



STATE OF NEW MEXICO, COUNTY OF CHAVES  
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Dave Kunko, County Clerk

DECEMBER 9, 2014

The Board of Chaves County Commissioners held a special commission meeting in the Commission Chamber of the Joe Skeen Building, #1 St. Mary's Place in Roswell, New Mexico. Chairman Duffey called the meeting to order at 9:00a.m. Those present were Commissioners Duffey, Wooton, Corn, Chesser and Nibert. Also present were County Manager Stan Riggs, Public Services Director Sonny Chancey, Finance Director Joe Sedillo, Assessor Ron Lethgo, Treasurer Steve Harris, County Clerk Dave Kunko, news media, staff and guests.

Commissioner Wooton led the Pledge of Allegiance and Commissioner Chesser led in prayer.

#### **PUBLIC HEARINGS**

#### **PROPOSED ORDINANCE O-092 AUTHORIZING ISSUANCE AND SALE OF A PROMISSORY NOTE PAYABLE FROM GROSS RECEIPTS TAX REVENUES NOT TO EXCEED \$4,000,000.**

Mr. Riggs explained that Proposed Ordinance O-092 would authorize issuance and sale of a promissory note from gross receipts tax revenues in an amount not to exceed \$4,000,000 for the purpose of providing funds for construction of a county correctional facility. He mentioned that Joe Sedillo and Steve Harris had come up with an idea by which the County could invest in itself. The ordinance creates a promissory of Chaves County and we would purchase the note and pay an interest rate that is slightly higher than the current market rate. This would relieve our cash short fund due to the correction center being ahead of schedule. Mr. Harris spoke with our investment firm to make sure this was something we could do with our permanent fund and we contracted with the Modrall Law Firm which handles these transactions for many entities in the State. Opened for public comment:

IN FAVOR – None

AGAINST – None

Commissioner Chesser moved to approve Ordinance O-092 authorizing the issuance and sale of a promissory note payable form gross receipts tax revenues not to exceed \$4,000,000. Commissioner Corn seconded the motion. Commissioner Nibert said that Mr. Riggs made a statement that this would resolve our shortfall issues, but he was under the impression that this was just the first step and in a few minutes we would be looking at the other steps. Mr. Riggs stated this would resolve the current shortfall. What we are looking at next are the steps to pay this back to the permanent fund. A voice vote was unanimous and the motion carried.

#### **PROPOSED ORDINANCES O-089, O-090, O-091 HOLD HARMLESS GROSS RECEIPTS TAX AND CONSIDERATION OF RESOLUTION R-14-062 REDUCING THE OPERATING TAX RATE BY 1 MILL**

Mr. Riggs stated these Ordinances are for the Hold Harmless Gross Receipts tax that the State put in place a couple years ago. Each ordinance is a 1/8 of 1 percent gross receipts tax. Under the Richardson administration tax was taken off of food and medical items. At that time the State said they would continue payments to the Cities and Counties for the same amount, holding them harmless. Legislators have said these hold harmless payments will end at some point. A bill was finally passed and we will begin to lose our hold harmless payments. The State put in a provision that would allow entities to apply 3 – 1/8 Hold Harmless Gross Receipts tax. The tax can be put into place by the vote of the Commission. Certain things have occurred over the last few years that have affected counties. The cost of chip sealing has doubled over the last 3 years and has placed a tremendous strain on maintaining our roads. He stated Ordinance O-089 would go into effect July 1, 2015 and would sunset June 30, 2020, Ordinance O-090 would go into effect July 1, 2015 and would sunset June 30, 2023 and Ordinance O-091 would go into effect July 1, 2015 and has no sunset. The ordinances can be terminated if the loan is paid sooner than expected or they are no longer needed. He also mentioned the item to be discussed later was for a reduction in property tax by 1 mil. Opened for public comment:

IN FAVOR – None

AGAINST – None

Commissioner Wooton moved to approve Ordinances O-089, O-090 and O-091. Commissioner Chesser seconded the motion. Commissioner Nibert mentioned that the 3<sup>rd</sup> ordinance does not have a sunset clause and asked if the intent of this is to get us back into the position we have been in. Mr. Riggs stated that was correct. Commissioner Nibert stated that this is not an easy situation for the Commission and Staff to deal with this problem. In the 6 to 7 years they have been looking at the Detention Center issues they have tried to do everything possible to have this 3 phase construction project go on without increasing taxes and even tried to do it without borrowing money. One thing not considered was the State of New Mexico taking away some revenue sources. That is the main reason for considering these 3 ordinances. He asked if by reducing the property tax by 1 mil would we be the second lowest County Property Tax in the State? Stan stated we may be the 3<sup>rd</sup> lowest and by far one of the lowest in our area. Stan also stated 20 Counties are currently maxed out on taxing ability and our gross receipts tax will be at the average for the State. Commissioner Nibert asked what could happen if we do not take this action. Mr. Riggs stated the problem we will run into is gross receipts taxes need to cover our overhead, the taxes are used to pay off debt on the courthouse remodel through 2019 and costs for housing prisoners and maintaining roads continue to increase. More employees will be needed at the detention center when it is fully operational. If we do not enact the ordinances the County would have to have significant layoffs. They had estimated that between 20 and 40 people would need to be laid off and every department but detention would need to lose people. It is pretty drastic but would definitely be necessary. The total number of employees has remained constant for at least 10 years. The County is very efficient. Lay-offs at this point would directly affect services. Commissioner Nibert stated safety and travel would suffer because the Sheriff's Office and the Road Department would have to lose the most people. County road maintenance has decreased and more cuts may result in little to no road maintenance. The Commission has been wrestling with these ideas and these ordinances are necessary. This is a last ditch effort. If he believed we could cut 20 to 40 employees and still meet the critical needs of the County he would rather do that then raise taxes. Commissioner Nibert stated he has 4 amendments and would like to see all these ordinances dedicated to these 2 jobs, so the money could not be used for just anything. Commissioner Nibert moved to amend the motion by amending Ordinance O-089 by changing where it says dedicated to general purposes he would put dedicated to the Detention Center construction and operations and the Road Department. That way the people of Chaves County know these Gross Receipts Taxes are dedicated to those critical functions. The second portion of the amendment would be to amend Ordinance O-089 where it says section 6, Ordinance O-089 will be repealed effective June 30, 2020 he would like to put a comma after this and say unless sooner terminated by action of the Commission. The third portion of the amendment would be in Ordinance O-090, section 6, insert after the sunset date, "unless sooner terminated by action of the Commission". Commissioner Chesser seconded the amendment to the motion.

Commissioner Corn stated he was generally opposed to the amendment. He first mentioned in a public debate it would be nice to be able to retire the bonds on the Courthouse and then once retired, roll it over for the Detention Center. However, the timing was off and so this would not work. We are having to react to things the State of New Mexico has done to us. They took away gross receipts primarily from food and medicine and now it is our problem. PILT payments have not been timely and may eventually stop. He does not wish to raise taxes either. Recently our Supreme Court Justice Daniels has brought into question the way that bonds are put on those suspected of crimes. Other Counties are having to hold individuals that have pled guilty for up to 90 days waiting for their sentencing hearing. Holding prisoners is very expensive. All these outside entities are forcing our hand and they are out of our control. If we did not address the detention issue when we did, we could be faced with litigation costs like Bernalillo County and Dona Ana County. We definitely do not need an outside authority telling us how to run our Jail. Commissioner Nibert stated we are doing this due to concerns about the Detention Center and payment of that debt primarily and also the potential impact on the Road Department. If we are going to ask the tax payers for an additional tax burden they need to know specifically where it is going. I suggested the language so the Commission could take action without having to go through the whole ordinance procedure. Mr. Riggs stated there would still need to be a public hearing because it is a tax, even with the amendment. Commissioner Nibert stated the intention of his amendment was to give the Commission the ability to repeal the tax without any constraints. If that is the case he said he would withdraw the latter 2 portions of the amendment. He feels strongly that the first portion of the amendment is necessary so that the public knows this is being used for a

specific purpose. Commissioner Chesser asked for Joe Sedillo's opinion on the discussion. Joe stated that naming it General Purposes give the County more variability on which to operate. Funding the jail project is dedicated from Fund 650 which is gross receipts for construction and reconstruction of the jail. We also have 3 other funds for the jail and the largest one is the general fund 401. We have exhausted the funds and he felt the first 1/8 should be general funds so that we would have some flexibility. Initially it will be for costs incurred for the jail. The flexibility would give us the ability to maneuver. The second part is that we did not want to hobble our operations by the GASB 54 standard. This standard requires us to prove that restricted funds truly are restricted. If it is non-restricted we have to show how it was approved by the Commission. Commissioner Nibert stated if there is some additional language that would help, like reimbursement of funds, recognizing that this money would be applied to replenish accounts drawn down for the construction project, he would be amenable to changing the amendment. Commissioner Wooton asked Mr. Sedillo what would be the approximate amount of money generated by Ordinance O-089. Mr. Sedillo stated approximately 1.5 million. Commissioner Corn asked what the first impact is of the hold harmless. Joe stated the total amount per year is between \$750,000 and \$800,000. Mr. Riggs stated we are looking at approximately \$100,000 shortfall per year. The next year you are down \$200,000 and it continues to compound. Commissioner Corn asked if it was fair to say that over 1/2 of the increase is already gobbled up by the hold harmless issue. Joe stated probably 1/3 instead of 1/2. Commissioner Corn stated that comes out of the line item for general fund. If we make this too confining we lose our flexibility with all the issues that seem to keep popping up. If we make this too tight, this issue will have to be revisited. Commissioner Chesser asked if there was a way to word this first 1/3 where general purpose is defined. It was stated that we are trying to accomplish that wording in the amendment. Commissioner Nibert stated Commissioner Corn's argument is that we keep this flexible because of the hold harmless, than it should be O-091 since it continues and the ones dedicated should be the 2 that sunset. Commissioner Nibert said he wanted the public to know the money is only going for these purposes. Mr. Sedillo stated you could put language in that stated "refunding of funds". Commissioner Nibert stated he would make a friendly amendment on the motion to amend Ordinance O-089, stating it be dedicated to the Detention Center construction and operations, the road department and the reimbursement of depleted funds that were used for the Detention Center project. Commissioner Chesser accepted the friendly amendment. Commissioner Nibert stated he hoped that future Commissions would look at the minutes of this meeting and realize that this has been difficult for this Commission and that they will allow the 2 ordinances to sunset at the appropriate time or sooner and eliminate all 3 as soon as possible. A voice vote on the amendment was unanimous and the amendment passed. A voice vote on the main motion as amended was unanimous and the motion carried.

#### **RESOLUTION R-14-062 REDUCING OPERATING TAX RATE BY 1 MIL**

Mr. Riggs stated this would lower the property tax rate by 1 mil. He has received some public comment in reference to this resolution and property owners are in favor of the reduction to the property taxes. He mentioned this will be the lowest rate for the County since 1995. Commissioners Wooton, Nibert and Chesser made a joint motion to approve Resolution R-14-062, reducing the operating tax rate by 1 mil. Commissioner Corn seconded the motion. A voice vote was unanimous and the motion carried.

#### **MANAGER'S COMMUNICATIONS**

Stan thanked the Commission for the tough decisions they made today. He also thanked Ron Lethgo, Steve Harris, Joe Sedillo and Sonny Chancey. He believes this will set the County on a good course for the next 10 years. We do not intend to grow government. The final Commission Meeting of the year is set for December 18<sup>th</sup>. Monday he received an update on PILT. Seventy million of PILT has been put in the Defense Reauthorization Act. PILT has been funded at 270 to 300 million and they are working on the additional funds. We received a letter from Congressman Pearce indicating his willingness to work to find ways to keep PILT going. He asked Mr. Kunko about the recount. Mr. Kunko stated it appears if things go well with the Supreme Court and the State Canvassing Board, the Secretary of State wants the recount to start at 8:00 a.m. on Thursday. Commissioner Chesser asked the time frame of the recount. Mr. Kunko stated he hoped the recount in Chaves County could be done in 2 days. Today is Sonny Chancey's birthday.

**COMMISSIONER'S COMMUNICATIONS**

Commissioner Corn asked Mr. Kunko how many of his staff would be working with the recount. Mr. Kunko stated the Clerk's staff would mainly be on hand for advisory purposes and workers assigned to the recount are spelled out in the recount order. He stated all of this has to be set up and be available for equipment issues. Can we send the bill for our involvement to the Secretary of State. Mr. Kunko stated it was his understanding that we could send this cost on to the State for reimbursement. He stated this law was enacted 8 to 10 years ago and this will be the first automatic recount under that law. He mentioned that the National Association of Counties (NACO) has been in contact with Mr. Riggs in reference to the Resolutions sent to them by Chaves County. We are trying to get some of our Resolutions moved on to the national stage and it is hopeful that at the meeting he attends in February these issues will get on the NACO Agenda.

Commissioner Wooton thanked Stan, Joe and Steve and all those involved for their work on these ordinances. He stated we have done the best we could. He has been very vocal about not raising taxes, so this is a very hard pill to swallow. He believes this was necessary and he is happy they could get this accomplished. Chaves County is a great place to live. He asked if things are found in the recount does this mean all the races are wrong. At some point we just have to accept the results and move on.

Commissioner Nibert said amen to Commissioner Wooton's comments. He said he had a lot of thoughts on his mind but he should not say them in anger, so he is going to keep his mouth shut.

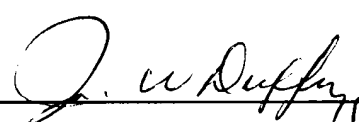
Commissioner Chesser said it was obvious that the Commission did not want to have to raise taxes. He is proud that we were able to lower property taxes. He hopes that future Commissions will let these ordinances sunset, early if possible. He said the endangered species issues will constantly be a problem and it is sickening to think we will have to spend more money to fight for our cause.

Mr. Riggs stated he forgot to tell everyone that he and Sonny met twice with the new City Manager and Mayor and he feels they are forming a good working relationship. They will continue to meet and discuss ways they can improve the City and the County. They are working real hard on solid waste issues. He has been very impressed with the new City Manager.

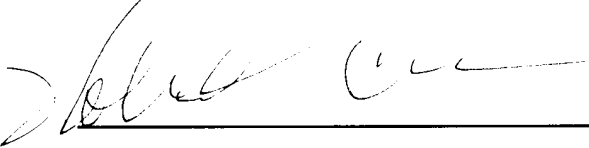
Chairman Duffey thanked everyone for the good discussions today. We work hard to find quality employees and it is difficult since we compete with the oil and gas industry and what they pay employees. We need to continue to keep up our infrastructure because it boosts economic development. He stated he was disappointed that there was no public comment on these ordinances.

The meeting was adjourned pending the signature of documents at 10:35a.m.

**CHAVES COUNTY BOARD OF COMMISSIONERS**

  
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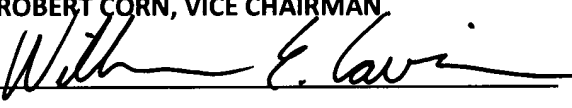
**JAMES DUFFEY, CHAIRMAN**

  
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**ROBERT CORN, VICE CHAIRMAN**

  
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**KYLE D. "SMILEY" WOOTON, MEMBER**

  
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**WILLIAM E. CAVIN, MEMBER**

  
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**KIM CHESSER, MEMBER**

ATTEST:   
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**DAVE KUNKO, COUNTY CLERK**

