

MINUTES
REGULAR MEETING
LUNA COUNTY BOARD OF COUNTY COMMISSIONERS
Thursday, February 14, 2013

BE IT REMEMBERED that the Luna County Board of County Commissioners met in regular session at 9:00 a.m. on Thursday, February 14, 2013 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 Kuenstler, County Manager	Gabriel Boyle, Community Development and Planning Director
Glory Johnson, Assistant to the County Manager	Rheganne Vaughn, Community Health and Welfare Director
Andrea Rodriguez, County Clerk	Billy Ruiz, Special Projects and Facilities Management Director
Berenda McWright, Chief Deputy Clerk	John Mooradian, Sheriff Lieutenant-Dispatch Director
JoAnna Z. Zurinsky, Administrative Assistant	Matthew Elwell, Detention Director
Dora Madrid, Treasurer	Ira Pearson, Starmax Facilities Director
Gloria Rodriguez, Chief Deputy Treasurer	Chad Shannon, Stockyard Worker/Laborer
Delilah Rojo, Assessor	Marty Miller, Road Director
Barbara Cobos, Chief Deputy Assessor	Carole Smith, Administrative Assistant
Raymond Cobos, Sheriff	Edith Vasquez, DWI
Danny Gonzales, Human Resources and Payroll Director	
Joanne Hethcox, Budget and Procurement Director	

CALL TO ORDER: Chairman Diaz called the meeting to order at 9:02 a.m. and Bayne Anderson 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:

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

PRESENTATIONS: Bayne Anderson of the Deming Historical Society presented an update on the Deming-Luna Mimbres Museum renovations.

Gabriel Boyle, Planning and Community Development Director, presented the Luna County Road Atlas draft to the board.

ANNOUNCEMENTS: Chairman Diaz announced that Luna County was chosen to host the New Mexico Association of Counties Conference in 2014. Chairman Diaz applauded Commissioner Spivey's efforts in securing Luna County as a host for the event.

ELECTED OFFICIALS REPORTS: County Clerk Andrea Rodriguez announced the Clerk's Office finished the School Board Election in which the Two-Mill Levy passed, Ronald D. Wolfe was elected for the School Board, District 1, and John Sweetser was elected for School Board, District 2.

County Assessor Delilah Rojo reported now is the time to apply for exemptions. Ms. Rojo explained the requirements for the Family, Veteran's and Disabled Veteran's Exemptions. Ms. Rojo stated now is also the time to render livestock. The office is working on scanning their information to make records available online.

Treasurer Dora Madrid announced the Treasurer's Affiliate will be held in Deming in August.

Sheriff Raymond Cobos reported the Sheriff's Office received notification from the Department of Finance Administration regarding the Law Enforcement Protection funds allotted for Columbus. The amount is a little over in excess of \$22,000.00 and must be spent before June 30th. The Sheriff's Office is currently working on a list of priorities and a budget in order to use the funds.

COUNTY MANAGER'S REPORT: County Manager Kelly Kuentler reported on the following items:

- Wireless internet access is now available in the Commissioner's Chambers and the basement for public use.
- The Macho Springs Solar IRB is still in effect, however, Element Power has sold the bond to First Solar. The sale should not affect the terms of the bond.
- First Solar will have a job-fair announcing the construction jobs available in the next few months. The job-fair will be coordinated through Linda Smrkovsky. The solar-panel project plans for construction are July of 2013.
- The first \$1,500 reimbursement has been received from the digital conversion equipment at Starmax.
- The County has received \$2,000 back from Starmax for the funds they used in September.
- Ron Scharf secured a sponsorship for Starmax advertising from Chino Federal Credit Union in the Silver City and Deming papers for movie times.
- Ms. Kuentler thanked Linda Smrkovsky and Commissioner Spivey for their efforts in securing Luna County as the host for the NAMC 2014 Conference, and asked the public for volunteers.

- Representative Steve Pearce will be in Deming Saturday, February 16. Some of the items for discussion will be border security, the 55 mile visa extension, the gray wolf issue, and water topics. The Republican Party of Luna County will sponsor a community dinner at the country club, at 6 pm. It is a meet and greet and Question and Answer session. All are invited to attend, regardless of political affiliation.
- Starmax sales for December were \$99,762 and sales for January were \$104,887. The outside parking lights and the bathroom door latches were replaced. The arcade games continue to improve through maintenance. The advisory board met on February 5th.
- Emergency Services and Risk Management opened the warming center last month due to the closure of I-10.
- An illegal dump site was found on W. Florida. Bio hazardous waste (needles) was found with household trash. An investigation was conducted into the illegal dumping. The county is in the process of a clean-up effort.
- The construction started on the Sunshine Volunteer Fire Department on January 22nd. Design and blueprint requisitions have been submitted for the construction of the Florida Volunteer Fire Department.
- An after action performance review meeting for a hunter rescue was held.
- The Planning Department is working on a county recreation map. They are also planning clean-ups for illegal dumpsites. The department began the individual certification process for the Keep America Beautiful Professionals. The department is also in the process of becoming of AICP (American Institute of Certified Planners). They have sent a letter to a potential solar company to come to Luna County and are still in the process of converting auto-CAD to GIS.
- The Maintenance Department has finished the Columbus substation. They are now working on the outside perimeter fence and holding cage. They are also working on the basement office. The cleanup of the shop is complete.
- Human Resources and Payroll changed the state tax-tables, effective February 8, 2013.
- Budget and Procurement has been working on and submitting RFP's for Medical and Mental Health Services and a RFP for Starmax Arcade.
- The Road Department is still doing partial maintenance on all county roads. The last two blades that the GPS locators needed to be installed in have been sent out. The road department is working on and addressing drainage issues on Holstein Road.
- The Detention Center for the month of January booked 449 adult offenders, a 42 percent increase from December, 13 juvenile offenders, an 8 percent increase from December. The January daily average population for adults is 303, and for juveniles the average population is 6. The January daily average for the U.S. Marshall's prisoners is 162. Director Matt Elwell attended the Association of Counties Legislative Conference.

- Central Dispatch received 11,896 total calls for the month of January. The total number of generated calls consisted of 185 calls for service for the Luna County Sheriff's Office and 543 calls for service for Deming Police Department. The CAD system is running smoothly, however dispatch is busy preparing for a FBI audit that is expected on February 28th. Tipsoft is proving to be successful in aiding the apprehension of criminal activity.
- Community Health and Welfare Department- Healing House has a new director. Jane Ash has been hired as the new program director. The domestic violence treatment intervention program has been implanted. The CASA program has been restructured, and serves the tri-county area. The Partnership for Success grant was awarded. The grant is for \$130,000 a year for three years and addresses underage drinking and prescription drug abuse.
- The Manager's Office has submitted the employee disclosure statements to the Secretary of State's office. ESRI software has been purchased. This allows certain departments to view all of the digital maps. A site visit has been scheduled for today for the new web developer for the new website. Capital outlay requests have been submitted in January.
- DWI holds alcohol awareness classes at the annex every Wednesday. Four students graduated in January, and six students are currently enrolled. Teen court referrals did their community services at Starmax recently.
- Luna County met with the Governor and several cabinet members to discuss specific Luna County concerns. Luna County hosted a reception which several senators, cabinet secretaries, department directors, representatives attended.

PUBLIC COMMENT: Fred Williams addressed his concerns with items 'B', 'F', 'I' and 'L' on the New Business portion of the agenda. Mr. Williams stated his opposition of letter 'I' on the agenda.

Ron Scharf reported that Luna County's participation in the School Board Election was the highest participating county in the state. Mr. Scharf also expressed his opposition to letter 'I' in the agenda.

Mary Galbraith of the Deming Chamber of Commerce stated she was glad to see the county update their road atlas, and requested a digital copy for office use. Ms. Galbraith reported the Chamber of Commerce was contacted by the location manager and the production contact for the movie: 'Enemy Way'. The chamber has provided the producers with a list of local businesses for assisting in the making of the movie.

Larry Caldwell expressed his objection of the mandatory body scans prior to the meeting. Mr. Caldwell stated he was in support of Mr. William's comments and concerns in items: 'B', 'I' and 'L'. Mr. Caldwell also requested the monthly department reports be included in the agenda packets.

Charles 'Tink' Jackson expressed his support for House Bill 292.

Mike Walsh, a member of the Deming Soil and Water Conservation District, came before the board and addressed his concerns involving the Gray Wolf Committee, and requested an opportunity that the conservation district may be considered for future involvement on similar committees. Additionally, as a private citizen, Mr. Walsh expressed his support for House Bill 292.

Sean Blaine voiced his dissatisfaction with the order of the Public Comment and it being restricted to items only on the agenda.

Ron Scharf commented on the progress of the Starmax Advisory Committee.

Russ Howell expressed her support House Bill 292.

CONSENT AGENDA: Upon motion of Commissioner Spivey, seconded by Chairman Diaz, Payroll Registers totaling \$947,529.79 and Accounts Payable Registers totaling \$860,417.78 were unanimously approved.

CONSIDER MINUTES: Upon motion of Commissioner Spivey, seconded by Chairman Diaz, the amended Minutes of the October 22, 2012 Special Meeting were approved. Upon motion of Commissioner Spivey, seconded by Chairman Diaz the Minutes of the January 10, 2013 Regular Meeting were approved.

Chairman Diaz declared a short recess.

Upon resuming the meeting, Larry Caldwell came before the board and expressed his dismay to the Commissioners about typographical errors contained in preliminary documents released to the public.

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

- a. **APPROVAL OF DISPOSAL OF ASSETS:** *Item 'J' on the agenda was moved ahead of this item.* Ms. Kuenstler requested approval to dispose of obsolete county inventory which will be auctioned off via a public service website. Commissioner Spivey moved to approve disposal of assets. Chairman Diaz seconded the motion, which carried unanimously.
- b. **RFP #101-01 FOR MEDICAL AND MENTAL HEALTH SERVICES FOR LUNA COUNTY DETENTION CENTER:** Ms. Kuenstler explained this item is based on a recommendation of a required evaluation committee. The evaluation committee members recommended that the County be allowed to begin negotiating a contract

with Presbyterian Medical Services. Ms. Kuenstler further explained the difference between a RFP and a bid process. She stated that after the negotiation is successful, a monetary contract will be awarded. After the award of the contract, the proposals become public, and will be available for viewing in Joanne Hetcox's office. Commissioner Spivey moved to approve RFP #101-01 for Medical and Mental Health Services for Luna County Detention Center. Chairman Diaz seconded the motion which carried unanimously.

- c. **RESOLUTION 13-14 BUDGET INCREASES:** Ms. Kuenstler recommended approval of the two proposed budget increases in the amount of \$2,612.94. Commissioner Spivey moved to approve Resolution 13-14 Budget Increases. Chairman Diaz seconded the motion which carried unanimously following a roll-call vote.
- d. **RESOLUTION 13-15 BUDGET TRANSFERS:** Ms. Kuenstler recommended approval of the proposed budget increase in the amount of \$993.59. Commissioner Spivey moved to approve Resolution 13-15 Budget Transfers. Chairman Diaz seconded the motion which carried unanimously following a roll-call vote.
- e. **AMENDMENT NO. 2 TO OPERATING AGREEMENT BETWEEN LUNA COUNTY AND ARAMARK:** Ms. Kuenstler explained this is the second amendment to the detention facility's operating agreement with Aramark, and is necessary due to a price adjustment on the prices per inmate meals increasing 2.5 percent. Commissioner Spivey moved to approve Amendment No. 2 to Operating Agreement between Luna County and Aramark. Chairman Diaz seconded the motion which carried unanimously.
- f. **LEASE AGREEMENT BETWEEN LUNA COUNTY AND CATTLEMEX FOR LUNA COUNTY STOCKYARDS:** Ms. Kuenstler stated the lease agreement with Cattlemex is necessary for the stockyards to continue operating. Ms. Kuenstler reviewed details of the lease agreement. Ms. Kuenstler stated that without a company taking over the stockyards the county would have to shut the stockyards down as early as next month. Commissioner Spivey stated the new management will have options that a government entity does not have, and the stockyards cannot continue to operate at a loss. Ms. Kuenstler recommended a motion be made for approval of the lease contingent on a written legal opinion based on a statute concerning the process municipal governments must go through when leasing properties and whether any statutes applied for county governments. Commissioner Spivey moved to approve the Lease Agreement between Luna County and Cattlemex for Luna County Stockyards contingent upon a written legal opinion being obtained by Ms. Kuenstler. Chairman Diaz seconded the motion which carried unanimously.
- g. **LUNA COUNTY DRUG AND ALCOHOL POLICY:** Ms. Kuenstler pointed out to the board the changes made to the policy, and requested an amendment be made on open record. She requested approval of an amendment in Page 2, Section 5, Item #4. A

drug screen shall be initiated after the discharge of a county issued weapon in the use of force situation or accidental discharge on or off duty. Commissioner Spivey moved to approve the Luna County Drug and Alcohol Policy as amended and stated by the County Manager. Chairman Diaz seconded the motion, which carried unanimously.

- h. AMENDMENT TO THE LETTER OF INTENT TO EXTEND FEASIBILITY DATE FOR WALGREENS:** Ms. Kuenstler explained the letter of intent to extend feasibility date for Walgreen was requested on behalf of Bencor. Bencor does not want to start the environmental review until the demolitions for the city and county properties are completed. The amendment is being made to extend the feasibility period from March 7, 2013 to June 1, 2013. Commissioner Spivey moved to approve the amendment to the Letter of Intent to extend feasibility date for Walgreens. Chairman Diaz seconded the motion which carried unanimously.
- i. LETTER OF SUPPORT- SUPPORTING HOUSE BILL 292:** Ms. Kuenstler stated the letter of support for House Bill 292 is on the agenda per Chairman Diaz's request. Commissioner Spivey expressed his belief that the bill is a step in the right direction, and allows the citizens to take their lands back and become better stewards of the public lands. Chairman Diaz stated he agreed with Commissioner Spivey and that the feedback from the community was mostly positive. Commissioner Spivey moved to approve the Letter of Support- Supporting House Bill 292. Chairman Diaz seconded the motion which carried unanimously.
- j. APPROVAL OF GRAY WOLF COMMITTEE COMMENTS ON MANAGEMENT PLAN:** *This item was moved to the top of the agenda.* Committee Chair Charles 'Tink' Jackson gave an overview of the committee's comments. The committee's review of comments included: Safety of Luna County Residents, Habitat, Administrative and Economic components, Land Use, Hunting and Trapping, and Tourism. The committee's report encompassed the findings of the advisory committee and recommendations on how the County should proceed in regards to the United States Fish and Wildlife Service. Chairman Diaz thanked the committee members for their work. Ms. Kuenstler recommended that the committee stay intact and revisit Ordinance 17 per a recommendation included in the report. It was reiterated that the Soil and Water Conservation Board was invited to sit in on the committee meetings. Mr. Jackson stated a letter was drafted on behalf of the County in regards to the United States Fish and Wildlife Service's Environmental Assessment requesting Luna County's exclusion from the Management Plan. Ms. Kuenstler requested a motion to draft the letter. Commissioner Spivey motioned to direct the County Manager to draft a letter to the United States Fish and Wildlife Service stating that the area below Interstate 10 in New Mexico be removed from this consideration for Gray Wolf recognition because of the incomplete and incorrect environmental assessment and management plan. If Luna County is not removed, to call for an extensive

environmental study that reassures a correct environmental assessment and management plan. Chairman Diaz seconded the motion which carried unanimously.

Ms. Kuentler requested the board's approval for the comments from the Gray Wolf Committee to be submitted in writing and on-line. Commissioner Spivey motioned to allow the comments from the Gray Wolf committee be submitted with the letter and on line. Chairman Diaz seconded the motion which carried unanimously.

- k. SOLE COMMUNITY PROVIDER HOSPITAL PAYMENT FOR MEMORIAL MEDICAL CENTER:** *Ms. Kuentler asked for approval from the board to present items 'k' and 'l' together, and to vote on each item separately.* Ms. Kuentler explained both Joanne Hethcox and she have attempted several times to contact both Gila Regional and Mountain View. Steve Westenhofer on Ms. Kuentler's behalf, attempted to contact Mountain View. Both healthcare organizations refuse to participate (Gila Regional and Mountain View). This refusal puts the County in a predicament for sole community provider funds and paints a bleak picture. Ms. Hethcox stated there has been a 10.7 percent decrease in gross receipts, and there is a projected shortfall to meet the County's obligation of \$352,738 for the remainder of the fiscal year. The County has budgeted \$715,000 anticipating only receiving about \$689,000. Ms. Hethcox recommended using \$600,000 for sole-community provider benefits and the remaining \$89,000 for indigent claims that have to be paid outright for administrative costs. Ms. Hethcox requested that 97 percent (\$582,000) of the funds be focused on Mimbres Memorial Hospital in Deming and the remaining 3 percent (\$18,000) for Memorial Medical Center in Las Cruces. The request would need to be approved at a lower rate than what was requested and at 78 percent for Mimbres Memorial Hospital that would be a total of \$1,828,895. The request for Memorial Medical Center would need to be changed to \$56,372. Ms. Hethcox explained how the State matches the County funds to each hospital. Ms. Kuentler recommended under item 'K', Sole Community Provider hospital payment for Memorial Medical Center an approval of \$18,000 for a total request of \$56,372. Commissioner Spivey moved to approve Sole Community Provider Hospital Payment for Memorial Medical Center with an increase of \$18,000 bringing the total to \$56,372. Chairman Diaz seconded the motion which carried unanimously.
- l. SOLE COMMUNITY PROVIDER HOSPITAL PAYMENT FOR MIMBRES MEMORIAL HOSPITAL:** Ms. Kuentler recommended approval of the Sole Community Provider Hospital Payment for Mimbres Memorial Hospital for \$582,000 for a total payment of \$1,828,895. Commissioner Spivey moved to approve Sole Community Provider Hospital Payment for Mimbres Memorial Hospital of \$582,000 for a total payment of \$1,828,895. Chairman Diaz seconded the motion which carried unanimously.
- m. 2013 ROAD APPLICATION- HAZELTON:** Luna County Road Department Director Marty Miller recommended the application be denied due to the application not being

complete. Mr. Miller explained there are 18 other lots associated with the granting of the easement of the road, and those must be completed. Commissioner Spivey moved to deny the 2013 Road Application- Hazleton. Chairman Diaz seconded the motion which carried unanimously.

n. **2013 ROAD APPLICATION- ALBA:** Luna County Road Department director Marty Miller explained the application does not meet minimum requirements and the road dead-ends into private property. There is no documentation from the people on the mile stretch of road that have the state lease on the land. The lessors have the right for access of the road. Discussion ensued between the applicant, Mr. Miller and the board involving the requirements of the application. Commissioner Spivey suggested tabling the item for 30-days until the application could be researched further. Commissioner Spivey motioned for the tabling of 2013 Road Application- Alba. Chairman Diaz seconded the motion, which carried unanimously.

INDIGENT CLAIMS REPORT: Upon motion of Commissioner Spivey seconded by Chairman Diaz, 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 49 claims dated February 14, 2013 in the amount of \$115,940.37 and zero denials. The monies received for January 2013, totaled \$58,503.18. Commissioner Spivey moved to approve 49 claims dated February 14, 2013 in the amount of \$115,940.37 and zero denials. Chairman Diaz seconded the motion which carried unanimously.

Commissioner Spivey moved to recess as claims board and to reconvene as the Board of County Commissioners. Chairman Diaz seconded the motion which was approved unanimously.

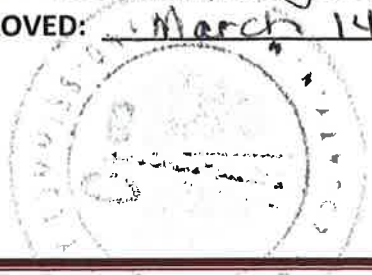
ANNOUNCE NEXT MEETING: Chairman Diaz announced the next regular meeting will be held on Thursday, March 14, 2013.

ADJOURN: Chairman Diaz adjourned the meeting at 11:31 a.m.

ATTEST:



ANDREA RODRIGUEZ, LUNA COUNTY CLERK
APPROVED: March 14, 2013



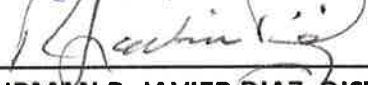
LUNA COUNTY BOARD OF COUNTY COMMISSIONERS



JOE L. MILOJ, JR., DISTRICT 1



J. JAY SPIVEY, DISTRICT 2



CHAIRMAN R. JAVIER DIAZ, DISTRICT 3

Luna County, New Mexico
Andrea Rodriguez
Clerk

County Clerk Certification

I hereby certify that during the Regular Luna County Board of County Commissioners meeting held on February 14, 2013, a motion was made by Commissioner Spivey to approve the Lease Agreement between Luna County and CattleMex for Luna County Stockyards contingent upon a written legal opinion being obtained by Ms. Kuenstler. Chairman Diaz seconded the motion which carried unanimously.

COUNTY OF LUNA, NEW MEXICO

By: *Berenda McWright*
Berenda McWright, Chief Deputy Clerk

SEAL

