

**MINUTES
REGULAR MEETING
LUNA COUNTY BOARD OF COUNTY COMMISSIONERS
Thursday, February 9, 2012**

BE IT REMEMBERED that the Luna County Board of County Commissioners met in regular session at 9:00 a.m. on Thursday, February 9, 2012, 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 members of the Board were present:

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

Also present were the following staff and elected officials:

Kelly Kuentler, County Manager	Glory Johnson, Assistant to the County Manager
Karen Smyer, County Clerk	Rheganne Vaughn, Director Cmty Health & Welfare
Natalie Pacheco, Chief Deputy Clerk	Jessica Johnson, Program Administrator
Dora Madrid, Treasurer	Joanne Hethcox, Budget & Procurement Director
Gloria Rodriguez, Chief Deputy Treasurer	Billy Ruiz, Project Manager –Building Official
Delilah Rojo, Assessor	Robert Orosco, Maintenance Superintendent
Barbara Cobos, Chief Deputy Assessor	Erik Bencomo, Maintenance Technician
Marty Miller, Road Superintendent	Mark Jasso, Emergency Services Director

CALL TO ORDER: Chairman Spivey called the meeting to order at 9:00 a.m. and led the Pledge of Allegiance and the salute to the flag of the State of New Mexico.

ROLL CALL: County Clerk Karen Smyer called roll. All three commissioners were present.

PRESENTATIONS:

- a. **Zia Engineering – Wastewater Management Plan for a Portion of Luna County:** A. K. Khera and Aaron Kelly Fort of Zia Engineering presented a wastewater management plan to the Board. The stated purpose of the plan is: to evaluate wastewater treatment and disposal issues within a designated planning area; address existing approved platted lots that do not comply with size requirements; provide a road map for the county to plan for community wastewater infrastructure in highly vulnerable areas; develop regulations and ordinances commensurate with state regulations; and to provide an order of magnitude. The designated planning area is within the Deming ETZ boundary which has historically higher growth than the remainder of the county. Additionally, the area consists of a large number of platted approved lots, many of which are non-complying. The planning period is twenty years spanning from 2011 to 2031. Mr. Khera described and defined the characteristics of each

subarea. He said areas of higher population density are more problematic due to the number of septic and water wells contained therein creating a greater vulnerability of groundwater contamination. Mr. Khera proposed certain solutions and gave cost estimates for implementation. Mr. Khera recommended initiation of dialog with the City of Deming regarding hooking up to the city system; undertaking a comprehensive sampling and monitoring program to seek conclusive evidence of nitrates; undertaking inventory of vacant platted and approved lots in the planning area with ownership information; reviewing Luna County regulations and ordinances; seeking state and federal funding for a groundwater sampling; and preparing a preliminary engineering report for a community wastewater collection and treatment system. Mr. Khera and Mr. Fort answered questions posed by the commissioners and by members of the public.

- b. SolarReserve - Presentation by Adam Green, Senior Development Manager (not on the agenda):** Adam Green provided information regarding potential development of a power plant 25 miles southeast of Deming in Luna County on private agricultural land and one section of state land. He described the technology behind concentrated solar power (CSP) and photovoltaic (PV) projects and presented a schematic of how the technology works involving heliostats (mirrors). He said because the technology allows collection of energy around the clock it is a solar industry "game changer." Mr. Green stated SolarReserve would only build a plan after they receive a long term contract for one hundred percent of the output to eliminate risk. While the local markets may be PNM and El Paso Electric, the main market is California. SolarReserve's objective is to reach an agreement with Luna County and the City of Deming that would both benefit the community and facilitate solar development. Mr. Green stated SolarReserve is interested in purchasing or entering into a long term lease agreement for the water rights of Sunnyside and Murdock farms and would be willing to pay above-the-market prices for those rights. Mr. Green said the foremost benefit to the community of such a project would be the creation of about 250 jobs over a thirty month period. He added that SolarReserve is committed to hiring locally and would employ 50 full-time employees year-around. He also said the project would support existing businesses such as hotels and restaurants and tax revenue would go to the local jurisdiction. Mr. Green stated the project could be in operation optimistically by 2015. A number of concerns were voiced by the audience including depletion of limited water resources.

SERVICE AWARDS: Service awards were presented to Lynn Mesa of Dispatch for five years of service; Erik Bencomo of Maintenance for five years of service; Joanne Hethcox of the Manager's Department for ten years of service. Rosendo Solis was acknowledged in absentia for five years of service in the Road Department.

ANNOUNCEMENTS: Commissioner Diaz announced he will hold a forum in Columbus at 6:00 p.m. this evening.

ELECTED OFFICIALS REPORT: County Clerk Karen Smyer announced her office and the offices of the municipal clerks have certified and sealed early/absentee voting machines for use in the March 6 Municipal Elections. She also noted early voting begins February 15th in the offices of the municipal clerks.

COUNTY MANAGER'S REPORT: County Manager Kelly Kuenstler reported as follows:

- She has asked Barbara Borden to do a presentation on the Senior Citizens' Center during the March meeting.
- She recognized Jessica Johnson with the Keep Luna County Beautiful program for having received a grant award in the amount of \$45,000 for three sets of roll-offs.
- StarMax paid their first month's rent for January.
- Mark Jasso is the new Emergency Management Director and the position has been expanded to include emergency and risk management, volunteer fire departments and dispatch.
- The US/Mexico Border Counties Coalition is working on federal legislation to amend the highway bill. They are looking at a formula which will include all roads within ten miles of the border which may make Luna County eligible for 85.5 miles of road improvement funding.
- The commission can appoint a committee for oversight of natural resources planning in connection with Ordinance #26. A public service announcement went out seeking community participation and she received responses from Kevin Speer, Russ Howell, Tom Roy Perez and Totsie Slover. She stated a committee consisting of up to nine people would be manageable. It was her request that the commission appoint those four people by means of a resolution. Phillip Butz expressed interest in serving on the committee.
- A public service announcement was sent out asking for community participation on a committee to review the county comprehensive plan, develop goals and strategies and formulate a vision statement for the county. She asked that the commissioners appoint two members and allow her to appoint two members. The committee will be led by Gabe Boyle. She received a letter of interest from Dave Petersen and Mr. Scharf verbally expressed interest.
- She suggested a work session or special meeting be held in Columbus.
- Ms. Kuentler provided an explanation of each item under the New Business portion of the agenda.

BREAK: Chairman Spivey called for a break at 11:15 and reconvened the meeting shortly thereafter.

CONSIDER MINUTES:

- Regular Meeting – Thursday, January 12, 2012:** Commissioner Diaz moved to approve the minutes of the Regular Meeting of January 12, 2012. Commissioner Milo seconded the motion and the minutes were unanimously approved.
- Special Meeting – Monday, January 30, 2012:** Upon motion of Commissioner Milo, seconded by Commissioner Diaz, the minutes of the Special Meeting of January 30, 2012 were unanimously approved.

CONSENT AGENDA:

- Payroll - \$955,966.35.** Upon motion of Commissioner Diaz, seconded by Commissioner Milo, payroll registers totaling \$955,966.35 were unanimously approved.
- Accounts Payable - \$1,011,939.53.** Upon motion of Commissioner Diaz, seconded by Commissioner Milo, accounts payable registers in the amount of \$1,011,939.53 were unanimously approved.

PUBLIC HEARING: Ordinance #81 Flood Damage Prevention. Chairman Spivey called for public participation on proposed Ordinance #81. Phillip Butz introduced himself to the Board as a certified
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floodplain manager and emphasized the importance of county participation with the New Mexico Flood Insurance Program. Mr. Butz offered a guideline for adopting ordinances to the board and urged that proper procedures be followed and that federal regulations be met. Mr. Butz invited the Board to attend a conference to be held in Socorro March 13 through 16. He urged the commission to review informational materials he put together at the time he was employed as County Planner. In response to a question from Edward Khanbajian, Ms. Kuentler advised that the ordinance, if adopted, will be repealable. Gabriel Boyle explained that existing permitted dwellings would have to comply with standards in place at the time they were permitted and there would be no need for reapplication. Permit applicants will have to comply with the new standards upon adoption of the proposed ordinance. In response to Leslie Bronken's question, Chairman Spivey advised that an owner, in the event their property was destroyed by flooding, would be required to build up their property to conform to elevation changes.

PUBLIC COMMENT: Chairman Spivey opened the floor to public comment regarding items on the New Business Agenda. John Costello commended the county for providing a public service announcement in the newspaper regarding mobile home stickers. Ann Shine Ring asked that something be done to improve the acoustics in the room as she was having trouble hearing the proceedings. Chairman Spivey said the issue is being addressed. Joe Moreland reiterated the acoustics issue and provided his opinion on the pay scale. He also urged competition in the upcoming elections in Commission District 3. Edward Khanbajian commented that the presentation made by SolarReserve was not on the agenda and objected to the way the agenda was being managed. Phillip Butz spoke in favor of an update to the county comprehensive plan and urged compliance with Ordinance 26. He reminded the Board of his initial request in this regard over a year ago. He favored appointment of a citizen review board to update the plan and said he would be interested in serving on the board. Fred Tiedge urged the Board to discontinue the Luna County youth recreational facility project. Dave Petersen stated his opposition to the youth recreational facility project based on the lack of a large enough population of county youth in need of such a facility.

OLD BUSINESS: Application for Addition to the County Road Maintenance System. Road Superintendent Marty Miller reported that each commissioner inspected Mojave Road SE for possible addition to the county maintenance system. It was Mr. Miller's recommendation that the application be rejected because the road does not meet minimum county standards. He stated the applicants have one year to bring it up to standards by constructing a bar ditch and bringing in some fill at which time it can be reconsidered. Chairman Spivey requested that Mr. Miller contact the applicant (Jerry Leming) to encourage him to follow the necessary steps to have the road accepted onto the county system. Commissioner Diaz noted the road is private and the landowners must bear the cost to make it acceptable. Commissioner Diaz moved to deny the application. Commissioner Milo seconded the motion which unanimously carried.

NEW BUSINESS:

- a. **Resolution 12-16 Budget Increase:** Commissioner Diaz moved to approve budget increases documented in Resolution 12-16. Commissioner Milo seconded the motion which unanimously carried following a roll call vote.
- b. **Resolution 12-17 Budget Transfer:** Ms. Kuentler said she deleted the transfer from the detention center from the resolution. Commissioner Milo moved to approve the budget

transfers documented in Resolution 12-17 with the exception of the transfer from the detention center. Commissioner Diaz seconded the motion which unanimously carried following a roll call vote.

- c. **RFP #100-06 Award – All Hazard Emergency Operations Plan:** Upon recommendation of the evaluation committee, Commissioner Diaz moved to award RFP #100-06 to B-Sting Ventures, LLC. Commissioner Milo seconded the motion which unanimously carried.
- d. **Bid Award #FY 100- 02:** Upon motion of Commissioner Diaz, seconded by Chairman Spivey, Bid #FY 100-02 for construction of rain gutters at the judicial complex was unanimously approved.
- e. **Interdepartmental Transfer of County Vehicles (Transfer from Assessor to Manager a 2008 Ford Escape VIN #1FMCU02Z88KE00820 and transfer from Manager to Healing House a 2008 Ford Fusion VIN #3FAHP08178R264023):** Commissioner Milo moved to approve the interdepartmental transfer of county vehicles. Commissioner Diaz seconded the motion which carried unanimously.
- f. **Request for Sole Community Hospital Provider Payment Agreement (Request from Mimbres Memorial Hospital for \$2,280,873 for July 1, 2012 through June 30, 2013):** Commissioner Diaz moved to approve the payment agreement for the requested Sole Community Hospital Provider funds. Commissioner Milo seconded the motion which unanimously carried.
- g. **Luna County Youth Recreational Facility-Estimate of Probable Construction Cost:** Commissioner Milo believed the project could overrun available funding and may end up costing over a million dollars. Based on current economic conditions he stated he could no longer support the project. Commissioner Diaz said he could no longer support the project due to the cost involved. Chairman Spivey asked staff to explore other less costly avenues to provide opportunities for youth. He said he did not want to give up on the project but felt it was not the thing to do at the present time. Ms. Kuentler commended county staff for the work done on this project to date. She advised that staff have considered alternatives in the event the Board chooses to return the \$400,000 HUD funds. She added that \$278,000 in state funds remain available and the Board could consider doing this project in a different location. She stated she did not believe the project to be viable at this time. Commissioner Diaz moved that the County of Luna return \$399,340 to the Housing and Urban Development Department and request staff to look for alternative locations for the project using \$278,000 in state funds. Commissioner Milo seconded the motion which unanimously carried.

ORDINANCES:

- a. **Ordinance #81 Flood Damage Prevention:** Upon motion of Commissioner Diaz, seconded by Commissioner Milo, following a roll call vote, Ordinance #81 was unanimously adopted.

EXECUTIVE SESSION: Chairman Spivey called for a motion to convene an executive session to discuss the disposal of real property and water rights pursuant to Section 10-15-1(H)(8) NMSA 1978 pertaining to 110 North Gold and 600 acres of land and water rights near Columbus, New Mexico. He also stated no

other items would be discussed. Commissioner Diaz made a motion to go into executive session to discuss the disposal of real property and water rights pursuant to 10-15-1(H)(8) NMSA 1978 pertaining to 110 North Gold and 600 acres of land and water rights near Columbus, New Mexico and that no other matters will be discussed. Commissioner Milo seconded the motion which carried unanimously following a roll call vote. Commissioner Diaz moved to reconvene the regular session and announced no matters other than those stated in the motion for executive session were discussed. Commissioner Milo seconded the motion which carried unanimously. Commissioner Diaz moved to deny the request for the renting of Sunnyside Farms water rights. Commissioner Milo seconded the motion which carried unanimously. Commissioner Diaz moved to reject the offer of Gerald W. Billings, Jr., to purchase the property known as Western Furniture at 110 North Gold. Commissioner Milo seconded the motion which unanimously carried.

ANNOUNCE NEXT MEETING: March 8, 2012, at 9:00 a.m. Chairman Spivey announced there will not be a workshop held in March.

ADJOURN: Chairman Spivey adjourned the meeting at 12:42 p.m.

ATTEST:

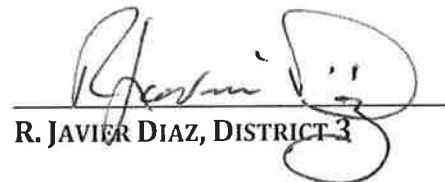
LUNA COUNTY BOARD OF
COUNTY COMMISSIONERS


KAREN SMYER, LUNA COUNTY CLERK

ABSENT
JOE L. MILO, JR., DISTRICT 1

APPROVED: March 8, 2012


CHAIRMAN J. JAY SPIVEY, DISTRICT 2


R. JAVIER DIAZ, DISTRICT 3

