

# COUNTY OF LINCOLN

## New Mexico Special Meeting Board of County Commissioners

Jackie Powell, Chair  
Preston Stone, Vice-Chair

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

### Minutes Monday, July 24, 2014

Minutes of the Special Meeting of the Lincoln County Commission held at 8:30 AM on July 24, 2014 in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico.

#### 1. Call to order

Chair Powell called the Special Meeting of the Board of County Commissioners to order at 8:31:05 AM.

#### 2. Roll Call

##### Roll Call.

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

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

#### 3. Invocation

The invocation was presented by Commissioner Stone.

#### 4. Pledge of Allegiance

- A. Pledge – U.S.A. Flag
- B. Salute – N.M. Flag

#### 5. Approval of Agenda

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

**Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Minter.

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

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

Chair Powell recessed the Regular Meeting and convened the Public Hearing at 8:33:20 AM.

#### 6. Continuance of Public Hearing to consider Final Budget FY 2014-2014

- A. Resolution 2014-4 - Adopt Final Budget FY 2014-2015

Nita Taylor, County Manager presented changes in revenue and expenditures since consideration of the Preliminary Budget.

Glenna Robbins, Treasurer presented a chart detailing the history of General Fund revenues and expenditures yearly from 1990-1991 to 2013-2014. Ms. Robbins reminded the figures presented were based on actual revenues and expenditures not on budgeted revenues and expenditures.

Ms. Taylor pointed out expenditures during several years, including 2013-2014 where substantially greater than other years. Ms. Taylor stated the County's completion of major projects in these years such as the FY 2013-2014 expansion of the court complex and sheriff's office accounted for the charted increased expenditures.

Ms. Taylor reminded the County was required to maintain a budget reserve of 3/12<sup>th</sup> or

\$1,873,473. Ms. Taylor stated the budget as presented would yield \$1,384,061 over the required reserve of 3/12<sup>th</sup>.

Ms. Taylor provided a list of Internal County requests previously approved and also a list of additional budget items for consideration as follows:

- |   |            |
|---|------------|
| 1. Increased Salary for Elected Officials                                 | \$ 32,612  |
| 2. Professional Services Contract – King Industries                       | \$ 63,413  |
| 3. Professional Services Contract – Caggiano Consulting                   | \$ 6,441   |
| 4. Legal Services Contract– Melendres and Melendres                       | \$ 63,638  |
| 5. Carrizozo Senior Center Contract – Increased Costs                     | \$ 115,776 |
| 6. Increased Janitorial Contract – expanded courthouse/sheriff's contract | \$ 13,812  |
| 7. Lincoln County Building – Facility Expansion Improvements (Roof/HVAC)  | \$ 450,000 |
| 8. Forest Watershed Health Implementation Project                         | \$ 600,000 |
| 9. Matching Funds for ICIP Projects                                       |            |
| a. New Hondo Fire Station   |            |
| b. Expand LCMC Detention Center   |            |
| c. New Road Department Yard, Garage and Office Facility                   |            |
| d. Renovate Hew Horizons Developmental Center                             |            |
| e. Expand White Oaks Fire Station   |            |
| 10. Capitan Tower Building Site   | \$ 20,000  |

Ms. Taylor stated approval of all requests as presented would result in a deficit of - \$147,034 in the required amount over reserve. Ms. Taylor requested the Commission consider this and reduce or not approve some of the requests.

Al Santos, Administrator of Lincoln County Medical Center presented the budget request for the hospital. Mr. Santos presented the request and expressed a desire to maintain a historical balance in funding for uncompensated care of 47% to be offset by County funding utilized to obtain matching Federal funding. Mr. Santos stated Presbyterian would absorb 53% of the projected uncompensated care costs.

Mr. Santos provided a breakdown of anticipated revenues from mill levy revenues and the hospital lease with total estimated revenues of \$4,100,000. Mr. Santos enumerated the expenses related to LCMC's budget request as \$359,710 for Clinic/EMS operations, \$150,000 for LCAP, \$414,226 for the Safety Net Care Pool match, and \$1,375,500 for Hospital operations for a total estimated expense of \$2,799,536. Mr. Santos maintained the full funding of his request would leave a balance of \$1,300,564 for future capital outlay projects. Mr. Santos discussed at length the change from Sole Community Provider program to the Safety Net Care Pool and expressed a desire to maintain or increase the level of financial support from the County offsetting uncompensated care costs.

Mr. Santos noted recommendations presented by the County Manager for a reduced amount of funding pending actual reporting by LCMC of uncompensated care to the State of New Mexico. Mr. Santos suggested a compromise by a current approval of six months of funding or 1/2 of the requested \$2,799,536 to allow time for additional planning.

Chair Powell recessed the Public Hearing at 9:54:35 AM and reconvened at 10:09:53 AM.

Gary Mitchell, Chair of the Hospital Board commented on the County Manager's Analysis of the budget request for LCMC. Mr. Mitchell stated for 35 years the Commission had adopted the recommendations of the Hospital Board except for one year which resulted in a deficit for LCMC. Mr. Mitchell stated should the full request not be funded, LCMC would incur a deficit for the second year in a row which would result in a reduction of services or a layoff of employees. Mr. Mitchell discussed the need to have an operational margin of at least 3%. Mr. Mitchell stated belief the County should fund the full request not just a partial request. Mr. Mitchell reminded although the voters approved a Mill Levy of 3.0, the County has never assessed the full amount.

Commissioner Minter questioned the definition and use of the term "margin" over expenses. Mr. Santos stated based on the budget request presented there was an anticipated margin of 3.2% or \$1.5 million. Mr. Santos stated any funds retained were utilized for facility equipment or retained for future capital improvement projects.

Ms. Taylor discussed the prior approval of the clinic requests during the preliminary budget process and reminded the initial hospital request of \$2,277,726 was tabled for further information. Ms. Taylor discussed the State requirement for each County to contribute 1/12<sup>th</sup> or \$414,226 as being a separate obligation but noted it was included in LCMC's current request. Ms. Taylor stated based on information provided by Mr. Santos and the State of New Mexico, LCMC was

anticipated to receive \$2.3 million in Safety Net Care Pool funding and \$875,000 in a Medicaid base rate increase.

Ms. Taylor pointed out LCMC had not requested operational funds in prior years and stated the funding "options" she presented were designed around various amounts of operational expenses with other requests being constant. Ms. Taylor noted on the analysis an associated anticipated margin for each option ranging from -.30% to 3.2% for full funding. Ms. Taylor stated for budgeting purposes the County historically relied on mill levy funding without inclusion of the lease payment. Ms. Taylor stated if the anticipated Safety Net Care Pool funding and base rate increased funding were added to any of the less than fully funded options, LCMC would still receive funding greater than historically provided.

Ms. Taylor stated Federal and State Legislation provided rules for the appropriate funding of uncompensated care under which the County would meet their obligation for those services by pledging an amount equivalent to 1/12<sup>th</sup> GRT. Ms. Taylor informed Lincoln County was the only County providing additional funding during the transition of the SCP program last year and stated a poll of other counties indicated no other County planned to fund their hospital over and above the State requirement. Ms. Taylor presented a separate request from the State for Lincoln County to contribute \$193,503 in additional funding for SCP program disbursements for FY 2013-2014. Ms. Taylor reminded the County approved \$1 million in additional funding for LCMC in FY 2013-2014 to cover the gap in SCP funding and therefore did not recommend approval of this additional payment.

Ms. Taylor agreed with Mr. Santos on the potential for a midyear budget adjustment based on additional information about Safety Net Care Pool disbursements and other State funding at that time. Mr. Santos agreed but requested approval of the full funding request rather than a reduced amount at this time.

Chair Powell adjourned the public hearing reconvened the Regular Session at 11:29:00 AM.

**Motion:** Approve 10% salary increase for Elected Officials, **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Chair Powell.

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

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

**No:** Commissioner Minter.

**Motion:** Approve the contract with King Industries, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Minter. **Vote:** Motion carried by unanimous vote (**summary:** Yes = 5).

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

**Motion:** Approve the contract with Caggiano Consulting, **Action:** Approve, **Moved by** Commissioner Stone, **Seconded by** Commissioner Doth.

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

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

**Motion:** Approve the contract with Melendres and Melendres, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Draper.

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

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

**Motion:** Approve the budget increase for the Carrizozo Senior Center, **Action:** Approve, **Moved by** Commissioner Stone, **Seconded by** Commissioner Doth.

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

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

**Motion:** Approve the budget increase for Janitorial Services, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Draper.

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

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

**Motion:** Approve the HVAC and Roof Improvements, **Action:** Approve, **Moved by** Commissioner Minter, **Seconded by** Commissioner Doth.

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

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

**Motion:** Table action on the Forest Watershed Project, **Action:** Approve, **Moved by** Commissioner Stone, **Seconded by** Commissioner Minter.

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

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

**Motion:** Approve the budget increase for the Capitan Tower Site, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Draper.

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

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

**Motion:** Approve \$1,100,000 in Mill Levy funding for LCMC, **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Chair Powell.

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

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

**No:** Commissioner Minter.

**Motion:** Adopt Resolution 2014-04, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Stone.

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

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

**SEE EXHIBIT A:** Copy of Resolution 2014-04 is attached hereto in reference thereto made a part hereof.

#### **7. Consideration/Direction on FY 16-20 Infrastructure Capital Improvement Plan (ICIP)**

Ms. Taylor provided a summary of proposed ICIP projects for consideration. Ms. Taylor stated after projects were prioritized today, she would research estimated costs for completion of various projects. Ms. Taylor reminded a capital outlay request for funding was more likely awarded if a design plan was funded and completed prior to any request to the State Legislature.

Ms. Taylor reported an increased estimated cost for a new County Road Yard of approximately \$1.3 million. Ms. Taylor discussed the inclusion of the New Horizons Center on the County's ICIP plan as a recommendation by Hubert Quintana of SNMEDD. Ms. Taylor reminded the County owned the building which housed New Horizons.

Chair Powell suggested the new Hondo Fire Station be prioritized and submitted as a single request. Commissioner Stone reminded of the problem of insufficient space to house vehicles at the White Oaks Fire Station. There was a general consensus to list the White Oaks Fire Station as the second priority. Commissioner Doth reminded of the previous year's Capital Outlay award of \$125,000 for the expansion of the Detention Center. Chair Powell suggested the award be utilized for design of the expansion this fiscal year and the actual cost of expansion of the Detention Center be prioritized as the top ICIP priority in the next fiscal year.

**Motion:** Approve ICIP priorities as 1. Hondo Fire Station, 2. White Oaks Fire Station and 3. Detention Center Expansion, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Draper.

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

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

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

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

## New or Updated Matters since last report \*

1. *Cooper, Gale and DeBaca County News v. County of Lincoln, Sheriff of Lincoln County, et al.* D-1329-CV-200701364. Suit filed: October 15, 2007. Verified Complaint for Declaratory Judgment Ordering Production of Certain Records and Information. Hearing took place Dec. 18, 2013, and Conclusion of Law/Order was filed May 15, 2014 entered in favor of Ms. Cooper. Ms. Cooper filed an appeal June 10, 2014.
2. *Michael Wheaton v Paul F. Baca, Lincoln County Assessor, et al.* D-1226-CV-2011-00341. Suit filed October 18, 2011. Notice of Appeal of Final Order of the Lincoln County Valuation Protests Board. Attorney has agreed to stay the case pending the decision from the Court of Appeals.
3. *Coble Constructors, LLC, et al v Carl Kelley Construction Ltd. Co, et al.* D-1226-CV-2012-00003. Suit filed January 15, 2012. Complaint to Foreclose Mechanics Lien. Order granting motion for resetting 4/17/13. Motion for Summary Judgment filed Jan. 29, 2014, Hearing scheduled April 24, 2014 produced an Order Granting Motion for Extension of Time which was filed May 6, 2014.
4. *Greentree Solid Waste Authority v. Lincoln County* D-1226-CV-2014-00095. Suit filed May 1, 2014 Verified Petition for Declaratory and Supplemental Relief: Injunction, Motion to Waive Time to Reassign District Judge (Judge Karen Parsons was disqualified). County was served May 14, 2014. Mr. Melendres has filed Answer, Motion to Disqualify Mr. Beauvais and Change of Venue. Motion Hearing is scheduled December 8, 2014.
5. *Greentree Solid Waste Authority v. Lincoln County, et al.* D-0101-CV-2013-00104. Suit filed January 9, 2013. Petition for Declaratory Judgment; Preliminary and Permanent Injunction. Mr. Beauvais filed an appeal Feb. 27, 2014. Mr. Beauvais filed a Reply to Motion to Review Stay and Supersedes Bond on April 16, 2014. Mr. Melendres filed Lincoln County's Answer to Oral Motion to Reconsider May 14, 2014. Ruling on Reconsidering Stay denied by Judge Singleton June 11, 2014.
6. *Rio Grande-Alameda, Ltd. v Paul Baca, Lincoln County Assessor* D-1226-CV-2013-00005. Suit filed January 9, 2013. Complaint for Refund of Taxes Paid. Defendant's first motion to dismiss or Summary Judgment filed August 29, 2013, with plaintiff's response filed Oct. 4, 2013. Defendant's Reply to Motion to Dismiss or for Summary Judgment filed Oct. 21, 2013. Hearing was Jan. 6, 2014, and produced an Order of Dismissal, with a Motion to Reconsider filed Jan. 8, 2014. Hearing on the Merits scheduled for May 12, 2014 in Carrizozo with Judge Parsons. The case has been continued.
7. *Barbara Diane Latham, et al v. Neal Cox, Ben Hazen, Lincoln County Sheriff's Department and the County of Lincoln.* D-1226-CV-2013-00191. Suit filed July 19, 2013. Complaint for Violation of Civil Rights, Wrongful Death and Damages by Attorney Gary Mitchell. LCSO and LC Manager were served on August 5, 2013. Tort Claim Notice was filed on October 27, 2011. Advised NMAC has assigned the case to Brennan and Sullivan Law Firm 9/5/13. Case has been moved to Federal Court August 30, 2013. Settlement Conference scheduled for July 22, 2014.
8. *State of NM/Lincoln County v. Avalon-Construction, Ruidoso, NM* D-1226-CV 2014-00006 Filed Jan. 6, 2014 Open complaint for Refund of Taxes paid. Case assigned to Basham & Basham/Dwyer. Peter Dwyer is lead attorney. Settlement conference scheduled for December 5, 2014.
9. *State of NM v. Irene Howcroft - M-30-MR-2013-00190* Alleged animal nuisance and violation of Lincoln County Ordinance No. 2008-08. Pre-Trial Hearing is scheduled for August 12, 2014.
10. Potential Litigation: 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.

## 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 pre-partum 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.

### 2013

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

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

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

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

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

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

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

### 2012

**Cathy and Steve Altstatt** - Telephone conference with Cathy Altstatt on April 19, 2012, concerning their unbuildable and unsellable Deer Park Valley lot due to lot size, septic tank set back requirements, and an easement granted to Alto Lakes Water & Sanitation District for a water well.

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

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

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

**Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Minter.

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

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

Chair Powell recessed the Regular Meeting and convened the Closed Session at 11:54:41 PM.

Chair Powell adjourned the Closed Session and reconvened the Regular Meeting at 12:42:56 PM.

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

**Motion:** Retain Attorney Kelly Cassels to enter an appearance on behalf of Lincoln County for Protests of Applications pertaining to movement and transfer of water rights from the Hondo Valley to the Village of Ruidoso and the City of Ruidoso Downs, **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Doth.

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

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

**No:** Commissioner Draper.

9. **Signing of Official Documents**

10. **Next meeting:**


a. August 19, 2014 - Regular Commission Meeting

11. **Adjourn**

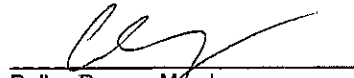
There being no further business to come before the Board of County Commissioners, Chair Powell adjourned the meeting at 12:51:18 PM.

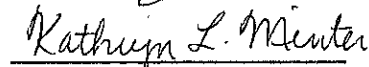
County of Lincoln  
Board of County Commissioners

  
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Jackie Powell, Chair

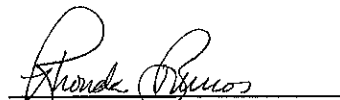
  
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Preston Stone, Vice Chair

  
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Mark Doth, Member

  
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Dallas Draper, Member

  
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Kathryn Minter, Member

ATTEST:

  
\_\_\_\_\_  
Rhonda Burrows, County Clerk

August 19, 2014  
Date Approved

