

**MINUTES
SPECIAL MEETING
LUNA COUNTY BOARD OF COUNTY
COMMISSIONERS
Wednesday, June 23, 2021**

BE IT REMEMBERED that the Luna County Board of County Commissioners met in Special Session at 10:00 a.m. on Wednesday, June 23, 2021 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 Chris Brice, Deputy Clerk Pilar Salcido, Road Department Director David Bailey, Economic Development & Community Director Christy Ann Harvey, IT Assistant Debra Seats, and Budget and Procurement Director Joanne Hethcox.

CALL TO ORDER: Chair Reedy called the meeting to order at 1:01 p.m. and led the Pledge of Allegiance and the salute to the flag of the State of New Mexico.

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

**Barbara L. Reedy, Chair District 1
Linda M. Smrkovsky, District 2
John S. Sweetser, District 3**

PUBLIC COMMENT: Chair Reedy opened the floor for public comment.

City of Deming Mayor Benny Jasso expressed his support regarding the request for LEDA funding for Homegrown Produce, LLC project and the County's LEDA Funding Act Ordinance 105. Mr. Jasso stated this project will be getting back the business we are losing to Hatch and other areas that have farmers markets since losing the Diaz Farms. Mr. Jasso stated it will be good to establish that business again and keep it going in this area. The Viramontes family has been farming in this area for decades they are engrained in this community. Mr. Jasso stated they have put together some numbers and offered to share them with the Board. The City Council unanimously voted for this project as they believe in it.

Member of Homegrown Produce, LLC Jamie Viramontes explained that her husband is a third-generation farmer in the community. Ms. Viramontes stated she has been in the community for ten years, she loves the community and the county. She also stated she loves that their base root is in agriculture and that is something that has always been a passion of hers growing up. The fact of the matter is that the farmers and ranchers in this area continue to struggle each year and because of that, they need to start thinking outside the box. They are competing constantly with foreign trade as products are being brought in. They are also

being impacted by minimum wage increases, labor, and the struggles of trying to find labor on their farm. These are only a few of the things they face each season and it is continuing to become more of an issue and a struggle for them. The Homegrown Market idea was from strategic planning and analyzing by thinking outside the box. What they can do that will help support their community, help support the agriculture industry, and what will help the county and the city. This project will bring steady employment for those seeking employment and it provides another outlet for the producers to be able to provide to Homegrown Produce their products. Ms. Viramontes stated it will bring people into the community to purchase their products. They have already looked into accepting EBT payments. They have also been working with NM Farmer's Market Association, and are planning to join the double box program. Because people are purchasing local New Mexico grown products they will get double the product for the same price they would pay for products in the big box stores. They are trying to make sure this is benefitting everyone involved, not just themselves, not just the farmers, the ranchers but also those who are consumers and those who would be enticed to tour Deming. She understands the concerns and is here to address those concerns today.

Border Patrol Agent Joel Reyes who is in charge of this area gave an update on the situation on the border in our county and the El Paso sector. Mr. Reyes has 22 years of experience in the Border Patrol, was previously the First Line Supervisor in Deming. Luna County is the majority of their responsibilities. The Deming station is accounted for 88 border miles which is the southern part, halfway down to the Boot Heel, to a few miles past the county line headed towards El Paso. They account for about 15,000 apprehensions this fiscal year to date. They do this with about 280 Border Patrol Agents assigned to this station. The majority of the agents commute from Las Cruces and El Paso to Deming, about 20% of the agents reside in the City of Deming. The Deming station is one of 11 stations of the El Paso sector, the El Paso sector is the responsible for the entire State of New Mexico and West Texas, and is the fourth busiest sector in the Nation, accounting for 191,000 apprehensions fiscal year to date. We do not have the issues that you would see in El Paso with the releases. Mr. Reyes stated he would say 90% of the population captured are expelled immediately back to Mexico. The Deming average for apprehensions is about 500 to 600 every week, about 100 to 150 a day. Throughout the area of responsibility, the majority of the traffic seems to be coming in from the Boot Heel area and is seen between Deming and Santa Teresa then either heading north on 26 or 180 towards Albuquerque or west towards Phoenix. Commissioner Sweetser asked if a checklist is completed before they can apprehend someone. Mr. Reyes said there are not any constraints concerning whom they take into custody. He did state there are limitations now on whom they can prosecute. He explained that every administration has their priorities concerning whom can be prosecuted but it has been consistent throughout the different administrations that if you cross the border illegally you are subject to expulsion, removal, or return. Commissioner Sweetser stated that a couple of years ago Luna County had a rush of asylum seekers. He asked Mr. Reyes if he foresees that happening in Luna County again. Mr. Reyes explained that they at one time were not able to release people into the community, and then all of a sudden there was a sudden flood, then they were given authority to do so. It put a strain on things because no one was planning for that to have happened. Mr. Reyes stated their plan does not include releasing people in Luna County. He does not foresee a flood of people crossing in this area that would otherwise turn

themselves in freely at the Port of Entry or in El Paso. The expectation in Deming is an increase in the Mexican population who do not traditionally request asylum or are immediately expelled. Mr. Reyes explained they have a contract with Immigration Customs Enforcement (ICE) to transport people if needed. They did not have that contract in place in 2018 and were not able to move people out of Deming as quickly as they wanted.

NEW BUSINESS:

- a. Resolution 21-48: Luna County Arterial Projects (CAP) Project:** Road Department Director David Bailey explained this project would be milling 10" base compact on Solana Road from the intersection of Lucca. The project is being constructed this year using last year's application which is going to go from McCan Road, across HWY 11 to 8th Street. This application will be for the rest of the way from 8th Street and Lucca to Hermanas, which finishes the Solana Loop. The standard arterial project is to continue construction for major truck routes, agriculture routes, and heavy traffic areas, including drainage and shoulder improvements to control the water flow across the roads. Commissioner Smrkovsky motioned to approve Resolution 21-48: Luna County Arterial Projects (CAP) Project. Commissioner Sweetser seconded the motion which carried unanimously following a roll call vote.
- b. Resolution 21-49: Luna County Cooperative Agreement Projects (SP) Project:** Mr. Bailey explained this project will be the Coop special project portion of the LGRF, the smaller one of the three, which finishes the loop. In the past, we did Sunshine Road and Monte Vista Road from Hwy 11 through Hermanas. This will close the gap from Hwy 11 to McCan on Sunshine which is only two miles. Those two miles will close the loop over to the dirt road portion of the unmaintained paved road. It will also include the small portion of 4th Street which will be from San Luis before the railroad tracks over the tracks to the detention center and over around to the back of the building for service routes. In general, as time has progressed throughout the County the roads get narrower and narrower because of mesquite growth and brush. Anytime we do the road construction to either do chip seal or a pavement we are always going to try to do the grubbing and clearing of the shoulders to take them back to their normal conditions. The Counties standard is to have two-lane roads 24 feet in width with 34 feet shoulders. Ideally, the way Sunshine and McCan was built the shoulders were nicely downgraded for drainage and they used old millings to create that downgrade. They used recycled millings to create beautiful shoulders to allow the runoff. That will always be the intent for any chip seal or pavement but millings are not cheap to come by, and if we do not have millings we will do it with chip seal or through clearing and grubbing. Commissioner Sweetser motioned to approve Resolution 21-49: Luna County Cooperative Agreement Projects (SP) Project. Commissioner Smrkovsky seconded the motion which carried unanimously following a roll call vote.
- c. Resolution 21-50: Luna County School Bus Routes (SB) Project:** Mr. Bailey explained this is very similar to the previous resolutions whereas they are adding additional milling. They are going to take up the road and reclaim the existing road

before they put down the new road whereas a normal chip seal without milling would be to add additional layers to an existing chip. This would be milling like the first one for the arterial project where they will mill the 10" existing chip and redo the base and compact before they put down the chips. A small caveat is if you have McCan Road and you come down J Street from the production plant, the first half mile or so is City. The County starts at the last little farm structure before Solana and goes the rest of the way on McCan. This will only cover the point of the division of the City/County line which about a quarter-mile north of that last farm and it is about 6.5 to 7 miles down to Sunshine. Mr. Bailey stated he is going to see if they have some kind of an agreement with the City to do the whole thing which makes sense, but if not, they will do their part. This will take you from McCan 6.5 miles south with the milling reclaiming the road down to Sunshine Road. It will also include Skyview near 418 which some work has already been done. Commissioner Smrkovsky motioned to approve Resolution 21-50: Luna County School Bus Routes (SB) Project. Commissioner Sweetser seconded the motion which carried unanimously following a roll call vote.

County Manager Chris Brice commented that he has talked to City Manager Aaron Sera quite a bit regarding the 4th Street project. This road is one of the roads that is split between City and County going toward the detention center. We release a lot of people from the detention center that walk back into town on this road. This street does not have any sidewalks nor are there any street lights, the roads are in horrible condition so we are looking at a joint project with the city to get sidewalks and lights on the entire length of 4th Street. The intent is to get that road to be safer for people including detention center employees who have to drive on it daily. Mr. Brice also stated he went out to look at Sunshine Road and Monte Vista Road when they widened those roads. Mr. Bailey said they ended up clearing the grub on the sides as their right away is essentially 30 feet, 15 feet in each direction. A lot of residents have built ornate driveways from the County roads up to their houses. The residents have to be careful because of the County's right of way. The road department tries to help as much as they can to not destroy the driveways.

- d. Amended Resolution 21-03: Notice of Fees:** County Manager Chris Brice explained they are trying to consolidate all fees. They had fees in multiple ordinances many of them had not been updated for many years. That is why the Board passed the initial resolution to consolidate fees into one resolution. Amending the Notice of Fees resolution is going to be a routine thing for the next few months, we did do a call for fees but not all departments responded until it had already been approved. Mr. Brice is certain there will be two or three more amendments before it is finalized. Then every January the Board will approve one for setting the fees for that year. Chair Reedy commented she noticed there were very few increases in the fees and what was increased was very reasonable. Mr. Brice stated they even took a lot of fees out of some of the ordinances as they were no longer made any sense to have them. It should also be a lot easier for the public to understand. Commissioner Smrkovsky motioned to approve Amended Resolution 21-03: Notice of Fees. Commissioner Sweetser seconded the motion which carried following a roll call vote.

- e. **LEDA Request for Homegrown Produce, LLC:** County Manager Chris Brice stated they discussed this at the last meeting and they have put a lot of time and effort in this request between Christie Ann Harvey, himself, and County Attorney Charles Kretek. This request is completely legal, it has been done in 83 other entities within the State of New Mexico already. They have put the process in place for it and Homegrown Produce meets all the requirements. Mr. Brice has provided the Board with a comprehensive plan, this exact project is listed in their comprehensive plan to grow the community and feels it is needed. One of the things the Attorney brought up in the investigation is that you can dedicate the return GRT from Homegrown Produce sales. The State will split that out and they can put that money back into a fund that will then generate monies for the next LEDA project, this will then replenish the LEDA fund. Chair Reedy asked if they have any other sources to fund the LEDA plan. Mr. Brice stated they have discussed different things, like designating a small percentage of all GRT that comes back and that is not restricted up to a cap decided by the Board for the year. He also stated they currently tax the citizens on bonds for the detention center, bonds for the district court, and bonds for Starmax. He stated they have a tremendous amount of money sitting in those bonds that really should be put back into the community. He said they are starting to do that but this is a pittance compared to what we have sitting in those bonds more than required payments. These bonds are free to be used as the County desires. A notice of ordinance has already been posted, the board has a call for ordinance today ready to go. County Attorney Charles Kretek explained that in 1999 the ordinance was passed and then in 2014 they added arts and culture to the ordinance. Mr. Kretek further explained the Constitution provision changed in 1994, he believes, then you had the implementation of the LEDA Act itself which also passed at that time for the State. Then the County Ordinance passed in 1998 which is Ordinance 39. They did Deming Mobile Homes first which was Ordinance 40. They amended LEDA several times but the big amendment was in 2013 which added the Local Economic Development component where either the County can fund the project or the State can. The County then passed Ordinance 86, a month later. Ordinance 88 was passed which was Preferred Foods. This year an amendment was made in respect to the retail business which is exactly what Homegrown Produce falls under to allow Counties to do the same thing Cities do. Commissioner Smrkovsky clarified that the funds for Solitaire and Produce all came from the State and now we are looking to fund from the Counties coffers. Mr. Kretek agreed. Commissioner Smrkovsky stated that she spoke with John Clark Economic Development Attorney who she worked with when the Google project was done. Mr. Clark stated that they are doing the right thing with the LEDA project but have to make sure that they have a local Ordinance that addresses what the County is going to provide to the community if it is not covered in a current Ordinance. Mr. Kretek said this project is covered in the Ordinance. He further explained the Ordinance recited the Local Economic Development Act and it can be funded in a variety of ways. It can be funded through 1/8 added on the taxes which was authorized but was never implemented. You can fund it under the Statute with up to 10% of the general fund, which this year is going to be \$12 million. The other provision that Mr. Brice mentioned was the gross tax receipts that result from this

project or property tax increases. Her stated we can segregate and put 50% back into the LEDA fund and then we also have the pending gross receipt tax settlement which we do not know the amount yet, but it is going to be a significant amount. The County has the authority and the discretion of the Commission to spend that money. Mr. Kretek stated, "This project absolutely allows the County to do this and the Statute allows the County to do it without having to go to legislative approval". It is ultimately the Boards decision to vote on this project. Commissioner Sweetser motioned to approve LEDA Request for Homegrown Produce LLC. Commissioner Smrkovsky seconded the motion which carried following a roll call vote.

ADJOURN: Upon a motion by Chair Reedy the meeting was adjourned at 1:47.

ATTEST:

**LUNA COUNTY BOARD OF
COUNTY COMMISSIONERS**

Berenda McWright
Berenda McWright, Luna County Clerk

Barbara L. Reedy
Chair Barbara L. Reedy, District 1

Approved: 7-8-21

Linda M. Smrkovsky
Linda M. Smrkovsky, District 2

John S. Sweetser
John S. Sweetser, District 3

