

**MINUTES
REGULAR MEETING
LUNA COUNTY BOARD OF COUNTY
COMMISSIONERS
Thursday, April 08, 2021**

BE IT REMEMBERED that the Luna County Board of County Commissioners met in regular session at 10:00 a.m. on Thursday, April 08, 2021 in the Chambers of the Luna County Courthouse, Deming, New Mexico, for the purpose of conducting any and all business to come properly before the Board. Due to the Covid-19 Pandemic and the Governor's Orders regarding social distancing, the commission meeting was also conducted via teleconference and webcasting with a minimum in attendance from the public and staff.

The following staff and elected officials were present: County Manager Chris Brice, Assistant to the County Manager Yossie Nieblas, IT Technician JT Apodoca, IT Intern Sierra Valdespino, Deputy Clerk Rachel Bishop, Clerk Berenda McWright, Assessor Michelle Holguin, Chief Deputy Assessor Isabelle Enciso, Treasurer Kristie Hobbs, Sheriff Kelly Gannaway, Captain Michael Brown, Road Department Director David Bailey, Community Development Director Premal Patel, County Attorney Charles Kretek, Other directors and elected officials were present virtually.

CALL TO ORDER: Chair Reedy 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 Rachel Bishop called roll. The following members of the Board constituting a quorum were present:

**Barbara L. Reedy, Chair, District 1
Linda M. Smrkovsky, District 2
John S. Sweetser, District 3**

MINUTES: Upon a motion made by Commissioner Smrkovsky and a second by Commissioner Sweetser the Minutes for the Work Session and the Regular Meeting of March 11, 2021, were unanimously approved.

PRESENTATIONS:

- **LCDC Restrictive House Report by Pablo Montoya:** Captain Robert Apodaca from the Luna County Detention Center reported on the LCDC quarterly report from January 1st to March 31st. The Luna County Detention Center had three detainees who met the reporting requirements. A 26-year-old white male who was experiencing continuous seizures was being closely monitored by medical personnel. Medical personnel requested the detainee be kept in the medical cell for observation, and to prevent any further injuries. A 47-year-old white male detainee tested positive for influenza and was quarantined in a cell for ten days. He did have access to a shower and a TV in his cell. A 33-year-old white female detainee was being treated for a condition requiring medications. The medications caused the detainee to

have a variety of side effects. Medical personnel recommended that the detainee remain in her cell and was monitored by medical personnel daily.

American Magnesium Presentation by Carole Ness: Managing Member of American Magnesium Carole Ness Brewka gave an extensive presentation regarding the American Magnesium Foothill Dolomite Mine Project. Ms. Ness provided extensive information and documentation regarding findings of no significant impact.

ELECTED OFFICIALS REPORTS: Assessor Michelle Holguin reported the 2020 tax year has been closed out and the 2021 Notice of Values have been mailed. A total of 62,750 Notice of Values were mailed out. Included in the mailing was an insert explaining the Notice of Values and an explanation that Luna County is now on a yearly reappraisal cycle. Ms. Holguin also reported that the rendering period for all exemptions, limitations, and protests will be until April 30th. They are also doing evaluations for the Property Tax Division which will be quite long this year as an automated system update was done which will now require a lot of data entry.

Clerk Berenda McWright reported the purge of the voter rolls was completed on March 12th. A total of 149 voters were purged. She stated the last time the purge was done there were over 1,000 voters purged which is a significant decrease in purges. Ms. McWright stated that New Mexico participates in the Electronic Registration Information Center (ERIC) which crosses data with other States that also participate in the program. Motor Vehicle Division, Social Security Office, and the U.S. Post Office all cross data on this system. The ERIC system is a big help in cleaning up the voter rolls. New Mexico law required the Secretary of State's (SOS) office to send notice to all voters identified as having possibly moved and have not updated their voter registration. The SOS office sends an address confirmation postcard every August of the even-numbered year to voters who have received returned mail or who have come up on the U.S. Post Office change of address. If an individual comes up in ERIC in another State and registered to vote in another State, their registration can be canceled in this State or, if you did not vote in the last two General Elections and a voter registration update had not been received, and you had returned mail, the voter's registration can be canceled. You will not be canceled only if you did not vote, returned mail would also have to have been received. Ms. McWright also stated they have a resolution on the agenda regarding precinct splits.

Treasurer Kristie Hobbs reported that the second half of property taxes are due by April 10th and considered delinquent after May 10th. She hopes the website will be up and running, since an update on the Triadic server is planned for this weekend. For the month of March, the office collected 1,755 tax payments. They also processed 47 tax releases for 2020, 324 credit card payments and have collected up to date \$9,486,028 for 2020 property taxes. Ms. Hobbs also stated they will be starting some remodeling in their office adding an emergency door.

Sheriff Kelly Gannaway reported on the March statistics. There were no homicides, one rape for the month, assaults are up, and burglaries are up. Larceny vehicle thefts are down, no larcenies and no robberies for the month. The overall criminal totals are down. The non-criminal paper service is down, accidents are down but still a little high. There were no DWI's to report. The total for non-criminals is down. The overall grand totals for the month are down. Sheriff Gannaway reported Lieutenant Interviews will be held next week. New hire interviews are also scheduled. The Sheriff's

office currently has five open deputy positions they need to fill. Deputy Solano and Garcia are still in the academy expecting to graduate in May. Deputy Paredes will be going to the DASO academy in May. The auction is scheduled for May 15th. The Sheriff's office has twelve vehicles included in the auction and may have another six more if DFA approves them before the auction.

Commissioner Smrkovsky reported the Legislative Committee met for New Mexico Counties last week. Ms. Smrkovsky stated this meeting was for establishing the upcoming budget for New Mexico Counties.

COUNTY MANAGER'S REPORT: County Manager Chris Brice reported:

- Dispatch: A total of 5,017/911 calls were received for the month of March, 172 warrants, 34 new protection orders, and 62 city alarm triggers. Still working on the new CAD system and trying to move away from the State system.
- LCDC: A total of 256 people booked and 152 released. The average daily population was 131, which is a little less than what we need to break even. They are working with the Health Department to get inmates vaccinated. A total of 170 inmates have volunteered for the vaccination. We are the intake facility for all Southern New Mexico for Federals which is helping with our numbers, they are isolated right away.
- Road Department: Chair Reedy visited the Road Department. The county received 7,804 tires this month. Mr. Bailey is doing a really good job breaking down where the tires are coming from if anyone would like to see the breakdown it is available. They are working on improving Hermanas, Hermanas Grade, Solana, Ash, Franklin, McCan, Rockhound, Lucca, and Skyview roads. A bid was awarded to DEI for the remainder of the Rockhound Colonias project which begins soon. The Majestic View and the People's Water COOP at Keeler Farms is in front of the Colonia's Board. The problem Mr. Bailey foresees is due to the long delay in processing documents through the State due to Covid and not spending the last Colonias money fast enough, so a waiver was also submitted. They received the final LGRF certifications and are now awaiting approval from NMDOT to begin construction in 2022. They are making roadway improvements for a 38-mile section of HWY 180 and looking to try to widen that road to reduce accidents. They are also working with the railroad in the Uvas Valley on a road crossing.
- Budget and Procurement: The gross receipt taxes received again were higher than expected. Mr. Brice was not sure if that was the residual of the wall because we are looking at February's numbers. We will know soon because of the stoppage of the wall once we get March's numbers we will know if that was the big impact on the GRT. There is a possibility that the Secretary of Homeland Defense and the President may continue with the wall. It would be nice to get people here back to work if that is where our GRT is coming from. The vendor inactivation has been completed which was a hit on the audit with too many stale vendors in the system.
- Human Resources: Two new Detention Officers have been hired. We hired a bartender and a server for Starmax. The Healing House Manager was hired. We still need a Detention Officer, maintenance, and a Sargent at the LCDC. We still need a cook and a bartender for Starmax and we need an advocate for the Healing House. The Sherrif's Office has five

openings. Interviews are being held for the Lieutenant position at the Sherriff's office. The Drug and Alcohol policies are being finalized for non-CDLs.

- Starmax: The sales for the month of March are \$7,438.00.
- Emergency Management: Currently the Covid spread is 2.95% which is down from 3.31% at the beginning of February. Unfortunately, we are still in yellow but trending in the right direction. If you look at the map, almost every County on I-10 is still yellow where all other areas are going to turquoise and green so that has to have something to do with it. Phillip and I both cautiously monitoring the border situation. Right now everybody that comes across through any of the three southern ports of entry under the Migrant Protection Protocols (MPP) program, which is 150 allowed daily, go straight to the Annunciation House. A total of 46.1% of the population has had at least one Covid shot and 8,631 vaccines have been administered. Everyone over the age of 16 in Phase two is eligible to get vaccinated. New Mexico is number one in the Country for the roll-out of vaccinations. Fort Bliss did open an emergency shelter it can hold about 5,000 children. They have not had to use it yet but it is ready to go in the event they need to.
- Safety Management: Safety Program Coordinator Joann Moorman continues to do Covid-19 tracking and reporting for all County employees. She is also managing RAP and the Road Ready training is ongoing, to date, 30% of employees have completed the training. Joann is also working on the panic alarm system. Yossie is doing work at the healing house. Some of the Healing House panic buttons do not work so we are going back through and looking at all that stuff.
- Luna County Volunteer Fire Department: They responded to three structure fires and nine brush fires. Six members completed wildland S265, S130 & 190 training.
- DWI: They are tracking 92 misdemeanor DWI offenders. The teen court program has 18 participants via phone and e-mail. They have nine attendees in the outpatient treatment program.
- Community Health and Well Being: Jen Millis is hired as the Program Manager at the Healing House. Her resume is phenomenal and she is a perfect fit. She has a ton of counseling training. CASA is currently serving 44 kids in Luna, Hidalgo, and Grant Counties. Parent as Teachers won the Deming/Luna County Chamber of Commerce free membership. They are currently serving 162 clients in Luna and Hidalgo Counties. They did 324 home visits and distributed 240 food boxes. We are doing another food box run today including the maintenance department and Cesar Chavez Charter School.
- We are waiting on the Governor to sign the Capital Outlay of \$500,000 to remodel and get DWI in their own office and out of the basement, \$500,000 for the road department and waste management for roll off vehicles, and \$1,000,000 for the Healing House. We are also looking at various avenues on what we want to do with that.
- Economic Development: Christy Ann Harvey has been doing a million things. She is working with Wilson & Company on some road work they designed some time ago in the industrial park area. Two Senators are asking for Capital projects because earmarks have been approved again through the Federal Legislator so they are looking for projects preferably shovel-ready projects they can take and earmark for us in the next spending bill. So, we are looking at maybe doing the road project in that area. We are still trying to move forward with the flooding diversion berm in Columbus. We are working on the Hoover Hotel and looking

to see if the Village could buy it and refurbish it and turn it back into a historic site for visitor overnight stays. We are also working with a gentleman who wants to put a 388-acre quail preserve north of town which will eventually turn into training hunting dogs and doing competitions. We have been talking to people from a very large sound company that is looking to purchase land south of town and set up some speaker testing and microphone systems. We are moving full speed ahead with Starmax. Premal met with a bunch of skaters to get their ideas on what they would like to see at the new skate park. Batting cages are still on track to be set up. Designers are looking at the train depot on how that would work as both a dance and sports bar so we can get the older drinking crowd out of the family entertainment side of Starmax. Were also looking at an outdoor seating area. The apartment complex is still on track and a meeting is scheduled for Friday.

Commissioner Smrkovsky asked if funding for the batting cages has been approved. Mr. Brice stated it had been received. Ms. Smrkovsky also asked with the recreational marijuana bill signed and in that bill what was taken out was the ability for City and County.

INDIGENT CLAIMS REPORT: Upon a motion by Commissioner Sweetser and a second by Commissioner Smrkovsky, the meeting of the Board of County Commissioners was unanimously recessed and the meeting of the Indigent Hospital Claims Board convened.

Mr. Brice reported two claims for the month of March. The total expenditures for the month of March was \$782.93 to the Mimbres Memorial Hospital. The year to date total to Mimbres Memorial Hospital was \$20,862.82 and \$969.00 for other services with a total of year to date expenses being \$21,831.82. The total for care of prisoners this month was \$342,224.09. The balance for the Indigent Claims Fund totaled \$1,669,624.47, of that \$260,046.77 is encumbered. Commissioner Smrkovsky motioned to approve the Indigent Claims Report as presented. Commissioner Sweetser seconded the motion which carried unanimously.

Commissioner Smrkovsky motioned to recess as a Claims Board and reconvene as a County Commission. Commissioner Sweetser seconded the motion which carried unanimously.

PUBLIC COMMENT: Chair Reedy opened the floor to public comment. Leslie Bronkin went before the board to express her support of American Magnesium mining in Deming.

Jackie Nobles with Friends of the Floridas went before the board to express her environmental concerns for the Florida Mountains if American Magnesium is allowed to mine magnesium at that location.

Pam Stack went before the board to express her concern about the increased truck traffic if the mine opens.

Richard Manning went before the board to express his support of American Magnesium mining at the Florida Mountains.

Alberta Morgan went before the board to express her concerns about the water usage if mining is allowed during the current severe water drought.

Paul Holyen went before the board to express his support of American Magnesium doing business in Deming.

Commissioner Smrkovsky asked Ms. Brewka from American Magnesium if the billion-ton deposit pertains to the pods. Ms. Brewka explained there are two foothills, one of the foothills has been permitted and the other one will be permitted after the start of the project. They will be starting the small foothill to begin the project which should last about 20 years. Most of the tonnage is in the bigger foothill which will require a full-blown assessment by EIS. The pods are part of the mill, one pod will produce 30,000 tons of magnesium product a year which would require 340 employees per pod per module for the milling. The mining would take 20 employees and 25 as drivers. Ms. Brewka also stated that when the Palomas Port of Entry was enlarged the Federal Government did have a piece of finding a way to get the trucks from Palomas to I-10. Mr. Brice stated there have been numerous studies done to get to I-10 without having to use Gold Street. Ms. Brewka explained whatever the route determined that would be the route used for this project. This would be a State, County, and Federal partnership. Ms. Smrkovsky asked if there are agreements with the City of Deming yet. Ms. Brewka explained they have not agreed with the City yet.

Public Hearing:

- a. Ordinance 101: Procedure for accepting donations of real property; to establish procedures and controls for donated property.** Community Development Director Premal Patel explained the ordinance is for the donation of real property. This establishes internal controls for the County on accepting donated property. The two main obstacles in donating property are that taxes are to be paid in full and there will not be partial ownership. What they wanted to do on procedures on a department level if they do not meet those criteria they will still keep the spreadsheets so they can keep track of ownerships as things go on. This is one of many ordinances which are being planned on helping free up the infamous Deming Ranchettes to start activating them to produce taxes. Commissioner Sweetser commented that “if the taxes have not been paid for a long time, going forward what is going to change.” Mr. Patel explained that if they start with this they are hoping for different scenarios with the donations. He stated that they may pay taxes then donate it to get rid of the property. We currently have four potential donators, and we are hoping to reactivate them by re-platting them or doing something that can be more useful as a property. Commissioner Smrkovsky asked if we can sell these properties to businesses. Mr. Patel explained that it would be possible and that the plan is to create a better economic future. Commissioner Smrkovsky motioned to approve Ordinance 101: Procedure for accepting donations of real property; to establish procedures and controls for donated property. Commissioner Sweetser seconded the motion which carried unanimously following a roll call vote. Chair Reedy opened the floor for public comment and there was none.
- b. Ordinance 102: Schedule of Fees; to repeal all fees established in the Luna County Code of Ordinances and establish by yearly resolution “Schedule of Fees”.** Mr. Patel explained that this ordinance is a reference to a new resolution which will be worked on later directing them to a resolution of fees. We are repealing all pertinent fees within the ordinances. As we start working on the ordinances the fees will be adopted by resolution every year. Chair Reedy opened the floor for public comment. Alberta Morgan commented that this ordinance will make changes to fees changes easy. Commissioner Smrkovsky motioned to approve Ordinance 102: Schedule of Fees; to repeal all fees established in the Luna County Code of Ordinances and establish by yearly resolution

“Schedule of Fees”. Commissioner Sweetser seconded the motion which carried unanimously following a roll call vote.

- c. Ordinance 103: Procedure for tax sale property Emancipation; Establishing internal procedures and plan to free land in long term tax delinquencies.** Mr. Patel explained that this ordinance is one of a few different ordinances created due to the 14,500 tax delinquencies and an effort to release these taxes. Commissioner Smrkovsky commented that she has wanted this for a long time and it could be beneficial to Luna County and potential businesses. Chair Reedy opened the floor for public comment. Alberta Morgan commented that this ordinance needs to be done as the State has control of a lot of these properties but they are not controlling them. Mr. Brice stated that a conference call was held with Santiago from NMC who is now the head of tax and revenue for the State. Mr. Brice stated that Mr. Santiago applauded our enthusiasm on how to get rid of these properties. The fact is that donated properties have to have the taxes paid up to date. Anything in arrears in taxes belongs to the State Taxation and Revenue Department. The State is willing to turn those properties over to us as long as the taxes are paid up to date. Mr. Santiago would like us to get with our Representatives and Senators and create Legislation for next year that allow the State after the second attempt to sell properties with no buyer. The County could then step in and purchase those properties. Legislation has already passed that properties can be sold at a lesser amount of the taxes due. What we are looking to do is purchase those properties that the public has no interest in. Commissioner Sweetser asked how the assessments are being handled for levies on these properties. Mr. Brice responded that if the County buys the properties then the levies will go away and if the property is re-sold the levies would no longer be applicable. Commissioner Smrkovsky asked that the Commission be kept informed when these transactions do take place. Mr. Brice took notice of the request. Commissioner Smrkovsky motioned to approve Ordinance 103: Procedure for tax sales property Emancipation; Establishing internal procedures and plan to free land in long term tax delinquencies. Commissioner Sweetser seconded the motion which carried following a roll call vote.

CONSENT AGENDA: Upon a motion from Commissioner Smrkovsky, and a second by Commissioner Sweetser the Consent Agenda was approved as submitted following a roll call vote.

- a. Accounts Payable: \$1,480,968.77
- b. Payroll: \$1,061,769.32

NEW BUSINESS:

- a. **Proclamation 21-03: May as Motorcycle Awareness Month.** Chair Reedy read Proclamation 21-03: May as Motorcycle Awareness Month to all present. Commissioner Smrkovsky motioned to approve Proclamation 21-03 Proclaiming May as Motorcycle Awareness Month. The motion was seconded by Commissioner Sweetser and approved unanimously following a roll call vote.
- b. **Resolution 21-29: Approving the Luna County Policy Governing Capital Assets:** Mr. Brice explained NMAC stands for the New Mexico Administrative Code. Commissioner Smrkovsky motioned to approve Resolution 21-29: Approving the Luna

County Policy Governing Capital Assets: The motion was seconded by Commissioner Sweetser and carried unanimously following a roll call vote.

- c. **Resolution 21-30 Budget Increase:** Mr. Brice explained some grant monies were received which in turn budgets had to be increased. Commissioner Sweetser motioned to approve Resolution 21-30 Budget Increase. The motion was seconded by Commissioner Smrkovsky and carried unanimously following a roll call vote.
- d. **Resolution 21-31 Budget Transfers:** Mr. Brice explained most of the transfers are to clean up line items. Commissioner Smrkovsky motioned to approve Resolution 21-31 Budget Transfers. The motion was seconded by Commissioner Sweetser and carried unanimously following a roll call vote.
- e. **Resolution 21-32: Adjusting Precinct Boundaries and Creating A New Precinct in Luna County:** Clerk Berenda McWright explained that State Statute requires the Secretary of State's Office to adjust all precinct boundaries before each Census. The rule is if any precinct has over 750 votes or if the population is 2,500 or more it must be split. A total of 801 votes were cast in Precinct 3 during the General Election. The SOS hired Research and Polling to look at our maps and determine the best course of action. Precinct 3 was split and a new precinct number 18 was created which made Precinct 3 smaller. County Attorney Charles Kretek confirmed no changes were made to the district both Precinct 3 and Precinct 18 are currently in District 2. Commissioner Smrkovsky motioned to approve Resolution 21-32; Adjusting Precinct Boundaries and Creating a New Precinct in Luna County. Commissioner Sweetser seconded the motion which carried unanimously following a roll call vote.
- f. **Resolution 21-33: Disposal of Assets:** Commissioner Sweetser asked if the vehicles from the Sunshine Volunteer Fire Department are being disposed of. Mr. Brice confirmed many vehicles at the Sunshine Fire Department have been removed. Commissioner Smrkovsky asked if the items being auctioned that are valued at over \$5,000 are on the inventory list until they are auctioned. Mr. Brice confirmed they are still on inventory until sold. That is why we have to wait for approval of what will be auctioned so that they can be removed from inventory. Commissioner Smrkovsky motioned to approve Resolution 21-33 Disposal of Assets. The motion was seconded by Commissioner Sweetser and carried unanimously following a roll call vote.

EXECUTIVE SESSION:

Executive Session pursuant to Section 10-15-1H(7) NMSA 1978 - discussion subject to attorney-client privilege pertaining to threatened or pending litigation in which Luna County is or may become a participant (McSherry, Hollister, TRD. Opioid, Thomas, Najera, Valencia Ruiz, Aguirre, Punchall, Schmal, Caouette); AND Section 10-1H(5) NMSA 1978 to discuss bargaining strategy for collective bargaining sessions with AFSCME Local #1764 (LCSO) and AFSCME Local #2061 (LCDC). Commissioner Smrkovsky motioned to go into Executive Session pursuant to Section 10-15-1H(7) NMSA 1978 - for the purpose of discussing subject to attorney-client privilege pertaining to threatened or pending litigation in which Luna County is or may become a participant (McSherry, Hollister, TRD. Opioid, Thomas, Najera, Valencia, Ruiz, Aguirre, Punchall, Schmal, Caouette); AND Section 10-1H(5) NMSA 1978 to discuss bargaining strategy for collective

bargaining sessions with AFSCME Local #1764 (LCSO) and AFSCME Local #2061 (LCDC). The motion was seconded by Commissioner Sweetser and carried unanimously following a roll call vote.

Commissioner Smrkovsky moved to return from Executive Session pursuant to Section 10-15-1H(7) NMSA 1978 – for the purpose of discussing subject to attorney-client privilege pertaining to threatened or pending litigation in which Luna County is or may become a participant (McSherry, Hollister, TRD. Opioid, Thomas, Najera, Valencia, Ruiz, Aguirre, Punchall, Schmal, Caouette); AND Section 10-1H(5) NMSA 1978 to discuss bargaining strategy for collective bargaining sessions with AFSCME Local #1764 (LCSO) and AFSCME Local #2061 (LCDC). The motion was seconded by Commissioner Sweetser and carried unanimously following a roll call vote.

The Commissioners went into Executive Session at 12:09 p.m. and returned from Executive Session at 1:22 p.m.

ACTION TAKEN:

- a. Collective Bargaining Agreement for LCDC – AFSCME #2061: Commissioner Smrkovsky motioned to approve collective bargaining agreement for LCDC-AFSCME #2061. Commissioner Sweetser seconded the motion which carried unanimously following a roll call vote.
- b. Collective Bargaining Agreement for LCSO – AFSCME #1764
No decision was made for this agreement.

UPCOMING MEETINGS: Chair Reedy announced the following upcoming meetings:

- Work Session Budget Discussion– April 21, 2021 @ 9:00 a.m.
- Regular Commission Meeting – May 13, 2021 @ 10:00 a.m.

ADJOURN: The meeting was adjourned by Chair Reedy at 1:29 p.m.

ATTEST:

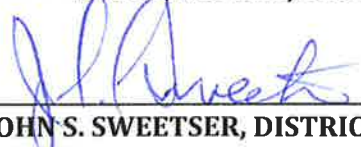
LUNA COUNTY BOARD OF COUNTY COMMISSIONERS


BERENDA MCWRIGHT, LUNA COUNTY CLERK


CHAIR BARBARA L. REEDY, DISTRICT 1

APPROVED: 5-13-21


LINDA M. SMRKOVSKY, DISTRICT 2


JOHN S. SWEETSER, DISTRICT 3

