New Mexico Land Grant Council (NMLGC)
March 10, 2017 - 10:00 am
New Mexico State Records Center & Archives
1205 Camino Carlos Rey
Santa Fe, NM 87507

Minutes - FINAL

Regular Council Meeting

1. Call to Order and Roll Call

Council Chair Juan Sánchez called the meeting to order at 10:20am. Roll call of the Council members: Leonard Martínez, Rita Padilla-Gutiérrez, Macario Griego, and Juan Sánchez were present. Lee Maestas was absent.

2. Introduction of Guests

Juan Sánchez (NMLGC); Macario Griego (NMLGC); Rita Padilla-Gutiérrez (NMLGC); Leonard Martínez (NMLGC); Lisa Rivera Morrison (BLM); Marlo Aragón (Office of the Attorney General); Brittany Martínez (Office of the Attorney General); Michelle Jacquez-Ortiz (Office of U.S. Senator Tom Udall); Carmela Quintana (Office of U.S. Senator Tom Udall); Patricia Domínguez (Office of Sen. Martin Heinrich); Arturo Archuleta (staff – NMLGC/UNM-LGSP); Jacobo D. Baca (staff - NMLGC/UNM-LGSP); Cheyenne Trujillo (staff – NMLGC/UNM-LGSP); Elizabeth Reitzel (U.S. Rep. Michelle Luján Grisham); Nicholas Maestas (U.S. Rep. Ben Ray Luján); Berenice Venegas (student, NM Highlands University); Alaena Romero (student, NM Highlands University); Manuel M. Trujillo (Santa Bárbara LG); Enrique Romero (New Mexico Legal Aid);

3. Approval of Agenda

Councilor Rita Padilla-Gutiérrez motioned to approve the agenda; Councilor Macario Griego seconded the motion. Motion was approved unanimously.

4. Approval of Meeting Minutes from Regular Council Meeting of February 10th, 2017

Councilor Padilla Gutiérrez motioned to approve the meeting minutes of the February 10th, 2017 Council meeting; Councilor Leonard Martínez seconded the motion. Motion was approved unanimously.

5. Discussion and Possible Action on Forest Service Update

(Ericka Luna was on her first day back on detail as the New Mexico State Liaison after serving as district ranger for the Camino Real District and was unavailable for the Council meeting.) Arturo Archuleta (NMLGC staff) reported regarding the Piedra Lumbre Visitors Center. The February 28th meeting was cancelled due to inclement weather. Alicia Gallegos (Canjilón District Ranger) will reschedule the meeting. The Forest Service is allowed to sell to a single buyer under the FS FREA program but needs to follow a process. New Mexico Legal Aid is advising how the four interested land grants might operate and manage the center. Moises Gonzales of UNM School of Architecture and Planning is undertaking projects on the PLVC in his planning studio class. Councilor Martínez

commented that if the property goes on sale in an open market, land grants do not have resources to compete. Patricia Domínguez (Senator Martin Heinrich's Office) asked if there was interest among land grants to work on a cemetery bill. Interested land grants would need to work through the NMLGC and the Carson and Santa Fe National Forests and cemeteries would be returned to land grants via a land conveyance. She was unsure if the land grants would be given additional room to expand these cemeteries and who will ultimately hold title to the cemetery. Ms. Domínguez reminded that the process is still very preliminary and that discussions still need to be held that detail how the process will work and what type of outreach federal entities will undertake. The presence of cemeteries on federal lands is fairly common across the US West. Communities do not want to have to ask for permits to access their cemeteries and federal entities to not revel in issuing permits either. This legislation would apply to all BLM and Forest Service lands and would only include extant cemeteries. Ms. Domínguez commented that she would share any information that she had with the NMLGC.

Mr. Archuleta stated that the USFS is hosting an event (flier in packet) discussing the Hassell Report on March 17, 2017. Presenters include land grant heirs and activists, former Forest Service employees, allotment holders and acequia activists. Arturo Archuleta will present on behalf of the NMLGC. Also in the packet are forest plan components (*Desired Conditions; Objectives, Standards, Guidelines, Management Approaches)* written by the NMLGC staff that contain modified policy recommendations inspired by the Hassell Report and Hurst Memoranda. NMLGC staff will share with the New Mexico Land Grant Consejo, obtain information from land grants and remit these to the Cibola, Carson, and Santa Fe National Forests on April or May. Mr. Archuleta reported that he will participate in a three-day meeting hosted by the Carson National Forest, which will convene forest users. The Santa Fe also hosted a meeting regarding wilderness areas, plan components and alternatives on March 8, 2017. Representatives from the Abiquiú, San Joaquín del Río de Chama and Santo Domingo de Cundiyó land grants attended.

6. Discussion and Possible Action on BLM Update

Lisa Morrison reported that the Rio Grande del Norte National Monument will send an update to cooperating agencies. Input from cooperators will be taken on the management plan draft alternatives before going out to the public. The BLM will provide written responses to past comments and future comments as well. The Farmington Field Office will create an MOU for all cooperators, including the San Joaquín del Río de Chama LG. The Mancos RMP will go out to all cooperators. As plan goes out, cooperating agencies will have comment before made public. Councilor Martínez (who is on the RAC Team for the Farmington Field Office) commented that they have not had input thus far. He also mentioned that the NM Land Grant Consejo will discuss potential fracking near Chaco Canyon. Ms. Morrison responded that Mark Ames will be contacting Councilor Martínez soon and that the Farmington BLM office is finalizing an MOU with multiple tribes and awaiting approval from Washington, DC.

Ms. Morrison reported that the BLM is still working on a scoping report for the Verde Transmission Line. It is publishing questions from the scoping sessions. Councilor Martínez mentioned that he has had a teleconference with the Four Corners RAC Team and

that a June 5-6 meeting is planned in Taos. He suggested that Chairman Sánchez, Mr. Archuleta and Jacobo Baca attend the meeting as well. They will discuss grazing allotments, Chaco Canyon, and the Río Grande del Norte Monument.

7. Discussion and Possible Action on Treaty of Guadalupe Hidalgo Division Update

Marlo Aragón reported that the Treaty of Guadalupe Hidalgo Division has continued outreach to land grants. The Abiquiú Land Grant Board discussed concerns with water diversions and lack of response from NM State Engineer; representatives of the Don Fernando de Taos LG stated that a local bank built its parking lot on a historic land grant cemetery. The Treaty Division has also met with students from New Mexico Highlands University regarding research on land grants. Students are engaged in both field based and archival research and are researching the Atrisco, Mora, Torres Martínez (California), San Miguel del Bado and Española area land grants. Brittany Martínez of the Treaty Division mentioned that they are meeting with these students monthly.

Ms. Aragón reported that the Division has also met with the Las Vegas and Mora land grants, both which expressed concern over HB 35, which recognizes land grants formed through partition. They both wanted to clarify the relationship between mother and daughter grants and claimed that they have never seen papers from El Carmel Grant. Las Vegas considered them allotments and not sub-grants and further claim that there is a reversion clause in deeds to allotments. The Mora Grant mentioned that there have been issues obtaining information from passed boards. Mr. Archuleta commented that sub-grants becoming political subdivisions should not effect the reversion clause, which demands community use. Chairman Sánchez added that it is actually harder to sell land as political subdivisions, and Mr. Archuleta continued that this bill gives sub-grants further protection.

Ms. Aragón reported that the division has also met with the Trampas LG, who asked for aid researching past adjustments to their boundaries, and with the Santa Bárbara LG, who requested that the New Mexico Attorney General file an injunction against the Carson National Forest's plan revision process until they incorporate land grant concerns. Mr. Archuleta reported that there were user agreements between the heirs and previous land owners that allowed communal use of some of the former land grant common lands. The US Forest Service denies these rights. He also assumes that the injunction relates to wilderness character areas and that there may be a role for the NMLGC and the NMAG's office to negotiate for communal uses. Mr. Archuleta also stated that Carson Forest Supervisor James Durán has discretion in the management of wilderness character areas. Manuel Trujillo of the Santa Bárbara LG stated that the grant wanted the NMAG's office to legitimate their concerns. Ms. Aragón also reported that the Treaty Division has spent considerable time at the New Mexico State Capitol for legislative session. Councilor Padilla-Gutiérrez applauded the Treaty Division for their work and travel across the state and commented that she was glad to see young people get involved. She asked if students planned to present their work; Ms. Aragón responded that some students plan to present their work at the Las Vegas Museum.

8. Discussion and Possible Action on Legal Services Contract

Enrique Romero reported on behalf of New Mexico Legal Aid, while David Benavides was occupied at the Legislature. New Mexico Legal Aid received the contract from UNM three weeks ago. Mr. Romero and Mr. Benavides will tie up loose ends from the FY 2016 contract and are prioritizing more work. They will complete their work on land grant donations for the NMLGC to distribute to land grants. This includes research and analysis on vacancies on land grant boards; the statute is not clear. They will also finish work on the Tierra Amarilla Land Grant probate case regarding the mineral lease by the past board. They are also working with law school students from the Natural Resources Law Clinic and overseeing their work. Mr. Romero stated that they are working with the Tajique LG and Santa Bárbara LG on water right declarations and with the Tierra Amarilla LG on a property dispute. NM Legal Aid will take up and continue the work from Law Clinic when the term ends. NM Legal Aid also received a new request from the Cristobal de la Serna LG. An heir offered to donate his *lineas* to the Cristobal de la Serna LG for their common management; NM Legal Aid will work on deed transfer process. Chililí has a similar land donations question. Councilor Padilla-Gutiérrez asked if NM Legal Aid will look at land grant by-laws for direction. Mr. Romero stated that they will suggest language and offer further recommendations regarding language that land grants can incorporate into their bylaws to address the silence of the state statute, and may entertain the possibility of amending the statute. Councilor Padilla-Gutiérrez advised that any new statute needed to recognize nuances in land grants.

Councilor Macario Griego asked if land grants that do not have liability insurance through risk management can contract for legal services from New Mexico Legal Aid. Chairman Sánchez stated that it depends on the scale of their legal needs. Councilor Griego further questioned if land grants receive aid from the NMLGC to purchase RM insurance. Mr. Archuleta commented that it is not a priority, especially with shrinking budgets. Chairman Sánchez responded that the Council has asked the NM Attorney General's office if land grants can use land grant support fund monies to purchase RM insurance. Mr. Archuleta further clarified that risk management insurance gives coverage beyond protections of the Tort Claims Act and caps lawsuits at $1,000.000.00. Mr. Griego asked if RM insurance covered defamation of character: M. Archuleta responded that the Tort Claims Act covers board members who take action in their official capacity and that they cannot be sued as individuals. Mr. Romero responded Tort Claims covers injury to persons and property, but does not stop a lawsuit from being filed and case to be heard on its merits. In this situation, a land grant may need to get a lawyer, if only to assert the Tort Claims Act. Mr. Archuleta further commented that even without RM insurance, Tort does apply and RM will defend you through their legal council and will pay any findings beyond Tort Claims. Councilor Griego suggested that board members should get umbrella coverage added to their personal policies to protect them as board members and as individuals. Mr. Archuleta responded that NM Legal Aid is working on adverse possession, water rights claims, and land donation, but it could later to work on insurance and best practices for land grants to publish or add to the guidebook and/or offer trainings by NM Legal Aid. Regarding vacancies, NM Legal Aid is also offering advice regarding the removal of inactive members, not resignations and options that board members have to ensure that they are complying with the requirements.

Councilor Macario Griego made a motion to approve New Mexico Legal Aid to work on advice regarding land donations and vacancies on land grant boards of trustees; Councilor Padilla-Gutiérrez seconded the motion. The motion passed unanimously.

9. Discussion and Possible Action on Youth Leadership Development – YCC Grant
Mr. Archuleta reported that the UNM LGSP plans to hire part time employee to work on youth leadership development. This person would take the lead on a Youth Conservation Corps grant, which is due in April. The MLECT will serve as the non-profit applicant. The NMLGC has the opportunity to serve as a partner and provide guidance. If this grant application is unsuccessful, the MLECT will re-apply next year. YCC grants typically provide youth labor. Students cannot general maintenance, but can to improvements or labor for new use. Initially the program will work with 1 or 2 grants and would like to have youth working on their own home grant or grants in their area. There would also be some event or instruction at the beginning and end to tie the program together. Moises Gonzales has used UNM students from his courses to work in Carnuel. YCC targets students ages 16 through 24 and usually targets high school students. There are restrictions based on age when undertaking hazardous work. Cheyenne Trujillo (NMLGC staff) attending an applicant meeting and stated that YCC projects can be seasonal and summer. The application is due April 26th.

10. Discussion and Possible Action on Council FY 2017 Budget
Mr. Archuleta presented a budget update (*handout)*. The Council discussed balances on travel, meeting expenses; supplies; etc. There will likely be another budget cut for FY 2017.

11. Discussion and Possible Action on UNM Contract
Mr. Archuleta also presented pay request No. 7 (handout). Pay request No. 5 has been resubmitted and pay requests 5 and 6 are being processed.

Councilor Griego made a motion to approve pay request No. 7; Councilor Padilla-Gutiérrez seconded the motion. The motion was passed unanimously.

12. Discussion and Possible Action on Land Grant Support Fund
Purchase orders have been issued and land grants will be able to draw down their awards soon.

13. Discussion and Possible Action on Federal and State Legislation
Federal Legislation – Patricia Domínguez reported that Senator Martin Heinrich is introducing two bills from the last Congress (included in the meeting packet); the first if to protect the buffalo tract that runs across the San Antonio de las Huertas, Santa Ana Pueblo and San Felipe Pueblo Grants. This act allows for disposal of land withholding mineral and gravel rights. San Antonio de las Huertas approved of the bill but was still interested and looking into potential housing and into outdoor recreation in partnership with Santa Ana Pueblo. San Felipe wanted to leave their options open. The other bill regards Cerro de Yuta (N. of Questa) Rio San Antonio (N. of Tres Piedras) Wilderness areas. Ms. Domínguez was unsure of the Sangre de Cristo LG's stance on the proposal. The proposal is for lands outside of grant and not impacting LGs or their watersheds. The Rio Puerco plan of the

BLM is delayed. Councilor Martínez commented that he understood that when the Río Grande del Norte national monument was created wilderness areas would not be created in the area. Ms. Domínguez commented that the wilderness areas were included in the initial legislation when Senator Jeff Bingaman proposed it and Sen. Heinrich removed it when the land was designated through executive order rather than through a congressional bill. Mr. Archuleta stated that wilderness groups wanted to expand the area to other Cerritos in the area, such as Cerrito de la Hoya. The NMLGC does not want more wilderness expansions that will have a negative impact on nearby communities. The Cerro de Yuta makes sense as it is isolated and will have a minimal impact on surrounding communities if designated a wilderness.

Michele Jácquez-Ortiz (Sen. Tom Udall's office) commented that both senator's Washington DC staffs need to be consulted and made aware of any objections and need to hear from constituents directly. The Washington DC staff plans to have another quarterly meeting with land grants in April and this would be an opportunity for land grants to express their perspective and concerns. It would be unwise to rely on the forest plan revision process to address these concerns and would be advisable to discuss this with forest supervisors. Mr. Archuleta commented that the NMLGC would like for land grant communities to have influence in writing any policy that affects them. Nicholas Maestas (U.S. Rep. Ben Ray Luján's office) discussed updates on the traditional use bill. The Washington DC legislative staff is having issues with the New Mexico Statutes that refer to land grants (i.e. Chapter 49), which describes more than defines land grants; Chapter 49 seems to be the most inclusive. Discussions of the bill have moved from policy issues to definitions and precision. The drafting of the bill is moving toward end stages so a technical writer can correctly convey its content and ensure loopholes do not exist. Mr. Archuleta offered his assistance to the Washington DC staff via conference call to help keep the ball rolling and asked if there is a timeline when the bill will be introduced. Mr. Maestas responded that he will have a better idea by the April NMLGC meeting. Ms. Jácquez-Ortiz asked the NMLGC to consider some dates for the next quarterly land grant meeting, likely April 7th, April 28th, of May 5th.

Elizabeth Reitzel (U.S. Rep. Michelle Luján Grisham's office) reported that Rep. Luján Grisham is preparing to introduce EQUIP legislation but experienced a delay when the person in charge of EQUIP at the Natural Resources Conservation Service retired. The office is still working on this legislation and is also trying to get land grant issues in from of the Congressional Hispanic Caucus. Ms. Jácquez-Ortiz commented that Rep. Luján Grisham and Sen. Tom Udall's office should meet and discuss as Sen. Udall has also been working on EQUIP legislation. Chairman Sánchez asked Ms. Domínguez for more information on a bill sponsored by Sen. Heinrich regarding watersheds and work with local, state and federal agencies on stewardship programs. Mr. Maestas was asked why portions of the traditional use bill repeats sections of the Healthy Forest Restoration Act; he and Mr. Archuleta commented that the bill seeks to remind the Forest Service of stewardship contracts and wants to ensure that language remains in the bill regarding any expiration of stewardship authority through a sunset clause or other mechanism. Chairman Sánchez also commented that he would like Forest Service and BLM lands ready for NEPA projects.

State Legislation – Below are updates bill by bill.

- **HB 35 - Partitions as Land Grants-Mercedes** - Sponsored by Representatives Tomás Salazar and Miguel García. This bill recognizes partitioned grants as land grants. Bill has made it passed all committees and is on the Senate Floor Calendar awaiting final passage.
- **HB 66 - Certain Land Grant Regulations Restrictions** - Sponsored by Representatives Miguel García and Tomás Salazar.
- **SB 12 - Legal Services for Land Grants, Acequias & Colonias** - Sponsored by Senator Gerald Ortiz y Pino & Representatives Miguel García and Sarah Maestas Barnes. – has made it passed both the House and Senate and is on its way to the Governor for signature. This bill will create opportunities for law students at UNM Law School to work with Land Grants, Acequias and Colonias during 3rd year of school and to work with these entities as a community governance attorney for 2 years after they graduate. The bill will provide the mechanism for more law students to be exposed to working with land grants and acequias.
- **HJM 3 – Regarding Alternative Designation for Lands Proposed to be a part of the Pecos Wilderness Expansion** - Sponsored by Representatives Miguel García and Sarah Maestas Barnes – passed house, has been passed by the Senate Rules Committee and is scheduled to be heard in Senate Conservation on 3/16/17, Senate Conservation meeting in Room 311 at 8:30 AM.
- **HM 18 – lineas of Cristobal de la Serna** – has passed the House and has been introduced in the Senate but has not be assigned to any committees.
- **SB 119 – Allowing Land Grant-Merced Boards of Trustees to Approve Comprehensive Plans** – Sponsored by Sen. Jacob Candelaria – passed senate; is currently in House Judiciary waiting to be scheduled for a hearing. If it makes it passed this committee it will head to the House Floor for final passage.
- **SB 222** – Local Public Body Exemptions - has made it passed both the House and the Senate and has been sent to the Governor's Office for signature. This bill will raise the definition of public body's required to submits budgets to DFA from $10,000 to $50,000.

14. Discussion and Possible Action on Land Grant Registry

Jacobo Baca (NMLGC) reported that the Town of Tomé submitted annual report to NMLGC.

15. Discussion and Possible Action on Correspondence Received by the Council

-none

16. Discussion and Possible Action on Staff Assignments

Mr. Archuleta requested that Cheyenne Trujillo be assigned work with NM Legal Aid to give more exposure to legal work to Ms. Trujillo, who is a prospective law student. Councilor Martínez made a motion assigning Cheyenne Trujillo to collaborate with NM Legal Aid; the motion was seconded by Rita Padilla-Gutiérrez. Motion passed unanimously.

17. Public Comments – discussion only

-none

18. Date and Location for next Council Meeting
The Council will next meet on Friday, April 21st, 2017 in Las Vegas, NM at New Mexico Highlands University.

19. Adjournment
Councilor Padilla Gutiérrez made a motion that the meeting adjourn. Councilor Martínez seconded the motion. Motion passed unanimously. The meeting adjourned at 1:00pm.

Approved:

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Chair Date