

New Mexico Land Grant Council (NMLGC)
May 10, 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 10:15am. Roll call of the Council members: Rita Padilla-Gutiérrez, Juan Sánchez, and Macario Griego were present. Councilor Leonard Martínez was absent.

2. Introduction of Guests

Juan Sánchez (NMLGC); Macario Griego (NMLGC); Rita Padilla-Gutiérrez (NMLGC); Arturo Archuleta (NMLGC/LGSP); Jacobo Baca (NMLGC/LGSP); Venessa Chávez (LGSP); Cheyenne Trujillo (NMLGC/LGSP); Ericka Luna (USFS); Lisa Morrison (BLM); Tim Spisak (BLM); Novela Salazar (NM Attorney General's Office); Malaquias Rael (NM Attorney General's Office) Patricia Domínguez (Office of Sen. Martin Heinrich); Michele Jácquez-Ortiz (Office of Sen. Tom Udall); Laura McCarthy (NM State Forester); Rebecca Correa Skartwed (San Antonio de las Huertas LG); Sandy Escarcida (San Antonio de las Huertas LG); Moises Gonzales (Cañón de Carnué LG); Eric Chávez (Office of Congressman Ben Ray Luján); Ruby Niner (independent historian).

3. Approval of Agenda

Councilor Macario Griego 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 April 12, 2019

Councilor Padilla-Gutiérrez made a motion to approve the meeting minutes of the April 12, 2019 Council meeting; Councilor Griego seconded the motion. The motion was approved unanimously.

5. Discussion and Possible Action on BLM Update – guest Tim Spisak, BLM State Director

Tim Spisak, the BLM State Director BLM for New Mexico, Texas, Oklahoma and Kansas, introduced himself. He has previously BLM's Deputy Assistant Director for Energy, Minerals, and Realty Management and served as a petroleum engineer. He served as acting New Mexico State Director since October 2018 and began officially in the position since January 2019. Chairman Sánchez welcomed Mr. Spisak and complemented Lisa Morrison (BLM) for her work as a liaison to the Council and land grants statewide. Spisak stated that he has been busy with briefings and meetings with NGOs and statewide meetings. In mid to late June, he will visit the Taos and Rio Puerco districts and will roll out online wood

permitting. The Rio Grande del Norte National Monument Resource Management Plan (RMP) is hold and will not necessarily be replaced. RMP's for the Carlsbad and Farmington Districts are high priority for resource development. The Rio Puerco RMP is ongoing as well. Mr. Archuleta commented that he hoped that the USFS could also do online permitting and asked if the BLM and USFS can sell each other's permits. Both Lisa Morrison (BLM) and Ericka Luna (USFS) responded that they cannot. Rebecca Correa Skartwed (President, San Antonio de las Huertas LG) said that the San Antonio de las Huertas Land Grant has been in conversation regarding Montezuma Crest. Ms. Morrison responded that the Buffalo Tract legislation applies to a BLM parcel nearby and that it is on the RMP for the Rio Puerco District.

6. Discussion and Possible Action on US Forest Service Update

Ericka Luna (USFS) stated that the Carson National Forest is holding open houses and will host its government working group on June 5 in Taos. On Tuesday, June 7, she hosted a meeting with land grant representatives and James Alford, Special Agent in charge of Region 3 USFS Law Enforcement and L.B. Webb, Regional Patrol Commander, Region 3 USFS Law Enforcement, regarding the relationship between the USFS and land grants, especially regarding law enforcement. From meeting, it was obvious that concerns are more about permitting and policies. It is the USFS officers' job is to enforce laws regulations and policies. Mr. Archuleta commented that permitting the piñón picking was the biggest issue. Ms. Morrison (BLM) commented that BLM regulations focus on commercial operations and they have no interaction with small harvesters. Mr. Spisak commented that he wanted wiggle room regulations. Mr. Archuleta commented that the process for permits for resource removal is important because it helps inform traditional use legislation. Ms. Luna commented that the USFS is modernizing the process to make it easier to access permits. Jacobo Baca (NMLGC) commented the permitting in the field for public use would be important and welcomed. Ms. Luna commented that Soil and Water Conservation Districts have in the past issued permits for the Cibola National Forest. Mr. Archuleta added permitting is in traditional use legislation and the Council discussed the role that land grants can have in permitting on federal lands, where they can issue, re-issue, and distribute permits. As political subdivisions there is a role that land grants can play. Councilor Padilla-Gutiérrez asked, when did piñón picking become a problem? She added that this is an important historical cultural practice that should not be impeded by unnecessary regulations.

Patricia Domínguez (Office of Sen. Martin Heinrich) added that a similar issue came up regarding harvested herbs and gathering oshá. Mr. Archuleta added that traditional use legislation looks to manage these resources and prioritize non-commercial and local use. He asked if we need to change authorities to create exemptions for permitting exemptions. Michele Jácquez Ortiz (Office of Senator Tom Udall) stated that at the heart of Councilor Padilla-Gutiérrez's objection is that the idea of permitting foreign to New Mexican culture. There is an important distinction between the U.S. Department of Agriculture and the Department of Justice and she asked if the law enforcement can exercise discretion. Mr. Archuleta added that the need is to regulate commercial use, not personal and cultural uses. Councilor Griego asked if they currently give tickets and if they were misdemeanors or felonies. Ms. Luna and Chairman Sánchez responded that they are resource tickets and

are resource tickets and Chairman Sánchez added that a FAQ document would be useful. Ms. Luna added that the jurisdiction takes all tickets to Santa Fe or Albuquerque but the fear is that this could lead to more criminalization and that people must weigh a Congressional mandate vs discretion that allows for a rule making process. Eric Chávez (Office of Congressman Ben Ray Luján) stated that this is a good opportunity to create good language in traditional use legislation, to clarify weight and quantity requirements and to understand if it is illegal and clarify policies. Ms. Jácquez Ortiz stated that we can attach these provisions from traditional use legislation to other bills (i.e. the National Defense Authorization Act).

Ms. Domínguez added that we do not want to criminalize people of color for a minor offense and that there needs to be an education piece if there are these regulations to prevent criminal acts. Venessa Chávez (UNM LGSP, heir to Tajique and Chililí LGs) added that these discussions are difficult and are about land and resources that are needed and that were owned by land grant communities. These communities regulated their uses and Ms. Chávez offered thanks to those that make traditional uses available to our communities.

Mr. Archuleta reported that NMLGC staff met with representatives of the San Joaquín del Río de Chama, Tierra Amarilla and Juan Bautista Baldes land grants and the Carson National Forest regarding the Piedra Lumbre Visitors Center at the Ghost Ranch Conference and Visitors Center, who hosted meeting on April 16th. The Georgia O’Keeffe Foundation also attended the meeting which discussed the potential for partnerships. James Durán (supervisor of the Carson National Forest) stated that it will take at least one year to complete the sale. The NMLGC’s role is to support the land grants in their first step in obtaining the property and aid in conversations with interested developers. Councilor Griego asked if this process be quicker if this was a cash deal; Ms. Luna responded in the affirmative and Mr. Archuleta added that the NEPA process was slowing the completion of the sale as well. Mr. Baca added that he attended the Carson National Forest forest plan open house where he learned that the Río Santa Bárbara remains on the list for Wild and Scenic River designation. Ultimate authority in its recommendation for designation lies with Carson Forest Supervisor James Durán.

7. Discussion and Possible Action on Presentation by State Forestry, guest Laura McCarthy, State Forester

Laura McCarthy introduced herself and stated that she was named New Mexico State Forester 8 weeks ago. She previously worked with the Río Grande Water Fund. She is anxious to work with new gubernatorial administration as state forester and since 1908, the U.S. Forest Service has recognized the jurisdiction of the state especially with shared boundaries. The state forester is within the Energy, Minerals, and Natural Resources Department. Ms. McCarthy mentioned that Dr. David Gutzler of UNM presented to the New Mexico State Legislature regarding environmental change and stated that NM will not have forests in 50 years. She wants to work to build and maintain healthy and resilient forests. There are district offices statewide and she wants to be in the field. In the meeting packet is a shared stewardship strategy under Secretary of Agriculture Sonny Purdue that replaced Secretary Vilsac’s “all lands” approach. This approach gives more authority to states in policy if not in law and Idaho, Washington, and Montana have signed agreements

that are all about timber production. Ms. McCarthy has met with Regional Forester Cal Joyner to sign the agreement. Item 4 on page 3 specifically mentions land grants and acequias and is inspired by traditional use legislation. It tried to take this concept from legislation and place it in shared stewardship agreement.

Mr. Archuleta thanked Ms. McCarthy for attending the meeting and for being proactive and championing land grants and acequias. This was mentioned to congressional staffs at the quarterly congressional conference call, proof that this is part of consciousness. He asked if there was a deadline for language comments; Ms. McCarthy stated that June 1, 2019 was the goal but that will be pushed back to July 1st to allow for tribal consultation. Chairman Sánchez thanked Ms. McCarthy for her work and stated that it showed the State of New Mexico is looking at preserving traditional uses. Ms. McCarthy stated that the forestry division received \$4 million in capitol outlay funding for forest and watershed restoration. It can be spent on any kind of public lands and can be used as a match on federal money since it derives from severance tax bonds. It is not grant money per say and starts with district foresters, who hopefully know the land grants in their district. She would like to have land grants in their statewide coordinating group and wants districts to convene stakeholder groups with land grants included. HB 266, the Forest and Water Restoration Act, was passed with \$2 million recurring yearly from the land grant permanent fund, the Rio Grande Income Fund and the Construction Fund. It prioritizes water and forest restoration, working to prevent water storages, and improving water delivery. It has an advisory board with seven members of state agencies and three public members, including representatives from industries, environmental groups and the general public. Mr. Archuleta commented that he looks forward to the opportunity to collaborate with NRCS and State Forestry through new Farm bill provisions on projects like the Santa Bárbara Land Grant's work with the Camino Real Ranger District.

Moises Gonzales (Cañón de Carnué LG) commented that monies usually goes to soil and water conservation districts (SWCDs) which don't collaborate with land grants. When the Cañón de Carnué Land Grant works directly with state or federal agencies, they mark and the land grant cuts. SWCDs are antagonistic with land grants, particularly the Ciudad SWCD; Ms. Skartwed corroborated the same situation with the Coronado SWCD, which has no relationship with New Mexico State Forestry. Councilor Griego added that while he was on the Ciudad SWCD board, the Ciudad SWCD would not help small farmers and ranchers and land grants and he asked the chair why they would not help. The Ciudad chair stated that the Ciudad's focus was on the *city*, and Councilor Griego resigned for that reason, the bad mentality. Councilor Padilla-Gutiérrez stated the Town of Tomé Land Grant has had the same issue and Ruby Niner (farmer and historian) commented that she has encountered the same issue in Valencia County. Mr. Archuleta commented that in northern New Mexico, there are SWCDs and their staffs that work well with local acequias and land grants, like Peter Vigil in the Taos SWCD and Marcos Roybal in the East Rio Arriba SWCD.

9. Discussion and Possible Action on Presentation by the Cañón de Carnué Land Grant - Building Permitting

Moises Gonzales, president of the Cañón de Carnué Land Grant, discussed the issue that the Cañón de Carnué Land Grant is having with Bernalillo County in recognizing land grants as

local governments. The Cañón de Carnué Land Grant wants to go through the state Construction Industries Division for permitting rather than the county. School boards go through the CID and NM Environment Department for permitting. Chairman Sánchez stated that he understood that the CID didn't want to permit land grants. Bernalillo County passed a resolution for la Merced del Pueblo de Chililí's housing and gym and the Merced did the permitting. Mr. Gonzales stated that the issue is that Albuquerque Public Schools goes through state and not Bernalillo County, signaling that it gets too personal for the city and the county, so they go through the state. Bernalillo County had threatened to red tag land grant buildings and the tap room and the county lacks a process to exempt the Cañón de Carnué Land Grant.

Councilor Griego made a motion that the NMLGC write a letter to the New Mexico Environment Department, the Department of Public health, and the Construction Industries Division stating the Cañón de Carnué Land Grant is a land grant and a local unit of government. Councilor Padilla-Gutiérrez seconded the motion. The motion passed unanimously.

8. Discussion and Possible Action on Federal and State Legislative Update

Federal

Ms. Domínguez (Office of Sen. Martin Heinrich) reported that the Small Land Tracts Act included in the 2018 Farm Bill as an amendment may apply to cemeteries allows conveyance with cost (sale, interchange, exchange) but no gift. Senator Martin Heinrich's office is still interested in moving forward with legislation. Mr. Chávez (Office of Congressman Ben Ray Luján) stated that Levi Patterson of Congressman Luján's Washington DC office stated that the traditional use bill will be introduced this summer and will receive a committee hearing. Additions to the bill may include permitting in the field and MOUs with political subdivisions. Michele Jácquez-Ortiz (Office of Senator Tom Udall) asked for information to support Senator Udall's staff in an upcoming hearing in Washington D.C. and asked if there has indeed been citations made for piñón picking. Mr. Archuleta responded that it gets at broader issues regarding traditional uses and the example highlights how permitting and ticketing needs to be addressed through traditional use rights legislation. Ms. Dominguez reported that Rebecca Avitia is Senator Heinrich's news statewide director. The mayordomo project near San Cristobal will hold its site visit on May 24th.

State

The Higher Education Department is involved in the implementation of SB 244, legal services for land grants, acequias and colonias. The bill calls for an HED advisory council that will choose students and projects or entities with which students are placed. Professor Gabe Pacyniak is the UNM Law Schools POC; Professor Jeanette Wolfly, David Benavides of NM Legal Aid, and Enrique Romero of the New Mexico Acequia Association have also been in conversation with the NMLGC on SB 244. UNM Law School wants everything adopted by August 1, 2019 to have ready for law students in the Fall 2019 semester. NMLGC is working to arrange a meeting with the bill's sponsors, Representatives Miguel García and Jerry Ortiz y Pino. Members of the NMLGC might attend as well. The UNM Law School will work with the Council and the law is written that only non-profit can house students and

only 50% of pay can come from fund. SB 244 was on rocket docket and could not be changed. Representative Tomás Salazar funded \$50,000, which went to HED and Rep. García funded \$200,000, which went through DFA. The money does not revert and students might work within the law clinic to oversee projects. We hope that the NMAG's Treaty Division can employ these students.

Mr. Archuleta reported that the Council met with Taxation and Revenue Department (TRD) Secretary Stephanie Schardin Clarke regarding HB 88 and the Town of Tomé and tax delinquent properties. TRD is focusing on properties near Tomé Hill. The previous administration committed to waiving penalties, fees and interest, meaning 700 lots of 200 acres would have a purchase price of ~\$65,000. The Department is unsure whether it will waive penalties and interest, which would raise the price to \$185,000. The property tax division is an enterprise division, meaning they do not get an appropriation and that penalties and interest pay their operating costs. Victor Reyes of the Governor Michelle Luján-Grisham's Office attended and committed to working with TRD. Council staff will also meet with the Interim Land Grant Committee chair and staff to plan the legislative interim session and the NMLGC tasked with coordinating the Amalia meeting with the Land Rights Council / Sangre de Cristo Land Grant.

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

Novella Salazar and JR. Rael (Office of the New Mexico Attorney General) reported that they have met with Al Duran regarding HM 38, a memorial to incorporate Santa Cruz de la Cañada as a villa/municipality. She has also met with New Mexico Taxation and Revenue Department regarding the lineas issue at Cristóbal de la Serna. Mr. Baca and Mr. Archuleta offered to meet to provide more information on both the Cristóbal de la Serna the Santa Cruz de la Cañada.

11. Discussion and Possible Action on Scope of Work – UNM, Legal Services and Surveying Services

Mr. Archuleta presented draft scopes of work for three contracts. The first is the FY 2020 Intergovernmental Agreement between DFA and UNM for the NMLGC. The old language regarding procurement was taken out since DFA will be procuring on behalf of Council. DFA added items to agreement and edited the language and reduced specificity, edited item t., added u. through aa., added bb. NM Land Grant Registry; cc. Added NM Land Grant Council website.

Councilor Padilla-Gutiérrez made a motion to approve the Scope of Work for the UNM Intergovernmental Agreement, as amended. Councilor Griego seconded the motion. The motion passed unanimously.

The Scope of Work for the legal services contract was amended to add #2, to assist land grants with their own local bylaws.

Councilor Griego made a motion to approve the Scope of Work for the contract legal services, as amended; Councilor Padilla-Gutiérrez seconded the motion. The motion passed unanimously.

The Scope of Work for land surveyor services was edited to add “5. to locate established survey monuments” & “rights of way.”

Councilor Padilla-Gutiérrez made a motion to approve the Scope of Work for surveyor services, as amended; Councilor Griego seconded the motion. The motion passed unanimously.

12. Discussion and Possible Action on Council FY 2019 & 2020 Budget

Mr. Archuleta provided a budget update (in packet). \$127,255.07 under UNM contract has been expended up to date, leaving a \$71,188.93 balance on contract. The total budget balance is \$89,688.90; \$132,211.10 has been expended.

13. Discussion and Possible Action on UNM Contract FY 2019

Pay request 9 was presented for \$12,638.53 including \$9,413.27 in personnel. Travel expenses includes \$928.58.

Councilor Griego made a motion to approve Pay Request #9; the motion was seconded by Councilor Padilla-Gutiérrez. The motion passed unanimously.

14. Discussion and Possible Legal Services Contract - Update and Requests

Mr. Archuleta reported that work continues and that there are no new requests. David Benavides is very busy. The Tierra Amarilla case is ongoing and mediation will take place in July 2019 with trial set for June 2020. Attorneys are completing depositions. The Tajique case ongoing with the appellate brief due Monday, May 13. The Abiquiú case is ongoing as OSE rejected Abiquiú’s proposed water priority date. The Juan Bautista Baldes Grant (Merced Comunitaria Juan Bautista Baldes) has legal issues as there is a quiet title suit filed against their common lands. An individual is trying to sell land grant property and has a real estate contract in place. The grant has been served as a land grant corporation that existed prior to 2004. There remains questions whether the grant can file a motion for dismissal as relevant party is not served. Chairman Sánchez opined that the court will likely rule that they are appropriate entity. Mr. Benavides is working with the Merced Comunitaria Juan Bautista Baldes and will meet with the grant on May 19 (Sunday) as they need to respond by May 22. The Council has previously approved NM Legal aid working on the Merced Comunitaria Juan Bautista Baldes response.

15. Discussion and Possible Action on Land Grant Support Fund

Chairman Sánchez stated that the Council is waiting on awarded land grants to send their information and complete their grants.

16. Discussion and Possible Action on Land Grant Registry

Mr. Baca reported on five items submitted to the land grant registry, including: an email from the Merced del Pueblo Abiquiú regarding their recent election and updating their bylaws; a letter from the Town of Tomé Land Grant regarding their recent election and the organization of their board of trustees; an email from the Cristobal de la Serna Land Grant regarding its election and current board members; a letter from the Tecolote Land Grant

regarding its election and board members; and an e-mail and letter regarding its election, organization of its board of trustees, and its revised and updated bylaws. He commented that he will share the dates of land grants elections with the New Mexico Attorney General's office when compiled.

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

Mr. Baca reported that the digitization of the Spanish Archives of New Mexico I microfilm land grant records and the processing of San Antonio del Río Colorado's papers are ongoing projects. The LGSP director on away on research.

18. Discussion and Possible Action on Correspondence Received by Council

There are four letters in the packet. They are: regarding the Carson NF on the Capitol Christmas Tree; announcement regarding Carson NF fuelwood permit sales; the Santa Fe NF cooperative agency meeting; and a letter from Erminio Martínez regarding the Ojo Caliente Land Grant.

19. Discussion and Possible Action on Staff Assignments

Mr. Archuleta reported that Council staff provided analysis for New Mexico Legal Aid regarding Merced del Pueblo Abiquiú board member qualifications.

Councilor Padilla-Gutiérrez made a motion for council staff to assist the San Antonio de las Huertas Land Grant with research regarding water rights and usage on their former common lands; the motion was seconded by Councilor Griego. The motion passed unanimously.

20. Public Comments – discussion only

None.

21. Miscellaneous Announcements

None.

22. Date and Location for June 2019 Council Meeting

The next Council meeting will be held on June 27th, 2019 at 10:00am at the Tajique Community Center, Tajique, NM.

23. Adjournment

Councilor Griego made a motion to adjourn; Councilor Padilla-Gutiérrez seconded the motion. The motion passed unanimously. The meeting adjourned at 1:27pm.

Approved:

Chair

Date