

New Mexico Land Grant Council (NMLGC)
September 13, 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 10:09 am. Roll call of the Council members: Andrea Padilla, Steve Polaco, Leonard Martínez, Rebecca Skartwed and Juan Sánchez were present.

2. Introduction of Guests

Juan Sánchez (NMLGC); Rebecca Skartwed (NMLGC); Andrea Padilla (NMLGC); Leonard T. Martinez (NMLGC); Steve Polaco (NMLGC); Arturo Archuleta (NMLGC/LGSP); Cheyenne Trujillo (NMLGC/LGSP); Vidal Gonzales (LGSP); Jacobo Baca (NMLGC/LGSP); Venessa Chavez (NMLGC/LGSP); Antonio Maestas (NMLGC/LGSP); Novela Salazar (NMAG - Treaty of Guadalupe Hidalgo Division); Lisa Morrison (BLM); Michele Jácquez-Ortiz (Office of Sen. Tom Udall); Michele Kavanaugh (Office of Sen. Tom Udall); LM Garcia y Griego (LGSP); NM State Representative Christine Trujillo (State Rep. Dist. 25); Moises Gonzales (Cañón de Carnué LG)

3. Approval of Agenda

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

4. Approval of Meeting Minutes from Regular Council Meeting of August 16, 2019

Councilor Leonard Martínez made a motion to approve the meeting minutes of the August 16, 2019 Council meeting; Councilor Skartwed seconded the motion. The motion was approved unanimously.

5. Discussion and Possible Action on Appointment of Chair and Vice-Chair

Councilor Steve Polaco made a motion to re-appoint Juan Sánchez as Chair of the New Mexico Land Grant Council; Councilor Martínez seconded the motion. The motion passed unanimously.

Councilor Martínez made a motion to appoint Councilor Skartwed as Vice-Chair; Councilor Polaco seconded the motion. The motion passed unanimously.

6. Discussion and Possible Action on BLM Update

Lisa Morrison (BLM) reported that she discussed with Arturo Archuleta (NMLGC) the NMLGC's procurement of patents for all active or recently active land grants. Unlike other patents, land grant patents are difficult to find online and there will be a digital duplication and research cost associated with obtaining digital copies of these patents. Carlos Martínez is the contact person

for these archives and copies that the BLM does not have may be at the New Mexico State Records Center and Archives. Ms. Morrison reported that the Farmington RMP is in process and that she is awaiting dates from Councilor Martínez to meet with the San Joaquín del Río de Chama Grant to discuss. The BLM is hoping to get a draft of Farmington RMP out by end of the year. The Carlsbad RMP is top priority because of energy development and will be completed by the end of the year. The Rio Puerco RMP will be released in the spring of 2020; there will be a 30-day review and protest period followed by a 60-day consistency check from State of New Mexico. The Rio Grande del Norte plan is not a priority. Plans for all field offices are important for approving projects and determining areas open or closed for development. They can be amended and last 10-20 years. The BLM is still working with State Land Commissioner Stephanie Garcia Richards on the land exchange. One goal is fixing the checkerboarding of BLM and State Land Office managed lands in the Rio Grande del Norte and the Organ Mountains. The Dingle Act (a public lands package) identified this as important and identified 13 new wilderness areas; ten in the Organ Mountains and two in the Río Grande del Norte.

Councilor Martínez discussed developing solar energy farms on 20 acres behind the San Joaquín del Río de Chama sala in partnership with the Jemez Valley Cooperative and the BLM. He added that in the last year, state trust properties in the San Joaquín del Río de Chama area have been closed up making BLM and State access more difficult. Ms. Morrison encouraged Councilor Martínez to bring up energy development ideas with the managers of the Jemez Coop and the BLM. Former Commissioner of Public Lands Aubrey Dunn wanted to generate funding through the state land exchange by closing state trust lands and requiring permit. Ms. Morrison asked that Councilor Martínez send land descriptions and/or a map and she will forward it to the state office. Mr. Archuleta added that it seems that everything is back on the table and asked if all previously identified areas are still part of the in exchange. Ms. Morrison responded that from the BLM perspective, the lands are the same but that state lands are different. Mr. Archuleta added that both the Juan Bautista Baldes Land Grant and the NMLGC signed on as cooperative agencies and the Grant is interested in potential land exchange in the area to help local use. He asked Ms. Morrison if any tracts that the Grant is interested in are in play; Ms. Morrison asked Mr. Archuleta to send her the locations of these lands. Chairman Sánchez asked if exchange maps created have been created and Ms. Morrison replied that they were in process.

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

Federal

Mr. Archuleta reported that Congresswoman Deb Haaland toured East Mountain land grants, including Manzano, Taji que and Chililí, on August 28th. The Council asked for her support on HR 3682 and she stated that it would go on her subcommittee (Public Lands) and not the Waters and Oceans Subcommittee as reported. On September 3, the Council and New Mexico Land Grant-Merced Consejo participated in a celebration of the Farm Bill and the signing of the acequia guidance document. (Mr. Archuleta served as co-MC with Paula Garcia of the New Mexico Acequia Association and Andrea Padilla gave remarks on behalf of the Consejo). Senator Tom Udall and Congressman Ben Ray Luján attended and gave remarks, as did Victor Reyes on behalf of Governor Michelle Luján Grisham. The NMAA coordinated the event and the NM Land Grant Consejo and East Rio Arriba County SWCD contributed funds. Thank you to Michele Jácquez-Ortiz (Office of Senator Tom Udall), who did an awesome job coordinating with Eric Chávez of Congressman Ben Ray Luján's office. Ms. Jácquez-Ortiz stated that Senator Udall was

very grateful for the beautiful celebration and thanked the Council for the kudos. Mr. Archuleta reported that he spoke with Congressman Luján about HR 3682, who is confident that they can get it through house and encouraged land grants to work on the Senate side. Mr. Archuleta also spoke with Levi Patterson of Congressman Luján's DC office and will follow up with Ken Rooney of Senator Udall's DC office. If a hearing is scheduled, the Council (staff /councilors) may need to travel in support of bill. Councilor Polaco asked if the traditional use bill will it apply to only federal lands or to state lands and private lands; Mr. Archuleta replied that it does not apply to state and private lands and pertains to public lands. In the case of the Tierra Amarilla Land Grant, it should apply to former common land on the Colorado side, within the Rio Grande National Forest that are not within the wilderness. There are 45,000 acres of NM Department of Game and Fish lands within the former commons of the Tierra Amarilla Land Grant. Discussions have not included trust lands, only general public lands. Some believe that the process should be slowed to ensure that the bill does not put land grant and acequia communities ahead of Native American communities and land grant communities do not want the issue to be a divisive one.

State

The Interim Land Grant meeting will be held in Taos at the Talpa Community Center on September 16, followed by a tour on September 17th of the Sangre de Cristo Land Grant in San Luis, Colorado. The Cristobal de la Serna and Santa Bárbara Land Grants will provide updates, as will the New Mexico Attorney General's office Treaty of Guadalupe Hidalgo Division and Shirley Romero Otero of San Luis, Colorado's Land Rights Council. Mr. Archuleta reported that he will present on guaranteed revenue streams. HB 36, introduced in the 2019 session, was drafted by LCS staff and was limited to the purchase of office equipment and services. Council staff met with LCS staff during the session to amend HB 36 and the bill in the packet is the resultant bill with the Fiscal Impact Report. Under the bill, the Treaty Division would certify which grants are operating as political subdivisions of the State of New Mexico.

All timing happens in July and unawarded monies revert. The Fiscal Impact Report (FIR) is in the packet and is comprised of different agency's FIRs. It includes a miscalculation of 700 potential grants. Questions remain as to who would certify grants, the NMLGC or the Treaty Division, as well as who will distribute funding and monitor land grants spending of their award. Councilor Martínez commented that the NMLGC should monitor and require monthly reports to ensure monies are spent wisely. Councilor Skartwed added that the Council could prioritize, perhaps by how long grants have been political subdivisions and how they have spent monies from the Land Grant Support Fund or capital outlay monies in the past, as well as if they are current on audit requirements. This could create criteria that are measurable. Novela Salazar (NMAG Office – Treaty Division) commented that she is concerned that the Treaty Division would not be able to certify land grants as political subdivisions without partnering with the NMLGC, which manages this information in the New Mexico Land Grant Registry. Mr. Archuleta replied that language could be added stating that the NMLGC will assist the Treaty Division. He added that the regulatory work of the Council will increase and that it can create a checklist of certification for criteria. The NMLGC will create the process but needs someone to provide this oversight on the NMLGC staff and will need this in the budget. JS – LGs can pay portion of their award to council to pay for this

LM García y Griego (UNM LGSP) commented that Treaty Division can play an important role in helping to preserve the relationship between the NMLGC and land grants. Certification criteria should include the registry, elections, bylaws and board of trustees. Mr. Archuleta commented that in previous versions of bill, the questions of land grants being considered a “legislative creature” arose as LCS stated that special legislation cannot be created. Changing this would require revisiting both chapter 49.1 and 49.2, New Mexico Statutes and this could serve as a vetting process to demonstrate community will for land grants wishing to organize. The Interim Committee will endorse legislation at its November 2019 meeting.

The UNM Natural Resources Law Clinic is also drafting a bill regarding the commissioning of natural resource officers. The NMAG’s office discussed this with local sheriffs. Land grants want these officers patrol their lands and are not asking for general policing authority. The draft in the packet is for input from the NMLGC and Consejo. The UNM Clinic will revise the draft and present in the October/November ILGC meeting, potentially for endorsement. This would amend 49.1 to include these powers and change the text to read “regulations” rather than “bylaws.” Councilor Martínez added that the Abiquiú Grant has discussed the wood poaching situation on the grant with the Río Arriba County undersheriff, who would be willing to patrol the grant under a joint powers agreement provided the grant fund the deputy. Councilor Polaco commented that there is a potential for volunteer patrol for theft and poaching at Laguna del Campo by a retired cop.

8. Discussion and Possible Action on US Forest Service Update

Mr. Archuleta reported that the Forest Service is wrapping up NEPA process on the Piedra Lumbre Visitors Center (PLVC). Representatives of the San Joaquín del Río de Chama, Tierra Amarilla, and Juan Bautista Baldes grant will meet later in the fall to work on a joint ownership agreement, with assistance from the Council and NM Legal Aid and the UNM Law School. Representatives of the grants will meet privately in anticipation of a later meeting with the Forest Service. Council staff also met with John Hall (his father was a past director of Ghost Ranch) and he is interested in supporting land grants in this process. The mediation agreement discussed at the August NMLGC meeting has been revised into a “statement of cooperation” for the Council’s consideration. The MOU between the NMLGC and the three northern forests (Cíbola, Carson and Santa Fe) is held up. With Council approval, the NMLGC will provide in-kind contributions through staff costs. The three forests will renew their MOU (\$8,800 for LGs to host at least meetings) with the MLECT for 2 years. The NMLGC has been heavily involved in forest plan meetings with the three northern forests.

On October 10, 2019, the NMLGC will host with the forest planners and forest supervisors of the Carson, Cíbola and Santa Fe National Forests a meeting with land grants regarding the forest plan. Land grants need to submit comments that reflect their interests in the management of these forests. Forest Service planners must respond to comments or how the plan meets the desired outcome of the comments. The public can object and objections, go to Region 3 to change the plans as necessary. Commenting also gives grants standing to object after plans are adopted. Councilor Polaco asked about Tierra Amarilla Lands in the Rio Grande National Forest in Colorado. Mr. Archuleta responded that the NMLGC can suggest language from the New Mexico forest plans if we know the timelines for the Rio Grande Forest’s plan adoption.

Councilor Skartwed asked if the NMLGC has submitted comments; Mr. Archuleta responded that the NMLGC has submitted comments on previous drafts and will submit to this draft as well.

Councilor Martínez asked which agency issues permits and how many are issued for rafting from El Vado through Rio Chama, maybe to the big eddy, the Forest Service or BLM; Ms. Morrison (BLM) responded that she believe it was BLM but would check. He added that the PLVC needs cleaning and continued that the San Joaquín del Río de Chama Grant submitted a letter regarding the agreement they had regarding the surveying of the cemetery, which included the survey of the complete 1,422 acre Cañón. Mr. Baca responded that the packet included 2 letters for the Chair's signature, one regarding the condition of the PLVC and the other the Cañón survey.

Councilor Skartwed made a motion to approve the letter to the Santa Fe National Forest regarding the survey of the Cañón de Chama; Councilor Padilla seconded the motion. The motion passed unanimously.

Councilor Skartwed made a motion to approve the letter to the Carson National Forest regarding the condition of the Piedra Lumbre Visitors Center; Councilor Polaco seconded the motion. The motion passed unanimously.

9. Discussion and Possible Action on Town of Tomé LG

In the packet is a draft letter to the Valley Improvement Association regarding the Council's desire that the VIA work with the Town of Tomé Land Grant to restore their common lands. Councilor Polaco made a motion to approve the letter to the VIA from the Council; Councilor Skartwed seconded the motion. The motion passed unanimously.

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

Mr. Archuleta reported regarding the Cristóbal de la Serna Land Grant's capital outlay request and award. The NMLGC is listed as fiscal agent on a grant agreement that went to Cristóbal de la Serna Grant. On September 25, the Council and the Grant representatives will meet with DFA to discuss the Cristóbal de la Serna and the PLVC. On September 23, Council staff will meet with the Town of Tomé Land Grant and the Taxation and Revenue Department. Rep Christine Trujillo commented that she sponsored the request for Cristóbal de la Serna and asked that she be updated as to the results of the DFA meeting. Mr. Archuleta provided background, clarifying DFA's notion of the eligibility of Cristóbal de la Serna was from bad case law and the NMLGC wants to ensure that monies they receive are not in jeopardy

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

Mr. Archuleta stated that the Laguna del Campo transfer is still moving forward. He attended meeting on Monday (Sept. 9) with NM Game and Fish and the Tierra Amarilla Grant regarding water rights questions and the La Puente ditch. Permits held by NM Game and Fish were co-mingled (1 storage, 1 irrigation), even though one called for the water to be returned and the other stated that water be returned "undiminished." The water rights were adjudicated with the Office of the State Engineer (OSE) confusing the 2 permits. The Grant will need NM Game and Fish to ask OSE to fix the issue.

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

Novela Salazar (Office of the NMAG – Treaty of Guadalupe Hidalgo Division) reported that she is working Cheyenne Trujillo and Malaquias Rael to partner with the New Mexico State Auditor to help aid political subdivisions with audits. Cheyenne Trujillo (intern for the NMAG’s Treaty Division) stated that she is working with auditor’s office to see strategy for notice and figure out why compliance is hard for political subdivisions like land grants. Mr. Archuleta asked that the Council be included in conversations and offered the Council’s assistance. Ms. Salazar responded that she would be sure to involve the NMLGS. Councilor Padilla commented that training for land grant treasurers would be great and Mr. Archuleta added that workshops would be ideal. Ms. Salazar reported that she will present at the Interim Committee meeting in Taos on the Cristobal de la Serna situation after the Grant and the county present. At present, the best solution appears to be the re-purchase of lands.

Mr. Archuleta asked for guidance from the Treaty Division on questions regarding scholarships to land grant heirs and land grant memberships as partible assets (able to be inherited and/or bequeathed). Much of this issue comes down to the definition of an heir. Moises Gonzales (Cañón de Carnué LG) stated that their grant reviewed lists of ancestors that resided on the grant between 1900-1940 to help determine who were heirs of the grant. Councilor Skartwed stated that the San Antonio de las Huertas grant did a two-year Ancestry.com research project, opened up their limited membership, and found that people that came in through repurchase could usually tie to original recipients of grant. Councilor Martínez commented about the complexities of deaths, divorce, separations and Mr. Baca cautioned that there is the potential for abuse. Mr. Gonzales added that kinship and adoption are an important part of our history.

Councilor Martínez made a motion to ask that the Treaty of Guadalupe Hidalgo Division provide the NMLGC guidance regarding scholarships and the anti-donation clause, including the provision of best practices; Councilor Skartwed seconded the motion. The motion passed unanimously.

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

David Benavides (NM Legal Aid) called in via telephone. Mr. Benavides thanked the Council for the increase in the Legal Aid contract from \$30,000 to \$40,000, but cautioned the Council from approving more legal service requests because the work load is simply too large. Since April 2014 he has been on contract but now feels overwhelmed where he cannot prepare adequately because of too many emergencies. As Council staff fields and the Council approves more requests and more work results in litigation, all of the work becomes increasingly time consuming. In litigation, one loses control over how much time is expended and how drawn out process is, especially since NMLA is not a law firm with multiple attorneys. Mr. Benavides commented that he regularly puts considerable hours in excess of the contract. He commented that the work is important, but he needs to scale back for 2 months to catch up, though he cannot scale back totally as he is the lead atty for 4 litigations, co-council for 2 litigations; and council for 2 non-litigations. Mr. Archuleta commented that the legal work is the result of activity of land grants; Councilor Martínez added that this points to the success that land grants have had especially recently. SB 223, providing legal services for land grants, acequias and colonias through assistance to law students and recent law school graduates, will aid this situation, but this illustrates the needs for the NMLGC to have a staff attorney.

14. Discussion and Possible Action Council FY 2020 and FY 2021 Budgets

FY 2020

Mr. Archuleta presented an update (in packet) on the FY 2020 budget. \$19,579.88 has been expended to date, leaving a balance of \$277,320.12.

FY 2021

Mr. Archuleta presented a draft FY 2021 budget (in packet). The LGSF is raised to \$30,000 in this budget scenario, which also provides an insurance assistance fund (\$20,000), conservation funds for youth programs (\$20,000), which could be used in partnership with Ancestral Lands. This budget will be submitted to DFA and the LFC analyst with a narrative.

Councilor Skartwed made a motion to approve the FY 2021 budget as presented; Councilor Padilla seconded the motion. The motion passed unanimously.

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

Mr. Archuleta presented Pay Request #1 was presented for \$18,134.16. There remains a balance of \$197,811.84. The billing narrative is in the packet. Councilor Martínez made a motion to approve Pay Request #1; Councilor Skartwed seconded the motion. The motion passed unanimously.

16. Discussion and Possible Action on Land Grant Support Fund

The budget for the LGSF is \$16,000 for FY 2020. Councilor Martínez made a motion that the deadline for this year is Oct. 31st, 2019 and to amend language in Section 4, #9 of LGSF guidelines regarding archeological and cultural reviews, assessments, testing, excavation, and clearances; Councilor Padilla seconded the motion. The motion passed unanimously. Requests will be approved at the November meeting.

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

Mr. Archuleta reported on a conversation with Debbie Romero, Deputy Secretary at DFA regarding the Council. Right now, the NMLGC pays admin fees to 2 agencies (DFA and UNM). DFA representatives recommended that the NMLGC move its entire budget to UNM as either a RPSP or a service agreement, like the Sentencing Commission.

18. Discussion and Possible Action on Land Grant Registry

Mr. Baca reported that attorney Michael Cadigan requested materials regarding the Cañón de Carnué Land Grant, which were delivered.

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

Venessa Chávez (UNM LGSP) 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.

20. Discussion and Possible Action on Correspondence Received by Council

None.

21. Discussion and Possible Action on Staff Assignments

Councilor Martínez has requested that NMLGC staff review San Joaquín del Río de Chama Grant bylaws. Mr. Baca reported that the Cañón de Carnué Land Grant has discussed the need for assistance with their audit reporting. Council staff will also need to order name plates and business cards from New Mexico Prison Industries for the newly seated Council.

Councilor Skartwed made a motion to approve the above-mentioned staff assignments; Councilor Padilla seconded the motion. The motion passed unanimously.

22. Discussion and Possible Action on Regular Meeting Day, Time and Location

Councilor Polaco requested the Council not meet on Fridays and asked for Wednesday afternoons; Councilor Skartwed stated that she works on Mondays and Wednesdays; Councilor Padilla stated that she works at the Town of Tomé Land Grant office on Wednesdays. The Council agreed that the third Tuesday of each month at 11:00am will be the regular meeting day.

23. Public Comments – discussion only

None.

24. Miscellaneous Announcements

The New Mexico Land Grant-Merced Consejo will meet on September 14, 2019 in San Miguel del Bado.

25. Date and Location for October 2019 Council Meeting

The next Council meeting will be held on October 15, 2019 at 11:00am in Albuquerque, NM (UNM STC).

26. Adjournment

Councilor Padilla made a motion to adjourn; Councilor Skartwed seconded the motion. The meeting adjourned at 2:36pm.

Approved:

Chair

Date