

New Mexico Land Grant Council (NMLGC)
February 15, 2019 – 10:00am
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 10:11am. Roll call of the Council members: Rita Padilla-Gutiérrez, Juan Sánchez, Macario Griego and Leonard Martínez were present.

2. Introduction of Guests

Juan Sánchez (NMLGC); Leonard Martínez (NMLGC); Rita Padilla-Gutiérrez (NMLGC); Macario Griego (NMLGC); Arturo Archuleta (NMLGC/LGSP); Jacobo Baca (NMLGC/LGSP); Cheyenne Trujillo (NMLGC/LGSP); Lisa Morrison (BLM); Malaquias Rael (NM Attorney General's Office); Bonifacio Vásquez (Santa Bárbara LG); Manuel Trujillo (Santa Bárbara LG); James Melonas (Santa Fe National Forest); Jennifer Cramer (Santa Fe National Forest); Erin Barton (Santa Fe National Forest); Ericka Luna (USFS – R3); Larry Brian Webb (USFS R3); James Durán (Carson National Forest); Amy Simms (Carson National Forest); Leeann Murphy (Carson National Forest); Andrew Gutiérrez (Tajique Land Grant / Chililí Land Grant); Moises Gonzales (Cañón de Carnué LG); LM García y Griego (LGSP); Jason Quintana (Manzano LG); Michele Jácquez-Ortiz (Office of Sen. Tom Udall); Patricia Domínguez (Office of Sen. Martin Heinrich); Sofia Sánchez (Office of Congresswoman Deb Haaland); Tim Hagaman (NM Economic Development Department); Dona Bolding; Roger Hamilton; Rob Craig; John Hayden; Steven Picha (National Ghost Ranch Foundation); Herminio Sandoval (Anton Chico LG); Angelica Villanueva (Anton Chico LG); Crystal Villanueva (Anton Chico LG); Domingo Villanueva (Anton Chico LG); José Luis Segura (Anton Chico LG); Nikila Tenorio (Anton Chico LG); Jeff Tenorio, Sr. (Anton Chico LG).

3. Approval of Agenda

Councilor Leonard Martínez made a motion to approve the agenda; Councilor Rita Padilla Gutiérrez seconded the motion. The motion was approved unanimously.

4. Approval of Meeting Minutes from Regular Council Meeting of January 11, 2019

Councilor Padilla Gutiérrez made a motion to approve the meeting minutes of the January 11, 2019 Council meeting; Councilor Macario Griego seconded the motion. The motion was approved unanimously.

5. Discussion and Possible Action on Forest Service Update, including Piedra Lumbre Visitors Center

Ericka Luna (NM State Liaison, USFS Region 3) introduced officer L. Brian Webb (Regional Patrol Commander, USFS Region 3), who plans to work on the relationship between USFS Law enforcement and land grant communities. She reported that the regional office has been working on a Farm Bill update (while collaborating with other USDA agencies) and provisions relating to cemeteries and will have a full update next meeting. James Melonas (Forest Supervisor, Santa Fe NF) reported that the Coyote Ranger District has a new permanent ranger, Rich Nieto, who was the assistant director for fire operations for Region 3. Mr. Melonas reported that he will be going to Washington DC with Cibola NF and Carson NF to brief USFS chief on their forest plans, which is the last step before sending plans out for official public comment. He commented that the relationship with traditional uses is a foundational part of plan. He also reported that they had an open house before Christmas with the Greater Santa Fe Fireshed Coalition, who they have collaborated with on the Santa Fe municipal watershed. Forty percent of Santa Fe water comes from forest lands and the watershed is important for adjacent communities as well. Finally, the district office in Jémez Springs is old and the Santa Fe National Forest got national funding to build a new office.

James Durán (Forest Supervisor, Carson NF) stated that the Carson, Santa Fe and Cibola National Forests are revisiting their MOU with the Merced Land Education and Conservation Trust, which supports the hosting of quarterly meetings with land grants and the forest service. The plan is to make it part of a master MOU across the three forests working with statewide partners. Mr. Durán reported that Peter Rich took over Kevin Naranjo's position as forest planner and Leeann Murphy took over for Audrey Kuykendall, who retired. Amy Simms also joins the Carson NF, taking over for Steve Okamoto as the Forest Engineering, Recreation, Special Uses, and Heritage Staff Officer. Christopher Fur also took another job and has been replaced by Don Ashby. The Canjilón District Ranger position is still vacant as Alicia Gallegos is now the environmental coordinator for the Carson NF. Angie Crawl is now the district ranger at the El Rito Ranger District.

Mr. Durán commented that the Carson is implementing a timber modernization, examining how the Forest can do things differently and cut more trees and treat more acres. One aspect may be expanding the mayordomo concept in place at the project in San Cristóbal and taking partnership block concept in the Carson and making into community blocks. They are still piloting, still learning, and there is room for growth. Bonifacio Vásquez (Santa Bárbara LG) offered that the Peñasco area community grants could be another site and looks forward to developing something like a forest council. Mr. Durán reported that the 2019 U.S. Capital Christmas Tree displayed in Washington DC will come from the Carson National Forest. The Carson will work with Senator Tom Udall's staff to coordinate. They trees supplied need 13,000 ornaments and the Carson will turn to all communities, including land grant communities, and schools across the state. Finally, Mr. Durán commented that he did received the letter stating land grant interests in the Piedra Lumbre Visitors Center.

Bonifacio Vásquez asked about the status of the Carson National Forest plan; Mr. Durán responded that the Carson will be briefing the Chief of the Forest Service and has been creating their EIS (Environmental Impact Statement), so public engagement slows.

Councilor Martínez commented that because of last year's drought there was minimal wood harvesting, followed by a colder winter in which more wood is needed. The 130 cords delivered to the San Joaquín del Río de Chama LG through a CFRP are all gone. Are users going to be able to get firewood? Will there be staging areas when the forest is closed or there is a shorter extraction season? (Chairman Sánchez reminded the audience that CFRP is due March 8th, 2019.) Mr. Durán responded that beyond fuelwood, the forest service wants to also promote industry, possibly through a leñeros concept like in San Cristóbal. James Melonas states that Coyote might be a place where the concept could be tested and the mayordomo / leñero could be way to implement stewardship concept.

Chairman Sánchez commented that the forest service and the land grants need to work on discussing stewardship projects so they can cut wood close to community and that it is cleared with CFRP and that woodcutters are insured and certified. The community is ready and we need to handle the red tape to implement. Arturo Archuleta commented that we need to examine models like the stewardship block, where community members don't need to have insurance and clearance. Mr. Durán stated that this is happening in San Cristóbal, where CFRP is the funding mechanism. The community block and council requires safety training for leñeros and restoration training as well. They are taught marketing and how the community as a whole market this product. The USFS needs to support small scale commercial fuelwooding. Mr. Vásquez commented that the big difference between Cerro Negro is the CFRP offers seed money to leñeros where in El Valle, no seed money or organizational structure are offered. Councilor Griego commented that Chililí has completed these programs and has experienced. Mr. Durán commented that there could be a "community forester role" and the Rio Grande Water Fund is an interested partner. CFRP is a way but is burdensome for some communities.

Mr. Archuleta stated that he is very interested and commended the mayordomo project. While the Council is unsure of its future budgets, it does plan to fund a natural resource manager in the future that would work on these type of projects. In the meeting packet is the letter regarding the PLVC. The Council is also planning to work with the NRCS, who will host a Farm Bill information session on February 26th, 2019 7 am MST. He also stated that land grant would be interested in providing ornaments for the Capitol Christmas Trees (which include a 75 foot tall tree plus 80, 10 to 20 foot tall companion trees.

6. Discussion and Possible Action on Federal and State Legislative update, including Farm Bill and 2019 New Mexico Legislative Session

Federal

Mr. Archuleta reported that the 2018 Farm Bill included Sec. 8621 regarding conveyances; Councilor Martínez asked Mr. Durán and Mr. Melonas how this works. Mr. Durán commented that a federal appraiser needs to be involved. Ericka Luna stated that Tracy Parker of R3 will be at the next meeting to discuss this further. Patricia Domínguez (Office of Sen. Martin Heinrich) reported that she is working on the cemetery bill and needs to know which communities might have cemeteries on federal lands and are interested in acquiring them. She did receive a list from the Carson and Santa Fe National Forests on known cemeteries but questioned whether the list is comprehensive. Mr. Archuleta offered that the Small Tracts Act might be used to reduce cost to meet the needs of local

communities (access or ownership). Mr. Archuleta reported that Council staff met with Stephanie Harding of Senator Tom Udall's Washington D.C. office, where they discussed traditional use legislation, as well as H.R. 6487, H.R. 6365, the Farm bill, and the federal trust concept. Council staff also met with Sofia Sánchez of the office of Representative Deb Haaland and discussed land grant legislation and a district tour of land grants with the Congresswoman. Sofia Sánchez added that the Congresswoman is looking at May 2019 for visits.

State

Chairman Sánchez commented that the legislative backlog is beginning as they need to finish their bills before hearing those of the other chamber. Mr. Archuleta presented an update of land grant legislation (in packet). This included HB 32 / SB 244, which provided legal services and allows law students to apply in their 3rd year and have costs waived so long as they commit to work for two years with a non-profit that provides free or low cost services for land grants, acequias and colonias. This bill was part of the rocket docket and was passed and signed. HB 33, expanding the authority of the Treaty of Guadalupe Hidalgo Division, made it out of the House Local Government, Elections, Land Grants and Cultural (HLLC) Affairs Committee and is headed to the House Judiciary Committee. HB 36, Land Grant Merced Assistance Fund, creating guaranteed revenue streams for land grants, passed the HLLC and is headed to the House Appropriations and Finance Committee (HAFC). HB 94, Land Grant Merced Partitions, passed the House Judiciary Committee and was approved by the House of Representatives on Feb. 12, by a 61-0 vote. It has been assigned to the Senate Conservation and Senate Judiciary committees. SB 13, lines issues at Taos-Area Land Grant, was passed by the Senate Conservation Committee and is headed to Senate Finance Committee. SB 17, Land Grant Board Comprehensive Plans, has been assigned the Senate Conservation and Senate Judiciary committees. SB 44, equipment purchases for land grants, has been assigned to the Senate Corporations and Transportation and Senate Finance committee. SB 223, Land Grant Elections and Definitions, has been assigned to the Senate Rules and Senate Judiciary committees. SJR 2, Rio Arriba Laguna del Campo Land Transfer, passed the Senate, 42-0, and has been assigned to the HLLC and House Judiciary Committees.

Rep. Miguel García introduced HB 351 to amend the Treaty of Guadalupe Day statute to allow it to be celebrated at the legislature on Mondays when Feb. 2 falls on a Saturday or Sunday. It has been assigned to the HLLC (which it passed) and the House State Government, Elections and Indian Affairs Committee. SM 17 was introduced by Sen Linda Lopez, recognizing Treaty of Guadalupe Hidalgo Day in the Senate on Feb. 1, 2019, was adopted by the Senate and copies were distributed to land grants by the New Mexico Land Grant Council. Jacobo Baca (NMLGC) added that HM 38, Incorporate Santa Cruz de la Canada, was introduced to the House. The Senate memorial, sponsored by Sen. Carlos Cisneros regarding the Carson Forest Plan Revision, has yet to be introduced. Mr. Vásquez commented that at the July 18 Interim Committee meeting in Abiquiú, Representative Debbie Rodella asked or a letter to be drafted and sent from the ILGC to Congressional Offices and the Forest Service regarding the Río Trampas, Río Santa Bárbara and Rio Pueblo, and he has yet to see a copy of that letter. Picurís Pueblo las committed to support the Santa Bárbara LG and to testify on behalf of the bill. Mr. Vásquez also commented that

with Mr. Archuleta and Mr. Baca's assistance, he sent a letter to James Durán in July 2018 but received no response. Chairman Sánchez responded that the Council will follow up with legislators on this memorial.

Mr. Archuleta also reported on the capital outlay requests by land grants (see handout in packet), which the Council was asked to coordinate. These total \$2,316,000 in requests from 14 land grants. The Council is also running into a wall as questions from the Legislative Council Service whether land grants truly are political subdivisions of the State. The Cristobal de la Serna Grant might lose their request because of these questions. Whenever land purchases come up, this question comes up and road blocks come up. The Council stated that we need to make sure that this does not hurt progress. Councilors discussed where this issue is arising from and it seems that the LCS, not the representatives and senators themselves, are questioning land grants status. The Council and its staff has discussed this issue with LCS staff attorney Mark Edwards who holds that land grants are tenancies in common and states that the courts hold land grants are made of individual owners. Attorney David Benavides has stated that more court cases and caselaw support the contention that land grants are corporately owned, not individually. Land grants may need to push to repeal Article 2 to clear up misinterpretations that land grants are for profit corps and we may need to discuss this with incoming interim chair and the New Mexico Attorney General's office.

Tim Hagamen (NM Economic Development Dept.) stated that Senator Pete Campos sponsored SB 474 that aims at Mora Economic Development through the frontier community tax credit aimed to help small communities develop businesses.

Mr. Vásquez thanked Chairman Sánchez for his assistance in land acquisition as the Santa Bárbara LG plans to file a warranty deed for public roads that state and county has abandoned. Mr. Archuleta also stated that the Council has the legal assistance of David Benavides and the UNM Natural Resources Law Clinic to assist.

7. Discussion and Possible Action on BLM Update

Lisa Morrison reported that Tim Spiesak is the new BLM director for New Mexico. He plans to attend a future meeting. Ms. Morrison reported that she did receive the San Joaquín del Río de Chama Land Grant's comprehensive management plan and Jeff Tafoya did reply. She stated that the Carlsbad and Farmington offices are working on their RMPs. Work continues on the Verde Transmission Line; they are waiting to hear from Pojoaque Pueblo, then will complete their EIS. On March 28, a lease sale will take place for an area near Farmington. It is drawing interest because of its proximity to Chaco Canyon. Councilor Martínez commented that the San Joaquín Grant would like to implement programs for forest restoration and would like trees or areas marked by the BLM for thinning projects in heavy piñón / juniper areas near Llaves and Regina. Ms. Morrison responded that they need to speak with Melanie Barnes (state director of forest resources) and the Farmington office about this proposed project.

8. Discussion and Possible Action on Request from Land Grant regarding Regional Water Authority

(see letter in packet). Jason Quintana (Manzano Land Grant) reported that he was

appointed by the Torrance County Commission to serve on Estancia, Moriarty, Willard, and Torrance County (EMWT) Water Authority board. The EMWT is sending letters to get monies and are purchasing aging water systems, moving north to south in the basin, aiming to draw water north to Moriarty. They have asked for joint powers agreements with several land grants. The fear is that they might lose water to oil drilling and fracking, which uses fresh water as it is not positively or negatively charged, and then clean that water for drinking. If land grants have water rights and keep them, they can protect waters for land grant communities and others. Those in attendance discussed that the EMWT is also misrepresenting land grants' position and claim that land grants are on board with EMWT. Mr. Andrew Gutierrez (Tajique and Chililí LGs) stated that he felt there is a lack of respect for land grants as they have asked repeatedly to be removed from EMWT correspondence claiming their participation. Participants discussed the possibility that land grants could create their own regional water association to protect their interests. Regional water authorities can condemn water rights within their boundaries and offer parallel authorities for land grants and regional water authorities, which could include land grants, acequias and mutual domestics. Mr. Archuleta commented that Attorney David Benavides and the UNM Law School possibly could help as well. Chairman Sánchez asked Mr. Archuleta to pursue their participation.

Mr. Quintana stated that the EMWT is trying to get funding from the legislature and land grants can let legislators know that they don't support the project or the EMWT. Chairman Sánchez stated that it is the responsibility of each land grant to tell legislators of their opinion of the EMWT. Mr. Quintana reported that the EMWT is eligible for a \$3.9 million federal loan and is asking the state for \$5 million. Their current project is a \$200,000 project acquiring a private system with 45 cu. ft. of water that serves 98 residents north of Moriarty. The system is working but out of compliance with the Office of the State Engineer. Their goal is to double the number of people on the system, which will consume water at twice the rate and to accommodate the growth they will condemn agriculture uses. Mr. Quintana also reported that at meetings, Representative Matthew McQueen clarified that land grants were not on board with the EMWT. Mr. Archuleta commented that he was not sure how EMWT works, but regional water authorities are usually formed by bringing existing systems together to form a new authority.

Chairman Sánchez suggested that land grant wishing to express their opposition to the EMWT do so through a resolution which the NMLGC can recognize and support. Councilor Martínez suggested sending a letter to the EMWT to advise them of land grant position and what actions they might consider; Councilor Padilla-Gutiérrez concurred. Chairman Sánchez added that the Chililí Land Grant has already asked to be out of EMWT and to be keep out of language released by the EMWT. Mr. Archuleta added that land grants need to clarify that land grants are outside of the boundaries of their authority and asked if the EMWT create boundaries and what the meaning or authority the boundaries have and if Torrance County's jurisdiction extends to EMWT. Chairman Sánchez responded that the Town of Mountainair told the EMWT to exclude them. Mr. Quintana stated that the EMWT is claiming imminent domain and their maps still show all communities in the area as within the EMWT. Councilor Padilla-Gutiérrez commented that the EMWT sounds very adversarial to land grant communities and that they are not interested and the land grants

and the Council should respond. Similar projects like a water bottler (which half of the area opposed) and Facebook have come to Valencia County consuming water as well. Mr. Archuleta added that land grants are the oldest communities in the area and the priority dates are the date of the establishment of the land grant communities. The basin has yet to be adjudicated so the Office of the State Engineer has yet to make a call on priority dates and the EMWT seeks to include land grants simply to capture these oldest priority dates under their authority. Commenting on the situation, attorney David Benavides commented that land grants hold both the priority and “high-ority,” meaning that they are at the top of the basin. Mr. Benavides and the NMLA will look into the authorities of the EMWT. Chairman Sánchez stated that the NMLGC can respond and state that the Council will not send a letter of support.

Councilor Padilla-Gutiérrez made a motion that the NMLGC draft a letter stating that the NMLGC will not support the EMWT; Councilor Martínez seconded the motion, the motion passed unanimously.

Mr. Archuleta also reported that Rep. Tomás Salazar sponsored HB 187, Water Law Evaluation and Review, which would fund the Utton Center at UNM Law School to undertake a study. The language of the bill explicitly excludes interests or representatives of interests and leaves much of the analysis and decision making authority to out of state experts.

9. Discussion and Possible on Social Media Policy

Cheyenne Trujillo (NMLGC staff) reported that the social media policy was amended to reflect Councilor Padilla-Gutierrez’s suggested changes, which clarified that the social media was a role or duty of a Council employee and not a new position.

Councilor Martínez made a motion to approve the NMLGC social media policy; Councilor Padilla-Gutiérrez seconded the motion. The motion passed unanimously.

10. Discussion and Possible Legal Services Contract and Request Update

Mr. Archuleta reported that no billings from New Mexico Legal Aid hit the books since the last meeting. Work continues with the UNM Law School Natural Resources Law Clinic. Council staff met with Natural Resources Law Clinic Professor Jeanette Wolfley on January 14 and made a presentation and pitched projects. The clinic will assist on the Tierra Amarilla case; the Tomé transfer of tax delinquent properties; Don Fernando de Taos in their claim to a cemetery near Taos Plaza; Anton Chico DF de Taos in creating rock extraction regulations; San Antonio de las Huertas on taking over the local water association; Tajique with their cell tower fight; and Juan Bautista Baldes with issues related to property dispute and IPRA requests. The NMLA / David Benavides are still also doing ongoing work with the Anton Chico LG on its water issue with the City of Santa Rosa and with Tierra Amarilla, San Joaquín del Río de Chama and Juan Bautista Baldes with the PLVC. Councilor Martínez made a motion requesting New Mexico Legal Aid to conduct research regarding land grants’ status as units of government and the claim that they are tenancies in common. Councilor Griego seconded the motion; the motion passed unanimously.

11. Discussion and Possible Action on Council FY 2019 Budget

Mr. Archuleta provided a budget update. \$78,901.95 under UNM contract has been expended up to date, leaving a \$119,542.05 balance on contract. The total budget balance is \$139,144.00.

12. Discussion and Possible Action on UNM Contract FY 2019

Mr. Archuleta discussed UNM pay request 6 for \$10,812.15. Councilor Griego made a motion to approve Pay Request 6; Councilor Martínez seconded the motion. The motion was approved unanimously.

13. Discussion and Possible Action on Land Grant Support Fund

Me. Archuleta reported that all Land Grant Support Fund agreements are signed and at the Department of Finance and Administration. Once DFA initiates purchase orders, awardees can spend their monies.

14. Discussion and Possible Action on Land Grant Registry

Jacobo Baca (NMLGC staff) reported that the Fourth Judicial District court submitted copies of the Las Vegas Land Grant by-laws and miscellaneous correspondence relating to the Las Vegas grant. Letter of receipt will be issued to both the Court and representatives of the Las Vegas Land Grant.

15. Discussion and Possible Action on Correspondence Received by Council

Mr. Archuleta reported that the Council received the EMWT letter (discussed above); an electronic letter regarding the PLVC from Dona Bolding, supportive of land grants operating the PLVC but expressing concern about the impact of a gas station; and letters from concerned heirs from the Anton Chico Land Grant regarding rock extraction (in packet).

Nikila Tenorio (Anton Chico LG) stated that she never knew of the rock product resolution cited in Feb. 5, 2019 letter sent to heirs extracting rock from the grant. Her father received a letter stating they were \$5,000.00 past due, which she disputes as her father no longer gets rock. She stated that the issue is important for Anton Chico heirs. Herminio Sandoval (Anton Chico LG) reported that his semi and loaders were impounded without notice and he asked the NM State Police and San Miguel County Sheriff to intervene, but they did not help. He also claimed that they added a sixth position to the board when they hired Rafael Jaramillo as the land grant manager and that they plan to purchase a truck for his use and that these concerned heirs have asked Anton Chico treasurer Roberto Mondragón to see books to see how funds are used. They also claimed that only 12 people received these letters. The letters were not signed by the land grant president (Stoney Jaramillo) nor were copies of by-laws or rock product resolution attached.

Mr. Archuleta responded that this case demonstrates where the NMLGC having its own legal counsel is important as the NMLGC is authorized to work only with land grant boards of trustees. Certain statutes give them authority to issue fees, etc., and there is a limit of what NMLGC can do for individuals because of the anti-donation clause. The NMLGC is currently providing legal services to Anton Chico LG board regarding management of rock

extraction. The grant does pay taxes in both San Miguel and Guadalupe Counties and they need to recoup their costs. The testimony states concerns of impropriety of Anton Chico board actions and the Anton Chico Land Grant does need to respond to IPRA requests, including by-laws. Mr. Archuleta commented that he visited the grant and witnessed the removal of to the tune of thousands of tons and recognizes why the land grant is concerned. This illustrates the need for more capacity on the boards and guaranteed revenue streams so that they can have the capacity to monitor uses.

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

Mr. Baca reported that he, Mr. Archuleta and Mr. LM García y Griego presented at the 2019 Population and Public Policy Conference in Albuquerque with Dr. José Rivera on a panel on land grants, acequias and *mutualistas*. He also reported that the LGSP, largely student Vidal Gonzales, finished the digitization of the first reel of Tomé baptismal and marriage records, which was estimated at 1,600 images per reel. These were delivered to Councilor Padilla-Gutiérrez at the meeting. Councilor Martínez commented that the LGSP did a great job.

17. Discussion and Possible Action on Staff Assignments

The NMLGC received a request from Rep. Miguel Garcia that NMLGC coordinate LG Capital Outlay requests. This has proven difficult as staff does not have the access that Legislative Council Service has. Chairman Sánchez stated that the Council needs to have a meeting with LCS director Raul Burciaga to inform him of tasks assigned by legislative council.

18. Public Comments – discussion only

Malaquias Rael of the New Mexico Attorney General’s office introduced himself and discussed his new role as a policy advisor where he is eyes and ears across several divisions. He commented that he does see the importance of NMAG legal counsel being present at Council meetings.

Councilor Martínez commented that he and Mr. Archuleta met with Poqueen Rivera and Victor Reyes of Governor Luján Grisham’s office.

19. Miscellaneous Announcements

None.

20. Date and Location for March Council Meeting

The next meeting will be held on March 22, 2019 at 10:00am at the UNM Science and Technology Center.

21. Adjournment

Councilor Martínez made a motion to adjourn; Councilor Padilla-Gutiérrez seconded the motion. The motion passed unanimously. The meeting adjourned at 1:51pm.

Approved:

Chair

Date