

**MINUTES OF THE REGULAR MONTHLY MEETING
OF THE BOARD OF COUNTY COMMISSIONERS OF
SAN MIGUEL COUNTY, NEW MEXICO,
HELD TUESDAY, APRIL 08, 2014, BEGINNING AT 1:30 P.M.**

CALL TO ORDER AND ROLL CALL

Chairman Nicolas T. Leger called the meeting to order at 1:34 p.m., at the Commission chambers on the 2nd floor of the San Miguel County Courthouse. 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.

(Chairman Leger recognized former County Commissioner Huie Ley, who was in attendance, and noted that Ley "served with honor and distinction" during his two terms as Commissioner from the Pecos area.)

APPROVAL OF MINUTES

Upon a motion by Commissioner Padilla, and a second by Commissioner Ortiz, the Commission approved the minutes of its regular monthly meeting held March 11, 2014; and upon a motion by Commissioner Padilla and a second by Vice Chairman Ortega, the Commission approved the minutes of the special meeting/work session (with Planning & Zoning Commission) held March 21, 2014. ***[Unless otherwise indicated, minutes are approved without change, correction or revision.]***

APPROVAL OF AGENDA

County Manager Les Montoya noting that he had no changes to recommend concerning the Agenda, Commissioner Ortiz moved and Vice Chairman Ortega seconded, approval

of the Agenda, and the motion carried. **[Unless otherwise indicated, the meeting agenda is approved without change or deletion.]**

(ALL MOTIONS MADE AND SECONDED ARE DULY APPROVED AND ADOPTED WITHOUT FURTHER INDICATION OF SAID ACTION; AND ALL FORMAL ACTION IS BY UNANIMOUS VOICE VOTE, UNLESS OTHERWISE INDICATED.)

PUBLIC INPUT FORUM

The public input forum began at 1:40 p.m., and the following twenty-three persons addressed the Commission concerning oil and gas exploration in the county, hydraulic fracturing, a community rights ordinance, constitutional and civil rights, including constitutional notice and Commissioners' oaths of office, and sundry matters relating to their opposition to oil and gas exploration in the county, including water availability and contamination and environmental degradation, and detrimental health effects of oil and gas exploration and hydraulic fracturing, in support of extending the existing moratorium on oil and gas exploration and drilling in the county, and concerning recommendations regarding the on-going development of a county ordinance relating to oil and gas exploration and drilling: Dianne Lindsay, Clem Wilkes, Miguel Angel, Jennifer Bellin, Margaret Gorman, Leslie Hammel-Turk, Salvador Higgins, Bill Madison, Ralph Laumbach, William Smilaye, Diana Presser, Vic Harp, Marion Smilaye, David Pascale, Kevin Doyle, Fred Konersman, Lee Einer, Theresa Carmody, Sarah Moore, Bernadette Fernandez, Ellen Drew, Catherine Montano and Zi Pensley.

The following two persons addressed the Commission in support of oil and gas exploration and drilling in the county: Steve Henke and Matthew Gonzales.

[An audio recording of all presentations is preserved by the County Clerk's office, and available for inspection and copying at any time during regular business hours; and submissions made by speakers are received and preserved by county staff.]

The public input forum ended at 3:07 p.m.

PRESENTATIONS

Three presentations were made to the Commission, as follows:

- (1) Andrea Gottschalk, representing the Entrepreneurial Network of the City of Las Vegas and San Miguel County, addressed the Commission regarding economic development and efforts by the Network to facilitate same. She noted that the organization had helped 41 area businesses, and said the Network seeks \$15,000.00 from the County. Commissioners and the County Manager expressed their support, and indicated that efforts would be made to assist the Entrepreneurial Network.

Commissioner Arthur J. Padilla stated that he felt the Commission needed additional time to evaluate crucial issues relating to appropriate monitoring and protocols to avert water, air and noise pollution that may be caused by oil and gas exploration; that extensive public hearings are needed to solicit input from all interested persons; that the Commission should not rush in its development of an ordinance relating to oil and gas exploration; and that for all these reasons he feels a two-year extension of the moratorium is appropriate and reasonable.

Commissioner Gilbert J. B. Sena concurred with the comments made by Commissioner Padilla, and said he felt the Commission needed more time to consider the extensive data which is being presented by all interested parties, and added "Let's do it right." Sena said he favored a two-year extension of the moratorium, as recommended by the Planning & Zoning Commission.

Commissioner Marcellino A. Ortiz said he has been on the Commission since the County first imposed the moratorium, and since the inception of the continued development of an oil and gas ordinance. Ortiz said the Commission has been diligent the entire time, and has entertained extensive public comment in the matter. Nevertheless, Ortiz added, he favors a short extension of the moratorium, for not more than six months, to ensure that the Commission has adequate time to properly formulate a comprehensive ordinance relating to oil and gas exploration and drilling.

Vice Chairman Ron R. Ortega first reviewed the work done by the Commission (relating to an oil and gas ordinance) since he has been a Commissioner. Ortega noted the trip taken by the Commission to southeastern New Mexico, to see first-hand the oil and gas industry at work in that area, and also reviewed the extensive public hearings already undertaken by the Commission. Ortega said, "We've done the work, we've done our homework." He added, "If we keep clowning around, the issue will be in the judicial system and then our voice will not be heard." Ortega concluded by expressing his position that a six-month extension of the moratorium would be reasonable, to ensure the Commission has adequate time to craft a reasonable ordinance.

Chairman Nicolas T. Leger said he concurred with the remarks made by Commissioners Ortiz and Ortega, and said he felt the Commission had already undertaken extensive public hearings. He also said he felt the Commission is reaching a point when any prolonged extension of the moratorium could be susceptible to a legal challenge, saying, "We can't keep kicking the can down the road." Leger also stated his concern for economic development, and the need to have some say in the County's destiny. In this regard, Leger said he agreed with Commissioner Ortega that crafting a reasonable and lawful ordinance would allow San Miguel County to have some control in the area of oil and gas exploration and development.

Following the above, and after Chairman Leger's remarks, additional discussion occurred as follows:

Commissioner Padilla said the Commission should respect and follow the recommendation made by the Planning and Zoning Commission, and that although a full two year extension may not be needed, it is better to have more time than less, saying "We need to have that cushion."

Commissioner Sena said he concurred with Commissioner Padilla that the recommendation of the Planning & Zoning Commission should be followed, and that the voluminous data being submitted by all sides in the matter needs to be carefully considered, noting, "My decisions are data driven, and I'm not ready to act on this matter, and we should honor the Planning and Zoning Commission's recommendation for a two-year extension, and, of course, do it [adopt an ordinance] before then if possible."

Vice Chairman Ortega asked the county attorney if it was lawful to discuss the issue [extension of moratorium] in executive session, and the county attorney advised that it was not, that the Commission would need to continue its discussion and deliberation in public session.

Whereupon, at 4:32 p.m., Chairman Leger moved that the oil and gas moratorium be extended for six-months beyond its present expiration date, and that staff proceed to do all things necessary to bring the moratorium extension before the Commission for lawful and formal action. Upon a second by Vice Chairman Ortega, Leger called for a roll call vote, and Commissioners voted as follows:

For the motion: Chairman Leger, Vice Chairman Ortega and Commissioner Ortiz.

Against the motion: Commissioner Padilla and Commissioner Sena.

At 4:35 p.m., Chairman Leger called for a brief recess, and the meeting reconvened at 4:55 p.m., all Commissioners in attendance.

Thereafter, Chairman Leger asked unanimous consent that Item 10 of the Agenda be advanced and considered at this time, and there being no objection, the Commission proceeded to consider Item 10 as follows:

ITEM 10: INVITATION FOR BIDS FOR BRUSH UNIT/PECOS FIRE DEPARTMENT

Upon the recommendation of Fire Chief Russell Pacheco, Commissioner Ortiz moved and Commissioner Padilla seconded, authorization for staff to proceed to issue an invitation for bids for purchase of a light duty brush truck for the Pecos Canyon Volunteer Fire Department.

ITEM 2: INTERGOVERNMENTAL AGREEMENT RE INTERGALACTICA, LLC

Upon the recommendation of Planning & Zoning Supervisor Alex Tafoya, Commissioner Sena moved and Commissioner Padilla seconded, approval of the Intergovernmental Agreement between SMC and the NM Economic Development Department, concerning the LEDA funding for Intergalactica, LLC, as previously approved by the Commission.

ITEM 3: PHIL H. BIDEGAIN REQUEST FOR ANNEXATION INTO QUAY COUNTY

Phil H. Bidegain was recognized by Chairman Leger for a presentation on his request that his ranch, the T4 Cattle Company, be annexed into Quay County, under Section 4-33-17, NMSA 1978.

Bidegain addressed the Commission, and said he is the title owner of the land which he seeks to have annexed into and by Quay County, that the total area exceeds 100,000 acres, that there are no residents on the land, and that Quay County Commissioners have indicated to him that they support the annexation into that county.

Commissioners made several inquiries of Bidegain, including the amount of property taxes paid (approximately \$19,000), and whether a survey has been undertaken of the area which would fall under the annexation, to which Bidegain replied that he is presently working on such a survey, to provide an exact description of the property. Chairman Leger also directed questions to the county attorney, and asked in particular whether the Commission had any discretion in the matter. The county attorney responded that he would undertake legal research on the question, and provide his counsel to the Commission at a later meeting.

Whereupon, Chairman Leger announced that it was the consensus of the Commission that staff bring the Bidegain annexation request to the Commission at a later meeting, after a survey is concluded by Mr. Bidegain, and that no formal action would be taken by the Commission at today's meeting.

ITEM 4: APPLICATION FOR CONDITIONAL USE PERMIT FOR RADIO TOWER

At 5:44 p.m., Planning & Zoning Supervisor Tafoya introduced this Item, noting that Sangre de Cristo Broadcasting had made application to the County for a conditional use permit to locate and erect a radio broadcast tower in the area of Rowe. Tafoya said the Planning & Zoning Commission met the previous day (April 07, 2014) to consider the application, and recommended approval, with conditions. Tafoya then stated that the County's tower ordinance now required a *de novo* hearing before the Board of County Commissioners.

Chairman Leger then asked Matt Martinez, principal of Sangre de Cristo Broadcasting, to address the Commission, and Martinez reviewed his application, stating in particular that his FCC permit to locate and erect the tower would expire May 19, 2014. Martinez also stated that a balloon (simulation) test had been conducted at the site, but he

thought the balloon may have blown away before the entire duration of the simulation could occur.

County Attorney Jesus L. Lopez then proceeded to advise the Commission as follows: (1) that the notice of today's hearing before the County Commission should have included the recommendation of the Planning & Zoning Commission, but it did not; (2) that there was no notice in the newspaper of the simulation test which may have occurred at the site, as required by the County's tower ordinance; (3) that the Applicant secured the FCC permit almost three years ago, but only recently (in February, 2014) submitted his application for conditional use permit to the County; and (4) that while the County should attempt to accommodate the Applicant's deadlines, the County's tower ordinance must be followed.

Chairman Leger stated that it appeared the application was incomplete, and that requirements of the County's tower ordinance may not have been followed, especially as concerns notice of the simulation at the site. Leger also said he felt the matter was not ready to come before the Commission at today's hearing, but that staff should work with Mr. Martinez to bring the matter before the Commission as soon as possible, in an attempt to accommodate the FCC deadline being faced by Martinez.

Whereupon, Commissioner Sena moved and Commissioner Ortiz seconded, to table the application by Sangre de Cristo Broadcasting for a conditional use permit for a radio broadcast tower, and the motion to table carried by unanimous voice vote of all Commissioners.

At 6:35 p.m., Chairman Leger asked unanimous consent that Item 11 of the Agenda be advanced and considered at this time, and there being no objection, Item 11 was next considered.

ITEM 11: BID AWARD/ROWE FIRE DEPT. LEVELING AND PAVING PROJECT

Upon the recommendation of Fire Chief Pacheco, based on the recommendation of the County's architect, Commissioner Sena moved and Commissioner Ortiz seconded, that the leveling and paving project contract for the Rowe Volunteer Fire Department, be awarded to Universal Constructor, which firm submitted the lowest and most responsible bid for the project, pursuant to the procurement process undertaken in this matter.

ITEM 5: RATIFICATION OF EMERGENCY MANAGEMENT GRANT APPLICATION

Upon a presentation and recommendation by Emergency Manager Dennis English, Vice Chairman Ortega moved and Commissioner Padilla seconded, ratification of the

grant application made by the Emergency Management office for a federal hazardous material emergency planning grant in the amount of \$40,700.00.

ITEM 6: CONTRACT RENEWAL/DETENTION CENTER JANITORIAL SUPPLIES

Upon the recommendation of SMC Detention Center Warden Patrick W. Snedeker, Commissioner Padilla moved and Commissioner Sena seconded, approval of second annual renewal of contract between SMC and Brady Industries for janitorial supplies and laundry products at the Detention Center.

ITEM 7: CONTRACT RENEWAL/DETENTION CENTER COMMISSARY SERVICES

Upon a presentation and recommendation by Warden Snedeker, Commissioner Padilla moved and Vice Chairman Ortega seconded, approval of second annual renewal of contract between SMC and Summit Food Service/Commissary Services Management, for food services and commissary services at the Detention Center.

[At 6:42 p.m. Chairman Leger left the Commission Chambers, and Vice Chairman Ortega assumed the gavel.]

ITEM 8: CONTRACT RENEWAL/DETENTION CENTER DISH MACHINE RENTAL

Upon the recommendation of Warden Snedeker, Commissioner Padilla moved and Commissioner Sena seconded, approval of second annual renewal of contract between SMC and Swisher, Inc., for dish machine rental and dish machine supplies at the Detention Center.

ITEM 9: PUBLIC WORKS REPORT FOR MARCH, 2014

Public Works Division Foreman Rudy Salazar addressed the Commission, noting he had submitted a detailed written report of work undertaken in his Division during the month of March, 2014. Salazar asked if Commissioners had questions or concerns, and the following remarks were made by Commissioners:

Commissioner Sena asked about work progress for roads in Ancon, Bernal and Myers, and Salazar said those areas will be addressed in the very near future.

Commissioner Padilla asked about debris clean-up at El Llano road bridge, and Salazar said clean-up is planned very soon, and Tierras y Montes Conservation District personnel will help with the clean-up.

Commissioner Ortiz asked about a timeline for much needed work in the Pecos area, and Salazar said the Road Department is about two weeks away from beginning work in the Pecos area.

Vice Chairman Ortega asked when bear-proof containers will be at the various sites, and Salazar said that container will be at Gallinas as soon as the ramp is completed, and Pendaries will follow, then distribution will be made to all other sites.

All Commissioners thanked Salazar and all Public Works Division personnel for their work.

ITEM 10: INVITATION FOR BIDS FOR BRUSH UNIT/PECOS FIRE DEPARTMENT

[This Item was taken-up by the Commission earlier, following Agenda Item 1, above.]

ITEM 11: BID AWARD/ROWE FIRE DEPT. LEVELING AND PAVING PROJECT

[This Item was taken-up by the Commission earlier, following Agenda Item 4, above.]

ITEM 12: BID AWARD FOR BULLDOZER FOR PUBLIC WORKS DIVISION

Upon the recommendation of Public Works Division Supervisor Harold Garcia, Commissioner Padilla moved and Commissioner Sena seconded, contract award to Wagner Equipment Company, the sole bidder, for lease/purchase of a new bulldozer to be used at the County's gravel crusher operation, at \$3,762.55 per month, for 60 months.

[At 6:56 p.m. Chairman Leger returned to the Commission Chambers, though Vice Chairman Ortega continued to preside.]

ITEM 13: CONTRACT AWARD FOR PLUMBING SERVICES

Upon the recommendation of Pubic Works Division Supervisor Garcia, Commissioner Ortiz moved and Commissioner Padilla seconded, that contracts for plumbing services as needed by the County, be awarded to both JCG Plumbing and Jeffrey's Plumbing and Heating, the only two firms which submitted offers for this procurement.

[At 6:59 p.m. Chairman Leger, who had returned to the Chambers three minutes earlier, resumed the gavel, and presided over the meeting until its conclusion.]

ITEM 14: CONTRACT AWARD FOR UNIFORMS AT PUBLIC WORKS DIVISION

After a protracted discussion by Commissioners and Public Works Division Supervisor Harold Garcia, Commissioner Padilla moved and Vice Chairman Ortega seconded, that the County reject all bids submitted to provide uniforms for personnel at the Public Works department, and the motion carried by the unanimous voice vote of the Commission.

ITEM 15: APPROVAL OF OUT-OF-STATE TRAVEL/TREASURER'S OFFICE

Upon the recommendation of the County Manager and County Treasurer Bertha Bustamante, Vice Chairman Ortega moved and Commissioner Ortiz seconded, approval of out-of-state travel reimbursement for Treasurer's office employee Jennifer LaFebre to attend the 2014 annual NACO conference in New Orleans, Louisiana.

ITEM 16: PERSONNEL ACTIONS AND CHANGES FOR MARCH, 2014

Upon a presentation by the County Manager (in the absence of Human Resources Division Supervisor Kiki Arellano), Commissioner Sena moved and Commissioner Padilla seconded, ratification and approval of all personnel actions and changes made in the County for the month of March, 2014.

ITEM 17: APPROVAL OF EMPLOYMENT (SHERIFF'S DEPARTMENT)

Upon the recommendation of the County Manager and Sheriff Benjie Vigil, Vice Chairman Ortega moved and Commissioner Ortiz seconded, approval of employment of Aaron P. Gallegos and Darin J. Romero as Sheriff's deputies, each at a salary of \$23,750.00, as probationary employees with an effective date of hire of March 17, 2014.

ITEM 18: APPROVAL OF EMPLOYMENT (CONVENIENCE CENTER OPERATORS)

Upon the recommendation of the County Manager and Public Works Division Supervisor, Commissioner Sena moved and Commissioner Padilla seconded, approval of employment of Leroy L. Urioste as a convenience center operator, effective April 15, 2014, as a probationary employee with a salary of \$18,720.00, and of Luis Aragon III, also as a convenience center operator, effective April 15, 2014, as a probationary employee with a salary of \$16,150.00.

ITEM 19: ADMIN. REG. 04-08-14-PW/ROAD MAINTENANCE POLICY

Upon the recommendation of Public Works Division Supervisor Garcia, Commissioner Padilla moved and Commissioner Ortiz seconded, approval of the above-numbered policy establishing procedure to avoid damage to telephone cables and lines while undertaking road maintenance.

**AT 7:29 P.M., HAVING CONCLUDED ITS REGULAR ORDER,
THE COUNTY COMMISSION CONVENEED AS THE
COUNTY BOARD OF FINANCE, AS FOLLOWS:**

ITEM 20: COUNTY TREASURER'S MONTHLY REPORT

Finance Division Supervisor Melinda Gonzales (in the absence of County Treasurer Bertha Bustamante), informed the Commission that the County Treasurer asked Gonzales to state that operations in the Treasurer's office have been routine, and that property tax collection are typical for this time of year, with 61% of taxes collected as of the end of March, 2014.

ITEM 21: RATIFICATION OF RFP FOR AUDIT SERVICES

Upon the recommendation of Finance Supervisor Melinda Gonzales, Commissioner Padilla moved and Commissioner Ortiz seconded, ratification of the Request for Proposals issued by the Finance Department for professional audit services for the County's financial and compliance audit.

ITEM 22: BUDGET ADJUSTMENT RES. 2014-04-08-F1/LODGERS' TAX

Upon the recommendation of Finance Supervisor Gonzales, Commissioner Sena moved and Commissioner Padilla seconded, approval of the above-numbered and titled Resolution for a budget adjustment to Fund 202 in the amount of \$64,753.00, and to increase Fund 470 (Lodger's Tax) in the amount of \$5,000.00.

[During consideration of Items 21 and 22, above, Vice Chairman Ortega was temporarily absent from the Commission Chambers, but returned at the time Item 23, which follows, was taken up by the Commission.]

ITEM 23: APPROVAL OF INDIGENT CLAIMS/ALTA VISTA (\$18,978.59)

Upon the recommendation of Finance Supervisor Gonzales, Commissioner Padilla moved and Vice Chairman Ortega seconded, approval of indigent claim payments to Alta Vista Regional Hospital in the amount of \$18,978.59, Gonzales certifying to the Commission that all claims met income and eligibility requirements established by SMC.

ITEM 24: APPROVAL OF INDIGENT BURIAL PAYMENTS

Upon the recommendation of Finance Supervisor Gonzales, Commissioner Sena moved and Vice Chairman Ortega seconded, approval of indigent burial payment of \$600.00 to Rogers Mortuary in Las Vegas, and in the amount of \$60.00 to Bernardinelli Mortuary in Santa Fe, New Mexico, Gonzales certifying that the payments are lawful under New Mexico law.

ITEM 25: APPROVAL OF ACCOUNTS PAYABLE

Upon the recommendation of Finance Supervisor Gonzales, Commissioner Sena moved and Vice Chairman Ortega seconded, approval of the following Accounts Payable, Gonzales certifying by concurrent written instrument that all payment are lawful and proper:

- (1) Items 2014-8-508 through 2014-8-528 for the period February 26 2014 through February 28, 2014; and
- (2) Items 2014-9-1 through 2014-8-508, for the period March 01 2014 through March 21, 2014.

ITEM 26: CASH BALANCE REPORT AS OF MARCH 21, 2014

Finance Supervisor Gonzales informed the Commission of the County's cash balance as of March 21, 2014, and noted that the County is in good financial standing. (The Item is presented for the Commissioners' information, and formal Commission action is neither sought nor required.)

**HAVING CONCLUDED ITS
MEETING AS THE COUNTY BOARD OF FINANCE,
THE COMMISSION PROCEEDED AS FOLLOWS:**

At 7:34 p.m., the County Manager recommended that the Commission retire into executive/closed session to consider the following matters: Personnel matters, matters subject to the attorney client privilege pertaining to threatened or pending litigation in which SMC is or may become a participant, matters pertaining to the discussion of the acquisition or disposal of real property, and matters pertaining to the discussion of bargaining strategy preliminary to collective bargaining negotiations, all as permitted by Section 10-15-1(H)(2),(5),(7) and (8) of the Open Meetings Act, NMSA 1978, as amended.


Whereupon, at 7:35 p.m., Commissioner Padilla moved and Commissioner Sena seconded, that the Commission retire into executive/closed session to consider the matters noted and recommended by the County Manager, as particularized above. Upon a call of the roll by the Clerk, all five Commissioners answered in the affirmative

on the motion to retire into executive/closed session, and the Commission proceeded to close the meeting as permitted by law.

At 8:02 p.m., Commissioner Padilla moved and Commissioner Sena seconded, that the Commission reconvene in public session, and the motion carried. Whereupon Chairman Leger noted for the record that the Commission considered and discussed in executive/closed session, only those matters and subjects for which the motion for closure was made.

There being no further business to come before the Commission, and no person seeking recognition by the Commission, at 8:03 p.m. Commissioner Sena moved and Commissioner Padilla seconded, adjournment of the meeting, the motion carried and the meeting was duly adjourned.

MOVED, SECONDED AND ADOPTED this 13th day of May, 2014, by the Board of County Commissioners of San Miguel County, New Mexico, as the official minutes of its regular monthly meeting held April 08, 2014.



Nicolas T. Leger, Chairman

Ron R. Ortega, Vice Chairman




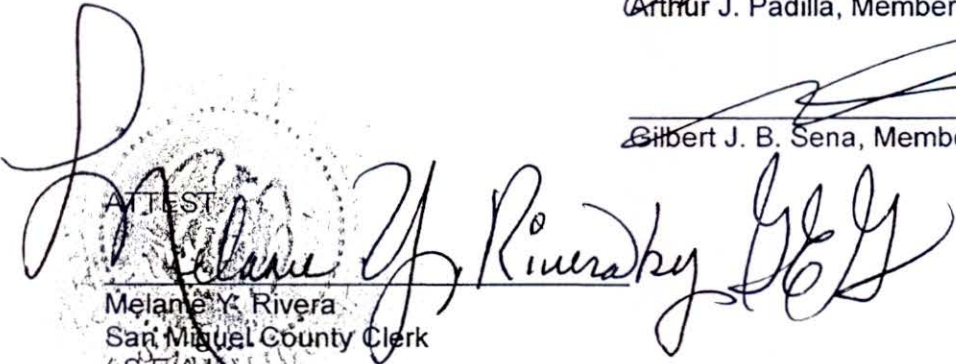
Marcellino A. Ortiz, Member



Arthur J. Padilla, Member



Gilbert J. B. Sena, Member


ATTEST


Melane Y. Rivera
San Miguel County Clerk
(SEAL)