

**MINUTES
REGULAR MEETING
LUNA COUNTY BOARD OF COUNTY COMMISSIONERS
Thursday, September 13, 2012**

BE IT REMEMBERED that the Luna County Board of County Commissioners met in regular session at 9:00 a.m. on Tuesday, September 13, 2012 in the County Commission Chambers of the Luna County Courthouse, Deming, New Mexico, for the purpose of conducting any and all business to come properly before the Board.

The following staff and elected officials were present:

Kelly Kuentler, County Manager
Glory Johnson, County Manager's Office
Andrea Rodriguez, Clerk's Office
JoAnna Z. Zurinsky, Clerk's Office
Dora Madrid, Treasurer
Gloria Rodriguez, Chief Deputy Treasurer
Delilah Rojo, Assessor
Isabelle Enciso, Certified Appraiser
Barbara Cobos, Chief Deputy Assessor
Raymond Cobos, Sheriff

Gabriel Boyle, Planning & Community Development
Frankie Tarazon, Planning & Community Development
Marty Miller, Road Department
Les Williams, Road Department
Ernest Pastran, Road Department
Danny Gonzales, Business Office
Matthew Elwell, Detention Director
Sonia Arteche, Emergency Services

CALL TO ORDER: Chairman Spivey called the meeting to order at 9:06 a.m. and Commissioner Milo led the Pledge of Allegiance and the salute to the flag of the State of New Mexico.

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

Joe L. Milo, Jr., District 1
Chairman J. Jay Spivey, District 2
R. Javier Diaz, District 3

SERVICE AWARDS: Sheriff Raymond Cobos presented Jose Ojeda (5 years) and David Guerrero (20 years) with Luna County service awards. Detention Director Matthew Elwell presented detention center employees Linda Calderon (10 years) and Adrian Chaires (10 years) with their Luna County service awards. Road Superintendent Marty Miller presented Ernest Pastran (20 years) with a Luna County service award.

PRESENTATIONS:

- a. Marty Miller, Luna County Roads Superintendent and Joe La Russo of Western Emulsions gave an informative slide presentation on road resurfacing. Outlined in the presentation were the steps taken in the road resurfacing process and technologies involved in road preservation and preventative

maintenance. Mr. La Russo is nominating Luna County for an award for their efforts in road preservation management.

- b. Ernie Gonzalez, Jr. of the Boy Scouts of America Yucca Council gave a presentation on the Boy Scouts of America Yucca Council. Outlined in Mr. Gonzalez's presentation was the history of Scouting and the services provided to the communities in the Yucca Council area.
- c. Connie Grove presented information on the Deming Public Schools Afterschool Program. Ms. Grove distributed packets with the framework of the program and each school's offerings on the curriculum provided.

ANNOUNCEMENTS: County Manager Kelly Kuenstler introduced Sean Blaine, Chief of the Florida Volunteer Fire Department and Randy Brokaw, Chief of the Sunshine Volunteer Fire Department. Ms. Kuenstler administered the oath of office to Randy Brokaw.

ELECTED OFFICIALS REPORT: Assessor Delilah Rojo reported on activity in her office. Carlo Martellaro attended appraisal class, and received his 3rd certificate. The office is currently working on 2013 appraisals. Ms. Rojo reported on developments for Sapphire Energy and outlined the appraisal guidelines they are using for 2013 tax rolls. The appraised value for Sapphire Energy is right now at \$3,117,777.00. She also commended Isabelle Enciso for her diligence and help with the assessment. Treasurer Dora Madrid reported that tax-bills will be sent out October 15 to 31, 2012. Sheriff Cobos expressed concerns regarding mosquito control in the Village of Columbus.

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

- A link for the Arizona Water Settlement Act has been posted on the county website, per the community's request.
- The Information Technology (IT) Department had a recent security and network assessment. It was strongly recommended by the assessment team that the county should get a centralized network management system, an anti-virus system, a wireless bridge and should redevelop the website to increase user friendliness.
- Luna County is the recipient of a Risk-Awareness Program award and has successfully completed a second year in the program. Ms. Kuenstler noted an 88 percent reduction in multi-line claims. This is the second year the county has received an award.
- A regional application was submitted for a Certified Community initiative and was successful. This certification will provide \$11,000.00 a year for a period of three years and will aid Luna County and the City of Deming in economic development projects. The certification opens the door for other funding as well. Next year we will be able to bring the Village of Columbus into the initiative.
- Bill Kellen of American Family Entertainment informed Ms. Kuenstler on August 22nd that he is no longer able to meet the terms of his contract with Luna County in the operation of Starmax. The manager's office is in the process of working on a transition plan from the current lease agreement to a temporary county run facility. Applicants are being interviewed for the position of general manager with a selection being made as early as tomorrow afternoon. Ms. Kuenstler discussed her opinion of the available options and concluded that she saw a "temporary takeover" as the preferable choice. She stated she has to that end reviewed inventory, expenses, profits and losses. She has set up bank accounts for Starmax, LLC and changed the business license and alcohol and gaming license. She will also meet with Tamara Hurt, CPA to discuss the financial situation of the center. In response to

questions from Chairman Spivey, Ms. Kuenstler advised that she is consulting with an attorney regarding recourse on past due invoices. She said she is trying to concentrate on keeping the facility open. The commissioners commended Ms. Kuenstler on her efforts. Ms. Kuenstler recognized Commissioner Milo and her staff for their efforts as well.

- Danny Martinez, Detention Certification Manager with CYFD, conducted an annual juvenile recertification audit of the county detention facility. The facility must be compliant with 22 standards. The facility was found to be in compliance with 21 and partially compliant with one standard. Now that CPR classes have been held, the facility is now fully compliant with all 22 standards and will be recertified as a juvenile detention facility.

PUBLIC HEARING: Chairman Spivey opened the floor to a Public Hearing pertaining to the repeal of Ordinance 46, an ordinance establishing a county security force, granting police powers to those officers appointed by the Board of County Commissioners. Merlin Norenberg came before the board and voiced his support for repeal of the ordinance. He stated the repeal was necessary because the purpose of the ordinance is no longer valid. With no other testimony forthcoming, Chairman Spivey closed the public hearing.

ORDINANCES:

- a. Repeal Ordinance 46:** Commissioner Diaz moved for the repeal of Ordinance 46 and stated he felt the ordinance was not necessary. Commissioner Milo seconded the motion which carried unanimously following a roll-call vote.
- b. Call for the Amendment of Ordinance 23 Personnel Policy:** Chairman Spivey asked County Manager Kelly Kuenstler for an update on the revision of Ordinance 23. Ms. Kuenstler stated the committee has been reviewing and revising the ordinance for nine months, and it is now ready for consideration by the Board. Ms. Kuenstler stated the revision has been a team effort and she thanked all involved. Commissioner Diaz moved for approval for the Call for the Amendment of Ordinance 23 Personnel Policy. Commissioner Milo seconded the motion, which carried unanimously.

PUBLIC COMMENT: Joe Moreland stated he thinks there should be five commissioners instead of three in interest of the best possible representation for Luna County, and requested it be put on the agenda again. Ron Scharf asked County Manager Kelly Kuenstler for a timeline on the Starmax management transition. Chairman Spivey and Ms. Kuenstler made assurances the Starmax transition will be a top priority. Dave Petersen asked if the formation of a board or committee to oversee the Starmax transition would be helpful. He also suggested upgrades to maximize the facility's features. Fred Williams stated a policy needs to be put in place regarding Starmax, and recommended a re-evaluation of the existing policies.

CONSIDER MINUTES: Upon motion of Commissioner Milo, seconded by Commissioner Diaz, the minutes of the August 9, 2012 Regular Meeting were unanimously approved.

CONSENT AGENDA: Upon motion of Commissioner Diaz, seconded by Commissioner Milo, Payroll Registers totaling \$896,288.65 and Accounts Payable Registers totaling \$674,440.70 were unanimously approved.

RECESS: Chairman Spivey declared a five-minute recess at 10:51 a.m.

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

- a. Final Wastewater Management Plan for a Portion of Luna County, New Mexico:** This plan is intended to evaluate and address methods for safely treating and disposing of domestic waste water in unincorporated areas of Luna County immediately adjacent to the City of Deming Extra Territorial Zone boundaries. The county obtained a \$50,000.00 grant from New Mexico Finance Authority for preparation of the plan, in which the county retained Zia Engineering and Environmental Consultants for professional services. The plan does three things: It addresses wastewater treatment and disposal issues. It provides a roadmap for Luna County to systematically address wastewater issues that are specified in the planning areas. The plan also provides an order of magnitude planning level estimate of costs for implementing public wastewater infrastructure to aid in the county's efforts in seeking funding. Ms. Kuenstler advised the plan has been approved by the state Environmental Department, and is ready for approval. Commissioner Diaz commented that he agreed with the plan and he felt the plan was viable. Gabriel Boyle, Community Development and Planning Director, and Kelly Fort of Zia Engineering stood for questions and further explained the need for the plan. Commissioner Milo moved for approval of a Final Wastewater Management Plan for a Portion of Luna County, New Mexico. Commissioner Diaz seconded the motion which carried unanimously.
- b. Resolution 12-41 Proposed Inter/Intra Fund Budget Increases:** Five budget increases were proposed in the amount \$470,231.55. Commissioner Diaz moved for approval of Resolution 12-41 Budget Increases. Commissioner Milo seconded the motion which carried unanimously following a roll-call vote.
- c. Resolution 12-42 Proposed Intra/Inter Department Budget Transfers:** Six intra department budget transfers were proposed in the amount of \$1,415,172.00. Commissioner Diaz moved to approve Resolution 12-42 Budget Transfers with the removal of item six, a \$7,500.00 Road Department Transfer. Commissioner Milo seconded the motion which carried unanimously following a roll-call vote.
- d. Resolution 12-43 Authorizing and Approving the Submission of an Application to the New Mexico Finance Authority for Luna County Road Department Equipment:** Ms. Kuenstler explained to the board this item authorizes and approves submission of a completed application for financial assistance and project approval to the New Mexico Finance Authority. Ms. Kuenstler recommended approval of the application for the purchase of four motor graders for the Luna County Road Department. Marty Miller stated to the board the request for four graders was the most efficient way to maintain the roads. Commissioner Milo moved for the approval of Resolution 12-43 Authorizing and Approving the Submission of an Application to the New Mexico Finance Authority for Luna County Road Equipment. Commissioner Diaz seconded the motion which carried unanimously following a roll-call vote.
- e. Approve Exemptions from Special Assessment for the Predator Control Program pursuant to Resolution 09-30 (Nutt Dairy, LLC. And NM Feeding Company, LLC.):** Ms. Kuenstler stated the request from Nutt Dairy and New Mexico Feeding Company for exemption of the Predator Control tax levy. Commissioner Diaz asked Ms. Kuenstler if the requests were the only ones received. Ms. Kuenstler stated that as of the deadline of September 1st, those requests were the only ones received. The reason for the request of the exemption is the animals are penned. Commissioner

Diaz moved for approval for Exemptions from Special Assessment for the Predator Control Program pursuant to Resolution 09-30 to Nutt Dairy and New Mexico Feeding Company. Commissioner Milo seconded the motion which carried unanimously.

- f. Joint Powers Agreement between Luna County and the Village of Columbus for Law Enforcement Services:** Ms. Kuentler explained to the board this Joint Powers Agreement (JPA) seeks \$20,000.00 from Law-Enforcement Protection (LEP) funding. The monies shall be used to purchase qualified law enforcement property, equipment and purposes for the exclusive use of Luna County Sheriff's Office. In exchange, the Sheriff agrees to provide a minimum of 5.7 man hours of law enforcement coverage in the Village per day, or alternatively a minimum of 40 man hours per day for 7 day periods. Sheriff Cobos iterated the intention of the funds, and Chairman Spivey thanked Sheriff Cobos for his efforts. Commissioner Milo moved to approve the Joint Powers Agreement between Luna County and the Village of Columbus for Law Enforcement Services. Commissioner Diaz seconded the motion which carried unanimously.
- g. Recommendation from Natural Resources Committee and Decision on How to Proceed:** Ms. Kuentler asked the Board for guidance in addressing a situation which has arisen with the Natural Resources Committee wrote a letter to BLM regarding the Sun Zia project without getting prior approval from the Board of County Commissioners. After discussion and with input from Fred Williams, John Strand and Larry Caldwell, Commissioner Diaz moved to direct the County Manager to write a letter to the Natural Resources Committee advising them of the proper way to carry out their duties. He stated the board members should be encouraged to remove themselves if they are in a conflict of interest position and he thought they should be applauded for proposing utility corridors. Commissioner Milo seconded the motion which unanimously carried. Ms. Kuentler stated her intention to draft the letter for commission approval and to deliver it to the committee which was scheduled to meet in the afternoon.
- h. Appointment of Frankie Tarazon to the Luna County Safety Review Committee pursuant to Resolution 03-47:** Ms. Kuentler recommended to the board that Frankie Tarazon be appointed to the Luna County Safety Review Committee. Chairman Spivey thanked Mr. Tarazon for his interest in the appointment. Commissioner Milo moved to approve the appointment of Frankie Tarazon to the Luna County Safety Review Committee pursuant to Resolution 03-47. Commissioner Diaz seconded the motion which carried unanimously.
- i. Appointment of Additional Member to the Healing House Advisory Board:** Ms. Kuentler requested the board's consideration of the appointment of Charles Kretek to the Healing House Advisory Board. Ms. Kuentler stated she felt the appointment would be a worthy and helpful appointment. Commissioner Milo moved to approve the Appointment of Charles Kretek to the Healing House Advisory Board. Commissioner Diaz seconded the motion which carried unanimously.
- j. Luna County All-Hazards Emergency Operation Plan:** Ms. Kuentler explained to the board this plan has been in the works for a few years through a Department of Homeland Security grant, and involves several different law-enforcement and municipal agencies. B-Sting Ventures was contracted to help develop the plan. The plan was submitted for review to the Association of Counties and is now ready for approval by the state. Ms. Kuentler thanked Sonia Arteché for her hard work in spearheading the plan. Commissioner Diaz moved for approval of the Luna County All-Hazards Emergency Operation Plan. Commissioner Milo seconded the motion which carried unanimously.

- k. **Announce Fair Day as Friday, October 12, 2012:** The original Fair Day date was announced as October 5, 2012 and was subsequently changed to October 12, 2012. This announcement is made for informational purposes only.

- l. **Order Setting Property Tax Rates for Luna County (Approval of Certificate of Tax Rates):** Ms. Kuenstler stated that item 'l' requires the commission must issue an order imposing property tax rates in Luna County as required by New Mexico State law. The deadline for imposition of rates is five days from receipt of notification from the Department of Finance and Administration. Assessor Delilah Rojo stated she has provided the required notification from the Village of Columbus, the City of Deming and Deming Public Schools. Ms. Rojo stated she has not yet received any acknowledgement from the Village of Columbus. Commissioner Milo moved for approval of the Order Setting Property Tax Rates for Luna County (Approval of Certificate of Tax Rates). Commissioner Diaz seconded the motion, which carried unanimously.

INDIGENT CLAIMS REPORT: Upon motion of Commissioner Milo seconded by Commissioner Diaz, the meeting of the Board of County Commissioners was unanimously recessed and the meeting of the Indigent Hospital Claims Board convened. County Manager Kelly Kuenstler recommended approval of 22 claims dated September 13, 2012 in the amount of \$60,248.33 and zero denials. The monies received for August 2012, was \$6,691.08. Commissioner Diaz motioned to approve 22 claims dated September 13, 2012 in the amount of \$60,248.33. Commissioner Milo seconded the motion which carried unanimously. Commissioner Milo moved to recess as Claims Board and to reconvene as the Board of County Commissioners. Commissioner Diaz seconded the motion which was approved unanimously.

ANNOUNCE NEXT MEETING: Chairman Spivey announced the next Regular Meeting will be held on Thursday, October 11, 2012.

ADJOURN: Chairman Spivey adjourned the meeting at 11:56 a.m.

ATTEST:

LUNA COUNTY BOARD OF COUNTY COMMISSIONERS

KAREN SMYER, LUNA COUNTY CLERK

JOE L. MILO, JR., DISTRICT 1

APPROVED: _____

CHAIRMAN J. JAY SPIVEY, DISTRICT 2

R. JAVIER DIAZ, DISTRICT 3