

**MINUTES
REGULAR MEETING
LUNA COUNTY BOARD OF COUNTY COMMISSIONERS
Thursday, July 11, 2013**

BE IT REMEMBERED that the Luna County Board of County Commissioners met in regular session at 9:00 a.m. on Thursday, July 11, 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	Danny Gonzales, Human Resources Director
Glory Johnson, Assistant to the County Manager	Joanne Hethcox, Budget/Procurement Director
Berenda McWright, Chief Deputy Clerk	Jessica Etcheverry, Community Projects Director
JoAnna Z. Zurinsky, Deputy Clerk	Jessica Moreno, Director Health & Well Being
Dora Madrid, Treasurer	Lt. Jonathan Mooradian, Dispatch Director
Gloria Rodriguez, Chief Deputy Treasurer	Lt. Joy Mullins, Luna County Sheriff's Department
Delilah Rojo, Assessor	Matthew Elwell, Detention Director
Barbara Cobos, Chief Deputy Assessor	Mark Jasso, Emergency Services Director
Raymond Cobos, Sheriff	Ira Pearson, Starmax Facilities Director
Marty Miller, Road Director	Charles Turner, Manager's Office (Intern)

CALL TO ORDER: Chairman Diaz called the meeting to order at 9:01 a.m. and Kimberly Duncan 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
J. Jay Spivey, District 2
Chairman, R. Javier Diaz, District 3

SERVICE AWARDS: Sheriff Raymond Cobos presented Trini Garcia with a 5-year service award and thanked him for his dedication. Road Director Marty Miller presented Robert Barker with a 5-year award pin and Bruce Taylor with a 20-year award pin and thanked them for their dedication.

OATH OF OFFICE: County Manager Kelly Kuenstler and Detention Director Matthew Elwell administered the Oath of Office to new Luna County Detention Center employees.

ANNOUNCEMENTS: Chairman Diaz announced the County will be hosting a Salad Plate Luncheon fundraiser for Lt. Jonathan Mooradian and family on Friday, July 12, 2013 from 11:00

a.m. to 2:00 p.m. for \$5.00 a plate. All proceeds will go to help defray medical costs for Lt. Mooradian.

Community Projects Director, Jessica Etcheverry announced there will be a ribbon cutting ceremony for the Cooke's Peak Recycling Collection Center on July 12th at 9:00 a.m.

Detention Director Matthew Elwell announced the retirement of Detention Officer Donald Murphy and presented him with an award.

PUBLIC HEARING: Chairman Diaz opened the floor to a Public Hearing to receive testimony pertaining to the consideration of approval of restaurant beer and wine license for Forghedaboutit Pizza. The following citizens spoke in favor of issuing the license; Sean Blaine, Kimberly Duncan, Dave Petersen, Ed Khanbabian, Ann Shine-Ring, and Dana Rene Lee. With no other testimony forthcoming, Chairman Diaz declared the Public Hearing closed.

LIQUOR LICENSE: Ms. Kuenstler explained the liquor license application for Forghedaboutit Pizza is a license for restaurant beer and wine on-site consumptive use only. The Alcohol and Gaming Commission gave the application preliminary approval, but they sent it to the City of Deming. Since the County Commissioners are the governing body for this license due to the location of the business, the County must hold the public hearing. The hearing was properly advertised and conducted. The Commissioners may disapprove the issuance or transfer of the license if it is detrimental to the public health, safety or moral of the residents or if it is in violation of zoning ordinances or prohibited by law. The County has thirty days to notify the Alcohol and Gaming Commission of their decision on the application. Commissioner Spivey moved to approve the Liquor License for Restaurant Beer and Wine License for on-premise consumption only for Forghedaboutit Pizza at 2020 Hatch Hwy, N.E. Deming, NM. Commissioner Milo seconded the motion which carried unanimously.

PUBLIC HEARING: Chairman Diaz opened the floor to a Public Hearing to receive testimony pertaining to the consideration of Luna County Burn Ordinance Number 84. The following concerned citizens; Ron Bakunas, Dana Rene Lee, David Petersen, Ed Khanbabaian, and Ann Shine-Ring spoke in favor of the ordinance. With no other testimony forthcoming, Chairman Diaz declared the public hearing closed.

ORDINANCE NUMBER 84: Ms. Kuenstler stated that Ordinance 84 defines unlawful or prohibited acts in regards to burning, unrestricted open burning and open burning of vegetative material. The ordinance also discusses requirements for prior notifications to the local Volunteer Fire Departments. Section 9 of the ordinance describes burning of materials and structures for firefighter training, Section 10 addresses emergency burning, and the proposed ordinance outlines what happens if the ordinance is violated. If Ordinance 84 is passed it will take effect immediately after passage and will repeal Ordinance 72, which previously addressed burning issues. Chairman Diaz stated he would like to amend the ordinance--specifically, the language in section 8, addressing the burning of vegetative and agricultural materials. Commissioner Milo moved to approve Ordinance 84 as amended with a change made to

Section 8: (vegetative/agricultural material). Commissioner Spivey seconded the motion which carried unanimously following a roll-call vote.

PUBLIC HEARING: Chairman Diaz opened the floor to a Public Hearing to receive testimony pertaining to the consideration of Luna County Gross Receipts Tax Revenue Bond Ordinance 85. Fred Williams expressed opposition to borrowing money or re-directing money when revenues are down. Dana Rene Lee recommended that any borrowing of money be approved via a ballot election. No further public testimony was received.

ORDINANCE NUMBER 85: Ms. Kuenstler gave an overview of the proposed ordinance, and explained this is the first formal action which allows the County to begin exploring the process of issuing bonds for the Law Enforcement facility. Approving the ordinance does not commit the County to anything and the County can stop the process if they feel that the money or revenues are not available. The Gross-Receipts Taxes are only pledged as a security. The only time the County would have to use this revenue is if the monies in the Law Enforcement Protection Fund were not enough to pay the debt. In the event that were to happen, the County may go to another revenue source. If that particular revenue source was not available, then the County would use the increment that was pledged.

Ms. Kuenstler pointed out another option for financing the Law-Enforcement Complex. She stated there is an approximate balance of 5.5 million dollars in fund 410 and by borrowing the money from this fund for the complex, the County could use the money as needed, and no interest would be paid on money that is not being used. The County could also cut payments in half and this would help the Sheriff's Office with their funding. If the County borrows the money from itself, it would also give the Sheriff's Office the option of a quicker repayment plan. The bond could also be considered for the Luna County Detention Center because they have a dedicated revenue bond Gross Receipts Tax that brings in about \$700,000 per year, and using the revenue from the new U.S. Marshall's contract as partial payment of the bonds.

Mark Valenzuela, an investment banker, recommended amending the cap to an artificially higher number and provided some explanation as to how bond ordinances work. Discussion ensued amongst the Board about the various options the County had regarding the revenue sources and what must be done to prevent passing expenses on to the taxpayers.

Commissioner Milo moved to approve Ordinance Number 85 Luna County Gross Receipts Tax Revenue Bond Ordinance with the amount of funding to be amended to three million dollars. Commissioner Spivey seconded the motion which approved unanimously.

ELECTED OFFICIALS REPORTS: There were no reports given by the County Assessor's, Treasurer's, or Sheriff's Office. Deputy Clerk JoAnna Zurinsky reported that the Clerk's Office is in the process of collecting business registration renewals which become delinquent after July 31, 2013, and will incur a \$25.00 penalty fee. Currently the compliance rate for registration renewals is at 85 percent.

COUNTY MANAGER'S REPORT:

- Ms. Kuenstler suggested two appointments of members for the Wolf Committee. The committee is in need of at least one appointment for outgoing member Fred Williams. Ms. Kuenstler recommended the appointments of Danny Gonzales and Mike Walsh.
- Luna County received an electronic payment in the amount of \$587,500 for the Macho Springs Solar Industrial Revenue Bond. Deming Public Schools received a payment of \$462,500 from the same bond. The next nine years of payments should reflect \$175,000 for each agency each year.
- Effective date for the 55-mile rule extension is July 12, 2013. Fliers are passed out in Spanish at the Border Crossings in Santa Teresa and Palomas.
- The Stockyard sale closed on June 21, 2013. CattleMex now owns and operates what was formerly the Luna County Stockyards.
- Last week, Luna County filed suit against American Family Entertainment and Bill Kellen in excess of the amount of \$57,000.
- Everyone is invited to attend the ribbon cutting ceremony for the Luna County Recycling Collection on July 12th at 9:00 a.m., located at the Cooke's Peak Collection Center. This project is a result of grant efforts by the City to develop a Hub and Spoke recycling processing at the Transfer Station.
- Detention Director Matthew Elwell has become a Certified Jail Manager by the Jail Manager Certification Commission. The certification is good for a period of four years.
- Special Projects and Facilities Management Director Billy Ruiz received his Certified Public Official designation through the New Mexico Association of Counties.
- The 2012 New Mexico Clean and Beautiful awards were announced. Twelve counties in New Mexico received 'Gold Awards' and Luna County is the recipient of one these 'Gold Awards'.
- The Volunteer Fire Departments underwent an inspection by Luis Gonzales with the New Mexico Public Regulations Commission. Inspections of all stations went well with the exception of Savoy. This station still lacks some of the basic equipment needed, and Chief Luis Malina has proposed to the PRC that Savoy become a substation of Cooke's Peak Volunteer Fire Department. The PRC called Chief Malina's proposal 'a good option for maintaining services to citizens in the area.'

PUBLIC COMMENT: Dana Rene Lee came before the Board, and stated she would like to offer her various expertise and services to the County. County Manager Kelly Kuenstler and the Commissioners acknowledged Dr. Lee, and thanked her for the offering.

Fred Williams expressed his concerns to the Board in regards to New Business item: 'N'. He stated that although he supported the organization, the application for the request was incomplete, and suggested that the Deming Arts Council re-apply for a funding request. Mr. Williams inquired about a lease agreement with Presbyterian Medical Services and whether the lease would entail being free of charge, and also the agreement with the Mimbres Valley Learning Center and child care and fee schedule for services.

Arsen Khanbabaian thanked all those involved with organizing and participating in the 4th of July Festival.

Sean Blaine inquired about the qualifications of the Volunteer Fire department Chiefs. Ms. Kuenstler advised the Commissioners the County has received a public records request from Mr. Blaine, and is in the process of responding to his written request.

CONSENT AGENDA: Upon motion of Commissioner Spivey, seconded by Commissioner Milo, Payroll Registers totaling \$959,227.29 and Accounts Payable Registers totaling \$1,055,046.61 were unanimously approved.

CONSIDER MINUTES: Upon motion of Commissioner Milo, seconded by Commissioner Spivey, the minutes of the June 13, 2013 were unanimously approved.

NEW BUSINESS:

- a. **RESOLUTION 13-35 LOCAL GOVERNMENT ROAD FUND PROGRAM- COOPERATIVE PROJECT:** Ms. Kuenstler stated this resolution enters Luna County into a joint agreement with the New Mexico Department Transportation for chip sealing or sand sealing, filling of cracks, improving drainage and applying safety striping and signage to Camino Doce Rd. SE and SW, from the intersection of Lucca Rd. SW, east four miles to the intersection of McCan Rd. SE, 8th St. SW, from the intersection of Orno Rd. SW, south 3.75 miles to the intersection of Monte Vista RD. SW, within the content of Luna County. The NMDOT pays for 75% of the project, and Luna County will pay for 25% of the \$126,484.00 project. Commissioner Spivey moved to approve Resolution 13-35 Local Government Road Fund Program-Cooperative Project. Commissioner Milo seconded the motion which carried unanimously following a roll-call vote.
- b. **RESOLUTION 13-36 LOCAL GOVERNMENT ROAD FUND PROGRAM- COUNTY ARTERIAL PROJECT:** Ms. Kuenstler stated this resolution enters Luna County into a joint agreement with the New Mexico Department of Transportation for chip or sand sealing, filling of cracks, improving drainage and applying safety striping and signage to New Frontier Rd. SW, 2 miles west from intersection of Brazil Rd. SW, to EOP, Brazil Rd. SE, 4 miles south to NM 11 to EOP, Waterloo Rd. SE, 2 miles west from NM 11 to EOP, Hermanas Grade Rd. SW, 2 miles north of NM 9 to POB, then 4 miles north to EOP, within the content of Luna County. The NMDOT pays for 75% of the project and Luna County will pay for 25% of the \$335,073 project. Commissioner Milo moved to approve Resolution 13-36 Local Government Road Fund Program-County Arterial Project. Commissioner Spivey seconded the motion which carried unanimously following a roll-call vote.
- c. **RESOLUTION 13-37 LOCAL GOVERNMENT ROAD FUND PROGRAM- SCHOOL BUS ROUTE PROJECT:** Ms. Kuenstler explained this resolution enters Luna County into a

joint agreement with the New Mexico Department of Transportation for chip or sand sealing, filling of cracks, improving drainage and applying safety striping and signage and utilizing engineering services to Country Club Rd. SE, 1 mile south from intersection of Rivera Rd. SE, to intersection of Sunshine Rd. SE, 8th St. SW, 1 mile south from intersection of Coyote Rd. SW to intersection of Rivera Rd. SW, within the content of Luna County. Commissioner Spivey moved to approve Resolution 13-37 Local Government Road Fund Program- School Bus Route Project. Commissioner Milo seconded the motion which carried unanimously following a roll-call vote.

- d. **LEASE AGREEMENT BETWEEN LUNA COUNTY AND HELP- NEW MEXICO, INC.:** Ms. Kuenstler explained this lease agreement between Luna County and HELP- New Mexico, Inc. (which is a division of New Mexico Children, Youth and Families Department) is for childcare in the Mimbres Valley Learning Center. In exchange for the lease, the lessor agrees to provide childcare services for students attending classes at the Mimbres Valley Learning Center from 3:00 p.m. to 10:00 p.m. on all days when evening classes are scheduled. Ms. Kuenstler outlined the other conditions and lease terms. Commissioner Spivey moved to approve the Lease Agreement between Luna County and HELP- New Mexico, Inc. Commissioner Milo seconded the motion which carried unanimously.
- e. **LUNA COUNTY FIRE DISTRICTS BYLAWS:** Ms. Kuenstler stated the new Volunteer Fire District's bylaws have had input by various Fire Chiefs. Ms. Kuenstler thanked Emergency Services Director Mark Jasso, Luis Malina and the Fire Chiefs for their assistance in getting the bylaws revised. Commissioner Milo moved to approve the Luna County Fire Districts Bylaws. Commissioner Spivey seconded the motion which carried unanimously.
- f. **AGREEMENT BETWEEN LUNA COUNTY AND DEMING/LUNA COUNTY MAINSTREET PROGRAM:** Ms. Kuenstler explained the agreement between Luna County and Deming/Luna County Mainstreet is basically the same agreement as last year. The agreement is in the amount of \$15,000, and is made in an attempt to help defray the expenses of conducting the Mainstreet Program. The agreement monies are paid quarterly by invoice, and the program is measured by quarterly statistical reports. The reports include a narrative description of the past quarter's Mainstreet activity, and are submitted to Community Projects Director, Jessica Etcheverry. Commissioner Spivey moved to approve the Agreement between Luna County and Deming/Luna County Mainstreet Program. Commissioner Milo seconded the motion which carried unanimously.
- g. **AGREEMENT BETWEEN LUNA COUNTY AND RIO MIMBRES GOLF COURSE:** Ms. Kuenstler stated this agreement basically remains the same as last year between Luna County and the Rio Mimbres Golf Course. The agreement is in the amount of \$20,000, and it is made to help defray the expenses of operating the public golf course. The County payment can only be used for golf course maintenance and improvements.

The payment cannot be used for salaries or for expenses related to other properties owned by the Rio Mimbres Golf Course. The agreement monies are paid quarterly by invoice, and the program is measured by quarterly statistical reports. The reports include numbers of both member and non-member residents, students, non-residents and events held at the property and are submitted to Community Projects Director, Jessica Etcheverry. Commissioner Milo moved to approve the Agreement between Luna County and Rio Mimbres Golf Course. Commissioner Spivey seconded the motion which carried unanimously.

- h. AGREEMENT BETWEEN LUNA COUNTY AND DEMING-LUNA COUNTY COMMISSION ON AGING:** Ms. Kuenstler explained the agreement is the same one that Luna County made with the Deming-Luna County Commission on Aging in 2012. It is in the amount of \$100,000, and it is made to contribute to the cost of maintaining the Senior Center. The Senior Center is available to all Luna County seniors. The funds are paid on a monthly basis, and the County receives monthly reports which measure the number of visitors, meals served, meals delivered off-site, numbers of clients transported and the number of clients served in the Alzheimer's Respite Program. Commissioner Milo moved to approve the Agreement between Luna County and the Deming-Luna County Commission on Aging. Commissioner Spivey seconded the motion which carried unanimously.
- i. AGREEMENT BETWEEN LUNA COUNTY AND LUNA COUNTY HISTORICAL SOCIETY:** Ms. Kuenstler stated the agreement between Luna County and the Luna County Historical Society is the same one made as last year, and is in the amount of \$15,000.00. The contribution is made in an attempt to help maintain the museum. The County is invoiced quarterly from the museum, and the museum also submits quarterly reports to the County. These reports measure the number of visitors including youths who patronize the facility and the number of events held at the museum. Commissioner Milo moved to approve the agreement between Luna County and the Luna County Historical Society. Commissioner Spivey seconded the motion which carried unanimously.
- j. AGREEMENT BETWEEN LUNA COUNTY AND DEMING PUBLIC SCHOOLS:** Ms. Kuenstler explained the agreement between Luna County and Deming Public Schools is an agreement in the amount of \$80,000, and allows for after schools programs in each of the elementary schools, Deming Intermediate School, and Red Mountain Middle School. The after school programs are held for 26-weeks when school is in session, and the County is billed by Deming Public Schools quarterly. Commissioner Milo moved to approve the Agreement between Luna County and Deming Public Schools. Commissioner Spivey seconded the motion which carried unanimously.
- k. AGREEMENT BETWEEN LUNA COUNTY AND SWNM STATE FAIR ASSOCIATION, INC.:** Ms. Keunstler stated this agreement between Luna County and the South Western New Mexico State Fair Association, Inc. remains unchanged from last year. The agreement is in the amount of \$15,000 and it assists with the costs of putting on the

fair. The SWNM Fair Association submits quarterly reports for accountability purposes and the reports detail the attendance at the fair, the number of youth and adult entries, the number of livestock/animal entries and financial reports. Commissioner Spivey moved to approve the Agreement between Luna County and the SWNM State Fair Association, Inc. Commissioner Milo seconded the motion which carried unanimously.

- I. AGREEMENT BETWEEN LUNA COUNTY AND DEMING ANIMAL GUARDIANS:** Ms. Kuenstler explained the agreement between Luna County and the Deming Animal Guardians is in the amount of \$10,000 and helps defray the expense of a coupon program for low-income residents of Luna County that is used for a spay/neuter program for companion animals. Deming Animal Guardians submit quarterly reports and invoices to the County measuring the number of residents who request assistance through their program and the number of spayed or neutered animals during that particular quarter. Commissioner Milo moved to approve the agreement between Luna County and Deming Animal Guardians. Commissioner Spivey seconded the motion which carried unanimously.

- m. AGREEMENT BETWEEN LUNA COUNTY AND SOUTHWEST REGIONAL TRANSIT DISTRICT:** Ms. Keunstler stated that this agreement between Luna County and the Southwest Regional Transit District has been budgeted in the amount of \$96,000 (the same amount as last year), but the County has yet to pay because the County has not been invoiced. The agreement amount actually needs to be changed to \$55,000. The agreement is made to help defray operating expenses of public transportation services like Corre Caminos and Corre Cantinas. The invoices are supposed to be submitted quarterly, per the agreement but this has not been done. The invoices are to include the number of transports, passengers, and citizens' services. Community Projects Director Jessica Etcheverry reported that she has requested these figures, and she should have them by next week. This item was tabled pending more information and until Ms. Etcheverry may obtain the requested figures.

- n. FUNDING REQUEST FROM THE DEMING ARTS COUNCIL:** Ms. Kuenstler explained although this grant request for \$3,000 appeared incomplete, she had Pat Guthrie from the Deming Arts Council explain why the Council was asking for the grant amount. Ms. Kuenstler suggested that the County and the Deming Arts Council meet to develop a Memorandum of Understanding on how the funds will be used. Commissioner Spivey motioned to approve the funding request with the stipulation that a Memorandum of Understanding be developed between Luna County and the Deming Arts Council. Commissioner Milo seconded the motion which carried unanimously.

- o. REPORT ON COUNTY PROPERTIES:** Ms. Kuenstler gave the Board an overview and a list of the County properties. The list outlined the occupied properties and the status of each property along with coding with whether supplies and/or janitorial is provided. Commissioner Spivey stated he would like to see a list of the unoccupied

properties as well. The list is available to the public on the County website. Much discussion ensued as to the future to a few of the currently occupied properties, and the economic feasibility of the County continuing to own them. This was a discussion item only, and no action was taken.

INDIGENT CLAIMS REPORT: Upon motion of Commissioner Spivey and a second 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 54 claims dated July 11, 2013 in the amount of \$101,742.36 and zero denials. The monies received for June 2013, totaled \$52,832.71. Commissioner Milo moved to approve 54 claims dated July 11, 2013 in the amount of \$101,742.36 and zero denials. Commissioner Spivey seconded the motion which carried unanimously. Commissioner Spivey moved to recess as the Indigent Hospital Claims Board and reconvene as the Board of County Commissioners. Commissioner Milo seconded the motion which was approved unanimously.

PRESENTATIONS: Charles 'Tink' Jackson of the Gray Wolf Advisory Committee came before the Board and gave a presentation on the committee's activities. Outlined in the presentation were plans to rename the committee the Endangered Species Committee, the addition of Israel Saenz as an investigative officer for the County, and various future activities the Advisory Committee will be involved in.

ANNOUNCE NEXT MEETING: Commissioner Diaz announced the next regular meeting will be held on Thursday, August 8, 2013.

JAIL INSPECTION: A jail inspection was conducted by the Luna County Board of County Commissioners and given by Detention Director Matthew Elwell at the Luna County Detention Center. Chief Deputy Clerk Berenda McWright and Deputy Clerk JoAnna Zurinsky were also present during the inspection.

ADJOURN: The meeting was adjourned by Chairman Diaz at 2:35 p.m. at the Luna County Detention Center.

ATTEST:



ANDREA RODRIGUEZ, LUNA COUNTY CLERK

LUNA COUNTY BOARD OF COUNTY COMMISSIONERS




JOE L. MILO, JR., DISTRICT 1

APPROVED: August 8, 2013



J. JAY SPIVEY, DISTRICT 2



CHAIRMAN R. JAVIER DIAZ, DISTRICT 3

