

**MINUTES
of the
SECOND MEETING
of the
LAND GRANT COMMITTEE
July 31 - August 1
San Antonio de las Huertas
Placitas**

The second meeting of the land grant committee was called to order by Senator Bernadette M. Sanchez, chair, at 10:25 a.m. on July 31, 2006 in the cafe de Placitas in Placitas.

Present

Sen. Bernadette M. Sanchez, Chair
Rep. Miguel P. Garcia, Vice Chair
Sen. Rod Adair
Sen. Joseph J. Carraro
Rep. Jimmie C. Hall
Rep. Manuel G. Herrera
Sen. Richard C. Martinez
Sen. Gerald Ortiz y Pino
Rep. Debbie A. Rodella

Absent

Rep. Justine Fox-Young

Advisory Members

Rep. Hector H. Balderas
Rep. Eric A. Youngberg

Sen. Carlos R. Cisneros
Sen. Phil A. Griego
Rep. Ben Lujan
Sen. William E. Sharer
Sen. Leonard Tsosie

Staff

Jon Boller
Sheila Manzagol

Guests

The guest list is in the meeting file.

Monday, July 31

San Antonio de las Huertas Land Grant

Tony Lucero, chair of the board of trustees of the San Antonio de las Huertas land grant, welcomed the committee and introduced the attending members of the land grant. Mr. Lucero said that unlike many community land grants, San Antonio de las Huertas still has approximately 500 acres of common lands left of the 4,763 acres that were confirmed by the court of private land claims in 1897. He explained that in the confirmation process the land grant lost one-third

of its land to its lawyers and all of the lands of the Tejon grant, which the members of the San Antonio de las Huertas grant claimed was part of its original 130,000 acre grant, and that even though the Treaty of Guadalupe Hidalgo was supposed to protect Spanish and Mexican land grants, people had to go to Washington, D.C., to prove ownership. He said that while a number of books and articles have been written that touch upon the history of the San Antonio de las Huertas land grant, including books by Suzanne Forest and Charles Minton, the truth still eludes, and the story of the people still needs to be told. According to Mr. Lucero, though the original grant was made in 1767, the area was already settled in the 1660s, as evidenced by the Estancia de las Huertas, and the area was used by nearby Pueblo communities before that. He noted that despite articles that say the land grant was abandoned due to attacks by the Apache, Navajo and Comanche tribes after the Spanish left in the 1820s, the land was never abandoned during this period.

As for current and future plans, Mr. Lucero reported that the water system, which is fed by seven springs, is being rejuvenated, and that the land grant hopes to exchange some land with the bureau of land management (BLM) that are more suitable for use by the community. Possible projects include establishment of an ecolodge next to national forest lands, a small business incubator and a wellness center.

When asked whether the BLM lands were formerly part of the original land grant, Mr. Lucero replied that they were, and that he thought there is still a viable claim to some lands due to mistakes in the survey that established the boundaries of the land grant—much like what happened with the Pueblo of Sandia lands on the east side of the Sandias. However, he said, the land grant does not have the millions of dollars for lawyers that it cost the Pueblo of Sandia to regain its claim on the land it lost. When asked about development going on along the road leading to Placitas, he explained that that area is technically Bernalillo heights, and that there has been a bit of identify theft going on when some parties placed signs indicating that the town of Placitas begins out near the interstate, rather than at the red bluffs several miles from the interstate.

In closing, Mr. Lucero said that the land grant forum has been a good forum for discussion, and that the next step would be to create an association to work with other organizations and promote common goals. He asked that the committee support the trading for or acquisition of BLM land by the land grants.

Guadalupe Hidalgo Treaty Division Role and Budget

Don Trigg, director of the civil division of the office of the attorney general, began by reviewing the history of the Guadalupe Hidalgo treaty division, noting that the legislature created the division in 2003 to "review, oversee and address concerns relating to the provisions of the Treaty that have not been implemented or observed in the spirit of New Mexico law . . .". A total of \$50,000 was appropriated at that time to do that work with the further understanding that the attorney general would also research and prepare a written response to the governmental accountability office (GAO) report on compliance with the treaty. He explained that because the funding amount was inadequate to build an internal capacity in the office of the attorney general,

the attorney general did the following: 1) assigned Assistant Attorney General Alvin Garcia to work with the land grant community as his other assignments permitted; 2) assigned to the civil division the responsibility to issue advisory opinions and invited the land grant community to regular monthly seminar programs on the Open Meetings Act and the Inspection of Public Records Act; 3) assigned to others and himself responsibility to review the GAO report and work with David Benavidez of New Mexico legal aid, who was contracted to prepare a response to the GAO report; and 4) requested \$500,000 for the last budget cycle to fully implement the division (the request was denied).

Mr. Trigg said that in his opinion, there are issues with the GAO report that should be taken on, and that there needs to be a strategy, beginning with completion of the state's response to the report, a decision on possible litigation and a decision on what kind of congressional response would be appropriate. He warned that it would be an uphill fight, but that it does not mean it is not worth doing, and that it would be best to speak with one voice.

Alvin Garcia, assistant attorney general, added that the attorney general has renewed the request for funding of the division next year. He also addressed the issue of the district attorneys' role in representing or advising land grants, noting that they may represent counties, and may contract with Indian nations, tribes or pueblos in certain cases, but that they are not authorized to represent land grants. He suggested that the land grants might explore entering a joint powers agreement with the district attorneys.

In answer to a question about the role of the division if it had funding, Mr. Trigg replied that the bulk of funding would be used to hire experts—historians and attorneys. He stated that he took issue with the conclusion in the GAO report that the federal government had met its obligations under the treaty, but that until funding is available he could not assign even one lawyer half-time to the division. He suggested that the legislature rewrite the law to better reflect exactly what the division should do, and that there needs to be a strategic plan on how to respond to the GAO report and where to go from here. He stressed that fear of losing is not a reason to not take on the task.

The committee adopted a motion to invite the attorney general-elect to its last meeting in November and requested that Mr. Trigg and Mr. Garcia work with the land grant forum and committee staff on refining the division's statute. Mr. Garcia said he would inform the committee when the legislative finance committee and the department of finance and administration are to consider the attorney general's budget.

Property Tax Division Update on Delinquent Property Tax Sales Affecting Land Grants

Tim Eichenberg, director of the property tax division of the taxation and revenue department, outlined the process by which the state conducts delinquent property tax sales. He explained that the division notifies owners of an impending public auction by phone and mail and by red-tagging the property. If the division cannot red-tag a property because of an inadequate legal description, he said, then the division does not sell the property. The minimum bid for a property must cover costs, penalties, taxes and a \$25.00 fee.

As for the right of community land grants to match the highest bid for property that was formerly part of the grant, he said that it is sometimes difficult to identify which properties fall into that category. The division is not auctioning former land grant properties at this time, he said, since it is not always clear who to notify. A list of the boards of trustees of the eligible land grants would be helpful for notification purposes, he explained. He noted that properties that just have a metes and bounds description are also not sold. When asked how the division knows that a property is within the boundaries of a land grant, Mr. Eichenberg answered that Torrance county and Bernalillo county have descriptions of the land grants in their databases. He said it would be helpful if the other counties could have plats of the land grants within their borders, also. When asked if the committee could get a list of the land grant properties with delinquent taxes that the division has excluded from its list of properties to be sold at tax auction, Mr. Eichenberg replied that he could do so. When asked if the list could be posted on the division's web site, he said that he would look into doing that, also. The committee expressed concern that some properties might never be sold, to which Mr. Eichenberg replied that some properties in Chilili have been unsold for 12 to 15 years because of insufficient legal descriptions of the property. The committee suggested that Mr. Eichenberg get a list of the community land grants that have registered with the secretary of state.

Community Development Block Grant Administration

Robert Apodaca, director, local government division of the department of finance and administration (DFA), informed the committee that the Cubero land grant received a community development block grant (CDBG) of \$400,000 for wastewater improvements this year, but warned that CDBG funding is declining due to federal budget constraints. Out of 50 applications for CDBG funds last year, 33 were funded at an average of \$500,000 each. He outlined the CDBG program and explained that land grants that are governed as political subdivisions of the state are eligible to receive appropriations from the state and funding from the CDBG program for planning and infrastructure projects. There are concerns, however, regarding the administration of funds for land grant projects, including: 1) the lack of management capacity of land grants; 2) the lack of budgets and audits filed with the DFA; 3) the filing of required documents with the secretary of state; and 4) the lack of comprehensive planning and zoning for land grants. Consequently, a land grant may have to have a county act as its fiscal agent. Sam Ojinaga, deputy director, local government division of DFA, added that the division would work on a case-by-case basis in administering projects, and that it would waive the requirement that a land grant work through the county to apply for CDBG funding if the county is not cooperative. When asked how Cubero qualified for its funding, Mr. Ojinaga replied that Cubero applied through Cibola county. Committee members asked the division to put together a checklist of eligibility requirements so that they as legislators could judge whether or not to make appropriations to a particular land grant.

Public Comment

John Chavez, Santa Cruz de la Canada land grant, requested that the committee ask the Taos field office of the federal bureau of land management (BLM) to extend its comment period on the proposed revision of the Taos resource management plan for 90 days. He said the area

residents have grave concerns about the BLM's administration of El Palacio Fun Valley, parts of which encompass former lands of three land grants along with three sections of state land. The committee unanimously endorsed the request.

Bert Lucero, Las Trampas land grant, asked the committee to support a proposal to ask the BLM to turn over unneeded BLM lands to the state. The committee adopted a motion to have a joint memorial drafted for the November meeting to that effect.

The committee also asked staff to find out who controls the state lands in Fun Valley and to invite them to the next meeting of the committee.

The committee recessed at 4:00 p.m.

Tuesday, August 1

The committee reconvened at 9:00 a.m. in Placitas. Tony Lucero, chair of the board of trustees of the San Antonio de las Huertas land grant, conducted a tour of the land grant, pointing out where the boundaries of the land grant are and what areas the land grant hopes to trade for BLM lands. The tour ended with lunch at the Placitas community center.

There being no further business, the committee adjourned at 1:00 p.m.