

New Mexico Land Grant Council (NMLGC)  
February 27, 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 10:04am. 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); Cheyenne Trujillo (NMLGC/LGSP); Ericka Luna (USFS); Catie Brewster (BLM); Lisa Morrison (BLM); David Alderman (BLM); Chris Chávez (Territorial Land Surveying); Leslie Byrne (Territorial Land Surveying); Patricia Domínguez (Office of Senator Martin Heinrich); Tanya Maestas (NMAG); Eric Chávez (Office of Congressman Ben Ray Luján).

**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 January 16, 2020**

Councilor Polaco issued a clarification that the term “trust lands” in the meeting minutes of January 16, 2020 should be changed to “reservation lands” and requested that the minutes be amended to reflect that change.

Councilor Andrea Padilla made a motion to approve the meeting minutes, as amended, of the January 16, 2020 Council meeting, as amended; Councilor Correa-Skartwed seconded the motion. The motion was approved unanimously.

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

*Federal*

Mr. Arturo Archuleta (NMLGC/LGSP staff) reported that Council participated in the quarterly call with the New Mexico Congressional delegation immediately before this morning’s Council meeting. H.R. 3682, the Land Grant and Acequia Traditional Use Recognition and Consultation Act, may have a hearing in the National Parks, Forests and Public Lands Subcommittee of the House Natural Resources Committee at the end of March 2020. Legislative staff are working on language that would clarify where the law would apply. The Subcommittee is chaired by Rep.

Deb Haaland (NM – CD1). Discussion continues on federal legislation for cemeteries and Patricia Domínguez (Office of Senator Martin Heinrich) added that they are working to obtain a more full list of cemeteries on U.S. Forest Service lands while considering historic versus historic and active cemeteries. Councilor Polaco asked if the Archdiocese of Santa Fe owned land grant cemeteries. Dr. Jacobo Baca (NMLGC/LGSP) answered that while the Archdiocese does own many cemeteries it does not own all of them as many are privately owned cemeteries open to public use and added that the Land Grant Studies Program is in the process of obtaining access to archaeological information via the Archeological Records Management Section online database. Ericka Luna (USFS) added that the USFS would like to edit the list and Chris Chavez (Territorial Land Surveying) added that cemetery at Las Llaves originates from homesteading in the area. Councilor Padilla added that community members often donated land for cemeteries and Councilor Polaco commented that the Hermandad had a big part in the creation and maintenance of community cemeteries.

### *State*

Mr. Archuleta reported that all land grant related bills died in committee. (These include: HB 111, creating the land grant-merced assistance fund, would create guaranteed revenue streams for land grants through a fund at the treasury; SB 79 requesting \$250,000 to assist land grants and acequias with audits; SB 55, creating 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). Land grants did their part in support and making their voices heard. Land grant communities did receive \$1.3 million in capital outlay funding (see handout).

Mr. Baca reported that SB 102, sponsored by Senator Steven Neville, to create the Agriculture and Natural Resources Trust, a state program similar to the EQIP program administered by the Natural Resources Conservation Service, was pulled by Senator Neville when it was to go in from of Senate Conservation Committee, and its companion bill, HB 223, sponsored by Rep. Nathan Small, did not make its way through the House committee process.

Mr. Archuleta reported that the Treaty Division is now a part of the New Mexico Attorney General's offices base budget.

## **6. Discussion and Possible Action on U.S. Forest Service Update**

Ericka Luna (USFS) reported that Cal Joyner was diagnosed with cancer and is on medical leave, receiving treatment. Elaine Kohrman is acting Region 3 forester and Ericka Luna is now serving as chief of staff, with more transitions coming in early May 2020. Elaine Kohrman has responded to CFRP letter from the Council. Ms. Domínguez added that the CFRP panel still remains unfilled and there will likely be another round of letters going to Region 3 as the panel will not be approved with enough time to use monies. Some CFRP monies have already flowed out from New Mexico to projects in Arizona. Along with the closures and restrictions imposed by the Mexican Spotted Owl injunction, these amount to a double impact as projects cannot occur on parcels of Forest Service lands. Mr. Archuleta reported that the Carson and Santa Fe National Forests are both in the coding process and Chairman Sánchez added that the Cibola National Forest is the test case for the Mexican Spotted Owl; it is sitting in the courts. Mr. Archuleta reported that Robert Apodaca reached out to John Horning of the Wild Earth Guardians about

meeting, tentatively scheduled for March 5, 2020 at 10:00am to further discuss the MSO injunction.

## **7. Discussion and Possible Action on BLM Update**

Lisa Morrison (BLM) introduced David Alderman and Catie Brewster. Mr. Alderman is the lead planner with the BLM; he stated that four districts are creating their land management plans, which will last roughly 20 years and the land use allocations and restrictions to land uses that they determine will shape management. This includes designations for recreation and oil leases. The RODs (records of decision) for the RMPs for Oklahoma, Texas and Kansas will be public on March 20<sup>th</sup>. Mr. Alderman reported that the Carlsbad RMP's final EIS was briefed to Washington DC and is on hold and the New Mexico BLM does not know if/when it will be improved. The Farmington RMPA draft will be published in the Federal Register tomorrow (Feb. 28) and the 90-day comment period will begin. The Rio Puerco RMP's EIS and ROD will be published soon. The Tri County RMP (Las Cruces area, Sierra, Otero, Dona Aña Counties) will have no movement until 2021. Ms. Morrison reported that the Sombrillo Travel Management Plan is ongoing.

Mr. Archuleta asked the status of the Rio Grande del Norte National Monument plan. Mr. Alderman and Ms. Morrison responded that it is on hold as BLM planning is currently focused on energy production and once these plans are complete, the Rio Grande del Norte and Tri County planning effort will come back on line. Mr. Archuleta added that legislation entered by Senators Heinrich and Udall push to expand wilderness in the Rio Grande del Norte National Monument, including Pot Mountain, an area people still use to harvest wood. When the Ute Mountain wilderness was expanded, the public acquiesced, but Pot Mountain is still used by residents from Tierra Amarilla, who have to travel one hour to get firewood. If the property managed by the State Land Office is disposed of in the land exchange with the BLM, users might lose access. Ms. Domínguez responded that Senator Heinrich's office carved this area out in the proposed legislation but there is still an opportunity to do boundary adjustments.

Ms. Morrison added that the state land exchange is on. The Dingle Act, passed in 2019, has the Organ Mountains in it and calls for land exchange work. The NM State Land Commissioner is interested in recreation; her predecessor was interested in developing oil and gas. Mr. Archuleta added that the NMLGC was a cooperative agency, as was the Juan Bautista Baldes LG, and that the NMLGC would like to be part of early conversation to determine whether we need to be involved in process. Ms. Morrison responded that she would let Debbie Lucero know. Councilor Martínez commented that he met regarding the Farmington RAC and discussed rafting down the Rio Chama from El Vado, adding that both the San Joaquín del Rio de Chama and Tierra Amarilla Land Grants are interested in obtaining one permit a year. He added that wood projects on BLM properties in the Llaves area for CFRP had no specific plans in the Tabletas area and there is thick piñón-juniper. Ms. Morrison responded and asked Councilor Martínez to send information with the exact area location and that she would forward the information to Jeff Tafoya, the district manager and fire office that works on thinning. Councilor Martínez added that he is interested in presence of arch sites and stated the need to create a community cemetery in the area. Dr. Baca thanked Ms. Morrison for her assistance obtaining the Manzano Land Grant patent. Ms. Domínguez commented that it would be great to have information on how far people travel to get firewood and this information could be shared with agencies. Ms. Luna commented that the USFS receives info from local communities and that there is an allowance for areas for

personal use, adding that the USFS wants to make areas and fuelwood available. Mr. Archuleta added that examining permits can help and that the BLM has done an online permitting which allows them to track where requests are coming from and eases the obtaining of a fuelwood permit.

### **8. Discussion and Possible Action on Professional Surveyor Services Contract**

A list of requests for surveyor services submitted by land grant boards of trustees is included in the meeting packet. Mr. Archuleta commented that the NMLGC put out a call to land grants with potential projects and that the Council can discuss and approve the contracted surveyor to move forward with assistance. Chris Chávez and Leslie Byrne of Territorial Land Surveying need to do some research to determine the scope of each request, which will inform prioritization.

Regarding the request from the Cristóbal de la Serna Grant, Novela Salazar of the Treaty of Guadalupe Hidalgo Division of the New Mexico Attorney General's office advised that the Council can elect to provide services and House Joint Memorial 1 (2018) helps with this. Tanya Maestas (Dep. Attorney General, New Mexico Attorney General's office) commented that the key component is that services are offered on behalf of NMLGC, in conjunction with memorial or to NMLGC on behalf the Cristóbal de la Serna Grant but not directly to the Grant. Surveyor services to the grant could include the review of existing surveys, which rely on vague descriptions, for accuracy and validity, especially in light of the practice where people would hire a surveyor to do survey and use it to convey title. There are also individuals interested in donating lineas to the grant.

Chris Chávez (Territorial Land Surveying) commented that this could be a challenge as descriptions are very vague and lineas were created as a tax assessment tool but were used to convey title. Mr. Archuleta responded that if a survey is vague, the Grant or the Council might have opportunity to challenge. The Santa Bárbara Land Grant initially wanted the entire grant surveyed; all of the historic common lands are within the Carson National Forest, but changed their request to a common road which has been assessed to the Santa Bárbara Land Grant, which might entail surveying adjacent land owners and nearby boundaries of the grant. The Town of Tomé Grant is requesting the survey of an eleven-acre tract and may later ask to survey a 200 acre parcel that includes Tomé Hill. Councilor Padilla added that there has been issues with dumping and the Grant wants to fence the area as they are accused of not taking care of property by adjacent landowners, who do not necessarily understand the bounds of the grant and adjacent landowners.

The Anton Chico Land Grant requests the survey of exterior boundaries, which was 300,000 acres and is now 100,000 acres in two tracts (Anton Chico; ~70,000 acres and Colonias ~30,000 acres). The grant contains leases of 80 to 200 acres that are fenced and has rock quarries. The Abiquiú Grant needs assistance finding the northwest and southwest corners (monuments). The monument has been moved by a bulldozer and in flooding and the corner needs to be reset. Many grants need to be re-monumented. Chris Chávez commented that this project should not be too extensive and may only take one day. The Tajique Grant requests a survey of common lands of the land grant as identified by Tarrant County but not assessed in the name of the land grant, which includes three parcels running along the creek; Mr. Chávez identified this as a priority. Lastly, the Juan Bautista Grant is in need of services as there is an individual that is claiming significant acreage as their own property and the Grant is in litigation with this

individual. While a survey may be unnecessary, the expert testimony by Chris Chávez may need to be requested.

Councilor Martínez added that the San Joaquín del Río de Chama Grant has two properties that they would like surveyed but can wait until next year. One is the Cañón de Chama, which is owned by the forest service and that the Council requested the USFS to survey. The Santa Fe National Forest responded in a letter that the SFNF did not have the staff to undertake this project, which was not considered a priority because it was USFS forest bounding USFS forest. The other properties are in Capulín. Councilor Correa-Skartwed asked if all of the land grants requested surveyor services were in compliance with the NMLGC; Mr. Archuleta responded that the question is hard to answer (given that the NMLGC is not the sole agency that land grant report to), but that they were in compliance. He added that it is important to examine which projects are completable within this fiscal year under this current budget (\$21,600 is budgeted for surveyor services, with an hourly rate of \$180 per hour for FY 2020).

Councilor Padilla commented that the Council and the contracted surveyor should prioritize the projects where land loss is a possibility. Mr. Archuleta added that this is the case at Juan Bautista Baldes and Tajique and that Territorial Land Surveying can look into the requests and give prices for each land grants request. In future, the Council can piecemeal the contract and bid each job. Chris Chávez commented that with no specifics, it is hard to come up with a number. At the Forest Service, contracted surveyors had a blanket contract that was modified by task orders. Numbers will be more accurate and not as high and more projects specifics will allow better estimates. Councilor Padilla reiterated that the first priority should be cases where land loss might occur; Councilor Correa-Skartwed agreed. Mr. Archuleta added that he will facilitate meetings with individual grants to help prioritize those that are most in dire need. Mr. Chavez added that where landmarks exist, it is not hard to find the boundaries and that the patented boundaries and historic boundaries are very different. Councilor Correa-Skartwed added that grants should have met certain requirements to tap into Council funding and services and their receipt of these services should be contingent upon this.

Councilor Correa-Skartwed made a motion to approve all requests, prioritizing those with risk of loss of land, on condition that they have met all requirements regarding reporting and adding the San Joaquín del Río de Chama Grant request; Councilor Polaco seconded the motion. The motion passed unanimously.

## **9. Discussion and Possible Action on Acequia Commission**

Mr. Archuleta reported that we have not heard back from the Acequia Commission if they are still interested in the Council attending their meetings and a representative from the Commission attending Council meetings. Chairman Sánchez added that we still do not know if DFA will allow per diem. The Acequia Commission meets that last Friday of each month. Councilor Correa-Skartwed added that Councilors can rotate so that burden does not fall and all can experience the Acequia Commission meetings. Mr. Archuleta added that the only thing prohibiting this is the travel budget as the meetings take place in Santa Fe.

## **10. Discussion and Possible Action on Laguna del Campo Transfer Update**

Mr. Archuleta reported that he met with New Mexico Game and Fish (NM G&F), the Office of the State Engineer (OSE), David Benavides and representatives of the Tierra Amarilla LG on February 3, 2020 to discuss the transfer of Laguna del Campo from NM G&F to the Tierra Amarilla LG. There is a question on whether language needs to be changed on consent orders, which NM G&F is not interested in doing as it might slow the transfer. NMG&F is committed to ensuring there will be water to fill the Laguna and the OSE is doing their research on the transfer. NM G&F state that it was unclear of their next steps with uncertainty of the storage rights associated with lake and a long-term lease appears to be part of agreement. The quantities associated with this are unknown and the NM G&F is committed to ensuring downstream properties get water. Councilor Polaco added that evaporation is covered and that irrigation rights held by NM G&F should not be lost on properties that are allowed to go fallow. The use may no longer be irrigation and the OSE would need change use for NM G&F to retain those rights, which they consider an asset that they may want to transfer or sell water rights down road. Law prohibits them to lease in perpetuity and NM G&F has verbally offered a 10 year maximum lease. Contrary to previous reports, the spillway and return does work. Mr. Archuleta added that the NMG&F Department tied all of their water rights together, though one license is for the springs, one is for irrigation rights, and one for storage rights. They comingled all licenses and applied water return to the La Puente Ditch to all licenses. The OSE and NM G&F would need to approach the court to amend the consent order.

If NMG&F does not use on fallow lands for 5 years, could lose water right. Eric Chavez (Office of Congressman Ben Ray Luján) commented that he reached out to Melvin Apodaca of Tierra Amarilla LG and added that the Congressman's office cannot do too much. Councilor Polaco added that the waters of the Rio Chama are being adjudicated through a federal case (*US v. Aragón*) that has been ongoing since the 1960s. Once all sign off on the consent orders, a final decree is issued and that Representative Luján's office might be able to assist correcting incorrect adjudications. Mr. Eric Chávez might only inquire because of the separation of powers doctrine.

## **11. Discussion and Possible Action on Piedra Lumbre Visitors Center Update**

Mr. Archuleta reported that the Tierra Amarilla, San Joaquín del RC and Juan Bautista Baldes Land Grants were hoping to complete the purchase of the PLVC this spring. They will meet on March 9 with the UNM Natural Resources Law Clinic and discuss resolutions that are being reviewed. The Council is also awaiting the RFP from HED that would allow work to be done on the transfer. The grants may have to move forward and figure out the operations phase later.

## **12. Closed Executive Session Pursuant to §10-15-1(H)7 – Pending Litigation Valley Improvement Association and Cibola Land Corporation v. Stephanie Schardin Clarke, et al – 1:19-CV-01015-JFR-LF.**

Councilor Padilla made a motion to go into closed executive session pursuant to §10-15-1(H)7 – Pending Litigation, Valley Improvement Association and Cibola Land Corporation v. Stephanie Schardin Clarke, et al – 1:19-CV-01015-JFR-LF ; Councilor Correa-Skartwed seconded the motion. Chairman Sánchez called roll – Councilor Polaco voted yay; Councilor Martínez voted yay; Councilor Padilla voted yay; Councilor Correa-Skartwed voted yay; Chairman Sánchez voted yay.

*The Council entered closed executive session.*

*(No minutes are taken during closed executive session).*

*Chairman Sánchez affirmed that the closed executive session ended and only the pending litigation, Valley Improvement Association and Cibola Land Corporation v. Stephanie Schardin Clarke, et al – 1:19-CV-01015-JFR-LF, was discussed.*

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

Ms. Maestas (NMAG) commented that Treaty of Guadalupe Hidalgo Division is on performance measures for the New Mexico Attorney General's office and 1 FTE is part of the regular NMAG budget.

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

Mr. Archuleta discussed New Mexico Legal Aid payment request #4 for \$4,575 (36.6 hours) and Payment Request #5 for \$4,125 (33 hours). Councilor Polaco motioned to accept pay request #4; Councilor Padilla seconded the motion. The motion passed unanimously. Councilor Padilla made a motion to approve pay request #5; Councilor Polaco seconded the motion. The motions passed unanimously.

### **15. Discussion and Possible Action on Council 2020 Budget**

*FY 2020*

Mr. Archuleta and Ms. Chávez discussed the DFA fee being draw down, Council travel and that all all Support Fund recipients are approved to spend their awards with the exception of Tierra Amarilla, which is in the process of being approved. There remains funds in the publishing budget to reprint an updated *Laws and Statutes* booklet. The State Printing Office provided an estimate for business cards for Council members: 250 cards = \$170.00; 500 cards = \$225.00. Councilor Polaco made a motion to approve Quote No. 3287 for \$170.00 for 250 business cards (each) for Council members; Councilor Padilla seconded the motion. The motion was approved unanimously.

The Council also discussed a quote to reprint and update of the Land Grant law book. The Council would provide 5 printed copies to land grants, copies to the Interim Committee, the Congressional Delegation and reserve 60 copies to distribute to the UNM Law Clinic. Councilor Padilla made a motion to approve Quote 3291 for \$1,651.59, for 350 copies of the updated law book; Councilor Polaco seconded the motion. The motion passed unanimously.

With the expenditures approved above, approximately \$2,000 will be left in the publishing line item. We could push to update and reissue the Land Grant Governance Guidebook or could print map products from UNM LGSP. Councilor Martínez suggested purchasing banners and flags for Treaty Day.

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

Mr. Archuleta presented Pay Request #6 for \$16,325,89, leaving a balance of \$137,720.22 on the Council contract, with billing narrative and UNM billing.

Councilor Padilla made a motion to approve Pay Request #6; Councilor Polaco seconded the motion; the motion passed unanimously.

### **17. Discussion and Possible Action on Inspection of Public Records Act Policy**

Dr. Baca (NMLGC) presented an Inspection of Public Records Act Policy for the NMLGC, which was previously presented at the December 2019 meeting.

Councilor Polaco made a motion to approve the Inspection of Public Records Act Policy; Councilor Padilla seconded the motion. The motion passed unanimously.

### **18. Discussion and Possible Action on Land Grant Support Fund**

Discussed above.

### **19. Discussion and Possible Action on Land Grant Registry**

Dr. Baca (NMLGC/LGSP) reported that the Chililí Land Grant has submitted its bylaws to the Registry; the Cañón de Carnué Land Grant has submitted a digital copy of their patent; and the Manzano Land Grant has submitted a facsimile copy of their patent.

### **20. Discussion and Possible Action on Land Grant Studies Program Update**

Mr. Archuleta reported that the LGSP budget remained flat. The Governor recommended that the NMLGC budget increase but the LFC elected to keep the Council budget flat. The LGSP will continue to develop the youth program. The LGSP will work with the State Land Office and work to see if the Youth Conservation Corps can fund land grant related youth projects. For instance, the SLO can do treatments and youth might pile slash that the permittee can burn in winter months when fire risk is low. Councilor Polaco mentioned that youth could work at the Laguna del Campo or on acequia projects in Tierra Amarilla. The Council can decide which projects to fund in next budget.

### **21. Discussion and Possible Action on Correspondence**

Lorenzo Garcia of Las Vegas New Mexico informed the Council that it would be sued.

### **22. Discussion and Possible Action on Staff Assignments**

None.

### **23. Public Comments – discussion only**

Councilor Padilla commented that the Town of Tomé Land Grant has a GoFundMe page set up to raise funds. Councilor Martínez requested that the Treaty Division investigate how that the San Joaquín del Río de Chama Grant can get their original documents held at the New Mexico State Records Center and Archives. They were provided to the U.S. Surveyor General in 1863. Dr. Baca committed to inquire with the NMSRCA and discuss the issue with Dr. LM García y Griego to ascertain if the documents were forfeited to the USSG when land grants submitted them in their petitions. He will also contact the National Archives and Records Administration, who owns the records and has loaned them to the State of New Mexico. Ms. Maestas (Office of the NM Attorney General) commented that she sits on the State Records Commission and asked to be updated.



Chairman Sanchez added that the CLE “Land Grants, Acequias, and Law” will take place in Carnué on March 13 & 14, 2020.

**24. Miscellaneous Announcements**

Venessa Chávez (LGSP.NMLGC) added that the youth matachine event at Carnuel was very successful. Dr. Baca added that 2020 Treaty Day was very successful with more than 100 people in attendance.

**25. Date and Location for March 2020 Council Meeting**

The next Council meeting will be held on March 19, 2020 at 10:00am in Albuquerque, NM at the UNM Science and Technology Park.

**26. Adjournment**

Councilor Padilla made a motion to adjourn; Councilor Polaco seconded the motion. The meeting adjourned at 1:42pm.

**Approved:**

\_\_\_\_\_

Chair

\_\_\_\_\_

Date