

**MINUTES  
REGULAR MEETING  
LUNA COUNTY BOARD OF COUNTY COMMISSIONERS  
Thursday, November 8, 2012**

**BE IT REMEMBERED** that the Luna County Board of County Commissioners met in regular session at 9:00 a.m. on Thursday, November 8, 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  
JoAnna Z. Zurinsky, Clerk's Office  
Barbara Cobos, Chief Deputy Assessor  
Raymond Cobos, Sheriff  
Joanne Hethcox, Business Office  
Mark Jasso, Emergency Services

Rheganne Vaughn, Community Health & Welfare Director  
Gabriel Boyle, Planning & Community Development  
Marty Miller, Road Department  
Matthew Elwell, Detention Director

**CALL TO ORDER:** Chairman Spivey called the meeting to order at 9:05 a.m. Commissioner Diaz 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:** Connie Bencomo in Dispatch was presented a five year award pin earlier, and was not present at the meeting.

**PRESENTATIONS:**

- a. County Manager Kelly Kuentler administered the Oath of Office to Chairman Spivey as a newly appointed representative to the New Mexico Border Authority.
- b. Robyn Callo presented information on behalf of Deming Animal Guardians. Outlined in her presentation were spay/neuter program statistics, fundraising updates and financials.

**ELECTED OFFICIALS REPORTS:** Chairman Spivey congratulated Commissioner Diaz on his recent victory in the election. Commissioner Milo announced the digital upgrade in the Starmax facility. Commissioner Diaz thanked all of the poll workers that participated in the Election Day. Sheriff Cobos

reported that his department was in contact with the Department of Finance and Administration in regards to the Law Enforcement Protection Fund monies that were allocated to Columbus. The Sheriff's Department is still working on dispersing the funds pending approval of a budget.

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

- The Macho Springs Solar Project is moving forward, however construction is being delayed due to a new rule put in place by the Public Regulation Commission that requires approval of the power purchase agreement. The delay is expected to be two to six months.
- The public comment period closed October 6<sup>th</sup> for the Border Commercial Zone Extension. The comments were overwhelmingly positive. The rule change is working its way through the approval process in Washington, D.C. Luna County is working in conjunction with other agencies to coordinate a marketing effort of the rule in New Mexico.
- The Department of Cultural Affairs has announced they are considering the downtown Deming historic district for the National Register. Ms. Kuenstler asked for board approval for a letter of support from Luna County for the designation.
- Luna County received a wire-transfer in the amount of \$92,550.00 from the Macho Springs Wind Farm IRB. The deposit was made into Luna County's account on October 31st.
- All six theatres in the Starmax facility are now digitally converted.
- Luna County's Audit for July 1, 2011 to June 30, 2012 fiscal year is now completed.
- Randy Brokaw is serving as the new interim Chief of the Florida Volunteer Fire Department. He is also the Chief for Sunshine Volunteer Fire Department.
- The Department of Health has approached Luna County to administer a Healthy Kids project grant. The county has accepted this fiduciary responsibility, and Nancy Sherman will explain the program's objectives in the December 13<sup>th</sup> Commissioner's meeting.
- The county is working on getting the Columbus Stockyards as an approved area for exporting. Chad Shannon received an e-mail from the USDA indicating the approval had been granted, and the USDA is currently looking for an export inspector to come to Columbus to perform the inspections.
- Ms. Kuenstler presented reports on each county department program per Commissioner Diaz's request. Highlighted were Road Department, Starmax, Detention Facility, Building and Maintenance, Planning, and Maintenance Department reports. The individual reports are available in the Manager's Office for public access.

**PUBLIC COMMENT:** Joe Moreland expressed his concerns about the quality on the sound system in the commission chambers. He also commented on the commissioner's election results. Fred Williams complimented the County Clerk's office for making Luna County Election Day results available via radio. Merlin Norenberg commented that FBI hostage negotiation training continues to go well. He also reported on activities on behalf of Citizen's Advisory Committee for the jail. Sean Blaine commented on the chairs in the commission chambers not being properly fastened. He also commented on Chairman Spivey's support for the state constitution and laws.

**CONSENT AGENDA:** Upon motion of Commissioner Diaz, seconded by Commissioner Milo, Payroll Registers totaling \$921,077.77 and Accounts Payable Registers totaling \$522,489.57 were unanimously approved.

**CONSIDER MINUTES:** Upon motion of Commissioner Milo, seconded by Commissioner Diaz, the minutes of the October 2, 2012 Special Meeting and the minutes of the October 11, 2012 Regular Meeting were unanimously approved.

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

- a. JOINT POWERS AGREEMENT BETWEEN LUNA COUNTY AND THE CITY OF DEMING PERTAINING TO JOINT ECONOMIC DEVELOPMENT PROJECT #1:** Ms. Kuenstler explained this Joint Powers Agreement enters Luna County and the City of Deming into a ground lease with Bencorp, Inc. who represents Walgreens. This particular agreement formalizes the relationship between the city and the county for this project so that they will contribute their real property interests to the use of this joint project in order to effectuate a ground lease with the tenant. The joint powers agreement is one of the first steps in the process of receiving approval from the New Mexico Finance Authority. Ms. Kuenstler asked the board for either discussion or a motion to approve the Joint Powers Agreement regarding the real property. Rick McInturff stated the contingencies regarding the city's real property have been completed. Fred Williams asked if this Joint Powers Agreement was a brand-new creation or if it has been used before. Rick McInturff responded it is a 501 (c) (6) corporation and it is a separate entity and the joint powers agreement is the first of its kind. Larry Caldwell stated he felt the property should be sold, and the money should be put in long-term T-bonds. He also stated the JPA was a 'high-risk venture' and Walgreens will cut into the expenditures already in place. Much discussion ensued about the economic impact of Walgreens and how the citizens and city and county may benefit. Commissioner Milo moved to approve the Joint Powers Agreement between Luna County and The City of Deming Pertaining to the Joint Economic Development Project #1. Commissioner Diaz seconded the motion which carried unanimously.
- b. DEMOLITION OF 110 N. GOLD PROPERTY:** Ms. Kuenstler recommended the board's approval of the demolition of the 110 N. Gold property since entering into the Joint Powers Agreement. Ms. Kuenstler suggested that the Luna County Road Department handle the demolition of the building, citing the demolition of the Pepsi building was done successfully and with less cost to the county. The salvageable materials of the property will be sold at public auction. Commissioner Diaz moved to approve demolition of 110 North Gold property. Commissioner Milo seconded the motion which carried unanimously.
- c. APPROVAL TO SUBMIT PROPOSAL TO HOST THE NMAC ANNUAL CONFERENCE:** Ms. Kuenstler asked the board for approval for a proposal for Deming to be a host site for the 2014, 2015 or 2016 New Mexico Association of Counties Conference. The county will submit a RFP; create a steering committee and write-up a commitment to an in-kind contribution. Commission approval must be obtained before submitting the RFP. Economic impact can bring a million dollars into the community for local businesses. Commissioner Milo moved to approve the

Approval to Submit Proposal to Host the NMAC Annual Conference. Commissioner Diaz seconded the motion which carried unanimously.

- d. **APPOINT NEW MEMBER TO THE NATURAL RESOURCES COMMITTEE:** Ms. Kuentler asked the board for suggestions for two appointments to fill vacancies made by the resignation of two members of the Natural Resources Committee. Chairman Spivey recommended David Baeza. The County Manager's Office will invite Mr. Baeza on behalf of the board via letter. He will be appointed upon his acceptance. Commissioner Diaz moved to approve appointment of David Baeza to the Natural Resources Committee. Commissioner Milo seconded the motion which carried unanimously.
- e. **APPOINT NEW MEMBER TO REPRESENT COUNTY FOR MAIN STREET COMMITTEE:** Ms. Kuentler advised the board of a vacancy on the Main Street committee due to a resignation. Commissioner Milo suggested appointment of Ray Trejo. If Mr. Trejo declines the appointment, a public-service announcement will be published for interested parties. Commissioner Diaz moved to approve appointment of Ray Trejo to the Main Street Committee. Commissioner Milo seconded the motion which carried unanimously.
- f. **RESOLUTION 12-49 BUDGET INCREASE:** Six budget increases in the amount of \$59,422.68 were proposed. Commissioner Diaz moved to accept Resolution 12-49 Budget Increases. The motion was seconded by Commissioner Milo which carried unanimously following a roll-call vote.
- g. **RESOLUTION 12-50 BUDGET TRANSFER:** Four budget transfers in the amount of \$1,113.21 were proposed. Commissioner Diaz moved to accept Resolution 12-50 Budget Transfers. The motion was seconded by Commissioner Milo which carried unanimously following a roll-call vote.
- h. **RESOLUTION 12-51 APPROVING NMFA LOAN AGREEMENT AND INTERCEPT AGREEMENT FOR MOTOR GRADERS:** Ms. Kuentler explained this resolution allows Luna County to enter into a loan agreement with the New Mexico Finance Authority in the amount of \$875,691.00 for the purchase of four motor graders. The monies used to repay the loan will come from monthly state gasoline tax revenues. Commissioner Diaz moved to approve Resolution 12-51 NMFA Loan Agreement and Intercept Agreement for Motor Graders. The motion was seconded by Commissioner Milo which carried unanimously following a roll-call vote.
- i. **RESOLUTION 12-52 NMFA LOAN FOR KEELER FARM ROAD- ROAD AND DRAINAGE INFRASTRUCTURE:** Ms. Kuentler explained to the board this resolution is the agreement to the terms of the Colonias Infrastructure Grant for road and drainage improvements. She said the application was originally approved in June of 2012. Funding for the project has been approved and the Resolution needs to be passed (per NMFA regulations regarding matching funding). The county is required to assume ten percent of the awarded project as a zero percent loan. Commissioner Milo moved to approve Resolution 12-52 NMFA Loan for Keeler Farm Road- Road and Drainage Infrastructure. The motion was seconded by Commissioner Diaz which carried unanimously following a roll-call vote.

- j. RESOLUTION 12-53 APPROVAL TO RETAIN OWNERSHIP OF TULIP LANDFILL:** Ms. Kuenstler explained this resolution allows the submission of a landfill clean-up grant. The City of Deming currently owns the Tulip Landfill and is ineligible for Brownfield Clean-Up Grant funding. The City of Deming proposes deeding Tulip Landfill to Luna County and the County will apply for a clean-up grant. The City of Deming will write and administer the grant. Pending a Memorandum of Understanding, the intention of Luna County is to deed the landfill back to the City of Deming once it is cleaned up. Rick McInturff stated the legal description needs to be amended before closing which needs to happen before November 19<sup>th</sup>. Commissioner Diaz moved to approve Resolution 12-53 Approval to Retain Ownership of Tulip Landfill with amended legal description. The motion was seconded by Commissioner Milo which carried unanimously following a roll-call vote.
- k. APPROVAL TO REMOVE CERTAIN VEHICLES AND MOBILE HOME FROM LUNA COUNTY INVENTORY BY PUBLIC AUCTION:** Ms. Kuenstler asked the board for approval for removal of these items from the Luna County inventory through public auction. County administration has obtained estimates for fair market values for the items and minimum bids will start at those values. Commissioner Diaz moved to approve removal of certain vehicles and mobile home from Luna County inventory by public auction. Commissioner Milo seconded the motion which carried unanimously.
- I. LUNA COUNTY COMMISSION NATURAL RESOURCES BOARD GUIDELINES:** Ms. Kuenstler explained this request follows Ordinance 26 and asked for guidance and direction in regards to the Natural Resources Board. Commissioner Milo and Chairman Spivey asked for more information in regards to Ordinance 26 and state and federal guidelines. He requested the county to set up a workshop prior to the next regular meeting. Commissioner Milo moved to table the item. Commissioner Diaz seconded the motion which carried unanimously.

**INDIGENT CLAIMS REPORT:** Upon motion of Commissioner Diaz seconded by Commissioner Milo, the meeting of the Board of County Commissioners was unanimously recessed and the meeting of the Indigent Hospital Claims Board convened. Joanne Hethcox recommended approval of 53 claims dated November 8, 2012 in the amount of \$126,733.88 and one denial. The monies received for October 2012, totaled \$53,440.40. Commissioner Milo moved to approve 53 claims dated November 8, 2012 in the amount of \$126,733.88 and one denial. Commissioner Diaz seconded the motion which carried unanimously. Commissioner Diaz moved to recess as claims board and to reconvene as the Board of County Commissioners. Commissioner Milo seconded the motion which was approved unanimously.

**ANNOUNCE NEXT MEETING:** Chairman Spivey announced a Special Meeting for canvassing the General Election will be held Friday, November 9, 2012 and the next regular meeting will be held on Thursday, December 13, 2012.

**JAIL INSPECTION:** Chairman Spivey announced the meeting would reconvene at the Luna County Detention Center for the inspection of the jail. The jail inspection report is incorporated herein by reference.

**ADJOURN:** Chairman Spivey adjourned the meeting at 1:20 p.m.

**ATTEST:**

**LUNA COUNTY BOARD OF COUNTY  
COMMISSIONERS**

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**KAREN SMYER, LUNA COUNTY CLERK**

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**JOE L. MILO, JR., DISTRICT 1**

**APPROVED:** \_\_\_\_\_

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**CHAIRMAN J. JAY SPIVEY, DISTRICT 2**

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**R. JAVIER DIAZ, DISTRICT 3**