

**MINUTES
REGULAR MEETING
LUNA COUNTY BOARD OF COUNTY COMMISSIONERS**

Thursday, October 8, 2009

BE IT REMEMBERED that the Luna County Board of County Commissioners met in regular session at 9:00 a.m. on Thursday, October 8, 2009, 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 members of the Board were present:

Commissioner Fred Williams, District 1
Commissioner Debra French, District 2
Chairman R. Javier Diaz, District 3

Also present were the following staff and elected officials: County Manager John Sutherland, Executive Assistant Glory Johnson, County Clerk Karen Smyer, Chief Deputy Clerk Natalie Pacheco, Deputy Clerk Berenda McWright, Special Projects Coordinator Rheganne Vaughn, Sheriff Raymond Cobos, Road Superintendent Marty Miller, Budget/Procurement Director Joanne Hethcox, Human Resource Director Danny Gonzales, Chief Deputy Assessor Delilah Rojo, Interim Director of Detention Center Richard Cowles, Director of Detention Center John Krehbiel, Detention Officer Lionel Lozano, Detention Officer Lydia Salaiz and Detention Officer Sylvia Baeza.

Chairman Diaz called the meeting to order at 9:00 a.m. and led the Pledge of Allegiance and the salute to the flag of the State of New Mexico.

EXECUTIVE SESSION TO DISCUSS THE PURCHASE, ACQUISITION OR DISPOSAL OF REAL PROPERTY AND WATER RIGHTS PURSUANT TO §10-15-1(H)(8) NMSA 1978: Commissioner Williams moved to go into executive session pursuant to §10-15-1(H)(8) NMSA 1978 to discuss the purchase, acquisition or disposal of real property and water rights. Commissioner French seconded the motion and a roll call vote was taken. The motion carried unanimously.

Chairman Diaz announced that no other matters were discussed except the purchase, acquisition or disposal of real property and water rights pursuant to §10-15-1(H)(8) NMSA 1978. Commissioner French motioned to go into regular session. Commissioner Williams seconded the motion and the motion carried unanimously.

County Manager John Sutherland recommended the commissioners pursue the action that was discussed in the executive session. Based upon legal opinion, Commissioner Williams moved to draft a letter to the prior owner of the Sunnyside Farms property notifying them the current Luna County Commission intends to seek a declaratory

judgment rescinding the purchase agreement on the grounds that it was ultra vires and unenforceable as it was beyond the statutory authority granted to the previous County Commission. Commissioner French seconded the motion which carried unanimously.

ANNOUNCEMENTS:

Mr. Sutherland announced that Mr. John Krehbiel was hired to fill the position of Director of the Luna County Detention Center.

Mr. Sutherland announced that Luna County's Emergency Response Manager has been certified in the State of New Mexico and that Luna County should be very proud to have one of only twenty-six Certified Emergency Response Managers in the State of New Mexico.

SERVICE AWARDS:

Interim Director of the Luna County Detention Center Richard Cowles presented an award to Lydia Salaiz for ten years of service and commended her for being a hardworking and reliable employee.

Mr. Cowles presented Sylvia Baeza with a ten year service award and thanked her for being a dedicated officer who is looked up to by her peers.

Mr. Cowles presented John Krehbiel with a twenty year service award and congratulated him on his new position of director for the jail.

MINUTES: Upon a motion by Commissioner French and a second by Commissioner Williams the minutes of the special meeting held on September 3, 2009 were unanimously approved.

Upon a motion by Commissioner Williams and a second by Commissioner French the minutes of the regular meeting held on September 10, 2009 were unanimously approved.

Upon a motion by Commissioner French and a second by Commissioner Williams the minutes of the special meeting held on September 15, 2009 were unanimously approved.

Upon a motion by Commissioner French and a second by Commissioner Williams the minutes of the work session held on September 24, 2009, were unanimously approved.

Upon a motion by Commissioner Williams and a second by Commissioner French the minutes of the special meeting held on September 29, 2009, were unanimously approved.

CONSENT AGENDA: Upon motion of Commissioner Williams and a second by Commissioner French the following items on the Consent Agenda were unanimously approved:

Payroll Register #	Date of Register	Total of Register in Dollars
20090051	September 11, 2009	427,962.71
20090052	September 11, 2009	*15,586.09
20090053	September 25, 2009	443,294.44
20090054	September 25, 2009	26,723.49
*Denotes special payroll reimbursable through grants and/or contractual payments		
Total of Payroll Registers		\$913,566.73

Warrant Register Date	Total of Register in Dollars
September 11, 2009	260,810.83
September 18, 2009	74,487.72
September 24, 2009	257,842.91
September 30, 2009	139,397.90
Total of Warrant Registers	\$732,539.36

NEW BUSINESS:

A. Resolution 09-42 Designating Polling Places: Luna County Clerk Karen Smyer noted that the polling place for newly created precinct three is the Knights of Columbus Hall and the polling place for precinct one was changed from Alpha Baptist Church/Lighthouse Baptist Church to the Ruben S. Torres Elementary School. Commissioner French motioned to adopt Resolution 09-42 Designating Polling Places. The motion was seconded by Commissioner Williams and approved unanimously.

B. Resolution 09-43 Budget Adjustments: Mr. Sutherland recommended approval of the budget adjustment resolutions. Commissioner French motioned to approve Resolution 09-43 Budget Adjustments. The motion was seconded by Commissioner Williams and approved unanimously.

C. Luna County Webhost Proposal Evaluation: Mr. Sutherland stated that there has been considerable difficulty getting the website back up and the county would like to do more with the website than in the past. He suggested hiring a web host which would allow for more flexibility, a better public image and expanded web services to the public such as paying taxes online and filling out various forms from the different departments. Mr. Sutherland recommended accepting the proposal from Egov Strategies to design and host the website. Commissioner Williams moved to approve negotiation by the County Manager with Egov Strategies to host the county's website. The motion was seconded by Commissioner French and approved unanimously.

D. National Recycling Month-Declare Amnesty of Fees for Tires at Luna County Road Department: Mr. Sutherland presented the proposal from Keep Luna County Beautiful to abate charges for the average citizen for disposal of tires at the landfill. He noted that the service has existed for a number of years and this is to provide public notice to citizens of this service. Road Superintendant Marty Miller informed the commission that the County Road Department has never charged fees. The Luna County Road Department has been updated as a tire recycling facility and falls under the guidelines of a grant. It was discussed to accept tires from commercial business for a small fee.

E. Resolution 09-44 Tire Recycling Fees for Commercial Operators: Mr. Sutherland stated that it is expensive for the county to recycle the commercial tires and recommended adoption of the resolution imposing a nominal recycling fee on tire retailers. Mr. Miller announced that tires are being brought in by the truckload from other counties as well as Luna County and due to budget constraints the department can no longer afford to continue to recycle the tires without charging a fee. The proposed fees were \$1.10 per regular car and pickup tires and \$5.00 for large truck and tractor tires. Commissioner French motioned to accept Resolution 09-44 Tire Recycling Fees for Commercial Operators. The motion was seconded by Commissioner Williams and approved unanimously.

F. Resolution 09-45 Bicycle Advisory Committee: Mr. Sutherland stated this resolution was developed in response to a request by citizens that the county provide some guidance concerning bicycle safety. The resolution gives the commission the opportunity to form an advisory group that would get together for the purpose of talking about and recommending various safety programs, rules of the road and approaches to providing guidelines for safe bicycle travel. Commissioner French stated that she was approached by several people that do not feel safe riding their bike in the county and their biggest concern was for signs and awareness to the driving public. Commissioner Williams stated that cycling is a big tourist attraction in Grant County and Luna County should consider making bike paths and trails available to piggyback with some of the attraction that brings people to Grant County. Mr. Caldwell expressed concern about establishing another committee which will operate without the structure of the Open Meetings Act. He also suggested the city be involved. Commissioner Williams motioned to adopt Resolution 09-45 Bicycle Advisory Committee. The motion was seconded by Commissioner French and approved unanimously.

G. Resolution 09-46 Luna County, New Mexico EPA Brownfields Site-Specific Assessment Grant: Mr. Sutherland recommended adoption of Resolution 09-46 that requires the county serve as fiscal agent for a grant that will be managed by the city. Gene Paulk, Community Services Director for the City of Deming, stated that the city is seeking to formalize cooperation of the county to establish a plan for remediation for the Tulip Drive Landfill. The city, as owner of the landfill, is not eligible for the EPA grant for a site assessment of the landfill. The city anticipates doing all of the work and has contracted with a private consultant to fill out the application. The county is an eligible entity for the \$200,000 grant for the assessment of the site. The outcome of the assessment would determine the course of action to take for remediation. Commissioner Williams motioned to approve Resolution 09-46 Luna County, New Mexico EPA Brownfields Site-Specific

Assessment Grant participation with the City of Deming. The motion was seconded by Commissioner French and approved unanimously.

H. Regional Planning Organization Process Presentation - Cynthia Stoechner of Council of Governments: Cynthia Stoechner gave an overview of the Southwest Regional Planning Organization which is made up of Catron, Grant, Hidalgo and Luna Counties. The board is made up of elected officials and serves as a liaison between local governments and the New Mexico Department of Transportation. The organization participates in four of the primary federal programs including the Roadway Improvement Program, the Scenic and Historic Byways Program, Enhancement Projects and Public Transportation Programs.

I. Presentation by New Mexico Association of Counties / County Insurance Authority - Steve Kopelman, Bruce Swingle and Robin Martinez: Steve Kopelman the Risk Management Director and General Counsel for the New Mexico Association of Counties along with Robin Martinez the Multiline and Law Enforcement Claims Manager and Bruce Swingle the Loss Prevention Manager gave a presentation and provided information about the New Mexico Association of Counties and the major advantages of pooling. Mr. Kopelman stated that the New Mexico Association of Counties is a non profit 501(C)6 organization for the sole purpose of supporting county government. All thirty-three counties belong to the organization and each county is represented by a board member. Commissioner Diaz is currently on the board representing Luna County. The association does everything from lobbying the legislature to training and education. They hold two major conferences every year in January and in June. The conferences are wonderful opportunities to network and get up to speed on the different issues. The association provides self insurance programs for counties and has been in operation since 1987. Mr. Kopelman outlined the major advantages of pooling as follows: stability of contributions, county control of boards of directors, return of equity to members, pools focus exclusively on county government and the collaborative partnership between pools and member counties. The association also helps counties handle lawsuits and claims and provides safety and loss prevention training.

BIDS AND RFP'S:

A. RFP 98-01 for Legal Services: Mr. Sutherland presented the RFP evaluation sheet and informed the Board of the selection process. He stated each proposal was evaluated by five panelists individually who awarded points to the proposals based upon certain criteria. Discussion ensued regarding the method in which points had been tallied and the resulting recommendation. Mr. Sutherland advised the Board that the firm Doerr & Knudson, PA, received the highest number of points from three of the panelists. The remaining two panelists each scored two different firms highest. It was the consensus of the Board that the points should have been tallied differently. Based on the fact that Doerr & Knudson, PA, received the highest point totals from three of the five evaluators, Mr. Sutherland recommended selection of the Doerr & Knudson proposal. Eddie Mesa addressed the Board and argued that the decision was tainted. Charles Kretek rose to express his opinion that the point evaluation system was being disregarded. Mr. Kretek believed there was an appearance of favoritism considering Mr.

Knudson was from the same area of the state as Mr. Sutherland. Commissioner Williams moved to accept the recommendation of the County Manager and to negotiate a contract for legal services with Doerr & Knudson, PA. The motion was seconded by Commissioner French and unanimously approved.

B. Discuss details of RFP for Special Audit: Mr. Sutherland stated that they have tried various approaches in dealing with this issue and in all cases what the county decides to do is subject to the direction and the guidance of the State Auditor. The State Auditor recommended the county issue a request for proposal for a special audit. Joanne Hethcox, Budget/Procurement Director, stated that the State Auditor is requesting a list of specifics from the commission of what exactly they want audited. Once the information is provided the State Auditor's Office will assist in preparing the RFP. Chairman Diaz questioned what a forensic audit would entail. Ms. Heathcox explained that a forensic audit would allow for legal action to be taken. Commissioner Williams requested that a work session be scheduled to discuss the RFP for a special audit. The item was tabled.

INDIGENT CLAIMS REPORT: Upon motion of Commissioner Williams, seconded by Commissioner French, the Luna County Board of County Commissioners was recessed and the meeting of the Indigent Claims Board convened.

Upon motion of Commissioner Williams and a second by Commissioner French, the indigent hospital claims were unanimously approved and denied as follows: A total of 270 claims were approved for the month of September totaling \$636,421.10 and 22 claims totaling \$146,579.56 were denied.

Upon motion of Commissioner French, seconded by Commissioner Williams, the meeting of the Indigent Claims Board was unanimously recessed and the meeting of the Luna County Board of County Commissioners reconvened.

ELECTED OFFICIALS REPORT: No reports given.

EXECUTIVE SESSION TO DISCUSS PENDING LITIGATION MATTERS PURSUANT TO §10-15-1(H)(7) NMSA 1978: Chairman Diaz entertained a motion to go into executive session to discuss pending litigation matters pursuant to §10-15-1(H)(7) NMSA 1978. Commissioner Williams moved to go into executive session for the reason and authority stated by Chairman Diaz. The motion was seconded by Commissioner French and a roll call vote was taken, all voted in favor. The motion was unanimously approved.

Chairman Diaz announced that nothing was discussed except pending litigation matter pursuant to §10-15-1(H)(7) NMSA 1978. Commissioner French motioned to go back into open session. The motion was seconded by Commissioner Williams and approved unanimously. No action was taken.

ANNOUNCE NEXT MEETING: Chairman Diaz announced the next regular meeting will be held on November 12, 2009, at 9:00 a.m. and the next work session will be held on October 15, 2009, at 9:00 a.m.

Chairman Diaz accepted public comments not listed on the agenda. Larry Caldwell questioned if Starmax was providing their expense reports. Mr. Sutherland informed him that he is reviewing the income and expense reports submitted by Starmax.

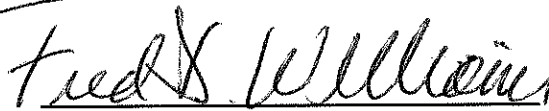
Mr. Caldwell suggested selling the Belle Canto Building due to the fact that it is off of the ICIP list for the next five years. Mr. Sutherland informed Mr. Caldwell that the Belle Canto Building is being converted for use by Presbyterian Medical Services.

ADJOURNMENT: Commissioner Williams moved to adjourn, seconded by Commissioner French and approved unanimously. The meeting was adjourned at 1:15 p.m.

ATTEST:

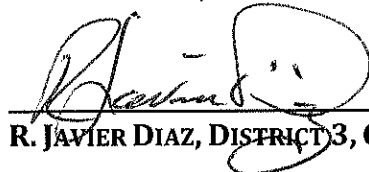
LUNA COUNTY BOARD OF COUNTY COMMISSIONERS


KAREN SMYER, LUNA COUNTY CLERK


FRED D. WILLIAMS, DISTRICT 1

APPROVED: November 12, 2009


DEBRA FRENCH, DISTRICT 2


R. JAVIER DIAZ, DISTRICT 3, CHAIRMAN