

New Mexico Land Grant Council (NMLGC)
November 12, 2020 – 10:00am
Virtual Meeting
Zoom ID: 953 8873 2007

Minutes – Final
Regular Council Meeting

1. Call to Order - Roll Call

Chairman Juan Sánchez called the meeting to order at 10:05am. Roll call of the Council members: Andrea Padilla, Leonard T. Martínez, Juan Sánchez and Steve Polaco; Rebecca Correa-Skartwed was absent.

2. Introduction of Guests

Juan Sánchez (NMLGC); Andrea Padilla (NMLGC); Steve Polaco (NMLGC); Leonard T. Martinez (NMLGC); Arturo Archuleta (NMLGC/LGSP); Jacobo Baca (NMLGC/LGSP); Venessa Chávez (NMLGC/LGSP); Eric Chávez (Office of Congressman Ben Ray Luján); Novela Salazar (Office of the New Mexico Attorney General); LM García y Griego (NMLGC/LGSP); Lisa Morrison (BLM); Patricia Domínguez (Office of Sen. Martin Heinrich); Elaine Kohrman (USFS – Region 3) Jennifer Wolfe (USFS); Tim Hagaman (New Mexico Economic Development Department); Eric Romero (NMHU); Robert Trujillo (USFS); Ian Fox (USFS).

3. Approval of Agenda

Councilor Steve Polaco made a motion to approve the agenda; Councilor Leonard Martínez seconded the motion.

Roll call vote:

Councilor Padilla - aye
Councilor Martínez– aye
Councilor Polaco - aye
Chairman Sánchez – aye

The motion was passed.

4. Approval of Meeting Minutes from Council Meeting of October 22, 2020

Councilor Andrea Padilla made a motion to approve the meeting minutes of the October 22, 2020 Council meeting; Councilor Polaco seconded the motion.

Roll call vote:

Councilor Padilla - aye
Councilor Martínez– aye
Councilor Polaco - aye
Chairman Sánchez – aye

The motion was passed.

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

State

Mr. Arturo Archuleta stated that the Interim Land Grant Committee will meet on Nov. 20 rather than Nov .23, where they will endorse legislation. The entire 2021 New Mexico legislative session

may be virtual. Capital outlay requests are now submitted fully online and requestors will not need a signature from local legislator; the system will automatically identify your legislator, but you will still need to contact your legislator to get their support. Requests are connected to the ICIP. There are reportedly \$300 million in severance tax bond monies that may be used to address infrastructure. We are unsure whether communities will be able to pursue capital outlay with these monies. In the past, the Interim Land Grant Committee has asked the NMLGC to present land grant capital outlay priorities but the Council has not been asked to do so this year.

Federal

The Congressional Budget Office created a cost estimate for H.R. 3682 (in packet). They determined the legislation has no fiscal impact. We will need new score for a newly introduced bill if it does not go through this congress. Representative Ben Ray Luján is still trying to get floor time for the bill. Eric Chavez stated that the CBO score only impacts discretionary spending and that Congressman Luján is now working with House leadership to get floor time. Without changes, reintroduction of the bill in the next Congress will be quicker. Mr. Chávez and Levi Patterson will be available for updates. Patricia Domínguez commented that the Pecos Watershed Protection bill has been proposed and is related to the Terrero Mine. The bill is a mineral withdrawal bill that seeks to address future proposals.

6. Discussion and Possible Action on BLM Updates

Lisa Morrison (BLM) stated that the BLM is looking for new members for the northern New Mexico and southern New Mexico Resource Advisory Councils and applications due tomorrow, Alison Sandoval, the RAC coordinator, can be contacted for specific questions. The BLM's online wood permit process is ongoing and it hopes to start Christmas tree process soon. Mr. Archuleta added that the meeting packet has a copy of the current membership of Northern New Mexico RAC. The BLM website stated that there are 3 positions open; Ms. Morrison stated that there were 4, one in the category for permittees; two for environmental groups and one for local officials. Mr. Archuleta commented that the current membership does not reflect the wider qualifications or interests in each category and recreation is over-represented. Category 1 and 2 are not diverse; Category 3 is better and the RAC is not ethno-racially diverse nor representative of New Mexico. He asked if there be an attempt to balance this. Councilor Martínez went through a long process for a 3-month appointment. The Council could ask for one of the staff to apply to serve on the RAC, which would fall into Category 3, which calls for state agencies responsible for managing land and water. The NMLGC does not directly manage land and water but advises land grants that do so.

7. Discussion and Possible Action on U.S. Forest Service Update – Including Master Stewardship Agreement

Jennifer Wolfe (USFS) and Elaine Kohrman (USFS) provided an update on the settlement and end of the Mexican Spotted Owl injunction. Ms. Kohrman stated that the agreement has been reached on MSO injunction and that the USFS worked with Wild Earth Guardians to address their concerns. The USFS readdressed the 2012 MSO recovery plan and has done monitoring of MSO population, which was not apparent to WEG. The Conservation for Biological Diversity is involved as well. The 6 items in the agreement are: 1) a 5-year agreement to monitor long term trends (will cost \$1.5 million); 2) on the ground monitoring to detect MSO presence prior to a project; 3) USFS will examine impacts of fire activity, to ascertain effects of mechanical habitat treatments; 4) USFS will track long term trends in pack and recovery habitat and bring in experts in owl habitat; 5) USFS will engage the public in dialogue with foresters, NM Game and Fish directors, Conservation for

Biological Diversity, etc, to hold everyone accountable and avoid future lawsuits; and 6) ecological management work teams are identified and large landscape areas around MSO habitat have been divided by EMU (ecological management units). The USFS is working with U.S. Fish and Wildlife, which is taking the lead on this item. Some aspects of the agreement are coming together by December 2020, including a habitat map. Robert Trujillo (USFS) commented that habitat trend monitoring is important and the USFS has data from 1986-present. This allows the USFS to identify habitat and allows for continued management of the forests.

Mr. Archuleta asked how this might impact community fuelwood projects and what is considered critical MSO habitat. Mr. Trujillo responded that the USFS has already been monitoring and that identifying habitat, even non-critical habitat, does not affect all fuelwood projects, including dead and down. Ms. Kohrman added that the USFS has two years to find the impact of fuelwood on habitat and believes that this won't be an issue as WEG dropped fuelwood from injunction over a year ago. Mr. Archuleta asked if green fuelwood or wood for vigas and latillas will be an issue. Ian Fox (USFS) stated that personal use products that are gathered under a permit are largely dispersed and in designated areas and are unlikely to be an issue. When the USFS identified an area needing restoration, it will use personal use permits to remove excess fuels to meet land management objectives. These areas are identified through NEPA decisions, so NEPA has been accomplished. For other dispersed projects, the USFS can use categorical exclusions and in dispersed areas, which is a small portion of owl habitat, will be mapped by 2022, and areas where the owl can roost will be identified.

Mr. Archuleta commented that the goals for land grants are designated, long term fuelwood areas. 300-acre categorical exclusions have been mentioned as a tool. In Peñasco, the Santa Bárbara and Las Trampas Land Grants have been in conversation for five years and applied for a CFRP. The smaller and localized NEPA then turned into landscape scale NEPA, the proposed project was delayed, and the land grant to the state and the State Land Office stepped up with a project in the area. The fear is that studies will pause opportunities and the Council wants to ensure opportunities remain during these study phases. A 300-acre project can meet communities needs for 2-4 years and has worked well Chililí. Ms. Kohrman mentioned that she will follow up with the Carson and see the status of the NEPA in question. Councilor Martinez commented that the San Joaquín del Río de Chama Land Grant received documents requested through a FOIA regarding the USFS acquisition of the Cañón de Chama and is reviewing the documents as a board. They will have a response within 90 days and will consult with NMLGC staff as well. Ms. Kohrman encouraged him to reach out to Ms. Wolfe with any questions.

Chairman asked how Cal Joyner is doing. Ms. Kohrman responded that he is doing well, recovering from cancer and treatment and is enjoying retirement, golfing and taking care of family. Mr. Archuleta commented that he and Jacobo Baca participated in a Santa Fe National Forest meeting regarding the forest plan, discussing comments and plan changes. James Melonas is leaving his position as head of the Santa Fe National Forest and is returning to North Carolina, where he will be the forest supervisor of North Carolina's national forests. Ms. Wolfe added that she will bring the new Santa Fe National Forest supervisor to a future meeting once the person has been named. She added that the CFRP panel is meeting and reviewing applications. Mr. Archuleta added that he has received word that DFA will approve a Master Stewardship Agreement between the NMLGC and the USFS. DFA met with the Energy, Minerals, and Natural Resources Department and the State Forester (Laura McCarthy), who endorsed the MSA. Acting

DFA Secretary Debbie Romero commented that DFA is still unsure of how much DFA will need to do to execute the MSA. Chairman Sánchez commented that the Council will take official action to sign the document once it has been reviewed by all councilors and discussion of the document has taken place.

8. Discussion and Possible Action on State Land Office fuelwood projects

Mr. Archuleta reported that there is still no agreement in place with the State Land Office. Such an agreement would be similar to the MSA with the USFS. Land grants and the NMLGC continue to work on projects; San Joaquín del Río de Chama is working on a project near Cebolla and the Santa Bárbara Land Grant is acquiring tort liability insurance so they can resume their Copper Mountain project. The State Land Office requires that land grants have tort liability coverage to enact projects on SLO managed land. There are also potential projects in Chililí and San Miguel del Bado (near Villanueva). The hope is that a state MSA will be a larger agreement that smaller projects can work under.

9. Discussion and Possible Action on Cristóbal Nieto Land Grant

None.

10. Discussion and Possible Action on Council FY 2021 Budget

Mr. Archuleta presented a budget update. Expenditures from DFA have been only per diem and UNM contract – \$44,130.48, or 20% spent. At the December meeting, might make some decisions in re BAR, especially in light of travel restrictions.

11. Discussion and Possible Action on Land Grant Support Fund

Draft grant agreements were prepared by NMLGC staff and have been forwarded to Novela Salazar of Treaty Division for review. Some questions by Ms. Salazar have already been answered by Dr. Baca. As soon as the grant agreements are signed by the Treaty Division, we will get the signatures of land grant representatives and the signature of Chairman Sánchez and submit them to DFA. Ms. Salazar commented that she has reviewed the agreements and they need only review by the open government division director.

12. Discussion and Possible Action on Creation of Land Grant Institute at UNM

Mr. Archuleta commented that he and Dr. Garcia y Griego have a meeting with the OVPR today (Nov. 11, 2020).

13. Discussion and Possible Action on Land Grant Capital Outlay Update

Land grants need to spend their capital outlay awards. NMLGC assistance has been provided to the Manzano, Tajique, Cristóbal de la Serna, Torreón, San Joaquín del Río de Chama, Tecolote, Don Fernando de Taos Grants. A small amount of C.O. monies might be available in the 2021 session.

14. Discussion and Possible Action on Professional Surveyor Services Contract - Updates and Requests

There are potentially two new requests. The Tierra Amarilla, Juan Bautista Baldes and San Joaquín Land Grants need to allow easements for 2 powerlines and phone line at the Piedra Lumbre Visitors Center. They may need survey work to complete these as we are not sure if the land grants need to pay for survey work for easements or if the easements holders will pay. The NMLGC is working with attorneys from Holland and Hart to move forward. Surveyor Chris Chávez

estimated that the cost would be around \$3,500. The goal is to clear up any final snags like easements that might hold up the purchase. The second request is from the Cristóbal de la Serna Land Grant. Deeds are being reviewed by David Benavides of NMLA, but the Grant would like for Mr. Chávez to review the deeds as well. He may also have to do more research as deeds need to conform to what is on file with the county. Chris Chávez is an expert and his assistance would be valuable; he was previously approved to work with the grant.

15. Discussion and Possible Action on Legal Services for Land Grants – Update and Requests

New Mexico Legal Aid finally got everything processed through DFA, including their use of a subcontractor. Council staff have discussed the Laguna del Campo and Cristóbal de la Serna deed review with NMLA. There are no new requests.

16. Discussion and Possible Action on Treaty of Guadalupe Hidalgo Division Update

Novela Salazar (NMAG – Treaty Division) reported that she discussed possible legislation to expand the Treaty Division Statute with Mr. Archuleta. She also put a call into Mark Edwards of the LCS to discuss ridding some repealed language of their statute and expanding other areas. The Division cannot help land grants that are not a political subdivision of the state. They would also prefer that individual land grant requests for support go to the Council first. Mr. Archuleta mentioned that the Treaty Division also plays a role in elections. He added that Mr. Edwards expressed his desire to have the NMAG Treaty Division available at the November 2020 meeting to discuss potential legislation. Ms. Salazar added that she has reviewed the Chililí “unknown owners” decision but needs a formal request if the Council wants an opinion from the attorney general’s office. Mr. Polaco asked if monies were available to purchase the Tierra o Muerte tract as part of the settlement.

17. Discussion and Possible Action on UNM Intergovernmental Agreement – FY 2021

Pay Request #3 was presented, for \$12,250.75. This includes \$10,208.82 in personnel expenses; and \$2,041.75 in the 20% Facility and Administration Fees. Included in packet is narrative associated with Pay Request #3.

Councilor Padilla made a motion to approve Pay Request #3 for \$12,250.75; Councilor Martínez seconded the motion.

Roll call vote:

- Councilor Padilla - aye
- Councilor Polaco – aye
- Councilor Martínez – aye
- Chairman Sánchez – aye

The motion was passed.

18. Discussion & Action on Piedra Lumbre Visitors Center Update

Mr. Archuleta reported that the grants are close to completing the purchase. The USFS has completed the environmental assessment and the grants have 6 months to complete purchase. The San Joaquín del Río de Chama Land Grant has signed the grant agreement and submitted it to DFA. It will submit a notice of obligation and the grants are working on water rights transfer and to clear up easement issue. The USFS is preparing an invoice that will be submitted for a request for disbursement. \$305,000 will be left after purchase. NM State Purchasing has a purchase contract (price agreement) where they are cleared for procurement. Land grants are eligible to

use to obtain services to secure and rehabilitate the property. It is recommended that the grants obtain three quotes. They have discussed the project with a firm that does both design and build, which can save monies as there are not separate design and construction costs. The priority will be to remediate the PLVC property.

19. Discussion and Possible Action on Laguna del Campo Update

Mr. Archuleta reported that he assisted in a meeting with the Tierra Amarilla Land Grant and the La Puente acequia. NMLA is working on a draft agreement to help transfer the water rights with property.

20. Discussion and Possible Action on Land Grant Registry Update

None.

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

LM García y Griego reported that he submitted a return to operations memo to the OVPR, which outlines the manner that staff will return to the office when the COVID numbers allow them to do so. He and Mr. Archuleta will meet with the OVPR later in the afternoon to discuss next steps on the Land Grant Institute. Mr. Archuleta reported that the LGSP is moving forward with oral history projects and will likely partner with MLECT to pursue NRGNHA to do another phase or interviews. The LGSP also plans to do more interviews with land grant leadership. Dr. Baca reported that he and Dr. García y Griego presented on a panel dedicated to land grant history as part of the Western History Association Conference. He also presented to students at Metro State University in Denver, CO. Mr. Archuleta also discussed the purchase of Malcolm Ebright's books at discount, which could be purchased with publishing monies and distributed to land grants. The Council might need to move on this at the next meeting and might split the cost with the LGSP.

22. Discussion and Possible Action on Correspondence

None.

23. Discussion and Possible Action on Staff Assignments

Mr. Archuleta commented that he received a subpoena from the law firm Marrs Griebel relating to the suit against the Taxation and Revenue Department and DFA. The subpoena asks for all files related to Tomé land purchase. Mr. Archuleta also reported that he is reviewing applications for the Healthy Soils Program and sees an opportunity for land grants in the future. \$225,000 in funding was available in this grant cycle and requests range from \$1,500-60,000. The idea is to increase soil health through various means, from cover soils to prevent erosion to the purchase and introduce of species like earthworms. Applicants can even purchase ground cover. SWCDs, land grants and acequias are eligible, but most applications are by individuals that go through their SWCD (this defeats anti-donation concerns). There are also individuals applying through an acequia. Land grant heirs might be able to do the same, but it would be preferable for land grants to submit applications themselves. Some applicants are trying to establish winter forage; others are asking for cover crop to establish gardens; still others want trees to establish a living root. Anton Chico could apply to help grazing; San Joaquín might apply to support a project in the Cañón de Chama and Chililí could potentially reseed burned areas. To participate, land grants need to have a conservation plan and need to have a farm number. Funding for the Healthy Soils Program comes from latest Farm Bill. We hope to have virtual workshop and get land grants to apply in next round. Councilor Padilla asked if there was a minimum land requirement; Mr. Archuleta

responded that it was 1 acre. Applications are also very different and projects vary in their per acre cost. There is a 25% match requirement, which can be in kind. The program requires soil samples and want other testing as well. Applications need to center around soil health. Councilors Martínez and Polaco commented that it is a good program and could be used on land grant properties and to proof up property as agricultural for tax purposes.

Councilor Martínez stated that the San Joaquín Grant needs help changing their tax identification number to one for a unit of government and creating a new account to not comingle funds. We also requested help from Mr. Archuleta and Dr. Baca to review the materials obtained from the USFS via their FOIA request. Councilor Padilla added that the Town of Tomé would like assistance with their tax id number as well.

Councilor Martínez made a motion to allow a NMLGC staff member to apply for membership on the BLM's northern New Mexico Resource Advisory Council; Councilor Polaco seconded the motion.

Roll call vote:

Councilor Padilla - aye
Councilor Polaco - aye
Councilor Martínez - aye
Chairman Sánchez - aye

The motion was passed.

Councilor Polaco made a motion directing staff to write a letter to request an NMAG opinion if the Chililí case is applicable to all land grants; Councilor Padilla seconded the motion.

Roll call vote:

Councilor Padilla - aye
Councilor Polaco - aye
Councilor Martínez - aye
Chairman Sánchez - aye

The motion was passed.

Chairman Sánchez asked staff to send out notice to land grants that recertification of audits is coming due soon and some grants will need auditors.

24. Public Comments - Discussion only

None.

25. Miscellaneous Announcements

Councilor Padilla announced that the New Mexico Land Grant Consejo needs a secretary on their executive board and to contact her if interested.

26. Date and Location for December Council Meeting

The December 2020 Council meeting will take place virtually on December 17, 2020 at 10:00am, online via Zoom.

A special council meeting will be held on Wednesday, November 18, 2020 at 10:00am.

27. Adjournment

Councilor Polaco made a motion to adjourn; Councilor Martínez seconded the motion.

Roll call vote:

Councilor Padilla - aye

Councilor Martínez – aye

Councilor Polaco – aye

Chairman Sánchez – aye

The motion was passed. The meeting adjourned at 12:37pm MST.

Approved:

Chair

Date