

**San Juan County Commission  
Regular Meeting  
August 20, 2013**

Chairman Eckstein called the San Juan County Commission meeting to order on August 20, 2013 at 4:01 P. M. in the Commission Chambers located in the County Administration Building, 100 S. Oliver Drive in Aztec, New Mexico. Chairman Pro-Tem Jack L. Fortner gave the invocation and Commissioner Keith Johns led the Pledge of Allegiance. Those present were:

CHAIRMAN	Scott Eckstein
CHAIRMAN PRO-TEM	Jack L. Fortner
MEMBER	Margaret McDaniel
MEMBER	Keith Johns
CHIEF DEPUTY ASSESSOR	Jimmy Voita
CLERK	Debbie Holmes
CHIEF DEPUTY CLERK	Tanya Shelby
COUNTY EXECUTIVE OFFICER	Kim Carpenter
ASSISTANT CEO	Linda Thompson
COUNTY OPERATIONS OFFICER	Mike Stark
ATTORNEY	Jim Durrett
DEPUTY ATTORNEY	Joe Sawyer
DEPUTY ATTORNEY	Doug Echols
EMERGENCY MANAGER	Don Cooper
CHIEF FINANCIAL OFFICER	Marcella Brashear
PARKS & FACILITIES ADMINSTRATOR	Mike Davidson
PUBLIC WORKS ADMINISTRATOR	Dave Keck
CHIEF HUMAN RESOURCE OFFICER	Charlene Scott
ADULT DETENTION CENTER DEPUTY ADMINISTATOR	Daniel Webb
ALTERNATIVE SENTENCING ADMINISTRATOR	Rob Mitchell
JUVENILE SERVICES ADMINISTRATOR	Traci Neff
FIRE CHIEF	Doug Hatfield
DEPUTY FIRE CHIEF	Craig Daugherty
INDIGENT HOSPITAL CLAIMS COORDINATOR	Liza Gomez
GENERAL SERVICES ADMINISTRATOR	Larry Hathaway
SUBDIVISION REVIEW OFFICER	David Barnett
COMMUNICATIONS REPRESENTATIVE	Tandra Malcom
CHIEF IT OFFICER	Vince Johns
SAFETY & COMPLIANCE MANAGER	Stewart Logan
PRESS: Farmington Daily Times	Ryan Boetel
Tri City Tribune	Lauren Duff

VISITORS: 18

**Presentation**

CEO Kim Carpenter informed the Commission that Sergeant Emerson C. Mason, Jr. is currently serving the United States Marine Corps, Combat Logistic Regiment 2, 2<sup>nd</sup> Marine Logistics Group, Combat Logistic Battalion 8, Transport Company, 2<sup>nd</sup> Platoon, 1<sup>st</sup> Squad Leader and MOS-Motor

Transport. He recently returned from Afghanistan, 2 weeks ago after 9 years of active service. While in Afghanistan he was a Security Team Leader. He has served 3 deployments; 2 combat and 1 overseas. He was a Marine Recruiter for 3 years in New Hampshire. Sergeant Mason received the following awards and commendations:

- Marine Recruiting Ribbon
- Navy Unit Citation
- Overseas Deployment Medal
- Humanitarian Service Medal

Sergeant Mason is married to Michele Mason and they have 2 children, Johnny and Tayler. They currently live in Upper Fruitland, NM and his parents are Eulalia White and Emerson Mason, Sr. Sergeant Mason and his family will make their home in Camp LeJuene, North Carolina. He has no immediate plans for retiring. The Commissioners presented Sergeant Mason with a Certification of Appreciation.

A motion was made by Commissioner Johns, seconded by Commissioner McDaniel to call to order the Indigent Hospital Board Meeting. Upon voice vote, the motion passed unanimously.

#### **Indigent Hospital Claims Board Meeting**

1. Review of Claims
2. Approval of Minutes of August 6, 2013

A motion was made by Chairman Pro-Tem Fortner, seconded by Commissioner Johns to adjourn the Indigent Hospital Board Meeting and call to order the Regular Meeting. Upon voice vote, the motion passed unanimously.

The Indigent Hospital Board Meeting Minutes are taken separately and are made a part of the permanent minute's folder.

#### **Regular Meeting**

##### **Approval of Agenda**

Kim Carpenter, CEO stated that there are no changes to the agenda. A motion was made by Chairman Pro-Tem Fortner, seconded by Commissioner Johns to approve the agenda as presented. Upon voice vote this motion passed unanimously.

##### **Consent Agenda**

1. Approval of E-911 Grant Amendment #2 for Enhanced 911 Services and Equipment
2. Approval of Alternative Sentencing Division Policies
3. Approval of Resolution 13-14-16, Disposition of Surplus and/or Obsolete County Property
4. Approval of August 6, 2013 Regular Meeting Minutes

A motion was made by Commissioner Johns, seconded by Commissioner McDaniel to approve the Consent Agenda. Upon voice vote this motion passed unanimously.

### New Business

1. **Request for Approval of Resolution 13-14-17, Attempt to Re-Appropriate Federal Funds from the CR 7950 Chaco Canyon Road Project to the CR 7500 Road Project**

Dave Keck, Public Works Administrator explained to the Commission that in 2005 the County received a Federal grant in the amount of \$800,000 which required a 20% match of \$200,000 to chip seal CR 7950, the road leading to the Chaco National Monument. Due to the complexity of the project caused by special interest groups opposed to a paved surface leading to the Park, the project was canceled December 6, 2012, per Resolution 12-13-24. Part of Resolution 12-13-24, authorized staff to take action to attempt to re-appropriate the remaining Federal funds of approximately \$350,000 to the CR 7150 Bridge project which at that time had no identified funding sources. Since that time staff has been able to totally fund the Bridge project from a variety of sources including Federal Bridge Funds, Navajo Nation Funds, and County matching funds. Mr. Keck indicated that if the Commission approves this resolution, a letter will be sent to Senator Udall requesting him to send a letter to the New Mexico Department of Transportation, for review of the contracts to see if the funding can be re-appropriated. Commissioner Johns and Chairman Pro-Tem Fortner confirmed the remaining amount of \$380,000 would not be expended until it is re-appropriated. Mr. Keck requested approval of Resolution 13-14-17 which authorizes staff to instead take action to attempt to re-appropriate the remaining Federal funds of what is now estimated to be approximately \$380,000 to the CR 7500 resurfacing project which is scheduled for construction in July of 2014. A motion was made by Chairman Pro-Tem Fortner, seconded by Commissioner Johns to approve Resolution 13-14-17, attempt to re-appropriate Federal funds from the CR 7950 Chaco Canyon Road project to the CR 7500 Road Project. Upon voice vote this motion passed unanimously.

2. **Consideration of Resolution 13-14-15, Adopting the NM Infrastructure Capital Improvement Plan (ICIP) 2015-2019**

Mike Stark, COO informed the Commission that the Infrastructure and Capital Improvement Plan (ICIP) is provided on an annual basis to the State of NM Local Government Division and provides the following information: entity's planning process, goals, trends, inventory, five year project summary including project priority, description, budget, possible funding sources, operating expenses, and implementation schedule. In addition, San Juan County is required to identify the top five capital projects we wish to earmark for the Governor's funding consideration during the 2014 legislative session. The Governor's office mandated that capital outlay will not be funded unless it is on an ICIP plan. Input to the plan was garnered from two sources: citizen input via public hearings and staff's five year strategic budget forecasting plan. Three public hearings were held at the following facilities and dates: Blanco Senior Center on July 29, 2013, County Administration Building on July 29, 2013 and the Lower Valley Senior Center in Kirtland on July 30, 2013. One project has been eliminated from the plan due to funding for the project: Bridge Replacement – CR 7150, Bridge #8105. One project has been added to the plan due to citizen input and department head input received: Upper La Plata & North Star Regional Water Connection Project. Commissioner Johns requested the water line project for Jackson Lake residential area be added to the plan for the year 2016. Staff requests direction of the priorities and subsequent approval of Resolution 13-14-15, San Juan County's five year list of potential

capital projects and a prioritization of projects for fiscal year 2015. A motion was made by Commissioner Johns, seconded by Commissioner McDaniel, to approve Resolution 13-14-15, adopting the NM Infrastructure Capital Improvement Plan (ICIP), with the addition of the water line project for Jackson Lake residential area. Upon voice vote this motion passed unanimously.

**3. Proposal of San Juan County Ordinance No. 84, Land Development Code**

Doug Echols, Deputy Attorney advised the Commission that San Juan County Ordinance No. 84 is a unified development code. The title is "Enacting the San Juan County unified development code repealing certain ordinances, re-enacting provisions of the San Juan County subdivision regulations and the manufactured home parks, and recreational vehicle parks ordinances, regulating the development of all land except Indian reservations in the un-incorporated areas of the county, establishing land use districts, planned development districts, and site development standards, regulating subdivision design and improvement, establishing procedures for land development review and non-conforming uses, providing procedures for decision making, appeals from administrative decision making decisions, establishing penalties and remedies for violation of the ordinance and declaring a emergency." The Commission has previously reviewed this proposal in a special meeting in June. Staff seeks permission to publish a notice of intent to adopt this Ordinance. The plan is to hold a special meeting on Wednesday, September 11, 2013 at 6:00 p.m. for the sole purpose of holding a public hearing. The author of the Code will be present to present the Ordinance and answer any questions. It was the consensus of the Commission to consider adoption of this ordinance at their October 1, 2013 Commission meeting. Mr. Echols mentioned that at the October 1, 2013 meeting the Commission will be asked to consider a moratorium on fees for 90 days for map amendments, zone changes, etc. to be fair to citizens. Mr. Echols requested the Commission approve publication of the Notice of Attempt to Adopt Ordinance No. 84, and establish the September 11, 2013 public hearing date and the October 1, 2013 adoption date. Commissioner Johns asked if maps would be available at the September 11, 2013 meeting. Mr. Echols confirmed that maps will be available. He also indicated that the Ordinance in its entirety and the maps of the various zoning districts will be available on the County's web site for citizen viewing, and county staff is available to help citizens if they have any questions. Commissioner McDaniel asked how many public meetings the county has conducted. Mr. Echols explained that on this particular zoning ordinance the county has not had any. County Operations Officer Mike Stark indicated that since 2006 the county has held over 68 meetings on growth management in the county, 5 meetings have been held specific to the land development code. A motion was made by Commissioner Johns, seconded by Commissioner McDaniel to approve the publication of the Notice of Attempt to Adopt Ordinance No. 84 and establish the September 11, 2013 public hearing date. Upon voice vote this motion passed unanimously.

**4. Consideration of Resolution 13-14-19, Urging the Environmental Improvement Board to Not Adopt any "Regional Haze Rule" State Implementation Plan that Involves Closing Units at San Juan Generating Station**

CEO Kim Carpenter explained that Resolution 13-14-19 encourages the State of New Mexico and the Environmental Improvement Board to work toward a solution at the San Juan Generating Station which would not result in shutdown of any of the units, as such a shutdown could further devastate the local economy. Mr. Carpenter read Resolution 13-14-19:

**URGING THE ENVIRONMENTAL IMPROVEMENT BOARD TO NOT ADOPT ANY “REGIONAL HAZE RULE” STATE IMPLEMENTATION PLAN (SIP) THAT INVOLVES CLOSING UNITS AT THE SAN JUAN GENERATION STATION**

**WHEREAS**, the Environmental Protection Agency (EPA) has adopted regulations regarding air visibility issues in this region which are sometimes referred to as the “Regional Haze Rule”; and

**WHEREAS**, the regulations require coal-fired power plants in the region to install equipment to reduce the release of particulates which is referred to in the regulations as “Best Available Retrofit Technology” or BART; and

**WHEREAS**, the Regional Haze Rule regulations required each state’s environmental agency to propose to the EPA a State Implementation Plan” (SIP) which would detail the specific requirements for power plants within the state that would meet the BART requirements; and

**WHEREAS**, the original SIP for the San Juan-Generation Station proposed by New Mexico required all four units at the San Juan Generating Station (SJGS) to add Selective Non-Catalytic Reduction or “SNCR” technology to reduce particulates, but that plan was not approved by the EPA and the EPA then adopted a Federal Implementation Plan or “FIP” which required installation of Selective Catalytic Reduction or “SCR” technology on all four units; and

**WHEREAS**, the cost of installing SCR technology is so expensive (estimated by PNM to be as much as \$750 million to \$1 billion) that the operator of the plant, Public Service Company of New Mexico (PNM), appealed EPA’S action to the federal courts and asked the State of New Mexico to intervene and propose an alternative SIP with a higher probability of being approved by the EPA; and;

**WHEREAS**, PNM, the State of New Mexico, and the EPA reached an Agreement in Principle (AIP) outlining a way of going forward that would avoid further litigation and lead to adoption of a new SIP; however, the AIP contemplates a new “Alternative SIP” which would require the closing of two of the four units at SJGS; and

**WHEREAS**, the closing of two units at SJGS would also mean a massive reduction in the number of high-paying jobs at PNM and at San Juan Coal Company, the mine operator at the San Juan Coal Mine which supplies coal to SJGS, and the loss of these jobs would have a tremendous negative effect on the local economy; and

**WHEREAS**, San Juan County generally would be supportive of collaborative solutions designed to implement federal regulations in a way that the stakeholders can support; however it also recognizes that the nation, state, and local region is struggling in the wake of the recent general recession and that San Juan County, its municipalities, and the Navajo Nation are also feeling the negative economic effects of a downturn in natural gas production in the area; and

**WHEREAS**, the Board of County Commissioner has weighed these factors and has concluded that it cannot support the AIP and the Alternative SIP which, if carried out, would lead to loss of jobs and a devastating effect on our struggling regional economy.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of County Commissioner of San Juan County, New Mexico, opposes the adoption of any alternative State Implementation Plan which requires the closing of units at San Juan Generating Station.

**BE IT FURTHER RESOLVED** that the board of County Commissioners urges the New Mexico Environmental Board to consider the negative effects on the local economy that would be caused by the shutdown of units at San Juan Generating Station in its decision making and to consider other solutions whereby all four units could continue in operation and the related high-paying jobs at the power plant could be preserved.

Commissioner Johns explained that the EPA is requiring catalytic reduction devices be installed on all 4 units which would cost the plant approximately \$1 billion. He indicated that this would shut the entire plant down. The alternative is to put a non catalytic reduction system on the units and keep all 4 units open. The county is in favor the alternative plan.

Commissioner McDaniel explained that she attended a meeting with PNM, the EPA and the New Mexico Environmental Department a year ago to discuss an alternative plan, however Federal does not have to accept the alternative plans. She reminded them how many families would be affected by the closing of units at the power plant.

Chairman Pro-Tem Fortner stated that no one wants the plants to close he asked what position San Juan Generating Station is taking on this issue. Mr. Carpenter explained that they realize this may be the only potential process in order for them to continue. Chairman Pro-Tem Fortner asked if the EPA gave the plant any ultimatums. Mr. Carpenter explained that the EPA is going to hold public hearings on September 5<sup>th</sup> and 6<sup>th</sup> to receive citizen input.

Commissioner Johns stated that he attended a meeting at the City of Farmington and Tommy Roberts, Mayor of the City of Farmington indicated that the State of New Mexico is willing to close 2 units, to keep the other units up and running. However, the EPA is strongly opposed to doing anything else except installing the SCR technology on the units. This Resolution is in conjunction with the City of Farmington's resolution.

Mr. Carpenter indicated that the San Juan Generating Station is one of the top 6 tax paying entities in San Juan County.

After some discussion it was the consensus of the Commission to modify the Resolution as follows:

**NOW, THEREFORE, BE IT RESOLVED** that the Board of County Commissioners of San Juan County, New Mexico, opposes the adoption of any alternative State Implementation Plan which requires the closing of units at San Juan Generating Station.

**BE IT FURTHER RESOLVED** that the Board of County Commissioners urges the New Mexico Environmental Department to consider the negative effects on the local economy that would be caused by the shutdown of units at San Juan Generating Station in its decision making and to consider other solutions whereby all four units could continue in operation and the related high-paying jobs at the power plant could be preserved.

A motion was made by Chairman Pro-Tem Fortner, seconded by Commissioner McDaniel to approve the modified Resolution 13-14-19, urging the Environmental Department not to adopt any "Regional Haze Rule" state implementation plan that involves closing units at San Juan Generation Station. Upon voice vote this motion passed unanimously.

5. **Consideration of Letter to Arizona Corporation Commission Urging Termination of the Inquiry into Restructuring of the Arizona Retail Electric Market**

Kim Carpenter, CEO advised the Commission that New Mexico Coal, Energy Coal has requested the Board of County Commissioners send a letter to the Arizona Corporation Commission (ACC) urging them to terminate its inquiry into whether it is in the public interest to restructure the retail electric market in Arizona. If the inquiry is not terminated, the sale of San Juan Mine to the Navajo Nation will not occur, and it is probable that both the San Juan Mine and the Four Corners Power Plant would go out of business. The Navajo Nation is pursuing with a letter from the president and council delegates. Mr. Carpenter requested Mike Stark, COO share the results of an impact study that was conducted from an independent source on behalf of BHP. The study was based on units 1 - 3 shutting down and the transfer of the mine to Navajo Nation, the results are as follows:

- o 2069 direct and indirect jobs will be lost in San Juan County, 2334 jobs statewide
- o Annual labor income impact of the 2069 jobs, \$153 million per year in San Juan County, \$165 million statewide.
- o Annual gross state product \$372 million per year in San Juan County, \$431 million at the state level is generated directly and indirectly
- o Allowed to conduct business until 2031 accumulative would result in \$5.6 billion in San Juan County and statewide \$6.5 billion statewide.

Mr. Carpenter stated that the closing of BHP and the Navajo Mine would be devastating to San Juan County. A motion was made by Chairman Pro-Tem Fortner, seconded by Commissioner Johns to approve the letter to Arizona Corporation Commission urging termination of the inquiry into restructuring of the Arizona Retail Electric Market. Upon voice vote this motion passed unanimously.

#### **6. Report on Inspection of Detention Center**

Jim Durrett, County Attorney reported that the 2011 session of the legislature repealed NMSA 1978, §33-3-4, Inspection of Jails and Detention Centers, which required the governing body to inspect jails at least twice a year and report to the District Court and enacted a new §33-3-4 which provides that the governing body shall conduct an annual site visit to inspect the overall conditions at the facility and present an inspection report at a regular meeting of the governing body. The last report was submitted on August 7, 2012. Resolution 13-14-18 reports the findings of the inspection and the conditions at the Detention Center. A motion was made by Commissioner Johns, seconded by Commissioner McDaniel to approve the report on the inspection of the Detention Center. Upon voice vote this motion passed unanimously.

#### **Reports From Elected Officials And Department Heads**

None

#### **Comments / Input From The General Public**

None

#### **Closed Executive Session**

A motion was made by Chairman Pro-Tem Fortner, seconded by Commissioner Johns to go into closed executive session to discuss threatened or pending litigation and the acquisition or disposal of real property. Upon voice vote this motion passed unanimously. Upon return a motion was made by Commissioner McDaniel, seconded by Commissioner Johns to go back into open meeting. Upon voice vote this motion passed unanimously. Chairman Eckstein stated that nothing other than what was stated in the motion to go into closed executive session was discussed. Chairman Pro-Tem Fortner discussed item # 4 Consideration of Resolution 13-14-19, Urging the Environmental Improvement Board to Not Adopt any "Regional Haze Rule" State Implementation Plan that Involves Closing Units at San Juan Generating Station and requested the Commission reconsider their motion regarding Resolution 13-14-19. A motion was made by Chairman Pro-Tem Fortner, seconded by Commissioner McDaniel to withdraw the motion made on item #4. Upon

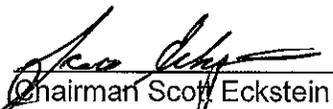
voice vote this passed unanimously. A motion was made by Chairman Pro-Tem Fortner, seconded by Commissioner Johns to table Resolution 13-14-19 until the next meeting. Upon voice vote this motion passed unanimously.

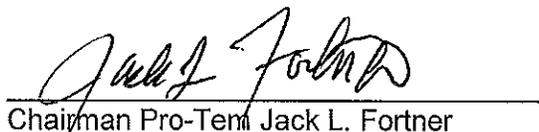
**Adjourn**

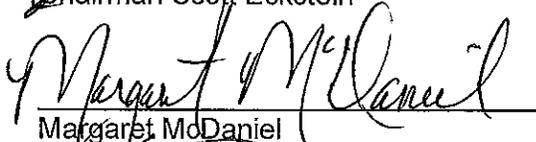
Being no further business a motion was made by Chairman Pro-Tem Fortner, seconded by Commissioner Johns to adjourn the meeting. Upon voice vote this motion passed unanimously and the meeting adjourned at 5:35 p.m.

APPROVED THIS 1st DAY OF OCTOBER, 2013

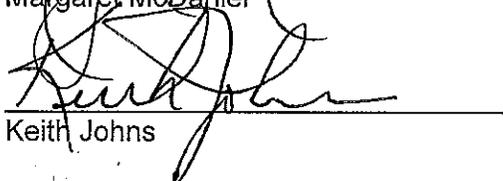
BY THE SAN JUAN COUNTY BOARD OF COMMISSIONERS:

  
Chairman Scott Eckstein

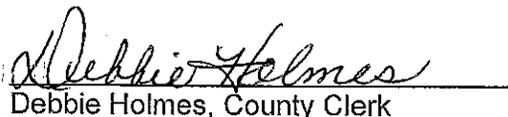
  
Chairman Pro-Tem Jack L. Fortner

  
Margaret McDaniel

  
GioJean Todacheene

  
Keith Johns

ATTEST:

  
Debbie Holmes, County Clerk