

**MINUTES
REGULAR MEETING
LUNA COUNTY BOARD OF COUNTY COMMISSIONERS
Wednesday, September 11, 2013**

BE IT REMEMBERED that the Luna County Board of County Commissioners met in regular session at 9:00 a.m. on Wednesday, September 11, 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: County Manager Kelly Kuenstler, Assistant to the County Manager Glory Johnson, Clerk Andrea Rodriguez, Chief Deputy Clerk Berenda McWright, Assessor Delilah Rojo, Chief Deputy Assessor Barbara Cobos, Detention Director Matt Elwell, Assistant Emergency Services Director Sonia Arteché, Savoy/ Cooke's Peak Fire Chief Luis Malina, Starmax Facilities Director Ira Pearson, Information Technology Manny Armendariz, Community Projects Director Jessica Etcheverry, Director Health & Well Being Jessica Moreno, Road Department Administrative Assistant Carole Smith.

CALL TO ORDER: Chairman Diaz called the meeting to order at 9:05 a.m. asked for a moment of silence in remembrance of September 11, 2001; then Sherry Barrett led the Pledge of Allegiance and the salute to the flag of the State of New Mexico.

ROLL CALL: Chief Deputy Clerk Berenda McWright called roll. The following members of the Board constituting a quorum were present:

Joe L. Milo, Jr., District 1
Chairman, R. Javier Diaz, District 3

***Note:** Commissioner J. Jay Spivey, District 2 was absent.

SERVICE AWARDS: County Manager Kelly Kuenstler presented Carole Smith with a 20-year service award.

ANNOUNCEMENTS: Diane LeMarbe from the Deming Arts Council announced the Arts Council is hosting a Youth Art Show through October 1, 2013. Ms. LeMarbe stated the shows for 2014 include an Irma Lee show in January, a Joseph Chavez show in February, and Cynthia Gutierrez show in April. She stated that both Mr. Chavez and Ms. Gutierrez are local artists and there is no admission cost to attend the art shows.

Jessica Etcheverry thanked the Board, the County Manager, and the public for their continued support for the Keep Luna County Beautiful program. She announced the Fall 'Toss No Mas' Community Clean-Up on September 28th from 8:00 a.m. to 1:00 p.m. at the Luna County Courthouse Park Pavilion. Ms. Etcheverry also announced the City-Wide Garage Sale and Recycle Fair on October 28th, also at the Courthouse Park. Spaces are free, but residents must call: (575)546-2674 or (575)543-6643 to reserve a space. There is a Recycled Art Contest sponsored by Keep Luna

County Beautiful. Entries must contain 90% recycled material, with an attached list of recycled materials used. Art must be submitted by November 5th, at the Deming Art Center.

County Manager Kelly Kuenstler recognized Health Well & Well-Being Director, Jessica Moreno for a recent Children Youth and Families Department Audit in which there were no findings. Ms. Kuenstler also recognized Assistant Emergency Services Director Sonia Arteché for getting awarded the 2013 New Mexico Emergency Manager of the Year.

PRESENTATIONS: George Wertz from Deming Public Schools gave a presentation on the Construction Trade Program. Outlined in Mr. Wertz's presentation were projects that the program has completed a timeline and figures on how much money the program's projects have saved Deming Public Schools.

County Manager Kelly Kuenstler administered the Oath of Office to Luna County Detention Officer Eric Balladry.

Detention Director Matthew Elwell presented a Luna County Detention Center Sergeant promotion to Nathan Ortberg.

PUBLIC HEARING FOR WIRELESS PERMIT: Postponed to October

PUBLIC HEARING WIRELESS COMMUNICATIONS ORDINANCE NO. 53 REVISED: Chairman Diaz opened a Public Hearing for Wireless Communications Ordinance 53 Revised. There was no public comment forthcoming; however County Manager Kelly Kuenstler did read a letter for the record received from the Center for Municipal Solutions addressed to the County Manager's office. Ms. Kuenstler stated that two public hearings were held, and not one member from the public attended. Commissioner Milo moved to approve Wireless Communications Ordinance No. 53 Revised. Chairman Diaz seconded the motion which carried following a roll-call vote.

ELECTED OFFICIALS REPORTS: County Clerk Andrea Rodriguez reported that the Clerk's office is taking the steps necessary to switch from voting precincts to voting convenience centers. The switch from precincts to voting convenience centers will allow voters to vote at any of the voting convenience centers, rather than assigned voting precincts.

Assessor Delilah Rojo reported protest hearings were held August 26 and 27th, and only one order of change came back from the State. Bureau Chief David Ortiz conducted a walk-thru of the office on Thursday, and was pleased with the improved office space. Two teams from the Assessor's office will conduct building permits starting on Monday. Ms. Rojo also explained she found an error in the Certificate of Tax Rates in the amount of \$134,000 made by the DFA in the Office of Central Assessments.

COUNTY MANAGER'S REPORT: County Manager Kelly Kuenstler reported on the following items:

- The County received a call last month from the New Mexico Secretary of State notifying The Friends of the Healing House Volunteer Board that their Articles of Incorporation were approved.
- The Luna County Road Department continues maintenance on all county roads, but if a report on a school bus route road is received, it is given precedence over a request for regular county road maintenance though monsoon season.
- Assistant Emergency Services Director Sonia Arteché received her re-certification from the New Mexico Emergency Management Association. The re-certification occurs every two

years. Sonia also received recognition from the Association as the 2013 Emergency Manager of the Year for her performance and contributions in the field of Emergency Management.

- Emergency Services Director Mark Jasso inspected the Starmax facility, and the inspection report was really good. There were a few minor findings, and they have already been corrected by Ira Pearson, the Starmax staff, and the Luna County Maintenance Department.
- The Federal Emergency Management Agency Recovery Unit was in town on Wednesday, September 4th. FEMA met with Sonia Arteché, Mark Jasso, Mayor Lawson, Village of Columbus Staff, Columbus Electric, and County Manager Kuenstler. The purpose of the meeting was to review documentation and photos pertaining to the recent microburst in Columbus, and to decide if the Presidential Declaration is merited. A Gubernatorial Declaration is being worked on as well.
- The County is hosting two Hazard Mitigation Plan Stakeholder Meetings. The meetings are scheduled for Tuesday, September 17, 2013. The first meeting is scheduled for 9:00 a.m. to 11:00 a.m., and the second meeting is scheduled for 2:00 p.m. to 4:00 p.m. The same agenda and materials will be covered at each meeting, so it is only necessary to attend one meeting, based on whichever one best fits your schedule. Both meetings will be held at the Luna County Courthouse Basement.
- The Commissioners have received new laptops, and this will render the paper Commission packets obsolete. Monitors are also being repositioned for presentations, so the Commissioners may watch public presentations at the chamber table.
- The County Staff is collecting money to contribute to a 4-H Scholarship in remembrance of Barbara Brokaw. Mrs. Brokaw passed away on September 6th, and was the wife of Volunteer Fire Chief Randy Brokaw. There is a memorial service on Friday, September 20th.
- Hidalgo, Grant and Luna Counties are in the process of trying to foster a pilot-program for inmate-mental health issues. This was brought to fruition by a legislative committee meeting that Michael Carrillo, Matt Elwell, and Kelly Kuenstler recently attended in Las Cruces.
- The Final Budget was approved by the Department of Finance Administration on September 5, 2013.

PUBLIC COMMENT: Dave Petersen gave an update on Friends of the Healing House and announced his resignation as Chairman of the Advisory Committee at the Healing House, and as a member of Friends of the Healing House due to a recent job loss. Dorian Dodson has taken over his duties on the Board. Dr. Francine Jacobs will serve as Vice-President.

Russ Howell expressed her thoughts on the 'Code of the West,' and her concerns about how much the Federal Government dictates what we can and cannot do living in a rural area. Ms. Howell invited the Commissioners and the public to attend a meeting on September 17th, at 2:00 p.m., located at the State Engineer's Office. The meeting is about last year's legislation, and what needs to happen to return Federal Lands back to the state of New Mexico.

CONSENT AGENDA: Upon motion of Commissioner Milo, seconded by Chairman Diaz, Payroll Registers totaling \$953,314.15 and Accounts Payable Registers totaling \$496,489.36 were unanimously approved.

CONSIDER MINUTES: Upon motion of Commissioner Milo, seconded by Chairman Diaz, the minutes of the August 8, 2013 Regular Meeting was approved. Upon motion of Commissioner Milo, seconded by Chairman Diaz the minutes of the August 16, 2013 Work Session was approved.

NEW BUSINESS: County Manager Kelly Kuenstler reviewed each item on the New Business agenda.

- a. **APPOINTMENT OF THE INTERDISCIPLINARY TEAMS AS RECOMMENDED BY THE ENDANGERED SPECIES ADVISORY COMMITTEE:** *Ms. Kuenstler requested that Chairman of the Endangered Species Advisory Committee Charles 'Tink' Jackson present items 'A' through 'E'. This item is the assignment of individuals to serve as subject matter experts on behalf of Luna County in all issues related to Endangered Species:*
- Land Use Bryan Stevenson
 - Environmental Justice Kelly Kuenstler
 - Biological Resources Tink Jackson
 - Socioeconomics Adam Polley
 - Human Health & Public Safety Danny Gonzales
 - Cumulative Effects Ira Pearson

The purpose of the assignments according to the committee, is to help protect Luna County residents and to strengthen the County's position in additional federal actions or encroachments. Commissioner Milo moved to approve the Appointment of the Interdisciplinary Teams as Recommended by the Endangered Species Advisory Committee. Chairman Diaz seconded the motion which carried.

- b. **MEMORANDUM OF UNDERSTANDING BETWEEN US FISH AND WILDLIFE SERVICES, ARIZONA COUNTIES AND NEW MEXICO COUNTIES:** Mr. Jackson explained this Memorandum of Understanding (MOU) establishes a cooperating relationship between the U.S. Fish and Wildlife Service, and various Arizona and New Mexico counties. The MOU is for the parties to contribute to the preparation of the Environmental Impact Statement in regards to the Mexican Wolf Experimental Population and Recovery areas. Mr. Jackson further recommended the Committee's approval of the MOU. Commissioner Milo moved to approve the Memorandum of Understanding between US Fish and Wildlife Services Arizona Counties and New Mexico Counties. Chairman Diaz seconded the motion which carried.
- c. **PROPOSED COMMENTS ON THE GRAY WOLF:** Mr. Jackson explained the proposed comments pertain to the proposal of delisting of the Gray Wolf and not listing the Mexican Gray Wolf as a separate subspecies. Commissioner Milo moved to approve the Proposed Comments on the Gray Wolf. Chairman Diaz seconded the motion which carried.
- d. **PROPOSED COMMENTS ON THE MEXICAN WOLF AND 10 (J) RULE:** Mr. Jackson explained and outlined the 10 (J) Rule, and why the comments were submitted and the factors and concerns taken into consideration. County Manager Kelly Kuenstler asked Mr. Jackson and the Board what it would take to get the U.S. Fish and Wildlife Service to Luna County to address citizen's concerns. Sherry Barrett, Mexican Wolf Recovery Coordinator of the US Fish and Wildlife Services, advised if there is a meeting that the US Fish and Wildlife Service is invited to, provided they have the resources they will come. Ms. Kuenstler extended a formal invitation to Ms. Barrett arranged around the needs of the U.S. Fish and Wildlife Services calendar needs. Much discussion ensued about the feasibility of the wolf plan and how it may or may not pertain to Luna County. Ms. Kuenstler thanked Ms. Barrett for her time and willingness to come to Luna County and address the citizen's concerns. Commissioner Milo moved to approve an amended

Proposed Comments on the Mexican Wolf and 10 (J) Rule (deleting the word 'even'). Chairman Diaz seconded the motion which carried.

- e. **PROPOSED SCOPING COMMENT/LUNA COUNTY ALTERNATIVE:** Mr. Jackson stated this item consists of two considerations for the Board which consists of proposed comments, and a document which is a proposed 6th alternative of 'zone' approach to management of the Mexican Wolf. Commissioner Milo moved to approve the Proposed Scoping Comment/Luna County Alternative. Chairman Diaz seconded the motion which carried.
- f. **RESOLUTION 13-40 BUDGET INCREASES:** Ms. Kuenstler recommended approval of the proposed budget increases in the amount of \$248,061.61. Commissioner Milo moved to accept Resolution 13-40 Budget Increases. Chairman Diaz seconded the motion which carried following a roll-call vote.
- g. **RESOLUTION 13-41 BUDGET TRANSFERS:** Ms. Kuenstler recommended approval of the proposed budget transfers in the amount of \$25,107.11. Commissioner Milo moved to accept Resolution 13-41 Budget Transfers. Chairman Diaz seconded the motion which carried following a roll-call vote.
- h. **RESOLUTION 13-42 PROCUREMENT POLICY AS AMENDED:** Ms. Kuenstler explained Resolution 13-42 amends the existing Procurement Policy so that it follows the newest guidelines established in the New Mexico Procurement Code. Commissioner Milo moved to accept Resolution 13-42 Procurement Policy as Amended. Chairman Diaz seconded the motion which carried following a roll-call vote.
- i. **AMEND THE RESOLUTION 13-26 BUDGET INCREASES TO NUMBER 13-43 AS A FORMALITY FOR THE RECORD:** Ms. Kuenstler explained there were two resolutions approved under Resolution 13-26 from both the April and May 2013 Commission Meetings. Commissioner Milo moved to accept the Amended Resolution 13-26 Budget Increases to Number 13-43 as a formality for the record. Chairman Diaz seconded the motion which carried following a roll-call vote.
- j. **RESOLUTION 13-44 ADOPTION OF THE INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN:** Ms. Kuenstler stated that Resolution 13-44 adopts the Infrastructure Capital Improvement Plan, and the intention of the plan is to use it as a working document. It is a first step in improving long-range capital planning and budgeting for infrastructure purposes. There were two community meetings soliciting input regarding the Capital Improvement Plan. The community input was helpful, and most suggestions were incorporated into the plan. Ms. Kuenstler went on to thank the members of the community that were involved in assisting with the project, and acknowledged the importance of the plan. Commissioner Milo moved to approve Resolution 13-44 Adoption of the Infrastructure Capital Improvement Plan. Chairman Diaz seconded the motion which carried following a roll-call vote.
- k. **RESOLUTION 13-45 RATIFYING THE AGREEMENT BETWEEN LUNA COUNTY AND SOUTHWEST NEW MEXICO COUNCIL OF GOVERNMENTS:** Ms. Kuenstler explained that Resolution 13-45 is an agreement between Luna County and the Southwest New Mexico Council of Governments (COG), whereby the COG provides certain services to Luna County and all members such as, but not limited to: technical assistance, development of

plans and grants, application assistance, provide training and assistance with economic development activities. (A full list of services can be found outlined in items A-O of the agreement.) The agreement designates Commissioner Milo as the Elected Official Representative, Jessica Etcheverry and County Manager Kelly Kuenstler as alternates. Commissioner Milo moved to approve Resolution 13-45 ratifying the agreement between Luna County and Southwest New Mexico Council of Governments. Chairman Diaz seconded the motion which carried following a roll-call vote.

- i. RESOLUTION 13-46 SUPPORTING 2014 LEGISLATIVE PRIORITIES OF THE NEW MEXICO ASSOCIATION OF COUNTIES:** Ms. Kuenstler stated that this resolution supports the New Mexico Association of Counties' (NMAC's) 2014 Legislative Priorities. The priorities were voted and agreed on by the Association in August at the Board of Directors Meeting. The Legislative Priorities are as follows: 1) Amending State Law to authorize County Treasurers to receive all payments of property taxes, including those turned over to the Property Tax Division for collection. 2) Clarify the responsibility of the County Treasurer's and the Property Tax Division, so that if a delinquent property does not appear on the most recent delinquent property tax list, the property reverts back to the County Treasurer. 3) Require liens to contain language that notice of the lien was sent to the property owner prior to filing the lien. 4) Support suspension of Medicaid benefits in lieu of termination during incarceration. 5) Increase existing county local option gross receipts tax for county correctional facilities. 6) Provide for a more equitable, transparent and understandable property tax system. 7) Provide for the disclosure of sales data for all real property. Commissioner Milo moved to approve Resolution 13-46 Supporting 2014 Legislative Priorities of the New Mexico Association of Counties. Chairman Diaz seconded the motion which carried following a roll-call vote.
- m. AMENDED LEASE AGREEMENT BETWEEN LUNA COUNTY AND HELP NM, INC.:** This is an amended lease agreement between Luna County and HELP New Mexico, INC. The original lease agreement was made in July 2013. HELP New Mexico, INC. will use the county facility located just west of the Mimbres Valley Learning Center, and in exchange HELP New Mexico will provide day care from 3:00 p.m. to 10:30 p.m. on all days when evening classes are scheduled at Western New Mexico University at the Learning Center. Commissioner Milo motioned to approve the Amended Lease Agreement between Luna County and Help NM, Inc. Chairman Diaz seconded the motion which carried.
- n. PROPERTY SALE AGREEMENT BETWEEN LUNA COUNTY AND CITY OF DEMING:** Ms. Kuenstler explained this item is an agreement for sale of real estate between Luna County and the City of Deming. The agreement is a proposal to sell the county-owned property at Gold and Pine for the amount of \$724,000. Upon Commission approval of the agreement, it will go before the State Board of Finance next week for their approval as well. The property was appraised at \$604,000, and the \$724,000 selling price is representative of what the County taxpayers have in the property, and is made in an effort to make the County taxpayer whole. Ms. Kuenstler also requested a motion for revocation of the Joint Economic Development Project that was entered into with the City of Deming back in June 2013. Commissioner Milo motioned to amend and approve the Property Sale Agreement between Luna County and City of Deming and to authorize the County Manger to Approve and Sign any Further Recommendations by the State Board of Finance, and to Revoke the Joint Economic Development Project with the City of Deming. Chairman Diaz seconded the amended motion which carried following a roll-call vote.

- o. **TRANSFER OF REAL PROPERTY TO DEMING PUBLIC SCHOOLS- LIME STREET PROPERTY/PROPERTIES:** Commissioner Milo motioned to move this item to section 17, and discuss in Executive Session. Chairman Diaz seconded the motion which carried.
- p. **COMMITTEE ON NATURAL RESOURCES PROPOSED COMMENTS TO BUREAU OF LAND MANAGEMENT PERTAINING TO COOKE'S RANGE ACQUISITION ENVIRONMENTAL ASSESSMENT:** Ms. Kuenstler presented a letter from Brian Stevenson and the Natural Resources Committee regarding proposed comments pertaining to land acquisition of 640 acres by the Bureau of Land Management near Cooke's Peak and a map indicating where said property is located. Russ Howell reported that the intent of the BLM to purchase the land from the Conservation Fund is for the historical value, the cultural value and the ability to manage land adjacent to the Cooke's Peak Wilderness Study Area. Ms. Howell also presented the Natural Resources Committee's objections which included concerns over the intent for the purchase by the BLM, there being no economic benefit for the County and no clear definition about how the BLM intends to manage the land among many other concerns. Commissioner Milo moved to approve the Committee on Natural Resources Proposed Comments to Bureau of Land Management Pertaining to Cooke's Range Acquisition Environmental Assessment. Chairman Diaz seconded the motion which carried.
- q. **COMMITTEE ON NATURAL RESOURCES STRUCTURE AND PURPOSE:** Ms. Kuenstler stated this item is for discussion purposes about the Natural Resources Committee. Ms. Kuenstler requested feedback from the Board in regards to whether they felt the Natural Resources Committee was meeting their needs, and if they only wanted them to meet on issues such as the item just presented, or meet regularly or when the Chairman calls a meeting. Ms. Kuenstler asked for guidance and direction from the Commissioners in regards to the Natural Resources Committee. Both Commissioner Milo and Chairman Diaz acknowledged the past issues that the Committee had faced, however the guidelines seemed to have solved the issues. Ms. Kuenstler and Ms. Howell both stated they felt the Committee was doing worthwhile work. Commissioner Milo motioned for the Committee on Natural Resources to meet under the Direction of the County Manager or County Commissioners for certain requests or projects. Chairman Diaz seconded the motion which carried.
- r. **APPOINTMENT OF DEPUTY SHERIFF- CHRISTOPHER C. HOLGUIN:** This item is the formal appointment of Christopher C. Holguin as a Luna County Deputy Sheriff. Commissioner Milo moved to approve the Appointment of Deputy Sheriff Christopher C. Holguin. Chairman Diaz seconded the motion which carried.

INDIGENT CLAIMS REPORT: Upon a motion made by Commissioner Milo and seconded by Chairman Diaz, the meeting of the Board of County Commissioners was unanimously recessed and the meeting of the Indigent Hospital Claims Board convened. County Manager Kelly Kuenstler recommended approval of 33 claims dated September 11, 2013 in the amount of \$61,960.99 and zero denials. The monies received for August 2013 totaled \$58,845.34. Commissioner Milo moved to approve 33 claims dated September 11, 2013 in the amount of \$61,960.99 and zero denials. Chairman Diaz seconded the motion which carried. Commissioner Milo moved to recess as claims board and to reconvene as the Board of County Commissioners. Chairman Diaz seconded the motion which was approved.

ANNOUNCE NEXT MEETING: Commissioner Diaz announced the next regular meeting will be held on Thursday, October 10, 2013.


EXECUTIVE SESSION: Commissioner Milo made a motion to enter into Executive Session to discuss limited personnel matters pursuant to 10-15-1 (H)(2) NMSA 1978 pertaining to the Luna County Manager's Responsibilities and Volunteer Fire Departments and disposal of real property pursuant to 10-15-1 (H) (8) NMSA 1978 pertaining to 1808 Lime Street and 1810 Lime Street Properties, and stated no other matters would be discussed. Chairman Diaz seconded the motion which carried following a roll-call vote.

Following the executive session, Commissioner Milo moved to reconvene and announced no matters other than limited personnel matters pursuant to 10-15-1 (H)(2) NMSA 1978 pertaining to the Luna County Manager's Responsibilities and Volunteer Fire Departments and disposal of real property pursuant to 10-15-1 (H) (8) NMSA 1978 pertaining to 1808 Lime Street and 1810 Lime Street Properties were discussed. Chairman Diaz seconded the motion which carried following a roll-call vote.

Commissioner Milo motioned to direct the County Manager to begin discussions regarding the possible transfer of the Lime Street properties with Deming Public Schools and to report back to the Commission during the Regular Meeting in October. Chairman Diaz seconded the motion which carried.

ADJOURN: Chairman Diaz adjourned the meeting at 12:30 p.m.


ATTEST:


ANDREA RODRIGUEZ, CLERK

APPROVED: 09-11-2013



LUNA COUNTY BOARD OF COUNTY COMMISSIONERS


JOE L. MILO, JR., DISTRICT 1


J. JAY SPIVEY, DISTRICT 2


CHAIRMAN R. JAVIER DIAZ, DISTRICT 3