

**MINUTES
REGULAR MEETING
LUNA COUNTY BOARD OF COUNTY
COMMISSIONERS
Thursday, December 12, 2013**

BE IT REMEMBERED that the Luna County Board of County Commissioners met in regular session at 6:00 p.m. on Thursday, December 12, 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:

County Manager Kelly Kuentler, Assistant to the County Manager Glory Johnson, County Clerk Andrea Rodriguez, Deputy Clerk JoAnna Zurinsky, Treasurer Dora Madrid, Chief Deputy Treasurer Gloria Rodriguez, Assessor Delilah Rojo, Chief Deputy Assessor Barbara Cobos, Sheriff Raymond Cobos, Special Projects and Facilities Management Director Billy Ruiz, Detention Director Matthew Elwell, Sheriff Sergeant Richard Cowles, Sheriff Lieutenant-Dispatch Director Jonathan Mooradian, Sheriff Corporal Luis Malina, Community Projects Director Jessica Etcheverry, Director Health & Well Being Jessica Moreno, Road Director Marty Miller, Human Resources and Payroll Director Daniel Gonzales, Budget and Procurement Director Joanne Hethcox, Starmax Facilities Director Ira Pearson, IT Technician Manny Armendariz, Emergency Services Director Mark Jasso, Security Screener Moses Pastran.

CALL TO ORDER: Chairman Diaz called the meeting to order at 6:07 p.m. and Anna Milo 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: County Manager Kelly Kuentler presented Road Director Marty Miller with a 20-year Service Pin and thanked him for his dedication.

Detention Director Matthew Elwell presented Yvonne Baca with a 10-year Service Pin and thanked her for dedication.

ANNOUNCEMENTS: Commissioner Milo announced a successful Border Tour during last month's meeting, and commended the Luna County Sheriff's Department for their work.

Commissioner Spivey announced the Luna County Road Department held a public auction and thanked all those involved for their efforts.

PUBLIC HEARING: Chairman Diaz opened the floor to a public hearing to receive testimony for the Repeal of Bond Ordinance Number 85, an ordinance authorizing the issuance and sale of Luna County, New Mexico Gross Receipts Tax Revenue Bonds Series 2013. County Manager Kelly Kuenstler explained to the Board the circumstances involving the Repeal. Larry Caldwell came before the Board and expressed his support for the repeal. With no other testimony forthcoming, Chairman Diaz closed the public hearing.

ORDINANCE: Commissioner Milo moved to approve the Repeal of Bond Ordinance Number 85. Commissioner Spivey seconded the motion which carried unanimously following a roll-call vote.

PRESENTATIONS: County Manager Kelly Kuenstler gave a presentation on the Luna County Skate Park and recent work done by the maintenance department. Ms. Kuenstler commended Daniel Villegas and Emanuel Vasquez and their efforts for getting involved.

Assistant to the County Manager Glory Johnson presented the new Luna County Website.

Luna County Sheriff Sergeant Richard Cowles gave a presentation on this year's Shop with a Cop fundraiser. Mr. Cowles gave a brief history of Shop with a Cop, and thanked the efforts of this year's participants. This year's event raised \$17,000 and gave 420 children the opportunity to 'Shop with a Cop' of which 363 participated. The funds were raised by hosting a brisket luncheon, a bowling tournament, a trash pick-up, and local business efforts through badge sales.

ELECTED OFFICIALS REPORTS: County Clerk Andrea Rodriguez reported that the Clerk's Office is preparing for the School Bond Election and the Municipal Election. Sheriff Cobos expressed his appreciation to the Commissioners and for those who supported the Shop with a Cop event.

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

- Ms. Kuenstler thanked those involved with the Shop with a Cop event and the committee that helped put together the annual City/County Christmas Party. Ms. Kuenstler also thanked Moses Pastran for putting together the float for the County for the Christmas Parade.
- Plans are being made for a Community Christmas Tree Lighting.
- The traffic count for J Street and Country Club Drive that Chairman Diaz requested during last month's meeting was not done due to not being able to source a company with the traffic counters.
- Carl Sanner (Luna County Detention Center Sergeant) earned 2013 Luna County Employee of the Year.
- A dedication of the Learning Center and Special Events Center for Senator Smith and Representative Irwin is planned for December 19th at 6:00 p.m. The City of Deming

is sharing with the costs of the plaques and helping provide refreshments for the event.

- A Public Input meeting was held this evening on a Statewide Economic Development Plan for Luna County. Grant, Luna, Hidalgo and Catron Counties are participating.
- The Luna County Detention Center average daily population is 339 inmates which consisted of 194 Federal Inmates and 145 Local Inmates.
- Budget and Procurement is in the process of completing the U.S. Census 2013 Annual Survey of Local Government Finances. The RFP for the lease of the Day Care Facility closes on December 26th.
- Starmax has received \$53,000 reimbursement for the digital conversion.
- The Road Department has been assisting the City of Deming with hauling road debris. The department is working on two state projects that must be completed by December 31st.
- Central Dispatch call volume was 12,493 (received and sent) calls. 7 Tipsoft alerts were received.

PUBLIC COMMENT: Larry Caldwell came before the Board and expressed his belief that if Luna County adopted a Living Wage Ordinance there would be a lot fewer poor people in the Community that would need to be helped by events like *Shop with a Cop*.

Keith Harris announced there is a meeting in regards to the Bond Issue at 6:00 p.m. Monday in the all-purpose room in the High School. Mr. Harris encouraged any with questions or concerns about the Bond Issue to attend. Ms. Kuenstler advised the Board that Superintendent Moore has requested a presentation on the Bond Issue on the January agenda.

Joe Bill Nunn came before the Board and expressed his support for Resolution 13-55.

CONSENT AGENDA: Upon motion by Commissioner Spivey and a second by Commissioner Milo, Payroll Registers totaling \$1,427,754.33 and Accounts Payable Registers totaling \$598,430.17 were unanimously approved.

CONSIDER MINUTES: Upon motion by Commissioner Spivey and a second by Commissioner Milo, the minutes of the November 19, 2013 Regular Meeting were unanimously approved.

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

- a. **DISCUSSION OF O'KELLEY ROAD AND OTHER COUNTY ROADS TO INCLUDE THE ROAD BETWEEN 549 AND 377:** Road Director Marty Miller came before the Board and discussed the history concerning the roads and steps that must be taken for the County Road Department to take over maintenance of O' Kelley Road and the road between 549 and 377. The discussion included legal considerations and ownership of easements. Ms. Kuenstler stated that for the record she would obtain a legal opinion in regards to whether it would be wise

for the County to attempt to get the landowners to voluntarily give up the land in question for easements, and if this was not the best route, then what the County must do to obtain the easements. This item was presented as a discussion item only, and no action was taken.

- b. **RESOLUTION 13-53 BUDGET TRANSFERS:** Ms. Kuenstler recommended approval of one budget transfer in the amount of \$5,500. Commissioner Spivey moved to accept Resolution 13-53 Budget Transfers. The motion was seconded by Commissioner Milo and carried unanimously following a roll-call vote.
- c. **RESOLUTION 13-54 BUDGET INCREASES:** Ms. Kuenstler recommended approval of two budget increases totaling \$4,227.55. Commissioner Milo moved to accept Resolution 13-54 Budget Increases. The motion was seconded by Commissioner Spivey and carried unanimously following a roll-call vote.
- d. **RESOLUTION 13-55 SETTING FORTH A STATEMENT OF POLICY REGARDING THE RELEASE OF WILDERNESS STUDY AREAS:** Ms. Kuenstler explained that Resolution 13-55 pertains to the release of Wilderness Study Areas (WSA's) in Luna County. The declaration in the resolution states there are four WSA's in Luna County: Florida Mountains, Cooke's Range, Cedar Mountain, and West Portillo Mountains that do not fit the wilderness definition as outlined in the Wilderness Act of 1964. It also declares these four areas do not contain wilderness characteristics according to the wilderness criteria under section 2(c) of the Wilderness Act. In the third to the last WHEREAS, it discusses that these four areas were not recommended to the United States Congress as Wilderness Areas for the inclusion into the National Wilderness Preservation System and that the activities in these WSA's that are beneficial to improve the soils, watershed and wildlife habitat are prohibited by federal rules, regulations and guidelines that have evolved over time. The resolution further resolves the Commission petitions the congressional delegation to act upon the resolution and release the WSA's in Luna County from their status and remove them from the national Landscape Conservation System for the benefit of the citizens of Luna County. Commissioner Spivey moved to approve Resolution 13-55 Setting Forth a Statement of Policy Regarding the Release of Wilderness Study Areas. The motion was seconded by Commissioner Milo and carried unanimously following a roll-call vote.
- e. **LUNA COUNTY EMPLOYEE HOLIDAY SCHEDULE:** Ms. Kuenstler presented the 2014 Luna County Employee Holiday Schedule. Commissioner Milo moved to approve the Luna County Employee Holiday Schedule. Commissioner Spivey seconded the motion which carried unanimously.
- f. **MEMO WITHDRAWING COUNTY PARTICIPATION IN THE EXTRA TERRITORIAL ZONING (ETZ) IN LUNA COUNTY TO INCLUDE TERMINATING AND RESCINDING ALL AGREEMENT PERTAINING TO THE ETZ:** Ms. Kuenstler explained this item is a memo that is prepared on behalf of the Commission to the City of Deming terminating and rescinding all Extraterritorial Zoning (ETZ)

agreements with the City of Deming and advising the City that the County no longer wishes to participate in the ETZ. Ms. Kuentler advised the Board legal counsel has been sought by the County Manager's office to ensure that the correct legal citations were given in the memorandum. The memo will put the City on notice that the Board is directing the Luna County Manager to make certain that any language referring to the ETZ authority or to any Joint Powers Agreement concerning City/County joint zoning is removed. City of Deming Administrator Richard McInturff came before the Board and discussed the benefits of the County continuing its participation in the Extraterritorial Zoning with the City. Mr. McInturff expressed his opinion that he felt the problems with 'ping-ponging' citizens back and forth from the City to the County to get various issues resolved was in the process of getting worked out. Mr. McInturff suggested a workshop be held in regards to solving the ongoing ETZ problems that residents face. Much discussion ensued in regards to this item. Larry Caldwell and Dave Petersen spoke in favor of the County withdrawing its participation from the ETZ. Chairman Diaz stated he felt that the issues could be worked out, given more time. Commissioner Milo moved to approve the Memo Withdrawing County Participation in the Extraterritorial Zoning (ETZ) in Luna County to Include Terminating and Rescinding all Agreement Pertaining to the ETZ. Commissioner Spivey seconded the motion which carried unanimously.

g. APPOINTMENT OF LUNA COUNTY LODGERS TAX ADVISORY COMMITTEE:

Ms. Kuentler requested the appointment of a Lodger's Tax Advisory Board. Under the Lodger's Tax Act, 3-38-22, NMSA, 1978, Luna County must appoint an advisory board designed to advise the Commission on how to spend the Lodger's Tax Funds collected by the County. The board must consist of five members: Two members must be owners or operators of lodgings subject to the Occupancy Tax within the County; two must be owners or operators of industries located in the County, and one must be a resident of the County. Commissioner Spivey moved to approve the Appointment of Luna County Lodger's Tax Advisory Committee consisting of members Jolene Nunn, Ricardo Molina, Lori Coleman, Emmanuel Lescombes (or his designate), Ray Trejo and Ben Etcheverry as an alternate. Commissioner Milo seconded the motion which carried unanimously.

h. AMENDED JOINT POWERS AGREEMENT BETWEEN GRANT COUNTY, LUNA COUNTY, TOWN OF SILVER CITY, CITY OF DEMING, HIDALGO COUNTY, AND CITY OF LORDSBURG FOR CORRE CAMINOS. THIS ACTION RESCINDS THE AGREEMENT BETWEEN LUNA COUNTY AND REGIONAL TRANSIT DISTRICT APPROVED IN JULY 2013:

Ms. Kuentler stated this item is an amended agreement between Grant County, Luna County, Silver City, Deming, Hidalgo County, Lordsburg and Corre Caminos and rescinds the Joint Powers Agreement the Board approved in July. Luna County Representative Jessica Etcheverry explained the Joint Powers Agreement, although presented, is not final. Ms. Kuentler stated she would like to see further changes involving the accountability and financials, specifically citing paragraph 7(c). Larry Caldwell expressed his concerns with the Joint Powers Agreement paragraph 4 (f) involving Sunshine

Laws and public records, transparency and also the Village of Columbus being serviced. Commissioner Spivey motioned to not enter into the Amended Joint Powers Agreement between Grant County, Luna County, Town of Silver City, City of Deming, Hidalgo County, and City of Lordsburg for Corre Caminos but to direct the County Manager's Office through Representative Jessica Etcheverry to negotiate the Joint Powers Agreement. Commissioner Milo seconded the motion which carried unanimously.

- i. MIMBRES VALLEY SPECIAL EVENTS CENTER FEE SCHEDULE:** Ms. Kuenstler stated this item is a fee schedule for the Mimbres Special Events Center. The changes to the rate schedule are the inclusion of no waiver of fees. There is also a clean-up fee of \$150 if a renter serves food. The clean-up fee of \$25 if a renter does not serve food remains unchanged. Commissioner Spivey moved to approve the Mimbres Valley Special Events Center Fee Schedule. Commissioner Milo seconded the motion which carried unanimously.

INDIGENT CLAIMS REPORT: Upon motion by 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.

Budget and Procurement Director Joanne Hethcox recommended approval of 33 claims dated December 12, 2013 in the amount of \$77,546.90 and zero denials. The monies received for November totaled \$62,571.87. Commissioner Milo moved to approve 33 claims dated December 12, 2013 in the amount of \$77,546.90 and zero denials. Commissioner Spivey seconded the motion, which carried unanimously.

Commissioner Spivey moved to recess as an Indigent Hospital Claims Board and to reconvene as the Luna County Board of County Commissioners. Commissioner Milo seconded the motion, which was approved unanimously.

ANNOUNCE NEXT MEETING: Chairman Diaz announced the next regular meeting will be held on Thursday, January 9, 2014 at 6:00 p.m.

ADJOURN: Chairman Diaz adjourned the meeting at 8:24 p.m.

ATTEST:



 ANDREA RODRIGUEZ, CLERK

APPROVED: 01-09-14

LUNA COUNTY BOARD OF COUNTY COMMISSIONERS



 JOE L. MILO, JR., DISTRICT 1



 J. JAY SPIVEY, DISTRICT 2



 CHAIRMAN R. JAVIER DIAZ, DISTRICT 3