

**MINUTES
REGULAR MEETING
LUNA COUNTY BOARD OF COUNTY COMMISSIONERS
Tuesday, July 10, 2012**

BE IT REMEMBERED that the Luna County Board of County Commissioners met in regular session at 9:00 a.m. on Tuesday, July 10, 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 staff and elected officials were present:

Kelly Kuentler, County Manager
Glory Johnson, County Manager's Office
Karen Smyer, County Clerk
Natalie Pacheco, Chief Deputy County Clerk
Andrea Rodriguez, Clerk's Office
JoAnna Z. Zurinsky, Clerk's Office
Dora Madrid, Treasurer
Gloria Rodriguez, Chief Deputy Treasurer
Patricia 'Pepi' Garcia, Treasurer's Office
Linda Smrkovsky, Economic Development
Raymond Cobos, Sheriff
Arturo Baeza, Sheriff's Department
Steven Gallegos, Sheriff's Department
Delilah Rojo, Assessor

Barbara Cobos, Chief Deputy Assessor
Matthew Elwell, Detention Administrator
Yolanda Edwards, Detention Center
Lucio Caballero, Detention Center
Betty Quiroz, Detention Center
Danny Gonzales, County Manager's Office
Joanne C. Hethcox, County Manager's Office
Rheganne Vaughn, County Manager's Office
Katherine Smyer, DWI
Gabriel Boyle, Planning Director
Jessica Johnson, Keep Luna County Beautiful
Darwin Williams, Chief, Sunshine Volunteer Fire Department

CALL TO ORDER: Chairman Spivey called the meeting to order at 9:05 a.m. and Victor Holguin 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. The following members of the Board constituting a quorum were present:

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

SERVICE AWARDS: Detention Administrator Matthew Elwell presented detention center employees Yolanda Edwards (20 years), Lucio Caballero (10 years) and Betty Quiroz (5 years) with Luna County

award pins. Treasurer Dora Madrid presented Patricia 'Pepi' Garcia with a Luna County 10-year award pin. Sheriff Raymond Cobos presented Sergeant Steven Gallegos with a Luna County 10-year award pin. Sheriff Cobos reported that Corporal Jose Ojeda was absent and his 5-year service award pin will be awarded at a later date.

PUBLIC HEARING: Chairman Spivey opened a Public Hearing for Ordinance Number 83 Authorizing the Issuance and Sale of Luna County Taxable Industrial Revenue Bonds- Macho Springs Solar Project. Ann Shine-Ring addressed the board with her comments and concerns about the project including whether the county is setting a precedent, whether there is a policy in place, what is in it for the county long-range, and whether the county could make more money on the project. Ms. Shine-Ring also inquired as to the number of jobs created and whether apprenticeships are offered for the benefit of the local workforce. The County Manager introduced Bonnie Paisley, bond counsel for the county. Gabe Boyle, Luna County Planning Director, advised that the Comprehensive Plan is currently under revision and upon completion will address policy. Each commissioner expressed his opinion that the project would enhance the county's economy to the benefit of the citizens. John Knight with Element Power described employment opportunities for locals and stated the ultimate goal is to train local individuals to ensure safe operation of the project. Fred Williams expressed his belief that there was inadequate opportunity for public input and was dissatisfied that a vote would be taken on the ordinance immediately following the public hearing. Dave Petersen expressed his opinion that the public was adequately notified. Mr. Petersen believed the project would bring money to the county and further stated this belief that the unemployment rate will remain unchanged for local citizens due to their own choices. Mr. Petersen inquired about project reclamation requirements. John Knight explained reclamation requirements contained in the lease agreements with the landowners and stated reclamation language is required in the revenue bonds as well. Ron Scharf believed more than one public hearing should be held before action is taken on the ordinance. Commissioner Diaz stated the inducement for the project was started two months ago, and opportunities for the public to address their concerns were adequate. Commissioner Milo also believed there was ample opportunity for public input. Ann Shine-Ring suggested that fliers be distributed throughout the community to help promote public awareness for the benefit of those who do not have access to computers. Chairman Spivey asked Bonnie Paisley about liability with the bonds. Bonnie Paisley quoted from the bond documents that there is no indebtedness on the part of the county and the bonds are payable by Element Power. Chairman Spivey called for additional public comment, however, none was forthcoming and the public hearing was concluded.

CONSIDERATION OF ORDINANCE AND SUPPORTING DOCUMENTATION: Commissioner Diaz moved approval of Ordinance Number 83 Authorizing the Issuance and Sale of Luna County, New Mexico Taxable Industrial Revenue Bonds for Macho Springs Solar Project, Bond Purchase Agreement between Luna County and Macho Springs Solar, LLC, Lease Agreement between Luna County and Macho Springs, LLC, Indenture between Luna County and Macho Springs Solar, LLC. Commissioner Milo seconded the motion which carried unanimously.

PRESENTATIONS:

- a. County Manager Kelly Kuentler presented the Oath of Office to Luna County Detention Center Cadet Annette Montoya.

- b. Katherine Smyer, DWI Project Coordinator, discussed the components of the DWI Program. Highlights outlined in the presentation were community projects, alternative sentencing and outpatient treatment programs. Ms. Smyer also reported on efforts in bringing detoxification programs into the detention center and to this area of the state. She said she will look into the feasibility and whether there is a funding source. Ms. Smyer stated she will be working with the DWI affiliate of the New Mexico Association of Counties and exploring the possibility of having the Association adopt the effort as a legislative priority. Ms. Smyer advised there are no repeat offenders in the program this year.

ANNOUNCEMENTS: Commissioner Diaz reported his concerns regarding the lighting issues in Columbus are currently being addressed by the electric company. Chairman Spivey reported he attended the first meeting of the Southwest Commissioner's Alliance which works in conjunction with the Association of Counties to make the commissioners' voices in the southwest part of New Mexico more effective. Commissioners from Hidalgo, Luna, Socorro, Sierra and Catron counties are invited to attend. Luna County Planning Director Gabe Boyle announced a community meeting for the purpose of updating the Comprehensive Plan will be held on July 25, from 6:00 to 8:00 p.m. at the Mimbres Valley Learning Center. Snacks and light refreshments will be served.

ELECTED OFFICIALS REPORT: County Clerk Karen Smyer announced an amendment was made to the minutes of the May 30, 2012 special meeting to correctly attribute a comment by Commissioner Milo regarding adoption of the preliminary budget. She advised the Board the corrected minutes are contained in their meeting packets. Mrs. Smyer reported the clerk's office is currently renewing business registrations in accordance with County Ordinance Number 5. Second renewal notices were sent out on July 5th. She also introduced Andrea Rodriguez who is taking office as County Clerk in January.

Assessor Delilah Rojo reported the Assessor's Office is working on the reappraisal for the 2013 year. Of the six appraisers in the office, three are working on the reappraisal and the other three are working on the protest hearings to be heard by the state in September. There are four certified appraisers and two appraiser associates. The appraiser associates will be attending certification training. She also stated the Assessor's Office works closely with the Clerk's Office as well as with the City of Deming for the purpose of collecting personal property taxes from businesses.

County Sheriff Raymond Cobos reported there have been changes and reorganization of duties in the Sheriff's Department and thanked the Board and County Manager for their cooperation with the reorganization.

COUNTY MANAGER'S REPORT: County Manager Kelly Kuentler stated that measures are being taken to improve the sound in the Commission Chambers. She reiterated information on the Comprehensive Plan Meeting on July 25, and asked Gabe Boyle to make sure information is posted at the Special Events Center. Ms. Kuentler reported on the activity of the Risk Management and Safety Review Committee established in 2010 and consisting of five members. She explained the commission previously appointed Bob Orosco to the Safety Review Committee and suggested they appoint another employee to fill the vacancy. She recommended that the commissioners appoint Frankie Tarazon at the August meeting per

the wishes of the sitting board. At the request of Chairman Spivey, Ms. Kuenstler stated she would send an e-mail to all county employees announcing the opening for the position.

Ms. Kuenstler reported the House and Senate gave final approval on MAP-21, which funds PILT and the Secure Rural Schools programs. If the President enacts the transportation bill, it will provide \$346 million in funding to counties and schools in 39 states for federal Fiscal Year 12. If it goes through, PILT will be fully funded through 2013 at roughly \$400,000,000. Counties throughout the nation have lobbied for the reauthorization and funding of these bills.

County Manager Kuenstler brought it to the commissioner's attention that the Village of Columbus has not signed the Multi-Services Agreement previously approved by the Board eliminating payment for fire and EMS on a per-run basis. The MSA requires payments for a fixed amount. She advised that the reason the Village has not signed the agreement is due to their belief it would constitute a violation of labor laws to discontinue paying the departments on a per-run basis since it is not currently a volunteer organization. Recent action by the Columbus Village Council resulted in their emergency services being converted to a volunteer department effective September 1, 2012. Ms. Kuenstler stated she will present a final MSA during the final budget hearing in July which will take into account the new status of the EMS department. She asked for input from the Board as to how they wish to pay the invoice submitted by the Village. She said the Village posed two options for payment. Option 1 is to pay the fire and EMS departments as if an amended MSA was never done and Option 2 was billing for other services and no longer billing for fire and EMS since they are not willing or able to comply with the MSA. Following additional discussion, Ms. Kuenstler stated she will plan to pay the Village under Option 2 which excludes payment for fire and emergency services on a per-run basis.

PUBLIC COMMENT: Fred Williams discussed an issue regarding a proposed letter of support for a charter school in the Village of Columbus and thanked County Manager Kelly Kuenstler for being truthful about the matter. Elizabeth Burr expressed concern for emergency medical services in the Village of Columbus. She stated a group of committed village residents recently raised money to support the services. She urged the commissioners to continue to try to find solutions to the issues and expressed her appreciation to the county for their efforts to that end. Russ Howell expressed frustration with the sound quality in the commission chambers. Ann Shine-Ring inquired whether individuals seeking services from the Deming Health Center were required to provide proof of residency prior to receiving services. Kathryn Ritterbusch from Presbyterian Medical Services advised her that no one gets turned away, regardless of residency. Ms. Shine-Ring voiced her concerns involving Resolution 12-34, and issues stemming from a high unemployment rate. She stated her belief that the core problem is with citizens who prefer to be on unemployment. Ron Scharf advocated for more meetings including evening meetings. He commended the county manager for her efforts to increase public input. Dave Petersen discussed an exploratory going on for solar projects in the county and commented on a potential partnership with other communities and individuals. He also commented regarding the economic feasibility of receiving certain services in rural areas. Chairman Spivey expressed an interest in Rick Sherman's presentation to the City of Deming about potential solar energy projects. Discussion on the value of solar energy ensued among the Board and audience.

CONSIDER MINUTES: Upon motion of Commissioner Diaz, seconded by Commissioner Milo, the minutes of the May 30, 2012 Special Meeting were unanimously approved. Commissioner Milo moved

approval of the minutes of the June 1, 2012 Special Meeting. Commissioner Diaz abstained from voting on the minutes of June 1 and 8 due to his absence from those meetings. Chairman Spivey seconded the motion which carried. Commissioner Milo moved to approve the minutes of the June 8, 2012 Special Meeting. Chairman Spivey seconded the motion which carried. Commissioner Milo moved to approve the minutes of the June 14, 2012 Regular Meeting. Commissioner Diaz seconded the motion which carried unanimously.

CONSENT AGENDA: Upon motion of Commissioner Diaz, seconded by Commissioner Milo, Payroll Registers totaling \$1,382,990.56 and Accounts Payable Registers totaling \$1,045,358.37 were unanimously approved.

Chairman Spivey declared a five-minute recess at 10:28 a.m.

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

- a. **City of Deming and Luna County Multi-Services Agreement 2012-2013 as Amended:** Ms. Kuenstler advised this is a revised agreement based on discussion during the May meeting. Quarterly reports will be provided by the City to the County to help monitor solid waste tonnage. She discussed budgetary figures provided by the county road superintendent. Chairman Spivey stated that some county residents hire a waste disposal service at their own expense and was concerned that it may result in county residents paying for the same service twice. Under the agreement, the county will process recyclables. Commissioner Diaz said fuel and vehicle costs have increased and said the expenses should be monitored. Commissioner Milo commented the transfer stations will only be closed on Mondays after July 15. Commissioner Diaz moved to approve the City of Deming and Luna County Multi-Services Agreement 2012-2013 as amended. Commissioner Milo seconded the motion which carried unanimously.
- b. **Letter of Support for a Charter School in the Village of Columbus:** County Manager Kuenstler stated no action was necessary on this item since the application for the Charter School has already been submitted.
- c. **Professional Services Agreement between Luna County and Presbyterian Medical Services:** County Manager Kuenstler explained this agreement serves the purpose of continuing to provide medical services to the community regardless of ability to pay. Ms. Kuenstler outlined the terms of the agreement. The county will provide the use of the building and routine maintenance of the building. PMS is reimbursed by the county in the amount of \$71,600 through the Rural Primary Health Care Act. County indigent funds pay PMS up to \$60,000 for low income residents with no insurance or who are underinsured. The agreement expires July 1, 2013. Kathryn Ritterbusch, Administrator for Deming Health Center, explained to the Board the operating budget set forth in Attachment 1. She also explained the services offered by Deming Health Center and its fee structure. Commissioner Diaz moved to approve Professional Services Agreement between Luna County

and Presbyterian Medical Services. The motion was seconded by Commissioner Milo and carried unanimously.

- d. **Juvenile Adjudication Fund Grant Agreement between NM Department of Finance and Luna County:** County Manager Kuenstler explained the grant agreement provides \$8,000 in contractual services. \$3,000 of the funds will be used for 90 hours of tutoring services for approximately 15 students per month. The remaining \$5,000 will be spent on the Bike works Program. Luna County provides a \$1,000 match for in-kind services. Upon motion of Commissioner Diaz, seconded by Commissioner Milo, the Juvenile Adjudication Fund Grant Agreement between NM Department of Finance and Luna County was unanimously approved.
- e. **Appoint Joshua Elford as Deputy Sheriff:** Sheriff Cobos explained to the Board Joshua Elford was not present because of a training exercise. Upon motion of Commissioner Milo, seconded by Commissioner Diaz, the appointment of Joshua Elford as Deputy Sheriff was unanimously approved.
- f. **Joint Powers Agreement between Luna County, the City of Deming and the NM Department of Public Safety:** County Manager Kuenstler advised the Board the agreement allows the Department of Public Safety to host the CAD system which is used for law enforcement purposes. Ms. Kuenstler reviewed county and city responsibilities and recommended approval of the agreement with an amendment to page two under "scope of work" (2B) which should say "Luna County and the City of Deming." Upon motion of Commissioner Diaz, seconded by Commissioner Milo, the Joint Powers Agreement between Luna County, the City of Deming and the NM Department of Public Safety was unanimously approved with the amendment stated by the county manager.
- g. **Resolution 12-34 Authorizing Luna County to Apply for and Enter the New Mexico Economic Development Department Certified Communities Initiative Program:** County Manager Kuenstler advised that the county is applying to enter the CCI program in conjunction with the Luna County Deming Economic Development Department. She stated since the application deadline is August 1, the plan is to submit the application for this year and then next year to include the Village of Columbus. She said although the county cannot apply again for three years, an amendment can be done to include Columbus next year. Ms. Kuenstler stated the City of Deming has already approved the application. Linda Smrkovsky provided additional background information and discussed the benefits of the program. Upon motion of Commissioner Milo, seconded by Commissioner Diaz, Resolution 12-34 authorizing Luna County to apply for and enter the New Mexico Economic Development Certified Communities Initiative Program was unanimously approved following a roll-call vote.
- h. **Resolution 12-35 Luna County 2012-2013 County Arterial Project:** County Manager Kuenstler stated the resolution surrounds CAP 113453 which is entered into with the New Mexico Department of Transportation for road improvement projects in 2012-2013. New Mexico Department of Transportation will provide 75% of the cost or \$252,917.00. The

county matches 25% or \$84,305.00. Upon motion of Commissioner Milo, seconded by Commissioner Diaz, Resolution 12-35 Luna County 2012-2013 County Arterial Project was unanimously approved following a roll-call vote.

- i. **Resolution 12-36 Luna County 2012-2013 School Bus Project:** County Manager Kuenstler outlined the agreement with the New Mexico Department of Transportation for improvement of school bus routes in the county. The total cost of the project is \$119,159.00. The New Mexico Department of Transportation will contribute 75% or \$89,369.00, and the County will contribute 25% or \$29,790.00. Commissioner Diaz moved to approve Resolution 12-36 Luna County 2012-2013 School Bus Project. The motion seconded by Commissioner Milo unanimously carried following a roll-call vote.

- j. **Resolution 12-37 Luna County 2012-2013 Cooperative Agreement Project:** County Manager Kuenstler outlined the intended purpose of the road improvement project. The total cost of the project will be \$129,147.00 New Mexico Department of Transportation's share will be 75% or \$96,860.00. The County will match 25% or \$32,287.00. Ms. Kuenstler identified the project area outlined in the agreement. Commissioner Diaz moved to approve Resolution 12-37 Luna County 2012-2013 Cooperative Agreement Project. Commissioner Milo seconded the motion which carried unanimously following a roll-call vote.

- k. **Memorandum of Understanding between Luna County, the City of Deming and Deming Luna County Economic Development, Inc. Providing for the Implementation of the Certified Communities Incentives Program:** County Manager Kuenstler explained to the Board this item is a companion item to Resolution 12-34 (item 'g' above). Commissioner Milo moved to approve the Memorandum of Understanding between Luna County, the City of Deming and Deming Luna County Economic Development, Inc. providing for the Implementation of the Certified Communities Incentives Program. Commissioner Diaz seconded the motion which carried unanimously.

INDIGENT CLAIMS REPORT: Upon motion of Commissioner Diaz, seconded by Commissioner Milo, the meeting of the Board of County Commissioners was unanimously recessed and the meeting of the Indigent Hospital Claims Board convened. Joanne Hethcox recommended approval of 33 claims dated July 10, 2012 in the amount of \$72,788.32 and no denials. The monies received for the month of June were \$64,241.16 and the ending balance as of the end of June is \$84,066.93. Commissioner Diaz motioned to approve 33 claims dated July 10, 2012 in the amount \$72,788.32. Commissioner Milo seconded the motion which carried unanimously. Commissioner Milo moved to recess as Claims Board and to reconvene as the Board of County Commissioners. Commissioner Diaz seconded the motion which was approved unanimously.

EXECUTIVE SESSION: Chairman Spivey entertained a motion to enter into executive session to discuss Limited Personnel Matters pursuant to Section 10-15-1 (H) (2) NMSA 1978 pertaining to the Sunshine Volunteer Fire Department. Commissioner Diaz moved to enter executive session for the purpose of discussing limited personnel matters pursuant to 10-15-1 (H) (2) pertaining to the Sunshine Volunteer Fire Department and stated no other matters would be discussed. Commissioner Milo seconded the motion which carried unanimously following a roll call vote. Upon return from executive session,

Commissioner Diaz moved to reconvene and he further stated no matters other than Limited Personnel Matters pursuant to Section 10-15-1 (H) (2) NMSA 1978 pertaining to the Sunshine Volunteer Fire Department were discussed. Commissioner Milo seconded the motion which unanimously carried. Commissioner Diaz moved pursuant to Fire District Bylaws, Section 5, and upon recommendation by the county manager and following an internal investigation which satisfactorily determined the facts of the matter, to terminate Sunshine Volunteer Fire Chief Darwin Williams. Commissioner Milo seconded the motion which carried unanimously.

ANNOUNCE NEXT MEETING: Chairman Spivey announced the Regular Meeting on Thursday, August 9, 2012. Commissioner Diaz commended the county manager on doing a great job running the meetings.

ADJOURN: Chairman Spivey adjourned the meeting at 11:45 a.m.

ATTEST:

LUNA COUNTY BOARD OF COUNTY COMMISSIONERS

KAREN SMYER, LUNA COUNTY CLERK

JOE L. MILO, JR., DISTRICT 1

APPROVED: _____

CHAIRMAN J. JAY SPIVEY, DISTRICT 2

R. JAVIER DIAZ, DISTRICT 3