

**MINUTES
REGULAR MEETING
LUNA COUNTY BOARD OF COUNTY COMMISSIONERS
Thursday, June 13, 2013**

BE IT REMEMBERED that the Luna County Board of County Commissioners met in regular session at 9:00 a.m. on Thursday, June 13, 2013 in the County Commission Chambers of the Luna County Courthouse, Deming, New Mexico, for the purpose of conducting any and all business to come properly before the Board.

The following staff and elected officials were present:

Kelly Kuentler, County Manager
Glory Johnson, Assistant to the County Manager
Andrea Rodriguez, County Clerk
Berenda McWright, Chief Deputy Clerk
JoAnna Z. Zurinsky, Deputy Clerk
Dora Madrid, Treasurer
Gloria Rodriguez, Chief Deputy Treasurer
Delilah Rojo, Assessor
Barbara Cobos, Chief Deputy Assessor
Estela Chavez, Certified Appraiser
Raymond Cobos, Sheriff
Danny Gonzales, Human Resources and Payroll Director

Joanne Hethcox, Budget and Procurement Director
Marty Miller, Road Director
Gabriel Boyle, Community Development and Planning Director
Linda Smrkovsky, Economic Development and Marketing Director
Lt. Jonathan Mooradian, Dispatch Director
Lauree Sanchez, Dispatch Supervisor
Matthew Elwell, Detention Director
Mark Jasso, Emergency Services Director
Ira Pearson, Starmax Facilities Director
Charles Turner, Manager's Office (Intern)

CALL TO ORDER: Chairman Diaz called the meeting to order at 9:01 a.m. and Andrea Rodriguez led the Pledge of Allegiance and the salute to the flag of the State of New Mexico.

ROLL CALL: Deputy Clerk JoAnna Zurinsky called roll. The following members of the Board constituting a quorum were present:

Joe L. Milo, Jr., District 1
J. Jay Spivey, District 2
Chairman, R. Javier Diaz, District 3

SERVICE AWARDS: Assessor Delilah Rojo presented Estela Chavez with a 10-year service pin and thanked her for her dedication and hard work.

ANNOUNCEMENTS: Commissioner Milo thanked Commissioner Spivey for his efforts and success in getting the 55-mile Border Extension approved. Commissioner Spivey thanked everyone involved in creating a Fiscal Year 2013-2014 Budget.

ELECTED OFFICIALS REPORTS: *(This item was moved to the end of the Agenda)* County Clerk Andrea Rodriguez reported the Clerk's office is busy collecting Fiscal Year 2014 Business Registrations.

COUNTY MANAGER'S REPORT: *(This item followed after the Public Comment)* County Manager Kelly Kuenstler reported on the following items:

- The newest version of the sales agreement for the Luna County Stockyards to CattleMex will be presented to the New Mexico Board of Finance next week. There is a scheduled closing date for the sale on June 24, 2013.
- The sale and lease of the Walgreen's properties and the lease agreement for Western New Mexico University is on the State Board of Finance's July agenda.
- First Solar New Mexico Workforce Connection and the Deming/Luna County Economic Development collaborated on a job fair this week. The First Solar 50-megawatt project is scheduled to start in July. The project will provide about 300 construction jobs. First Solar is currently accepting applications for general construction, non-craft and clerical positions.
- The expansion of the Border Crossing Zone from 25 miles to 55 miles has been approved by the Department of Homeland Security. The change is not effective until the rule is published in the Federal Register.
- The Preliminary Budget was approved, pending the Final Budget in July by the Department of Finance Authority.
- Starbucks Coffee is attempting to place a store at the Savoy Truck Stop.
- The Planning Department conducted a site visit at Sapphire Energy. The department has reviewed the Burn Ordinance and Fire Proclamation. They have also drafted a Joint Powers Agreement for the ETZ zones for presentation to the City of Deming.
- The daily average population for May for the Luna County Detention Center was 344 Adult Inmates and 191 Federal Prisoners. The Detention Center was successful in negotiating a contract with the U.S. Marshall's Office.
- Budget and Procurement submitted the preliminary budget to the Department of Finance Administration, which was approved.
- Starmax has recouped \$21,439.00 on the digital conversion project.
- Central Dispatch received 6,218 incoming calls, 2,896 outgoing calls and 11 Tipsoft tips. Dispatch is doing a trial of 12 hour shifts. The trial period is effective July 1, 2013. The installation and training for the new 911 system is complete.
- Community Projects and Keep Luna County Beautiful hosted the Great American Cleanup last month. There were 30 local sponsors and 480 volunteers for the event. Two illegal dumpsites and 10 graffiti sites were abated. They are planning to open recycle sites for the Cooke's Peak and Sunshine areas. Community Projects received a

\$1,000 grant award for cigarette litter prevention and a \$5,000 grant award from Lowe's Community Home Improvement, which will be used to start an outdoor classroom at Bataan Elementary School. The Department of Finance Authority has entered into a contract with Engineers Inc. for the Colonias Infrastructure Grant. CDGB has finished the comprehensive plan. Community Projects Director Jessica Etcheverry is reviewing the current projects and meeting with each department to understand each department's grant needs and priorities.

- Community Health and Well-being is now headed by Jessica Moreno. The caseload for May was 60 families, 195 home visits were conducted and 11 free pregnancy tests were given. The department also held a car seat safety class.
- Healing House provided 50 clients with victim advocacy, assisted 20 clients with immigration issues, and provided emergency shelter to 6 women and 4 children in the month of May. Weekly counseling for women and domestic violence offender's program continues.
- Special Projects distributed a dress-code reminder for County Employees.
- DWI had five prevention activities for the month of May. The DWI program is currently tracking 139 offenders, 7 screenings, 6 outpatient treatments and 1 outpatient treatment completion.
- IT Department completed firewall programs, configuration and upgrades for several departments.
- The Road Department continues to do partial maintenance of all county roads. A few neighboring counties have looked at the motor graders that will be up for auction. The department also assisted with a clean-up of the stockyards to get the property ready for sale.
- Human Resources completed open-switch enrollment. A total of 18 employees picked up insurance during this time.
- The Maintenance Department replaced air conditioning units.
- Starmax had an increase in business for the month of May and received \$6,000 reimbursement for the Kellen interception.
- There were two tort claims, zero workman's comp claims and one vehicle accident for May.
- Marketing and Economic Development is busy preparing for the New Mexico Association of Counties Conference to be held hosted by Luna County next year.

PUBLIC COMMENT: *(This item followed immediately after the Announcements on the agenda)* Bill Duncan of the Deming Main Street Project announced the Farmer's Market will open Saturday, June 15, 2013.

Joe Moreland commented on the measures taken for increased courthouse security.

Fred Williams expressed concerns regarding the environmental study for the Walgreen's project, the agreement with Sunnyside Farms and the notice of intent to adopt a Gross Receipts Tax Revenue Bond Ordinance. County Manager Kelly Kuenstler explained the Call for Ordinance

is a notice of intent, and is the first step to issue bonds for the planned law-enforcement facility, and the ordinance will not cause an increase in taxes. The Gross Receipts Tax acts as collateral for the bond, in the event a payment is missed or cannot be made.

Ron Scharf expressed his concerns about the report of New Mexico children and specifically the statistics regarding those in Luna County being some of the worst-fed in the nation. He stated he would like for the Board to consider addressing this as an agenda item in a future meeting.

Sean Blaine expressed concerns about the qualifications of the Volunteer Fire Department chiefs. Ms. Kuenstler explained that aside from matters concerning personnel, the Fire Departments are in the process of revising the current bylaws and those require Firefighter I Certification. The current state task book only requires the task book completion, and Luna County Fire Chiefs have done this. A waiver has been signed by Luis Gonzales, District Fire Marshall for a Fire Chief until a course is completed in July. Chairman Diaz requested that Mr. Blaine address any further concerns regarding this in writing.

Russ Howell commented that Ron Scharf should speak with Nancy Sherman in regards to his concerns about the nutritional needs of Luna County's children being met through the Healthy Kids program.

Bill Duncan stated that the Farmer's Market is in the process of accepting EBT cards as a form of payment.

CONSENT AGENDA: Upon motion of Commissioner Milo, seconded by Commissioner Spivey, Payroll Registers totaling \$1,416,510.56 and Accounts Payable Registers totaling \$654,861.27 were unanimously approved.

CONSIDER MINUTES: Upon motion of Commissioner Milo, seconded by Commissioner Spivey, the minutes of the May 9, 2013 Regular Meeting and May 28, 2013 Special Meeting were approved. Upon motion of Commissioner Spivey, seconded by Commissioner Milo the minutes of the May 20, 2013 Work Session were approved.

NEW BUSINESS:

- a. **RESOLUTION 13-33 MULTI SERVICES AGREEMENT BETWEEN LUNA COUNTY AND THE VILLAGE OF COLUMBUS:** Ms. Kuenstler stated the Multi-Services Agreement with the Village of Columbus was reduced to \$80,000.00 due to discrepancies found in the hot meal program. She explained other amounts remained the same and the quarterly report language changed in the sections regarding payments. The Village of Columbus is now required to provide the County with copies of expenditure invoices. This requirement will ensure that taxpayer funds are directed to what the Multi-Services Agreement states they are. Commissioner Spivey moved to approve Resolution 13-33 Multi Services Agreement between Luna County and the Village of Columbus.

Commissioner Milo seconded the motion, which carried unanimously following a roll-call vote.

- b. RESOLUTION 13-34 MULTI SERVICES AGREEMENT BETWEEN LUNA COUNTY AND THE CITY OF DEMING:** Ms. Kuenstler outlined the changes of the Multi-Services Agreement which includes a rate increase for the City of Deming prisoners from \$2.75 to \$3.04 per hour (\$73.00 a day) for adult prisoners and from \$3.00 to \$3.30 per hour (\$79.20 a day) for juvenile prisoners. The new rates are expected to assist with the Detention Center's budget deficit. The rate change is mid-range compared to other counties. Dispatch service rates changed to 60 percent, not to exceed \$415,000.00. The rate percentage increase coincides with the volume of calls received by the City. Special Events, Library, ETZ and Recreation Services did not have any major changes. Solid Waste Services changed from \$120,000.00 annually to \$148,000.00 annually. Commissioner Milo motioned to approve Resolution 13-34 Multi Services Agreement between Luna County and the City of Deming. Commissioner Spivey seconded the motion, which carried unanimously following a roll-call vote.
- c. GROUND LEASE AGREEMENT BETWEEN DEMING/LUNA COUNTY JOINT ECONOMIC DEVELOPMENT PROJECT NO. 1 AND WALGREEN CO.:** Ms. Kuenstler explained the commissioner's approval of the draft lease is necessary to begin the presentations to the State Board of Finance for approval. Ms. Kuenstler stated the Lease Agreement includes rental amounts for the first 20 years, and the agreement stipulates the possession date will be when the lease is signed, but the rent commencement date will be when the certificate of occupancy is issued on the building. Walgreen's expects a building permit by December 1, 2013. Ms. Kuenstler stated when the rent payments commence the payments will be submitted to the City of Deming as the financial agent via check payment. Chairman Diaz requested an amendment that Ms. Kuenstler query into having the rent payments made electronically instead of by check. Commissioner Spivey moved to approve the draft Ground Lease Agreement between Deming/Luna County Joint Economic Development Project No. 1 and Walgreen Co. with a suggested amendment to include all payments be submitted electronically. Commissioner Milo seconded the motion which carried unanimously.
- d. LEASE AGREEMENT BETWEEN LUNA COUNTY AND WESTERN New Mexico UNIVERSITY:** Ms. Kuenstler requested approval of a lease agreement with Western New Mexico University for \$5,666.67 per month for a period of 5 years with a 5 year renewal option. The lease covers the utilities for the building. Commissioner Milo moved to approve the Lease Agreement between Luna County and Western New Mexico University. Commissioner Spivey seconded the motion which carried unanimously.
- e. ADDENDUM TO AGREEMENT BETWEEN LUNA COUNTY AND SUNNYSIDE FARMS, INC.:** Ms. Kuenstler explained to the board this addendum allows Sunnyside Farms to utilize certain land and water rights for a one-year period beyond the original lease. Ms.

Kuenstler stated the county will receive no benefit by doing this, and therefore there is no benefit to the taxpayers. The item was brought forward to the board by request of a citizen. Commissioner Spivey voiced his concerns about the lease and the water rights. Chairman Diaz stated by allowing Sunnyside Farms to graze on the land, it will keep the land clean, and it will cost the county more to maintain the land through other means. Ms. Kuenstler acknowledged the Sunnyside Farms will receive a Federal Government Subsidy payment if they continue to graze on the land, and Luna County will be paid nothing. Ms. Kuenstler stated she was not in favor of the agreement because it allowed private citizens to graze on county property without a fee, and the appearance was questionable. Commissioner Spivey pointed out the state of New Mexico is a 'Fence-Out' state, and verified this with Sheriff Cobos. This item died on the floor due to lack of a motion.

- f. **RESOLUTION 13-30 BUDGET INCREASES:** Ms. Kuenstler recommended approval of the three proposed budget increases totaling \$19,892.30. Commissioner Spivey moved to approve Resolution 13-30 Budget Increases. Commissioner Milo seconded the motion, which carried unanimously following a roll-call vote.
- g. **RESOLUTION 13-31 BUDGET TRANSFERS:** Ms. Kuenstler recommended approval of the three proposed intra/inter departmental budget transfers in totaling \$67,222.71. Commissioner Milo moved to approve Resolution 13-31 Budget Transfers. Commissioner Spivey seconded the motion which carried unanimously following a roll-call vote.
- h. **RESOLUTION 13-32 SUPPORTING THE SOUTHWEST NEW MEXICO ENERGY AND GREEN JOBS TASK FORCE'S REGIONAL STRATEGIC PLAN:** This resolution supports the Southwest New Mexico Energy and Green Jobs Task Force Regional Strategic Plan. Commissioner Milo moved to approve Resolution 13-32 supporting the Southwest New Mexico Energy and Green Jobs Task Force's Regional Strategic Plan. Commissioner Spivey seconded the motion which carried unanimously following a roll-call vote.
- i. **APPROVAL TO REMOVE CERTAIN VEHICLES FROM LUNA COUNTY INVENTORY BY PUBLIC AUCTION:** Ms. Kuenstler requested approval to remove four vehicles from the Sheriff's inventory by public auction. Commissioner Milo moved to approve the removal of certain vehicles from Luna County inventory by public auction. Commissioner Spivey seconded the motion which carried unanimously.
- j. **PROFESSIONAL SERVICES AGREEMENT BETWEEN LUNA COUNTY AND PRESBYTERIAN MEDICAL SERVICES FOR OPERATIONS OF A PRIMARY CARE CLINIC:** Ms. Kuenstler stated the Professional Services Agreement between Luna County and Presbyterian Medical Services remains basically the same as last year's agreement with the exception of section 5A. The change in section 5A states that Luna County will reimburse Presbyterian Medical Services at a rate of \$1,550 per month for 12 months

for a total payment of \$18,600. Last year's agreement was for reimbursement of \$5,000 a month for 12 months for a total of \$60,000. This year's change was facilitated by the loss of hospital funds and will most likely get cut to zero next year. Commissioner Milo moved to approve the Professional Services Agreement between Luna County and Presbyterian Medical Services for Operations of a Primary Care Clinic. Commissioner Spivey seconded the motion which carried unanimously.

- k. WORK AND FINANCIAL PLAN BETWEEN LUNA COUNTY AND USDA ANIMAL AND PLANT HEALTH INSPECTION SERVICE WILDLIFE SERVICES:** Ms. Kuenstler explained this work and financial plan between Luna County and the U.S. Department of Agriculture is pursuant to Luna County's cooperative agreement with Animal and Plant Health Inspection Services. The estimated cost for services is \$25,000, and remains consistent with last-year's agreement. Commissioner Spivey moved to approve the Work and Financial Plan between Luna County and USDA Animal and Plant Health Inspection Service Wildlife Service. Commissioner Milo seconded the motion which carried unanimously.
- l. DWI GRANT AGREEMENT BETWEEN NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION AND LUNA COUNTY:** Ms. Kuenstler stated this DWI Grant Agreement between the Department of Finance Administration's Local Government Division and Luna County is in the amount of \$79,614. The grant supports programs aimed at reducing incidents of driving while intoxicated, alcoholism and alcohol abuse in New Mexico. Commissioner Milo moved to approve the DWI Grant Agreement between New Mexico Department of Finance and Administration and Luna County. Commissioner Spivey seconded the motion which carried unanimously.
- m. PROCLAMATION DECLARING EXTREME OR SEVERE DROUGHT CONDITIONS WITHIN THE UNINCORPORATED PORTIONS OF LUNA COUNTY RESTRICTING THE SALE AND USE OF FIREWORKS WITHIN PORTIONS OF THE COUNTY OF LUNA (CONDUCT AS A PUBLIC HEARING):** Ms. Kuenstler recommended approval of the proclamation declaring extreme or severe drought conditions within the unincorporated portions of the county and restricting the sale and use of fireworks within those areas. Ms. Kuenstler stated that a notice for public hearing was posted on the County Website and was reviewed for its legal sufficiency. Extreme drought conditions are based on findings from the U.S. Forest Service. The proclamation shall be effective for a 30-day period and succeeding proclamations may be issued and may also be rescinded at any time. Chairman Diaz opened the floor for public testimony. No testimonies were forthcoming, and Chairman Diaz closed the public hearing. Commissioner Milo moved to approve the Proclamation Declaring Extreme or Severe Drought Conditions within the Unincorporated Portions of Luna County Restricting the Sale and Use of Fireworks within Portions of the County. Commissioner Spivey seconded the motion which carried with a majority roll-call vote. Commissioners Milo and Spivey voted in the affirmative and Chairman Diaz voted in the negative.

- n. **LUNA COUNTY ORGANIZATIONAL CHART AS AMENDED JUNE 2013:** Ms. Kuenstler explained the revised Organizational Chart reflects very few minor changes. The chart now separates Community Health and Well-Being and Community Projects. The Volunteer Fire Departments also now have branches on the chart. Ms. Kuenstler explained the next meeting will include a chart with more revisions so the programs under each director are shown. Commissioner Spivey moved to approve the Luna County Organizational Chart as Amended June 2013. Commissioner Milo seconded the motion which carried unanimously.

ORDINANCES:

- a. **ADOPTION OF LUNA COUNTY BURN ORDINANCE NUMBER 84:** Ms. Kuenstler suggested that the item be tabled because there was not ample time to advertise the public hearing. The ordinance can be passed on an emergency basis; however in the interest of complete compliance with 4-37-7, Ms. Kuenstler requested approval for Notice of Intent only. Commissioner Spivey moved to direct the County Manager's office to publish the title and summary of the Luna County Burn Ordinance one time in *The Deming Headlight* at least two weeks prior to the meeting of the Board at which the ordinance is proposed for final passage. The publication shall also include the date and time at which the ordinance is to be considered. Commissioner Milo seconded the motion which carried unanimously.
- b. **CALL FOR ORDINANCE- NOTICE OF INTENT TO ADOPT GROSS RECEIPTS TAX REVENUE BOND ORDINANCE:** Ms. Kuenstler explained this item is the first step in the process to issue bonds for a planned Law-Enforcement facility. The Notice of Intent informs the public that the Commission will take up this matter no earlier than July 11th and will pledge the County's Gross Receipt Tax as security for the bonds. In the event the County is unable to make annual payment with other revenues, the Gross Receipts Tax will make the payment. The entire finance and legal plan for the bond ordinance will be ready by the July Commission meeting. The monies for payment of the bond will come from the Sheriff's budget, and will not increase taxes nor do the funds come out of the Gross Receipts Taxes. The bond simply serves as back-up revenue. Commissioner Milo motioned to direct the County Manager's Office to publish the title and summary of a Gross Receipts Tax Revenue Bond Ordinance one time in *The Deming Headlight* at least two weeks prior to the meeting of the Board at which the ordinance is proposed for final passage. The publication shall also include the date and time at which the ordinance is to be considered. Commissioner Spivey seconded the motion which carried unanimously.

PRESENTATIONS: Dan Hicks, White Sands Missile Range Chief of Staff gave a presentation on the White Sands Missile Range facility. Mr. Hicks' presentation outlined facts about the Missile Range, and the facility's role in Alternative Energy projects throughout the state of New Mexico.

INDIGENT CLAIMS REPORT: Upon motion of Commissioner Spivey and a second by Commissioner Milo, the meeting of the Board of County Commissioners was unanimously recessed and the meeting of the Indigent Hospital Claims Board convened. Joanne Hethcox recommended approval of 11 claims dated June 13, 2013 in the amount of \$14,466.49 and zero denials. The monies received for May 2013, totaled \$68,633.00. Commissioner Spivey moved to approve 11 claims dated June 13, 2013 in the amount of \$14,466.49 and zero denials. Commissioner Milo seconded the motion which carried unanimously. Commissioner Spivey moved to recess as the Indigent Hospital Claims Board and reconvene as the Board of County Commissioners. Commissioner Milo seconded the motion which was approved unanimously.

ANNOUNCE NEXT MEETING: Commissioner Diaz announced the next regular meeting will be held on Thursday, July 11, 2013.

ADJOURN: Chairman Diaz adjourned the meeting at 11:37 a.m.

ATTEST:

LUNA COUNTY BOARD OF COUNTY COMMISSIONERS

Andrea Rodriguez

ANDREA RODRIGUEZ, LUNA COUNTY CLERK
by: *Berenda McWright*
APPROVED: 7-11-13
Berenda McWright, Chief Deputy clerk

Joe L. Milo, Jr.

JOE L. MILO, JR., DISTRICT 1
J. Jay Spivey

J. JAY SPIVEY, DISTRICT 2
R. Javier Diaz

CHAIRMAN R. JAVIER DIAZ, DISTRICT 3

