

New Mexico Land Grant Council (NMLGC)
August 11, 2023 – 10:00am
UNM Science & Technology Center,
Executive Board Room
851 University Blvd SE
Zoom – Meeting I.D. – 970 4496 3720

**Final Meeting Minutes
Regular Council Meeting**

1. Call to Order - Roll Call

Chairman Juan Sánchez called the meeting to order at 10:07am MDT. Roll call of the Council members: Andrea Padilla, Steve Polaco, and Juan Sánchez were present.

2. Introduction of Guests

Juan Sánchez (NMLGC); Andrea Padilla (NMLGC); Steve Polaco (NMLGC); Arturo Archuleta (NMLGC/LGSP); Greta Archuleta (NMLGC); Jacobo Baca (NMLGC); Ricardo Dow y Anaya (NM Attorney General's Office); Joseph Dworak (Deputy AG, NM Attorney General's Office); Aurora Valdez (Office of Senator Martin Heinrich); Xochitl Campos Biggs (Office of Congresswoman Teresa Leger Fernández); Ivan Knudsen (U.S. Forest Service); A.J. Pacheco (Office of Congresswoman Teresa Leger Fernández); Punky Moore (Fire Comm Specialist, R3, USFS); Tim Hagaman (NM EDD); Erin McElroy (NM Forestry Division); Kris Graham Chavez (NRCS); Leonard Martinez (San Joaquín del Río de Chama LG); Lisa Morrison (BLM); Camila Romero (NM State Land Office).

3. Approval of Agenda

Councilor Steve Polaco made a motion to approve the agenda; Councilor Andrea Padilla seconded the motion.

Roll call vote:

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

The motion was passed.

4. Approval of Meeting Minutes from July 14, 2023 Regular Council Meeting

Councilor Padilla made a motion to approve the meeting minutes of the July 14, 2023 Council meeting; Councilor Polaco seconded the motion.

Roll call vote:

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

The motion was passed.

5. Discussion and Possible Action on Office of the Attorney General & Treaty Division Update

Joseph Dworak, Deputy Attorney General for Civil Affairs, introduced himself to the Council. He discussed the need to strengthen the relationship between NMLGC, land grants and the New

Mexico Attorney General's office. The NMAG's office will announce the candidate chosen to head the Treaty of Guadalupe Hidalgo Division soon and NMAG Raul Torrez is committed to strengthening Treaty Division with additional staff and resources. The NMAG's office wants to Treaty Division resources and outreach to the NM Acequia Commission, especially as present resources are not shared enough and there are three units at the NMAG's office that deal with water. The NMAG's office also provides legal representation through the government council and accountability division, which legally represents more than seventy public bodies. There is a need for more coordination, especially with turnover as it is hard to find attorneys that want to work for government, especially with expense of living in Santa Fe. People are also less willing to commute after the pandemic.

Mr. Dworak continued that he has met with Chairman Sanchez and Mr. Archuleta. There remains a lack of definition of the Treaty Division as it is conceptually driven with little details on its role. We need to get on same page on the role of NMAG's office as land grants and acequias submit complaints and issues, but the NMAG's office is not staffed sufficiently to address their issues. There are boundaries and limits that need to be defined, as the NMAG's office provides legal advice to our state agencies and cannot give legal advice and be attorney for individuals and all subdivisions. The NMAG needs the NMLGC to understand the Treaty Division's role. Councilor Padilla expressed her concern that land grants and acequias are poor and are often left without attorneys. Mr. Dworak responded that hearing the perspectives and identifying common legal issues would be more appropriately tackled when the Division has hired its staff. Chairman Sánchez commented that he looks forward to working with the NMAG's office and the new Treaty Division staff to strengthen the Treaty Divisions statute and allows the NMAG to provide assistance to land grants and acequias.

6. Discussion and Possible Action on Open Meetings Act Resolution

Mr. Archuleta presented the FY 2023 Open Meetings Act Resolution, which was similar to last year's OMA resolution with some changes. Mr. Dworak discussed the OMA resolution and noted that the NMAG's office offers OMA and IPRA training to local public bodies.

Councilor Polaco made a motion to approve the FY 2024 Open Meetings Act Resolution for the NMLGC; Councilor Padilla seconded the motion.

Roll call vote:

Councilor Padilla – aye

Councilor Polaco - aye

Chairman Sánchez – aye

The motion was passed.

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

Punky Moore (USFS) provided a fire update on behalf of the U.S. Forest Service. Information can be found via the National interagency fire enterprise geospatial portal (Fire EGP). Models predict that monsoon conditions are setting in late, but soon. Post fire response teams are active on the Santa Fe National Forest for post fire flood concerns. Currently 1,100 fire suppression resources are assigned to New Mexico. The American Mesa Fire started on August 5 from a lightning strike and is 750 acres and 35% contained with 130 personnel. The Black Feather Fire was caused by an August 5, lightning strike in the wilderness and has spread and moved east. It is 2,300 acres and is 0% contained with 460 personnel fighting the fire. There is a cluster of fires on the Gila National

Forest that started July 12. The fires are not too active and rain has diminished activity. These include the Turkey Fire (5200 acres), the Divide Fire (5,000 acres, 94% contained) and the Dolan Fire (3,000 acres). Ivan Knudsen (USFS R-3) reported that he received the updated language from Senator Ben. R. Lujáns office and the USFS Office of the General Counsel. The Regional Office will review and send back to Senator Lujáns office. An article from the *Taos News* (in packet) discusses fuels left on the forest floor from the fire line cut during the HPCC fire and quotes Santa Bárbara Land Grant president Bonifacio Vásquez's concern about the fuelwood and the health of the watershed. Mr. Archuleta stated that Taos County and the Carson National Forest are partnering to fund 3 forest mayordomo projects and need liability coverage. Council staff met with RMD yesterday to discuss tort liability coverage and the Council has set aside \$4,000.00 to help with these types of projects in FY 2024 budget.

8. Discussion and Possible Action on Bureau of Land Management Update

Lisa Morrison and Brad Higdon presented on behalf of the BLM. The Rio Grande del Norte National Monument plan is moving forward as the notice of the public scoping was published today in the Federal Register. The Public scoping is for an EA level plan amendment to Taos Field Office management plan to provide for Rio Grande del Norte National Monument. The MOUs with cooperating agencies will go out today via email. Meetings will be held on August 28th in Taos, in Santa Fe on August 29 and a virtual meeting will be held on Sept. 5th. The Council worked on the 2014 Rio Grande del Norte National Monument management plan and the BLM wishes to involve the San Antonio del Rio Colorado Land Grant. In September the BLM plans to start public the scoping process for Ohkay Owingeh and BLM land exchange of 1700 acres of BLM land on the eastern border of Ohkay Owingeh for 88 acres on Rio Nutrias. (These lands are within the historic boundaries of the Santa Cruz de la Canada and San Joaquin del Rio de Chama Land Grants, respectively) The draft plan for a recreational shooting range in Santa Fe County will be available for review and comment in late September, though fire restrictions currently preclude shooting on BLM lands in Santa Fe County.

Mr. Archuleta asked if this was a plan amendment or a new plan; Mr. Higdon replied that they have been managing the Monument under the 2012 Taos plan, which has been sufficient, but in need of an update. Rather than an across the board amendment, they will amend Taos RMP concurrently and will approve management plan for monument and Taos RMP. Though the San Antonio del Rio Colorado Land Grant does not currently have a board, there are other land grants in the area. Ms. Morrison added that the BLM is looking at traditional use legislation as well.

9. Discussion and Possible Action State Land Office Update

Camila Romero (SLO) stated that she has no new updates but reported that the SLO is looking to extend the Villanueva and Bearcat projects. She reported that she has only received payment for the cords of wood from the Bearcat Project from the Chililí Land Grant.

10. Discussion and Possible Action on Federal and State Legislative Update

Federal

Mr. Archuleta reported that the NMLGC received input on the traditional use act from the US Forest Service / Office of General Counsel. Staff has given the comments a cursory review but has not yet had the time to examine the bill side by side with past versions. The major and most noticeable change is that the word "consultation" was deleted and replaced with "cooperation" and/or "coordination." The word "recognition" was also dropped. Staff considered proposing the

addition of the Treaty to recognize historical and traditional prior uses. Many of the USFS/USDA comments and additions address tribal concerns. Many changes seem benign, but the authority to waive fees was removed, as was the guidance on permits requirements, which was replaced with an MOU. Senator Luján's office would like comments from the Council before the end of August. The Council can delegate comments to staff or have an additional Council meeting to discuss the updated bill and create comments. Councilor Padilla commented that the Council needed time to review the bill to ensure it still has teeth. While she understands tribal concerns, land grants only seek to have land grant's traditional uses recognized and protected. Chairman Sánchez stated that Council members should review the bill individually and by next Friday determine whether a special meeting was needed whether comments can be delegated to staff. Mr. Archuleta added that the comments can be shared with all land grants at the next New Mexico Land Grant-Merced Consejo meeting in September.

State

The next Interim Land Grant Committee meeting will take place August 22-23 in Peñasco. The agenda will be available online before the meeting. Council staff met with the Risk Management Division and discussed liability coverage for wood thinning projects. Jacob Maule, legal counsel for RMD, discussed the Tort Claims Act and believed the most significant exposure for land grants was the operation of community facility. The courts have interpret liability rather broadly, but the exposure for land grants would be covered by Tort Claims Coverage, which costs around \$1,000. Council staff discussed the high cost of coverage from quotes from Marsh for land grants that had no facilities, including \$2,800 for Las Trampas and \$16,000 for Cristóbal de la Serna Land Grants. Coverage for the Town of Tomé Land Grant was quoted at \$20,000, which has facilities and common land. RMD coverage not only insurance paying out a claim, but also legal representation in the case of litigation, which typically cost between \$25,000 and \$50,000. RMD hoped that they would be before Interim Committee in August but will likely present at a later meeting.

11. Discussion and Possible Action on Natural Resource Issues & Concerns - Local, State and Federal

Kris Graham Chavez (NRCS) reported that she is working in EQIP obligations and RCPP applications are due August 19.

12. Discussion and Possible Action on Land Grant-Merced Land Acquisitions, including appraisals

Mr. Archuleta reported that most land grants are using funding for land acquisitions. Some members of the ILGC expressed concerns about land grants not using monies for operations. Council staff held a meeting with NMFA and DFA to see if they will fund a land acquisition loan for a land grant looking to purchase a large parcel of land. NMFA is conservative and risk averse and feared that if distributions are low, loan payments might take all of a land grants LGMAF distribution. Staff proposed capping payment to 20% of LGAMF distribution and revisiting the loan, but not re-amortizing payments. If land grants would get an NMFA loan, they would allow for early payment. Land grants might have to pursue an alternative for land acquisitions, perhaps creating a fund for land acquisitions. Regarding appraisals, DFA can make a good argument that appraisal requirements protect the public interest. DFA currently allows market analysis if a land grant is using capital outlay monies. If a grant is using land grant merced assistance fund or their own monies, they do not need an appraisal nor a market analysis. DFA has not yet promulgated

rule to require an appraisals. Councilor Padilla stated that good real estate appraisers seem hard to come by and Mr, Archuleta commented that there might need to be a policy fix as there are cases like that of Cristóbal de la Serna since there are not comparable properties in the case of lines. He added that we might ask the real estate appraisal board to give a presentation.

13. Discussion and Possible Action on Land Grant-Merced Assistance Fund Approval Policy
Mr. Archuleta discussed the four draft NMLGC certifications that will be required of all land grants, including: Certification of annual report (with checklist); Adjusted annual revenues certification form, and worksheet; Bonding certification form; and Election certification form. Council members also discusses whether the Council will require that land grants that have an approved budget to qualify for an FY 2024 LGMAF distribution.

Councilor Padilla made a motion that the NM Land Grant Council continue to require land grants submit Annual Report certification and Annual Revenue certification; Councilor Polaco seconded the motion.

Roll call vote:

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

The motion was passed.

Councilor Padilla made a motion that the Council require land grants certify that they are bonded, certify that they have had a recent election and that they are compliant with their budgets (FY 2023 and FY 2024), Councilor Polaco seconded the motion.

Roll call vote:

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

The motion was passed.

14. Discussion and Possible Action on Council FY 2023, 2024 & FY 2025 Budgets
FY 2023

Mr. Archuleta reported that pay requests 6 was rejected by DFA because line items were over budget, others under budget and as DFA did not process PR 7 or PR 8, they asked for totals from 7 to be included in PR 8. All pay requests have been approved and submitted but won't get paid off until mid-August.

FY 2024

No IGSA has been approved so no expenses have been incurred.

FY 2025

Submitted to DFA in July.

15. Discussion and Possible Action UNM Intergovernmental Services Agreement

Cristina Martinez at DFA shepherding the contract, which is currently at DFA legal for review. The budget has been entered into UNM's online budget management system (Streamline). Fringe increased, resulting in being underbudget, which can be fixed by Mr. Archuleta if he is P.I., but this

can only happen if his position and grade are increased as well. LM Garcia y Griego can still serve as co-PI.

Councilor Polaco made a motion that Arturo Archuleta serve Principal Investigator for the NMLGC contract with the University of New Mexico; Councilor Padilla seconded the motion.

Roll call vote:

Councilor Padilla – aye

Councilor Polaco - aye

Chairman Sánchez – aye

The motion was passed.

16. Discussion and Possible Action on Professional Surveyor Services Contract Update & Requests

Mr. Archuleta reported that the professional surveyor’s contract will need to go out to bid since the current multi-year contract termed out. Because of amount, we may need to do more than three quotes.

17. Discussion and Possible Action on Legal Services Contract Update & Requests

None.

18. Discussion and Possible Action on Laguna del Campo Update

Councilor Polaco stated that the Tierra Amarilla Land Grant Board met last month to discuss their letter to New Mexico Game and Fish.

19. Discussion and Possible Action on Land Grant Registry Update

Mr. Baca reported that the following items were submitted to the New Mexico Community Land Grant Registry.

- Town of Tome LG - bylaws and FY 2024 resolutions - August 2023
- Los Vigiles LG - bylaws and board membership - August 2023
- Lower Gallinas LG - bylaws and board membership- August 2023

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

Mr. Baca reported that the LGSP sent out another edition of the EL GRITO DE LAS MERCEDES newsletter (June-July 2023) and is working on reviewing the distributing the Spanish Archives of New Mexico digital files. He and Mr. Archuleta met with Adrian Parrott of Mano y Ola, a consulting group that is conducting the Hispanic Forest Landowner Study and works with USDA on policy recommendations.

21. Discussion and Possible Action on Correspondence

Letters sent to Rio Arriba County and the New Mexico Congressional Delegation on behalf of the San Joaquin del Rio de Chama Land Grant are included in the packet.

22. Discussion and Possible Action on Staff Assignments

Greta Archuleta (NMLGC staff) stated that State Purchasing offers trainings on small purchases, procurement, etc., including a one day overview (full day, online, 8:30-4:30) and short courses. They also offer RFP training that is a 3-day intense class, requiring interaction. They are willing to offer a special scheduled day just for land grants. She will send information and e-mail. Mr.

Archuleta added that it can become part of the regular trainings for land grant boards and their staff, which include OMA and IPRA trainings by the NMAG’s office, trainings on statute compliance and trainings on the capital outlay and legislative process. Council staff is also working on updating the guidebook. Grant agreements still have not gone out.

23. Public Comments – discussion only

Tim Hagaman from NM EDD discussed the New Mexico Reforestation Center (NMHU, NMSU) is looking for 20 acres to build a seedling farm. They are interested in leasing the property and it must have 138 acre feet of water rights to lease or sell. They are currently only writing a feasibility study.

24. Miscellaneous Announcements

None.

25. Date and Location for September Council Meeting

The September 2023 Regular Council meeting will take place on September 29 at 10:00am in Albuquerque, New Mexico, location tbd.

26. Adjournment

Councilor SP made a motion to adjourn; Councilor AP seconded the motion.

Roll call vote:

Councilor Padilla – aye

Councilor Polaco - aye

Chairman Sánchez – aye

The motion was passed. The meeting adjourned at 1:13pm MDT.

Approved:

Chair

Date