

New Mexico Land Grant Council (NMLGC)

August 4, 2020 – 10:00am

Virtual Meeting

Zoom ID: 977 7569 5487

**Minutes – Final**

**Regular Council Meeting**

**1. Call to Order - Roll Call**

Chairman Juan Sánchez called the meeting to order at 10:06am. Roll call of the Council members: Andrea Padilla, Leonard T. Martínez, Juan Sánchez, Steve Polaco and Rebecca Correa-Skartwed.

**2. Introduction of Guests**

Juan Sánchez (NMLGC); Rebecca Correa Skartwed (NMLGC); Andrea Padilla (NMLGC); Steve Polaco (NMLGC); Leonard T. Martinez (NMLGC); Congressman Ben Ray Luján; Arturo Archuleta (NMLGC/LGSP); Jacobo Baca (NMLGC/LGSP); Venessa Chávez (NMLGC/LGSP); Eric Chávez (Office of Congressman Ben Ray Luján); Levi Patterson (Office of Congressman Ben Ray Luján); Isis Zamora López (Office of Congressman Ben Ray Luján); Adan Serna (Office of Congressman Ben Ray Luján); Novela Salazar (Office of the New Mexico Attorney General); LM García y Griego (NMLGC/LGSP); Kris Graham Chávez (NRCS); Sofía Sánchez (Office of Congresswoman Deb Haaland); Lisa Morrison (BLM); Michelle Kavanaugh (Office of Sen. Tom Udall); Patricia Domínguez (Office of Sen. Martin Heinrich); Michele Jáquez-Ortiz (Office of Sen. Tom Udall); Lisa Van Theemsche (Office of Sen. Tom Udall); Macario Griego (Cañón de Carnué LG heir); Chris Chávez (Territorial Land Surveying); Patricia Domínguez (Office of Sen. Martin Heinrich); Samantha Ender (Vice President for Programs, Carol Petrie Foundation); Matthew E. Ortiz, (Director, New Mexico Administrative Law Division, NMSRCA) – *Mr. Ortiz did not identify himself when prompted; he was identified by his telephone number.*

**3. Approval of Agenda**

Councilor Steve Polaco made a motion to approve the agenda; Councilor Rebecca Correa-Skartwed seconded the motion.

Roll call vote: Councilor Padilla - aye  
Councilor Polaco – aye  
Councilor Correa-Skartwed - aye  
Councilor Martínez - aye  
Chairman Sánchez – aye

The motion was passed.

**4. Approval of Meeting Minutes from Council Meeting of July 13, 2020**

Councilor Polaco made a motion to approve the meeting minutes of the July 13, 2020 Council meeting; Councilor Leonard Martínez seconded the motion.

Roll call vote: Councilor Padilla - aye  
Councilor Polaco – aye

Councilor Correa-Skartwed - aye  
Councilor Martínez - aye  
Chairman Sánchez – aye

The motion was passed.

## **5. Discussion and Possible Action on Federal and State Legislative Updates – Including presentation by Congressman Luján**

### *Federal*

Congressman Ben Ray Luján thanked the members and staff of the New Mexico Land Grant Council for their work on behalf of New Mexico's land grant-merced communities and for their work on H.R. 3682 and their collaboration with his staff in developing the traditional-use legislation. He also thanked the New Mexico Land Grant Consejo and New Mexico Acequia Association for their assistance in developing the bill. Congressman Luján reported that aspects of H.R. 3682, the Land Grant and Acequia Traditional Use Recognition and Consultation Act, were built into the appropriation process as well and thanked Senator Tom Udall and his staff for their work in this process. The House was able to build on through the appropriation bill and also passed the House Interior appropriation bill, which added language to ensure that the Secretaries of Interior and Agriculture recognized land grants and acequias, which will provide for the recognitions of fuelwood gathering and other traditional uses. This bill passed the House, but it is likely that Sen. Mitch McConnell will not take on new appropriation bill and that the federal will continue working on two continuing resolutions, meaning that the appropriation process will move into next year, 2021. The House Committee and Natural Resources passed H.R. 3682 just last week. Amendments to H.R. 3682 are being worked through with colleagues from the House Natural Resources Committee, including Congressman Rob Bishop of Utah, who voices opposition. Congressman Luján wanted to pass the bill through committee on voice vote alone, which allows it to be on a consensus calendar. Getting it passed out of House allows for work with future congresses and would allow for the bill to be included in an omnibus bill if passed by the Senate by the end of the year.

Congressman Luján stated that the House will be back in session after Labor Day and would need 2/3 support to pass the bill and he will push for that when Congress returns. This bill will direct the Secretaries of Agriculture and Interior to issue guidance on traditional historical use. It would require that agencies provide for and evaluate for impact on traditional use by a qualified land grants-mercedes during federal actions and land management planning. For acequias, it would provide for a negotiated rule making and would allow for the recognition of special use permits. He has received positive news on how rule changes are working for acequias but wants to codify this. There is still work to be done to get this through the House floor, if not now, that to get it ready for 2021. Congressman Luján hopes to take this up in the Senate during the next Congress and stated that he spoke with Teresa Leger Fernandez and Representatives Deb Haaland and Xochitl Torres Small and they all committed their support. Governor Michelle Luján Grisham, when in Congress, worked to get land grants eligible under the Farm Bill and he remains hopeful to seeing a path to get this adopted. Chairman Sánchez thanked Congressman Luján for his hard work for acequias and land grants. Councilor Polaco thanked Congressman Luján and asked if the bill would apply to former Tierra Amarilla Land Grant land in Colorado that is part of the Rio Grande National Forest, as there is little federal land that was part of the Tierra Amarilla Land Grant in New Mexico. Congressman Luján replied that the bill applies to

the planning processes for lands managed by the Department of Interior and Department of Agriculture, including lands outside of New Mexico. Levi Patterson (Office of Congressman Ben Ray Luján) added that it depends on how the Forest Service implements this bill and that there may be concern as to which land grants are qualified, but that the bill supports Councilor Polaco's concerns. Congressman Luján added that land grant heirs lived on both side of the border and that he will discuss this with former Secretary of the Interior Ken Salazar and his brother John. If former Vice President Joe Biden is President in 2021, this conversation can continue into 2021 and we can continue to work on this and perhaps (fmr) Secretary Salazar can discuss this with the Council.

Councilor Martínez added that in San Joaquín del Río de Chama's land grant communities, the drought is worse than ever. The forest is so overgrown that it needs to be thinned and ojitos are not running. He would like to see the injunction (relating to the Mexican Spotted Owl) end so that forest can be thinned so that it does not burn down. The San Joaquín del Río de Chama Land Grant bought wood from the U.S. Forest Service this year, but more coordination with land grant communities is needed. Luckily there are no bad fires this year, but herbs are not growing and land grant heirs continue to maintain and work this land. He asked Congressman Luján what he would do as a U.S. Senator regarding the injunction. Congressman Luján replied that he needs to have a meeting with Councilor Martínez and Chairman Sánchez and with community leaders and federal partners to get this accomplished. Regarding lawsuits, he was in a call with Carson National Forester (James Durán) and the USFS Regional 3 forester regarding the MSO injunction and discussed the effect of injunction of the injunction as lumber mills are not operating and how this work of the landscape is not being worked. Farmers and ranchers are also affected by punitive decisions by USDA, saying that acequias do not qualify for programs because they think that they are fed through wells. This shows a lack of understanding and the need for the perspective of farmers and ranchers of the north. We need resolution on how USDA is paying farmers for harvests in Rio Arriba County and how they are being singled out. He urged Councilor Martínez to work with his office and the Congressman stated that he is happy to reach out to members of the delegation to discuss this further. Councilor Martínez mentioned that there is an earthquake in Capulín and that acequias have been dry since June. LM García y Griego asked for clarification regarding the timeline of the bill (H.R. 3682) and the language in the Interior Appropriation bill; Congressman Luján clarified that the appropriation bill likely won't pass until 2021, but that H.R. 3682 got out of committee onto the House for a vote. This was worked out with House Natural Resource Committee Chairman Raúl Grijalva. The bill now is on the suspension calendar and once it is reported out by House Natural Resource Committee, then he can fight for floor time. Congressman Luján added that he is confident that we can pass bill in 2020. It will then move it to Senate for action during lame duck session and will be prepared as a non-controversial bill, though there may need to be negotiation on the bill or riders to get this through.

Michelle Kavanaugh (Office of Senator Tom Udall) added that it is unlikely that Senator McConnell will allow it to be heard when it passes house, but that the bill is in a great position to be re-introduced next year if not included in Senate omnibus bill. Mr. Archuleta thanked the Congressman for his hard work on the legislation over the past 5-7 years. He thanked the Congressman's staff and commented that the markup that came out of the committee demonstrated how the Council and Congressman's office worked together and that his staff

working hard to ensure that critical aspects of bill remain intact. The federal process is new to the Council and its staff and while we are familiar with legislation at the state level, the federal process was new and the Congressman's staff's help to negotiate the process for the passage of the bill was important. Chairman Sánchez thanked Congressman Luján for his work on behalf of land grants and for his service to the nation. Congressman Luján thanked the Council and committed that he will continue to work to position this bill for passage, possibly as part of an omnibus package.

### *State*

Mr. Archuleta reported that the Interim Land Grant Committee hearings have been set. The Committee will hold three meetings, including the November session, virtually via WebEx. There will only be two substantive hearings through the web format and no two-day hearings. Most hearings will only be half-day. Hearings will be held on August 13, 1-5pm; October 24<sup>th</sup> and November 23<sup>rd</sup>, which will be the last meeting where legislation is endorsed. The Committee might take up bills that have already been heard. The Committee wants the first meeting to be a coordinated response to fire and discuss with the USFS how land grants are dealing with land management. They also want a presentation regarding the Master Stewardship Agreement and may bring in the New Mexico State Forester, Laura McCarthy to discuss the state forest action plan and the inclusion of land grants. They want to talk about common water issues and Council staff discussed issues faced by communities, including the San Antonio de las Huertas and Manzano Land Grant, both having acequia infrastructures on common land. The Committee was made aware of the Tierra Amarilla spigot issue and the Tomé Land Grants access to the bosque via MRGCD. They may take some of these topics up later and we are not sure that legislation will come out of these meetings because of short interim session. Legislation also often takes multiple sessions to refine before proposed at the legislature. The situation at Anton Chico may be discussed as managing natural resources and interaction with the courts and the management authority of land grants. The debate regarding qualified immunity, where police cannot be sued for their acts, also extends to units of government under the tort claims act. Legislators will have to ensure that they are addressing this carefully as the tort claims act protects teachers, social workers, and local units of government and could mean exposure if the act is repealed. We hope to receive information on August 13 meeting soon regarding the WebEx meeting and Mark Edwards of the Interim Committee will reach out to participants soon.

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

Lisa Morrison (BLM) reported that online permits for wood cutting are available from the Farmington and Taos Field Offices. Councilor Martínez commented that heirs from Albuquerque often buy a permit to help supply their families living in the grant. He asked if people can buy a permit for the Farmington District in the Albuquerque office. Ms. Morrison responded that she was not sure but would check. She reported that the Rio Puerco RMP has still not moved. And is being reviewed by the New Mexico State office and Washington DC office. Councilor Correa-Skartwed asked Ms. Morrison what the projected release date of the Rio Puerco RMP was and if it was going to be stalled for another month or two. Ms. Morrison responded that it is in the Washington DC office and though they supposed the RMP might get advanced in a meeting last Friday, it is still in review. Once it is approved, it goes into Federal Register, which takes one to two weeks, and then the 30-day protest period starts. Councilor Correa-Skartwed added that she would like to meet with Ms. Morrison to discuss tapping into the Recreation and Public Purposes

Act. Ms. Morrison also reported that the Farmington Field Office will issue a press release regarding their plan, discussing more workshops and radio show appearances in the Farmington area regarding the RMP in August. She added that the Kasha-Katuwe Tent Rocks National Monument is temporarily closed while the BLM is working with Cochiti Pueblo on the number of people visiting the monument. Typical visitation in a week is 50,000 but is pushing more than 100,000 per week as people are looking for outdoor recreation in light of COVID-19 restrictions. The BLM is looking at using online permitting system, via recreation.gov, to control visitation. Councilor Martínez reported that the San Joaquín del Río de Chama Land Grant is working with NMLGC staff member Jacobo Baca to develop and submit comments for the Farmington-Mancos RMP.

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

Mr. Archuleta reported that no one from the USFS has been assigned to the NMLGC as Ericka Luna is on detail. The Master Stewardship Agreement has been forward to the Department of Finance and Administration, but we have not heard anything. We are working to schedule follow-up and can have meeting with USFS and DFA to discuss. Regarding the Manzano Lake issue, there is no resolution in discussion between USFS and the Manzano Land Grant. The USFS was contacted and they stated that the agreement was with the Manzano Spring and Ditch association, but that they were no longer going to use the Manzano Lake as a source and that they had reached a new agreement with Apple Valley Ranch. The Ojo de los Casos Fire in Chililí started and water from the Apple Valley Ranch was not sufficient and water was drawn from Manzano Lake. The president of the Manzano Grant contacted the USFS to say that they approved the use of water but wanted to ensure that payment was not made to the Spring and Ditch. The Manzano Land Grant was concerned that they are not in conversation and that the Manzano Spring and Ditch are not a valid operating board as they have not held an election for at least 4 years where they are supposed to hold elections every two years. Mr. Archuleta also spoke with Enrique Romero, the New Mexico Acequia Association attorney, which has worked with the Spring and Ditch on elections and helped with NRCS funding that improved spring and ditch ditches. The NMAA reached out to the Manzano Spring and Ditch. Their board was going to meet and work then to meet with the Manzano Land Grant. They want to work government to government and ensure that the USFS does business with entities that support local communities. The NMLGC might need to issue a letter to USFS, encouraging that they work with local communities.

### **8. Discussion and Possible Action on Land Grant Capital Outlay Update**

Mr. Archuleta reported that any land grant that does have capital outlay monies need to spend their capital outlay. There is continued discussion of a possible second round of sweeps. 2019 appropriations have until September 24 to be sure that they have 5% of funds encumbered. The NMLGC staff has worked with the Tecolote, Cañón de Carnué, and Cristóbal de la Serna Land Grants make sure that they are on track. Tecolote is working to ensure reports are submitted to the State Auditor; the Cristóbal de la Serna Grant is working in the new online system to submit information; and the Cañón de Carnué Land Grant is a tougher case as they have more to do and need to meet their agreed upon procedures and reports need to be submitted to the New Mexico State Auditor's office. Land grants are encouraged to reach out to Council staff if you need help. Venessa Chávez, in particular, is very knowledgeable about process, especially encumbrances. Councilor Martínez thanked Venessa Chávez for her hard work. The San Joaquín Grant has

received \$58,000 for the sala and the contractor is moving forward with work. He also spoke with new and former Abiquiú land grant presidents, Veronica García and David Archuleta. They reported that they are caught up with audits. Mr. Archuleta stated that he will follow up with the Abiquiú Land Grant to see if they need help. He added that the bonds for the 2020 projects sold. There was a June sale and many land grant projects were sold and should be receiving grant agreements soon. CPMS (Capitol Projects Monitoring System) reporting has to be done monthly to keep the project. Chairman Sánchez added that reporting should be done between the 20<sup>th</sup>-25<sup>th</sup>, as it is the best time, as the system is not bogged down. Councilor Polaco asked if monies that haven't been spent can it be diverted to other land grant projects. Mr. Archuleta reported that monies deriving from the general fund will return to the state and monies coming from bonds are likely repaid to note holder. Money can only be reauthorized by an act of the legislature. In DFA trainings, DFA reported that there may be a small chance for capital outlay and they maybe be able to do some from severance tax bonds, but none from the general fund. Finally, ICIPs are due September 4. They are usually due in July and are allowed extensions, but this time, September 4 is a hard deadline. If land grants need assistance with updating or adding projects to their ICIP, let us know. Land grants will need to do a resolution passed by the board and staff can help prepare these and other forms.

## **9. Discussion and Possible Action on Council FY 2021 & FY 2022 Budget**

### *FY 2021*

Mr. Archuleta presented budget scenarios, which were included in the meeting packet. DFA gave word that the NMLGC will not take a hit. Because of the general cut, UNM has frozen budgeted staff salary increases. The OVPR asked for exception but it was not approved. There will be some overage from LGSP as students did not continue through the end of June because they graduated in May. The \$7,000 decrease in funding is balanced by a \$10,000 carry over; since budget was not hit but monies were budgeted to go to salaries, need to adjust budget to ensure that we do not revert. We might be able to put more resources into communities. Mr. Archuleta discussed adjusting items in the budget, including: DFA has for three years reverted a portion of its DFA administrative fee; the Council could change the budgeted fee from 1.5% to 1.1% which is in line with actual use. The fee at 1.5% is \$4,454, while \$3,266 is closer to actual use. This would in part allow an increase in the support fund from \$20,000 to \$24,000. This increase would come also from in state travel by Council members. The monthly cost for in-state travel for council members to travel to monthly Council meetings is \$700 per meeting. Moving monies from \$9,000 to \$6,080 is based on virtual meeting through October 2020. Changing monies within the IGSA (Intergovernmental Services Agreement) is more difficult as it would need to be re-signed. Because it is an election year, we need to revisit budget in December and can decide how to adjust budgets then. Out of state travel might also have to be moved, possibly to go to legal services.

In publishing, the Council could publish something, or purchase books from Malcolm Ebright, who told Chris Chávez had several boxes of books and asked if land grants would be interested in purchasing copies of books at discounted price. The UNM contract stays flat. Salaries will have saved more than \$7,000, as mentioned above. Personnel travel dropped from \$7,000 to \$5,000 as we are not sure of travel is even allowable by UNM. The out of state travel for personnel was dropped from \$3,500 to \$2,000. These savings can increase the surveyor contract and move the amount from \$28,500 to \$40,000. We have not yet increased or signed contract because did not

know what budget would be. Clinic fees remain flat as we are not sure how the law clinic might change, so \$400 should be sufficient. See packet for changes to other budget items, including copier and printer maintenance, supplies, postage and meeting expense. Mr. Archuleta suggested that all of these savings be moved to surveyor services. Salaries were budgeted, based on a 4% increase, which was taken away. Salary adjustments, in light of the 4% raise not going through and Jacobo Baca's reclassification being stopped have led to a \$7,535 savings in salaries. We will probably have more adjustments to make as we negotiate COVID.

Councilor Padilla asked if there was a way that the staff could get bonus, not a raise, for something that they done. Mr. Archuleta responded that he didn't know but that this was limited by the FTE (Full time employment) total. We can ask the human resources manager at the OVPR, but it is highly unlikely as the Provost has rejected other staff raises. LM Garcia y Griego commented that the intent was to reclassify the position because of his education (Mr. Baca holds a doctorate), experience, level of expertise and level of effort, which is substantially beyond his job description or classification. The Council can either cut back on requests so that work is in line with his job description or change job description and reclassify. He stated that every time that requests for assistance are made to Mr. Baca, we are going beyond the scope of his duties. Moving forward through reclassification, we will continue to try, as his experience and doctorate is sufficient for the expanded scope of work that he is presently working. This process was only stopped because of COVID and the accompanying economic fallout. He commented that he has never heard of bonus. Staff typically get an increase without re-class is through a 1.25 FTE, which he is doing right now by teaching through CCS. We have refrained from hiring students and work asked of Jacobo Baca does go beyond the scope of his duties. Mr. Archuleta asked if there were exceptions or differences in salary increases or reclassifications. Dr. Garcia y Griego commented that both increases and reclassifications have been halted and this is an uphill battle. There is a new Associate VPR, Mary Jo Daniels, but the possibility of this going through is small.

Mr. Archuleta presented two recommendations that will go to DFA, one with a flat staff salary and another with an 8% increase in budget. LGSP overages have allowed some flexibility but this is going away and will do so rapidly if more cuts are made in subsequent years. This budget includes 4% increases for Venessa Chavez and Jacqueline Alderete and none for Mr. Archuleta. Mr. Baca's salary would increase to either \$54K at .6 FTE at the 8% budget increase or \$52K at .58 FTE at the flat salary; in both scenarios, the Council would have to cover more of his salary. Councilor Correa-Skartwed asked if there was a possibility to create a service contract for Mr. Baca outside of UNM to be sure that he is compensated fairly. She noted that the surveyor contract increased. Mr. Archuleta responded that the surveyor contract is a third-party contract and is different than a salary increase. UNM cannot do a separate contract to Mr. Baca. It may be possible to do so with DFA, but the process is convoluted and the scope of work performed would have to be entirely separate to what is done as a UNM employee. Moving the Council budget out of the UNM contract would be burdensome and would mean a renegotiate the agreement. DFA also would take some time to process the new contract, which DFA would have to approve. Mr. Archuleta and Dr. García y Griego stated that we would need to be sure that this does not violate UNM's moonlighting policy.

The reclassification is the preferred route, to align the duties performed with compensation. The concern remains that any salary increases fits within the budget and that it is sustainable. Mr. Baca commented that he appreciated the work and is happy working with land grants. He added that his adjunct teaching opportunities with the Chicana and Chicano Studies Department were likely drying up as they have hired more full-time faculty, making the salary drop that he accepted when leaving his previous position less manageable. LM García y Griego stated that they will try and move forward with the reclassification and that the OVPR does support this action. Mr. Archuleta added that while it needs to discuss further, the Council needs to take action on the budget now. Personnel are long term commitments that we need to budget for, where contracts are year to year. We need to move forward on some budget decisions, especially items outside of the UNM contract. Items in UNM contract, will need to do adjustments and may need to adjust monthly. Councilor Padilla commented that the Council needed to take action, based on Mr. Archuleta's recommendation. Mr. Archuleta commented that the Council could move forward with the surveyor's contract at \$28,500 and amend the contract later in the year and increase it to \$40,000 and increase the percentage of Venessa Chavez's time from .25 to .30, more reflective of her effort.

Councilor Correa-Skartwed made a motion that the NMLGC propose a reduction in the DFA administrative fee from \$4,454 to \$3,266 for FY 2021. Councilor Padilla seconded the motion.

Roll call vote:

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

The motion was passed.

Because of COVID-19 restrictions four Council meetings will be held virtually.

Councilor Martínez made a motion to decrease the in-state travel budget for Council members from \$9,000 to \$6,080. Councilor Correa-Skartwed seconded the motion.

Roll call vote:

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

The motion was passed.

The Council can take the excess funds created by the actions above and increase the support fund or legal services by the \$4,108 saved by motions above. Councilor Padilla and Councilor Correa-Skartwed agreed that legal services should be the priority. Mr. Archuleta stated that he would need to contact Carmen Morin at DFA and ask if the contract was already executed and if it can be adjusted.



Councilor Polaco made a motion that the \$4,108 be moved to legal services contract; Councilor Padilla seconded the motion.

Roll call vote:

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

The motion was passed.

Mr. Archuleta added that the Council may need to move monies down the road from out of state and in state travel and that if the Council moves more monies to legal services, the cap is \$60,000 total contract to stay within procurement.

Regarding areas within the UNM contract, we need to increase the percentage of Venessa Chavez's time. We can determine if Mr. Baca's reclassification will go through and can refigure the budget based on this. We also want to move on getting the contract in place at \$28,500 for surveyor's contract.

*FY 2022*

2 budget scenarios were discussed. The Council can consider submitting a budget with no increase or submit a budget with an 8% increase. The 8% increase from \$296,900 to \$321,682 is a \$24,782 increase. This amounts to a 4% increase over last 2 years, which is reasonable. This would keep the DFA administrative fee at 1.1 percent; increase the support fund and legal services contract, and the UNM contract would increase as salaries and surveyor contract increase. The other scenario is flat budget, where there would be no PI salary and Mr. Archuleta could serve as PI, 4% increases for Ms. Chavez and Ms. Alderete and a less substantial increase for Mr. Baca. The Council can submit for an 8% increase, a flat budget, or both and see what DFA says. Councilor Padilla proposed sending the 8% increase; Councilors Martínez and Correa-Skartwed agreed and stated that the Council should only submit a flat budget if needed.

Councilor Polaco made a motion that the Council submit the proposed budget with an 8% increase (\$321,682 total budget); Councilor Martínez seconded the motion.

Roll call vote:

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

The motion was passed.

## **10. Discussion and Possible Action on Professional Surveyor Services Contract - Updates and Requests**

Mr. Archuleta stated that the Council can move forward with the \$28,500 budget for surveyor services and will adjust as time goes on. Chris Chávez (Territorial Land Surveying) provided an update: he found that a person claimed land grant lands in Tomé since 2000, which he wants to

survey unknown ownership and quiet title, but needs legal advice; he discussed the Juan Bautista Baldes Land Grant case with attorney Joe Lennihan; work on the San Joaquín del Río de Chama Grant is complete; his planned 2-day trip to Abiquiú was delayed; and he needs time to rethink and revisit the surveying of the Anton Chico Grant. Councilor Martínez stated that the San Joaquín Grant is ready to move forward with filing of survey of the Cañón de Chama. He assumes that this will involve litigation down the road. The Grant is also ready to do markings of original acequia in Cañón de Chama. Mr. Archuleta added that the whole Anton Chico survey is long process, but that wind energy development might necessitate some surveying. Councilor Polaco asked what recording of the patent means and asked if the Tierra Amarilla Grant has recorded their patent. Mr. Archuleta responded that the Tierra Amarilla patent is in file and is in the first deed book for Rio Arriba County. Some land grants have refiled these patents as claim to valid title and sometimes cloud a title, but Tierra Amarilla does not need to refile. The case of San Joaquín del Río de Chama is a different process. For the Tierra Amarilla Land Grant, the patent was issued to Martinez, not to the Tierra Amarilla Grant, and there may be a disadvantage to filing the patent. Mr. Chávez added that for land grants the issue remains that lands have not been surveyed and that it is hard to know what is left for projects. Councilor Polaco added that developers are building an airstrip in Ensenada close to where a ski area was proposed and wondered if filing a patent can help the process. Mr. Chávez offered that heirs of the Sevilleta de la Joya grant have used the land grant patent to make a title claim on lands, which has some validity, though it is a stretch. He suggests getting legal counsel on board to discuss

### **11. Discussion and Possible Action on Treaty of Guadalupe Hidalgo Division – Updates and Requests**

Novela Salazar (NMAG – Treaty Division) stated that she had no other updates, but did have a question for Mr. Archuleta, asking if Orlando López from the Manzano Spring and Ditch has responded to the Manzano Land Grant’s request for information. Mr. López thought that they did not have to respond because of their complaint against the Merced de Manzano. She told Mr. López that they did have to respond and stated he that Mr. Archuleta made the records request. Mr. Archuleta clarified that he did not make a request but did support Merced de Manzano and will review official request letter.

### **12. Discussion and Possible Action on Legal Services for Land Grants – Update and Requests**

DFA has not executed contract for New Mexico Legal Aid as of yet. David Benavides is still working on issues, including the briefing on the Tajique cell tower issue, which is happening in the next month. New Mexico Legal Aid also plans to retain the services of Joe Lennihan on the Juan Bautista Baldes case. There is also a need to work on the LGSP budget to see if there is funding to hire a student, an internship or fellowship, with a 3<sup>rd</sup> year law student to assist a land grant under supervision of NMLA. This would not be until the Spring 2021 semester as we are still unsure how law school services might work.

### **13. Discussion and Possible Action on UNM Intergovernmental Agreement – FY 2021**

Mr. Archuleta reported that everything in place and a new index has been assigned. All monies have thus far been charged to LGSP index. In the September meeting, Councilors will approve July and August expenses.

#### **14. Discussion and Possible Action on Creation of Land Grant Institute at UNM**

Mr. Archuleta discussed the NMLGC at UNM, which was once a part of IPEAR. When IPEAR was discontinued, NMLGC was moved to SHRI, where the LGSP is attached. Creating an institute would institutionalize land grants at UNM and would include LGSP and NMLGC. The LGSP did have an advisory committee meeting, which Councilor Correa-Skartwed attended as a member. The advisory committee approved the move to an institute and the process next moves to the OVPR at UNM and may go before the faculty senate. We are at a critical time where we need to expand but with accountability for both NMLGC and LGSP monies to the communities that we serve. DFA- LGD director Donnie Quintana discussed the Council returning to DFA and higher ups at DFA have discussed NMLGC independence and separation from DFA. Mr. Archuleta proposes a workshop to discuss where the Council will end up. How land grants are impacted is important and we want to have discussion with the larger collaborative and all land grants.

LM García y Griego added that his understanding is that Council wants to stay at UNM but retaining independence like the Sentencing Commission. The Land Grant Institute proposal submitted to the OVPR has a zero-budget increase and seeks to move the LGSP and NMLGC from SHRI to a unit that reports directly to VP for research. The director of SHRI told the OVPR that she would rather not have oversight over the LGSP and NMLGC, which have a larger budget than SHRI. OVPR needed to hear from the faculty and public advisory committee to approve this as they need to hear from more than the director. At the meeting, Derek Hamilton brought this up and advisory unanimously approved this move, assuming that Council approved a similar move. The Council does not need to take action, but a motion expressing support would be helpful. The OVPR was concerned how SHRI felt about this move. Dr. García y Griego spoke with Irene Vasquez, who supports the creation of the Institute and endorsed the idea wholeheartedly in a meeting with Associate VP for Research Derek Hamilton. There was fear that LGSP and SHRI would compete for funds, but it was discussed that LGSP legislative support largely comes from membership of the ILGC, not those legislators that support RPSPs like SHRI. There is a specific policy at UNM, which would mean that UNM would commit itself to supporting land grants across the state and not sure that the F&A rate would decrease significantly. He is confident that the OVPR will support this move and that the outgoing VPR, Gabriel López, who is a land grant heir, in particular, will support this. He asked if the Council endorsed the creation of an Institute.

Councilor Correa Skartwed stated that she supports the creation of the Institute and needs to move forward with this. She commented that the meeting of the advisory committee was good and was impressed by the advisory committee members. Councilor Padilla agreed. Mr. Archuleta cautioned that he was not sure that a motion is a commitment on the part of the Council to join the institute. He believed that the Council should be knowledgeable of the process, what an institute is, how it functions, how it works, etc. The Council could continue like this, as part of the Institute, or continue as its own unit like the sentencing commission. The Council's decision needs to be fully informed. Dr. Garcia y Griego agrees that there needs to be a mechanism that includes land grants, council members, etc., to discuss how the two units could work and are housed together. For today, Council support in principal for the institute is important. The LGSP Advisory Committee action was also support in principle and there are no guarantees. The OVPR will not move the proposal to the provost, faculty senate, and so on, without the Council supporting the concept, in principle, knowing details need to be worked out. Councilor Polaco commented that the institute is a good idea, but that the Council needs to learn

more that role we have, we should move on it, but we need more information before we move on it. Chairman Sánchez stated that a workshop is necessary that discusses what the institute will do for the Council.

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

Mr. Archuleta reported that the Council approved a \$20,000 budget for support fund with a deadline for applications has been October 31<sup>st</sup>. Getting agreements in place is important to ensure that funds are encumbered, which is more likely if deadline is moved up. Chairman Sánchez commented that it is best to post as soon as possible. Mr. Archuleta commented that if the deadline for applications was moved to Sept. 30, applications could be approved in the October meeting and agreements would avoid the holiday lag in time for signatures and processing. Council members voiced their support for moving date up to September 30<sup>th</sup>. Venessa Chávez has worked to help land grants do their CRS applications, which allows for a tax waiver on goods, but not on services. Some challenges are that some LGs had EIN numbers before they were political subdivisions and may need to change registration and status. This tax exemption helps land grants save monies and Council staff can include this on the notice that goes out in e-mail regarding the support fund.

Councilor Correa-Skartwed asked if land grants, as units of government, pay lodgers taxes. Sandoval County wants people that stay on the San Antonio de las Huertas property to pay the lodgers tax. Mr. Archuleta stated that he would ask Tax and Revenue. Councilor Martínez commented that the San Joaquín Grant has a tax id number from before their political subdivision status and have a CRS number and are in good standing, but cannot do anything with it until we change our EIN number or tax status and that they need help to get this done.

### **16. Discussion & Action on State Land Office Forestry Projects**

The New Mexico State Land Office is interested in forestry projects that would allow fuelwood collection on State Land Office managed properties. They will hold a meeting and visit field sites on August 7. One site near the San Joaquín del Río de Chama Grant is a lease of state lands held by Gerald Chacón of the San Joaquín del Río de Chama Grant. This would provide projects for fuelwood near Cebolla, with the hope that the State Land Office can fund a youth conservation corps project when youth can pile cut slash that lessees can later burn when fire conditions allow. Also, Taos County WUI Coordinator J.R. Logan is working on Santa Bárbara Land Grant on projects with Taos County and the State Land Office to provide fuelwood for the local community. The NM State Forester is interested in working on this and collaborating with the State Land Office. There is not a lot of opportunity on these projects as the State Land Office does not have too many land grant properties except for those effected by *US v. Sandoval* and others that did not receive their full patent. Allotments of land (the 9th and 16th squares of Township and Range grid) were made to the state and avoided federal lands, including those that were former land grant land. Other former land grant lands that are now state lands may have been acquired by the state after it was lost by those communities.

### **17. Discussion & Action on Piedra Lumbre Visitors Center Update**

Mr. Archuleta reported that all paperwork was submitted to the Forest Service. We do not know if environmental assessments were submitted and need to know as once they are completed, the three land grants need to complete the purchase within six months. The grant agreement will be

issued to the San Joaquín del Río de Chama Grant as fiscal agent. Councilor Martínez stated that the three grants need to contracts in line, set up bids, to get work done and tie up monies. The property needs demolition and removal of buildings, repaving, fencing and rehabilitation of the property as it is worn down. Councilor Polaco agreed, particularly because of the rat infestation. Mr. Archuleta stated that the USFS did some cleanup on rat infestation and that the grants can set up a meeting and can start getting quotes. These need to be estimates and the land grants can plan and can select from quotes once property is transferred. We also need to know the cost of projects to know if the sealed bid process is necessary. Councilor Martínez asked how long a bid is good for. Mr. Archuleta and Chairman Sánchez said that it depends on the contractor. Councilor Martínez said the staff needs to set up a meeting for us.

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

Mr. Archuleta commented that the meeting packet includes a report from the Office of the State Engineer clarifying water right issues, transfers, etc., relating to the Laguna del Campo. The OSE memo (report) stated the lake can exist with evaporation (22-acre feet) allowed that can be put back into the system without returning into the downstream ditch. There was concern that any water that went into the lake had to be returned to the acequia. One option is that the OSE splits the right into a storage right and a diversion right. The OSE would lease to the diversion right to the Tierra Amarilla Land Grant and could issue a 99-year lease rather than a 10-year lease. The NM Game and Fish can ensure that the land grant does not divert water to detriment of downstream users, including the La Puente Ditch. The other option, called 'no action' is that the NM Game and Fish would transfer the right as is to the Tierra Amarilla Land Grant and there would be no change, meaning the Tierra Amarilla Grant could divert up to the 21 acre feet and New Mexico Game and Fish would be free from the process in the future. Both would require that there is an agreement between the three parties, NM Game and Fish, La Puente Ditch and the Tierra Amarilla Land Grant. We suggested that if land and water was transferred completely, could not the Tierra Amarilla Land Grant engage in a negotiation with downstream user, the acequia, directly separately from NM Game and Fish. Tierra Amarilla Land Grant will have to do some due diligence to reach out to acequia to discuss. Councilor Polaco added that people are leaning to the second option, leaving as is, as the land grant will be a water user and people are parcientes. The Tierra Amarilla Land Grant will be meeting August 16 to discuss. The only questions remaining are the cleanout on the screen and the 1939 lease agreement between NMG&F and the Manzanares family.

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

Mr. Baca stated that update requests have been sent out to all land grants operating as political subdivisions of the State of New Mexico. The following has been submitted to the Registry:

- Santa Barbara Land Grant - Results of the election of April 6, 2020 and organization of board
- Trampas Land Grant - Copy of the bylaws for the Merced de Santo Tomás Apóstol del Río de las Trampas dated May 15, 2016; current membership of the board of trustees, including organization and terms of office for the Merced de Santo Tomás Apóstol del Río de las Trampas.
- Don Fernando de Taos Land Grant - Copy of the bylaws for the Don Fernando de Taos Land Grant-Merced, dated March 17, 2004, amended on February 21, 2016 and further approved March 10, 2016. - Results of the election of June 28, 2020, including advertisement

information and election certificates for elected board of trustee members and organization of the board.

Councilor Polaco asked if the Tierra Amarilla Land Grant has submitted its information; Mr. Baca responded that they had not; Councilor Polaco responded that he will make sure it is sent promptly.

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

Mr. Archuleta reported that Venessa Chavez is working on youth videos to share with communities. This is done in lieu of meeting with youth as COVID-19 restrictions prohibit meeting in person. The Studies program completed purchase of Aspectos Culturales materials from Georgia Roybal and Roberto Mondragón. They still have more copies of their textbook. The LGSP will pull materials from the textbook to work into lessons. The purchase also included a copy of all printed volumes of their newsletter. There is also the potential to get land grant history books from Malcolm Ebright. Jacobo Baca reported that LGSP staff is continuing to do research on to support land grants but this is difficult because of government shutdowns. Councilor Martínez added that Councilor Correa-Skartwed asked LGSP director LM García y Griego for a report of his research but one has not yet been provided. He stated that we need an update on work and need to issue a formal letter to him. Councilor Correa-Skartwed stated that she agreed and mentioned that Dr. García y Griego stated that he is overwhelmed preparing for online classes and that perhaps he can report in the September meeting.

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

The NMLGC and LGSP have fielded several inquiries, many relating to land grant generally rather than a specific land grant or issue. Mr. Baca reported that the inquiries demonstrate a lack of public understanding of the history of land grants and the misperception that New Mexico's lands are vacant and available to be claimed. Heirs of old colonial private grantees and Anglo territorial governors have contacted asking how to get access to their land or their money. Heirs from the Atrisco Grant have also contacted him regarding proceeds from the 2006 sale of Westland to Suncal. Other inquiries were forwarded to land grant boards where appropriate.

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

Council members asked staff to send LM Garcia y Griego a request for an update on his LGSP funded research. Mr. Archuleta reported on tort liability information and coverages and that the Council sent a letter of administration and information on coverages to land grants. This information outlines that which is covered and what is not under qualified immunity. This fund is not insurance and is limited. If you have property, it is good to have multiple coverages. The payments from the fund are capped. Risk management does cover tort liability and the Council hopes to host a workshop with risk management where land grants can ask if certain land grant activities would be covered. This coverage does not include coverage for common lands. A list of assets and activities was presented, which will be added to and sent to the Risk Management Division by the end of week.

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

None.

**24. Miscellaneous Announcements**

ICIPs are due to DFA on September 4, 2020. Land grants have been contacted regarding the deadline and have been offered assistance from Council staff

**25. Date and Location for September Council Meeting**

The September 2020 Council meeting will take place virtually on September 17, 2020 at 10:00am.

**26. Adjournment**

Councilor Correa-Skartwed made a motion to adjourn; Councilor Martínez seconded the motion.

Roll call vote:

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

The motion was passed. The meeting adjourned at 2:30pm MDT.

**Approved:**

\_\_\_\_\_   
 Chair

\_\_\_\_\_   
 Date