

**MINUTES
SPECIAL MEETING
LUNA COUNTY BOARD OF COUNTY
COMMISSIONERS
Tuesday, February 17, 2015**

BE IT REMEMBERED that the Luna County Board of County Commissioners met in Special Session at 9:00 a.m. on Tuesday, February 17, 2015 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 Charles "Tink" Jackson, Assistant to the County Manager Glory Johnson, Deputy Clerk JoAnna Zurinsky, Chief Deputy Clerk Berenda McWright, County Assessor Delilah Rojo, Treasurer Dora Madrid, Chief Deputy Treasurer Gloria Rodriguez, Special Projects and Facilities Management Director Billy Ruiz, Community and Projects Director Jessica Etcheverry, Detention Director Matthew Elwell, Starmax Facilities Director Ira Pearson, Public Information Officer Matt Robinson, Grant/Audit Compliance Officer Palmira Valentine, IT Technician Manny Armendariz

CALL TO ORDER: Chairman Milo called the meeting to order at 9:02 a.m. and Treasurer Dora Madrid led the Pledge of Allegiance and the salute to the flag of the State of New Mexico.

ROLL CALL: Deputy Clerk JoAnna Zurinsky called roll. The following members of the Board constituting a quorum were present:

**Chairman, Joe L. Milo, Jr., District 1
Linda M. Smrkovsky, District 2
R. Javier Diaz, District 3**

PUBLIC HEARING: Chairman Milo opened the public hearing to receive testimony regarding Luna County Ordinance Number 92 Adopting a Hold Harmless Gross Receipts Tax. County Manager Charles "Tink" Jackson summarized the ordinance which imposes a 3/8th Gross Receipts Tax, and is provided for under Section 7-1-6.47 NMSA, 1978, and further explained this is a consideration of a tax allowed under the *Hold Harmless* statute. Whether the intent of the statute is to offset food and corporate taxes or for Counties and municipalities to offset losses of revenues from all sources of unfunded mandates, New Mexico law allows for the consideration of the tax. Mr. Jackson stressed that there is an immediate need for the Board of Commissioners to consider the passage of this tax, and that this is not a projected or estimated problem, and within less than 24 months, the south unit of the Luna County Detention Center (LCDC) will have to be closed, resulting in the loss of 120 revenue beds. The loss in revenue from those 120 beds is \$2.1 million a year, the net loss to the LCDC would be approximately \$1.725 million. That money would have to be made up from the General

Fund of the County. There is no way to make that money up without drastically cutting services, and the first cuts would have to be made to non-statutory items the Commission funds which include but are not limited to: The Senior Center, The After-School Program, the Golf Course, Deming Animal Guardians, The Arts Council, the Historical Society and programs funded for the Village of Columbus. The total savings by cutting some of these programs would be approximately \$600,000. This leaves the County with a deficit of a million dollars. Mr. Jackson outlined operating figures at what the LCDC operates at now (\$44 per inmate/ per day) versus what it would cost the LCDC to operate at privatized (between \$70-\$100 per inmate/ per day) which does not include capital costs, and what it would cost to send inmates to other counties (starting at \$98 per inmate/per day), and explained none of these options remove the liability from the Board of Commissioners.

Mr. Jackson outlined some of the figures associated with the Detention Center and the Gross Receipts Tax: 16 counties have already, or are currently working to adopt this tax. Completion of the project would allow the Detention Center to become accredited. It would save the County a minimum of \$30,000 a year in insurance.

Fred Williams spoke in opposition of the Ordinance stating that all possibilities besides raising taxes or that public discussions have not been held and that we have not prioritized where cuts need or should be made, or how revenues can be increased. Mr. Williams stated that it was the job of the Commissioners to exercise oversight and verification of information that is sent out to the public.

Deming Public Schools Superintendent Dr. Dan Lere stated that he was sympathetic with the Board's position, and understood what the Board faced in having to consider passing the Gross Receipts Tax. Dr. Lere explained that the Deming Public Schools is facing an additional \$95,000 in taxes for the new school construction, which was not budgeted for. Mr. Lere asked that the Board of Commissioners allow for the schools to be reimbursed through the collection of the tax.

Fred Tiedge spoke in opposition of the Gross Receipts Tax stating that there were 'No Guarantees' that the tax would provide the revenue or profit that the County hoped it would, especially if the detention center did not fill the number of beds projected.

Ray Krecji stated that he was against the tax, but felt that the tax was necessary given the current conditions of the jail.

Merlin Norenberg spoke of the Federal Standards that correctional institutions face, and voiced his concerns that the Luna County Detention Center will evolve into a liability issue, and spoke in support of completing the Detention Center. Mr. Norenberg stated he was disappointed in the lack of other funding ventures and stated his concerns about the expansion and conflicts with House Bill 376.

Ann Shine-Ring stated that she was opposed to the Ordinance, and that she would like to see alternate funding sources for the Detention Center and budget numbers.

Lloyd Valentine spoke about the principles of ethics, accountability and transparency. Mr. Valentine beseeched the Board to think about each of these things when considering the passage of today's Ordinance.

Commissioner Diaz stated that he would like to see vocational programs implemented with the GRT once the Detention Center renovation is completed.

City of Deming Administrator Aaron Sera stated the GRT was a 'classic doom and gloom story', and that the State and City do not raise taxes when they lose \$1.2 million, and if the Hold Harmless law had not passed, what would the County do? Mr. Sera acknowledged that the jail was a necessity, and something needed to be done, but the County and City were not working together to find a funding source. Mr. Sera stated that he hoped that a decision would be made that was best for the citizens, and not for the County.

Keith Harris stated that if both the County and the City of Deming elected to pass a 3/8% Gross Receipts Tax, it would raise taxes to over 8 percent.

City of Deming Mayor Benny Jasso expressed his concerns that according to what many residents have told him, that they are not in favor of the Gross Receipts Tax, and he cannot support the Ordinance. Mr. Jasso urged the Board to reconsider its passage.

Fred Williams commented that the revenues of the Gross Receipts Tax would take over nine years, and the vulnerability of lawsuits is going to continue past this point of time.

Andy Hernandez voiced his concerns that the 3/8th Gross Receipts Tax would be similar to the 1/16th Gross Receipts Tax that was passed 10 years ago. The purpose of this particular tax was half of the monies were to go to the Senior Center and half were to go to the Learning Center, and it resulted in very little of the taxes collected going towards its intended cause.

Commissioner Smrkovsky commented that there was mismanagement in the past, and that Dona Ana County postponed their GRT vote, and asked if taxes would be lost by imposing a tax. Ms. Smrkovsky stated that she felt belts needed to be tightened, and hoped this could be postponed until more information and funding sources could be found. Ms. Smrkovsky acknowledged the Detention Center faced immediate issues, but was not comfortable implementing the tax without more information.

Commissioner Diaz commented passing the tax would ensure that the monies raised would be spent in a way that the County deems in its best interests.

Ray Krecji suggested freezing County raises for a period of three years and giving five-percent back.

Chairman Milo stated this is an issue that the Board has been dealing with for a period of over two years.

Commissioner Smrkovsky reiterated alternative funding resources needed to be looked at and the budget needed to be managed more proficiently, and stated that she felt that passing a tax wasn't the right thing to do at this time based on the information presented, and that she would like to see the vote postponed.

Fred Tiedge stated that if more information on Detention Center statistics were available to the public, the tax may garner more positive support, but asked for the tax be postponed.

Detention Director Matt Elwell provided statistics on average length on stays for felony, mental illness, and competency inmates. Mr. Elwell provided historical figures on U.S. Marshal and local populations. Mr. Elwell also outlined budget and revenue procedures for the Detention Center.

Commissioner Smrkovsky stated she was not opposed to a jail renovation, but was opposed to the funding which was a 3/8th tax. Ms. Smrkovsky asked about bonding out 1/8th as an alternative. Mr. Jackson stated that it would have to be taken out of the jail's operating expenses, and revenue from Sierra County inmates are not guaranteed for a specific period of time or for a number of beds. Mr. Jackson stated that he has found no other alternative sources of funding, and that by State Statute the Board of Commissioners are required to provide a Detention Center. The State does not provide provisions or Capital Outlay for this.

With no other testimony forthcoming, Chairman Milo closed the public hearing.

Commissioner Smrkovsky stated that she would like to see the Board postpone the vote on this tax in order to seek alternative funding sources. Commissioner Diaz asked what timeline and benefit would the County have by postponing the vote. Mr. Jackson provided a timeline and figures of what would need to happen if the Board postponed today's vote on Ordinance 92 in order to impose a tax effective in July.

Chairman Milo stated that he was not comfortable passing taxes, but in reality it was something that needed to be done.

ORDINANCE: Commissioner Diaz motioned to approve Ordinance Number 92 Adopting a Hold Harmless Gross Receipts Tax in the amount of 3/8th percent. Chairman Milo seconded the motion which carried by a majority roll-call vote with Commissioner Smrkovsky voting in the negative.

ADJOURN: Chairman Milo adjourned the meeting at 11:02 a.m.

ATTEST:

**LUNA COUNTY BOARD OF COUNTY
COMMISSIONERS**

Andrea Rodriguez
ANDREA RODRIGUEZ, CLERK

APPROVED: 03/12/15



Joe L. Milo, Jr.
CHAIRMAN, JOE L. MILO, JR., DISTRICT 1

Linda M. Smrkovsky
LINDA M. SMRKOVSKY, DISTRICT 2

R. Javier Diaz
R. JAVIER DIAZ, DISTRICT 3