

**MINUTES  
SPECIAL MEETING  
LUNA COUNTY BOARD OF COUNTY COMMISSIONERS  
Thursday, December 6, 2012**

**BE IT REMEMBERED** that the Luna County Board of County Commissioners met in special session at 9:00 a.m. on Thursday, December 6, 2012, in the County Commission Chambers of the Luna County Courthouse in 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 Kuenstler, County Manager	Gabriel Boyle, Planning & Community Development
Glory Johnson, Executive Assistant	Billy Ruiz, Special Projects & Facilities Management Director
Karen Smyer, County Clerk	Mark Jasso, Emergency Services Director
Andrea Rodriguez, Deputy Clerk	Matthew Elwell, Detention Director
JoAnna Z. Zurinsky, Deputy Clerk	Ira Pearson, Starmax Facilities Director
Delilah Rojo, Assessor	
Barbara Cobos, Chief Deputy Assessor	
Danny Gonzales, Human Resources	
Joanne Hethcox, Budget & Procurement	

**CALL TO ORDER:** Chairman Spivey called the meeting to order at 9:08 a.m. and JoAnna Zurinsky led the Pledge of Allegiance and the salute to the flag of the State of New Mexico.

**ROLL CALL:** The roll call was conducted by Deputy Clerk JoAnna Zurinsky. The following commissioners constituting a quorum were present:

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

**PUBLIC HEARING:** Chairman Spivey opened a Public Hearing for Ordinance 23 Personnel Policy as Amended. Larry Caldwell addressed the board with his concerns involving the ordinance's absence of participation of the commissioners in personnel decisions and policies. He also addressed concerns regarding county vehicle usage, probationary employee PTO accumulation, PTO increases for long-time employees, collective bargaining, grievance processes for part-time employees, policy positions, reporting all outside employment, harassment language, and time-off allowed for voting. County Manger Kelly Kuenstler addressed each proposed change in the ordinance. Danny Gonzales, Luna County Human Resources Director, thanked everyone who participated in the revision of the Personnel Ordinance. County Manager Kuenstler recognized and also thanked those

involved, and assured the board the review process was thorough and further stated every employee was invited to participate in the process. Chairman Spivey closed the public hearing to testimony. Danny Gonzales answered questions posed by Commissioner Diaz. Commissioner Milo thanked Ms. Kuentler for involving everyone in the process. Chairman Spivey shared his opinion that probationary employees should not accumulate leave during the probationary period. Ms. Kuentler explained that they are allowed to accrue it, but not use it for the first six-months. Also addressed were the differences between sick-leave balances and paid-time off for employees hired prior to 2005. Commissioner Diaz agreed there were a few things in the Personnel Policy that needed to be “tweaked”. Human Resources Director Danny Gonzales explained how the comp time, PTO, and sick leave balances are accrued for employees. Comp time is received in lieu of overtime for most departments. Chairman Spivey applauded Ms. Kuentler for her efforts on conserving extra use on the county vehicles. Ms. Kuentler explained there are no collective bargaining agreements in Luna County and she is the only employee with an employment agreement, therefore references to employment agreements were deleted from the ordinance. Other changes were addressed including the following:

- probationary guidelines
- employment reference checks
- background checks
- the different employment statuses
- resignation and abandonment definitions
- privatization was removed
- the performance evaluation processes were changed in order to make them more meaningful
- prohibited political activities were updated
- nepotism now includes domestic partnerships
- harassment is updated to encompass the workplace and not just limited to sexual harassment
- county vehicle usage policy was updated
- employee discipline definitions and procedures were updated
- compensation and benefits definitions were changed
- leave, paid time-off, holidays, FMLA were updated
- contents of personnel files were changed
- Ms. Kuentler recommended a change on page 11, section 6.4 (bottom line), to require employees to report all outside employment per Mr. Caldwell’s suggestion.
- Commissioners Milo and Diaz were in agreement that employees should be able to accrue leave time but not use it until they successfully completed the probationary period.

**ORDINANCES:** Commissioner Diaz moved for approval of Ordinance Number 23 Personnel Policy as amended with a change in Section 6.4 (a) providing for all employees to report all outside employment. Commissioner Milo seconded the motion which carried unanimously following a roll-call vote.

**PUBLIC COMMENT:** James Palza, Jr. came before the board and expressed his concerns for a deteriorating state of government and the environment. Dave Peterson stated he felt probationary employees needed to accrue paid time off and asked for clarification of paid time off and sick time. Fred Tiedge also inquired about accrual of paid time off. Tommy Perez commended Chairman Spivey on questioning the provision of paid time off for probationary employees and he further suggested independent employee evaluations.

Chairman Spivey declared a ten minute recess.

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

- a. Luna County Workplace Harassment Policy:** Ms. Kuenstler advised this is a general workplace harassment policy that follows federal law that implements and addresses all forms of harassment in one comprehensive policy. Ms. Kuenstler stated the New Mexico Association of Counties reviewed the policy and recommended board approval. Much discussion ensued on the various forms of harassment and ways that employees must deal with it outside the workplace and, conversely, individuals dealing with harassment from county employees. Ultimately, the policy is for county employees in the work place. Commissioner Diaz moved to approve the Luna County Workplace Harassment Policy as written. Commissioner Milo seconded the motion which carried unanimously.
- b. Economic Development Agreement between Luna County and Pegasus Global Holdings:** Ms. Kuenstler explained to the board she is seeking for approval to proceed in an economic agreement with Pegasus Global Holdings. The agreement is an essential first step in bringing a potential billion dollar project to Luna County. The project is expected to bring 350 permanent jobs and 3,000 construction jobs to the county. The agreement allows Ms. Kuenstler the authority to work on behalf of the county as a joint participant with Pegasus. The agreement will be in effect for a period of two-years and this is a preliminary step. Luna County is one of four sites Pegasus is evaluating in New Mexico. Fred Williams asked what questions were asked of Pegasus and whether Luna County has engaged in discussion with the mayor of Hobbs since Hobbs was being considered as a potential site by Pegasus. Ms. Kuenstler advised Mr. Williams that a presentation from Pegasus is available to the public in the manager's office and on-line. She also stated Luna County has provided maps and land information to Pegasus. Ms. Kuenstler stated Luna County has talked with both Lea County and Pegasus and both sides are proceeding with caution. Matt Robinson asked about a business plan and Ms. Kuenstler reiterated the agreement is very preliminary. Ron Scharf commented he would like to see information posted on line, and on a timely basis. Ms. Kuenstler stated she was unable to speak about the business dealings between Pegasus and the landowners; however a meeting or a presentation will be scheduled with Pegasus and the community. Matt Robinson asked how long Luna County has been in touch with Pegasus and when talks began. Ms. Kuenstler explained Pegasus has visited Luna County five or six times and she initiated contact with Pegasus in June because she

read a newspaper article that Pegasus was not going to continue their venture in Lea County. Ms. Kuenstler explained to the board and the audience because of the preliminary nature of this agreement, until she receives the authority from the commissioners she should not make any presentations to anyone. Commissioner Diaz commented he was cautious but he would like to see the business come to Luna County. Commissioner Milo moved to approve the Economic Development Agreement between Luna County and Pegasus Global Holdings. Commissioner Diaz seconded the motion which carried unanimously.

**ADJOURN:** Chairman Spivey adjourned the meeting at 11:21 a.m.

**ATTEST:**

**LUNA COUNTY BOARD OF  
COUNTY COMMISSIONERS**

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**Andrea Rodriguez, Luna County Clerk**

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**Joe L. "Oleo" Milo, Jr., District 1**

**Approved:** \_\_\_\_\_

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**J. Jay Spivey, District 2, Chairman**

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**R. Javier Diaz, District 3**