

**MINUTES
REGULAR MEETING
LUNA COUNTY BOARD OF COUNTY
COMMISSIONERS
Thursday, August 12, 2021**

BE IT REMEMBERED that the Luna County Board of County Commissioners met in regular session at 10:00 a.m. on Thursday, August 12, 2021 in the Chambers of the Luna County Courthouse, Deming, New Mexico, for the purpose of conducting any and all business to come properly before the Board. Due to the Covid-19 Pandemic and the Governor's Orders regarding social distancing, the commission meeting was also conducted via teleconference and webcasting.

The following staff and elected officials were present: County Manager Chris Brice, Assistant to the County Manager Yossie Nieblas, Deputy Clerk Rachel Bishop, Clerk Berenda McWright, Assessor Michelle Holguin, Chief Deputy Assessor Isabelle Encisco, Treasurer Kristie Hobbs, Sheriff Kelly Gannaway, Road Department Director David Bailey, IT Technician Joseph Apodaca, LCDC Director Lee Cook, Economic Development, Community Director Christie Ann Harvey, Budget & Procurement Director Joanne Hethcox, Assistant Admin Sarah Estrada, Planning Director Premal Patel, Deputy Director Pablo Montoya, Community Development Liason Mary Mackey, Parents as Teachers Program Manager Anna Barraza, and County Attorney Charles Kretek. Other directors and elected officials were present virtually.

CALL TO ORDER: Chair Reedy called the meeting to order at 10:00 a.m. and led the Pledge of Allegiance and the salute to the flag of New Mexico.

ROLL CALL: Deputy Clerk Rachel Bishop 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**

MINUTES: Upon a motion made by Commissioner Smrkovsky and a second by Commissioner Sweetser the Minutes for the Regular Meeting of July 8, 2021, Work Session of July 23, 2021, and the Special Meeting of July 23, 2021 were unanimously approved following a roll call vote.

SERVICE AWARDS: Parents as Teachers Director Anna Barraza presented a 5-year service award to Olga Neave. Sheriff Kelly Gannaway presented Luis Lobato a 10-year service award. Road Department Director David Bailey presented Ricardo de la Torre a 20-year service award.

PRESENTATION:

- **Fishing Day 2021:** County Manager Chris Brice presented a video to be viewed and talked about the community fishing day. He reported there were 100 fishing poles given to children attending the event. Another big fishing event is planned for Summer 2022.

ELECTED OFFICIALS REPORTS: Assessor Michelle Holguin reported that they have received an evaluation back from the Property Tax Division with recommendations and questions to be answered. They should be receiving the final response soon. Sales Ratio studies that were provided by the state have been mailed out. It is a year to year reflection of the market if state guidelines are being followed and sales are being valued correctly and accurately. Luna County is meeting all requirements set by the state at this time. The following appraisal staff completed and passed the required continued education hours towards certification to Property Tax Division, Ashley Gallegos, Appraiser III, Mary Perez, Appraiser II, Petra Stevenson, Appraiser I, Jacqueline Tarazon, Appraiser I, and three Certified Appraisers, Alma Arias. Isabel Enciso and Michelle Holguin also completed their continuing education to maintain their certification as Certified Appraisers. The appraisal staff are busy working on the protests and then they will begin working out in the field. The County Service Specialist staff are busy processing deeds for the month of July. They have also been busy processing changes of addresses, affidavits, tax levies, personal property, livestock, and helping customers in the office, online, and on the phone. The GIS/Floodplain /911 rural addressing department have updated the maps for 2021. They are busy processing UPCs, deeds, flood plain inquires, and parcel data inquires, new addresses, address designation letters, and are continuing to work on the City limits subdivision on the GIS maps. Online services are available and staff is available to help anyone walk through the online services or help with any questions they have. Assessor Holguin encouraged all to visit their office if anyone has questions.

Clerk Berenda McWright reported on the number of voter registrations processed for the month of June. There were 11 in person, 2 via mail, 111 removable, and 124 online registrations processed. Luna County currently has a total of 12,580 active registered voters, 5,235 Democrats, 4,217 Republicans, 109 Libertarians, and 3,019 Declined to State and other. A total of 466 documents were recorded in the Clerk's office. Seven new business registrations were issued in July. There is a total of 230 businesses currently registered in Luna County. In July, a total of 12 marriage licenses were issued, and 16 probates were opened and 1 was closed. The Lodger's tax collected for the month of June was \$131.75 with a year- to-date total of \$1,706.00. They attended and processed minutes for three commission meetings (one regular meeting, one special meeting, and one work session). Through ERIC notification, approximately 1000 notices were sent out. Of those notices 535 were cross state matches and 448 were in-state updates. As a result of the notices, a total of 89 cancellation notices were returned and processed. August 24th is candidate filing day for the upcoming Local Election to be held on November 2nd 2021. Commissioner Sweetser asked what cross-state matches were. Ms. McWright stated that they are notices we receive from ERIC if the person has moved out of state. We receive notice and are able to contact them to cancel registration here.

Treasurer Kristie Hobbs reported that this month is one of their slower months and they use it to play catch-up on filing and letters. For the month of July, they took 1,285 tax payments, 24 tax releases, 273 credit card payments. To date, they have collected \$14,251,223 for 2020 taxes.

Sheriff Kelly Gannaway reported on the criminal side for the month of July. No homicides, no rapes, 10 assaults, 4 burglaries, 7 larcenies, and 4 vehicle thefts. The overall criminal totals are up a little bit. The non-criminal paper service is up, accidents are down and DWI's are down. The total for non-criminals is up but overall grand totals for the month are down. New vehicles are still in

production. Deputy Paredes and Deputy Soledad are attending the law enforcement academy. One is in Dona Ana. And one is in Santa Fe Academy. Deputy Lopez resigned after being in the academy for two weeks. Sargent Ramirez resigned. HIDA Task Force Agent Delagarza retired after 22 years of law enforcement. They have two deputy positions, one sergeant position and one task force position to fill. Sherriff Gannaway stated the National Night Out on August 3rd was a great success and they had a big turnout. A total of 800 hamburgers and hotdogs were served. He thanked Senator Crystal Diamond for securing funds for the purchase of body armor for Sheriff's office, detention center for our county and some others as well.

Commissioner Smrkovsky reported that our capital outlay and the message coming from the state at this time is that shovel ready bigger projects are the ones they are looking at funding at this time. She virtually attended the NM Counties board meeting on August 5th and 6th over zoom. They reviewed lots of things including the upcoming annual conference which is in Lea County September 21st -23rd. Ms. Smrkovsky encouraged Luna County employees to attend if they are able. Ms. Smrkovsky reported that the Economic Development Infrastructure Policy Committee met on August 11th and Do it for Broadband gave a presentation. She stated there is lots of federal funding available to get broadband in the county.

COUNTY MANAGER'S REPORT: County Manager Chris Brice reported:

- National Night Out was a huge success. They served 800 hamburgers and 800 hotdogs. He thanked Main Street and everyone else who participated.
- They are working on several grants. TPF grant for the drainage in the Columbus Industrial Park is vital, and it is shovel ready. They are working with the village of Columbus on a water tower.
- Mr. Brice, Christy Anne Harvey, and Sarah Estrada went to the Santa Teresa Port of Entry and met with Jerry Pacheco and Tony Hall to talk about what has been done at the port in Santa Teresa and what could be done at the port here to try and build it up.
- The electronic time clock system should be finished by October.
- The new Detention Maintenance Building has already been funded and should be built soon. Someone will be coming in to remove the old units. Hopefully this will be a no cost job with the possibility of taking the materials they remove with them as pay.
- They continue to work on Dispatch and the EOC
- Starmax is up and running. They are working on air conditioning issues in the movie theaters that must be completed before they can open.
- Sarah Estrada has been brought on as the Grants Manager/Grant Writer.
- A Green Stream event will be held on August 12th at 1:00. The Secretary for Economic Development will be present to help kick off the event.
- Western has started a Vocational School in Welding and they have quite a few people interested in it. Next they are working on getting a CDL program up and running.

- Premel Patel has worked on tracking down the owner of the abandoned house up near Rockhound State Park. The owners were willing to hand it over to the county. It will be the home of the new trash collection area.
- A meeting was held with the State-wide CID to discuss hiring a building official to serve both the County and the City (possibly on a 2-3 day a week basis).
- We have had a few vehicle break-in's in the parking lot recently. Looking at using the Fina Station to help secure some of the vehicles a little better.
- The Columbus Learning Center is not getting a whole lot of use in its current capacity. It is being looked at as the location for the New Port of Entry Economic Development Building.
- Mr. Brice will be attending the Legislative Finance Committee meeting in Taos in the next few weeks. Let him know of any concerns that need to be taken to them.
- The Legislative Committee for Indian Affairs meets every month rotating between the different tribes in the state. It will be held in Luna County in September hosted by the Fort Hill Apaches. It will be held at the learning center.
- NM Counties Annual Conference is coming up in September. Some Employees will be attending virtually and some will be attending in person.
- County Manager and Pablo Montoya will be attending the Fire Chiefs Conference in Ruidoso in September.
- Lee Cook, formerly of the Deming Police Department has been hired as the Detention Center Director.

INDIGENT CLAIMS REPORT: Upon a motion by Commissioner Sweetser and a second by Commissioner Smrkovsky, the meeting of the Board of County Commissioners was unanimously recessed and the meeting of the Indigent Hospital Claims Board convened.

Budget & Procurement Director Joanne Hethcox reported claims for the month of July of \$2,562.06. In July they collected \$54,564.42 in GRT. The balance for the Indigent Claims Fund total is \$1,789,578.92 as of July 31st. All of last year's PO's were closed out July 31st so there are no encumbrances. As of the first week of August there are almost a million dollars of encumbrances. Chair Reedy asked for a motion to consider the claims dated August 12th. Commissioner Smrkovsky made a motion to consider the claims as presented by Joanne Hethcox for August. The motion was seconded by Commissioner Sweetser and approved unanimously.

Commissioner Smrkovsky motioned to recess as a Claims Board and reconvene as a County Commission. Commissioner Sweetser seconded the motion which carried unanimously.

PUBLIC COMMENT:

- Jack Harmon voiced concerns with the Algae Plant. He stated that the facility is unsecure and full of hazardous waste and is very dangerous. Christy Ann Harvey responded. She stated that Green Stream was purchased by another company. She stated that the State has done due diligence in looking at the company. Some work has already been done to improve it. It is a private company and it is not considered a toxic dump or hazard.
- Linda Harmon asked what Sapphire Energy was and what they produce. Christy Ann Harvey responded. She explained that Sapphire Energy was a bio-diesel producer from algae. Ms.

Harmon responded that this company used hazardous materials in the process. Commissioner Sweetser responded and stated that it was an experimental project and that the fuel made was for jet fuel. Linda Harmon discussed dollar amounts reportedly used for this project. Christy Ann Harvey explained that grants are used by these companies to clean up and restart. It helps get public money to private organizations to help them grow.

- Scott Chandler expressed concerns over the amount of water used at the algae plant. He stated that he was told the algae plant would have unlimited water rights. Mr. Brice stated that he would reach out to the State Engineer's office for clarification.
- Susan Schiffner expressed concerns over the current condition of the algae plant. She wanted to know what the restrictions are on the current owners as far as clean up. Mr. Brice explained that they are working on a county ordinance to address these issues.
- Russ Howell expressed appreciation for the clean-up that will happen on the corner at Rock Hound. She also expressed concern with the sound system in the commission chambers. She also expressed concern with the timeliness of the meeting minutes for previous County Commissioner meetings. County Manager explained that sound panels have been put up to help with the sound issue and they are working with a contractor to address the sound system issues.
- Susan Schiffner expressed concerns with the dumping of onions near her home. She stated that flies are a real concern. She also stated that crates and bags are being dumped along with the onions.
- Carmen McDonald expressed concerns over the algae plant, she is concerned that it is being "sold" as green energy. She shared her experience in California and also read comments from people in England who were concerned about windmills that were brought in to the country.
- Andrew Bell expressed concern over the wind solar and algae plants. He would like to see the county set up funds and policies to ensure clean up after they are no longer operational. Mr. Brice explained that the county is setting up guidelines for the companies coming in to the county to follow.
- Linda Harmon asked for explanation of what the ordinances are. Mr. Patel explained to her that the ordinances set the guidelines for companies coming into the county.
- Chelsea Evans, Interim director for Main Street, reported on the success of the National Night out, she also gave an update on upcoming community events. She also discussed upcoming projects.
- Alberta Morgan asked people making public comment to speak into the microphone to be heard. She also gave her opinion on the solar wind plant.
- Andrew Bell asked that we focus on existing resources like petroleum, natural gas, and coal.

Break-11:30 am -11:40 am

PUBLIC HEARING:

- a. **Ordinance 106: An Ordinance Approving a local Economic Development Project for Green Stream Algae LLC d/b/a Green Stream Farms: PUBLIC HEARING:** Christy Ann Harvey, Community Director for Economic Development, introduced the ordinance. She stated that the ordinance is for the approval of a LEDA project that involves Green Stream Algae Farms in Columbus NM. It is a \$250,000 grant coming from the State of New Mexico. The County will act as fiscal agent for the grant. She explained that the ordinance must be passed in order for the County to proceed with the project. Commissioner Sweetser asked

for verification of what the Algae Green Stream produced was for and what the economic cost was.

Public Hearing Comments on Ordinance 106:

- Linda Harmon expressed concern over the type of chemicals used and the methods of clean up that was used by the previous company that was in the location of Green Stream. She stated that it was previously used to make bio-chemical jet fuel and will now be used to make a consumable product and expressed great concern over the safety of it and would like to see the paperwork on the clean-up. Mr. Brice responded by stating that Green Stream is under FDA regulations who presumably will regulate the safety of the transition from jet fuel to the algae farm.
- Susan Schiffner expressed concern over the changes already happening to expand and start up the Algae farm. Mr. Brice stated that Green Stream is a private company and the County does not regulate what a private company does. They are allowed to start working on expansions and startups. He reminded her that the ordinance being discussed is just in regards to the \$250,000 grant being awarded by the state.
- Linda Harmon stated that Green Stream is a multi-million-dollar company and she expressed concern over them being awarded \$250,000 by the state. Mr. Brice stated that the company will be creating many new jobs which in turn gives the money back to the state.
- Susan Schiffner asked how many jobs would be coming in to the community through Green Stream. Ms. Harvey stated that the county is in competition with many other states/counties to attract businesses to the area. The grant is one of many ways that our county is attempting to attract businesses to set up here.
- Paul Hoylen asked who owns the land where the Algae Farm is located. Ms. Harvey stated that Green Stream Farms and its parent company own the land. Mr. Hoylen also asked who they bought it from and expressed concern over possible conflict of interest in previous and current owners of the property. Ms. Harvey stated that a company from California owned it before Green Stream.
- Linda Harman asked who took the land over when Sapphire went out of business. She wanted to know if the County took it over. Mr. Brice stated that the County did not take it over, but he is unsure of who did.
- Collette Chandler wanted to clarify that the only thing being considered right now under this ordinance is that Luna County will be the fiscal manager for the LEDA funds.

Commissioner Smrkovsky stated that the project is funded through the state, not the county and that the county would simply be the fiscal manager. She asked for clarification on the wording of the last paragraph of the ordinance. County Attorney Charles Kretek clarified and they agreed that it would be amended. Chair Reedy read the conditions (1-9) of the ordinance out loud. Commissioner Smrkovsky motioned to approve Ordinance 106: An Ordinance Approving a local Economic Development Project for Green Stream Algae LLC d/b/a Green Stream Farms as amended. Commissioner Sweetser seconded the motion which carried unanimously following a roll call vote.

- b. Ordinance 107: An Ordinance Addressing Energy Production Facilities: PUBLIC HEARING:** Planning Director, Premal Patel stated that the ordinance is being established to have regulation standards incorporated within the ordinance to hold land holders accountable to some degree on what they do with the land. The ordinance will also outline the standards on the decommissioning and reclamation of properties. He mentioned that

anyone who wants a copy of the draft can give their email address to Yossi to get the information sent to them. County Commissioner Linda Smrkovsky asked for clarification on a few points in the ordinance. Mr. Kretek gave explanation for points she questioned.

Public Hearing Comments on Ordinance 107:

- Susan Schiffner asked how close we are to actually having windmills put in the County. Mr. Patel stated that solar panels are being put in at this time, but not windmills.
- Linda Harmon asked if anyone has researched how much fossil fuel it takes to make one windmill. She also asked if anyone has researched how the blades on a windmill are not recyclable after their life cycle is over. She also stated that solar panels are not recyclable and they are full of toxic chemicals. She wanted to know if the County would be responsible for the deflation of property values caused by these things. Mr. Brice responded that this is a nationwide debate and it is a completely separate topic than what is being discussed for this ordinance. Ms. Harmon stated that “we the people” will have to go get a lawsuit in place to stop Windmills and Solar from being put in place.
- Scott Chandler stated that he believes the county manager and the commissioners do have the power to keep windmills and solar plants out of Luna County. He stated that they could put a moratorium on them. He expressed concern that property values are being lowered because of green energy.
- Susan Schiffner stated that land owners are being given incentives to put up windmills and solar panels and that it affects everybody.
- Carmen McDonald read an email that she received from Crystal Gewide, a resident of Roosevelt County regarding her account of the windmills constructed in that area.
- Linda Harmon stated that Luna County has a slogan to “Keep NM Beautiful,” she also stated that wind and solar farms are not beautiful and she does not want to look at them. She also brought up a lawsuit in California where a certain species of birds are bursting into flames when they fly over the solar panels.

Break-12:44 pm -3:00 pm

Meeting reconvened from break at 3:00 pm and public hearing of Ordinance 107 continued: Mr. Patel restated that the ordinance is being established to have regulation standards for landowners put in to place.

Continued Public Hearing Comments on Ordinance 107:

- Susan Schiffner stated that she would like to see the ordinance be put on hold and stated that she, Linda Harmon, and Jack Harmon would like to be included in the committee to provide input on the policy being created. Mr. Patel asked for their email addresses to contact them.
- Chair Reedy read a portion of the ordinance to the Public.
- Jack Harmon expressed concern over the Sandhill Cranes (who are an endangered species) that stop in Luna County during their migration.
- Collette Chandler stated that she is all for the ordinance being considered. She proposed that the ordinance include something that implies that public input will be considered when decisions are being made. She also mentioned a few other counties in the state who allow the public to put moratoriums in place when issues are being discussed. She asked if the County Attorney could clarify the parameters of the

ordinance. Mr. Kretek clarified the parameters of the ordinance in response to Ms Chandler's questions.

Commissioner Sweetser motioned to approve Ordinance 107: An Ordinance Addressing Energy Production Facilities. Commissioner Smrkovsky seconded the motion which carried unanimously following a roll call vote.

CONSENT AGENDA: Upon a motion from Commissioner Sweetser and a second by Commissioner Smrkovsky the Consent Agenda was approved unanimously following a roll call vote.

- a. Accounts Payable: \$1,195,661.41
- b. Payroll: \$1,562,271.69

NEW BUSINESS:

- a. **Resolution 21-56: Disposal of Assets:** Commissioner Smrkovsky motioned to approve the Resolution 21-56: Disposal of Assets. The motion was seconded by Commissioner Sweetser and carried unanimously following a roll call vote.
- b. **Resolution 21-57: Agreement between Luna County and Southwest New Mexico Council of Governments & Appointments of Representatives:** Commissioner Smrkovsky motion to approve Resolution 21-57: Agreement between Luna County and Southwest New Mexico Council of Governments & Appointments of Chis Brice and Barbara Reedy as Delegates. The motion was seconded by Commissioner Sweetser and carried unanimously following a roll call vote.
- c. **Proclamation 21-07: Supporting all Economic Development in Luna County (SunZia Transmission Project):** Commissioner Smrkovsky motioned to approve the proclamation 21-07: Supporting all Economic Development in Luna County (SunZia Transmission Project). The motion was seconded by Commissioner Sweetser and carried unanimously following a roll call vote.

UPCOMING MEETING: Chair Reedy announced the following upcoming meetings.

Regular Commission Meeting: September 9, 2021 at 10:00 a.m.

ADJOURN: The meeting was adjourned by Chair Reedy at 03:19 p.m.

ATTEST:



 BERENDA MCWRIGHT, LUNA COUNTY CLERK

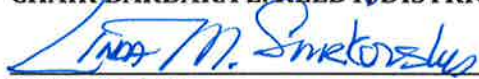
APPROVED: 9-9-21



LUNA COUNTY BOARD OF COUNTY COMMISSIONERS



 CHAIR BARBARA L. REEDY, DISTRICT 1



 LINDA M. SMRKOVSKY, DISTRICT 2



 JOHN S. SWEETSER, DISTRICT 3