New Mexico Land Grant Council (NMLGC)
June 22, 2017 - 10:00 am
San Antonio de Las Huertas Land Grant Office
41 B Camino de Las Huertas
Placitas, NM 87043

Minutes - FINAL

Regular Council Meeting

1. Call to Order and Roll Call

Chairman Juan Sánchez called the meeting to order at 10:13am. 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); Rebecca Correa Skartwed (Interim President, San Antonio de Las Huertas LG); Lisa Rivera-Morrison (BLM); Mariana Padilla (Office of Rep. Michelle Lujan Grisham); Marlo Aragón (Treaty Division, Office of the Attorney General); Michelle Jacquez-Ortiz (Office of U.S. Senator Tom Udall); Patricia Domínguez (Office of Sen. Martin Heinrich); Arturo Archuleta (staff – NMLGC/UNM-LGSP); Cheyenne Trujillo (staff – NMLGC/UNM-LGSP); Jacobo D. Baca (staff – NMLGC/UNM-LGSP); Andrea Padilla (Town of Tomé LG)

3. Approval of Agenda

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

4. Approval of Meeting Minutes from Regular Council Meeting of May 30th, 2017

Councilor Griego motioned to approve the meeting minutes of the May 30th, 2017 Council meeting; Councilor Padilla-Gutiérrez seconded the motion. Motion was approved unanimously.

5. Discussion and Possible Action on Forest Service Update

(see below)

6. Discussion and Possible Action on BLM Update

Lisa Rivera Morrison (BLM) reported on behalf of the BLM. The Golden Fire is on BLM and private land near the San Pedro Mountain area and is approximately 15 acres. It does not appear to be too much of a threat. The BLM is investigating the cause of the fire, which started near a shooting range. Ms. Morrison reported that the Department of Interior is reassigning directors in the BLM and U.S. Fish and Wildlife Service, including BLM New Mexico State Director Amy Lueders. Ms. Morrison also reported that Sara Schlanger of the Taos BLM office has yet to be contacted by representatives of the San Miguel del Bado

Grant to discuss the process of recovering land grant cemeteries now managed by the BLM. Also, Ms. Morrison spoke with Mark Ames of the BLM Farmington office regarding the RAC; Mr. Ames and Ms. Morrison suggested that Councilor Martínez visit the Farmington office in person to have the opportunity to speak with Mr. Ames and the office's resource specialists.

The Rio Grande del Norte National Monument is working on the draft management plan alternatives. Arturo Archuleta (NMLGC staff) submitted comments concerning grazing and riparian areas, including clarification on "additional water resources" and "visual resources" and fuelwood areas in the Sierra de Olla and Guadalupe Mountains, which could become restricted. The Department of the Interior under the new administration may de-authorize the Rio Grande del Norte National Monument and Organ Mountains National Monument. Secretary Zienke may visit New Mexico in the coming months. Mr. Archuleta asked if there were any updates on the Verde Transmission Line; Ms. Morrison reported that the BLM is studying comments and that Rio Arriba County and Santa Fe County have both passed resolutions opposing the power transmission line. Ms. Morrison requested an e-mail regarding the San Miguel del Bado Grant and contact information for the Bartolome Sánchez and Jacona Land Grants; Chairman Juan Sánchez suggested contacting attorney Ted Trujillo for more information. Rebecca Correa Skartwed, interim president of the San Antonio de Las Huertas Land Grant, provided an update on the disposal of federal properties in the San Antonio de Las Huertas Land Grant, including the Buffalo Tract and the disposal list that will be a part of the Rio Puerco Management Plan.

8. Discussion and Possible Action on Legal Services Contract Update

Mr. Archuleta (NMLGC-staff) provided a report regarding the contract with New Mexico Legal Aid for legal services. The May 2017 invoice from NM Legal Aid submitted to UNM is in the meeting packet; it will not be billed until June 2017. David Benavides of New Mexico Legal Aid has been very busy. He has worked with the Merced de Pueblo de Abiquiú on disputing priority dates offered by Office of the State Engineer. The OSE offered priority dates on use of waters on common lands ranging from the 1960s to 1997, where opposing water rights in the area were granted a water right date in the 1870s. The grant can pursue two different tracks in disputing the unfavorable priority dates: they may cite "new evidence" that demonstrates that the grant used the waters prior to those listed in the OSE consent order; or, they may cite the lack of authority of the president of the Merced de Pueblo de Abiquiú to sign the consent agreement without official action of the full board in a properly advertised regular land grant meeting.

The NMLA has also completed changes to its adverse possession and water declarations guides, both of which will be published by the NMLGC (see below). NMLA is projected to draw down entire contract. Mr. Benavides also contacted the UNM Law School Law Clinic Business and Tax director Grace Allison, who recently retired from UNM and will soon begin working with NM Legal Aid. The situation for land grants is more complex since they are not recognized under the federal IRS tax code. Organizations need to meet a number of tests to qualify for tax free land donations. This includes zoning authority, which land grants do have. Tax policy also requires that the lands in question are for the benefit of 100% of the public, and that the lands need to have a qualified appraisal, which is

expensive and hard to find, since New Mexico only has two to three qualified appraisers. Both the donator and receiver are then assigned duties by tax attorneys. There are potential administrative and legislative fixes at the federal level. If land grants are recognized by the New Mexico tax code, grantors could donate with letter listing a land grant as the receiver. The letter process takes over a year as is. Policy changes are more difficult. Councilor Padilla-Gutiérrez stated that people will donate items to the Town of Tomé LG and the Grant issues a letter with an estimated value of those items. Mr. Archuleta stated that units of government, unlike non-profits, need to have a purpose for receiving donations. In regards to land, donations as a tax write-off would be a potential way for land grants / *mercedes* to recover land. Land grants could also set up associated 501(c)3s (non-profits) to accept land donations, which have the proper status to accept land donations as a tax write off. Ms. Allison expressed her willingness to present at a future NMLGC meeting.

7. Discussion and Possible Action on Treaty of Guadalupe Hidalgo Division Update
Marlo Aragón of the Treaty of Guadalupe Hidalgo Division of the New Mexico Attorney General provided the report. The Treaty Division was contacted by NM Cultural Properties Review Committee because New Mexico Statute states that the State must give the right of first refusal to land grants in an area near Socorro, NM. The Town of Socorro (which is a statute specific grant) and Sevilleta de la Joya LGS may be in the vicinity of the site in question. The Treaty Division will remain open but only through the Open Government Division. Mr. Archuleta also reported that Lee Maestas of the Cebolleta Land Grant asked it the Division was contacted regarding the recent election at the Cebolleta Land Grant. Ms. Aragón reported that no one of the NMAG's office was contacted, to the best of her knowledge.

9. Discussion and Possible Action on Council FY 2017 & FY 2018 Budgets
Mr. Archuleta presented the June 2017 budget update. Some LGs purchased items online and will have to cover taxes paid. Tajique, Santa Bárbara and Trampas submitted for reimbursement. They are awaiting San Joaquín de Río de Chama's submission and the Juan Bautista Baldez grant has money to spend. The NMLGC will print 310 copies of the legal guides on adverse possession and declaring water rights that NM Legal Aid prepared through a contract with the NMLGC. A quote (attached) was provided by the New Mexico State Printing Office. The total cost for 310 copies is $1,557.10, from a publishing budget of $1,560.20, leaving a balance of $3.10. $231.00 will remain in unspent NMLGC in-state travel; the staff travel budget will be expended. The NMLGC will also spend the entire meeting expense budget with the June 2017 meeting.

10. Discussion and Possible Action on UNM Contract
Mr. Archuleta presented the UNM Contract update, including the pay request number 10 for May 2017 for $22,132.01. Final billing from UNM to DFA needs to be in July 10th, meaning that the NMLGC needs to meet on July 7 to be sure that there is sufficient time to process the June 2017 pay request. Councilor Padilla-Gutiérrez made a motion to approve the pay request number 10; Councilor Griego seconded the motion. The motion passed unanimously.

11. Discussion and Possible Action on Land Grant Support Fund
Councilor Padilla-Gutiérrez asked when land grants will be able to apply for FY 2018 support fund monies; Mr. Archuleta replied that land grants would be able to apply by August 2018. Ms. Cheyenne Trujillo (NMLGC staff) replied that the NMLGC website has the brochure, guide and application. The FY 2018 land grant support fund budget is $13,000.

5. Discussion and Possible Action on Forest Service Update
Ericka Luna (USFS) provided the Forest Service update. Ms. Luna shared 2017 USFS New Mexico Briefing Book, which includes forest plan revision updates for all forests in New Mexico. The Carson, Santa Fe, and Lincoln National Forests are looking at comments and differences and report that the public is asking for consistency, especially in fuelwood collection, water and acequias, and grazing. The Northern New Mexico policy was an effort at providing this consistency. The Carson NF draft plan will be going public soon. The Cibola NF will also share information with planning teams. Mr. Archuleta discussed the NMLGC approach to incorporating the Northern New Mexico Policy (Hassell Report / Hurst Memo) and turning them into suggested plan components. When complete, the NMLGC will distribute and solicit feedback from land grants for any additions, then will share them with US Forest Service (Region 3 and individual forests). Ms. Luna commented that southern New Mexico forests will benefit from the plan components as well. She also reported that the she and Mr. Archuleta had several planning sessions to review the Region 3 MOU. The FS hiring freeze has delayed the review by the Grants and Agreements Division; the MOU is in the queue to be assigned a person. Ms. Luna reported that the US FS would like to continue the Land Grant 101 training and would like a Land Grant 102 training as well.

Ms. Luna also discussed a regional supplement, which Region 3 can create if a policy is needed for a specific area. Region 3 is working on a regional supplement acequia policy which will provide clear language for routine use and maintenance and consistency across districts. Region 3 would like for the NMLGC and individual land grants to provide comments and would like NMLGC's direction on land grant meetings where the Forest Service can interface with appropriate land grant communities. Ms. Luna also reported regarding fires. The Bonita Fire is 50% contained, the Cajete Fire is 97% contained and is only burning in the burn scar. A single spotting of a drone will ground air attacks on fires. Patricia Domínguez (Sen. Martin Heinrich's office) reported regarding the unpermitted water diversion in Forest Service lands above the San Antonio de Las Huertas LG. Sen. Heinrich's office hosted a meeting with representatives from the Grant. There were several paths suggested in the meeting. 1) acequia itself needs to police own member, but does not seem to want to; Wayne Sandoval was asked to contact David Benavides of NM Legal Aid regarding policing parciantes; 2) OSE could write a letter to the violator; 3) because the violator created a seemingly illegal structure, they might be able to ask him to remove it, but might issue an ex post facto permit; 4) San Antonio de Las Huertas LG could reach out to NM Acequia Commission for advice regarding violators. While the USFS is investigating if the violator did harm the forest the San Antonio de Las Huertas LG or NM Legal Aid should write a letter to the forest service and OSE regarding the situation. Rebecca Correa Skartwed, interim president of the San Antonio de Las Huertas Land Grant, reported that wells are drying up because of this dam and fears that the situation is a 3 year old ticking

time bomb and would expect the Forest Service would have a stance because of impact to FS land and adjacent community. Ms. Luna responded that the FS cannot look into water use because the state has jurisdiction. The FS can only judge on the creation of an unpermitted structure. Councilor Martínez commented that this could create a volatile situation and the FS should remove the structure. Mr. Archuleta commented that the Interim Land Grant Committee wants a water theme during this legislative year and hearings regarding impoundments, declarations, etc. He also discussed the ticketing of eleven individuals for gathering fuelwood cleared when maintaining a powerline easement near Tierra Azul. A letter from Chairman Sánchez on behalf of the NMLGC will be addressed to Santa Fe NF supervisor James Melonas. Michelle Jácquez-Ortiz (Sen. Tom Udall's office) commented that Ms. Domínguez brought this up during congressional briefing and that FS leadership will discuss with law enforcement and is committed to not create adversarial relationships.

12. Discussion and Possible Action on Federal and State Legislation

Federal Legislation –

Mr. Archuleta spoke with Nick Maestas of Congressman Ben Ray Luján's office. Mr. Maestas has just received a clean version of the bill, which includes some revisions by Congressman Luján. The edits were largely positive and included cemeteries in traditional use. After more reviews, a copy will be sent to the NMLGC. Mr. Archuleta also met with Ms. Domínguez of Sen. Martin Heinrich's office to discuss legislation regarding historic and currently used land grant cemeteries. A first step is to identify cemeteries within land grants and categorizing of cemeteries. The Small Tracts Act may be a potential authority allowing such transfer. Ms. Domínguez commented that the 1938 bill has updates in the 1980s, 1990s and in 2005, and was unsure if updates were successful in revising the 1938 legislation. Councilor Martínez asked if the legislation would include *calvarios* and *moradas* in forest system lands. Mr. Archuleta commented that the traditional use rights bill focuses on use, not on transfer. Ms. Mariana Padilla (office of Rep. Michelle Luján Grisham) discussed draft EQUIP legislation, and is expecting a new draft from the NRCS soon. This has been assigned to Elizabeth Reitzel of Congresswoman Luján-Grisham's office. She will be moving to markup the Farm Bill later this year. Congresswoman Luján-Grisham's office and the New Mexico Delegation will host listening sessions and would like to have NMLGC and land grants involved in listening sessions. Mr. Archuleta reported that a meeting regarding the Piedra Lumbre Visitors Center including congressional delegation staff, the FS and the NMLGC will take place July 10 or 11.

State Legislation –

Chairman Sánchez reported that the planning meeting of the Interim Land Grant Committee will be held on Monday, June 26, 2017 at 1:00pm in Room 307 of the NM State Capitol. Mr. Archuleta commented that Mark Edwards and ILGC Chair Miguel García have discussed meeting locations (Tomé, San Miguel del Bado, Arroyo Hondo Arriba) and topics, including water and game and fish

13. Discussion and Possible Action on Land Grant Registry

None.

14. Discussion and Possible Action on Correspondence Received by the Council
Mr. Archuleta reported that the NMLGC has received a letter from the Carson NF regarding a riparian restoration project on the east side of the Valle Vidal, asking if any land grants are effected. Councilor Padilla-Gutiérrez made a motion that the NMLGC send a letter to Santa Fe National Forest Supervisor James Melonas regarding the ticketing of individuals for gathering fuelwood in Tierra Azul. The motion was seconded by Councilor Martínez seconded the motion. The motion passed unanimously.

15. Discussion and Possible Action on Land Grant Studies Program Update
LM García y Griego is in Broomfield, CO at the Rocky Mountain Region of the National Archives and Records Administration. Antonio Maestas, a Chililí heir and student at Earlham College in Indiana, is serving as an McNair program intern and is working in a project examining conflict in the histories of the Chililí and Tierra Amarilla Land Grants. The LGSP will also post the youth outreach coordinator application soon.

16. Discussion and Possible Action on Staff Assignments
None.

17. Public Comments – discussion only
None.

18. Date and Location for next Council Meeting
The Council will next meet on Friday, July 7, 2017 in Albuquerque, NM, location to be determined.

19. Adjournment
Councilor Martínez made a motion that the meeting adjourn. Councilor Griego seconded the motion. Motion passed unanimously. The meeting adjourned at 12:34pm.

Approved:

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Chair Date