New Mexico Land Grant Council (NMLGC)
April 21, 2017 - 10:00 am
Victoria D. de Sanchez Teacher Education Center
New Mexico Highlands University
1031 11th Street
Las Vegas, NM 87701

Minutes - FINAL

Regular Council Meeting

1. Call to Order and Roll Call

Council Chair Juan Sánchez called the meeting to order at 10:12am. 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); LM García y Griego (UNM-LGSP); 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); Nicholas Maestas (U.S. Rep. Ben Ray Luján); Stephen Salas (U.S. Rep. Ben Ray Luján); David Benavides (New Mexico Legal Aid); Eric Romero (NMHU); Jose Garcia (San Miguel del Bado LG); Joe B. Chavez (San Miguel del Bado LG); J. Frank Herrera (NMHU student); Tim Hagaman (NMEDD)

3. Approval of Agenda

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

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

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

5. Discussion and Possible Action on NMHU Student Project Presentations

Dr. Eric Romero, Chair for Language and Culture Department, welcomed the NM Land Grant Council to New Mexico Highlands University. Dr. Romero also serves as a commissioner on the New Mexico Acequia Commission. He discussed his Spring 2017 course, which focused on research and outreach to land grants, acequias, reservations and tribal communities. NMHU student J. Frank Herrera gave a presentation regarding provisional mapping he has completed for courses with Drs. Romero and Joseph Zebrowski.

6. Discussion and Possible Action on BLM Update

Arturo Archuleta provided an update for Lisa Morrison (BLM), who is absent on a personal day. An update is attached in the meeting packet. Update includes report from Rio Grande del Norte National Monument, Verde Transmission Line, and Farmington RAC. Mr. Archuleta also reported to attendees that the San Miguel del Bado Land Grant has a newly elected board. BLM manages a cemetery within the historic boundaries of the San Miguel del Bado Grant and is interested in disposing of this property. They plan to contact the board and set up a meeting in May with BLM real estate representative Debbie Lucero to begin discussions on completing the transfer. The NMLGC has asked the BLM to find other similar properties on former land grant common land to dispose of. Councilor Martínez asked if BLM will be asking the San Joaquín del Río de Chama, Cubero, and Cebolleta Land Grants to serve as cooperating agencies in their resource management plan.

7. Discussion and Possible Action on Forest Service Update

Ericka Luna (FS) was unable to attend and Mr. Archuleta presented an update in her place. The Santa Fe National Forest will join the Carson National Forest in their quarterly land grant meeting. Mr. Archuleta encouraged representatives from the San Miguel del Bado LG to attend the meeting to receive updates and to find out about opportunities to participate in the forest plan revision process. The NMLGC has submitted comments on the Santa Fe NF forest plan and received a commendation from the planning team on the quality and usefulness of the comments.

The Carson NF hosted a "Leaders as Conveners" conference in Taos, March 21-23, with fifty guests, the USFS personnel and Congressional staffers participating. Traditional communities were more represented that at a similar session hosted by the Cibola NF last year. The event affirmed the need for land grants and the Council to work strategically with certain environmental and conservation groups, especially as wilderness groups have had a strong voice in planning process. The NMLGC should plan to host a "Land Grant 101" session for environmental and conservation groups to broaden the base of support on issues like wilderness expansion. Michelle Jácquez-Ortiz (Sen. Tom Udall's office) commented that it will be important to have environmental groups on board with traditional use rights legislation. Land grants and environmental groups need to move beyond the current superficial relationship that has emerged in forest planning. Nicholas Maestas (Office of Cong. Ben Ray Luján) agreed that it was advisable to inform traditional use ideas with groups ignorant of these values and lifeways. He added that included them in creating the legislation may forestall their opposition, especially at the national level.

Regarding forest plans, the Cibola NF planning process has slowed with resignations and the national hiring freeze. The Carson NF and Santa Fe NF may surpass the Cibola in the planning process. The Carson is redrafting their plan and is looking to meet with cooperating agencies in the late spring; the NMLGC has submitted comments. The Santa Fe NF is holding open houses throughout the late spring and early summer. All land grants can attend the public meetings and open houses. The NMLGC has leveraged land grant meetings with the Santa Fe NF and hopes that land grants can attend public meetings and return comments, including those on uses.

Patricia Domínguez (Sen. Martin Heinrich's office) has discussed cemetery issues with the Carson NF and they spoke of the need to discuss issues including requests to expand cemeteries, religious and denominational considerations and the rights of the broader public on what are legally public lands. It may be best to start with one historic community cemetery to create a process and use this as a template.

8. Discussion and Possible Action on Treaty of Guadalupe Hidalgo Division Update
Marlo Aragón reported that the Treaty Division has been active meeting with land grants and has the unfortunate news that the Treaty Division will not be funded next fiscal year. Brittany Martínez of the Division attended the March 11th Consejo meeting at the Cebolleta LG. Both Ms. Aragón and Ms. Martínez were active in attending meetings and observing the Cebolleta LG election. They have also provided Open Meetings Act training in Santa Fe and met with the AG's investigation division regarding the Tierra Amarilla Grant. Ms. Martínez has continued working with NMHU students and Ms. Aragón has met with the Atrisco LG on various issued, including land grant membership to Councils of Governments, communications with the federal delegation, trespass signage, and land grant boundaries and maps. Councilor Padilla-Gutiérrez commented that the Town of Tomé Grant had unsuccessfully attempted to join the Middle Rio Grande Council of Governments several years ago and that anything the NMLGC can do to inform councils of government is important. Mr. Archuleta commented that he was sorry to hear of the funding issues effecting the division and asked if any of the previously discussed issues would be addressed before the end of the fiscal year. These include questions regarding taxation and insurance.

9. Discussion and Possible Action on Legal Services Contract
David Benavides of New Mexico Legal Aid reported regarding the contract for legal services. (see attached handout). Service was provided either directly to the following grants or to the NMLGC regarding the following grants: the Cebolleta LG; east mountain land grants regarding water declarations and proposed regional water authority; Santa Bárbara regarding property; Tierra Amarilla regarding Dennis Wells estate; advise to UNM Law Clinic and project to recover lands. Other work included work on the four fact sheets (adverse possession; water declarations; taxation; board vacancies). Other related work not under this contract but of interest to land grants includes a case regarding the use of Spanish in a meeting of the commission of the Parkview Community Ditch in Tierra Amarilla. Other possible work might include a water rights declaration for the Santa Bárbara LG and the Abiquiú LG, the latter whose declaration was submitted and rejected, as well as issues regarding the relocation of a waste transfer station on the Tajique Land Grant., a water diversion effecting the San Antonio de las Huertas Grant that is on Forest Service land, the Piedra Lumbre Visitors Center, San Joaquín del Río de Chama's interest in Skull Ranch water rights, and the donation of *lineas* on the Cristóbal de la Serna LG.

Mr. Archuleta reported that UNM approved issuing a multi-year contract through 2019, which will ensure there is not a gap in service. The only changes will be those reflecting changes in annual budget. Councilor Martínez asked if NM Legal Aid would issue an opinion on the *US v. Sandoval* (1897) case, especially its effect on water rights. He also asked about the status of churches and cemeteries abandoned by the Catholic Church

(Archdiocese of Santa Fe), and how land grants might regain control of these historic properties. Dr. García y Griego asked if individual land grants can sign the amicus brief that NM Legal Aid will file in the Parkview Community ditch case; Mr. Benavidez responded that both individual land grants and the Consejo can sign the amicus brief. Mr. García y Griego responded that this was important as English only rules will disenfranchise elders and continue patterns of discrimination. Regarding the *US. v. Sandoval* case, scholars and jurists need to conduct historical research to create the rationale for a congressional repeal of the case.

Councilor Griego made a motion to approve a list (attached) of New Mexico Legal Aid work; Councilor Padilla Gutiérrez seconded the motion. The motion passed unanimously.

Councilor Martínez made a motion to move Item 13 ahead of Item 10 on the agenda. Councilor Griego seconded the motion. The motion passed unanimously.

13. Discussion and Possible Action on Federal and State Legislation

Federal Legislation – Nick Maestas (Office of Rep. Ben Ray Luján) reports he was asked to present a timeline to the introduction of the traditional use rights legislation by Councilor Martínez. A new drafter is working on it and Congressman Luján's office anticipates receiving it soon. If Rep. Luján determines that the bill meets his intentions, the bill may be introduced. Mr. Maestas requested a fact sheet on bill, something easily presentable, as well as an expert on the subject area that can be contacted to speak about both acequia and land grant interests in the bill. He also said that the New Mexico and DC legislative staffs will ensure that the bill is disseminated to the entire congressional delegation. Representatives from the DC and New Mexico congressional staffs of Senator Udall, Senator Heinrich, Congressman Luján and Congresswoman Michelle Luján-Grisham's offices will hold a teleconference with the NMLGC on May 5th at 8:30am. Senator Udall's and Congresswoman Luján-Grisham's offices will introduce companion bills regarding EQUIP legislation, which will be an amendment to the Farm Bill that will allow land grants and *acequias* as political sub-divisions to apply for funding reserved for private land owners.

State Legislation – legislation by and large died in committee or were vetoed by the Governor.

- **HB 35 - Partitions as Land Grants-Mercedes** - Sponsored by Representatives Tomás Salazar and Miguel García. Pocket vetoed
- **HB 66 - Certain Land Grant Regulations Restrictions** - Sponsored by Representatives Miguel García and Tomás Salazar. – died in committee
- **SB 12 - Legal Services for Land Grants, Acequias & Colonias** - Sponsored by Senator Gerald Ortiz y Pino & Representatives Miguel García and Sarah Maestas Barnes. – pocket vetoed
- **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
- **HM 18 – lineas of Cristobal de la Serna** – sat in Senate judiciary

- **SB 119 – Allowing Land Grant-Merced Boards of Trustees to Approve Comprehensive Plans** – Sponsored by Sen. Jacob Candelaria – passed senate; sat in House Judiciary
- **SB 222** – Local Public Body Exemptions - This bill will raise the definition of public body's required to submits budgets to DFA from $10,000 to $50,000 - passed without Governor's signature; there are questions whether or not this is law.

Representative Miguel P. Garcia will be chair this year; the NMLGC; we will meet to discuss FY 2018 priorities with Rep. Garcia.

10. Discussion and Possible Action on Council FY 2017 Budget
Mr. Archuleta presented a budget update.

11. Discussion and Possible Action on UNM Contract
Mr. Archuleta reported regarding the UNM contract. DFA has released 75% of the FY 2017 budget. The FY 2018 remains unclear until the next special session. The pay request presented is unofficial and based off of items billed. Motion by Councilor Griego to authorize Chairman Sánchez to approve the April 2017 pay request form when an official one is generated. Councilor Martínez seconded the motion. Motion was approved unanimously. Dr. Garcia y Griego reminded the Council that IPEAR no longer exists and the Council's move to SHRI (Southwest Hispanic Research Institute) is provisional until it is approved by the SHRI faculty.

12. Discussion and Possible Action on Land Grant Support Fund
See item 10 above.

14. Discussion and Possible Action on Land Grant Registry
None.

15. Discussion and Possible Action on Correspondence Received by the Council
The Council received an e-mail from Richard Jaramillo of the Cebolleta land grant sent an April 18, 2017 e-mail regarding their election, which is included in the meeting packet. Mr. Archuleta reported that the Cebolleta received aid from the Council, the Treaty Division, and NM Legal Aid, who gave direct service and advice to the Cebolleta Land Grant Board. The vague definition of precinct in both the state statute and Cebolleta by-laws led to confusion over the proper representation from Cebolleta's three principal towns (Cebolleta, Bibo, Moquino), which have historically been interpreted as the grant's precincts. After voting was held and the votes were counted, three candidates (two from Cebolleta and one from Bibo) emerged as the top vote getters and their lead was significant enough that the provisional ballots would not change their standing. Positions four and five were still in play with four candidates separated by three votes and three provisional ballots yet to be counted. Before canvasing the provisional ballots, the board voted that all three provisional ballots count and established a tie breaking procedure through drawing of cards. A candidate from Cebolleta was disqualified as two candidates from Cebolleta has secured positions; a Moquino automatically qualified because he was the only candidate

from the precinct. Two candidates from Bibo were tied and one, Richard Jaramillo, drew the high card. When they met on April 18 to organize the board, the grant's attorney advised that they depart from the agenda and pass a motion to have a runoff of the bottom three candidates with the ballot explicitly reflecting the two persons per precinct rule. This was a violation of the open meetings act because board action was taken that was not on the agenda. Mr. Archuleta clarified that the role of the NMLGC was to give advice to the grant based on the land grant state statutes (Chapter 49) and the grant's own by-laws, and that NMLGC has no regulatory authority over land grants.

16. Discussion and Possible Action on Staff Assignments

A motion was made by Councilor Martínez to authorize Arturo Archuleta to write a letter regarding his work with the Cebolleta Grant and continue his work with Cebolleta on their election. The motion was seconded by Councilor Griego. The motion passed unanimously.

A motion was made by Councilor Griego to authorize Arturo Archuleta to work with the San Antonio de las Huertas Grant and facilitate a meeting of their board. The motion was seconded by Councilor Martínez. The motion passed unanimously.

17. Public Comments – discussion only

Joe B. Chávez of the San Miguel del Bado Grant reported that the grant held its election on April 8th and has organized a board. Mr. Chávez is the grant's president. This is three years after the August 2014 contested election, where the outgoing president contested the results and the election went to the courts. Mr. Archuleta served as a special master for the election and the UNM Land Grant Studies Program assisted by providing voter data and organizing precincts. An April 2015 election was invalidated by a judge. The legal battle has proved quite costly with one side mounting $22,000 in attorney fees thus far. The grant remains under court supervision. Mr. Chávez extended his gratitude to the NMLGC and the UNM LGSP, especially Dr. García y Griego, for their assistance.

18. Date and Location for next Council Meeting

The Council will next meet on Friday, May 12, 2017 in Albuquerque, NM at the UNM Continuing Education Building.

19. Adjournment

Councilor Martínez made a motion that the meeting adjourn. Councilor Griego seconded the motion. Motion passed unanimously. The meeting adjourned at 2:23pm.

Approved:

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Chair Date