

THE MUNICIPAL REPORTER

A PUBLICATION OF THE NEW MEXICO MUNICIPAL LEAGUE

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League Schedules 2015 District Meetings

The New Mexico Municipal League will hold its annual District Meetings at the following locations. For registration information, go to www.nmml.org.

<u>DATE</u>	<u>DISTRICT</u>	<u>LOCATION</u>
Monday, March 30	#7	Meson de Mesilla 1891 Avenida de Mesilla Las Cruces, NM 88005 (575) 652-5445
Tuesday, March 31	#6	Ruidoso Convention Center 111 Sierra Blanca Drive Ruidoso, NM 88345 (575) 258-5445
Wednesday, April 1	#5	Hotel Artesia 203 North 2 nd Street Artesia, NM 88210 (888) 746-2066
Thursday, April 2	#4	Clovis Civic Center 801 Schepps Boulevard Clovis, NM 88101 (575) 763-2000
Monday, April 6	#3	Plaza Hotel 230 Plaza Las Vegas, NM 87701 (505) 425-3591
Tuesday, April 7	#2	Eagle Nest Community Center 151 Willow Creek Drive Eagle Nest, NM 87718 (575) 377-1344
Wednesday, April 8	#8	Marriott Uptown 2101 Louisiana Boulevard NE Albuquerque, NM 87110 (505) 881-6800
Thursday, April 9	#1	Aztec Masonic Lodge 1020 Northeast Aztec Boulevard Aztec, NM 87410 (505) 334-6392

League Executive Director Honored by State House



League Executive Director Bill Fulginiti was honored by the New Mexico House of Representative on Friday, March 20 for his accomplishments and 38 years of service to the cities, towns and villages of

New Mexico. The Memorial was introduced by Representative Bealquin "Bill" Gomez of La Mesa. The Memorial was approved unanimously by a 70-0 vote. The following is the Memorial as introduced and adopted. (And no, he is not retiring.)

HOUSE MEMORIAL 134

A Memorial Recognizing the Accomplishments of Bill Fulginiti

WHEREAS, Bill Fulginiti's thirty-eight years of service as Executive Director of the New Mexico Municipal League is noteworthy and his devotion to improving the operation of municipalities is long-standing and continues today; and

WHEREAS, Bill's leadership and foresight were key in the formation of the New Mexico Self Insurers' Fund and the National League of Cities' Mutual Insurance Company to assist municipalities in their growing risk management responsibilities; and

WHEREAS, Bill has established the New Mexico Municipal Officials Leadership Institute, which develops future leaders for New Mexico's cities, towns and villages; and

WHEREAS, Bill was instrumental in creating the Law Enforcement Accreditation Program for both municipalities and counties; and

WHEREAS, through Bill's efforts in working with the legislature, New Mexico municipalities have had a great influence in shaping policies and funding that affect local governments;

NOW, THEREFORE BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NEW MEXICO that Bill Fulginiti be recognized for his accomplishments in strengthening the voice of municipalities; and

BE IT FURTHER RESOLVED that copies of this memorial be transmitted to Bill Fulginiti and the New Mexico Municipal League Board of Directors.

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Recent Supreme Court Ruling Addresses How Municipalities Deal With Cell Tower Applications

From National League of Cities

In *T-Mobile South v. City of Roswell* on January 14, 2015, the Supreme Court held 6-3 that the Telecommunications Act (TCA) requires local governments to provide reasons when denying an application to build a cell phone tower. The reasons do not have to be stated in the denial letter but must be articulated “with sufficient clarity in some other written record issued essentially contemporaneously with the denial,” which can include the council meeting minutes.

The Court agreed with the position in the State and Local Legal Center (SLLC)’s *amicus* brief that the reasons for a local government’s decision need not be in the same letter or document that denies the application and that council meeting minutes can be a sufficient source for the reasons for the denial. The Court disagreed, however, with the SLLC’s argument that the council minutes need not be issued contemporaneously with the document denying the wireless provider’s application.

T-Mobile applied to construct a 108-foot cell tower in a residential zoning area. Two days after a council hearing on the application, where city councilmembers voted to deny the application and stated various reasons for why they were going to vote against it, Roswell sent T-Mobile a brief letter stating that the application was denied and that T-Mobile could obtain hearing minutes from the city clerk. Twenty-six days later the minutes were approved and published.

The TCA requires that a state or local government’s decision denying a cell tower construction permit be “in writing and supported by substantial evidence contained in a written record.”

The majority of the Court, in an opinion written by Justice Sotomayor, held that local governments have to provide reasons for why they are denying a cell tower application so that courts can determine whether the denial was supported by substantial evidence. The Court rejected, however, T-Mobile’s argument that the reasons must be set forth in a formal written decision denying the application instead of council meeting minutes because nothing in the TCA “imposes any requirement that the reasons be given in any particular form.” But the Court also held that, because wireless providers have only 30 days after an adverse decision to seek judicial review, the council meeting minutes setting forth the reasons have to be issued “essentially contemporaneous[ly]” with the denial.

The Court’s ruling that written minutes can meet the TCA’s “in writing” requirement is favorable to local governments, many of which routinely compile meeting minutes regardless of whether a cell tower application is being considered. But the Court’s requirement that a local government issue a denial letter and minutes at more or less the same time will be new to many local governments, and, as Chief Justice Roberts points out in his dissenting opinion, “could be a trap for the unwary hamlet or two.”

Following this decision, local governments should not issue any written denial of a wireless siting application until they (1) set forth the reasons for the denial in that written decision, or (2) make available to the wireless provider the final council meeting minutes or transcript of the meeting at which the action was taken.



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Red River Clerk Georgiana Rael Receives Certified Municipal Clerk Designation


Georgiana Rael, Municipal Clerk for the Town of Red River, has received the Certified Municipal Clerk (CMC) designation from the International Institute of Municipal Clerks (IIMC).

The CMC designation program is designed to enhance the job performance of the Clerk in small and large municipalities. To earn the CMC designation, a Municipal Clerk must attend extensive education programs. The designation also requires pertinent experience in a municipality. The program prepares the participants to meet the challenges of the complex role of the municipal clerks by providing them with quality education in partnership with 47 institutions of higher learning. The program has been in existence since 1970 and has helped thousands of clerks in various municipalities.

Founded in 1947, IIMC is a professional association with more than 10,000 members in the US, Canada and 15 other countries. IIMC's primary goal is to actively promote the continuing education and professional development of municipal clerks through extensive education programs, certification, recertification, publications, networking, annual conferences and research. IIMC also engages in municipal research administration, enhances critical professional skill development and fosters a spirit of mutual assistance and good fellowship among municipal clerks around the globe. IIMC is governed by a 26-member Board of Directors.



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New Zuni Airport

By Beth Shatz, Project Manager, WHPacific

Planning for the New Zuni Airport began in March of 2004 with a comprehensive site selection study. Prior to the study, the Pueblo of Zuni had determined that the existing Blackrock Airport was inadequate for the needs of the Pueblo. Several factors were considered in making this determination. In particular, the existing runway was too short for some aircraft operations, the lighting system and beacon was out of service and the airport pavement needed major rehabilitation. The existing airport sits on 88 acres, which would not allow for runway expansion. In addition there are obstructions in the runway approaches and line-of-sight problems that generate unsafe conditions for the aircraft operations.

The New Zuni Airport is located approximately five miles west of Zuni on NM 53. The airport sits on approximately 240 acres. The airport is designed to accommodate B-II aircraft. The airport will have a 6,700 foot- long runway, a paved apron, two end turnarounds, and an access road. The design of the airport was completed by WHPacific, and the project was bid in June 2014. Phase I construction, earthwork and fencing, started September 2014.

To construct the new airport, 450,000 cubic yards of dirt will be moved, 26,500 linear feet of fencing will be installed, 21,880 cubic yards of sub-base and base course will be constructed and 7,565 tons of asphalt pavement will be placed.

Phase II construction, pavement, markings and lighting and NAVAIDS, will be bid and construction started in fiscal year 2015. Funding for the project is provided by FAA grants, NMDOT – Aviation Division grants and Pueblo funds.



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Electronic Poll Books in Ohio and Texas

The Pew Charitable Trusts

Previous dispatches have examined the costs and benefits of using electronic poll books—digital lists that replace the traditional paper rolls used to check voters in at the polls—as well as their popularity among election officials. However, implementation of these systems varies based on each state’s legal and administrative context, as officials from Ohio and Texas demonstrated during the Future of Voting Systems Symposium, hosted in February by the U.S. Election Assistance Commission (EAC) and the National Institute of Standards and Technology.

Ohio mandates that voting technology be certified according to standards developed by the EAC, but the commission did not create certification criteria specifically for e-poll books, so the state had to pass new legislation exempting these books from the federal standards and create a new state process.

Ohio’s certification for e-poll books involves three steps:

- Testing by an independent lab to examine the machine’s manufacturing processes, hardware, and user manuals, and to ensure that the technology can perform all of the functions required by law, such as generating a complete and accurate list of people who had voted by a certain time of day.
- Examination by the state board of voting machine examiners, which tests equipment for usability by poll workers.
- Certification of tested machines by the Ohio secretary of state.

In Texas, the process for utilizing e-poll books is very different because in that state the responsibility for evaluating and purchasing technology falls to county election officials. About 200 of the state’s 254 counties have chosen to use e-poll books, with systems purchased from seven different vendors.

Texas has no certification or testing requirements for such equipment, but it does have laws about using and reporting voter registration data. For instance, the state requires that all poll books include certain fields from the voter registration database, including a person’s former name and suffix, to help ensure that the correct voter is checked in. State election officials discovered that some counties purchased e-poll books that were unable to meet these requirements.

The Texas secretary of state’s office does not have authority to establish certification or approval processes for election technology, but it needed to ensure that e-poll books would meet state requirements for checking in voters, interacting with other technology, and reporting data to the state voter registration system. State officials are developing a handbook outlining the tasks e-polls books should be able to complete to comply with Texas law as well as additional functions that could reduce the workload of county elections staff, such as automatically generating some or all of the 29 Election Day forms and reports mandated by the state. They plan to release this handbook in summer 2015.

