

COUNTY OF LINCOLN

New Mexico Regular Meeting Board of County Commissioners

Todd Proctor, Chair
Jon Crunk, Vice Chair

Samantha Serna, Member
Mark Fischer, Member
Pierre Pfeffer, Member

Minutes Tuesday February 21, 2023

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on February 21, 2023, in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico. The meeting was also accessible via Zoom.

1. Call to Order

Chair Proctor called the Regular Meeting of the Board of County Commissioners to order at 8:30 AM.

2. Roll Call

Roll Call.

Present: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

Others present included Ira Pearson, County Manager; Alan Morel, County Attorney; and Shannan Hemphill, County Clerk.

3. Invocation

The Invocation was presented by Commissioner Serna.

4. Pledge of Allegiance

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

5. Approval of Agenda

Motion: Acceptance of the Agenda and authorized the Chair to move items as necessary,
Action: Approve, **Moved by** Commissioner Fischer, **Seconded by** Commissioner Crunk.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

31. 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); and Limited Personnel Matters, Section 10-15-1, Subparagraph (H)(2)

Motion: To close the meeting for the purposes of an Executive Session to discuss 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); and Limited Personnel Matters, Section 10-15-1, Subparagraph (H)(2), **Action:** Approve, **Moved by** Commissioner Fischer, **Seconded by** Commissioner Serna.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

Chair Proctor recessed the Regular Meeting and convened the Closed Session at 8:32 AM.

New or Updated Matters since last report *

1. **Board of County Commissioners of Lincoln County v. Roger Romero D-1226-CV-2018-00055** Complaint for Foreclosure. Complaint was filed February 20, 2018. Defendant Roger Romero filed an Answer to the Complaint asserting a Counterclaim to be filed in the U.S. District Court on April 2, 2018. A Judicial Inquiry Hearing took place September 4, 2018. The case is still pending.

2. **Roger Romero v. State of New Mexico – D-1226-CV-2018-00113 (Underlying Cases are: Board of County Commissioners of Lincoln County v. Roger Romero, D-1226-CV-2018-00055, and State of N.M. v. Roger Romero M-30-MR-2016-00142)** A Petition for Writ of Habeas Corpus was filed requesting that the Judgment & Sentence entered by Judge Vega in Cause No. M-30-MR-2016-00142 be vacated and set aside. George Romero's Answer to Complaint and Counterclaim was filed April 30, 2018 in Cause No. D-1226-CV-2018-00055. On February 26, 2019, an Order Setting Aside Conviction was entered by Judge Counts.

On March 25, 2019, a Notice of Appeal was filed with the N.M. Supreme Court, Case No. S-1-SC-37602 On January 8, 2021, the Supreme Court entered its Dispositional Order of Transfer transferring the case to the Court of Appeals for consideration and review.

On January 28, 2021, a Dispositional Order was entered transferring the case to the NM Court of Appeals for consideration and review. Case No. A-1-CA-39446 On December 8, 2022, the case was submitted to a 3 Judge Panel for a decision.

3. **Romero, et al. v. Stone, et al, Cause No. D-1226-CV-2019-00271** Request for Appointment of Guardian Ad Litem for Plaintiffs and Complaint for Violation of Civil and Constitutional Rights, Negligence, Prima Facie Tort and Wrongful Taking was filed on October 9, 2019 along with a Jury Demand. Lisa B. Riley is the presiding Judge. The case is still pending.

4. **Brd. of County Commissioners of Lincoln County v. Amerisourcebergen Drug Corp., et. al – U.S. Dist. Court Case No. 2:19-cv-00462** – Complaint for Public Nuisance, Violations of Racketeer Influenced and Corrupt Organizations Act (RICO)... filed on May 20, 2019 by Attorneys Robles, Rail & Anaya, P.C., et. al. After receiving no oppositions to the transfer of the case, on June 17, 2019, the case was transferred to the Northern District of Ohio noting that as of December 5, 2017, 1,534 cases have been transferred to Ohio for further proceedings. Settlement has been reached with some of the Defendants and, Lincoln County has begun to receive payments from some of the settling Defendants. The case is still pending.

5. **Greentree Solid Waste Authority v. Lincoln County, Cause No. D-1226-CV-2014-00095** – Compromise and Settlement Agreement and Release executed on December 17, 2015.

6. **Debra Wilcox v. Board of County Commissioners, Deputy Samuel C. Hanna, Caroline McCoy and Former Sheriff Robert Shepperd, Cause No. D-1215-CV-2021-00574** Complaint for Damages was filed on the 2nd day of September, 2021 by Steven Sanders alleging personal injury resulting from an improper and grossly negligent investigation and for "malicious abuse of process". County Defendants were served on November 2, 2021. The case is still pending.

7. **Eby Revocable Trust AND William R. Moser v. Lincoln County Assessor, et al, Cause No. D-1226-CV-2021-0260** A Notice of Appeal of Decision of Tax Protest Board was filed on the 14th day of December, 2021 by Attorney Zach Cook. On January 27, 2022, New Mexico Counties assigned Attorney Daniel Macke to represent Lincoln County. The case is still pending.

8. **Crystal Buster v. Board of County Commissioners for Lincoln County, Correctional Solutions Group, LLC, et al, Cause No. 2:21-cv-01208** A Complaint for Recovery of Damages Caused by the Deprivation of Civil Rights with a Jury Demand was filed on the 12th day of December, 2021, by Coyte Law P.C., and the Law Offices of Matthew Vance, P.C. The case is still pending.

9. **Lionel Burns v. Lincoln County Sheriff's Department; Deputy Daniel Brawley; in their individual and official capacities, and Rhonda Burns, Cause No. D-1226-CV-2022-00032** A Complaint for Damages was filed on the 4th day of March, 2022, by Clayton E. Crowley, Esq. and Joseph J. Gribble, Esq.

On April 22, 2022 the case was removed to the U.S. District Court for the District of New Mexico, Cause No. 1:22-cv-000304. The case is still pending.

10. **Potential Recovery of County of Lincoln Losses from the McBride / Nogal Fires**

11. **Butch's Properties, LLC v. Vera Cruz Ranches, et al, Cause No. D-1226-CV-2022-00166** A Complaint to Quiet Title was filed on the 18th day of August, 2022 by Attorney William Griffin. Lincoln County was served on the 26th day of August, 2022, and filed its Answer to the Complaint on the 26th day of September, 2022. The case is still pending.

12. ***Pioneer Bank v. Andrew Smith, et al, Cause No. D-1226-CV-2022-00089** An Amended Complaint for Foreclosure and Collection of note was filed on the 24th day of August, 2022 by Attorney Andrew Ragsdale. Lincoln County was served on the 24th day of August, 2022, and filed its Answer to the Complaint the 28th day of September, 2022. On January 11, 2023, Judge Bryant entered an Order to Dismiss without prejudice. This case is now closed.

13. **Rosarita Brady, et al v. The Board of County Commissioners of the County of Lincoln, et al, Cause No. D-1226-CV-2022-00199** A Verified Complaint was filed by Attorneys Alexandra Bobbit and McKenzie St. Denis on the 27th day of September, 2022. Lincoln County was served on the 22nd day of November, 2022. Lincoln County Defendants filed their Motion to Dismiss in Lieu of an Answer to the Complaint on the 6th day of January, 2023. The case is still pending.

14. **Dennis Rich and Yvonne Rich, v. Walt Hill, et al, Cause No. D-1226-CV-2022-00230** A Complaint to Quiet Title was filed on the 22nd day of November, 2022 by Attorney H. John Underwood. The County of Lincoln has yet to be served.

Tort Claims Notices Received or Threatened

2023

***Booth, Marcus** – Tort Claim Notice received January 26, 2023, alleging injuries sustained by Claimants head due to the actions by staff of the Lincoln County Detention Center and staff's refusal to take Claimant for medical treatment.

Ornelas, Mark – Tort Claim Notice received on January 4, 2023, alleging injuries sustained on October 11, 2022, as a result of an automobile accident / rollover of the Detention Center Transport Van owned by Lincoln County while being transported from Eddy County Detention Center to Lincoln County Detention Center.

2022

Schwartz, Neil – Tort Claim Notice received on February 10, 2022 alleging malicious and/or tortious actions and/or omissions by the State of New Mexico, the Lincoln County Sheriff's Department, the New Mexico State Police, and the Twelfth Judicial District Attorney's Office resulting in damages to Claimant including, but not limited to, infliction of mental pain and suffering, injuries to Claimant's reputation, and current and future loss of earnings.

Downs, Barbara – Tort Claim Notice received May 6, 2022 alleging improper road and/or waterline maintenance resulting in a vehicle collision due to the icy road at the intersection of Sudderth Drive and Paradise Canyon in Ruidoso, New Mexico. A 2nd Tort Claim Notice was received on May 9, 2022 for a separate source with the same allegations as those set out in the May 6, 2022 notice.

McMinn, David – Tort Claim Notice received on July 6, 2022, alleging multiple, serious issues due to the use of excessive force by BIA law enforcement who may have been agents of or acting on behalf of the Village of Ruidoso, Ruidoso Police Department, Lincoln County, N.M. State Police and the State of New Mexico.

New Mexico Boys and Girls Ranches, Inc. and its Employee, Bridgman, Ted – Tort Claim Notice received on August 9, 2022, alleging violation of civil rights and tort claims act, including a demand to cease and desist and the return of promotional materials confiscated by County representatives at the Lincoln County Fair.

Villanueva, Leticia – Tort Claim Notice received on October 3, 2022, alleging negligent, malicious and/or tortious actions and/or omissions, and infliction of pain and suffering.

Estates of Wesley Clark and Linda Clark – Tort Claim Notice received on October 11, 2022 alleging wrongful deaths as a result of the McBride Fire due in part to faulty siren warning systems.

Snodgrass, Joshua – Tort Claim Notice received on November 2, 2022 concerning loss of employment with the Lincoln County Sheriff's Office commencing on June 23, 2022.

Grassie, Kurtis - Loss of employment with the Lincoln County Sheriff's Office commencing on June 23, 2022.

2021

Mow, Jacob – Tort Claim Notice received February 18, 2021 alleging damage to his vehicle due to icy road conditions on Cora Dutton Rd. and the County Road Department's failure to salt to roadway.

Cervantez, Adam - Tort Claim Notice received on July 8, 2021 alleging the use of excessive force and related constitutional claims during his arrest on April 22, 2021.

Kieter, Dave; Jakubcewicz, Mark; Riddle, Jasper; Patton, Van – Tort claim Noticed received on July 27, 2021. Claimants each allege damages to personal and real property as a result of the extraordinary flooding experienced throughout Lincoln County.

Myers, Sylvia – Tort Claim Notice received August 30, 2021 alleging that Lincoln County Medical Center's treatment fell below the standard of care.

Siegel, Erik – Tort Claim Notice received August 30, 2021 alleging deprivation of rights involving tort, constitutional rights, and other claims.

White, Lionel Glenn, Jr., and family members and tenants, Ralph Nosker and his family members, Barbara Arthur and her family members, and Barlou, LLC – Tort Claim Notice received September 16, 2021 alleging inundation by water resulting in damages to existing roadways and parking in the Gavilan Canyon Road area which are all located within the municipality of the Village of Ruidoso.

Smoley, Cinthia – Ms. Smoley submitted to the Lincoln County Treasurer Department a Statement dated 11/2/2021, for "Arbitration Award/monies due for default".

Vonderane, Glenn – Tort Claim Notice received October 19, 2021 alleging personal injury while using a staircase at the Village of Ruidoso public parking lot located at 151 Center Street.

Chair Proctor adjourned the Closed Session and reconvened the Regular Meeting at 9:32 AM.

Commissioner Fischer attested matters discussed in the closed meeting were limited to those specified in the motion for closure or in the notice of separate closed meeting and no action was taken.

11. 9:30 A.M.: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS (Items are for discussion only – no action will be taken)

Chair Proctor stated he attended the Lincoln County Days in Santa Fe in February with Manager Pearson, Mayor Crawford and Ron Sena, acting Village Manager where they met with the Governor's Office regarding some McBride Fire Bills. Chair Proctor also attended the Greentree Solid Waste meeting however the only portion which pertained to the County was the Landfill. Chair Proctor informed he attended the NMC meeting and explained there were numerous bills introduced during the Legislative session and the Association of Counties was tracking 183 of the bills. Chair Proctor mentioned if anyone would like information on what they were tracking he would be happy to visit about the bills which pertain to them.

Commissioner Fischer thanked Chair Proctor for his diligence and work with the legislature on behalf of the County. Commissioner Fischer stated he testified for SJR13 to support the Convention of States and Article Five Convention. Commissioner Fischer informed he received a letter from resident Gary Popplewell which he supported and he hoped Mr. Popplewell would be able to explain the letter more in depth for the rest of the Commissioners during his portion of the public comments.

Commissioner Serna stated she attended the NMC Conference and the Lincoln County Days as well. Commissioner Serna gave a huge thank you to Senator Burt for his work on the McBride recovery. Commissioner Serna hoped the \$20,000,000 would be used to support workforce housing as she felt it was the biggest loss the community saw as well as support roads and drainage.

Commissioner Pfeffer stated as the new Commissioner he looked forward to working with the fellow Commissioners to support the people of Lincoln County.

Commissioner Crunk spoke on the ongoing homeowners insurance issues in the County. Commissioner Crunk stated the Secretary of Insurance retired and his assistant was appointed. Commissioner Crunk informed they were putting a fair plan in place, meaning you could buy a policy from the State however, the maximum policy was \$250,000 which was not enough to cover most of the houses in Ruidoso.

Clerk Hemphill introduced Kristin Avila as the new Historical Records Clerk. Clerk Hemphill advised there would be a Special All Mail Election for the Capitan School District on May 9, 2023 so those in the district would be receiving a ballot in the mail in April. Clerk Hemphill stated she also attended the NMC Conference as well as the Clerk's Affiliate meetings where they discussed numerous bills being presented affecting all the different aspects of the Clerk's Office.

Sheriff Wood welcomed the new Commissioners and apologized for missing the first meeting. Sheriff Wood stated he also attended the NMC Conference and the Sheriff's Affiliate meetings where they discussed numerous bills going through the Legislature. Sheriff Wood provided statistics from his office over the last month.

Assessor Hill spoke about the assessed livestock values set by the Livestock Board over the last seven years. Assessor Hill pointed out the values for 2023 show a dramatic increase.

Treasurer Huddleston informed her office was preparing to send courtesy reminder cards. Treasurer Huddleston stated out of the \$37,000,000 owed they had collected \$26,000,000 showing they were at 70% of the property tax collections for the 2022 year. Treasurer Huddleston explained her office was closed temporarily due to a remodel however she had employees in the Finance Office available to take payments. Treasurer Huddleston stated she also attended the NMC Legislative Conference.

Gary Popplewell, Ruidoso Resident, spoke on concerns and issues some residents of the County would like the Commission to work on in future meetings. Mr. Popplewell provided copies of his letter and requested the Commissioners review it and act on items as appropriate. Mr. Popplewell welcomed new Commissioner Pfeffer.

Jim Spiri, Lincoln Resident, spoke on the difficulties with OMI and the Funeral Home in Alamogordo when trying to bury his brother, who was a veteran. Mr. Spiri questioned if there was a contract between the County, the OMI and the Funeral Homes in Alamogordo or Ruidoso. Mr. Spiri informed he worked with Steven McConnell at Fort Stanton cemetery who was wonderful to work with and helped him to bury his brother, however he was still not able to get his brother's Death Certificates from the funeral home and it had been more than 100 days. Mr. Spiri welcomed Commissioner Pfeffer.

Rick Purcella, County resident, thanked Brianna and Francesca for their help on his solid waste bill. Mr. Purcella informed the Commission a lien had been placed on his property for past due solid waste bills. Mr. Purcella stated he owned the house but hadn't lived there in many years as he was in the military and constantly traveling. Mr. Purcella explained he didn't mind paying a solid waste bill when he lived at the property but had a hard time understanding why he would incur a bill when he was not living there. Mr. Purcella hoped to have the house fixed up so he could move back by the end of the year.

6. Approval of Minutes:

- a. January 17, 2023, Regular Commission Meeting

Motion: Approve the Minutes of November 15, 2022 Regular Commission Meeting, **Action:** Approve, **Moved by** Commissioner Crunk, **Seconded by** Commissioner Serna.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Crunk, Chair Proctor.

Abstain: Commissioner Pfeffer.

15. Pattern Energy / SunZia Wind

- a. 2020 Mesa Canyons Wind, LLC, IRB: First Amendment to Indenture Agreements, and Second Amendment to Lease Agreement

Jeremy Turner, Director of NM Project Development for Pattern Energy, Introduced Pattern Energy for the new Commissioners. Mr. Turner explained they were asking for the ability to pay \$420,000 in 2025 and compensate the County in 2026 as if the project was complete in 2025.

Mr. Turner stated the request for the IRB is to allow for a 1 year extension of the construction timeframe from 2025-2026 accept the \$420,000 payment and allow them to make up the entire payment for the remainder of the wind farm in 2026.

Commissioner Crunk questioned the delay and Mr. Turner explained the delay was due to commitments out of the control of the company. Mr. Turner stated they were working with Blatner Energy and expect to be complete by April 2026.

Commissioner Fischer questioned the economic impact for New Mexico instead of the total economic impact for the whole project which would include a lot of the out of state impacts. Mr. Turner explained there were direct, indirect and induced impacts which were taken into account over the 30 years' time period to come up with the expected economic impact.

Attorney Morel stated he had reviewed the contracts however; Eddie Duffy was contracted as outside Counsel in the transaction.

Mr. Turner provided clarification even though the megawatts weren't fully installed in 2025 they would pay the County in 2026 as if they had been.

Motion: Approve the First Amendment to Indenture Agreements and Second Amendment to Lease Agreement, **Action:** Approve, **Moved by** Commissioner Crunk, **Seconded by** Commissioner Fischer.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

- b. Variance Request for Pattern SC Holdings LLC, Ancho Wind LLC, Cowboy Mesa LLC, and Mesa Canyons Wind, LLC (collectively the "SunZia Wind South Project"), Lincoln County WECS

Adam Cernea Clark, Pattern Energy, explained the requested variance request. Mr. Clark stated there were four instances of the new turbines where they would be within the 1.5x County setback. Mr. Clark informed they were requesting approval for variance setbacks, the smallest of which would be 1.1x setback.

Commissioner Fischer would like to see an engineering study to show the real impact of the change.

Commissioner Pfeffer questioned eligibility for Production Tax Credits.

Jeremy Turner explained if the variance was not granted, they would have to drop the 4 turbines and seek an alternate location if one was available. If unavailable, they would be dropped altogether resulting in a loss of about \$39,000/yr.

Commissioner Serna requested to postpone the variance request and have it brought back with more accurate information for the Commission review.

Motion: Postpone the Variance Request, **Action:** Postpone, **Moved by** Commissioner Serna, **Seconded by** Commissioner Fischer.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

14. Approval of Resolution 2023-39 a Resolution Acknowledging and Accepting FY 2022 Audit for Lincoln County – Presentation/Discussion by Daniel Trujillo-Kubiak Melton & Associates, LLC

Mark Santiago, Kubiak Melton & Associates, informed there were no difficulties during the audit and no disagreements with management. Mr. Santiago stated they evaluated uncorrected misstatements and found none. Mr. Santiago explained GASB 87 was new this year and required leases to be capitalized. Mr. Santiago further explained the new GASB 96 which covered subscription-based IT and required it to be capitalized as well, so it would be implemented in the future.

Mr. Santiago informed the County had a clean opinion on their 2022 Financial report, however there was one compliance finding over the use of County Vehicles. Mr. Santiago explained there was guidance put out on the Opioid settlement funds however it came out late. Mr. Santiago stated they were in agreement with Manager Pearson on the handling of the funds

even though it was in conflict with the recommendation. Mr. Santiago added a courtesy reminder the State Auditor will be more stringent on compliance with the work from home policy in the future.

Commissioner Fischer questioned the net position deficit of \$4,612,606 as a leading indicator of a potential problem going forward in the budget. Mr. Santiago explained when they convert from fund level accounting to full accrual accounting you will see the differences and it is not representative of problems.

Commissioner Serna questioned the finding of the County Vehicle usage and was told it was corrected immediately and was not an issue.

Motion: Adopt Resolution 2023-39 acknowledging and accepting FY 2022 Audit for Lincoln County, **Action:** Adopt, **Moved by** Commissioner Fischer, **Seconded by** Commissioner Crunk.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

16. Lincoln County Fairgrounds

a. Fair Board Presentation / Update

Billy Bob Shafer, President of Lincoln County Fair Board, thanked the Commission for the \$37,500/yr issued from the County. Mr. Shafer explained the contract labor line covered the lady who takes care of the facility and books the events.

Renee Montes, Secretary/Treasurer LCFB, explained the financial breakdown.

Shad Cox, LCFB, informed the Smokey Bear Stampede was one of the largest open rodeos in the US. Mr. Cox stated they raised ticket prices in 2022 and it was the largest attended event thus far.

Commissioner Crunk questioned the insurance requirement and recommended updating the insurance company on the ticket price and revenue changes.

Commissioner Fischer questioned the lack of numbers from the 2022 night rodeos. Mr. Shafer informed they did not receive the information from the rodeo contractor prior to the meeting.

Commissioner Serna recommended using Lodgers Tax funds in the future.

Mr. Shafer detailed the Jr. Livestock Sale and County Fair with 107 children exhibiting 350 animals and 121 indoor entries. Mr. Shafer informed they started using an outdoor tent to comply with the Governor's mandate for open air for the Livestock Sale and everyone liked it so much they kept using it each year since. The sale the first year was \$172,000 and it appeared to help increase the sale amount each year since.

Mr. Shafer explained the Lincoln County Cowboy Crisis Fund and stated they had given away around \$100,000 since the beginning of the fund.

b. Fairground Projects – Update

Manager Pearson provided a breakdown of projects completed or underway. Jeff Honeycutt, Road Superintendent stated most projects came out of the Road Department budget.

12. Lincoln County Detention Center Update- and Introduction of New Warden

Ross Castleton, Warden of the Lincoln County Detention Center, informed he had been on the job one week however, he was in corrections for approximately 25 years and had lots of experience.

13. Lincoln County Medical Center Update-Todd Oberheu

Sandie Nunnally, Lincoln County EMS Manager, informed they had hired a new ER physician from Holloman AFB. Ms. Nunnally stated raises had been approved for the EMS department for approximately \$200,00. Ms. Nunnally explained they invited schools to bring children to participate in a MASH camp to teach them a little about the healthcare industry.

Chair Proctor questioned the possible inclusion of Volunteer Fire Department personnel in ambulance responses. Ms. Nunnally informed the PRC required 2 EMT's to be on the Ambulance however they were looking to further discuss their options.

Commissioner Crunk requested ambulance response times from the outlying communities for future review.

10. Forest, Land & Natural Resources Matters:

- a. Smokey Bear Ranger District
- b. Lincoln County / NMSU Extension Services

Melanie Gutierrez, Lincoln County Extension Service, informed they were featured in a pamphlet handed out to the Legislators detailing the quilt camps which the Lincoln County Extension Service held. Ms. Gutierrez updated on different happenings in the County which her office was involved in including taking kids to camps and retreats.

Ms. Gutierrez explained the office used to work with FSA on the forage loss, however they were not included in the process the last couple of years. Ms. Gutierrez stated the ranchers in the area who filed for the grazing loss in 2020 did not receive any funds in 2021 even though there was definite forage loss. Ms. Gutierrez informed FSA had brought the Counties back into the process again this year to help out and her office had turned in the grazing loss assessments.

- c. South Central Mountain RC & D

Robert Barber, RC&D Board of Directors, explained the air curtain incinerator they had was designed to burn slash. Mr. Barber informed they had a trailer and were hoping it would be easier to move around.

Mr. Barber provided an update on the EWP for the McBride Fire.

Mr. Barber stated Executive Director Laura Doth was working on insurance issues in the County due to fires and liability.

- d. Upper Hondo Soil & Water Conservation District

Robert Barber, Board of Supervisors, discussed the noxious weed program and informed they were doing preemergent spraying.

Mr. Barber explained they had \$39,000 which they were using on cost sharing projects down the Rio Ruidoso. Mr. Barber stated they were applying for additional Grants for various projects in the County.

- e. Land and Natural Resources Advisory Committee-LANRAC

Robert Barber, LANRAC, continue to monitor the Lincoln National Forest efforts to revise the forest land management plan. Commissioner Fischer requested to be involved in the EIS comments.

Chair Proctor recessed the meeting at 12:17 PM and reconvened the meeting at 12:45 PM.

7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month ending January 31, 2023
- c. Approval of Resolution 2023-37: Disposition of County Inventory and Capital Assets
- d. Approval to Purchase Command Truck for the Lincoln County Office of Emergency Services, Utilizing Fire Protection Fund Monies in the Amount of \$58,584

Motion: Approve the Consent Agenda, **Action:** Approve, **Moved by** Commissioner Serna, **Seconded by** Commissioner Pfeffer.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

8. Board of Finance – Lincoln County Treasurer, Sherrie Huddleston

Treasurer Huddleston reviewed the Treasurer's Financial Report for the month of January 2023.

Chair Proctor questioned the percentage required. Treasurer Huddleston stated there were options which could be 50%, 75% or 102% however the County was at 102%.

Commissioner Fischer questioned the premium required for that percentage amount. Treasurer Huddleston stated we get less interest on our funds since the bank had to secure a higher percentage.

9. Approval of Budget Adjustment FY 22/23 by Resolution 2023-38

Manager Pearson explained Bonito Fire increased to finish furnishing the new building, the Law Enforcement Protection fund line increased due to sale of property and the Law Enforcement Recruitment and Retention fund monies was received however they were still trying to determine how it could be spent.

Chair Proctor questioned the sale of property for the Law Enforcement Protection fund. Billie Jo Guevara, Finance Director, explained it was due to the rifles which were sold and added to equipment repair.

Commissioner Fischer questioned the expenditures in the Law Enforcement Recruitment and Retention fund since they were unsure how it could be spent. Manager Pearson explained it would be brought back before the Commission if they needed to adjust that budget again after they received clarification.

Motion: Approve the Budget Adjustment FY 22/23 by Adopting Resolution 2023-38, **Action:** Adopt, **Moved by** Commissioner Fischer, **Seconded by** Commissioner Serna.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

17. Lincoln County Road Department

a. Consideration and Approval of Wheel Loader Lease

Jeff Honeycutt, Road Superintendent, explained the 3 lease options on 2 pieces of equipment. Sierra Machinery did not have a trip charge however, CAT did, and the price went up significantly.

Commissioner Crunk questioned the number of times they need service each year. Mr. Honeycutt informed there were approximately 50 trips each year for service.

Commissioner Pfeffer questioned the number of times the machines were down and a loaner was needed.

Mr. Honeycutt stated the loaner offset the price of the trip charges and he was working with them to reduce the trip charge back to \$325, the price before the increase.

Motion: Approve the 5 year CAT lease for the wheel loader with the ability for the County Manager to sign all documentation, **Action:** Approve, **Moved by** Commissioner Crunk, **Seconded by** Commissioner Fischer.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

b. Approval to Sign Two (2) Governmental Entity Resolutions to Lease, Purchase and/or Finance Two (2) Motor Graders from CAT Financial

Motion: Authorize Manager Pearson to sign the Resolution Agreements with Caterpillar, **Action:** Approve, **Moved by** Commissioner Fischer, **Seconded by** Commissioner Crunk.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

18. Manager's Report

1) New Mexico Counties (NMC) Legislative Conference – January 17-19

Many county employees and elected officials attended the conference. Affiliate meetings had many joint sessions that included:

Workshop I-Recruitment & Retention NM Workforce Solutions Workshop II-NACo
Eryn Hurley
Workshop II-Bernalillo County ARPA Funds Workshop II-Valencia County ARPA Funds

2) ENMU Legislative Reception – 1/18/2023

Commissioner Serna and I attended the ENMU reception in Santa Fe on behalf of Lincoln County. President, Ryan Trosper appreciated our attendance.

3) NMC Lobbyist Meetings

NMC hosts a virtual ZOOM meeting every morning at 7:30am. Updates are provided regarding the introduction of new Bills, the status of existing Bills and the support / no-support positions of many counties.

NMC and lobbyists advocate for the NMC 2023 priorities as well take positions on newly introduced legislation.

4) NMDHSEM Visit to Lincoln County – 1/23/2023.

M.E. Cormier visited Lincoln County to inspect the damage from the McBride fire. Joe Kenmore was able to navigate a one-hour drive through the burn scar.

5) Carrizozo Courthouse Complex Inspection – 1/24/2023

Zeke Greer (White Sands Construction) and I walked the entire complex to inspect and evaluate building needs.

The main focus was on courthouse security while identifying failing infrastructure. Proposals will be brought before the BOCC during the March meeting.

6) New Assessors Training – January 31, 2023

The New Mexico Property Tax division hosted a ZOOM meeting for new Assessors. I was able to sit in on a few topics: Sales Ration Study / Protest Process / Exemptions

This online training is designed to help new Assessors as well as updating experienced personnel.

7) Lincoln County Legislative Reception in Santa Fe – 2/1/2023

The Ruidoso Chamber of Commerce encouraged all Chamber members and area businesses to join in representing the voice of our community at the Chamber's annual "Lincoln County Day in Santa Fe" on February 1, 2023.

The reception allowed many Lincoln County attendees to interact with legislators and discuss the 2023 legislative session.

8) Bernalillo County Fentanyl Initiative - Keep NM alive Campaign.

Bernalillo County reached out to all NM counties offering to share their Fentanyl Education and Awareness Campaign.

Bernalillo County Commission approved Fentanyl Education and Awareness Campaign as one of its 2023 Legislative Priorities:

Bernalillo County and the City of Albuquerque started with "Community Conversation About Fentanyl" event on October 13, 2022, with over 500 attendees at the Albuquerque Convention Center and over 1,662 online views (live streaming on: [keepNMAlive.com](https://www.KeepNMAlive.com))

The statewide campaign would include, but not be limited to, video productions, printed materials, media placement, community-based presentations, and mixed-media advertisements focused on youth and family support systems.

Updates will be coming soon.

9) Bonito / Sun Valley Fire Station – Certificate of Occupancy – 2/1/2023

The Fire Station is ready for the Bonito VFD to move in! Transition from the old station has started and will take several months to adjust to the new building. A "Ribbon Cutting" will be scheduled to meet schedules.

10) Director's Reports

19. Approval to Issue Requests for Proposal (RFPs) and/or Invitation for Bid (IFB):

a. On-Call Electrical Contractor

Manager Pearson explained the County went out to bid for an electrical contractor 2 years ago however services were not being provided as required.

Motion: Approval to issue RFP for On-Call Electrical Contractor, **Action:** Approve, **Moved by** Commissioner Crunk, **Seconded by** Commissioner Serna.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

b. Carrizozo Courthouse Complex Courtyard Renovation

Manager Pearson explained the project would use specific capital outlay funds from 2020. There was a discussion on the RFP and IFB differences and which would be needed. Manager Pearson stated he would go out to RFP unless an IFB was needed.

Motion: Approval to issue Requests for Proposals or Invitations for Bid on the Courthouse Complex Courtyard Renovation, **Action:** Approve, **Moved by** Commissioner Crunk, **Seconded by** Commissioner Pfeffer.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

20. Lincoln County Solid Waste

a. Consideration of Administrative Appeal of Solid Waste Lien and Habitable Designation of Customer #2878 – Richard Purcella and Frances Martinez

Manager Pearson stated Mr. Purcella had disputed the habitability of his house, however the Assessors Office had reviewed it and kept the habitable designation therefore they continued to receive a solid waste bill, per ordinance.

Francesca Herrera, Public Works Director, informed the lien had already been filed and Mr. Purcella was requesting for the lien to be released and not to receive any more solid waste bills until he occupies the house.

Commissioner Crunk stated it would be setting a precedent for others to request removal of their liens and no longer receive solid waste bills if they are not living in the house.

Manager Pearson informed Mr. Purcella was aware of the charges and was in the office 3-4 years ago dealing with it.

Assessor Hill stated a notice of value had been sent by his office every year allowing for a dispute. Manager Pearson stated the taxes had been paid.

Postpone item to a future meeting in order to get legal counsel opinion.

b. Consideration and Approval of Slash, Debris Removal Quote from Sierra Contracting in the Amount of \$2,999.71

Motion: Approve Debris Removal Quote from Sierra Contracting, **Action:** Approve, **Moved by** Commissioner Crunk, **Seconded by** Commissioner Serna.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

c. Approval to File Solid Waste Liens:

- i. Harlan H.R. Blake and Mary L. Melancon - **\$463.14**
- ii. Steve Dyer - **\$1,079.64**
- iii. Kenneth B. Ellard - **\$617.52**
- iv. Jennifer Lin Garcia and Kenneth B. Ellard - **\$816.68**
- v. Steven Dean Hutson - **\$991.56**
- vi. Irene Luera or Fred Luera - **\$1,141.18**
- vii. Gerardo Medina - **\$2,060.82**

- viii. B. Craig Newkirk - \$1,372.34
- ix. Luis Polaco and Ernestina Polaco - \$1,197.72
- x. Thomas J. Pollock - \$715.40
- xi. Crystal I. Tivis - \$1,440.04

Motion: Approve the Solid Waste Liens as listed, **Action:** Approve, **Moved by** Commissioner Serna, **Seconded by** Commissioner Crunk.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

21. Lodger's Tax Funding:

a. Lodger's Tax Funding Request Procedure Update

Manager Pearson explained the County hired a Lodger's Tax employee, so they hoped to get a better handle on the requests and get more of them paid out. Manager Pearson stated the money that had been approved in the past was not the amount that was paid out due to lack of follow-through. Manager Pearson informed there would be procedural updates brought to the Commission in the future.

b. Approval of Lodger's Tax Funding Requests

i. Event: Lincoln County Art Loop

Amount Requested: \$5,000

Date (s) of Event: 6/30/2023-7/2/2023

Presenter: Lynn Eckman

ii. Event: Alto Artist Tour

Amount Requested: \$5,000.00

Date(s) of Event(s): August 4-6, 2023

Presenter: Lynn Eckman

iii. Event: Aim High

Amount Requested: \$11,000.00

Date(s) of Event(s): 6/30/2023-7/1/2023

Presenter: Rhonda Vincent

iv. Event: Flying J Chuckwagon Dinner & Show

Amount Requested: \$9,000.00

Date(s) of Event(s): 5/27/2023-9/4/2023

Presenter: James Hobbs – President of Flying J

Commissioner Crunk requested additional itemized breakdowns of how the money would be spent in future requests. Commissioner Serna requested the vendor's attend the Commission meeting to discuss their request. Chair Proctor stated that was the job of the Lodger's Tax committee. Chair Proctor recommended allowing the Lodger's Tax Committee to continue their job of reviewing and recommending approval with the possibility of the new Lodger's Tax employee attending the meeting to provide the details to the Commission for approval.

Motion: Approve Lodgers Tax funding requests as recommended by the Lodger's Tax Committee, **Action:** Approve, **Moved by** Commissioner Crunk, **Seconded by** Commissioner Serna.

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

Yes: Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

No: Commissioner Fischer.

22. Appointment of Alternates to the Board of Registration – County Clerk, Shannan Hemphill

Clerk Hemphill stated the Board of Registration members and alternates were appointed on June 15, 2021. Clerk Hemphill explained there was a vacancy on the Board for the Democratic Party therefore pursuant to Section 1-4-34C replacements would need to be appointed to serve until the expiration of the original term. The Democratic Party had submitted two additional members to be appointed as alternates. Clerk Hemphill recommended appointing Dorothy Susan Finch and Linda Perkins as alternates to the Board of Registration.

Motion: Appoint both alternates to the Board of Registration as presented, **Action:** Approve, **Moved by** Commissioner Serna, **Seconded by** Commissioner Crunk.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

23. Lincoln County Finance

- a. Discussion and Direction Regarding Lincoln County Procurement Process and Financial Obligations

Manager Pearson stated the Commissioners were responsible for the Budget and the fiscal responsibility for spending the money however they have run into issues where County departments have signed contracts obligating the County to long-term financial commitments without being presented to the Commission. Manager Pearson requested the ability to create a resolution or policy requesting financial obligations be approved by the Commission.

Commissioner Serna requested Attorney Morel be included and review all contracts prior to their being presented to the Commission for approval.

Commissioner Pfeffer questioned if all contracts needed to be brought to the Commission, only multi-year contracts or if there was a financial threshold which should be adhered to.

Manager Pearson stated he would consult legal counsel and visit with other Counties to see how best to handle the situation and he would bring it back before the Commission for approval.

- b. Consideration and Approval of Pro-Vision Invoice in the Amount of \$27,300.00

Manager Pearson explained it was an unbudgeted amount of \$27,300/yr for 35 body cameras for the Sheriff's Office. The Commission approved the purchase of body cameras using approximately \$90,000 in ARPA funds.

Sheriff Wood explained this was for the unlimited storage of the body camera footage and it included a complete warranty of the hardware and software.

Motion: Approve payment of the invoice to Pro-Vision in the Amount of \$27,300, using ARPA funds, if possible, **Action:** Approve, **Moved by** Commissioner Fischer, **Seconded by** Commissioner Serna.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

24. Consideration and Approval of the State of New Mexico Department of Finance and Administration Fund 89200 Capital Appropriation Project in the amount of \$250,000 to plan, design, construct, purchase and install improvements, including for accessibility compliance, to the county fairgrounds and rodeo arena in Capitan in Lincoln County

Manager Pearson explained the State Appropriation and Capital Outlay was from 2022 and already in the Fairgrounds Master plan. Manager Pearson stated he needed approval to sign the documents and send them back to DFA.

Motion: Approve the State of New Mexico DFA Fund 89200 Capital Appropriation Project in the amount of \$250,000 and allow the County Manager to sign, **Action:** Approve, **Moved by** Commissioner Crunk, **Seconded by** Commissioner Serna.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

25. Discussion and Direction on Congressionally Directed Spending (CDS) Funding from the Office of Senator Lujan

Commissioner Serna would like to focus on ICIP projects for this funding. Commissioner Serna recommended completing the request and deciding on the usage after the funds were received.

26. Discussion and Direction Regarding Sheriff's Deputy Sergeant's Schedules and Benefits

Manager Pearson stated the Sheriff's Office for years past had included the Sergeants in the Collective Bargaining Agreement and gave them the same rights.

Chair Proctor questioned the agreement between the Sheriff's Deputies and the County of Lincoln.

Sheriff Wood explained the Deputy Sheriff's Association was created however the Sergeants and Lieutenants were not included. Sheriff Wood would like to have some direction from the Commission affording the Sergeants and Lieutenants the same benefits without having to be included in the Collective Bargaining Agreement.

Chair Proctor recommended seeking legal counsel and bringing ideas and suggestions back to the Commission for action.

27. Discussion and Direction Regarding County of Lincoln Cell Phone Policy and Procedure

Commissioner Crunk stated if employees were in a position where they would get called back, they should be eligible for a county phone. Commissioner Serna informed she would like to get away from issuing a stipend and have a separate phone issued instead. Commissioner Serna requested including the Commissioners in the policy to receive a county cell phone.

Clerk Hemphill requested the policy be broad enough to cover employees like the Election Clerk who are required to use their cell phone for work related issues. Sheriff Wood stated his officers all use their own cell phones to receive private information such as Drivers License returns, Social Security numbers, Dates Of Birth and other redactable elements which can't be said over the radio since there are so many people listening to scanners.

Manager Pearson will bring back an updated cell phone policy for the Commission to review and approve.

Chair Proctor recessed the meeting at 2:45 PM and reconvened the meeting at 2:50 PM.

28. American Rescue Plan Act (ARPA) / Local Assistance and Tribal Consistency Fund (LATCF) Allocation

Manager Pearson informed there was a request for an additional \$74,000 for a match out of ARPA funds for Lincoln Domestic Water. Chair Proctor requested a breakdown showing the funds and the shortage for Commission review and approval. Manager Pearson will schedule Lincoln Domestic to present to the Commission and provide architectural drawings and a price breakdown from a vendor showing the need for the additional funding.

Manager Pearson Requested direction regarding the \$1.9 mil of ARPA funding to be obligated by 2025. Chair Proctor stated he would like a breakdown of eligible spending and potential projects which could be paid for out of ARPA funds.

Manager Pearson stated the LATCF allocation of \$2.9 mil was already issued to the County however they were waiting on the second tranche of money. Manager Pearson informed there were no obligations for the money, it could be added to the general fund and used for anything except lobbying. Manager Pearson stated it was currently in a separate line item waiting for Commission direction.

29. Review, Discussion and Direction of All Lincoln County Ordinances

The Commission recommendation was to review the Ordinances in smaller amounts, 5-10 at a time. Manager Pearson stated he would work with Legal counsel, the Clerk's Office and the ordinance coordinator to review the ordinances and determine which were still on the books and not rescinded or amended and would bring them to the Commission in small batches. The Commission could then determine if a change was needed so a public hearing could be scheduled.

30. Authorization to Schedule Public Hearing to Consider Other Outdated or New Lincoln County Ordinances

There were no Public Hearings to schedule.

32. Signing of Official Documents

33. Next meeting:

- a. Wednesday, March 1, 2023, Special Commission Meeting
- b. Tuesday, March 21, 2023, Regular Commission Meeting

34. **Adjourn**

Motion: Adjourn, **Action:** Adjourn, **Moved by** Commissioner Crunk, **Seconded by** Commissioner Serna.

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

Yes: Commissioner Fischer, Commissioner Serna, Commissioner Pfeffer, Commissioner Crunk, Chair Proctor.

There being no further business to come before the Board of County Commissioners, Chair Proctor adjourned the meeting at 3:13 PM.

County of Lincoln
Board of Commissioners




Todd F. Proctor, Chair



Jon F. Crunk, Vice Chair



Samantha J. Serna, Member

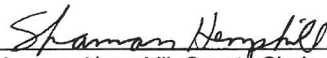


Mark G. Fischer, Member



Pierre S. Pfeffer, Member

ATTEST:



Shannan Hemphill, County Clerk

March 21, 2023
Date Approved

