

COUNTY OF LINCOLN

New Mexico Regular Meeting Board of County Commissioners

Jackie Powell, Chair
Preston Stone, Vice Chair

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

Minutes Tuesday, June 10, 2014

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on June 10, 2014 in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico.

1. Call to Order

Chair Powell called the Regular Meeting of the Board of County Commissioners to order at 8:31:03 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 Minter, Commissioner Stone, Commissioner Doth, Commissioner Draper

6. Approval of Minutes

- a. May 02, 2014 Special Commission Meeting
- b. May 20, 2014 Regular Commission Meeting

Motion: Table consideration of the minutes until the next Regular Meeting, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Minter.

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

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

7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures
- b. Treasurer's Financial Report for the Month ending April 30, 2014
- c. Approval of Land and Water Well Agreement –Carrizozo Municipal Schools

Motion: Approval of Consent Items as presented, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Chair Powell.

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

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

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

8. Smokey Bear District Ranger Update

David Warnack, Smokey Bear District Ranger informed Stage 1 Fire Restrictions were effective in reducing the number of abandoned campfires and commented on the decreased numbers of people camping in the forest for this time of the year.

Ranger Warnack stated the project to thin burned trees along Bonito Road was complete. Ranger Warnack reminded Title II funding for the project was awarded for work on City of Alamogordo and US Forest Service property. Ranger Warnack stated \$29,000 in funding was awarded for improving the Cedar Creek Trail system. Ranger Warnack stated this project was similar to the Grindstone Trail project which created 14 miles of new trails in the Grindstone area. Ranger Warnack reported Larry Cordova, Wildlife Biologist hosted 189 children for National Fishing Day in partnership with NM Game and Fish and Ruidoso Parks and Recreation.

Commissioner Stone questioned if the District received complaints from landowners about Seven Cabins Road passing through private land. Ranger Warnack stated the road crossed 800 feet of private land and the current landowner proposed donating an easement to the USFS with a slightly different route. Ranger Warnack stated an Environmental Assessment Study was in process to evaluate construction of the new route.

9. Lincoln County Detention Center Update

Arthur Anderson, Warden provided statistics on monthly bookings and releases at the Lincoln County Detention Center and stated the current total average daily population as 142. Warden Anderson stated the current population of the Detention Center was 136 including 9 BIA prisoners and no US Marshal prisoners. Warden Anderson also noted the current population was composed of 29 female and 107 male prisoners.

10. "Source Water Protection for Lincoln County" – Dennis McQuillan, NMED

Dennis McQuillan of the NM Environmental Department provided a presentation on Source Water Protection describing benefits and options for protecting the quality and sustainability of drinking water sources. Mr. McQuillan stated Congress amended the Safe Water Drinking Act in 1996 to encourage public water systems to partner with states to protect sources of drinking water.

Mr. McQuillan discussed the need to protect quality and sustainability of water sources on a watershed or basin scale through regional planning. Mr. McQuillan provided an overview of past public health issues related to drinking water and current problems such as fecal contamination from private wells. Mr. McQuillan stated the goals of the Source Water Protection program included: protecting water sources from contamination; disinfecting water collected from the source; providing treated water for distribution; and eliminating waterborne illness.

Mr. McQuillan stated there were 72 public water systems within Lincoln County potentially subject to hazards such as drought, natural contamination, flooding and debris flows from burn scars, and intrusion or vandalism. Mr. McQuillan discussed the effects on watersheds of drought and groundwater depletion due to sustained groundwater pumping. Mr. McQuillan further discussed post wildfire flooding associated with burn areas.

A lengthy discussion ensued regarding current concerns in Lincoln County including the need to assist small unincorporated communities and the impact of current watershed impairment.

Mr. McQuillan suggested creation of a source water protection team with stakeholders to develop a regional plan. Commissioner Minter reminded of failed efforts eight years ago to develop a regional plan and questioned if the Environmental Department might serve as a facilitator. Mr. McQuillan discussed the need for consensus, agreeing to disagree on some issues, while examining the science and looking for "common ground". Mr. McQuillan stated the Environment Department could facilitate efforts developing a regional plan but could not take a position on particular disputes.

Chair Powell questioned if Alto Lake was currently usable as a municipal water supply. Mr. McQuillan stated water in Alto Lake was tested and approved for use.

Commissioner Stone challenged the Environmental Department to begin advocating for the State of New Mexico issues at the federal level. Mr. McQuillan stated he would discuss the request with the Department Secretary.

Patsy Sanchez, former County Planning Director, expressed the need to change the State defined "claims of exemption" from subdivision regulations which allowed development to occur without a water study or any restrictions

5. 9:30 A.M.: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS

Rhonda Burrows, County Clerk reminded June 6th was the anniversary of the invasion of Normandy also known as D-Day. Ms. Burrows introduced Claude Hobbs a resident of Lincoln County who served in World War II and participated in the D-Day landing. The Board of County Commissioners and those present expressed appreciation for Mr. Hobbs' service to his country.

Chair Powell recessed the Regular Meeting at 9:49:09 AM and reconvened at 10:03:08 AM.

11. Nogal Canyon Road: Landowners Request to Make Lower Portion of Nogal Canyon Road Private

Tom Odell, resident of Nogal Canyon informed his wife and her family, residents of the Nogal Canyon area since 1942, developed a road which was later expanded for access to other private property in the area. Mr. Odell stated residents now share this road with people seeking access to US Forest Service land in the upper part of the canyon.

Mr. Odell discussed current problems related to increased traffic on the road including safe passing, high speed traffic, and dust. Mr. Odell opined there were no purchased easements, no prescriptive easements, and no court decisions regarding the road itself. Mr. Odell stated bringing the road up to county standards was cost prohibitive and discussed efforts to meet with County representatives considering an alternate route and encouraging the USFS to use public property for access rather than private property. Mr. Odell stated access to USFS property was available from the Bonito Lake area and suggested a potential access from the Nogal side developed through Bureau of Land Management property. Mr. Odell stated liability for accidents was the biggest issue related to "ownership" of the road, placing liability on the property owner for any accidents occurring on the road. Mr. Odell requested support from the County for the USFS to create an alternate route to federal land and for the County to cease maintenance on the road.

Attorney Morel stated roads were either public or private with public roads often being created by prescriptive easement or "implied dedication". Mr. Morel stated potentially 50 to 90% of County roads were of this type. Mr. Morel stated Nogal Canyon Road provided access to approximately 26 residents and 50 different properties including a County approved subdivision platted in 1970. Mr. Morel stated the road also provided access to numerous mining claims. Mr. Morel expressed belief by virtue of the facts the road was a public road and discussed the potential effects of abandoning or closing this road as a restriction of other individual's rights. Mr. Morel cited several relevant cases which were litigated within the State of New Mexico including one directly related to access to public lands.

There was general consensus for Attorney Morel to prepare a response to Mr. and Mrs. Odell's attorney.

Ranger David Warnack of the Smokey Bear District stated the suggested alternate route would also require access through private land with no current easement and would necessitate Environmental Assessments and significant engineering.

12. Consideration / Approval of Lincoln County Emergency Operations Plan

Ms. Taylor informed the County approved the Lincoln County Disaster Recovery Plan and the Operating Plan for Flood Management in August of 2012 and subsequently adopted the Lincoln County Mitigation Plan by Resolution 2012-13. Ms. Taylor stated the Lincoln County Emergency Operations Plan was originally completed in 2008 then updated in 2011 and 2012. Ms. Taylor stated the Emergency Operations Plan had not been formally adopted as required to obtain NM Department of Homeland Security and Emergency Management funding.

Commissioner Draper suggested upgrading the "potential for drought" from low to high. Attorney Morel stated substantively the document was correct but suggested several technical updates such as the addition of page numbers and requested the latitude to make the changes. Attorney Morel also suggested the document be placed on the agenda for annual review.

Motion: Adopt the Lincoln County Emergency Operations plan incorporating technical changes recommended by the Attorney, **Action:** Approve, **Moved by** Commissioner Doth, **Seconded by** Commissioner Draper.

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

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

13. Consideration / Approval of Lincoln County Fire Services Bylaws

Ms. Taylor stated the bylaws were developed to standardize the collective County Volunteer Fire Department's rules and regulations which were currently inconsistent. Ms. Taylor stated the bylaws addressed personnel matters and established consistent employment policies.

Motion: Adopt the Lincoln County Fire Services Bylaws, **Action:** Approve, **Moved by** Commissioner Stone, **Seconded by** Commissioner Doth.

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

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

14. Consideration / Approval of Lincoln County Fire Services Standard Operating Guidelines

Ms. Taylor stated the Standard Operation Guidelines (SOG) were developed to standardize the manner in which County Volunteer Fire Departments respond to and mitigate emergencies. Ms. Taylor stated the guidelines focused on safety while standardizing practices throughout departments. Ms. Taylor noted the guidelines were not rules allowing flexibility for response to different emergencies.

Motion: Adopt the Standard Operating Guidelines, **Action:** Approve, **Moved by** Commissioner Minter, **Seconded by** Commissioner Draper.

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

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

16. Consideration of Approval or Disapproval of Indigent Health Care Claims

Scott Annala, IHC Administrator presented the Sole Community Provider/Lincoln County Medical Center/Safety Net Care Provider Pool claims for approval. Mr. Annala processed 31 claims with 27 recommended for approval and 4 recommended for disapproval for a total authorization of \$41,642 and a year-end total authorization of \$1,034,535 for a monthly average of \$86,211. Mr. Annala noted the average was significantly lower than last fiscal year's average of \$114,324.

Mr. Annala presented the Indigent Health Care Payments request for the month and stated he processed 25 claims with 19 recommended for approval and 6 recommended for disapproval. Mr. Annala stated the total of claims recommended for payment this month was \$5,502.94. Mr. Annala noted the average monthly indigent claims for this fiscal year was \$17,102.32 with a total year-end expenditure of \$205,227.83. Mr. Annala reminded the FY 2013-2014 budget for Indigent claims was \$393,278 and remaining funds for Indigent Health Care would roll over to the next fiscal year.

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

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

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

Chair Powell questioned the status of the required payment of an amount equivalent to a 1/12th GRT to the State. Mr. Annala informed the County's first payment was due in September. Mr. Annala stated the NMAC Health care Affiliate planned to meet with Brent Ernest, of HSD regarding the roll out of the Safety Net Care Pool and he would provide additional information after that meeting. Mr. Annala informed he would also present proposals redefining the limits for providers under the Indigent Health Care Resolution in the near future.

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

17. Manager's Report

1. **Monsoon Awareness Week.** Governor Martinez proclaimed June 8th through June 13th, 2014 as Monsoon Awareness week. The National Weather Service ("NWS") and New Mexico Department of Homeland Security and Emergency Management ("NMDHS&EM") hosted a series of informational projects to promote awareness.
2. **Lincoln County Economic Development Discussions.** The Manager reported Dr. Jim Miller and Greg Corey of Ruidoso planned to meet with Hubert Quintana of SNMEDD to "begin the process of developing an Economic Development Plan for Lincoln County". The Manager stated Mr. Quintana agreed it was appropriate to have County representation at the meeting and stated she planned to attend along with Commissioner Draper. The Manager provided Mr. Quintana Lincoln County's Economic Development Ordinance 2009-02 for reference.

Chair Powell stated "water issues" were key to ongoing economic development. Commissioner Stone stated watershed restoration was listed as a significant economic force at the recent Water Planning Town Hall Meeting. Commissioner Doth expressed belief "well intentioned" ideas did not generate economic development but only increased business activity resulted in economic development. Commissioner Doth reminded South Central RC and D addressed economic development as part of their charter. Commissioner Draper commented on the broad representation of membership on the SNMEDD board and suggested a local economic development board would benefit from this type of varied representation. Commissioner Draper pledged transparency and full reporting of activities as a member of the proposed Board. Commissioner Minter commented on the previously adopted Ordinance and stated opposition to any plan to transfer funds from taxpayers or give money to any private entity. Ms. Taylor informed Hubert Quintana was obligated by his position to work to develop an economic development plan for Lincoln County.

3. Building / Maintenance Projects

1. *Carrizozo Senior Center.* The Manager stated a planning meeting with Architect Howard Kaplan of Wilson and Co, Dora Batista of SNMEDD and staff of the Lincoln County Zia Senior Center was scheduled for June 16, 2014 to discuss issuing the construction RFP.
2. *Ruidoso Health Center.* The Manager reported the Ruidoso Health Center continued to be plagued with HVAC System problems. The Manager discussed system constraints which have led to gas bills which are substantially higher than those of the adjacent County Sub-station. The Manager received an engineer's analysis of steps required to fix the existing system and subsequently sought proposals to determine cost to replace the unit.
3. *Courthouse Expansion Project is on time and on budget.* County and Court personnel are jointly working with contractor to ensure all needs are met. Recent key activities include sheet rocking and pre-stucco work and next key steps include taping and texturing, applying stucco and setting exterior doors
4. *Ft. Stanton Fire Station* construction is near completion with the Fire Chief working on equipping and furnishing. The Manager stated a grand opening was being planned during summer months.
5. *Physician's Office Building.* Gordon Berch, Vice President of Jaynes Corporation informed the company planned to submit the Physician's Office Building (POB) for an *Engineering News* "Best Project Award". Mr. Berch requested a letter of support from the County from the owner's perspective

There was a general consensus for the Manager to provide a letter of support for Jaynes Corporation's submission of the POB for "Best Project Award".

4. **Wattles.** In response to an inquiry regarding a weed-free certification for our wattle material, NMSU's weed certification department visited the County on June 3, 2014 to test the mulch material used for wattles for noxious weeds. After a site tour and discussion regarding the County's intent to distribute the wattles, Mike Ronquillo expressed belief the material would pass inspection and estimated the County would receive a weed-free certification in about a week. Mr. Ronquillo sent two samples to the USDA for testing, and also committed to conducting tests himself at NMSU. The County should receive a weed free certificate and a

shipping certification which would enable distribution of the wattles to any contractor, local, state or federal government agency in or out of New Mexico. The certification is good for one year.

5. **SunZia Transmission Line.** The Manager reported a compromise on the placement of the line was agreed to by SunZia, the Bureau of Land Management and the Department of Defense. The compromise included plans to bury five miles of transmission line rather than to move the route further north. John Ryan of SunZia confirmed Lincoln County landowners would benefit from the transmission line to the same extent as they would under the original plan. The Manager anticipated a presentation from Mr. Ryan in the near future.
6. **Upcoming Events.**
 - a) June 10th – Forest Health Speaker Series "Flood Mitigation and Watershed Health with speakers John Hartung, NRCS and Dr. Brent Racher, President of NM Forest Industries Association at ENMU-Ruidoso
 - b) June 11th - Planning Commission Meeting
 - c) June 11th - Mtg. with Hubert Quintana – Lincoln County Economic Development
 - d) June 11th - Primary Election
 - e) June 16th - Architect Mtg. for Carrizozo Sr. Center
 - f) June 17th-June 19th NMAC Annual Conference – Deming
 - g) June ?? - Special Commission Meeting prior to July 4th
 - h) June 26th- GSWA monthly meeting

Chair Powell discussed the need to approve a Resolution restricting the use of fireworks and suggested this be done as soon as possible. There was a general consensus to set a Special Meeting for June 16, 2014 at 9:00 AM

7. Departmental Updates:

Rick Merrick, Rural Forrester with South Central RC and D informed public education about defensible space and fire wise safety initiated through a NMAC Outreach grant was near completion. Mr. Merrick provided updates on work with the Village of Ruidoso to accomplish thinning and discussed the Bonito Lake project to reduce the risk of dead trees falling on the road. Commissioner Stone questioned if South Central RC and D had requested funding from Otero County. Mr. Merrick confirmed a request for funding was submitted to Otero County and the Otero County Commission had budgeted some funding but noted the budget had not received final approval.

2. **Roads** – Carl Palmer, Road Superintendent informed the Road Department had acquired a new "visible" message board to be utilized for public notices. Mr. Palmer stated the sign could be placed where needed as long as it was in compliance with State Highway right-of-way regulations. Mr. Palmer anticipated work would begin soon on the County's CAP/Coop road projects to complete ongoing work within certain subdivisions. Mr. Palmer reported the work on Cedar Creek Road was 50% complete with plans to finish the road in the next fiscal year.
1. **Finance** – Charlene "Punkin" Schlarb, Finance Director stated staff were working to close out financial transactions for the current fiscal year. Ms. Schlarb further reported the County received a schedule of activities from the audit firm engaged to perform the 2013-2014 audit with an initial meeting set for September 28, 2014.
3. **Planning** – Curt Temple, Planning Director commented on the ongoing Joint Land Use Study committee and the proposed resolution for the SunZia transmission line. Mr. Temple explained the need for the County to update and adopt new flood plain maps in the upcoming months. Mr. Temple reminded property owners, even those not in an identified flood zone could still obtain flood insurance at the lower rates.
4. **EOC**- Joe Kenmore, Director discussed the use of Code Red twice over the past weekend to alert residents to severe thunderstorms and tornado activity. Mr. Kenmore informed he and Spencer Baldwin visited the site of a tornado touchdown on the North side of the Capitan Mountains where two residences were totally destroyed and others sustained hail and wind damage.

Chair Powell recessed the Regular Meeting at 12:02:00 PM and reconvened at 1:03:36 PM.

Commissioner Doth was absent from the meeting.

Chair Powell recessed the Regular Meeting and convened the Public Hearing at 1:03:40 PM.

21. **1:00 P.M. Public Hearing to consider amending Ordinance 2011-01 an ordinance prohibiting contraband and making it illegal to possess, smoke or use tobacco products or any other weed or plant within the confines of the Lincoln County Detention Center with Ordinance 2014-04.**

Attorney Morel explained the only change proposed to the Ordinance was to clarify language making it illegal to possess any contraband not only within the main building but extended the prohibition to encompass all areas "within the boundaries" of the Detention Center. Attorney Morel stated the change was necessary to encompass the outer fence and other areas where contraband might be passed to prisoners.

Commissioner Draper questioned whether the new "boundary" would extend to transport vehicles. Attorney Morel stated the changes would extend the prohibition to vehicles on detention center property.

Patrice Brazie, of the Lincoln County News and resident of Nogal, commented on the inclusion of nicotine products defined as contraband and questioned if assistance was available to detainees for nicotine withdrawal. Attorney Morel stated he was unaware of the specific types of assistance available to detainees but noted smoking was always prohibited for detainees.

Chair Powell adjourned the Public Hearing and reconvened the Regular Meeting at 1:08:06 PM

Motion: Adopt Ordinance 2014-14, **Action:** Approve, **Moved by** Commissioner Stone, **Seconded by** Commissioner Minter.

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

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

Absent: Commissioner Doth

SEE EXHIBIT C: Copy of Ordinance 2014-14 is attached hereto in reference thereto made a part hereof.

18. Water Issues/Forest/Wildlife Health Programs/Land & Natural Resources

1. **Water Rights Notice:** There were no new water right notices posted to the State Engineer's website.

Ms. Taylor provided an update on the Applications for transfer of water rights from the Hondo Valley to the Village of Ruidoso. Ms. Taylor reminded 300 protests were submitted to the State Engineer, including one by the County. Ms. Taylor stated the State Engineer's Office in Roswell informed her that authority over the water rights in question was transferred to the Administrative/Litigation Department of the State Engineer's Office in Santa Fe. Ms. Taylor stated the Applications were under review for completeness, after which a Notice of Hearing would be sent to those who lodged a protest along with an assessment fee of \$25 per protest. Ms. Taylor stated the State Engineer's Office in Roswell reminded the Applications were filed under the "Leasing Act" and therefore the applicant could be authorized to begin utilizing the water rights pending a formal hearing. Ms. Taylor stated the Village of Ruidoso was authorized by the State Engineer to begin utilizing the water rights with some restrictions including the requirement to purchase an equal amount of water rights within the next three years. Ms. Taylor requested a complete list of restrictions through an Inspection of Public Records Request.

2. **Town Hall on Water Planning, Development and Use:** Ms. Taylor provided a copy of the final report from the New Mexico First's sponsored town hall workshop which was attended by Chair Powell, Commissioner Stone, Commissioner Minter, and Ms. Taylor. Ms. Taylor stated the report addressed the need for a balanced water policy, planning for future shortages, expanding water storage and reuse; legal issues, protection of environmental resources, and the need to explore new water sources. Ms. Taylor stated New Mexico First was soliciting participants to work on the Implementation Team.
3. **USGS Study: Hydrologic Characterization of the Upper Hondo Basin, Lincoln County, New Mexico:** Ms. Taylor reported this was the final year for the USGS to conduct a comprehensive study of the water resources of the Upper Hondo River Basin to improve knowledge of hydrologic characteristics and address concerns of stakeholders in the Basin's water resources. Ms. Taylor provided copies of the September - December 2013 and the January - March 2014 reports. Ms. Taylor

stated Lauren Sherson of the USGS would provide an overview of the study and answer questions at the July Regular Meeting.

19. Greentree Solid Waste Authority (GSWA) Matters:

- a Consideration / Potential Action on First Amendment to JPA for the Financing and Establishment of the Otero County/Lincoln County Regional Landfill;

Ms. Taylor discussed the County's prior approval of the First Amendment to the JPA at the request of GSWA to provide for a rebate of excess revenues related to the Otero/Lincoln County Regional Landfill with a caveat any funds received would be utilized for repayment of NMFA debt. Ms. Taylor informed neither the Village of Ruidoso nor the City of Ruidoso Downs approved the First Amendment and GSWA instead elected to obtain and distribute the refund of excess funds consistent with language of the initial 1991 JPA. Ms. Taylor confirmed with Debra Ingle, Operations Supervisor of GSWA that the refund was not used to pay NMFA debt but rather to pay insurance and other payables. Ms. Taylor provided a history of the more current 1998 JPA, the language of which required per Section 6-4 that "All profits realized from the landfill operation and paid to LCSA shall be divided equally among the Village of Ruidoso and the remaining members".

Based on the information provided, Ms. Taylor suggested the Board of Commissioners consider rescinding their prior approval of the First Amendment to the JPA and initiate a process to have rebate funds distributed properly to the Village of Ruidoso and equally among the remaining members as per the 1998 JPA.

Motion: Rescind the May 2, 2014 approval of the First Amendment to the JPA for GSWA,
Action: Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Stone.
Vote: Motion passed (**summary:** Yes = 3, No = 1, Abstain = 0).
Yes: Chair Powell, Commissioner Stone, Commissioner Draper.
No: Commissioner Minter.
Absent: Commissioner Doth.

There was a general consensus to have the County Attorney seek the appropriate distribution of the rebate funds as defined by the 1998 JPA.

- b. Greentree Solid Waste Authority request to file fifteen (15) liens for non-payment of invoices for services rendered

Attorney Morel reviewed the fifteen liens presented to the Lincoln County Clerk for signature and recording. Attorney Morel noted the recently prepared liens referenced LC Ordinance 2000-05 which had been amended three separate times to the current Ordinance 2008-07. Attorney Morel pointed out liens filed with prior dates referenced the correct Ordinance and expressed confusion as to why the current liens referenced the older Ordinance. Attorney Morel expressed concern about apparent billing discrepancies such as the indiscriminate application of late fees and the billing of services at an "improper" rate which included the unapproved rate increase. Attorney Morel informed actions to file a lien were considered "slander of title" and pointed out liability issues if the liens were incorrect. Attorney Morel provided copy of a legal memorandum he prepared to identify the discrepancies discussed.

Motion: Deny the request from GSWA to sign and record the 15 liens described until such time as they have been corrected to rectify the deficiencies identified by legal memorandum, **Action:** Approve, **Moved by** Commissioner Stone, **Seconded by** Commissioner Minter.
Vote: Motion carried by unanimous vote (**summary:** Yes = 4).
Yes: Chair Powell, Commissioner Minter, Commissioner Stone, Commissioner Draper.
Absent: Commissioner Doth

SEE EXHIBIT D: Copies of the Legal Memorandum considering GSWA's request to file liens is are attached hereto in reference thereto made a part hereof.

20. Alarm Permit Violations:

Attorney Morel stated the following individuals refused to comply with Ordinance 2011-14 including the requirement to register alarms and in some instances also a failure to pay a false alarm penalty:

- a. Sergio and Nora Gutierrez
- b. Jessica Quintana
- c. Angel and Mary Salazar
- d. Charles Welch

e. Craig Wilguss

Attorney Morel requested authorization to place liens on the properties of those listed.

Motion: Authorize the placement of liens on the properties of: Sergio and Nora Gutierrez, Jessica Quintana; Angel and Mary Salazar; Charles Welch, and Craig Wilguss, **Action:** Approve, **Moved by** Commissioner Stone, **Seconded by** Chair Powell

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

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

Absent: Commissioner Doth.

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

a. Final Budget FY 2014-2015 for July Regular Commission Meeting

Motion: Schedule a Public Hearing to consider the FY 2014-2015 Final Budget for the July Regular Meeting, **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Draper.

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

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

Absent: Commissioner Doth.

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

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

No action was taken.

b. Lodger's Tax Committee

Motion: Reappoint David Vigil to the Lodger's Tax Committee, **Action:** Approve, **Moved by** Chair Powell, **Seconded by** Commissioner Minter.

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

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

Absent: Commissioner Doth

c. Road Review Advisory Committee

No action was taken

24. Consideration/Approval of Department of Finance and Administration Local Government Division FY 15 Enhanced 911 Act Grant Program Agreement Project No. 15-E-26

Ms. Taylor stated the Department of Finance and Administration (DFA) requested approval of the Fiscal Year 2015 E-911 Grant Agreement so the DFA Local Government Division could begin paying invoices on the County's Behalf for Fiscal Year 2015 expenses.

Motion: Approve the E-911 Agreement Project No. 15-E-26 with DFA, **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Minter.

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

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

Absent: Commissioner Doth

25. 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.

2. *Michael Wheaton v Paul F. Baca, Lincoln County Assessor, et. al.* D-1226-CV-2011-00341 Suit filed October 18, 2011. Notice of Appeal of Final Order of the Lincoln County Valuation Protests Board. Attorney has agreed to stay the case pending the decision from the Court of Appeals.

3. *Coble Constructors, LLC, et al v Carl Kelley Construction Ltd. Co, et al.* D-1226-CV-2012-00003. Suit filed January 15, 2012. Complaint to Foreclose Mechanic's Lien. Order granting motion for resetting 4/17/13. Motion for Summary Judgment filed Jan. 29, 2014, Hearing scheduled April 24, 2014 produced an Order Granting Motion for Extension of Time which was filed May 6, 2014.

*4. *Greentree Solid Waste Authority v. Lincoln County* D-1226-CV-2014-00095. Suit filed May 1, 2014 Verified Petition for Declaratory and Supplemental Relief Injunction, Motion to Waive Time to Reassign District Judge (Judge Karen Parsons was disqualified). County was served May 14, 2014. Mr Melendres has filed Answer, Motion to Disqualify Mr. Beauvais and Change of Venue Hearing was scheduled June 4, 2014 and Mr Beauvais has filed an Order of Continuance

*5. *Greentree Solid Waste Authority v. Lincoln County, et. al.* D-0101-CV-2013-00104. Suit filed January 9, 2013. Petition for Declaratory Judgment; Preliminary and Permanent Injunction. Mr. Beauvais filed an appeal Feb. 27, 2014. Mr. Beauvais filed a Reply to Motion to Review Stay and Supersedeas Bond on April 16, 2014. Mr. Melendres filed Lincoln County's Answer to Oral Motion to Reconsider May 14, 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 held over.

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. Order 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

*9. *State of NM v. Irene Howcroft - M-30-MR-2013-00190* Alleged animal nuisance and violation of Lincoln County Ordinance No 2008-08. Non Jury Trial was scheduled for June 3, 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.

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 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 12th 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 Stone, **Seconded by** Chair Powell.

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

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

Absent: Commissioner Doth

Chair Powell recessed the Regular Meeting and convened the Closed Session at 1:34:27 PM.

Chair Powell adjourned the Closed Session and reconvened the Regular Meeting at 2:38:31 PM

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

17. Manager's report - continued

Hubert Quintana of the Southeastern New Mexico Economic Development District (SNMEDD) explained SNMEDD was tasked along with other COGs statewide to develop an economic development plan for the whole district as a part of a state wide economic development plan. Mr. Quintana stated the intent was for the Economic Development Districts to also develop a template to provide consistency in plans across the State.

Mr. Quintana stated SNMEDD worked with a number of agencies including New Mexico State University, the Municipal League and the New Mexico Association of Counties to identify five key areas for economic development within New Mexico including: Infrastructure; Innovation and Sustainability; Business Climate and Competitiveness; Education and Talent Supply, and Quality of Life. Mr. Quintana stated these five areas would be the basis for discussion for any public meetings. Mr. Quintana stated the upcoming meeting with Dr. Jim Miller and Greg Corey was to consider and identify targeted groups to be included in public hearings and discussions. -Mr Quintana stated once his agency received information from all five of the counties represented by SNMEDD a draft for the District would be prepared by doctorate students at NMSU. Mr Quintana stated the resulting plan or five year strategy would also support future grant applications.

Chair Powell stated requests for water transfers were currently the biggest impediment to economic development. Mr. Quintana expressed understanding about water issues and particularly the water issues in the Hondo Valley. Commissioner Stone suggested a complete Economic Development committee would include representation from each municipality or entity within the County. Mr. Quintana discussed the process in Chaves County to include municipalities, industry specialists, service providers and others

26. Signing of Official Documents


27. Next meetings:

- a. June 16, 2014 Special Meeting
- b. July 15, 2014 Regular Meeting


28. Adjourn

There being no further business to come before the Board of County Commissioners, Chair Powell adjourned the meeting at 3:20:00 PM.

County of Lincoln
Board of County Commissioners




Jackie Powell, Chair

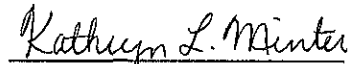


Preston Stone, Vice Chair

Mark Doth, Member



Dallas Draper, Member



Kathryn Minter, Member

ATTEST:



Rhonda Burrows, County Clerk

July 15, 2014
Date Approved

