

New Mexico Land Grant Council (NMLGC)
October 15, 2019 – 11:00am
UNM Science and Technology Park
851 University Blvd SE, Suite 202
Albuquerque, NM 87106

Minutes – Final
Regular Council Meeting

1. Call to Order - Roll Call

Chairman Juan Sánchez called the meeting to order at 11:01 am. Roll call of the Council members: Andrea Padilla, Steve Polaco, Leonard Martínez, Rebecca Correa Skartwed and Juan Sánchez were present.

2. Introduction of Guests

Juan Sánchez (NMLGC); Rebecca Correa Skartwed (NMLGC); Andrea Padilla (NMLGC); Leonard T. Martinez (NMLGC); Steve Polaco (NMLGC); Arturo Archuleta (NMLGC/LGSP); Jacobo Baca (NMLGC/LGSP); Venessa Chavez (NMLGC/LGSP); Novela Salazar (NMAG - Treaty of Guadalupe Hidalgo Division); Michele Jáquez-Ortiz (Office of Sen. Tom Udall)

3. Approval of Agenda

Councilor Andrea Padilla made a motion to approve the agenda; Councilor Rebecca Correa Skartwed seconded the motion. The motion was approved unanimously.

4. Approval of Meeting Minutes from Regular Council Meeting of September 13, 2019

Councilor Steve Polaco made a motion to approve the meeting minutes of the September 13, 2019 Council meeting; Councilor Padilla seconded the motion. The motion was approved unanimously.

5. Discussion and Possible Action on BLM Update

Arturo Archuleta offer thanks to the BLM for use of their facility for the October 10, 2019 meeting with the Forest Service in Santa Fe. Councilor Leonard Martínez stated the Farmington-Mancos RMP has been rescheduled for the third week of October of 2019.

6. Discussion and Possible Action on Federal and State Legislation Update

Federal

Mr. Archuleta thanked Councilor Padilla for the Town of Tomé's coordinating and hosting of Congresswoman Xochitl Torres Small's October 5, 2019 visit. Congresswoman Torres Small expressed her gratitude for the meeting and stated that she was still learning about land grant issues. She expressed her interest in cosponsoring the traditional use legislation (H.R. 3682 – Rep. Ben Ray Luján) and stated that she would look at the Commission Bill proposed by former Rep. Steve Pearce in the last Congress. Mr. Archuleta discussed H.R. 3682 with Levi Patterson of Congressman Luján's Washington DC office, who stated that the bill is not likely to go through a conference committee and that Senate and House versions of the legislation need to mirror. In

the meeting packet is Section 10, page 21, which outlines the process for recognizing Traditional Use Boundaries and the NEPA process for acequias. The House on Committee on Natural Resource is getting push back both from federal agencies (which see the process as burdensome) and from environmental NGOs that echo agency concerns. The Committee wants to modify the bill to get it through this Congress and wishes avoid appeals process. Under consideration is a process whereby land grants, in consultation with the USFS, will decide which boundaries apply. Councilor Martínez asked how the consultation process would work and how the land grant studies program will assist. Mr. Archuleta suggested language might be modified to something like, "The USFS, in consultation with land grants, will determine where traditional uses will apply." Alternatively, there may be a submission process or land grants might submit a request for boundary. If parties fail to agree, they will follow the administrative appeals process.

Chairman Sánchez asked about evidence permissible in the boundary recognition process. Mr. Archuleta replied that land grants could use documents and maps (both historic and those produced by the Land Grant Studies Program). Councilor Martínez stated that the patent for San Joaquín del Río de Chama hurt the grant by reducing it. Mr. Archuleta stated that the bill contains a process wherein land grants can opt for boundaries described in their patent or petition for traditional use boundaries. He asked the Council members for any comments or sections that the Council likes or the Council would like to modify. The Senate version of the bill (sponsored by Senator Tom Udall) does not have this process at all, illustrating the why a commission bill that addresses land loss in other ways is still important. A commission could identify what the historic boundaries should have been. A land grant could use a survey produced by the Office of the Surveyor General but rejected by the Court of Private Land Claims to support their boundary claim. Historic use, like communal grazing, could be part of a claim in a commission process as well, as can precedent on boundaries, like the Sandia Pueblo mountain claims decision.

H.R. 3682 has two windows to be pass. One is early November, with a potential committee hearing before the recess. If get committee hearing is held, it would be easier to get it into second session. The NMLGC needs to break the sections of the bill that are drawing opposition down and consider alternative language that it might propose. The second option is to push for a hearing early in the second session. Michelle Jáquez-Ortiz (Office of Senator Tom Udall) stated that the federal process is different than the state process. They can have markup after subcommittee and the full committee can endorse without a hearing, accepting the subcommittee endorsement. The timeframe would be narrow and the NMLGC would be contacted for comments. She discussed the issue with Ken Rooney of Senator Udall's Washington DC office and does not expect a Senate version to emerge until next year. Committee hearings will happen in the house where Congressman Luján's leadership can aid the bill. Mr. Archuleta commented that the Council will work on draft Senate language for the Council's review.

State

The Land Grant Interim Committee meeting was held in Taos on September 16-17, 2019. The agenda was packed and it was a well-attended and positive meeting. Items on the agenda included the lines issue on the Cristóbal de la Serna Land Grant and other broad ideas that could help land grants statewide, including the expansion of HB 88, a special tax assessment for land grant lands, and guaranteed revenue streams for land grants. The Interim committee toured

Sangre de Cristo Grant in San Luis with Land Rights Council member Shirley Otero Romero. Senator Carlos Cisneros attended the first day of the meeting, but sadly passed away on September 16, 2019. Senator Cisneros had committed to more funding for surveyors. His staff will file to the NMLGC. He championed acequia issues and worked closely with the Paula García of the New Mexico Acequia Association on acequia issues. The next Interim meeting will be held in Ghost Ranch on October 31st. Discussions with LCS staff Mark Edwards on potential topics, including an update on the impending tax sale under HB 88 (Town of Tomé); the Piedra Lumbre Visitors Center; policing authority for land grants; and Santa Cruz de la Cañada Land Grant, with John Chávez presenting. The Committee will tour Laguna del Campo on November 1st. Novela Salazar (NMAG - Treaty of Guadalupe Hidalgo Division) met with John Chávez of the Santa Cruz Grant to discuss HM 38 (2019). Councilor Padilla asked if a meeting with the Rep. Eliseo Alcón and the Chi Henne Nde regarding _____ has been scheduled. Jacobo Baca (NMLGC) stated that, to his knowledge, it has not. The Committee will webcast if technology allows.

7. Discussion and Possible Action on US Forest Service Update

Mr. Archuleta reported injunction won by Wild Earth Guardians (WEG) on forest activities related to the protection of the Mexican Spotted Owl (MSO). Seven claims were made by the Wild Earth Guardians; the judge accepted one, which was arguably a technical procedural issue (there was not a good biological assessment of MSO). The injunction was initially imposed on all management activities. The New Mexico Acequia Commission and the NMLGC arranged meeting with the Wild Earth Guardians to discuss the issue. They and the USFS agreed to and won an amendment to injunction allowing for firewood collection. All other timber management projects planned, taking advantage of the wet year, are halted. Council staff also discussed the issue with Region 3 Regional Forester Cal Joyner on a conference call. The meeting packet includes a letter with a news release; the accompanying document is much longer and will be forwarded to the Council members. Forests in Region 3 in Arizona, with the exception of the Tonto NF, have already adopted their management plans, making the complaint a moot point. The five New Mexico forests will adopt plans soon and are affected by this ruling. Other environmental groups are displeased by the WEG's actions. Some have committed to supply fuelwood to communities affected by the injunction, but commitment has dwindled to 100 cords, or about 6 cords per community. NMLGC staff has attempted to work with communities to identify individuals from land grant communities in need of fuelwood while trying to help local *leñeros* (wood haulers) and reduce the cost that large commercial wood haulers charge, thus increasing the potential number of communities and individuals that are helped. The groups providing the fuelwood expressed their desire to reduce risk and have asked that these *leñeros* have liability insurance and business licenses. The wood will be green wood, which is useful, but cannot easily be burned this winter. Councilor Martínez commented on the fuelwood and injunction, stating that even though the Grant has received green fuelwood from an area CFRP project, the injunction has put their communities behind on distribution. The Grant has purchased two semi loads that need to be blocked and split. The injunction has pushed the timetable back and is a life or death issue for communities. Councilor Polaco asked for the contact for wood delivery. Venessa Chávez (NMLGC staff) commented that the environmental groups providing the wood took information that she provided for the Tierra Amarilla area and seem to have not contacted other area contacts as well. The process has been fluid and difficult to difficult to ascertain or control.

Mr. Archuleta stated that a letter from Carson National Forest Supervisor James Durán regarding the Piedra Lumbre Visitors Center is in the packet. The San Joaquín del Río de Chama, Tierra Amarilla, and Juan Bautista Baldes Land Grants are discussing the purchase and management with their boards. The Council is in discussions with the UNM Law School's Natural Resources Law Clinic to address ownership options; a conference call is scheduled for November 6th to discuss. On November 12, 2019, the Carson NF and the San Joaquín del Río de Chama, Tierra Amarilla, and Juan Bautista Baldes Land Grants will meet with the Department of Finance and Administration. The USFS has asked for proof that land grants have the legal authority to receive property, which can be addressed via a resolution passed by each land grant board. Environmental assessments will take an additional 6 months. Included in the packet is correspondence from the San Joaquín del Río de Chama Land Grant to Santa Fe NF supervisor James Melonas regarding for Llaves cemetery and easements for calvario in Gallina. Councilor Martínez stated that the cemetery in Llaves is similar to the Cañón cemetery and dates from the mid-1800s. The Cofradia morada in the area is also on Forest Service property.

On October 10, the NMLGC staff and students met with the Cíbola, Carson and Santa Fe National Forest planners and forest supervisors to discuss draft land management plan comments. NMLGC staff and students are working on comments for all three forests.

8. Discussion and Possible Action on Town of Tomé LG

Mr. Archuleta reported that he and Councilor Padilla met with the Taxation and Revenue Department (TRD) in September. The TRD does not have online process ready and needs to do a public sale. Public bidders may preempt potential land grant bids on lots and un-sold lots will be available for the Tomé Land Grant to purchase. The sale will take place on December 12. The Town of Tomé Grant has their grant agreement signed.

9. Discussion and Possible Action on DFA Meeting for Capital Outlay Update

Mr. Archuleta reported regarding meetings with the Department of Finance and Administration regarding the Piedra Lumbre Visitors Center and the Cristóbal de la Serna issue, where DFA will work with the land grants to re-authorize funding. The NMLGC staff will work with DFA to provide a capital outlay training. Chairman Sánchez stated that land grants can no longer receive CO monies via an unpaid invoice and must accept funding by disbursement or reimbursement.

10. Discussion and Possible Action on Laguna del Campo Transfer Update

Mr. Archuleta reported regarding a complication with water rights that feed the Laguna del Campo, arising from water rights permits from the 1930s for two properties. The New Mexico Game and Fish Department muddled the permits in the adjudication process for area water rights, which complicates the transfer. Councilor Polaco and Mr. Archuleta met with NMGF Commissioner Jeremy Vesbach and the transfer will likely not happen until CY 2020. Councilor Polaco stated that the funnel that is supposed to return waters from Laguna del Campo to the La Puente ditch is a 50 year old tunnel that needs to be tested.

11. Discussion and Possible Action on Treaty of Guadalupe Hidalgo Division

Novela Salazar reported that the Treaty of Guadalupe Hidalgo Division will submit its report regarding HM 38 (municipality status of the villa de Santa Cruz de la Cañada) to the Interim

Committee soon. She met with John Chávez and Rio Arriba County Commissioners. Ms. Salazar also stated that she was contacted by the New Mexico Environment Department regarding the Cañón de Carnué Land Grant. Councilor Polaco commented that since 1996, the Office of the Surveyor General has asked parcientes how they claim water rights and area land grants (represented by the John Utton law firm) did so under the Treaty of Guadalupe Hidalgo. The OSE claimed that patent is insufficient.

12. Discussion and Possible Action on Legal Services Contract: Updates and Requests

Mr. Archuleta stated that David Benavides is still very busy with current work. He has a court date next week regarding the Juan Bautista Baldes Land Grant regarding a motion for summary judgement. He is also on the legal team working on the Tierra Amarilla case; the trial starts in the spring. The Abiquiú water rights claim is ongoing. Mr. Benavides is busy with many filings because of the litigation. Billing is now submitted to DFA and not UNM.

13. Discussion and Possible Action Council FY 2020, FY 2021 Budgets

FY 2020

Mr. Archuleta presented an update (in packet) on the FY 2020 budget. \$31,018.02 has been expended to date, leaving a balance of \$265,881.98 (10%). Council travel to date is \$2,092.32 to date. The UNM Intergovernmental Agreement has expended \$28,925.70 to date.

14. Discussion and Possible Action on UNM Intergovernmental Agreement – FY 2020

Mr. Archuleta presented Pay Request #2 was presented for \$10,791.54 for billing period of September 2019. The billing narrative is included in the packet.

Councilor Polaco made a motion to approve Pay request #2 motion; Councilor Correa Skartwed seconded the motion. The motion was passed unanimously.

Council staff will meet with the UNM Procurement Office on Thursday regarding the surveyor contract. The contract announcement is in the packet.

15. Discussion and Possible Action on Land Grant Support Fund

The budget for the Land Grant Support Fund (LGSF) is \$16,000 for FY 2020 and the application is available online. Frank “Skitt” Trujillo of the Don Fernando de Taos Land Grant has applied. Venessa Chávez reported that she has contacted land grants regarding the LGSF. Jason Quintana of the Manzano Grant responded with interest. The Cubero Land Grant is considering a foundation for donated portable buildings. The Cañón de Carnué Land Grant may apply for monies for the Ancestral Land projects to hire local land grant youth. Councilor Polaco reported that he will discuss the LGSF with the Tierra Amarilla board. Chairman Sánchez stated that applications will be approved at the November Council meeting.

16. Discussion and Possible Action on Future of Land Grant Council

Mr. Archuleta reported on a conversation with the UNM Office of the Vice President for Research regarding the Land Grant Studies Program and the Land Grant Council, including the concept of a Land Grant Institute. This could produce a potential cost savings to the NMLGC in F&A fees assessed by UNM (5-7% as opposed to 20%). Council members discussed options, including that the Council stay at DFA. DFA, however, wants to lessen the NMLGC's dependence on DFA,

especially as the Council grows in staff and outreach and increasingly needs its own special attention. As a stand-alone entity, the NMLGC would be independent but complying with requirements like audits would be more costly and complicated. A hybrid model (like that of the Sentencing Commission) may be preferable. Currently, the NMLGC and LGSP share staff and the overlap assists with personnel, supplies, and services. The NMLGC and LGSP also are collaborating with the UNM Law School more and more and the current structure aligns with the combined budgets of the two entities. Councilor Correa Skartwed stated that she felt that becoming a stand-alone agency, without a substantive budget increase, would hurt momentum and felt that UNM is most viable option. Councilor Padilla agreed, stating that staying at UNM is preferable because of student involvement. Mr. Archuleta reported regarding a meeting about a new building potentially shared by several departments and programs, including the LGSP and NMLGC, but stated that it would be on the UNM capital plan that is 10 years out. NMLGC Councilors expressed their desire to attend future meetings regarding space on campus.

17. Discussion and Possible Action on Land Grant Registry

None.

18. Discussion and Possible Action on Land Grant Studies Program Update

Mr. Archuleta and Ms. Chávez reported that youth program development is ongoing, including partnering with the Merced Land Education and Conservation Trust on the Northern Rio Grande National Heritage Area Grant. Ms. Chavez reported that the project is near completion and was response was very positive for the land grant communities, youth and schools involved. The LGSP will look at other grant opportunities and will conduct more oral histories. Mr. Baca reported that he gets random information requests that he attempts to answer. He also reported that he will give a talk at the Martinez Hacienda (Taos, NM) on Taos Land Grants on October 25, will meet with heirs of the Embudo Land Grant on October 26, and with the OVPR regarding interpretation the Los Luceros Historic Site (Sebastian Martín LG) and representatives of the Santa Cruz Land Grant on October 27th. Mr. Archuleta reported regarding the collaboration with the UNM Law School to offer Continuing Legal Education Credits for attorneys, judges and law students. On Wednesday, October 16, Rep. Christine Trujillo will give a talk at UNM. Ms. Chavez also reported that she met with the Santa Bárbara Land Grant regarding youth programming. Mr. Baca commented that he and Cheyenne Trujillo are working on the next issue of the *Land Grant Forum* newsletter and anticipate it being ready for the November meeting.

19. Discussion and Possible Action on Correspondence Received by Council

Discussed above.

20. Discussion and Possible Action on Staff Assignments

None.

21. Public Comments – discussion only

Councilor Polaco commented that he spoke with Commissioner Jeremy Vesbach of the Game and Fish Commission asked for the support of the NMLGC in overturning the legislation that closed access to rivers on public land. Mr. Archuleta mentioned that the bill was deemed unconstitutional by the New Mexico Office of the Attorney General. The Council might take this issue up as a statewide agency and public body.

22. Miscellaneous Announcements

None.

23. Date and Location for November 2019 Council Meeting

The next Council meeting will be held on November 21, 2019 at 10:00am in Albuquerque, NM (UNM STC).

24. Adjournment

Councilor Polaco made a motion to adjourn; Councilor Correa Skartwed seconded the motion. The meeting adjourned at 1:30pm.

Approved:

Chair

Date