees hired prior to March 1, 1998, who are relatives, as specified in Section 402.A., of supervisors in the direct chain of command or persons who are cohabiting with a supervisory employee in their direct chain of command are grand-fathered under the current situation for the duration of County employment.

403. CONFLICT OF INTEREST

No employee shall engage in any business or transaction or accept private employment or other public employment which is incompatible with the proper discharge of the employee's responsibilities, or which gives the appearance of impropriety.

404. ATTENDANCE

Regular and punctual attendance at work shall be required of all Lincoln County employees. All employees are to be at their designated work areas on time and ready to work. They shall work until the scheduled quitting time, unless permission of the supervisor has been obtained for different work hours. If the Elected Official/Department Head does not take appropriate action, the County Commission may compel regular and punctual work habits of all County employees.

405. WITNESSES AT PERSONNEL GRIEVANCE HEARINGS

Elected Officials of departments, department heads, and all employees of Lincoln County are required to attend grievance hearings, if designated as witnesses.

406. DRESS AND APPEARANCE

County employees are constantly in the public eye. Consequently, it is important that the employees present the best possible image to the public and should always be clean and as neatly dressed as work assignments allow.

406.A. Dress Code

The Elected Official/Department Head may establish a reasonable dress code for employees under the Elected Official/Department Head's direction. Employees must adhere to the required dress code.

406.B. Uniforms

If a uniform is prescribed for an employee's function, it shall be worn at all times while on duty and at no other time unless authorized by a Department Head or Elected Official. Failure to wear a designated uniform while on duty will be considered insubordination, unless otherwise authorized by the Department Head or Elected Official. Uniforms will be issued at the time of employment.

407. DESIGNATED WORK AREAS

Employees shall not litter work areas and will keep them neat and clean.

408. HEALTH AND INJURY CONDITION

If an employee is on medication or under a doctor's care for any reason that could affect the employee's operation of machinery, equipment, or other job duties, the employee must inform the supervisor of the employee's condition. Failure to report a health or injury condition may subject the employee to disciplinary action, up to and including dismissal.

409. WORK SCHEDULES

The Elected Official/Department Head shall have authority for setting work schedules for all employees within the department. The Elected Official/Department Head may designate a person in a supervisory role within the department to coordinate work schedules.

409.A. Changes in Work Schedule

The Elected Official/Department Head or designee shall give employees reasonable notice of long term changes in work schedules.

409.B. Adjustment of Work Hours

1. On occasion, a full-time non-exempt employee may be required to work more than regularly scheduled hours in a particular day. On such occasion, the respective Elected Official/ Department Head or County Manager may authorize the employee to take up to the number of excess hours worked off during the same work week.
2. Similarly, a full-time non-exempt public safety employee may be required to work more than regularly scheduled hours in a particular day or week. On such occasion, the respective Elected Official/Department Head or County Manager may authorize the employee to take up to the excess number of hours worked off during the same twenty-eight day pay cycle.

409.C. Call-In

If an employee is called in for emergency duty, the employee will be compensated for the actual hours worked. If an Elected Official, Department Head, or the County Manager determines that, in order to protect the health, safety, and welfare of the citizens of Lincoln County, it is necessary to require employees to work after hours or on days off, the employee will be paid time and one-half, irrespective of the total hours worked during the work period. The nature of the emergency shall be documented by the call-in official.

409.D. Lunch Periods

Lunch periods are normally one (1) hour, except for departments with established thirty (30) minute lunch periods.

409.E. Breaks

Normally breaks will be taken once during the first half of the shift and once during the second half of the shift. Supervisors may limit or delay breaks if, in their opinion, continuous work is required. There will be no accumulation of breaks.

409.F. Overtime

1. Only employees considered non-exempt under the Fair Labor Standards Act (FLSA) will be entitled to receive overtime compensation. Employees considered exempt under the FLSA are considered salaried and are not entitled to overtime compensation.
2. Elected Official/Department Head or County Manager may require employees to work over-time.
3. Eligible employees are entitled to over-time compensation for time worked in excess of forty (40) hours per week. Sheriff's Deputies, as 207(K) employees, will receive overtime in excess of 80 hours per pay cycle.

410. COUNTY PROPERTY

410.A. The responsibility for County equipment or property used by an employee in the discharge of one's duties belongs to the employee.

410.B. The employee entrusted with equipment by a supervisor assumes sole and complete responsibility for the condition and proper use of such property or equipment from the time of assuming use or control until acknowledgment of its return by the Elected Official/ Department Head. Monetary costs of damages to County property or equipment caused by careless, negligent or deliberate acts or omissions by user employee may be deducted from the net pay of such employee.

410.C. Return of County Property

An employee terminating from employment with Lincoln County for any reason shall, prior to termination, return all County property, keys, and equipment, etc., issued the employee.

411. USE OF TELEPHONES

Telephones are to be used in the conduct of County business. Long distance calls shall not be made at County expense except in the conduct of County business. All long distance calls shall be carefully logged by each Department and be subject to review by the County Commission or County Manager.

412. HATCH ACT

A County employee whose principal employment is in connection with an activity financed in whole or in part by federal loans or grants is required to comply with the provisions of the Federal Hatch Act (5 U.S.C., Section 7321-7328).

413. POLITICAL ACTIVITY

413.A. Every employee has a civic duty to vote for candidates and issues of one's choice. No employee will be subjected to coercion, intimidation or threat of reprisal because of any political affiliations or beliefs.

413.B. No employee shall continue in employment with the County with pay when such person engages in political activity which is found to adversely affect, interfere with or lead to a diminishing of the integrity, efficiency or discipline of the County service.

413.C. Political materials, paraphernalia and literature favoring candidates may be dispensed on County premises, until such time as forty (40) calendar days prior to any election day when all such candidate advertising in any form must be completely removed.

413.D. County employees shall not:

1. use their official authority or influence for the purpose of interfering with or affecting the nomination for office;

2. directly or indirectly coerce, attempt to coerce, command, or advise a state or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person, for political purposes; or

3. campaign for themselves or other candidates during working hours.

414.E. Candidates for County elective offices shall be encouraged to take leave of absence without pay, vacation, or terminate employment to allow sufficient time and freedom to campaign.

415. PHYSICAL AND/OR MEDICAL EXAMINATIONS

Physical and/or medical examinations may be required of any employee at the discretion of the Elected Official/Department Head or County Manager. An employee required to have a medical examination must provide the County with a completed Medical Certification Form completed by a physician. Any examination required will be conducted at the expense of the County. The Elected Official/Department Head will allow the employee reasonable time off for the medical examination.

416. MEDICAL EXAMINATIONS

416.A. Successful employment applicants to whom positions are offered may be required to undergo medical examinations which may include urinalysis, blood testing, and radiographic examinations. In addition, successful employment applicants shall be tested for alcohol and/or use of illegal substances. Applicants will be required to provide a specimen for analysis.

416.B. All offers of employment shall be conditional upon the applicant passing a substance abuse/alcohol test which shall be administered by a qualified company selected by the County. The qualified company will complete the analysis and provide the results to the Personnel Director. If the applicant fails the drug screen as a direct result of a positive substance abuse test, the conditional offer of employment will be rescinded.

416.C. Medical examinations in conjunction with employment will be paid for by the County.

417. SUBSTANCE ABUSE TESTING (DRUG TESTING)

Lincoln County is committed to the goal of a drug-free work place in compliance with the Drug-Free Work Place Act of 1998. Substance abuse testing of the employees will not be conducted by the County except in compliance with legal requirements. Testing for substance abuse is adopted to assure that the County is in compliance with Federal mandates regarding substance abuse in the workplace and to provide a safe environment for all employees and the public.

417.A. Use of Alcohol, Substances, and/or Drugs

The use of controlled substances, drugs or alcohol prescribed and non-prescribed, is a concern to Lincoln County when it interferes with job performance, conduct, attendance, safety, or when it is in violation of the law. The unlawful manufacture, distribution, possession or use of a controlled substance by an employee while on County premises, or while on County business is prohibited. Conducting County business, which includes driving vehicles or operating County equipment, while under the influence of

alcohol or other drugs is also prohibited. Engaging in any of these prohibited activities may result in disciplinary action, including dismissal.

417.B. Reasonable Suspicion Testing

Any Lincoln County employee shall be tested for alcohol and/or substance, if a trained supervisor has reason to suspect that the employee is engaging in the use of alcohol or substances on the job, or is reporting to work under the influence of alcohol or substances. Reasonable suspicion that an employee is under the influence of alcohol or substances means that an employee is affected in an objectively detectable manner. It is supported by objective evidence, based upon known specific, articulable, and observable facts that would lead a reasonable person to believe that the employee is under the influence of alcohol or other substances. In assessing whether reasonable suspicion exists, the employee's ordinary individual characteristics will be taken into consideration. Additionally, an employee's admission of abuse of alcohol or other substances to a supervisor in the chain of command, or a provider of medical services under contract to the County shall constitute reasonable suspicion when the abuse could impair job performance and/or safety and the employee is not compliant with the County's recommended treatment program.

1. When there is reasonable suspicion that an employee has reported to work, is conducting work, has been involved in an accident, is representing the County, or is on County premises while under the influence of alcohol or other substances, the respective Elected Official/Department Head shall contact the County Manager. The County Manager should be consulted regarding the circumstances and evidence as to whether or not testing is appropriate to the specific situation. If the Elected Official/Department Director decides to proceed with the testing, the third-party administrator will be notified and will schedule the employee for immediate testing. The Department shall be responsible for transporting the employee to the testing site. The impacted employee shall be placed on administrative leave with pay.

2. All testing results shall be reported back to the Personnel Director who shall be the designee of the County. If the test results are negative, the Personnel Director will notify both the employee and the supervisor and the employee shall be returned to work at the inception of the employee's next regularly scheduled work shift unless other disciplinary action is pending.

417.C. Positive Results

1. The guidelines established by the National Institute of Drug Abuse will be used to determine whether an employee tests positive.

2. If an employee tests positive for alcohol or substances, the employee will be placed on administrative leave until a pre-determination hearing is held.

417.D. Safety Sensitive Positions

1. For the purposes of this substance abuse policy, all law enforcement officers, corrections officers, employees required to operate County vehicles, and employees who have control or access to controlled drugs or reports associated with those drugs shall be classified as safety sensitive positions. It shall be the responsibility of the Personnel Director to determine additional positions, if any, which will be classified

as safety sensitive. All persons hired for or presently in positions classified as *safety sensitive* shall submit, at least on an annual basis, to driver's license record checks.

2. The following criteria shall be used as a guide for determining additional positions to be classified as safety sensitive:

- a. the extent to which the job responsibilities impact upon the safety of the public;
- b. the extent to which the job responsibilities expose the employee or co-worker to hazardous conditions;
- c. the extent to which the job responsibilities require responsibility for the physical safety of others.

3. A valid and positive test, or refusal to submit to a test, by an employee in a safety sensitive position shall be just cause for discipline, including dismissal.

4. Employees in safety sensitive positions who self-refer in advance of a notification of a substance abuse or alcohol test shall be placed on the appropriate leave status until successfully completing an approved rehabilitation program. The employee shall be responsible for paying the cost of the rehabilitation program unless the employee has insurance coverage for such treatment. Upon the employee's return to work after completion of the drug rehabilitation program, the employee shall be required to submit to unannounced, unscheduled substance abuse tests for a period of two (2) years. If the employee tests positive during the two (2) year testing period, the employee shall be subject to disciplinary action, up to and including dismissal.

417.E. Non-Safety Sensitive Positions

All other employees, except those identified as safety sensitive, are in non-safety sensitive positions.

1. With the approval of the County Manager, an employee in a non-safety sensitive position may attend and successfully complete an approved rehabilitation program. The employee shall be responsible for paying the cost of the rehabilitation program unless the employee has insurance coverage for such treatment.

2. An employee who attends a rehabilitation program shall be placed on leave until the employee successfully completes an approved treatment program. This shall occur within thirty (30) days unless written authorization to exceed thirty (30) days is recommended by the respective Elected Official/Department Head and is approved by the County Manager.

3. During the County's recommended treatment program, the employee may use the pay status as follows:

- a. first, accrued sick;
- b. second, annual leave.
- c. If accrued leave is insufficient, the employee shall be placed on Leave Without Pay.

4. Employees in non-safety sensitive positions may, with the approval of the County Manager, be permitted to perform their duties while participating in the County's recommended treatment program unless other disciplinary action is pending.

5. Prior to returning to work, the employee must sign an agreement to submit to periodic and unannounced testing for a period of two (2) years. A positive test after completing the rehabilitation program shall be considered just cause for disciplinary action, up to and including dismissal.

417.F. Refusal to Submit to Alcohol/Substance Abuse Testing

1. Refusal by the employee to submit to a substance abuse or alcohol test shall be considered just cause for disciplinary action, including dismissal.

2. An employee who refuses an instruction to submit to a substance abuse or alcohol test shall not be permitted to finish the shift and shall immediately be placed on administrative leave with pay status pending disciplinary action.

417.G. Retesting

An applicant or employee who tests positive on a drug test may elect to have, at the applicant's or employee's expense, a retest of a portion of the original sample at a certified drug testing laboratory of the applicant's or employee's choosing, provided the request is made in writing within twenty-four (24) hours of the applicant or employee receiving notice of a positive test result. The job will not be held open for the applicant during the retesting.

417.H. Confidentiality

No laboratory reports or test results shall appear in the employment personnel file unless they are a part of a disciplinary action, but shall be placed in a separate file with other medical records.

417.I. Commercial Driver Drug Testing

In concert with the third-party administrator, the County Manager shall develop and implement a Department of Transportation commercial driver drug testing program.

418. COUNTY OPERATOR'S PERMIT TESTING

418.A. No employee or other individual shall operate or drive County vehicles or equipment which require a State of New Mexico Commercial Class or Class E driver's license without a valid vehicle/equipment Operator's Permit issued to the individual.

418.B. This permit will not be issued to any individual who is expected to operate or drive vehicles or equipment which require the Class E or Commercial Class driver's license unless the employee has submitted to and passed a substance abuse test administered by a laboratory designated by the County.

418. C. Employees must notify their supervisor to arrange for the substance abuse test within sixty (60) days prior to the expiration of their current State of New Mexico Class E or Commercial Class Driver's

License. The supervisor shall notify the Personnel Director, who shall schedule the employee for an appointment.

419. HARASSMENT

419.A. Prohibition of Harassment

Employees of the County are prohibited from harassing any other County employees on the basis of sex or any other protected class (race, religious creed, sex, national origin, age, physical or mental disability). Harassment occurs when an employee is subjected to unwelcome verbal or physical conduct based on any of the protected classifications. Sexual harassment is any unwanted sexual attention or such attention when submission to such conduct is made, either explicitly or implicitly, a term of an individual's employment; submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or such conduct has the purpose of affecting or unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

419.B. Policy Regarding Harassment

Lincoln County is committed to enforcing a policy prohibiting harassment on the basis of sex or any other protected class that:

1. provides for a work environment free from all harassment on the basis of sex or any other protected class;
2. applies to the actions of all County employees, elected and appointed officials, volunteers, vendors, and contractors;
3. ensures that appropriate corrective measures, up to and including dismissal and/or appropriate legal action, will be taken if this policy is violated;
4. establishes a complaint procedure that is fair, confidential, and protects against retaliation for making a complaint or testifying as a witness to a complaint;
5. ensures that all complaints are investigated promptly, thoroughly, and fairly; and
6. ensures that all elected officials, Department Heads, and supervisors are fully trained in their responsibilities under this policy.

419.C. Harassment Complaint Procedures

1. Employees of Lincoln County shall report acts of harassment to their immediate supervisor, Elected Official/Department Head, or County Manager. If the employee feels uncomfortable reporting the harassment to the immediate supervisor, the employee may report the complaint to the County Manager. If the County Manager is the alleged harasser, the harassment shall be reported to the County Attorney.

2. A meeting shall be held with the alleged harasser as soon as possible and in no event later than three (3) working days from the report of the complaint. The purpose of the meeting shall be to investigate the matter and, if necessary, take appropriate corrective action. The investigation shall be confidential to the extent possible and documented. Discipline may vary depending on the nature of the activity of which was complained. A complaint will be kept confidential to the extent possible. All persons interviewed are required to keep contents of interviews confidential.

420. PERSONAL BUSINESS

Personal business shall not be conducted during work hours.

421. FALSE STATEMENTS AND FRAUD

421.A. No person shall willfully, corruptly or by deliberate omission, make any false statements, certificate, mark, rating, or report in regard to any signed application, test, certification or appointment or in any manner commit fraud or deliberately omit responsible action preventing, or for the purpose of preventing, the proper or impartial execution of this Ordinance.

421.B. No person seeking appointment to or promotion in the service of Lincoln County shall either directly or indirectly give, render or pay any money, service or other valuable thing to any person for, on account of, or in connection with that person's assigned application, test, appointment, proposed appointment, promotion, or proposed promotion; provided, however, that the provisions hereof shall not apply to payments made to duly licensed employment agencies.

422. ADDITIONAL RULES

Employees shall obey any and all additional rules, directives and requests stated verbally or in writing by their supervisors. Employees are generally required to follow all standards, rules, procedures and policies that are similar or normally expected in the work place.

500. BENEFITS

501. LEAVE WITH PAY

Request for leave with pay for any purpose shall be made in writing by the employee to the Elected Official/Department Head prior to the time the leave is to begin (or advise in advance with as much lead time as possible). Requests for leave with pay for short-term temporary absences (such as voting) shall be made informally between the employee and the Elected Official/Department Head.

501.A. Annual Leave (Vacation)

An employee holding a full-time classified position of Lincoln County shall accrue annual leave on the following basis:

<u>Annual Service</u>	<u>Hourly Accrual Rate/Bi-weekly</u>	<u>Leave Days Per Year</u>
0 up to 24 months	3.077	two (2) weeks
24 months + 1 day up to 120 months	4.615	three (3) weeks
120 months + 1 day and over	6.154	four (4) weeks

1. An employee does not accrue additional annual leave for time worked in excess of forty (40) hours per week.
2. Upon termination from County employment, an employee shall be paid for unused accrued annual leave.
3. An employee may take annual leave just prior to resignation.
4. No more than twenty (20) working days, or one hundred-sixty (160) hours of annual leave, may be carried forward from one payroll-end calendar year to the next. All excess annual leave shall be forfeited, if not used, unless extenuating circumstances warrant approval of an extension by the Board of County Commissioners of Lincoln County. Following is a lists of payroll-end calendar year dates for the years 2014-2018:

December 19, 2014
 December 18, 2015
 December 16, 2016
 December 15, 2017
 December 14, 2018

5. Annual leave may be taken only with prior approval of the immediate supervisor. Approval of vacation requests is contingent upon departmental needs.
6. Annual leave shall not be charged in less than one-half (½) hour increments.

501.B. Sick Leave

1. Accumulated sick leave with pay may be taken for:
 - a. personal illness, injuries or legal quarantine;
 - b. illness in the employee's immediate family, provided that the use of sick leave is approved by the immediate supervisor.
 - c. for visits to a medical practitioner's office or to a clinic for examination, tests, review or examination where the intent is preventive in nature as contrasted with treatment.

2. Sick leave should only be used as needed, and abuse of sick leave will be considered just cause for disciplinary action and/or dismissal.

3. Sick leave shall be accumulated at the rate of three point zero seven seven (3.077) hours bi-weekly or a total of eighty (80) hours per year. Unused sick leave shall accumulate from year to year to a maximum of nine hundred sixty (960) hours.

4. Employees shall obtain prior approval of their respective Elected Official/ Department Head or the County Manager prior to taking the leave. An employee who cannot report to work for reason of illness or injury shall report to the department head within fifteen (15) minutes of the opening of the office.

5. The Elected Official/Department Head or County Manager may request a physician's statement or medical certificate concerning verification of illness or injury where leave time is requested. Sick leave of more than three (3) consecutive days duration shall require certification by a physician identifying the nature of the illness and certifying that the employee is able to return to work.

6. An employee shall keep the Elected Official/Department Head informed and updated regarding the employee's status when on sick leave that exceeds three (3) days duration.

7. Probationary employees are not eligible to utilize accrued sick leave, but may be granted an excused leave for reason of illness or injury, upon written approval from the County Manager.

8. Storage of Accrued Sick Leave

In the event an employee is elected or selected into an unclassified position, the accumulated sick leave will be frozen and maintained in the payroll records until such time the employee returns to a classified status or leaves County employment.

9. Donated Compensatory Hours, Sick and Vacation Leave

a. In certain cases, County employees may require leave from work for a period exceeding accumulated sick leave. In such instances, employees are encouraged to use other leave, such as vacation and compensatory, to prevent being placed on leave without pay status.

b. County employees may donate accumulated compensatory, sick, or vacation hours to an affected employee after submitting a written request to and obtaining approval from the County Manager.

c. Such donations are only possible when the affected employee has exhausted any and all accumulated leave. Donations of leave are limited to a maximum of 20 hours per donor to recipient within a 12-month period, and recipients are limited to accepting a maximum of 240 hours per 12-month period. Requests to donate sick leave must be in writing and are subject to verification by the County Manager's approval.

10. Loss of Sick Leave

Upon leaving the employment of Lincoln County all accumulated sick leave is forfeited, except as specified in section 613, hereof.

501.C. Holidays

1. Legal holidays for classified employees will be designated by the Board of County Commissioners of Lincoln County each calendar year.
2. If a designated holiday falls on the first day of an employee's scheduled day off, the holiday will be observed on the preceding work day. If a designated holiday falls on the second day of an employee's scheduled day off, the holiday will be observed on the following work day. This provision does not apply to emergency personnel, as they will be paid holiday pay pursuant to Section 615, hereof.
3. If a designated holiday falls during an employee's scheduled annual leave, the day shall be counted as a holiday and not deducted from accrued annual leave.

501.D. Bereavement Leave

1. In the event of the death in an employee's immediate family, or near relative, the employee will be entitled to a bereavement leave with pay not to exceed three (3) working days.
2. *Immediate family*, and *near relative*, for subsection 501.D, is defined as the employee's spouse, children, parents, mother-in-law, father-in-law, siblings, aunt, aunt-in-law, uncle, uncle-in-law, niece, niece-in-law, nephew, nephew-in-law, grandchildren, grandparents, grandmother-in-law, and grandfather-in-law.
3. When travel out-of-state is required for funeral services of an immediate family member, or near relative, an employee may receive an additional two (2) days of bereavement leave.
4. An employee shall notify the supervisor prior to taking bereavement leave.

501.E. Jury Duty

An employee will be granted leave with pay for the purpose of serving as a juror in federal court or the state court of a political subdivision of the State of New Mexico. When excused by the Court during a working day, the employee is expected to return to duty if at least one (1) hour of County duty can be served in the work day. Employees receiving Jury Duty leave with pay shall turn any fees received for such Court service to the County.

501.F. Court Appearances

An employee may be required to testify in court on a job-related case. An employee may be called to testify on behalf of the County on the employee's scheduled day off.

501.G. Voting Time

1. For purposes of a national, state, or local election, an employee who is registered to vote will be granted a reasonable period of time up to two (2) hours paid leave for voting between the time of opening and the time of closing the polls. The employee's supervisor may specify the hours for the leave.

2. This leave will not be granted to any employee whose work day begins more than two (2) hours subsequent to the time of the opening of the polls or ends more than three (3) hours before the closing of the polls.

501.H. County Business Leave

1. Elected Officials/Department Heads or the County Manager may authorize leave with pay to allow an employee to attend meetings of boards and/or commissions when the employee's attendance is on behalf of the County and in the best interest of the County.

2. If the employee is paid by the board or commission for travel and attendance, that money shall be turned in to the County or its equivalent subtracted from the employee's pay.

3. The County Manager may grant early departure from work or late arrival to work due to hazardous road conditions or unusual circumstances. The employee will receive leave with pay.

501.I. Administrative Leave

An Elected Official/Department Head, with the approval of the County Manager may place an employee on administrative leave pending a disciplinary action.

501.J. Military Leave

Military leave with pay will be granted for authorized reserve or national guard activities for a maximum of fifteen (15) working days each calendar year. Military leave must be requested twenty (20) days in advance. The employee must furnish proof of duty orders or other documentation prior to leave being granted, unless the leave is for emergency purposes.

501.K. Compensatory Time Leave (Comp-Time)

1. Compensatory time must be approved by the County Manager. It can be denied if it conflicts with work schedules.

2. Employees shall be encouraged to utilize such compensatory time and not to accumulate the same.

502. LEAVE WITHOUT PAY

502.A. Family and Medical Leave Act (FMLA)

1. Non-probationary Classified Employees will be entitled to leave under the provisions of the Family and Medical Leave Act (FMLA) for one or more of the following reasons:

- a. the birth of a child or the adoption of a child;
- b. the placement of a foster child;

- c. the care of a sick spouse, child, or parent, if that individual has a serious health condition; or
- d. the employee's own serious health condition. A serious health condition of any employee must make an employee unable to perform the essential duties.

2. Eligible employees are entitled to a maximum of twelve (12) weeks of unpaid leave during any twelve (12) month period for serious health conditions, birth, and/or adoption. Additional leave under the FMLA does not become available under FMLA until a date twelve (12) months after the leave period begins.

3. To be eligible for FMLA benefits, an employee must:

- a. have worked for the County for a total of at least twelve (12) months;
- b. have worked at least 1,250 hours over the previous twelve (12) months;

4. Medical and other benefits:

During an approved family/medical leave, the County will maintain an employee's health benefits, as if the employee continued to be actively employed. If paid leave is substituted for unpaid family/medical leave, the County will deduct the employee's portion of the health plan premium as a regular payroll deduction. If the employee's leave is unpaid, the employee must pay the employee's portion of the premium through the County payroll department. An employee's healthcare coverage will cease if the premium payment is more than thirty (30) days late. If an employee's payment is more than fifteen (15) days late, the County will send a letter to this effect. If the County does not receive co-payment within fifteen (15) days after the date of the letter, the employee's coverage may cease. If an employee elects not to return to work for at least thirty (30) calendar days at the end of the leave period, the employee will be required to reimburse the County for the cost of the premiums paid by the County for maintaining coverage during any unpaid leave, unless an employee cannot return to work because of a serious health condition or other circumstances beyond the employee's control.

5. The employee is required to provide:

- a. thirty (30) days advance notice of such leave when the need is foreseeable;
- b. medical certification supporting the need for leave due to serious health condition;
- c. periodic reporting during the FMLA leave regarding the employee's status and intent to return to work.

6. Physician's Certificate

- a. If an employee is requesting leave because of the employee's own or a covered relation's serious health condition, the employee and the relevant health-care provider must supply appropriate medical certification. One may obtain medical certification forms from the County Manager's Office. When an employee requests leave, the County will notify the employee of the requirement for medical certification and when it is due [at least fifteen (15) days after leave is requested]. If an employee provides at least thirty (30) days notice of medical leave, the

employee should also provide the medical certification before leave begins. Failure to provide requested medical certification in a timely manner may result in denial of leave until it is provided. The County, at its expense, may require an examination by a second health-care provider designated by the County if it reasonably doubts the medical certification the employee initially provides. If the second health-care provider's opinion conflicts with the original medical certification, the County, at its expense, may require a third, mutually agreeable, health-care provider to conduct an examination and provide a final and binding opinion. The County may require subsequent medical re-certification. Failure to provide requested certification within fifteen (15) days, if such is practicable, may result in delay of further leave until it is provided.

b. If an employee takes leave because of the employee's own serious health condition or to care for a covered relation, the employee must contact the County on the first and third Tuesday of each month regarding the status of the condition and intention to return to work. In addition, an employee must give notice as soon as practicable [within two (2) business days, if feasible] if the dates of the leave change, or are extended, or initially were unknown.

7. Use of Accrued Leave

Family Medical Leave is unpaid leave, although an employee may be eligible for sick leave, annual leave, comp-time, short-term disability payments, and/or workers' compensation benefits under those insurance plans, if applicable. Those plans are described elsewhere in this Ordinance. The employee using this benefit is required to first use all accumulated sick and annual leave, and comp-time, short-term disability, and/or workers' compensation benefits, if applicable. If the employee does not have twelve (12) weeks of accumulated sick and annual leave, comp-time, short-term disability benefits, and/or workers' compensation, the remainder of the twelve (12) weeks will be leave without pay. The employee may take no more than twelve (12) weeks of leave, whether using paid accumulated leave or leave without pay. The substitution of paid leave time for unpaid leave time does not extend the twelve (12) week leave period. Further, in no case can the substitution of paid leave time for unpaid leave time result in receipt of more than one hundred percent (100%) of an employee's salary. Family/medical leave runs concurrently with other types of leave, *i.e.*, sick leave, annual leave, comp-time, short-term disability, and worker's compensation, if applicable.

510.B. Personal Leave

An Elected Official/Department Head or the County Manager may grant a non-probationary classified employee leave without pay (LWOP) for a period not to exceed six (6) months. Leave without pay may be granted to classified non-probationary employees for:

1. a non-duty related injury or disability which occurred off the job;
2. sabbatical;
3. education;
4. good and sufficient reason as determined by the Elected Official/Department Head with the approval of the County Manager.

511. CONDITIONS OF LEAVE WITHOUT PAY

All leave without pay is subject to the following conditions:

511.A. Position Upon Return

Upon return to work, the employee will be placed into the same or similar position left by the employee. The employee must be qualified for the position in which the employee is being placed. The placement will be at the discretion of the Elected Official/Department Head with the approval of the County Manager.

511.B. Vacancies May be Filled by Temporary Employees

Temporary personnel may be hired to fill vacancies created by an employee who is on leave without pay (LWOP).

511.C. Benefits at Employee's Expense

Employees on leave without pay do not accrue any type of leave, nor do they receive County benefits. Employees wishing to continue their insurance benefits may do so at their own expense by paying the employee's and the County's share of the premium to the Finance Department on the regular pay day.

511.D. If the employee is unable to return to work after six (6) months, the employee may be terminated.

512. OCCUPATIONAL INJURY LEAVE/WORKERS' COMPENSATION

Employees injured on the job or suffering from occupational diseases as defined in the New Mexico Workers' Compensation Statute, NMSA 1978, §52-1-1, *et seq.*, shall receive Workers' Compensation benefits as prescribed by law.

512.A. Reporting Procedure

1. An employee must report all work-related injuries, however minor, to the supervisor immediately, or as soon as possible. A Report of Injury shall be filed with the County Manager within twenty-four (24) hours of the injury. The report shall be signed by the employee.
2. Elected Officials/Department Heads and the County Manager have the responsibility of recording, in detail, all relevant facts regarding the accident(s) or injury(ies) on the job. The appropriate supervisor must conduct an accident investigation and file a report on the following work day.

512.B. An employee injured on the job may utilize accrued sick leave for the first seven (7) scheduled working days after the injury occurs. If the employee is off of work because of a work-related injury for more than seven (7) days and receives Workers' Compensation benefits for any or all of the first seven (7) days, the employee shall reimburse the County for the amount which the employee received in Workers' Compensation benefits for the first seven (7) days.

512.C. The employee will not draw a salary from the County until the employee is able to return to work. Accrued sick leave or annual leave may not be used to supplement Workers' Compensation benefits. County employees will not accrue benefits while on Workers' Compensation.

512.D. If an employee is unable to work because of an on-the-job injury and wishes to keep the insurance active, the employee may pay both County and employee portions of medical insurance.

512.E. An employee who incurs a work-related injury/illness must go to the County-selected physician, who will treat the employee or will refer the employee to a non-contract physician, depending on the nature of the problem. In circumstances of a medical emergency, the employee should go to the nearest urgent-care center. Treatment subsequent to the emergency treatment will be coordinated by the contract physician.

512.F. Medical certificates and proof of occupational injury may be required by the County in addition to anything required by Workers' Compensation.

512.G. If an employee who is on Worker's Compensation benefits is unable to return to the employee's position after six (6) months, the employee may be terminated, and the position may be filled. The employee may be eligible for re-hire after six (6) months, as specified in Section 110, hereof.

513. UNAUTHORIZED LEAVE

An employee who fails to report to work for three (3) consecutive days without authorization is considered to have abandoned the position and may be subject to disciplinary action, including dismissal.

514. PERA BENEFITS

A. Each classified and appointed employee will be enrolled as a member of the appropriate Lincoln County Retirement Plan or the Public Employees Retirement Association (PERA).

1. PERA will be optional to Elected Officials.

2. Employees planning to retire should initiate the process at least three (3) months before the projected date of retirement.

515. UTILIZATION OF ACCUMULATED VACATION LEAVE AT RETIREMENT

Employees eligible for retirement may elect to take any accumulated vacation time prior to the official date of retirement.

516. MEDICAL AND OTHER INSURANCE BENEFITS

The County provides medical and other insurance benefits to all classified employees. Insurance plans may be changed at the discretion of the County Commission.

Insurance benefits for newly hired employees will be effective on the first day of the month following their employment start date.

517. UNIFORMS/CLOTHING

517.A. An employee in designated jobs with the County may be required to wear special clothing to perform the job function. An employee who is required to wear special clothing shall receive a clothing issue from the County.

517.B. The County issue consists of a shirt, pants, and coat. Items not furnished to the sheriff and the officers are hand gun, leather gear, and coordinating footwear.

518. LEAVE FOR IMPAIRED EMPLOYEES

518.A. If a supervisor has reason to believe that an employee's work performance has deteriorated due to excessive use of intoxicants or other personal problems, the supervisor may call the employee in for a consultation. At the consultation meeting, the nature of the diminished work performance will be presented to the employee. The employee will be given an opportunity to explain any circumstances which may have caused the diminished work performance.

518.B. If the employee acknowledges that a problem exists involving excessive consumption of intoxicants, or other personal problems, the supervisor may recommend medical treatment to the employee. The employee must express a willingness to obtain such medical treatment.

518.C. The supervisor, with the approval of the County Manager, may place the employee on leave without pay not to exceed thirty (30) days while the employee is enrolled in an in-patient treatment program. The employee may utilize accrued sick leave, annual leave, or comp-time during this period.

519. VOLUNTARY ACTIVITIES

519.A. A County employee may participate in volunteer activities, including, but not limited to ambulance, EMT, or fire department during working hours or during work shifts for which they are assigned or scheduled. An employee may leave the work post only after the employee has requested and received permission from the supervisor.

519.B. A County employee participating in volunteer training and administrative activities during working hours shall be required to use accrued vacation, compensatory time or leave without pay. This provision may be waived by supervisors when the employee is participating in an actual municipal or County emergency for which the employee is not being reimbursed by another agency for the activity.

519.C. Any employee participating in volunteer activities during working hours is prohibited from receiving pay as a County employee and receiving pay or reimbursement as a result of volunteer activities.

600. COMPENSATION

Compensation includes more than wages, although base salary is the largest component in compensation. Other forms of compensation include fringe benefits such as insurance and pensions.

All wages and salaries are approved by the County Commission. Wage and salary increases, when authorized, will be dependent upon the financial condition of the County. The County Commission shall

set the pay schedule and policy regarding any and all wage and salary increases each fiscal year for all County employees.

601. ANNIVERSARY DATE

601.A. The anniversary date for eligible full-time employees shall be the first day and month that the employee begins employment with the County. If a part-time employee becomes a full-time employee, the anniversary date shall be the date upon which the employee became a full-time employee.

601.B. The anniversary date for elected officials shall be the first day and month in office. If an elected official subsequently becomes an employee of the County with no break in service, the established anniversary date shall remain the same.

601.C. If a current County employee is elected to a County office with no break in service, the anniversary date shall remain the same.

601.D. Time of service shall not include those periods of time a person is not in the employment of Lincoln County. If there is a break in service, the anniversary date shall be adjusted accordingly.

602. ENTRY LEVEL COMPENSATION

Under normal circumstances, compensation for a newly hired employee shall begin at the entry level. Higher than entry level compensation may be necessary for certain jobs requiring specialized job skills or technical knowledge and experience. Higher than entry level compensation may be paid when required at the request of the Department Head and with the approval of the County Manager.

603. WORK WEEK

The work week shall begin at 12:00 AM on Saturday and shall end at 11:59 PM on the following Friday evening.

604. PAY PERIODS

The "pay period" will cover a two-week period. Lincoln County employees will receive a pay check every two (2) weeks. This method of payment results in twenty-six (26) pay checks per year. Checks will be issued every other Wednesday at a time and place determined by the Elected Official/Department Head. If a holiday falls on a Wednesday, checks will be issued on the following Thursday. Checks may be issued early, but only in case of emergency, and only after written approval of the County Manager.

605. TIME SHEETS

Time sheets are furnished to each employee prior to the pay period ending date. At the completion of such pay period and after review by the supervisor, Department Head or Elected Official, the original time sheets must be forwarded to the Finance Department. Faxed copies will be accepted if followed by an original time sheet. Time sheets shall be signed by the employee and the immediate supervisor. Time sheets must record time worked each day in addition to holidays, time spent on vacation, sick leave, or other leave during the pay period.

606. PAY ADJUSTMENT FOR PROMOTIONS

Promoted employees will receive an increase in pay equivalent to the difference between their old and new job classifications in accordance with the current pay grade chart adopted by the Board of Commissioners of Lincoln County.

607. PAY ADJUSTMENT FOR TEMPORARY UPGRADE

Employees who are temporarily assigned to perform duties of a position graded higher than their current position for a period of more than eight (8) hours shall receive pay equivalent to the job classification performed.

608. PAYROLL DEDUCTIONS

There are several items for which payroll deductions may be made from an employee's paycheck. Deductions are mandatory for the following: FICA, Federal Income Tax, State Income Tax, Medicare, and PERA. If the employee desires to secure group insurance, the employee's portion will be deducted from the employee's paycheck. Other deductions may be made with the approval of the County Manager.

609. CHIEF DEPUTIES

Chief Deputies are the political appointees of the elected officials as follows: the Undersheriff or Chief Deputy to the Sheriff; the Chief Deputies to the County Assessor, County Clerk, and County Treasurer. As such, the Chief Deputy is under the direct supervision of the elected official and has regular contact with such official. The Chief Deputy shall be an unclassified employee whose position and employment shall be at the sole pleasure and discretion of the Elected Official. The position of Chief Deputy is hereby declared to be a policy-making position and is exempt from the provisions of this manual. The hiring of the Chief Deputy and the job description for such position shall not be subject to the approval or clearance of the Board of County Commissioners or any other authority within the County. Chief Deputies' salaries, with the exception of the Undersheriff or Sheriff's Chief Deputy, shall be a minimum of ninety-five percent (95%) of the Elected Official's salary, plus any other pay increases authorized by the Board of County Commissioners. The Undersheriff's salary shall be at one hundred percent (100%) of the Sheriff's salary.

610. OVERTIME PAY

610.A. Nonexempt Employees

Nonexempt employees as defined by the Fair Labor Standards Act, other than those involved in a public safety activity, who are required to work more than forty (40) hours in a work period of seven (7) days shall be compensated for such overtime work at a rate of one and one-half (1½) times the employee's regular rate of pay.

610.B. Actual Hours Worked

In computing the number of hours worked during the week for overtime purposes, time absent from work, such as holidays, sick leave, annual leave, or compensatory time, shall not be computed as hours worked, except as provided for in Section 409.C, above.

610.C. Exempt Employees

Elected Officials, appointed employees, and Department Heads are exempt employees under the Fair Labor Standards Act and, as such, are not entitled to overtime compensation.

610.D. Overtime shall be kept to a minimum and authorized only under special circumstances by the Elected Official/Department Head or the County Manager.

611. COMPENSATORY TIME (COMP-TIME) FOR NONEXEMPT EMPLOYEES

611.A. A nonexempt employee may, at the discretion of the County Manager, accrue compensatory time in lieu of overtime pay at the rate of one and one-half (1½) hours time for each hour of overtime worked. Overtime hours worked and compensatory hours accrued and taken off shall be recorded for each employee and submitted to the Finance Department each pay period. An employee shall not accrue over sixty (60) hours of compensatory time, which is a maximum of forty (40) hours of overtime.

611.B. Employees must agree in writing to accept comp-time in lieu of overtime pay in advance of working the overtime assignment.

611.C. Employees shall be compensated at the rate of one and one-half (1½) times the employee's hourly rate for each hour beyond the maximum compensatory time allowable.

611.D. In the case of a termination of employment, an employee shall be paid for unused compensatory time at the employee's hourly rate of pay.

612. GRATUITIES

612.A. The pay rate established for a position shall be the total compensation received by the employee for services rendered.

612.B. No County employee shall accept a reward, gift, or other form of compensation from any vendor, contractor, individual or organization doing business with the County or those who reasonably anticipate doing business with the County in the future. Acceptance of any reward, gift, or other remuneration will be considered just cause for disciplinary action, including termination.

612.C. This rule does not include awards given to employees under a County-sponsored employee's suggestion system or other special incentive programs established by the Board of County Commissioners or civic inspired awards.

613. PAY FOR ACCUMULATED SICK LEAVE AT RETIREMENT

Employees eligible for retirement will be reimbursed for 50% of the accumulated sick leave time if a person has been in the employ of Lincoln County for a minimum of fifteen (15) consecutive years prior to retirement. In no case shall reimbursed sick leave exceed 240 hours.

614. SICK LEAVE INCENTIVE PAY

Classified employees who have completed no less than fifteen (15) years of service with the County and who retire, or who are permanently laid off due to reduction in force after fifteen (15) years of service, may receive compensation for up to 50% of accumulated unused sick leave time not to exceed 240 hours. This compensation may be taken either as leave with pay or as a monetary incentive figured on the basis of earnings at the time of separation from employment.

615. HOLIDAY PAY

615.A. Employees who work eight (8) hour shifts are entitled to eight (8) hours of straight time pay for a holiday. Employees who work ten (10) hour shifts are entitled to ten (10) hours of straight time pay for a holiday.

615.B. In order to receive pay for a designated holiday, employees shall be in a paid status on their regularly scheduled work day immediately preceding and following the holiday, or must have worked on the stated holiday.

615.C. An employee on leave without pay during the regularly scheduled workday before or after a holiday shall not receive pay for that holiday.

615.D. When an employee is required to work on a designated holiday, the employee will receive pay at straight time for the actual hours worked in addition to holiday pay, or the employee will receive compensatory time off for the actual hours worked in addition to holiday pay. Such compensatory leave shall be taken within one (1) year of the time leave is accumulated.

616. JURY DUTY PAY

Pay while serving as a juror shall be authorized only for those days that the employee was scheduled to work.

617. PAY FOR COURT APPEARANCE

617.A. If an employee is required to testify in court on a job-related case, the employee will receive pay.

617.B. If an employee is called to testify on behalf of the County on a scheduled day off, the employee will be paid overtime or will be given compensatory time off upon proof of said Court appearance.

618. PAY FOR APPEARANCE AT PERSONNEL GRIEVANCE HEARING

618.A. If an employee is required to testify in a personnel grievance hearing during regularly scheduled work hours the employee will receive pay.

618.B. If an employee is called to testify on a scheduled day off, the employee will be paid regular pay, overtime pay, or will be given compensatory time, as appropriate.

700. EMPLOYEE DISCIPLINE

701. BASIS FOR EMPLOYEE DISCIPLINE

701.A. Just Cause Discipline . An employee may be disciplined for violations of work rules, policies, poor performance, misconduct, or inappropriate behavior. A classified employee shall only be disciplined for just cause. Just cause is defined as any conduct, action, or inaction arising from, or directly connected with an employee's work which is inconsistent with the employee's obligation to the County.

701.B. The County reserves the right to exercise judgment and render disciplinary action or dismissal, as determined appropriate, based on the circumstances of each case.

702. DISCIPLINARY ACTION

702.A. Any supervisor may take disciplinary action against an employee under the supervisor's authority. Disciplinary action must be consistent with governing laws, departmental policies, and this Personnel Policies and Procedures Manual.

702.B. Disciplinary actions will be taken without regard to race, age, religion, color, national origin, sex, physical or mental handicap, or medical condition. Copies of any documented disciplinary action will be placed in the employee's file with the signature of the recipient acknowledging receipt of discipline.

703. CONSULTATION WITH COUNTY MANAGER

Suspension, demotion and dismissal requires consultation by the supervisor with the County Manager prior to implementation. Whenever such consultation is not practical due to urgency or other pressing reasons, the supervisor may place the employee on administrative leave with pay pending a review of the circumstances by the County Manager.

704. PROGRESSIVE DISCIPLINE

Progressive discipline will be administered when it is deemed appropriate by the supervisor. The step of the progressive discipline depends on the severity of the infraction and the employee's previous work history. Therefore, the initial disciplinary action may be dismissal, where appropriate. The County reserves the right to exercise judgment and render disciplinary action or dismissal, as determined appropriate based on the circumstances of each case.

704.A. Verbal Reprimand .

A verbal reprimand is used for minor infractions to inform the employee that the employee's actions, behavior or conduct needs to change. Normally the supervisor will keep written notations of verbal reprimands, and these will not be placed in the employee's personnel file.

704.B. Written Reprimand

1. An employee may receive a written reprimand for a single offense because the deficiency or infraction is a greater degree than that for which a verbal reprimand may be used, or if a verbal reprimand failed to correct the employee's behavior.
2. Written reprimands to an employee shall be placed in the employee's personnel file by the employee's supervisor after providing the employee with a copy of the statement. The employee will be asked to acknowledge having read the reprimand by signing the document. The employee's signature does not necessarily indicate concurrence with its content. If the employee refuses to sign the disciplinary action, the supervisor will note the refusal on the disciplinary action form and file the form in the employee's personnel file.
3. A written reprimand to a classified employee is grievable through the informal complaint procedures identified in this Personnel Policies and Procedures Manual.

704.C. Suspension

1. An employee may be suspended without pay for a single offense because the deficiency or infraction is a greater degree than that for which a written reprimand may be used, or if previous discipline failed to correct the employee's behavior. Such suspension will not exceed thirty (30) working days.
2. Record of the suspension shall be placed in the employee's personnel file by the employee's supervisor after providing the employee with a copy of the personnel action form.
3. A suspension of a classified employee is grievable through the formal Grievance procedures in this Personnel Policies and Procedures Manual.

704.D. Dismissal

1. An employee may be dismissed for a single major offense because the deficiency or infraction is a greater degree than that for which a suspension may be used, or if previous discipline failed to correct the employee's behavior. Dismissal of a classified employee must be approved by the County Manager.
2. Dismissal of a classified employee is grievable through the formal grievance procedures in this Personnel Policies and Procedures Manual.

705. UNLAWFUL ACT

No employee will be disciplined for refusing to perform an unlawful act.

706. PRE-DISCIPLINARY PROCEDURES

706.A. The employee's supervisor shall present the employee with written notification of intent to suspend, demote, or dismiss at least five (5) working days in advance of the proposed discipline. The notice of anticipated discipline shall be hand-delivered to the employee.

706.B. The written notification must identify the charges, the basis of the charges, the proposed discipline, and the employee's right to a pre-disciplinary hearing. The notification shall establish the date, time, and place of the pre-disciplinary hearing. The employee may choose not to participate in the pre-disciplinary hearing.

706.C. The appropriate supervisor shall meet with the employee. The supervisor, the employee, and/or a representative may attend the pre-disciplinary hearing. At the pre-disciplinary hearing, the employee shall have the opportunity to respond to the charges.

706.D. The hearing will be held within five (5) working days of the notice to the employee, unless a continuation is mutually agreed upon by both parties in writing.

706.E. The County Manager will evaluate the information provided by the employee at the pre-disciplinary hearing and will issue a decision in writing within ten (10) days following the hearing. The written decision shall include the persons present at the pre-disciplinary hearing and the determination. The written decision shall be delivered directly to the employee.

707. ADMINISTRATIVE LEAVE

In cases where County property, other employees, or citizens are at risk as a result of the employee's actions, an elected Official/Department Head or County Manager may place an employee on administrative leave with pay until a pre-disciplinary hearing is held and the decision is rendered.

800. *GRIEVANCE AND COMPLAINT PROCEDURES*

A grievance is as a written formal complaint of an employee concerning actions taken by management which result in suspension, demotion, dismissal, or an actual loss in pay.

801. INITIAL STEP IN FORMAL GRIEVANCE PROCEDURE

Within ten (10) days of receipt of the written decision of the supervisor, the grievant must notify the County Manager of intent to pursue a post-disciplinary hearing by submitting a written request for a grievance hearing to the County Manager's office.

802. POST-DISCIPLINARY APPEAL

802.A. Within sixty (60) days of the request for grievance the County Manager shall schedule a grievance hearing by a personnel hearing officer.

802.B. At the hearing, the grievant shall have an opportunity to present witnesses, physical evidence, and cross-examine the County's witnesses. The grievant and the Department Head may be represented by legal counsel or representative.

802.C. The parties must agree in writing to any postponement of the grievance hearing beyond sixty (60) days.

802.D. An employee may elect any person to serve with him in the presentation of a grievance.

802.E. Employees who have filed grievances and employees required to give testimony as witnesses in a grievance hearing shall be given the necessary time off.

803. PERSONNEL HEARING OFFICER

803.A. The personnel hearing officer shall be hired by the County Manager.

803.B. The personnel hearing officer shall be an attorney who is a member of the New Mexico Bar Association or a person experienced in arbitration.

803.C. The personnel hearing officer shall provide services under a contract with the County and shall not be considered an employee of the County for any purpose. The term of a contract shall be determined by the County Manager.

803.D. A personnel hearing officer shall not be actively involved in partisan political activities or the political affairs of Lincoln County.

803.E. All personnel grievance hearings will be conducted in private.

804. PERSONNEL HEARING OFFICER'S DUTIES AND RESPONSIBILITIES

804.A. The personnel hearing officer may conduct pre-hearing conferences in order to obtain information necessary to the issuance of a pre-hearing order.

804.B. The personnel hearing officer may consolidate cases in which two (2) or more grievants have cases containing identical or similar issues or to expedite final resolution of the cases, provided that such consolidation would not adversely affect the interest of the parties.

804.C. The personnel hearing officer shall operate the hearings in accordance with common law evidentiary standards applicable to administrative hearings. The hearings shall be conducted in an orderly and informal manner with adherence to the rules of evidence.

804.D. The personnel hearing officer may admit and consider any evidence, including affidavits, which is the type of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. The personnel hearing officer shall exclude incompetent, immaterial, irrelevant, or unduly cumulative testimony. Documentary evidence may be received in the form of copies or excerpts unless the source of the information or other circumstances indicate lack of trustworthiness.

804.E. The personnel hearing officer shall determine whether the just cause standard was met in order to discipline the employee. The hearing officer shall provide the parties with written finding of facts and conclusions of law within thirty (30) days.

804.F. The personnel hearing officer may bar from the hearing room any person who is disruptive.

1. A grievant who is disruptive may be barred from the specific hearing.
2. A disruptive person other than a grievant may be prohibited from appearing before a County personnel hearing officer for a period of up to twelve (12) months.
3. The County personnel hearing officer must provide written notice and show good cause prior to barring a disruptive person for any period of time up to a twelve (12) month period.

804.G. The personnel hearing officer shall not participate in any adjudicatory proceeding if, for any reason, the personnel hearing officer cannot provide a fair and impartial hearing to either party.

804.H. All decisions rendered by the Personnel hearing officer in accordance with the appeal and grievance provisions of this Personnel Policies and Procedures Manual shall be considered final; and no appeal from said decisions shall be entertained or considered by any body of Lincoln County, whether elected or appointed.

805. APPEAL TO DISTRICT COURT

805.A. The decision of the Hearing Officer may be reviewable in District Court:

1. where the decision is arbitrary or capricious and is not supported by substantial evidence;
2. where the decision is made in violation of applicable constitutional provisions or is otherwise illegal;
or
3. where the decision is in excess of the statutory authority or jurisdiction of the Hearing Officer.

805.B. Appeal of the decision of the Hearing Officer to District Court shall be filed within thirty (30) days of the final adverse decision.

806. INFORMAL COMPLAINTS

An employee may address complaints regarding working conditions and other work-related problems. The informal complaint should not represent petty or minor differences due largely to routine office conflicts nor office "politics," but should reflect major conflicts related to matters of major equity, fairness and/or a written reprimand.

806.A. Procedures

1. An employee may discuss any non-grievable action, such as written reprimands or working conditions with the employee's immediate supervisor in an attempt to work out a solution.
2. If the employee is not satisfied with the proposed solution, the employee may address the problem with either the respective Elected Official or County Manager, as appropriate.

806.B. Decision

1. The decision of the respective Elected Official or County Manager will be final.
2. An employee who receives a written reprimand and is dissatisfied with the decision of the respective Elected Official or County Manager may submit a written response to the reprimand. The response must be submitted within ten (10) days of the decision of the respective Elected Official or County Manager.

900. CLASSIFICATION OF POSITIONS

901. CLASSIFICATION PLAN

The Personnel Director shall develop, maintain, and administer the County's Classification Plan. The plan shall consist of position descriptions for all classified positions in existence at any one time as listed in the Compensation Plan. Position descriptions shall be classified and grouped so as to provide correlation with respect to duties, authority, responsibility, and labor market dictates.

902. POSITION DESCRIPTIONS

902.A. Contents

The Personnel Department shall maintain the official written description of the duties, responsibilities, authority, educational, and experience requirements of each position in the Classification Plan. Each description shall identify the assigned classification, title, characteristics of the classification, example of duties, education and experience requirements, and any knowledge, abilities, skills or licenses required to perform the essential duties of the respective position.

920.B. Procedures

1. The respective Elected Officials/Department Heads shall provide the Personnel Director with a comprehensive description and/or information relating to duties for each position in their respective departments.
2. The respective Elected Officials/Department Heads shall notify the Personnel Director of significant change in duties, responsibility, authority, or work assignments for positions under their supervision.
3. The Personnel Director shall investigate and audit the actual or suggested duties and shall recommend a final job description and classification for the position, either by allocation to an appropriate class and salary grade.
4. If the creation of a new classification is necessary, it shall be presented to the County Manager, who shall make a recommendation and present it to the Board of County Commissioners for final decision.
5. Any class specifications and position descriptions in existence at the time of adoption of these Personnel Policies and Procedures shall remain in effect until amended or repealed by the proper

procedure. The establishment of new or revised classes, or the abolishment of existing classes shall be recommended by the County Manager and approved by the Board of County Commissioners.

6. No person may be appointed or promoted in any capacity in the classified County service until a position has been properly assigned to the appropriate class.

7. When a class specification or job description is revised or otherwise changed, a full-time Classified or Probationary employee in that class or position shall continue employment in the revised class or position with the same status in effect prior to the revision.

1000. MISCELLANEOUS

1001. EMPLOYEE RECORDS

1001.A. Personnel Files and Retention.

The Elected Official/Department Head is responsible for maintaining a current and accurate file on each employee under the Elected Official/Department Head's direction. The official personnel file shall be maintained in the County Manager's Office.

1001.B. Information Included in Each Employee File.

The following information is required to be maintained within each employee's personnel file:

1. name of employee, in full;
2. home address including zip code;
3. date of birth, if under 19;
4. sex;
5. occupation (job classification);
6. daily and weekly hours of work; and
7. regular hourly rate of pay.

1001.C. The following must also be maintained and filed in each employee's personnel file:

1. employee's anniversary date (day, month and year employee reported to employment);
2. documentation regarding the employee's status - reprimands, commendations, legal actions, resignations, and such other documentation that is relevant;
3. relevant medical information that may affect the health and welfare of other employees. Medical information must be kept in a separate file.

4. All employees hired after November 6, 1986, must have on file an Employee Eligibility Verification.

1001.D. Confidentiality .

Personnel files will be maintained as confidential and information will be revealed to only those persons employed by the County who have a reasonable "need to know."

1001.E. Public Records.

Salary ranges, position classifications, and basic employment information shall in all cases be made available to the public on request at reasonable times.

1002. SAFETY

The County will set up and enforce such safety standards and rules as are deemed necessary for safe operations. Employees will be expected to abide by County safety rules and procedures and consistent violation of same will result in disciplinary action.

1002.A. Occupational Safety and Health Act .

The New Mexico Environmental Improvement Division, Occupational Safety and Health Unit, is responsible for enforcing the provisions of the Occupational Safety and Health Act of 1970 (OSHA) upon units of local government. This agency has the power to inspect County operations and assure compliance with the Act and will promulgate such rules and procedures for employees as to establish and maintain compliance. Willful and/or repeated violations of County safety rules and procedures will be grounds for disciplinary action.

1002.B. Unsafe Conditions.

Unsafe conditions existing in the work environment shall be reported immediately to the supervisor in order that corrective action can be taken. Machinery and/or equipment which is unsafe to operate will be labeled and will not be used until necessary repairs have been made.

1002.C. Personal Protective Equipment.

1. Equipment for certain jobs will be prescribed by supervisors and must be worn by employees during the duration of the job which requires protective equipment. Failure to do so, when it has been prescribed, will be grounds for disciplinary action, including dismissal.

2. For jobs requiring personal protective equipment, the required equipment shall be issued to the individual employee and the employee shall be responsible for same until it is returned at the completion of the job.

1002.D. Safety Committee.

A safety committee may be selected by the Lincoln County Commission. They will meet quarterly to discuss any injuries or accidents. A safety chairman will be required to check for hazards and to make a report to the committee when it meets.

1003. PERFORMANCE EVALUATION

A supervisor may evaluate an employee under the supervisor's authority on an annual basis or more frequently, as necessary.

1003.A. Procedure for Evaluation.

1. The performance and potential of each employee in the County service may be appraised by the employee's immediate supervisor, and recorded by means of an official performance evaluation form developed by the County.
2. The performance evaluation process may also be used by the employee's immediate supervisor to review progress periodically with an employee through an interview at the time the evaluation is completed. This interview should discuss the employee's strengths and weaknesses as viewed by the supervisor, as well as suggestions for improved performance.
3. After the supervisor completes the evaluation form and conducts the employee interview, a copy of the evaluation will be forwarded to the appointing authority for review. Any comments or criticisms by the appointing authority will be remitted to the supervisor who prepared the evaluation. If indicated, an addendum to the performance evaluation reflecting the appointing authority's comments can be attached to the performance evaluation.
4. Evaluation forms must be signed by the employee to indicate that the employee has been advised of the evaluation and received a copy. The employee's signature on the form does not signify that the employee agrees with the performance evaluation; it merely indicates that the supervisor has met with the employee and discussed the employee's performance and evaluation rating.
5. A probationary employee can be evaluated at any time during the probationary period. A probationary employee must be evaluated prior to the time that the probationary employee is considered for non-probationary status.

1003.B. Contents of Evaluations .

Performance evaluations will contain an overall appraisal of the employee's performance such as satisfactory, outstanding, or unsatisfactory.

1003.C. Special Evaluations.

Performance evaluations may be conducted on a non-scheduled basis if the employee's job performance has changed in a way which may place the employee's continued tenure in jeopardy, such as:

1. a change of employment status;

2. a class change; or
3. demotion or suspension.

1003.D. Unsatisfactory Evaluation.

In the event a classified employee receives an overall evaluation that is unsatisfactory, such employee shall be provided with written information in the evaluation as to specific areas of deficient performance and steps necessary for improvement. Should the employee fail to correct the deficiency within a set time period (not to exceed 90 days), the employee may be subject to disciplinary action, including dismissal. Employees who receive an overall evaluation of unsatisfactory may be re-evaluated at any time within ninety (90) days.

1003.E. Employee Response.

1. If an employee disagrees with the evaluation, the employee may write a response which will be placed in the employee's personnel file. Employee written response to the performance and development plan which will be attached to the performance and development plan. The response must be submitted within ten (10) days of the evaluation.
2. Unsatisfactory performance evaluations shall not be grievable.

1004. HOURS OF COURTHOUSE OPERATIONS

The normal hours of Courthouse operations shall be 8:00 AM to 5:00 PM (Monday through Friday) respectively. All offices will remain open over the noon hour. This will be accomplished by staggering the lunch hour of Elected Officials and employees. Different hours may be established for departments with the approval of the Board of County Commissioners.

1005. COURTHOUSE CLOSING

The County Manager shall be the only authority to release any employee earlier than the regular closing hours of the Courthouse and its departments, or to delay the regular time to report to work due to inclement weather conditions or other unusual circumstances. The County Commission or County Manager or designee has authority in closing due to inclement weather conditions and as to which employees shall be released.

Section 1. Conflict Clause.

Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 2. Severability Clause.

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 3. Effective Date and Repeal of Ordinance ~~2013-04-2014-01~~

Formatted: Strikethrough
Formatted: Not Strikethrough

This Ordinance shall take effect thirty days after recording in the Public Records of Lincoln County, at which time Ordinance No. ~~2013-04-2014-01~~ is hereby repealed.

Formatted: Strikethrough

PASSED, APPROVED, and ADOPTED this ~~18th~~ ^{16th} day of ~~February~~ December, 2014.

Formatted: Strikethrough
Formatted: Superscript
Formatted: Strikethrough

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

Jackie Powell, Chairwoman

Preston Stone, Vice Chairman

Mark Doth, Member

Dallas Draper, Member

Kathryn Minter, Member

Attest:

Rhonda Burrows
Lincoln County Clerk



LINCOLN COUNTY ORDINANCE NO. 2008-07

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 2008-06.

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 Lincoln County Solid Waste Authority for the purpose of providing a coordinated County-wide program for the collection of solid waste cooperation with the incorporated municipalities of Capitan, Carrizozo, Corona, and Ruidoso Downs; 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 know 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 Capitan, Carrizozo, Corona, 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 an improved or unimproved structure, whether designed for private or commercial use, located on any property outside the corporate limits of the

municipalities of Capitan, Carrizozo, Corona, 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, rubbish and/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, rubbish, 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 the Lincoln County 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, including the Lincoln County Solid Waste Authority, 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 Department of Environment.

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 Solid Waste Authority shall have the power to set fees for Commercial rates and rates for special services, including but not limited to grapple and roll-off services.
- 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 the 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 from time to time. 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 NMSA 1978, §§3-36-1, *et seq.*, and NMSA 1978, §4-37-1, *et seq.*, which lien shall be a first and prior lien on the property, coequal with municipal liens pursuant to NMSA 1978, §3-26-2, 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 NMSA 1978, §§3-36-1 through 3-36-7. 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 NMSA 1978, § 3-36-1, and the effect of such filing shall be governed by NMSA 1978, §3-36-2.

- 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 NMSA 1978, §4-37-3 (A)(1).
- 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 NMSA 1978, §4-37-3(A)(2).
- 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.

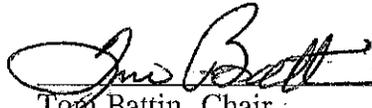
This Ordinance shall take effect thirty (30) days after recording in the Public Records of Lincoln County.

Section 13. Repeal.

Lincoln County Ordinance 2008-06 is repealed upon the effective date of this Ordinance.

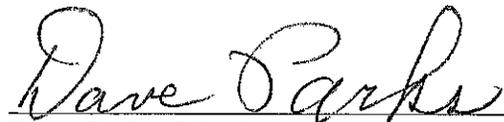
PASSED, APPROVED, and ADOPTED this 21st day of October, 2008.

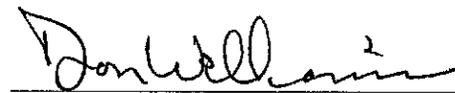
BOARD OF COMMISSIONERS OF
THE COUNTY OF LINCOLN, NEW MEXICO

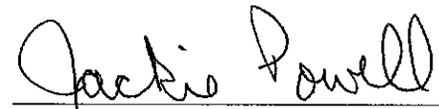

Tom Battin, Chair



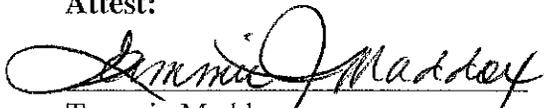

Eileen Sedillo, Vice Chair


Dave Parks, Member


Don Williams, Member


Jackie Powell, Member

Attest:


Tammie Maddox
Lincoln County Clerk

LINCOLN COUNTY-NM
TAMMIE J MADDOX, CLERK
200809426
Book 4 Page 346
8 of 8
11/19/2008 10:37:45 AM
BY LOREE1

RESOLUTION 2014-29

A RESOLUTION SETTING FEES TO BE CHARGED BY THE COUNTY OF LINCOLN, NEW MEXICO PURSUANT TO THE AGREEMENT BY ORDINANCE 2014-07, AND AMENDING RESOLUTION 2008-42.

WHEREAS, the County of Lincoln adopted Ordinance 2014-07; and

WHEREAS, the Board of County Commissioners of the County of Lincoln desires to set the maximum rates which may be charged by the County of Lincoln for solid waste collection services provided to the unincorporated areas of the County of Lincoln, excluding all municipalities and Alto Lakes Water and Sanitation District; and

WHEREAS, the Board of County Commissioners sets fees as follows:

Residential Poly Cart Service

Within the unincorporated areas of Lincoln County: \$15.85

1. Additional containers at the same residence per container: \$5.00
2. Rates above are for poly carts only. Unauthorized containers will not be emptied.
3. No additional fees to replace poly carts will be charged unless neglect or abuse on the part of the customer is evident.

Residential County Drop-off Sites

Dumpster and Roll-off Sites: \$14.85

1. No additional charges for extra pick-up of containers will be charged in unincorporated areas.
2. Greentree Solid Waste Authority will decide on the frequencies each area should have regarding scheduling of emptying containers.
3. Recycling services will be the same as Greentree Solid Waste Authority.
4. Twice a year roll-off containers are placed throughout the County for clean-up events. The charge for this service is included in established rates.

Commercial:

Commercial containers are charged the following fees within the unincorporated areas of Lincoln County:

<u>Container and Quantity</u>		<u>Weekly Frequency</u>		
		<u>1x</u>	<u>2x</u>	<u>3x</u>
Poly cart	1	\$16.75	N/A	N/A
	2	\$33.50	N/A	N/A
3 cu. yd. dumpster	1	\$48.25	\$96.40	\$144.75
	2	\$96.50	\$193.00	\$289.50
	3	\$144.75	\$289.50	\$434.25
	4	\$193.00	\$386.00	\$579.00
	5	\$241.25	\$482.50	\$723.75

1. Extra collections will be charged an additional \$50.00 per container.

Compactors

Compactors will be charged \$300.00 per pull, plus \$13.90 per ton landfill tipping fee.

Transfer Station (Located in Ruidoso Downs)

Residential or Commercial:

Construction waste, household items, furniture, any other non-recyclable waste will be charged \$10.00 per cubic yard.

Rates for other items not specified hereunder will be determined by the County of Lincoln.

Roll off Containers

- Deposit: \$200.00 non-commercial accounts
(Commercial accounts must provide copy of contractor’s license.)
 - Delivery: \$50.00 one-time fee unless container must be relocated
 - Daily rental: \$5.00 per day accrual beginning at date of delivery
 - Disposal: \$250.00 plus tipping fee of \$13.90 per ton for every container emptied.
- Mileage charges may be applied on locations to be deemed outside established service areas.

All roll off containers are thirty (30) cubic yards.

NOW, THEREFORE, BE IT RESOLVED that the maximum monthly rates charged to Lincoln County customers for Solid Waste Collection Services, effective January 1, 2015 are as set forth above.

PASSED, APPROVED and ADOPTED this ____ day of _____, 2014.

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

Jackie Powell, Chair

Preston Stone, Vice Chair

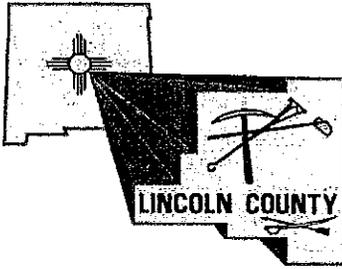
Mark Doth, Member

Dallas Draper, Member

Kathryn Minter, Member

Attest:

Rhonda Burrows
Clerk, County of Lincoln



County of Lincoln

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

www.lincolncountynm.net

AGENDA ITEM 23

December 10, 2014

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager

SUBJECT: Sole Community Provider/ Safety Net Care Pool & Indigent Health Care Claims

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

Discussion:

Sole Community Provider/SNCP Payments: This month our coordinator processed Nineteen (19) claims. Sixteen (16) claims are recommended for approval and three (3) are recommended for disapproval for the reason indicated at enclosure 1. If approved, the total recommended authorization this month is **\$11,816.98**. See Enclosure. 1.

Indigent Health Care Claims: This month our coordinator processed six (6) claims. Five (5) are recommended for approval, and one (1) for disapproval for the reason indicated at Enclosure 2. If approved, total recommended for payment this month is **\$3,754.25**. At Enclosure 2 is a summary of total applications approved and denied. At Enclosure 3 is the summary of the Indigent Fund Meeting for August 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 \$32,512.97 or an average of \$5,418.83 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 \$136,812.88 or an average of \$22,802.15 a month.

Recommendation: Approve and disapprove the claims as indicated for the Sole Community Provider/SNCP report at Enclosure 1 and approve and disapprove the Indigent Health Care Program report as indicated at Enclosure 2.

Approved: _____
Jackie Powell

INDIGENT FUND MEETING

DECEMBER 16, 2014

TOTAL APPLICATIONS	25	15,571.23
TOTAL APPROVED	21	
TOTAL DENIED	4	
RUIDOSO		
LINCO MEDICAL & SUPPLY, INC		72.87
APPROVED-	1	
DENIED-		
RUIDOSO		
LINCOLN COUNTY MEDICAL CENTER		11,816.98
APPROVED-	16	
DENIED-	3	
ALTO		
LINCOLN COUNTY RADIOLOGY		255.99
APPROVED-	3	
DENIED-		
RUIDOSO		
MICHAEL P CLEMENTS, M.D.		
APPROVED-		
DENIED-	1	
ALBUQUERQUE		
PRESBYTERIAN HOSPITAL		3,425.39
APPROVED-	1	
DENIED-		

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

PREVIOUS AMOUNT APPROVED THIS FISCAL YEAR \$124,995.90

ADJUSTMENTS

TOTAL ADJUSTMENTS: \$0.00 \$0.00

DECEMBER # CLAIMS FOR APPROVAL 16
CLAIMS FOR DENIAL 3
DECEMBER # TOTAL CLAIMS 19

DECEMBER TOTAL \$ AMOUNT APPROVED \$11,816.98

TOTAL # CLAIMS THIS FY APPROVED 137
TOTAL # CLAIMS THIS FY DENIED 8
TOTAL # CLAIMS FY 2014 - 2015 145

TOTAL APPROVED THIS FISCAL YEAR \$136,812.88

FACILITY: LINCOLN COUNTY MEDICAL CENTER

12/16/2014 THROUGH 12/16/2014

HC CLAIM #	DATE OF SERVICE	AMT DUE	PAID	
20839	08/28/2014	294.00	226.38	077%
20818	10/08/2014	4751.00	3658.27	077%
20819	10/12/2014	2080.00	1601.60	077%
20822	09/08/2014	517.94	398.81	077%
20823	05/12/2014	336.00	258.72	077%
20824	05/30/2014	168.00	129.36	077%
20825	06/25/2014	1288.00	991.76	077%
20826	07/30/2014	504.00	388.08	077%
20827	08/20/2014	840.00	646.80	077%
20828	09/26/2014	784.00	603.68	077%
20829	09/29/2014	172.20	132.59	077%
20830	10/29/2014	952.00	733.04	077%
20831	10/24/2014	168.00	129.36	077%
20832	10/21/2014	393.60	303.07	077%
20833	11/01/2014	65.00	50.05	077%
20838	11/29/2014	2033.00	1565.41	077%
20835	05/20/2014	321.08		000%
ELIGIBLE FOR INSURANCE/OTHER PAY				
20836	06/07/2014	97.20		000%
ELIGIBLE FOR INSURANCE/OTHER PAY				
20837	10/28/2014	667.74		000%
ELIGIBLE FOR INSURANCE/OTHER PAY				
			11816.98	
APPROVED-	16	REJECTED-	3	

INDIGENT HEALTH CARE CLAIMS FISCAL YEAR 2014 - 2015

PREVIOUS AMOUNT APPROVED THIS FISCAL YEAR \$28,758.72

ADJUSTMENTS

TOTAL ADJUSTMENTS:

DECEMBER # CLAIMS FOR APPROVAL	5
# CLAIMS FOR DENIAL	1
DECEMBER # TOTAL CLAIMS	6

DECEMBER TOTAL \$ AMOUNT APPROVED \$3,754.25

TOTAL # CLAIMS THIS FY APPROVED	49
TOTAL # CLAIMS THIS FY DENIED	15
TOTAL # CLAIMS FY 2014 - 2015	64

CURRENT TOTAL APPROVED THIS FISCAL YEAR \$32,512.97
*Assuming the above is approved

FACILITY: LINCO MEDICAL & SUPPLY, INC 12/16/2014 THROUGH 12/16/2014

HC CLAIM #	DATE OF SERVICE	AMT DUE	PAID
20820	09/24/2014	72.87	72.87 100%
			72.87

APPROVED- 1 REJECTED-

FACILITY: LINCOLN COUNTY RADIOLOGY 12/16/2014 THROUGH 12/16/2014

HC CLAIM #	DATE OF SERVICE	AMT DUE	PAID
20816	05/04/2014	519.00	137.65 027%
20817	10/07/2014	126.00	24.27 019%
20821	12/31/2013	414.00	94.07 023%
			255.99

APPROVED- 3 REJECTED-

FACILITY: MICHAEL P CLEMENTS, M.D. 12/16/2014 THROUGH 12/16/2014

HC CLAIM #	DATE OF SERVICE	AMT DUE	PAID
20834	10/23/2014	27.90	000%

PATIENT'S BILL IS BELOW \$50

APPROVED- REJECTED- 1

FACILITY: PRESBYTERIAN HOSPITAL 12/16/2014 THROUGH 12/16/2014

HC CLAIM #	DATE OF SERVICE	AMT DUE	PAID
20774	10/01/2014	21956.47	3425.39 016%
			3425.39

APPROVED- 1 REJECTED-

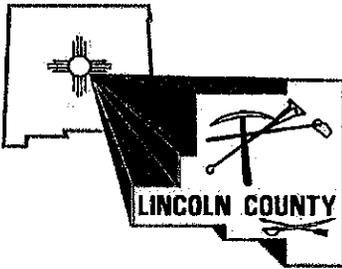
YTD

INDIGENT FUND MEETING

DECEMBER 16, 2014

TOTAL APPLICATIONS	222	169,325.85
TOTAL APPROVED	196	
TOTAL DENIED	26	
ALBUQUERQUE		
ANESTHESIA ASSOCIATES OF NM		962.85
APPROVED-	4	
DENIED-		
ROSWELL		
EASTERN NM MEXICO MEDICAL CNTR		3,239.13
APPROVED-	2	
DENIED-		
ALAMOGORDO		
GERALD CHAMPION REGIONAL MED CTR		6,915.34
APPROVED-	5	
DENIED-		
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		136,812.88
APPROVED-	137	
DENIED-	7	
ALTO		
LINCOLN COUNTY RADIOLOGY		755.89
APPROVED-	10	
DENIED-		
RUIDOSO		
MICHAEL P CLEMENTS, M.D.		48.02
APPROVED-	1	
DENIED-	6	
ALBUQUERQUE		
NEW MEXICO ONCOLOGY HEMATOLOY		2,881.87
APPROVED-	8	
DENIED-	4	

ROSWELL PATHOLOGY CONSULTANTS OF NM APPROVED- DENIED-	1	679.33
ALBUQUERQUE PRESBYTERIAN HOSPITAL APPROVED- DENIED-	5	12,975.64
ALBUQUERQUE UNM HEALTH SCIENCES CTR APPROVED- DENIED-	2	785.52



www.lincolncountynm.net

County of Lincoln

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

AGENDA ITEM NO. 24

December 5, 2014

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager *NT*

SUBJECT: Bid Award for Annual Base Course Supply

Purpose: To award bid 14-15-005

Discussion:

This bid is to secure sources of aggregate material at various locations to be used for construction project in all parts of the County and may be awarded to more than one supplier. Enclosure 1 is the bid specifications for your review. Bids are due on Monday, December 15, 2014 and will be presented at the December 16th Commission meeting.

Recommendation: Manager will present information on bids received, and make a recommendation to the Commission.

**COUNTY OF LINCOLN
Carrizozo, NM 88301**

**Invitation to Bid 14-15-005
“Annual Base Course Supply”**

**Due: December 15, 2014
2:00 p.m. Local Time
SPECIFICATIONS**

1. SCOPE OF WORK

The County of Lincoln is requesting bids to supply the Spec Base Course material that is used on County roads. This is a “supply” or “supply and deliver” bid and does not include application of the base course materials.

2. TYPE OF BASE COURSE

Spec Base Course, Class I-B or Class II-B, must meet the New Mexico Highway and Transportation Department Specifications for Base Course (Blue Book, Section #304, for Class I-B or II-B).

Base course and sub-base aggregate shall be composed of materials consisting of crushed stone, crushed or screened gravel, coriche, sand or a combination of such materials. Base course and sub-base aggregate shall be free from vegetable matter and all other deleterious materials including silt and clay balls.

The aggregate materials shall be combined in such proportions that the resulting composite blend meets the requirements of one of the classes in Table 304 (below) unless otherwise shown in the contract.

Table 304: Base Course & Sub-Base Gradation

<u>Sieve Sizes</u>	<u>I-B</u>	<u>II-B</u>
1”	100	100
3/4”	80-100	85-100
No. 4	30-600	40-70
No. 10	20-45	30-55
No. 200	3-10	4-12
2FF*	50% or more	50% or more

*Fractured faces tests shall be performed on the material retained in the No. 4 sieve. A face shall be counted as fractured whenever one-half (1/2) or more of the surface, when viewed normal to the face, is fractured.

Type I-B, Type II-B aggregate shall have a percent of wear of fifty (50) or less at 500 revolutions when tested in accordance with AASHTO T-96 and the course aggregate shall have a percent of soundness loss of eighteen (18) or less when tested in accordance with AASHTO T-104 using magnesium sulfate solution and a test duration of five (5) cycles.

ENCL 1

3. LOS ANGELES WEAR AND SOUNDNESS SAMPLE TESTING

Samples from each of the rock quarries you are bidding must be tested to determine their quality in terms of the Los Angeles Wear and Soundness Loss. Tests will be at the Bidder's expense. The LA Wear and Soundness results must be furnished with the bid package. The County will accept LA Wear and Soundness tests that have been conducted within the last year. Failure to submit the LA Wear and Soundness Test(s) with your bid or failure to meet the Wear and Soundness specifications will result in your bid being disqualified.

4. The winning bidder will provide sample testing twice a month, with the road superintendent being at the site when the samples are taken. If the winning bidder has more than one pit each pit must be tested twice a month and the results sent to the road superintendent.

5. ESTIMATED QUANTITY

The County estimates an annual usage of 40,000 tons of spec base course. This figure is an estimate only and does not represent a commitment to purchase any specific amount of base course. Ordering will be done on an "as needed" basis. The supplier must maintain a stockpile of at least 700 tons of spec base course and be responsible for loading the material onto the County vehicles when picked up at the supplier's stockpile.

6. AWARD METHOD

Bids may be awarded to more than one supplier. It is the County's intent to secure sources of aggregate material at various locations to be used for construction projects in all parts of the County.

The bids will be awarded on the lowest cost to the County to have the base course either picked up by the County at the Supplier's site or delivered to the County Road Department Yard in Capitan. The "lowest cost" figure will be arrived at by adding the County's cost in time, fuel and vehicle maintenance to the bid price for "Pick Up" at the various stockpiles. This adjusted cost will then be compared to the bid price for "Delivered" material.

The County reserves the right to accept or reject all or any part of any bid, waive minor technicalities and award the bid to best serve the interests of Lincoln County.

7. TERM OF CONTRACT

The term of this contract shall be one year from January 1, 2015 through December 31, 2015. Bid prices shall remain firm for the entire contract year.

8. ORDERING PROCEDURE

Successful suppliers will be provided one week's advance notice when large amounts of basecourse are required unless an emergency occurs. Lincoln County reserves the right to use different successful suppliers from other Districts in case of any emergency, bad road conditions or if the awarded supplier does not meet the specifications or does not have quantities available when requested.

9. **METHOD OF PAYMENT**

The County intends to pay by the ton measured at the Supplier's stockpile. The method of measurement shall be in a manner acceptable to the County. The County will only be billed for actual tons of spec base course used. If no spec base course is purchased by December 31, 2015, there will be no charge to the County.

10. **HOW TO RESPOND TO THIS BID**

All bids submitted should be in a sealed envelope clearly marked on the outside with the BidName, Bid Number and Date and Time of Opening. Bids should be sent or delivered to the County of Lincoln, 300 Central Ave, P.O. Box 711, Carrizozo, NM 88301.

You may submit just the Bid Sheet and the LA Wear and Soundness Test.

11. **IMPORTANT INFORMATION REGARDING MAIL DELIVERY**

Carrizozo is in a remote section of southern New Mexico. *Normal* mail delivery does not exist here and **overnight delivery by any carrier is a myth!**

- Within New Mexico allow 3-4 days by regular mail.
- Out-of-state mail can take 5 days via regular mail.
- If you want to use UPS, Federal Express or Priority Mail, check with the carrier first. They should be able to tell you when your mail *might* arrive in Carrizozo.
- Mail early or hand deliver. The County cannot be responsible for mail delays. Your bid will be returned unopened if it arrives late. **Late bids will not be accepted!**

12. An in-state resident business/contractor or veterans preference will be given to all resident New Mexico businesses that have been issued certification by the State of New Mexico. To qualify for the preference, the bidder must list a valid resident business certificate number and shall submit a copy of the certificate with the bid. If you have a question regarding a Resident Business (or Veteran Business) Certification, or wish to be given a number, you may contact the New Mexico State Department of Taxation and Revenue at 505-827-0931. **This number is valuable to have as it allows the county to add an additional 5% or more to the final score and could mean a difference in award. Please note that this number is NOT your State CRS Number (i.e. 04-503024-004). In addition, any preference numbers issued by the NM State Purchasing Office were valid only through December 31, 2011 and must be re-issued through the Taxation and Revenue Department.**

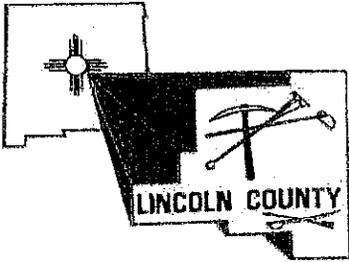
13. **CAMPAIGN CONTRIBUTION DISCLOSURE FORM**

Effective May 17, 2006 Chapter 81, Laws of 2006 requires and prospective contractor seeking to enter into a contract with any state agency or local public body to file a "Campaign Contribution Disclosure Form" with that state agency or local public body.

THIS FORM MUST BE FILED BY ANY PROSPECTIVE CONTRACTOR WHETHER OR NOT THEY, THEIR FAMILY MEMBER, OR THEIR REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE.

14. **GENERAL INSTRUCTIONS, TERMS AND CONDITIONS**

The enclosed "General Instructions, Terms and Conditions" is a part of this Invitation to Bid.



www.lincolncountynm.net

County of Lincoln

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

AGENDA ITEM 25

December 5, 2014

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager *NT*

SUBJECT: Bid Award for Construction of Carrizozo Senior Center

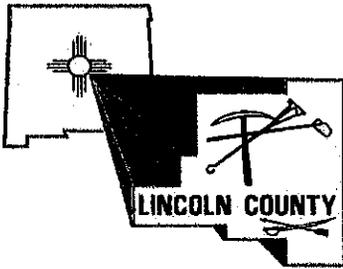
Purpose: To award bid 14-15-004

Discussion:

Responses to Bid 14-15-004 – Construction of Carrizozo Senior Center were due on Wednesday, November 19, 2014. A mandatory pre-bid meeting was held on November 10, 2014 at the Lincoln County Complex; nine contractors attended.

One contractor, Roper Construction, Inc. responded to the bid in the amount of \$1,199,000.00.

Recommendation: Award Bid 14-15-004 for the Construction of the Carrizozo Senior Center to Roper Construction, Inc.



www.lincolncountynm.net

County of Lincoln

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

Agenda Item No. 25b

December 12, 2014

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager

SUBJECT: Carrizozo Sr. Center Project Budget

Purpose: To consider Increasing Budget for Carrizozo Sr. Center

Discussion: The County has been working on getting the Carrizozo Sr. Center Project off the ground since it received a CDBG Grant award in the amount of \$500,000 and a New Mexico Legislative Appropriation in the amount of \$245,000. The initial County budgeted commitment was for FY13-14 was \$400,000. This original commitment was based on a preliminary total budget estimate of \$1,200,000.

As just discussed, the contractor's basic construction bid came in at \$1,199,000, plus gross receipts taxes, equaling \$1,285,178. Designed alternatives to the basic plan totaled \$111,797. These alternates included items such as additional paved parking and upgraded windows. In addition, increased requests for services from the Architect total \$35,000.

The initial estimate of \$1,200,000 was prepared when the County initially sought funding for the CDBG grant and the Legislative Appropriation, and was based on broad gauge per square foot estimates used by designers. As the design has been customized and all pricing completed, the total construction bid, including all alternates and taxes, exceeds the estimate by \$330,317. Because of additional services requested of the Architect, design fees exceed the original estimate by \$35,000.

Recommendation: This Senior Center has been in the planning stages for a couple of years. Due to the lengthy timeline alone, the price estimation has changed since then. I recommend the Commission approve utilizing additional funds in the amount of \$330,317 for increased construction and \$35,000 for additional architectural services from funds already budgeted in "Capital Outlay" for this fiscal year.

Agenda Items No. 26

SUBJECT

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

- a. Low Income Tax Payer's rebate of Property Taxes (Required in Odd Numbered years per NMSA -7-2-14.3 G)

Agenda Item No. 27

SUBJECT

Consideration of Appointments and Removals from Boards/
Commissions/Committees:

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

575-808-9776					
PREDATORY ANIMAL CONTROL BOARD, LINCOLN COUNTY - 5 YEAR TERM					
DISTRICT NO.	MEMBER	ADDRESS	RESIDES IN DISTRICT NO.	DATE APPOINTED	TERM EXPIRATION
	MARK HENDRICKS	BOX 307, CARRIZOZO 88301	1	07/20/10	07/15
	JIM COOPER	HC73 BOX 25, TINNIE 88351	5	07/20/10	07/15
	RON MERRITT	HC66 BOX 30, YESO 88136	1	07/20/10	07/15
	MIKE SKEEN	BOX 67, PICACHO 88343	5	07/20/10	07/15
	LEE SULTEMEIER	Box 147, CORONA 88318		07/20/10	07/15
	BILLY BOB SHAFER	BOX 82, CARRIZOZO 88301	1	07/20/10	07/15

ACB HOLDS ELECTION - PUBLICATION IS REQUIRED

PROPERTY TAX PROTEST BOARD - 2 YEAR TERM

DISTRICT NO.	MEMBER	ADDRESS	RESIDES IN DISTRICT NO.	DATE APPOINTED	TERM EXPIRATION
	LORI WEITZEL	BOX 698, CARRIZOZO, 88301		05/20/14	05/16
	DONDA RICHARDSON	BOX 9, CAPITAN, NM. 88316		05/20/14	05/16
	ALTERNATE - DEREK MOORHEAD	1201 MECHEM DR, RUIDOSO 88345		05/20/14	05/16

REGIONAL WASTE WATER JOINT USE BOARD - 2 YEAR TERM

DISTRICT NO.	MEMBER	ADDRESS	RESIDES IN DISTRICT NO.	DATE APPOINTED	TERM EXPIRATION

ROAD REVIEW ADVISORY COMMITTEE, LINCOLN COUNTY - 2 YEAR TERM (ORDINANCE NO. 2003-5)

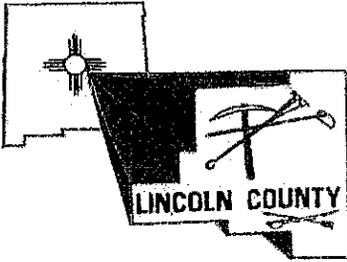
DISTRICT NO.	MEMBER	ADDRESS	RESIDES IN DISTRICT NO.	DATE APPOINTED	TERM EXPIRATION
DIST 1	LANCE HALE 575-430-9060	BOX 745 RUIDOSO DOWNS, 88346	1	08/20/13	08/15
DIST 2	ROBERT BARBER	BOX 126, CAPITAN, NM	1	10/21/14	10/16
DIST 3	JAMES RUSS	PO BOX 2362 RUIDOSO NM	3	08/20/13	08/15
DIST 4	J.BRYAN WHITE (336-2619 OR 208-610-5464; COCHCH@BAJABB.COM)	PO BOX 237, ALTO, NM 88312		01/22/13	01/15
DIST 5	BILLY SEELBACH (258-1704)	406 GAVILAN CANYON, DOSO 88345	2	07/15/14	07/16

PUBLICATION IS REQUIRED

SENIOR CITIZENS OLYMPIC COMMITTEE, LINCOLN COUNTY - 2 YEAR TERM (ORDINANCE NO. 1994-5)

DISTRICT NO.	MEMBER	ADDRESS	RESIDES IN DISTRICT NO.	DATE APPOINTED	TERM EXPIRATION
	BART YOUNG (257-3193)	BOX 2930, RUIDOSO 88355		03/18/14	03/16
	LUCY SERVIES	107 JACK LITTLE DR. B3, RUIDOSO		01/22/13	01/15
	JIM CLEMENTS	101 POW WOW TR, RUIDOSO 88345		12/17/13	12/15





www.lincolncountynm.net

County of Lincoln

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

Agenda Item 28

December 5, 2014

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager

SUBJECT: Attorney's Contract Renewal

Purpose: To consider potential renewal of the County Attorney's contract for service.

Discussion:

The attorney's current 2013-2014 contract is for a flat fee of \$14,475.00 plus \$1,248.47 in tax per month which includes all fees and costs, but not litigation of individual cases of ordinance violations in magistrate and district courts (Encl.1). Attorney Morel is proposing to negotiate a new flat rate or go back to billing hourly which must go into effect January 1, 2015.

Recommendation: Consider taking appropriate action on the contract.

AGREEMENT

THIS AGREEMENT is made and entered into on the ____ day of December, 2014, by and between the **BOARD OF COUNTY COMMISSIONERS OF LINCOLN COUNTY, NEW MEXICO**, whose address is Post Office Box 711, Carrizozo, New Mexico, 88301, hereinafter referred to as “County,” and **ALAN P. MOREL, P.A.**, whose address is Post Office Box 1030, Ruidoso, New Mexico, 88355, hereinafter referred to as “Attorney.”

1. County hereby retains and employs Attorney, pursuant to the authority conferred upon it by New Mexico Statute, to act under the title of “Lincoln County Attorney,” and to render to County and its duly authorized officers and elected officials all legal advice and services to include, but not limited to:
 - A. Representing the County and its duly authorized officers and elected officials in all matters brought by or against said County, during and throughout the continuance of the Agreement, which may be pending or which may hereafter be instituted in the courts of the State of New Mexico and the courts of the United States of America located within the State of New Mexico, and before all administrative agencies and departments of the government;
 - B. Travel to and attending all meetings of the Board of County Commissioners of Lincoln County, New Mexico;
 - C. Travel to and attending all meetings of the New Mexico Association of Counties;
 - D. Routine telephone calls;
 - E. Preparing and/or reviewing all contracts, ordinances, resolutions, franchises, and other miscellaneous documents;
 - F. Advising each of the elected officers and various department heads;
 - G. Handling of routine litigation matters that arise during a fiscal year, such as the receipt, cataloging, and response to Tort Claim Notices, gathering of information and transmission of that information to the New Mexico Association of Counties’ defense counsel, and coordination of communication regarding the defense of those matters;

- H. Rendering legal opinions;
 - I. Undertaking all collections as requested;
 - J. Examining Abstracts of Title;
 - K. Performing any and all other legal services as the County or its duly authorized officers or elected officials may request or require from time to time.
2. Attorney hereby accepts the employment by County and will render to the best of his ability the services described herein during the continuance of the Agreement.

Attorney shall have the authority to retain on behalf of County and at the direction of the Board of County Commissioners such other professional assistance as is necessary to Attorney in the performance of this Agreement. Such assistance may include the retention of other legal counsel for specialized matters, and experts or professionals in various fields as required in the performance of this contract.

3. As compensation in full for all services to be rendered during the term of this Agreement by Attorney, County shall pay to Attorney for its services a flat fee of _____ per month for work performed by Alan P. Morel, his paralegals, legal assistants and his staff, plus gross receipts tax at the current Village of Ruidoso rate of 8.625 percent in the amount of _____. The sum of _____ shall include all fees and costs (mileage, photocopies, postage, facsimile, long distance telephone calls, registration fees, and travel expenses). In the event the Village of Ruidoso's gross receipts tax rate of 8.6250 percent increases or decreases, the gross receipts tax payable herein shall be adjusted accordingly.
4. The flat fee set forth in paragraph 3 above may or may not include extraordinary work or assignments. In such instances, Lincoln County Manager and Attorney shall meet to discuss the particular matter, establish a projected cost, and determine whether it should be handled by the County Attorney's office or forwarded to outside counsel. Post discussion, Lincoln County Manager and the Attorney shall present the matter to the Board of County Commissioners of Lincoln County for their consideration and approval. In certain instances, the Attorney could be conflicted, or be required to appear as a witness, and this contingency would cover such matters as well. In addition, Attorney requests the County continue to pay Attorney on an hourly basis for any litigation matter for which Attorney represents the County. Attorney requests the County continue to pay for the cost of Attorney's legal research software and services, currently obtained through New Mexico Once Source of Law.

All work excepted from the flat fee will be billed at an hourly rate of _____ per hour for Attorney, and _____ per hour for paralegals, legal assistants, and support staff. The hourly rate charges will be assessed in fractional portions of an hour, breaking the hour

into segments of one-tenth (1/10) of an hour each, thereby billing one-tenth (1/10) of the hourly amount for each tenth of an hour's work.

Attorney requests that, in the event County Manager resigns for any reason, Attorney immediately be returned to compensation on an hourly basis.

5. The County and Attorney shall establish a budget for collective bargaining issues that may arise during the fiscal year, and those matters shall be handled internally or through assignment to outside counsel or consultants based upon the nature of the matter and economic requirements.
6. A separate fiscal budget line-item shall be established for the payment of litigation costs, filing fees, expert witness fees, deposition and other discovery costs, and document production.
7. This Agreement shall remain in full force and effect for a period of one (1) year from the date hereof or until such time as it is terminated by Attorney upon sixty (60) days written notice or by County upon sixty (60) day written notice that employment is to be so terminated. This original Agreement may be renewed and the terms renegotiated by the parties hereto for up to one (1) additional one (1) year terms.
 - a. The term of this Agreement shall begin on the 1st day of January, 2015.

IN WITNESS WHEREOF, the parties have executed this Agreement effective the day and year first above written.

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

ATTORNEY:
ALAN. P. MOREL, P.A.

By: _____
Jackie Powell, Chair

By: _____
Alan P. Morel, President

ATTEST:

Rhonda Burrows
Lincoln County Clerk

6015

AGREEMENT

THIS AGREEMENT is made and entered into on the 17th day of December, 2013, by and between the **BOARD OF COUNTY COMMISSIONERS OF LINCOLN COUNTY, NEW MEXICO**, whose address is Post Office Box 711, Carrizozo, New Mexico, 88301-0711, hereinafter referred to as "County," and **ALAN P. MOREL, P.A.**, hereinafter referred to as "Attorney."

1. County hereby retains and employs Attorney, pursuant to the authority conferred upon it by New Mexico Statute, to act under the title of "Lincoln County Attorney," and to render to County and its duly authorized officers and elected officials all legal advice and services to include, but not limited to:

- A. Representing the County and its duly authorized officers and elected officials in all matters brought by or against said County, during and throughout the continuance of this Agreement, which may be pending or which may hereafter be instituted in the courts of the State of New Mexico and the courts of the United States of America located within the State of New Mexico, and before all administrative agencies and departments of the government;
- B. Travel to and attending all meetings of the Board of County Commissioners of Lincoln County, New Mexico;
- C. Travel to and attending all meetings of the New Mexico Association of Counties;
- D. Routine telephone calls;
- E. Preparing and/or reviewing all contracts, ordinances, resolutions, franchises, and other miscellaneous documents;
- F. Advising each of the elected officers and various department heads;
- G. Handling of routine litigation matters that arise during a fiscal year, such as the receipt, cataloging, and response to tort claims notices, gathering of information and transmission of that information to the New Mexico Association of Counties defense counsel, and coordination of communication regarding the defense of those matters;

ENCL 1

- H. Rendering legal opinions;
- I. Undertaking all collections as requested;
- J. Examining abstracts of title;
- K. Performing any and all other legal services as the County or its duly authorized officers or elected officials may request or require from time to time.

2. Attorney hereby accepts the employment by County and will render to the best of its ability the services described herein during the continuance of this Agreement.

Attorney shall have the authority to retain on behalf of County, at the direction of the Board of County Commissioners, such other professional assistance as is necessary to Attorney in the performance of this Agreement. Such assistance may include the retention of other legal counsel for specialized matters, and experts or professionals in various fields as required in the performance of this contract.

3. As compensation in full for all services to be rendered during the initial term of this Agreement by Attorney, County shall pay to Attorney for its services a flat fee of \$14,975.00 per month for work performed by Alan P. Morel, his paralegals, legal assistants and his staff, plus gross receipts tax at the current Village of Ruidoso rate of 8.6250% in the amount of \$1,291.59. The sum of \$ 16,266.59 shall include all fees and costs (mileage, photocopies, postage, facsimile, long distance telephone calls, registration fees, and travel expenses). In the event the Village of Ruidoso gross receipts tax rate of 8.6250% increases or decreases, the gross receipts tax payable herein shall be adjusted accordingly.

4. The flat fee set forth in paragraph 3 above, may or may not include extraordinary work or assignments. In such instances, the Lincoln County Manager and the Attorney shall meet to discuss the particular matter, establish a projected cost, and determine whether it should be handled by the County Attorney's office or forwarded to outside counsel. The Lincoln County Manager and the Attorney would then present the matter to the Board of County Commissioners of Lincoln County for their consideration and approval. In certain instances, the County Attorney could be conflicted, or be required to appear as a witness, and this contingency would cover such matters as well. In addition, I am requesting that the County continue to pay me on an hourly basis for any litigation matters for which I represent the County. I am also requesting that the County continue to pay for the cost of my legal research software and services, currently obtained through New Mexico One Source of Law.

All work excepted from the flat fee will be billed at an hourly rate of One Hundred Fifty and No/100 Dollars (\$150.00) per hour for Mr. Morel, and Seventy Five and No/100 Dollars (\$75.00) per hour for paralegals, legal assistants, and support staff. The hourly rate charges will be figured in fractional portions of an hour, breaking the hour into segments of 1/10th of an hour each, thereby billing 1/10th of the hourly amount for each tenth of an hour's work.

I am also requesting that, in the event the County Manager resigns for any reason, I immediately be allowed to return to compensation on an hourly basis.

5. The County of Lincoln and the County Attorney shall establish a budget for collective bargaining issues that might arise during the fiscal year, and those matters shall be handled internally or through assignment to outside counsel or consultants based upon the nature of the matter and the economic requirements.

6. A separate fiscal budget line-item shall be established for the payment of litigation costs, filing fees, expert witness fees, deposition and other discovery costs, and document production.

7. This Agreement shall remain in full force and effect for a period of 1 year from the date hereof or until such time as it is terminated by Attorney upon sixty (60) days written notice or by County upon sixty (60) days written notice that employment is to be so terminated. This original Agreement may be renewed and the terms renegotiated by the parties hereto for up to one (1) additional one (1) year terms.

a. The term of this Agreement shall begin on the 1st day of January, 2014.

IN WITNESS WHEREOF, the parties have executed this Agreement effective the day and year first above written.

COUNTY:

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

By: Jackie Powell
Jackie Powell, Chairwoman

ATTORNEY:

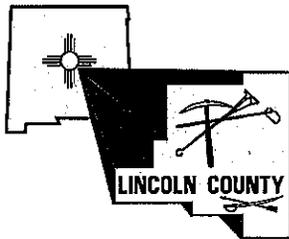
ALAN P. MOREL, P.A.

By: Alan P. Morel
Alan P. Morel, President

ATTEST:

Rhonda Burrows
Rhonda Burrows
Lincoln County Clerk





COUNTY OF LINCOLN

Planning Department

115 Kansas City Road, Ruidoso, New Mexico 88345 (575) 258-5934

December 11, 2014

Agenda Item 29

Re: ***Commission approval for LHPB grant application and match.***

PURPOSE: To get Commission approval on matching a proposed grant for the Lincoln Historic Planning Board (LHPB). Grant is issued through the 2015 Historic Preservation Grants.

DISCUSSION: In late November, 2014 an advertisement was sent to Certified Local Governments (CLG) about the availability of grant money for historic preservation purposes. This grant would be a maximum of \$50,000 per project. The matching amount due from the County would be 40% of the awarded amount. This can be from in kind services, or cash. After meeting with the LHPB board, they would like to have Samantha apply for this grant. The proposed grant would be used to procure an intensive location survey/mapping of the Lincoln Historic "A" zone. Intensive surveys of historic zones are a high priority of SHPO.

The NMDOT has said they will provide preliminary survey data that can be counted as in kind funds. Mr. Cozzins from State Monuments is also offering his staff to assist in the survey, which will also be counted as in kind funds.

This is being brought to the Commission for approval because of the guarantee match that needs to be approved, before the application is completed. We are working on a short time line from the State. The application packet needs to be turned in by January 5th, 2015 which does not give Samantha much time to complete the application, and return it.

Curt Temple, Planning Director will be presenting this item on behalf of the LHPB. Sincerely,

New Mexico Historic Preservation Division

NOTICE OF GRANT AVAILABILITY

2015 HISTORIC PRESERVATION GRANTS

Mission

NMHPD's mission is to identify, study, and protect New Mexico's unique cultural resources, including its archaeological sites, architectural and engineering achievements, cultural landscapes and diverse heritage. Through the Historic Preservation Grant Program (formerly the "Small Grant" program), NMHPD supports a variety of preservation projects statewide.

Goals and Objectives

As part of the 2015 grant program, NMHPD will give consideration to proposals that closely meet the Goals & Objectives outlined on pages 7-8 of the State of New Mexico's Historic Preservation Plan, *Preserving the Enchantment, Sustaining New Mexico's Cultural Heritage, 2012-2016*. See Exhibit E in the *2015 State of New Mexico Grants Manual* hereinafter "Grants Manual" for a list of the goals and objectives.

Funding, Grant Awards, & Reimbursement

(The total amount of funds available for the 2015 Historic Preservation Grants Program is approximately \$125,000.)

(Individual grant awards are estimated to be between \$5,000 and \$49,999.) The grant period will start after the completion of a signed Grant Agreement and end no later than September 30, 2015. (Projects are not anticipated to start earlier than April 1, 2015.)

Historic Preservation Grant Program funding is contingent upon NMHPD's annual appropriation of funds from the Department of the Interior, National Park Service.

Grants are awarded on a competitive basis. NMHPD will seek to ensure a reasonable distribution of grants between

urban and rural areas of the state. Not more than two (2) applications may be submitted by the same organization, individual, or community.

(Historic Preservation Grants are awarded on a matching basis with the federal NMHPD share up to 60% of the total project costs and the local share 40%.) (The local match represents that portion of the total project costs supplied by the grantee using cash or in-kind contributions. No federal monies can be used for the local match. In-kind contributions are represented by services (volunteers), goods, property, or any combination of the three.)

All awards will be paid on a reimbursable basis only. The grantee must have the necessary financial resources available to fund and complete the total project. NMHPD will then reimburse the grantee for eligible project costs. Reimbursement should not be expected for a minimum of six (6) weeks after required documentation and an invoice are submitted and approved by NMHPD.

Ineligible grant-funded expenses include catering for meetings and workshops, and durable equipment purchases (computers, cameras, etc.). However, these costs may be included in the local match. Eligible matching costs include:

- Project costs paid by the grantee during the project period;
- Project costs financed with cash contributed or donated to the grantee by other non-federal third parties, including other public agencies, institutions, and private organizations and individuals;
- Project costs represented by services and personal property, or use of these, contributed or donated by non-federal third parties during the project period.

Requesting Reimbursement

Instructions for completing forms and the required documentation needed to support grant expenditures is explained in the *Grants Manual*. Only project activities that are eligible expenses and completed between the execution date of the Grant Agreement and September 30 are reimbursable.

NMHPD may withhold up to 50% of the reimbursement, pending receipt and approval of the finished project deliverables. Final reimbursement requests must be submitted by October 15 following completion of the project. Final reimbursement will be held by NMHPD until the project work products are determined to be satisfactory.

Grant Schedule

Grant Applications Due	January 5, 2015
Grant Selection	January 2015
Notice of Award	by February 15, 2015
Contract Period	April 1, 2015 – September 30, 2015

(Contract period start date is estimated at April 1, 2015 but is dependent on federal appropriations and completion of Grant Agreement; Grants cannot extend beyond September 30, 2015)

The 2015 Grant Program – Eligible Project Types

This grant program is for the following types of work:

- Survey Projects & Historic Contexts
- New & Updated National Register nominations
- Planning Projects
- Preservation Education & Outreach Programs
- Publications
- Cultural Resource Documentation
- Construction, Restoration, Rehabilitation, or Stabilization of Buildings, Sites or Structures
- Information Management & Technology

We are pleased to announce that cultural resource preservation, stabilization, restoration, and rehabilitation ARE eligible projects (bricks & mortar projects) this year.

Survey Projects & Historic Contexts

Identifying and documenting historic resources must be a high priority when developing an effective historic preservation program. Surveys are undertaken to identify and gather information on prehistoric and historic properties such as buildings, archaeological sites, landscapes, and districts. The purpose of a survey is to make well-informed decisions about the relative importance and future preservation of historic resources.

Decisions regarding the future preservation of historic properties are dependent on an in-depth understanding of the historic development of the community. A planning study of a particular resource or related resources (e.g., landscape parks, archaeological sites, railroad-related buildings, ethnic housing, etc.) will result in a thorough knowledge of the resources and an assessment of their relative. Thematic studies are useful for threatened properties, resources that are not well understood by the public, and for common resources where evaluation is difficult.

Intensive Survey. Intensive survey is a close and careful (look at the geographical area or theme being surveyed, designed to precisely identify cultural resources. It involves a thorough inspection and documentation of historic properties in the field focusing on those 45 years of age or older. Each resource should have an inventory form (New Mexico Historic Cultural Properties Inventory (HCPI)) completed with a photograph, description, construction date, physical changes, historical information, and a National Register evaluation of the property.)

Oral Histories. Oral histories are often the only way to document community or neighborhood histories that are not identified through standard public records but are richly represented in the memories of the people and their associated cultural values. An oral history project should be structured so as to inform the development of a historic context and/or survey.

Architectural and Archaeological Surveys.

Architectural and archaeological surveys should be updated regularly to consider properties that may have achieved significance since the survey was originally conducted and to incorporate resources that were initially overlooked. Updating an existing survey offers an opportunity to identify and document physical changes that have occurred to a property and its surroundings since the last survey and to reevaluate the property within broader historic contexts using local, New Mexico, and National Register criteria. New or updated archaeological surveys will require completion of Laboratory of Anthropology & NMCRIS Information Abstract Forms.

Final Project Requirements. A Final Survey Report is required. Three printed copies of the final survey report should be provided along with a digital copy. The survey report is a separate document than the Final Grant Completion Report, which is the responsibility of the grantee. Two copies of final HCPI forms are required by NMHPD. One CD/DVD/JUMP DRIVE is required that contains all of the inventory forms in digital format and scanned photographs or JPG/TIFF files.

New & Updated National Register Nominations

In addition to supporting new nominations of individual properties, districts and multiple property documentation forms, NMHPD encourages applicants to revise existing nominations. For districts, revisions involve updating the lists of contributing and non-contributing properties and the reevaluation of their periods of significance. **Applications for new and updated NR Nominations must have the owner's consent for an individual property or 50% of the owners of properties in proposed districts at the time the grant agreement is signed.**

Planning Projects

Planning projects promote the preservation of existing resources and develop principles and techniques for future preservation and rehabilitation projects. Municipal and/or county comprehensive plans and local preservation plans should be periodically amended to incorporate new information, such as recent designations, preservation ordinance amendments, design review issues, and revised goals and objectives.

Comprehensive Community Preservation Plan. A preservation plan typically has several elements: the identification of historic and prehistoric resources; an evaluation of resources; and a protection strategy. The preservation plan should incorporate a range of possible strategies for preserving and enhancing historic properties, and it should integrate preservation efforts into the community's goals and comprehensive long-range and short-range plans.

Archaeological Resource Protection Plan. Archaeological resources are extremely susceptible to inadvertent damage. Protection plans take into account detailed identification and determination of resource significance, potential sources of negative impacts and counteractions, an exploration of strategies for future protection and management, the place of the archaeological resources within the overall preservation plan for the local community and ways to enhance public appreciation and understanding of the resources.

Feasibility Studies and Structural Assessment. Proposals related to structural restoration or work on an archaeological site, preparation of architectural plans, specifications and feasibility studies are eligible grant projects. Applications for these projects require name of property owner, street address, current and proposed use of structure, plans, specifications and construction estimates, RFPs, and Scope of Work documents. Acquisition of historic buildings; projects involving active churches or those used for religious purposes; and historic markers/signage are not eligible projects.

Historic Structure Report. A Historic Structure Report provides documentary, graphic, and physical information about a property's history and existing condition. Broadly recognized as an effective part of preservation planning, a Historic Structure Report also addresses management or owner goals for the use or re-use of the property. It provides a thoughtfully considered argument for selecting the most appropriate approach to treatment, prior to the commencement of work, and outlines a scope of recommended work. The report serves as an important guide for all changes made to a historic property during a project: repair, rehabilitation, or restoration; and can also provide information for maintenance procedures. Proposed work outlined in the report must comply with *The Secretary of the Interior's Standards for the Treatment of Historic Properties*. Finally, it records the findings of research and investigation, as well as the processes of physical work, for future researchers.

Cultural Landscape Plan. A Cultural Landscape Plan is an inventory for an area, a study completed to define the boundaries of a distinct cultural landscape and summarizes its history and describes its current condition. The Cultural Landscape Plan also makes recommendations about its treatment.

Design Guidelines. Design Guidelines can be an essential document for review of work proposals on historic properties. Design Guidelines can often explain and interpret design criteria, reinforcing the character of a historic area and ensuring consistency in the design review district. Proposals for design guidelines will be accepted only for communities that are designated MainStreet, Arts & Cultural Districts, or Frontier Communities.

Preservation Education & Outreach Programs

NMHPD will consider funding educational and outreach programs that will promote historic preservation. Grant applications should indicate how the proposed program meets a critical need in a way that is both innovative, cost-effective and reaches a wide audience. The types of projects that will be considered may include, but are not limited to:

- Hosting a regional historic preservation workshop;
- Hosting webinars or developing eLearning on historic preservation topics;
- Developing a mobile app for making information available about local historic resources;
- Developing educational materials and outreach efforts to provide homeowners with guidance regarding good design solutions, appropriate materials, and sources for such materials to help homeowners better preserve and maintain their older properties;

-
- Developing a citizen's guide to historic preservation in your community which is available in print and online;
 - Collaborating with local educators to develop a curriculum module that engages students in learning more about a community's history.

Publications

Reprint, digital re-mastering or preparation of public information pamphlets, brochures, etc., along with electronic publishing and distribution of research, outreach, and education materials on cultural resources, may be considered. Draft and final content must be pre-approved by NMHPD before publishing.

Construction, Restoration, Rehabilitation, or Stabilization of Buildings, Sites or Structures

Applications for grant funds for these types of project include construction work that stabilizes, restores, or rehabilitates cultural works. Applications will be accepted for bricks and mortar projects on properties that are listed in the National Register of Historic Places. All work must comply with the *Secretary of the Interior's Standards for the Treatment of Historic Properties*.

Information Management & Technology

Applications for grant projects that involve the innovative application of technology in acquiring, managing and disseminating information about cultural resources are encouraged. Projects that will be considered include, but are not limited to phone applications, website design, and development of databases. Software and licensing fees are allowable project costs.

Applicants

Applications for the Historic Preservation Grant program are open to:

- Non- and For- Profit Organizations
- Historical and Archaeological Societies
- Historic Preservation Groups
- Educational Institutions
- Local Units of Government (with the exception of CLG communities, see information for Grants to Certified Local Government communities on nmhistoricpreservation.org)
- Units of and subdivisions of State Government
- Native American tribes (with the exception of THPOs) and Pueblos

Tip: Be sure that your project team includes personnel who meet the requirements as set forth in the Secretary of the Interior's Professional Qualifications Standards.

Grantee Obligations & Requirements

Grant recipients will be required to execute a legally binding Grant Agreement between NMHPD and the grant recipient. The Grant Agreement includes a scope of work, Project Schedule, and Project Budget. The scope of work cannot be substantively changed once the grant is awarded and the Grant Agreement is signed. If a consultant fails to perform as expected, submits work that does not meet *The Secretary of the Interior's Standards*, or fails to deliver draft and final products by or before the deadlines set in the Grant Schedule, it remains the grant recipient's responsibility.

Failure on the part of the grant recipient to begin the project in a timely manner or to perform as agreed may result in NMHPD taking action through a Notice of Default and rescinding the grant. Depending on the terms of the contract between the consultant and the grant recipient, a consultant's failure to perform could leave the grant recipient with costs that would not be reimbursed through the grant. NMHPD typically holds a significant portion of the grant amount in reserve, authorizing disbursement only after it has reviewed and accepted final grant products and deliverables. NMHPD recommends that the grant recipient set up their contracts with consultants with a payment schedule that provides itself with similar control.

For more information about Grant Requirements please review the *Grants Manual*.

To Apply

To apply for the 2015 Historic Preservation Grants:

- Confirm that your project meets the State's Historic Preservation Plan Goals & Objectives, see *Grants Manual, Exhibit E*.
- Assemble your project team. Be sure that the experience and education of the Project Coordinator and/or key personnel meets *The Secretary of the Interior's Professional Qualifications Standards*, see *Grants Manual* for a full description of each position. Complete a Qualifications Certification for each person.
- Review this announcement and the *Grants Manual*.
- Complete the Application Form. The Application Form is a Microsoft Word document that is downloadable from the grants section on the nmhistoricpreservation.org website.

-
- Submit a complete grant application package which consists of ONE copy of the required documents and forms:
 - Checklist
 - Application Form (using word document)
 - Project Narrative. Use the guidelines provided to write the Project Narrative. Use template provided.
 - Certification Forms, *The Secretary of the Interior's Professional Qualifications Standards*
 - Project Budget (use template provided)
 - Project Schedule (use template provided)
 - Resumes for Project Team
 - Other supporting documents
 - Assurances
 - Certificate of Professional & Conformance

Applications and supporting documents may be submitted in two ways:

- Via Email. ***NEW THIS YEAR ***

One PDF copy of the above documents and those listed on the checklist may be submitted electronically.

HPD will NOT accept ZIP Files.

To submit an electronic application:

1. Determine if your file exceeds **20 MB** in size. If it does, move to # 4 below.
2. Send your application & supporting documents as PDF documents to karla.mcwilliams@state.nm.us. Zip files will not be accepted.
3. A confirmation will be sent to you regarding the application submittal.
4. If your file exceeds 20 MB in size, email Karla at karla.mcwilliams@state.nm.us who will then send you an external web-based site for the document submission. No ZIP files will be accepted, PDF documents only.

- Via Mail/Messenger/Delivery

Send one copy of the entire application to the address under "More Information" at the right. To be considered, HPD must receive the applications by January 5, 2015. Postmarked applications will not be accepted.

More Information

For more information about the 2015 Grants Program please consult the *Grants Manual*. The Manual has been updated from previous years (previously called The 2014 Supplement).

The *Grants Manual* may be found on the New Mexico Historic Preservation Division website under grants at <http://nmhistoricpreservation.org/programs/grants.html>

The complete grants manual for programs funded by the Historic Preservation Fund (National Park Service) can be found at:

http://www.nps.gov/preservation-grants/HPF_Manual.pdf

For further questions or information, please contact the Grants Coordinator:

Karla K. McWilliams, CLG & Grants Coordinator
New Mexico Historic Preservation Division
407 Galisteo Street, Suite 236
Santa Fe, NM 87501
karla.mcwilliams@state.nm.us • 505-827-4451

How Are Grant Recipients Selected?

The State Historic Preservation Officer (SHPO) will convene an application review committee (Grants Committee) made up of both fiscal and program staff from NMHPD who will consider the proposed scope of work, the project personnel, the plan to administer the project, the benefits of the proposed project to statewide preservation efforts, and the budget. The committee will rank applications in order of their scores for selection as grant recipients.

Grant Application Evaluation

A copy of the "Grant Application Score Sheet" used by the NMHPD Grants Committee follows this section. Each application will be reviewed and scored by two or more reviewers. The Project Narrative should briefly and concisely answer the following questions:

PROJECT SCOPE (50 points)

NEED (25 Points):

- What historic preservation need(s) does this proposed project address?
- Why is the proposed project a priority?
- How will the proposed project benefit the community, the state, or the nation?

PROJECT ACTIVITIES (15 Points):

- What activities will be carried out to complete the proposed project?
- Who will be responsible for doing what?
- Does the proposed project use the most efficient, cost-effective way of addressing preservation needs?
- How will the public be involved in the project?

DELIVERABLES (10 Points):

- How will the product(s) be made available to the public?
- What product(s) will be derived from the project?

ADMINISTRATION (15 Points):

- Do the Project Coordinator and/or key personnel meet The Secretary of the Interior's Professional Qualifications Standards?
- Are the personnel appropriate for achieving project objectives?
- Is the time schedule realistic? Can the project be accomplished in the proposed grant period?
- Has the project team demonstrated that they have sufficient experience to complete the project?

BUDGET (25 Points)

- Are anticipated costs to accomplish project activities realistic, reasonable, and necessary?
- Is the cost basis for the budget justified and documented?
- What funding sources will be used for the match? Is the required match satisfied?

STATE PLAN (10 Points)

Which of the state plan goals and objectives does the project specifically meet? How? See New Mexico State Historic Preservation Plan, *Preserving the Enchantment: Sustaining New Mexico's Cultural Heritage, 2012-2016* available in the *Grants Manual, Exhibit E*.

TOTAL POINTS AVAILABLE – 100 POINTS

Agenda Item No. 30

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

700 Mechem Drive, Suite 12
Post Office Box 1030
Ruidoso, New Mexico 88355-1030

Jira Plaza
Telephone (575) 257-3556
Facsimile (575) 257-3558

December 16, 2014

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 Conclusion of Law/Order was filed May 15, 2014 entered in favor of Ms. Cooper. Ms. Cooper filed an appeal June 10, 2014.
2. *Coble Constructors, LLC, et al v Carl Kelley Construction Ltd. Co, et al.* D-1226-CV-2012-00003. Suit filed January 15, 2012. Complaint to Foreclose Mechanic=s Lien. Motion for Summary Judgment filed Jan. 29, 2014. Motion for Grant of Summary Judgment filed July 18, 2014. Hearing scheduled for Jan. 5, 2015.
- *3. *Greentree Solid Waste Authority v. Lincoln County* D-1226-CV-2014-00095. Suit filed May 1, 2014 Verified Petition for Declaratory and Supplemental Relief: Injunction, Motion to Waive Time to Reassign District Judge (Judge Karen Parsons was disqualified). County was served May 14, 2014. Mr. Paul Melendres has been retained by the County and filed Answer, Motion to Disqualify Mr. Beauvais and Change of Venue. Motion to Join the New Mexico Finance Authority as an Indispensable Party filed July 22, 2014. GSWA filed its Motion for Summary Judgment on Sept. 26, 2014. County filed its Response to GSWA's Motion for Summary Judgment on Oct. 13, 2014. Scheduling Conference and Hearing on All Pending Motions was Nov. 20 both with Judge Ritter, who found Mr. Beauvais had a conflict of interest and was disqualified from representing GSWA. Stipulated Partial Dismissal was entered and GSWA's Motion to Reconsider was filed Dec. 5, 2014. GSWA has retained Robert Doughty as new counsel, who filed a Limited Entry of Appearance Dec. 13, 2014. Preliminary Injunction Hearing is scheduled Dec. 17, 2014 with Judge Ritter. Lincoln County's Reply to Motion to Dismiss Supplemental Motion for Injunctive Relief is due Dec. 18, 2014.

4. *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.

5. *Barbara Diane Latham, et al v. Neal Cox, Ben Hazen, Lincoln County Sheriff=s Department and the County of Lincoln. D-1226-CV-2013-00191 to Federal No: 2:13-CV-00822-RB-SMV.* Suit filed July 19, 2013. Complaint for Violation of Civil Rights, Wrongful Death and Damages by Attorney Gary Mitchell. Tort Claim Notice was filed on October 27, 2011. LCSO and LC Manager were served on August 5, 2013. Advised NMAC assigned the case to Brennan and Sullivan Law Firm Sept. 5, 2013. Case was moved to Federal Court August 30, 2013. Plaintiffs and Defendants Agreed Motion to Modify Scheduling Order filed Aug. 5, 2014. Motion for Qualified Immunity still pending as of Oct. 4, 2014. Ms. Latham filed a new action in federal court against Village of Capitan and Police Officer Kevin Kennedy filed July 25, 2014. The court Sua Sponte consolidated both cases via Order from Judge Brack filed Sept. 29, 2014.

6. *State of NM/Lincoln County v. Avalon-Construction, Ruidoso, NM D-1226-CV 2014-00006* Filed Jan. 6, 2014 Open complaint for Refund of Taxes paid. Case assigned to Basham & Basham/Dwyer. Motion to Dismiss filed July 17, 2014. Settlement Agreement was signed by Avalon Sept. 3, 2014 and by Lincoln County Sept. 8, 2014.

7. *Bank of America, N.A. v. Howard D. Schafer, et. al. (County of Lincoln through LCSWA) D-1226-CV2014-00162* County was served Sept. 2, 2014. Complaint for Foreclosure filed Aug. 19, 2014 Lincoln County filed an Alarm Ordinance Lien and a LCSWA Lien. Mr. Morel entered his appearance on behalf of the County Sept. 23, 2014. Disclaimer of Interest has been filed by Lincoln County.

8. *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.

*9. *Wesmax, Ltd. V. Paul Baca, Lincoln County Assessor D-1226-CV-201400188* 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

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 LCDC on March 11, 2014.

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

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

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

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

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 LCDC.

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.

***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.

2013

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

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

Espinoza, Robert 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.

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

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

Silva, Elmo 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.

Agenda Item No. 31

SUBJECT

Potential Property Purchase

Agenda Item No. 32

SUBJECT

Potential Legal Action – Greentree Solid Waste Authority v. County of Lincoln D
1226 CV 2014-00095 Inspection of Public Records Act Violations