

**MINUTES
REGULAR MEETING
LUNA COUNTY BOARD OF COUNTY
COMMISSIONERS
Thursday, July 9, 2020**

BE IT REMEMBERED that the Luna County Board of County Commissioners met in regular session at 10:00 a.m. on Thursday, July 9, 2020 in the 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. Due to the Covid-19 Pandemic and the Governor's Orders regarding social distancing, the commission meeting was conducted via teleconference and webcasting with a minimum in attendance from the public and staff.

The following staff and elected officials were present: County Manager Chris Brice, Executive Assistant Yossie Nieblas, Deputy Clerk Pilar Salcido, Chief Deputy Clerk Berenda McWright, Treasurer Gloria Rodriguez, Chief Deputy Treasurer Dora Madrid, Sheriff Kelly Gannaway, Captain Michael Brown, IT Administration Debbie Seats, Road Department Director Marty Miller, Community Development Director Premal Patel, and Human Resource Director Rosa Porras. Other directors and elected officials were present virtually.

CALL TO ORDER: Chair Sweetser called the meeting to order at 10:02 a.m., and led the Pledge of Allegiance and the salute to the flag 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, District 1
Linda M. Smrkovsky, District 2
John S. Sweetser, Chair District 3**

APPROVAL OF AGENDA: Chair Sweetser entertained a motion to approve the agenda. Commissioner Smrkovsky requested to move consent agenda items o, p, q, r and s to new business for discussion. Commissioner Smrkovsky moved to approve the agenda as amended. Commissioner Reedy seconded the motion which carried unanimously following a roll call vote.

MINUTES: Upon a motion made by Commissioner Reedy and a second by Commissioner Smrkovsky the Minutes of the Regular Meeting of June 11, 2020, and the Special Meeting of June 19, 2020 were unanimously approved following a roll call vote.

SERVICE AWARDS:

- Yovanie Granillo from Dispatch was not present to receive her 15 year service award.

PRESENTATIONS:

- **Restrictive Housing Quarterly Report:** County Manager Chris Brice reported an inmate did actually go out for recreation but during that time out the inmate became light headed

and dizzy. He was then assessed by the medical team who then recommended the inmate stay in to lay down. No other inmates to report.

ELECTED OFFICIALS REPORTS: Treasurer Gloria Rodriguez reported they have completed delinquent collections, they have closed the end of the year books, balanced the month and they are now ready for the start of the new fiscal year. Mr. Rodriguez stated 2019 tax year collections is at 91%. She also stated that House Bill 6 was signed which indicates that any penalties and interest are waived for any second half payments, but only if the first half was paid and current. Ms. Rodriguez explained that for those tax payers who were charged penalty and interest will be getting a credit for the next tax year. Ms. Rodriguez will be retiring in December and feels she will be leaving the office in good hands as her employees have all been properly crossed trained.

Sheriff Kelly Gannaway reported on June stats, the criminal side are down, overall totals are down. Non-criminal paper service is up, non-criminal totals are also up. Deputy Baeza will be going to the academy on July 20th for certification. Three new Deputies have been hired, Paul Garcia, Lorenzo Rivera and Antoinette Calderon. Deputy McBurney and Sias are still deployed overseas and will probably be returning in August and should be back to work in September. Deputy Michael Baca was promoted to Corporal. Deputy Nordorf will be moving to the City of Deming Police Department. The Sherriff's Office is short in several areas and needs to restructure shifts and possibly ask the State Police and/or Border Patrol for help. Commissioner Smrkovsky asked Sheriff Gannaway about Senate Bill 8, Law Enforcement Body Cameras. Sheriff Gannaway stated they have already implemented using body cameras which they started a long ago and which is policy. Sheriff Gannaway did mention he would like to make changes to the policy as they may have left some issues out. He thought the body camera equipment cost anywhere from \$800 to \$1200 including docking stations and video storage. He did mention it would be nice if the State would be reimbursing them for the already purchased equipment but he doesn't see that happening, the equipment was bought with the Sherriff's budget. Commissioner Smrkovsky feels that Chris Brice and the Sherriff should reach out to the New Mexico Counties for input.

Commissioner Smrkovsky stated she attended the New Mexico Counties Executive meeting recently as the Conference was cancelled in June. That's usually when the President elect changes happen, a resolution was created and those changes will occur at the August 3rd board meeting.

Commissioner Reedy stated she has been working on updating policies and how keeping all the policies in one place and easily accessible. Currently the policies are scattered throughout the minutes in the Clerk's office and can only be easily accessed from 2012 forward.

Chair Sweetser stated he sat on the CAP Entity which is the Gila River diversion which was not approved. This project amounted to 14,000 acres to feed a new water for New Mexico which probably will not materialize in the foreseeable future. Moving forward there could be projects in conservation initiatives from that but Luna County has about a 3,000 acre feed.

COUNTY MANAGER'S REPORT: County Manager Chris Brice reported they recently held a virtual training through NMSC for supervisors and directors on discipline and the feedback was well received. The County is going to get training recordings for future use. He also stated that he and

Commissioner Smrkovsky sat on a phone call with a gentleman from Franklin Covington Leadership Training, they will be providing Luna County with training information. Mr. Brice stated that leadership training for directors and front line supervisors has been a topic of conversation for quite a while.

- Dispatch – Had over 12,000 calls for the month of June. All vacant positions have been closed and are fully staffed.
- Detention Center – Booked 273 individual's average daily population is 241 and the Marshalls have gone up from 130 to 170. Marshalls Services designated Luna County as the intake site for all State wide Federal inmates.
- The Road Department has bladed 176 miles of road. A tire shredder was received on June 10th and has shredded about 1,600 tires. The City of Deming has turned over waste management services to a private company, they have also taken over the transfer station. The County would get a break on County employees taking stuff to the dump so we would take the tires to the transfer station and dispose of those but because that's privately run were trying to figure out how to take those tires to a private entity as they charge citizens to dispose of tires. The County will be working with Waste Management in the near future to figure out how that is going to work because Waste Management is getting paid to take them and they are not paying us to shred them. Mr. Brice stated he is also going to talk to Waste Management about possibly taking over the convenience stations throughout the County and what that would look like if they did it instead of us as that is their profession and possibly the phone calls can go to them instead of the County.
- Budget and Procurement Director Joanne Hethcox is finalizing the 2020-2021 fiscal year budget and trying to set dates for a Work Session, then a Final Session to approve the final budget.
- Alezandra Mercado has been hired to replace David in Accounts Payable and Grisel is training her. Umbaldo Gomez, Jose Vasquez and Rick Lasuda have been hired as Detention Officers. Starmax has an open position for a part time cook. The County has a new vision carrier for the employees, also the three percent medical premium increase has been cancelled due to the pandemic.
- The Starmax sales for the month of June is \$10,000, this time last year sales were \$156,000. Project submitted was the fire alarm system including new sensors as the current equipment is outdated. The plan had to be submitted to the State Fire Marshalls for approval before the Company can come in to replace equipment.
- Casa is serving seven kids in Luna County, two in Hidalgo and 33 in Grant County. Parents as Teachers are all working from home and all their visits are virtual, they have 162 families they are servicing. Between Yossie and Edith the Health Council held an event on June 26th at the pavilion and distributed over 1,000 masks and got 20 people signed up for the Census at the same time. Getting ready to go to Columbus on Saturday between 10:00 am and 1:00 pm for another Census event being held at the volunteer fire station.
- DWI has 99 individuals being tracked and 11 new clients for substance abuse and 7 for DWI arrests, these numbers are up possibly directly related to the struggles with stay at home orders.

- Emergency Manager Phillip Rodriguez continues to work with the State Emergency Management as he is the single point of contact for all Personal Protective Equipment for Luna County including the hospital, medical and dental offices. Luna County has had huge uptake in positive cases recently.
- Luna County Volunteer Fire Department responded to nine brush fires, one vehicle fire and a structure fire. They also just received a call that there is a house north of town which is suspected of having bombs in it. The State Police have responded and are waiting on the bomb squad to arrive and assess the situation. The Volunteer Fire Department is still doing birthday parades. The State Fire Marshalls did approve the County's consolidated fire district so now the County is considered solely Luna County Volunteer Fire Department..
- The IT Department received 165 work orders for the month and completed 137. The IT Department has a lot of projects going on and really needs help. IT has received three applicants for their opened position. They would like to get a bigger pool of applicants to look at and they are considering using Indeed or looking at technical schools through Dona Ana Community College.
- Planning and Development – ICIP public hearings are scheduled. The County cannot apply for Capital Outlay through the State if they do not have it on their ICIP and it has to be in the top 10 or the State will not even consider it. Grants are also driven by the ICIP. Mr. Brice requested that priorities be thought of now so that when the time comes discussion can occur on how the ICIP will be laid out.
- The Maintenance Department is working on the Health Complex and the CDBG Grant which has been a scramble because the company we had in place to give us the probable cost estimate was not real good with CDBG Grants as the grants are crazy complicated. The County has moved over to Stan Tec who is familiar with CDBG Grants but now we are in a time crunch. Mr. Brice stated that he does believe we will be able to apply for the CDBG Grant and Priscilla is really pushing hard on this project as it meets everything that everybody wants to see in a CDBG project. We just need to get the probable cost estimate to them so that Priscilla and Mr. Brice can pitch the project, with the Health Department involved and the services offered it really is the perfect project. We have \$750,000 in Capital Outlay which was awarded to us and is still in place. Park Plaza has to have asbestos removed before renovation can start at the IT area. The Parents as Teacher building through their grant bought all new furniture, the interior of the building has been painted and will be ready for them when they return working in the office. There are several departments asking about Plexiglass and needing to be considered for permanent installation. Commissioner Smrkovsky stated there is going to be a lot of illegal dumping of tires because people will not pay the dump to get rid of them. Mr. Brice stated he, Chuck, Mike and Marty have had in depth discussions about tires. Mr. Brice mentioned they are looking into reaching out to Hidalgo and Grant County to try and get a grant to allow Luna County to take all their tires and shred them at a cost. Maybe we start charging the public .25 cents or .50 cents a tire to bring them to us instead of them dumping the tires in the desert. The tire shredder is doing what we had hoped and more, if we can get Hidalgo and Grant County to pitch in and pay us to take their tires maybe that is the way to go. The recycling of tires has been considered but it would cost the County a lot of money to get to the recycling centers.

INDIGENT CLAIMS REPORT: Upon a motion by Commissioner Reedy 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.

Mr. Brice reported that there were two claims for the month of June in the amount of \$8,013.26. The gross receipts collections totaled \$79,071.84 and the balance for the Indigent Claims Fund totaled \$1,181,705.91, of that \$44,932.99 is encumbered. Commissioner Smrkovsky asked about the two claims and how they are identified on the report. Commissioner Smrkovsky motioned to approve the Indigent Claims Report as presented. Commissioner Reedy seconded the motion which carried unanimously.

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

PUBLIC COMMENT: Chair Sweetser opened the floor to public comment. Susan Schiffner came before the Board to make a public apology to Chair Sweetser for chewing him up thinking he was her County Commissioner but has since realized that Commissioner Smrkovsky is her County Commissioner.

Community Services Director Premal Patel apologized for the oversight of not including this topic to the agenda. Mr. Patel would like to put on record the ICIP solicitation of projects. Mr. Patel explained the ICIP is the Infrastructure Capital Improvement Plan which is established by the DFA for planning priorities for anticipated capital projects. The State coordinated the ICIP process to encourage entities to plan for the development of capital improvements so that they do not find themselves in emergency situations. Prioritizing infrastructure projects including the project details of each specific infrastructure capital improvement, funding time frames, and estimated costs. The County staff is bringing this forward to introduce project needs and any revisions necessary. The County staff will also hold three public meetings on July 14th at 9:00am and 5:00pm and on July 15th at 12:00pm to receive community input. Mr. Patel requested solicitation for projects, constituents may have areas or project ideas which can be brought to his attention for evaluation and to start adding to the priorities list. Mr. Patel provides his phone number (575) 543-6641 or his e-mail address of primal.patel@lunacountynm.us. Commissioner Smrkovsky asked where the meetings would be held. Mr. Patel stated they will be in the Luna County Commission Chambers.

CONSENT AGENDA: Upon a motion from Commissioner Smrkovsky, and a second by Commissioner Reedy the Consent Agenda was approved as amended which will be items a through n. Commissioner Reedy seconded the motion which carried unanimously following a roll call vote.

- a. Accounts Payable: \$1,077,335.43
- b. Payroll: \$1,063,599.28
- c. Agreement between Luna County and Deming-Luna County Commission on Aging
- d. Agreement between Luna County and Rio Mimbres Country Club-Golf Course
- e. Agreement between Luna County and Deming Animal Guardians
- f. Agreement between Luna County and Deming-Luna County Historical Society
- g. Agreement between Luna County and Deming-Luna County Humane Society
- h. Agreement between Luna County and Southwestern NM State Fair Association
- i. Agreement between Luna County and Deming-Luna County Main Street Program
- j. Agreement between Luna County and Deming Art Council
- k. Agreement between Luna county and Deming-Luna County Chamber of Commerce
- l. Agreement between Luna County and Deming Silver Linings
- m. Agreement between Luna County and Play Charity
- n. Agreement between Luna County and US Dept. of Agriculture Animal & Plant Health Inspection Service-Wildlife Service

- o. Resolution 20-37 Support and Financial Commitment for the Corre Camino Program for Luna County – **MOVED TO NEW BUSINESS FOR DISCUSSION**
- p. Resolution 20-38 Adopting New County Logo – **MOVED TO NEW BUSINESS FOR DISCUSSION**
- q. Resolution 20-39 Luna County SP Cooperative Agreement Project – **MOVED TO NEW BUSINESS FOR DISCUSSION**
- r. Resolution 20-40 Luna County Arterial Projects (CAP) – **MOVED TO NEW BUSINESS FOR DISCUSSION**
- s. Resolution 20-41 Luna County School Bus Route (SB) Project – **MOVED TO NEW BUSINESS FOR DISCUSSION**

NEW BUSINESS:

- a. **JPA Agreement with the Village of Columbus.:** County Manager Chris Brice explained that the Village of Columbus has already passed the JPA Agreement through the Village Trustees. Mr. Brice stated the only question is how the County handles law enforcement in the Village of Columbus. The Village is not happy with the level of law enforcement the County provides them, but what they give the County pays for about a third of an actual officer. At some point this agreement shouldn't be under a JPA, as a JPA should be strictly for law enforcement if that's what we're going to continue to do the County should have a multi-services agreement for the rest of it. It's what is done with the City of Deming. It was so late and it had already been approved by the Village we went ahead with the JPA as is. Mr. Brice stated the Village of Columbus can't afford to pay Sheriff Gannaway for what they want and what it will cost us to patrol the Village, obviously the County has the requirement to patrol that part of the County already but the Village wants somebody down there full time and if they cite somebody down there they want the officer to site them into the Village Courts. The other option Mr. Brice mentioned is for the Village to start their own Police Department again and in the end it would probably be less expensive for them, these are all talks that need to happen with the Mayor of the Village of Columbus in the future. Commissioner Smrkovsky thought this may be a good time for the Mayor of the Village of Columbus to look into Senate Bill 8 for monies to establish their own police department through the CARE grant. Mr. Brice stated the grant isn't recurring funding. Commissioner Smrkovsky stated we will probably need to tell them this will be the last JPA done this way. Mr. Brice mentioned the County will have to split it up next year, he also mentioned State police is also at the Village quite a bit and if they want full time presence they will probably have to create their own police department. Sherriff Gannaway stated he usually has three Deputies patrolling the Village but at this time it isn't possible to supply them with what they want but he has them patrolled as best he can. Commissioner Reedy moved to approve the JPA Agreement with the Village of Columbus. Commissioner Smrkovsky seconded the motion which carried unanimously following a roll call vote.
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- b. **Resolution 20-42 Commission Appointments:** County Manager Chris Brice explained in trying to get to a one stop shopping for all. He believes we need to consolidate all boards the County is involved with. As new Commissioners come and go the County has the ability to decide what changes need to happen at that point. Mr. Brice stated he is looking for a routine process of looking at who is sitting on Boards and who is representing the

County to determine who should be representing the County. Commissioner Smrkovsky asked if we have ever had a resolution like this in the past. Mr. Brice stated the County does not currently have a resolution. Mr. Brice clarified to the Board this resolution would only apply for board membership when representing Luna County. Commissioner Reedy stated she believes an alternate should also be assigned for consistencies in representation and should be structured that way in the agreement. Commissioner Smrkovsky stated changes to the resolution may need to be done depending on how the Boards are structured and what the bylaws require. Commissioner Reedy moved to approve Resolution 20-42 Commission Appointments. Commissioner Smrkovsky seconded the motion which carried unanimously following a roll call vote.

- c. **ETZ Zoning Request:** Community Development Director Premal Patel explained the applicant John Strand for GEO Southwest was on virtually but was cut off so he's not available right now. Mr. Patel presented for review and approval the variance request initiated by Geo Southwest per section 1.3 of Ordinance 87 of Luna County- Zoning Regulations for the Former Extra Territorial Zone and recognizes the City of Deming's jurisdiction. He further explained this application is a joint effort by the City of Deming and Luna County. GEO Southwest is in partnership with several companies, requesting variances to the following tracts in T23S, R9W in Luna County. Tract 1 NE quarter of Section 21 west of the power transmission line; a variance to build a solar field. Tract is adjacent to city limits zoned "D: industrial currently used as commercial power generation. Tract 2 NE Quarter of the NE Quarter of section 29 and west of the RR Row; a variance for Mill expansion or solar field. The remainder of the NE Quarter of section 29 and west of the RR Row; a variance for a solar field. The NE corner borders the city limits, zoned "D" Industrial and borders the Southwest Rail Line and Spur. Tract 3 60.40 acres in SW Quarter of section 29 being north and south of W Second Street; a variance for a solar field. The tract borders extraterritorial zone "C" Commercial as represented in the 2014 map. The Luna County Planning Department recommends approval of the requested variance allowing construction and operation of a solar field for the generation and transmission of electric energy in the above state tracts pending authorization from the City of Deming as defined in section 1.3 scope of regulations in Ordinance 87, zoning regulations for the former extra territorial zone. Planning also request that a separate application be submitted for the potential milling operation on Tract 2 once the specific use as a milling site has been established. Mr. Patel explains the reason why he is requesting a separate application be submitted because plans are not firm yet and the County would like to look at what the scope of work would be on the milling operation. He also pointed out in his recommendation that this is pending authorization from the City of Deming on the zoning because in Ordinance 87 it states we recognize zoning jurisdiction by the City of Deming. The request today is the first step in bringing this project to fruition, we anticipate one, possibly two additional steps. One of which would be an industrial revenue bond preferably jointly with the City of Deming and annexation by the City of Deming. This is the necessary first steps to give the developers the assurances they need to make the investments necessary to get the project started. Mr. Patel also mentioned that as a joint project until the formalization of the ETZ we would like to look at the plans for impacts such as dust control. Mr. Patel asks the audience for any comments.

Public Comment: ETZ Zoning Request: Jessica Etcheverry came before the board with concerns regarding this project. Ms. Etcheverry stated she resides at 160 Belgian Rd. SW

which is adjacent to the solar project on parcel number 3. One of Ms. Etcheverry's major concerns is the site plan for this project. She asked if one has been presented and if so, what are the actions being taken for dust control. She stated PNM solar project on Columbus Hwy. the wind came up and destroyed David Kasparian's onion crop which PNM was held responsible for replacing. If chain link fencing is used the way she is positioned on her property all the dust from the clearing will end up on her property. The other concern Ms. Etcheverry expressed was what this project is going to do to her property value. What is the community going to get out of this project and what has this company done as far as giving back to the community, will they be donating to local non-profits in order to build this solar generation, which most likely will be going elsewhere. Is this project contingent to South Line and Sun Zia coming to fruition because it's her understanding that the transmission line that Tri-State goes into has pretty much reached capacity with the last project done with Alta Luna. Have they figured out who they will be selling the energy to or is this all the beginning parts of the project? Ms. Etcheverry indicated she received this notice in her mailbox two days ago and would like to have more notice before the Board makes a decision.

Alberta Morgan also came before the board to voice her concerns regarding this project. She asked who will be getting the energy from this project. She also, believes there must be some way to grow something under the solar panels instead of having the ground completely naked with nothing but dust blowing. Mr. Patel stated that GEO Southwest owns most of the land and the impact is a concern, this is only the first step for zoning from the City and from that point there will be a design review. Chair Sweetser asked if there will be public meeting to discuss this project with the public, Mr. Patel does not know the City of Deming's process on this. Commissioner Reedy, doesn't feel a couple of days is adequate time for the public to address the concerns and she doesn't feel comfortable approving this since she hasn't had time to address her constituents. Chair Sweetser asked if the Commission can be taken out there and shown what they are looking at. Mr. Patel said he would contact the consultant for the project to set that up. County Manager Chris Brice stated that this is only the first step which is to allow the City of Deming to create variances for zoning. Commissioner Reedy moved to table ETZ Zoning Request. Commissioner Smrkovsky seconded the motion with the understanding that this be brought back next month, which carried unanimously following a roll call vote.

- d. Resolution 20-37 Support and Financial Commitment for the Corre Camino Program for Luna County:** County Manager Chris Brice explained this is the funding we give every year to Corre Camino to help support them, of the \$70,000 that we give the Village of Columbus gives us back a portion of that to have transportation in their area. Commissioner Smrkovsky moved to approve Resolution 20-37 Support and Financial Commitment for the Corre Camino. Commissioner Reedy seconded the motion which carried unanimously following a roll call vote.
- e. Resolution 20-38 Adopting New County Logo:** Mr. Brice explained there isn't an official County logo. He wanted to rebrand essentially along with the new strategic planning the new vision and decided to come up with a new logo which is cleaner. Commissioner Reedy moved to approve Resolution 20-38 Adopting New County Logo. Commissioner Smrkovsky seconded the motion which carried unanimously following a roll call vote.

- f. **Resolution 20-39 Luna County SP Cooperative Agreement Project:** Road Department Director Marty Miller explained the scope of this work is going to be on Solana Road because of the bad condition of the road. The funds have been appropriated by the State for the work being done. Mr. Miller further stated he has been in contact with the City of Deming and what has been proposed is the City of Deming will be digging the sewer line up and water pack it. It's going to be milled down at least twelve inches, mix all the old State Hwy and mix it in with subgrade the base course and then add new base course which should fix the issue. Commissioner Smrkovsky moved to approve Resolution 20-39 Luna County SP Cooperative Agreement Project. Commissioner Reedy seconded the motion which carried unanimously following a roll call vote.
- g. **Resolution 20-40 Luna County Arterial Projects (CAP):** Road Department Director Marty Miller explained they have new State cattle guards that will be installed. Mr. Miller stated they didn't receive as much money as they had requested so they are only going to take care of the problematic areas. The COVID 19 issue has put the road department back about four to five month on these projects so they will be asking for an extension to complete the project. Commissioner Smrkovsky asked if our match will be timely. Mr. Miller stated it would be. Commissioner Smrkovsky moved to approve Resolution 20-40 Luna County Arterial Projects (CAP). Commissioner Reedy seconded the motion which carried unanimously following a roll call vote.
- a. **Resolution 20-41 Luna County School Bus Route (SB) Project:** Road Department Director Marty Miller explained this would be the completion of this project. Commissioner Reedy moved to approve Resolution 20-41 Luna County School Bus Route (SB) Project. Commissioner Smrkovsky seconded the motion which carried unanimously following a roll call vote.

EXECUTIVE SESSION: pursuant to 10-15-1(H) (2) NMSA 1978 pertaining to limited personnel matters: Commissioner Reedy motioned to go into Executive Session pursuant to 10-15-1(H) (2) NMSA 1978 pertaining to limited personal matters. The motion was seconded by Commissioner Smrkovsky and carried unanimously following a roll call vote.

The Commissioners went into Executive Session at 11:53 a.m. and returned from Executive Session at 12:35 p.m.

Commissioner Reedy motioned to return from Executive Session where no other matters were discussed other than limited personal matters and where no action was taken. The motion was seconded by Commissioner Smrkovsky and carried unanimously following a roll call vote.

UPCOMING MEETINGS: Chair Sweetser announced the following upcoming meetings:

LEPC Meeting – July 14, 2020 at 10:00 a.m.

ICIP Public Hearing July 14, 2020 at 9:00 a.m., 5:00 p.m. & July 15, 2020 at 12:00 p.m.

Work Session – July 23, 2020 at 10:00 a.m.

Special Meeting – July 27, 2020 at 10:00 a.m.

Complete Count Committee Meeting – July 28, 2020 at 4:00 p.m.

Regular Commission Meeting – August 13, 2020 @ 10 a.m.

Commissioner Reedy informed the Commission that she will be quarantined at the time of the work session of July 23, 2020 and Special Meeting of July 27, 2020.

ADJOURN: The meeting was adjourned by Chair Sweetser at 12:37 p.m.

ATTEST:

**LUNA COUNTY BOARD OF COUNTY
COMMISSIONERS**

ANDREA RODRIGUEZ, LUNA COUNTY CLERK

BARBARA L. REEDY, DISTRICT 1

APPROVED: _____

LINDA M. SMRKOVSKY, DISTRICT 2

CHAIR, JOHN S. SWEETSER, DISTRICT 3

**MINUTES
WORK SESSION
LUNA COUNTY BOARD OF COUNTY COMMISSIONERS
Thursday, July 23, 2020**

BE IT REMEMBERED that the Luna County Board of County Commissioners met at 10:00 a.m. on Thursday, July 23, 2020 in the Basement Training room of the Luna County Courthouse, Deming, New Mexico, for the purpose of conducting a Work Session. Due to the Covid-19 Pandemic and the Governor's Orders regarding social distancing, the commission meeting was conducted via teleconference and webcasting with a minimum in attendance from the public and staff.

CALL TO ORDER: Chair Sweetser called the meeting to order at 10:01 a.m. and led the Pledge of Allegiance and the salute to the flag of New Mexico.

ROLL CALL: Deputy Clerk Pilar Salcido called roll. The following Commissioners constituting a quorum were present: Commissioner Reedy was not present for this work session.

**Linda M. Smrkovsky, District 2
John S. Sweetser, Chair, District 3**

COMMISSIONERS AND STAFF DISCUSSION ITEMS: The Luna County Board of County Commissioners presented the items for presentation and discussion by attending members of the public. *(*Note: Items were presented for discussion only and no actions were taken.)** The following agenda items were discussed:

- a. **2020-2021 Final Budget Review:** The Luna County Board of County Commissioners were presented the Final Budget items for review and discussion. County Manager Chris Brice and Budget and Procurement Director Joanne Hethcox explained the changes to the budget. Respectively, both County Manager Chris Brice and Joanne Hethcox stood for questions. *(*Note: Items were presented for discussion only and no actions were taken.)**
- b. **Luna County Road Policy:** County Manager Chris Brice explained the County has not ever had a road policy in place. Previously the information was considered as a SOP and is being requested to be changed to policy.
- c. **Ordinance 99 – Process for Adoption of all Ordinances and Resolutions:** Economic Development Director Premal Patel explained Ordinance 99 is intended to formalize the procedure for adding new language to the Luna County Code of Ordinance.

NEW BUSINESS: No new business was presented.

PUBLIC COMMENT: Alberta Morgan stood before the Board with comments on several topics.

ADJOURN: Chair Sweetser adjourned the meeting at 11:05 a.m.

ATTEST:

**LUNA COUNTY BOARD OF
COUNTY COMMISSIONERS**

Andrea Rodriguez, Luna County Clerk

Barbara L. Reedy, District 1

Approved: _____

Linda M. Smrkovsky, District 2

Chair, John S. Sweetser, District 3

DRAFT

**MINUTES
SPECIAL MEETING
LUNA COUNTY BOARD OF COUNTY
COMMISSIONERS
Monday, July 27, 2020**

BE IT REMEMBERED that the Luna County Board of County Commissioners met at 10:00 a.m. on Monday, July 27, 2020 in the Basement Training room of the Luna County Courthouse, Deming, New Mexico, for the purpose of conducting a Special Meeting. Due to the Covid-19 Pandemic and the Governor's Orders regarding social distancing, the commission meeting was conducted via teleconference and webcasting with a minimum in attendance from the public and staff.

The following staff and elected officials were present: County Manager Chris Brice, Assistant to County Manager Evelyn, Deputy Clerk Pilar Salcido, IT Administrative Assistant Debra Seats, Treasurer Gloria Rodriguez, Community Development Director Patel Premal, and Budget & Procurement Director Joanne Hethcox.

CALL TO ORDER: Chair Sweetser called the meeting to order at 10:05 a.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, District 1
Linda M. Smrkovsky, District 2
John S. Sweetser, Chair, District 3**

PUBLIC COMMENT: Chair Sweetser opened the floor for public comment to which none was forthcoming.

SERVICE AWARDS:

- Retirement: Martha Garcia LCDC from 12/20/1999 through 7/29/2020: Celebration took place earlier in the Luna County Chambers which included Ms. Garcia's family and friends.

NEW BUSINESS:

- a. **Resolution 20-43 2019-2020 4th Quarter Financial Report:** Budget & Procurement Director Joanne Hethcox explained this is a simple resolution written by the State for Board of Commission approval and submission.

Commissioner Smrkovsky moved to approve Resolution 20-43 2019-2020 4th Quarter Financial Report. Commissioner Barbara Reedy seconded the motion which carried unanimously following a roll call vote.

b. Resolution 20-44 Approval of FY 2020-2021 Final Budget: County Manager Chris Brice explained the Commissioners received four copies of the final budget, first one includes no change, the second one includes 2% raise for employees, the third one includes 3% salary increase and the last one includes 3% salary increase and restoring asked amounts for outside agencies which were cut 20%. Mr. Brice explained the reason for this is because essentially there is \$1,000,000 in excess for gross tax receipt received for last month. In the previous month there is an excess received in the amount of \$600,000. Commissioner Reedy voiced concerns as increases are not linked to assessments but being given across the board. Commissioner Smrkovsky moved to approve Resolution 20-44 Approval of FY 2020-2021 Final Budget to include 2% salary increase for employees with an evaluation process in place within the next six months and reinstate the community funding to this years asked amounts. Any new requests (Silver Lining and Play Sharity) will stay as is. Commissioner Reedy seconded the motion which carried unanimously following a roll call vote.

c. Starmax Reduction in Force: County Manager Chris Brice explained he kept the employees at Starmax as long as he could with lack of funding due to the shutdown. All but two employees were released effective August 26, 2020. Commissioner Smrkovsky motioned to approve Starmax Reduction in Force. Commissioner Reedy seconded the motion which carried unanimously following a roll call vote.

ADJOURN: Chair Sweetser adjourned the meeting at 10:25.

ATTEST:

**LUNA COUNTY BOARD OF
COUNTY COMMISSIONERS**

Andrea Rodriguez, Luna County Clerk

Barbara L. Reedy, District 1

Approved: _____

Linda M. Smrkovsky, District 2

Chair John S. Sweetser, District 3

LUNA COUNTY, NEW MEXICO

ORDINANCE 96 ADOPTING A SPECIAL COUNTY HOSPITAL GROSS RECEIPTS TAX

Section 1. Imposition of Tax. , There is imposed on any person engaging in the business in this county for the privilege of engaging in business in this county an excise tax equal to one-eighth of one percent (.125%) of the gross receipts reported or required to be reported by the person pursuant to the New Mexico Gross Receipts and Compensation Tax Act as it now exists or as it may be amended. The tax imposed under this ordinance is pursuant to the County Local Option Gross Receipts Taxes Act as it now exists or as it may be amended and shall be known as the “special county hospital gross receipts tax.”

Section 2. General Provisions. This ordinance hereby adopts by reference all definitions, exemptions and deductions contained in the Gross Receipts and Compensating Tax Act as it now exists or as it may be amended.

Section 3. Specific Exemptions. No special county hospital gross receipts tax shall be imposed on the gross receipts arising from:

- A. Transporting persons or property for hire by railroad, motor, vehicle, air transportation or any other means from one point within the county to another point outside the county; or
- B. Direct broadcast satellite services.

Section 4. Dedication. Revenue from the special county hospital gross receipts tax is dedicated for county ambulance transport costs or for operation of a rural health clinic.

Section 5. Effective Date. The effective date of the special county hospital gross receipts tax shall be either January 1 or July 1, whichever date occurs first after the expiration of three months from the date when the results of the election are certified to be in favor of the ordinance’s adoption and the adopted ordinance is delivered or mailed to the Taxation and Revenue Department.

Section 6. Ordinance Number 96 (if it becomes law) is repealed effective December 31, 2025.

APPROVED AND ADOPTED THIS ____ day of _____ 2020.

BOARD OF COUNTY COMMISSIONERS OF LUNA COUNTY

**BOARD OF COUNTY COMMISSIONERS
LUNA COUNTY, STATE OF NEW MEXICO**

ATTEST:

**John S. Sweetser, Chairperson
Commissioner, District 3**

Andrea Rodriguez, County Clerk

**Linda M. Smrkovsky,
Commissioner, District 2**

**Barbara L. Reedy,
Commissioner, District 1**

Luna County, NM

Ordinance 99

Ordinance: Process for Adoption of All Ordinances and Resolutions

Title 3: Administration Officers

Chapter 4: Process for Adoption of All Ordinances and Resolutions

Process for Adoption of All Ordinances and Resolutions

Whereas: The Luna County Code of Ordinances is frequently amended, corrected, revised, updated, and expanded. This Chapter is intended to formalize the procedure for adding any and all new language to the Luna County Code of Ordinance.

Whereas: Section 3-17-5A, NMSA 1978 provides a municipality must show proof of ordinance and the ordinance shall be kept in a book for that purpose and be authenticated by the signature of the presiding officer of the governing body and the municipal clerk and shall bear the seal of the municipality.

Whereas: Section 3-17-5C, NMSA 1978 If the ordinances and resolutions of the municipality are codified or codified and revised, it is not necessary to publish the entire codification or codification and revision. An ordinance, referring to the codification or codification and revision by title only and specifying one place in the municipality where the codification or codification and revision may be inspected during the normal and regular business hours of the municipal clerk, may be published instead of the codification or codification and revision.

Therefore: The Board of County Commission of Luna County establishes the designation of County Code Reviser and the compilation of ordinances and resolutions as the Luna County Code of Ordinances.

3.04.010 County Code Reviser

The Luna County Commission shall designate the County Code Reviser. The County Code Reviser shall compile the ordinances and resolutions and of the County into titles, chapters and sections without substantial change or alteration of purpose or intent.

3.04.020 Codification and revision of ordinances and resolutions

Subject to such general policies as may be promulgated by the Board of County Commission of Luna County and to the general supervision of the Board of County Commission of Luna County, the reviser shall:

A. Codify for consolidation into the County Code all ordinances and resolutions of a general and permanent nature from and after the passage of this ordinance, resolved or adopted by the Board of County Commission of Luna County and assign permanent numbers to all new titles, chapters and sections so added to the code;

B. Edit and revise such ordinances and resolutions for such consolidation to the extent deemed necessary or desirable by the reviser and without changing the meaning of any such ordinance, in the following respects only:

1. Make capitalization uniform with that generally followed in the code,
2. Make chapter or section division and subdivision designations uniform with that followed in the code,
3. Substitute for the term "this ordinance," where necessary, the term "section," "article," "chapter," "title" or "code," or reference to specific section or chapter numbers, as the code may require,
4. Substitute for reference to a section of an ordinance the proper code section number reference,
5. Substitute for "as provided for in the preceding section" and other phrases of similar import the proper code section number references,
6. Substitute the proper calendar date for "effective date of this act" and other phrases of similar import,

7. Strike out figures where merely a repetition of written words, and substitute, where deemed advisable for uniformity, written words for figures,

8. Rearrange the order of sections of ordinances and resolutions, incorporate any omitted material as well as correct manifest errors in spelling and manifest clerical or typographical errors or errors by way of additions or omissions,

9. Correct obvious and apparent errors that are not substantive in references by chapter or section number to other laws,

10. Correct obvious and apparent errors in numbering or renumbering sections of the code,

11. Divide long sections into two or more sections and rearrange the order of sections to conform to such logical arrangement of subject matter as may most generally be followed in the code when to do so will not change the meaning or effect of such sections,

12. Change the wording of the section captions, if any, and provide captions to new sections and chapters,

13. Strike provisions apparently obsolete;

C. Create new code titles, chapters and sections of the County code, or otherwise revise the title, chapter and sectional organization of the code, as may be required from time to time, to effectuate the orderly and logical arrangement of the code.

2.04.030 Omission of certain sections of ordinances and resolutions.

The reviser may omit from the code all titles to ordinances and resolutions, enacting and repealing clauses, preambles, declarations of emergency, and validity and construction

sections unless, in a particular instance, it may be necessary to retain such to preserve the full intent of the law. The omission of validity or construction sections is not intended to, nor shall it change, or be considered as changing, the effect to be given thereto in construing ordinances of which such validity or construction were a part. Any section so omitted, other than repealing, emergency or validity provisions, shall be referred to or set forth as an annotation to the applicable sections of the ordinance as codified.

2.04.040 Code index.

The reviser shall compile and thereafter maintain a comprehensive index and from time to time prepare for publication supplements thereto.

2.04.050 Code tables.

The reviser shall prepare and maintain full historical records showing the enactment, amendment, revision, supersession and repeal of the various sections of the code.

2.04.060 Inclusion of local rules of the Luna County Magistrate Court.

The reviser may provide for inclusion in the code of the local rules of the Luna County Magistrate Court.

2.04.070 Improvement of statutes.

A. The Code Reviser shall from time to time make written recommendations to the Board of County Commission of Luna County concerning deficiencies, conflicts or obsolete provisions in, and need for reorganization or revision of the ordinances and resolutions, and shall prepare for submission to the Board of County Commission of Luna County ordinances and resolutions for the correction or removal of such deficiencies, conflicts or obsolete provisions, or to otherwise improve the form or

substance of any ordinance of the County as the public interest or the administration of the subject may require.

B. Such or similar projects may be undertaken at the request of the Board of County Commission of Luna County or other County agencies and departments if such undertaking will not impede the other functions of the reviser.

2.04.080 Ordinances and resolutions provided to the reviser.

All ordinances and resolutions submitted to the Board of County Commission of Luna County shall, in addition to any other requirements, contain:

- A. A title reflecting the subject matter of the ordinance;
- B. The date at which the ordinance shall become effective if passed;
- C. A final paragraph next below the Commission members' signatures reading as follows:

This ordinance/resolution has/has not been codified as Luna County Code of Ordinances on the ___ day of _____, 20____..

Immediately following this paragraph there shall be a signature line under which shall be the title "County Code Reviser."

2.04.090 Ordinances and Resolutions – Copies to be provided to the reviser.

The Board of County Commission of Luna County shall cause to be made two duplicate originals of all ordinances and resolutions passed. One of the two such duplicate originals shall be immediately forwarded to the code reviser and the second would be

recorded with the County Clerk of Luna County and subsequently forwarded to the County Code Reviser.

2.04.10 Specifications for code publication – Certificate of compliance.

A. The Code Reviser shall formulate specifications relative to the format, size, contents, indexing and general scope and character of footnotes and annotations, if any, for any publication for general use of the code and supplements. No such publication or the contents thereof, other than such temporary edition as may be authorized by the Board of County Commission of Luna County, shall be received as evidence of the ordinances and resolutions of this County unless it complies with the specifications of the Code Reviser as are current at the time of publication, including compliance with the section numbering adopted by the reviser. If a publication complies with such specifications, the Code Reviser shall furnish a Certificate of Compliance to the publisher.

B. Upon request of any publisher in good faith interested in publishing the code, the Code Reviser shall furnish a copy of the current specifications and shall not during the process of any bona fide publication of said code or supplement thereto modify any such specifications, if such modification would result in added expense or material inconvenience to the publisher, without written concurrence therein by such publisher.

2.04.11 Code deemed official if certified.

The County Code and any supplement or addition thereto or reprint edition thereof which contains the certificate of the Code Reviser referred will be deemed official and shall be prima facie evidence of the ordinances and resolutions contained therein.

2.04.12 Severability.

If any section, subsection, sentence, clause, phrase, portion or part of this code is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction,

such decision shall not affect the validity of the remaining portion of this code. The Board of County Commission of Luna County hereby declares that it would have adopted this code and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, parts or portions be declared invalid or unconstitutional.

APPROVED AND ADOPTED THIS _____ day of _____, 2020.

**BOARD OF COUNTY COMMISSIONERS
LUNA COUNTY, STATE OF NEW MEXICO**

Andrea Rodriguez, County Clerk
(Seal)

John Sweetser, Chairman
Commissioner, District 3

Barbara Reedy
Commissioner, District 1

Linda Smrkovsky
Commissioner, District 2

This ordinance has/not been codified as Luna County Code of Ordinances on the __ day of ____, 20__.

Interim Code Reviser

County Clerk _____ Date ____/____/____

Official name: Luna County Code of Ordinances, aka Code of Ordinances

This code is organized to make the laws of the county as accessible as possible to county officials, county employees and private citizens. Please take a moment to familiarize yourself with some of the important elements of this code.

Numbering System.

The numbering system is the backbone of a Code of Ordinances; It is based on three tiers, beginning with Title, then Chapter, and ending with Section.

Title.

A title is a broad category under which ordinances on a related subject are compiled. The first title is Title 1, General Provision, which may contain ordinances about the general penalty, code adoption and definitions.

Chapter.

Articles deal with more specific subjects, and are often derived from one ordinance. All of the chapters on a related subject are grouped in one title. The chapters are numbered so that new chapters which should logically be placed near certain existing chapters can be added at a later time without renumbering existing material.

Section.

Each section of the code contains substantive ordinance material. The sections are numbered by "tens" to allow for expansion of the code without renumbering.

EXAMPLE: Title 1, Chapter 2, Section 3 or 1.02.030

Tables of Contents.

At the beginning of the code is the main table of contents listing each title.

Ordinance History Note.

At the end of each code section, you will find an "ordinance history note," which lists the applicable underlying ordinances for that section.

Indigent Hospital Claims Office

Chris A. Brice, County Manager

IHC Board Meeting August 13, 2020

Month	Number	Amount	Number	Denied
January	9	\$20,649.49	0	\$0.00
Feburary	4	\$20,700.21	0	\$0.00
March	0	\$0.00		
April	11	\$30,846.52		
May	5	\$6,257.04		
June	2	\$8,013.26		
July	1	\$1,103.03		
August		\$0.00		
September		\$0.00		
October		\$0.00		
November		\$0.00		
December		\$0.00		
Total	32	\$87,569.55	0	\$0.00
This Month's Total	Mimbres Memorial Hospital			\$1,103.03
This Month's Total	Gila Regional Medical Center			\$0.00
This Month's Total	Memorial Medical Center			\$0.00
This Month's Total	Deming Fire Dept./EMS			\$0.00
This Month's Total	All Other Services			\$0.00
Total				\$1,103.03
Year to Date Total	Mimbres Memorial Hospital			\$66,936.60
Year to Date Total	All Other Hospitals			\$0.00
Year to Date Total	Deming Fire Dept./EMS			\$500.00
Year to Date Total	All Other Services			\$20,132.95
Total				\$87,569.55
Care of Prisoners This Month - Not including SNCP Funds				\$5,563.29
Care of Prisoners Year to Date Indigent - Not including SNCP Funds				\$815,650.40
Care of Prisoners Year to Date Inmate Prescriptions/OTC Meds				\$64,165.33
Care of Prisoners Year to Date Dr. Bills				\$370.00
Total Cost of Care of Prisoners Year to Date				\$880,185.73
Monies Received for July, 2020				\$184,906.20
Balance in IHC Fund as of July 31, 2020				\$1,379,196.02
Encumbrances as of July 31, 2020				\$402,156.95
		Date	Amount Approved	Amount Denied
	Signatures	8/13/2020	\$1,103.03	\$0.00
Barbara L. Reedy				
Linda M. Smrkovsky				
John S. Sweetser				

[illegible]

STATE OF NEW MEXICO

County of Luna

Barbara L. Reedy
Commissioner, District 1

Linda M. Smrkovsky
Commissioner, District 2



John S. Sweetser
Chairman, District 3

Chris A. Brice
County Manager

700 South Silver Avenue • Post Office Box 551 • Deming, New Mexico 88031
Telephone (575) 546-0494 Facsimile (575) 544-4293

July 5, 2020

Board of County Commissioners
County of Luna, New Mexico

Dear Commissioners:

For your review and approval is a variance request initiated by GEO Southwest. Per section 1.3 of Ordinance 87, "Zoning Regulations for the Former Extra Territorial Zone", the Board of Commission defined the scope of regulations and recognized the City of Deming's jurisdiction; therefore, this application is a joint effort by the City of Deming and Luna County.

The applicant, Geo Southwest, in partnership with several companies, requests variances to the following tracts in T23S, R9W in Luna County:

Tract #1: NE quarter of Section 21 west of the power transmission line; a variance to build a solar field.

Tract is adjacent to city limits zoned "D" Industrial currently used as commercial power generation.

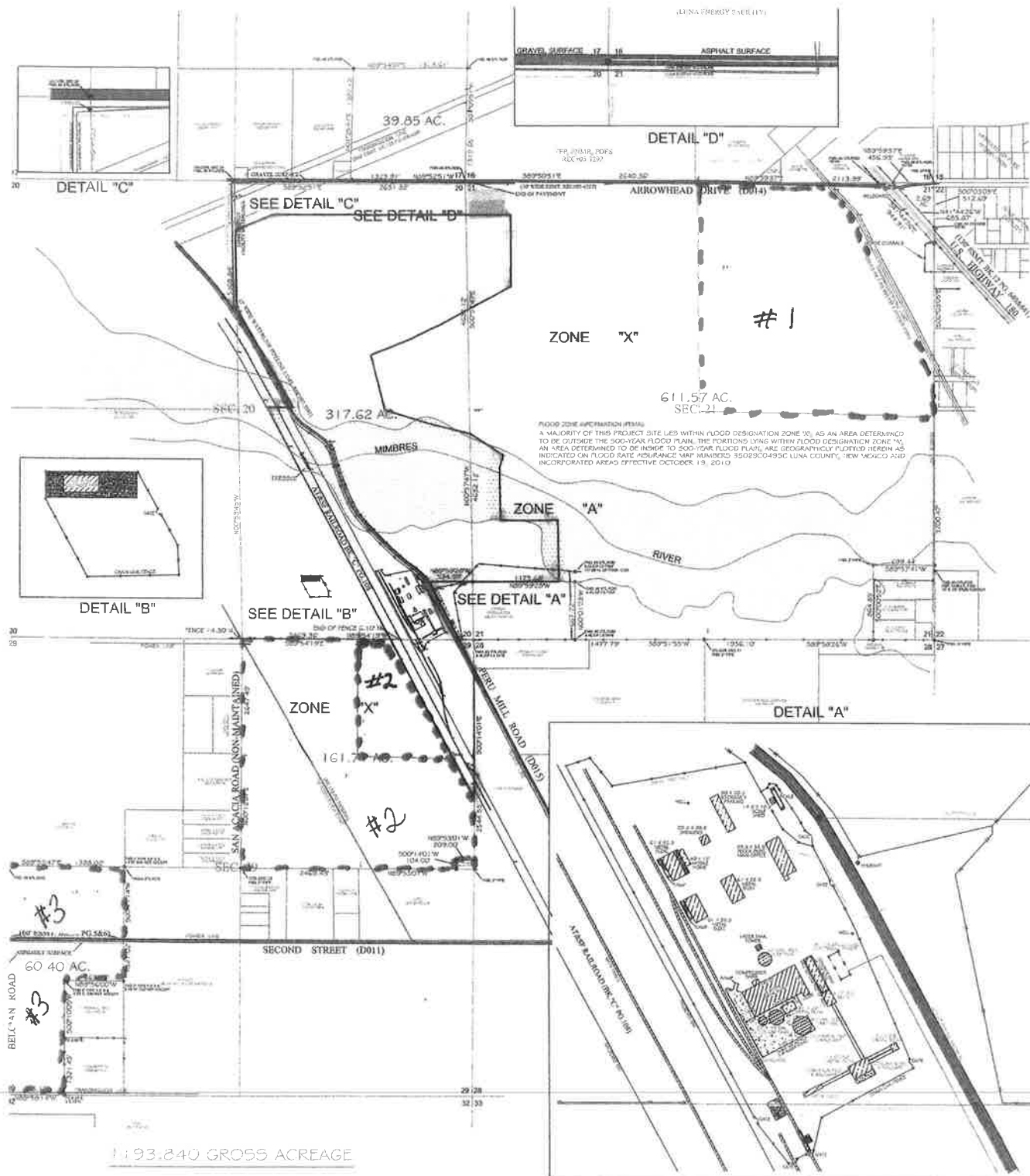
Tract #2: NE Quarter of the NE Quarter of section 29 and west of the RR ROW; a variance for Mill expansion or solar field. Remainder of the NE Quarter of section 29 and west of the RR ROW; a variance for a solar field.

The NE corner borders the city limits, zoned "D" Industrial and borders the Southwest Rail line and Spur.

Tract #3: 60.40 acres in SW Quarter of section 29 being north and south of W Second Street; a variance for a solar field.

The tract borders Extraterritorial Zone "C" Commercial as represented in the 2014 map.

Recommendations



LCBCC Meeting August 13, 2020
Accounts Payable

07/16/2020	\$218,889.15
07/16/2020	\$62,592.56
07/23/2020	\$142,001.16
07/23/2020	\$12,772.00
07/30/2020	\$317,410.52
07/30/2020	\$1,700.00

P-Cards

June 2020	\$144,284.25
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Total \$899,649.64

Luna County
Board of County Commissioners

AGENDA 08/13/2020

PAYROLL

07/03/2020	Register # 20200031	\$ 446,574.79
07/03/2020	*Register # 20200032	\$ 7,617.44
07/17/2020	Register # 20200033	\$ 531,516.35
07/17/2020	*Register # 20200034	\$ 5,825.11
07/16/2020	Register # 20200035	\$13,797.03
07/16/2020	Register # 20200036	\$9,645.44
07/31/2020	Register # 20200037	\$508,588.72
07/31/2020	* Register # 20200038	\$7,222.21
07/31/2020	Register # 20200039	\$1,043.85
07/31/2020	Register # 20200040	\$577.08

Total \$ 1,532,408.02

* Special

RESOLUTION NO. 20-45

RESOLUTION OF LUNA COUNTY RATIFYING A CERTAIN AGREEMENT BETWEEN LUNA COUNTY AND THE SOUTHWEST NEW MEXICO COUNCIL OF GOVERNMENTS, DATED _____, 2020, AND AUTHORIZING THE EXECUTIVE OF SAME BY THE PROPER OFFICIAL OF _____.

WHEREAS, Luna County is a member of and desires to have the services of the Southwest New Mexico Council of Governments; and

WHEREAS, it is necessary that an agreement setting forth the services to be performed by the Southwest New Mexico Council of Governments for Luna County be entered into and it is a requirement of the New Mexico State Laws; and

WHEREAS, it is necessary to set forth the sum to be paid by Luna County to the Southwest New Mexico Council of Governments, as annual dues, for said services; and

WHEREAS, it is the desire of Luna County to accomplish these purposes:

NOW THEREFORE BE IT RESOLVED BY LUNA COUNTY THAT:

1. The AGREEMENT referred to in the caption of this Resolution (a copy of which is attached hereto and made a part hereof) expresses the desires and intent of Luna County.
2. The AGREEMENT set above is hereby ratified and approved by the authorized representatives of Luna County and is hereby authorized and instructed to affix their signature thereto.
3. A Certified copy of this Resolution (together with the Agreement) shall be filed at the Southwest New Mexico Council of Governments.

Done this the _____ day of _____, 2020 in _____ Session,

at _____.

ATTEST:

2. Member agrees to furnish the following:

- (a) To remain a voting member of the Southwest New Mexico Council of Governments and to participate in its policy development and administration.
- (b) Will designate _____ (name), to be the Member of
(email address) _____.
- (c) To pay, in one lump sum, annual dues in the amount of \$7,221.00 into the treasury of COG as payment for these services.

Total Assessment for Fiscal Year 2020-2021 is \$7,221.00

- (d) Such payment shall be for all services rendered to Member, by COG, for the period beginning July 1, 2020 and ending June 30, 2021. Such sum shall be expended by COG of which Member is a voting member, or as such budget may be amended following laws and regulations.

This Agreement is entered into on the _____ day of _____, 2020 _____
_____, New Mexico.

Name of Local Unit of Government: Luna County

Signature of Authorized Official

ATTEST:

Clerk or other Authorized Official

(S E A L)

=====

SOUTHWEST NEW MEXICO COUNCIL OF GOVERNMENTS

Aaron Sera, Chairman

Priscilla C. Lucero, Secretary/Treasurer

AGREEMENT

This AGREEMENT, entered into by and between the Southwest New Mexico Council of Governments (hereinafter known as COG), and Luna County a Member of said Southwest New Mexico Council of Governments (hereinafter known as Member) is as follows:

1. COG agrees to furnish the following services to Member:
 - (a) Provide an updated statistical data base of federal and state statistics.
 - (b) Furnish technical assistance to Member as requested by Member in planning development.
 - (c) Coordination of planning with other Members of COG and various other State of New Mexico and local agencies.
 - (d) Furnish management, advice and assistance to Member as Member requests in implementing their plans.
 - (e) Furnish clearinghouse and environmental review of all projects of Member and where requested by Member, assist in the development of material for clearinghouse review.
 - (f) Assist Member in developing Infrastructure Capital Improvement Plan.
 - (g) Assist Member, when requested, in the development of Community Development Block Grant applications, as well as, assistance in monitoring and compliance.
 - (h) Assist Member in the preparation of applications for funding under various State and Federal grants.
 - (i) Represent Member with economic development activities.
 - (j) Assist Member with economic development activities.
 - (k) Assist Member, with the development of housing initiatives and programs.
 - (l) Assist Member in the preparation of applications under Department of Transportation.
 - (m) Represent membership, when requested, under NM Department of Transportation for program funding.
 - (n) Assist Member with Capital Outlay process.
 - (o) Provide training that will benefit the membership.
-

Infrastructure Capital Improvement Plan FY 2022-2026

36997	2021	019	Healing House Domestic Violence Shelter Improv	Facilities - Administrative Facilities	0	764,000	0	0	0	0	0	764,000	764,000
31148	2022	001	Dispatch communications improvements	Facilities - Administrative Facilities	0	850,000	0	0	0	0	0	850,000	850,000
37418	2022	002	upgrade dispatch center	Facilities - Administrative Facilities	0	450,000	0	0	0	0	0	0	0
37416	2022	003	Accelerate Luna County	Facilities - Administrative Facilities	0	750,000	0	0	0	0	0	0	0
37424	2022	004	Vocational Learning Center	Facilities - Administrative Facilities	0	450,000	0	0	0	0	0	0	0
32492	2022	005	Fiber Installation	Facilities - Administrative Facilities	0	100,000	100,000	0	5	0	0	100,005	100,005
36886	2022	006	Flood Prevention Projects	Water - Storm/Surface Water Control	0	500,000	500,000	0	0	0	0	1,000,000	1,000,000
33847	2022	007	sunshine/majestic view Improvement Project	Water - Storm/Surface Water Control	0	500,000	500,000	0	0	0	0	4,600,000	4,600,000
29928	2022	008	Maintenance Department Equipment	Equipment - Other	0	80,000	80,000	0	0	0	0	80,000	80,000
28021	2022	009	Luna County Affordable Housing Plan	Other - Other	0	250,000	50,000	200,000	0	0	0	250,000	250,000
36881	2022	010	Mimbres Valley/Special Events Center	Facilities - Administrative Facilities	0	750,000	0	0	0	0	0	750,000	750,000
27776	2022	011	Asset Management Plan	Other - Other	0	50,000	50,000	0	0	0	0	50,000	50,000
34805	2022	022	Cattle Guards	Transportation - Highways/Roads/Bridges	0	0	500,000	0	0	0	0	500,000	500,000

Number of projects:	28												
Funded to date:		Year 1:	Year 2:	Year 3:	Year 4:	Year 5:	Total Project Cost:	Total Not Yet Funded:					
Grand Totals	1,896,500	27,249,000	28,130,000	10,950,000	10,000,005	20,000,000	98,225,512	96,329,0					



Luna County Roads Policy



SECTION 1.0: GENERAL PROVISIONS

1.1 Purpose. The purpose of this document, hereinafter referred to as the Roads Policy, is to establish policies and procedures for the orderly and consistent management and administration of the Luna County road network and to provide the Board of County Commissioners of Luna County (“BOCC”) a uniform process and system to ensure that fair and equitable treatment is exercised to provide county road services. The overall purpose of this document is to establish standards for design and construction of safe and durable roads for the benefit of all citizens of the County within the limitations of funding, manpower, and equipment available to the County. The Commission strives to maintain county roads to the best of its ability, given its limited resources.

1.2 Luna County is responsible for maintaining approximately 2000 miles of County owned roads, referred to as Maintained County Roads, with very limited resources. The County also owns a number of roads that are not regularly maintained, referred to as Unmaintained County Roads. Considering the number of miles and limited resources, the BOCC must prioritize its road network for maintenance. When deemed necessary, the BOCC may request that the State Transportation Commission furnish available equipment and machinery in the vicinity, along with the operators and personnel required to perform such work, pursuant to Section 67-4-4, NMSA 1978. In such a case, consideration from the County to the State Transportation Commission is limited to “the actual cost of the fuel, oil and wages of such operators and personnel involved in the work performed.”

1.3 Applicability. This document applies to all county roads located within the unincorporated areas of Luna County, New Mexico. This document also applies to the platting, design and maintenance of any road within a proposed subdivision, in conjunction with the requirements of the New Mexico Subdivision Act, Sections 47-6-1, et seq., NMSA 1978, and applicable Luna County Ordinances, including Rights of Way Ordinance No. 42, Subdivision Ordinances No. 30 and 56 and Zoning Regulations Ordinance No. 87.

1.4 Declaration of Luna County roads. All roads have been established as a Luna County Road pursuant to the laws of New Mexico by the following, and with acceptance by the Board of County Commissioners:

- 1.4.1** Petition and declaration by Luna County Commissioners as recorded in minutes of such proceedings.
- 1.4.2** Dedication to use and benefit of the public by filed plat if approved and adopted by the County Commission.
- 1.4.3** Deeded to Luna County from the landowner by Warranty Deed, Quit Claim Deed, or other legal deed.
- 1.4.4** Easement.
- 1.4.5** Prescriptive right.
- 1.4.6** Donation by owner.
- 1.4.7** Purchased by Luna County.
- 1.4.8** Power of eminent domain.
- 1.4.9** Other legal acquisition by Luna County.

1.5 In certain instances, roads within existing county subdivisions have been declared and dedicated to the use and benefit of the public, but have not been accepted for county maintenance and are not considered

County or public roads. Nothing in this policy shall change or alter the status of those roads that currently exist but are not maintained by Luna County.

1.6 All roads declared to be and accepted as Luna County Roads, as described above, shall be recognized as such and shall be designated as Maintained County Roads and certified to the New Mexico Department of Transportation (“NMDOT”) or as Unmaintained County Roads with proper designations on the official Luna County maintained road map which is hereby and hereinafter declared a part of this policy. All other roads in Luna County shall be referred to as Other Than County Roads (OTC Roads).

1.7 Luna County maintained road map. Each year a new updated map will be prepared and submitted for approval to the BOCC.

SECTION 2.0: MAINTENANCE CLASSIFICATION

2.1 Maintained County Road. A Maintained County Road road is a road that has been accepted for county maintenance. Each such road is or will be assigned a number and/or a name. Maintenance on these roads may include routine maintenance, as defined below, pavement, asphalt, chip seal, grading, shredding, dust control, replacement of base course, installation and repair of drainage structures, snow removal, pothole repair, signage, resurfacing, weed control, mowing, and such other maintenance as may from time to time be determined. Routine maintenance typically consists of blading as well as repairing pot holes, patches, improvements, repair and maintenance of existing cattle guards and culverts as further detailed herein.

2.2 Snow Removal. As with road maintenance, the County’s ability to remove snow from Maintained County Roads is limited by available resources. The County has limited graders, plows and cindering trucks. As a result, it is necessary to prioritize snow removal.

2.3 When snow depth is five (5) inches or greater on non-paved Maintained County Roads, and three (3) inches or greater on paved Maintained County Roads, the Road Department shall commence snow removal. Snow removal shall proceed in the following order, unless emergency situations dictate otherwise:

2.3.1 Those Maintained County Roads which are considered essential for emergency services, shall be the first priority for snow removal.

2.3.2 School Bus Routes. Section 22-16-10, NMSA 1978, authorizes the County to remove snow on any school route. School Bus Routes shall be the second priority for snow removal.

2.3.3 Thereafter, as time and equipment permit, the Road Department shall remove snow from non-essential Maintained County Roads in the order of priority established for routine maintenance. Specifically, after roads for essential emergency services and school routes are cleared, the Road Department shall begin clearing quarterly maintained roads.

2.4 Treatment of School Bus Routes. School bus routes that are on private roads will not be maintained by the County. However, as noted above, the County is authorized by New Mexico law to remove snow from any school bus route, including private roads.

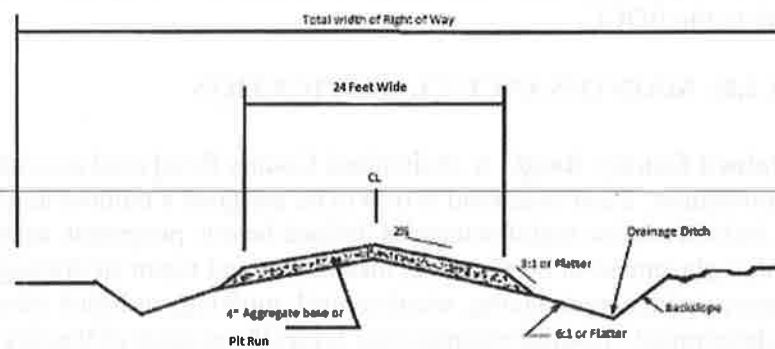
2.5 Classification. For internal scheduling purposes only, the County Road Department may classify county-maintained roads according to their road surface, i.e., dirt, caliche, chip-seal, pavement, asphalt.

2.6 Treatment of Private Roads. The County is required by law to work on County

Roads and public highways and may not use county equipment or property for maintenance of private roads, driveways or roads within incorporated areas, unless specifically authorized by law.

SECTION 3.0: ROAD MAINTENANCE / ACCEPTANCE / SCHEDULING

3.1 Maintained County Roads Cross Section. A drawing of the cross-section of a typical county subdivision road is set forth herein and, all roads in proposed subdivisions, to be approved and accepted by the County, must meet the criteria shown. To the extent that this section is in variance to the Luna County Subdivision policy, this section shall prevail.



Luna County Typical Road Section

3.2 Maintenance Schedule. The County shall strive to conduct regular maintenance (grading and shaping) of a Maintained County Road each quarter. However, acts of God or other occurrences may alter or hinder the regular maintenance schedule. The County, at its discretion, reserves the right to initiate and implement the construction, development or quarterly maintenance of any Maintained County Road or any other road accepted by the County as a Maintained County Road at county expense whenever it is deemed appropriate and beneficial to the overall county road network and provided there are sufficient funds, manpower, and equipment to accomplish such work. The County will regularly maintain only roads that are designated Maintained County Roads at the date of adoption of this policy or that have been accepted by the BOCC in a publicly held commission meeting as set out hereafter.

3.3 Real Property Rights Required. Prior to acceptance of any road as Maintained County Road by the BOCC, real property rights must have been granted or dedicated to the County for all roads and rights-of-way. BOCC acceptance shall be every December at a publicly held commission meeting.

3.4 Minimum Right-of-Way Widths Required. A minimum right of-way width of at least sixty (60) feet shall be required for roads being submitted for acceptance as a Maintained County Road. The County, in its sole discretion, may require a different right-of-way width as deemed necessary for public health, welfare and safety. Nothing contained herein shall be construed as altering the requirements for roadway width in subdivisions approved prior to the institution of this policy and right of way widths for roads in approved subdivisions hereafter approved shall be as specified in applicable laws, regulations and ordinances. Nothing contained herein obligates the County to accept any road, including those in a subdivision, as a Maintained County Road.

3.5 Minimum Road Construction. Unless a written variance, for cause, is granted by the County, all non-subdivision roads must meet the following conditions to be eligible for acceptance as a Maintained County Road:

3.5.1 The road shall have a minimum top measurement of twenty-four (24) feet.

3.5.2 The road sub-base shall be compacted to at least ninety-five percent (95%) compaction rate.

3.5.3 The road base shall consist of at least six (4) inches of NONSPEC. Base Course.

3.5.4 Each road shall have at least a Two percent (2%) crown.

3.5.5 For an existing chip sealed Maintained County Road, in addition to the above-referenced four requirements, each road shall meet the conditions as set forth by NMDOT.

3.6 Subdivision Roads. All subdivision roads must meet or exceed the following conditions to be eligible for acceptance as a Maintained County Road:

3.6.1 The road shall have a minimum top measurement of twenty feet (24).

3.6.2 The road sub-base shall be compacted to at least ninety-five percent (95%) compaction rate.

3.6.3 The road base shall consist of at least six (4) inches of NON-SPEC base course.

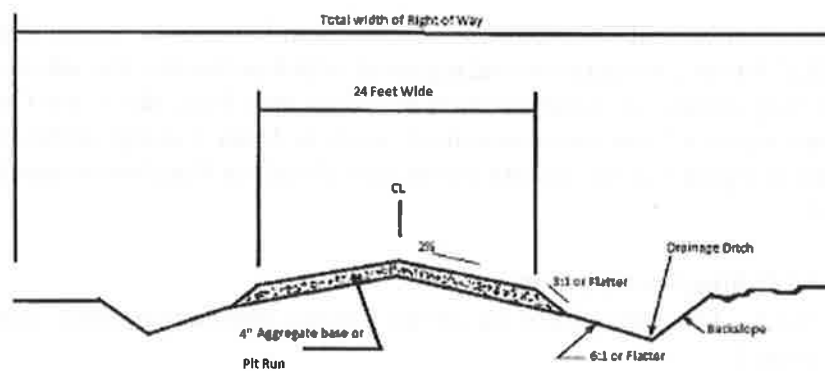
3.6.4 There must be at least sixty (60) feet of right of way available for drainage and road surfaces and shall be designated on the plat by the professional engineer retained by the subdivider of each subdivision.

3.6.5 For pre-existing subdivisions, the County shall have discretion regarding the width of the right of way.

3.6.6 Each road shall have at least a Two percent (2%) crown.

3.6.7 Each road must me all other applicable standards as set forth by NMDOT.

3.7 A drawing of the cross-section of a typical county subdivision road is set forth herein and, all roads, to be approved and accepted by the County, must meet the criteria shown.



SECTION 4.0: VACATION, ALTERATION OR ESTABLISHMENT

4.1 Vacating a County Road, maintained or unmaintained, shall be in accordance with Section 67-5-4, NMSA 1978, as implemented by the Luna County Road Department.

4.2 Alternation, acceptance or establishment of a County Road shall be by one of two methods, namely, by petition or by plat. The process for establishing a County Road by petition is governed by Section 67-5-5, NMSA 1978, as implemented by the Luna County Road Department. The process for establishing a County Road road by plat is governed by the NM Subdivision Act, Sections 47-6-1, *et seq.*, NMSA 1978 and applicable Luna County ordinances and regulations.

4.3 Reclassification Standards. In considering a request to reclassify or add any road as a Maintained County Road, the road must be constructed to meet the minimum standards as set forth in this policy, or in the case of a subdivision road, the Luna County Subdivision Ordinance. A road shall not be reclassified or added as a Maintained County Road if maintenance is impossible, dangerous or unreasonably costly. Nor shall any road be reclassified or added as a County road if environmental problems exist.

4.4 Road Assessments. The County reserves the right to create a special assessment district to finance necessary road improvements. Any road improvements such as paving, drainage improvements, or other such improvements that are requested by the public that are not currently planned or budgeted by the county may also be financed by the creation of a special improvement district. Creation an assessment for maintenance or a special assessment district shall be subject to statutory requirements, including Sections 67-4-20 through 67-4-24, NMSA 1978, Sections 3-33-1 through 3-33-43, NMSA 1978 (as amended).

SECTION 5.0: ROUTINE ADMINISTRATION OF THE ROAD NETWORK

5.1 Report and Resolution Presentation. On an annual basis, the Road Department Director or his/her designee shall present a report to the BOCC in a publicly held Commission meeting for its consideration and approval that, on or before May 1 of each year, certifies to the Secretary of the New Mexico Department of Transportation the total mileage, names, route and, location of public roads maintained by Luna County, pursuant to Section 67-3-28.3, NMSA 1978. As part of the presentation, the Road Department Director or designee will report to the Commissioners the total miles of Maintained County Roads in the network, any additions and/or deletions and estimated maintenance cost of the network.

5.2 Also on an annual basis, the Road Department Director or his/her designee shall present a resolution to the BOCC for its consideration and approval which authorizes the submission of an application to the New Mexico Department of Transportation for assistance from the Local Government Road Fund to perform necessary repair of and construction of roads in Luna County, authorizing the expenditure of matching funds for categories of the Local Government Road Fund and recommend projects on which the funds may be used.

5.3 Establishing Speed Limits.

5.3.1 The speed limit on paved County maintained roads shall be 35 mph, unless otherwise posted.

5.3.2 Speed limits on roads in Luna County may be changed, modified or altered pursuant to statutory provisions set forth in Section 66-7-304, NMSA 1978.

5.4 Temporary Road Closures. Any road closure of five days or less for an emergency or temporary basis may be approved by the Road Department Director with ratification by the BOCC at its next Commission meeting. All road closures for more than five days in length must be approved by the BOCC. The Luna County Road Department shall use best efforts to maintain ingress and egress on all County Roads, during temporary road closures.

5.5 Acquisition of Water for County maintained road Maintenance. From time to time, it may be necessary for Luna County to obtain water from property owners/entities to use while making repairs and/or otherwise working on County Roads. When, at the discretion of the Road Department Director, it is not feasible to drive back to one of the County water access facilities and load the trucks with water, the Road Department Director shall negotiate and enter into a contract with private property owners/water rights owners, for the acquisition of water in compliance with the Procurement Code and Luna County Procurement Policy.

SECTION 6.0 MANAGEMENT AND ADMINISTRATION OF ROAD NETWORK

6.1 General Provisions. Since there are limited funds available for road work each fiscal year, the County must carefully review the requirements and costs of manpower, equipment, and materials for road work currently being performed and the contractual or legal obligations requiring road work during the upcoming fiscal year before workable and practical decisions can be made in regard to additional requests for road work.

6.2 Obstructions and Injuries to Road. All persons and entities are prohibited from placing on any County Road a gate, fence, stone, timber, trees or any other obstruction and are further prohibited from damaging any County Road, including any culverts, cattle guards, signs, sign posts or bridges, except as allowed by law such as Section 67-7-10, NMSA 1978.

6.3 Any building, structure, vehicle, tree, plant or anything else that is situated, placed, left, installed or otherwise located within a Luna County maintained road easement or right-of-way can be removed, at any time, without notice, by the Luna County Road Department. Luna County shall not be required to reimburse any owner, property owner, resident or anyone else for damages, costs or expenses, or be liable in any other way, for the County's actions in removing any structure or item that is placed, left, constructed or is otherwise in Luna County maintained road easement or right of way.

6.4 Persons or entities wishing to place any item within a County road easement or right-of-way, such as a culvert, driveway or placing any item on a County Road, such as a cattle guard, or conducting an excavation, cross cut or other cut across a County Road must:

6.4.1 Request permission by submitting an Application, attached hereto and available at the Luna County Road Department;

6.4.2 Pay the \$50.00 Application fee;

6.4.3 Execute a Hold Harmless Agreement; and

6.4.4 If approved, pay the appropriate Installation Fee.

6.5 Application for Permission: Private parties or organizations shall not perform any type of construction or other activity such as, but not limited to, utility installation, or constructing a driveway/road intersection without first Applying for and securing authorization from the Luna County Road Department, thereafter complying fully with all provisions and standards set forth in the authorization.

6.6 Cattle Guards. Cattle guards may only be installed on a Maintained County Road by the Luna County Road Department or under the direct supervision of the Road Department Director or Designee after approval of an Application. The Application and Hold Harmless Agreement must be submitted and the administrative fee must be paid before the application will be presented to the Road Department Director for approval. Land owners are responsible for repairing any and all cattle guards that they have requested be installed. No repairs can be performed without County approval which, is to be obtained through the

Road Department Director. Damaged or broken cattle guards present a hazard to the motoring public and, if the landowner fails to make said repairs, the Luna County Road Department will remove or repair said cattle guards and bill the owner of the property for the same. Any bill not paid is subject to a lien filed by the County for the work. The Luna County Road Department will be for cleaning out of cattle guards on County maintained roads as scheduled by the Road Department Director or authorizing private parties to do so.

6.7 No cattle guards will be permitted on County maintained roads that do not meet the Luna County Road Department's minimum specifications. Maintenance of cattle guards on County Roads must first be authorized will be permitted unless first authorized (see Authorization Form) by the Road Department Director. All maintenance conducted by private parties must be fully inspected by the Luna County Road Department after completion.

6.8 Culverts. Culverts may only be installed on a County Road or within a Luna County road easement or right-of-way by the Luna County Road Department or under the direct supervision of the Road Department Director or Designee and approval of an Application. The Application and Hold Harmless Agreement must be submitted and the administrative fee must be paid before the application will be presented to the Road Department Director for approval. Luna County does not sell culverts, but the Luna County Road Department will install culverts or pipes that are on a County Road and have been approved by the Luna County Director or Designee. Current schedule fees govern the cost of installation.

6.9 Culverts will be provided by Luna County only on New Mexico Department of Transportation projects or designated County projects approved by the BOCC. Culverts shall have a minimum diameter of eighteen inches (18"). Once installed they become the property of the landowner and their responsibility. The landowners are responsible to maintain their culverts and, specifically, clean the culverts as and when necessary. All landowners must understand that weeds, debris, tumbleweeds and other matter collect in bar ditches at culverts. It is the landowners' responsibility to clean said culvert before they become clogged. If landowner fails to keep the culverts clean and the County is required to clean the culverts or remove debris from the culvert to allow water to flow in the ditch, then the County will invoice the landowner for the cost of the same. If the invoice is not paid, landowner will be subject to a lien filed by the County for the same.

6.10 Luna County bar ditches will be cleaned out by the Luna County Road Department. The County reserves the right to remove culverts if determined to be a hazard.

6.11 Luna County is not responsible for damage or removal of any non-permitted items placed in Luna County road easements, rights-of-way or on County Roads. The County may claim responsibility for damage to a permitted culvert caused entirely as a result of maintenance of a Maintained County Road by the Luna County Road Department. In such cases, Luna County will replace the culvert at no cost to the landowner. Any cost for repair of normal damage to the culvert will be the landowner's responsibility.

SECTION 7.0: AGREEMENT REQUIRED FOR EXCHANGE OF BENEFITS FOR ROAD WORK

7.1 County Work on Privately Owned Property. The County shall not perform work or perform any services on privately owned roads or property. No County equipment shall be used on private property unless approval by the County Manager and a Hold Harmless Agreement has been signed.

7.2 Excavating, Cross Cuts or Other Cuts on County maintained roads. No entity, third-party, governmental body, individual Franchisee, utility, whether public or private, or other entity shall do any excavating, cross cutting, digging, trenching or any other work on or across a County Road without first contacting the Road Department Director, completing and submitting the appropriate application, together with all application fees, to perform such work. In the event of an actual emergency, the Application may be approved by the concurrence of the Road Department Director and the Luna County Manager, but only after all of the appropriate paperwork has been approved and the application fees paid.

7.3 Work on County maintained roads by Private Parties. Private parties shall not perform any road construction work (such as plowing, disking, ripping, rebuilding, etc.) on Luna County Road easements, rights-of-way or roads except as may be specifically authorized by the Road Department Director and the BOCC. Private parties may enter into an agreement with Luna County to perform certain work and/or provide improvement on Maintained County Roads when such an agreement would be in the best interest of the citizens of Luna County and provide an improvement on an existing Maintained County Roads. No work shall be performed until and unless the landowner has completed and submitted an Application and appropriate fees to the Road Department Director. Only upon approval by the BOCC, shall said individual be authorized to work on County Roads or County Property.

7.4 Said form shall contain the following provisions:

7.4.1 Liability. The private party agrees to assume all liability and be responsible for any actions that may result from any injury or damage that may occur while road work is being performed by the private party and shall hold the County harmless from any claims for personal injury or property damage occurring during such road work.

7.4.2 Insurance. The private party shall be required to provide appropriate insurance coverage including bodily injury and property damage naming the County as an additional insured. Such liability and responsibility shall remain from the time that the work is commenced until it is completed and approved as acceptable by the Road Department Director. Nothing contained herein shall be construed as waiving any of the protections afforded the County pursuant to the New Mexico Tort Claims Act, Section 41-4-1 et. seq., NMSA 1978.

7.4.3 Transfer of Title. The private party agrees to transfer title to all improvements installed on the County road or property, such as material, cattle guards, culverts or other items, to Luna County after said items and property have been installed and accepted by the Road Department Director.

7.4.4 Notification of County. The private party agrees to notify the Road Department Director, prior to the start of the work, of the location of the proposed work, the type of proposed work, and the date that said work will start.

7.4.5 Minimum Standards. The private party agrees that any road work performed on County Roads shall meet the minimum standards to satisfy the County for such improvements.

7.5 It shall be the duty and responsibility of the Road Department Director to ensure that each agreement strictly complies with the provisions contained above and to inspect the work as it is ongoing to determine that the agreement is being fulfilled. No private party shall perform any work on any County Roads until a written agreement has been completed unless the Road Department Director or the County Manager, shall determine that an emergency situation exists requiring immediate action. In an emergency situation, the Road Department Director or County Manager may verbally authorize the work under the terms and conditions set forth in this section. A written agreement must be prepared within three (3) days of the verbal authorization and be signed by the Road Department Director and the County Manager and submitted to the BOCC for ratification at the next scheduled County Commission meeting.

7.6 Mowing of grass in right-of-way, pushing snow, etc. This is not included as “work on County Roads by private parties”. The prohibitions contained herein are meant to keep destructive acts from happening

on County Roads and not to deter the general public from good faith efforts to clear County Roads of weeds, snow or etc.

7.7 Donations of Privately-Owned Materials. Nothing contained in this policy is intended to prohibit or in any way restrict the donation of road materials (caliche, gravel, water, etc.) to the County when such donation is free of charge and involves no expense to the County other than transporting the materials to the road site for use. The County specifically recognizes in this policy that the farmers and ranchers of Luna County have throughout the history of Luna County provided materials to the County for use in maintenance and construction of roads, often at no charge to the County. Such donations by these citizens have proven to be an invaluable aid to the County in its attempts to construct and maintain a viable road system and is hereby specifically encouraged as a benefit to the citizens of Luna County in that it saves expenditures of funds and man hours. An agreement must be signed by the County and the landowner for the donation.

SECTION 8.0: MISCELLANEOUS PROVISIONS

8.1 Administrative Fees. In order to defray and/or offset a portion of the cost and/or expenses of the administration of private versus public construction and/or installation requests, the BOCC requires an application for permit and payment of an administrative fee. The administrative fee for this policy shall be established at \$50.00 per person, per application and can be changed, altered or amended by the BOCC as it deems fit.

8.2 Pavement, Gravel, Culverts, Weed Control, Traffic Signs/Pavement Striping and Street Lighting. The County may pave, gravel, install culverts, install cattle guards, perform weed control, install signs, stripe and install street lighting on any County Road, road easement or public right-of-way at its discretion. In addition, upon citizen request, the County may perform any of the above on a Maintained County Road if it is determined to be necessary and is in the best interest of the County. Any requested improvements will be prioritized based on need and will be contingent upon available funding, manpower and equipment.

8.3 Pavement. Currently paved roads will be maintained at the same level including asphalt patching and resurfacing when determined to be necessary by the County.

8.4 Gravel. Currently graveled roads will be maintained at the same level including routine quarterly blading and dust control when determined to be necessary by the County.

8.5 Blading. Under normal conditions, Luna County will not blade any back slopes from October 1 of any year through April 1 of the following year. Exceptions to this general policy may be allowed if the road is under construction or rebuilding is being done on said road.

8.6 With the approval of the Road Department Director, the front slopes or shoulder of Maintained County Roads will be bladed in order to establish water flow down the ditch. In areas where ditches are full of blow sand, again, Road Department Director may direct the cleaning of a ditch in order to reestablish a ditch line capable of keeping rain water off of the roadway. In sandy areas, any blading will only be done with adequate moisture to compact the material on the roadway.

8.7 Culverts. Culverts will be installed in such a manner as to align with the historic or established drainage. However, Luna County is not responsible for maintaining the drainage channel beyond the limits of the right-of-way or road easement. Only in the event it is determined that such maintenance of the drainage channel would directly benefit the County and the County has received permission and indemnification from the property owners would the County consider performing work.

8.8 Weed Control. The County may use herbicides and mowing as part of its weed management program. The use of herbicides and mowing on County road easements or rights-of-way will be at the discretion of the Road Department Director.

8.8.1 Herbicides may be used to inhibit or prevent weed, shrub and tree growth on Maintained County Roads, road easements and rights of-way. The County can, at the discretion of the Road Department Director, control noxious weeds on County and/or private property (with landowner's permission) if it is determined to be in the best interest of the County or should any noxious weed acts may be enacted within this State. The County will attempt to perform this service at no charge to landowners, as well as provide reasonable notice to residents.

8.8.2 Mowing will be done on Maintained County Roads, road easements and rights-of-way when weed growth obstructs the visibility of traffic and/or pedestrian ingress and egress.

8.9 Traffic Signs/Pavement Striping. The placement of all traffic signs and pavement striping will be performed in compliance with the Manual on Uniform Traffic Control Devices (MUTCD). Materials shall be in accordance with requirements of ASTM standards, FHWA specification FP-96, and Federal Register Volume 48, No. 200, 10/14/83. Speed limits will be established based on State laws.

