

**MINUTES
REGULAR MEETING
LUNA COUNTY BOARD OF COUNTY COMMISSIONERS
Thursday, October 10, 2019**

BE IT REMEMBERED that the Luna County Board of County Commissioners met in regular session at 10:00 a.m. on Thursday, October 10, 2019 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 David McSherry, Deputy County Manager Byron Hollister, County Attorney Charles C. Kretek, Executive Assistant Laura Garcia, Clerk Andrea Rodriguez, Chief Deputy Clerk Berenda McWright, Deputy Clerk Pilar Salcido, Probate Judge Diana May-Diaz, Assessor Michelle Holguin, Chief Deputy Assessor Isabelle Enciso, Treasurer Gloria Rodriguez, Chief Deputy Treasurer Dora Madrid, Sheriff Kelly Gannaway, Captain Michael Brown, IT Professional Elizabeth El-Bizri, IT Technician James Ozment, Administrative Assistant Debra Seats, Preventionist Teresa Aguilera, LCDC Director Chris Brice, Road Department Director Marty Miller and Budget & Procurement Director/Indigent Claims Administrator Joanne Hethcox.

CALL TO ORDER: Chair Smrkovsky called the meeting to order at 10:00 a.m., and led the Pledge of Allegiance and the salute to the flag of New Mexico.

ROLL CALL: Deputy Clerk Pilar Salcido called roll. The following members of the Board constituting a quorum were present: Commissioner Sweetser was present telephonically up until the Indigent Claims report.

Barbara L. Reedy, District 1

Linda M. Smrkovsky, Chair, District 2

John S. Sweetser, District 3 *(was present telephonically only during a portion of the meeting)*

APPROVAL OF AGENDA: Chair Smrkovsky entertained a motion to approve agenda. Commissioner Reedy moved to approve the agenda as submitted. Commissioner Sweetser seconded the motion which carried unanimously.

MINUTES:

- **Public Hearing – September 19, 2019:** Upon a motion made by Commissioner Reedy and a second by Commissioner Sweetser the Minutes of the September 19, 2019 Public Hearing were unanimously approved.
- **Regular Meeting – September 19, 2019:** Upon a motion made by Commissioner Reedy and a second by Commissioner Sweetser the Minutes of the September 19, 2019 Regular Meeting were unanimously approved.

- **Special Work Session – September 23, 2019:** Upon a motion made by Commissioner Reedy and a second by Commissioner Sweetser the Minutes of the September 23, 2019 Special Work Session were unanimously approved.

SERVICE AWARDS: Parents as Teacher Manager Anna Barraza presented an award for five years of service to Mirna Chairez and Yolanda Ruiz. Lydia Salaiz and Sylvia Baeza from the Detention Center were both presented with a 20 year service award by Captain Lionel Lozano and Director Chris Brice.

ELECTED OFFICIALS REPORTS: Diana May-Diaz reported she has filed 111 probates and has performed 21 marriages to date. Ms. Diaz mentioned it is her goal to help people avoid probate as much as possible and was able to help a gentlemen by using an Affidavit of Successor instead of a probate.

Clerk Andrea Rodriguez reported that a Local Election will be held on November 5th which is the first Local Election held by the clerk's office. Early voting started in the clerk's office on October 8th and will continue until November 2nd. She also mentioned changes to the voter registration process consists of the ability to register the same day you vote. The clerk's office has had 55 voters as of yesterday.

Treasurer Gloria Rodriguez reported all is going well in the treasurer's office, final treasurer report has been e-mailed to the board.

Assessor Michelle Holguin reported the assessor's office has completed all protests for the year, they had a total of 148 protests filed, and out of the 148 filed seven were scheduled for hearings. Only four were heard as three withdrew prior to the hearing.

Sheriff Kelly Gannaway reported the criminal side of the stats are down for the month of September, on the non-criminal side everything is down except for accidents. Sheriff Gannaway introduced Garrett Gigante as the new Court Security Officer.

Chair Smrkovsky reported she went to the New Mexico Counties Legislative Board Meeting in Truth or Consequences. She stated there will be a Rural of New Mexico Broad Band Workshop for Southern New Mexico which will be held on November 13th and is to be held in Truth or Consequences at the Civic Center from 8:30 a.m. to 4:30 p.m. Ms. Smrkovsky also reported on the top four New Mexico Counties Legislative priorities.

COUNTY MANAGER'S REPORT:

- a. **Regular Report:** County Manager David McSherry reported on the following items:
 - Shop With A Cop is in full swing with fundraising, this program provides \$50 gift cards for 350 kids to shop at Walmart. In addition Santa visits kids at preschools and delivers gifts to children paid for by Luna County Shop With A Cop.
 - Declaration of a Natural Disaster: The County is still waiting to hear back from the New Mexico Homeland Security Department as to any action by the State or the Governor. These funds will allow Luna County to apply for aid in repairing roads. The funds will also

aid the Village of Columbus and the New Mexico Border Authority in efforts to abate flooding at the Columbus/Palomias Port of Entry.

- Mr. McSherry attended two meetings regarding proposed flood protection at the Port of Entry. The design of this proposed flood protection was actually funded in 2014. The pending issues preventing construction are right-of-way acquisition and jurisdictional issues. The NMDOT must be involved in the project, as must be the affected landowners, the Village of Columbus, and Luna County.
- Mr. McSherry and Deputy Byron Hollister met with one of the County legislators to discuss the progress of the County Capital Outlay Project and the possibility of delaying expenditures to attempt to leverage State dollars by applying for Community Development Block Grant funding.
- A list of top County ICIP needs is being prepared for inclusion in the Silver Spikes brochure to be used at the group's January visit to the Legislature. This can also serve to educate the public and business community to our needs and our mission.
- Mr. McSherry attended a meeting sponsored by the Southwest New Mexico Council of Governments to collectively, along with Grant County, Catron County, and Hidalgo County, plus all municipalities within those counties, produce a document that somewhat predicts the employment scenario in the Southwest Region over the next 10 years. This serves as a planning tool to support and drive economic development, community planning funding needs for the area. As part of the region, the Deming/Columbus/Luna County area needs to create approximately 1,000 jobs over the next ten years to achieve our desired group vision of how we should look in 2030. This points out the need for collaboration at our local levels and at the regional level, too.
- Mr. McSherry and Commissioner Sweetser attended the migrant shelter tour and award ceremony with Senator Heinrich on October 3rd. Senator Heinrich awarded Chris Brice and nine others a Silver Senate keepsake coin as a thank you for their efforts in the crisis. He also awarded Luna County an American Flag certified to have flown over the Capitol Building. Mr. McSherry would like to see it fly atop the renovated Historic Luna County Courthouse.

b. Restrictive Housing Quarterly Report:

- Detention Director Chris Brice explained that this is the first quarter that the detention center has had to submit the Restrictive Housing Quarterly Report. Mr. Brice reported that the detention center has a unit within it that has gone through various terms over the years and is now referred to as Special Management. The Special Management unit is for people who are very high profile and cannot be out with the rest of the population due to mental health issues, medical issues, suicide watch etc. The term Restrictive Housing only comes into play when an inmate is not out of their cell for more than two hours per day. The new House Bill 364 requires us to list inmates by age and race and give an explanation as to why they were in restricted housing for more than 22 hours per day. Mr. Brice reported that during the period of July 1, 2019 thru September 30, 2019, the Luna County Detention Center had one inmate who met the reporting requirements under New Mexico's Restricted Housing Act's. During the period of July 19, 2019 thru July 23, 2019 an inmate was placed in Restricted Housing due to medical issues, the inmate's surgeon advised the inmate to not shower or have any physical activity during the period of time mentioned. Luna County Detention Center currently does not have anyone on Restricted Housing.

The meeting was recessed and reconvened by Chair Smrkovsky for a five minute break.

Commissioner Reedy requested to have the Directors present their reports in person at the Commissioner's meetings, so that if the Board has questions pertaining to the report, they could ask them directly. She expressed concerns regarding cyber security and the IT Department.

INDIGENT CLAIMS REPORT: Upon a motion by Commissioner Reedy and a second by Chair Smrkovsky, the meeting of the Board of County Commissioners was recessed and the meeting of the Indigent Hospital Claims Board convened. Budget and Procurement Director Joanne Hethcox reported that in August there were 12 claims, six of which, were from the detention center in the amount of \$13,465.94. For the month of September and into our October meeting we have 17 claims, 14 of which are from the detention center in the amount of \$16,198.34. The total gross receipts collected in September was \$50,622.30. The balance in that fund is \$1,077,424.40, of which \$597,681.20, is encumbered for obligations. Commissioner Reedy motioned to bring the August Indigent Claims in the amount of \$13,465.94 off the table for consideration. Chair Smrkovsky seconded that motion which carried. Chair Smrkovsky moved to approve the August Indigent Claims report in the amount of \$13,465.94. Commissioner Reedy seconded the motion which carried. Commissioner Reedy moved to approve the October Indigent Claims report in the amount of \$16,198.34. Chair Smrkovsky seconded the motioned which carried. Commissioner Reedy motioned to recess as a Claims Board and reconvene as a County Commission. Chair Smrkovsky seconded the motion which carried.

PUBLIC COMMENT: Susan Shiffner expressed concerns regarding the disposal of onions by local farmers. She proposed that the Board create an ordinance restricting onion shed businesses from dumping within one mile of an occupied building. Ms. Shiffner explained that one fly lays 500 eggs, 75-150 times which equates to 75,000 eggs. She also mentioned the ordinance would not interfere with the onion shed regular business it would only change their means of disposal. Ms. Shiffner provided pictures to the Board of the fly issues at her home.

Christine Ann Harvey, Executive Director of Deming and Luna County Main Street Program, reported that the 5th Annual Great Pumpkin Candy Drop will be held at John P. Wades Park on October 19th. She also mentioned that Unions Pacific Big Boy 4014 Steam Boat Locomotive will be coming through town. Main Street will be awarded a \$20,000 grant from Union Pacific which will be used to do customized lighting at the Leyendecker Plaza. She also mentioned the Trunk or Treat Event will be held downtown and is expecting attendance of 5,000 to 6,000 people.

John Richmond Director of Chamber of Commerce reported that the next "Hello Thursday" is being held on November 7th from 5-7 p.m. at the Cookie Jar. He stated that Terrazas Funeral Chapel hosted the last event on October 3rd and they provided interesting history on the building. He also reported they are working on their 2020 Chamber Gala which is going to be held on Saturday, January 25th from 5:30 pm to midnight. The theme for the Chamber Gala may be Roaring 20's. On October 15th there will be a Department of Education Learning Lunch that will be held at the Southwestern Regional Education Cooperative in Deming.

PUBLIC HEARING: Ordinance Number 98 Animal Control: Chair Smrkovsky explained the law requires Ordinances to be published for 14 days prior to approval. She announced that the County only published this ordinance for 13 days, so although we can have public hearing regarding this ordinance there will not be any action taken today. County Manager David McSherry asked the

Commissioners to make edits then turn it over to the Manager's Office for publishing so it can be approved in next month's meeting.

Sarah Bottomley brought up some concerns regarding the animal control ordinance. She stated the allowed barking time is excessive, she believes the owner can stop the barking of a dog within five minutes. She also would like to know if she is able to shoot a dog who is attacking her animals and how long would she have to wait to do so. Ms. Bottomley believes when an animal is adopted the shelter should provide a copy of the law. She also asked if a line could added to the law that says that it "must be enforced".

Sandy Foster mentioned she sent the County some concerns and understands the County may have some questions. Ms. Foster spoke against having microchipping as a requirement on all animals adopted or returned to owner from the shelter. She mentioned the shelter already charges \$65 for adoption fees and whatever their charges are for reclaiming ownership which can be from \$20-\$600 depending on occasion, number of dogs and the people. If they had to add \$50 for microchipping she believes they will totally eliminate adoptions. Ms. Foster suggested the ordinance should state "strongly encourage" microchipping.

ORDINANCE: Ordinance Number 98 Animal Control: Commissioner Reedy and Chair Smrkovsky agreed to move this to the November 21st meeting.

CONSENT AGENDA: Upon a motion by Commissioner Reedy and a second by Chair Smrkovsky the following items of the Consent Agenda were approved following a roll call vote.

- a. Accounts Payable: \$1,098,032.19
- b. Payroll: \$1,154,785.72
- c. Oath of Office and Appointment for Court Security Garret Gigante

NEW BUSINESS: Chair Smrkovsky reviewed each item on the New Business Agenda with the Commissioners:

- a. **Resolution 19-51 Budget Increases:** Finance Director Joanne Hethcox explained the two budget increases which included one for the clerk's office to allow for re-spending the money they were reimbursed for elections school. The other one is an increase at the detention center for cost varying through different line items between overtime postage, building repairs, meals, contract services and pre-employment physicals these funds will come from detention center cash reserves. Commissioner Reedy moved to approve Resolution 19-51 Budget Increases. Chair Smrkovsky seconded the motion which carried following a roll call vote.
- b. **Resolution 19-52 Budget Transfers:** Finance Director Joanne Hethcox explained the two budget transfers for this month. One transfer was from field rental payments into the unemployment insurance for Starmax. The unemployment billing for this year was a higher than what was originally budgeted. The second one is for the teen outreach program. Last month they moved money out of professional services and into part-time salaries. That person has left employment and is now a regular contractor so now Ms. Hethcox must reverse those funds. Commissioner Reedy moved to approve Resolution 19-52 Budget Transfers. Chair Smrkovsky seconded the motion which carried following a roll call vote.

- c. Resolution 19-53 NMFA Loan Road Department:** Chair Smrkovsky entertained a motion to approve Resolution 19-53 NMFA Loan Road Department. Ms. Hethcox explained the Commission had previously approved an application for the New Mexico Finance Authority to allow the road department to buy some much needed equipment. The NMFA awarded the loan amount of \$972,550 towards that equipment. Ms. Hethcox stated that she believes the road department will be able to get three out of the five items on the list. The County has pledged to use the gasoline tax for the Road Department to repay the debt. She does not see any problem with getting this paid off within the five years loan period with a very good interest rate. Road Department Director Marty Miller mentioned he really needs to get the tire shredder. He mentioned they cut 2,000 tires a day and are still out of compliance with New Mexico Environmental Department as they are a certified tire recipient. Mr. Miller explained the City of Deming has a tire agreement with Luna County. Commissioner Reedy moved to approve Resolution 19-53 NMFA Loan Road Department. Chair Smrkovsky seconded the motion which carried following a roll call vote.
- d. Domestic Violence Awareness Month Proclamation:** County Manager presented this item explaining October is Domestic Violence Awareness Month. This Proclamation was brought to Luna County by the Healing House, and was also passed on to the City of Deming for consideration. Mr. McSherry recommended approval of this Proclamation in recognition of Domestic Violence Awareness Month. Chair Smrkovsky motioned to approve Domestic Violence Awareness Month Proclamation. Commissioner Reedy seconded the motion which carried unanimously following a roll call vote.

OLD BUSINESS:

- a. Budget Review Committee Appointment:** County Manager David McSherry explained his recommendations for the budget review committee. Mr. McSherry recommended the committee be comprised of the following:
- One member of the Board of County Commissioner
 - County Treasurer or designee
 - County Clerk or designee
 - County Assessor or designee
 - Luna County Sheriff or designee
 - County Manager
 - Deputy County Manager for Administration
 - Budget and Finance Director
 - Detention Center Director
 - County Grant Administrator

The budget review committee will meet at least quarterly. The committee is subject to the provisions of the Open Meetings Act. The purpose of Committee will be to compare budget against actual revenue and expenditures, make recommendations to the Board of County Commissioners, to review initiatives or areas of concern for review and such other functions as directed by the Board of County Commissioners. Commissioner Reedy moved to form a formal budget review committee based on the

ten representatives recommended by the County Manager to meet at least once a quarter or as needed. Chair Smrkovsky seconded the motion which carried following a roll call vote.

- b. Discussion on Migrant Shelter:** County Manager David McSherry mentioned that the City of Deming may need to change the lease agreement to include the entire interior of the building at the Armory, currently they are only able to use the first floor. Mr. McSherry will let the Board of Commission know if there will be some changes to the lease agreement with the City. Mr. McSherry also mentioned that the Las Cruces News Paper wrote that the Border Patrol will no longer drop off asylees, but Immigration Customs Enforcement (ICE) will continue to drop off asylees. Mr. McSherry said although we currently do not have any asylees we need to be prepared at a moments notice to continue with the shelter. Mr. McSherry asked Director Chris Brice if there were to be a large number of immigrant asylum seekers show up in Deming if he would still be able to help with the transport. Mr. Brice agreed to continue to help with transport if the occasion arises. Chair Smrkovsky feels Luna County should take action and send them a notice that the County is going to disconnect PNM or have the City of Deming take over the electric bill going forward at the shelter as they are still receiving funding. Mr. McSherry mentioned that if the City of Deming takes over the lease they also will take over the electric bill. Director Chris Brice mentioned that the original intent of the City of Deming taking over the shelter was because the way it was managed with both the City of Deming and Luna County, it was easier for both, if the City of Deming took the responsibility of the shelter and all funding go to one entity. County Manager David McSherry also mentioned that he along with Chair Smrkovsky and Commissioner Reedy attended the meeting with Representative Small in Las Cruces which was a debrief of the Federal Grant which dealt with the asylum seeker shelter.

EXECUTIVE SESSION: to discuss limited personnel matters pursuant to 10-15-1(H)(2) NMSA 1978 pertaining to the County Manager's Evaluation & Contract to include job description, performance goals, roles and responsibilities, Bargaining Strategy pursuant to Section §10-1-1 (H) (5) NMSA 1978 for Collective Bargaining sessions with AFSCME Local #2061 (LCDC), and Pertaining to Threatened or Pending Litigation pursuant to Section 10-15-1(H)(7) NMSA 1978 pending litigation matters, pending lawsuit Ruiz, Thomas and Najera. Chair Smrkovsky motioned to go into Executive Session to discuss limited personnel matters pursuant to 10-15-1(H)(2) NMSA 1978 pertaining to the County Manager's Evaluation & Contract to include job description, performance goals, roles and responsibilities, Bargaining Strategy pursuant to Section §10-1-1 (H) (5) NMSA 1978 for Collective Bargaining sessions with AFSCME Local #2061 (LCDC), and Pertaining to Threatened or Pending Litigation pursuant to Section 10-15-1(H)(7) NMSA 1978 pending litigation matters, pending lawsuit Ruiz, Thomas and Najera. The motion was seconded by Commissioner Reedy and carried unanimously following a roll call vote. The Commissioners went into Executive Session at 12:18 p.m. and returned from Executive Session at 3:26 p.m.

Chair Smrkovsky motioned to return from Executive Session where no other matters were discussed other than the matters pertaining to discuss limited personnel matters pursuant to 10-15-1(H)(2) NMSA 1978 pertaining to the County Manager's Evaluation & Contract to include job description, performance goals, roles and responsibilities, Bargaining Strategy pursuant to Section §10-1-1 (H) (5) NMSA 1978 for Collective Bargaining sessions with AFSCME Local #2061 (LCDC), and Pertaining

to Threatened or Pending Litigation pursuant to Section 10-15-1(H)(7) NMSA 1978 pending litigation matters, pending lawsuit Ruiz, Thomas and Najera. The motion was seconded by Commissioner Reedy and carried unanimously following a roll call vote.

UPCOMING MEETINGS: Chair Smrkovsky announced the following upcoming meetings and mentioned that a Budget meeting will also be scheduled.

Special Meeting – November 12, 2019 @ 9:00 a.m. /Election Canvassing
Regular Meeting – November 21, 2019 @ 10:00 a.m.

ADJOURN: Upon a motion made by Commissioner Reedy and a second made by Chair Smrkovsky the meeting was adjourned at 3:28 p.m.

ATTEST:



ANDREA RODRIGUEZ, LUNA COUNTY CLERK

LUNA COUNTY BOARD OF COUNTY COMMISSIONERS



BARBARA L. REEDY, DISTRICT 1

APPROVED: 

November 21, 2019



LINDA M. SMRKOVSKY, DISTRICT 2



JOHN S. SWEETSER, DISTRICT 3

