

**MINUTES OF THE SPECIAL MEETING/WORK SESSION  
OF THE BOARD OF COMMISSIONERS OF  
SAN MIGUEL COUNTY, NEW MEXICO,  
HELD FRIDAY, MARCH 21, 2014, BEGINNING AT 1:30 P.M.**

**CALL TO ORDER AND ROLL CALL**

At 1:53 p.m., Chairman Nicolas T. Leger called the meeting to order at the Commission chambers on the 2<sup>nd</sup> floor of the San Miguel County Courthouse, Las Vegas, New Mexico. Upon a call of the roll by the clerk, all five County Commissioners were present and a quorum was duly established and noted as follows: Chairman Nicolas T. Leger, Vice Chairman Ron R. Ortega, and Commissioners Marcellino A. Ortiz, Arthur J. Padilla and Gilbert J. B. Sena.

**PLEDGE OF ALLEGIANCE AND SALUTATION OF THE NM FLAG**

Joined by staff and all in attendance, the Commissioners pledged allegiance to the U.S. flag and offered their salutation to the NM state flag.

**INTRODUCTION BY COMMISSION CHAIRMAN**

Chairman Leger explained the singular purpose of the meeting: To discuss, with the County's Planning & Zoning Commission, the recommendations made by the latter concerning the proposed draft ordinance relating to oil and gas exploration and drilling in the county (hereafter "proposed oil & gas ordinance").

Leger noted that a quorum of the Planning & Zoning Commission, ("P&Z Commission"), was not yet in attendance, but acknowledged the presence of P&Z Commission members Pat Galligan and Janice Varela. (Leger also noted the anticipated arrival of one or more P&Z Commission members.)

Chairman Leger then asked Planning & Zoning Supervisor Alex Tafoya to make a brief presentation to the County Commission as to the process, procedure and events resulting in today's special meeting/work session of the County Commission.

Whereupon, Tafoya informed the Commission as follows: (1) That the County Commission had previously submitted the proposed oil & gas ordinance to the P&Z Commission for its review and recommendations to the County Commission, as required by the County's zoning ordinance, (2) That the P&Z Commission held a public hearing on said proposed oil & gas ordinance, at which hearing public comment and input was received from some 40 citizens, (3) That the P&Z Commission deliberated

thereupon and made its recommendations to the County Commission, (4) That at its regular monthly meeting on March 11 2014, the County Commission received the P&Z Commission recommendations, and directed that a special meeting/work session be convened with the P&Z Commission, for review and discussion of its recommendations.

At Chairman Leger's request, Tafoya then recited the aforesaid P&Z Commission recommendations, namely: (1) that the existing oil and gas moratorium be extended for an additional two years, to allow the County Commission sufficient time to entertain and deliberate upon public comment and written data and reports concerning oil and gas exploration and drilling in San Miguel County, (2) that the County Commission consider and address the loopholes and fine points summarized by Bob Wessely, (3) that the County Commission consider and address the findings recommended by Leslie Hammel-Turk, (4) that the proposed draft ordinance lacks, and should include, a water monitoring protocol, as pointed out by Brad Turk, (5) that the proposed draft ordinance lacks, and should include, air quality monitoring and a baseline protocol for same, (6) that while the proposed draft ordinance contains noise regulations, it lacks a protocol relating thereto, (7) that the County Commission consider adopting a ten-mile setback around and from the Conchas Dam Reservoir in east San Miguel County, for any oil and gas exploration and drilling, and (8) that the County Commission do its utmost to protect air, water and the environment in San Miguel County.

At 2:10 p.m., P&Z Commission member Richard Rivera arrived, and a quorum of the Planning and Zoning Commission being present, the P&Z Commission convened formally, a call of the roll was taken, and a quorum duly noted.

Whereupon, Chairman Leger proceeded to ask the P&Z Commission members to express their reasons and rationale for their recommendation that the oil and gas moratorium be extended for two years.

The three P&Z Commission members proceeded to express their reasons and rationale, a brief summary of which follows: That their public hearing attracted great public interest and concern, at which more than 40 citizens appeared; that there is an overriding public concern that any oil and gas ordinance fully protect the public health, safety and welfare of the citizens of the county, especially concerning matters of water quality and availability, and that they are concerned that the proposed draft ordinance does not adequately address those concerns; that the County Commission should have more time to adequately consider citizen concerns, public input and data in formulating an oil and gas ordinance; and that there is a concern that the draft ordinance being considered by the County Commission differs substantially from the draft first submitted by consultant/attorney Robert Frielich.

P&Z Commission members Galligan and Rivera also expressed their belief that extending the moratorium would allow time for disposition of the litigation challenging the community rights ordinance adopted in Mora County, and thereby allow San Miguel County the benefit of any judicial determination concerning the Mora County ordinance.

P&Z Commission member Galligan also expressed his desire that any moratorium extension prohibit new oil and gas leases in the county, to which both Chairman Leger and the county attorney stated that it was not lawfully permissible to do so.

[The particular concerns expressed by each individual P&Z Commission member are preserved verbatim in the audio recording of the meeting, maintained by the office of the County Clerk.]

Whereupon, County Commissioners and staff expressed their thoughts and concerns, which included the following:

Vice Chairman Ortega asked the P&Z Commission members if they understood the County's jurisdiction concerning any ordinance relating to oil and gas exploration and drilling, and he asked P&Z Supervisor Tafoya to explain the changes between the draft ordinance first submitted by Robert Frielich and the draft reviewed by the P&Z Commission and now under consideration by the County Commission.

Tafoya explained that changes made by staff (County Manager, Tafoya, and the County Attorney) to Frielich's first submission were only to streamline the draft and make it easier to read and follow; that no changes were made to anything important in the ordinance; and that Frielich was aware of the changes and concurred with them. In follow-up to Tafoya's explanation, County Manager Les Montoya also stated that the substance of Frielich's draft was left untouched by county staff, and that the draft was only revised to make it more comprehensible and to provide for a more streamlined hearing process.

Commissioner Ortiz stated that the Commission has undertaken a great deal of work during the preceding four years, in attempting to develop an ordinance which protects the public health, safety and welfare, and that many public hearings have been held, but that the issues involved are so important, that he is willing to take additional time to develop a comprehensive ordinance.

Commissioner Padilla stated that as far as he knew, there was never any attempt by staff to change the substance of Frielich's draft, that changes were made only to streamline the draft and make it more workable; and that he has no problem with the draft as first submitted by Frielich. Padilla also stated that his paramount interest was to protect the quality of life for the citizens of San Miguel County, especially concerning water quality and availability, and that if more time is needed to gather data and citizen input in that regard, it should be taken, and the moratorium extended.

Commissioner Sena expressed his interest in being provided adequate data to intelligently and adequately assess and address the many issues and concerns surrounding the formulation of an ordinance relating to oil and gas exploration and drilling in the county. Sena said that if that data is still lacking, it needs to be fully developed and presented to the County Commission, in which case he too would be amenable to an extension of the moratorium.

Chairman Leger asked County Attorney Jesus Lopez to express his thoughts in regard to extending the moratorium, and Lopez provided an overview of the county's power and jurisdiction relating to any ordinance relative to oil and gas; the county's police power to protect public health, safety and welfare; the implications of the takings clause of the U.S. Constitution, Amendment V; and Lopez also noted that no substantive changes were made by staff to the first draft submitted by Robert Frielich, that all changes were as to form and format only.

Whereupon, at 3:07 p.m. Chairman Leger brought to a close the discussion concerning the P&Z Commission recommendation as to extending the oil and gas moratorium, and asked the P&Z Commission members to summarize their remaining seven recommendations, as set forth hereinabove.

[The matters expressed by each County Commissioner and county staff are preserved verbatim in the audio recording of the meeting, maintained by the office of the San Miguel County Clerk.]

The three members of the P&Z Commission then expressed their reasons and rationale for their remaining recommendations, noting as to each that they are sound and reasonable and further protect the public health, safety and welfare of the citizens of the county; and as to recommendation No. 8, relating to the 10-mile set back at the Conchas Dam Reservoir, Commissioner Rivera stated that the same is meant to protect the scenic attraction of the Reservoir, which is important to the well being of the area.

[The particular concerns expressed by each member of the P&Z Commission are preserved verbatim in the audio recording of the meeting, maintained by the office of the San Miguel County Clerk.]

Whereupon, Chairman Leger thanked the P&Z Commission members for their hard work and public service. He also expressed to them, and to all in attendance, that the County Commission is taking very seriously the recommendations made by the P&Z Commission, while at the same time attempting to balance the recommendations with the legal constraints imposed on the Commission regarding the duration of any moratorium, and the oil and gas ordinance ultimately adopted by the Commission.

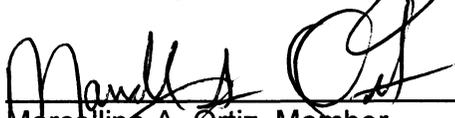
County Manager Les Montoya then informed the County Commission that public hearings on the proposed oil and gas ordinance have been scheduled, at least tentatively, for April 22 in Pecos, and May 14 in Las Vegas.

At 3:52 p.m., the business before the Board of County Commissioners having been concluded, Commissioner Sena moved and Commissioner Padilla seconded, that the meeting be adjourned, and the motion carried by unanimous voice vote of the Commission.

**MOVED, SECONDED AND ADOPTED** this 8<sup>th</sup> day of April, 2014, at the minutes of the special meeting/work session held by the Board of County Commissioners of San Miguel County on March 21, 2014.

  
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Nicolas T. Leger, Chairman

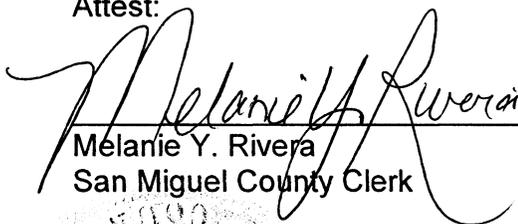
  
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Ron R. Ortega, Vice Chairman

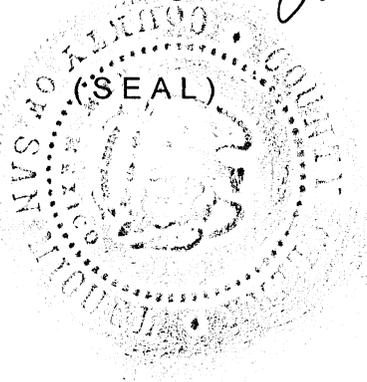
  
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Marcellino A. Ortiz, Member

  
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Arthur J. Padilla, Member

  
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Gilbert J. B. Sena, Member

Attest:

  
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Melanie Y. Rivera  
San Miguel County Clerk



Minutes of Special Meeting/Regular Monthly Meeting of the Board of County Commissioners of San Miguel County, New Mexico held MARCH 21<sup>st</sup> 2014, beginning at 1:30 P.M.

Minutes prepared by:

Mr. Jesus Lopez

County Attorney