

The Board of County Commissioners, in and for the County of Otero, State of New Mexico, met in a Work Session at the Otero County Courthouse in Alamogordo, County and State aforesaid. Meeting called to order by the Chairman at 9:00 a.m., 2009; and he announced that reasonable notice for this meeting was given to the Alamogordo Daily News, and to Radio Stations, KPSA, KINN and KYEE.

**Present:**

Ronny Rardin	Chairman
Doug Moore	Vice-Chairman
Clarissa McGinn	Member
Tim Smith	County Manager
Dan Bryant	County Attorney
Ray Backstrom	Assistant County Manager
Pamela Heltner	Commission Liaison
Lynn Estrada	Deputy Clerk

**DRAFT**

Commissioner Rardin gave the invocation. Commissioner Rardin led the Pledge of Allegiance.

**1. Scheduled Citizen Communications:**

a. Request approval of Resolution #01-11-09/97-39 regarding the Sole Community Provider

Medical Services funding request for fiscal year 2009/2010 in the amount of \$2,704,000.

Robert J. Heckert approached the Board to answer any questions the Commission may have.

Commissioner Moore stated the purpose here is we are tasked constitutionally to provide health and medical care to the citizens of Otero County. We do this with a partnership with the hospital. We

are pleased with this partnership and the last few years we have branched out as the needs have grown. Commissioner Moore made a motion to approve Resolution #01-11-09/97-39. The motion was seconded by Commissioner McGinn. Mr. Heckert stated that this is incredibly important to the hospital and a great effort on the county to support us. It's a program that we all want to take advantage of while we can. Ray Backstrom, Assistant County Manager, stated that the Resolution should be 02 and not 01. There is a misprint on the agenda.

Commissioner Moore amended his motion to approve Resolution #02-11-09/97-39. The amended motion was seconded by Commissioner McGinn. A vote was taken and the motion passed unanimously. See pages

b. Ken Rice request Otero County convey the Mayhill VFD sub-station to the previous landowner.

Mr. Rice stated that in 1979 Eli and Ruth Carner donated an acre of land to the Mayhill Fire Department for the Dark Canyon Sub-Station. Mr. Carner was the fire chief at that time. Mr. Rice purchased the ranch in 2002 and Mr. Carner advised Mr. Rice that he was no longer the fire chief because of medical reasons. The gift deed contained a reversionary provision that if the land and the building ceased to be used as a fire station, it would revert back to the land owner. Mr. Rice contacted Commissioner Nivison and he referred him to Dan Bryant. Mr. Bryant had a meeting with Paul Quairoli and the fire department to re-organize the station. He wasn't going to deprive the fire department of the facility and suggested a time table rather than an open ended position for them to re-organize. Mr. Bryant answered my letter back but didn't include a time table. Mr. Rice answered back that by October 31 they have a proposal. From this point Mr. Rice has had no response. He has no idea what's happened and the fire station is still not a fire station and the road is not maintained. A fire truck

could not get in and out of there if it was a fire station. Mr. Rice requested that the Commission consider complying with the original deed and deed the property back to Mr. Rice.

Commissioner Moore asked Mr. Quairoli if we are using the facility and for what. Mr. Quairoli stated that we are using the facility. There is a water tender and a wild land truck at the facility. We have two trucks that are going out to order for that facility. The Chief has 5 members and 2 new members on the roster that staff the station. The property does not have a high call volume, but the station is active everyday. Bill Parker, Public Works Director, stated that the road is on our county road list, but he has not traveled the road for 3 or 4 months. Commissioner Moore stated that when he reviewed the deed, the revert clause is inactivity for a year.

Dan Bryant stated that when this matter came to his attention in August, he asked for a title search. There were two sets of deeds into the County. The second set corrected a description error in the first set. The reversionary language in the corrected one provides as follows; provided however that if the property should cease to be used for the purpose of a fire sub-station for a period of one year, the property here and above described together with all improvements and appurtenances thereon, shall revert to the Grantor, his heirs, executors.

Commissioner Rardin stated that Mr. Rice is here today to request the Commission to revert the property back to him because it's not being used. Mr. Rardin asked Mr. Rice if he would like to go in there and see the equipment being used or have you not noticed any activity there? We can't make any decisions today, but want everyone to leave happy. Our Emergency Manager has said that the sub-station is being used so we will have to consider that in our revert decision. Mr. Rice stated that when he bought the ranch up until he brought this to their attention, it was not being used as a fire station. It was used for storage. Mr. Rice provides water to the station for the restrooms.

When he brought the non-use to their attention, they brought a fire truck up there. If people don't communicate with him, then he has no idea what they are doing. Commissioner Rardin stated that you will know from this point on because you brought it to our attention at this level. Commissioner Rardin asked Mr. Rice if he needs the property back or just wanting to see something happen with it. Mr. Rice stated that he supports the fire department and his objective is not to deprive them. If they can get it up and running and make the road passable for a fire truck, he is for that.

Commissioner Moore directed staff to get a report from the Chief on what his long term plans are for manning that as a sub-station. Will it be used as an active manned fire suppression outfit or just used for storage. If staff would also get the Assessor's Office to get an evaluation of the structures that exist on the property. The revert clause says that anything that is there will revert back with the raw land. There is a value that the people of Otero County have invested into the property, so he is requesting the valuation of the property. Commissioner Moore requested from Mr. Quairola an evaluation of the fire needs in that district for the main station and the sub-station.

## **2. Unscheduled Citizen Communications:**

a. Steven Harvey, a High Rolls resident approached the Board to propose the construction of a possible water system for High Rolls on the southern side of Highway 82. The request is assistance from Otero County to construct a water system. This system would support water for approximately 60 houses.

Commissioner Rardin stated that the protocol here is that you brought it to our attention and we need to give it to staff. They can put it on the March agenda while gathering information from you. Mr. Harvey stated that a stimulus bill was just passed in the congress and that money is just for projects like this.

Commissioner Moore stated that where we have tried this in the past in mountain communities, where the rubber always meets the road is the well and the water rights. Commissioner Moore asked Mr. Harvey if he had spoken with the water association on the north side of the highway about accessing their water. Mr. Harvey stated that he had spoken to Joe Chambers. We aren't interested in tapping into his water system per se. Commissioner Moore asked then what is your intended water source? Mr. Harvey stated that there are several folks who have springs. Commissioner Moore stated that where we always had a problem in the past is the owners pledging their springs to the water system. Most of the time it all falls apart before the project even reaches the exploratory stage from past experience. Commissioner Moore applauds Mr. Harvey for looking out for all his neighbors and taking a leadership role, but it will be a rugged road.

**3. Elected Officials, Department Heads:**

a. Robyn Holmes-Request the Board select three voters and two alternates in Otero County who shall constitute the board of registration for Otero County.

b. Diane Romo-Request the Board select a candidate to fill the vacancy of the Planning Commission.

Commissioner Rardin asked the Commission if they would like to have the candidates come in so we can talk to them or how would you like to do this. Commissioner McGinn stated that in the past when we've had people apply for these positions, she has personally called and talked to them individually. Where ever the particular member was from, we have tried to select a candidate from the same area.

c. Diane Romo-Request approval for the vacation of lots 1-28 Block 117 and lots 1028 Block 188 of Orogrande Subdivision. This subdivision is west of U.S. Hwy 54, approximately 35 miles

south of Alamogordo and adjacent to War Road on the east and west sides.

Klad Zimmerle and Diane Romo approached the Board. Mr. Zimmerle stated that the Otero County Electric Coop. owns the lots and will be building a sub-station once the roads are vacated.

d. Timothy Smith-Letters of appreciation to those directly involved with the refurbishment and move to the Federal Building.

Commissioner Rardin stated that staff did a wonderful job moving from the Courthouse to the Federal Building.

e. Commissioner Rardin-Request to schedule and advertise a public hearing in regards to Ordinance 07-01, Otero County Personnel Policy.

Commissioner Rardin stated that he would like to have a public hearing on Ordinance 07-01, section 10-7, carrying weapons in the work place. In the Constitution of New Mexico, article 2 section 6, he believes we are not in compliance with this section.

Commissioner Moore doesn't believe we violate anybody's constitutional rights, because a citizen can bear arms. The personnel policy pertains to Otero County employees. He believes it's inappropriate and the liability is beyond our ability to fathom the exposure we would have if we let our employees have handguns with them. It's not appropriate in the workplace to have a gun strapped to you unless it's required for your job. Commissioner Moore believes the language is appropriate with the violence that is going on in courthouses around this country.

Commissioner Rardin would like this item place on the agenda under his name for discussion on Thursday night.

Commissioner Moore stated that this is a personnel policy for the employees of Otero County and if we are going to manipulate the personnel policy, we should ask the personnel. Commissioner McGinn

agrees.

**4. Consent Agenda:**

- a. Bills lists #27, #28, #29, #30 and #31
- b. Approval of Minutes
- c. Health Care Services, approving or denying claims

Commissioner Moore would like to have the schedule revised for the Thursday night meeting. Many of the denials were because many of them have met the threshold.

**5. Purchasing:**

- a. Request approval to award Sealed Bid 09-029 for the purchase of a 1995 Cat 950 11 Loader for the Otero County Road Shop in the amount of \$67,500 to Border Machinery, El Paso, TX.
- b. Request approval of Sealed Bid 09-030, Interior Building Construction Phase II, for La Luz VFD to Jack Wayte Construction in the amount of \$188,621 plus all applicable taxes.

**6. Resolutions, Contracts and Agreements:**

- a. Request approval of Resolution #02-19-09/97-41 in consideration of budget adjustments to reflect the award of a Department of Justice grant to the Sheriff's Department in the amount of \$34,000.
- b. Request approval of Resolution #02-19-09/97-42 for the Sheriff's Department to reflect the award of a Selected Traffic Enforcement Program (S.T.E.P.) grant from the New Mexico Department of Transportation in the amount of \$2,493.00.
- c. Request approval of Resolution #02-19-09/97-43 for the ¼% Fire Protection fund to reflect refunds and donations totaling \$68,096.50
- d. Request approval of Resolution #02-19-09/97-44 for the Road and S.R.S. Title III Funds for budget adjustments to reflect an increase of \$549,859.99 in the Forest Reserve distribution for FY

2008/2009.

Commissioner Moore asked Donna Brandon, Financial Director, to explain to him how this money interfaces with PILT. Ms. Brandon stated that it will effect our PILT distribution. Mr. Smith has a spreadsheet how he calculated the PILT payments. What PILT is they subtract from the previous year any other federal funds as you move forward. Title I goes both to the county and the schools. Title III is for the county for fire safety and planning. Commissioner Moore asked if there is any flexibility in the funding. Mr. Smith stated that the money is for planning and not actual projects. Commissioner Moore stated that Mescalero Sawmill has gone out of business. There is no future plan to activate it, so what we have now, the Forest Service will start putting out bid lots to remove commercial timber and the little stuff. Our Forest Restoration, there is nobody left to do it. They can put out all the bid lots they want to and nobody will bid on them. Commissioner Moore stated that one time Commissioner McGinn, Commissioner Nivison and himself went to Washington D.C. to solicit money. We got \$800,000.00 for the County Cooperative Program with the Forest Service. The shortfall here is we have a pellet plant, but it's not here yet. That will be the guy who will be doing the forest restoration. The problem is the restoration money is \$295.00 an acre and it's going to cost him \$395.00 to \$400.00 to put it on sloped terrain. We could go back to D.C. and tell the Department of Interior that we need some more of that County partnership money. We supplement the difference and work with Jackie over at the Forest Service and the pellet guy. If they need an extra \$200.00 an acre on a thousand acre deal, we go back to the Interior and tell them we want money via the county to funnel into the project, so we can get the forest cleaned up.

Commissioner Moore stated that he would like staff to look at this Title III funding to see if we can use this type of funding for the kind of forest projects that we have talked about.

e. Request approval of Resolution #02-19-09/97-45, authorizing and approving a loan and intercept agreement for financial assistance and project approval to the NM Finance Authority for the purchase of a new fire apparatus for the Sacramento/Weed VFD. Estimated cost is \$230,000.

f. Request approval of Resolution #02-19-09/97-46 authorizing and approving a loan and intercept agreement for financial assistance and project approval to the NM Finance Authority for the purchase of a new fire apparatus for the Dungan VFD. Estimated cost is \$180,000.

g. Request approval of Resolution #02-19-09/97-47, authorizing and approving a loan and intercept agreement for financial assistance and project approval to the NM Finance Authority for new radio communication equipment for Otero County VFD's. Estimated cost is \$168,000.

h. Request approval of Resolution #02-19-09/97-48, reaffirming public road rights-of-way in accordance with R.S. 2477.

Commissioner Moore stated that we did this several months ago, designating these roads as R.S. 2477. Along with the designation we had an attachment that was several hundred pages that were metes and bound descriptions of these roads. Is all of that attached, so that if in the future somebody went back to where we passed this, they could actually look that information up? Is the information attached to the minutes of the meeting? Mr. Backstrom stated that it is not attached to the meeting but attached as a reference too. Commissioner McGinn stated that our intent was to capture every road, trail, and path. Commissioner Moore stated that his concern is what we did in the past and also this resolution, if we can't find the attached document then all of this is useless. We need to find the original document and archive that data. Commissioner Moore requested staff to find this document and the best way to archive it.

i. Request approval of Resolution #02-19-09/97-49, in support of financial emergency

declaration for the Timberon Water and Sanitation District (TWSD).

j. Request approval of a CO-OP agreement between Otero County and Colquitt Company to overlay approximately two miles of Angelina Blvd.

k. Request approval of the 2009/2010 CAP, CO-OP and School Bus Projects.

Commissioner Moore stated that on this project we did budget last cycle, the Commission had asked to put general fund money forward in each of our districts to provide some additional projects. Are they included in these projects listed here? Mr. Parker stated that they are not included in this list here. These are for the upcoming projects that will be submitted to the state for funding.

**7. Public Hearing:**

a. Consider proposed changes regarding the Otero County Subdivision Regulations 07-02 and Appendices A, C and E.

**8. Commission Discussions/Action Items:**

a. Ronny Rardin-(District 3)

**1. Report on Mayhill Community Center.**

Commissioner Rardin stated that the Community Center in Mayhill is their way of life and the building is falling apart. Rather than make them go through the citizen block development grant or some other list, Commissioner Rardin will ask the Commission to approve Tony Rodgers, Maintenance Supervisor, estimates to fix the building. The cost is about \$50,000.00 to fix the heater, some electrical and re-roof the building.

**2. Animal Damage Control.**

Commissioner Rardin attended a meeting on animal damage in Weed, New Mexico. The main concerns of this meeting were predators. The cougar and coyote are the main problem. Commissioner

Rardin would like the blessing of the Commission to start investigating these concerns. Under our duties as representatives, we are to handle these problems properly. Two ranchers in Weed who raise sheep, have not yielded a crop in 2 years because of the coyotes and the cougar. They need some help.

Bill Parker, Public Works Director, stated that the economic stimulus package that is possibly going to be passed, a lot of money is going to be sent to roads. It will be 100 percent funded by the package, no county match. The problem is that it has to be at least 50 percent money spent within 90 days. Mr. Parker believes this can be done. He is requesting direction from the Commission as to where they would like to go with this. We have Scenic and North Florida all the way into La Luz and back out Alamo Street, which does fit the criteria. Mr. Parker stated that there is a meeting in Roswell tomorrow and he could go and find out more about it. It would be an excellent opportunity to get these roads done. Commissioner McGinn stated that we need to start the bid process now, because it will take some time and we need to have the money rolling within 90 days.

#### **9. County Manager's Report:**

a. Mr. Smith stated that he needs some direction from the Commission. Staff has sat down with Diane Martwick, District Attorney, to name some offices. She is proposing to let the District Attorney's Office have the whole first floor when everything is finished. Mr. Smith's proposal is to vacate 10<sup>th</sup> street and the State Building to the extent that they can. Move them into the old office of the County Manager and renovate administration. Once the renovation is done, move the rest of Ms. Martwick's people back into the new renovation. That way all of the District Attorney's Office would be on the first floor. Once they vacate the third floor, we need to renovate that for DWI. Once DWI is on the third floor, we can then demolish the building for parking. The Commission discussed a way to facilitate everyone involved so they only have to move once. Commissioner Moore believes we

shouldn't move anybody until we are ready to move everybody. Commissioner McGinn stated that it makes sense to move the people out first that we are paying rent for. Mr. Smith's recommendation is also to move everyone once. Commissioner Rardin would also like to see the people out of the buildings by June that we pay rent for.

**10. Executive Session:**

Commissioner Rardin made a motion to go into Executive Session to discuss items A. Collective Bargaining, B. Pending threatening litigation, C. Personnel, D. Land-disposal and acquisition of surplus land, E. Roads, F. Detention Center, G. Contracts-PSAP. The motion was seconded by Commissioner Moore. Roll call was taken as follows:

Commissioner McGinn	yes
Commissioner Moore	yes
Commissioner Rardin	yes

Commissioner Moore made a motion to come out of Executive Session having discussed the items on the agenda, having made no decisions. The motion was seconded by Commissioner McGinn.

Roll call was taken as follows:

Commissioner McGinn	yes
Commissioner Moore	yes
Commissioner Rardin	yes

There being no further business before the Board, the Chairman adjourned the meeting at 11:50 a.m.

**APPROVED:**

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**Ronny Rardin, Chairman**

**ATTEST:**

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**Robyn Holmes, County Clerk**

**Work Session  
February 11, 2009**