

New Mexico Land Grant Council (NMLGC)
January 16, 2020 – 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 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); Vidal Gonzales (NMLGC/LGSP); LM Garcia y Griego (NMLGC/LGSP); Patricia Domínguez (Office of Senator Martin Heinrich); Michelle Kavanaugh (Office of Senator Tom Udall); Sofia Sánchez (Office of Congresswoman Deb Haaland).

3. Approval of Agenda

Councilor Steve Polaco 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 December 19, 2019

Michelle Kavanaugh (Office of Senator Tom Udall) noted she was left off the list of attendees at the December 19, 2019 Council meeting, in error. Mr. Jacobo Baca (NMLGC/LGSP) noted the mistake and corrected the minutes.

Councilor Andrea Padilla made a motion to approve the meeting minutes of the December 19, 2019 Council meeting, as amended; Councilor Polaco seconded the motion. The motion was approved unanimously.

5. Discussion and Possible Action on BLM Update

Councilor Leonard Martínez reported that he met with new Farmington District Manager, Al Elser. The San Joaquín del Río de Chama Land Grant has concern over oil and natural gas extraction on the former common land. He recommends that the grant approach the congressional delegation to create a federal revenue stream for the Grant. He also discussed the benefits of the CFRP program and the concerns with drilling near Chaco and trailhead access in the area. He added that the Farmington-Mancos RAC team will be seated by June 2020 but its composition is unknown. Patricia Domínguez (Office of Senator Martin Heinrich) stated that one RAC has enough members for a quorum and that both the BLM and FS can use this RAC, even for areas outside of the RAC's area.

6. Discussion and Possible Action on Federal and State Legislative Updates

Federal

Mr. Archuleta reported that the amendment for the removal of the Buffalo Tract from mining is in the packet. Ms. Domínguez reported that it will be in committee soon and is finally getting traction after much discussion. Michelle Kavanaugh (Office of Senator Tom Udall) commented that the impeachment proceedings will delay progress. Mr. Archuleta reported that the Traditional Use Rights bill (H.R. 3682) may have a hearing by a subcommittee of the House Committee on Natural Resources in March or April. Mr. Archuleta and Ms. Domínguez discussed the possibility of having a congressional quarterly teleconference on February 20, 2020 before the Council meeting, presuming that the Council meets that day.

Councilor Steve Polaco asked if trust lands were included in the legislation, as the Tierra Amarilla Land Grant has significant former common lands that are not part of the Jicarilla Apache reservation. Mr. Archuleta responded that Jicarilla trust lands were established in the 1880s when the federal government resettled the tribe in the area, moving them from their northeast New Mexico homeland. Trust lands may be a sticking point in discussions with the Department of the Interior and the Department of Agriculture. Councilor Polaco stated that Acequias Norteñas won a lawsuit with the Jicarilla Apache in 1996. There should be a process for the dispute of native and land grant claims and we should know if there is a difference in trust lands and reservation lands. Mr. Archuleta commented that this might be more of an issue to be taken up by a land grant commission bill. In the case of Tierra Amarilla and the Jicarilla, the issue was directly created by the actions of the federal government when they relocated the Jicarilla to the area and the past president of the Jicarilla acknowledged the overlapping claims. The traditional use rights bill, on the other hand, aligns directly with multiple use mission of the U.S. Forest Service.

State

In the meeting packet are three pre-filed bills. HB 111, creating the land grant-merced assistance fund, would create guaranteed revenue streams for land grants through a fund at the treasury. Land grants that are political subdivisions of the State would be certified by the State Auditor's office. DFA would do distributions by drawing upon a warrant and create a distribution process for qualifying land grants-mercedes. The idea for the bill is that it would help land grants-mercedes get on their financial feet. HB 121, land grant mercedes as autonomous, would recognize sub grants as political subdivisions of the State. Mr. Archuleta reported that he met with Rep. Miguel García, Rep. Tomás Salazar, Victor Reyes of Governor Michelle Luján Grisham's office and people opposed to the legislation from the Las Vegas, Mora, San Miguel del Bado and Anton Chico Grants in December. The meeting was very tense but they discussed the Las Vegas Land Grant organizing under Chapter 49.1, becoming a political subdivision and moving out from under the Fourth Judicial District Court. The bill is unlikely to move in this legislature.

SB 79, sponsored by Senator Liz Stefanics, requests \$250,000 to assist land grants and acequias with audits. Currently a \$14,000 fund is available to assist applying land grants, acequias and mutual domestics. SB 55, sponsored by Senator Sander Rue, creates an appropriation to the Department of Finance and Administration to create a surveyor and attorney position at the Council via \$1,000,000 for 5 years. SB 102, sponsored by Senator Steven Neville, creates the

Agriculture and Natural Resources Trust, a state program similar to the EQIP program administered by the Natural Resources Conservation Service. Page 9, Section 8 allows grants from the trust to government agencies, but it is unclear if land grants and acequias can apply. A board of directors is created with representation from nine watersheds. Councilor Polaco asked if funding could be used for acequias construction projects and Councilor Padilla asked if the Town of Tomé Grant could use monies from the trust if they get access to the bosque; Mr. Archuleta responded that page four discusses projects is not explicit and that there are other opportunities with the water trust board. Chairman Sánchez added that the success of the bill may depend who is the head of the Judiciary Committee is.

Chairman Sánchez asked what happened with the natural resources officer bill; Mr. Archuleta responded he spoke to Mark Edwards of LCS and that the bill needs to have a message from the Governor, which won't likely happen. Mr. Edwards needs to redraft the bill and said that he would re-work the bill. The Chairman stated that the Council needs to track its budget through the session. Mr. Archuleta responded that an increase is in the Governor's budget recommendation. The Council's budget is within the larger DFA budget. Mr. Archuleta added that Representative Miguel García has three seats with him on the floor of the House Chamber available for the opening day of the New Mexico Legislative Session and asked Councilors to let him know if they are interested.

7. Discussion and Possible Action on U.S. Forest Service Update

Mr. Arturo Archuleta (NMLGC staff) commented that the Council's letter of support for the CFRP program is included in the meeting packet. Councilor Martínez added that the CLFRP program differs from the CFRP program because it is not specific to New Mexico anymore and our communities need to complete with all other states for funding. Ms. Domínguez added that the New Mexico Congressional Delegation is still trying to get CFLRP board seated, which is hard to equally seat with nationwide members. The packet includes a news release from the Santa Fe National Forest about the seasonal road closure on the Abiquiú Land Grant, which is done after years of negotiation. Also in the packet is a letter regarding the CFRP program from the San Joaquín del Río de Chama Land Grant. There is nothing to report on forest plan revision. Ms. Kavanaugh passed out a press release about changed administrative guidelines regarding NEPA. Changes include notification of environmental issues regarding mining. Councilor Padilla commented that this is bad for local communities adjacent to projects. Ms. Domínguez added that local enforcement is important and municipalities and county governments need to get their environmental ordinances in order to protect against these administrative changes. Santa Fe County has passed an ordinance and San Miguel County is working on one. The 1872 Mining Act has few restrictions. Ms. Domínguez also reported that the USFS has issued the same biological opinion regarding the Mexican Spotted Owl for all three northern forests. The issue remains in court and no ruling has been issued; if court finds in favor of Forest Service, the Wild Earth Guardians will likely file a lawsuit against the new opinion.

8. Discussion and Possible Action on Professional Surveyor Services Contract

Mr. Archuleta discussed the hourly rate with contracted surveyor Chris Chávez. In the future, in draft contract at UNM, the parameters in each project need to be considered, including the hourly rate both considered and stated. Jacqueline Alderete Ochoa is working on the contract. In the meantime, Mr. Chávez has become a vendor in the UNM system. The Council might consider

what work he can do immediately as contract might be in place before next meeting. Cristóbal de la Serna's issue with the lineas might be one such issue, even though courts stated they were a private grant. We are still awaiting the opinion of the New Mexico Attorney General's Treaty Division. Members have expressed interest in donating some lineas to the grant. They may request legal assistance to complete title work to complete the donation. Staff will put out notice to land grant boards to allow them to request surveying services that the Council can approve at the next meeting. Councilor Martínez commented that if monies come through from Senate Bill 55, we will need to work out kinks. He added that the San Joaquín Grant has survey work they need done and the Juan Bautista Baldes needs to see if they have tracts whose boundaries need to be determined. Councilor Correa Skartwed commented that land grants need to certify compliance to receive services, including asking for documentation in order to request assistance. Councilor Martínez agreed, stating the process should be similar to the legal service requests and the Land Grant Support Fund. Mr. Archuleta added that Council staff are creating a list of land grants that are up to date on all reporting.

Regarding Cristóbal de la Serna, all cases were prior to 2004, when land grants were recognized as political subdivisions of the state. Confusion arose in the 2019 session when LCS staff consulted retired Judge Peggy Nelson about the Grant's status. She maintained that they are a private grant and not a community grant. Cristóbal de la Serna received the grant in 1715 but his heirs sold it to Diego Romero and his extended family by the 1730s. There were 300 families and more than 1,000 people at time of adjudication, when it was confirmed as private. By the 1970s, quiet title suits on tax deeds conveyed title and judges ruled that they were not a community grant. In a lawsuit, early pleadings argued they are an Chapter 49, Article 1 grant, but their attorney subsequently argued that they were an Article 2 grant as he believed they were more likely to win their case with this argument. They lost in district court and did not appeal only because they ran out of money to appeal the ruling.

9. Discussion and Possible Action on Acequia Commission

Mr. Archuleta reported that we have not heard back and do not know if DFA will reimburse for travel to the Acequias meeting.

10. Discussion and Possible Action on Town of Tome update

Mr. Archuleta reported that TRD stated that they will have a preliminary injunction hearing on January 29th (1:30-3:30) in Valencia county with Judge Cindy Mercer in courtroom 201 regarding the permanent injunction filed against having the sale. Councilor Padilla commented that Town of Tomé LG will send a representative and that the Grant had a meeting with Harvey Yates of Cíbola Land Development Corporation and Paul Baca of VIA, which filed liens on all properties that the Grant wanted to buy. Mr. Archuleta added that attended the meeting with the Grant and Yates and Baca. Ms. Padilla stated that the Tomé LG will meet and have a dialogue with the New Mexico Taxation and Revenue Department to ensure that they understand the Grant's priorities. Councilor Martínez commented that Valencia County is still having with unpaid taxes and properties are still unsold are still dead weight impacting their bonding ability. Mr. Archuleta added that the Cíbola Land Development Corporation is purchasing some parcels and want to be able to purchase more but does not want to deal with the fees.

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

Mr. Archuleta and Councilor Polaco (Tierra Amarilla LG) discussed capital improvements at Laguna del Campo and the need for the transfer to take place; both committed to keep the Council updated on developments. Jeremy Vesbach of the New Mexico State Game Commission will meet with Governor Michelle Luján Grisham's chief of staff, John Bingaman, regarding the rule allowing private property owners to close access to public waters and will use information from the Council's letter to the Game Commission to discuss the issue. Five properties were certified under the former rule and one property owner in Tierra Amarilla is putting pressure on the Governor to keep the rule in place. All five are owned by out of state owners, mostly from Texas and four are properties to the owners residence. Commissioner Vesbach is very concerned that the traditional way of life of northern New Mexico is being impacted. The Council is in support of the repeal of the law and might discuss with issue with Senator Richard Martínez. Councilor Polaco commented that the youth in Tierra Amarilla are concerned about fishing access.

12. Discussion and Possible Action on Piedra Lumbre Visitors Center Update

The USFS had sent the intent to purchase agreement which is not binding and is more of a process document. All land grants in the purchase agreement (San Joaquín del Río de Chama, Juan Bautista Baldes, Tierra Amarilla) have it on their next meeting's agenda and the Council assisted drafting resolutions for all three grants. The UNM Law Clinic is reviewing the resolutions and agreement and will meet today at 3:00pm to discuss. The three grants will move to purchase and NEPAs will need to be completed. The grants agree that the San Joaquín del Río de Chama will serve as the fiscal agent. The UNM Law School also stated that it would not review any ownership and operating agreements as these were beyond their scope. This points to the needs for land grants to have access to an attorney and the needs for monies supporting the community attorney support act to go through.

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

The NMAG's office sent out a press release on private owners and public access. Tanya Maestas wants to meet regarding the public access to public waters bill.

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

Mr. Archuleta reported that \$250,000 from the community attorney act needs to be spent. All of it will go through HED through an MOU with DFA. HED will procure legal services options. Students can work with a law firm through a fellowship and an RFQ or RFP will be issued to service providers, like New Mexico Legal Aid and the New Mexico Acequia Association, that can apply. The HED attorney has not yet issued RFP. The Cristóbal de la Serna Grant has requested assistance in putting deeds together; Mr. Archuleta stated that the Council and its staff might be able to assist and may offer proper title work. The NMAG's office recommends heirs donate monies to purchase common lands.

15. Discussion and Possible Action on Council 2020 Budget

FY 2020

Travel is slight under for mid-year, at 43.9 percent. UNM contract (salary and fringe) is also low, at 33.6%. They need to do adjustments as students were charged fully in LGSP. The out of state budget has been unspent thus far. The surveyor contract will be expended. \$700 of the copy

costs budget of \$1,900 has been spent. Supplies, including nameplates, are on order. Prison industries and the UNM bureaucracy are slow. Mr. Archuleta provided an update on council member travel (in packet). The Council will publish the new lawbook, with new election rules, soon and the New Mexico Community Land Grant Guidebook later, maybe even next year.

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

Mr. Archuleta presented Pay Request #5 for \$11,437.23, leaving a balance of \$154,046.11 on the Council contract, with billing narrative.

Councilor Martínez made a motion to approve Pay Request #5; Councilor Padilla seconded the motion; the motion passed unanimously.

17. Discussion and Possible Action on Land Grant Support Fund

Grant agreements have been signed and sent to DFA. Venessa Chávez (NMLGC/LGSP) compiled the agreements and obtained signatures.

18. Discussion and Possible Action on Land Grant Registry

Jacobo Baca (NMLGC/LGSP) reported that the Juan Bautista Baldes Land Grant has submitted its bylaws to the Registry.

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

Mr. Archuleta and Vidal Gonzales (LGSP) added that the LGSP will work on the Archaeological Research Management System to assess location of land grant cemeteries on public lands. There may be a cost associated. Vidal Gonzales commented that adding cultural site will help land grants strengthen their claim. Cheyenne Trujillo (LGSP) shared a draft Treaty of Guadalupe Hidalgo Day program with the Council. Pins, featuring the Manzano Land Grant seal, have been ordered and catering will be from the Atrisco Café. Jacobo Baca reported that he and Ms. Chávez will continue working on curricula. LM García y Griego (Director, LGSP) presented regarding his research and provided a written report on research activities as director of the LGSP and PI of the NMLGC, which includes research on the surveyor general's papers at the National Archives in Washington DC. The report included an inventory with some analysis. It has been organized enough that it is ready for student to assess and send information to land grants. Also included is an annotated bibliography of Surveyor General materials with commentary, which will be expanded and deepened. In the field, he has also consulted materials at in Mexico City and Guadalajara. He has also located some Spanish and Mexican scholars work on indigenous rights and found that the way land grants were handled in New Mexico is more similar to how Spain held indigenous lands in Mexico. For instance, indigenous lands in the Recopilacion are treated similarly to New Mexico and very differently in larger property law. The collaboration between the LGSP and UNM Law School in a CLE (Continuing Legal Education) session will take place on March 13 and 14 and Dr. García will present some of his General Land Office research that day. This is important as 20 land grants were adjudicated in the 54 years of the US Surveyor General's office. Most problems in the Court of Private Land Claims came out of USSG's office, which is important in establishing how flawed the process was. Councilor Polaco asked as if any acequias were mentioned in research, as this information is important in establishing use. Drs. Baca and García y Griego discussed possibilities in the Spanish Archives of New Mexico 1 and 2. Councilor Martínez asked how this information will be most easily usable by land grants and Councilor

Correa-Skartwed thanks Dr. García y Griego for his research. Dr. Garcia y Griego commented that Cliff Villa of the UNM Law School accepted the position on the advisory board of the Council.

20. Discussion and Possible Action on Correspondence

(in packet) is a USDA news release and a quote from Flores video production.

21. Discussion and Possible Action on Staff Assignments

Orientation for new councilors will happen through either a more formal process (like an advertised workshop) or through informal discussion with councilors. Mr. Archuleta reported that Kristen Graham Chávez of the NRCS is not available to present until the March 2020 meeting, which will clarify guidance that NRCS is awaiting regarding land grant and acequia eligibility for programs. Chairman Sánchez suggested that land grants call their local NRCS office and get a farm number. Councilor Martínez added that the new BLM state director wants to present to the Council.

22. Public Comments – discussion only

Councilor Padilla announced that the Town of Tomé Grant is purchasing the old Tomé jail site. Mr. García y Griego stated that, regarding the Cristóbal de la Serna Grant, Rio Grande surveying did the surveys. He has tried to get a copy of the survey and cannot get copies from Taos County. Mr. Archuleta responded that representatives from the Grant wanted a letter from the New Mexico Attorney Generals office to Rio Grande Surveying regarding their surveys. Only by disputing their methodologies and determining needs to see if these elements exist and can you challenge their surveys.

23. Miscellaneous Announcements

None

24. Date and Location for February 2020 Council Meeting

The next Council meeting will be held on February 20, 2020 at 10:00am in Albuquerque, NM at the UNM Science and Technology TC).

25. Adjournment

Councilor Polaco made a motion to adjourn; Councilor Correa-Skartwed seconded the motion. The meeting adjourned at 1:05pm.

Approved:

 Chair

 Date